

**Cosmopolis SMP Update – Revised Draft for Ecology Review  
 Draft SMP Appendix 2: Critical Areas Regulations**

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## Draft SMP Appendix 2: Critical Areas Regulations

# 1 GENERAL REGULATIONS

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## 1.01 PURPOSE

- A. This Appendix establishes regulations pertaining to the development and protection of critical areas, as required under the SMA within shoreline jurisdiction. “Critical areas” are wetland areas, critical aquifer recharge areas, frequently flooded areas, geologically hazardous areas, and fish and wildlife habitat conservation areas.
- B. The purpose of the Appendix is to protect the environmentally sensitive resources within the shoreline jurisdiction of the city by establishing minimum standards for development of properties that contain or border environmentally sensitive features and thus protect the public health, safety, and welfare concerning critical areas. These standards serve to preclude land uses and developments which are incompatible with critical areas by:
  - 1. Protecting the public from personal injury, loss of life, or property damage due to flooding, erosion, landslides, seismic events, or soil subsidence;
  - 2. Avoiding public expenditures to address improper use or improper management of critical areas;
  - 3. Preventing degradation of the natural environment;
  - 4. Protecting unique, fragile, and valuable elements of the environment;
  - 5. Including the BAS in developing policies and development regulations to protect the functions and values of critical areas;
  - 6. Giving special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries;
  - 7. Protecting the local renewable resources that the city’s economy is heavily dependent on through conservation and protective measures;
  - 8. Alerting property owners, potential buyers or lessees, and others to the existence of and the development limitations of critical areas; and
  - 9. Providing city officials with sufficient information to protect critical areas when approving, conditioning, or denying public or private development proposals.

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- C. This Appendix is intended to protect critical areas in accordance with the SMA and through the application of the BAS, and in consultation with state and federal agencies and other qualified professionals.
- D. This Appendix will be administered with flexibility and attention to site-specific characteristics. It is not the intent of the city to make property unusable or to prevent the provision of public facilities and services necessary to support existing development and planned for by the community.

### 1.02 APPLICABILITY

This Appendix establishes designations and regulations for the protection of all properties that are critical areas within the shoreline jurisdiction. Properties classified as critical areas are those so designated on the resource maps referenced in this Appendix, or by separate studies, which indicate that all or portions of a particular area or specific site are environmentally sensitive or critical areas. A site-specific analysis that indicates that any element regulated by this Appendix is present will result in the classification of a property as an environmentally sensitive critical area. Land uses or developments proposed on or adjacent to sites which are critical areas shall comply with the provisions of this Appendix.

### 1.03 BEST AVAILABLE SCIENCE

- A. Critical area reports and decisions to alter critical areas shall rely on the applicable BAS and must consider conservation or protection measures necessary to preserve or enhance anadromous fish, such as salmon and bull trout, and their habitat.
- B. The BAS is the scientific information applicable to the critical area prepared by local, state, or federal natural resource agencies, a qualified scientific professional, or a team of qualified scientific professionals that is consistent with criteria established in WAC 365-195-900 through WAC 365-195-925.
- C. Where there is an absence of valid scientific information or incomplete scientific information relating to a critical area, leading to uncertainty about the risk to critical area function of permitting an alteration of or impact to the critical area, the city shall:
  - 1. Take a precautionary or a no-risk approach that strictly limits development and land use activities until the uncertainty is sufficiently resolved; and

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2. Require an effective adaptive management program that relies on scientific methods to evaluate how well regulatory and non-regulatory actions protect the critical area.

### 1.04 CRITICAL AREA MAPS

Maps referenced in this Appendix for designation of critical areas are resources for the identification of the probable location, extent, and classification of critical areas. The Shoreline Administrator may use such information as a basis for applying the provisions of this Appendix, including requiring field investigation and special reports. In the event of a conflict between information contained in the critical area maps and information resulting from a field investigation, the latter shall prevail.

**Comment [BM1]: AHBL Comment:** There are no adopted critical areas maps for the City of Cosmopolis. There are maps that show critical areas in the Hazard Mitigation Plan (2010) and the SMP map folio.

### 1.05 MULTIPLE CRITICAL AREAS DESIGNATIONS

Where any parcel contains more than one critical area, the development standards for each category of critical area must be met. Where there is conflict between development standards for critical area categories, the most restrictive standards shall apply.

### 1.06 PERMITTED USES

- A. Each use permitted on properties classified as critical areas within the shoreline jurisdiction shall be evaluated in accordance with the review process specified in SMP Chapter 7: Shoreline Administration, in conjunction with the requirements of this Appendix, as well as state and federal regulations.
- B. Altering critical areas or buffers related to wetlands, streams, and geological hazard areas is prohibited except when:
  1. Alteration is approved pursuant to the shoreline variance provisions of SMP Section 7.04.03;
  2. Modifications, such as buffer averaging, are approved pursuant to Section 2.07 of this Appendix; or

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3. Alteration is necessary to accommodate an essential public facility or public utility where no feasible alternative location will accommodate the facility and the facility is located, designed, and constructed to minimize, mitigate, and where possible avoid critical area disturbance to the maximum extent feasible.
- C. Land that is located wholly within a critical area or buffer may not be subdivided for purposes of creating buildable parcels. Land that is located partially within a critical area or its buffer may be divided if each resulting lot has sufficient buildable area outside of the critical area or buffer with provision for drainage, erosion control, vegetation maintenance, and related features that will not adversely affect the critical area or its buffer.

#### **1.07 ALLOWED ACTIVITIES**

In critical areas, the following actions and activities are allowed as actions with negligible effects on the resource and ecological functions. These actions and activities are subject to the standards and criteria provided, and subject to review and approval processes. These actions may still require a shoreline permit.

- A. Emergency actions are those activities necessary to prevent an immediate threat to life, to public health, safety, or welfare, or that pose an immediate risk of damage to private structures or improvements and that require remedial or preventative action in a timeframe too short to allow for compliance with the procedural requirements of this Appendix.
  1. Emergency actions that create an impact on a critical area or its buffer shall be limited to those actions that are required to address the emergency and generally are limited to the actions necessary to remove the immediate threat. Additional actions to address a deficiency permanently generally do not qualify as emergency actions and require full compliance with the procedural requirements of this Appendix. Emergency actions also must be carried out in a manner that has the least probable impact on the critical area or its buffer.
  2. The person or agency undertaking emergency action shall notify the Shoreline Administrator within one working day following commencement of the emergency activity. Within 14 days, the Shoreline Administrator shall determine if the action taken was within the scope of the emergency actions allowed in this section. If the Shoreline Administrator determines that the action taken, or any part of the action

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taken, was beyond the scope of an allowed emergency action, then the enforcement provisions of SMP Section 7.08: Enforcement and Penalties shall apply.

3. After the emergency, the person or agency undertaking the action shall submit a critical area report to assess effects on critical areas 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 all approvals required by this Appendix. Restoration and/or mitigation activities must be initiated within 60 days of the date of the emergency, unless an extension is approved by the Shoreline Administrator, and completed in a timely manner.
- B. Maintenance, operation, and/or repair of existing developed rights-of-way, trails, roads, utilities, buildings, and other facilities within critical areas and buffers, provided that the activity does not further alter, impact, or encroach upon the critical area or buffer or further affect the functions of critical areas, and there is no increased risk to life or property as a result of the proposed operation, maintenance, or repair and provided further that:
1. Prior to undertaking such actions, the applicant shall submit a written description of the maintenance activity to the Shoreline Administrator with all of the following general information:
    - a. Type, timing, frequency, and sequence of maintenance activity to be conducted;
    - b. Type of equipment to be used (hand or mechanical);
    - c. Manner in which the equipment will be used; and
    - d. BMPs to be used.
- C. Maintenance of existing, lawfully established landscaping and gardens within a regulated critical area or its buffer, including but not limited to, mowing lawns, weeding, removal of noxious and invasive species, harvesting and replanting of garden crops, pruning and planting of ornamental vegetation or indigenous native species to maintain the condition and appearance of such areas as they existed prior to adoption of this code, provided that native growth protection areas, mitigation sites, or other areas protected via conservation easements or similar restrictive covenants are not covered by this exception.
- D. Maintenance, repair, or replacement of an existing non-conforming structure pursuant to SMP Section 7.07: Non-Conforming Development that does not further alter or

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increase the impact to the critical area or buffer and results in no increased risk to life or property as a result of the proposed modification or replacement.

- E. Replacement, modification, installation, or construction of utility facilities, lines, pipes, mains, equipment, or appurtenances, not including substations, when such facilities are located within the existing improved portion of the public right-of-way (road surface, shoulder, sidewalks, and fill slopes) or the improved portion of city authorized private roadway provided that no fill or discharge occurs outside the existing improved area and with appropriate BMPs to control erosion, sedimentation and other potential impacts. This excludes all work within a water body or wetland, including but not limited to culverts or bridge replacement or construction.
- F. Utility projects that have minor or short-duration impacts to critical areas and buffers, as determined by the Shoreline Administrator in accordance with the criteria below, and which do not significantly impact the functions or values of a critical area(s), provided that such projects are constructed with BMPs and appropriate restoration measures are provided. These activities shall not result in the transport of sediment or increased stormwater. Such allowed minor utility projects shall meet the following criteria:
  - 1. There is no practical alternative to the proposed activity with less impact on critical areas;
  - 2. The activity involves the placement of a utility pole, street signs, anchor, or vault or other small component of a utility facility; and
  - 3. The activity involves disturbance of less than 75 square feet.
- G. Low impact activities such as hiking, canoeing, nature study, photography, fishing, education, or scientific research.
- H. Vegetation removal subject to the requirements of SMP Section 4.04: Critical Areas and Shoreline Vegetation Conservation.
- I. Measures to control a fire or halt the spread of disease or damaging insects consistent with the FPA, if the removed vegetation shall be replaced in-kind or with similar native species within one year in accordance with an approved restoration plan.
- J. Minor site investigative 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, removal of native trees or shrubs, or displacement of more than five cubic yards of material. Investigations involving displacement of more than five cubic yards of material, including geotechnical soil borings, groundwater monitoring

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wells, percolation tests, and similar activities, shall require submittal of specific plans and restoration plans. In every case, impacts to the critical area shall be minimized and disturbed areas shall be immediately restored.

- K. Activities undertaken to comply with an EPA superfund related order, or an Ecology order pursuant to the Model Toxics Control Act that specifically preempts local regulations in the findings of the order.
- L. Project and facilities for restoration and enhancement of ecological functions of critical areas and related resources may be allowed within critical areas and buffers, upon approval of a restoration and mitigation plan in accordance with the provisions of this Appendix, or for restoration of enhancement programs in an adopted Shoreline Restoration Plan pursuant to Chapter 173-26 WAC, a watershed planning document prepared and adopted pursuant to Chapter 90.82 RCW, a watershed restoration project pursuant to RCW 89.08.460, a Salmonid Recovery Plan, the Salmon Recovery Board Habitat Project List, or identified by the WDFW as essential for fish and wildlife habitat enhancement pursuant to RCW 77.55.290.

#### **1.08 BUILDING SETBACKS**

- A. Buildings and other structures shall be set back a sufficient distance to assure that disturbance to critical area vegetation and soils is avoided during construction, maintenance, and use.
- B. Buildings and other structures shall be set back a distance of fifteen feet from the edges of all critical area buffers or from the edges of all critical areas if no buffers are required.
- C. If slopes adjacent to the buffer for wetlands or water bodies exceed 15 percent, including slopes created by grading, a swale sufficient to intercept surface water movement shall be installed outside the edge of the buffer.
- D. The following facilities and uses are allowed in the building setback:
  - 1. Landscaping, including rockeries not over 42 inches high, provided construction does not alter the buffer or critical area;
  - 2. Uncovered decks, platforms, porches, and similar projections not over 42 inches high;

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3. Building eaves, cornices, chimneys, and similar projections in compliance with CMC 18.56.020: Architectural Features;
4. Impervious surfaces such as driveways, parking lots, roads, and patios provided that such surfaces conform to applicable water quality standards and that construction equipment does not enter the buffer or critical area; and
5. Clearing and grading consisting of not over 42 inches of cut or fill.

#### **1.09 PRELIMINARY CONSULTATION AND PROCESSING**

- A. When an application for a shoreline permit is submitted according to the process established in SMP Chapter 7: Shoreline Administration, the Shoreline Administrator will conduct a preliminary site inspection to confirm the presence or absence of a potential critical area on or adjacent to the property to be developed. Within 15 business days of the receipt of any such application, the city shall notify the applicant in writing of the possible presence of a critical area and provide consultation, if requested, regarding additional data requirements or methods of compliance with this Appendix, including submittal of a critical area study.
- B. The Shoreline Administrator shall perform a critical area review for any application for a development proposal on a site that includes one or more critical areas or that affects critical areas on adjacent lands within the shoreline jurisdiction. The Shoreline Administrator shall verify the information submitted by the applicant to:
  1. Confirm the nature and type of the critical areas and associated buffers;
  2. Evaluate the need for critical area studies or the adequacy of any such studies submitted with the application;
  3. Determine whether the development proposal is consistent with these critical area regulations;
  4. Determine whether proposed alterations to critical areas are necessary; and
  5. Determine if the mitigation and monitoring plans and bonding measures proposed by the applicant are sufficient to protect the public health, safety, and welfare consistent with the goals, purposes, objectives, and requirements of the SMP.

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### 1.10 CRITICAL AREA STUDIES

An applicant for a development proposal that could impact critical areas or buffers shall submit such studies prepared by a qualified professional, as defined in SMP Chapter 8: Definitions, as are required by the Shoreline Administrator to evaluate the proposal and all probable impacts adequately. The applicant shall pay for such studies.

- A. The Shoreline Administrator may waive the requirement for a critical area study if there is a substantial evidence that all of the following requirements will be met:
  - 1. The boundaries of the critical area and associated buffers can be reliably determined without a technical study;
  - 2. There will be no alteration of the critical area or required buffer;
  - 3. The development proposal will not impact critical areas in a manner contrary to the goals, purposes, objectives and requirements of this Appendix; and
  - 4. The criteria and standards required by this Appendix are met.

A summary of this analysis and the findings shall be included in any decision on the underlying permit.

- B. The contents of the critical area study are specified in the following sections of this Appendix. The Shoreline Administrator may require such supplements or amendments to the study as necessary to develop a reasonably comprehensive understanding of the site conditions, potential impacts, and required mitigation.
- C. Based on a review of the information contained in the critical area study and the conditions of the development proposal site, the Shoreline Administrator may require independent review of any such study. A qualified professional selected by the city and paid by the applicant shall perform this independent review. The purpose of such independent review is to assist the city in evaluating the effects on critical areas that may be caused by a development proposal and to facilitate the decision making process.

### 1.11 MITIGATION

- A. Mitigation measures shall be implemented to protect critical areas and buffers from alterations occurring on all or portions of a site being developed. Except for wetlands, which are subject only to SMP Appendix 2: Section 2.09: Mitigation Requirements, the

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mitigation measures required below shall be implemented in conjunction with other applicable mitigation requirements outlined in the subsequent sections of this Appendix.

- B. For purposes of this Appendix, mitigation means the use of the following actions that are listed in descending order of preference:
1. Avoiding the impact all together by not taking a certain action or parts of an action;
  2. Minimizing impact by limiting the degree or magnitude of the action and its implementation by using appropriate technology, or by taking affirmative steps to avoid or reduce impact;
  3. Rectifying the impact by repairing, rehabilitating, or restoring the critical areas;
  4. Reducing or eliminating the impact over time by prevention and maintenance operations;
  5. Compensating for the impact by replacing, enhancing or providing substitute areas and environments and replacing the ecological processes and functions of the resource; and

Monitoring the impact and taking appropriate corrective measures.

- C. Compensatory mitigation shall be provided on-site or off-site in the location that will provide the greatest ecological benefit and have the greatest likelihood of success. Off-site mitigation is preferred to be as close as possible to the impact area and within the same watershed sub-basin as the permitted alteration.
- D. A mitigation plan shall be required for the design, implementation, maintenance, and monitoring of mitigation. A plan shall provide the following, in addition to criteria for the specific critical areas provided below for individual critical areas:
1. A description and evaluation of any critical areas that could be altered by the proposed development, including evaluation of ecological processes and functions based on the BAS and detailed field assessment of the affected resources;
  2. A description and scaled drawings of the proposed mitigation activities including, but not limited to, clearing, grading/excavation, drainage alterations, planting, invasive plant management, installation of habitat structures, irrigation, and other site treatments;

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3. A description of the ecological functions and values that the proposed alteration may affect and of the specific ecological functions and values the proposed mitigation area(s) shall provide;
  4. A description of required or recommended mitigation ratios and an assessment of factors that may affect the success of the mitigation program;
  5. Specific measurable performance standards that the proposed mitigation action(s) shall achieve together with a description of how the mitigation action(s) will be evaluated and monitored to determine if the performance standards are being met;
  6. A description of potential courses of action, and any corrective measures to be taken if monitoring or evaluation indicates that project performance standards are not being met; and
  7. Cost estimates for the installation of the mitigation program, monitoring, and maintenance as well as for corrective action if mitigation performance standards are not met.
- E. A performance assurance shall be provided to guarantee installation, monitoring, and performance of mitigation actions.
1. Performance Surety: The applicant shall post a cash performance bond, letter of credit, or other security acceptable to the city in the amount of one hundred and twenty-five percent (125%) of the estimated cost of the uncompleted actions or the estimated cost of restoring the functions and values of the critical area that are at risk, whichever is greater. The surety shall be based on an itemized cost estimate of the mitigation activity including clearing and grading, plant materials, plant installation, irrigation, weed management, monitoring, and other costs. The conditions of the surety shall be consistent with the purposes of this Appendix and the conditions to be fulfilled. In the event of a breach of any condition of any such bond, the city may institute an action in a court of competent jurisdiction upon such bond and prosecute the same to judgment and execution. The city shall release the bond upon determining that:
    - a. All activities, including any required compensatory mitigation, have been completed in compliance with the terms and conditions of the permit and the requirements of this Appendix; and
    - b. Upon the posting by the applicant of a maintenance surety.

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2. Maintenance Surety: The city shall require the holder of a development permit issued pursuant to this Appendix to post a cash performance bond, letter of credit, or other security acceptable to the city in an amount and with surety and conditions sufficient to guarantee that structures, improvements and mitigation required by the permit of by this Appendix perform satisfactorily, generally for a period of five years after they have been completed. The city shall release the maintenance bond upon determining that the performance standards that were established for evaluating the effectiveness and success of the structures, improvements, and/or compensatory mitigation have been satisfactorily met for the required period. For compensation projects, the performance standards shall be those contained in the mitigation plan developed and approved during the permit review process. The maintenance bond applicable to a compensation project shall not be released until the city determines that performance standards established for evaluating the effect and success of the project have been met. The Shoreline Administrator may return up to 50 percent of the surety following the first year of monitoring if the year 1 performance standards are met and the risk of subsequent failure is considered low.
3. Depletion, failure, or collection of surety funds shall not discharge the obligation of an applicant or violator to complete required mitigation, maintenance, or monitoring.
4. Public development proposals may be relieved from having to comply with the surety requirements of this section if public funds have been committed through a budget process with final approval for mitigation, maintenance, or monitoring.

#### **1.12 NOTICE ON TITLE**

- A. The owner of any property containing critical areas in the shoreline jurisdiction on which a development proposal is approved shall file with the Grays Harbor Auditor a notice in a format approved by the Shoreline Administrator. A copy of the filed notice shall be provided by the owner to the Shoreline Administrator unless notice is provided on a plat as provided in SMP Appendix 2: Section 1.12(B), below. The notice shall:
  1. State the presence of the critical area and/or buffer area on the property, and identify that there are limitations and restrictions on uses and actions in or affecting the critical area and/or buffer imposed by the provisions of this Appendix and specific conditions of approval. The notice shall indicate that the restrictions run

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with the land and they may be altered only in conjunction with an amendment of specific conditions of approval as provided by the SMP.

2. Provide that management of the critical area is required to include, but is not limited to, maintenance or replacement of vegetation to assure the long-term viability of a community of native vegetation, control of invasive plant control, and fulfillment of other conditions of approval.
  3. Provide for the right of the public, and specifically the city, to enforce the terms of the restrictions through civil infraction or other legal address.
  4. If a site plan has been approved indicating the extent of the critical area and buffer and permit conditions, a copy of the site plan together with relevant survey information and permit conditions shall be included in the notice filed.
- B. Restrictions on use and development of critical areas buffers and setback areas on plats and short plats shall include the information in SMP Appendix 2: Section 1.12(A), above, shall designate the party responsible for maintenance of the critical area, if other than the property owner, and shall place critical areas in tracts or easements as provided below:
1. Designation of separate tracts for critical areas and buffers shall be the preferred method of designation and protection of critical areas in plats to provide for integrated management of the critical area and buffer separately from lots. The tract may be:
    - a. Held in an undivided interest by each owner of a building lot within the development, the ownership of which shall pass with the ownership of the lot. Responsibility for meeting all requirements of preservation and management shall be designated to an incorporated homeowner's association or other legal entity that assures the ownership and protection of the critical area.
    - b. Dedicated to the city or other governmental entity qualified to own and manage open space.
    - c. Conveyed to a non-profit land trust, provided the land may not be thereafter transferred to a private party, and provided that if the land trust is dissolved or otherwise fails to perform its functions, ownership and responsibility for management shall devolve to an undivided interest by each owner of a building lot within the development, as provided in SMP Appendix 2 Section 1.12(B)(1)(a) above.

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2. The Shoreline Administrator may allow a critical area and buffer to be placed within a protective easement on a parcel with the responsibility for meeting all requirements of preservation and management placed on the owner of the parcel over which the easement is placed. This means of designation shall be used in cases where the size and the ecological functions of the critical area do not require coordinated management or where formation of an incorporated homeowner's association or other legal entity for management is found to be impractical because of the limited number of lots, or where ownership and management by the city, a qualified special district or a land trust is found to be impractical. This alternative generally will be limited to critical areas and buffers of less than 20,000 square feet and developments of fewer than ten parcels, or commercial or multi-family development.
- C. This notice on title shall not be required for a development proposal by a public agency or public or private utility within a right-of-way or easement for which they do not have fee-simple title.
- D. The applicant shall submit proof that the notice, dedication, or easement has been filed for public recording before the city shall approve any final plat or final site plan for such site. The notice shall run with the land and failure to provide such notice to any purchaser prior to transferring any interest in the property shall be a violation of this section.
- E. SMP Section 7.08: Enforcement and Penalties are applicable to enforcement to the provisions of this Appendix.

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## 2 WETLANDS

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### 2.01 PURPOSE

The city shall regulate development activities to protect wetlands. Development activities shall be managed in a manner that does not significantly diminish the capacity of wetlands to perform the following:

- A. Provide flood and stormwater control;
- B. Recharge the aquifer;
- C. Protect surface and groundwater quality by trapping sediments, removing nutrients, and providing chemical detoxification; and
- D. Provide habitat for fish and wildlife including listed endangered and threatened species.

### 2.02 BEST AVAILABLE SCIENCE

The city adopts by reference the following as current BAS resources for wetlands in the city:

- A. U.S. Army Corps of Engineers. (1987 or as amended). Wetlands Delineation Manual.
- B. U.S. Army Corps of Engineers. (May 2010). Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region (Version 2.0) or as amended.
- C. USDA. (1986). Soil Survey of Grays Harbor County Area, Pacific County, and Wahkiakum County, Washington.
- D. Washington Department of Ecology. (2014). Washington State Wetland Rating System for Western Washington: 2014 Update. Ecology Publication No. 14-06-029, as revised.
- E. Washington Department of Ecology. (April 2005). Wetlands in Washington State, Volume 2: Guidance for Protecting and Managing Wetlands. Ecology Publication No. 05-06-008.
- F. Washington Department of Ecology. (March 2005). Wetlands in Washington State, Volume 1: A Synthesis of the Science. Ecology Publication No. 05-06-006.

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- G. Washington Department of Ecology, U.S. Army Corps of Engineers Seattle District, and U.S. Environmental Protection Agency Region 10. (March 2006). Wetland Mitigation in Washington State – Part 1: Agency Policies and Guidance (Version 1). Ecology Publication No. 06-06-011a.
- H. Washington Department of Ecology, U.S. Army Corps of Engineers Seattle District, and U.S. Environmental Protection Agency Region 10. (March 2006). Wetland Mitigation in Washington State: Part 2 – Developing Mitigation Plans (Version 1). Ecology Publication No. 06-06-011b.

#### **2.03 WETLAND IDENTIFICATION AND DELINEATION**

Identification of wetlands and delineation of their boundaries pursuant to this Appendix shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements. All areas within the shoreline jurisdiction of the city meeting the wetland designation criteria in that procedure are designated critical areas and are subject to the provisions of this Appendix. Wetland delineations are valid for five years; after such date, the city shall determine whether a revision or additional assessment is necessary.

#### **2.04 WETLAND RATING**

- A. Wetlands shall be rated in accordance with *Washington State Wetland Rating System for Western Washington: 2014 Update*, 2014, Ecology Publication No. 14-06-029, as revised and approved by Ecology, which contains the definitions and methods for determining whether the criteria below are met.
  - 1. Category I Wetlands. Category I wetlands are those that 1) represent a unique or rare wetland type; or 2) are more sensitive to disturbance than most wetlands; or 3) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or 4) provide a high level of functions. Category I wetlands are those wetlands of exceptional value in terms of protecting water quality, storing flood and stormwater, and/or providing habitat for wildlife as indicated by their special characteristics and/or a total rating system score of 23 to 27 points or more on the Ecology rating forms. These wetland communities of infrequent occurrence often provide documented habitat for sensitive, threatened

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or endangered species, and/or have other attributes that are very difficult or impossible to replace if altered.

2. Category II Wetlands. Category II wetlands are difficult, though not impossible, to replace, and provide high levels of some functions. These wetlands occur more commonly than Category I wetlands, but still need a relatively high level of protection. Category II wetlands have significant value based on their function as indicated by their special characteristics and/or a total rating system score of between 20 and 22 points on the Ecology rating forms. They do not meet the criteria for Category I rating but occur infrequently and have qualities that are difficult to replace if altered.
  3. Category III Wetlands. Category III wetlands are 1) wetlands with a moderate level of functions (scores between 16-19 points), and 2) can often be adequately replaced with a well-planned mitigation project. Wetlands scoring between 16-19 points generally have been disturbed in some ways, and are often less diverse or more isolated from other natural resources in the landscape than Category II wetlands.
  4. Category IV Wetlands. Category IV wetlands have the lowest levels of functions (scores fewer than 16 points) and are often heavily disturbed. These wetlands should be replaced, and in some cases improved. However, experience has shown that replacement cannot be guaranteed in any specific case. These wetlands may provide some important functions, and need to be protected. They typically have vegetation of similar age and class, lack special habitat features, and/or are isolated or disconnected from other aquatic systems or high quality upland habitats.
- B. Wetland rating categories shall not change due to illegal modifications made by the applicant or with the applicant's knowledge.

#### 2.05 REGULATED ACTIVITIES

- A. For any regulated activity, a critical areas report as defined in SMP Appendix 2: Chapter 2.08: Critical Area Report for Wetlands may be required to support the requested activity.
- B. The following activities are regulated if they occur in a regulated wetland or its buffer:

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1. The removal, excavation, grading, or dredging of soil, sand, gravel, minerals, organic matter, or material of any kind;
2. The dumping of, discharging of, or filling with any material;
3. The draining, flooding, or disturbing of the water level or water table;
4. Pile driving;
5. The placing of obstructions;
6. The construction, reconstruction, demolition, or expansion of any structure;
7. 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;
8. 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; and
9. Activities that result in:
  - a. A significant change of water temperature;
  - b. A significant change of physical or chemical characteristics of the sources of water to the wetland;
  - c. A significant change in the quantity, timing, or duration of the water entering the wetland; or
  - d. The introduction of pollutants.

#### **2.06 EXEMPTIONS AND ALLOWED USES IN WETLANDS**

- A. The following types of wetlands are exempt from the buffer provisions contained in this Appendix and the normal mitigation sequencing process in SMP Appendix 2: Section 2.09: Mitigation Requirements. These wetlands may be filled if impacts are fully mitigated based on provisions in SMP Appendix 2: Section 2.09: Mitigation Requirements. In order to verify the following conditions, a critical area report for wetlands meeting the requirements in SMP Appendix 2: Section 2.08: Critical Areas Reports for Wetlands must be submitted.

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1. All isolated Category III and IV wetlands less than 1,000 square feet that:
  - a. Are not associated with riparian areas or buffers;
  - b. Are not part of a wetland mosaic; and
  - c. Do not contain habitat identified as essential for local populations of priority species identified by the WDFW or species of local importance identified in SMP Appendix 2: Section 6.03: Applicability.
- B. The activities listed below are allowed in wetlands. These activities do not require submission of a critical area report, except where such activities result in a loss of the functions and values of a wetland or wetland buffer. These activities include:
  1. Those activities and uses conducted pursuant to the FPA and its rules and regulations where state law specifically exempts local authority, except those developments requiring local approval for Class IV – General Forest Practice Permits (conversions) as defined in RCW 76.09 and WAC 222-12.
  2. 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.
  3. 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.
  4. Drilling for utilities/utility corridors under a wetland, with entrance/exit portals located completely outside of the wetland buffer, if the drilling does not interrupt the ground water 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 ground water connection to the wetland or percolation of surface water down through the soil column will be disturbed.
  5. 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.

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Re-vegetation with appropriate native species at natural densities is allowed in conjunction with removal of invasive plant species.

6. Educational and scientific research activities.
7. Normal and routine maintenance and repair of any existing public or private facilities within an existing developed right-of-way, if the maintenance or repair does not expand the footprint of the facility or right-of-way.

#### **2.07 WETLAND BUFFERS**

- A. A wetland buffer that separates a wetland from a development is required. The purpose of the buffer is to mitigate adverse impacts of development activities and future use on the wetland. The width and character of buffers shall be as necessary to protect the identified functions and values of the wetland from impacts associated with the specific type and character of the proposed development activities and use of the property in accordance with the BAS.
- B. The standard wetland buffer widths in SMP Appendix 2: Table 2-1: Wetland Buffer Requirements have been established in accordance with the BAS. They are based on the category of wetland and the habitat score as determined by a qualified wetland professional using the Washington State wetland rating system for Western Washington.
  1. The use of the standard buffer widths requires the implementation of the measures in SMP Appendix 2: Table 2-2: Required Measures to Minimize Impacts to Wetlands, where applicable, to minimize the impacts of the adjacent land uses.
  2. If an applicant chooses not to apply the mitigation measures in SMP Appendix 2: Table 2-2: Required Measures to Minimize Impacts to Wetlands, then a 33 percent increase in the width of all buffers is required. For example, a 75-foot buffer with the mitigation measures would be a 100-foot buffer without them.
  3. 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 be planted to create the appropriate plant community, or the buffer should be widened to ensure that adequate functions of the buffer are provided.

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4. Additional buffer widths are added to the standard buffer widths. For example, a Category I wetland scoring 8 points for habitat function would require a buffer of 225 feet (75 feet (Standard Buffer) + 150 feet (Additional Buffer Width if Wetland Scores 8-9 Habitat Points)).

**SMP Appendix 2: Table 2-1: Wetland Buffer Requirements**

Wetland Category	Standard Buffer Width (3-4 Habitat Points)	Additional Buffer Width if Wetland Scores 5 Habitat Points	Additional Buffer Width if Wetland Scores 6-7 Habitat Points	Additional Buffer Width if Wetland Scores 8-9 Habitat Points
<b>Category I:</b>				
Based on total score	75 feet	Add 30 feet	Add 90 feet	Add 150 feet
Bogs and Wetlands of High Conservation Value	190 feet			Add 35 feet
Forested	75 feet	Add 30 feet	Add 90 feet	Add 150 feet
<b>Category II:</b>				
Based on score	75 feet	Add 30 feet	Add 90 feet	Add 150 feet
<b>Category III (all)</b>	60 feet	Add 45 feet	Add 105 feet	Add 165 feet
<b>Category IV (all)</b>	40 feet (habitat scores not applicable)			

**SMP Appendix 2: Table 2-2: Required Measures to Minimize Impacts to Wetlands**

Disturbance	Required Measures to Minimize Impacts (1)
Lights	<ul style="list-style-type: none"> <li>• Direct lights away from wetland</li> </ul>
Noise	<ul style="list-style-type: none"> <li>• Locate activity that generates noise away from wetland</li> <li>• If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source</li> <li>• For activities that generate relatively continuous, potentially disruptive noise, such as certain heavy industry or mining, establish an additional 10 foot heavily vegetated buffer strip immediately adjacent to the outer wetland buffer</li> </ul>
Toxic runoff	<ul style="list-style-type: none"> <li>• Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered</li> </ul>

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Disturbance	Required Measures to Minimize Impacts (1)
	<ul style="list-style-type: none"> <li>Establish covenants limiting use of pesticides within 150 feet of wetland</li> <li>Apply integrated pest management</li> </ul>
Stormwater runoff	<ul style="list-style-type: none"> <li>Retrofit stormwater detention and treatment for roads and existing adjacent development</li> <li>Prevent channelized flow from lawns that directly enters the buffer</li> <li>Use Low Intensity Development techniques</li> </ul>
Change in water regime	<ul style="list-style-type: none"> <li>Infiltrate or treat, detain, and disperse into buffer new runoff from impermeable surfaces and new lawns</li> </ul>
Pets and human disturbance	<ul style="list-style-type: none"> <li>Use privacy fencing or plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion</li> <li>Place wetland and its buffer in a separate tract or protect with a conservation easement</li> </ul>
Dust	<ul style="list-style-type: none"> <li>Use BMPs to control dust</li> </ul>
Disruption of corridors or connections	<ul style="list-style-type: none"> <li>Maintain connections to offsite areas that are undisturbed</li> <li>Restore corridors or connections to offsite habitats by replanting</li> </ul>

**Note:**

(1) Measures are required, where applicable to a specific proposal

5. Increased Wetland Buffer Area Width. Buffer widths shall be increased on a case-by-case basis as determined by the Shoreline Administrator when a larger wetland 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

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- c. The adjacent land has minimal vegetative cover or slopes greater than 30 percent.
6. Buffer averaging following the procedure in SMP Section 4.04.02(C) may be permitted when all of the following conditions are met:
  - a. The wetland has significant differences in characteristics that affect its habitat functions, such as a wetland with a forested component adjacent to a degraded emergent component or a “dual-rated” wetland with a Category I area adjacent to a lower-rated area;
  - 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 areas report from a qualified wetland professional;
  - c. The total area of the buffer after averaging is equal to the area required without averaging; and
  - d. Either the buffer at its narrowest point is never less than  $\frac{3}{4}$  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.
- C. Measurement of Wetland Buffers. All wetland buffers shall be measured perpendicular from the wetland boundary as surveyed in the field. The buffer for a wetland created, restored, or enhanced as compensation for approved wetland alterations shall be the same as the buffer required for the category of the created, restored, or enhanced wetland. 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.
- D. Buffers on Mitigation Sites. All mitigation sites shall have buffers consistent with the buffer requirements of this section. Buffers shall be based on the expected or target category of the proposed wetland mitigation site.
- E. Buffer Maintenance. Except as otherwise specified, or allowed in accordance with this section, 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.
- F. Impacts to Buffers. Requirements for the compensation for impacts to buffers are outlined in SMP Appendix 2: Section 2.09: Mitigation Requirements.

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- G. Overlapping Critical Area Buffers. If buffers for two contiguous critical areas overlap, such as buffers for a shoreline and a wetland, the wider buffer applies.
- H. Allowed Wetland Buffer Uses. The following uses may be allowed within a wetland buffer in accordance with the review procedures of this section, provided they are not prohibited by any other applicable law and they are conducted in a manner so as to minimize impacts to the wetland buffer and adjacent wetland:
1. Conservation or restoration activities aimed at protecting the soil, water, vegetation, or wildlife.
  2. Passive recreation facilities designed and in accordance with an approved critical area report, including:
    - a. Walkways and trails provided that those 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 permeable surfaces no more than five feet in width for pedestrian use only. Raised boardwalks utilizing non-treated pilings may be acceptable.
    - b. Wildlife-viewing structures.
  3. Educational and scientific research activities.
  4. Normal and routine maintenance and repair of any existing public or private facilities within an existing right-of-way, if the maintenance or repair does not increase the footprint or use of the facility or right-of-way.
  5. 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.
  6. Drilling for utilities/utility corridors under a buffer, with entrance/exit portals located completely outside of the wetland buffer boundary, if the drilling does not interrupt the ground water 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 ground water connection to the wetland or percolation of surface water down through the soil column is disturbed.

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7. Enhancement of a wetland buffer through the removal of non-native invasive plant species. Removal of invasive plant species shall be restricted to hand removal. All removed plant material shall be taken away from the site and disposed of properly. 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. Revegetation with appropriate native species at natural densities is allowed in conjunction with removal of invasive plant species.
8. Stormwater management facilities are limited to stormwater dispersion outfalls and bioswales. Stormwater management facilities are not allowed in buffers of Category I or II wetlands. They may be allowed within the outer twenty-five percent (25%) 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.
9. Repair and maintenance of non-conforming uses or structures, where legally established within the buffer, provided they do not increase the degree of nonconformity.
- I. Signs and Fencing of Wetlands and Buffers:
  1. Temporary markers. The outer perimeter of the wetland buffer and the clearing limits identified by an approved permit or authorization shall be marked in the field with temporary “clearing limits” fencing in such a way as to ensure that unauthorized intrusion will not occur. The marking is subject to inspection by the Shoreline Administrator prior to the commencement of permitted activities. This temporary marking shall be maintained throughout construction and shall not be removed until permanent signs, if required, are in place.
  2. Permanent signs. As a condition of any permit or authorization issued pursuant to this section, the Shoreline Administrator may require the applicant to install permanent signs along the boundary of a wetland or buffer.
    - a. 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

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be maintained by the property owner in perpetuity. The signs shall be worded as follows or with alternative language approved by the Shoreline Administrator:

### **Protected Wetland Area**

#### **Do Not Disturb**

#### **Contact the City of Cosmopolis**

#### **Regarding Uses, Restrictions, and Opportunities for Stewardship**

- b. The provisions of SMP Appendix 2 Section 2.07(1)(2)(a) may be modified as necessary to assure protection of sensitive features or wildlife.
- 3. Fencing.
  - a. Fencing installed as part of a proposed activity or as required in this section shall be designed not to interfere with species migration, including fish runs, and shall be constructed in a manner that minimizes impacts to the wetland and associated habitat.

## **2.08 CRITICAL AREA REPORT FOR WETLANDS**

- A. If the Shoreline Administrator determines that the site of a proposed development includes, is likely to include, or is adjacent to a wetland; a wetland report, prepared by a qualified professional, shall be required. The expense of preparing the wetland report shall be borne by the applicant.
- B. Minimum Standards for Wetland Reports. A wetland report consists of a written report and accompanying plan sheets:
  - 1. The written report shall include 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 wetland critical area report; a description of the proposal; identification of all the local, state, and/or federal wetland-related permit(s) required for the project; and a vicinity map for the project.

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- b. A statement specifying the accuracy of the report and all assumptions made and relied upon.
- c. Documentation of any fieldwork performed on the site, including field data sheets for delineations, rating system forms, baseline hydrologic data, etc.
- d. A description of the methodologies used to conduct the wetland delineations, rating system forms, or impact analyses including references.
- e. 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 300 feet of the project boundaries using the best available information.
- f. For each wetland identified on site and within 300 feet of the project site provide: the wetland rating, including a description of and score for each function, per Wetland Ratings (SMP Appendix 2: Section 2.04: Wetland Rating); 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.
- g. 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.
- h. An assessment of the probable cumulative impacts to the wetlands and buffers resulting from the proposed development.
- i. A description of reasonable efforts made to apply mitigation sequencing pursuant to Mitigation Sequencing (SMP Appendix 2: Section 2.09: Mitigation Requirements) to avoid, minimize, and mitigate impacts to critical areas.

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- j. 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.
  - k. A conservation strategy for habitat and native vegetation that addresses methods to protect and enhance on-site habitat and wetland functions.
  - l. An evaluation of the functions of the wetland and adjacent buffer. Include reference for the method used and data sheets.
2. A copy of the site plan sheet(s) for the project must be included with the written report and must include, at a minimum:
- a. 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).
  - b. 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.

#### 2.09 MITIGATION REQUIREMENTS

- A. Mitigation Sequencing. Before impacting any wetland or its buffer, an applicant shall demonstrate that the actions listed in SMP Appendix 2: Section 1.11 have been taken.
- B. Requirements for Compensatory Mitigation:
  1. 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).

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2. Mitigation ratios shall be consistent with SMP Appendix 2: Section 2.09(G).
- C. 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:
1. 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
  2. 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.
- D. 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:
1. Restoration (re-establishment and rehabilitation) of wetlands:
    - a. 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.
    - b. 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 size. Activities could involve breaching a dike to reconnect wetlands to a floodplain or return tidal influence to a wetland.
  2. 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 size. 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.
    - a. 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:

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- 1) 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;
  - 2) The proposed mitigation site does not contain invasive plants or noxious weeds, or that such vegetation will be completely eradicated at the site;
  - 3) 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
  - 4) The proposed wetland and buffer will eventually be self-sustaining with little or no long-term maintenance.
3. 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, floodwater 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:
- a. How the proposed enhancement will increase the wetland's/buffer's functions;
  - b. How such increase in function will adequately compensate for the impacts; and
  - c. How all other existing wetland functions at the mitigation site will be protected.
4. Preservation. Preservation of high quality, at-risk wetlands as compensation is generally acceptable when done in combination with restoration, creation, or enhancement, if 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.
5. 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:
- a. The area proposed for preservation is of high quality. The following features may be indicative of high-quality sites:

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- 1) Category I or II wetland rating (using the wetland rating system for western Washington);
  - 2) Rare wetland type (for example, bogs, mature forested wetlands, estuarine wetlands);
  - 3) The presence of habitat for priority or locally important wildlife species; and
  - 4) Priority sites in an adopted watershed plan.
- b. Wetland impacts will not have a significant adverse impact on habitat for listed fish, or other ESA listed species.
  - c. There is no net loss of habitat functions within the watershed or basin.
  - d. 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.
  - e. Permanent preservation of the wetland and buffer will be provided through a conservation easement or tract held by a land trust.
  - f. 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).
  - g. All preservation sites shall include buffer areas adequate to protect the habitat and its functions from encroachment and degradation.
- E. 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 SMP Appendix 2: Section 2.09(E)(1 – 4) below applies. 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 using alternative mitigation, such as a mitigation bank or advanced mitigation.
1. 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

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flood storage capacity, and potential to mitigate wildlife impacts (such as connectivity).

2. On-site mitigation would require elimination of high-quality upland habitat.
  3. Off-site mitigation has a greater likelihood of providing equal or improved wetland functions than the altered wetland.
  4. Off-site locations shall be in the same sub-drainage basin unless:
    - a. 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; or
    - b. 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 banking instrument.
- F. Compensatory Mitigation Project Design. 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.
- G. 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.
1. The Shoreline Administrator 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

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providing the reason 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. 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. The justification must be verified and approved by the city.

#### H. Wetland Mitigation Ratios:

**SMP Appendix 2: Table 2-3: Wetland Mitigation Ratios<sup>1</sup>**

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

- I. 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:
  1. Wetland Critical Area Report. A critical area report for wetlands must accompany or be included in the compensatory mitigation plan and include the minimum parameters described in Minimum Standards for Wetland Reports (SMP Appendix 2: Section 2.08: Critical Area Report for Wetlands).

<sup>1</sup> 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 SMP Appendix 2: Section 2.09(D)(4) for more information on using preservation as compensation.

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2. 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).
  - a. The written report must contain, at a minimum:
    - 1) 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.
    - 2) A description of how the project design has been modified to avoid, minimize, or reduce adverse impacts to wetlands.
    - 3) A 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, based on Wetland Ratings found in SMP Appendix 2: Section 2.04: Wetland Rating.
    - 4) A 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, such as how this site would progress through natural succession.
    - 5) 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.
    - 6) A description of the proposed mitigation construction activities and timing of activities.

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- 7) 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.
  - 8) 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.
  - 9) Proof of establishment of Notice on Title for the wetlands and buffers on the project site, including the compensatory mitigation areas.
- b. The scaled plan sheets for the compensatory mitigation must contain, at a minimum:
- 1) 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.
  - 2) 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 include existing cross-sections of on-site wetland areas that are proposed to be altered and cross-section (estimated one-foot intervals) for the proposed areas of wetland or buffer compensation.
  - 3) Surface and subsurface hydrologic conditions, including an analysis of existing and proposed hydrologic regimes for enhanced, created, or restored compensatory mitigation areas. Also include illustrations of how data for existing hydrologic conditions were used to determine the estimates of future hydrologic conditions.
  - 4) 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.
  - 5) 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 section.

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- 6) 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, and timing of installation.
  - 7) Performance standards in terms of measurable standards reflective of years post-installation for upland and wetland communities, monitoring schedule, and maintenance schedule and actions by each biennium.
- J. 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.
- K. Protection of the Mitigation Site. The area where the mitigation occurred and any associated buffer shall be located in a critical area tract or a conservation easement.
- L. 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. If a scrub-shrub or forested vegetation community is proposed, monitoring may be required for ten years or more. The project mitigation plan shall include monitoring elements that ensure certainty of success for the project's natural resource values and functions. If the mitigation goals are not obtained within the initial five-year period, the applicant remains responsible for restoration of the natural resource values and functions until the mitigation goals agreed to in the mitigation plan are achieved.
- M. 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.
- N. Alternative Mitigation Plans. The Shoreline Administrator may approve alternative critical areas mitigation plans that are based on the BAS, such as priority restoration plans that achieve restoration goals identified in the SMP and the Restoration Plan. 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 section.

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

1. The proposal uses a watershed approach consistent with Washington Department of Ecology, U.S. Environmental Protection Agency Region 10, U.S. Army Corps of

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Engineers, Seattle District. (December 2009). Selecting Wetland Mitigation Sites Using a Watershed Approach. Ecology Publication No. 09-06-32.

2. Creation or enhancement of a larger system of natural areas and open space is preferable to the preservation of many individual habitat areas.
3. Mitigation according to SMP Appendix 2: Section 2.09(B) is not feasible due to site constraints such as parcel size, stream type, wetland category, or geologic hazards.
4. There is clear potential for success of the proposed mitigation at the proposed mitigation site.
5. The plan shall contain clear and measurable standards for achieving compliance with the specific provisions of the plan. A monitoring plan shall meet the provisions in SMP Appendix 2: Section 2.09(H), at a minimum.
6. The plan shall be reviewed and approved as part of overall approval of the proposed use.
7. 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.
8. Mitigation guarantees shall meet the minimum requirements as outlined in SMP Appendix 2: Section 2.09(H)(2)(a)(8).
9. Professionals qualified in each of the critical areas addressed shall prepare the plan.
10. 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.

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### **3 CRITICAL AQUIFER RECHARGE AREAS**

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#### **3.01 AQUIFER RECHARGE AREAS DELINEATION AND PROTECTION**

- A. There are no identified critical aquifer recharge areas in the city of Cosmopolis. The city will enact appropriate provisions for critical aquifer recharge areas should any such areas be identified and designated in the future.

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### 4 FREQUENTLY FLOODED AREAS

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#### 4.01 PURPOSE

- A. It is the purpose of this section to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:
1. To protect human life and health;
  2. To minimize expenditures of public funds and costly flood control projects;
  3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the general public's expense;
  4. To minimize business interruptions;
  5. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard;
  6. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future areas blighted by flood damage;
  7. To ensure that potential buyers are notified that property is in an area of special flood hazard; and
  8. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

#### 4.02 BEST AVAILABLE SCIENCE

Those areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for Cosmopolis" dated November 5, 1979, with an accompanying flood insurance map(s) and any revisions thereto, are designated as frequently flooded areas. The flood insurance study and accompanying map(s) are hereby adopted by reference, declared part of this Appendix, and are available for public review.

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#### **4.03 APPLICABILITY**

All development within the designated frequently flooded areas shall be managed in accordance with CMC Chapter 18.48 – Flood Damage Prevention. The critical areas provisions related to the flood damage prevention of Ordinance # 910, dated 1989 (CMC 18.48) and the flood hazard management provisions of SMP Section 4.05 are hereby incorporated by reference.

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### 5 GEOLOGICALLY HAZARDOUS AREAS

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The following section establishes regulations for geologically hazardous areas in the city. Based on a review of available scientific and technical information, the city has concluded that no areas of the city require regulation for protection from mine hazards or volcanic hazards.

#### 5.01 PURPOSE

Geologically hazardous areas are characterized by lot slope, soil type, geologic material, and ground water which may combine to create problems with slope stability, erosion and water quality during and after construction or during natural events such as tsunamis, earthquakes, or excessive rain storms. The following regulations, in combination with the performance standards for development, will guide development in geologically hazardous areas. The purpose of these regulations is to maintain the natural integrity of hazardous areas and their buffers in order to protect adjacent lands from the impacts of landslides, subsidence, excessive erosion, and seismic events, and to safeguard the public from these threats to life or property. Construction in geologically hazardous areas should be avoided when the potential risk to public health and safety cannot be reduced to a level comparable to the risk if the site were stable.

#### 5.02 BEST AVAILABLE SCIENCE

The city adopts by reference the following maps and BAS resources for geologically hazardous areas in the city:

- A. Erosion monitoring and profiles for Cosmopolis and beaches, including historic shorelines and contemporary monitoring data and trends, available from Department of Ecology's Coastal Monitoring and Analysis Program at:  
<http://www.ecy.wa.gov/programs/sea/swces/index.htm>.
- B. Erosion monitoring and profiles for Cosmopolis and beaches, including historic shorelines and contemporary monitoring data and trends, available from Department of Ecology's Coastal Monitoring and Analysis Program at:  
<http://www.ecy.wa.gov/programs/sea/swces/index.htm>.

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- C. Manson, C. J., & Walkling, L. (1998). Tsunamis on the Pacific Coast of Washington State and Adjacent Areas—A Selected, Annotated Bibliography and Directory. Washington Division of Geology and Earth Resources Open File Report 98-4.
- D. McCrory, P. A., Foster, D. S., Danforth, W. W., & Hamer, M. R. (2002). Crustal Deformation at the Leading Edge of the Oregon Coast Range Block, Offshore Washington (Columbia River to Hoh River). U.S. Geological Survey Professional Paper 1661-A.
- E. Palmer, S. P., Magsino, S. L., Bilderback, E. L., Poelstra, J. L., Folger, D. S., & Niggemann, R. A. (2004). Liquefaction Susceptibility and Site Class Maps of Washington State, by County. Washington State Department of Natural Resources.
- F. USDA. (1986). Soil Survey of Grays Harbor County Area, Pacific County, and Wahkiakum County, Washington.
- G. USDA. (no date). Web Soil Survey. Retrieved from Web Soil Survey: <http://websoilsurvey.sc.egov.usda.gov/App/HomePage.htm>
- H. Walsh, C., Caruthers, C., Heinitz, A., Myers III, E., Baptista, A., Erdakos, G., et al. (2000). Tsunami hazard map of the southern Washington coast - Modeled tsunami inundation from a Cascadia subduction zone earthquake. 12 p. text, 1 pl., scale 1:100,000. Washington State Department of Natural Resources.
- I. Washington Division of Geology and Earth Resources. (1987). Geologic Map of the South Half of the Shelton and South Half of the Copalis Beach Quadrangles, Washington.

#### **5.03 DESIGNATION CRITERIA**

The following areas are designated as geologically hazardous:

- A. Any area containing soil or soil complexes described or mapped within the United States Department of Agriculture/Soil Conservation Service Soil Survey for Grays Harbor County as having a severe to very severe erosion hazard potential;
- B. Areas with all three of the following characteristics:
  - 1. Slopes steeper than 15 percent;

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2. Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and
  3. Springs or ground water seepage;
- C. Any slope of 40 percent or steeper that exceeds a vertical height of 10 feet over a 25-foot horizontal run;
  - D. Any area potentially unstable or subject to erosion or sloughing as a result of rapid stormwater runoff, soil saturation or undercutting by wave action;
  - E. Any area potentially subject to mass movement due to a combination of geologic, topographic, and hydrologic factors, but not limited to those areas mapped or described by the Soil Conservation Service, Ecology, WDNR, or U.S. Geologic Service. These classifications may be based on performance standards rather than mapping;
  - F. The seismic hazard area identified as moderate to high liquefaction susceptibility, which includes the majority of the city; and
  - G. Areas susceptible to tsunami hazards from flooding and inundation as the result of excessive wave action derived from seismic or other geologic events. Tsunami hazard areas include those areas mapped within the Tsunami Hazard Map of the Southern Washington Coast by WDNR.

#### **5.04 REGULATED ACTIVITIES**

The city shall manage activities in the following geologically hazardous areas to protect the public's health, safety, and welfare:

- A. Seismic hazard areas in the city.
- B. Any development or alterations in steep slopes, landslide, erosion hazard, tsunami hazard area, or areas prone to liquefaction shall comply with this section.

#### **5.05 PERFORMANCE STANDARDS FOR DEVELOPMENT**

- A. Avoiding Impacts to geologically hazardous areas.

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1. An applicant for a development shall apply the following sequential measures, which appear in order of priority and supersede those found in SMP Appendix 2 Section 1.11: Mitigation, to avoid impacts to geologically hazardous areas and their buffers:
    - a. Avoiding the impact or hazard by not taking a certain action;
    - b. Minimizing the impact or hazard by:
      - 1) Limiting the degree or magnitude of the action with appropriate technology; or
      - 2) Taking affirmative steps, such as project redesign, relocation or timing;
    - c. Rectifying the impact to geologically hazardous areas by repairing, rehabilitating or restoring the affected geologically hazardous area or its buffer;
    - 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 or maintenance operations during the life of the development proposal or alteration; and
    - f. Monitoring the impact, hazard, or success of required mitigation and taking remedial action.
  2. The specific mitigation requirements of this section apply when compensation for adverse impacts is required by the sequence in SMP Appendix 2: Section 5.05(A)(1) above.
- B. Mitigation and Monitoring.**
1. If mitigation is required to compensate for adverse impacts, unless otherwise provided, an applicant shall:
    - a. Mitigate adverse impacts to:
      - 1) Geologically hazardous areas and their buffers; and
      - 2) The development proposal as a result of the proposed alterations on or near the geologically hazardous areas; and

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- b. Monitor the performance of any required mitigation.
2. The Shoreline Administrator shall not approve a development proposal until mitigation and monitoring plans are in place to mitigate for alterations to geologically hazardous areas and buffers.
3. Whenever mitigation is required, an applicant shall submit a geologically hazardous area report that includes:
  - a. An analysis of potential impacts;
  - b. A site mitigation plan, as further described in SMP Appendix 2: Section 5.05(F), that meets the specific mitigation requirements in this section for the geologically hazardous area impacted; and
  - c. A monitoring plan that includes:
    - 1) A demonstration of compliance with this section;
    - 2) A contingency plan in the event of a failure of mitigation or of unforeseen impacts if the Shoreline Administrator determines that failure of the mitigation would result in a significant impact on the geologically hazardous area or buffer; and
    - 3) A monitoring schedule that may extend throughout the impact of the activity or, for hazard areas, for as long as the hazard exists.
4. Mitigation shall not be implemented until after the Shoreline Administrator approves the site mitigation and monitoring plan. The applicant shall notify the Shoreline Administrator when mitigation is installed and monitoring is commenced and during any monitoring period, the applicant shall provide the city with reasonable access to the mitigation for the purpose of inspections.
5. If monitoring reveals a significant deviation from predicted impact or a failure of mitigation requirements, the applicant shall implement an approved contingency plan. The contingency plan constitutes new mitigation and is subject to all mitigation including a monitoring plan and financial guarantee requirements.

#### **C. Standards for Seismic Hazard Areas.**

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1. Standards for development of structures and improvements in seismic hazard areas shall be in accordance with the provisions of building and construction codes as currently adopted by the city. No additional setback or other requirements are necessary to regulate structural design.
  2. Critical facilities shall not be located in seismic hazard areas unless mitigation shall be provided which renders the proposed development as stable as if it were not located within a seismic hazard area.
- D. Standards for Tsunami Hazard Areas
1. Tsunami hazard areas require an Emergency Management Plan that includes plans for emergency building exit routes, site evacuation routes, emergency training, notification of local emergency management officials, and an emergency warning system.
- E. It shall be the responsibility of the applicant to provide the city with appropriate technical assessments and reports prepared by a qualified professional, if necessary, to fulfill the requirements of an application for a project permit review or threshold decision, or to comply with any other city, state, or federal laws. The applicant shall pay all expenses associated with the preparation of any technical assessment required by the city.

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# 6 FISH AND WILDLIFE HABITAT CONSERVATION AREAS

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### 6.01 PURPOSE

The city shall manage development and subsequent uses in fish and wildlife habitat conservation areas to maintain species in suitable habitats within their natural geographic distribution and to prevent isolated subpopulations.

### 6.02 BEST AVAILABLE SCIENCE

The city adopts by reference the following maps and the BAS resources for fish and wildlife habitat conservation areas:

- A. Washington Department of Fish and Wildlife. (1999). *Priority habitats and species list, as amended*, available online at: <http://wdfw.wa.gov/conservation/phs/list/>
- B. Washington Department of Fish and Wildlife. *Management Recommendations for Washington's Priority Habitats and Species*, available online at: [http://wdfw.wa.gov/conservation/phs/mgmt\\_recommendations/](http://wdfw.wa.gov/conservation/phs/mgmt_recommendations/)
- C. Washington Department of Fish and Wildlife. (n.d.). *Aquatic Habitat Guidelines (AHG)*, available online at: <http://wdfw.wa.gov/conservation/habitat/planning/ahg/>

### 6.03 APPLICABILITY

The following areas are designated as fish and wildlife conservation areas:

- A. Areas with which endangered, threatened, and sensitive species have a primary association;
- B. Habitats and species of local importance;
- C. Naturally occurring ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat;

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- D. Waters of the state and their associated riparian areas; and
- E. State natural area preserves and natural resource conservation areas.

#### **6.04 FISH AND HABITAT MANAGEMENT AREA BUFFERS AND SETBACKS**

- A. Buffers and structural setbacks shall comply with the requirements of SMP Section 4.04.02.
- B. The width of a buffer may be averaged, thereby reducing the width of a portion of the shoreline buffer and increasing the width of another portion of the shoreline buffer. Buffer averaging may be permitted in accordance with SMP Section 4.04.02(C).

#### **6.05 HABITAT ASSESSMENT**

- A. A qualified professional shall prepare a habitat assessment required by the city when any of the following development activities are proposed on parcels located within or adjacent to a designated fish and wildlife habitat conservation area:
  - 1. Subdivisions or short subdivisions;
  - 2. Clearing of vegetation, grading, filling, or excavation; and
  - 3. Construction of a building of any type.
- B. The habitat assessment shall include:
  - 1. An identification of species known or suspected to use the site and a description of the habitat functions and values related to those species;
  - 2. Evaluation of the effects of the proposed development activities and subsequent use of the property on the identified species and their habitats; and
  - 3. Recommended measures to avoid, minimize and, or mitigate impacts to the identified species and habitat based on the BAS information about those species. The mitigation sequence contained in SMP Appendix 2: Section 1.11 shall apply. Preference shall be given to avoidance of impacts. Mitigation of identified unavoidable impacts to all state priority habitats and areas associated with state priority species shall be required.

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#### **6.06 HABITAT MANAGEMENT PLAN**

If the habitat assessment demonstrates to the satisfaction of the Shoreline Administrator that fish and wildlife habitat is not located on or within one hundred feet of the site, then the development can proceed without further requirement for special wildlife studies. Otherwise, a habitat management plan shall be submitted. All habitat management plans shall be prepared by a qualified professional. The habitat management plan shall contain at a minimum:

- A. A discussion of the project's effects on fish and wildlife habitat;
- B. A discussion of any federal, state, or local special management recommendations which have been developed for species or habitats located on the site;
- C. A discussion of measures proposed to preserve existing habitats;
- D. An evaluation of the effectiveness of any proposed mitigation measures; and
- E. A discussion of ongoing management practices, which will protect fish and wildlife habitats after the project site has been fully developed, including proposed monitoring and maintenance programs.

Habitat management plans shall be forwarded to WDFW and similar appropriate state and federal agencies for their comments at the discretion of the city. Bald eagle management plans shall comply with Bald eagle protection rules in accordance with WAC 232-12-292.

All projects may be conditioned based on comments from agencies and the Shoreline Administrator's evaluation of the impacts of the project. Projects may be denied if the proposal will result in extirpation or isolation of endangered or threatened fish and wildlife species.

#### **6.07 MITIGATION PLAN**

Measures to avoid, minimize, or mitigate impacts to fish and wildlife habitat from development and subsequent use of a property, as recommended or as determined to be necessary by the city, shall be attached as conditions to any approval granted authorizing the development or use of the property.