

**CITY OF ILWACO
ORDINANCE NO. 910**

AN ORDINANCE OF THE CITY OF ILWACO, WASHINGTON, RELATING TO CRITICAL AREAS AS DEFINED BY THE GROWTH MANAGEMENT ACT OF 1990 WHICH DESIGNATES SUCH CRITICAL AREAS, PROMULGATES DEVELOPMENT STANDARDS, AND PRESCRIBES PENALTIES FOR VIOLATIONS.

WHEREAS, the Growth Management Act (GMA) requires the adoption of development regulations that designate and protect critical areas in accordance with RCW 36.70A.60 and RCW 36.70A.170; and

WHEREAS, the City of Ilwaco (City) adopted Ordinance No. 614, which designated critical areas and adopted protective regulations under the GMA on November 23, 1998 for the protection of and to provide development regulations for environmentally sensitive areas which included protections for wetlands, fisheries habitat regulations, shellfish, kelp, eelgrass, herring and smelt spawning areas, wildlife habitat regulations, frequently flooded areas, aquifer recharge areas, and geologically hazardous areas; and

WHEREAS, Section 36.70A.130 (4) (d) RCW requires the City to take legislative action to review its critical areas designations and its development regulations protecting critical areas and to revise them if needed to comply with the requirements in Chapter 36.70A. RCW; and

WHEREAS, In 1995, the GMA was amended to require that cities and counties must substantively consider best available science in developing policies and development regulations to protect the functions and values of critical areas and to give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries [RCW 36.70A.172]; and

WHEREAS, in light of this amendment to the GMA related to inclusion of best available science and the requirements in Chapter 36.70A.130 RCW to periodically review development regulations, the City has conducted a review of its existing critical areas regulations together with a review of the best available science; and

WHEREAS, conserving and restoring viable populations of native species, maintaining the broad range of existing populations of healthy native plants and animals, and protecting the health of populations currently at risk is consistent with the development of critical areas regulations in Washington State; and

WHEREAS, Title 365-190 WAC contains provisions for the Minimum Guidelines to Classify Agriculture, Forest, Mineral Lands and Critical Areas; and

WHEREAS, Title 365-195 WAC contains procedural criteria for determining and including Best Available Science in development regulations; and

WHEREAS, WAC 365-196-485 provisions for the relationship of critical areas regulations to the Comprehensive Plan; and

WHEREAS, the GMA requires a process of early and continuous citizen participation for amending comprehensive plans and development regulations; and

WHEREAS, the City has invited public participation and comments in conformance with RCW 36.70A.130 (2) and Chapter 15.56.030 IMC via Planning Commission Public meetings, City Council Public meetings, workshops, new releases, and communication of activities with stakeholders; and

WHEREAS, under the schedule established in RCW 36.70A.130 (4) (b), the deadline established for the City to comply with the update required by RCW 36.70A.130 (1) was December 1, 2007; and

WHEREAS, the City Council has made findings of fact relating to critical areas designations and development regulations referenced in this ordinance supporting said amendments which are set forth below for adoption.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ILWACO, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1

FINDINGS. For the purpose of effective land use planning, the City Council of Ilwaco adopts the following legislative findings of fact:

A. GENERAL FINDINGS

1. The Revised Code of Washington (RCW) 36.70A.060 and RCW 36.70A.170 require counties and cities to designate critical areas and adopt regulations to protect them.
2. Critical areas are defined by RCW 36.70A.030(5) to include wetlands, areas with a critical recharging effect on aquifers used for potable water; fish and wildlife habitat conservation areas; frequently flooded areas; and geologically hazardous areas. These critical areas are further defined and described by Chapter 36.70A RCW and rules codified at Chapter 365-190 WAC.
3. The amendments to the development regulations in the City of Ilwaco Unified Development Ordinance (Title 15 IMC) apply to the incorporated areas of the City. The locations and boundaries of the zoning districts established in the City of Ilwaco Unified Development Ordinance (Title 15) and as shown on the Official Zoning Map, City of Ilwaco, Washington (Chapter 15.22 IMC).
4. The Gap Analysis Report dated September 2014, which reviewed the existing critical area designations and development regulations that protects critical areas currently in effect in the City for consistency with the requirements of Chapter 36.70A RCW, including best available science as included in Attachment A, which includes the references contained therein, represents the most comprehensive list of sources for best available science that was relied upon in the updated designation and protection of critical area functions and values are:

- a. Best Available Science Review, City of Woodinville, Comprehensive Plan Update, Revised June 3, 2014: The Watershed Company.
 - b. Best Available Science Review, City of Newcastle, Comprehensive Plan Update, Final Revision issued in September 2014: The Watershed Company.
5. Based on input from the public in Planning Commission Public meetings, stakeholders and analysis and issues identified, the City prepared Preliminary Draft Critical Areas Regulations and released them for public comment in October 2014.
 6. In conformance with Chapter 15.56.030 and RCW 36.70A.130(2) the City has provided the opportunity for early and continuous public participation, comment and consideration through a various Planning Commission Public meetings and City Council workshop:
 - a. On October 29, 2014, the Planning Commission held an open public meeting during their regularly scheduled time to review the initial draft of the updated Critical Area Regulations.
 - b. On November 10, 2014, the Ilwaco City Council held a Special Meeting to review the most recent draft of the Critical Area Regulations.
 - c. On March 3, 2015, the City of Ilwaco Planning Commission held an open public meeting during their regularly scheduled time to review the most recent draft of the Critical Areas Ordinance update.
 - d. On April 13, 2015, the City of Ilwaco Council held its legally noticed public hearing on the Critical Areas Ordinance. Approximately zero people attended the hearing, approximately zero written comments were received, and approximately zero people provided public testimony.
 7. The City Planning Commission reviewed the analysis and proposed revisions and provided the public an opportunity to comment on the analysis and proposed revisions. Based on its review of the requirements of Chapter 36.70A RCW, the analysis and proposed revisions prepared, and the public comments received, the Planning Commission forwarded recommended findings on the review and proposed revisions to the City Council.
 8. Based on its review of the requirements of Chapter 36.70A RCW, the analysis and proposed revisions, the recommended findings on review and proposed revisions forwarded by the Planning Commission, and the public comments received, the City Council finds and declares that the review and needed revisions have been prepared in conformance with applicable law, including Chapter 36.70A RCW, Chapter 43.21C RCW and Chapter 15.56 Ilwaco Municipal Code.
 9. In formulating its recommendations, the Planning Commission considered public comments received through public meetings and the public input process.

10. In formulating development regulations adopted by this ordinance, the City Council has considered the goals contained in RCW 36.70A.020. The GMA set forth a list of fourteen (14) goals to guide the development and adoption of development regulations.
11. The City Council has weighed the goals contained in RCW 36.70A.020 as they apply to subject matter of this ordinance and have attempted to reach a reasonable balance of these goals in fulfilling its duty to protect critical areas through the adoption of this Ordinance.
12. On January 22, 2015 notice was provided to the Washington State Department of Commerce on the intent to adopt revised development regulations applicable to critical areas in conformance with RCW 36.70A.106.
13. On February 18, 2015 the City of Ilwaco issued a Determination of Non-significance under SEPA in accordance with RCW 43.21.C.
14. The critical areas development regulations are intended to protect the general public, resources and facilities from injury, loss of life, property damage or financial loss due to flooding, landslides, or steep slope failures.
15. The findings and the record generated in the public hearing process and at the adoption of this resolution show that this measure is consistent with the GMA goals.
16. The City of Ilwaco Council believes adopting the amendments is necessary for the preservation of the public health, safety, and general welfare of the residents of Ilwaco.
17. The City of Ilwaco Council finds that the amendments in this ordinance were developed through an analysis of the evidence in the record, including scientific analysis and documentation, involving a reasoned process.
18. The City of Ilwaco Council finds that based on local conditions, the prevailing direction of groundwater flow (towards the Columbia River), and that all city residents rely on the municipal water supply for potable water, which comes from surface water located outside of the city, that this critical areas ordinance could proceed without a critical aquifer recharge area designation or without designation of reduced size based on the Memorandum from the Watershed Company dated November 26, 2014, pertaining to a full review and analysis of excluding a critical aquifer recharge areas designation within city limits (Attachment B).
19. The City of Ilwaco has reviewed existing critical area regulation from neighboring jurisdictions within Pacific County and other jurisdictions within the State of Washington. The City Council finds that similar standards are in these current critical area's regulations, whose regulations have been updated using current best available science being adopted with this ordinance.

20. The City of Ilwaco finds that development may result in cumulative impacts to those functions and values of critical areas that contribute to and are necessary for a healthy natural environment and perceived quality of life.
21. The development of residences, businesses, shopping areas and other structures, and the clearing of land for accommodation of such development all have the potential of adversely and significantly impacting the functions and values of critical areas.
22. The City of Ilwaco finds that the unwise development of resource lands or areas susceptible to natural hazards may lead to inefficient use of limited public resources, jeopardize environmental resource functions and values, subject persons and property to unsafe conditions, and affect the perceived quality of life.
23. The City of Ilwaco finds that it is more costly to remedy the loss of critical area functions and values than to conserve and protect them from loss or degradation.
24. In determining what critical areas are to be afforded a particular degree of protection, the City of Ilwaco has evaluated a wide range of the best science available with respect to the critical areas to make informed decisions that meet the intent of the Growth Management Act and that are also reflective of local needs.
25. Protection standards for one critical area often provide protection for one or more critical areas.
26. Critical areas may also be protected by other actions by the City of Ilwaco, such as stormwater management standards, critical area restoration, and public education; and from other regulations, such as the Forest Practices Act, the Shoreline Management Act, and the State Environmental Policy Act.
27. The U.S. Constitution prohibits the taking of private property without just compensation.

B. WETLANDS

1. Wetlands and streams are environmentally sensitive and serve numerous natural functions and values. These functions include wildlife and fisheries habitat; water quality protection; flood protection; shoreline stabilization; stream flow; and ground water recharge and discharge. In many situations, these functions cannot be adequately replicated or replaced.
2. The scientific literature supports in the inclusion of protective buffers for wetlands to provide sediment control and nutrient inputs to wetlands, and to protect important wetland functions.
3. Wetlands are identified and rated according to the *Washington State Wetland Identification and Delineation Manual* and *Washington State Wetland Rating System*

(Eastern and Western Washington) prepared by the Washington State Department of Ecology (Ecology).

4. The scientific literature supports protective buffers ranging from 50 to 300 feet of relatively intact native vegetation to adequately protect wetland functions and values.
5. Appropriate wetland mitigation ratios – ratios of areas of wetland replacement and enhancement to that altered or destroyed – are established in *Wetland Mitigation Replacement Ratios: Defining Equivalency*, published by Ecology, 1992.
6. In determining what critical areas are to be afforded a particular degree of protection, the City of Ilwaco has evaluated a wide range of the best available science with respect to wetlands to make informed decisions that meet the intent of the GMA and that are also reflective of local needs.
7. The sources of best available science that were evaluated and included in the development of regulatory standards for wetland areas are included in Attachment A, which includes the references contained therein, represents the most comprehensive list of sources for best available science:
 - a. Best Available Science Review, City of Woodinville, Comprehensive Plan Update, Revised June 3, 2014: The Watershed Company.
 - b. Best Available Science Review, City of Newcastle, Comprehensive Plan Update, Final Revision issued in September 2014: The Watershed Company.

C. FREQUENTLY FLOODED AREAS

1. Special flood hazard areas are subject to periodic inundation that results in loss of life and property, health, and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
2. Providing protection measures for frequently flooded areas enables the City of Ilwaco to meet the requirements of the National Flood Insurance program and as an eligible community for federal flood insurance benefits.
3. These flood losses are caused by development in areas prone to inundation that increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately flood proofed, elevated, or otherwise protected from flood damage also contribute to flood loss.
4. Floodplain and stream connectivity are major elements in maintaining healthy riparian habitat and off-channel habitats for the survival of fish species and conveyance of floodwaters. If river, floodplains, and other systems are not viewed holistically as

biological, geomorphological units, this can lead to serious degradation of habitat and increase flood hazards, which in turn can contribute to listing of various fish species as threatened or endangered and result in extraordinary public expenditures for flood protection and relief.

5. In determining what critical areas are to be afforded a particular degree of protection, the City of Ilwaco has evaluated a wide range of the best available science with respect to frequently flooded areas to make informed decisions that meet the intent of the GMA and that are also reflective of local needs.
6. The sources of best available science that were evaluated and included in the development of regulatory standards for frequently flooded areas are included in Attachment A, which includes the references contained therein, represent the most comprehensive list of sources for best available science:
 - c. Best Available Science Review, City of Woodinville, Comprehensive Plan Update, Revised June 3, 2014: The Watershed Company.
 - d. Best Available Science Review, City of Newcastle, Comprehensive Plan Update, Final Revision issued in September 2014: The Watershed Company.
7. Chapter 15.16, Development in Flood Areas includes additional provisions for developing in special flood hazard areas, to minimize losses due to flood conditions by providing minimum standards for sites within flood areas, or sites that will affect identified flood hazard areas.

D. GEOLOGICALLY HAZARDOUS AREAS

1. Geologically hazardous areas are subject to periodic geological events that result in loss of life and property, health, and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
2. Geologic hazards may be exacerbated by development and human activity in sensitive areas, and impacts resulting from geologic hazards may be reduced by limiting development and human activity within or adjacent to the geologic hazard.
3. Some geologic hazards may be intensified during periods of consistent or heavy rainfall that results in ground saturation or surface water drainage flows.
4. In determining what critical areas are to be afforded a particular degree of protection, the City of Ilwaco has evaluated a wide range of the best available science with respect to geologically hazardous areas to make informed decisions that meet the intent of the GMA and that are also reflective of local needs.

5. Title 14 Buildings and Construction includes additional provisions within the adopted building codes for developing in geologically hazardous areas to minimize impacts due to construction on or near these areas.
6. The sources of best available science that were evaluated and included in the development of regulatory standards for geologically hazardous areas are included in Attachment A, which includes the references contained therein, represent the most comprehensive list of sources for best available science:
 - a. Best Available Science Review, City of Woodinville, Comprehensive Plan Update, Revised June 3, 2014: The Watershed Company.
 - b. Best Available Science Review, City of Newcastle, Comprehensive Plan Update, Final Revision issued in September 2014: The Watershed Company.

E. FISH AND WILDLIFE HABITAT CONSERVATION AREAS

1. Fish and wildlife habitat conservation areas perform many important physical and biological functions that benefit the City and its residents, including but not limited to: maintaining species diversity and genetic diversity; providing opportunities for food, cover, nesting, breeding and movement for fish and wildlife; serving as areas for recreation, education and scientific study and aesthetic appreciation; helping to maintain air and water quality; controlling erosion; and providing neighborhood separation and visual diversity within the City of Ilwaco.
2. Wetlands and streams are environmentally sensitive and serve numerous natural functions and values. These functions include wildlife and fisheries habitat; water quality protection; flood protection; shoreline stabilization; stream flow; and ground water recharge and discharge. In many situations these functions cannot be adequately replicated or replaced.
3. The scientific literature supports in the inclusion of protective buffers from streams to provide sediment control, nutrient inputs to downstream waters, large woody debris, and other functions important to riparian areas.
4. The Washington Department of Fish and Wildlife (WDFW) has prepared management recommendations for the preservation of priority habitat and species, which are based on the best available science, and include, in some instances, recommended protective buffer distances.
5. Kelp and eelgrass beds have been identified and mapped by the Washington State Department of Natural Resources (DNR) in some areas. Herring and smelt spawning times and locations are outlined in WAC 220-110-240 through 220-110-260. Locations for both may be found by referring to *Critical Spawning Habitat for Herring, Surf Smelt, Sand Lance and Rock Sole in Puget Sound, Washington: A Guide for Local*

Governments and Interested Citizens, 2002, and the Puget Sound Environmental Atlas, Volumes 1 and 2.

6. Salmonid and anadromous fish may be more impacted by development and human activity during some times than others. Such times are referred to as “fish windows,” which have been documented by WDFW.
7. DNR has classified watercourses according to two stream-typing systems based on channel width, fish use, and perennial or intermittent status.
8. In determining what critical areas are to be afforded a particular degree of protection, the City of Ilwaco has evaluated a wide range of the best available science with respect to fish and wildlife habitat conservation areas to make informed decisions that meet the intent of the GMA and that are also reflective of local needs.
9. The sources of best available science that were evaluated and included in the development of regulatory standards for fish and wildlife habitat conservation areas are included in Attachment A, which includes the references contained therein, represent the most comprehensive list of sources for best available science:
 - a. Best Available Science Review, City of Woodinville, Comprehensive Plan Update, Revised June 3, 2014: The Watershed Company.
 - b. Best Available Science Review, City of Newcastle, Comprehensive Plan Update, Final Revision issued in September 2014: The Watershed Company.

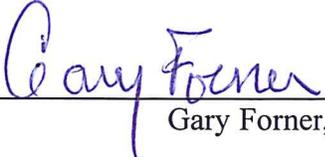
Section 2. Best Available Science. The best available science and other information included and considered for this record is documented in Attachment A and B to this ordinance.

Section 3. City of Ilwaco Critical Area Ordinance (Title 15.18). The City of Ilwaco Municipal Code Title 15.18 is hereby amended as the City of Ilwaco Critical Areas Ordinance as shown in Attachment C to this ordinance.

Section 4. Severability. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining parts of this ordinance.

Section 5. Referendum and Effective Date. This Ordinance, being an exercise of a power specifically delegated to the city legislative body, is not subject to referendum, and shall take effect and is in full force five (5) days after its passage, approval and publication of an approved summary of the title as provided by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF ILWACO AND SIGNED IN AUTHENTICATION OF ITS PASSAGE THIS 28TH DAY OF SEPTEMBER 2020.



Gary Forner, Mayor

ATTEST:



Holly Beller, Treasurer

| VOTE | Cundiff | Bageant | Quittner | Lessnau | Mathison | Forner |
|-------------|---------|---------|----------|---------|----------|--------|
| Ayes | X | X | | X | X | |
| Nays | | | | | | |
| Abstentions | | | | | | |
| Absent | | | X | | | |

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EFFECTIVE: October 12, 2020

**CITY OF ILWACO, WASHINGTON
DRAFT CRITICAL AREAS ORDINANCE
VERSION 5/26/2015**

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Section 15.18.010 General Provisions.

A. Purpose.

1. This chapter implements the goals, policies, guidelines, and requirements of the Growth Management Act, as amended, and the city's comprehensive plan.
2. The purpose of this chapter is to designate and classify ecologically sensitive and hazardous areas and to protect these areas and their functions and values, while also allowing for reasonable use of private property.
3. The city finds that the beneficial functions, structure, and values of critical areas should be protected as identified in this chapter, and further that potential dangers or public costs associated with inappropriate use of such areas should be minimized by reasonable regulation of uses within, adjacent to, or directly affecting such areas. Reasonable regulation shall be achieved by the balancing of individual and collective interests. Best available science shall be used in the administration of this chapter.

B. Relationship to Other Regulations.

1. These critical areas regulations shall apply as an overlay and in addition to zoning and other regulations adopted by the city.
2. In the event of any conflict between this chapter and any other city regulations, the regulation that provides more protection for the critical area shall apply.
3. Compliance with the provisions of this chapter does not constitute compliance with other federal, state, and local regulations and permit requirements that may be required. The applicant is responsible for complying with other requirements apart from the requirements of this chapter.

C. Interpretation. In the interpretation and application of this chapter, its provisions shall be considered to be the minimum requirements necessary, shall be liberally construed to serve the purposes of this chapter, and shall be deemed to neither limit nor repeal any other provisions under state statute.

D. Severability. If any clause, sentence, paragraph, section, or part of this chapter or the application thereof to any person or circumstances shall be judged by any court of competent jurisdiction to be invalid, such order or judgment shall be confined in its operation to the controversy in which it was rendered. The decision shall not affect or invalidate the remainder of any part thereof and to this end the provisions of each clause, sentence, paragraph, section, or part of this law are hereby declared to be severable.

E. Applicability.

1. The provisions of this chapter shall apply to all lands, all land uses and development activities, and all structures and facilities in the city, whether or

not a permit or authorization is required, and shall apply to every person, firm, partnership, corporation, group, governmental agency, or other entity that owns, leases, or administers land within the city. No person, company, agency, or applicant shall alter a critical area or buffer except as consistent with the purposes and requirements of this chapter.

2. The city shall not approve any permit or otherwise issue any authorization to alter the condition of any land, water, or vegetation, or to construct or alter any structure or improvement in, over, or on a critical area or associated buffer, without first ensuring compliance with the requirements of this chapter.

F. Authority.

1. The city planner or his or her designee(s) shall be the administrator of this chapter and is given the authority to interpret and apply, and the responsibility to enforce, this chapter to accomplish the stated purposes.
2. The city may withhold, condition, or deny development permits or approvals to ensure that the proposed action is consistent with this chapter.
3. The city planner and other applicable city officials may develop and implement administrative rules and regulations that are consistent with and effectuate the purposes of this chapter, and prepare and require the use of such forms as necessary for its administration.

G. Fees.

1. The applicant shall be responsible for the initiation, preparation, submission, and expense of any required reports, assessments, studies, plans, and other work prepared in support of or necessary to review the application.
2. The city council may set fees by resolution for services provided by the city as required by this chapter.

H. General Critical Areas Review Procedures. Following is a general description of the general procedures for critical areas review.

1. The city planner first must determine whether the proposed activity fits within any of the exemptions or partial exemptions identified in this chapter. If the proposed activity meets any of the listed exemptions or partial exemptions, no critical area checklist or critical area report is required.
2. If the proposed activity does not fit within any of the exemptions or partial exemptions identified in this chapter, then the applicant shall submit a complete critical area checklist on a form provided by the city.
3. After receipt of a project application and a complete critical area checklist, the city planner shall conduct a site inspection to review critical area conditions on site.
4. Based on the critical areas checklist, site inspection, and other information

available pertaining to the site and proposal, the city planner shall make a determination as to whether any critical areas may be affected by the proposal.

5. If the city planner's analysis indicates that the project area is not within or adjacent to a critical area or buffer and that the proposed activity is unlikely to degrade the functions or values of a critical area or buffer, then the city planner shall conclude critical area review pursuant to this chapter and document the reasons that no further review is required in any staff report or decision on the underlying permit.
6. If the city planner determines that there are critical areas or buffers within or adjacent to the project area, but that the proposed activity is unlikely to degrade the functions or values of the critical area or buffer, the city planner may waive the requirement for a critical area report and Critical Areas Permit. A waiver may be granted if there is substantial evidence that all of the following requirements will be met. A summary of this analysis and the findings shall be included in any staff report or decision on the underlying permit.
 - a. There will be no alteration of the critical area or buffer.
 - b. The development proposal will not impact the critical area or buffer in a manner contrary to the purposes, intent, and requirements of this chapter.
7. If the city planner determines that a critical area or buffer may be affected by the proposal, then the city planner shall notify the applicant that a critical area report must be submitted prior to further review of the project, and indicate each of the critical area types that should be addressed in the report. The city planner shall also notify the applicant that a Critical Areas Permit must be obtained pursuant to IMC 15.18.010.N, Critical Areas Permit.
8. The city's determination regarding critical areas pursuant to this chapter shall be final concurrent with the final decision to approve, condition, or deny the development proposal or other activity involved.

I. Exemptions.

1. All exempted activities shall use reasonable methods to avoid potential 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.
2. The following developments, activities, and associated uses shall be exempt from the provisions of this chapter, provided they are otherwise consistent with the applicable provisions of other local, state, and federal requirements:
 - a. Emergencies. Emergencies 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 timeframe too short to allow for compliance with the requirements of this chapter.

- i. 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.
 - ii. The person or agency undertaking such action shall notify the city planner within one working day following commencement of the emergency activity. Following such notification, the city planner shall determine if the action taken was within the scope of the emergency actions allowed in this subsection. If the city planner determines that the action taken, or any part of the action taken, was beyond the scope of an allowed emergency action, then enforcement provisions of IMC 15.18.010.T, Unauthorized Alterations and Enforcement, shall apply.
 - iii. After the emergency, the person or agency undertaking the action shall fully fund and conduct necessary restoration and/or mitigation for any impacts to the critical area and buffers resulting from the emergency action in accordance with an approved critical area report and mitigation plan. The person or agency undertaking the action shall apply for review, and the alteration, critical area report, and mitigation plan must be reviewed by the city planner. Restoration and/or mitigation activities must be initiated within one year of the date of the emergency, and completed in a timely manner.
- b. Operation, Maintenance, or Repair. Operation, maintenance, or repair of existing structures, infrastructure improvements, utilities, public or private highways and other roads, dikes, levees, drainage systems, or agricultural improvements 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 operation, maintenance, or repair. Operation and maintenance includes vegetation management performed in accordance with best management practices that is part of ongoing maintenance of structures, infrastructure, or utilities, provided that such management actions are part of regular and ongoing maintenance, do not expand further into the critical area, are not the result of an expansion of the structure or utility, and do not directly impact an endangered or threatened species.
 - c. 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.

- d. Forest Practices. Forest practices regulated and conducted in accordance with the provisions of Chapter 76.09 RCW and forest practices regulations, Title 222 WAC, provided that forest practice conversions are not exempt.
- e. Navigation Aids and Boundary Markers. Construction or modification of navigational aids and boundary markers.
- f. Passive Outdoor Activities. Recreation, education, and scientific research activities that do not degrade the critical area, such as fishing and hiking. Trails must be constructed pursuant to IMC 15.18.010.J.3.e, Public and Private Pedestrian Trails.

J. Partial Exemptions.

- 1. Activities allowed under this subsection are subject to review and approval by the city, but do not require submittal of a critical area checklist or critical area report. The city planner may apply conditions to the underlying permit or approval to ensure consistency with the provisions of this chapter. If no underlying permit or approval is otherwise required by the city, a Critical Areas Permit must be obtained.
- 2. Activities allowed under this subsection must be conducted using the best management practices that result in the least amount of impact to the critical area or buffer. Any incidental damage to, or alteration of, a critical area or buffer shall be restored, rehabilitated, or replaced at the responsible party's expense.
- 3. The following developments, activities, and associated uses shall be partially exempt from the provisions of this chapter, provided they are otherwise consistent with the applicable provisions of other local, state, and federal requirements:
 - a. Previous Critical Area Review. Development permits and approvals that involve both discretionary land use approvals (such as subdivisions, rezones, or conditional use permits), and construction approvals (such as building permits) if all of the following conditions have been met:
 - i. The provisions of this chapter have been previously addressed as part of another approval;
 - ii. There have been no material changes in the potential impact to the critical area or buffer since the prior review;
 - iii. There is no new information available that is applicable to any critical area review of the site or particular critical area; and
 - iv. The permit or approval has not expired or, if no expiration date, no more than five years has elapsed since the issuance of that permit

or approval.

- b. Modification to Existing Structures. Structural modification of, addition to, or replacement of an existing legally constructed structure that does not further alter or increase the impact to the critical area or buffer and there is no increased risk to life or property as a result of the proposed modification or replacement.
- c. Activities within the Improved Right-of-Way. 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 a city-authorized private roadway, except those activities that alter a wetland or watercourse, such as culverts or bridges, or result in the transport of sediment or increased stormwater.
- d. Minor Utility Projects. Utility projects which have minor or short-duration impacts to critical areas, as determined by the city planner in accordance with the criteria below, and which do not significantly impact the function or values of a critical area(s), provided that such projects are constructed using best management practices and additional restoration measures are provided. Minor activities must not result in the transport of sediment or increased stormwater. Such allowed minor utility projects must meet the following criteria:
 - i. The activity involves the placement of a utility pole, street signs, anchor, vault or other small component of a utility facility; and
 - ii. There is no practical alternative to the proposed activity with less impact on critical areas
- e. Public and Private Pedestrian Trails. Public and private pedestrian trails, except in wetlands, fish and wildlife habitat conservation areas, or their buffers, subject to the following:
 - i. Critical area and/or buffer widths shall be increased, where possible, equal to the width of the trail corridor, including disturbed areas.
 - ii. Trails proposed to be located in landslide or erosion hazard areas shall be constructed in a manner that does not increase the risk of landslide or erosion and in accordance with an approved geotechnical report.
- f. Select Vegetation Removal Activities. The following vegetation removal activities, provided that no vegetation shall be removed from a critical area or its buffer without approval from the city planner:
 - i. The removal of invasive and noxious weeds designated in Chapter 17.10 RCW with hand labor and light equipment.

- ii. The enhancement of a buffer by planting indigenous vegetation.
- iii. The removal of trees or portions of trees from critical areas and buffers that are hazardous, posing a threat to public safety, or posing an imminent risk of damage to private property, provided that:
 - (a) It is demonstrated to the satisfaction of the city planner or his or her designee(s) that an imminent threat exists to public safety, or an imminent risk of damage to private or public property. Landowner shall provide to the city planner with a written statement describing the tree location, danger it poses, and proposed mitigation.
 - (b) Should the imminent threat or risk not be apparent to the city planner (as danger trees are defined in IMC 15.18.020, Definitions), the city planner may require the landowner to submit a report from a professional forester, certified arborist, or registered landscape architect that documents the hazard and provides a replanting schedule, if tree removal is proposed.
 - (c) Before a danger tree may be felled or removed, with the exception of an emergency pursuant to IMC 15.18.010.I.2.a, Emergencies, the landowner shall obtain written approval from the city planner. This approval shall be processed promptly and may not be unreasonably withheld.
 - (d) Tree cutting shall be limited to pruning and crown thinning, unless otherwise justified.
 - (e) If a tree to be removed provides critical habitat, such as an eagle perch, a qualified wildlife biologist shall be consulted to determine timing and methods for removal that will minimize impacts.
 - (f) Trees felled as danger trees shall be counted towards any allowed vegetation clearing amounts.
 - (g) Mitigation measures are approved by the city planner, and may include, but not be limited to the following:
 - (i) Any trees that are removed must be replaced within one year with new trees at a ratio of six replacement native trees for each tree removed. Should a report be submitted under IMC 15.18.010.J.3.f.iii.(b), it shall contain recommendations for suitable replacement trees;

- (ii) Felled trees shall be left within the critical area or buffer unless a submitted report warrants its removal to avoid spreading of disease or pests;
 - (iii) The trunk of the cut tree may be segmented, but should be left in as large of segments as possible to provide habitat;
 - (iv) The branches from the cut tree may be removed to control fire hazard; and
 - (v) Additional mitigation may be required if three or more trees are to be felled on one property with a 10-year period.
- iv. Harvesting of wild crops which do not significantly affect the viability of the wild crop, the function of the critical area or its regulated buffer (does not include tilling of soil or alteration of the critical area or its regulated buffer area).
 - v. Measures to control a fire or halt the spread of disease or damaging insects consistent with the state Forest Practices Act; Chapter 76.09 RCW, provided that the removed vegetation shall be replaced in-kind or with similar native species within one year in accordance with an approved restoration plan.

K. General Critical Area Protective Measures.

1. Building Setbacks. Unless otherwise provided, buildings and other structures shall be set back a distance of 15 feet from the edges of all critical area buffers or from the edges of all critical areas if no buffers are required. The following may be allowed in the building setback area: landscaping; uncovered decks; building overhangs, if such overhangs do not extend more than 18 inches into the setback area; and impervious ground surfaces, such as driveways and patios.
2. Critical Area Signs. The boundary at the outer edge of the critical area or buffer shall be identified with temporary signs prior to any site alteration. Such temporary signs shall be replaced with permanent signs prior to occupancy or use of the site. These sign provisions may be modified or waived by the city planner based on critical area type and/or site conditions.
3. Notice on Title.
 - a. In order to inform subsequent purchasers of real property of the existence of critical areas, the owner of any property containing a critical area or buffer on which a development proposal is submitted shall file a notice with the County Recording Department according to the direction of the city. The notice shall state the presence of the critical area or buffer on the property and the fact that limitations on actions in or affecting the critical area or buffer may exist. The notice shall “run with

the land.”

- b. This notice on title shall not be required for a development proposal by a public agency or public or private utility:
 - i. Within a recorded easement or right-of-way;
 - ii. Where the agency or utility has the right to an easement or right-of-way; or
 - iii. On the site of a permanent public facility.
- c. The applicant shall submit proof that the notice has been filed for public record before the city approves any site development or construction for the property or, in the case of subdivisions, short subdivisions, planned unit developments, and binding site plans, at or before recording.

4. Native Growth Protection Areas.

- a. Native growth protection areas shall be used in development proposals for subdivisions, short subdivisions, planned unit developments, and binding site plans to delineate and protect those contiguous critical areas and buffers listed below:
 - i. All landslide hazard areas and buffers;
 - ii. All wetlands and buffers;
 - iii. All habitat conservation areas; and
 - iv. All other lands to be protected from alterations as conditioned by project approval.
- b. Native growth protection areas shall be recorded on all documents of title of record for all affected lots.
- c. Native growth protection areas shall be designated on the face of the plat or recorded drawing in a format approved by the city attorney. The designation shall include the following restrictions:
 - i. An assurance that native vegetation will be preserved for the purpose of preventing harm to property and the environment, including, but not limited to, controlling surface water runoff and erosion, maintaining slope stability, buffering, and protecting plants, fish, and animal habitat; and
 - ii. The right of the city to enforce the terms of the restriction.

5. Critical Area Inspections. Reasonable access to the site shall be provided to the city, state, and federal agency review staff for the purpose of inspections during any proposal review, restoration, emergency action, or monitoring

period.

L. Critical Area Report.

1. Minimum Report Contents. At a minimum, the report shall contain the following, as applicable:
 - a. The name and contact information of the applicant, a description of the proposal, and identification of any permits known to be required;
 - b. A site plan for the development proposal including a map to scale depicting critical areas, buffers, and the development proposal, including any areas to be cleared.
 - c. A description of the proposed stormwater management plan for the development and consideration of impacts to drainage alterations;
 - d. The dates, names, and qualifications of the persons preparing the report and documentation of any fieldwork performed on the site;
 - e. Identification and characterization of all critical areas, wetlands, waterbodies, and buffers adjacent to the proposed project area;
 - f. A statement specifying the accuracy of the report, and all assumptions made and relied upon;
 - g. An assessment of the probable cumulative impacts to critical areas resulting from the proposed development;
 - h. A description of reasonable efforts made to apply mitigation sequencing pursuant to IMC 15.18.010.M.2, Mitigation Sequencing;
 - i. Plans for adequate mitigation, as needed, to offset any impacts, in accordance with IMC 15.18.010.M.3, Mitigation Plan Requirements;
 - j. A discussion of the performance standards applicable to the critical area and proposed activities;
 - k. Financial guarantees to ensure compliance; and
 - l. Any additional information required for a specific type of critical area as indicated by this chapter.

M. Mitigation.

1. General Requirements.
 - a. The applicant shall avoid all impacts that degrade the functions and values of critical areas. Unless otherwise provided in this chapter, if alteration to a critical area is unavoidable, all adverse impacts to or from critical areas and buffers resulting from a development proposal or

alteration shall be mitigated using the best available science in accordance with an approved critical area report, so as to result in no net loss of critical area functions and values.

- b. Mitigation shall be in-kind and on-site, when possible or unless mitigation at a regional or watershed-based location provides greater environmental benefit, and sufficient to maintain the functions and values of the critical area, and to prevent risk from a hazard posed by a critical area.
 - c. Mitigation shall not be implemented until after city approval of a critical area report that includes a mitigation plan, and mitigation shall be in accordance with the provisions of the approved critical area report.
2. Mitigation Sequencing. Applicants shall demonstrate that all reasonable efforts have been examined with the intent to avoid and minimize impacts to critical areas. When an alteration to a critical area is proposed, such alteration shall be avoided, minimized, or compensated for in the below sequential order of preference. Mitigation for individual actions may include a combination of the below measures.
- 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, such as project redesign, relocation, or timing, to avoid or reduce impacts;
 - c. Rectifying the impact to wetlands, frequently flooded areas, and habitat conservation areas by repairing, rehabilitating, or restoring the affected environment to the historical conditions or the conditions existing at the time of the initiation of the project;
 - d. Minimizing or eliminating the hazard by restoring or stabilizing the hazard area through engineered or other methods;
 - e. Reducing or eliminating the impact or hazard over time by preservation and maintenance operations during the life of the action;
 - f. Compensating for the impact to wetlands, frequently flooded areas, and habitat conservation areas by replacing, enhancing, or providing substitute resources or environments; and
 - g. Monitoring the hazard or other required mitigation and taking remedial action when necessary.
3. Mitigation Plan Requirements. When mitigation is required, the applicant shall submit for approval a mitigation plan as part of the critical area report. The mitigation plan shall include:

- a. A description of the anticipated impacts to critical areas and the mitigating actions proposed, including compensation goals and objectives, mitigation site selection, and dates for beginning and completion of site compensation construction activities. The goals and objectives shall be related to the functions and values of the impacted critical area.
 - b. The mitigation plan shall include performance standards for evaluating whether or not the goals and objectives of the mitigation project have been successfully attained and whether or not the requirements of this chapter have been met.
 - c. Detailed construction plans.
 - d. The mitigation plan shall include a program for monitoring construction of the compensation project and for assessing a completed project. A protocol shall be included outlining the schedule for site monitoring and how the monitoring data will be evaluated to determine if the performance standards are being met. A monitoring report shall be submitted as needed to document 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.
 - e. The mitigation plan shall include a contingency plan, identifying potential courses of action and corrective measures to be taken if monitoring or evaluation indicates project performance standards are not being met.
 - f. The mitigation plan shall include financial guarantees, if necessary, to ensure that the mitigation plan is fully implemented. Financial guarantees ensuring fulfillment of the compensation project, monitoring program, and any contingency measures shall be posted in accordance with IMC 15.02.030, Applicability. In the event that a permit applicant does not provide adequate security for the mitigation required as a condition of its approval, then the city planner shall have the discretion of requiring that the mitigation be completed prior to the issuance of the final approval.
4. Innovative Mitigation. The city may encourage, facilitate, and approve innovative mitigation projects that are based on the best available science.

N. Critical Areas Permit.

1. All developments and uses that may affect a critical area or its buffer and are not exempt or partially exempt under this chapter shall require a Critical Areas Permit.
2. Any person seeking to determine whether a proposed activity or area is subject to this chapter may request in writing, at a fee set by the city council, a

formal Determination of Applicability from the city planner. Such a request for determination shall contain plans, data, and other information as may be specified by the city planner.

3. Any person intending to apply for a Critical Areas Permit is strongly encouraged, but not required, to meet with the city planner at the earliest possible stage of project planning in order to discuss the potential impacts of this chapter on the development proposal. Efforts put into pre-application consultations and planning will help applicants create projects that will be more quickly and easily processed.
4. Project proponents shall submit an application for a Critical Areas Permit, on a form established by city planner. The form may include requests for information to facilitate compliance with this chapter. The original and nine copies of the application shall be submitted. Copies of the accepted application will be forwarded to appropriate agencies and local tribes for review.
5. The city planner will review the application for a Critical Areas Permit and make a determination of completeness pursuant to IMC 15.08.070, Determination of completeness.
 - a. An application for an Critical Areas Permit shall not be considered complete until it includes all special studies, plans, or other information required by this chapter.
 - b. An application for a Critical Areas Permit shall not be considered complete until it has complied with all procedural requirements of Chapter 43.21c RCW, the State Environmental Policy Act (SEPA) and administrative regulations adopted to implement SEPA.
6. Upon acceptance of an application by the city planner, a notice of application shall be posted by the applicant on the property or principal entry point to the property from the nearest public right-of-way upon which the proposed development is located, using a stencil form provided by the city on a waterproof sign. Said sign shall be located so that it is visible from the abutting road. When more than one road abuts the property, then the sign shall be visible from the road having the greatest traffic volume. Signs shall be of a size determined by the city planner. Said sign shall be maintained by the applicant until action is taken on the application, when it shall be promptly removed by the applicant.
7. Distribution by City Planner.
 - a. In addition to the above city departments, the city planner shall provide, on a timely basis, a copy of the development proposal to all agencies of jurisdiction and affected tribes, as required by Chapter 43.21c RCW, the State Environmental Policy Act (SEPA).
 - b. All Critical Areas Permit applications shall be forwarded for review to the Olympic Region Clean Air Agency (ORCAA) unless the city planner

makes written findings that the proposed development is unlikely to result in any direct or indirect impacts on air quality. Development shall be consistent with all applicable ORCAA standards.

8. Within 14 calendar days of receiving a permit application, the following actions shall occur, as applicable:
 - a. The city planner shall notify the applicant that the proposal does or does not conform to the standards of this chapter.
 - b. The city engineer shall, in such manner deemed appropriate, establish the adequacy of legal descriptions of the subject property.
 - c. The city engineer shall notify the city planner that proposed roads, utilities, drainage facilities, or other improvements can or cannot conform to city development standards and state laws under the city engineer's authority.
 - d. The health director/city engineer shall notify the city planner that the proposed method of waste disposal and proposed system of water supply can or cannot conform to adopted development standards, including the health code and state laws under the health director's/city engineer's authority.
 - e. The city fire chief shall notify the city planner that the development can or cannot conform to adopted fire safety standards.
 - f. The city building official shall notify the city planner that the development can or cannot conform to adopted building safety standards.
9. Approval.
 - a. All development requiring a Critical Areas Permit may be processed through Administrative Review procedures. Decisions of the city planner shall be appealable to city council pursuant to IMC 15.08.150.B.
 - i. The city planner shall make findings based upon the review and recommendations of city departments, other agencies, affected tribes, and any public comments received. Such findings and conclusions shall also set forth the manner by which the decision would carry out and conform to the goals of RCW 36.70A, other adopted city policies, objectives and regulations and this chapter.
 - ii. A decision on the application may be to grant, deny, or grant with such conditions, modifications and restrictions as the city planner finds necessary to ensure that the proposed development is compatible with the natural environment, and is in compliance with the goals of RCW 36.70A, the Growth Management Act, Shoreline Master Program, State Environmental Policy Act, the standards of this chapter, and other city codes and ordinances found

applicable. Examples of the kinds of conditions, modifications and restrictions which may be imposed include, but are not limited to, additional setbacks, screenings in the form of fencing or landscaping, storm drainage facilities, restrictive covenants, easements, dedications of additional rights-of-way, performance bonds and measures to mitigate identified adverse environmental impacts associated with the proposed action.

- b. Public Review procedures shall be followed if the city planner determines, based on the nature and complexity of the project, that the Public Review procedure should be conducted. When Public Review procedures are followed, the final approval authority shall be the city council.
 - i. If a determination is made that a Public Review is necessary, a public hearing shall be held pursuant to IMC 15.08.110.

O. Variances.

- 1. Variances from the standards of this chapter may be authorized by the city in accordance with Chapter 15.52, Variances.
- 2. In granting any variance, the city may prescribe such conditions and safeguards as are necessary to secure adequate protection of critical areas from adverse impacts, and to ensure conformity with this chapter.

P. Exceptions.

- 1. Reasonable Use Exception.
 - a. If the application of this chapter would deny all reasonable economic use of a subject property, the city may determine if compensation is an appropriate action, or the property owner may apply for an exception pursuant to this subsection.
 - b. An application for a reasonable use exception shall be made to the city and shall include a critical area checklist; critical area report, including mitigation plan, if necessary; and any other related project documents. The city planner shall prepare a recommendation to the city council based on review of the submitted information, a site inspection, and the proposal's ability to comply with the criteria in IMC 15.18.010.P.1.d.
 - c. The city council shall review the application and conduct a public hearing pursuant to the provisions of Chapter 15.08, Administration of Development Regulations. The city council shall approve, approve with conditions, or deny the request based on the proposal's ability to comply with the criteria in IMC 15.18.010.P.1.d.
 - d. Criteria for review and approval of reasonable use exceptions follow:
 - i. The application of this chapter would deny all reasonable

economic use of the property;

- ii. No other reasonable economic use of the property has less impact on the critical area;
 - iii. The proposed impact to the critical area is the minimum necessary to allow for reasonable economic use of the property;
 - iv. The inability of the applicant to derive reasonable economic use of the property is not the result of actions by the applicant after the effective date of this chapter, or its predecessor;
 - v. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;
 - vi. The proposal will result in no net loss of critical area functions and values consistent with the best available science; or
 - vii. The proposal is consistent with other applicable regulations and standards.
- e. The burden of proof shall be on the applicant to bring forth evidence in support of the application and to provide sufficient information on which any decision has to be made on the application.

2. Public Agency and Utility Exception.

- a. If the application of this chapter would prohibit a development proposal by a public agency or public utility, the agency or utility may apply for an exception pursuant to this subsection.
- b. An application for a public agency and utility exception shall be made to the city and shall include a critical area checklist; critical area report, including mitigation plan, if necessary; and any other related project documents. The city planner shall prepare a recommendation to the city council based on review of the submitted information, a site inspection, and the proposal's ability to comply with the criteria in IMC 15.18.010.P.2.d.
- c. The city council shall review the application and city planner's recommendation, and conduct a public hearing pursuant to the provisions of the Chapter 15.08, Administration of Development Regulations. The city council shall approve, approve with conditions, or deny the request based on the proposal's ability to comply with the criteria in IMC 15.18.010.P.2.d.
- d. The criteria for review and approval of public agency and utility exceptions follow:
 - i. There is no other practical alternative to the proposed development with less impact on the critical areas;

- ii. The application of this chapter would unreasonably restrict the ability to provide utility or other public services to the public;
 - iii. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;
 - iv. The proposal attempts to protect and mitigate impacts to the critical area functions and values consistent with the best available science; and
 - v. The proposal is consistent with other applicable regulations and standards.
- e. The burden of proof shall be on the applicant to bring forth evidence in support of the application and to provide sufficient information on which any decision has to be made on the application.

Q. Nonconforming Uses and Structures.

1. Nonconforming uses and structures shall be subject to IMC 15.54, Nonconforming uses and structures, and the following provision. In the event of any conflict, the following provision shall apply.
2. Expansion of an existing non-conforming use or structure into the buffer and associated building setback of a fish and wildlife habitat conservation area or wetland may be allowed pursuant to a Critical Areas Permit, where expansion outside of the buffer and associated building setback is not feasible and where the purpose of the expansion is to serve a function that is an essential component of the use or structure. Expansion into an actual critical area is prohibited. Decreasing the distance between the critical area and the existing use or structure requires a variance as prescribed under IMC 15.18.010.O, Variances. Any expansion must comply with all other applicable requirements of the city code.
 - a. For purposes of this provision, expansion outside of the buffer and associated building setback shall be considered not feasible only when, considering the function to be served by the expansion and the existing structure or use's layout and infrastructure (e.g. plumbing, drainage and electrical systems):
 - i. Expansion away from the buffer and associated building setback within the buildable area of the site will not realize the intended functions of the expansion; and
 - ii. Expansion away from the buffer and associated building setback, including into non-critical area setbacks, will not realize the intended functions of the expansion; and
 - iii. Expansion upwards to the maximum building height of the underlying land use district, within the existing footprint, or

together with expansions permitted under IMC 15.18.010.Q.2.a and b, will not realize the intended functions of the expansion.

- b. Where allowed, expansions into the buffer and associated building setback shall be limited as follows:
 - i. The expansion shall be along or behind the existing building line parallel to the edge of the critical area, unless such expansion is not feasible. When such expansion is not feasible expansion may only encroach further into the buffer or associated building setback subject to a variance as prescribed under IMC 15.18.010.O, Variances.
 - ii. Expansions shall be the minimum necessary to achieve the intended functions of the expansion, but in no event may the footprint expansion within the buffer and associated building setback exceed 1,000 square feet over the life of the structure.
 - iii. Areas of new permanent disturbance and all areas of temporary disturbance within the buffer shall be mitigated and/or restored pursuant to a mitigation plan.

- R. Temporary Uses. The city planner may authorize by administrative decision temporary uses pursuant to the terms and conditions of this subsection.
 - 1. This subsection provides a process for authorizing certain uses or activities of a nonpermanent nature for a limited duration.
 - 2. The application shall contain those requirements the city planner deems appropriate based on the duration of the use and its potential for environmental impact.
 - 3. The review process for a "Certificate of Temporary Use" shall be subject to administrative review consistent with IMC 15.18.010.H, General Critical Areas Review Procedures; provided that the city planner may waive any or all of this review process for uses that do not pose a potential for environmental impact.
 - 4. Temporary uses shall be consistent with all standards set forth in this chapter. For any temporary use, the city shall impose such other reasonable conditions as may be found necessary to ensure that the activity or use is not incompatible with surrounding conforming uses and will not result in a potential environmental impact.
 - 5. A Certificate of Temporary Use shall expire according to the terms set forth in the approval.
- S. Appeals. Any decision to approve, condition, or deny a development proposal or other activity based on the requirements of this chapter may be appealed according to the appeal procedures in IMC Chapter 15.08.
- T. Unauthorized Alterations and Enforcement.

1. Penalty.
 - a. When a critical area or its buffer has been altered in violation of this chapter, 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. No permit or approval for development of the property shall be authorized or granted for a period of up to three years from completion of restoration as determined by the city planner. In the event of intentional or knowing violation of this chapter, the city may bring any appropriate actions in law or equity, including injunctive relief, against the owner of the land and/or the operator who committed the violation to ensure that no uses are made of critical areas of their buffers which are inconsistent with this chapter.
 - b. Failure to comply with the provisions of this chapter will cause the violator to be subject to enforcement procedures under both this chapter and applicable requirements of Ilwaco City Code including the provisions of Title 11 **"Enforcement Procedures"**.
2. Restoration Plan.
 - a. All development work shall remain stopped until a restoration plan is prepared at the applicant's cost and approved by the city planner. The city planner may approve, reject or approve the plan with conditions. All restoration shall be consistent with the approved restoration plan.
 - i. The plan shall be prepared by a qualified professional using the best available science.
 - ii. In preparing and approving the restoration plan, the applicant and the city, respectively, should consult with the Department of Fish and Wildlife, Department of Natural Resources, and the Department of Ecology, as appropriate.
 - iii. The city planner may, at the violator's expense, seek expert advice in determining the adequacy of the plan. Inadequate plans shall be returned to the applicant or violator for revision and resubmittal.
 - b. Restoration Plan Contents.
 - i. A site plan depicting site characteristics prior to disturbance; the extent of disturbance, or permitted action requiring mitigation, including an inventory of all vegetation cleared shall be shown; and
 - ii. A site plan depicting the specific location of all proposed restoration measures. Those measures shall include:

- (a) Measures necessary to restore the critical areas or their buffers, including, but not limited to, removal of fill, regrading to original contours, replacement of excavated material, revegetation of all cleared areas with native trees and/or plants and removal of structures; or
 - (b) Location of the proposed mitigation action, ownership, and methods to recreate, as nearly as possible, the original wetlands or vegetation area in terms of acreage function, geographic location and setting.
 - iii. A schedule for restoration; and
 - iv. A monitoring plan to evaluate periodically the success of the restoration and provide for amendments to the plan which may become necessary to achieve its purpose.
4. In any designated critical area where restoration has been required, the applicant, at its own cost, shall provide for seasonal monitoring of the site by a qualified biologist or other qualified professional, for a period of at least three years after completion. The applicant shall submit an annual report to the city planner that discusses:
- i. The condition of introduced or reintroduced plant species;
 - ii. The condition of open water areas or other water features;
 - iii. Use of the site by fish and wildlife species;
 - iv. Any disturbances or alterations and their effects on the restoration;
 - v. Additional or corrective measures which should be taken to ensure the success of the restoration; and
 - vi. Other information that the city planner considers necessary to assess the status of the restoration.
5. Prior to commencing restoration, the applicant shall post with the city a bond or other security in an amount sufficient to cover the cost of conformance with the conditions of the restoration plan, including corrective work necessary to provide adequate drainage, stabilize and restore disturbed areas, and remove sources of hazard associated with work that is not completed. After the city planner determines that restoration has been completed in compliance with approved plans and the monitoring period has expired, the bond or other security shall be released. The city may collect against the bond when work that is not completed is found to be in violation of the conditions set forth in the restoration plan and/or the city planner determines that the site is in violation of the purposes of this chapter.

Section 15.18.020 Definitions.

“Best available science” means current scientific information used in the process to designate, protect, or restore critical areas, that is, derived from a valid scientific process as defined by WAC 365-195-900 through 925.

“Best management practices” (BMPs) means conservation practices or systems of practices and management measures that:

1. Control soil loss and reduce water quality degradation caused by high concentrations of nutrients, animal waste, toxics, and sediment;
2. Minimize adverse impacts to surface water and groundwater flow and circulation patterns and to the chemical, physical, and biological characteristics of wetlands;
3. Protect trees and vegetation 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
4. Provide standards for proper use of chemical herbicides within critical areas.

“Buffer” means an area that is contiguous to and protects a critical area which is required for the continued maintenance, functioning, and/or structural stability of a critical area.

“Critical areas” means any of the following areas or ecosystems: fish and wildlife habitat conservation areas, geologically hazardous areas, frequently flooded areas, and wetlands, as defined in RCW 36.70A and this chapter.

“Danger tree” means a tree with a high probability of falling due to a debilitating disease, a structural defect, a root mass more than 50 percent exposed, or having been exposed to wind throw with the past 10 years, and where there is a residence or residential accessory structure within a tree length and a half from the base of the trunk, or where the top of a bluff or steep slope is endangered. Where not immediately apparent to the review authority, the danger tree determination shall be made after a review of a report prepared by an arborist or forester.

"Fish and wildlife habitat conservation areas" are areas that serve a critical role in sustaining needed habitats and species for the functional integrity of the ecosystem, and which, 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. The city may also designate locally important habitats and species. Fish and wildlife habitat conservation areas does 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.

"Frequently flooded areas" means lands in the floodplain subject to at least a one percent or greater chance of flooding in any given year, or within areas subject to

flooding due to high groundwater. These areas include, but are not limited to, streams, rivers, lakes, coastal areas, wetlands, and areas where high groundwater forms ponds on the ground surface.

“Functions and values” means the services provided by critical areas to society, including, but not limited to, improving and maintaining water quality, providing fish and wildlife habitat, supporting terrestrial and aquatic food chains, reducing flooding and erosive flows, wave attenuation, historical or archaeological importance, educational opportunities, and recreation.

“Geologically hazardous areas” means areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to siting commercial, residential, or industrial development consistent with public health or safety concerns.

“Practical alternative” means an alternative that is available and capable of being carried out after taking into consideration cost, existing technology, and logistics in light of overall project purposes, with less of an impact to critical areas.

“Project area” are all areas, including those within 50 feet of the area, proposed to be disturbed, altered, or used by the proposed activity or the construction of any proposed structures. When the action binds the land, such as a subdivision, short subdivision, binding site plan, planned unit development, or rezone, the project area shall include the entire parcel, at a minimum.

“Repair” or “maintenance” means an activity that restores the character, scope, size, and design of a serviceable area, structure, or land use to its previously authorized and undamaged condition. Activities that change the character, size, or scope of a project beyond the original design and drain, dredge, fill, flood, or otherwise alter critical areas are not included in this definition.

“Significant tree” means an evergreen tree 10 inches in diameter or greater, or a deciduous tree 12 inches in diameter or greater, measured four and one-half feet above existing grade.

“Streams” means those areas where surface water flow sufficiently to produce a defined channel or bed. A defined channel or bed is an area which demonstrates clear evidence of the passage of water and includes, but is not limited to, bedrock channels, gravel beds, sand and silt beds and defined channel swales. The channel or bed need not contain water year round. This definition is not meant to include irrigation ditches, canals, storm or surface water runoff devices or other entirely artificial watercourses, unless they are used by salmon or used to convey streams naturally occurring prior to construction.

For regulatory purposes under this chapter once streams are identified, the streams are typed following the Washington State Department of Natural Resource Stream Typing System found in WAC 222-16-031 as now or hereafter amended.

“Qualified professional” means a person with experience and training in the pertinent scientific discipline, and who is a qualified scientific expert with expertise appropriate for the relevant critical area subject in accordance with WAC 365-195-905(4). A qualified

professional must have obtained a B.S. or B.A. or equivalent degree in biology, engineering, environmental studies, fisheries, geomorphology, or related field, and two years of related work experience.

1. A qualified professional for habitats or wetlands must have a degree in biology and professional experience related to the subject species.
2. A qualified professional for a geological hazard must be a professional engineer or geologist, licensed in the state of Washington.

“Wetland” or “wetlands” 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, 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 nonwetland areas to mitigate conversion of wetlands.

“Wetland mosaic” means an area with a concentration of multiple small wetlands, in which each patch of wetland is less than one acre; on average, patches are less than 100 feet from each other; and areas delineated as vegetated wetland are more than 50 percent of the total area of the entire mosaic, including uplands and open water.

Section 15.18.030 Wetlands.

A. Purpose.

1. The purpose of this chapter is to recognize and protect the beneficial functions performed by wetlands.
2. This chapter regulates land use to avoid adverse effects on wetlands and maintain the functions and values of wetlands throughout the city.
3. This chapter establishes review procedures for development proposals in and adjacent to wetlands.

B. Identification and Rating.

1. Identification of wetlands and delineation of their boundaries pursuant to this chapter shall be done by a qualified professional in accordance with the approved federal wetland delineation manual and applicable regional supplements. All areas within the city meeting the wetland designation criteria in that procedure are designated critical areas and are subject to this chapter.
2. If the city has reason to believe that a wetland may exist within 315 feet of a proposed development activity, a written determination by a qualified professional, in accordance with the methods in IMC 15.18.030.B.1, regarding the existence or nonexistence of wetlands within 315 feet of the

proposed development activity must be submitted.

3. If it is determined under IMC 15.18.030.B.2 that wetlands exist, a wetland delineation must be obtained when an activity regulated under this chapter is proposed within 315 feet of the wetland boundary. A written wetland report shall be prepared by a qualified professional pursuant IMC 15.18.030.H, Critical Area Report for Wetlands. Wetland delineations are valid for five years; after such date, the city shall determine whether a revision or additional assessment is necessary.
4. Rating. Wetlands shall be rated according to the Washington Department of Ecology wetland rating system, as set forth in the Washington State Wetland Rating System for Western Washington (Ecology Publication #04-06-029, or as revised and approved by Ecology).
5. Illegal modifications. Wetland rating categories shall not change due to illegal modifications made by the applicant or with the applicant's knowledge.

C. Regulated Activities.

1. The following activities are regulated if they occur in a regulated wetland or its buffer:
 - a. The removal, excavation, grading, or dredging of soil, sand, gravel, minerals, organic matter, or material of any kind.
 - b. The dumping of, discharging of, or filling with any material.
 - c. The draining, flooding, or disturbing of the water level or water table.
 - d. Pile driving.
 - e. The placing of obstructions.
 - f. The construction, reconstruction, demolition, or expansion of any structure.
 - g. The destruction or alteration of wetland vegetation through clearing, harvesting, shading, intentional burning, or planting of vegetation that would alter the character of a regulated wetland.
 - h. "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.
 - i. Activities that result in:
 - i. A significant change of water temperature.
 - ii. A significant change of physical or chemical characteristics of the sources of water to the wetland.

- iii. A significant change in the quantity, timing, or duration of the water entering the wetland.
 - iv. The introduction of pollutants.
 - 2. Subdivisions. The subdivision and/or short subdivision of land in wetlands and associated buffers are subject to the following:
 - a. Land that is located wholly within a wetland or its buffer may not be subdivided.
 - b. Land that is located partially within a wetland or its buffer may be subdivided provided that an accessible and contiguous portion of each new lot is:
 - i. Located outside of the wetland and its buffer; and
 - ii. Meets the minimum lot size requirements of IMC Title 15, Part 3, Zoning.
- D. Exempt Wetlands.
- 1. The following wetlands are exempt from the buffer provisions contained in this chapter and the normal mitigation sequencing process in IMC 15.18.010.M.2, Mitigation Sequencing. They may be filled if impacts are fully mitigated based on provisions in IMC 15.18.030.I, Compensatory Mitigation. If available, impacts should be mitigated through the purchase of credits from an in-lieu fee program or mitigation bank, consistent with the terms and conditions of the program or bank. In order to verify the following conditions, a critical area report for wetlands meeting the requirements in IMC 15.18.030.H, Critical Area Report for Wetlands, must be submitted.
 - a. All isolated Category III and IV wetlands less than 1,000 square feet that:
 - i. Are not associated with riparian areas or buffers.
 - ii. Are not part of a wetland mosaic.
 - iii. Do not contain habitat identified as essential for local populations of priority species identified by the Washington Department of Fish and Wildlife or species of local importance.
- E. Partial Exemptions for Wetlands and Wetland Buffers. In addition to the partial exemptions identified in IMC 15.18.010.J, Partial Exemptions, the activities listed below are allowed in wetlands and wetland buffers and do not require submission of a critical area report or a Critical Areas Permit, except where such activities would result in a loss of the functions and values of a wetland or wetland buffer.
- 1. 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 wetland.

2. 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 wetland by changing existing topography, water conditions, or water sources.
3. Drilling for utilities/utility corridors under a wetland or buffer, with entrance/exit portals located completely outside of the wetland buffer, provided that the drilling does not interrupt the groundwater connection to the wetland 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 wetland or percolation of surface water down through the soil column will be disturbed.
4. Enhancement of a wetland through the removal of non-native 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 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. Re-vegetation with appropriate native species at natural densities is allowed in conjunction with removal of invasive plant species.

F. Additional Partial Exemptions for Wetland Buffers. In addition to the activities identified in IMC 15.18.030.E, Partial Exemptions for Wetlands and Wetland Buffers, the following uses may be allowed within a wetland buffer, but not within a wetland, in accordance with the review procedures of this chapter, provided they are conducted in a manner so as to minimize impacts to the buffer and adjacent wetland:

1. Passive recreation facilities designed and in accordance with an approved critical area report, including:
 - a. Walkways and trails, provided that pathways are limited to minor crossings having no adverse impact on water quality. They should be generally parallel to the perimeter of the wetland, located only in the outer 25 percent of the wetland buffer area, and located to avoid removal of significant trees. They should be limited to pervious surfaces no more than five feet in width for pedestrian use only. Raised boardwalks with non-treated pilings may be acceptable.
 - b. Wildlife-viewing structures.
2. Stormwater management facilities, limited to stormwater dispersion outfalls and bioswales. They may be allowed within the outer 25 percent of the buffer of Category III or IV wetlands only, provided that:

- a. No other location is feasible; and
- b. The location of such facilities will not degrade the functions or values of the wetland.

G. Wetland Buffers.

1. Buffer Requirements. Wetland buffer zones shall be required for all regulated activities adjacent to regulated wetlands.
2. Standard Buffer Widths. The standard buffer widths in the table below have been established in accordance with the best available science. They are based on the category of wetland, the intensity of the adjacent land use, and the habitat score as determined by a qualified wetland professional using the Washington State Wetland Rating System for Western Washington.
 - a. In determining wetland buffer widths, land use intensity shall be defined as follows:
 - i. High-intensity land uses include commercial, institutional, dense residential (>1 unit/acre), and high-intensity recreation, such as ball fields.
 - ii. Moderate-intensity land uses include residential (≤1 unit/acre), moderate-intensity open space, paved trails, and maintained utility corridors.
 - iii. Low-intensity uses include forestry, open space, unpaved trails, and low-maintenance utility corridors.
 - b. The standard buffer widths assume that the buffer is vegetated with a native plant community appropriate for the ecoregion. If the existing buffer is unvegetated, sparsely vegetated, or vegetated with invasive species that do not perform needed functions, the buffer should either be planted to create the appropriate plant community or the buffer should be widened to ensure that adequate functions of the buffer are provided.

Standard Wetland Buffer Widths.

| Wetland Category | Habitat Score (2014 Rating System) | Land Use Impact | | |
|---|---------------------------------------|-----------------|----------|--------|
| | | Low | Moderate | High |
| Category I: Bogs | NA | 125 ft | 190 ft | 250 ft |
| Category I: Wetlands with a High Conservation Value | NA | 125 ft | 190 ft | 250 ft |
| Category I: Estuarine | NA | 100 ft | 150 ft | 200 ft |

| Wetland Category | Habitat Score (2014 Rating System) | Land Use Impact | | |
|--------------------------------|---------------------------------------|-----------------|----------|--------|
| | | Low | Moderate | High |
| Category I: Coastal Lagoons | NA | 100 ft | 150 ft | 200 ft |
| Category I: Forested | Base buffer width on habitat function | | | |
| Category I (other than above) | 8-9 | 150 ft | 225 ft | 300 ft |
| | 6-7 | 75 ft | 110 ft | 150 ft |
| | < 6 | 50 ft | 75 ft | 100 ft |
| Category II: Interdunal | NA | 75 ft | 110 ft | 150 ft |
| Category II: Estuarine | NA | 75 ft | 110 ft | 150 ft |
| Category II (other than above) | 8-9 | 150 ft | 225 ft | 300 ft |
| | 6-7 | 75 ft | 110 ft | 150 ft |
| | < 6 | 50 ft | 75 ft | 100 ft |
| Category III | 6-7 | 75 ft | 110 ft | 150 ft |
| | < 6 | 40 ft | 60 ft | 80 ft |
| Category IV | N/A | 25 ft | 40 ft | 50 ft |

3. Increased Wetland Buffer Widths. Buffer widths shall be increased on a case-by-case basis as determined by the city when a larger buffer is necessary to protect wetland functions and values. This determination shall be supported by appropriate documentation showing that it is reasonably related to protection of the functions and values of the wetland. The documentation must include, but not be limited to, the following criteria:
 - a. The wetland is used by a plant or animal species listed by the federal government or the state as endangered, threatened, candidate, sensitive, monitored or documented priority species or habitats, or essential or outstanding habitat for those species or has unusual nesting or resting sites such as heron rookeries or raptor nesting trees;
 - b. The adjacent land is susceptible to severe erosion, and erosion-control measures will not effectively prevent adverse wetland impacts; or
 - c. The adjacent land has minimal vegetative cover or slopes greater than 30 percent.

4. Buffer Averaging. Buffer averaging to improve wetland protection may be permitted when all of the following conditions are met:
 - a. The wetland has significant differences in characteristics that affect its habitat functions.
 - b. The buffer is increased adjacent to the higher-functioning area of habitat or more-sensitive portion of the wetland and decreased adjacent to the lower-functioning or less-sensitive portion as demonstrated by a critical area report from a qualified wetland professional.

- c. The total area of the buffer after averaging is equal to the area required without averaging.
 - d. The buffer at its narrowest point is never less than either 75 percent of the required width or 75 feet for Category I and II, 50 feet for Category III, and 25 feet for Category IV, whichever is greater.
- 5. Averaging for Reasonable Use. Averaging to allow reasonable use of a parcel may be permitted when all of the following are met:
 - a. There are no feasible alternatives to the site design that could be accomplished without buffer averaging.
 - b. The averaged buffer will not result in degradation of the wetland's functions and values as demonstrated by a critical area report from a qualified wetland professional.
 - c. The total buffer area after averaging is equal to the area required without averaging.
 - d. The buffer at its narrowest point is never less than either 75 percent of the required width or 75 feet for Category I and II, 50 feet for Category III and 25 feet for Category IV, whichever is greater.
- 6. Measurement of Wetland Buffers. All buffers shall be measured perpendicular from the wetland boundary as surveyed in the field. Only fully vegetated buffers will be considered. Lawns, walkways, driveways, and other mowed or paved areas will not be considered buffers or included in buffer area calculations.
- 7. Buffers on Mitigation Sites. All 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.
- 8. Signs and Fencing of Wetlands and Buffers:
 - a. Permanent Signs. As a condition of any permit or authorization issued pursuant to this chapter, the city may require the applicant to install permanent signs along the boundary of a wetland or buffer.
 - i. Permanent signs shall be made of an enamel-coated metal face and attached to a metal post or another non-treated material of equal durability. Signs must be posted at an interval of one per lot or every 50 feet, whichever is less, and must be maintained by the property owner in perpetuity. The signs shall be worded as follows or with alternative language approved by the city:

Do Not Disturb
Protected Wetland Area
Contact City of Ilwaco
Regarding Uses, Restrictions, and Opportunities for Stewardship

- b. Fencing.
 - i. The applicant shall be required to install a permanent fence around the wetland or buffer when domestic grazing animals are present or may be introduced on site.
 - ii. Fencing installed as part of a proposed activity or as required in this subsection shall be designed to not interfere with species migration, including fish runs, and shall be constructed in a manner that minimizes impacts to the wetland and associated habitat.
- 9. Buffer Maintenance. Except as otherwise specified or allowed in accordance with this chapter, wetland buffers shall be retained in an undisturbed or enhanced condition. In the case of compensatory mitigation sites, removal of invasive non-native weeds is required for the duration of the mitigation bond.
- H. Critical Area Report for Wetlands.
 - 1. When Required. If the city determines that a wetland exists within 315 feet of the site of a proposed development activity, a wetland report prepared by a qualified professional shall be required. The expense of preparing the wetland report shall be borne by the applicant.
 - 2. Minimum Standards for Wetland Reports. In addition to the general critical area report requirements of IMC 15.18.010.L, Critical Area Report, critical area reports for wetlands must meet the following requirements.
 - a. The written report shall include at a minimum:
 - i. A description of the methodologies used to conduct the wetland delineations, rating system forms, or impact analyses, including references.
 - ii. Identification and characterization of all critical areas, wetlands, water bodies, shorelines, floodplains, and buffers on or adjacent to the proposed project area. For areas off site of the project site, estimate conditions within 315 feet of the project boundaries using the best available information.
 - iii. For each wetland identified on site and within 315 feet of the project site provide: the wetland rating, including a description of and score for each function; required buffers; hydrogeomorphic classification; wetland acreage based on a professional survey from the field delineation (acreages for on-site portion and entire

wetland area including off-site portions); Cowardin classification of vegetation communities; habitat elements; soil conditions based on site assessment and/or soil survey information; and to the extent possible, hydrologic information such as location and condition of inlet/outlets (if they can be legally accessed), estimated water depths within the wetland, and estimated hydroperiod patterns based on visual cues (e.g. algal mats, drift lines, flood debris, etc.). Provide acreage estimates, classifications, and ratings based on entire wetland complexes, not only the portion present on the proposed project site.

- iv. A description of the proposed actions, including an estimation of acreages of impacts to wetlands and buffers based on the field delineation and survey and an analysis of site development alternatives, including a no-development alternative.
- v. A discussion of measures, including avoidance, minimization, and compensation, proposed to preserve existing wetlands and restore any wetlands that were degraded prior to the current proposed land-use activity.
- vi. A conservation strategy for habitat and native vegetation that addresses methods to protect and enhance on-site habitat and wetland functions.
- vii. An evaluation of the functions of the wetland and adjacent buffer. Include reference for the method used and data sheets.

b. A copy of the site plan for the project must be included with the written report and must include, at a minimum:

- i. Maps (to scale) depicting delineated and surveyed wetland and required buffers on site, including buffers for off-site critical areas that extend onto the project site; the development proposal; other critical areas; grading and clearing limits; areas of proposed impacts to wetlands and/or buffers (include square footage estimates).
- ii. A depiction of the proposed stormwater management facilities and outlets (to scale) for the development, including estimated areas of intrusion into the buffers of any critical areas. The written report shall contain a discussion of the potential impacts to the wetland(s) associated with anticipated hydroperiod alterations from the project.

I. Compensatory Mitigation.

- 1. Mitigation Sequencing. Before impacting any wetland or its buffer, an applicant shall demonstrate compliance with IMC 15.18.010.M.2, Mitigation Sequencing.

2. Requirements for Compensatory Mitigation:
 - a. Compensatory mitigation for alterations to wetlands 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 #06-06-011b, Olympia, WA, March 2006 or as revised), and Selecting Wetland Mitigation Sites Using a Watershed Approach (Western Washington) (Publication #09-06-32, Olympia, WA, December 2009).
 - b. Mitigation ratios shall be consistent with this section.
 - c. Mitigation requirements may also be determined using the credit/debit tool described in “Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Western Washington: Final Report (Ecology Publication #10-06-011, Olympia, WA, March 2012, or as revised) consistent with IMC 15.18.030.I.8, Credit/Debit Method.
3. Compensating for Lost or Affected Functions. Compensatory mitigation shall address the functions affected by the proposed project, with an intention to achieve functional equivalency or improvement of functions. The goal shall be for the compensatory mitigation to provide similar wetland functions as those lost, except when either:
 - a. The lost wetland provides minimal functions, and the proposed compensatory mitigation action(s) will provide equal or greater functions or will provide functions shown to be limiting within a watershed through a formal Washington State watershed assessment plan or protocol; or
 - b. Out-of-kind replacement of wetland type or functions will best meet watershed goals formally identified by the city, such as replacement of historically diminished wetland types.
4. Preference of Mitigation Actions. Mitigation for lost or diminished wetland and buffer functions shall rely on the types below in the following order of preference:
 - a. Restoration (re-establishment and rehabilitation) of wetlands:
 - i. The goal of re-establishment is returning natural or historic functions to a former wetland. Re-establishment results in a gain in wetland acres (and functions). Activities could include removing fill material, plugging ditches, or breaking drain tiles.
 - ii. The goal of rehabilitation is repairing natural or historic functions of a degraded wetland. Rehabilitation results in a gain in wetland function but does not result in a gain in wetland acres. Activities could involve breaching a dike to reconnect wetlands to a floodplain or return tidal influence to a wetland.

- b. Creation (establishment) of wetlands on disturbed upland sites such as those with vegetative cover consisting primarily of non-native species. Establishment results in a gain in wetland acres. This should be attempted only when there is an adequate source of water and it can be shown that the surface and subsurface hydrologic regime is conducive to the wetland community that is anticipated in the design.
 - i. If a site is not available for wetland restoration to compensate for expected wetland and/or buffer impacts, the approval authority may authorize creation of a wetland and buffer upon demonstration by the applicant's qualified wetland scientist that:
 - (a) The hydrology and soil conditions at the proposed mitigation site are conducive for sustaining the proposed wetland and that creation of a wetland at the site will not likely cause hydrologic problems elsewhere;
 - (b) The proposed mitigation site does not contain invasive plants or noxious weeds or that such vegetation will be completely eradicated at the site;
 - (c) Adjacent land uses and site conditions do not jeopardize the viability of the proposed wetland and buffer (e.g. due to the presence of invasive plants or noxious weeds, stormwater runoff, noise, light, or other impacts); and
 - (d) The proposed wetland and buffer will eventually be self-sustaining with little or no long-term maintenance.
- c. Enhancement of significantly degraded wetlands in combination with restoration or creation. Enhancement should be part of a mitigation package that includes replacing the altered area and meeting appropriate ratio requirements. Enhancement is undertaken for specified purposes such as water quality improvement, flood water retention, or wildlife habitat. Enhancement alone will result in a loss of wetland acreage and is less effective at replacing the functions lost. Applicants proposing to enhance wetlands or associated buffers shall demonstrate:
 - i. How the proposed enhancement will increase wetland and/or buffer functions;
 - ii. How this increase in function will adequately compensate for the impacts; and
 - iii. How all other existing wetland functions at the mitigation site will be protected.
- d. Preservation of high-quality, at-risk wetlands as compensation is generally acceptable when done in combination with restoration, creation, or enhancement, provided that a minimum of 1:1 acreage

replacement is provided by re-establishment or creation. Ratios for preservation in combination with other forms of mitigation generally range from 10:1 to 20:1, as determined on a case-by-case basis, depending on the quality of the wetlands being altered and the quality of the wetlands being preserved. Preservation of high-quality, at-risk wetlands and habitat may be considered as the sole means of compensation for wetland impacts when the following criteria are met:

- i. The area proposed for preservation is of high quality. The following features may be indicative of high-quality sites:
 - (a) Category I or II wetland rating (using the wetland rating system for western Washington).
 - (b) Rare wetland type (for example, bogs, mature forested wetlands, estuarine wetlands).
 - (c) The presence of habitat for priority or locally important wildlife species.
 - (d) Priority sites in an adopted watershed plan.
 - ii. Wetland impacts will not have a significant adverse impact on habitat for listed fish, or other listed species.
 - iii. There is no net loss of habitat functions within the watershed or basin.
 - iv. Mitigation ratios for preservation as the sole means of mitigation shall generally start at 20:1. Specific ratios should depend upon the significance of the preservation project and the quality of the wetland resources lost.
 - v. Permanent preservation of the wetland and buffer will be provided through a conservation easement or tract held by a land trust.
 - vi. The impact area is small (generally <math>< \frac{1}{2}</math> acre) and/or impacts are occurring to a low-functioning system (Category III or IV wetland).
 - vii. The preservation site includes buffer areas adequate to protect the habitat and its functions from encroachment and degradation.
5. Location of Compensatory Mitigation. Compensatory mitigation actions shall be conducted within the same sub-drainage basin and on the site of the alteration except when all of paragraphs below apply. In that case, mitigation may be allowed off-site within the subwatershed of the impact site. When considering off-site mitigation, preference should be given to alternative mitigation, such as a mitigation bank, an in-lieu fee program, or advanced mitigation.
- a. There are no reasonable opportunities on site or within the sub-

drainage basin (e.g. on-site options would require elimination of high-functioning upland habitat), or opportunities on site or within the sub-drainage basin do not have a high likelihood of success based on a determination of the capacity of the site to compensate for the impacts. Considerations should include: anticipated replacement ratios for wetland mitigation, buffer conditions and proposed widths, available water to maintain anticipated hydrogeomorphic classes of wetlands when restored, proposed flood storage capacity, and potential to mitigate riparian fish and wildlife impacts (such as connectivity).

- b. On-site mitigation would require elimination of high-quality upland habitat.
 - c. Off-site mitigation has a greater likelihood of providing equal or improved wetland functions than the altered wetland.
 - d. Off-site locations shall be in the same sub-drainage basin unless:
 - i. Established watershed goals for water quality, flood storage or conveyance, habitat, or other wetland functions have been established by the city and strongly justify location of mitigation at another site;
 - ii. Credits from a state-certified wetland mitigation bank are used as compensation, and the use of credits is consistent with the terms of the certified bank instrument; or
 - iii. Fees are paid to an approved in-lieu fee program to compensate for the impacts.
 - e. The design for the compensatory mitigation project needs to be appropriate for its location (i.e. position in the landscape). Therefore, compensatory mitigation should not result in the creation, restoration, or enhancement of an atypical wetland. An atypical wetland refers to a compensation wetland (e.g. created or enhanced) that does not match the type of existing wetland that would be found in the geomorphic setting of the site (i.e. the water source(s) and hydroperiod proposed for the mitigation site are not typical for the geomorphic setting). Likewise, it should not provide exaggerated morphology or require a berm or other engineered structures to hold back water. For example, excavating a permanently inundated pond in an existing seasonally saturated or inundated wetland is one example of an enhancement project that could result in an atypical wetland. Another example would be excavating depressions in an existing wetland on a slope, which would require the construction of berms to hold the water.
6. Timing of Compensatory Mitigation. It is preferred that compensatory mitigation projects be completed prior to activities that will disturb wetlands. At the least, compensatory mitigation shall be completed immediately following disturbance and prior to use or occupancy of the action or development. Construction of mitigation projects shall be timed to reduce

impacts to existing fisheries, wildlife, and flora.

- a. The city may authorize a one-time temporary delay in completing construction or installation of the compensatory mitigation when the applicant provides a written explanation from a qualified wetland professional as to the rationale for the delay. An appropriate rationale would include identification of the environmental conditions that could produce a high probability of failure or significant construction difficulties (e.g. project delay lapses past a fisheries window, or installing plants should be delayed until the dormant season to ensure greater survival of installed materials). The delay shall not create or perpetuate hazardous conditions or environmental damage or degradation, and the delay shall not be injurious to the health, safety, or general welfare of the public. The request for the temporary delay must include a written justification that documents the environmental constraints that preclude implementation of the compensatory mitigation plan.

7. Wetland Mitigation Ratios.¹

| Category and Type of Wetland | Creation or Re-establishment | Rehabilitation | Enhancement |
|--|------------------------------|----------------|--------------|
| Category I: Bog, Natural Heritage site | Not considered possible | Case by case | Case by case |
| Category I: Mature Forested | 6:1 | 12:1 | 24:1 |
| Category I: Based on functions | 4:1 | 8:1 | 16:1 |
| Category II | 3:1 | 6:1 | 12:1 |
| Category III | 2:1 | 4:1 | 8:1 |
| Category IV | 1.5:1 | 3:1 | 6:1 |

¹ Ratios for rehabilitation and enhancement may be reduced when combined with 1:1 replacement through creation or re-establishment. See Table 1a, *Wetland Mitigation in Washington State – Part 1: Agency Policies and Guidance--Version 1*, (Ecology Publication #06-06-011a, Olympia, WA, March 2006 or as revised). See also IMC 15.18.030.1.4.d for more information on using preservation as compensation.

8. Credit/Debit Method. To more fully protect functions and values, and as an alternative to the mitigation ratios found in the joint guidance “*Wetland Mitigation in Washington State Parts I and II*” (Ecology Publication #06-06-011a-b, Olympia, WA, March, 2006), the administrator may allow mitigation based on the “credit/debit” method developed by the Department of Ecology in “*Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Western Washington: Final Report*,” (Ecology Publication #10-06-011, Olympia, WA, March 2012, or as revised).
9. Compensatory Mitigation Plan. When a project involves wetland and/or buffer impacts, a compensatory mitigation plan prepared by a qualified professional

shall be required, meeting the following minimum standards:

- a. Wetland Critical Area Report. A critical area report for wetlands must accompany or be included in the compensatory mitigation plan.
- b. Compensatory Mitigation Report. The report must include a written report and plan sheets that must contain, at a minimum, the following elements. Full guidance can be found in Wetland Mitigation in Washington State— Part 2: Developing Mitigation Plans (Version 1) (Ecology Publication #06- 06-011b, Olympia, WA, March 2006 or as revised).
 - i. The written report must contain, at a minimum:
 - (a) The name and contact information of the applicant; the name, qualifications, and contact information for the primary author(s) of the compensatory mitigation report; a description of the proposal; a summary of the impacts and proposed compensation concept; identification of all the local, state, and/or federal wetland-related permit(s) required for the project; and a vicinity map for the project.
 - (b) Description of how the project design has been modified to avoid, minimize, or reduce adverse impacts to wetlands.
 - (c) Description of the existing wetland and buffer areas proposed to be altered. Include acreage (or square footage), water regime, vegetation, soils, landscape position, surrounding lands uses, and functions. Also describe impacts in terms of acreage by Cowardin classification, hydrogeomorphic classification, and wetland rating.
 - (d) Description of the compensatory mitigation site, including location and rationale for selection. Include an assessment of existing conditions: acreage (or square footage) of wetlands and uplands, water regime, sources of water, vegetation, soils, landscape position, surrounding land uses, and functions. Estimate future conditions in this location if the compensation actions are not undertaken (i.e., how would this site progress through natural succession?).
 - (e) A description of the proposed actions for compensation of wetland and upland areas affected by the project. Include overall goals of the proposed mitigation, including a description of the targeted functions, hydrogeomorphic classification, and categories of wetlands.
 - (f) A description of the proposed mitigation construction activities and timing of activities.
 - (g) A discussion of ongoing management practices that will

protect wetlands after the project site has been developed, including proposed monitoring and maintenance programs (for remaining wetlands and compensatory mitigation wetlands).

- (h) A bond estimate for the entire compensatory mitigation project, including the following elements: site preparation, plant materials, construction materials, installation oversight, maintenance twice per year for up to five years, annual monitoring field work and reporting, and contingency actions for a maximum of the total required number of years for monitoring.
 - (i) Proof of establishment of notice on title for the wetlands and buffers on the project site, including the compensatory mitigation areas.
- ii. The scaled plan sheets for the compensatory mitigation must contain, at a minimum:
- (a) Surveyed edges of the existing wetland and buffers, proposed areas of wetland and/or buffer impacts, location of proposed wetland and/or buffer compensation actions.
 - (b) Existing topography, ground-proofed, at two-foot contour intervals in the zone of the proposed compensation actions if any grading activity is proposed to create the compensation area(s). Also existing cross-sections of on-site wetland areas that are proposed to be altered, and cross-section(s) (estimated one-foot intervals) for the proposed areas of wetland or buffer compensation.
 - (c) Surface and subsurface hydrologic conditions, including an analysis of existing and proposed hydrologic regimes for enhanced, created, or restored compensatory mitigation areas. Also, illustrations of how data for existing hydrologic conditions were used to determine the estimates of future hydrologic conditions.
 - (d) Conditions expected from the proposed actions on site, including future hydrogeomorphic types, vegetation community types by dominant species (wetland and upland), and future water regimes.
 - (e) Required wetland buffers for existing wetlands and proposed compensation areas. Also, identify any zones where buffers are proposed to be reduced or enlarged outside of the standards identified in this chapter.
 - (f) A plant schedule for the compensation area, including all species by proposed community type and water regime, size

and type of plant material to be installed, spacing of plants, typical clustering patterns, total number of each species by community type, timing of installation.

- (g) Performance standards (measurable standards reflective of years post-installation) for upland and wetland communities, monitoring schedule, and maintenance schedule and actions.
10. Buffer Mitigation Ratios. Impacts to buffers shall be mitigated at a 1:1 ratio. Compensatory buffer mitigation shall replace those buffer functions lost from development.
 11. Protection of the Mitigation Site. The area where the mitigation occurred and any associated buffer shall be included in a notice on title consistent with IMC 15.18.010.K.3, Notice on Title.
 12. Monitoring. 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. 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.
 13. Wetland Mitigation Banks.
 - a. Credits from a wetland mitigation bank may be approved for use as compensation for unavoidable impacts to wetlands when:
 - i. The bank is certified under state rules;
 - ii. The city determines that the wetland mitigation bank provides appropriate compensation for the authorized impacts; and
 - iii. The proposed use of credits is consistent with the terms and conditions of the certified bank instrument.
 - b. Replacement ratios for projects using bank credits shall be consistent with replacement ratios specified in the certified bank instrument.
 - c. Credits from a certified wetland mitigation bank may be used to compensate for impacts located within the service area specified in the certified bank instrument.
 14. In-Lieu Fee. To aid in the implementation of off-site mitigation, the city may develop an in-lieu fee program. Credits from an approved in-lieu-fee program may be used when the following apply:
 - a. The approval authority determines that it would provide environmentally

appropriate compensation for the proposed impacts.

- b. The mitigation will occur on a site identified using the site selection and prioritization process in the approved in-lieu-fee program instrument.
 - c. The proposed use of credits is consistent with the terms and conditions of the approved in-lieu-fee program instrument.
 - d. Land acquisition and initial physical and biological improvements of the mitigation site must be completed within three years of the credit sale.
 - e. Projects using in-lieu-fee credits shall have debits associated with the proposed impacts calculated by the applicant's qualified wetland scientist using the method consistent with the credit assessment method specified in the approved instrument for the in-lieu-fee program.
 - f. Credits from an approved in-lieu-fee program may be used to compensate for impacts located within the service area specified in the approved in-lieu-fee instrument.
15. Advance Mitigation. Mitigation for projects with pre-identified impacts to wetlands may be constructed in advance of the impacts if the mitigation is implemented according to federal rules, state policy on advance mitigation, and state water quality regulations.
16. Alternative Mitigation Plans. The city may approve alternative critical areas mitigation plans that are based on best available science. Alternative mitigation proposals must provide an equivalent or better level of protection of critical area functions and values than would be provided by the strict application of this chapter.

The Administrator shall consider the following for approval of an alternative mitigation proposal:

- a. The proposal uses a watershed approach consistent with *Selecting Wetland Mitigation Sites Using a Watershed Approach (Western Washington)* (Ecology Publication #09-06-32, Olympia, WA, December 2009).
- b. Creation or enhancement of a larger system of natural areas and open space is preferable to the preservation of many individual habitat areas.
- c. Mitigation according to subsection of this section is not feasible due to site constraints such as parcel size, stream type, wetland category, or geologic hazards.
- d. There is clear potential for success of the proposed mitigation at the proposed mitigation site.
- e. The plan shall contain clear and measurable standards for achieving compliance with the specific provisions of the plan. A monitoring plan

shall, at a minimum, meet the provisions in IMC 15.18.030.I.12, Monitoring.

- f. The plan shall be reviewed and approved as part of overall approval of the proposed use.
- g. A wetland of a different type is justified based on regional needs or functions and values; the replacement ratios may not be reduced or eliminated unless the reduction results in a preferred environmental alternative.
- h. Mitigation guarantees shall meet the minimum requirements as outlined in IMC 15.18.030.I.9.b.i.(h).
- i. Qualified professionals in each of the critical areas addressed shall prepare the plan.
- j. The city may consult with agencies with expertise and jurisdiction over the resources during the review to assist with analysis and identification of appropriate performance measures that adequately safeguard critical areas.

J. Unauthorized Alterations and Enforcement.

- 1. Minimum Performance Standards for Restoration. The following minimum performance standards shall be met for the restoration of a wetland, provided that if the violator can demonstrate that greater functions and habitat values can be obtained, these standards may be modified:
 - a. The historic structure, functions, and values of the affected wetland shall be restored, including water quality and habitat functions.
 - b. The historic soil types and configuration shall be restored to the extent practicable.
 - c. The wetland and buffers shall be replanted with native vegetation that replicates the vegetation historically found on the site in species types, sizes, and densities. The historic functions and values should be replicated at the location of the alteration.
 - d. Compliance with other applicable provisions of this chapter shall be demonstrated.

Section 15.18.040 Fish and Wildlife Habitat Conservation Areas.

- A. Purpose. The purpose of this chapter is to protect fish and wildlife habitats in the city by regulating land use to avoid adverse effects on, and maintain the functions and values of, such habitats.
- B. Designation.

1. All areas within the city meeting one or more of the following criteria are designated as fish and wildlife habitat conservation areas and are subject to the provisions of this chapter.
 - a. Areas with which State or Federally Designated Endangered, Threatened, and Sensitive Species have a Primary Association.
 - i. Federally designated endangered and threatened species are those fish and wildlife species identified by the U.S. Fish and Wildlife Service and the National Marine Fisheries Service that are in danger of extinction or threatened to become endangered.
 - ii. State designated endangered, threatened, and sensitive species are those fish and wildlife species native to the state of Washington identified by the Washington Department of Fish and Wildlife, that are in danger of extinction, threatened to become endangered, vulnerable, or declining and are likely to become endangered or threatened in a significant portion of their range within the state without cooperative management or removal of threats.
 - b. State Priority Habitats and Areas Associated with State Priority Species. Priority habitats and species are identified by the Washington Department of Fish and Wildlife.
 - c. Habitats and Species of Local Importance. Habitats and species of local importance are those identified by the city, including but not limited to those habitats and species that, due to their population status or sensitivity to habitat manipulation, warrant protection. Habitats may include a seasonal range or habitat element with which a species has a primary association, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term.
 - d. Commercial and Recreational Shellfish Areas. These areas include all public and private tidelands or bedlands suitable for shellfish harvest, including shellfish protection districts established pursuant to Chapter 90.72 RCW.
 - e. Kelp and Eelgrass Beds and Herring and Smelt Spawning Areas.
 - f. Naturally Occurring Ponds under 20 Acres. Naturally occurring ponds are those ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat, including those artificial ponds intentionally created from dry areas in order to mitigate impacts to ponds. Naturally occurring ponds do not include ponds deliberately designed and created from dry sites, such as canals, detention facilities, wastewater treatment facilities, temporary construction ponds, and landscape amenities, unless such artificial ponds were intentionally created for mitigation.
 - g. Waters of the State. Waters of the state 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, as classified in WAC 222-16.

- h. Lakes, Ponds, Streams, and Rivers Planted with Game Fish by a Governmental or Tribal Entity.
 - i. State Natural Area Preserves and Natural Resource Conservation Areas. Natural area preserves and natural resource conservation areas are defined, established, and managed by the Washington State Department of Natural Resources.
 - j. Areas of Rare Plant Species and High Quality Ecosystems. Areas of rare plant species and high quality ecosystems are identified by the Washington State Department of Natural Resources through the Natural Heritage Program.
 - k. Land Useful or Essential for Preserving Connections Between Habitat Blocks and Open Spaces.
2. The approximate locations and extents of habitat conservation areas may be shown on, but shall not be limited to, the following list of maps. The maps are for reference only and do not provide a final critical area designation.
- a. Washington Department of Fish and Wildlife Priority Habitat and Species maps.
 - b. Washington State Department of Natural Resources water type maps.
 - c. Washington State Department of Natural Resources ShoreZone Inventory.
 - d. Washington State Department of Health shellfish maps.
 - e. Washington State Department of Natural Resources Natural Heritage Program maps.
 - f. Anadromous and resident salmonid distribution maps contained in the Habitat Limiting Factors reports published by the Washington Conservation Commission.
 - g. Washington State Department of Natural Resources State Natural Area Preserves and Natural Resource Conservation Area maps.
3. Designation of Habitats and Species of Local Importance. The city shall accept and consider nominations for habitat areas and species to be designated as locally important.
- a. Process.
 - i. Habitats and species may be nominated by any person.

- (a) The nomination should indicate whether specific habitat features are to be protected (for example, nest sites, breeding areas, and nurseries) or whether the habitat or ecosystem is being nominated in its entirety.
 - (b) The nomination may include management strategies for the species or habitats. Management strategies must be supported by the best available science, and where restoration of habitat is proposed, a specific plan for restoration must be provided prior to nomination.
 - ii. The city planner shall determine whether the nomination proposal is complete, and if complete, shall evaluate it according to the characteristics enumerated in IMC 15.18.040.B.3.b and make a recommendation to the planning commission.
 - iii. The planning commission shall hold a public hearing on the proposal and make a recommendation to the city council based on the characteristics enumerated in IMC 15.18.040.B.3.b.
 - iv. After receiving the recommendation of the planning commission, the city council shall vote on the nomination.
- b. Characteristics. Habitats and species to be designated must exhibit the following characteristics:
- i. Local populations of native species in danger of extirpation based on existing trends, including:
 - (a) Local populations of native species that are likely to become endangered; or
 - (b) Local populations of native species that are vulnerable or declining.
 - ii. The species or habitat has recreation, commercial, game, tribal, or other special value;
 - iii. Long-term persistence of a species is dependent on the protection, maintenance, and/or restoration of the nominated habitat;
 - iv. Areas nominated to protect a particular habitat or species represent either high-quality native habitat or habitat that has a high potential to recover to a suitable condition and which is of limited availability, highly vulnerable to alteration, or provides landscape connectivity which contributes to the integrity of the surrounding landscape;
 - v. Protection by other county, state, or federal policies, laws,

regulations, or nonregulatory tools is not adequate to prevent degradation of the species or habitat in Ilwaco; and

- vi. Without protection, there is a likelihood that the species or habitat will be diminished over the long term.

C. Critical Area Report.

1. When Required. A critical area report for fish and wildlife habitat conservation areas shall be required when:
 - a. A project area is located within 150 feet of the ordinary high water mark of a waterbody subject to this chapter; or
 - b. A project area is located a distance equal to or less than the potential critical area buffer width and building setback of other fish and wildlife habitat conservation areas meeting the criteria of IMC 15.18.040.B.1 that are not located waterward of the ordinary high water mark of a waterbody subject to this chapter.
2. Additional Requirements. In addition to the general critical area report requirements of IMC 15.18.010.L, Critical Area Report, critical area reports for fish and wildlife conservation areas must meet the requirements of this subsection.
 - a. Preparation by a Qualified Professional. A critical area report for a habitat conservation area shall be prepared by a qualified professional who is a biologist with experience preparing reports for the relevant type of habitat.
 - b. Areas Addressed. The following areas shall be addressed in a critical area report for fish and wildlife habitat conservation areas:
 - i. The project area of the proposed activity;
 - ii. All habitat conservation areas and buffers within 150 feet of the project area; and
 - iii. All shoreline areas, floodplains, other critical areas, and related buffers within 150 feet of the project area.
 - c. Habitat Assessment. A habitat assessment is an investigation of the project area to evaluate the potential presence or absence of designated critical fish or wildlife species or habitat. A critical area report for a habitat conservation area shall contain a habitat assessment including, at a minimum, the following information:
 - i. A detailed description of vegetation on and adjacent to the project area and its associated buffer;
 - ii. Identification of any species of local importance, priority species,

or endangered, threatened, sensitive, or candidate species that have a primary association with habitat on or adjacent to the project area, and assessment of potential project impacts to the use of the site by the species;

- iii. A discussion of any federal, state, or local special management recommendations, including Washington Department of Fish and Wildlife habitat management recommendations, that have been developed for species or habitats located on or adjacent to the project area;
- iv. A detailed discussion of the direct and indirect potential impacts on habitat by the project, including potential impacts to water quality;
- v. A discussion of measures, including avoidance, minimization, and mitigation, proposed to preserve existing habitats and restore any habitat that was degraded prior to the current proposed land use activity and to be conducted in accordance with IMC 15.18.010.M.2, Mitigation Sequencing; and
- vi. A discussion of ongoing management practices that will protect habitat after the project site has been developed, including proposed monitoring and maintenance programs.

3. Additional Information May Be Required. When appropriate due to the type of habitat or species present or the project area conditions, the city planner may also require the habitat assessment to include:

- a. An evaluation by an independent qualified professional regarding the applicant's analysis and the effectiveness of any proposed mitigating measures or programs, to include any recommendations as appropriate; or
- b. A request for consultation with the Washington Department of Fish and Wildlife or other appropriate agency or tribe.

D. Performance Standards.

1. General Standards.

- a. Alterations. A habitat conservation area may be altered only if the proposed alteration of the habitat or the mitigation proposed does not degrade the quantitative and qualitative functions and values of the habitat.
- b. Approvals of Activities. The city may condition approvals of activities allowed within or adjacent to a habitat conservation area or its buffers, as necessary to minimize or mitigate any potential adverse impacts. Conditions must be based on the best available science and may

include, but are not limited to, the following:

- i. Establishment of buffer zones;
 - ii. Preservation of critically important vegetation and/or habitat features such as snags;
 - iii. Limitations on access to the habitat area; or
 - iv. Seasonal restriction of construction activities.
- c. Buffers.
- i. Establishment of Buffers. The city shall require the establishment of buffer areas for activities adjacent to habitat conservation areas when needed to protect habitat conservation areas. Buffers shall consist of an undisturbed area of native vegetation or areas identified for restoration established to protect the integrity, functions, and values of the affected habitat. Required buffer widths shall reflect the sensitivity of the habitat and the type and intensity of human activity proposed to be conducted nearby and shall be consistent with the management recommendations issued by the Washington Department of Fish and Wildlife. Habitat conservation areas and their buffers shall be preserved in perpetuity through the use of notices on title and native growth protection areas in accordance with IMC 15.18.010.K, General Critical Area Protective Measures.
 - ii. Habitat Buffer Averaging. The city may allow habitat area buffer widths to be reduced in accordance with a critical area report, the best available science, and the management recommendations issued by the Washington Department of Fish and Wildlife, if:
 - (a) It will not reduce stream or habitat functions;
 - (b) It will not adversely affect salmonid habitat;
 - (c) It will provide additional natural resource protection, such as buffer enhancement;
 - (d) The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer; and
 - (e) The buffer area width is not reduced by more than 25 percent in any location.
- d. Signs and Fencing.
- i. Temporary Markers. The outer perimeter of the habitat conservation area or buffer and the limits of areas authorized to

be disturbed shall be marked in the field to ensure that no unauthorized intrusion will occur and shall be verified by the city planner prior to the commencement of authorized activities. Temporary markers shall be maintained throughout construction and shall not be removed until permanent signs, if required, are in place.

- ii. Permanent Signs. As a condition of any permit or authorization issued pursuant to this section, the city may require the applicant to install permanent signs along the boundary of a habitat conservation area or buffer.
 - (a) Permanent signs shall be made of a metal face and attached to a metal post or another material of equal durability. Signs must be posted at an interval of one per lot or every 50 feet, whichever is less, and must be maintained by the property owner in perpetuity. The sign shall be worded as follows, or with alternative language approved by the city:

| |
|--|
| Habitat Conservation Area Do Not Disturb Contact City of Ilwaco Regarding Restrictions |
|--|

- iii. Fencing.
 - (a) The city shall determine if fencing is necessary to protect the functions and values of the critical area. If found to be necessary, the city shall condition any permit or authorization issued pursuant to this section to require the applicant to install a permanent fence at the edge of the habitat conservation area or buffer.
 - (b) Fencing installed as part of a proposed activity or as required by this subsection shall be designed to not interfere with species migration and shall be constructed in a manner that minimizes habitat impacts.
- e. Subdivisions. The subdivision and short subdivision of land in fish and wildlife habitat conservation areas and associated buffers is subject to the following:
 - i. Land that is located wholly within a habitat conservation area or its buffer may not be subdivided.
 - ii. Land that is located partially within a habitat conservation area or its buffer may be subdivided provided that the developable portion of each new lot and its access is located outside of the habitat conservation area or its buffer and meets the minimum lot size requirements of IMC Title 15, Part 3, Zoning.

- iii. Access roads and utilities serving the proposed may be permitted within the habitat conservation area and associated buffers only if the city determines that no other feasible alternative exists and when consistent with this chapter.
 - f. Non-indigenous Species. No plant, wildlife, or fish species not indigenous to the region shall be introduced into a habitat conservation area unless authorized by a state or federal permit or approval.
 - g. Mitigation and Contiguous Corridors. Mitigation sites shall be located to preserve or achieve contiguous wildlife habitat corridors in accordance with a mitigation plan that is part of an approved critical area report to minimize the isolating effects of development on habitat areas, so long as mitigation of aquatic habitat is located within the same aquatic ecosystem as the area disturbed.
 - h. Mitigation and Equivalent or Greater Biological Functions. Mitigation of alterations to habitat conservation areas shall achieve equivalent or greater biologic and hydrologic functions and shall include mitigation for adverse impacts upstream or downstream of the development proposal site. Mitigation shall address each function affected by the alteration to achieve functional equivalency or improvement on a per function basis.
2. Specific Standards.
- a. Riparian Habitat Areas.
 - i. Unless otherwise allowed in this chapter, all structures and activities must be located outside of a riparian habitat area.
 - ii. Standard riparian habitat area widths are shown in the table below and are based on the Washington State Department of Natural Resource Stream Typing System found in WAC 222-16-031 as now or hereafter amended.

Riparian Habitat Area Widths.

| Type | Buffer (feet) |
|---------|---------------|
| 1 (S) | 115* |
| 2,3 (F) | 100 |
| 4 (Np) | 50 |
| 5 (Ns) | 50 |

* Until comprehensive update of the city's Shoreline Master Program is in effect.

- iii. Widths shall be measured outward in each direction, on the horizontal plane, from the ordinary high water mark, or from the top of bank, if the ordinary high water mark cannot be identified.
- iv. Standard riparian habitat area widths may be increased if the standard width is insufficient to prevent habitat degradation and to

protect the structure and functions of the habitat area.

- v. Mitigation of adverse impacts to riparian habitat areas shall result in equivalent functions and values on a per function basis, be located as near the alteration as feasible, and be located in the same sub-drainage basin as the habitat impacted.
- vi. The performance standards set forth in this subsection may be modified at the city's discretion if the applicant demonstrates that greater habitat functions, on a per function basis, can be obtained in the affected sub-drainage basin as a result of alternative mitigation measures.
- vii. For Type S shorelines only, limited removal of existing trees or vegetation located on the same property as a single-family residence may be allowed for maintenance of a pre-existing view from the primary structure, or to establish a view for a new primary structure provided that:
 - (a) The applicant submits a critical area report, including a mitigation plan, and obtains a Critical Areas Permit prior to commencing work;
 - (b) The applicant demonstrates to the satisfaction of the city planner that the vegetation removal is the minimum necessary to re-establish or establish a view of the water similar to that enjoyed by other residences in the area and that pruning methods are not sufficient to provide an adequate view of the water similar to that enjoyed by other residences in the area;
 - (c) Existing significant native trees are not removed from the buffer;
 - (d) In no instance, including accounting for other approved alterations, shall vegetation removal exceed 20 percent of the required shoreline buffer area or reduce the vegetation canopy coverage to less than 65 percent in the shoreline buffer;
 - (e) Vegetation removal occurring adjacent to the shoreline shall also be limited to 15 linear feet of the water frontage;
 - (f) The applicant shall address any potential impacts to geologically hazardous areas the critical area report;
 - (g) The city planner may deny a request or condition the Critical Areas Permit if it is determined that the action will result in an adverse effect to any of the following:
 - (i) Slope stability;

- (ii) Habitat value;
 - (iii) Health of surrounding vegetation;
 - (iv) Risk of wind damage to surrounding vegetation;
 - (v) Nearby surface or groundwater; or
 - (vi) Water quality of a nearby water body.
- b. Aquatic Habitat. The following activities may be permitted within a riparian habitat area, pond, lake, water of the state, or associated buffer.
- i. Clearing and Grading. When clearing and grading is permitted as part of an authorized activity or as otherwise allowed in these standards, the following shall apply:
 - (a) Grading is allowed only during the dry season, which is typically regarded as beginning on May 1 and ending on October 1, provided that the city may extend or shorten the dry season on a case-by-case basis, determined on actual weather conditions.
 - (b) The soil duff layer shall remain undisturbed to the maximum extent possible. Where feasible, any soil disturbed shall be redistributed to other areas of the project area.
 - (d) The moisture-holding capacity of the topsoil layer shall be maintained by minimizing soil compaction or reestablishing natural soil structure and infiltrative capacity on all areas of the project area not covered by impervious surfaces.
 - (e) Erosion and sediment control that meets or exceeds city standards must be provided.
 - ii. Shoreline Erosion Control Measures. New, replacement, or substantially improved shoreline erosion control measures may be permitted in accordance with an approved critical area report that demonstrates the following:
 - (a) Natural shoreline processes will be maintained. The project will not result in increased beach erosion or alterations to, or loss of, shoreline substrate within one-quarter mile of the project area.
 - (b) The shoreline erosion control measures will not degrade fish or wildlife habitat conservation areas or associated wetlands.
 - (c) Adequate mitigation measures ensure that there is no net loss of the functions or values of intertidal habitat or riparian habitat as a result of the proposed shoreline erosion control measures.
 - (d) The proposed shoreline erosion control measures do not result in alteration of intertidal migration corridors.

- iii. Streambank Stabilization. Streambank stabilization to protect new structures from future channel migration is not permitted except when such stabilization is achieved through bioengineering or soft armoring techniques in accordance with an approved critical area report.
- iv. Launching Ramps. Public or private launching ramps may be permitted in accordance with an approved critical area report that has demonstrated the following:
 - (a) The project will not result in increased beach erosion or alterations to, or loss of, shoreline substrate within one-quarter mile of the site;
 - (b) The ramp will not adversely impact critical fish or wildlife habitat areas or associated wetlands;
 - (c) Adequate mitigation measures ensure that there is no net loss of the functions or values of intertidal habitat or riparian habitat as a result of the ramp; and
 - (d) No alteration of intertidal migration corridors will occur as a result of the ramp.
- v. Docks. Repair and maintenance of an existing dock or pier may be permitted in accordance with an approved critical area report subject to the following:
 - (a) There is no increase in the use of materials creating shade for predator species or eelgrass;
 - (b) There is no expansion in overwater coverage;
 - (c) There is no new spanning of waters between three and 13 feet deep;
 - (d) There is no increase in the size and number of pilings; and
 - (e) There is no use of toxic materials (such as creosote) that come in contact with the water.
- vii. Roads, Trails, Bridges, and Rights-of-Way. Construction of trails, roadways, and minor road bridging, less than or equal to 30 feet wide, may be permitted in accordance with an approved critical area report subject to the following standards:
 - (a) There is no other feasible alternative route with less impact on the environment;
 - (b) The crossing minimizes interruption of downstream

- movement of wood and gravel;
 - (c) Roads in riparian habitat areas or their buffers shall not run parallel to the water body;
 - (d) Trails shall be located on the outer edge of the riparian area or buffer, except for limited viewing platforms and crossings;
 - (e) Crossings, where necessary, shall only occur as near to perpendicular with the water body as possible;
 - (f) Mitigation for impacts is provided pursuant to a mitigation plan of an approved critical area report;
 - (g) Trails and associated viewing platforms shall not be made of continuous impervious materials.
- viii. Utility Facilities. New utility lines and facilities may be permitted to cross watercourses in accordance with an approved critical area report, if they comply with the following standards:
- (a) Fish and wildlife habitat areas shall be avoided to the maximum extent possible;
 - (b) Installation shall be accomplished by boring beneath the scour depth and hyporheic zone of the water body and channel migration zone, where feasible;
 - (c) The utilities shall cross at an angle greater than 60 degrees to the centerline of the channel in streams or perpendicular to the channel centerline whenever boring under the channel is not feasible;
 - (d) Crossings shall be contained within the footprint of an existing road or utility crossing where possible;
 - (e) The utility route shall avoid paralleling the stream or following a down-valley course near the channel; and
 - (f) The utility installation shall not increase or decrease the natural rate of shore migration or channel migration.
- x. Instream Structures. Instream structures, such as high flow bypasses, sediment ponds, instream ponds, retention and detention facilities, tide gates, dams, and weirs shall be only be allowed by the city upon acquisition of any required state or federal permits. Structures must be designed to avoid modifying flows and water quality in ways that may adversely affect habitat conservation areas.
- (a) 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 must be provided.

- xi. Stormwater Conveyance Facilities. Conveyance structures may be permitted in accordance with an approved critical area report subject to the following standards:
 - (a) No other feasible alternatives with less impact exist;
 - (b) Mitigation for impacts is provided;
 - (c) Stormwater conveyance facilities shall incorporate fish habitat features; and
 - (d) Vegetation shall be maintained and, if necessary, added adjacent to all open channels and ponds in order to retard erosion, filter out sediments, and shade the water.

Section 15.18.050 Geologically Hazardous Areas.

- A. Purpose. The purpose of this section is to minimize hazards to the public from development activities on or adjacent to areas of geological hazard. Geologically hazardous areas include the following: erosion hazard areas, landslide hazard areas, seismic hazard areas, and tsunami hazard areas.
- B. Designation.
 - 1. Erosion Hazard Areas. Erosion hazard areas are at least those areas identified by the U.S. Department of Agriculture's Natural Resources Conservation Service as having a "severe," or "very severe" rill and inter-rill erosion hazard. Erosion hazard areas are also those areas impacted by shoreline and/or stream bank erosion, coastal wave erosion zones, and those areas within a river's channel migration zone.
 - 2. Landslide Hazard Areas. Landslide hazard areas are those areas meeting any of the following criteria:
 - a. Areas of historic failure, such as:
 - i. Those areas mapped by the Washington State Department of Ecology (Coastal Zone Atlas) or the Washington State Department of Natural Resources (slope stability mapping) as unstable (U or class 3), unstable old slides (UOS or class 4), or unstable recent slides (URS or class 5); or
 - ii. Areas designated as quaternary slumps, earthflows, mudflows, or landslides on maps published as the U.S. Geological Survey or the Washington State Department of Natural Resources.
 - b. Areas with all of the following characteristics:

- i. A slope 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. Slopes that are parallel or subparallel to planes of weakness (such as bedding planes, joint systems, and fault planes) in subsurface materials.
 - d. Slopes having gradients greater than 80 percent subject to rock fall during seismic shaking.
 - e. Areas potentially unstable because of rapid stream incision and stream bank erosion; and undercutting by wave action.
 - f. Areas located in a canyon or on an active alluvial fan, presently or potentially subject to inundation by debris flows or catastrophic flooding.
 - g. Any area with a slope of 40 percent or steeper and with a vertical relief of 10 or more feet except areas composed of solid rock. A slope is delineated by establishing its toe and top and measured by averaging the inclination over at least 20 feet of vertical relief.
 - 3. Seismic Hazard Areas. The entire city constitutes a seismic hazard area.
 - 4. Tsunami Hazard Areas. Tsunami hazard areas are shoreline or coastal areas susceptible to flooding and inundation as the result of excessive wave runup action derived from seismic or other geologic events.
- C. Partial Exemptions. The following activities are allowed in geologically hazardous areas, provided they are allowed pursuant to IMC 15.18.010, General Provisions, and do not require submission of a critical area report or a Critical Areas Permit:
- 1. Erosion and Landslide Hazard Areas. Except as otherwise provided for in this chapter, only those activities approved and permitted consistent with an approved critical area report and Critical Areas Permit may be allowed.
 - 2. Seismic and Tsunami Hazard Areas. All activities consistent with this chapter and other city regulations may be allowed.
- D. Critical Area Report.
- 1. When Required. A critical area report for geologically hazardous areas shall be required when an erosion or landslide hazard area is located within 200 feet of a project area, or if an erosion or landslide hazard area located farther than 200 feet from a project area may impact the proposal.
 - 2. Additional Requirements. In addition to the general critical area report

requirements of IMC 15.18.010.L, Critical Area Report, critical area reports for geologically hazardous areas must meet the following requirements:

- a. Preparation by a Qualified Professional. A critical area report for a geologically hazardous area shall be prepared by an engineer or geologist, licensed in the state of Washington, with experience analyzing geologic, hydrologic, and groundwater flow systems, and who has experience preparing reports for the relevant type of hazard.
- b. Areas Addressed. The following areas shall be addressed in a critical area report for geologically hazardous areas:
 - i. The project area of the proposed activity; and
 - ii. All geologically hazardous areas within 200 feet of the project area, or farther than 200 feet from the project area if such areas might impact the proposal.
- c. Geological Hazards Assessment. A critical area report for a geologically hazardous area shall contain a geological hazards assessment, including, at a minimum, the following site- and proposal-related information:
 - i. Plans for the proposal showing, as applicable:
 - (a) The type and extent of geologic hazard areas and other critical areas, including their buffers, within 200 feet of the project area, or farther than 200 feet from the project area if such areas might impact the proposal.
 - (b) Proposed development, including the location of existing and proposed structures, fill, storage of materials, and drainage facilities, with dimensions indicating distances to the floodplain, if available.
 - (c) The topography, in two-foot contours, of the project area and all hazard areas addressed in the report.
 - (d) Clearing limits.
 - ii. An assessment of the geologic characteristics of the soils, sediments, and/or rock of the project area and potentially affected adjacent properties, and a review of the site history regarding landslides, erosion, and prior grading. Soils analysis shall be accomplished in accordance with accepted classification systems. The assessment shall include, but not be limited to:
 - (a) A description of the surface and subsurface geology, hydrology, soils, and vegetation found in the project area and in all hazard areas addressed in the report.

- (b) A detailed overview of field investigations; published data, and references; data and conclusions from past assessments of the site; and site-specific measurements, tests, investigations, or studies that support the identification of geologically hazardous areas.
 - (c) A description of the vulnerability of the site to seismic and other geologic events.
- iii. A hazards analysis including a detailed description of the project, its relationship to the geologic hazard(s), and its potential impact upon the hazard area, the subject property, and affected adjacent properties.
- iv. A recommendation for the minimum no-disturbance buffer and minimum building setback from any geologic hazard.
- d. Incorporation of Previous Study. Where a valid critical area report has been prepared within the last five years for a specific site, and where the proposed land use activity and surrounding site conditions are unchanged, said report may be incorporated into the required critical area report. The applicant shall submit a geological hazards assessment addendum detailing any changed environmental conditions associated with the site.
- e. Mitigation of Long-Term Impacts. When hazard mitigation is required, a mitigation plan shall specifically address how the activity maintains or reduces the pre-existing level of risk to the site and adjacent properties on a long-term basis (equal to or exceeding the projected lifespan of the activity or occupation). Proposed mitigation techniques shall be considered to provide long-term hazard reduction only if they do not require regular maintenance or other actions to maintain their function. Mitigation may also be required to avoid any increase in risk above the pre-existing conditions following abandonment of the activity.

E. Performance Standards.

1. General Standards.

- a. Alterations of geologically hazardous areas or associated buffers may only occur for activities that:
 - i. Will not increase the threat of the geological hazard to adjacent properties beyond pre-development conditions;
 - ii. Will not adversely impact other critical areas;
 - iii. Are designed so that the hazard to the project is eliminated or mitigated to a level equal to or less than pre-development conditions; and

- iv. Are certified as safe as designed and under anticipated conditions by a qualified engineer or geologist, licensed in the state of Washington.
 - b. Critical facilities shall not be sited within or below geologically hazardous areas unless there is no other practical alternative.
- 2. Erosion and Landslide Hazard Area Standards. Activities on sites containing erosion or landslide hazards shall meet the standards in IMC 15.18.050.E.1, General Standards, and the following requirements.
 - a. Erosion Hazard Area Buffers. No new structures shall be located on a permanent foundation within a shoreline and/or stream bank erosion hazard area unless the foundation is located at a distance landward of the ordinary high water mark that accommodates potential future erosion.
 - b. Landslide Hazard Area Buffers. A buffer shall be established from all edges of landslide hazard areas. The size of the buffer shall eliminate or minimize the risk of property damage, death, or injury resulting from landslides caused in whole or part by the development, based upon a critical area report.
 - i. The minimum buffer shall be equal to the height of the slope or 50 feet, whichever is greater.
 - ii. The buffer may be reduced to a minimum of 10 feet when a qualified professional demonstrates that the reduction will adequately protect the proposed development, adjacent developments, and uses and the subject critical area.
 - iii. The buffer may be increased where a larger buffer is necessary to prevent risk of damage to proposed and existing development.
 - c. Alterations. Alterations of an erosion or landslide hazard area and/or buffer may only occur for activities for which a geologic hazard assessment is submitted and certifies that:
 - i. The development will not increase surface water discharge or sedimentation to adjacent properties beyond pre-development conditions;
 - ii. The development will not decrease slope stability on adjacent properties; and
 - iii. Such alterations will not adversely impact other critical areas.
 - d. Design Standards. Development within an erosion or landslide hazard area and/or buffer shall be designed to meet the following basic requirements unless it can be demonstrated that an alternative design that deviates from one or more of these standards provides greater

long-term slope stability while meeting all other provisions of this chapter. The requirement for long-term slope stability shall exclude designs that require regular and periodic maintenance to maintain their level of function. The basic development design standards are:

- i. Structures and improvements shall be clustered to avoid geologically hazardous areas and other critical areas.
 - ii. 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.
 - iii. Structures and improvements shall be located to preserve the most critical portion of the site and its natural landforms and vegetation.
 - iv. The proposed development shall not result in greater risk or a need for increased buffers on neighboring properties.
 - v. The use of retaining walls that allow the maintenance of existing natural slope area is preferred over graded artificial slopes.
 - vi. Development shall be designed to minimize impervious lot coverage.
- e. **Vegetation Retention.** Unless otherwise provided or as part of an approved alteration, removal of vegetation from an erosion or landslide hazard area or related buffer shall be prohibited.
- f. **Seasonal Restriction.** Clearing shall be allowed only from May 1 to October 1 of each year provided that the city may extend or shorten the dry season on a case-by-case basis depending on actual weather conditions, except that timber harvest, not including brush clearing or stump removal, may be allowed pursuant to an approved forest practice permit issued by the city or the Washington State Department of Natural Resources.
- g. **Utility Lines and Pipes.** Utility lines and pipes shall be permitted in erosion and landslide hazard areas only when the applicant demonstrates that no other practical alternative is available. The line or pipe shall be located above ground and properly anchored and/or designed so that it will continue to function in the event of an underlying slide. Stormwater conveyance shall be allowed only through a high-density polyethylene pipe with fuse-welded joints, or similar product that is technically equal or superior.
- h. **Point Discharges.** Point discharges from surface water facilities and roof drains onto or upstream from an erosion or landslide hazard area are prohibited, except if:
- i. Conveyed via continuous storm pipe downslope to a point where

there are no erosion hazards areas downstream from the discharge;

- ii. Discharged at flow durations matching predeveloped conditions, with adequate energy dissipation, into existing channels that previously conveyed stormwater runoff in the predeveloped state; or
- iii. Dispersed discharge upslope of the steep slope onto a low-gradient undisturbed buffer is demonstrated to be adequate to infiltrate all surface and stormwater runoff, and where it can be demonstrated that such discharge will not increase the saturation of the slope.

- i. Subdivisions. The division of land in landslide hazard areas and associated buffers is subject to the following:
 - i. Land that is located wholly within a landslide hazard area or its buffer may not be subdivided. Land that is located partially within a landslide hazard area or its buffer may be divided provided that each resulting lot has sufficient buildable area outside of, and will not affect, the landslide hazard or its buffer.
 - ii. Access roads and utilities may be permitted within the landslide hazard area and associated buffers if the city determines that no other feasible alternative exists.

3. Seismic and Tsunami Hazard Area Standards.

- a. All development within areas that meet the classification criteria for seismic or tsunami hazard areas shall comply with the model codes as approved and adopted by the State Building Code Council, together with any amendments or additions.

Section 15.18.060 Frequently Flooded Areas.

- A. Purpose. The purpose of the frequently flooded areas section is to minimize public and private losses due to flood conditions in specific areas.
- B. Designation. For the purpose of this section, frequently flooded areas within the city shall be classified using the following criteria:
 - 1. Those areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for the City of Ilwaco" dated August 1978, and any revisions thereto, with an accompanying Flood Insurance Rate Map (FIRM) dated February 1, 1979, and any revisions thereto, are hereby adopted by reference and declared to be a part of this chapter. The FIRM is on file at Ilwaco City Hall, 120 First Ave. N., Ilwaco, WA. The best available information for flood hazard area identification as outlined in IMC 15.16.060.B.2 shall be the basis for regulation until a new FIRM is issued that incorporates the data

utilized under IMC 15.16.060.B.2.

2. When base flood elevation data have not been provided (A and V zones) the local administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source.
- C. Development Standards. All development within frequently flooded areas shall comply with IMC 15.16, Development in flood areas, as amended, and all other applicable regulations.