Chapter 18.300

CRITICAL AREAS

Sections:

18.300.010 Authority and title.
This chapter is established pursuant to RCW 36.70A.060 and La Center Ordinance No. 2001-2. This chapter is known as the La Center Ceritical Aareas Oordinance (CAO). [Ord. 2019-26 § 2 (Exh. A), 2019; Ord. 2012-01 § 1 (Exh. A), 2012; Ord. 2007-2 § 1, 2007.]

18.300.020 Purpose.
The purpose of the ~~critical areas overlay district~~ CAO is to implement the ~~open space~~ policies of the La Center Ceomprehensive Pplan Environment Chapter. It is also to protect the public from threats to human safety and to protect public and private property from natural disasters, protect the environment and enhance the state's quality of life, and preserve environmentally sensitive areas that are valuable to the public and provide ecological functions. This chapter ~~creates an overlay district that~~ requires the designation and protection of identified critical areas while encouraging urban densities ~~and affordable housing~~ through density transfer to nonsensitive (buildable) lands.

Critical areas are valuable and fragile natural resources with significant development constraints that, in their natural state, provide many valuable social and ecological functions. The attendant buffers of critical areas are essential to the maintenance and protection of the sensitive land, its functions, and values. The loss of social and ecological

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functions provided by critical areas, especially wetlands, riparian zones, and fish and wildlife habitat, results in a detriment to public safety and welfare.

Critical areas help to relieve the burdens on the people of La Center which urban development can create including congestion, noise and odors, air pollution, and water quality degradation.

Critical areas serve several important urban design functions. They provide: (1) open space corridors separating and defining developed areas within the Ceity; (2) views which enhance property values and quality of life in developed neighborhoods; (3) educational opportunities for the citizens of La Center; and (4) accessible areas for residents to stroll, hike, recreate, and enjoy La Center's valuable natural features. The La Center Ceomprehensive Pplan and Parks Recreation and Open Space (PROS) Plan proposes a system of connected trails that are closely associated with La Center's stream corridors, natural drainage ways, and the East Fork ~~of the~~ Lewis River.

Conservation of critical areas has associated natural resource benefits, including improved air and water quality, maintenance of fish and wildlife habitat, decreased erosion and sedimentation to streams, absorption of pollutants, carbon sequestration, and preservation of rare plant and animal species.

The intent of th~~is overlay district~~ e CAO is for the Ceity ~~of La Center~~ to achieve no net loss (WAC 365-196-830[4]) of Ww~~et~~lands, floodplains, ~~fish and wildlife habitat areas~~FWHCAs, and riparian zones and to avoid the loss of Gg~~e~~ologically Hh~~a~~zardous Aareas and ~~aquifer recharge/wellhead protection areas~~CARAs. The Ceity's preferred strategy to achieve no net loss is to avoid adverse impacts to critical areas and buffers. However, the Ceity recognizes that there are situations and circumstances where avoidance is not practicable whereupon the intent of this chapter is to minimize and mitigate the environmental impacts of development within and adjacent to critical areas and buffers. An overriding objective of th~~eis overlay district~~CAO is to protect stream corridors and associated wetlands and riparian vegetation throughout the urban area. Th~~eis overlay district~~CAO is also designed to ensure conservation of wetland areas and their functions, where such areas are associated with steep slopes or stream corridors. The ~~overlay district~~CAO promotes a balance between recreational and public use of critical areas, consistent with the maintenance of their natural appearance and functional values.

Development limitations on critical areas reduces the need to require additional studies to ensure compliance with the State Environmental Policy Act (SEPA) process and other state or federal environmental regulations. [Ord. 2019-26 § 2 (Exh. A), 2019; Ord. 2012-01 § 1 (Exh. A), 2012; Ord. 2007-2 § 1, 2007.]

18.300.030 Definitions.

For the purposes of this chapter the definitions set forth in this chapter and Chapter 18.40 LCMC shall apply. Unless specifically defined in this chapter or Chapter 18.40 LCMC, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this title its most reasonable application.

(1) "Alter" means to adjust, modify or rework a structure or parcel of land.

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(2) "Alteration of watercourse" means any action that will change the location of the channel occupied by water within the banks of any portion of a riverine water body.

(3) "Altered~~,~~" when referring to wetlands, means any portion of a wetland that has been graded, channelized, drained, devegetated, excavated, compacted, replanted with non-wetland plants, or any other activity that changes the character of the wetland.

(4) "Anadromous" means fish that migrate up rivers and streams from the ocean to breed in fresh water.

(5) "Area of special flood hazard" or "special flood hazard area (SFHA)" means the land in the floodplain within a community subject to a one percent chance of flooding in any given year. Designations on the flood insurance rate maps include the letter A.

(6) "Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year (also referred to as the "100-year flood"). Designations on the flood insurance rate maps include the letter A.

(7) "Base flood elevation (BFE)" means the elevation to which floodwater is anticipated to rise during the base flood.

(8) "Basement" means any area of the building, including any sunken room or sunken portion of a room, having its floor below ground level (subgrade) on all sides.

(9) "Best available information" means data, other than official flood insurance rate map data, from federal, state, or other sources, provided this data has either been generated using technically defensible methods or is based on reasonable historical analysis and experience.

(10) "Best available science (BAS)" means ~~a valid scientific process or method of inquiry that is consistent with the criteria for establishing best available science as found in WAC 365-195-905, as amended~~ current scientific information used in the process of designating, protecting, or restoring critical areas; that is, scientific information derived from a valid scientific process as defined by WAC 365-195-900 through 925.

(11) "Best management practices (BMPs)" are conservation practices or systems of practices and management measures that:

(a) Control soil loss and reduce water quality degradation caused by high concentrations of nutrients, animal waste, toxics, or sediment;

(b) Minimize adverse impacts to surface water and ground water flow and circulation patterns and to the chemical, physical, and biological characteristics of wetlands;

(c) Protect trees, vegetation, and soils designated to be retained during and following site construction and use native plant species appropriate to the site for re-vegetation of disturbed areas; and/or

(d) Provide standards for proper use of chemical herbicides within critical areas.

~~(10)~~(12) "Bog" means a type of wetland that contains soils classified as peat or muck, are nutrient poor, have a low pH (acidic), and are fed largely by rainfall rather than streams or groundwater.

~~(11)~~(13) "Buffer" means ~~a vegetated area contiguous with a critical area that maintains the functions and/or structural stability of the critical area~~ relatively undisturbed, vegetated area that is adjacent to and protects a critical area, and that can, through various physical, chemical, and/or biological processes, reduce impacts from adjacent land uses.

(14) "City" means a Class 4 municipality governed by the mayor and La Center Ceity Ceouncil, or the Ceity designee.

(15) "Channel migration zone (CMZ)" means the area within which a river channel is likely to migrate and occupy over a specified time period.

(16) "Clearing" means the destruction or removal of vegetation from a site by physical, mechanical, or chemical or other means. This does not include landscape maintenance or pruning consistent with accepted horticultural practices, such as those recommended by the Washington State University Extension Service, which does not impair the health or survival of the trees or native vegetation.

~~(12)~~(17) "Compensatory mitigation" means the restoration (re-establishment or rehabilitation), establishment (creation), enhancement, and/or in certain circumstances preservation of wetlands for the purposes of offsetting unavoidable adverse impacts that remain after all appropriate and practicable avoidance and minimization has been achieved.

~~(13)~~(18) "Conservation covenant" means a signed and recorded agreement between a property owner and the Ceity of La Center running with the land and stipulating that certain areas of the property be maintained in a natural state without disturbance to vegetation or other features unless otherwise approved by the Ceity.

~~(14)~~(19) "Council" means the City Ceouncil of the Ceity of La Center.

~~(15)~~(20) "Creation (establishment)" means the manipulation of the physical, chemical, or biological characteristics present to develop a W~~w~~etland on an upland or deepwater site, where a W~~w~~etland did not

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previously exist. Activities typically involve excavation of upland soils to elevations that will produce a Wwetland hydroperiod, create wetland soils and support the growth of hydrophytic plant species. Creation results in a net gain of Wwetland acres.

(16)(21) "Critical areas" means any ofincludes the following areas or and ecosystems: Wwetlands, areas with a critical aquifer recharge effectareas on aquifers used for potable water;, streams, Ffish and Wwildlife Hhabitat Ceonservation Aareas (FWHCAs);, Ffrequently Fflooded Aareas;, and Ggeologically Hhazardous –Aareas as defined by the Growth Management Act (RCW 36.70A.170).

(17) "Critical Aaquifer Rrecharge Aarea (CARA)" means an area with a critical recharging effect on an aquifer used for potable water, including an area where an aquifer that is a sole source aquifer of drinking water is vulnerable to contamination that would affect the potability of the water, or is susceptible to reduced recharge.

(22)

(23) "Critical facility" means facilities including but not limited to schools, hospitals, police, fire and emergency response installations, nursing homes, and installations which produce, use, or store hazardous materials or hazardous waste.

(24) "Critical root zone (CRZ)" means the area where the tree's roots are located. This root zone is generally the area surrounding a tree trunk at a distance equal to one foot for every inch of tree diameter at breast height (dbh). This area is described as the radius of a circle around the tree.

(18)

(25) "Development" means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures;, the exterior alteration of structures; mining, dredging, filling, dumping, grading, paving, excavation, bulkheading, driving of pilings, or drilling operations;, or storage of equipment or materials located within the area of special flood hazard. Development also includes the change in use of a building or land if approval is required pursuant to the La Center Municipal Code, Title 15 (Building Code).

(26) "Diameter at Breast Height (dbh)" means a tree's diameter in inches at four and a half feet above the ground. On multi-stemmed or -trunk trees, the diameter shall be the diameter equivalent to the sum of trunk areas measures at four and a half feet above the ground.

(19)(27) "Disturbance area" means a pronounced, temporary change in environmental conditions within an ecosystem. Disturbances often act quickly and can alter ecosystem composition, structure, and function.

(20)(28) "Elevation certificate" means the official form (FEMA Form 086-0-33) used to track development, provide elevation information necessary to ensure compliance with community floodplain management ordinances, and determine the proper insurance premium rate with Section B completed by community officials.

(21)(29) "Emergent Wwetland" means a Wwetland with at least 30 percent of the surface area covered by erect, rooted, herbaceous vegetation as the uppermost vegetative stratum.

(30) "Endangered species, federally designated" means any flora or fauna native to Washington that are seriously threatened with extinction throughout all or a significant part of their ranges within the state fish and wildlife species identified by the U.S. Fish and Wildlife Service or NOAA Fisheries as threatened or endangered under the Endangered Species Act, 16 USC Section 1531, et seq.

(22)(31) "Endangered, threatened, and sensitive species, state designated" means any fish and wildlife species native to the State of Washington and identified by the Washington Department of Fish and Wildlife as sensitive, threatened, or endangered species.

(32) "Enhancement" means actions performed to improve the condition of an existing degraded wetland or buffer so that the functions provided are of a higher qualitythe manipulation of the physical, chemical, or biological characteristics of a Wetland to heighten, intensify, or improve specific functions. Enhancement

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results in the gain of selected functions, but may also lead to a decline in other functions. Enhancement does not result in a gain in Wetland area.

~~(23)~~(33) "Erosion control" means the design and installation of measures to control erosion and sedimentation during and after construction and to permanently stabilize soil exposed during and after construction using a combination of structural control measures, cover measure, and construction practices.

~~(24)~~(34) "Erosion Hhazard Aareas" means ~~those areas containing soils that, according to the United States Department of Agriculture Natural Resources Conservation Service Soil Survey Program, may experience significant erosion~~ areas likely to become unstable, such as bluffs, steep slopes, and areas with unconsolidated soils. The City may consult with the United States Department of Agriculture Natural Resources Conservation Services (NRCS) for data to help identify erosion hazard areas. These include areas that are severe and very severe erosion hazard areas. Erosion Hazard Areas are a type of Geologically Hazardous Areas.

~~(25)~~(35) "Exotic" means any species of plants or animals that are not native to the watershed.

(36) "Fish and Wwildlife Hhabitat Cconservation Aareas (FWHCAs)" means areas that serve a critical role in sustaining needed habitats and species for the functional integrity of the ecosystem, and that, if altered, may reduce the likelihood that the species will persist over the long term. These areas may include, but are not limited to, rare or vulnerable ecological systems, communities, and habitat or habitat elements including seasonal ranges, breeding habitat, winter range, and movement corridors, and areas with high relative population density or species richness. These areas may also include locally important habitats and species. ~~Fish and wildlife habitat conservation areas~~FWHCAs do not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of, and are maintained by, a port district or an irrigation district or company.

~~(26)~~(37) "Fish Habitat" means habitat which is used by any fish at any life stage at any time of the year, including potential habitat likely to be used by fish which could be recovered by restoration or management and includes off-channel habitat.

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~~(27)~~(38) "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(a) The overflow of inland or tidal waters;

(b) The unusual and rapid accumulation of runoff of surface waters from any source;

(c) Mudslides (i.e., mudflows) are proximately caused by flooding as defined in subsection (b) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current; and/or

(d) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in subsection (a) of this definition.

~~(28)~~(39) "Flood elevation study" means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

~~(29)~~(40) "Flood insurance rate map (FIRM)" means the official map on which the Federal Insurance Administrator has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

~~(30)~~(41) Flood Insurance Study. See "Flood elevation study."

~~(31)~~(42) "Floodplain" or "flood-prone area" means any land area susceptible to being inundated by water from any source. See "Flood" or "flooding."

~~(32)~~(43) "Floodplain administrator" is the community official designated by title to administer and enforce the floodplain management regulations.

~~(33)~~(44) "Floodplain management regulations" are zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain ordinance, grading ordinance and erosion control ordinance) and other application of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

~~(34)~~(45) "Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents. Floodproofed structures are those that have the structural integrity and design to be impervious to floodwater below the base flood elevation.

~~(35)~~(46) "Flood protection elevation" means one foot above the base flood elevation.

~~(36)~~(47) "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height of one foot. For areas of special flood hazard studied in detail, the floodway boundary is delineated upon the flood insurance rate maps. In all other areas of special flood hazard, the floodway boundary shall be determined by the use of other base flood data.

~~(37)~~(48) "Floor (lowest)" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this title.

~~(38)~~(49) "Forested W~~w~~etland" means a W~~w~~etland with at least 30 percent of the surface area covered by a canopy of woody obligate, facultative wet, or facultative plants greater than 20 feet in height.

(50) "Frequently flooded" means a flooding class in which flooding is likely to occur often under normal weather conditions (more than 50 percent chance of flooding in any year or more than 50 times in 100 years).

~~(39)~~(51) "Functions or functions and values of FWHCAs" means functions or functions and values that provide habitat for breeding, rearing, foraging, protection and escape, migration, and over-wintering. FWHCAs affect the quality of habitat by providing complexity of physical structure, supporting biological diversity, regulating stormwater runoff and infiltration, removing pollutants from water, and maintaining appropriate temperatures.

~~(40)~~(52) "Functions or functions and values of Wetlands" means the beneficial roles served by W~~w~~etlands including the control of flood waters, maintenance of summer stream flows, filtration of pollutants, recharge of groundwater, and provision of significant habitat areas for fish and wildlife.

~~(41)~~(53) "Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

(54) "Geologically H~~h~~azardous A~~a~~reas" means areas that, because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to the siting of commercial, residential, or industrial development without submission of a C~~c~~ritical A~~a~~rea R~~r~~eport and approval of a C~~c~~ritical A~~a~~reas P~~p~~ermit consistent with public health or safety concerns. Areas that are susceptible to one or more of the following types of hazards shall be classified as a Geologically Hazardous Area:

(a) Erosion Hazard Areas;

(b) Landslide Hazard Areas;

(c) Seismic Hazard Areas; or

~~(42)~~

(55) "Habitat" means the environment occupied by individuals of a particular species, population or community.

(56) "Habitat corridor" means areas of relatively undisturbed and unbroken tracts of vegetation that connect FWHCAs, priority areas, areas identified as biologically divers, or valuable habitats within a city or urban growth area.

~~(43)~~(57) "Habitats of local importance" means fish and habitat conservation areas which are not designated as Priority Habitats and Species by the Washington Department of Fish and Wildlife but are designated as locally significant by the City.

~~(44)~~(58) "Hazardous materials" means those substances, debris, and waste that are a physical or health hazard, and chemical substances that are ignitable, corrosive, reactive or toxic, consistent with Chapter 173-303 WAC and the International Fire Code, as amended.

~~(45)~~(59) "Hazard tree" means any tree that in the opinion of the responsible official; an expert approved by the C~~e~~ity (a professional forester, arborist, or landscape architect); or a similar expert employed by another public agency or utility, has a strong likelihood of causing a hazard to life or property.

~~(46)~~(60) "Headwaters" means springs, lakes, ponds, or wetlands providing significant sources of water to a stream.

~~(47) "High intensity land use" means roadways, commercial, industrial, multifamily, and residential (more than one unit per gross acre) land uses.~~

~~(48)~~(61) "Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

~~(49)~~(62) "Historic structure" means any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(i) By an approved state program as determined by the Secretary of the Interior; or

(ii) Directly by the Secretary of the Interior in states without approved programs.

~~(50)~~(63) "Hydric soil" means a soil that is saturated, flooded or ponded long enough during the growing season to develop anaerobic conditions in the upper part. The presence of hydric soil shall be determined following the methods described in the U.S. Army Corps of Engineers Wetlands Delineation Manual and Western Mountains, Valleys, and Coast regional supplement (2010).

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(64) "Hydrophytic vegetation" means macrophytic plant life growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content. The presence of hydrophytic vegetation shall be determined following the methods described in the W~~w~~etlands D~~d~~elineation M~~m~~anual and regional supplement.

(65) "Impact" means the effect of an activity on designated critical areas, their buffers, or sensitive resources.

~~(51)~~(66) "In-lieu fee (ILF) program" is an agreement between a regulatory agency (state, federal, or local) and a single sponsor, generally a public natural resource agency or non-profit organization. Under an in-lie-fee agreement, the sponsor collects funds from individuals and/or entities required to conduct compensatory mitigation under a wetland regulatory program. The sponsor uses the funds pooled from multiple permittees to create one or more mitigation sites under the authority of the agreement to satisfy the permittees' required mitigation.

~~(52)~~(67) "Intermittent stream" means surface streams with no measurable flow during 30 consecutive days in a normal water year.

~~(53)~~(68) "JARPA" means Joint Aquatics Resource Permit Application.

~~(54)~~(69) "Landslide H~~h~~azard A~~a~~reas" means areas at risk of mass movement due to a combination of geologic, topographic, and hydrologic factors. These factors include any combination of bedrock, soil, slope (gradient), slope aspect, structure, hydrology, or other factors. Landslide H~~h~~azard A~~a~~reas include, at a minimum, the following:

(a) Areas of historic failures, such as:

(i) Those areas delineated by the United States Department of Agriculture Natural Resources Conservation Service as having a significant limitation for developing a building on the site; or

(ii) Areas designated as quaternary slumps, earthflows, mudflows, lahars, or landslides on maps published by the United States Geological Survey or the Washington Department of Natural Resources, or mapped in other publicly available documents.

(b) Areas with all three of the following characteristics:

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(i) Slopes steeper than 15 percent;

(ii) Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and

(iii) Springs or groundwater seepage.

(c) Areas that have shown movement during the Holocene Epoch (from 10,000 years ago to the present), or which are underlain or covered by mass wastage debris of this epoch;

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(d) Slopes that are parallel or subparallel to planes of weakness (such as bedding planes, joint systems, and fault planes) in subsurface materials;

(e) Slopes having gradients steeper than 80 percent subject to rockfall during seismic shaking;

(f) Areas potentially unstable as a result of rapid stream incision, stream bank erosion, and undercutting by wave action, including stream ~~channel migration zones~~CMZs;

(g) Areas that show evidence of, or are at risk for, snow avalanches;

(h) Areas located in a canyon or on an active alluvial fan, presently or potentially subject to inundation by debris flows or catastrophic flooding; and

(i) Any area with a slope of 40 percent or steeper and with a vertical relief of 10 or more feet except areas composed of bedrock. A slope is delineated by establishing its toe and top and measured by averaging the inclination over at least 10 feet of vertical relief.

~~(i)~~ Landslide Hazard Areas are a type of a Geologically Hazardous Area.

~~(55)~~(70) "Local habitat area" means an area that contains sufficient food, water, or cover for native terrestrial or aquatic species that the C~~c~~ity of La Center has identified in this chapter as being of significant local concern.

~~(56)~~(71) "Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this title.

~~(57)~~(72) "Listed species" are state-listed species including native flora and fauna species legally designated as endangered (WAC 232-12-014), threatened (WAC 232-12-011) or sensitive (WAC 232-12-011); and include threatened and endangered species under the Federal Endangered Species Act, 50 Code of Federal Regulations (CFR) 17.11 and 17.12.

~~(58)~~(73) "Mean sea level" means, for purposes of the National Flood Insurance Program, the vertical datum to which base flood elevations shown on a community's flood insurance rate map are referenced.

~~(59)~~(74) "Minimizing impacts to W~~w~~etlands or buffers" means:

(a) ~~Using~~Limiting the degree or magnitude of the regulated activity;
(b) Limiting the implementation of the regulated activity;
(c) Using appropriate and best available technology;
(d) Taking affirmative steps to avoid or reduce impacts;
(e) Sensitive site design and siting of facilities and construction staging areas away from regulated wetlands and their buffers;
(f) Involving resource agencies, such as the Department of Fish and Wildlife, the Army Corps of Engineers, or tribal governments, early in site planning;
(g) Providing protective measures such as siltation curtains, hay bales and other siltation prevention measures, scheduling the regulated activity to avoid interference with wildlife and fisheries rearing, resting, nesting or spawning activities;
(h) Prohibiting the intentional introduction of nonnative vegetation, except in the case of an approved nonnative street tree; and
(i) Providing preventative measures for soil erosion such as inspections and a monitoring plan.

~~(a) appropriate and best available technology or best available science~~BAS;

~~(b) Taking affirmative steps to avoid or reduce impacts;~~

~~(c) Sensitive site design and siting of facilities and construction staging areas away from regulated W~~wetlands and their buffers;

~~(d) Providing protective measures such as siltation curtains, hay bales and other siltation prevention measures, scheduling the regulated activity to avoid interference with wildlife and fisheries rearing, resting, nesting or spawning activities;~~

~~(e) Not jeopardizing the continued existence of endangered, threatened, rare, sensitive, or monitor species as listed by the federal government or the state of Washington.~~

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~~(60)~~(75) "Mitigation area" is the land area used to compensate for impacts to critical areas and/or their attendant buffers. Compensation may be for loss of acreage and/or functions of the critical area and/or attendant buffers.

~~(61)~~(76) "Mitigation sequence" is the order of action that the approving agency shall require so as to avoid or compensate for impacts to critical areas resulting from the proposed project activity. The type(s) of mitigation required shall be considered and implemented, where feasible, as determined by the Ce~~i~~ity, in the following sequential order of preference:

(a) Avoiding the impact altogether by not taking a certain action or parts of an action;

(b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts;

(c) Rectifying the impact to Wetlands, Critical Aquifer Recharge Areas, and Fish and Wildlife Habitat Conservation Areas by repairing, rehabilitating, or restoring the affected environment;

(d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;

(e) Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and/or

(f) Monitoring the impact and taking ~~appropriate corrective measures to achieve the identified goal~~ remedial action when necessary.

~~(62)~~(77) "Native vegetation," when referring to plants or plant communities, means those species or communities that are indigenous to the watershed, including extirpated species.

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~~(63)~~(78) "New construction" means structures for which the "start of construction" commenced on or after the effective date of this title. For the purposes of determining flood insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial flood insurance rate map or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

~~(64)~~(79) "Normal water year" means a 12-month period (October 1st through September 30th) with average precipitation based upon data from the past 50 years.

~~(65)~~(80) "Obligate," "facultative wet," "facultative," and "facultative upland" refer to groupings of plants according to their frequency of occurrence in wetlands and uplands. Obligate (OBL) wetland plants almost always occur in wetlands under natural conditions. Facultative (FAC) plants are equally likely to occur in wetlands or non-wetlands. Facultative wet (FACW) plants usually occur in wetlands, but may occur in non-wetlands. Facultative upland (FACU) plants usually occur in non-wetlands, but may occur in wetlands. Such groupings are more fully defined in the wetlands delineation manual.

~~(66)~~(81) "Open water," when not specifically defined by the rating criteria, means lacking trees, shrubs, persistent emergents, emergent mosses or lichens with greater than 30 percent areal coverage and the water depth exceeds two meters or six and six-tenths feet at low water.

(82) "Ordinary high water line~~" or "~~(OHWL)" means the mark on the shores of all water that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in ordinary years, as to mark upon the soil or vegetation a character distinct from the abutting upland. It also can be established by fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas. Provided that in any area where the ~~ordinary high water line~~OHWL

cannot be found, the ~~ordinary high water line~~OHWL adjoining freshwater is the elevation of the mean annual flood (WAC 220-660-030(~~108~~111)).

~~(67)~~(83) "Oregon white oak (OWO) woodland(s)" in accordance with WDFW's Priority Habitat & Species (PHS) list, means stands of oak or oak/conifer associations where canopy coverage of the oak component of the stand is twenty-five percent, or where total canopy coverage of the stand is less than twenty-five percent, but oak accounts for at least fifty percent of the canopy coverage. The latter is often referred to as oak savanna. In non-urbanized areas west of the Cascades, priority oak habitat consists of stands less than one acre in size. In urban or urbanizing areas, single oaks or stands less than one acre may also be considered a priority when found to be particularly valuable to fish and wildlife.

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~~(68)~~(84) "Person" means an individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or any agency of the state or local governmental unit however designated.

(85) "Preservation (protection/maintenance)" means removing a threat to, or preventing the decline of, W~~w~~etland conditions by an action in or near a W~~w~~etland. This includes the purchase of land or easements, repairing water control structures or fences, or structural protection such as repairing a barrier island. Preservation does not result in a gain of W~~w~~etland acres ~~,~~and may result in a gain in functions~~, and will be used only in exceptional circumstances~~.

~~(69)~~(86) "Priority Area" means the area within a Priority Species' natural geographic distribution within which protective measures and/or management actions are needed to (1) support populations over the long term and (2) avoid creating isolated subpopulations.

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~~(70)~~(87) "Priority habitat" is a habitat type with unique or significant value to many species. An area identified and mapped as priority habitat has one or more of the following attributes: comparatively high fish and wildlife density, comparatively high fish and wildlife species diversity, important fish and wildlife breeding habitat, important fish and wildlife seasonal ranges, limited availability, high vulnerability to habitat alteration, or unique or dependent species. The Washington State Department of Fish and Wildlife maintains a list of maps and priority species that occur within the state and La Center.

~~(71)~~(88) "Priority species" ~~are fish and wildlife species requiring protective measures and/or management guidelines to ensure their perpetuation. The Washington State Department of Fish and Wildlife maintains a list of priority species that occur within the state and La Center~~As defined by WDFW, State Endangered, Threatened, Sensitive, and Candidate species; animal aggregations considered vulnerable; and species of recreational, commercial, or tribal importance that are vulnerable.

(89) "Qualified ~~wetland~~ professional" ~~generally means a person with at least two years of full-time professional experience and comprehensive training in wetlands issues, including experience performing wetland delineations using state and federal manuals, assessing wetland functions and values, analyzing wetland impacts, preparing wetland reports, developing and implementing mitigation plans, and recommending and designing wetland mitigation projects~~means qualified professionals in critical areas must have obtained a BS or BA or equivalent degree in biology, engineering, environmental studies, fisheries, geomorphology or a related field, and two years of related work experience. In addition:

(a) CARAs and Frequently Flooded Areas. A qualified professional or specialist for CARAs must be a registered professional engineer or hydrogeologist licensed in the State of Washington with specialist experience in CARAs.

(b) Frequently Flooded Areas. A qualified professional or specialist for Frequently Flooded Areas must be a registered professional engineering or hydrologist licensed in the State of Washington with specialist experience or professional certification for flooding.

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(c) Wetlands. A qualified professional or specialist for Wetlands must have a minimum of five years' experience in wetland science, including experience preparing wetland reports for review by regulatory agencies or professional certification (Professional Wetland Scientist Certification).

(d) FWHCAs. A qualified professional or specialist for FWHCAs must be a qualified ecologist; biologist; or person with an environmental science degree, professional experience, certification, and/or licensure related to the relevant type of habitat in question.

~~(72)~~(e) Geologically Hazardous Areas. A qualified professional for Geologically Hazardous Areas must be a Washington-licensed geologist or engineering geologist or a Washington registered professional geotechnical engineer.

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~~(73)~~(90) "Regulated activities" include land clearing, grading, placement of fill or waste material, removal of protected native vegetation, construction and other habitat-altering activities.

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~~(74)~~(91) "Restoration" means the manipulation of physical, chemical or biological characteristics of a site with the goal of returning natural or historic functions to a former or degraded W~~w~~etland. Restoration is divided into the following two classes:

(a) Reestablishment, which is the manipulation of physical, chemical or biological characteristics with the goal of returning natural or historic functions to a former W~~w~~etland. This results in a net gain of W~~w~~etland acres.

(b) Rehabilitation, which is the manipulation of physical, chemical or biological characteristics of a site with the goal of repairing natural or historic functions of a degraded W~~w~~etland. This results in the gain in W~~w~~etland function but does not result in a gain in W~~w~~etland acres.

~~(75)~~(92) "Review authority" means the decision maker that issues the final land use order, not the appeal authority.

(93) "Riparian habitat area" is defined as an area adjacent to aquatic systems with flowing water (e.g., rivers, perennial or intermittent streams, seeps, springs, or lakes) that contain elements of both aquatic and terrestrial ecosystems which mutually influence each other. Riparian areas are three dimensional: longitudinal up and down streams, lateral to the width of the riparian ecosystem, and vertical from below the water table to above the canopy of mature site-potential trees.

~~(76)~~(94) "Riparian management zone (RMZ)" means an area that has the potential to provide full riparian functions. In forested regions, this typically occurs within one 200-year site-potential tree height (SPTH) (as define herein LCMC 18.300.030) measured from the edge of the stream channel. In situations where a channel migration zone (CMZ) (as defined herein LCMC 18.300.030) is present, this occurs within one SPTH measured from the edges of the CMZ.

~~(77)~~(95) "Scrub-shrub W~~w~~etland" means a W~~w~~etland with at least 30 percent of its surface area covered by woody vegetation less than 20 feet in height as the uppermost strata.

~~(78)~~(96) "Seismic H~~h~~azard A~~a~~reas" means areas subject to severe risk of damage as a result of earthquake-induced ground shaking, fault displacement, slope failure, settlement, soil liquefaction, or debris flows~~, lahars, or tsunamis~~. See LCMC 18.300.090(4) for designation of Seismic Hazard Areas. Seismic Hazard Areas are a type of a Geologically Hazardous Areas.

~~(79)~~(97) "Sensitive species" are flora and fauna species native to Washington that are vulnerable or declining, and are likely to become endangered or threatened in a significant portion of their ranges within the state, without cooperative management or the removal of the threats.

(98) "SEPA" means State Environmental Policy Act, Chapter 42.21C RCW and Chapter 197-11 WAC.

(99) "Site class" means the classification of a site based on the productivity of its dominant tree species. Site classes vary based on local differences in soil nutrients and moisture, light and temperature regimes, and topography. Site classes are typically described as most productive (I) through least productive (V).

~~(80)~~(100) "Site Potential Tree Height (SPTH)" means the average maximum height of the tallest dominant trees for a given age and site class.

~~(81)~~(101) "Start of construction" includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement of a manufactured home on a foundation, or other permanent construction beyond the stage of excavation, was within 180 days of the permit date.

(a) The "actual start" means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation.

(b) Permanent construction does not include:

(i) Land preparation, such as clearing, grading and filling;

(ii) Installation of streets and/or walkways;

(iii) Excavation for a basement, footings, piers, or foundation or the erection of temporary forms;

(iv) Construction of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

(c) For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

~~(c)~~(102) "Stormwater" means that portion of precipitation that does not naturally percolate into the ground or evaporate, but flows via overland flow, interflow, pipes, and other features of a stormwater drainage system into a defined surface waterbody or a constructed infiltration system.

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~~(82)~~(103) "Stormwater management facilities" include biofiltration swales, filter strips, bubbler diffusers, detention ponds, retention ponds, wet ponds, and similar facilities designed and intended to control and treat stormwaters, but not including ditches designed and intended primarily for conveyance.

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~~(83)~~(104) "Streams" means an area where open surface water produces a defined channel or bed, not including irrigation ditches, canals, storm or surface water runoff devices, or other entirely artificial watercourses, unless they are used by salmonids or are used to convey a watercourse that was naturally occurring prior to construction. A channel or bed need not contain water year-round, provided there is evidence of at least intermittent flow during years of normal rainfall. ~~those~~ These areas ~~where surface waters produce a defined channel or bed excluding~~ exclude streams and lakes regulated under the State Shorelines Management Act.

~~(84)~~(105) "Structure" means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built or composed of parts joined together in some definite manner and that required location on the ground, or which is attached to something having a location on the ground. For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank~~,~~ that is principally aboveground, as well as a manufactured home.

~~(85)~~(106) "Substantial damage" means damage of any origin sustained by a structure whereby the costs of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

~~(86)~~(107) "Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. For floodplain management purposes, this term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not include either:

(a) Any project for improvement of a structure to correct pre-cited existing violations of state or local health, sanitary, or safety code specifications which have been previously identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

(b) Any alteration of a "historic structure"; provided, that the alteration will not preclude the structure's continued designation as a "historic structure."

~~(87)~~(108) "Threatened" species are native to the state of Washington and likely to become endangered in the foreseeable future throughout a significant portion of their range within the state without cooperative management or the removal of threats. Threatened species are legally designated in WAC 232-12-011.

~~(88)~~(109) "Triggering application" means an application for one of the permits or approvals listed in this chapter.

~~(89)~~(110) "Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance with the floodplain management regulations is presumed to be in violation until such time as that documentation is provided.

~~(90)~~(111) "Water-dependent" means a use or a portion of a use that requires direct contact with the water and cannot exist at a nonwater location due to the intrinsic nature of its operations.

~~(91)~~(112) "Watershed" means an area draining to the East Fork ~~of the~~ Lewis River.

~~(92)~~ "Waters of the state" shall be construed to include lakes, rivers, ponds, streams, inland waters, underground waters, salt waters and all other surface waters and watercourses within the jurisdiction of the state of Washington.

(113) "~~-~~Wellheads" refer to the location and piping present at the ground surface where the surface completion of a groundwater well is constructed.

(114) ~~or~~ "Wellhead protection areas (WPAs)" are areas around public water supply well or wellfield defined by the aquifer recharge areas and groundwater aquifer zones delineated with the 6-month, one, five, and 10-year time of groundwater travel, or boundaries established using alternate criteria approved by the Washington State Department of Health in those settings where groundwater time of travel is not a reasonable delineation criterion in accordance with WAC 246-290-135.

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~~(93)~~(115) "Wetland(s)" means areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from non-wetland areas created to mitigate conversion of wetlands.

~~(94)~~(116) "Wetland classes and subclasses" means descriptive classes of the wetlands taxonomic classification system of the United States Fish and Wildlife Service (Cowardin, et al. 1978; Federal Geographic Data Committee 2013).

(117) "Wetlands delineation manual" means the Corps of Engineers Wetlands Delineation Manual, dated 1987, and the Regional Supplement to the Corps of Engineers Wetlands Delineation Manual: Western Mountains, Valleys and Coast Region (Version 2.0), dated 2010, and as subsequently amended.

(118) "Wetland mitigation bank" is a site or suite of sites where resources are restored, created, enhanced, and/or preserved, for the purpose of providing compensatory mitigation for impacts. In general, a mitigation bank sells compensatory mitigation credits to permittees whose obligation to provide compensatory mitigation is then transferred to the mitigation bank sponsor. The operation and use of a mitigation bank are governed by a mitigation banking instrument.

(119) "Wetlands of high conservation value" are Category I Wetlands that have been identified by scientist from the Washington Natural Heritage Program (WNHP) as important ecosystems for maintaining plant diversity, including rare species or a rare or high-quality ecosystem type. These are known and historical locations of any plant, nonvascular species, or ecosystems considered to be Endangered, Threatened, or Sensitive; or ecosystems prioritized by the WNHP based on a combination of the plant community type's rarity or risk of extinction and its ecological integrity.

~~(95)~~(120) "Wetlands with special characteristics for western Washington" are bogs, estuarine wetlands, forested wetlands, interdunal wetlands, wetlands in coastal lagoons, and Wetlands of High Conservation Value, where applicable. See definitions for "bogs", "forested wetlands", and "Wetlands of High Conservation Value".

[Ord. 2023-12 § 2 (Exh. A), 2023; Ord. 2023-11 § 16 (Exh. J), 2023; Ord. 2021-04 § 15 (Exh. L), 2021; Ord. 2019-26 § 2 (Exh. A), 2019; Ord. 2012-01 § 1 (Exh. A), 2012; Ord. 2007-2 § 1, 2007.]

18.300.040 Applicability and critical areas map.

(1) Applicability. The provisions of this chapter apply to lands within the La Center corporate limits and U~~u~~rban G~~g~~rowth A~~a~~rea that are either designated as critical areas and their buffers on the C~~c~~ity's official critical areas maps, or are critical areas and buffers which are identified as part of a project specific application and land use review.

(a) Properties containing critical areas are subject to this title.

(b) Buffers are protected and impacts to buffers are regulated to help improve the functional values of critical areas.

(c) When the requirements of this chapter are more stringent than those of other La Center codes and regulations, the requirements of this chapter shall apply.

(d) Where a site contains two or more critical areas, the site shall meet the minimum standards and requirements for each identified critical area as set forth in this title.

~~(2)~~ Critical Areas. Critical areas include:

(2)

~~(a)~~ Wetlands;

(a)

~~(b) Category I and II~~ Critical A~~a~~quifer R~~r~~echarge A~~a~~reas (CARAs);

(b)

~~(c) Wellhead protection areas;~~

~~(d)~~ Fish and W~~w~~ildlife H~~h~~abitat C~~c~~onservation A~~a~~reas (FWHCAs);

(c)

~~(e)~~ Frequently F~~f~~looded A~~a~~reas; including Special Flood Hazard Areas (SFHAs); and

(d)

~~(f)~~ Geologically H~~h~~azardous A~~a~~reas, including Erosion Hazard Areas, Landslide Hazard Areas, and Seismic Hazard Areas; ~~and~~

~~(g)~~(e) ~~Slopes with a gradient of 25 percent or greater.~~

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(3) Map Location. The general location of critical areas is depicted on the adopted La Center Ceritical Aareas Mmap and by supplemental map sources as indicated within each Critical Area later in this Chapter. The Ceritical Aareas Mmap is an indicator of probable regulated areas. The precise limits of critical areas and their attendant buffers on a particular parcel of land shall be determined by a qualified professional prior to approval by the Planning Official of a development action on the subject property.

(4) Use of Existing Procedures and Laws. The following laws and procedures shall be used to implement this chapter:

(4)

(a) La Center Municipal Code (LCMC). Development activity regulated under this title that will occur within a protected critical area or critical area buffer shall comply with the provisions of this chapter.

(a)

(b) The State Environmental Policy Act (SEPA), Chapter 43.21C RCW. Development activity that is likely to have a significant adverse impact upon identified critical areas regulated by this chapter shall not be categorically exempt from SEPA review and shall demonstrate compliance with this chapter. (See LCMC 18.310.235.)

(b)

(c) The Shorelines Management Act (SMA), Chapter 90.58 RCW.

(5) State and Federal Agency Review. Regulated activities subject to this chapter shall be routed to appropriate state and federal agencies for review and comment as required through the SEPA and/or JARPA review process.

(6) Applicability by Activity. Table 18.300.040 establishes the level of review required for uses or activities under this title. For Ffrequently Fflooded Aareas that are designated as special flood hazard areasSFHAs as shown on the flood insurance rate map, refer to LCMC 18.300.090(3) for all regulations pertaining to development in these areas.

(a) Exempt (E). Activities or uses that are exempt require no review and do not need to meet the standards of this chapter.

(b) Review Required (RR). Activities and uses that are categorized as "Review Required" must comply with the standards of this chapter but no special report is needed. Determination of compliance with this chapter shall be determined through the review process required for the underlying development permit application.

(c) Critical Area Report (CAR). When a Ceritical Aarea Rreport is required, the applicant must submit a report consistent with this chapter and with the underlying development application and will submit additional application fees consistent with the adopted fee schedule.

(d) The director shall have the discretion to determine whether the proposed activity may adversely impact protected critical areas and/or their buffers and shall assign the appropriate level of review: exempt, review required, or Ceritical Aarea Rreport. The decision of the director may be appealed to the Hhearings Eexaminer.

(e) Critical Aquifer Recharge Area (CARA). See LCMC 18.300.090(1)(a)(ii) for a list of uses prohibited in a CARA I area. The director shall exercise discretion to determine whether similar uses not listed therein require additional review and oversight.

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Table 18.300.040

USE/ACTIVITY	Development located in any of the following critical areas may be exempt (E), require review (RR), or subject to a Critical Area Report (CAR):				
	WETLANDS	**~~FISH AND WILDLIFE HABITAT~~FWHCAs**	**GEOLOGIC HAZARDOUS AREAS**	**FREQUENTLY FLOODED AREA (outside of SFHAs)**	**CARAs**
RESIDENTIAL ACTIVITIES					
Construction, replacement, expansion, or alteration of a single-family dwelling unit in a residential zoning district exceeding 1,000 square feet of impact in a buffer or any impacts in a critical area	CAR	CAR	CAR	CAR	E
Repair, alteration, replacement or expansions of existing single-family structures within a buffer limited to 1,000 square feet during the life of the structure	RR	RR	CAR	RR	E
Approved multifamily site plan prior to 2004	RR	RR	RR	RR	E
Multifamily site plan within critical area or buffer	CAR	CAR	CAR	CAR	E
Multifamily site plan outside of and that does not impact a critical area or buffer including from stormwater runoff	E	E	E	E	E
Interior or exterior alteration or repair that does not change the footprint of the building or does not increase the footprint within a critical area or buffer	E	E	E	E	E
COMMERCIAL AND INDUSTRIAL ACTIVITIES					
New construction on vacant land in critical area or buffer	CAR	CAR	CAR	CAR	CAR
New construction previously approved prior to adoption of the ordinance codified in this chapter	E	E	E	E	E
~~New construction on vacant land outside critical areas or buffer~~	~~E~~	~~E~~	~~E~~	~~E~~	
OTHER ACTIVITIES					
Repair, alteration, replacement or expansions of existing structures within a critical area buffer limited to 500 square feet during the life of the structure	E	E	CAR	E	RR
Expansions of existing structures within a critical area buffer exceeding 500 square feet	CAR	CAR	CAR	CAR	CAR
Clearing, filling, grading, and native vegetation removal activities within a critical area or buffer	CAR	CAR	CAR	CAR	CAR
Forest practices except conversions	E	E	E	E	E
Emergencies[1]	E	E	E	E	E
Repair of existing: structures, infrastructure improvements, utilities,	E	E	E	E	E

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USE/ACTIVITY	Development located in any of the following critical areas may be exempt (E), require review (RR), or subject to a Ccritical Aarea Rreport (CAR):				
	WETLANDS	**~~FISH AND WILDLIFE HABITAT~~FWHCAs**	**GEOLOGIC HAZARDOUS AREAS**	**FREQUENTLY FLOODED AREA (outside of SFHAs)**	**CARAs**
public or private roads or drainage systems in critical areas or buffers					
~~Developments that do not impact a critical area or buffer including from runoff~~	~~E~~	~~E~~	~~E~~	~~E~~	
Public facilities and services identified on the CFP such as road, sewer and water infrastructure, power lines, and gas lines, located in previously unimproved areas	CAR	CAR	CAR	CAR	CAR
Public improvement projects located within existing impervious surface areas or improved rights-of-way or easements	E	E	CAR	E	CAR
Memorandums of agreement with utility service providers and public agencies under an approved Ccritical Aareas Ppermit	RR	RR	~~CAR~~RR	RR	RR
Activities by utility service providers or public agencies subject to a memorandum of agreement	E	E	E	E	E
Chemical applications subject to applicable local, state or federal handling and application requirements	E	E	E	E	CAR
Minor site investigative work, up to 10 cubic yards of fill or removal or removal of trees of six-inch dbh or less	E	E	E	E	E
Hand removal of invasive weeds and blackberries	E	E	E	E	E
Walkways and trails located in the outer 25 percent of a Wwetland or riparian buffer	RR	RR	~~CAR~~RR	RR	RR
Walkways and trails located in the inner 75 percent of a Wwetland or riparian buffer	CAR	CAR	~~CAR~~RR	CAR	RR
Select removal of hazard trees and vegetation when necessary to comply with fire codes	RR	RR	RR	RR	RR
Construction of fences in a critical area or buffer	RR	RR	RR	RR	E
Vegetation removal and maintenance activities inside existing landscaped areas on lots that predate adoption of this chapter (other than removal of trees greater than six-inch dbh)	E	E	E	E	E
Activities that impact habitat supported by anadromous fish.	RR	CAR	E	RR	RR

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[1] Emergencies: See LCMC 18.300.070. Within one week of substantially completing the emergency work, the party responsible for the emergency activity shall file a report with the ~~planning director~~Planning Official demonstrating compliance with this chapter.

[Ord. 2023-12 § 3 (Exh. A), 2023; Ord. 2019-26 § 2 (Exh. A), 2019; Ord. 2012-01 § 1 (Exh. A), 2012; Ord. 2007-2 § 1, 2007.]

18.300.050 Allowed uses with Ceritical Aareas ~~review or~~ Ppermit.

(1) Unless the requirements of this chapter are met, La Center shall not grant any approval or permission to alter the condition of any land, water, or vegetation, or to construct or alter any structure or improvement regulated through the following: building permit, commercial or residential; binding site plan; franchise right-of-way construction permit; site development permit; right-of-way permit; shoreline permit; short subdivision; use permit; subdivision; utility permit; or any subsequently adopted permit or required approval not expressly exempted by this chapter. For Ffrequently Fflooded Aareas that are designated as ~~special flood hazard areas~~SFHAs as shown on the Fflood Iinsurance Rrate Mmap, refer to LCMC 18.300.090(3) for all regulations pertaining to development in these areas.

(2) Compliance with these regulations does not remove an applicant's obligation to comply with applicable provisions of any other federal, state, or local law or regulation.

(3) The Ceity may approve uses listed in subsection (4) of this section, Allowed Uses, subject to a Type II process, if the proposed development activity meets the standards in LCMC 18.300.110, Development standards, and LCMC 18.300.120, Mitigation.

(4) Allowed Uses. The Ceity may allow the following uses on critical areas and within buffer areas subject to the development standards of LCMC 18.300.110 and appropriate mitigation standards as described in LCMC 18.300.120:

(a) Walkways and trails. Walkways and trails may be permitted in a Wwetland or riparian buffer with review; provided, that they are generally parallel to the perimeter of the Wwetland or stream, are located in the outer 25 percent of the buffer area, are constructed with a surface that does not interfere with soil permeability, and their surface is no more than five feet wide. The design and construction of walkways and trails shall avoid impacts to established native woody vegetation. Raised boardwalks using nontreated materials are acceptable. Walkways and trails may be located in the inner 75 percent of a Wwetland or riparian buffer or crossing a stream or Wwetland, provided there is no alternative location in the outer buffer area, and shall be minor crossings that minimize impact with approval of a Ceritical Aareas Ppermit. Wetland or riparian buffer widths shall be increased to compensate for the loss due to the width of the trail.

(b) Below or aboveground utilities, facilities and improvements, where necessary to serve development consistent with the La Center Ceomprehensive Pplan and development code, including: streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, open space, and parks and recreational facilities, where there is no other reasonable alternative, based on topographic and environmental conditions, as determined by the director.

(c) Removal of diseased or dangerous trees, as determined by the director of public works, or the removal of invasive or nuisance plants.

(d) Construction, replacement, expansion, or alteration of a single-family dwelling unit in a residential zoning district exceeding 1,000 square feet of impact in a buffer or any impacts in a critical area requires a Type II Ceritical Aareas Ppermit with Ceritical Aarea Rreport. The construction, replacement, expansion or alteration must conform with the height regulations, lot coverage and dimension standards, and other design provisions for the zone in which the residence is located. The dwelling unit shall be used solely for single-family purposes. The Ceity may modify underlying zoning district dimensional standards applicable by up to a 50 percent adjustment, if necessary to protect critical areas. The following requirements must be met:

(i) There is no alternate location for the single-family residence and ordinary residential improvements on the subject property outside the critical area or buffer;

(ii) All new structures on the subject property are constructed in areas that will minimize disruption to the critical area and buffer;

(iii) Impacts to the critical area or buffer from the development are mitigated and restored to the maximum extent possible;

(iv) When necessary to ensure the effectiveness of mitigation or restoration, the Ceity may require annual monitoring reports to be provided to the Ceity by the property owner until the mitigation and/or restoration has been in place for up to 10 years and the success standards have been met;

(v) The construction and use of the single-family residence and ordinary residential improvements are consistent with all other applicable law, including, but not limited to, the La Center Municipal Code.

(vi) Low impact development techniques that allow for a greater amount of stormwater to infiltrate into the soil should be encouraged to reduce runoff; and

(vii) All development activities on the subject property are consistent with a site development plan approved by the Ceity, which may include requirements to reduce the impact on the critical area and

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buffer from the construction and use of the single-family residence and ordinary residential improvements.

(e) Existing agricultural practices on lands used continuously for agricultural purposes since December 31, 1994. Allowed agricultural practices include: pasture, vineyards, Christmas tree farms, gardens, etc., but do not include machine intensive row crop production. ~~Best management practices~~BMPs shall be required.

(5) Limited Uses. Limited uses, as described in this section, shall avoid critical areas, to the greatest extent reasonable and practicable. Limited uses may be allowed within critical area buffers subject to the mitigation measures and implementation of a monitoring plan as described in LCMC 18.300.120. Applications for development within critical areas or buffers shall demonstrate that all reasonable efforts have been examined with the intent to avoid and minimize impacts to critical areas and buffers. All limited uses shall be consistent with the provisions of this chapter and shall be subject to SEPA review.

(a) Subdivision or Short Plat. The subdivision or short plat process may be used when provisions are made (e.g., avoidance, mitigation, dedication of land or conservation easements) that substantially minimize adverse effects upon critical areas.

(b) Development Subject to Site Plan Review. Any new building or structure affecting critical areas or buffers shall be subject to site plan review, unless otherwise exempted in this chapter.

(c) Stormwater Facilities. A W~~w~~etland or its buffer can be physically or hydrologically altered to meet the requirements of an LID, runoff treatment or flow control BMP if all of the following criteria are met:

(i) The W~~w~~etland is classified as a Category IV or a Category III W~~w~~etland with a habitat score of three to five points; and

(ii) There will be "no net loss" of functions and values of the W~~w~~etland;

(iii) The W~~w~~etland does not contain a breeding population of any native amphibian species;

(iv) The hydrologic functions of the W~~w~~etland can be improved as outlined in questions 3, 4, 5 of Chart 4 and questions 2, 3, 4 of Chart 5 in the "Guide for Selecting Mitigation Sites Using a Watershed Approach," (Department of Ecology Publication No. 09-06-032, December 2009); or the W~~w~~etland is part of a priority restoration plan that achieves restoration goals identified in a shoreline master program or other local or regional watershed plan;

(v) The W~~w~~etland lies in the natural routing of the runoff, and the discharge follows the natural routing;

(vi) All regulations regarding stormwater and W~~w~~etland management are followed, including but not limited to local and state W~~w~~etland and stormwater codes, manuals, and permits; and

(vii) Modifications that alter the structure of a W~~w~~etland or its soils will require ~~permits~~a Critical Areas Permit. Existing functions and values that are lost would have to be compensated/replaced.

(6) Special Provisions for Anadromous Fish. All new structures and land alterations shall be prohibited from habitat that supports anadromous fish except in accordance as follows:

(a) Activities, uses, and alterations proposed to be located in water bodies used by anadromous fish or in areas that affect such water bodies shall give special consideration to the preservation and enhancement of anadromous fish habitat, including, but not limited to, the following:

(i) Activities shall be timed to occur only during the allowable work window as designated by WDFW;

(ii) An alternative alignment or location for the activity is not feasible;

(iii) The activity is designed so that it will minimize the degradation of the downstream functions or values of the fish habitat or other critical areas;

(iv) Any impact to the functions and values of the habitat conservation area are mitigated in accordance with an approved Critical Areas Report.

(b) Structures that prevent the migration of salmonids shall not be allowed in the portion of water bodies currently or historically used by anadromous fish. Fish bypass facilities shall be provided that allow the upstream migration of adult fish and shall prevent juveniles migrating downstream from being trapped or harmed.

(c) Fills, when authorized, shall minimize e the adverse impacts to anadromous fish and their downstream habitat, shall mitigate any unavoidable impacts, and shall only be allowed for water-dependent uses.

~~(vii)~~ [Ord. 2023-12 § 4 (Exh. A), 2023; Ord. 2019-26 § 2 (Exh. A), 2019; Ord. 2012-01 § 1 (Exh. A), 2012; Ord. 2007-2 § 1, 2007.]

18.300.060 Variances.

(1) An applicant who seeks to vary from the requirements of this chapter may seek a variance pursuant to this section. The C~~c~~ity shall review a request to vary from the requirements of this chapter through a Type III review process. For F~~f~~requently F~~f~~looded A~~a~~reas that are designated as ~~special flood hazard areas~~SPFAs as shown on

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the flood insurance rate map, refer to LCMC 18.300.090(3) for all regulations pertaining to development in these areas, including variances.

(2) An application to vary from the requirements of this chapter shall demonstrate compliance with all of the following criteria:

(a) There are special circumstances applicable to the subject property or to the intended use such as shape, topography, location, or surroundings that do not apply generally to other properties;

(b) The variance is necessary for the preservation and enjoyment of a substantial property right or use possessed by other similarly situated property, but which because of special circumstances is denied to the property in question;

(c) Granting the variance will not be materially detrimental to the public welfare or injurious to the property or improvement;

(d) Granting the variance will not violate, abrogate, or ignore the goals, objectives, or policies of the La Center Ceomprehensive Ppplan;

(e) In addition to the approval criteria above, an application to vary from the buffer requirements of a fish habitat conservation area or riparian area shall demonstrate that the requested buffer width modification preserves adequate vegetation to:

(i)Maintain proper water temperature;

(ii)Minimize sedimentation; and

(iii)Provide food and cover for critical fish and wildlife species;

(f) When granting a variance, the Ceity may attach specific conditions to the variance that will serve to meet the goals, objectives, and policies of this chapter, including the preparation and implementation of a mitigation and monitoring plan consistent with LCMC 18.300.120. [Ord. 2023-12 § 5 (Exh. A), 2023; Ord. 2019-26 § 2 (Exh. A), 2019; Ord. 2012-01 § 1 (Exh. A), 2012; Ord. 2007-2 § 1, 2007.]

18.300.070 Exemptions.

(1) Exempt Activities in All Critical Areas. Except for Ffrequently Ffflooded Aareas that are designated as ~~special flood hazard areas~~SFPHFAs as shown on the flood insurance rate map, refer to LCMC 18.300.090(3) for all regulations pertaining to development exemptions in these areas. The following developments, activities, and associated uses shall be exempt from the provisions of this chapter; provided, that they are otherwise consistent with the provisions of other local, state, and federal laws and requirements, and a written request for exemption has been filed with and approved by the ~~planning director~~Planning Official:

(a) Developments that propose no impact to a critical area or buffer.

(b) The director shall have the authority to negotiate memoranda of agreements with utility service providers or public agencies, and said agreements shall specify ~~best management practices (~~BMPs~~)~~ to be used in situations of emergency and usual and customary repair, which, if rigorously adhered to, may exempt said emergency or repair activity, including routine operation and maintenance, from further review under this chapter. Memoranda of agreements shall be authorized by the La Center Ceity Ceouncil only after notice and completion of a public hearing on the full terms and merits of the agreement.

(c) Emergencies. Emergency activities are those activities necessary to prevent an immediate threat to public health, safety, or welfare, or that pose an immediate risk of damage to private property and that require remedial or preventative action in a time frame too short to allow for compliance with the requirements of this chapter. Emergency actions that create an impact to a critical area or its buffer shall use reasonable methods to address the emergency; in addition, they must have the least possible impact to the critical area or its buffer. The person or agency undertaking such action shall notify the Ceity within one working day following commencement of the emergency activity. Following the emergency appropriate mitigation shall be implemented and permanent activities, installations or impacts are subject to review and compliance with the applicable standards.

(i)Authorization. Notwithstanding the provisions of this chapter, the ~~planning director~~Planning Official may issue a temporary Eemergency Ppermit prospectively or, in the case of imminent threats to public health, safety or welfare, retroactively, where the anticipated threat or loss may occur before a permit can be issued or modified under the procedures otherwise required by the Act and other applicable laws.

(ii)Prior to issuing an Eemergency Ppermit, the ~~planning director~~Planning Official shall issue a finding that extraordinary circumstances exist and that the potential threat to public health, safety or welfare from the emergency situation is clearly significant and substantial.

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(iii)Conditions. Any Eemergency Ppermit granted shall incorporate, to the greatest extent practicable and feasible but not inconsistent with the emergency situation, the standards and criteria required for nonemergency activities under this Act and shall:

(A) Be limited in duration to the time required to complete the authorized emergency activity, not to exceed 90 days; and

(B) Require, within this 90-day period, the restoration of any Wwetland altered as a result of the emergency activity, except that if more than 90 days from the issuance of the Eemergency Ppermit is required to complete restoration, the Eemergency Ppermit may be extended to complete this restoration.

(C) Within one week of substantially completing the emergency work, the party responsible for the emergency activity shall file a report with the ~~planning director~~ Planning Official demonstrating compliance with this chapter.

(iv)Notice. Notice of issuance of an Eemergency Ppermit shall be published in a newspaper having general circulation in the Ceity of La Center not later than 10 days after issuance of such permit.

(v)Termination. The Eemergency Ppermit may be terminated at any time without process upon a determination by the Ceity that the action is no longer necessary to protect human health or the environment.

(d) Repair, alteration, replacement, or expansion of an existing structure and related improvements. Structures and related improvements may continue to exist in their present form and may be altered; this includes remodel, reconstruction, or expansion, if such alteration complies with the following:

(i)The expansion of the structure's footprint is outside a Llandslide Hhazard Aarea or Llandslide Hhazard Aarea Bbuffer unless required for safety or seismic upgrades;

(ii)Any expansion of the structure's footprint is located only within a critical area buffer. No expansion of the footprint is allowed within a Wwetland or ~~fish and wildlife habitat conservation area~~FWHCAs;

(iii)Cantilevers over critical areas are not allowed;

(iv)The expansion of the structure's footprint at ground level does not exceed 500 square feet;

(v)Any expansion of the structure's footprint is no closer to the critical area than its existing footprint; and

(vi)If a building is harmed or destroyed by more than 90 percent of its valuation exclusive of foundations, the building must be reconstructed in compliance with the requirements of this chapter.

(e) Repair. Repair or replacement of existing structures, infrastructure improvements, utilities, public or private roads, dikes, levees or drainage systems, including operation and maintenance of existing facilities, that do not require construction permits, if the activity does not further alter or increase the impact to, or encroach further within, the critical area or buffer and there is no increased risk to life or property as a result of the proposed maintenance or repair.

(f) Forest Practices. Forest practices regulated and conducted in accordance with the provisions of Chapter 76.09 RCW and forest practices regulations, WAC Title 222, and those that are exempt from La Center's jurisdiction; provided, that forest practice conversions are not exempt.

(g) Activities within the Improved Public Right-of-Way or Recorded Easement. Replacement, modification, installation, or construction of utility facilities, lines, pipes, mains, equipment, or appurtenances, not including substations, when such facilities are located within the improved portion of the public right-of-way or recorded easement, or a Ceity-authorized private roadway except those private activities that alter a Wwetland or watercourse, such as culverts or bridges, or result in the transport of sediment or increased stormwater.

(h) Chemical Applications. The application of herbicides, pesticides, organic or mineral-derived fertilizers, or other hazardous substances, if necessary; provided, that their use shall be restricted in accordance with Department of Fish and Wildlife Management recommendations, the Washington State Department of Ecology, and the regulations of the Department of Agriculture and the U.S. Environmental Protection Agency.

(i) Minor Site Investigative Work. Work necessary for land use submittals, such as surveys, soil logs, percolation tests, and other related activities, where such activities do not require construction of new roads or significant amounts of excavation. In every case, impacts to the critical area shall be minimized and disturbed areas shall be immediately restored.

(j) Boundary Markers. Construction or modification of boundary markers or fences.

(k) Construction and modifications to existing structures that do not increase the footprint of the structure.

(l) The removal of the following vegetation with hand labor and light equipment, and vegetation removal that is a hazard to electrical power lines with hand-held and walk-beside equipment such as mowers and weed

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eaters in compliance with the provisions contained in the ANSI A300 (Part 1) guidelines, including, but not limited to:

(i)Invasive nonnative weeds;

(ii)English ivy (Hedera helix);

(iii)Himalayan blackberry (Rubus armeniacus); and

(iv)Evergreen blackberry (Rubus laciniatus).

(m) Emergency or hazard tree removal conducted so that habitat impacts are minimized.

(n) Public improvement projects located within existing impervious surface areas.

(o) Public agency and utility exemption. If application of this chapter would prohibit development or other alteration by a public agency or public utility, the agency or utility may apply for an exemption pursuant to this section. The request shall be supplemented with an explanation as to how the public agency and utility exception criteria below are satisfied. The administrator may require additional information or studies to supplement the exemption request. To qualify for an exception the agency or utility must demonstrate that:

(i)There is no other practical alternative to the proposed development that has less impact on critical areas;

(ii)The application of this chapter would unreasonably restrict the ability to provide needed services or benefit to the public;

(iii)The proposed use does not pose a threat to the public health, safety, or welfare;

(iv)The proposal protects critical area functions and values to the extent feasible and provides for mitigation in accord with the provisions of this chapter; and

(v)The proposal is consistent with other applicable regulations and standards.

(2) Exemption Request and Review Process. The proponent of the activity shall submit a completed exemption request form to the building official that describes the activity and states the exemption listed in this section that applies. The director shall review the exemption request to verify that it complies with this chapter and approve or deny the exemption. If the exemption is approved, it shall be placed on file with the department and the requesting party notified. If the exemption is denied, the proponent may continue in the review process and shall be subject to the requirements of this chapter. Determinations shall be considered a Type I process pursuant to LCMC 18.30.080 and subject to appeal pursuant to LCMC 18.30.130.

(3) Exempt Activities Shall Minimize Impacts to Critical Areas. All exempted activities shall use reasonable methods to avoid potential adverse impacts to critical areas. To be exempt from this chapter does not give permission to degrade a critical area or ignore risk from natural hazards. Any incidental damage to, or alteration of, a critical area that is not a necessary outcome of the exempted activity shall be restored, rehabilitated, or replaced at the responsible party's expense. [Ord. 2023-12 § 6 (Exh. A), 2023; Ord. 2019-26 § 2 (Exh. A), 2019; Ord. 2012-01 § 1 (Exh. A), 2012; Ord. 2007-2 § 1, 2007.]

18.300.080 Reasonable economic use exception.

(1) Reasonable Economic Use Exceptions. The following exceptions shall apply. The Ceity shall apply the standards of this chapter to the maximum extent practicable to avoid and minimize adverse impacts on the functions and values of critical areas and buffers. Mitigation of impacts, consistent with this chapter, is required. For Ffrequently Fflooded Aareas that are designated as ~~special flood hazard areas~~ SFHAs as shown on the flood insurance rate map, refer to LCMC 18.300.090(3) for all regulations pertaining to development in these areas, including exceptions.

(2) General Requirements.

(a) Except when application of this chapter would deny all reasonable economic use of a lot, an applicant who seeks a modification from the regulations of this chapter may pursue a variance as provided in LCMC 18.300.060, Variances, and consistent with the requirements of this section.

(b) The ~~mayor or his or her designee~~Planning Official shall prepare and maintain application forms necessary to implement this section.

~~(3)~~ Application Requirements.

~~(a)~~ Preliminary Review. The provisions for conducting a preliminary review of a proposed reasonable economic use exception are set forth in this section.

(3)

(a)

(b) Regulations – General Provisions – Application Filing.

(i) Reasonable economic use exception applications shall be reviewed for completeness in accordance with Ceity submittal standards checklists and pursuant to LCMC 18.30.050.

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(ii) An applicant for a development proposal may file a request for a reasonable economic use exception which shall include the following information:

(A) A description of the areas of the site which are critical areas and/or within buffers or setback(s) required under this title;

(B) A description of the amount of the site which is within critical areas, buffers, and/or setback(s) required by other standards of this title;

(C) A description of the proposed development, including a site plan;

(D) An analysis of the impact that the amount of development described in subsection (3)(b)(ii)(C) of this section would have on the critical area(s), buffers, and/or setback(s);

(E) An analysis of whether any other reasonable economic use with less impact on the critical area(s), ~~and~~ associated buffer(s), and/or setback(s) is possible;

(F) A design of the proposal so that the amount of development proposed as reasonable economic use will have the least impact practicable on the critical area(s), buffer(s), and/or setback(s);

(G) An analysis of the modifications needed to the standards of this chapter to accommodate the proposed development;

(H) A description of any modifications needed to the required front, side, and rear setbacks; building height; and buffer widths to provide for a reasonable economic use of the site while providing greater protection to the critical area(s), buffer(s), and/or setback(s); and

(I) Such other information as the Ce~~e~~ity determines is reasonably necessary to evaluate the issue of reasonable economic use as it relates to the proposed development.

(4) Public Review.

(a) The Ce~~e~~ity shall process a request for a reasonable economic use exception as a Type III procedure pursuant to LCMC 18.30.100.

(b) The Ce~~e~~ity shall forward a copy of a request for reasonable economic use exception to the state and federal agencies with jurisdiction over the resource at issue and to all property owners within 300 feet of the subject property.

(c) The Ce~~e~~ity shall provide public notice of the request for reasonable economic use exception pursuant to LCMC 18.30.120.

(d) A party shall appeal a final decision of a request for reasonable economic use exception pursuant to LCMC 18.30.130.

(5) Reasonable Economic Use Approval Criteria. The H~~h~~earings Eexaminer shall approve a reasonable economic use exception if the examiner determines the following criteria are met:

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(a) There is no other reasonable economic use or feasible alternative to the proposed development with less impact on the critical area(s), buffer(s), and/or setback(s);

(b) The proposed development does not pose a threat to the public health, safety, or welfare on or off the site;

(c) Any alteration of the critical area(s), buffer(s), and/or setback(s) shall be the minimum necessary to allow for reasonable economic use of the property;

(d) The proposed development will not result in a "take" of a threatened or endangered species or associated habitat;

(e) The inability of the applicant to derive reasonable economic use of the property is not the result of actions by the applicant in subdividing the property or adjusting a boundary line thereby creating the undevelopable condition after the effective date of the ordinance codified in this chapter; and

(f) The proposal mitigates the impacts on the critical area(s), buffer(s), and/or setback(s) in accordance with LCMC 18.300.120 while still allowing reasonable economic use of the site. The applicant shall prepare and implement a mitigation and monitoring plan consistent with LCMC 18.300.120. [Ord. 2023-12 § 7 (Exh. A), 2023; Ord. 2019-26 § 2 (Exh. A), 2019; Ord. 2012-01 § 1 (Exh. A), 2012; Ord. 2007-2 § 1, 2007.]

18.300.090 Critical lands.

(1) Critical Aquifer Recharge Areas (CARAs). Due to the exceptional susceptibility and/or vulnerability of groundwaters underlying aquifer recharge areas to contamination and the importance of such groundwaters as sources of public water supply, it is the intent of this chapter to safeguard groundwater resources by mitigating or precluding future discharges of contaminants from new land use activities. The provisions of this chapter shall apply to regulated activities specified herein within those portions of the La Center UGA classified as Category I ~~aquifer recharge areas~~CARAs.

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(a) Category I ~~Aquifer Recharge Areas (~~CARAs~~ I)~~. For purposes of this chapter, ~~critical aquifer recharge areas~~CARAs include lands within ~~the 10-year zone of contribution around wellheads~~Group A wells and

their associated wellhead protection areas (WHPAs), as shown on the La Center Ceritical Aareas Mmap and the Washington State Department of Health Source Water Assessment Program (SWAP) Map showing Drinking Water Service Areas. Category I CARAs are subject to the following prohibitions:

(i) Development, other than the maintenance of vegetation, shall be prohibited within 50 feet of any ~~wellhead~~ WHPA within the UGA.

(ii) The following uses are prohibited in Category I ~~aquifer recharge areas~~CARAs:

(A) Landfills;

(B) Class V injection wells:

(I) Aagricultural drainage wells;

(II) Uuntreated sewage waste disposal wells;

(III) Ceesspools;

(IV) Iindustrial process water and disposal wells; and

~~(B)~~(V) Rradioactive waste disposal;

(C) Radioactive disposal sites; and

(D) Surface mining operations.

(b) Storage Tank Permits. The Clark County Ffire Mmarshal regulates and authorizes permits for underground storage tanks, pursuant to the Uniform Fire Code (Article 79) and this chapter. The Washington Department of Ecology also regulates and authorizes permits for underground storage tanks (Chapter 173-360 WAC).

(i) Facilities with Underground Tanks – New Underground Tanks.

(A) All new underground storage facilities used or to be used for the underground storage of hazardous substances or hazardous wastes shall be designed and constructed so as to:

(I) Prevent releases due to corrosion or structural failure for the operational life of the tank;

(II) Be protected against corrosion, constructed of noncorrosive material, steel clad with a noncorrosive material, or designed to include a secondary containment system to prevent the release or threatened release of any stored substance; and

(III) Use material in the construction or lining of the tank that is compatible with the substance to be stored.

(ii) Aboveground Tanks.

(A) No new aboveground storage facility or part thereof shall be fabricated, constructed, installed, used, or maintained in any manner which may allow the release of a hazardous substance to the ground, groundwaters, or surface waters of La Center within ~~a CARA I~~Category I CARAs.

(B) For a tank that will contain a hazardous substance, no new aboveground tank or part thereof shall be fabricated, constructed, installed, used, or maintained without having constructed around and under it an impervious containment area enclosing or underlying the tank or part thereof.

(C) A new aboveground tank that will contain a hazardous substance will require a secondary containment system either built into the tank structure or a dike system built outside the tank for all tanks located within an aquifer recharge area. The secondary containment system or dike system must be designed and constructed to contain the material stored in the tank(s).

(c) The applicant shall demonstrate, through the land use approval process, that the proposed activity will not have any adverse impacts on groundwater in ~~critical aquifer recharge areas~~CARAs, based on the Safe Drinking Water Act and the Wellhead Protection Area Program, pursuant to Public Water Supplies, Chapter 246-290 WAC; Water Quality Standards for Groundwaters of the State of Washington, Chapter 173-200 WAC; and Dangerous Waste Regulations, Chapter 173-303 WAC.

(d) Level 1 Hydrogeological Reports Required. Unless the Ceity of La Center waives one or more of the informational requirements listed below, nonexempt applications for activities undertaken in a Category I CARA must complete a Level 1 Hhydrogeological Rreport containing these items:

(i) A site development plan that shows the entire parcel of land owned by the applicant, and the features of the parcel that are relevant to groundwater source protection, including but not limited to:

(A) The exact boundary and description of wellhead protection areas, including the source well and sanitary control area, if applicable;

(B) The locations of susceptible soils on the site;

(C) Groundwater contours indicating the direction of shallow groundwater flow, shown in relation to the wellhead and its wellhead protection area if applicable, and existing and proposed stormwater facilities;

(D) Any existing well(s) on site, whether in use or abandoned;

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(E) All potential sources of soil or groundwater contamination on the site; and
(F) The locations of proposed temporary construction dewatering wells or other resource protection wells.

(ii) A description of the proposed use of the site, and descriptions of the types and quantities of hazardous materials that would be used or stored on the site, including fuels and fuels associated with mechanical equipment and retail products.

(iii) Descriptions of how the engineering design and planned operation and maintenance of the project will mitigate impacts to groundwater quality and quantity at the development site. The descriptions shall also identify how the characteristics of the site, such as soils and geology, limit the mitigation of impacts to site development.

(e) Level 2 Hydrogeological Reports Required. A Level 2 Hhydrogeological Rreport shall be required by the Ceity for a project located in a Category I CARA if:

(i) There is insufficient hydrogeological information provided in the Level I Hydrogeological Rreport to perform an adequate review to assure aquifer protection; or

(ii) The project is likely to possess, store, use, transport, or dispose of hazardous materials.

(f) Hydrogeological Rreports shall be prepared, signed, and dated by a ~~professional who is licensed in the state of Washington in hydrogeology or geology~~ qualified professional for CARAs as defined in LCMC 18.300.030.

(g) The Hydrogeological Rreport shall identify and characterize the ~~aquifer recharge area~~CARA(s) as it relates to the development site and assess the impacts of the development proposal on the ~~aquifer~~CARA(s), and assess the impacts of any alteration proposed for the aquifer recharge or wellhead protection area.

(h) The Level 2 Hhydrogeological Rreport shall contain the information required by the Level 1 Hydrogeological Rreport and the following:

(i) Information sources;
(ii) Site geology and hydrostratigraphy, supported by well logs or borings;
(iii) Available data on wells and springs located within one-quarter mile of the site;
(iv) Location and depth of perched water tables;
(v) Groundwater elevations, flow direction, and gradient;
(vi) Recharge potential of the site, including aquifer permeability and transmissivity;
(vii) Background water quality;
(viii) Identification of all hazardous materials to be used or stored on the site;
(ix) Analysis of the increase or change in nitrate concentrations predicted to occur in groundwater beneath the site as a result of the project;
(x) A description of site conditions prior to project development, including vegetation and other conditions relating to existing and historic groundwater recharge at the site;
(xi) An analysis of site conditions as they are likely to exist during and after construction of the proposed project, and their cumulative impacts on groundwater quantity and quality;
(xii) Discussion of proposed mitigation measures to minimize impacts to groundwater quality and quantity, including training, maintenance and monitoring plans, and the mechanisms and financial measures that are proposed that will ensure the long-term implementation of mitigation measures; and
(xiii) Any other information as required by the Ceity.

(2) Fish and Wildlife Habitat Conservation Areas (FWHCAs).

(a) Identified sensitive ~~fish and wildlife habitat conservation areas~~FWHCAs shall be preserved or adverse impacts mitigated. ~~Fish and wildlife habitat conservation areas~~FWHCAs that must be considered for classification and designation include:

(i) Riparian.

(A) Overwhelming evidence exists to support the use of riparian buffers of adequate size to maintain healthy, productive fish and wildlife habitat. Although riparian areas comprise only a small portion of the surface landscape, approximately 90 percent of Washington's land-based vertebrate species prefer, or are dependent upon, riparian habitat for essential life.

(B) Riparian habitat areas may include Ffrequently Fflooded Aareas, ~~critical recharge areas~~CARAs, and Wwetlands. Riparian habitat areas are those areas immediately adjacent to waterways that contain elements of both aquatic and terrestrial ecosystems that mutually influence each other. WAC 222-16-030, relating to stream classification, shall be the Ceity's classification system for streams.

(ii) Endangered or Threatened.

(A) Areas that have a primary association with federally listed endangered or threatened species of fish or wildlife and which if altered may reduce the likelihood that the species will maintain and reproduce over the long term.

(B) Point locations are the specific sites (nests, dens, etc.) where critical wildlife species are found. Many of these sites have been identified and mapped by the Washington Department of Fish and Wildlife (WDFW). Point locations are lands where species designated as endangered or threatened have a primary association with that land. Development of such lands shall be controlled in accordance with a site-specific fish and wildlife management plan consistent with the WDFW's priority habitats and species management recommendations and prepared by a qualified consultant. The Washington Department of Fish and Wildlife should be consulted to provide a technical review and an advisory role in the ~~decision~~ decision-making process.

(iii) Local Habitat Areas.

(A) Species of local importance are those species that are of local concern due to their population status or their sensitivity to habitat manipulation or that are game species, including anadromous fish.

(B) Habitats of local importance include a seasonal range or habitat element with which a given species has a primary association, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term. These might include areas of high relative density or species richness, breeding habitat, winter range, and movement corridors. These might also include habitats that are of limited availability or high vulnerability to alteration, such as cliffs, talus, and wetlands.

(C) Local habitat areas include those areas specifically identified as local habitat areas on the City's adopted critical areas map and background maps used to prepare the critical areas map.

(I) The City or private citizens may nominate areas for consideration as local habitat areas and for inclusion on the critical areas map.

(II) The applicant shall be responsible for preparing the nomination using city-prescribed forms. The applicant shall pay a processing fee of one percent of the assessed value of the proposed area as zoned at the time of application.

(III) The Hearings Examiner, through a Type III process, and in reliance upon all ~~best available science~~BAS in the hearing record, shall make a determination of whether the nominated area qualifies as a local habitat area.

(iv) Priority Habitat Species (PHS) Areas. Areas with which state-listed monitor or candidate species or federally listed candidate species have a primary association, as specified in Washington Department of Fish and Wildlife Policies 4802 and 4803, and which if altered may reduce the likelihood that the species will maintain and reproduce over the long term.

(v) Naturally occurring ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat.

(vi) Waters of the state.

~~(vii)~~ Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity.

(vii)

(viii) State natural area preserves, natural resource conservation areas, and state wildlife areas.

(ix) Buffers.

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Table 18.300.090(2)(a) – Priority Habitat and Species Buffers

Resource Type	Critical Zone	Protected Buffer
Wildlife Habitat		
Local Habitat	Delineated	Use BAS for species.
Nonriparian Priority Habitat and Species	Delineated	300 feet or threshold based upon consultation with WDFW or through the city's peer review process.[1]
Subject to the ESA	Delineated	Use BAS for species up to 1,300-foot threshold distance.

[1] For example, the city may allow a reduced buffer around a single ~~Oregon white oak tree~~OWO as a result of consultation with the regulatory agency or as a result of the city peer review process if the important functions and values of the resource will not be significantly diminished as a result of the buffer reduction.

(b) Sources. The City consulted the following sources to identify critical ~~fish and wildlife habitat areas~~ FWHCAs and protective measures:

(i) Water Type Reference Maps, Washington Department of Natural Resources;

(ii) Natural Heritage Data Base, Washington Department of Natural Resources;

(iii) Priority Habitats and Species Program and Priority Habitat Species Maps, Washington Department of Fish and Wildlife;

(iv) Non-Game Data Base, Washington Department of Fish and Wildlife;

(v) Washington Rivers Information System, Washington Department of Fish and Wildlife;

(vi) Water Resource Index Areas (WRIA), Washington Department of Fish and Wildlife;

(vii) Water Crossing Design Guidelines, Washington Department of Fish and Wildlife (2013);

(viii) Stream Habitat Restoration Guidelines, Washington Department of Fish and Wildlife (2012);

(ix) Land Use Planning for Salmon, Steelhead, and Trout, Washington Department of Fish and Wildlife (2011);

(x) Landscape Planning for Washington's Wildlife, Washington Department of Fish and Wildlife (2009);

~~(xi)~~ Aquatic Habitat Guidelines (2010, 2014), Washington Department of Fish and Wildlife;

~~(xii)~~(xi) ~~Management Recommendations for Washington's Priority Habitat: Oregon White Oak Woodland Habitat, Washington Department of Fish and Wildlife (1998) and as amended;~~

~~(xiii)~~(xii) Management Recommendations for Washington's Priority Habitat: Riparian, Washington Department of Fish and Wildlife (1997); ~~and~~

(xiii) Field studies performed by qualified natural resource specialists; ~~.~~

(xiv) Riparian Ecosystems, Volume 1: Science Synthesis and Management Implications, Washington Department of Fish and Wildlife (2020); and

(xv) Riparian Ecosystems, Volume 2: Management Recommendations, Washington Department of Fish and Wildlife (2020).

~~(xiv)~~(xvi) Management Recommendations for Washington's Priority Habitats: BMPs for Mitigating Impacts to Oregon White Oak Priority Habitat, Washington Department of Fish and Wildlife (2024).

(c) Education and Information. A voluntary education program to explain the need for and methods of habitat management may provide for long-term protection and enhancement of ~~critical fish and wildlife habitat areas.~~FWHCAs. By informing citizens about the declining populations of several fish and wildlife species in La Center, the diminishing animal habitat available, and the management techniques that individuals can use to preserve and restore fish and wildlife habitat areas, the City can foster good stewardship of the land by property owners.

(i) The City will provide educational materials and lists of additional sources of information to applicants proposing regulated activities in the vicinity of ~~critical fish and wildlife habitat areas~~FWHCAs. Materials will be selected from a variety of state and local resources.

(ii) The City may accumulate information on the number of proposed activities associated with ~~fish and wildlife habitat areas~~FWHCAs as identified by this chapter and indicated by state and local governmental maps to be in the vicinity of identified ~~critical fish and wildlife habitats~~FWHCAs. Information shall include the number of single-family residences and other development occurring in the vicinity of ~~critical fish and wildlife areas~~FWHCAs. Based on this information, additional regulations could be developed.

(iii) The education and information program is an important adjunct to the implementation of the regulatory provisions of this chapter.

(d) Critical Area Report. A Critical Area ~~A~~area ~~R~~report is required where specifically indicated and when an activity is proposed within a critical area or buffer that is not specifically exempt, or is permitted only with review. Where a Critical Area ~~A~~area ~~R~~report is required, it must:

(i) Be completed by a qualified professional as defined in LCMC 18.300.030.

(ii) Use scientifically valid and professionally recognized and accepted methods and studies or ~~best available science~~BAS in the analysis of critical area data and field reconnaissance and refer to the source of science used. The Critical Area ~~A~~area ~~R~~report shall evaluate the proposal and all probable impacts to critical areas in accordance with the provisions of this chapter.

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(iii) Minimum Critical Area Report Contents. At a minimum, the Critical Area R~~r~~eport shall contain the following:

(A) The name and contact information of the applicant, the name and address of the qualified professional who prepared the Critical Area R~~r~~eport, a description of the proposal, and an identification of the permit requested;

(B) A copy of the site plan for the development proposal showing:

(C) Identified critical areas, buffers, and the development proposal with dimensions;

(D) Limits of any areas to be cleared;

(E) A description of the proposed stormwater management plan for the development and consideration of impacts to drainage alterations; and

(F) General location and types of vegetation;

(G) The dates, names, and qualifications of the persons preparing the Critical Area R~~r~~eport and documentation of any fieldwork performed on the site;

(H) Identification and characterization of all C~~c~~ritical A~~a~~reas, W~~w~~etlands, water bodies, and buffers adjacent to the proposed project area;

(I) A statement specifying the accuracy of the Critical Area R~~r~~eport, and all assumptions made and relied upon;

(J) A description of reasonable efforts made to apply mitigation sequencing pursuant to LCMC 18.300.030(52) to avoid, minimize, and mitigate impacts to critical areas;

(K) Plans for adequate mitigation, as needed, to offset any impacts, in accordance with mitigation plan requirements, LCMC 18.300.120, including, but not limited to:

(I) The impacts of any proposed development within or adjacent to a critical area or buffer on the critical area; and

(II) The impacts of any proposed alteration of a critical area or buffer on the development proposal, other properties and the environment;

(III) A discussion of the performance standards applicable to the critical area and proposed activity;

(IV) Financial guarantees to ensure compliance; and

(V) Any additional information required for the critical area as specified in the corresponding chapter.

(iv) Additional Critical Area Report requirements for the occurrence of OWOs. In addition to the minimum Critical Area Report contents as required with subsection (2)(d)(iii), a Critical Area Report assessing the ecological function and impacts to OWOs from proposed site activities shall utilize and implement the BMPs for Mitigating Impacts to Oregon White Oak Priority Habitat, Washington Department of Fish and Wildlife (2024), including.

(A) An initial site assessment and calculation of ecological footprint in accordance with Appendix 1;

(B) Assess and document OWO(s) ecological functions impacted using the following functional assessment tools:

(I) Using Appendix 2 (Willamette Partnership's Rapid Assessment Tool) for woodland functional assessment or

(II) Using Appendix 3 (WDFW Functional Assessment Tool) for an individual tree functional assessment;

(C) Include temporal mitigation by assessing the values of (1) baseline ecological function of the OWO woodland or individual and (2) the ecological function post-development. Using the baseline and post-development ecological function values, temporal mitigation shall be implemented at the ratios as recommended by the WDFW guidance.

(D) Include a mitigation plan for the physical loss of ecological function at the ratios by the removed tree's dbh as recommended by the WDFW guidance.

(E) Include the location of the proposed temporal and physical loss mitigation site(s); and

(F) A maintenance plan for the mitigation area(s) in accordance with the WDFW guidance and LCMC 18.300.090(2)(i)(v) and 18.300.120(1)(g).

(v) Additional Critical Area Report requirements for the occurrence of anadromous fish. In addition to the minimum Critical Area Report contents as required with subsection (2)(d)(iii) and permitted activities in anadromous fish habitats pursuant to LCMC 18.300.050(6), a Critical Area Report assessing the ecological function and impacts to anadromous fish and anadromous fish habitat from proposed site

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activities shall provide an anadromous fish protection plan prepared by a qualified professional with knowledge of the species in question, including a habitat management plan and mitigation plan.

(A) A detailed description of the landscape and vegetation on and adjacent to the project area;

(B) Identification of any endangered, threatened, rare, sensitive, or monitor species of anadromous fish, or resident fish species or species of local importance that are known to occur on or adjacent to the proposed site, and a detailed description of those species' life cycles and limiting factors;

(C) A discussion of any federal, state or local special management recommendations have been developed for salmonid recovery or anadromous fish species or habitats located on or adjacent to the project area;

(D) A detailed description of the potential impact on anadromous fish by the project, particularly with regard to life stages important to species survival;

(E) A discussion of conservation or protection measures proposed to preserve and enhance existing habitat and restore any habitat that was degraded prior to development;

~~(V)~~ A discussion of continuing management practices that will protect and enhance anadromous fish and associated habitat after the project site has been developed, including proposed monitoring and maintenance programs.

~~(iv)~~(vi) Unless otherwise provided, a Ceritical Aarea Rreport may be supplemented by or composed, in whole or in part, of any reports or studies required by other laws and regulations or previously prepared, by a qualified professional, for and applicable to the development proposal site, as approved by the director.

~~(v)~~(vii) The director may waive specific requirements of the Ceritical Aarea Rreports where less information is required to address the impacts to the critical area adequately or where existing information is on file with the Ceity that addresses the impacts.

~~(vi)~~(viii) The director may require additional information that is necessary to determine compliance with the standards of this chapter.

~~(vii)~~(ix) A qualified professional shall be a person who has the education, training, experience, and/or certification that meets the specific requirements to evaluate ~~fish and wildlife habitat~~FWHCAs as defined in LCMC 18.300.030.

(e) ~~Best Available Science~~BAS. Critical Aarea Rreports and decisions to alter ~~fish and wildlife habitat conservation areas~~ FWHCAs shall rely on the ~~best available science~~BAS to protect the functions and values of critical habitat areas and must give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fish and their habitat. ~~Best available science~~BAS is that scientific information applicable to the critical area prepared by local, state, or federal natural resource agencies, a qualified scientific professional or team of qualified scientific professionals, and that is consistent with criteria established in WAC 365-195-900 through 365-195-925.

~~(f)~~ Habitat Buffers. ~~Fish and wildlife habitat conservation areas~~FWHCAs and buffers are assigned to the lands regulated by this section according to Table 18.300.090(2)(a). RMZ widths are 195 feet for Shorelines of the State (Type S), for both fish-bearing and non-fish-bearing waterbodies, and for unclassified streams. Development activities are restricted within the established RMZ and this Chapter.~~buffer areas as indicated in Table 18.300.090(2)(f).~~

~~**Table 18.300.090(2)(f) – Riparian Areas**~~

~~Fish and Wildlife Habitat Areas RIPARIAN AREAS~~	~~Characteristic~~	~~Riparian Ecosystem Area (in feet)~~
~~Type S (fish bearing)~~	~~East Fork of the Lewis River~~	~~250~~
~~Type F (perennial or fish bearing)~~	~~Brezee, Jenny and McCormick Creeks and stream < 5 feet wide, if fish bearing~~	~~200~~
~~Type Np streams, low mass wasting potential~~	~~Less than 3 feet in width on average~~	~~150~~
~~Type Ns stream, high mass wasting potential~~	~~Seasonal streams with a defined channel~~	~~75~~

~~(i) Water types are defined and mapped based on WAC 222-16-030 or 222-16-031, whichever is in effect on the date of application. While the WAC definitions control, generally, Type S streams include shorelines of the state and have flows averaging 20 or more cubic feet per second; Type F streams are those that are non-Type S~~

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~~but still provide fish habitat; and Type N streams do not have fish habitat and are either perennial (Np) or seasonal (Ns). Erosion gullies or rills, and streams which are manmade, or streams less than six inches wide or not having a defined bed and/or bank are not included.~~

(g) ~~Buffer~~ RMZ Standards.

(i) Building Setback and Construction near the RMZ~~Buffer~~. A minimum setback of 15 feet from the ~~buffer~~ RMZ shall be required for construction of any impervious surface(s) greater than 120 square feet of base coverage from the head or toe of a slope where the overall slope is greater than 35 percent. Clearing, grading, and filling within 15 feet of the ~~buffer~~ RMZ setback shall be allowed only when the applicant can demonstrate that native vegetation within the ~~buffer~~ RMZ will not be damaged. The additional impervious surface setback from the toe and head of a slope may be waived if the applicant demonstrates, by credible evidence, that the proposed impervious surface will not significantly affect the stability of the slope.

(ii) Marking of the ~~Buffer Area~~RMZ. The edge of the ~~buffer area~~RMZ shall be clearly staked, flagged, and fenced prior to and through completion of construction. The ~~buffer~~ RMZ boundary markers shall be clearly visible, durable, and permanently affixed to the ground.

(iii) Fencing from Farm Animals. Permanent fencing shall be required from the ~~buffer~~ RMZ when farm animals are introduced on a site.

(h) ~~Riparian Area Ecosystem Buffers.~~ Regulated activities proposed along ~~rivers and streams~~RMZs shall provide for habitat protection.

(i) The ~~riparian ecosystem buffer~~RMZ is generally an area of no building, consisting of undisturbed natural vegetation. The ~~buffer~~ RMZ shall be required along all streams and waterbodies as classified by the DNR water typing classification system (WAC 222-16-030). The ~~buffer~~ RMZ shall extend landward from the ~~ordinary high water line~~OHWL of the water body, or the CMZ, where present, to the specified width pursuant to LCMC 18.300.090(2)(f).

(ii) Land that is located wholly within an RMZ ~~riparian ecosystem buffer~~ may not be subdivided.

(iii) Land that is located partially within an ~~riparian ecosystem buffer~~RMZ may be subdivided; provided, that:

(A) New urban residential lots are not platted within ~~riparian ecosystem buffers~~the RMZ; and

(B) New lots located outside the ~~riparian buffer~~RMZ must meet the minimum lot size requirements of the City zoning code or the residential density transfer section of this code (LCMC 18.300.130).

~~(iv)~~ The ~~buffer of a river or stream~~RMZ shall not extend landward beyond an existing substantial improvement such as an improved road, dike, levee, or a permanent structure which reduces the impact proposed activities would have on the ~~river or stream~~regulated waterbody.

~~(iv)~~

(i) Mitigation.

(i) Approval. City approval of a mitigation plan is a prerequisite for approval of any development activities within a designated habitat area, ~~or~~ habitat buffer, and/or RMZ.

(ii) Application. The applicant shall submit a written request describing the extent and nature of the proposed development activity on ~~critical areas~~FWHCAs and/or buffers. The request shall include boundary locations of all ~~critical areas~~FWHCAs and associated buffers.

(A) The application for development shall include a mitigation plan prepared in compliance with this section.

(B) The City may require the applicant to prepare special reports evaluating potential adverse impacts upon critical areas and potential mitigation measures as part of the land use application process. These reports may include, but are not limited to, the following: stormwater management plan; hydrology, geology, and soils report; grading and erosion control plan; native vegetation report; fish and wildlife assessment and impact report; water quality report; W~~w~~etlands delineation; and other reports determined necessary by the ~~c~~City.

(iii) The City may consult with state and federal resource management agencies and, in order to protect wildlife habitat or natural resource values, shall attach such conditions as may be necessary to effectively mitigate identified adverse impacts of the proposed development activity.

(iv) The City may request third party "peer review" of an application by qualified professionals and may incorporate recommendations from such third party reports in findings approving or denying the application.

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(v) All Critical Area R~~r~~eports recommending mitigation shall include provisions for monitoring of programs and replacement of improvements, on an annual basis, consistent with Critical Area R~~r~~eport recommendations and at years one, three, five, seven, and, if mitigation measures will result in reclassification of the resource to a higher category, year 10 ~~shall be required.~~ or as by the established minimum in consultation with a third-party reviewer and/or state and federal resource management agencies shall be required.

(vi) The C~~c~~ity may require replacement mitigation to be established and functional concurrent with project construction.

(j) No Net Loss.

(i) Mitigation efforts, when allowed, shall ensure that development activity does not yield a net loss of the area or function, including fish and wildlife habitat values, of the ~~critical area~~FWHCA. No net loss shall be measured by:

(A) Avoidance or mitigation of adverse impacts to fish or wildlife; or

(B) Avoidance or mitigation of net loss of habitat functions necessary to sustain fish life; or

(C) Avoidance or mitigation of loss of area by habitat type.

(ii) Mitigation to achieve no net loss should benefit those organisms being impacted.

(iii) Where development results in a loss of habitat area, the mitigation plan shall demonstrate that habitat area is replaced at an equal or greater functional value(s).

(A) Wherever possible, replacement or enhancement shall occur on site.

(B) However, where the applicant can demonstrate that off-site mitigation will provide greater functional values, the C~~c~~ity may approve such off-site mitigation.

(k) Mitigation Plan. A mitigation plan shall provide for the design, implementation, maintenance, and monitoring of mitigation measures. A mitigation plan shall include but is not limited to the following:

(i) Methods and techniques to be used to mitigate impacts to the critical area;

(ii) Explanation of methods and techniques, such as construction practices to be used to implement the identified mitigation methods;

(iii) Methods and techniques for monitoring the proposed mitigation and a time frame for such monitoring.

(l) Buffer Reduction. The C~~c~~ity may allow the reduction of Np and Ns stream ~~buffers~~ RMZs by no more than 50 percent of the required ~~buffer~~ RMZ width if the area proposed for ~~buffer~~ RMZ reduction:

(i) Is currently adversely impacted by development such as roads, parking areas, buildings, or public facilities; or

(ii) Has primarily nonnative vegetation, such as grass pasture; and

(iii) The proposed reduction will not significantly reduce the water quality and habitat functions of the ~~buffer~~RMZ;

(iv) When ~~buffer~~ RMZ reduction is allowed, the applicant shall provide the C~~c~~ity with a vegetative buffer enhancement plan for review and approval;

(v) Stormwater facilities are not permitted in the remainder of ~~buffers~~ the RMZ reduced by operation of this ~~buffer~~ RMZ reduction provision.

(m) Vegetative Buffer Enhancement – *for RMZs only*. Where the C~~c~~ity permits the use of ~~buffer~~ RMZ reduction opportunity described in this section, the following enhancement standards shall apply:

(i) The applicant shall submit to the C~~c~~ity a written request describing the extent and nature of the proposed development activity and shall submit an enhancement plan prepared by a qualified professional for FWHCAs as defined in 18.300.030 ~~biologist, landscape architect or other equally qualified person~~;

(ii) ~~Buffer~~ The RMZ shall not be reduced to less than 50 percent of the base buffer width listed in Table~~s~~ 18.300.090(2)(a) and the established RMZ pursuant to 18.300.090(2)(f);

(iii) The enhancement plan shall include calculations and maps that illustrate:

(A) Required boundary locations of all critical areas and associated buffers;

(B) Proposed buffer areas and/or RMZs after reduction;

(C) The nature and extent of the enhancement measures proposed;

(D) A timeline for completion of the enhancement plan;

(E) A financial surety mechanism acceptable to the C~~c~~ity;

(F) Methods and techniques used to mitigate impacts to critical areas, consistent with ~~best management practices (~~BMPs~~)~~;

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(G) An explanation of methods and techniques, such as construction practices to be used to implement the identified mitigation methods;

(H) Methods and techniques for monitoring said mitigation and a proposed time frame for monitoring;

~~(iv)~~The enhanced area shall be of equal or greater habitat value(s) based on ~~best available science~~BAS;

(iv)

(v)Enhancement shall occur on site, unless the applicant can demonstrate that off-site mitigation will provide greater functional value(s);

(vi)The Ce~~i~~ity may elect to submit the vegetative buffer enhancement plan to one or more qualified experts for peer review.

(n) Standard Requirements. All applications requiring review under this section shall have the following minimum conditions applied:

(i)Marking Buffer and/or RMZ During Construction. The location of the outer extent of the habitat buffer and/or RMZ, or if no buffer or RMZ is required the habitat area, shall be marked in the field and such markings shall be maintained throughout the duration of the permit.

(ii)Permanent Marking of Buffer Area and/or RMZ. A permanent and perpetual physical demarcation along the upland boundary of the habitat buffer area and/or RMZ shall be installed and thereafter maintained. Such demarcation may consist of logs, a tree or hedgerow, wood or wood-like fencing, or other prominent physical marking approved by the director. In addition, signs (measuring minimum size one foot by one foot and posted three and one-half feet above grade) shall be posted at an interval of one per lot or every 100 feet, whichever is less, and perpetually maintained at locations along the outer perimeter of the habitat buffer and/or RMZ approved by the director worded substantially as follows: "Habitat Buffer – Please Retain in a Natural State."

(iii)A conservation covenant shall be recorded in a form approved by the Ce~~i~~ity attorney as adequate to incorporate the other restrictions of this section and to give notice of the requirement to obtain a Critical Areas P~~p~~ermit prior to engaging in regulated activities within a habitat area, ~~or~~ its buffer, and/or the RMZ. This covenant shall be filed with the county records and elections divisions according to the direction of the City. The covenant shall state the presence of the critical area and/or buffer on the property, the application of this chapter to the property, and the fact that limitations on actions in or affecting the critical area buffer may exist, including that the area(s) within the conservation covenant be maintained in a natural state without disturbance to vegetation or other features unless otherwise approved by the City. The covenant shall "run with the land" in perpetuity. The covenant shall include a map and legal description of the critical area, with wording in the notice substantially similar to the following:

~~(iii)~~ "Prior to and during the course of any grading, building construction or other development activity on this property containing or abutting a critical area, the area of development activity must be fenced or otherwise marked to the satisfaction of the City. The critical area shall be maintained in its natural state without disturbance to vegetation or other features, except as provided for by LCMC Chapter 18.300, Critical Areas. Yard waste, debris, fill, equipment, vehicles, and materials shall not be placed in the critical area."

(3) Frequently Flooded Areas.

(a) Basis for Establishing the Areas of Special Flood Hazard. The areas of special flood hazard identified by the Federal Insurance Administrator in a scientific and engineering report entitled "Flood Insurance Study, Clark County, Washington and Incorporated Areas," revised November 2, 2023, with accompanying flood insurance rate maps (FIRM), and any revisions thereto, are hereby adopted by reference and declared to be a part of this chapter. The flood insurance study and FIRM are on file at the office of the Ce~~i~~ity Ce~~l~~erk/T~~t~~reasurer. These areas are also established and regulated in accordance with Chapter 86.16 RCW.

(b) Compliance. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations.

~~(c)~~ Abrogation and Greater Restrictions. Where this chapter and another code, ordinance, easement, covenant or deed restriction conflict or overlap, that which imposes the more stringent restriction shall prevail.

(c)

(d) Interpretation. In the interpretation and application of this section, all provisions shall be:

(i) Considered as minimum requirements;

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(ii) Liberally construed in favor of the governing body; and
(iii) Deemed neither to limit nor repeal any other powers granted under state statutes.

(e) Interpretation of FIRM Boundaries. The local administrator, the governing body or its agent or employee may interpret and apply when necessary the exact location of the boundaries of the areas of special flood hazards where there appears to be a conflict between a mapped boundary and actual field conditions. Any aggrieved person may contest the location of the boundary and shall be given a reasonable opportunity to appeal the interpretation to the local administrator and then the governing body. Such appeal shall be granted consistent with the standards of Section 60.6 of the Rules and Regulations of the National Flood Insurance Program (44 CFR Parts 59 through 79).

(f) Warning and Disclaimer of Liability. The degree of flood protection required by this chapter is considered reasonable for regulatory purposes, and is based upon scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the Ceity of La Center, any officer or employee thereof, or the Federal Emergency Management Agency or Federal Insurance Administration for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

(g) Floodplain (FP) Combining District. A floodplain (FP) combining district is established and shall be applied to all areas of special flood hazard identified on the flood insurance rate maps, which have been adopted by reference. The land use and siting provisions of these areas shall be in addition to other zoning provisions applied. For areas of special flood hazards that include a floodway, two distinct areas are recognized within the FP district: the "floodway" area and the SFHA.

(h) Regulatory Area. The areas for state and local floodplain management regulations shall be those areas subject to a base (100-year) flood (except as noted for siting of critical facilities). Base floodplains are designated as special flood hazard areas on the most recent flood insurance rate maps provided by the Federal Emergency Management Agency for the National Flood Insurance Program. Best available information shall be used in areas where a base flood elevation has not been determined.

(i) Relationship to Other Requirements. Land uses in the floodplain combining district shall be subject to all relevant local, state, or federal regulations including those of the underlying zoning district. Where applicable, permit requirements under the Shoreline Management Act (Chapter 90.58 RCW), or the State Flood Control Zone Act (Chapter 86.16 RCW) may be substituted for permits required under this chapter; provided, that the standards of this chapter are applied.

(j) Criteria for Land Management and Use. The standards and definitions contained in 44 CFR Parts 59 and 60 for the National Flood Insurance Program are adopted by reference as the minimum state standards.

(k) Uses Allowed Under a Floodplain Permit. All other uses permitted in the zoning district with which the FP district has been combined are allowed in the floodway and floodplain areas subject to the terms of a Ffloodplain Ppermit.

(l) A Ffloodplain Ppermit shall be obtained before construction or development begins within any area of special flood hazard. The Floodplain Ppermit shall be required for all structures, including manufactured homes, and other development. Permit application forms shall be furnished by the ~~mayor or his or her designee~~Planning Official. The application shall include, but is not limited to, plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question, and existing or proposed structures, fill, storage of materials, and drainage facilities. Specifically, the following information is required:

(i) Elevation in relation to mean sea level of the lowest floor (including basement) of all structures recorded on a current elevation certificate (FF 086-0-33) with Section B completed by the local official;
(ii) Elevation in relation to mean sea level to which any structure will be floodproofed;
(iii) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing requirements; and
~~(iv)~~ Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(iv)

(m) Designation of the Local Administrator. The ~~mayor or his or her designee~~Planning Official is authorized to administer and implement this title by granting or denying Ffloodplain Ppermit applications in accordance with its provisions.

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(n) Duties and Responsibilities of the Local Administrator. Duties of the local administrator, if applicable, shall include, but not be limited to:

(i) Development Review.

(A) Review all proposed developments to determine whether or not a F~~f~~loodplain P~~p~~ermit is required.

(B) Review all proposed developments with respect to the flood insurance study maps and zoning district boundaries. Make interpretations where needed as to the exact location of special flood hazard area boundaries.

(ii) Floodplain Permit Review.

(A) Review all proposed development permits to determine that the Floodplain P~~p~~ermit requirements of this title have been satisfied.

(B) Review all proposed development permits to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.

(C) Review all proposed development permits to determine if the proposed development is located in the floodway. If located in the floodway, ensure that the encroachment provisions are met.

(iii) Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with subsection (3)(a) of this section (Basis for Establishing the Areas of Special Flood Hazard), the ~~mayor or his or her designee~~ Planning Official shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from an agency of federal or state government, or other sources, in order to administer this section, including specific standards for residential construction, nonresidential construction and floodways and floodway requirements.

(iv) Information to Be Obtained and Maintained.

(A) Where base flood elevation data is provided through the flood insurance study or required as in subsection (3)(n)(iii) of this section, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement recorded on a current elevation certificate (FF 086-0-33) with Section B completed by the local official.

(B) Where elevation data is not available either through the FIS, FIRM or from another authoritative source, applications for floodplain development shall be reviewed to ensure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available, or at least two feet above highest adjacent grades in these areas.

(C) For all new or substantially improved floodproofed structures, the local administrator shall:

(I) Verify and record the actual elevation (in relation to mean sea level) to which any structure has been floodproofed;

(II) Maintain the floodproofing certifications;

(III) Certify required floodway encroachments;

(IV) Keep records of all variance actions, including justification for their issuance;

(V) Keep records of improvement and damage calculations to ensure that the flood-carrying capacity of the altered or relocated portion of said watercourse is maintained;

(VI) Maintain for public inspection all records pertaining to the provisions of this chapter;

(VII) Notify adjacent communities and the Washington State Department of Ecology prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration and the Federal Emergency Management Agency;

(VIII) As soon as practicable, but not later than six months after the date such information becomes available, the floodplain administrator shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data in accordance with Volume 44 CFR Section 65.3 of increases or decreases in the base flood elevation resulting from physical changes affecting flooding conditions. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements will be based on current data.

(IX) Notify the Federal Insurance Administrator in writing of acquisition by means of annexation, incorporation or otherwise, of additional areas of jurisdiction.

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~~(o)~~ Variance Procedure – Additional State Requirements. The variance procedure contained in 44 CFR Part 60.6 and this title shall apply to the additional state requirements contained in WAC 173-158-120 unless an activity or use is expressly prohibited therein.

(o)

(p) Appeal and Review of City Action.

(i) A person with standing may appeal the approval or denial of a F~~f~~loodplain P~~p~~ermit as provided in LCMC 18.30.130.

(A) In acting on appeals or permit approval requests, the C~~e~~ity shall consider all technical evaluations, all relevant factors, and standards specified in other sections of this chapter, and:

(I) The danger that materials may be swept onto other lands to the injury of others;

(II) The danger of life and property due to flooding or erosion damage;

(III) The susceptibility of the proposed facility and its contents to flood damage, and the effect of such damage on the individual owner;

(IV) The importance of the services provided by the proposed facility to the community;

(V) The availability of alternative locations for the proposed use that are not subject to flooding or erosion damage;

(VI) The compatibility of the proposed use with existing and anticipated development;

(VII) The relationship of the proposed use to the La Center C~~e~~omprehensive P~~p~~lan and floodplain management program for that area;

(VIII) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(IX) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters, and the effects of wave action, if applicable, expected at the site; and

(X) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, streets and bridges.

(B) Upon consideration of the above factors, and the purposes of this chapter, the appeal hearing body may attach such conditions to actions on appeals and approvals as it deems necessary to further the purpose of this chapter.

(C) The ~~mayor or his or her designee~~Planning ~~Offical~~Official shall maintain the records of all appeal and approval actions of the C~~e~~ity of La Center.

(q) Conditions for Variances.

(i) Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level. As the lot size increases, the technical justification required for issuing the variance increases.

(ii) Variances may be issued for the reconstruction, rehabilitation, or restoration of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(iii) Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.

(iv) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(v) Variances shall only be issued upon:

(A) Showing a good and sufficient cause;

(B) A determination that failure to grant the variance would result in exceptional hardship to the applicant;

(C) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(vi) Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations shall be quite rare.

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(vii) Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry-floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except subsection (3)(q)(i) of this section, and otherwise complies with anchoring and construction materials and methods general standards below.

(viii) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(r) Penalties and Enforcement.

(i) The attorney general or the attorney for the local government shall bring such injunctive, declaratory, or other actions as are necessary to ensure compliance with this chapter.

(ii) Any person who fails to comply with this chapter shall also be subject to a civil penalty not to exceed $1,000 for each violation. Each violation or each day of noncompliance shall constitute a separate violation.

(iii) The penalty provided for in this section shall be imposed by a notice in writing either by certified mail with return receipt requested or by personal service to the person incurring the same from the department or local government, describing the violation with reasonable particularity and ordering the act or acts constituting the violation or violations to cease and desist or, in appropriate cases, requiring necessary corrective action to be taken within a specific and reasonable time.

(iv) Any penalty imposed pursuant to this section by the department shall be subject to review by the Ppollution Ceontrol Hhearings Bboard. Any penalty imposed pursuant to this section by the Ceity shall be subject to review by the Ceity Ceouncil. Any penalty jointly imposed by the department and Ceity shall be appealed to the Ppollution Ceontrol Hhearings Bboard.

(s) General Standards. In all areas of special flood hazards the following standards set forth in this section are required:

(i) Anchoring.

(A) All new construction and substantial improvements shall be designed (or modified) and anchored adequately enough to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads and including the effects of buoyancy.

(B) All manufactured homes must likewise be elevated and anchored to resist flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (reference FEMA P-85 “Protecting Manufactured Homes from Floods and Other Hazards” guidebook for additional techniques). This requirement is in addition to the applicable state and local anchoring requirements for resisting wind forces.

(ii) Construction Materials and Methods.

(A) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(B) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

(C) Electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(iii) Utilities.

(A) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(B) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters;

(C) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding; and

(D) Water wells shall be located on high ground that is not in the floodway.

(iv) Subdivision Proposals.

(A) All subdivision proposals shall be consistent with the need to minimize flood damage;

(B) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage;

(C) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and

(D) Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or five acres (whichever is less).

(v) Review of Building Permits. Where elevation data is not available either through the flood insurance study or from another authoritative source, applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

(vi) Storage of Materials and Equipment.

(A) The storage or processing of materials that could be injurious to human, animal, or plant life if released due to damage from flooding is prohibited in special flood hazard areas.

(B) Storage of other material or equipment may be allowed if not subject to damage by floods and if firmly anchored to prevent flotation, or if readily removable from the area within the time available after flood warning.

(t) Additional Standards.

(i) Critical Facilities.

(A) Critical facilities should be afforded additional flood protection due to their nature. The Ceity shall use the 500-year frequency flood as a minimum standard instead of the 100-year frequency flood as used for other types of development.

(B) Construction of new critical facilities shall be, to the extent possible, located outside the limits of the 500-year floodplain as identified on the Ceity's FIRM. Construction of new critical facilities shall be permissible within the 500-year frequency floodplain if no feasible alternative site is available. Critical facilities constructed within the 500-year frequency floodplain shall have the lowest floor elevated to or above the level of the 500-year frequency flood or the flood protection elevation, whichever is greater. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into flood waters.

(C) Access routes elevated to or above the level of the 500-year frequency flood shall be provided to all critical facilities to the extent possible.

(ii) Flood Protection Elevation. In order to account for the impacts of future development on flood depths, and in order to ensure the least expensive insurance rates for floodplain occupants, all development within special flood hazard areas which requires elevation or floodproofing shall be elevated or floodproofed to the flood protection elevation (base flood elevation plus one foot).

(u) Specific Standards. In all areas of special flood hazards where base flood elevation data has been provided as set forth in subsection (3)(a) of this section, Basis for Establishing the Areas of Special Flood Hazard, or subsection (3)(n)(iii) of this section, Use of Other Base Flood Data, construction must include the following provisions:

(i) Residential Construction.

(A) New construction and substantial improvement of any residential structure shall have the lowest floor, including basements and crawlspaces, elevated to one foot or more above the base flood elevation.

(B) Fully enclosed areas below the lowest floor that are subject to flooding are prohibited.

(ii) Nonresidential Construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of one foot or more above the base flood elevation, or, together with attendant utility and sanitary facilities, shall:

(A) Be floodproofed so that below the flood protection elevation the structure is watertight with walls substantially impermeable to the passage of water;

(B) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

(C) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and

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plans. Specific elevation data (in relation to mean sea level) shall be provided to the official along with the certification;

(D) Nonresidential structures that are elevated, not floodproofed, with fully enclosed areas below the lowest floor that are subject to flooding and that are used for parking, access, or storage only, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing the entry and exit of flood waters. Designs for meeting this requirement must either (I) be certified by a registered professional engineer or architect, or (II) must meet or exceed the following minimum criteria:

(E) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

(F) The bottom of all openings shall be no higher than one foot above grade.

(G) Openings may be equipped with screens, louvers, valves, or other coverings or devices; provided, that they permit the automatic entry and exit of flood waters.

(H) Nonresidential buildings shall be floodproofed to a level that is one foot above the base flood level.

(v) Manufactured Homes. All manufactured homes to be placed or substantially improved on sites shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is one foot or more above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(w) Recreational Vehicles. Recreational vehicles placed on sites are required to either:

(i) Be on site for fewer than 180 consecutive days; or

(ii) Be fully licensed and ready for highway use, on its wheels or jacking system, be attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or

(iii) Meet the requirements for a manufactured home and the elevation and anchoring requirements for manufactured homes; may be allowed in the floodway and floodplain areas on a temporary basis.

(x) Floodways and Floodway Requirements. Located within areas of special flood hazard established in subsection (3)(a) of this section are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters that can carry debris and increase erosion potential, the following provisions apply:

(i) Notwithstanding any other provisions of 44 CFR § 60.3, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations; provided, that the community first applies for a conditional letter of map revision (CLOMR) and floodway revision, as established under the provisions of 44 CFR § 65.12 and receives the approval of the Federal Insurance Administrator.

(ii) Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge.

(iii) Prohibit construction or reconstruction of residential structures within designated floodways, except:

(A) Repairs, reconstruction, or improvements to a structure which do not increase the ground floor area; and

(B) Repairs, reconstruction or improvements to a structure, the cost of which does not exceed 50 percent of the market value of the structure either:

(I) Before the repair or reconstruction, or improvement begins, or

(II) Before the damage occurred, if the structure has been damaged and is being restored. Work done on structures to comply with existing health, sanitary, or safety codes which have been identified by the local code enforcement or building official and are the minimum necessary to assure safe living conditions, or to structures identified as historic places, shall not be included in the 50 percent determination;

(C) Existing farmhouses in designated floodways that meet the provisions of WAC 173-158-075;

(D) Residential dwellings other than farmhouses that meet the depth and velocity and erosion analysis provisions of WAC 173-158-076; and

(E) Structures identified as historical places if the repair or rehabilitation does not preclude the historic structure's continued designation as a historic structure.

(iv) Residential dwellings located partially within a designated floodway will be considered as totally within a designated floodway and must comply with subsections (3)(x)(i) and (ii) of this section.

(v) If subsections (3)(x)(i) and (ii) of this section are satisfied, all new construction and substantial improvements shall comply with all the other applicable flood hazard reduction provisions of this section. The placement of any manufactured homes in floodways is not allowed, unless sited as a temporary use in accordance with subsection (3)(w)(iii).

(y) In areas with base flood elevations (but a regulatory floodway has not been designated), no new construction, substantial improvements, or other development (including fill) shall be permitted, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point.

(4) Geologically Hazardous Areas.

(a) Development on lands classified as "Eerosion Hhazard Aareas," "Llandslide Hhazard Aareas" or "Sseismic Hhazard Aareas" as defined in LCMC 18.300.030 shall be prohibited unless the applicant meets the requirements of this section.

(b) Sources. The City consulted the following sources to identify Geologically Hazardous Areas:

(i) BAS pursuant to WAC 365-195

(ii) Washington State Department of Natural Resources: Washington Geologic Survey

(iii) Clark County Maps

(c) Designation. The designation of Geologically Hazardous Areas are those as indicated in LCMC 18.300.090(a) and meet the definition of each hazard area and lands that are mapped by the sources as listed in LCMC 18.300.090(4)(b).

~~(a)~~(d) Exempt, Prohibited, and Permitted Activities in Geologically Hazardous Areas.

(i)Alterations. In the limited instances when development in Ggeologically Hhazardous Aareas is permitted, it shall meet all applicable provisions of this section as determined by the review authority prior to issuance of a Ccritical Aareas Ppermit. Alterations of Ggeologically Hhazardous Aareas or associated buffers may occur only for activities that:

(A) Will not increase the threat of the geologic hazard to adjacent properties beyond predevelopment conditions;

(B) Will not impact other critical areas adversely;

(C) Are designed so that the hazard to the project is eliminated or mitigated to a level equal to or less than predevelopment conditions; and

(D) Are recommended by a qualified professional who is ~~certified~~licensed in Washington State in a signed and stamped Ggeotechnical Eengineering Rreport.

(ii)Critical facilities, as defined in LCMC 18.300.030, shall not be sited in Ggeologically Hhazardous Aareas unless there is no other practical alternative, as demonstrated in a geotechnical assessment.

(iii)Utilities Transmission Facilities. Utility facilities which carry liquid petroleum products or any other hazardous substance as defined in Chapter 173-303 WAC may be permitted within Ggeologically Hhazardous Aareas only when a qualified professional demonstrates that the design and location of the proposed facility will not cause adverse impacts.

(iv)Erosion Hazard Area Exemption. If any ground disturbance activities exceeds the established minimum threshold requiring a Critical Areas Permit is proposed to occur in an Erosion Hazard Area as identified by a qualified professional, the development or land use activity may be exempt from a Critical Areas Permit. This exemption may be only applied when:

(A) The Erosion Hazard Area does not overlap a Landslide Hazard Area;

(B) A qualified professional provides a geotechnical report pursuant to LCMC 18.300.090(4)(e) for the identified Erosion Hazard Area;

(C) The provided geotechnical report includes all the applicable Stormwater and Erosion Control Measures and BMPs pursuant to LCMC Chapter 18.320;

(D) The provided geotechnical report states the Erosion Hazard Area is suitable for the proposed ground disturbance activities as long as the established recommendations are implemented; and

~~(iii)~~(E) The proposal is conditioned to apply the Stormwater and Erosion Control Measures and BMPs as recommended by the geotechnical report prior to, during, and after any ground disturbance activities.

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~~(b)~~(c) General Design Standards for Landslide and Erosion Hazard Areas.

(i)Protection of Landslide and Erosion Hazard Areas. Modification of topography and vegetation in Llandslide and Eerosion Hhazard Aareas shall be limited in order to preserve the long-term stability of sensitive slopes, reduce erosion potential and stormwater runoff, and preserve related ecological values.

(ii)Development or alterations within a Llandslide or Eerosion Hhazard Aarea and/or buffer shall be designed to meet the following requirements. Deviations from one or more of these standards may be permitted where it can be demonstrated by a qualified professional that an alternative design provides equal or greater protection of the critical area and proposal. The basic development design standards are:

(A) Structures and improvements shall be located to avoid Llandslide and Eerosion Hhazard Aareas and other critical areas, unless impacts are unavoidable;

(B) Structures and improvements shall minimize alterations to the natural contour of the slope, and foundations shall be tiered where possible to conform to existing topography;

(C) The removal of vegetation from a Llandslide or Eerosion Hhazard Aarea or Llandslide Hhazard Aarea buffer shall be permitted only when approved by a qualified professional. If the Llandslide or Eerosion Hhazard Aarea or Llandslide Hhazard Aarea buffer lacks adequate vegetation, a vegetation restoration plan or other slope stability measure(s) may be required. Development within a Llandslide Hhazard Aarea buffer must conform to the buffer provisions of this section;

(D) The proposed development shall not result in an increase in surface water discharge or sedimentation to adjacent properties;

(E) The following uses and activities may be situated on Llandslide and Eerosion Hhazard Aareas only where analysis by a qualified professional finds that they will not result in increased risk of landslide or erosion:

(I) Stormwater retention and detention systems, including percolation systems utilizing buried pipe;

(II) On-site sewage disposal system drainfields;

(III) Utility lines and pipes. A qualified professional shall design and verify to the Ceity that said systems are installed and functioning as designed;

(F) Drainage Plan. Applicants proposing development within Llandslide and Eerosion Hhazard Aareas must develop a drainage plan in consultation with a qualified professional that complies with all applicable requirements of Chapter 18.320 LCMC. Surface drainage (including downspouts) must avoid draining to Llandslide and Eerosion Hhazard Aareas. Drainage originating above a Llandslide or Eerosion Hhazard Aarea shall be collected and directed by tight line drain, and be provided with an energy dissipative device for discharge to a swale or other acceptable natural drainage area.

(G) Seasonal Restriction.

(I) Clearing activities that disturb the soil shall be allowed from May 1st to October 1st; provided, that the Ceity may extend or shorten the dry season on a case-by-case basis, except that timber harvest, not including brush clearing or stump removal, may be allowed pursuant to an approved forest practice permit;

(II) Outside of the designated dry season, clearing activities that disturb the soil may occur only when demonstrated by a qualified professional that no increased risk to Llandslide and Eerosion Hhazard and buffer areas will occur from clearing activities.

~~(c)~~(f) Design Standards – Landslide Hazard Areas.

(i)Landslide Hazard Area Buffers. A buffer shall be established from all edges of Llandslide Hhazard Aareas.

(A) Buffer Size. The minimum dimension of the buffer shall be 50 feet from the edge of the Llandslide Hhazard Aarea.

(B) Buffer Reduction. The buffer may be reduced to a minimum of 25 feet when a qualified professional demonstrates that the reduction will provide adequate protection for the proposed development, the adjacent developments and uses, and the subject critical area.

(C) Buffer Use. Where reduction of the buffer is not recommended by a qualified professional, development encroachment within the buffer area may be allowed provided a qualified

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professional demonstrates that the site alteration will not impact a Ll~~l~~andslide Hazard Aa~~a~~rea and/or the adjacent properties.

(D) Increased Buffer. The buffer may be increased where the review authority or a qualified professional determines a larger buffer is necessary to prevent risk of damage to proposed and existing development.

(E) The buffer shall be clearly staked before and during any construction or clearing.

(F) All portions of Ll~~l~~andslide Hh~~h~~azard Aa~~a~~reas and buffers shall be designated as landslide protection areas and recorded as such on the approved site plan or plat document.

~~(d)~~(g) Design Standards – Erosion Hazard Areas.

(i)Buffers. Erosion hazard area buffers shall be as recommended in an approved Gg~~g~~eotechnical Engineering R~~r~~eport.

(ii)Erosion Control Plan. An erosion control plan is required for all development in identified erosion hazard areas. The plan shall:

(A) Demonstrate that roads, driveways, and other vehicular accesses, trails, walkways, and parking areas are designed with lower gradients and/or are parallel to the natural contours of the site;

(B) Include stabilization ~~best management practices (~~BMPs~~)~~ such as temporary/permanent seeding, mulching, geotextiles, sod stabilization, vegetative buffer strips, tree protection, and preservation of mature vegetation. Stabilization BMPs shall address conveyance outlets and streambanks;

(C) Demonstrate that no exposed or disturbed soils will be allowed to overwinter without erosion control BMPs in place;

(D) Preserve existing vegetation and undergrowth where feasible;

(E) Ensure cut and fill slopes will be designed and constructed to minimize erosion; and

~~(F)~~ Demonstrate that clearing, grading, and impervious surfaces will be minimized.

(F)

(h) Design Standards – Seismic Hazard Areas. Development proposed in Ss~~s~~eismic Hh~~h~~azard Aa~~a~~reas shall conform to the applicable provisions of the International Building Code and LCMC Chapter 15.05 concerning structural standards and safeguards to reduce risks from seismic activity.

(i) Fault Rupture Hazard Area.

(A) A road through or across a Fault Rupture Hazard Area shall not be:

(I) The sole access for a proposed subdivision (not including short subdivision) or critical facility;

(II) Longer than 200 feet: or

(III) Steeper than a 15 percent grade.

(B) Buffer

(I) The buffer width shall be the greater of the following distances:

(1) 50 feet from all edges of a Fault Rupture Hazard Area, except where critical facilities are involved, the minimum buffer distance shall be 100 feet; or

(2) The minimum distance recommended in an approved Critical Areas Report.

(II) A larger buffer width may be required when the Planning Official determines that the buffer is not adequate to protect the proposed development.

(III) Structure for human habitat shall be prohibited within Fault Rupture Hazard Areas and buffers.

(j) Critical Areas Report Requirements. The following are Critical Areas Report requirements for development proposals in potential Geologic Hazard Areas. These requirements may be adjusted as appropriate by the Planning Official. The Critical Areas Report will result in a conclusion as to whether the potential geologic hazard area is an actual geologic hazard area. If it is, the Critical Areas Report requires the following additional information, mapping, and analysis

(i) Identification of the site and project area; topography of the site in 2-foot contours (or other increment at the discretion of the Planning Official); planned gas, power, cable, fiber optic, telephone, sewer, water, and stormwater management facilities, wells, on-site septic systems, dikes, levees; and existing structures on the site plan;

(ii) Detailed review of field investigations, published data and references, data and conclusions from past geologic studies or investigations, site-specific measurements, tests, investigations, or studies, and the methods of data analysis and calculations that support the results, conclusions, and recommendations;

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(iii) Field investigation and evaluation of the areas on Landslide, Erosion, and Seismic Hazard Areas, including liquefaction or dynamic settlement, ground shaking amplification, Fault Rupture Hazard Areas on or within 100 feet of the site;

(iv) A description of the surface and subsurface geology, hydrology, drainage patterns, soils, and vegetation for Seismic, including liquefaction or dynamic settlement, ground shaking amplification, Fault Rupture; Soil Erosion; and Landslide Hazard Areas on or within 100 feet of the site;

(v) Identification of any hazard area indicators that were found on site for liquefaction or dynamic settlement, ground shaking amplification, and Fault Rupture and on or within 100 feet of the site for Landslide and Erosion Hazard Areas;

(vi) Conclusion as to whether there is a Geologic Hazard Area on site or within 100 feet of the site; and

(vii) If a Geologically Hazardous Area is found to exist on site or if a Landslide or Erosion Hazard is found to exist on or within 100 feet of the site, the report must include the following:

(A) Labeling and showing the following on the site plan:

(I) The location(s), extent, and type(s) of geologic hazard area(s) identified:

(II) The location(s) and extent of any area(s) that must be left undisturbed to protect the proposed development from damage or destruction and to protect the hazard area(s) from the impacts of the proposed development

(III) The boundaries of the area that may be disturbed;

(IV) The dimension of the closest distance(s) between the Geologically Hazardous Area(s) and non0distrubance area and the project area;

(V) For Erosion Hazard Areas, show these areas, boundaries, and dimensions based upon natural processes and, if applicable, proposed bank stabilization measures; and

(VI) The recommended buffer for Erosion Hazard Areas by the qualified professional.

(B) Analysis of the erosion processes on site for the Erosioin Hazard Areas on and within 100 feet of the site;

(C) Evaluation of the impact of the Geologically Hazardous Area(s) on the proposed development, other properties, and other critical areas, as follows:

(I) Landslide Hazard Areas: The impact of the run-out hazard of landslide debris from both upslope and downslope shall be included in the evaluation.

(II) Erosion Hazard Areas. Evaluation of impacts on other properties shall include properties both upstream and downstream of the subject property.

(D) Evaluation of the impact of the proposed development on the Geologically Hazardous Area(s);

(E) Assessments and conclusions regarding geologic hazard(s) for both existing and proposed (post-development) site conditions. The ultimate build-out scenarios must be considered and addressed in cases such as land division and master planning where build-out is not scheduled to occur as a direct or immediate result of project approval

(F) Written discussion of:

(I) The risk of damage or destruction from the Geologic Hazard(s) with respect to human health and safety; infrastructure; the proposed development; other properties (both upstream and downstream for Erosion Hazard Areas); and other critical areas; and

(II) Whether and to what degree the proposed development would increase the risk from the geologic hazard(s), such as the occurrence of a landslide or the rate of regression.

(G) Recommendations for mitigation of impacts to protect:

(I) Human health and safety;

(II) Infrastructure;

(III) The proposed development;

(IV) Other properties (both upstream and downstream for Erosion Hazard Areas)

(V) Other Critical Areas; and

(VI) The hazard area during construction and for the anticipated life of the proposed development. The ultimate build-out scenarios must be considered and addressed in cases such as land division and master planning where build-out is not scheduled to occur as a direct or immediate result of project approval.

~~(c)~~(H) A demonstration of how the standards of LCMC 18.300.090(4) applicable to each Geologically Hazardous Area will be met.

~~(5)~~ Wetlands.

(5)

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(a) Purpose. The purposes of this Chapter are to:

(i) Recognize and protect the beneficial functions performed by my wetlands, which include, but are not limited to, ~~Wetlands constitute important natural resources which provide significant environmental functions including:~~ the control of flood waters, maintenance of summer stream flows, filtration of pollutants, recharge of groundwater, and provisions of significant habitat areas for fish and wildlife.

(ii) Regulate land use to avoid adverse effects on wetlands and maintain the functions and values of wetlands throughout La Center. Uncontrolled urban-density development in and adjacent to W~~w~~etlands can eliminate or significantly reduce the ability of W~~w~~etlands to provide these important functions, thereby detrimentally affecting public health, safety, and general welfare.

(iii) Establish review procedures for development proposals in and adjacent to wetlands.

~~(a)~~(A) Compliance with the provisions of this Chapter does not necessarily constitute compliance with other federal, state, and local regulations and permit requirements that may be required (for example, Shoreline permits, Hydraulic Project Approval permits, Clean Water Act Section 404 permits and 401 certifications, Ecology Administrative Orders, or NPDES permits). The applicant is responsible for complying with these requirements, apart from the processes established in this Chapter.

(b) Applicability. The provisions of this chapter apply to any soil disturbance occurring or land use proposal affecting a Category I, II, III, or IV W~~w~~etland or its buffer unless otherwise expressly exempted by this chapter.

(c) Regulated Activities.

(i)For any regulated activity, a C~~c~~ritical A~~a~~rea R~~r~~eport may be required to support the requested activity.

~~(ii)~~The following activities are regulated if they occur in a regulated W~~w~~etland or its buffer:

(ii)

~~(A)~~ The removal, excavation, grading, or dredging of soil, sand, gravel, minerals, organic matter, or material of any kind.

(A)

~~(B)~~ The dumping of, discharging of, or filling with any material.

(B)

~~(C)~~ The draining, flooding, or disturbing of the water level or water table.

(C)

~~(D)~~ Pile driving.

(D)

~~(E)~~ The construction, reconstruction, demolition, or expansion of any structure.

(E)

~~(F)~~ The destruction or alteration of W~~w~~etland vegetation through clearing, harvesting, shading, intentional burning, or planting of vegetation that would alter the character of a regulated W~~w~~etland.

(F)

~~(G)~~ "Class IV – General Forest Practices" under the authority of the "1992 Washington State Forest Practices Act Rules and Regulations," WAC 222-12-030, or as thereafter amended.

(G)

~~(H)~~ Activities that result in:

(H)

~~(I)~~ A significant change of water temperature.

(I)

~~(II)~~ A significant change of physical or chemical characteristics of the sources of water to the W~~w~~etland.

(II)

~~(III)~~ A significant change in the quantity, timing, or duration of the water entering the W~~w~~etland.~~.~~

(III)

(IV)The introduction of pollutants.

~~(iii)~~Subdivisions.

(iii)

~~(A)~~ Land that is located wholly within a W~~w~~etland or its buffer may not be subdivided.

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(A)
~~(B)~~ Land that is located partially within a Ww~~w~~etland or its buffer may be subdivided; provided, that an accessible and contiguous portion of each new lot is:

(B)
~~(I)~~ Located outside of the Ww~~w~~etland and its buffer; and

(I)
(II) Lots located outside of the Ww~~w~~etland buffer must meet the minimum lot size requirements of the C~~c~~ity zoning code or the residential density transfer section of this code (LCMC 18.300.130).

(d) Exempted Wetlands.

(i)The following Ww~~w~~etlands may be exempt from the requirement to avoid and minimize impacts, and they may be filled if the impacts are fully mitigated. In order to verify the conditions, a C~~c~~ritical A~~a~~rea R~~r~~eport for Ww~~w~~etlands must be submitted.

(A) All ~~isolated~~ Category IV Ww~~w~~etlands less than 4,000 square feet that:

(I) Are not associated with riparian areas or their buffers.

(II) Are not associated with shorelines of the state or their associated buffers.

(III) Are not part of a Ww~~w~~etland mosaic.

(IV) Do not score ~~five~~ six or more points for habitat function based on the 2014 update to the Washington State Wetland Rating System for Western Washington: 2014 Update (Ecology Publication No. 14-06-029, or as revised and approved by Ecology).

(V) Do not contain a priority habitat or a priority area for a priority species identified by the Washington Department of Fish and Wildlife, and do not contain federally listed species or their critical habitat, or species of local importance identified in subsection (2) of this section.

(B) Wetlands less than 1,000 square feet that meet the above criteria and do not contain federally listed species or their critical habitat are exempt from the buffer provisions contained in this chapter.

(e) Activities Allowed in Wetlands. The activities listed below are allowed in Ww~~w~~etlands. These activities do not require submission of a C~~c~~ritical A~~a~~rea R~~r~~eport, except where such activities result in a loss of the functions and values of a Ww~~w~~etland or Ww~~w~~etland buffer. These activities include:

(i)Existing and ongoing agricultural activities; provided, that they implement applicable ~~best management practices (~~BMPs~~)~~ contained in the latest editions of the USDA Natural Resources Conservation Service (NRCS) Field Office Technical Guide (FOTG), or develop a farm conservation plan in coordination with the local conservation district. BMPs and/or farm plans should address potential impacts to Ww~~w~~etlands from livestock, nutrient and farm chemicals, soil erosion and sediment control, and agricultural drainage infrastructure. BMPs and/or farm plans should ensure that ongoing agricultural activities minimize their effects on water quality, riparian ecology, salmonid populations, and wildlife habitat.

(ii)Those activities and uses conducted pursuant to the Washington State Forest Practices Act and its rules and regulations, WAC 222-12-030, where state law specifically exempts local authority, except those developments requiring local approval for Class IV – General Forest Practice Permits (conversions) as defined in Chapter 76.09 RCW and Chapter 222-12 WAC.

(iii)Conservation or preservation of soil, water, vegetation, fish, shellfish, and/or other wildlife that does not entail changing the structure or functions of the existing Ww~~w~~etland.

(iv)The harvesting of wild crops in a manner that is not injurious to natural reproduction of such crops and provided the harvesting does not require tilling of soil, planting of crops, chemical applications, or alteration of the Ww~~w~~etland by changing existing topography, water conditions, or water sources.

(v)Drilling for utilities/utility corridors under a Ww~~w~~etland, with entrance/exit portals located completely outside of the Ww~~w~~etland buffer; provided, that the drilling does not interrupt the groundwater connection to the Ww~~w~~etland or percolation of surface water down through the soil column. Specific studies by a hydrologist are necessary to determine whether the groundwater connection to the Ww~~w~~etland or percolation of surface water down through the soil column will be disturbed.

(vi)Enhancement of a Ww~~w~~etland through the removal of nonnative invasive plant species. Removal of invasive plant species shall be restricted to hand removal unless permits from the appropriate regulatory agencies have been obtained for approved biological or chemical treatments. All removed plant material shall be taken away from the site and appropriately disposed of. Plants that appear on

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the Washington State Noxious Weed Control Board list of noxious weeds must be handled and disposed of according to a noxious weed control plan appropriate to that species. Revegetation with appropriate native species at natural densities is allowed in conjunction with removal of invasive plant species.

(vii) Educational and scientific research activities.

(viii) Normal and routine maintenance and repair of any existing public or private facilities within an existing right-of-way; provided, that the maintenance or repair does not expand the footprint of the facility or right-of-way.

(f) City Policy towards Alteration of Wetlands and Wetland Buffers.

(i) The Ceity has limited oversight, staffing and expertise in monitoring and management of impacted Wwetlands or Wwetland buffers. Therefore, as a matter of public policy, the Ceity prefers avoidance of Wwetlands and Wwetland buffers and discourages disturbance of Wwetlands or Wwetland buffers for private purposes.

(ii) The Ceity prohibits platting of privately held lots in Wwetlands or wetland buffers.

(iii) The Ceity may allow disturbance of Category II, III, and IV Wwetlands or Wwetland buffers for public purposes if the disturbance directly advances the provision of infrastructure facilities and services. Public purpose includes streets, potable water, sanitary sewer, stormwater facilities, schools, and utilities.

(iv) In limited circumstances, the Ceity may allow impacts to Category I Wwetlands and wetland buffers if the impacted area is dedicated to the Ceity, or similarly protected, with funds deemed by the Ceity to be sufficient to restore and enhance the wetland and buffer and to inspect, monitor, and maintain the mitigation area for a minimum of 10 years.

(g) Wetland Delineation.

(i) An application for wetland impacts shall not be deemed technically complete until completion (if required) of a wetland delineation.

(ii) The ~~mayor or his or her designee~~Planning Official shall determine whether a wetland delineation is required based upon several factors including but not limited to a site visit, review of existing critical areas maps, review of National Wetland Inventory maps, the presence of hydric soils, historical evidence, or consultation with a qualified expert.

(iii) Wetland Delineation Report.

(A) Methodology. Identification of Wwetlands and delineation of their boundaries pursuant to this chapter shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements. All areas within the Ceity meeting the wetland designation criteria in that procedure are hereby designated critical areas and are subject to the provisions of this chapter. If a wetland is located off site and is inaccessible, the ~~best available science~~BAS shall be used to determine the wetland boundary and category.

(B) Information Requirements. Wetland boundaries shall be staked and flagged in the field and a Wetland Ddelineation Rreport shall be submitted to the Ceity. The Wetland Delineation Rreport shall include the following information:

(I) U.S.G.S. quadrangle map with site clearly defined;

(II) Topographic map of area;

(III) National Wetland Inventory map showing site;

(IV) Soil Conservation Service soils map of the site;

(V) Site map, at a scale no smaller than one inch equals 400 feet, if practical, showing the following information: (1) wetland boundaries; (2) sample sites and sample transects; and (3) boundaries of forested areas;

(VI) Discussion of methods and results with special emphasis on technique used from the Wwetlands Ddelineation Mmanual;

(VII) Acreage of each wetland on the site based on the survey;

(VIII) All completed field data sheets (U.S. Army Corps of Engineers' format for three parameter application) numbered to correspond to each sample site;

(IX) All completed wetland rating forms from the 2014 update to the Washington State Wetland Rating System for Western Washington: 2014 Update (Ecology Publication No. 14-06-029, or as revised and approved by Ecology).

(C) Responsibility. The wetland delineation is the responsibility of the applicant.

(iv) Buffers. All buffers shall be measured perpendicularly outward from the delineated wetland boundary.

(h) Wetland Ratings. The Washington State Department of Ecology 2014 publication Washington State Wetland Rating System for Western Washington (Ecology Publication No. 14-06-029, or as revised and approved by Ecology), as updated, shall be used in part to determine base buffer widths and to determine mitigation and enhancement requirements.

(i) The determination of the specific category of wetland and buffer type for each wetland shall be the responsibility of the applicant and subject to Ceity approval.

(ii) Wetlands that are enhanced thereafter shall provide buffers that satisfy the function requirements of the buffer for the enhanced and higher category wetland.

(iii) Wetland Rating System.

(A) Category I. These Wwetlands represent a unique or rare wetland type; are more sensitive to disturbance than most Wwetlands; are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or provide a high level of water quality, hydrologic and habitat functions. Category I Wwetlands are identified as such because they satisfy one or more of these criteria:

(I) Wetlands that are identified by scientists of the Washington Department of Natural Resources Washington Natural Heritage Program as (1) Wwetlands of high conservation value; (2) relatively undisturbed Wwetlands; or (3) Wwetlands that support state-listed threatened or endangered plants;

(II) Bogs due to their sensitivity to disturbance and because they are irreplaceable through compensatory mitigation;

(III) Mature (stands where the largest trees are 80 to 200 years old or the species that make up the canopy have an average diameter at breast height (dbh) exceeding 21 inches) and old growth forested Wwetlands (stands larger than one acre and composed of at least two tree species, forming a multi-layered canopy with occasional small openings, with at least eight trees/ac (20 trees/ha) that are at least 200 years of age and have a dbh of 32 inches or more);

(IV) Wetlands that perform many functions well, as indicated by scoring 23 to 27 points in the rating system.

(B) Category II. These Wwetlands are difficult, but not impossible, to replace and perform most functions relatively well or perform one group of functions (water quality, hydrologic or habitat) very well and the other two groups moderately well. These Wwetlands have moderately high level of function, as indicated by scoring 20 to 22 points in the Ecology rating system.

(C) Category III. These Wwetlands perform a moderate level of functions, typically have been disturbed in some manner, and are often less diverse and more isolated from other natural resources in the landscape than Category II Wwetlands. These Wwetlands score between 16 to 19 points in the Ecology rating system.

(D) Category IV. These Wwetlands have the lowest levels of functions and are often heavily disturbed. These wetlands score less than 16 points in the Ecology rating system.

(i) Base Buffer Width.

(i) Buffer width, measured in feet, shall be based upon Alternative 3 in Appendix 8C of Wetlands in Washington State, Vol. 2. Intensity of use shall be based upon Table 8C-3 (Types of proposed land use that can result in high, moderate, and low levels of impacts to adjacent wetlands) that is included in that source and is attached to the ordinance codified in this chapter.

~~(i)~~(ii) In order for an applicant to use buffer widths of Table 18.300.090(5)(i)(ii) – 1, the applicant must provide a habitat corridor in accordance with LOCMC 18.300.090(5)(i)(iii) and implement the impact minimization measures of Table 18.300.090(5)(i)(ii) – 2. If the applicant does not implement a habitat corridor and the minimization measures, they shall be subject to the buffer widths of Table 18.300.090(5)(i)(ii) – 3.

Table 18.300.090(5)(i)(ii)-1 – Buffers Required to Protect ~~Hydrologic~~ Habitat Functions in all Wetlands if Table 18.300.090(5)(i)(ii)-2 is implemented and a habitat corridor pursuant to LCMC 18.300.090(5)(iii) is provided.

Category Of Wetland	Habitat Score 3-5 points (corridor not required)	Habitat Score 6-7 points	Habitat Score 8-9 points	Buffer Width Based on Special Characteristics
Category I or II: Based on a rating of wetland functions (and not listed below)	75 ft.	110 ft.	225 ft.	NA
Category I: Bogs and Wetlands of High Conservation Value	NA	NA	225 ft	190 ft
Category I: Forested	75 ft.	110 ft	225 ft.	NA
Category II: Based on a rating of wetland functions	75 ft.	110 ft.	225 ft.	NA
Category III	60 ft.	110 ft.	225 ft.	NA
Category IV: All Types	40 ft.	40 ft.	40 ft.	NA

~~Wetland Rating~~	~~Low Intensity Use~~	~~Moderate Intensity Use~~	~~High Intensity Use~~
~~Category I~~	~~50 ft.~~	~~75 ft.~~	~~100 ft.~~
~~Category II~~	~~50 ft.~~	~~75 ft.~~	~~100 ft.~~
~~Category III~~	~~40 ft.~~	~~60 ft.~~	~~80 ft.~~
~~Category IV~~	~~25 ft.~~	~~40 ft.~~	~~50 ft.~~

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Table 18.300.090(5)(i)(ii)-2 – Impact Minimization MeasuresBuffers Required to Protect Habitat Functions in Category III Wetlands

Example of Disturbance	Activities and Uses that Cause Disturbances	Examples of Measures to Minimize Impacts
Lights	• Parking lots • Commercial/Industrial • Residential • Agricultural buildings	• Direct lights away from wetland • Only use lighting where necessary for public safety and keep lights off when not needed • Use motion-activated lights • Use full cut-ff filters to cover light bulbs and direct light only where needed • Limit use of blue-white colored lights in favor of red-amber hues • Use lower-intensity LED lighting • Dim light to the lowest acceptable intensity
Noise	• Commercial • Industrial • Recreation • Residential • Agriculture	• Locate activity that generates noise away from wetland • Construct a fence to reduce noise impacts on adjacent wetland and buffer • Plant a strip of dense shrub vegetation adjacent to wetland buffer
Toxic Runoff	• Parking lots • Roads • Commercial/industrial • Residential areas • Application of pesticides • Landscaping • Agriculture	• Route all new, untreated runoff away from wetland while ensuring wetland is not de-watered • Establish covenants limiting use of pestiedespesticides within 150 feet of wetland • Apply integrated pest management (These examples are not necessarily adequate for minimizing toxic runoff if threatened or endangered species are present at the site)
Stormwater runoff	• Parking lots • Roads • Residential areas • Commercial/industrial • Recreation • Landscaping/lawns • Other impermeable surfaces, compacted soil, etc.	• Retrofit stormwater detention and treatment for roads and existing adjacent development • Prevent channelized or sheet flow from lawns that directly enters the buffer • Infiltrate or treat, detain, and disperse new runoff from impervious surfaces and lawns
Pets and human disturbance	• Residential areas • Recreation	• Use privacy fencing • Plant dense native vegetation to delineate buffer edge and to discourage disturbance • Place wetland and its buffer in a separate tract • Place signs around the wetland buffer every 50 to 200 feet, and for subdivisions place signs at the back of each residential lot • When platting new subdivisions, locate greenbelts, stormwater facilities, and other lower-intensity uses adjacent to wetland buffers
Dust	• Tilled fields • Roads	• Use BMPs to control dust

Habitat Score in the Rating Form	Low Intensity Use	Moderate Intensity Use	High Intensity Use
≤ 5 points	See Table 1	See Table 1	See Table 1
≥ 6 points	75 ft.	110 ft.	150 ft.

Table 18.300.090(5)(i)(ii)-3 – Wetland Buffers Width Requirements for applicants not providing a habitat corridor or implementing measures in Table 18.300.090(5)(i)(ii)-2 to Protect Habitat Functions in Category I and II Wetlands

Category of Wetland	Habitat Score 3-5 Points	Habitat Score 6-7 Points	Habitat Score 8-9 Points	Buffer Width Based On Special Characteristics
Category I: Based on Rating of Wetland Functions (and not listed below)	100 ft	150 ft	300 ft	NA
Category I: Bogs and Wetlands of High Conservation Value	NA	NA	300 ft	250 ft
Category I: Forested	100 ft	150 ft	300 ft	NA
Category II: Based on Rating of Wetland Functions	100 ft	150 ft	300 ft	NA
Category III	80 ft	150 ft	300 ft	NA
Category IV	NA	NA	NA	50 ft

~~Habitat Score in the Rating Form~~	~~Low Intensity Use~~	~~Moderate Intensity Use~~	~~High Intensity Use~~
~~≤ 5 points~~	~~See Table 1~~	~~See Table 1~~	~~See Table 1~~
~~6 points~~	~~60 ft.~~	~~90 ft.~~	~~120 ft.~~
~~7 points~~	~~90 ft.~~	~~130 ft.~~	~~180 ft.~~
~~8 points~~	~~130 ft.~~	~~195 ft.~~	~~260 ft.~~
~~≥ 9 points~~	~~150 ft.~~	~~225 ft.~~	~~300 ft.~~

(iii) For applicants providing a habitat corridor and the subject buffering and impact minimization measures, the corridor should have a minimum width of 100 feet and connect Wetlands that score 6 or more habitat points with any of the following:

(A) A legally protected, relatively undisturbed and vegetated area (e.g., Priority Habitats, other compensation sites, wildlife areas/refuges, or national, county, and state parks where they have management plans with identified areas designated as Natural, Natural Forest, or natural Area Preserve);

(B) An area that is the site of a Watershed Project identified within and fully consistent with a Watershed Plan, as these terms are defined by RCW 89-08-460;

(C) An area where development is prohibited per the provisions of the local shoreline master program; and /or

(D) An area with equivalent habitat quality that has conservation status in perpetuity, in consultation with WDFW.

(iv) The Washington Department of Ecology's wetland buffer guidance assumes Wetlands buffers are fully vegetated with a native plant community. If wetland buffers are not fully vegetated, the buffers require enhancement with native woody vegetation or widened to ensure that the buffer provides adequate functions to protect the wetland.

~~(ii)~~(v) New urban residential lots shall not be platted within wetland buffers.

~~(iii)~~(vi) Stormwater facilities and public utilities, if approved by the Ceity, may be located within the outer 25 percent of Category IV or Category III wetland with a habitat score of three to five points, provided no other location is feasible and that it will not degrade the functions of the wetland or its buffer.

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Stormwater facilities may not be allowed in wetland buffers that have been reduced through the buffer reduction or buffer averaging provisions of this chapter.

(j) Wetland Buffer Reduction.

(i) Functionally ~~Isolated~~ Disconnected Buffer Areas. Areas which are functionally separated from a wetland and do not protect the wetland from adverse impacts due to preexisting roads, structures, or vertical separation shall be excluded from buffers otherwise required by this chapter.

(ii) The City may allow the averaging of a buffer of a Category III or IV wetland if:

(A) The buffer proposed for reduction has a habitat rating of five points or less;

(B) No area averaged is less than 75 percent of the width of the required base buffer;

(C) The proposed reduction will not create a net loss of buffer function; and

(D) The total area contained in the buffer after averaging shall be at least functionally equivalent and equal in size to the area contained within the buffer prior to averaging.

(iii) A buffer for a Category III or IV wetland may be reduced by no more than 25 percent of the area of the buffer if:

(A) The buffer proposed for reduction has a habitat rating of five points or less;

(B) The proposed reduction will not create a net loss of buffer function;

(C) Buffer width shall not be less than 50 percent of the base buffer width at any point; and

(D) Mitigation and enhancement measures, consistent with the provisions of this chapter, are approved by the City and implemented by the developer.

(E) The City may elect to submit the mitigation and enhancement plans to one or more qualified experts for peer review.

~~(iv) Reduction of Buffers for High Intensity Uses. High intensity buffers may be reduced to moderate intensity buffers if all of the following mitigation measures are applied to the greatest extent practicable:~~

~~(A) Buffer Enhancement. The intent and effect of an approved buffer enhancement program shall be to measurably improve low functioning buffers by increasing the identified functions of the buffer. This may include the removal and management of noxious weeds and/or invasive vegetation or specific measures to improve hydrologic or habitat function.~~

~~(B) Shielding of High Intensity Uses.~~

~~a. Lights. Direct all lights away from Wwetlands;~~

~~b. Noise. Locate activity that generates noise away from Wwetlands;~~

~~c. Pets and Human Disturbance. Use privacy fencing; plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion; place wetland and its buffer in a separate tract.~~

~~(C) Surface Water Management.~~

~~a. Existing Runoff. Retrofit stormwater detention and treatment for roads and existing development and disperse direct discharge of channelized flows from lawns and landscaping.~~

~~b. Change in Water Regime. Infiltrate and/or disperse stormwater runoff from impervious surfaces and drainage from lawns and landscaping into the buffer at multiple locations, except where the infiltration or dispersal would either be in opposition to the recommendations contained in the Ggeotechnical Engineering Rreport for the project or where the infiltration or dispersal would occur in a Ggeologically Hhazardous Aarea.~~

~~c. Low Impact Development. In the alternative to reduction of buffers for high intensity uses, if the development of the site has a low impact upon the critical area, the applicant may reduce the buffer width. However, the following reductions cannot be used in combination:~~

~~d. Limiting Effective Impervious Surface – Use of Low Impact Development Techniques and/or Limiting the Extent of Impervious Site Area. Areas set aside as pervious surface must be protected by some type of permanent legal protection such as a covenant or easement.~~

~~• Less than 35 percent effective impervious surface results in a low intensity impact.~~

~~• Less than 50 percent effective impervious surface results in a moderate intensity impact.~~

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~~(v)~~(iv)Enhanced Stormwater Management. Reduction of high land use intensity buffer to moderate land use intensity buffer for implementation of stormwater treatment measures that exceed adopted C~~c~~ity standards. (For example, stormwater facilities designed to the Western Washington Manual rather than the Puget Sound Manual.) This could include measures such as pretreatment or tertiary treatment of runoff and limiting discharge from the site to predevelopment runoff flow and volume.

~~(vi)Habitat Corridors. Establishment of a minimum 100-foot-wide functioning or enhanced vegetated corridor between the wetland and any other priority habitat areas as defined by the Washington State Department of Fish and Wildlife.~~

- ~~Applies only to wetlands with habitat function scores higher than five on the rating system form;~~
- ~~The habitat corridor must be protected for the entire distance between the wetland and the priority habitat area by some type of permanent legal protection such as a covenant or easement. Presence or absence of a nearby habitat must be confirmed by a qualified biologist.~~

(k) Wetland Buffer Impacts. Impacts to buffers shall be mitigated at a minimum 1:1 ratio. Compensatory buffer mitigation shall replace those buffer functions lost from development.

~~(k)~~(l) Wetland Development Standards – General.

(i)Any development proposal that impacts a W~~w~~etland or W~~w~~etland buffer shall not be allowed without an approved mitigation or enhancement plan consistent with LCMC 18.300.120 and the mitigation sequencing preference. (See "mitigation" in subsection (5)(o) of this section.)

(ii)The C~~c~~ity shall not approve a development proposal that impacts W~~w~~etlands or W~~w~~etland buffers without a finding that:

(A) The proposed activity shall not cause significant degradation of groundwater or surface water quality or fish and wildlife habitat;

(B) The proposed activity shall comply with all state, local and federal laws, including those related to sediment control, pollution control, floodplain restrictions, stormwater management, and on-site wastewater disposal; and

(C) Wetland and W~~w~~etland buffer impacts shall be avoided or substantially minimized consistent with the mitigation sequencing criteria.

~~(l)~~(m) Wetland Activities. Activities that trigger a W~~w~~etland P~~p~~ermit shall meet the following standards:

(i)Wetland impacts to Category I W~~w~~etlands that are bogs or natural heritage sites are prohibited unless approved through a critical areas variance.

(ii)All other W~~w~~etland impacts shall meet the compensation ratios stated in Table 18.300.090(5)(l), Wetland Mitigation Ratios, for projects in the La Center U~~u~~rban G~~g~~rowth A~~a~~rea.

Table 18.300.090(5)(l) – Wetland Mitigation Ratios

Impacted Wetland Category and Type	**Reestablishment or Creation**	**Rehabilitation**	~~**1:1 Reestablishment or Creation (R/C) plus Enhancement (E)**~~**Preservation**	**Enhancement** ~~**Only**~~
~~Category I b~~Bog~~s~~	Not considered possible	~~6:1 rehabilitation of a bog~~Not considered possible	~~Case-by-case~~24:1	~~Case-by-case~~Not considered possible
~~Category I natural heritage site~~Wetlands of High Conservation Value	~~Not considered possible~~Consult with WA DNR	~~6:1 rehabilitation of a natural heritage site~~Consult with WA DNR	~~Case-by-case~~24:1	~~Case-by-case~~Consult with WA DNR
Category I forested	6:1	12:1	~~1:1 R/C and 20:1 E~~24:1	24:1
Category I based on score for functions	4:1	8:1	~~1:1 R/C and 12:1 E~~16:1	16:1
Category II	3:1	6:1	~~1:1 R/C and 8:1 E~~12:1	12:1
Category III	2:1	4:1	~~1:1 R/C and 2:1 E~~8:1	~~6:1~~8:1
Category IV	1.5:1	3:1	~~1:1 R/C and 2:1 E~~6:1	6:1

(n) Requirements for Compensatory Mitigation.

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(i)Compensatory mitigation for alterations to Ww~~w~~etlands shall be used only for impacts that cannot be avoided or minimized and shall achieve equivalent or greater biologic functions. Compensatory mitigation plans shall be consistent with Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans – Version 1, (Ecology Publication No. 06-06-011b, Olympia, WA, March 2006, or as revised), and Selecting Wetland Mitigation Sites Using a Watershed Approach (Western Washington) (Publication No. 09-06-32, Olympia, WA, December 2009).

(ii)Mitigation requirements may also be determined using the ratios established in Table 18.300.090(5)(l) or the credit/debit tool described in Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Western Washington: Final Report (Ecology Publication No. 10-06-011, Olympia, WA, March 2012, or as revised).

~~(ii)~~(iii) Buffers on Wetland Mitigation Sites. All wetland mitigation sites shall have buffers consistent with the buffer requirements of this Chapter. Buffers shall be based on the expected or target category of the proposed wetland mitigation site and the expected level of impact from the adjacent land use. Buffers need to be fully vegetated in order to be included in buffer area calculations. Lawns, walkways, driveways, paved areas, and mowed or developed areas will not be considered buffers or included in buffer area calculations when assessing whether adequate compensatory mitigation buffers have been provided.

(o) Approaches to Compensatory Mitigation. Mitigation for lost or diminished wetland and buffer functions shall rely on the approaches listed below:

(i) Wetland Mitigation Banks. Credits from a wetland mitigation bank certified under Chapter 173-700 WAC may be used to compensate for impacts located within the service area specified in the mitigation bank instrument.

(ii) In-lieu Fee (ILF) Mitigation: Credits from an approved in-lieu fee program may be used when all the following apply:

(A) The [Administrator] determines that it would provide appropriate compensation for the proposed impacts.

(B) The proposed use of credits is consistent with the terms and conditions of the approved ILF program instrument.

(C) Projects using ILF credits shall have debits associated with the proposed impacts calculated by the applicant's qualified wetland professional using the credit assessment method specified in the approved instrument for the ILF program.

(D) The impacts are located within the service area specified in the approved ILF instrument.

(iii) Permittee-Responsible, Advanced Mitigation. Advance mitigation is a form of permittee-responsible mitigation implemented before a permitted impact takes place. It is designed to compensate for impacts expected to occur in the future. The applicant proposing the advance mitigation is the only one who can use the credits generated. Credits cannot be sold or transferred to another applicant. Advance mitigation proposals should be developed in accordance with state and federal rules and guidance on advance mitigation (Interagency Regulatory Guide: Advance Permittee-Responsible Mitigation, Ecology Publication #12-06-015, and Chapter 4.2 of Wetland Mitigation in Washington State–Part 1: Policies and Guidance—Version 2, Ecology Publication #21-06- 003, or as revised).

(iv) Permittee-Responsible, Concurrent Mitigation. Concurrent mitigation is a form of permittee-responsible mitigation implemented at the same time permitted impacts are occurring. The permittee is responsible for implementation and success of the compensation. Concurrent mitigation may occur at the site of the permitted impacts or at an off-site location, usually within the same watershed. Permittee-responsible, concurrent mitigation shall be used only if the applicant's qualified wetland professional demonstrates to the City's satisfaction that the proposed approach is ecologically preferable to use of a bank or ILF program, consistent with the criteria in this Section.

~~(o)~~(p) Types of Compensatory Mitigation.

(i) Restoration. The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions and environmental processes to a former or degraded Ww~~w~~etland. ~~–~~ Restoration is divided into two categories: Re~~habilitation~~storation results in a gain in Wetland function(s), but does not result in a gain in Wetland acres.

(A) Re-establishment: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions and environmental processes to a former wetland. Re-establishment results in rebuilding a former wetland and results in a gain in wetland area and functions. Example activities could include removing fill, plugging ditches, or breaking

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drain tiles to restore a wetland hydroperiod, which in turn will lead to restoring wetland biotic communities and environmental processes.

~~(i)~~(B) Rehabilitation: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural/historic functions and environmental processes to a degraded wetland. Rehabilitation results in a gain in wetland function but does not result in a gain in wetland area. The area already meets wetland criteria, but hydrological processes have been altered. Rehabilitation involves restoring historic hydrologic processes. Example activities could involve breaching a dike to reconnect wetlands to a floodplain or return tidal influence to a wetland.

(ii)Creation. The manipulation of the physical, chemical, or biological characteristics of a site to develop a W~~w~~etland on an upland or deepwater site where a W~~w~~etland did not previously exist. ~~Establishment~~ Creation results in a gain in W~~w~~etland acres and function(s). Activities typically involve excavation of upland soils to elevations that will produce a W~~w~~etland hydroperiod, create hydric soils, and support the growth of hydrophytic plant species.

~~(ii)~~(iii)Preservation. The removal of a threat to, or preventing the decline of, Wetland conditions by an action in or near a Wetland. This term includes activities commonly associated with the protection and maintenance of Wetlands through the implementation of appropriate legal and physical me mechanisms (sch as recording conservation easements and providing structural protection like fences and signs). Preservation does not result in a gain of Wetland area and functions (but may result in a gain in functions over the long term).

~~(iii)~~(iv)Enhancement. The manipulation of the physical, chemical, or biological characteristics of a W~~w~~etland site to heighten, intensify, or improve specific function(s) ~~or to change the growth stage or composition of the vegetation present~~. Enhancement results in the gain of selected function(s),but may also lead to a decline in other function(s). Enhancement does not result in a gain in Wetland area.

~~(p)~~(q) Location of Compensatory Mitigation.

(i)Compensatory mitigation actions shall generally be conducted within the same sub-drainage basin and on the site of the alteration except when the applicant can demonstrate that off-site mitigation is ecologically preferable. When considering off-site mitigation, preference should be given to site within the C~~e~~ity then alternatives using alternative mitigation, such as a mitigation bank, an in-lieu-fee program, or advance mitigation.

~~(q)~~(r) Wetland Mitigation – Preliminary Plan. The preliminary mitigation plan consists of two parts, baseline information for the site and a conceptual plan.

(i)Baseline information shall include:

(A) Wetland D~~d~~elineation R~~r~~eport;
(B) Description and maps of vegetative conditions at the site;
(C) Description and maps of hydrological conditions at the site;
(D) Description of soil conditions at the site based on a preliminary on-site analysis;
(E) A topographic map of the site;

(ii)The contents of the conceptual plan shall include:

(A) Goals and objectives of the proposed project;
(B) Description of type of mitigation to be proposed;
(C) Map showing proposed W~~w~~etland and buffer. This map should include the base buffer and the proposed buffer;
(D) Development site plan and proposed mitigation site plan;
(E) Discussion and map of plant material to be planted and planting densities;
(F) Preliminary drainage plan identifying location of proposed drainage facilities including detention structures and water quality features (e.g., swales);
(G) Discussion of water sources for the W~~w~~etland;
(H) Project schedule;
(I) Discussion of how the completed project will be managed and monitored;
(J) Discussion of contingency plans in case the project does not meet the goals initially set for the project.

~~(r)~~(s) Wetland Mitigation – Final Plan. The contents of the final mitigation plan shall include:

(i)Preliminary enhancement/mitigation plan and all conditions imposed on that plan.

(ii)Performance Standards. Specific criteria shall be provided for evaluating whether or not the goals and objectives of the enhancement/mitigation project are being met. Such criteria may include water

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quality standards, survival rates of planted vegetation, species abundance and diversity targets, habitat diversity indices, or other ecological, geological or hydrological criteria.

(iii) Marking Buffer during Construction. The location of the outer extent of the Ww~~w~~etland buffer shall be marked in the field and such markings shall be maintained throughout the duration of the permit.

(iv) Permanent Marking of Buffer Area. A permanent physical demarcation along the upland boundary of the Ww~~w~~etland buffer area shall be installed and thereafter maintained. Such demarcation may consist of logs, a tree or hedgerow, fencing, or other prominent physical marking approved by the H~~h~~earings E~~e~~xaminer. In addition, small signs shall be posted at an interval of one per lot or every 50 feet, whichever is less, and perpetually maintained at locations along the outer perimeter of the Ww~~w~~etland buffer worded substantially as follows: "Wetland and Buffer – Please Retain in a Natural State."

(v) A conservation covenant shall be recorded in a form approved by the C~~e~~ity attorney as adequate to incorporate the other restrictions of this section and to give notice of the requirement to obtain a Ww~~w~~etland Critical Areas P~~p~~ermit prior to engaging in regulated activities within a Ww~~w~~etland or its buffer.

(vi) In the cases of plats, short plats, and recorded site plans, include on the face of such instrument the boundary of the Ww~~w~~etland and its buffer and a reference to the separately recorded conservation covenant provided for in subsection (5)(q)(v) of this section.

(vii) Detailed Construction Plans. Written specifications for the enhancement/mitigation project shall be provided. The specifications shall include: the proposed construction sequence, grading and excavation details, water and nutrient requirements for planting, specification of substrate stockpiling techniques, and planting instructions, as appropriate. These written specifications shall be accompanied by detailed site diagrams, sealed cross-sectional drawings, topographic maps showing slope percentage and final grade elevations, and any other drawings appropriate to show construction techniques or anticipated final outcome.

(viii) Monitoring Program. Description of a detailed program for monitoring the success of the mitigation project. In addition to the standards described in LCMC 18.300.120, a monitoring program shall include, but is not limited to:

(A) Mitigation monitoring shall be required for a period necessary to establish that performance standards have been met but not for a period less than five years. If a scrub-shrub or forested vegetation community is proposed, monitoring may be required for ten years or more. The project mitigation plan shall include monitoring elements that ensure certainty of success for the project's natural resource values and functions. If the mitigation goals are not obtained within the initial five-year period, the applicant remains responsible for restoration of the natural resource values and functions until the mitigation goals agreed to in the mitigation plan are achieved;

(B) Establishing vegetation plots to track changes in plant species composition and density over time;

(C) Using photo stations to evaluate vegetation community response;

(D) Sampling surface and subsurface waters to determine pollutant loading, and changes from the natural variability of background conditions (pH, nutrients, and heavy metals);

(E) Measuring base flow rates and stormwater runoff to model and evaluate water quality predictions, if appropriate;

(F) Measuring sedimentation rates, if applicable; and

(G) Sampling fish and wildlife populations to determine habitat utilization, species abundance and diversity. A protocol shall be included outlining how the monitoring data will be evaluated by agencies that are tracking the progress of the project. A monitoring report shall be submitted annually, at a minimum, documenting milestones, successes, problems, and contingency actions of the compensation project. The compensation project shall be monitored for a period necessary to establish that performance standards have been met, but not for a period less than five years.

(ix) Associated Plans and Other Permits.

(A) Final landscaping plan;

(B) Final drainage plan; and

(C) Final erosion and sediment control plan.

(x) Evidence of Financial and Scientific Proficiency. A description of how the enhancement/mitigation project will be managed during construction and the scientific capability of the designer to

successfully implement the proposed project. In addition, a demonstration of the financial capability of the applicant to successfully complete the project and ensure it functions properly over a 10-year period. Evidence that required bonding can be obtained.

(xi) Contingency Plan. Identification of potential courses of action, and any corrective measures to be taken when monitoring or evaluation indicates project performance standards are not being met.

~~(s)~~(t) Wetland Critical Areas Permit – Application.

(i) Applications for W~~w~~etland Critical Areas P~~p~~ermits shall be made to the C~~c~~ity on forms furnished by the C~~c~~ity. The C~~c~~ity shall process a W~~w~~etland Critical Areas P~~p~~ermit application as a request for land use approval pursuant to Chapter 18.30 LCMC.

(ii) Wetland Critical Areas P~~p~~ermit applications shall include:

(A) Wetland D~~d~~elineation R~~r~~eports and required buffer width;

(B) A site plan for the proposed activity overlaid on an aerial photograph at a scale no smaller than one inch equals 400 feet showing the location, width, depth and length of all existing and proposed structures, roads, stormwater management facilities, sewage treatment, and proposed development within the W~~w~~etland and its buffer;

(C) The exact sites and specifications for all regulated activities including the amounts and methods;

(D) A proposed preliminary enhancement/mitigation plan meeting the requirements of this chapter.

~~(t)~~(u) Wetland Critical Areas Permit – Approval.

(i) The C~~c~~ity shall issue a decision on a W~~w~~etland Critical Areas P~~p~~ermit when the applicant completes the following:

(A) Submittal and approval of a final enhancement/mitigation plan;

(B) Installation and approval of the required field markings;

(C) The recording of a conservation covenant.

(ii) Conditions. An approval of a W~~w~~etland Critical Areas P~~p~~ermit shall incorporate the following condition:

(A) Posting of a cash performance bond or other security acceptable to the C~~c~~ity in an amount and with surety and conditions sufficient to fulfill the requirements of the required final plan, mitigation plan and enhancement plan and to secure compliance with other conditions and limitations set forth in the Critical Areas P~~p~~ermit.

(B) The C~~c~~ity shall release the bond upon determining that:

(I) All activities, including any required compensatory mitigation and monitoring, have been completed in accordance with the terms and conditions of the Critical Areas P~~p~~ermit and the requirements of this chapter; and

(II) Upon forfeiture of a performance or maintenance bond, the proceeds thereof shall be utilized either to correct deficiencies which resulted in forfeiture or, if such correction is deemed by the C~~c~~ity to be impractical or ineffective, to enhance other wetlands in the same watershed. The C~~c~~ity shall coordinate with the Department of Ecology and the United States Army Corps of Engineers to ensure consistent requirements for correcting deficiencies.

(iii) Duration. Wetland Critical Areas P~~p~~ermit final approval shall be valid for a period of two years from the date of issuance unless:

(A) A longer period, not to exceed five years, is specified in the Critical Areas P~~p~~ermit; or

(B) The C~~c~~ity grants an extension upon the written request of the original permit holder or successor in title demonstrating to the satisfaction of the C~~c~~ity:

(I) That the original intent of the Critical Areas P~~p~~ermit would not be altered or enlarged by the extension; and

(II) That relevant circumstances and standards have not changed substantially since the Critical Areas P~~p~~ermit application; and

(III) That the applicant has complied with the terms of the Critical Areas P~~p~~ermit.

(iv) Revocation. In addition to other remedies provided for elsewhere, the C~~c~~ity may suspend or revoke a Critical Areas P~~p~~ermit if the applicant or permittee has not complied with any of the conditions or limitations set forth in the Critical Areas P~~p~~ermit, has exceeded the scope of work set forth in the Critical Areas P~~p~~ermit, or has failed to undertake the project in the manner set forth in the Critical

Areas Ppermit. [Ord. 2023-12 § 8 (Exh. A), 2023; Ord. 2019-26 § 2 (Exh. A), 2019; Ord. 2012-01 § 1 (Exh. A), 2012; Ord. 2007-2 § 1, 2007.]

18.300.100 ~~Best available science~~BAS.

Critical Aarea Rreports and decisions to alter critical areas shall rely on the ~~best available science~~BAS to protect the functions and values of critical areas and must give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fish and their habitat. ~~Best available science~~BAS is that scientific information applicable to the critical area prepared by local, state or federal natural resource agencies, a qualified scientific professional or team of qualified scientific professionals, that is consistent with criteria established in WAC 365-195-900 through 365-195-925. [Ord. 2019-26 § 2 (Exh. A), 2019; Ord. 2012-01 § 1 (Exh. A), 2012; Ord. 2007-2 § 1, 2007.]

18.300.110 Development standards.

Within critical areas and their buffers, the C~~c~~ity shall prohibit soil excavation, grading, removal of native vegetation species, draining, intentional burning, planting of invasive or nuisance vegetation, placement of structures and new construction on critical areas unless otherwise authorized in this chapter.

(1) These development standards apply to uses on critical areas and within buffers unless otherwise exempted in this title.

(2) In order to approve application for development on lands subject to this chapter, the ~~mayor or his or her designee~~Planning Official shall find that the following standards have been met:

(a) All reasonable alternatives for locating the development activity in such a way so as to avoid critical areas have been considered and the development activity will be located in the least environmentally sensitive area as practicable and the purpose of this chapter, as described in LCMC 18.300.010, is fulfilled. If avoidance is not practicable, as determined by the C~~c~~ity, development shall minimize adverse impacts to critical areas and buffers consistent with the mitigation sequencing measures and mitigation and enhancement measures prescribed in this chapter.

(b) The C~~c~~ity has approved the vegetation removal methods and the removal of native plants has been avoided.

(c) All adverse impacts to all affected critical areas and buffers are either avoided or fully mitigated.

(d) The plan minimizes cuts and fills.

(e) Soils are not exposed during the rainy season (November 1st through April 30th) and construction activity is limited to the dry season (May 1st through October 31st).

(f) The ~~mayor or his or her designee~~Planning Official has reviewed and approved an erosion control plan, grading plan, and vegetation removal and replanting plan prior to construction activity.

(g) All activities have received applicable state and federal permits, and comply with SEPA requirements if the lead agency makes a threshold determination of significance (DS), or a mitigated determination of nonsignificance (MDNS).

(h) Hydraulic permits are required for any activity occurring within the ~~ordinary high water line~~ OHWL of any state-regulated streams.

(i) Compliance with this chapter does not constitute compliance with state and federal environmental standards. The applicant shall be responsible for demonstrating such compliance.

(3) Review Process.

(a) The review process shall be the type specified in the LCMC for each particular land use action unless otherwise specified in this chapter.

(b) Applications to develop on critical areas or their buffers and not subject to any other land use review specified in the LCMC shall be subject to Type I review if, within a one-year period, the cumulative impact on critical areas is:

(i)Disturbance of less than 10 cubic feet of soil;

(ii)An activity, the fair market cost of which is less than $500.00; or

(iii)The activity involves less than 1,000 square feet of critical areas. [Ord. 2023-12 § 8 (Exh. A), 2023; Ord. 2019-26 § 2 (Exh. A), 2019; Ord. 2012-01 § 1 (Exh. A), 2012; Ord. 2007-2 § 1, 2007.]

18.300.120 Mitigation.

(1) Approval. City approval of a mitigation plan is a prerequisite for approval of any development activities on critical areas.

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(a) The applicant shall submit a written request describing the extent and nature of the proposed development activity on critical areas and buffers. The request shall include boundary locations and identification of all designated critical areas and buffers and the areas of proposed impact(s).

(b) The application for development shall include a mitigation plan prepared in compliance with this section.

(c) The Ceity may require the applicant to prepare special reports evaluating potential adverse impacts upon critical areas and potential mitigation measures as part of the land use application process. These reports may include, but are not limited to, the following: stormwater management plan; hydrology, geology, and soils report; grading and erosion control plan; native vegetation report; fish and wildlife assessment and impact report; water quality report; wetlands delineation; and other reports determined necessary by the Ceity.

(d) The Ceity shall consult with state and federal resource management agencies and, in order to protect wildlife habitat or natural resource values, shall attach such conditions as may be necessary to effectively mitigate identified adverse impacts of the proposed development activity.

(e) The Ceity may request ~~third-~~third-party "peer review" of an application by qualified professionals and may incorporate recommendations from such ~~third-~~third-party reports in findings approving or denying the application.

(f) All reports recommending mitigation shall include provisions for monitoring of programs and replacement of improvements, on an annual basis, consistent with report recommendations and at years one, three, five, and seven. The Ceity reserves the right to require reporting at year 10 or greater per Planning Official's consultation with a third-party reviewer and/or state and federal resource management agencies.

(g) The ~~c~~City may require replacement mitigation to be established and functional prior to project construction, unless mitigation is via an authorized mitigation bank or in-lieu fee program.

(2) Mitigation Sequencing.

(a) Prior to authorizing impacts to critical areas or their buffers, the applicant shall demonstrate and the Ceity shall verify that the applicant has met the following sequence in order of priority:

(i) Avoidance. Avoid the impact altogether by not taking a certain action or parts of an action;

(ii) Minimization. Minimize the impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts;

(iii) Rectification. Rectify the impact by repairing, rehabilitating, or restoring the affected environment to the conditions existing at the time of the initiation of the project or activity;

(iv) Reduction or elimination. Reduce or eliminate the impact over time by preservation and maintenance operations during the life of the action;

(v) Compensation. Compensate for the impact by replacing, enhancing, or providing substitute resources or environments; and

(vi) Monitoring. Monitor the impact and the compensation projects and take appropriate corrective measures.

(b) Development shall avoid critical areas and their buffers, and where avoidance is not practical, development shall minimize adverse impacts to critical areas and buffers, as determined by the Ceity after review of a Ceritical Aarea Rreport filed by the applicant and consistent with the provisions of this chapter. To determine whether avoidance is practical, the Ceity shall consider issues such as:

(i) Substantial evidence presented by the applicant demonstrating the avoidance measures the applicant considered;

(ii) The quality of the critical resource and buffer functions and values to be impacted, avoidance of impacts to higher quality resources and buffers is preferred;

(iii) The nature and extent of mitigation and enhancement measures proposed to compensate for the proposed impact;

(iv) Whether the impacts proposed are necessary to implement the Ceity's capital facilities plan; and

(v) Other factors the Ceity determines are relevant. The Ceity may also consider the financial implications of avoidance but shall not give private gain greater weight than resource management founded upon ~~best available science~~BAS.

(3) No Net Loss.

(a) Mitigation efforts, when allowed, shall ensure that development activity does not yield a net loss of the area or function of the critical areas. No net loss shall be measured by:

(b) Avoidance or mitigation of adverse impacts to fish life; or
(i)Avoidance or mitigation of net loss of habitat functions necessary to sustain fish life; or
(ii)Avoidance or mitigation of loss of area by habitat type.
(c) Mitigation to achieve no net loss should benefit those organisms being impacted.
(d) Where development results in a loss of Ww~~w~~etland area, the mitigation plan shall demonstrate that Ww~~w~~etland area is replaced consistent with the ratios described in Table 18.300.090(5)(l), Wetland Mitigation Ratios. The created or enhanced Ww~~w~~etland shall be, acre for acre, of equal or greater biological values, including habitat value, and with equal or greater hydrological values including storage capacity.
(e) Wherever possible, mitigation, replacement or enhancement shall occur on site.
(i)However, where the applicant can demonstrate that an off-site location is in the same drainage basin, and that equal or greater biological and hydrological values will be achieved, the Ce~~i~~ity may approve such off-site mitigation.
(ii)Wet ponds established and maintained for control of surface water shall not constitute mitigation for Ww~~w~~etland alterations.
(iii)Where there is a Ww~~w~~etland within 25 feet of the toe of a slope equal to or greater than 25 percent, the buffer shall be a minimum of 25 feet beyond the toe of the slope.

(4) Mitigation Plan. A mitigation plan shall provide for the design, implementation, maintenance, and monitoring of mitigation measures. A mitigation plan shall include but is not limited to the following:
(a) Methods and techniques to be used to mitigate impacts to critical areas;
(b) Explanation of methods and techniques, such as construction practices to be used to implement the identified mitigation methods;
(c) Methods and techniques for monitoring said mitigation and a proposed time frame for such monitoring.

(5) Stormwater Management. Any development on critical areas shall be consistent with either Chapter 18.320 LCMC, Stormwater and Erosion Control, or the most recent version of the "Stormwater Management Manual for Western Washington," Washington State Department of Ecology, at the discretion of the public works director.

(6) Buffer Enhancement. Where a development avails itself of the buffer reduction opportunity described in this chapter, the following enhancement standards shall apply:
(a) The applicant shall submit to the Ce~~i~~ity a written request describing the extent and nature of the proposed development activity and shall submit a written enhancement plan.
(b) The enhancement plan shall include calculations and maps that illustrate:
(i)Required boundary locations of all critical areas and attendant buffers;
(ii)Proposed buffer areas after reduction;
(iii)Proposed areas to receive enhancement measures;
(iv)A timeline for completion of the enhancement plan;
(v)Methods and techniques to be used to mitigate impacts to critical areas;
(vi)An explanation of methods and techniques, such as construction practices to be used to implement the identified mitigation methods; and
(vii)Methods and techniques for monitoring said mitigation and a proposed time frame for monitoring.
(c) The enhanced area shall provide an equal or greater level of functions, including habitat functions.
(d) Enhancement shall occur on site.
(e) Wet ponds established and maintained for control of surface water shall not constitute mitigation for Ww~~w~~etland alterations.
(f) Surface water management or flood control shall not be considered enhancement. [Ord. 2019-26 § 2 (Exh. A), 2019; Ord. 2012-01 § 1 (Exh. A), 2012; Ord. 2007-2 § 1, 2007.]

18.300.130 Residential density transfer.

The Ce~~i~~ity may permit density transfer from critical areas (sending lands) to designated noncritical areas (receiving areas) only in the Ce~~i~~ity's ~~low~~ Low D~~d~~ensity R~~r~~esidential (LDR-7.5), M~~m~~edium D~~d~~ensity R~~r~~esidential (MDR-16), R~~r~~esidential P~~p~~rofessional (R/P), and M~~m~~ixed U~~u~~se (MX) districts.

(1) Residential Density Transfer. A property owner may transfer residential density to a receiving area.
(a) A receiving area shall be on the same parcel or same property, within the same zoning classification, and owned by the property owner sending the density.
(b) Density may be transferred from a sending area only one time.

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(c) The value of the transfer in the MDR-16, R/P, and MX districts shall be calculated as follows:

(i) Density transfer credits shall be calculated by multiplying the minimum net density allowed in the zone by the total acres of critical areas protected. For example, in an MDR-16 zone, if two acres of critical areas are completely avoided and protected and the minimum density allowed is eight units per net acre, the maximum allowable density transfer would be 16 units (two acres of protected critical areas multiplied by minimum net density of eight units per net acre equals 16 units).

(ii) Notwithstanding the density available for transfer under subsection (1)(c)(i) of this section, the transfer of density to a receiving area shall not result in an increase in density throughout the developable portion of the project greater than the maximum allowed densities by product type as set forth in Table 18.300.130(1)(c)(ii):

Table 18.300.130(1)(c)(ii) – MDR-16 Maximum Allowed Net Density for Density Transfer

MDR-16 Product Type	Maximum Allowed Net Density With a Critical Areas Density Transfer
Multifamily	18 units/acre
Single-family attached	16 units/acre
Single-family detached	14 units/acre
Manufactured home park/subdivision	14 units/acre

(d) The value of the transfer in the LDR-7.5 district shall be calculated as set forth in subsection (1)(c)(i) of this section to determine the number of dwelling units that can be transferred. A maximum of up to 20 percent of the total lots in the development may be transferred dwelling units on a minimum lot size of no less than 6,000 square feet. The transfer shall not result in a net density of greater than six and one-half units/acre. The density transfer provisions only applies to single-family detached dwellings in this zone.

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(2) Transfer Criteria. The density transfer request shall be approved through a preliminary plat or site plan review and be subject to the following criteria:

(a) Adverse impacts to natural resources on the receiving areas shall be mitigated consistent with the mitigation section of this chapter.

(b) The building height standards of the receiving district shall be met.

(c) The transfer of density to a receiving area shall not result in the construction of a housing type not otherwise allowed in the receiving area.

(d) Sending areas shall be:

(i) Dedicated to the City for public use; or

(ii) Protected as an unbuildable area by means of deed restriction, conservation easement, or other mechanism approved by the City Council. [Ord. 2023-13 § 10 (Exh. D), 2023; Ord. 2021-04 § 16 (Exh. M), 2021; Ord. 2019-26 § 2 (Exh. A), 2019; Ord. 2012-01 § 1 (Exh. A), 2012; Ord. 2007-2 § 1, 2007.]

18.300.140 Selective timber harvesting on critical lands.

(1) Applicability. Consistent with RCW 76.09.240, the City extends its planning and zoning jurisdiction over forest practices in critical areas to the extent that:

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(a) Commercial forestry activity occurs on lands identified as critical areas on the City's adopted critical areas maps;

(b) An application submitted under RCW 76.09.060 indicates that the lands will be converted to a use other than commercial timber production;

(c) The subject lands were platted after January 1, 1960; and

(d) Consistent with the adopted La Center Comprehensive Pplan, the City ~~of La Center~~ presumes that any application for commercial timber harvest within the La Center urban growth boundary that is subject to Chapter 76.09 RCW et seq. is for the purpose of converting forested lands into urban lands.

(2) Standards. Selective commercial timber harvesting may be permitted on critical areas subject to the following standards:

(a) Written Plan Required. Trees to be removed shall be identified through the development approval process and shall be clearly marked prior to their removal. An applicant shall present a written plan, explaining in detail the location of trees to be removed, and the method of removal, to the ~~mayor, or his or her designee~~Planning Official, for review and approval.
(b) In conjunction with a development application, selective tree cutting may occur to the minimum extent necessary in conjunction with an approved development.
(c) Prior to approval of a H~~h~~arvesting P~~p~~ermit, the applicant shall sign and record an agreement with the C~~c~~ity stating that no development application may be filed on the subject property, other than a single-family residence, for six years following completion of timber harvesting operations.
(d) Selective tree removal on critical lands shall not result in loss of more than 50 percent of existing tree canopy covering critical areas.
(e) The applicant shall demonstrate that the methods used for tree harvesting and removal are the least disruptive practicable.
(f) Operations shall be limited to the dry season, that is, from May 1st through October 30th.
(g) Applicants for selective timber harvesting shall prepare an erosion control plan for review and approval by the ~~mayor or his or her designee~~Planning Official and, if the plan is approved, shall comply with the plan during harvesting activity and shall maintain required erosion control mechanisms for a period of 180 days after completion of the timber removal project.

(3) Conditions. The ~~mayor, or his or her designee~~Planning Official, may recommend conditions of approval necessary to minimize adverse impacts on natural resource values, including water quality and wildlife habitat to the extent that such conditions are consistent with the La Center C~~c~~omprehensive P~~p~~lan. [Ord. 2019-26 § 2 (Exh. A), 2019; Ord. 2012-01 § 1 (Exh. A), 2012; Ord. 2007-2 § 1, 2007.]

18.300.150 Modification to overlay zone.
Repealed by Ord. 2019-26. [Ord. 2012-01 § 1 (Exh. A), 2012; Ord. 2007-2 § 1, 2007.]

18.300.160 Application fees.
At the time of application for land use review or C~~c~~ritical A~~a~~reas ~~review~~Permit, the applicant shall pay a C~~c~~ritical A~~a~~reas ~~review~~ Permit fee, adopted and amended by the C~~c~~ity C~~c~~ouncil, from time to time, by resolution or ordinance. [Ord. 2022-02 § 6, 2022; Ord. 2019-26 § 2 (Exh. A), 2019; Ord. 2012-01 § 1 (Exh. A), 2012; Ord. 2007-2 § 1, 2007.]

18.300.170 Bonds to insure mitigation, maintenance and monitoring.
(1) When mitigation required pursuant to a development proposal is not completed prior to the C~~c~~ity final Critical Areas P~~p~~ermit approval, such as final plat approval or final building inspection, the C~~c~~ity shall require the applicant to post a performance bond or other security in a form and amount deemed acceptable by the C~~c~~ity. If the development proposal is subject to mitigation, the applicant shall post a performance bond and a mitigation bond or other security in a form and amount deemed acceptable by the C~~c~~ity to ensure mitigation is fully functional.
(2) The bond shall be in the amount of 150 percent of the estimated cost of the uncompleted actions or the estimated cost of restoring the functions and values of the critical area that are at risk, whichever is greater, and the cost of maintenance and monitoring for a 10-year period.
(3) The bond shall be in the form of an assignment of savings account, or an irrevocable letter of credit guaranteed by an acceptable financial institution with terms and conditions acceptable to the C~~c~~ity attorney or other method acceptable to the ~~planning director~~Planning Official.
(4) Bonds or other security authorized by this section shall remain in effect until the C~~c~~ity determines, in writing, that the standards bonded for have been met. Mitigation bonds or other security shall be held by the C~~c~~ity for a minimum of 10 years to ensure that the required mitigation has been fully implemented and demonstrated to function, and may be held for longer periods when necessary.
(5) Depletion, failure, or collection of bond funds shall not discharge the obligation of an applicant or violator to complete required mitigation, maintenance, monitoring, or restoration.
(6) Public development proposals shall be relieved from having to comply with the bonding requirements of this section if public funds have previously been committed for mitigation, maintenance, monitoring, or restoration.
(7) Any failure to satisfy critical area requirements established by law or condition including, but not limited to, the failure to provide a monitoring report within 30 days after it is due or comply with other provisions of an

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approved mitigation plan shall constitute a default, and the Ceity may demand payment of any financial guarantees or require other action authorized by the Ceity code or any other law.
(8) Any funds recovered pursuant to this section shall be used to complete the required mitigation, maintenance or monitoring. [Ord. 2019-26 § 2 (Exh. A), 2019; Ord. 2012-01 § 1 (Exh. A), 2012; Ord. 2007-2 § 1, 2007.]

18.300.180 Critical area inspections.
Reasonable access to the site shall be provided to the Ceity, Sstate, and federal agency review staff for the purpose of inspections during any proposal review, restoration, emergency action, or monitoring period. [Ord. 2019-26 § 2 (Exh. A), 2019; Ord. 2012-01 § 1 (Exh. A), 2012; Ord. 2007-2 § 1, 2007.]

18.300.190. Unauthorized alterations and enforcement

(1) When a critical area or its buffer has been altered in violation of this Chapter, all ongoing development work shall stop, and the critical area shall be restored. The City shall have the authority to issue a stop-work order to cease all ongoing development work and order restoration, rehabilitation, or replacement measures at the owner's or other responsible party's expense to compensate for violation of provisions of this Chapter.
(2) Requirement for Restoration Plan. All development work shall remain stopped until a restoration plan is prepared and approved by the City. Such a plan shall be prepared by a qualified professional, specific to the critical areas impacted, using currently accepted scientific principles and shall describe how the actions proposed meet the minimum requirements described in Subsection 3 below. The City may, at the owner's or other responsible party's expense, seek expert advice in determining the adequacy of the plan. Inadequate plans shall be returned to the applicant or other responsible party for revision and re-submittal.
(3) Minimum Performance Standards for Restoration. The following minimum performance standards shall be met for the restoration of the critical area(s), when the owner or other responsible party can demonstrate that greater functions and values can be attained, these standards may be modified:
(a) The pre-violation structure, functions, and values of the affected critical area shall be restored.
(b) The pre-violation soil types and configuration shall be restored to the extent practicable.
(c) The critical area and buffers shall be replanted with native vegetation that replicates the pre-violation vegetation in species types, sizes, and densities.
(d) Information demonstrating compliance with other applicable provisions of this Chapter shall be submitted to City.
(3) Site Investigations. The City is authorized to make site inspections and take such actions as are necessary to enforce this Chapter. The City shall present proper credentials and make a reasonable effort to contact the property owner before entering onto private property.
(4) Penalties. Any person, party, firm, corporation, or other legal entity convicted of violating any of the provisions of this Chapter shall be guilty of a civil infraction pursuant to LCMC Chapter 2.15.
(a) Each day or portion of a day during which a violation of this Chapter is committed or continued shall constitute a separate offense. Any development carried out contrary to the provisions of this Chapter shall constitute a public nuisance and may be enjoined as provided by the statutes of the state of Washington. The City may levy civil penalties against any person, party, firm, corporation, or other legal entity for violation of any of the provisions of this Chapter. The civil penalty shall be pursuant to LCMC Chapter 2.15.
(b) If the critical area(s) affected cannot be restored, monies collected as penalties shall be deposited in a dedicated account for the preservation or restoration of landscape processes and functions in the watershed in which the affected critical area is located. The City may coordinate preservation or restoration activities with other jurisdictions in the watershed to optimize the effectiveness of the restoration action.

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