

UNION GAP JURISDICTIONAL SHORELINE MASTER PROGRAM

Adopted by the UNION GAP City Council

SHORELINE MASTER PROGRAM REGULATIONS

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XX.01.01 Below are the Goals and Policies for the Shoreline Master Program These Goals and Polices were updated in 2007 to be consistent with the SMP Guidelines (WAC 173-26).

SHORELINES

The goals and policies of the Shoreline Master Program are directed towards land and water uses and their impact on the environment. As the population continues to increase, the pressures upon our shorelines will also increase. The goal of the Shoreline Master Program is to protect the shorelines of the state.

.01: Implement the general policy goals of the Shoreline Management Act as listed below (WAC 173-26-176(3)):

- a. Utilize Shorelines for economically productive uses that are particularly dependent on Shoreline location or use.
- b. Utilize Shorelines and the waters they encompass for public access and recreation.
- c. Protect and restore the ecological functions of Shorelines.
- d. Protect the public right of navigation and corollary uses of waters of the state.
- e. Protect and restore buildings and sites having historic, cultural, and educational value.
- f. Plan for public facilities and uses correlated with other shoreline uses.
- g. Prevent and minimize flood damages.
- h. Recognize and protect private property rights.
- i. Preferentially accommodate single-family uses.
- j. Coordinate shoreline management with other relevant local, state, and federal programs.

.02: Protection measures for local Shorelines should use the following Shoreline Management Act principles in order of preference as listed below (RCW 90.58.020):

1. Recognize and protect the state-wide interest over local interest;
2. Preserve the natural character of the shoreline;
3. Result in long term over short term benefit;
4. Protect the resource and ecology of the shoreline;
5. Increase public access to publicly owned areas of the shorelines;
6. Increase recreational opportunities for the public in the shoreline;
7. Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.

.03: Maintain, restore and where necessary improve the shoreline terrestrial and aquatic ecosystems so that they maintain viable, reproducing populations of plants and animals while providing the maximum public benefit of limited amounts of shoreline areas. Accomplish this through the policies in the required shoreline elements listed below.

SHORELINE ENVIRONMENTS

.04: Shorelines areas should be classified into specific environmental designations. The designation system should be based on the existing and future land use pattern as well as the biological and physical character of the shoreline. These environments should include the Urban, Rural, Conservancy, Urban Conservancy, Natural and Floodway / Channel Migration Zone (CMZ) environments. Land uses and activities should be limited to those that are consistent with the character of the environment designation.

Urban Environment Policies

.05 The Urban environment is to be used for the most intensely developed areas, or areas where intensive development is desirable or tolerable. The basic principle in an Urban Environment is oriented toward quality of development in harmony with the shoreline. The Urban Environment should ensure optimum utilization of shorelines occurring within urbanized areas by providing for public access and by managing development so that it enhances and maintains the shorelines for a multiplicity of uses.

- .06 The following criteria should be used for the designation of Urban Environments:
1. Areas presently supporting high intensity land use including residential, commercial, industrial and recreational uses.
 2. Areas which are planned to accommodate urban expansion of residential, commercial, industrial and recreational uses.
 3. High land values.
 4. Major public or private capital investments.
 5. Close proximity to services and utilities.
 6. Few biophysical limitations to development.
 7. Potentially low flood hazard.

.07 Water-oriented commercial, industrial, and recreation uses should be given high priority in the Urban Environment, and may be accompanied by non-water oriented uses in mixed-use developments. Residential uses should be discouraged. Recreational uses are preferred uses within the urban environments

Rural Environment Policies

.08 The Rural Environment should restrict intensive development along undeveloped shoreline areas that might interfere with the normal operations or economic viability of an agricultural activity located on adjacent associated shoreline areas. The Rural Environment maintains open spaces and provides

opportunities for recreational uses compatible with agricultural activities.

.09 The following criteria should be used for the designation of Rural Environments:

1. Intensive agricultural or recreational uses.
2. Those areas with potential for agricultural use.
3. Those undeveloped natural areas that lie between agricultural areas.
4. Low-density residential development.
5. Moderate land values.
6. Potential low demand for services.

.10 Generally, allowed uses in the Rural environment should focus on resource and recreation uses. Commercial and industrial uses should be carefully limited. Residential uses should sustain shoreline functions.

Conservancy Environment Policies

.11 The Conservancy Environment classification should be used for areas where maintenance of the existing character of the area is desirable. This does not necessarily mean preservation, but rather a use of natural resources on a sustained yield basis. Thus, the harvesting of timber as well as recreational activities are to be the primary uses permitted. Also, areas that are isolated from services, have poor drainage, high flood danger, poor ground for septic tanks, unstable earth, or steep slopes should be designated Conservancy.

.12 The following criteria should be used for the designation of Conservancy Environments:

1. Very low intensity land uses; primarily sustained-yield activities or pasture-range land.
2. Larger acreages.
3. Relatively low land values.
4. Relatively minor public or private capital investment.
5. Considerable biophysical limitations, making commercial, industrial, or medium to high-density residential development unsuitable.

.13 Generally, commercial and industrial uses should not be allowed in the Conservancy Environment, except when they are water oriented. Resource uses should be of low enough intensity to sustain shoreline functions with preference for non-permanent structures. Low-density residential development should sustain the character of the shoreline. Diffuse recreational uses are preferred use. Uses should avoid hazardous areas.

Natural Environment Policies

.14 The Natural Environment should protect those shoreline areas which are considered unique by virtue of their existence and valuable only to the extent that the natural integrity is preserved for the benefit of future, as well as, present generations. Prime targets for classification into the Natural Environment will be certain shorelands owned or controlled by the various Federal and Tribal wildlife management agencies

with limited access and certain private lands which are seen to be proper for Natural classification, and the owner of which will be interested in the promise of very low taxation.

- .15 The following criteria should be used for the designation of Natural Environments:
1. The presence of a natural, historical, cultural, scientific, or educational feature considered valuable by virtue of its existence in a natural or original state and thereby warranting preservation for the benefit of present and future generations.
 2. Those areas generally intolerant of intensive human use.
 3. Areas with severe biophysical limitations.
 4. Natural areas with strong limits on access.

.16 Generally, commercial, industrial, mining, non-water oriented recreation, roads, utilities, and parking areas should not be located in Natural Environment. Other uses, including residential, should be carefully limited in the Natural environment. Restrict activities that may degrade the actual or potential value of this environment, and severely restrict development in hazardous areas.

Floodway / Channel Migration Zone (CMZ) Environment Policies

.17 The Floodway/Channel Migration Zone environment should protect the water areas; islands, associated overflow channels, and channel migration areas. This environment acknowledges the river's need to move within parts of its floodplain, and emphasizes the preservation of the natural hydraulic, geologic and biological functions of the county's shorelines that are constrained by severe biophysical limitations.

.18 A Floodway/Channel Migration Zone designation should be assigned to shoreline areas that are within mapped Channel Migration Zones and/or within a designated FEMA Floodway. The extent of the Floodway/Channel Migration Zone should never extend beyond the 100-year flood plain.

.19 Generally, commercial, industrial, mining, non-water oriented recreation, roads, utilities, parking areas, and residences should not be located in the Floodway/Channel Migration Zone Environment. Other uses (recreation, resource uses, etc.) should be carefully limited to protect shoreline functions. Restrict activities that may degrade the actual or potential value of this environment, and severely restrict development in hazardous areas. Modifications that harden or fix stream banks and channels should be discouraged.

Urban Conservancy Environment Policies

.20 The Urban Conservancy environment should protect and restore ecological functions of open space, floodplain and other sensitive lands where they exist in urban and developed settings, while allowing a variety of compatible uses.

.21 The following criteria should be used for the designation of Urban Conservancy Environments;

- 1) areas that lie in incorporated municipalities and urban growth areas;

- 2) areas appropriate and planned for development that is compatible with maintaining or restoring of the ecological functions of the area;
- 3) areas that are suitable for water-enjoyment uses;
- 4) areas that are open space or floodplain, or that retain important ecological functions that should not be more intensively developed;

.22 Generally, allowed uses should focus on recreational uses. Commercial, industrial and residential uses should be carefully limited, and when allowed should result in restoration of ecological functions. Uses that preserve the natural character of the area or promote the preservation of open space, floodplain or sensitive lands (either directly or over the long term) should be the primary allowed uses. Public access and public recreation objectives should be implemented whenever feasible and significant ecological impacts can be mitigated.

GENERAL SHORELINE POLICIES

Critical Areas, Restoration, and Vegetation Conservation Policies

.23 New development or new uses, including the subdivision of land, should not be established when it would be reasonably foreseeable that the development or use would require structural flood hazard reduction measures within the channel migration zone or floodway.

.24 Only allow new structural flood hazard reduction measures in shoreline jurisdiction when it can be demonstrated that they are necessary to protect existing development, that nonstructural measures are not feasible, that impacts on ecological functions and priority species and habitats can be successfully mitigated so as to assure no net loss, and that appropriate vegetation conservation actions are undertaken.

.25 Protect all shorelines of the state so that there is no net loss of ecological functions from both individual permitted development and individual exempt development.

.26 In development of the Shoreline Master Program, evaluate and consider cumulative impacts of reasonably foreseeable future development on shoreline ecological functions and other shoreline functions to ensure no net loss of ecological function. Develop a means to allocate the burden of addressing cumulative effects.

.27 Provide, where feasible and desirable, restoration of degraded areas along the shorelines of the State.

.28 Critical areas within shoreline jurisdiction should be protected with the critical area policies and standards protecting all critical areas, including those for CMZs and Flood Control.

.29 Protect shoreline streams, lakes, ponds, and wetlands with a vegetative buffer as described in the Critical Areas Ordinance.

.30 For existing agriculture encourage through a variety of voluntary means the maintenance of a

permanent vegetative buffer between tilled areas and associated water bodies to reduce bank erosion, retard surface runoff, reduce siltation, improve water quality and provide habitat for fish and wildlife. For new agriculture, buffer requirements should be applied.

.31 Natural vegetation within shoreline jurisdiction should be retained to the greatest extent feasible. This should be accomplished by applying the stream corridor and wetland buffer requirements. Activities covered by the State Forest Practices Act should not be subject to vegetation conservation standards, but should be subject to buffer requirements when under City jurisdiction. Require developers to indicate how they plan to preserve shore vegetation and control erosion.

.32 Selective pruning of trees for safety and view protection, and the removal of noxious weeds should be allowed.

.33 Upon completion of construction/maintenance projects on shorelines, disturbed areas should at a minimum be restored to pre-project configuration wherever possible, replanted with native species and provided maintenance care until the newly planted vegetation is established.

Public Access Policies – Physical and Visual

.34 Protect navigation of waters of the state, the space needed for water-dependent uses, and views of the water through development standards.

.35 Transportation and parking plans within Shoreline jurisdiction shall include systems for public access, including pedestrian, bicycle, and public transportation where appropriate.

.36 To provide public access planning in conformance with WAC 173-26-221(4), utilize the following approach to provide public access to Shoreline areas:

- 1) Yakima County has a very high proportion of federal, state and other publicly owned or conservancy owned lands in Shoreline areas. These publicly owned Shoreline areas constitute a large portion of the total shoreline area. Emphasize the use of those public lands to provide public access.
- 2) Many of the above lands have improved sites and locations to promote physical access to shorelines. Rely on these agencies to develop new public access facilities as they deem appropriate.
- 3) Many of the above lands are open to unimproved public access, as well.
- 4) Many Shoreline areas are also along transportation corridors which provide visual access to much of the County's shoreline area.
- 5) Due to the nature of shorelines, commercial water oriented uses, existing and new, tend to be highly related to water enjoyment uses and recreation.
- 6) Due to the nature of Yakima County's shorelines, recreational uses, existing and new, tend to be highly oriented toward the water, thereby providing access to shoreline areas.
- (7) Rely on the development of commercial water oriented uses and recreational uses to provide additional public access opportunities.

(8) Development standards for dedicated and improved public access to the shoreline and visual quality should be required for public developments, with few exceptions. Public projects should provide public access, except where it is demonstrated to be infeasible due to reasons of safety, security, and impact to the shoreline environment. Private projects should provide public access in limited situations.

NS 7.37 Promote and enhance diversified types of public access to shorelines in Yakima County which may accommodate intensified use without significantly impacting fragile natural areas intolerant of human use and without infringing on rights of private ownership.

NS 7.38 Access to recreational areas should emphasize both areal and linear access (parking areas and trails or bicycle paths, for example) to prevent concentrations of use at a few points. Linkage of shoreline parks and public access points by means of linear access should be encouraged.

.39 Development standards should be established to assure preservation of unique, fragile, and scenic elements and to protect existing views from public property or large numbers of residences. Where aesthetic impacts are not avoidable, provide mitigation.

NS 7.40 Where there exists a conflict between public access or a water-dependent use, and the maintenance of an existing view from adjacent properties, the physical public access or water dependent use should have priority unless there is a compelling reason to the contrary.

NS 7.41 Proper design, location, and construction of road and railroad facilities should be exercised to provide to the degree practical, scenic corridors, rest areas, view points, and other public oriented facilities in public shoreline areas.

NS 7.42 Wherever feasible, utility facilities should be placed underground.

Signs and Billboards

.43 Outdoor sign size, spacing and lighting should conform to the Scenic Vistas Act (RCW 47.42) and standards in the Zoning Ordinance.

Archaeological and Historic Resources

POLICIES

.44 Encourage the protection and restoration of areas and sites having historic, archaeological, cultural, educational or scientific value. Wherever possible, sites should be permanently preserved for scientific study and public observation.

.45 Development along shorelines should include consultation with professional archaeologists, historians, and biologists to identify areas containing potentially valuable data, and to establish procedures for salvaging the data or maintaining the area in an undisturbed condition.

.46 Shoreline permits should contain special provisions which require developers to immediately stop work and notify local governments, the Office of Archeological and Historic Preservation, and affected tribes, if any possible archaeological or historic resources are uncovered during excavations.

.47 Development which would destroy archaeological or historical sites or data may be delayed for a reasonable time to allow the appropriate agency or organization to purchase the site or to recover the data.

Water Quality, Stormwater and Pollution

POLICIES

.48 Shoreline water quality should be protected as follows:

1. Rely on a stormwater program meeting state and federal stormwater control requirements where possible;
2. Use Critical Aquifer Recharge Area protection measures in the Critical Areas Ordinance;
3. Control drainage and surface runoff from all non-agricultural facilities requiring large quantities of fertilizers and pesticides (such as golf courses and play fields) to prevent contamination of water areas;
4. All developments shall comply with County Health regulations, when applicable;
5. Handle and dispose of pesticides in accordance with provisions of the Washington Pesticide Application Act (RCW 17.21) and the Washington Pesticide Act (RCW 14.47);
6. Proper design, location, and construction of all facilities should be exercised to prevent the entry of pollutants or waste materials into the water body.
7. When earthen materials are moved within shoreline areas, measures to adequately protect water quality should be provided.
8. Water quality protection measures should not impact recreation opportunities.

.49 Agricultural erosion control measures should conform to rules and standards established by the Conservation Districts of Yakima County.

NS 7.50 In planning for marina location and design, special water quality considerations should be given to:

1. Fuel handling and storage facilities to minimize accidental spillage;
2. Proper water depth and flushing action for any area considered for overnight or long-term moorage facilities;
3. Adequate facilities to properly handle wastes from holding tanks.

.51 Prohibit sanitary landfills along shoreline areas. Otherwise the disposal of all solid wastes should proceed in accordance with the Yakima County Solid Waste Management Plan.

SHORELINE USE POLICIES

General Use Policies

.52 Establish a system of shoreline uses that:

1. Gives preference to uses with minimal impacts and that are dependent on the proximity to the water;
2. Protect the public's health, safety, and welfare; ecological functions; and property rights;
3. Establishes conditional uses to provide extra protection for the shoreline.

.53 Assure that new shoreline development in is consistent with a viable pattern of use suitable to the character and physical limitations of the land and water.

.54 Encourage sound management of renewable and nonrenewable natural resources.

Recreation

NS 7.55 Assure the preservation and expansion of diverse, convenient recreational opportunities along the public shorelines of Yakima County for public use, consistent with the capacity of the land to accommodate such activity. Accomplish this by ensuring that shoreline recreational development is given priority and is primarily related to access, enjoyment and use of the water and Shorelines of the State

.56 Where the uses designated for a specific recreational area are planned to satisfy a diversity of demands, these uses must be compatible with each other and the environment of the area.

NS 7.57 Where feasible and desirable, encourage the use of public lands for recreational facilities as a more economical alternative to new acquisitions by local agencies.

.58 Locate, design, construct and operate recreational facilities to prevent undue adverse impacts on natural resources of an area and on adjacent or nearby private properties.

Transportation and Parking

.59 Encourage a transportation network in capable of delivering people, goods, and services, and resulting in minimal disruption of the shorelines' natural system.

NS 7.60 When it is necessary to locate major highways, freeways and railways along stream drainages or lake shores, such facilities should be sufficiently set back so that a useable shoreline area remains. Care should also be taken to insure that a minimum land area is consumed.

NS 7.61 To avoid wasteful use of the limited supply of shore land, locate access roads and parking areas upland, away from the shoreline whenever such options are available. Access to the water should be provided by pathways or other methods. Parking facilities in shorelines are not a preferred use and should be allowed only as necessary to support an authorized use.

.62 Proper design, location, and construction of road and railroad facilities should be exercised to:

1. Minimize erosion and permit the natural movement of water;
2. Use existing topography to maximum advantage and preserve natural conditions to the greatest practical extent.

NS 7.63 Extensive loops or spurs of old highways with high aesthetic quality or bicycle route potential should be kept in service as pleasure bypass routes.

Agriculture

.64 Allow lawfully established agricultural activities occurring on agricultural lands to continue as they historically have. New agricultural activities on land not currently used for agriculture, conversion of agricultural lands to other uses, and other development on agricultural land that does not meet the definition of agricultural activities (including any agricultural development not specifically exempted by the provisions of RCW 90.58.030(3)(e)(iv)) should meet shoreline requirements.

.65 Encourage animal feedlot operations to locate away from shorelines.

Aquaculture

NS 7.66 Consider aquaculture a preferred shoreline use when consistent with the control of pollution and prevention of damage to the environment.

NS 7.67 Ensure that aquacultural uses do not conflict with other water-dependent uses or navigation, spread disease, establish non-native species that cause significant ecological impact, or significantly impact the aesthetic qualities of the shoreline. Protect spawning areas designated by the Department of Fish and Wildlife from conflicting uses.

Boating Facilities and Marinas

NS 7.68 Ensure that boating facilities are located only at sites with suitable environmental conditions, shoreline configuration, access, and neighboring uses. All marinas should be developed and operated in accordance with all state and local requirements.

NS 7.69 In planning for marina location and design, special consideration should be given to necessary facilities such as adequate access, parking, and restroom facilities for the public. Such facilities should be located away from the immediate water's edge.

Forest Practices

NS 7.70 Shoreline areas having well-known scenic qualities (such as those providing a diversity of views, unique landscape contrasts, or landscape panoramas) should be maintained as scenic views in timber harvesting areas. Timber harvesting practices, including road construction and debris removal, should be closely regulated so that the quality of the view and viewpoints along shorelines of statewide significance in the region are not degraded.

NS 7.71 Forest management shall proceed in accordance with regulations established by the Washington State Forest Practices Act, including coordination with Yakima County on forest practice conversions and YVCOG Jurisdictional SMP

other Class IV-forest practices where there is a likelihood of conversion to non-forest uses.

NS 7.72 Ensure that timber harvesting on shorelines of statewide significance does not exceed the limitations established in RCW 90.058.150 (regarding selective harvest requirements), except as provided in cases where selective logging is rendered ecologically detrimental or is inadequate for preparation of land for other uses.

Mining

.73 Remove sand, gravel, and minerals from only the least sensitive shoreline areas. Due to the risk of avulsion and mine pit capture by the river, mining within the stream channel and channel migration zone should not be allowed. In special cases where it is allowed, it should be a conditional use. Restoration or enhancement of ecological function is encouraged.

.74 Require land reclamation plans of any mining venture proposed within a shoreline. Mining reclamation shall be done in conformance with the Washington State Surface Mining Act (RCW 78.44).

.75 Ensure that mining and associated activities are designed and conducted consistent with the applicable environment designation and the applicable critical areas ordinance.

.76 Ensure that proposed subsequent use of mined property and the reclamation of disturbed shoreline areas is consistent with the applicable environment designation and that appropriate ecological functions are provided consistent with the setting.

Residential Development

.77 Design subdivisions at a density, level of site coverage, and occupancy compatible with the physical capabilities of the shoreline and water and locate them to prevent the need for new shore stabilization or flood hazard reduction measures.

.78 Restrict subdivisions in areas subject to flooding.

.79 Encourage cluster development wherever feasible to maximize use of the shorelines by residents, maximize both on-site and off-site aesthetic appeal, and minimize disruption of the natural shorelines.

Commercial Development

.80 Limit commercial development to those activities that are particularly dependent upon a shoreline location. Other commercial uses should be encouraged to locate upland. Give first preference to water-dependent commercial uses over non-water-dependent commercial uses; and give second preference to water-related and water-enjoyment commercial uses over non-water-oriented commercial uses. Allow non-water-oriented commercial uses in limited situations.

Utilities

.81 New utility production and processing facilities, such as power plants and sewage treatment plants, or parts of those facilities that are non-water-oriented should not be allowed in shoreline areas unless it can be demonstrated that no other feasible option is available. Expansion, updating, and maintenance of existing facilities is allowed but should be designed to minimize the impacts as much as possible.

.82 Wherever possible, transmission facilities for the conveyance of services, such as power lines, cables, and pipelines, should be located outside of the shoreline area. If location within the shoreline cannot be prevented, confine utilities in a single corridor or within an existing right-of-way.

.83 Locate new sewage treatment, water reclamation, and power plants where they do not interfere with and are compatible with recreational, residential or other public uses of water and shore lands. New waste treatment ponds for industrial waste should be located upland when feasible.

Industry

.84 Allocate sufficient quantities of suitable land for water related industry. Give preference to water-dependent industrial uses over non-water-dependent industrial uses; and second, give preference to water-related industrial uses over non-water-oriented industrial uses. Allow non-water-oriented industrial development in limited situations.

.85 Discourage industries which have proven to be environmentally hazardous from locating along the shorelines.

In-stream Structural Uses

NS 7.86 The location and planning of in-stream structures should give due consideration to the full range of public interests, watershed functions and processes, and environmental concerns, with special emphasis on protecting and restoring priority habitats and species.

NS 7.87 All in-stream structures should provide for the protection and preservation of ecosystem-wide processes, ecological functions, and cultural resources, including, but not limited to, fish and fish passage, wildlife and water resources, shoreline critical areas, hydrogeological processes, and natural scenic vistas.

SHORELINE MODIFICATION POLICIES

General Shoreline Modification Policies

.88 Allow shoreline modifications only where they are shown to be necessary to support or protect an allowed primary structure or a legally existing shoreline use that is in danger of loss or substantial damage, or they are necessary for mitigation or enhancement work.

.89 Limit shoreline modifications to the minimum necessary to accomplish the objective, while still

protecting ecological functions. Give preference to shoreline modifications that have a lesser impact on ecological functions.

Shore Stabilization

.90 New structural stabilization measures should only be allowed for the following instances, and then only when meeting specific criteria:

1. When necessary to protect an existing primary structures;
2. In support of new and existing development;
3. To protect projects for the restoration of ecological functions or hazardous substance remediation projects.

.91 Avoid flood protection and stabilization measures which result in or tend toward channelization of streams such as, hardening of stream banks, or fixing channel locations.

.92 All shore stabilization activities must be designed and constructed to accepted engineering standards.

Landfill

.93 Allow normal and reasonable land grading and filling where necessary to develop a land area for a permitted use. There should be no substantial changes made in the natural drainage patterns and no reduction of flood water storage capacity that might endanger other areas. Allow fill within the ordinary high water mark only when necessary to support water dependent uses, public access, transportation facilities, mitigation, restoration, enhancement, and certain special situations listed in WAC 173-26-231(3)(c).

.94 In evaluating fill projects, such factors as total water surface reduction, navigation restriction, impediment to water flow and circulation, impediment to irrigation systems, reduction of water quality, and destruction of fish and wildlife habitat should be examined.

.95 Locate and design shoreline fills or cuts to avoid creating a hazard to adjacent life, property, and natural resources systems, and to provide all perimeters of fills with vegetation, retaining walls, or other mechanisms for erosion prevention.

Dredging

.96 Dredging should only be permitted for maintaining existing navigation uses, not for obtaining fill material or mining.

.97 Permit deposit of spoils in water areas only to improve habitat or when the alternative is more detrimental than depositing in water areas.

Piers and Docks

.98 Piers and docks should only be allowed for water dependent uses and public access, except that water enjoyment and water related uses may sometimes be included as part of a mixed use development.

New piers and docks must have a specific need and must be the minimum size necessary. Encourage the cooperative use of shared docks.

CRITICAL AREAS GOALS AND POLICIES IN SUPPORT OF THE SHORELINE MASTER PROGRAM - CITY OF UNION GAP COMPREHENSIVE PLAN 2015 – Natural Settings Element

Below are the Goals and Policies for Critical Areas which are retained in support of the SMP consistent with Policy NS 7.28. These Goals and Policies also legally reside within City of Union Gap’s Comprehensive Plan 2017.

Goal NS 1: Protect and enhance Union Gap’s environmental quality, including surface water, wetlands, floodplain, groundwater, and wildlife habitat resources.

POLICIES

NS 1.1 Use the best available science in a reasonable manner to develop regulations to protect the functions and values of critical areas.

NS 1.2 Ensure proposed subdivisions, other development, and associated infrastructure are designed at a density, level of site coverage, and occupancy to preserve the structure, values and functions of the natural environment or to safeguard the public from hazards to health and safety.

NS 1.3 The density and lot size limits stipulated in other policies may be adjusted or exceeded to achieve critical area protection and restoration and to accomplish clustering and bonus provisions of the critical areas ordinance.

NS 1.4 Define and protect critical areas from adverse impacts by restricting inappropriate development.

NS 1.5 Implement a Mitigation Sequencing rule consistent with state guidelines. (WAC 197-11-768)

WATER QUALITY AND QUANTITY

Groundwater and Critical Aquifer Recharge Areas (CARAs)

water quality standards and in a state as near as possible to natural conditions.

POLICIES:

NS 2.1 Identify and map important aquifers, critical aquifer recharge areas, and surface waters.

NS 2.2 Develop performance standards and regulate uses for activities which adversely impact water quantity and quality in aquifers, wetlands, watersheds and surface waters.

NS 2.3 Evaluate the potential impact of development proposals on groundwater quality and require alternative site designs to reduce contaminant loading where site conditions indicate that the proposed action will measurably degrade groundwater quality.

NS 2.4 Continue data collection and evaluation efforts to better understand the County's groundwater system and its vulnerability to contamination.

NS 2.5 Encourage the retention of natural open spaces in development proposals overlying areas highly susceptible for contaminating groundwater resources.

NS 9.8 Ensure that abandoned wells are closed properly.

NS 9.9 Ensure sufficient water quantity exists to support land use activities.

SURFACE WATER

GOAL NS 3: Enhance the quantity and quality of surface water.

POLICIES:

NS 3.1 Improve water conservation through education and incentives.

NS 3.2 Protect water quality from the adverse impacts associated with erosion and sedimentation.

NS 3.3 Encourage the use of drainage, erosion and sediment control practices for all construction or development activities.

STORMWATER

GOAL NS 4: Prevent increased flooding from stormwater runoff.

POLICIES:

NS 4.1 Require on-site retention of stormwater.

NS 4.2 Preserve natural drainage courses.

NS 4.3 Minimize adverse storm water impacts generated by the removal of vegetation and alteration of land forms.

GOAL NS5: Improve water quality through improved stormwater management.

POLICIES:

NS 5.1 Review the recommendations of locally adopted stormwater management plans, and develop a realistic implementation schedule.

NS 5.2 Control stormwater in a manner that has positive or neutral impacts on the quality of both surface and groundwater, and does not sacrifice one for the other.

NS 5.3 Implement surface water management systems which protect natural features and drainage courses whenever possible.

FISH AND WILDLIFE HABITAT

FISH AND WILDLIFE HABITAT

GOAL NS 6: Provide for the maintenance and protection of habitat areas for fish and wildlife.

POLICIES:

NS 6.1 Encourage the protection of aquatic, riparian, upland and wetland fish and wildlife habitat. This can be approached from both a region-wide and site specific perspective to ensure that the best representation and distribution of habitats remains to protect the natural values and functions of those habitats. Fish and wildlife habitat protection considerations should include:

- a. The physical and hydrological connections between different habitat types to prevent isolation of those habitats;
- b. Diversity of habitat types both on a local and regional scale;
- c. Large tracts of fish and wildlife habitat;
- d. Areas of high species diversity;
- e. Locally or regionally unique and rare habitats; and
- f. Winter range and migratory bird habitat of seasonal importance.

NS 6.2 Direct development away from areas containing significant fish and wildlife habitat areas,

NS 6.3 Coordinate fish and wildlife protection efforts with state and federal agencies and the Yakama Nation to:

1. Avoid duplication of effort;
2. Ensure consistency in protecting fish and wildlife habitat which crosses political boundaries;
3. Facilitate information exchanges concerning development proposals which may impact fish and wildlife habitat; and
4. Take advantage of any available financial, technical, and project review assistance.

NS 6.4 Protect the habitat of Washington State Listed Species of Concern and Priority Habitats and Species in order to maintain their populations

NS 6.6 Work with the resource agencies to prioritize habitats and provide appropriate measures to protect them according to their relative values.

GOAL NS 7: Conserve, protect and enhance the functions and values of stream corridors to provide for natural functions and protect hydrologic connections between features.

POLICIES:

NS 7.1 Development projects should not be authorized if they obstruct fish passage or result in the unmitigated loss or damage of fish and wildlife resources.

NS 7.2 Encourage and support the retention of natural open spaces or land uses which maintain hydrologic functions and are at low risk to property damage from floodwaters within frequently flooded areas.

NS 7.3 Limit development within hazardous areas of the stream corridor.

NS 7.4 Give special consideration to conservation and protection measures necessary to preserve or enhance anadromous fisheries.

NS 7.5 Maintain the City's rivers, creeks, and intermittent stream courses in their natural state whenever feasible.

NS 7.6 Establish a system of vegetative buffers landward from the ordinary high water mark of streams, lakes and ponds and the edge of wetlands.

FREQUENTLY FLOODED AREAS

GOAL NS 17: Prevent the loss of life or property and minimize public and private costs associated with repairing or preventing flood damages from development in frequently flooded areas.

POLICIES:

NS 17.1 Support comprehensive flood control planning.
YVCOG Jurisdictional SMP

NS 17.2

NS 8.2 Work through the Yakima County Flood Control Zone District to develop comprehensive flood management plans for the Yakima River, Ahtanum, Bachelor, and Wide Hollow Creeks.

NS 8.3 Direct new critical facility development away from areas subject to catastrophic, life-threatening flood hazards where the hazards cannot be mitigated.

NS 8.4 Where the effects of flood hazards can be mitigated require appropriate standards for subdivisions, parcel reconfigurations, site developments and for the design of structures.

NS 8.5 Prohibit construction of permanent structures in floodways due to risks associated with deep and fast-flowing water. Limit development in the 100-year floodplain to that which is not harmed by flooding. Occupied levels of structures should be located at or above the 100-year flood level.

NS 8.6 Plan for and facilitate returning Shoreline rivers to more natural hydrological conditions, and recognize that seasonal flooding is an essential natural process.

NS 8.7 When evaluating alternate flood control measures on Shoreline rivers:

- 1) consider the removal or relocation of structures in the FEMA 100-year floodplain;
- 2) where feasible, give preference to nonstructural flood hazard reduction measures over structural measures;
- 3) structural flood hazard reductions measures should be consistent with the County's comprehensive flood hazard management plan.

WETLANDS

GOAL NS 9: Provide for long-term protection and no net loss of wetland functions and values.

POLICIES:

NS 9.1 Preserve, protect, manage, and regulate wetlands for purposes of promoting public health, safety and general welfare by:

1. Conserving fish, wildlife, and other natural resources of Yakima County;
2. Regulating property use and development to maintain the natural and economic benefits provided by wetlands, consistent with the general welfare of the County;
3. Protecting private property rights consistent with the public interest; and
4. Require wetland buffers and building setbacks around regulated wetlands to preserve vital wetland functions and values.

NS 9.2 Adopt a clear definition of a regulated wetland and a method for delineating regulatory wetland boundaries.

NS 9.3 Classify regulated wetland areas to reflect their relative function, value and uniqueness.

NS 9.4 Develop a wetlands database.

NS 9.5 Manage and mitigate human activities or actions which would have probable adverse impacts on the existing conditions of regulated wetlands or their buffers.

NS 9.6 Require mitigation for any regulated activity which alters regulated wetlands and their buffers. Develop ratios, performance standards, monitoring, and long-term protection. (WAC 173-26-221(2)(c)(i)(F))

NS 9.7 When development occurs within the vicinity of a wetland or its buffer, the following hierarchy shall be followed when establishing the appropriate course of action:

- a. Avoid impacts to the wetland; or
- b. Minimize impacts to the wetland and restore the impacted area; or
- c. Recreate the wetland functions and value at a ratio, which provides increased functions, and values.

Slopes

GOAL NS 10: Protect the public from personal injury, loss of life or property damage from geologic hazards.

POLICIES:

NS 10.1: Ensure that land use practices in geologically hazardous areas do not endanger lives, property, or resources.

NS 19.2 Locate development within the most environmentally suitable and naturally stable portions of the site.

NS 19.3 Classify and designate areas on which development should be prohibited, conditioned, or otherwise controlled because of danger from geological hazards.

NS 19.4 Prevent the subdividing of known or suspected landslide hazard areas, side slopes of stream ravines, or slopes 40 percent or greater for development purposes.

Chapter .02 GENERAL PROVISIONS

Sections:

- .02.01 Title and Authority
- .02.02 Language Interpretation
- .02.03 Purpose of Title
- .02.04 Intent of Title
- .02.05 Applicability
- .02.06 Science and Protection of Anadromous Fish
- .02.07 Applicability of Permit System to Federal Agencies
- .02.08 Administrative Authority
- .02.09 Severability

.02.01 Title and Authority

The Shoreline Master Program of the City of Union Gap shall, for the purposes of RCW36.70A.480 (GMA, Shorelines of the State) be considered a supplement to the Comprehensive Plan of the City of Union Gap. The Shoreline Master Program Regulations shall, for the purposes of 36.70A.480 (GMA and Shorelines of the State) be considered a set of use regulations applying only to shoreline areas as specified in RCW 90.58 (SMA) and WAC 173-26 (SMP Guidelines). These regulations are intended to be substantive legal rules and procedures used to implement the goals and policies of the Master Program. These regulations shall be applied and interpreted in a manner consistent with the remainder of the Master Program or the Act.

.02.02 Language Interpretation

Unless specifically defined in, words, phrases and terms in this title shall be interpreted so as to give them the meaning they have in common usage and to give this title its most reasonable application. "Shall" is mandatory; "may" is discretionary and does not impose a requirement; "should" is always advisory; "include(s)" means includes but not limited to. When not inconsistent with the context, words used in the present tense include the future; the singular includes the plural; and the plural, the singular.

.02.03 Purpose of Title

The purpose of the Shoreline Master Program is to establish a single, uniform system of procedures and standards to be applied to development within Shoreline jurisdiction of the City of UNION GAP.

.02.04 Intent of Title

- 1) The Shoreline Master Program establishes goals, policies, standards, and regulations pertaining to projects, uses and development within Shoreline jurisdiction. Shorelines of the state shall not be considered critical areas under this chapter except to the extent that specific areas located within shorelines of the state qualify for critical area designation based on the definition of critical areas provided by RCW 36.70A.030(5) and have been designated as such by the City of UNION

GAP pursuant to RCW 36.70A.060(2) The policies, standards and procedures of this title are intended to:

- a) Preserve development options within designated critical areas where such development will not adversely impact critical area values and functions; and
- b) Prevent further degradation of critical areas; and
- c) Conserve, protect and, where feasible, restore essential or important natural resources; and
- d) Protect the public health, safety, and general welfare; and
- e) Further the goals and objectives of the City of UNION GAP Comprehensive Plan and all of its elements; and
- f) Implement the goals and requirements of the Washington Growth Management Act (RCW Chapter 36.70A) as it applies to Shoreline jurisdiction, the Shoreline Management Act (RCW Chapter 90.58), and the National Flood Insurance Program; and
- g) Recognize and protect private property rights; and
- h) Provide development options for landowners of all existing lots to the greatest extent possible, through the establishment of Variance, Reasonable Use provisions and Non-Conforming Use and Facility provisions; and
- i) Manage for no net loss of ecological function within Shoreline jurisdiction to protect against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life; and
- j) Establish a consistent foundation of regulations that apply to similar issues whether they are inside or outside Shoreline jurisdiction. Protection measures required because of Shoreline Master Program updates to this title are identified as applying within Shoreline jurisdiction and are not intended to be applied outside Shoreline jurisdiction; and
- k) Recognize that mining is a unique use because of its inherent linkage to geology. Therefore, mining and related activities may be an appropriate use when conducted consistent with the policies and provisions of WAC 173-26-241(h), within all Shoreline Designations, except the Natural and Floodway/CMZ Environments.

2) In addition, the policies, standards, and procedures of this title:

- a) Are not intended to regulate the operation and maintenance of existing, legally established uses and structures, including but not limited to vegetative buffers on existing uses that have been reduced in width prior to the effective dates of provisions in the Critical Areas Ordinance (City CAO) or Shoreline Master Program .
- b) Are not intended to result in an unconstitutional taking of private property.
- c) Are not intended to retroactively require the restoration of degraded critical areas for properties in a degraded condition prior to the effective dates of provisions in the Critical Areas Ordinance or Shoreline Master Program ; but rather to use compensatory mitigation

as a tool to mitigate impacts of new development.

d) Are not intended to presume that regulatory tools are the only mechanism for protection, but rather integrated with non-regulatory tools in as balanced a manner as possible.

e) Are not intended to prohibit the use of valid water rights.

.02.05 Applicability

- 1) The provisions of this title shall apply to any new development, construction or use within the City of UNION GAP Shoreline jurisdiction, designated as Shoreline jurisdiction. . Those shorelines within the City of UNION GAP and its Urban Growth Area which have been inventoried and found to meet the criteria as a shoreline of the state are as follows:

- 2) Other rules and regulations, including the City of UNION GAP Subdivision Ordinance , the City of UNION GAP Zoning Ordinance , , and the City of UNION GAP Building and Construction Ordinance , shall remain in full force and effect as they apply to a designated Shoreline. Wherever the requirements of the City of UNION GAP Title NEW SMP CITATION HERE conflict with the requirements of the applicable Zoning Ordinance, the Subdivision Ordinance or any other lawfully adopted City rules or regulations, the most restrictive standards shall govern.

.02.06 Applicability of Permit System to Federal Agencies

The permit system shall be applied in the following manner to federal agencies on lands within Shoreline jurisdiction:

- 1) Areas and uses in those areas that are under exclusive federal jurisdiction as established through federal or state statutes are not subject to the jurisdiction of this title or chapter 90.58 RCW. Federal agencies shall not be required to obtain permits for developments undertaken by the federal government on lands owned in fee by the federal government, or on easements obtained by the federal government for a specified purpose where the proposed development is consistent with the specified purpose, unless under either circumstance the federal government grants or reserves to the state or City of UNION GAP , substantial jurisdiction over activities on those lands.

- 2) The permit system shall apply to all nonfederal developments and uses undertaken on federal lands and on lands subject to nonfederal ownership, lease, or easement, even though such lands may fall within the external boundaries of a federal ownership.

- 3) The permit system shall apply to developments undertaken on lands not federally owned but under lease, easement, license, or other similar federal property rights short of fee ownership, to the federal government.

- 4) The above paragraphs shall be controlling for the purposes of Shoreline permits for federal land or federal projects; however, the following attempts to clarify these limits for practical use:

- a) Federal development on federally owned land is not required to obtain a permit.
- b) Federal development on a federally owned lease is not required to obtain a permit, as long as the development is consistent with the purpose of the lease.
- c) Development on federally owned land under a non-federal lease or easement must obtain a Shoreline permit.
- d) Non-federal development or use on federally owned land must obtain a Shoreline permit.
- e) Development on non-federal land must obtain a Shoreline permit, even if it is leased, rented, etc. to the federal government, or it is within the boundaries of federal ownership.

.02.07 Administrative Authority

- 1) The City of Union Gap Public Works Department shall be responsible for the general administration of this title. The Public Works Director or the Director’s designee shall serve as the Administrative Official of this title. The Administrative Official shall establish procedures for implementation of this title.
 - a) Where the provisions of these regulations may be unclear in special circumstances, or where judgment must be made because of the nature of the language used, the Administrative Official shall make such interpretations. Such interpretation shall specify whether the issue is under Shoreline jurisdiction or not. A separate record of all interpretations shall be kept. To avoid arbitrariness, any earlier interpretation that may relate to a pending action shall be examined by the Administrative Official for its effect or influence on the pending action.
 - b) A written request for interpretation of any provision of this title, or any rule or regulation adopted pursuant to this title may be submitted to the Administrative Official. Each request shall set forth the specific provision or provisions to be interpreted and the facts of the specific situation giving rise to the request for an interpretation. Interpretations shall be administered in accordance with .03.09 of this Title.
 - (c) The City shall consult with the Department of Ecology (Ecology) to ensure that any formal written interpretations are consistent with the purpose and intent of the SMA (RCW 90.58), pursuant to WAC 173-26-140.

.01.08 Severability

If any provision of the ordinance codified in this title, or its application to any person or legal entity or circumstances is held to be invalid, the remainder of said ordinance or the application of the provision to other persons or legal entities or circumstances shall not be affected.

.01.09 Effective Date

The effective of this Shoreline Master Program, and any future amendments therein, is 14 days from Ecology’s written notice of final action.

Chapter.02
DEFINITIONS

02.001 Definitions Generally

1) Whenever the words and terms set forth in this chapter appear in this title, they shall be given the meaning attributed to them by this chapter. References to specific provisions of the City of UNION GAP building code and the International Building Codes, statutes and Washington Administrative Code provide greater detail for purposes of administering this title.

.02.005 Abutting

"Abutting" means bordering upon, to touch upon, or in physical contact with. Sites are considered abutting even though the area of contact may be only a point.

.02.010 Adjacent

"Adjacent" means to be nearby and not necessarily abutting.

.02.012 Administrative Official

"Administrative Official" means the duly appointed Director of the Planning/Public Works Department, or his designee, or the relevant decision maker identified in CITATION HERE; synonymous with "administrator" or "director."

.02.015 Agricultural Activities

For purposes of administering the Shoreline Master Program "Agricultural activities" means agricultural uses and practices including, but not limited to: Producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing agricultural facilities, provided that the replacement facility is no closer to the shoreline than the original facility; and maintaining agricultural lands under production or cultivation. Agricultural activities include plowing, discing, harrowing, compacting, planting, and harvesting, spraying, etc.

1) "Agricultural products" includes but is not limited to horticultural, viticultural, floricultural, vegetable, fruit, berry, grain, hops, hay, straw, turf, sod, seed, and apiary products; feed or forage for livestock; Christmas trees; hybrid cottonwood and similar hardwood trees grown as crops and harvested within twenty years of planting; and livestock including both the animals themselves and animal products including but not limited to meat, upland finfish, poultry and poultry products, and dairy products;

2) "Agricultural equipment" and "agricultural facilities" includes, but is not limited to:

- i) The following used in agricultural operations: Equipment; machinery; constructed shelters, buildings, and ponds; fences; upland finfish rearing facilities; water diversion, withdrawal, conveyance, and use equipment and facilities including but not limited to pumps, pipes, tapes, canals, ditches, and drains; and/or
- ii) corridors and facilities for transporting personnel, livestock, and equipment to, from, and within agricultural lands; and/or
- iii) farm residences and associated equipment, lands, and facilities; and/or
- iv) roadside stands and on-farm markets for marketing fruit or vegetables.

3) "Agricultural land" means those specific land areas on which agriculture activities are conducted as of the date of adoption of a local master program as evidenced by aerial photography or other documentation. After the effective date of the master program land converted to agricultural use is subject to compliance with the requirements of the master program.

.02.025 Alluvial fan

"Alluvial fan" is a low, outspread, relatively flat to gently sloping feature, shaped like an open fan or a segment of a cone, deposited by a stream at the place where it issues from a valley upon a plain or broad valley, or where a tributary stream is near or at its junction with the main stream, or wherever a constriction in a valley abruptly ceases or the gradient of the stream suddenly decreases; it is steepest near the mouth of the valley where its apex points upstream, and it slopes gently and convexly outward with gradually decreasing gradient.

.02.030 Applicant

"Applicant" means a person, party, firm, corporation, or other legal entity that proposes a development, construction or use on a site.

.02.033 Aquaculture

For purposes of administering the Shoreline Master Program "Aquaculture" means the culture and/or farming of food fish, shellfish, and other aquatic plants and animals in fresh water. Aquaculture practices may include but are not limited to hatching, seeding or planting, cultivating, feeding, raising, harvesting of planted crops or of natural crops so as to maintain an optimum yield, and processing of aquatic plants or animals.

.02.035 Aquifer

"Aquifer" means a saturated geologic formation which will yield enough water to serve as a private or public water supply.

.02.040 Critical Aquifer Recharge Area

"Critical Aquifer Recharge Area" means an area with a critical recharging effect on aquifers used for potable water, or areas where a drinking aquifer is vulnerable to contamination that would affect the potability of the water.

.02.042 Bank

"Bank" means the land surface above the ordinary high-water mark that abuts a body of water and contains it to the bankfull depth.

.02.043 Bankfull depth

"Bankfull depth" means the average vertical distance between the channel bed and the estimated water surface elevation required to completely fill the channel to a point above which water would enter the floodplain or intersect a terrace or hillslope. In cases where multiple channels exist, the bankfull depth is the average depth of all channels along the cross-section.

.02.055 Bed

"Bed" means the land below the ordinary high-water lines of state waters. This definition shall not include irrigation ditches, canals, storm water run-off devices, or other artificial watercourses except where they exist in a natural watercourse that has been altered by man.

.02.060 Bedrock

"Bedrock" means in-place solid rock.

.02.065 Berm

"Berm" means a mound of earth material used as a protective barrier or to control the direction of water flow.

.02.066 Best Available Science

"Best Available Science" in riparian management: WDFW's Riparian Ecosystems, Volume 2: Management Recommendations (<https://wdfw.wa.gov/publications/01988>), published on December 17, 2020 or as amended.

.02.067 Best Management Practices

"Best Management Practices" or "BMPs" means schedules of activities, practices, maintenance procedures, and structural and/or managerial practices that, when used singly or in a combination prevent or reduce adverse impacts to the environment.

.02.070 Bioengineering

"Bioengineering" means project designs or construction methods which use live woody vegetation or a combination of live woody vegetation and specially developed natural or synthetic materials to establish a complex root grid within the existing bank which is resistant to erosion, provides bank stability, and maintains a healthy riparian environment with habitat features important to aquatic and terrestrial wildlife. Bioengineered or biotechnical bank protection designs may incorporate limited use of armored toes and wood structural elements.

.02.075 Breakwater

"Breakwater" means a fixed or floating offshore structure that protects the shore from wave action or currents.

.02.080 Bulkhead

"Bulkhead" means a vertical or nearly vertical erosion protection structure placed parallel to the shore consisting of concrete, timber, steel, rock, or other permanent material not readily subject to erosion.

.02.082 Cabin

For purposes of administering the Shoreline Master Program "Cabin" means a small single-family residence of 800 square feet or less, without a garage or carport and without large accessory buildings. Small accessory buildings, such as detached storage sheds or accessory structures totaling 120 square feet or less, may be allowed. Dwellings not meeting these standards are considered standard single-family residences.

.02.085 Channel

"Channel" means an open conduit, either naturally or artificially created, which periodically or continuously contains moving water, or which forms a connecting link between two bodies of water.

.02.090 Channel Migration Zone

For purposes of administering the Shoreline Master program "Channel migration zone (CMZ)" means the area along a river within which the channel(s) can be reasonably predicted to migrate over time as a result of natural and normally occurring hydrological and related processes when considered with the characteristics of the river and its surroundings.

.02.092 Chief Building Official

"Chief Building Official" or "building official" means the manager of the Building and Fire Safety Division of the Department of Planning or designee.

.02.095 Classification

"Classification" means the definition of value and hazard categories to which critical areas and natural resource lands will be assigned.

.02.100 Clearing

"Clearing" means the removal of timber, brush, grass, ground cover or other vegetative matter from a site.

.02.110 Compaction

"Compaction" means compressing soil through some mechanical means to make it denser.

.02.115 Confinement Feeding Operation

"Confinement feeding operation" means the use of structures or pens for the concentrated feeding or holding of animals or poultry, including but not limited to horses, cattle, sheep, or swine. This definition includes dairy confinement areas, slaughterhouses, shipping terminal holding pens, poultry and/or egg production facilities and fur farms but does not include animal husbandry and normal farming practices.

.02.120 Construction

"Construction" means the assembly, placement, or installation of structures, roadways, transmission lines, and other improvements within a project site.

.02.125 Designated

"Designated" means formal legislative action to identify and describe a critical area.

.02.130 Department

"Department" means the City of UNION GAP Planning/Public Works Department.

.02.135 Development

"Development" means any use as defined under RCW 90.58.030(3)(d) (definitions), or the division of land into lots or parcels in accordance with the City of UNION GAP Subdivision Ordinance (CITATION HERE), and any clearing, excavation, dredging, drilling, filling, dumping, removal of earth and mineral materials, or other permanent or temporary modification of a site up to, but not including, construction as defined in this chapter. "Development" does not include dismantling or removing structures if there is no other associated development or re-development.

.02.140 Dike

"Dike" means an embankment to prevent flooding by a stream or other water body. A dike is also referred to as a levee.

.02.145 Dock

"Dock" means a structure built over or floating upon the water and used as a landing place for boats and other marine transport, fishing, swimming, and other recreational uses.

.02.150 Dredging

"Dredging" means removal of earth from the bed of a stream, lake, or pond for the purpose of increasing the depth of surface water or obtaining minerals, construction aggregate, or landfill materials. This definition does not include excavation for mining within a pond created by a mining operation approved under this title or under a local zoning ordinance, or a mining operation in existence before Zoning, Shorelines, or Critical Areas permits were required for such operations.

.02.160 Earth Material

"Earth material" means any rock, natural soil, or combination thereof.

.02.163 Ecological functions

For purposes of administering the Shoreline Master Program "Ecological functions" or "shoreline functions" means the work performed or role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline's natural ecosystem.

.02.166 Ecosystem-wide processes

For purposes of administering the Shoreline Master Program "Ecosystem-wide processes" means the suite of naturally occurring physical and geologic processes of erosion, transport, and deposition; and specific chemical processes that shape landforms within a specific shoreline ecosystem and determine both the types of habitat and the associated ecological functions.

.02.170 Enhance

"Enhance" means to strengthen any of the basic functional properties of a riparian area that exist but do not perform at optimum efficiency. "Optimum" refers to the most favorable or best performance of each function achievable for a specific segment of stream corridor.

.02.175 Ephemeral Stream

"Ephemeral stream" means a stream that flows only in response to precipitation with no groundwater association, usually less than 30 days per year. The lack of any groundwater association results in a lack of a distinctive riparian vegetation compared to the surrounding landscape.

.02.180 Erosion

"Erosion" means the wearing away of the earth's surface because of the movement of wind, water, or ice.

.02.185 Events and Temporary Uses

For purposes of administering the Shoreline Master Program "Events and Temporary Uses" means a social or community occasion or activity lasting for a limited time. Events and Temporary Uses within permitted facilities or legally non-conforming facilities that are designed for such uses are not included in this definition, as long as they do not materially interfere with the normal public use of the water or shorelines of the state.

.02.190 Excavation

"Excavation" means the mechanical removal of earth material.

.02.195 Feasible

For purposes of administering the Shoreline Master Program "Feasible" means that an action, such as a development project, mitigation, or preservation requirement, meets all of the following conditions:

- a) The action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results;
- b) The action provides a reasonable likelihood of achieving its intended purpose; and
- c) The action does not physically preclude achieving the project's primary intended legal use.

.02.200 Fill

"Fill" means the addition of any material, such as (by way of illustration) earth, clay, sand, rock, gravel, concrete rubble, wood chips, bark, or waste of any kind, which is placed, stored or dumped upon the surface of the ground resulting in an increase in the natural surface elevation. The physical structure of a shore stabilization structure shall not be considered fill. However, fill placed behind the structure is considered fill. Stream bed manipulation for irrigation diversions shall not be considered fill.

.02.205 Flood

"Flood" means a general and temporary condition of partial or complete inundation of normally dry land areas from the unusual and rapid accumulation of runoff of surface waters from any source.

.02.206 Flood Hazard Permit

"Flood hazard permit" means written approval applied for and obtained in accordance with such rules and regulations as are established under this title.

.02.207 Flood Insurance Rate Map

"Flood insurance rate map (FIRM)" means the official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

.02.208 Flood Insurance Study

"Flood insurance study" means the official report provided by the Federal Emergency Management Agency that includes flood profiles, the flood boundary-floodway map, and the water surface elevation of the base flood.

.02.210 Floodplain

"Floodplain" means a land area adjoining a river, stream, watercourse, or lake which has been determined likely to flood. The extent of the floodplain may vary with the frequency of flooding being considered.

"Flood plain" is synonymous with the one hundred-year floodplain and means that land area susceptible to inundation with a one percent chance of being equaled or exceeded in any given year.

.02.215 Flood-prone

"Flood-prone" means a land area for which a floodway and floodplain has not been determined with respect to any specific flood frequency, but for which the potential for flooding can be identified by information observable in the field such as soils or geological evidence, or by materials such as flood studies, topographic surveys, photographic evidence or other data.

.02.216 Flood-proofing

"Flood-proofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damages to lands, water and sanitary facilities, structures, and contents of buildings.

.02.220 Floodway

"Floodway" means "Floodway" means the area that has been established in effective federal emergency management agency flood insurance rate maps or floodway maps. The floodway does not include lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state or a political subdivision of the state.

.02.230 Forest Land

"Forest land" means land primarily devoted to forest practices activities.

.02.240 Forest Practices

"Forest practices" means activities conducted under federal forest practices approval or under a Forest Practices permit reviewed and approved by the Washington Department of Natural Resources pertaining to the management of forest land , including growing, managing, harvesting, and interim storage of merchantable timber for commercial value, as well as incidental activities reviewed under federal or state approval, such as road construction and maintenance (including bridges) and mining activities.

.02.250 Grade

"Grade" means the vertical location of the ground surface. "Natural grade" is the grade as it exists or may have existed in its original undisturbed condition. "Existing grade" is the current grade in either its undisturbed, natural condition or as disturbed by some previous modification. "Rough grade" is a stage where grade conforms approximately to an approved plan. "Finish grade" is the final grade of the site which conforms to an approved plan.

.02.255 Grading

"Grading" means any excavation, filling, or combination thereof.

.02.260 Groundwater

"Groundwater" means water that occurs beneath the land surface, also called subsurface water or subterranean water. Groundwater includes water in the zone of saturation of a water-bearing formation.

.02.266 Hyporheic

"Hyporheic" means a groundwater area adjacent to and below channels where water is exchanged with channel water and water movement is mainly in the downstream direction.

.02.270 Intermittent Streams

"Intermittent stream" means a stream which flows only during certain times of the year, with inputs from precipitation and groundwater, but usually more than 30 days per year. The groundwater association generally produces an identifiable riparian area. This definition does not include streams that are intermittent because of irrigation diversion or other manmade diversions of the water.

.02.275 Lake or pond

"Lake or pond" means an inland body of standing water. The term includes the reservoir or expanded part of a river behind a dam.

.02.282 Manufactured Home

"Manufactured home" means a structure fabricated on a permanent chassis that is transportable in one or more sections; is designed to be used with or without a permanent foundation when connected to the required facilities; has sleeping, cooking, and plumbing facilities or any combination thereof; and is intended for human occupancy or is being used for residential purposes. Although Washington Administrative Code (WAC) and City of UNION GAP Code separately define and distinguish between YVCOG Jurisdictional SMP

"manufactured home" and "mobile home" according to federal or state construction codes for such dwellings, the term "manufactured home" shall include "mobile home" for regulatory purposes under this chapter. The term shall not include "recreation vehicle," "commercial coach," "camping vehicle," "travel trailer," "park trailer," "tip-out," and any other similar vehicle which is not intended, designed, constructed or used for residential purposes for use as a single-family dwelling and is not otherwise labeled as a manufactured or mobile home under any federal or state law. For floodplain management purposes only under this chapter, park trailers, camping vehicles, travel trailers, tip-outs, and other similar vehicles shall be considered manufactured homes when placed on a site for greater than one hundred eighty days.

.02.283 Manufactured Home Park or Subdivision

"Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale in accordance with LAND USE CITATION HERE of this Code.

.02.284 Manufactured Home Park or Subdivision, Existing

"Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before October 1, 1995, the effective date of these floodplain management regulations.

.02.285 Minerals

"Minerals" means gravel, sand, and metallic and non-metallic substances of commercial value.

.02.290 Mining

"Mining" means the removal of naturally occurring minerals and materials from the earth for commercial value. Mining includes processing and batching. Mining does not include large excavations for structures, foundations, parking areas, etc. Also see Dredging and Excavation (.05.15).

.02.295 Native

"Native" means indigenous to or originating naturally within the City of UNION GAPX.

.02.300 Natural Conditions

"Natural conditions" means those conditions which arise from or are found in nature and not modified by human intervention; not to include artificial or manufactured conditions.

.02.302 Nonconforming Development or Nonconforming Structure

"Nonconforming structure" means an existing structure that was lawfully constructed at the time it was built prior to, the effective date of the Shoreline Master Program but is no longer fully consistent with present regulations such as setbacks, buffer or yards; area; bulk; height or density standards due to subsequent changes to the master program

.02.303 Non-conforming Lot.

"Nonconforming lot" means a lot that met dimensional requirements of the applicable master program at YVCOG Jurisdictional SMP

the time of its establishment but now contains less than the required width, depth or area due to subsequent changes to the master program.

.02.304 Nonconforming Use

"Nonconforming use" means an existing shoreline use which was lawfully established prior to the effective date of provisions of the SMA or this Shoreline Master Program but which no longer conforms to the present use regulations due to subsequent changes to the SMP.

.02.305 Ordinary High-Water Mark (OHWM)

"Ordinary High-Water Mark" means that mark on lakes and streams which will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in ordinary years, as to mark upon the soil a character distinct from that of the abutting upland.

.02.310 Perennial Stream

"Perennial stream" means a stream that flows year-round in normal water years. Groundwater is a source of much of the water in the channel.

.02.320 Project Site

"Project site" means that portion of any lot, parcel, tract, or combination thereof which encompasses all phases of the total project proposal.

.02.322 Recreation Vehicle

"Recreation vehicle" means a vehicle which is:

- 1) Built on a single chassis; and
- 2) Four hundred square feet or less when measured at the largest horizontal projection; and
- 3) Designed to be self-propelled or permanently towable by a light-duty truck; and
- 4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

.02.325 Restore

"Restore" means to re-establish the basic functional properties that have been lost or destroyed through natural events or human activity. This may be accomplished through measures including but not limited to re-vegetation, removal of intrusive structures and removal or treatment of toxic materials. Restoration does not imply a requirement for returning the site to aboriginal or pre-European settlement conditions.

.02.330 Revetment

"Revetment" means a facing placed on a bank or bluff to protect a slope, embankment, or shore structure against erosion by wave action or currents.

.02.335 Riparian Vegetation

"Riparian Vegetation" means the terrestrial vegetation that grows beside rivers, streams, and other

freshwater bodies and that depends on these water sources for soil moisture greater than would otherwise be available from local precipitation.

.02.340 Riprap

"Riprap" means a layer, facing, or protective mound of stones randomly placed to prevent erosion, scour, or sloughing of a structure or embankment; also, the stone used for this purpose.

.02.345 Scour

"Scour" means the removal of underwater material by waves and currents, especially at the base or toe of a shore stabilization structure.

.02.355 Shoreline

For purposes of administering the Shoreline Master Program "Shoreline," means those water areas, the associated features, and the land areas within the City of UNION GAP that are subject to the State Shoreline Management Act, especially as defined in RCW 90.58.030 (definitions), and as further identified in .05.02 (Shoreline Jurisdiction).

.02.360 Shore Stabilization

"Shore stabilization" means the construction or modification of bulkheads, retaining walls, dikes, levies, riprap, breakwaters, jetties, groins, weirs, and other structures along the shore, for the purpose of controlling stream undercutting, stream erosion or lake shore erosion.

.02.363 Single Improved Recreational Vehicle Site

For purposes of administering the Shoreline Master Program "Single Improved Recreational Vehicle Site" means a site on which a recreational vehicle, as defined in .02.322, may be parked with minimal services (such as electricity, well and septic system), without a garage or carport, and without large accessory buildings (small detached storage sheds or accessory structures totaling 120 square feet or less may be allowed). Recreational vehicle sites not meeting these criteria are considered single family residences.

.02.365 Slope

"Slope" means an inclined ground surface the inclination of which is expressed as a ratio of horizontal distance to vertical distance.

.02.366 Solid Waste

"Solid waste" means all putrescible and non-putrescible solid and semisolid wastes including, but not limited to, garbage, rubbish, wood waste, ashes, industrial wastes, swill, demolition and construction wastes, abandoned vehicles or parts thereof, and discarded commodities. Solid waste shall not include earth, clay, sand, or gravel.

.02.367 Special Flood Hazard Areas

"Special flood hazard area" means the land in the floodplain identified by the Federal Emergency Management Agency that is subject to a one-percent or greater chance of flooding in any given year; commonly known as the 100-year floodplain.

.02.370 Stream

"Stream" means water contained within a channel, either perennial, intermittent or ephemeral. Streams include natural watercourses modified by man, for example, by stream flow manipulation, channelization, and relocation of the channel. They do not include irrigation ditches, wasteways, drains, outfalls, operational spillways, canals, stormwater runoff facilities, or other artificial watercourses.

.02.390 Structure

"Structure" means anything constructed or erected which requires location on the ground or attached to something having a location on the ground, but not including fences or walls used as fences less than six feet in height. The term also includes gas or liquid storage tanks when located principally above ground.

.02.400 Use

"Use" means the activity to which land or a building is devoted and for which either land or a building is or may be occupied or maintained.

.02.415 Vegetative Buffer or Buffer

"Vegetative buffer or Buffer" means an area extending landward from the ordinary high water mark of a lake or stream and/or from the edge of a wetland which is maintained or otherwise allowed to provide, under optimal conditions, adequate soil conditions and native vegetation for the performance of the basic functional properties of shorelines or critical areas as set forth in Chapter CRITICAL AREAS MUNICIPAL CODE CITATION HERE. It is understood that optimal conditions do not always exist due to degradation of the vegetative buffer before establishment of this title, or due to colonization by non-native species. Such conditions still provide functional properties, though at a lower level, depending on the difference from natural conditions.

.02.425 Wetland

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

.02.430 Wildlife

"Wildlife" means all species of the animal kingdom whose members exist in Washington in a wild state. The term "wildlife" includes, but is not limited to, any mammal, bird, reptile, amphibian, fish, or invertebrate, at any stage of development. The term "wildlife" does not include feral domestic mammals or the family Muridae of the order Rodentia (old world rats and mice).

.02.435 Wildlife Habitat

"Wildlife habitat" means areas which, because of climate, soils, vegetation, relationship to water, location, and other physical properties, have been identified as of critical importance to maintenance of wildlife species.

.02.440 Works

"Works" means any dam, wall, wharf, embankment, levee, dike, berm, pile, bridge, improved road, abutments, projection, excavation, channel rectification, or improvement attached to, or affixed upon, the realty.

Chapter .03

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GENERAL PROVISIONS

.03.01 Shoreline Development Authorization Required

- 1) No new development, construction or use shall occur within Shoreline jurisdiction without obtaining a development authorization in accordance with the provisions of this title, except for those provided for in section.03.03 . Exceptions to Local Review and.03.07 (Exemptions). Exemptions, as provided for in section.03.07, shall be considered as development authorization, including those taking place on federal lands and requiring permits or review as provided in.01.07 (Applicability to Federal Agencies) but qualifying for other exemptions under this chapter. All proposed uses and development occurring within Shoreline jurisdiction must conform to chapter 90.58 RCW, the Shoreline Management Act, and this master program.

- 2) With respect to application and review procedures, it is the intent of this title to streamline and coordinate the authorization of critical area projects which require other local, state and/or federal permits or authorizations. Any nonexempt development, construction or use occurring within Shoreline jurisdiction shall be processed according to the provisions of this chapter and the Critical Areas Ordinance (SMC CITATION HERE).

- 3) Approval of a development authorization under this title shall be in addition to, and not a substitute for, any other development permit or authorization required by the City of UNION GAP. Approval of a development authorization under this title shall not be interpreted as an approval of any other permit or authorization required of a development, construction, or use.

- 4) Permits issued in accordance with this title shall run with the land.

ABBREVIATED REVIEW ALTERNATIVES

.03.02 Minor Activities Allowed without a Permit or Exemption.

- 1) The following activities are included under.01.05(1) (Applicability) and are allowed without a permit or exemption:
 - a) Maintenance of existing, lawfully established areas of crop vegetation, landscaping (including paths and trails) or gardens within a regulated critical area or its buffer. Examples include, harvesting or changing crops, mowing lawns, weeding, harvesting, and replanting of garden crops, pruning, and planting of non-invasive ornamental vegetation or indigenous native species to maintain the general condition and extent of such areas. Cutting down trees and shrubs within a buffer is not covered under this provision. Excavation, filling, and construction of new landscaping features, such as concrete work, berms, and walls, are not covered in this provision and are subject to review.
 - b) Minor maintenance and/or repair of lawfully established structures that do not involve additional construction, earthwork or clearing. Examples include painting, trim or facing

replacement, re-roofing, etc. Construction or replacement of structural elements is not covered in this provision but may be covered under an exemption. Cleaning canals, ditches, drains, wasteways etc. without expanding their original configuration is not considered additional earthwork, as long as the cleared materials are placed outside the stream corridor, wetlands, and buffers.

c) Low impact activities such as hiking, canoeing, viewing, nature study, photography, hunting, fishing, education, or scientific research.

d) Creation of unimproved private trails that do not cross streams or wetlands that are less than two (2) feet wide and do not involve placement of fill or grubbing of vegetation.

e) Planting of native vegetation,

f) Noxious weed control outside vegetative buffers identified in Chapter 16D.06.16, except for area wide vegetation removal/grubbing,

g) Noxious weed control within vegetative buffers if the criteria listed below are met. Control methods not meeting these criteria may still apply for a restoration exemption, or other authorization as applicable:

i) Hand removal/spraying of individual plants only; or

ii) No area wide vegetation removal/grubbing.

.03.03 Exceptions to Local Review.

Requirements to obtain a Substantial Development Permit, Conditional Use Permit, Variance, letter of exemption, or other review to implement the Shoreline Management Act do not apply to the following:

(1) Remedial actions. Pursuant to RCW 90.58.355, any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or to the department of ecology when it conducts a remedial action under chapter 70.105D RCW. Periodic Review Checklist Guidance 6 September 2019

(2) Boatyard improvements to meet NPDES permit requirements. Pursuant to RCW 90.58.355, any person installing site improvements for storm water treatment in an existing boatyard facility to meet requirements of a national pollutant discharge elimination system storm water general permit.

(3) WSDOT facility maintenance and safety improvements. Pursuant to RCW 90.58.356, Washington State Department of Transportation projects and activities meeting the conditions of RCW 90.58.356 are not required to obtain a Substantial Development Permit, Conditional Use Permit, Variance, letter of exemption, or other local review.

(4) Projects consistent with an environmental excellence program agreement pursuant to RCW 90.58.045.

(5) Projects authorized through the Energy Facility Site Evaluation Council process, pursuant to chapter 80.50 RCW.

.03.04 Exemption–Procedural Requirements

Certain activities and uses are exempt from some permit processes and shall instead be reviewed using the procedures below.

- 1) Exemptions shall be construed narrowly, and any exempted development shall be consistent with the policies and provisions of this title.
- 2) Only those developments that meet the precise terms of one or more of the listed exemptions may qualify for review under these provisions.
- 3) If any part of a proposed development is not eligible for exemption, then a development permit is required for the entire proposed development project.
- 4) The burden of proof that a development or use is exempt from the development permit process is on the applicant.
- 5) When a development or use is proposed that does not comply with the bulk, dimensional and performance standards of this title, such development must also obtain a Variance (.03.17).
- 6) All activities exempt from the requirement for a substantial development permit shall use reasonable methods to avoid impacts to critical areas within shoreline jurisdiction. To be exempt from the requirement for a substantial development permit does not give permission to degrade a critical area or Shoreline or ignore risk from natural hazards. Any incidental damage to, or alteration of, a critical area that is not a necessary outcome of the exempted activity shall be restored, rehabilitated, or replaced at the responsible party's expense, according to section 05.18 (Reclamation).
- 7) The proponent of an exempt activity shall submit a written request for permit exemption to the Administrative Official that describes the activity and states the exemption requested. The applicant shall submit to the Administrative Official a written description of the project that demonstrates compliance with applicable standards.
- 8) The Administrative Official shall review the exemption request to verify that it complies with this title.
- 9) The Administrative Official shall approve or deny the exemption.
- 10) A formal letter of exemption shall be provided where an exempt activity is approved under this title. A copy of the exemption shall be kept on file by the Administrative Official. If an exemption cannot be granted, the Administrative Official shall notify the applicant in writing of the reason, at which time the applicant may pursue other permit processes under this title.
- 11) Conditions may be attached to the approval of exempted developments and/or uses as necessary to assure continued consistency of the project with this title.

12) Exempt activities are identified in the following locations. Such activities are stated as exempt from the substantial development permit or flood hazard permits. However, this provision does not exempt an activity from other permits or reviews that may be required under this title.

- a) Those activities listed in WAC 173-27-040, and summarized in section.03.09 (are exempt from the substantial development permit requirements

.03.05 Permit Filing Procedures.

After all local permit administrative appeals or reconsideration periods are complete and the permit documents are amended to incorporate any resulting changes, the City will mail the permit using return receipt requested mail to the Department of Ecology regional office and the Office of the Attorney General. Projects that require both Conditional Use Permits and or Variances must be mailed simultaneously with any Substantial Development Permits for the project.

- (1) The permit and documentation of the final local decision will be mailed together with the complete permit application; a findings and conclusions letter; a permit data form (cover sheet); and applicable SEPA documents.

- (2) Consistent with RCW 90.58.140(6), the state's Shorelines Hearings Board twenty-one-day appeal period starts with the date of filing, which is defined below:

- (a) For projects that only require a Substantial Development Permit: the date that Ecology receives the City's decision.

- (b) For a Conditional Use Permit (CUP) or Variance: the date that Ecology's decision on the CUP or Variance is transmitted to the applicant and the City.

- (c) For SDPs simultaneously mailed with a CUP or Variance to Ecology: the date that Ecology's decision on the CUP or Variance is transmitted to the applicant and the City.

.03.06 WSDOT Project Special Procedures.

- (1) The City will conduct permit reviews for WSDOT projects on state highways within 90 days, pursuant to RCW 47.01.485.

- (2) Pursuant to RCW 90.58.140, WSDOT projects that address significant public safety risks may begin twenty-one days after the date of filing if all components of the project will achieve no net loss of shoreline ecological functions.

.03.07 Exemptions

The development activities identified in WAC 173-27-040, and summarized below, are exempt from substantial development permits that are required within Shoreline jurisdiction designated in chapter

.05.02 (Shoreline Jurisdiction):

- 1) Construction by an owner, lessee, or contract purchaser of a single-family residence for his own use or the use of his family, which residence meets all requirements of the state agency or local government having jurisdiction thereof, other than requirements imposed pursuant to this title. "Single-family residence" means a detached dwelling designed for and occupied by one family including those structures and developments within a contiguous ownership which are a normal appurtenance. An "appurtenance" is necessarily connected to the use and enjoyment of a single-

family residence and is located landward of the ordinary high-water mark and the perimeter of a wetland. Normal appurtenances include a garage; deck; driveway; utilities; fences; installation of a septic tank and drainfield and grading which does not exceed two hundred fifty cubic yards and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark. Construction authorized under this exemption shall be located landward of the ordinary high-water mark.

2) Construction of the normal protective bulkhead common to single-family residences. A "normal protective" bulkhead includes those structural and nonstructural developments installed at or near, and parallel to, the ordinary high water mark for the sole purpose of protecting an existing single-family residence and appurtenant structures from loss or damage by erosion. A normal protective bulkhead is not exempt if constructed for the purpose of creating dry land. When a vertical or near vertical wall is being constructed or reconstructed, not more than one cubic yard of fill per one foot of wall may be used as backfill. When an existing bulkhead is being repaired by construction of a vertical wall fronting the existing wall, it shall be constructed no further waterward of the existing bulkhead than is necessary for construction of new footings. When a bulkhead has deteriorated such that an ordinary high water mark has been established by the presence and action of water landward of the bulkhead then the replacement bulkhead must be located at or near the actual ordinary high water mark. Bioengineered erosion control projects may be considered a normal protective bulkhead when any structural elements are consistent with the above requirements and when the project has been approved by the department of fish and wildlife.

3) Development and construction for which the total cost or fair market value, whichever is higher, does not exceed 7,047 dollars (adjusted for inflation as determined by the Washington Office of Financial Management using methods provided in RCW90.58.030(3)(e) and WAC 173-27-040(2)(a), provided such development and construction does not materially interfere with the public use of the water or shorelines of the state. The total cost or fair market value of the development shall include the fair market value of any donated, contributed or found labor, equipment, or materials.

4) Construction or practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities, construction of a barn or similar agricultural structure, and the construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels; provided, that a feedlot of any size, all processing plants, other activities of a commercial nature, and/or alteration of the contour of the land by leveling or filling other than that which results from normal cultivation, shall not be considered normal or necessary farming or ranching activities. A "feedlot" shall be an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for growing crops or vegetation for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations.

5) Normal maintenance or repair of existing structures or developments, including damage by accident, fire, or elements. "normal maintenance" includes those usual acts to prevent a decline,

lapse, or cessation from a lawfully established condition. "normal repair" means to restore a development to a state comparable to its original condition, including but not limited to its size, shape, configuration, location and external appearance, within a reasonable period after decay or partial destruction, except where repair involves total replacement which is not common practice or causes substantial adverse effects to the shoreline resource or environment. Replacement of a structure or development may be authorized as repair where such replacement is the common method of repair for the type of structure or development and the replacement structure or development is comparable to the original structure or development including but not limited to its size, shape, configuration, location and external appearance, and the replacement does not cause additional substantial adverse effects to shoreline resources or environment. The need for replacement resulting from a neglect of maintenance and repair is not considered a common method of repair. Replacement of non-conforming uses or facilities may also be subject to section.03.19 (Non-conforming Uses and Facilities).

6) Emergency construction necessary to protect property from damage by the elements, an "emergency" is an unanticipated and imminent threat, which requires immediate action or response within a time period too brief to allow full compliance with this title. The following criteria must exist to qualify any action under an emergency provision:

- a) There must be an immediate threat to life, public or private property, or an immediate threat of serious environmental degradation arising from a natural condition or technical incident; and
- b) The emergency response must be confined to the action necessary to protect life or property from damage; and
- c) The scope of the emergency response must be limited to the work necessary to relieve the immediate threat; and
- d) The emergency response applies only to the period of time in which the actual emergency exists; and
- e) The request must be accompanied by a paid permit application or a request for a non-emergency exemption. Submittal requirements beyond normal exemption submittal requirements are waived until after the emergency is deemed abated. As soon as the emergency is deemed abated by appropriate authorities, compliance with the requirements of this title is required, and may include removal of the emergency construction if non- structural construction measures can adequately deal with site issues.

7) Construction of a dock, including a community dock, designed for pleasure craft only, for the private noncommercial use of the owners, lessee, or contract purchaser of a single-family and multiple-family residence. A dock is a landing and moorage facility for watercraft and does not include recreational decks, storage facilities or other appurtenances. This exception applies if

- (a) In fresh waters the fair market value of the dock replacement does not exceed twenty-two thousand five hundred (\$22,500), and are of equal or lesser square footage than the existing dock being replaced, or
- (b) The fair market value of new docks constructed in fresh waters does not exceed eleven thousand two hundred (\$11,200) dollars

However, subsequent construction having a fair market value exceeding the amount above occurs within five years of completion of the prior construction, the subsequent construction must be considered a substantial development for the purpose of these regulations.

8) The operation, maintenance or construction of canals, waterways, drains, reservoirs, or other manmade facilities that now exist or are hereinafter created or developed as a part of an irrigation system for the primary purpose of making use of system waters, including return flow and artificially stored ground water from the irrigation of lands;

9) Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on September 8, 1975, which were created, developed, or utilized primarily as a part of an agricultural drainage and diking system.

10) Construction or modification, by or under the authority of the Coast Guard or a designated port management authority, of navigational aids such as channel markers and anchor buoys.

11) Any project with a certification from the governor pursuant to chapter 80.50 RCW (Energy facilities - site locations).

12) Watershed restoration projects that are authorized by the sponsor of a watershed restoration plan and that implements the plan or a part of the plan and meets the requirements of WAC 173-27-040(6), as amended.

13) Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under this chapter, if:

a) The activity does not interfere with the normal public use of surface waters within Shoreline jurisdiction.

b) The activity will have no significant adverse impact on the environment including but not limited to fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values,

c) The activity does not involve the installation of any structure, and upon completion of the activity the vegetation and land configuration of the site are restored to conditions existing before the activity.

d) A private entity seeking development authorization within Shoreline jurisdiction must first post a performance bond or provides other evidence of financial responsibility to the local jurisdiction to ensure that the site is restored to preexisting conditions.

14) The process of removing or controlling aquatic noxious weeds, as defined in RCW 17.26.020 (control of spartina and purple loosestrife), through the use of an herbicide or other treatment methods applicable to weed control that are recommended by a final environmental impact statement published by the Department of Agriculture or the Department of Ecology jointly with other state agencies under chapter 43.21C RCW (SEPA);

15) A public or private project, the primary purpose of which is to improve fish or wildlife habitat or fish passage that meets the requirements of WAC 173-27-040(p) as amended.

- a) The project has been approved in writing by the Department of Fish and Wildlife as necessary for the improvement of the habitat or passage and appropriately designed and sited to accomplish the intended purpose; and
- b) The project has received hydraulic project approval, when required, by the department of fish and wildlife pursuant to chapter 75.20 RCW (Hydraulics Code); and
- c) The Administrative Official has determined that the project is consistent with this title; and
- d) Fish habitat enhancement projects that conform to the provisions of RCW 77.55.181 (Fish Habitat Enhancement Projects) are deemed to be consistent with this title.

16) Hazardous substance remedial actions, which a consent decree, order or agreed order has been issued pursuant to chapter 70.105D RCW (Model Toxics Control Act) or when the Department of Ecology conducts a remedial action under chapter 70.105D RCW (Model Toxics Control Act). The Department of Ecology shall assure that such projects comply with the substantive requirements of chapter 90.58 RCW (SMA), chapter 173-26 WAC (SMA Guidelines) and the Shoreline Master Program, when applicable.

17) The removal of trees that are hazardous, posing a threat to public safety, or posing an imminent risk of damage to private property, from critical areas and buffers, provided that:

- a) A dead tree within a buffer may be shortened to the point that the tree will not strike a structure or defined vehicle parking area. The remainder shall be maintained to provide wildlife habitat, nesting locations and perch sites. A remainder less than ten (10) feet tall may be removed completely.
- b) A diseased or damaged tree may be removed as determined by the Administrative Official.
- c) The removed portion of trees should be placed within the vegetative buffer area as wildlife habitat, unless it will interfere with a maintained vegetation area identified in section.03.02(a) (Minor Activities), or as determined otherwise by the Administrative Official. Portions of trees to be removed from the buffer area should be felled to the outer edge of a vegetative buffer and dragged out. Heavy equipment is not allowed within the buffer, except within areas identified in.03.02(a) (Minor Activities). Damaged riparian vegetation must be repaired.
- d) Each tree that is felled or topped shall be replaced in a manner acceptable to the Administrative Official.

(18) The external or internal retrofitting of an existing structure with exclusive purpose of compliance with the Americans with Disabilities Act (ADA) of 1990 or to otherwise provide physical access to the structure by individuals with disabilities.

.03.08 Mitigation requirements

1) All developments shall demonstrate that all reasonable efforts have been examined with the intent to avoid and minimize impacts to critical areas. When an alteration to a critical area is proposed, such alteration shall be avoided, minimized, or compensated for in the following order of preference:

- a) Avoiding the impact altogether by not taking a certain action or parts of an action.
- b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps, such as project redesign, relocation, or timing, to avoid or reduce impacts.
- c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.
- d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.
- e) Compensating for the impact by replacing, enhancing, or providing substitute resources or environments.
- f) Monitoring the impact and taking appropriate corrective measures.

2) Mitigation for individual actions may include a combination of the above measures.

3) Unless otherwise provided in this title, if alteration to the critical area is unavoidable, all adverse impacts to or from critical areas and buffers resulting from a development proposal or alteration shall be mitigated in accordance with an approved Mitigation Plan. Mitigation shall not be implemented until after approval of the Mitigation Plan.

4) Mitigation shall be in-kind and on-site, when possible, and sufficient to maintain the functions and values of the critical area, and to prevent risk from a hazard posed by a critical area. When necessary, mitigation may be provided that is out-of-kind and/or off-site.

REVIEW PROCESS

.03.09 Application Submittal

1) Application for a development authorization under this title shall be made on forms provided by the department. The application submittal shall include a site plan consisting of maps and elevation drawings, drawn to an appropriate scale to depict clearly all required information, photographs and text which shall include:

- (a) The boundary of the parcel(s) of land upon which the development is proposed.
- (b) The ordinary high water mark of all water bodies located adjacent to or within the boundary of the project. This may be an approximate location provided, that for any development where a determination of consistency with the applicable regulations requires a precise location of the ordinary high water mark the mark shall be located precisely and the biological and hydrological basis for the location as indicated on the plans shall be included in the development plan. Where the ordinary high water mark is neither

adjacent to or within the boundary of the project, the plan shall indicate the distance and direction to the nearest ordinary high water mark of a shoreline.

(c) Existing and proposed land contours. The contours shall be at intervals sufficient to accurately determine the existing character of the property and the extent of proposed change to the land that is necessary for the development. Areas within the boundary that will not be altered by the development may be indicated as such and contours approximated for that area.

(d) A delineation of all wetland areas that will be altered or used as a part of the development.

(e) A general indication of the character of vegetation found on the site.

(f) The dimensions and locations of all existing and proposed structures and improvements including but not limited to; buildings, paved or graveled areas, roads, utilities, septic tanks and drainfields, material stockpiles or surcharge, and stormwater management facilities.

(g) Where applicable, a landscaping plan for the project.

(h) Where applicable, plans for development of areas on or off the site as mitigation for impacts associated with the proposed project shall be included and contain information consistent with the requirements of this section.

(i) Quantity, source and composition of any fill material that is placed on the site whether temporary or permanent.

(j) Quantity, composition and destination of any excavated or dredged material.

(k) A vicinity map showing the relationship of the property and proposed development or use to roads, utilities, existing developments and uses on adjacent properties.

(l) Where applicable, a depiction of the impacts to views from existing residential uses and public areas.

(m) On all variance applications the plans shall clearly indicate where development could occur without approval of a variance, the physical features and circumstances on the property that provide a basis for the request, and the location of adjacent structures and uses. (WAC 197-27-180)

2) The site plan should also show the location of all critical areas, such as those identified in CITATION TO CAO include all required critical areas reports prepared in conformance CITATION TO CAO

3) To be accepted as complete, a critical area development authorization application must include all maps, drawings and other information or data specified by this title.

.03.10 Determination of Review Process

1) The Administrative Official shall determine from the application submittal, and other available information what type of permit or review is required under this title. The Administrative Official shall make such determination as early in the application process as is possible and shall inform the project applicant in writing of any application needs.

2) Specific information on when a permit or review is required, its review process type and review criteria are found in the section for each permit or review. However, a brief description of each type of permit or review is provided in Table 3-1 below. Some permits or reviews are general, and

all projects will have a general review. Some permits are more specialized and apply only in specific cases or situations. More than one (1) permit or review may be needed for a project.

Table 3-1

General Permits or Reviews
Substantial Development. Shoreline Substantial development projects include any development subject to RCW Chapter 90.58, the Shoreline Management Act.
Exemptions. Exemptions are generally minor activities that do not need to go through the permit process.
Specific Permits
Conditional Use Permit. Shoreline Conditional Uses are those uses within Shoreline jurisdiction that are identified in Table.05.1 as conditional uses, and that are usually seen as uses that either do not need a Shoreline location, are considered not to be suitable for siting in shoreline locations, or have impacts that need closer scrutiny
Variance. A Shoreline Variance may be used within Shoreline jurisdiction to grant relief from specific performance standards where there are extraordinary circumstances that will impose unnecessary hardships
Non-conforming Use or Facility Alteration. Non-conforming Use or Facility Alterations are necessary when an existing legal use that currently does not conform to this title is to be altered.
Minor revisions to an Existing Permit. Minor Revisions to an Existing Permit allow simplified review of certain changes to a project that has previously received a permit

.03.11 Development Authorization – Review Procedure

Upon submittal and acceptance of a completed development authorization application, the Administrative Official shall process and review the application as follows,

1) Development authorizations shall be processed consistent with review procedures provided in CITATION TO PERMIT REVIEW PROCESS CODE and with any specific processes’ requirements provided in.03.15 through.03.19 (specific permit descriptions), including but not limited to:

- a) Submittals
- b) Completeness Review
- c) Notices
- d) Reviewing Official’s Decision
- e) Hearings
- f) Decision
- g) Decision Appeals.

2) Decisions on a development authorization shall be consistent with section.03.12 (Authorization Decisions – Basis for Action), 16D.03.13 (Conditional Approval of Development Authorization) and with any specific decision criteria provided under the sections for each relevant permit type, as provided in.03.15 through.03.19 (specific permit descriptions).

3) In addition to the review procedures of ADMINISTRATIVE CODE CITATION, the following procedures shall apply to development authorizations within Shoreline jurisdiction:

- a) The public comment period for Shoreline permits shall conform to WAC 173-27-110 (30 days), except that the public comment period for limited utility extensions and shoreline

stabilization measures for bulkheads to protect a single-family residence and its appurtenant structures shall conform to WAC 173-27-120 (20 days);

b) For limited utility extensions and bulkheads for a single-family residence, the time for the City to issue a decision shall conform to WAC 173-27-120 (21 days from the last day of the comment period);

c) The effective date of a Shoreline permit shall conform to WAC 173-27-90 (the later of the permit date, or the date of final action on subsequent appeals of the Shoreline permit, unless the applicant notifies the Department of delays in other necessary construction permits);

d) The expiration dates for a shoreline permit regarding start of construction and completion, and the extension of deadlines for those dates shall conform with WAC 173-27-090 (start construction within 2 years, complete construction within 5 years, 1 year extensions of those dates, and allowance for the administrative official to set alternative permit expiration dates with a showing of good cause).

e) For limited utility extensions and bulkheads for single family residences, the time for the City to complete any local appeal shall conform to WAC 173-27-120 (30 days).

f) The Department shall send its decision and the application materials to the Department of Ecology after the local decision and any local appeal procedures have been completed in conformance with WAC 173-27-130.

g) For Substantial Development permits, the Department of Ecology will file the permit without additional action according to WAC 173-27-130.

h) For Conditional Use and Variance permits, the Department of Ecology will follow WAC 173-27-130 and WAC 173-27-200 (issue a decision within 30 days of the date of filing);

i) The appeal period of a Department of Ecology action to the Shoreline Hearings Board will follow WAC 173-27-190 (21 days from the date of filing for a Substantial Development permit, or issuing a decision on a Conditional Use or Variance permit).

j) The Shorelines Hearings Board will follow the rules governing that body (RCW 90.58).

.03.12 Authorization Decisions – Basis for Action

The action on any development authorization under this title shall be based upon the following criteria:

- 1) Danger to life and property that would likely occur as a result of the project; and
 - 2) Compatibility of the project with the critical area features on, adjacent to, or near the property;
- and
- 3) Shoreline values and ecological functions; and public access and navigation; and
 - 4) Conformance with the applicable development standards in this title; and
 - 5) Requirements of other applicable local, state, or federal permits or authorizations, including

compliance with damage preventions requirements of Chapters FLOOD DAMAGE CITATION; and

6) Adequacy of the information provided by the applicant or available to the department; and

7) Ability of the project to satisfy the purpose and intent of this title; and

8) Based upon the project evaluation, the decision maker shall take one of the following actions:

a) Grant the development authorization; or

b) Grant the development authorization with conditions, as provided in .03.13 (Conditional Approval), to mitigate impacts to the critical area feature(s) present on or adjacent to the project site; or

c) Deny the development authorization.

9) The decision by the Administrative Official on the development authorization shall include written findings and conclusions stating the reasons upon which the decision is based.

.03.13 Conditional Approval of Development

In granting any development authorization, the decision maker may impose conditions to:

1) Accomplish the purpose and intent of this title; and/or

2) Eliminate or mitigate any identified specific or general negative impacts of the project on the critical area, and on Shoreline ecological functions; and/or

3) Restore important resource features that have been degraded or lost because of past or present activities on the project site; and/or

4) Protect designated critical areas and Shoreline jurisdiction, from damaging and incompatible development; and/or

5) Ensure compliance with specific development standards in this title.

.03.14 Fees and Charges

The City Council establishes the schedule of fees and charges listed in City of XXXX, Title CITY FEE TITLE HERE City of XXXXX Fee Schedule), for development authorizations, variances, appeals and other matters pertaining to this title.

PERMIT REVIEW CRITERIA

.03.15 Substantial Development Permit

1) Classification criteria - Substantial Development permits include any development subject to RCW Chapter 90.58 (Shoreline Management Act).

2) Process - Substantial Development permits shall be processed as an Administrative Class 1 non-exempt permit in accordance with TMC 14.08.010(B).

3) Decision Criteria – Decisions on Substantial Development permits shall be based on the general decision criteria found in section.03.12 (Authorization Decisions – Basis for Action).

.03.16 Shoreline Conditional Uses

1) Classification Criteria - Shoreline Conditional Uses are those uses within Shoreline jurisdiction that are identified in section .05.1 (Shoreline Land Use table) as Conditional Uses, and that are usually seen as uses that either do not need a shoreline location are considered not to be suitable for siting in shoreline locations, or have impacts that need closer scrutiny. Unclassified Conditional projects, uses and development are uses which may be proposed in the future but were not considered during development of the SMP. It is understood, however, that there may be special circumstances or a special type or style of conditional use that would make shoreline siting of special cases acceptable to the goals, policies, and intentions of the Master Program. The purpose of a conditional use permit is to provide a system which allows flexibility in the application of use regulations in a manner consistent with the policies of RCW 90.58.020 (Legislative findings). In authorizing a conditional use, special conditions may be attached to the permit by the City of UNION GAP or the Department of Ecology to prevent undesirable effects of the proposed use and/or to assure consistency of the project with the act and the master program.

2) Process – All applications for a conditional use shall be processed as a Class 2 permit in accordance with the procedures described in TMC 14.08.020.

3) Decision Criteria - The decision on a conditional use shall be based upon the criteria established in Section.03.12 (Authorization Decisions – Basis for Action) together with the criteria established below. The burden of proving that the project is consistent with the applicable criteria shall be upon the applicant, who must supply evidence or information demonstrating to the satisfaction of the Administrative Official that all of the following criteria will be met.

a) Failure to satisfy any one of the criteria below shall result in denial of the conditional use.

i) The proposed use will be consistent with the policies of RCW 90.58.020(Legislative findings); and

ii) The proposed use will not interfere with the normal public use of public shorelines; and

iii) The proposed use of the site and design of the project will be compatible with other permitted uses within the area; and

iv) The proposed use will cause no significant adverse effects to the shoreline environment designation in which it is located; and

v) That the public interest suffers no substantial detrimental effect.

b) Consideration shall be given to the cumulative impact of additional requests for like

actions in the area. For example, if conditional use permits were granted for other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW 90.58.020 (Legislative findings) and shall not produce substantial adverse effects to the shoreline environment.

.03.17 Variance

1) Classification Criteria - A Variance may be used within Shoreline jurisdiction to grant relief from specific bulk, dimensional or performance standards where there are extraordinary circumstances relating to the physical character or configuration of property such that the strict implementation of the standards will impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020 (Legislative findings). Shoreline variances from the use regulations of the master program are prohibited.

2) Process – Requests for a Variance permit shall be processed as a Class 2 permit in accordance with the procedures described in TMC 14.08.020 Each request for a Variance shall be considered separately and prior to any decision on an application for development authorization. Any decision to approve or conditionally approve the development authorization will include and specifically cite only those variances approved for inclusion with the project.

3) Decision Criteria - The decision on a Variance shall be based upon the criteria established in WAC 173-27-170 together with the criteria established below. Variance requests shall cite the specific standard or condition from which relief is requested and be accompanied by the evidence necessary to demonstrate the variance is in conformance with all of the criteria below. Failure to satisfy any one of the criteria shall result in denial of the variance.

a) Special Conditions. There is a hardship identified in (b) below, that is specifically related to a unique natural or physical condition associated with the project site, such as irregular lot shape, size, or natural features, which is not the result of a deed restriction, a lack of knowledge of requirements involved when the property was acquired, or other actions resulting from the proponent's own actions; and

b) Unnecessary Hardship. The strict application of a standard would deprive the proponent of a reasonable use of the land or rights commonly enjoyed by other properties in the same area. That greater profit would result if a variance were granted is not evidence of a hardship; and

c) General Compatibility. The project is generally compatible with other permitted or authorized uses in the immediate project area and with uses planned for the area under the comprehensive plan and/or the Shoreline Master Program and granting the variance will not cause adverse effects to abutting and adjacent properties or the critical area; and

d) Special Privilege. The requested variance would not constitute a grant of special privilege not enjoyed by other abutting and adjacent properties and the variance is the minimum necessary to afford the requested relief; and

e) Public Interest. The requested variance will not endanger the public safety or health and that the public interest will not be compromised; and

- f) Cumulative Impact. In the granting of any variance, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if other variances were to be granted in the area where similar circumstances exist, the total cumulative effect of the variances shall also remain consistent with the policies of this chapter and shall not produce substantial adverse impacts to the designated critical area; and
- g) That the public rights of navigation and use of the shorelines will not be adversely affected.

.03.18 Minor Revisions to Approved Uses or Developments

- 1) Classification Criteria – Minor revisions to a project that has been approved under a permit are allowed in certain circumstances.
 - a) Changes that are not substantive are not required to obtain a revision and may be allowed as activities to implement the original permit. Examples of such include minor changes in facility orientation or location, minor changes in structural design that does not change the height or increase ground floor area, and minor accessory structures (such as equipment covers or small sheds near the main structure, etc.).
 - b) Substantive changes are those that materially alter the project in a manner that relates to its conformance with the permit requirements, or with the Shoreline Master Program. Such changes may be approved as a minor revision, if the Administrative Official determines that the proposed revision and all previous revisions are within the scope and intent of the original permit, and meet the criteria listed below. Changes not able to meet the criteria must obtain a new permit.
 - c) No additional over water construction will be involved, except that pier, dock, or float construction may be increased by five hundred square feet or ten percent from the provisions of the original permit, whichever is less.

d) Lot coverage and height may be increased a maximum of ten percent from the provisions of the original permit: PROVIDED, that revisions involving new structures not shown on the original site plan shall require a new permit, and: PROVIDED FURTHER, that any revisions authorized under this subsection shall not exceed height, lot coverage, setback or any other requirements of these regulations.

e) Landscaping may be added to a project without necessitating an application for a new permit: PROVIDED, that the landscaping is consistent with conditions (if any) attached to the original permit and is consistent with the this title for the area in which the project is located.

f) The use authorized pursuant to the original permit is not changed.

g) No additional significant adverse environmental impact will be caused by the project revision.

2) Process – Minor revisions to existing permits shall be processed as a Class 1 Exempt Permit, as provided under TMC 14.08.010(A). Parties of record to the original permit shall be notified of the revision, though a comment period is not required. A revision for a project within Shoreline jurisdiction shall follow state filing, appeal and approval standards as provided in WAC 173-27-100 (Revisions to Permits).

3) Decision Criteria - Decisions on permit revisions shall be based on the general decision criteria found in section.03.12 (Authorization Decisions – Basis for Action).

.03.19 Non-Conforming Uses and Facilities

Non-conforming uses and facilities are classified as either conforming uses with non-conforming structures or areas, or as non-conforming uses, as described in subsection 1 below. Both types have different review processes and decision criteria, as provided below in subsections 2 and 3.

1) Classification Criteria – There may be situations that do not conform to the standards or regulations of this title. These situations are characterized as:

a) Non-conforming uses. Uses of a structure or land that were lawfully established at the time of their initiation but are currently prohibited by this title are non-conforming uses and may utilize structures or land areas that are also non-conforming. A non-conforming use that is discontinued for any reason for more than one year shall have a presumption of intent to abandon, shall not be re-established, and shall lose its non-conforming status, unless a Variance is obtained to extend the length of time, based on documentation showing that an intent to abandon did not exist during the period of discontinuance. Such a Variance request may be submitted after the deadline has passed. In the case of destruction or damage where reconstruction costs exceed 50% of the assessed value, the structure shall not be rebuilt.

b) Conforming Uses with Non-conforming Structures or Areas are structures or areas for conforming uses that were lawfully established at the time of their initiation, but currently do not conform to the bulk, dimensional or other development standards of this title. Structures or areas in locations approved under a permit shall not be considered non-conforming. Non-conforming outdoor areas that have not been used or maintained for 5 consecutive years shall lose their non-conforming status and may not be reestablished.

c) Any non-conforming structure, area, or use may be maintained with ordinary care according to the provisions in .01.05 (Applicability) and .03.04 (Exemptions – Procedural Requirements), and do not require additional review under these Non-Conforming provisions.

2) Process

a) Alterations to conforming uses with non-conforming structures or areas shall be allowed under the following process requirements with the understanding that other permits or reviews may also be required under this title:

i) Those that do not increase the existing non-conformity and otherwise conform to all other provisions of this title are allowed without additional review under these non-conforming provisions.

ii) Those that increase the non-conformity, including establishing additional square footage within a buffer, are allowed without additional review under these non-conforming provisions; however, a Variance must be obtained for the increased non-conformity.

iii) Reconstruction or repair of a structure damaged less than 75% of the assessed value shall be processed as provided in subsections i) and ii) above.

iv) A nonconforming structure which is moved any distance shall be processed as provided in subsections 1 and 2 above.

v) Reconstruction or repair of structures destroyed or damaged 75% or more of the assessed value of the structure (not the whole property), including that resulting from neglect of maintenance or repair, shall be processed under these non-conforming provisions as a Class 1 non-exempt permit as provisioned in TMC 14.08.010(B)

b) Alterations to Non-Conforming Uses

i) Those involving expansion or alteration within an existing structure, but do not include alterations to outdoor areas, or expansions of the building's height or square footage are allowed without additional review under these non-conforming provisions.

ii) Alterations to non-conforming uses, including their non-conforming structures or areas that do not qualify under paragraph i) above, shall be processed under these non-conforming provisions as a Class 1 Exempt Permit, as provided under TMC 14.08.010(A).

iii) Within Shoreline jurisdiction, and only within the Urban and Rural Shoreline Environments, a non-conforming use as listed in section .05.1 (Shoreline Land Use Table) may convert to another non-conforming use; although, a non-conforming use shall not change to any use prohibited in section .05.05 (Prohibited Uses). Conversion from one non-conforming use to another within the Urban and Rural Shoreline environments shall be processed under these non-conforming provisions as a Class 1 non-exempt permit as provisioned in TMC 14.08.010(B)

3) Decision Criteria

a) Decisions on projects that require review under the non-conforming provisions, as identified under subsection (2) above shall be based on the general decision criteria found in section.03.12 (Authorization Decisions – Basis for Action) together with the criteria below.

b) Applications for conforming uses with non-conforming structures or areas that are subject to subsection 2(a)(v) above, shall not be approved unless a finding is made that the project meets all of the following criteria:

i) Using the original location will not place the structure or people in danger of a hazard; and

ii) The previous structure and any structural shore modification used to protect the structure did not increase hazards or damage to other properties; and

iii) The previous structure and any shore modification used to protect the structure did not cause significant impacts to the functions and values of the critical area.

c) Decisions on non-conforming uses:

i) A non-conforming use may not be altered or expanded in any manner that would bring that use into greater non-conformity; and

ii) Within Shoreline jurisdiction, non-conforming uses shall meet the decision criteria for Conditional Use permits in section.03.16(3) (Shoreline Conditional Uses); and

iii) Within Shoreline jurisdiction, and only within the Urban and Rural Shoreline Environments, conversion from one non-conforming use to another may be approved if the replacement use is more conforming with the intent of the applicable Shoreline Environment Policies of the Comprehensive Plan, and if the impacts to the shoreline environment from the existing use are reduced by changing the use.

Chapter.04
ENFORCEMENT AND PENALTIES

Sections:

.04.01 Enforcement Responsibilities Generally

.04.02 Penalties

.04.01 Enforcement Responsibilities Generally

It shall be the duty of the Administrative Official or their designee to enforce the provisions of the Shoreline Master Program pertaining to all development within the jurisdiction of this title, Whenever any development is found to be in violation of this title or a development authorization issued pursuant to this title, the administrative official or their designee may order any work on such development stopped by serving written notice on any person engaged in the wrongdoing or causing such development to be done. The notice shall state the nature of the violation and order all violation activities to stop. The order shall state the corrective actions necessary to fulfill authorization conditions and/or terms of this title and the time within which such corrections shall occur. The order shall identify the parties responsible to take the corrective actions mandated in order. No further development shall be authorized unless and until compliance with the development authorization conditions and/or terms of this title has been achieved to the satisfaction of the administrative official. Violations of this chapter constitute a public nuisance and the City of XXXXX may take such actions as are authorized in the City of UNION GAP municipal code and State statute to abate such nuisances.

.04.02 Penalties

1) Any person, firm, or corporation violating any of the provisions of this Title, or failing to comply therewith, or violating or failing to comply with any order issued or made pursuant to its provisions shall severally and for each and every violation and non-compliance respectively, be guilty of a misdemeanor or shall be subject to a civil infraction as provided for by Chapter 7.80 RCW or any other remedy provided by law. Any person who violates or fails to comply with any of its requirements shall, upon conviction of a misdemeanor in a court of competent jurisdiction, be fined not more than one thousand dollars or be imprisoned for not more than ninety days, or both, and in addition shall pay all costs and expenses involved in the case. A person found to have committed a civil infraction shall be assessed a monetary penalty. All violations of this chapter shall be denominated Class I civil infractions. The maximum penalty and default amount for a Class I civil infraction shall be two hundred fifty dollars, not including statutory assessments. Each day such violation continues shall be considered a separate offense; however, no additional action will be initiated pending the disposition of any previous suit or complaint.

2) It shall be the affirmative duty of the City prosecutor's office to seek relief under this section for violations of this title.

3) Nothing herein shall prevent the City prosecutor's office from taking such other lawful action, legal and/or equitable, as is necessary to prevent or remedy any violation.

4) In addition to any criminal proceedings brought to enforce this title and in addition to any fine or

imprisonment provided for therein, continuing violations of this title may be enjoined or ordered abated in a civil proceeding for injunction or for abatement. For purposes of abatement actions, such violations are declared to be public nuisances. Any person, firm, or corporation violating the provisions of this title shall be liable for all costs of such proceedings, including reasonable attorney's fees and expenses of abatement. The provisions of this subsection are in addition to any other remedies available at law or equity.

5) Nothing in this Chapter shall be constructed as requiring the City to enforce the prohibitions in this Chapter against all or any properties which may violate the Ordinance. The City has the discretion to enforce and prosecute violations of this ordinance as the City's resources permit. Exercise of such discretion may result in the enforcement and prosecution of a limited number of violations at any given time. Nothing in this Section or the absence of any similar provision from any other City law shall be constructed to impose a duty upon the City to enforce such other provision of law.

Chapter .05 Shoreline Management

Article I - Introduction

Sections:

- .05.01 Intent and Purpose
- .05.02 Shoreline Jurisdiction
- .05.03 Shoreline Environments

Article II General Development Standards

- .05.04 Shoreline Land Use Table
- .05.05 Prohibited Uses
- .05.06 General Policies and Standards

Article III - Water Dependency Development Standards and Buffer Requirements

- .05.07 Use Classifications
- .05.08 Water Dependent Uses
- .05.09 Water Related Uses
- .05.10 Water Enjoyment and Non-Water Uses
- .05.11 Vegetive Buffers

Article IV – Shoreline Modification Development Standards

- .05.12 Roads, Railroads, and Parking
- .05.13 Utility Transmission Lines and Facilities
- .05.14 Shore Stabilization
- .05.15 Dredging and Excavation
- .05.16 Filling
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Article V – Shoreline Use Development Standards

- .05.19 Forest Practices
- .05.20 Commercial and Community Services
- .05.21 Industrial Activities
- .05.22 Residential
- .05.23 Recreation
- .05.24 Agriculture
- .05.25 Aquaculture
- .05.26 Piers and Docks

Article I - Introduction

.05.01 Purpose and Intent

The SMP regulations are intended to carry out the responsibilities imposed on the City of UNION GAP by the Shoreline Management Act (RCW 90.58) and its Administrative Rules (WAC 173-18, WAC 173- 20, WAC 173-22, WAC 173- 26 and WAC 173- 27) insofar as regulations can, and the adoption of these regulations does not remove other responsibilities imposed by the Act. The purpose of the Shoreline Master Program Regulations are to:

- 1) Promote reasonable and appropriate use of the shorelines that will protect the public and private interest; and
- 2) Protect against adverse effects to the public health, the land, its vegetation and wildlife and the waters and their aquatic life within City of UNION GAP; and
- 3) Protect public rights of navigation; and
- 4) Recognize and protect private property rights consistent with public interest; and
- 5) Maintain or re-create a high quality of environment along the shorelines; and
- 6) Preserve and protect fragile natural resources and culturally significant features; and
- 7) Increase public access to publicly owned areas of the shorelines where increased use levels are desirable; and
- 8) Protect public and private properties from adverse effects of improper development in hazardous shorelines areas; and
- 9) Recognize and protect statewide interest; and
- 10) Give preference to uses that result in long-term over short-term benefits; and
- 11) Provide for no net loss of ecological functions from both individual permitted development and individual exempt development.

.05.02 Shoreline Jurisdiction

Pursuant to the authority of RCW 90.58.030(2)(f) and WAC 173-22-040(2-3), the jurisdictional limits of the Shoreline Master program within the City of UNION GAP for areas that are subject to these regulations, are listed below. The City of UNION GAP has developed maps to generally depict the extent of Shoreline jurisdictional boundaries for all Shorelines within the City. These maps are for informational and illustrative

purposes only and are not regulatory in nature. Where such maps are not available or do not correspond with physical features on the ground, jurisdictional boundaries shall be controlled by the criteria listed below, WAC 173-22, and the Act itself. It is understood when the maps and the actual physical features do not correspond, the physical features will dictate the extent of the jurisdictional boundaries. It is understood that the actual physical features may change. The physical features will dictate the extent of the Shoreline jurisdictional boundaries. Shoreline jurisdictional area shall include:

- 1) Those Shoreline lakes, ponds and stream lengths identified in Appendix B and C of this title.
- 2) Subject to Subsection 7 below, wherever the "floodway" has been established by a flood insurance study prepared by the Federal Emergency Management Agency (FEMA), shorelines jurisdiction shall be the floodway plus 200 feet, measured on a horizontal plane, or the 100-year floodplain, whichever is lesser.
- 3) Subject to Subsection 7 below, whenever the 100-year floodplain has been identified by a flood insurance study prepared by the Federal Emergency Management Agency but where no "floodway" has been identified, shorelines jurisdiction shall be the 100-year floodplain boundary or 200 feet, measured in a horizontal plane, from the ordinary high water mark, whichever is greater.
- 4) Whenever there are no detailed floodplain or floodway studies, shoreline jurisdiction shall be 200 feet, measured on a horizontal plane, from the ordinary high-water mark.
- 5) Where a Channel Migration Zone (CMZ) has been identified and extends beyond the jurisdiction established by sub-section (2) above, jurisdiction shall extend to the extent of the CMZ, but not beyond the limits of sub-section (3).
- 6) Those wetlands and river deltas which are in proximity to and either influence or are influenced by the Shorelines. This influence includes, but is not limited to, one or more of the following: periodic inundation, location within a floodplain, or hydraulic continuity.
- 7) Under no circumstances shall shoreline jurisdiction be less than 200 feet, measured on a horizontal plane, from the ordinary high-water mark of the Shoreline water body.
- (8) The City may grant relief from shoreline master program development standards and use regulations resulting from shoreline restoration projects within urban growth areas consistent with criteria and procedures in WAC 173-27-215.

.05.03 Shoreline Environments

The following Shoreline Environments listed below are used as a system of categorizing shoreline areas according to management objectives and the character of the shoreline. The Shoreline Environments are based on the goals and policies found in the comprehensive plan. Six (6) environments are hereby established, as listed below. It is understood that the actual physical features may change. The physical features shall

dictate the extent of the environmental boundaries. These changes are hereby incorporated by reference into this document so that the Environments will shift with river changes. Shoreline Environments are shown on the map entitled "Shoreline Environment Map of City of UNION GAP". This map is for informational and illustrative purposes only and is not regulatory in nature.

1) Urban Environment: This environment is characterized by high intensity land uses, high land values, major public and private capital investments, and/or few biophysical development limitations where intensive development is desirable or tolerable. The management objective is one of optimum future utilization of land and public investment. In view of the intensity of present and future development and consequent population densities, there is a correspondingly high requirement for open space and access to the water in this environment. The basic principle in an Urban Environment is oriented toward quality of development in harmony with the shoreline. The Urban Environment should ensure optimum utilization of shorelines occurring within urbanized areas by providing for public access, and by managing development so that it enhances and maintains the shorelines for a multiplicity of uses.

2) Rural Environment: This environment is characterized by agricultural and recreational uses, moderate land values, moderate public and private capital investment (roads, utilities, etc.), and/or some biophysical development limitations. The management objectives are to protect agricultural land, maintain open space, and provide for recreational uses compatible with agricultural production.

3) Conservancy Environment: This environment is characterized by very low intensity land uses primarily related to natural resources use and diffuse recreational development, relatively low land values, relatively minor public and private capital investment, and/or relatively major biophysical development limitations. Management objectives are oriented toward establishing a balance between sustained-yield natural resource utilization and low-density recreational uses in this environment, with restriction of development in hazardous areas.

4) Natural Environment: This environment is characterized by severe biophysical limitations, presence of some unique natural, historic, or archeologic features intolerant of intensive human use, and/or its value is retained only in its natural condition. Management objectives are oriented toward preserving unique features, restricting activities that may degrade the actual or potential value of this environment, and severely restricting development in hazardous areas.

5) Urban Conservancy Environment: This environment is characterized by low intensity land uses primarily related to public access, diffuse recreational development, and relatively major biophysical development limitations. This environment should protect and restore ecological functions of open space, floodplain, and other sensitive lands where they exist in urban and developed settings, while allowing a variety of compatible uses. The Urban Conservancy environment designation should be assigned to shoreline areas appropriate and planned for development that is compatible with maintaining or restoring the ecological functions of the area and that lie in incorporated municipalities, urban growth areas, or commercial or industrial rural areas of more intense development.

6) Floodway/Channel Migration Zone Environment: This environment is characterized by deep/fast

floodwaters and a shifting channel and is the most hazardous Shoreline area. The Floodway/Channel Migration Zone environment should protect the water areas, islands and associated overflow channels found within designated floodways, and mapped channel migration areas. This environment acknowledges the river's need to move within parts of its floodplain, and emphasizes the preservation of the natural hydraulic, geologic, and biological functions of the City's shorelines that are constrained by severe biophysical limitations.

Article II – General Development Standards

.05.04 Shoreline Land Use Table

Table.05.1 lists the uses and activities for each Shoreline Environmental designation that are allowed by Substantial Development Permit and/or Conditional Use Permit or are prohibited. Such uses shall be processed in accordance with chapter.03 (Application and Review Procedures). This table does not change those situations of when this title does not apply to a development (.01.05 Applicability), or when a use or activity listed as needing a Substantial Development permit may qualify for an exemption instead (.03.07 Exemptions). Definitions for some uses are provided in chapter.02. The provisions in Table.05.1 apply to specific common uses and types of development only to the extent they occur within shoreline jurisdiction. Symbols in the table have the following meanings:

- (S) means a Substantial Development Permit is required.
- (C) means a Conditional Use Permit is required.
- (X) means the use is prohibited.
- (N/A) means the entry is not applicable and the entry in the Activity column provides information to redirect the reader to another Activity.

Table 05.1

Activity	Environments					
S = Substantial Development C = Conditional Use X = Prohibited N/A = Not Applicable Review section.01.05 (Applicability) to see if this Title applies to the project. Review section .03.07 (Exemptions) to see if the project qualifies for an exemption from a Substantial Development permit. For existing uses that are prohibited, see section.03.19 Non-Conforming Uses and Facilities.	Urban	Rural	Conservancy	Natural	Floodway / CMZ	Urban Conserv.
GENERAL						

Activities listed in..05.05 Prohibited Uses	X	X	X	X	X	X
AGRICULTURE						
Agriculture, including accessory agricultural structures, but excluding grazing.	S	S	C	X	C	S
Grazing,	S	S	S	S	S	S
Confinement Feeding Operations (CFO)	X	C	X	X	X	X
Ag. Related Industry (Feed Mills, Processing/ Packing Plants, Storage Facilities, etc.)	C	C	X	X	X	C
AQUACULTURE						
Rearing	C	S	C	X	C	C
Processing	C	S	X	X	X	C
Packing & storage	C	S	X	X	X	C
FOREST PRACTICES UNDER STATE PERMIT						

<p>All federal forest practices or non-federal forest practices meeting the criteria below:</p> <ol style="list-style-type: none"> 1. harvest/treat at least 5 acres of forestland, or supporting such an operation, 2. all harvesting w/in 200' of OHWM of Shoreline of Statewide Significance uses methods meeting RCW 90.58.150 (selective harvest) 3. activities are not associated with a Conversion Option Harvest 4. approved under a WDNR Forest Practices Permit 5. not associated with a harvest under a Class IV-General application to convert forest land to non-forestry use 	S	S	S	C	S	S
<p>Non-federal forest practices NOT meeting criteria (1), (2), or (3) above</p>	C	C	C	C	C	C

Activity	Environments					
<p>S = Substantial Development C = Conditional Use X = Prohibited N/A = Not Applicable Review section.01.05 (Applicability) to see if this Title applies to the project. Review section .03.07 (Exemptions) to see if the project qualifies for an exemption from a Substantial Development permit. For existing uses that are prohibited, see section.03.19 Non- Conforming Uses and Facilities.</p>	Urban	Rural	Conservancy	Natural	Floodway / CMZ	Urban Conserv.
<p>Non-federal forest practices NOT meeting criteria (4) above (Class 1 forest practices, activities not requiring WDNR review, etc.) shall be reviewed as separate uses or activities.</p>	N/A	N/A	N/A	N/A	N/A	N/A
<p>Non-federal forest practices NOT meeting criteria (5) above shall be reviewed as the new proposed use</p>	N/A	N/A	N/A	N/A	N/A	N/A
MINING						
Surface Mining	C	C	C	X	X	C
Underground Mining	X	X	X	X	X	X
Mining for habitat restoration	S	S	S	S	S	S
ARCHEOLOGICAL						
Interpretive center	S	C	C	X	X	S
Restoration of historic structures	S	S	C	C	C	S
Archeological excavation	C	C	C	C	C	C
RESIDENTIAL USE						
Cabin (see definition; 800 sq. ft.) or Single Improved RV Site where other single family residences are not permitted.	X	X	X	X	X	S

Single-Family Residence, including: - Family Home Services - Accessory Apartment - Mobile Home for Aged/Infirm Relative (or equivalent uses listed in the zoning ordinance)	S	S	S	X	X	X
Duplex	S	S	X	X	X	X
Multi-family	C	X	X	X	X	X
Rooming & boarding houses	C	X	X	X	X	X
Fraternity or sorority houses	C	X	X	X	X	X
Manufactured Home Park or subdivision outside floodplain	C	X	X	X	X	X
Manufactured Home Park or subdivision w/in Floodplain	X	X	X	X	X	X
RV park with units remaining year-round – review as mobile home park	N/A	N/A	N/A	N/A	N/A	N/A
RV park with units NOT remaining year-round – see recreational use section, Moderate Intensity.	N/A	N/A	N/A	N/A	N/A	N/A

Activity	Environments					
S = Substantial Development C = Conditional Use X = Prohibited N/A = Not Applicable Review section.01.05 (Applicability) to see if this Title applies to the project. Review section .03.07 (Exemptions) to see if the project qualifies for an exemption from a Substantial Development permit. For existing uses that are prohibited, see section.03.19 Non-Conforming Uses and Facilities.	Urban	Rural	Conservancy	Natural	Floodway / CMZ	Urban Conserv.
	Houseboats & over-water residential uses	X	X	X	X	X
COMMERCIAL AND COMMUNITY SERVICE USES						

Large Commercial uses (more than 1/2 acre of use area) of a Water Oriented nature, including commercial boating facilities, marinas, and extended moorings. Boat Launches shall be treated as a Recreational use.	C	C	C	X	X	C
Small Commercial uses (1/2 acre or less of use area) of a Water Oriented nature	S	S	C	X	X	S
Non-Water Oriented Commercial Uses, except for instances below	X	X	X	X	X	X
Non-Water Oriented Uses, when set back from OHWM or wetland edge by either a public right of way or 100'+ of a separate parcel	C	C	C	X	X	C
Non-Water Oriented Uses in a mixed-use project that includes a Water Dependent Commercial, Industrial, Aquaculture, or Recreational Use	C	C	C	X	X	C
Events and temporary uses involving public interest (see definition) that do not impair the shoreline environment Note: Definition to be added to Administrative Sections	C	C	C	C	C	C
INDUSTRIAL						
Water Oriented Uses	C	C	X	X	X	X
Non-Water Oriented Uses, except for instances below	X	X	X	X	X	X
Non-Water Oriented Uses, when set back from the OHWM or wetland edge by either a public right of way or 100' + of a separate parcel	C	C	X	X	X	X
Non-Water Oriented Uses in a mixed-use project that includes a Water Dependent Commercial, Industrial, Aquaculture, or Recreational Use	C	C	X	X	X	X

RECREATION						
Commercial components of the use that are not explicitly related to the recreation operation must also conform to the Commercial section of this table.	N/A	N/A	N/A	N/A	N/A	N/A
Indoor Recreation – Reviewed as	N/A	N/A	N/A	N/A	N/A	N/A

Activity	Environments					
<p>S = Substantial Development C = Conditional Use X = Prohibited N/A = Not Applicable Review section.01.05 (Applicability) to see if this Title applies to the project. Review section .03.07 (Exemptions) to see if the project qualifies for an exemption from a Substantial Development permit. For existing uses that are prohibited, see section.03.19 Non- Conforming Uses and Facilities.</p>	Urban	Rural	Conservancy	Natural	Floodway / CMZ	Urban Conserv.
Commercial use; see that section of table.						
Boat Launches. Other boating facilities and marinas are reviewed as Commercial Uses.	C	C	C	C	C	C
Commercial Motorized Boat Recreation Tour Routes (related facilities are reviewed as Commercial Uses and boating facilities)	C	C	C	C	C	C
State owned recreation facilities and ecological study areas.	S	S	C	C	C	S
Outdoor Recreation of a Non-Water Oriented nature (sports complex, organized sport fields, golf course)	C	C	C	X	X	C
Hi-Intensity Outdoor Recreation of a Water Oriented nature (urban area parks, white water parks, etc.)	S	C	C	X	C	S

Moderate-Intensity Outdoor Recreation of a Water Oriented nature (use areas with minor structures and improvements, such as camp grounds, picnic facilities, hiking trails, swimming beaches, fishing sites, nature/ history interpretive centers); RV park/ camping with units NOT remaining year- round is included in this category (also see residential RV uses)	S	S	S	X	C	S
Low-Intensity Outdoor Recreation of a Water Oriented nature (unimproved use areas, such as hiking or nature trails, primitive camping areas,); an unimproved Personal Camping and Recreation Site is included in this category.	S	S	S	C	S	S
Very-Low-Intensity Recreation (wildlife viewing, scenic vistas, fishing, hunting, rafting, walking, etc.) See section.01.05 (Applicability) for activities not subject to this title.	N/A	N/A	N/A	N/A	N/A	N/A
Events and temporary uses involving public interest (see definition) which may interfere with normal public use, that do not impair the shoreline environment.	C	C	C	C	C	C
TRANSPORTATION & PARKING						
Access roads serving permitted uses	S	S	S	X	C	S
Highways & freeways	C	C	C	C	C	C
Railways	C	C	C	X	C	C
Transportation maintenance facilities	C	C	C	X	X	C

Activity	Environments					
<p>S = Substantial Development C = Conditional Use X = Prohibited N/A = Not Applicable Review section.01.05 (Applicability) to see if this Title applies to the project. Review section .03.07 (Exemptions) to see if the project qualifies for an exemption from a Substantial Development permit. For existing uses that are prohibited, see section.03.19 Non- Conforming Uses and Facilities.</p>	Urban	Rural	Conservancy	Natural	Floodway / CMZ	Urban Conserv.
Parking for authorized use – reviewed with authorized use.	N/A	N/A	N/A	N/A	N/A	N/A
Park and Ride lots and similar stand alone parking facilities	X	X	X	X	X	X
UTILITIES						
Utility Services accessory to individual projects undergoing Shoreline review – review w/ project	N/A	N/A	N/A	N/A	N/A	N/A
Utility services to projects outside Shoreline jurisdiction	S	S	S	C	C	S
Land/air/water monitoring station.	S	S	S	S	S	S
Utility Transmission Lines, except as noted below.						
Utility Transmission Lines on shorelands, where no other feasible option is available.	C	C	C	C	C	C
Production and Processing Facilities of a Water Oriented nature, including power generation, water and wastewater treatment facilities.	C	C	C	C	C	C
Production and Processing Facilities of a Non-Water Oriented nature, except as noted below.	X	X	X	X	X	X

Production and Processing facilities of a Non- Water Oriented nature, where no other feasible option is available.	C	C	C	C	C	C
Storage/collection of garbage cans/dumpsters for individual use	S	S	S	S	S	S
Solid waste transfer station/drop box	C	C	C	X	X	X
Storage/disposal of solid waste, including landfills, sewage sludge, and agricultural waste. For existing uses, see section .03.19 Non-Conforming Uses and Facilities.	X	X	X	X	X	X
SIGNS – Note: signs must also conform to the local sign ordinance						
Blinking or revolving signs	X	X	X	X	X	X
Signs obstructing views of shorelines and scenic vistas from public rights of way	X	X	X	X	X	X
On-premise for authorized use.	S	S	S	S	S	S
Off-premise (except temporary and information signs)	S	X	X	X	X	X
Temporary signs (election signs; sale, rental, or lease signs on real estate; etc.) are not	N/A	N/A	N/A	N/A	N/A	N/A

Activity	Environments					
S = Substantial Development C = Conditional Use X = Prohibited N/A = Not Applicable Review section.01.05 (Applicability) to see if this Title applies to the project. Review section .03.07 (Exemptions) to see if the project qualifies for an exemption from a Substantial Development permit. For existing uses that are prohibited, see section.03.19 Non- Conforming Uses and Facilities.	Urban	Rural	Conservancy	Natural	Floodway / CMZ	Urban Conserv.
considered development.						

Information signs (directional, landmark, trail marker, etc.)	S	S	S	S	S	S
IN-STREAM STRUCTURES						
In-stream elements for shore stabilization, roads/bridges, habitat restoration, piers/ docks/marinas, and fill are reviewed as those activities.	N/A	N/A	N/A	N/A	N/A	N/A
Construction that does not impound water (but may include stream bed manipulation); including whitewater recreation structures and flow gauging stations	C	C	X	X	X	X
Construction that impounds water or increases the height of impounded water	C	C	C	C	X	C
PIERS AND DOCKS						
Pier/dock (including for over-water structures), except for instances below	X	X	X	X	X	X
Pier/dock for Water Dependent Commercial, Industrial, Aquaculture, or Recreational Use; or public access; or a single-family residence facility to access watercraft	S	S	C	X	X	S
DREDGING						
Dredging (including obtaining minerals, aggregate, or landfill material), except for instances below	X	X	X	X	X	X
Dredging for: - Water Dependent use public access	C	C	C	C	C	C

Dredging to modify channels or basins (excluding maintenance) for existing navigation uses	S	S	S	X	X	S
Dredging for habitat restoration	S	S	S	S	S	S
FILLING & DREDGE MATERIAL DISPOSAL						
Fill within the OHWM, except for instances below	X	X	X	X	X	X
Fill within the OHWM for: - Water Dependent use - public access - expansion of existing transportation system of state-wide significance	C	C	C	X	X	C

Activity	Environments					
<p>S = Substantial Development C = Conditional Use X = Prohibited N/A = Not Applicable Review section.01.05 (Applicability) to see if this Title applies to the project. Review section .03.07 (Exemptions) to see if the project qualifies for an exemption from a Substantial Development permit. For existing uses that are prohibited, see section.03.19 Non- Conforming Uses and Facilities.</p>	Urban	Rural	Conservancy	Natural	Floodway / CMZ	Urban Conserv.
<ul style="list-style-type: none"> - dredge material placement for habitat restoration project - beaches 						
Fill (non-dredged) within the OHWM for habitat restoration	S	S	S	S	S	S
Fill outside the OHWM, except for instances below	X	X	X	X	X	X
Fill outside the OHWM for site development of an approved use	S	S	S	C	C	S
SHORE STABILIZATION						
Non-Structural Stabilization Measures (revegetation, wood debris placement, sediment supplementation, bio-engineering, etc.). Also see section.03.07(15) for the restoration exemption.	S	S	S	S	S	S
On-Land Stabilization Structures, except for instances below	X	X	X	X	X	X

On-Land Stabilization Structures (bulkheads, retaining walls, dikes, levees, rip-rap, etc.) demonstrating necessity per .05.14(11)(e). Also see section .03.07 for residential and bulkhead exemptions.	C	C	C	C	C	C
In-Water Stabilization Structures, except for instances below	X	X	X	X	X	X
In-Water Stabilization Structures (breakwaters, jetties, groins, weirs, bank barbs, etc.) demonstrating necessity per .05.14(11)(e) for: - Water Dependent use - public access - specific public purposes - in support of bank stabilization	C	C	C	C	C	C
In-Water Stabilization Structures for habitat restoration demonstrating necessity per .05.14(11)(e). Also see section .03.07(15) for the restoration exemption.	S	S	S	S	S	S

.05.05 Prohibited Uses

The following uses and activities are prohibited within shoreline jurisdiction

- 1) Storage, handling, and disposal of material or substances that are dangerous or hazardous with respect to water quality and life safety; and
- 2) Confinement feeding operations including livestock feedlots and dairy confinement areas; and
- 3) The placement of mining tailings, spoilage, and mining waste materials, except for that associated with the mining of gravel; and
- 4) The draining or filling of a wetland, lake or pond, except as provided for in Section .05.16 (Filling); and
- 5) The removal and transport of material for fill outside of the stream corridor; and
- 6) Site runoff storage ponds, manure stockpiles and manure disposal, holding tanks and ponds, and other similar waste disposal facilities. This provision does not include municipal wastewater lines or septic systems approved by a local or state agency with authority to permit such facilities; and
- 7) Solid waste disposal sites; and
- 8) Automobile wrecking yards; and
- 9) Fill for the sole purpose of increasing land area within the shorelines; and
- 10) Within Shoreline jurisdiction, those uses not allowed in particular shoreline environments as provided in Table .05.1 (Shoreline Land Use Table).

.05.06 General Policies and Standards

The following policies and standards shall apply to any development, construction, or use carried out within the City's shoreline jurisdictions.:

- 1) The Ordinary High Water Mark of a stream or lake, the edge of a wetland, and the outside edges of stream and/or wetland buffers shall be marked on the ground before any development, construction, or use is initiated.
- 2) Existing riparian vegetation and any unique or sensitive vegetative species identified on the

project site within the Shoreline designation shall be disturbed to the minimum extent possible.

3) Nesting areas and other sensitive wildlife habitat identified within a stream corridor shall be disturbed to the minimum extent possible.

4) Projects within the Shoreline designation shall be scheduled to occur at times and during seasons having the least impact to spawning, nesting, or other sensitive wildlife activities. Scheduling recommendations from the appropriate State and/or Federal agency may be considered.

5) **Stormwater and Erosion Control.** Developments that obtain a stormwater permit approved by a local, state, or federal agency, and transportation projects using stormwater manuals that are deemed equivalent to the Eastern Washington Stormwater Manual are exempt from the requirements below.

a) Excavation, grading, cut/fills, compaction, and other modifications which contribute to erosion of upland soils shall be confined to the minimum necessary to complete the authorized work and avoid increased sediment load.

b) The removal of ground-cover vegetation, excavation, and grading shall be scheduled for periods when soils are the least vulnerable to erosion, compaction, and movement unless suitable protective measures are used to prevent erosion.

c) The removal of ground-cover vegetation, excavation, and grading shall be scheduled to ensure the minimal duration of exposed, unprotected soils.

d) Increases in impervious surface area, compaction of soil, changes in topography, and other modifications of land within a stream corridor which are determined will permanently increase stormwater and meltwater runoff into stream channels, drainage ways, and conduits, shall provide on-site or off-site facilities for the detention, control, and filtration of such increases.

e) The discharge point for controlled stormwater and meltwater runoff and other outfall shall be designed and constructed to avoid causing erosion through the use of native riparian vegetation where possible or by reducing velocity, use of rock spillways, riprap, splash plates, or other demonstrably effective means.

f) Matting or approved temporary ground cover shall be used to control erosion until natural vegetative ground cover is successfully established.

6) Development, construction, and uses shall not directly or indirectly degrade surface water and groundwater through the introduction of nutrients, fecal coliform, toxins, and other biochemical substances.

7) Prior to the approval of development, construction, or uses within a designated stream corridor, any existing source of biochemical or thermal degradation identified as originating on the project property or on contiguous properties of the same ownership shall be corrected.

8) Facilities which use fertilizers, pesticides or herbicides shall use landscaping, low-risk products, application schedules, and other protective methodology to minimize the surface and subsurface transfer of biochemical materials into the stream corridor.

9) Modifications to natural channel gradient, channel morphology, drainage patterns, and other stream features shall not permanently alter or obstruct the natural volume or flow of surface waters.

10) Development, construction, or uses within the stream corridor shall not alter or divert flood flows causing channel shift or erosion, increase or accelerate the flooding of upstream or downstream flood hazard areas, or otherwise threaten public or private properties.

11) Wells located within a stream corridor shall be protectively lined and installed in a deep aquifer with an acceptable minimum hydraulic continuity with either surface waters or a shallow aquifer.

12) Structures placed in close proximity to the outer edge of bends in stream channels identified as having a high potential to meander shall be located to minimize the hazard from stream undercutting and stream bank erosion stemming from potential future stream migration.

13) Adjacent communities and the Department of Ecology shall be notified prior to any alteration or relocation of a watercourse and evidence of such notification shall be submitted to the Federal Emergency Management Agency.

14) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

15) Development, construction, or uses within the hydrologically related critical area that would contribute to the degradation of the functions and values shall be avoided or mitigated using mitigation sequencing as outlined in section.03.10 (Mitigation Requirements).

16) Development shall not obstruct, cut off, or isolate stream corridor features.

17) Nothing in these regulations shall constitute authority of any person to trespass or in any way infringe upon the rights of private ownership.

18) If archaeological resources are uncovered during excavation, developers and property owners shall immediately stop work and notify the City of UNION GAP, the Washington State Office of

Archaeology and Historic Preservation and any affected Indian Tribes. Archaeological sites are subject to RCW 27.44 (Indian graves and records) and RCW 27.53 (Archaeological sites and records), and development or uses that may impact such sites shall comply with WAC 25-48 (Archaeological Excavation and Removal Permit).

19) The provisions of CITATION (Flood Damage Prevention) and CITATION (Frequently Flooded Areas) shall also apply to the development of lots and the placement, construction, or installation of structures in floodways and floodplains.

20) Any portion of the vegetative buffer temporarily damaged or disturbed because of construction activities (excluding approved permanent use areas) shall be repaired at the completion of construction using reclamation standards in section 05.18 (Reclamation).

21) Changing from an existing use or development which does not meet the provisions of this chapter to a new use shall be reviewed to ensure that the conversion will demonstrably reduce impacts to stream corridor and other hydrologically related critical area features

22) Individual projects or actions that, if continued as a pattern, would accumulatively result in the degradation or impairment of the Shoreline environment, shall be avoided.

23 Individual projects or actions shall provide for no net loss of Shoreline ecological functions.

24 Shoreline development shall not interfere with public access and enjoyment of any nearby publicly owned land areas.

25 Outdoor advertising signs must conform to size, spacing and lighting provisions of the Washington State Scenic Vistas Act of 1971, where applicable.

26 There shall be a thirty-five (35) foot maximum building height for all structures, except that utility towers and poles, dams, concrete and asphalt batching plants, water treatment towers, wastewater treatment facilities and bridges are not required to meet this standard, and specific height limitations for residential structures are as follows:

- i) 25 feet above average grade level in the conservancy environment.
- ii) 20 feet above average grade level in the natural environment.
- iii) 25 feet above average grade level in the urban conservancy environment.
- iv) 20 feet above average grade level in the floodway/channel migration zone.

27 New development within Shoreline jurisdiction shall be located and designed to:

- i) avoid the need for future shore stabilization, to the extent feasible.
- ii) avoid or, if that is not possible, to minimize the need for new and maintenance dredging.

iii) assure that subdivision lots created will not require shore stabilization in order for reasonable development to occur. The standards should be accomplished using geotechnical analysis of the site and shoreline characteristics, as provided in section.05.14(11) (Additional Shoreline Standards for Shore Stabilization);

iv) setback new development on steep slopes or bluffs sufficiently to ensure that shore stabilization is unlikely to be necessary during the life of the structure, as demonstrated by a geotechnical analysis, as provided in section .05.14(11) (Additional Shoreline Standards for Shore Stabilization).

v) New development that would require shore stabilization which causes significant impacts to adjacent or down-current properties and shoreline areas shall not be allowed.

Article III - WATER DEPENDENCY DEVELOPMENT STANDARDS AND BUFFER REQUIREMENTS

.05.07 Use Classifications

For purposes of this chapter, the components of any development, construction, or use requiring a critical area development authorization shall be classified as provided below and shall conform with the development standards applicable to the classification provided in .05.08 through 05.10 except for those listed in Section.03.02 (Minor Activities Allowed without a Permit or Exemption):

1) Water Oriented Uses are one of the following three (3) categories of uses:

a) Water-dependent uses include dams, water diversion facilities, marinas, boat launching facilities, water intakes and outfalls, aquaculture, log booming, stream and wetland crossings for roads and railroads, stream and wetland crossings for utilities, swimming beaches, fishing sites, in-water or on-land shore stabilization structures, livestock watering sites, and other uses that cannot exist in any other location and are dependent on the water by reason of the intrinsic nature of their operations. This provision applies only to the specific portion of a project that is demonstrably dependent upon the water or shore.

b) A Water-related use is one not intrinsically dependent on a waterfront location but whose economic viability is enhanced by a waterfront location either because it requires large quantities of water, or because it provides services for water dependent uses and the proximity to its customers makes such services less expensive and/or more convenient. Examples would include thermal power plants, wastewater treatment plants, water processing and treatment plants, support services for fish hatcheries or aquaculture, fly shops and boat rental shops.

c) A Water enjoyment use is a recreational or other use that facilitates public access within Shoreline jurisdiction as a primary characteristic of the use, or provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use; and which through location, design, and operation ensures the public's ability to enjoy the physical and aesthetic qualities of the shoreline. Within

Shoreline jurisdiction the use must be open to the general public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment in order to qualify as a water-enjoyment use within Shoreline jurisdiction. Examples include recreational uses orientated to the Shorelines water features, and restaurants with water viewing.

2) Non-water-oriented uses include any use not qualifying as uses in subsection (1) above.

.05.08 Water-dependent Uses

The following provisions shall apply to water-dependent uses:

- 1) Structures shall be clustered at locations on the water's edge having the least impact to the surface water and shore.

- 2) Use areas and structures which require direct shore locations shall be located and constructed to minimize impacts to the shore area and the vegetative buffer specified in Section .05.11 (Vegetative Buffers).

- 3) Use areas and structures requiring direct shore locations shall minimize any obstruction or impairment of normal public navigation of the surface water.

.05.09 Water-related Uses

The following provisions shall apply to the water-related uses:

- 1) Structures and use areas shall be located as far landward from the ordinary high-water mark or wetland edge as is possible and still preserve the essential or necessary relationship with the surface water.

- 2) Structures and use areas shall not be located within the vegetative buffer specified in Section .05.11 (Vegetative Buffers) except where existing development or the requirements associated with the use make such a location unavoidable.

.05.10 Water-enjoyment and Non-water Oriented Uses

The following provisions shall apply to water enjoyment and non-water-oriented uses:

- 1) Structures and use areas shall be set back so as not to be located within the vegetative buffer specified in Section .05.11 (Vegetative Buffers).

- 2) Construction abutting the vegetative buffer specified in Section .05.11 (Vegetative Buffers) shall be designed and scheduled to ensure there will not be permanent damage or loss of the vegetative buffer.

.05.11 Vegetative Buffers

Establishment. There is hereby established a system of vegetative buffers that are necessary to protect the

ecological functions and values of shorelines. The vegetative buffer for shoreline streams and lakes shall be 100 feet. For wetlands, based on a review of the best available science, buffers are listed in table 6-1.

- 1) Vegetative buffers shall be measured from the Ordinary High-Water Mark (OHWM) for streams, lakes, and ponds.
- 2) Buffer width may be reduced through the Variance permit process.
- 3) The adequacy of these standard buffer widths presumes the existence of a relatively intact native vegetation community in the buffer zone adequate to protect the stream functions and values at the time of the proposed activity. If the vegetation is degraded, then no adjustment to the buffer width should be granted and re-vegetation should be considered. Where the use is being intensified, a degraded buffer should be re-vegetated to maintain the standard width.

Article IV Shoreline Modification Standards

.05.12 Roads, Railroads, and Parking

The following provisions shall apply to the location and construction of roads, railroads, and parking within shorelines.

- 1) Roads and railroads shall not be located within a designated stream corridor except where it is necessary to cross the corridor, or where existing development, topography, and other conditions preclude locations outside the stream corridor.
 - a) Construction of roadways across stream corridors shall be by the most direct route possible having the least impact to the stream corridor.
 - b) Roadways that must run parallel to stream or wetland edges shall be along routes having the greatest possible distance from stream or wetland and the least impact to the corridor.
 - c) Roadways within the stream corridor shall not hydrologically obstruct, cut-off or isolate stream corridor features.
- 2) Material excavated from the roadway area to achieve the design grade shall be used as fill where necessary to maintain grade or shall be transported outside the corridor.
- 3) Necessary fill to elevate roadways shall not impede the normal flow of floodwaters or cause displacement that would increase the elevation of flood waters such that it would cause properties not in the floodplain to be flood prone.
- 4) Spoil, construction waste, and other debris shall not be used as road fill or buried within the stream corridor.

5) Bridges and water-crossing structures shall not constrict the stream channel or impede the flow of the ordinary high water, sediment, and woody debris.

6) Natural stream channels and drainage ways shall be preserved through the use of bridges for crossings, unless the use of culverts is demonstrated to be the only technically feasible means for crossing. The use of bridges shall be the preferred means to preserve natural streams and drainageways. Where bridges are not feasible, large, natural bottom culverts, multi-plate pipes and bottomless arches shall be used.

7) The alignment and slope of culverts shall parallel and match the natural flow of streams or drainage ways, unless doing so conflicts with subsection (1) and (2), and shall be sized to accommodate ordinary high water, and shall terminate on stable, erosion-resistant materials.

8) Where fish, amphibian or other wildlife passage is present, culverts shall be designed and constructed to specifications provided through the Washington State Aquatic Habitat Guidelines or a comparable source of expertise.

9) At least one end of a wood stringer bridge shall be anchored to prevent it from being washed away during high water.

10) Roads must be designed and constructed using established flood resistant and design and construction methods when they may be subject to damage by flood waters.11) Roads and bridges within floodways must meet the requirements of the City of UNION GAP XMC FLOOD HAZARD MITIGATION CODE HERE.

11) Parking areas shall be located upland of the areas they serve.

12) Owners of two or more adjoining uses, structures or parcels of land may utilize jointly the same parking area when the hours of operation do not overlap.

13) A Conditional Use Permit for roads, railroads or parking areas must demonstrate through engineering studies that a shoreline location is the most feasible of the available options.

.05.13 Utility Transmission Lines and Facilities

The following provisions shall apply to the location, construction, or installation of utility transmission lines and facilities (such as those for wastewater, water, communication, natural gas, etc.) within a designated hydrologically related critical area:

1) Utility transmission lines and facilities shall be permitted within the stream corridor only where it is necessary to cross the corridor or where existing development, topography, and other conditions preclude locations outside the stream corridor. Utility transmission lines and facilities across stream corridors shall be by the most direct route possible having the least impact to the stream corridor.

- 2) Utility lines under streams and wetlands shall be placed in a sleeve casing to allow easy replacement or repair with minimal disturbance to the stream corridor.
- 3) Buried utility transmission lines crossing a stream corridor shall be buried a minimum of four feet below the maximum scour or 1/3 of the bankfull depth of the waterway, whichever is greater, and for a similar depth below any associated floodway and floodplain to the maximum extent of potential channel migration as determined by hydrologic analysis.
- 4) Wherever possible, new aboveground installations shall use available, existing bridge and utility locations and stream corridor crossings as opposed to creating new locations and stream corridor crossings.
- 5) Aboveground electrical support towers and other similar transmission structures shall be located as far upland as is practical.
- 6) Transmission support structures shall be located clear of high flood velocities, located in areas of minimum flood depth which require the least floodproofing, and shall be adequately floodproofed.
- 7) Underground utility transmission lines shall be constructed so they do not alter, intercept, or dewater groundwater patterns that support streams, wetlands and hyporheic flow.
- 8) All new and replacement water supply systems and wastewater systems within a special flood hazard area must meet the requirements of FLOOD HAZARD CITATION HERE.
- 9) Utility transmission lines within the Floodway and the Floodway Fringe shall meet the standards of Flood Hazard Citation of City Code

10)

The requirements below shall apply to all utility transmission lines and facilities within Shoreline jurisdiction. Utility services to individual projects undergoing Shoreline review, including those where the primary use may be in a different Shoreline environment than the utility service shall not require separate Substantial Development Permits for utility service installations, but are subject to all of the provisions in .05.13, except those listed below. Utility service to projects outside Shoreline jurisdiction are subject to normal Shoreline permitting and are subject to all of the provisions in .05.13 (Utility Transmission Lines and Facilities), except those listed below.

- a) Where feasible utilities shall be placed underground unless such undergrounding would be economically or technically prohibitive.
- b) New utility facilities shall be designed and located to preserve the natural landscape and

minimize conflicts with present and planned land and shoreline uses, especially recreation, residential and public access.

c) Expansion, updating, and maintenance of existing facilities is allowed but shall be designed to be located to avoid adverse impacts to shoreline resources as much as possible.

d) Permit applications shall meet the following submittal review standards:

e) Applications shall submit studies (social, economic, environmental, engineering, etc.) to demonstrate that a shoreline location is the most feasible of the available options.

f) Applications to locate transmission lines shall submit a location plan that shows existing utility routes in the vicinity of the proposed transmission line. Failure of utility lines to follow existing routes, where feasible, shall cause denial of the application.

g) Applications shall include a reclamation plan that provides for re-vegetation and protection of shoreline areas from erosion and siltation. A re-vegetation or erosion protection plan judged by the Administrative Official to be insufficient for the protection or restoration of the Shoreline environment shall cause denial of the application.

.05.14 Shore Stabilization

The following provisions shall apply to shore stabilization projects:

1) Shore stabilization projects shall be allowed only where there is evidence of erosion which clearly represents a threat to existing property, structures, or facilities, and which stabilization will not jeopardize other upstream or downstream properties.

2) Stabilization projects shall be developed under the supervision of, or in consultation with, agencies or professionals with appropriate expertise.

3) Stabilization projects shall be confined to the minimum protective measures necessary to protect the threatened property.

4) The use of fill to restore lost land may accompany stabilization work, provided the resultant shore does not extend beyond the new ordinary high water mark, finished grades are consistent with abutting properties, a restoration plan is approved for the area, and the fill material is in compliance with Section .05.16 (Filling).

5) Stabilization projects shall use design, material, and construction alternatives that do not require high or continuous maintenance, and which prevent or minimize the need for subsequent stabilization to other segments of the shore. Junk car bodies and other unsuitable debris are not to be used in shore stabilization projects.

6) Stream bank and lakeshore protection shall be accomplished using bioengineered (biotechnical)

designs employing living plant materials as primary structural components of resistance to erosion and mass wasting, unless a report prepared by a qualified engineer experienced in soil bioengineering (biotechnical) and shoreline protection demonstrates that conventional structural armoring is the only feasible means of stabilizing the subject stream bank or lakeshore.

7) Applications to construct or enlarge dikes or levees shall meet the requirements of FLOOD HAZARD CODE CITATION HERE

8) Revetments and bulkheads shall be no higher than necessary to protect and stabilize the shore.

9) Breakwaters shall be constructed of floating or open pile designs rather than fill, riprap, or other solid construction methods.

10) All new flood control projects shall define maintenance responsibilities and a funding source for operations, maintenance, and repairs for the life of the project.

11) Where feasible, dikes and levees shall be located outside of the floodway or channel migration zone of the river or stream in order to minimize any attendant increase in water stage and stream flow velocity over existing conditions.

12) Rip-rapping and other shore stabilization measures shall be designed, located, and constructed in such a manner as to minimize the disruption of natural channel characteristics.

13) Demonstration of necessity. New structural shore stabilization measures shall not be allowed except when necessity is demonstrated in the following manner:

i) New or enlarged structural stabilization measures for an existing primary structure, including residences, shall not be allowed unless there is conclusive evidence, documented by a geotechnical analysis that the structure is in danger from shoreline erosion caused by currents or waves. Normal sloughing, erosion of steep bluffs, or demonstration of need. The geotechnical analysis should evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering structural shore stabilization.

ii) Erosion control structures in support of new non-water-dependent development, including single-family residences, when all of the conditions below apply:

(1) The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage; and

(2) Nonstructural measures, such as placing the development further from the shoreline, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient; and

(3) The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report. The damage must be caused by natural processes, such as tidal action, currents, and waves.

iii) Erosion control structures in support of water-dependent development when all of the conditions below apply:

(1) The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage; and

(2) Nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient; and

(3) The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report.

14 Erosion control structures to protect projects for the restoration of ecological functions or hazardous substance remediation projects pursuant to the Model Toxics Control Act (70.105D RCW) shall not be allowed unless there is conclusive evidence, documented by a geotechnical analysis that demonstrates that nonstructural measures such as planting vegetation, or installing on-site drainage improvements, is not feasible or not sufficient.

15 An existing shore stabilization structure may be replaced with a similar structure if there is a demonstrated need to protect principal uses or structures from erosion. For purposes of this section standards on shore stabilization measures, "replacement" means the construction of a new structure to perform a shore stabilization function of an existing structure which can no longer adequately serve its purpose. Additions to or increases in size of existing shore stabilization measures shall be considered new structures under paragraph (g) above.

i) Replacement walls or bulkheads shall not encroach waterward of the ordinary high-water mark or existing structure unless the residence was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shore stabilization structure.

ii) Soft shore stabilization measures that provide restoration of shoreline ecological functions may be permitted waterward of the ordinary high-water mark.

.05.15 Dredging and Excavation

The following provisions shall apply to dredging and excavation within a designated hydrologically related critical area:

- 1) Dredging in surface waters shall be allowed only where necessary because of existing navigation needs, habitat restoration or improvement maintenance or construction of water-dependent uses.
- 2) (2) Dredging and excavation shall be confined to the minimum area necessary to accomplish the intended purpose or use.

3) Hydraulic dredging or other techniques that minimize the dispersal and broadcast of bottom materials shall be preferred over agitation forms of dredging.

4) Curtains and other appropriate mechanisms shall be used to minimize widespread dispersal of sediments and other dredge materials.

5) Entries across shore and wetland edges to accomplish dredging or excavation shall be confined to the minimum area necessary to gain entry and shall be confined to locations with the least potential for site disturbance and damage.

6) Dredging and excavation shall be scheduled at times having the least impact to fish spawning, nesting patterns, and other identified natural processes.

7) Dredge spoils are also considered fill and shall not be deposited within the stream except where such deposit is in accordance with approved procedures intended to preserve or enhance wildlife habitat, natural drainage, or other naturally occurring conditions.

8 All applications for Substantial Development Permits that include dredging shall supply a dredging plan that includes the following information:

i) The quantity of material to be removed.

ii) The method of removal.

iii) Location of spoil disposal sites and measures that will be taken to protect the environment around them.

iv) Plans for the protection and restoration of the shoreline environment during and after dredging operations.

9 A dredging operation judged by the Administrator to be insufficient for protection or restoration of the shoreline environment shall cause denial of a Substantial Development permit.

.05.16 Filling

The following provisions shall apply to filling activities within shorelines:

1) Fill within surface waters or wetlands shall be allowed only where necessary in conjunction with water-dependent uses, or an approved reclamation plan under Section **06.23** (Reclamation)

2) Fill for the purpose of increasing elevation may be permitted if such can be accomplished in a manner consistent with the policies of this chapter.

3) Fill shall be the minimum necessary to accomplish the use or purpose and shall be confined to

areas having the least impact to the stream corridor. Other alternatives should be preferred over fill to elevate new homes in the floodplain, such as increasing foundation height or zero-rise methods such as piers, posts, columns, or other methods.

4) Fill in floodplains shall meet the requirements of chapter Flood Hazard Plan Code Citation).

5) Pile or pier supports shall be preferred over fill for water-dependent uses and facilities.

6) Unless site characteristics dictate otherwise, fill material within surface waters or wetlands shall be sand, gravel, rock, or other clean material, with a minimum potential to degrade water quality.

7) Fill placement shall be scheduled at times having the least impact to fish spawning, nesting patterns, and other identified natural processes.

8) Fill shall be stabilized with native vegetation where appropriate to prevent erosion, migration of sediments and other material from the fill area to surrounding water, shore, and wetlands, unless technical consultation with other regulating agencies indicates alternative means are required.

9) Projects that propose fill shall make every effort to acquire fill onsite (also known as compensatory storage) where appropriate.

10) Fill should not obstruct, cut off, or isolate stream corridor features.

11) Fill projects shall be evaluated for effects on total water surface reduction, navigation restriction, impediment to water flow and circulation, impediment to irrigation systems, reduction of water quality, and destruction of fish and wildlife habitat.

12) Applications shall include a reclamation plan that provides for re-vegetation and protection of shoreline areas from erosion and siltation. A re-vegetation or erosion protection plan judged by the Administrative Official to be insufficient for the protection or restoration of the Shoreline environment shall cause denial of a Substantial Development Permit.

.05.17 Commercial Mining of Gravels

The following provisions shall apply to the commercial mining of gravels within shorelines:

1) Prior to the authorization of a commercial gravel mining operation, the project proponent shall provide maps to scale which illustrate the following:

2)

a) The extent to which gravel excavation and processing will affect or modify existing stream corridor features, including existing riparian vegetation; ; and

- b) The location, extent and size in acreage of any pond, lake, or feature that will be created as a result of mining excavation; ; and
- c) The description, location, and extent of any proposed subsequent use that would be different than existing uses.

2) The operations and any subsequent use or uses shall not cause permanent impairment or loss of floodwater storage, wetland, or other stream corridor features. Mitigation shall provide for the feature's replacement at equal value.

3) Any surface mining allowed within the floodway shall meet the standards FLOOD HAZARD CODE CITATION HERE

4) Except where authorized by the City of UNION GAP in consultation with the State Department of Fish and Wildlife and Department of Ecology, the following shall apply:

- a) The excavation zone for the removal of gravels shall be located a minimum of one hundred feet upland from the ordinary high-water mark (OHWM) of the stream channel.
- b) Equipment shall not be operated, stored, refueled, or provided maintenance within one hundred feet of the OHWM.
- c) Gravel washing, rock-crushing, screening, or stockpiling of gravels shall not occur within one hundred feet of the OHWM.

5) Mining proposals shall be consistent with the Washington Department of Natural Resources Surface Mine Reclamation standards (WAC 332-18, RCW 78.44).

6) Applicants shall submit a mining and reclamation plan to the Administrator describing the proposed site, quantity of material to be removed, method of removal, and measures that will be taken to protect lakes and streams from siltation and sedimentation. A surface mining plan or a reclamation plan judged by the Administrative Official to be insufficient for protection or restoration of the shoreline environment shall cause denial of a Substantial Development Permit.

7) Mining processing activities and stockpiles shall be sited in such a manner so as to avoid damage or loss resulting from flooding.

8) Mining processing activities shall utilize existing and/or new vegetation where necessary to minimize visual and noise impacts.

9) New mining and associated activities shall assure that proposed subsequent use of the mined property is consistent with the provisions of the environment designation and that reclamation of disturbed shoreline areas provides appropriate ecological functions consistent with the setting.

.05.18 Reclamation

The following guidelines shall apply to the reclamation of disturbed sites resulting from development activities within a designated hydrologically related critical area:

- 1) Development, construction, or uses shall include the timely restoration of disturbed features to a natural condition or to a stabilized condition that prevents degradation within the stream corridor.
- 2) Large-scale projects or projects extending over several months shall be phased to allow reclamation of areas where work or operations have been completed.
- 3) Reclamation shall be scheduled to address precipitation, meltwater runoff, growing season, and other seasonal variables that influence restoration and recovery.
- 4) Topography shall be finished to grades, elevations, and contours consistent with natural conditions in adjacent and surrounding areas.
- 5) Where existing development and construction prevent the return of a site to its natural condition, sites may be finished to conditions comparable to surrounding properties provided suitable protective measures are used to prevent stream corridor degradation.
- 6) Cut-and-fill slopes shall be stabilized at, or at less than the normal angle of repose for the materials involved.
- 7) The replacement or enhancement of vegetation within wetlands and required vegetative buffers shall use naturally occurring, native plant species. In other parts of the stream corridor, naturally occurring, native plant species shall be used, unless a showing of good cause acceptable to the Administrative Official is provided, in which case self-maintaining or low-maintenance plant species compatible with native vegetation shall be preferred over non- native and high-maintenance species.

Article V SHORELINE USE DEVELOPMENT STANDARDS

.05.19 Forest Practices - The following provisions shall apply to Forest Practices, as defined, within Shoreline jurisdiction.

- 1) All federal forest practices or non-federal forest practices meeting the criteria below shall qualify for the exemption from development standards provided in 16D.03.13(2)(a). All forest practices qualifying for this provision shall demonstrate compliance by providing a copy of the federal approval or state Forest Practices Permit. Other forest practices must conform to all applicable development standards.
 - a) harvest/treat at least 5 acres of forestland, or supporting such an operation; ; and
 - b) all harvesting w/in 200' of OHWM of Shoreline of Statewide Significance uses methods meeting RCW 90.58.150 (selective harvest), as amended; ; and

- c) activities are not associated with a Conversion Option Harvest; ; and
- d) approved under a forest practices permit; ; and
- e) not associated with a harvest under a Class IV–General application to convert forest land to non-forestry use.

2) Non-federal forest practices NOT meeting criteria (a), (b), or (c) above are designated as a Conditional Use.

3) Non-federal forest practices NOT meeting criteria (d) above (Class 1 forest practices, activities not requiring DNR review, etc.) shall be reviewed as separate uses or activities.

4) Non-federal forest practices NOT meeting criteria (e) above shall be reviewed as a new proposed use.

.05.20 Commercial and Community Services – The following provisions apply to any development, construction, or use of land for commercial and commercial service purposes within Shoreline jurisdiction.

1) Developers shall insure that utility lines including electricity and communications will be underground, except where presence of bedrock or other obstructions make undergrounding impractical. Above ground lines in existence at the time of adoption of the Master Program shall be undergrounded during normal replacement processes.

2) Water oriented commercial and community services uses shall be designed to facilitate public access to and enjoyment of nearby shoreline areas.

3) Application for new commercial or community services shall demonstrate either:

- a) How the use qualifies as a water-oriented use and how facilities function as such, or;
- b) That a non-water oriented use is part of a mixed use development that includes a water dependent use, and that it will provide a significant public benefit towards meeting SMA objectives, such as providing public access and ecological restoration, or;
- c) That a non-water-oriented use is setback from the OHWM or wetland edge by either a public right-of-way or by 100 feet or more of a separate parcel.

4) Boating facilities, marinas and extended mooring sites shall:

- a) comply with the health, safety and welfare standards of State and local agencies for such facilities; ; and
- b) be so located and designed as not to obstruct or cause danger to normal public

- navigation of water bodies; ; and
- c) be restricted to suitable locations; ; and
- d) avoid or mitigate for aesthetic impacts; ; and
- e) mitigate special impacts of live-aboard vessels; ; and
- f) mitigate impacts to existing public access and navigation; ; and
- g) provide documentation of ownership or authorization to use associated water areas; and
- h) demonstrate that state and local regulations will be met. Agencies responsible for such regulations shall be consulted as to the viability of the proposed design; ; and
- i) submit an operations and site plan demonstrating:
 - i) location and design of fuel handling and storage facilities to minimize accidental spillage and protect water quality; ; and
 - ii) proper water depth and flushing action for any area considered for overnight or long-term moorage facilities; ; and
 - iii) adequate facilities to properly handle wastes from holding tanks; ; and
 - iv) that boating facilities are located only at sites with suitable environmental conditions, shoreline configuration, and access; ; and
 - v) adequate access, parking, and restroom facilities for the public. Such facilities should be located away from the immediate water's edge.

.05.21 Industrial Activities The following provisions apply to any development, construction, or use of land for industrial purposes within Shoreline jurisdiction:

- 1) Facilities and structures shall be designed and screened with vegetation to minimize degradation of shoreline aesthetic qualities.
- 2) Industries which have proven to be environmentally hazardous shall be discouraged from locating along the shorelines.
- 3) Industrial uses and redevelopment of industrial uses shall provide for environmental cleanup and restoration in degraded or contaminated locations.
- 4) Application for new industrial activities shall demonstrate either:
 - a) How the use qualifies as a water-oriented use and how facilities function as such; or
 - b) That a non-water oriented use is part of a mixed use development that includes a water

dependent use, and that it will provide a significant public benefit towards meeting SMA objectives, such as providing public access and ecological restoration, or;

c) That a non-water-oriented use is setback from the OHWM or wetland edge by either a public right-of-way or by 100 feet or more of a separate parcel.

.05.22 Residential - The following provisions apply to any development, construction, or use of land for residential purposes within Shoreline jurisdiction.

1) Developers in the Urban, Natural and Urban Conservancy environments shall ensure that utility lines including electricity and communications will be underground, except where the presence of bedrock or other obstructions makes undergrounding impractical. Above ground lines in existence at the time of adoption of the Master Program shall be undergrounded during normal replacement processes.

2) Plats of subdivisions containing land adjacent to publicly owned or controlled bodies of water shall allow for pedestrian access to such water bodies for residents of upland lots within the subdivision.

3) Residential development and preliminary plats shall contain plans indicating how shore vegetation will be preserved and erosion controlled. A vegetation protection and/or erosion control plan judged by the Administrator to be insufficient for protection of the shoreline environment shall cause denial of an application.

4) Subdivisions within the jurisdiction of the Master Program shall maintain an overall project density of one dwelling unit per one-half acre. Subsequent re-subdivision of any portion of the property contained in the original plat in order to increase density above that specified herein is prohibited.

.05.23 Recreation - The following provisions apply to any development, construction, or use of land for recreational purposes within Shoreline jurisdiction.

1) Recreational activities in the Urban and Rural Environment must be compatible with existing or proposed uses in the area and must not create a noise, traffic, visual or similar problem.

2) No permanent structures are allowed in the natural environment.

3) The location, design, and operation of recreational facilities shall be consistent with the purpose of the environmental designation.

4) Access to recreational areas should emphasize both areal and linear access. Linkage of shoreline

parks and public access points by means of linear access should be encouraged.

5) Different uses within a specific recreational facility must be compatible with each other.

6) Commercial components of the use that are not explicitly related to the recreational operation must also conform to the Commercial use standards of section .05.20 (Commercial and Commercial Services).

.05.24 Agriculture - For Shoreline purposes, WAC 173-26-020 (Definitions) and WAC173-26-241(3)(a) (Agriculture) shall determine the need for shoreline review for agricultural activities. To summarize, existing agricultural activities, including maintenance, repair, and replacement of existing facilities, may continue as they historically have and may include changes in crops. New agricultural activities on land not currently in agricultural use are subject to shoreline review. New facilities (roads, buildings, etc.) are subject to shoreline review, or exemption when applicable. The following provisions apply to any development, construction, or use of land for agricultural purposes.

1) Confinement feeding operations shall meet the following standards:

a) Applicants shall submit a proposed site plan that indicates:

- i) Maximum number and type of livestock to be kept on the site; ; and
- ii) Existing and proposed contour of the land and topographic features; ; and
- iii) Groundwater profiles, streams and drainage ways; ; and
- iv) Soil types; ; and
- v) Existing and proposed building locations; ; and
- vi) Waste disposal facilities including: Site runoff storage ponds, location of manure stockpiles, holding tanks and ponds, ultimate manure disposal sites; ; and
- vii) Other use areas such as feed storage, animal movement routes and animal pens.

b) A site plan judged by the Administrative Official to be insufficient for the protection of the shoreline environment shall cause denial of the application.

2) New agricultural activities and facilities shall utilize best management practices established by the USDA Natural Resources Conservation Service or other similar agency.

.05.25 Aquaculture - The following provisions apply to any development, construction, or use of land for aquacultural purposes within Shoreline jurisdiction.

1) All structures located within water bodies shall not preclude navigability of those waters at any time and shall be clearly marked so as to provide no hazard to navigation on those waters.

2) Aquaculture facilities shall avoid significant conflict with water-dependent uses, the spreading of disease, introduction of non-native species, or impacts to shoreline aesthetic qualities.

.05.26 Piers and Docks - The following provisions apply to any development, construction, or use of land for piers and docks within Shoreline jurisdiction.

1) Pier and dock construction shall be the minimum size necessary to meet the needs of the use.

2) New pier or dock construction, excluding docks accessory to single-family residences must demonstrate that a specific need exists to support the intended water-dependent or public access use.

3) New residential development of two or more dwellings must provide joint use or community dock facilities, when feasible, rather than allow individual docks for each residence.

4) Docks, piers, and any other over-water structures for similar purpose, are prohibited in free-flowing streams and rivers in Yakima County. Bridge and trestle piers, flow measuring gauges, and existing irrigation diversion facilities are excluded from the prohibition in this section.

Chapter 17.19 - CRITICAL AREAS ORDINANCE^[1]

Article I. - General Provisions

17.19.010 - Purpose.

A. The purpose of this chapter is to designate and classify ecologically sensitive and hazardous areas and to protect these areas and their functions and values, while also allowing for reasonable use of private property.

B. This chapter is to implement the goals, policies, guidelines, and requirements of the Union Gap Comprehensive Plan and the Growth Management Act.

C. The city finds that critical areas provide a variety of valuable and beneficial biological and physical functions that benefit the city and its residents, and/or may pose a threat to human safety or to public and private property. The beneficial functions and values provided by critical areas include, but are not limited to, water quality protection and enhancement, fish and wildlife habitat, food chain support, flood storage,

conveyance and attenuation of floodwaters, groundwater recharge and discharge and erosion control. These beneficial functions are not listed in order of priority.

D. Goals. By limiting development and alteration of critical areas, this chapter seeks to:

1. Protect members of the public and public resources and facilities from injury, loss of life, or property damage due to flooding;

2. Maintain healthy, functioning ecosystems through the protection of unique, fragile, and valuable elements of the environment, including ground and surface waters, wetlands, and fish and wildlife and their habitats;

3. Direct activities not dependent on critical areas resources to less ecologically sensitive sites and mitigate unavoidable impacts to critical areas by regulating alterations in and adjacent to critical areas; and

4. Prevent cumulative adverse environmental impacts to water quality, wetlands, and fish and wildlife habitat, and the overall net loss of wetlands, frequently flooded areas, and habitat conservation areas.

E. The regulations of this chapter are intended to protect critical areas in accordance with the Growth Management Act and through the application of the best available science, as determined according to WAC 365-195-900 through 365-195-925, and in consultation with state and federal agencies and other qualified professionals.

F. This chapter is to be administered with flexibility and attention to site-specific characteristics. It is not the intent of this chapter to make a parcel of property unusable by denying its owner reasonable economic use of the property or to prevent the provision of public facilities and services necessary to support existing development and planned for by the community without decreasing current service levels below minimum standards.

G. The city's enactment or enforcement of this chapter shall not be construed for the benefit of any individual person or group of persons other than the general public.

17.19.020 - Authority.

A. As provided herein, the administrator is given the authority to interpret and apply, and the responsibility to enforce, this chapter to accomplish the stated purpose.

B. The city may withhold, condition, or deny development permits or activity approvals to ensure that the proposed action is consistent with this chapter.

17.19.030 - Relationship to other regulations.

A. Any individual critical area adjoined by another type of critical area shall have the buffer and meet the requirements that provide the most protection to the critical areas involved. When any provision of this chapter or any existing regulation, easement, covenant, or deed restriction conflicts with this chapter, that which provides more protection to the critical areas shall apply.

B. These critical areas regulations shall apply concurrently with review conducted under the State Environmental Policy Act (SEPA), as locally adopted. Any conditions required pursuant to this chapter shall be included in the SEPA review and threshold determination.

C. Compliance with the provisions of this chapter does not constitute compliance with other federal, state, and local regulations and permit requirements that may be required (for example, shoreline substantial development permits, Hydraulic Permit Act (HPA) permits, Section 106 of the National Historic Preservation Act, U.S. Army Corps of Engineers Section 404 permits, National Pollution Discharge Elimination System permits). The applicant is responsible for complying with these requirements, apart from the process established in this chapter.

17.19.035 - Definitions.

Words not defined in this chapter shall be as defined in the city code, the Washington Administrative Code, or the Revised Code of Washington. Words not found in either code shall be as defined in the Webster's Third New International Dictionary, latest edition.

"Adjacent" means immediately adjoining (in contact with the boundary of the influence area) or within a distance that is less than that needed to separate activities from critical areas to ensure protection of the functions and values of the critical areas. "Adjacent" shall mean any activity or development located:

- A. On a site immediately adjoining a critical area;
- B. A distance equal to or less than the required critical area buffer width and building setback; or
- C. Bordering or within the floodway or floodplain.

"Advance mitigation" means mitigation of an anticipated critical area impact or hazard completed according to an approved critical area report and prior to site development.

"Alteration" means any human-induced change in an existing condition of a critical area or its buffer. Alterations include, but are not limited to, grading, filling, channelizing, dredging, clearing (vegetation), construction, compaction, excavation, or any other activity that changes the character of the critical area.

"Anadromous fish" means fish that spawn and rear in freshwater and mature in the marine environment.

While Pacific salmon die after their first spawning, adult char (bull trout) can live for many years, moving in and out of saltwater and spawning each year. The life history of Pacific salmon and char contains critical periods of time when these fish are more susceptible to environmental and physical damage than at other times. The life history of salmon, for example, contains the following stages: upstream migration of adults, spawning, inter-gravel incubation, rearing, smoltification (the time period needed for juveniles to adjust their body functions to live in the marine environment), downstream migration, and ocean rearing to adults.

"Applicant" means a person who files an application for permit under this chapter and who is either the owner of the land on which that proposed activity would be located, a contract purchaser, or the authorized agent of such a person.

"Aquifer" means a geological formation, group of formations, or part of a formation that is capable of yielding a significant amount of water to a well or spring.

"Aquifer recharge areas" means areas that, due to the presence of certain soils, geology, and surface water, act to recharge groundwater by percolation.

"Best available science" means current scientific information used in the process to designate, protect, or restore critical areas, that is derived from a valid scientific process as defined by WAC 365-195-900 through 365-195-925. Sources of the best available science are included in Citations of Recommended Sources of Best Available Science for Designating and Protecting Critical Areas published by the Washington State Department of Commerce, and Yakima County's Review of Best Available Science for Inclusion in Critical Areas Updates.

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

A. Control soil loss and reduce water quality degradation caused by high concentrations of nutrients, animal waste, toxins, and sediment;

B. Minimize adverse impacts to surface water and groundwater flow and circulation patterns and to the chemical, physical, and biological characteristics of wetlands;

C. Protect trees and vegetation designated to be retained during and following site construction and use native plant species appropriate to the site for re-vegetation of disturbed areas.

The city shall monitor the application of best management practices to ensure adherence to the standards and policies of this chapter.

"Biodiversity" means the variety of animal and plant life and its ecological processes and interconnections represented by the richness of ecological systems and the life that depends on them, including human life and economies.

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

"Channel migration zone (CMZ)" means the area along a river within which the channel(s) can be reasonably predicted to migrate over time as a result of natural and normally occurring hydrological and related processes when considered with the characteristics of the river and its surroundings.

"Clearing" means the removal of timber, brush, grass, ground cover or other vegetative matter from a parcel of land.

"Compensation project" means actions necessary to replace project-induced critical area and buffer losses, including land acquisition, planning, construction plans, monitoring, and contingency actions.

"Compensatory mitigation" means replacing project-induced losses or impacts to a wetland or fish and wildlife critical area, including, but not limited to, the following:

A. Restoration. The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former wetland. For the purpose of tracking net gains in wetland acres, restoration is divided into:

1. Reestablishment. The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former wetland.

Reestablishment results in a gain in wetland acres and functions. Activities could include removing fill material, plugging ditches, or breaking drain tiles;

2. Rehabilitation. The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural or historic functions of the degraded wetland.

Rehabilitation results in a gain in wetland function but does not result in a gain of wetland acres. Activities could involve breaching a dike to reconnect wetlands to a floodplain or return tidal influence to a wetland;

B. Creation (Establishment). The manipulation of the physical, chemical, or biological characteristics present to develop a wetland on an upland or deepwater site where a wetland did not previously exist. Establishment results in a gain in wetland acres. Activities typically involve excavation of upland soils to elevations that will produce a wetland hydroperiod, create hydric soils, and support the growth of hydrophytic plant species;

C. Enhancement. The manipulation of the physical, chemical, or biological characteristics of a wetland site to heighten, intensify, or improve specific functions(s) or to change the growth stage or composition of the vegetation present. Enhancement is undertaken for specified purposes such as water improvement, flood water retention, or wildlife habitat. Enhancement results in a change in some wetland functions and can lead to a decline in other wetland functions, but does not result in a gain of wetland acres. Activities typically consist of planting vegetation, controlling nonnative or

invasive species, modifying site elevations or the proportion of open water to influence hydroperiods, or some combination of these activities; and

D. Protection (Preservation). Removing a threat to, or preventing the decline of, wetland conditions by an action in or near a wetland. This includes the purchase of land or easements. This term also includes activities commonly associated with the term "preservation." Preservation does not result in a gain of wetland acres, may result in a gain in functions, and will be used only in exceptional circumstances.

"Conservation easement" means a legal agreement that the property owner enters into to restrict uses of the land. Such restrictions can include, but are not limited to, passive recreation uses such as trails or scientific uses and fences or other barriers to protect habitat. The easement is recorded on a property deed, runs with the land, and is legally binding on all present and future owners of the property.

"Critical aquifer recharge area" means areas designated by WAC 365-190-080 that are determined to have a critical recharging effect on aquifers used for potable water as defined by WAC 365-190-030(3).

"Critical area tract" means land held in private ownership and retained in an open condition in perpetuity for the protection of critical areas. Lands within this type of dedication may include, but are not limited to, portions and combinations of forest habitats, grasslands, shrub steppe, on-site watersheds, 100-year floodplains, shorelines or shorelines of statewide significance, riparian areas, and wetlands.

"Critical areas" includes any of the following areas or ecosystems: aquifer recharge areas, fish and wildlife conservation areas, frequently flooded areas, geologically hazardous areas, and wetlands, as defined in Chapter 36.70A RCW and this chapter. "Fish and wildlife conservation areas" does not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of and are maintained by a port district or an irrigation district or company.

"Cumulative impacts or effects" means the combined, incremental effects of human activity on ecological or critical areas functions and values. Cumulative impacts result when the effects of an action are added to or interact with other effects in a particular place and within a particular time. It is the combination of these effects, and any resulting environmental degradation, that should be the focus of cumulative impact analysis and changes to policies and permitting decisions.

"Department" means the city of Union Gap Community Development Department.

"Developable area" means a site or portion of a site that may be utilized as the location of development, after application of this critical areas chapter.

"Development" means any activity upon the land consisting of construction or alteration of structures,

earth movement, dredging, dumping, grading, filling, mining, removal of any sand, gravel, or minerals, driving of piles, drilling operations, bulkheading, clearing of vegetation, or other land disturbance. Development includes the storage or use of equipment or materials inconsistent with the existing use. Development also includes approvals issued by the city that binds land to specific patterns of use, including, but not limited to, subdivisions, short subdivisions, zone changes, conditional use permits, and binding site plans. Development activity does not include the following activities:

- A. Interior building improvements.

- B. Exterior structure maintenance activities, including painting and roofing.

- C. Routine landscape maintenance of established, ornamental landscaping, such as lawn mowing, pruning, and weeding.

- D. Maintenance of the following existing facilities that does not expand the affected area: septic tanks (routine cleaning); wells; individual utility service connections; and individual cemetery plots in established and approved cemeteries.

"Development permit" means any permit issued by the city, or other authorized agency, for construction, land use, or the alteration of land.

"Director" means the director of the city community development department or other responsible official, or other city staff granted the authority to act on behalf of the director.

"Emergent wetland" means a wetland with at least thirty (30) percent of the surface area covered by erect, rooted, herbaceous vegetation extending above the water surface as the uppermost vegetative strata.

"Erosion" means the process whereby wind, rain, water, and other natural agents mobilize and transport particles.

"Exotic" means any species of plants or animals which are foreign to the planning area.

"Fish and wildlife conservation areas" means areas necessary for maintaining species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created as designated by WAC 365-190-130(1). These areas include:

- A. Areas with which state or federally designated endangered, threatened, and sensitive species have a primary association;

- B. Habitats of local importance, including but not limited to areas designated as priority habitat by the Washington Department of Fish and Wildlife;

- C. Naturally occurring ponds under twenty (20) acres and their submerged aquatic beds that

provide fish or wildlife habitat, including those artificial ponds intentionally created from dry areas in order to mitigate impacts to ponds;

D. Waters of the state, including lakes, rivers, ponds, streams, inland waters, underground waters, and all other surface waters and watercourses within the jurisdiction of the state of Washington;

E. Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity.

F. "Fish and wildlife conservation areas" does not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of and are maintained by a port district or an irrigation district or company.

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

"Flood insurance study" means the official report provided by the Federal Insurance Administration that includes flood profiles, the flood boundary-floodway map, and the water surface elevation of the base flood.

"Frequently flooded areas" means lands in the floodplain subject to a one percent or greater chance of flooding in any given year and those lands that provide important flood storage, conveyance, and attenuation functions, as determined by the director in accordance with WAC 365-190-080(3). Frequently flooded areas perform important hydrologic functions and may present a risk to persons and property. Classifications of frequently flooded areas include, at a minimum, the 100-year floodplain designations of the Federal Emergency Management Agency and the National Flood Insurance Program.

"Functions and values" means the beneficial roles served by critical areas, including, but not limited to: water quality protection and enhancement; fish and wildlife habitat; food chain support; flood storage, conveyance and attenuation; groundwater recharge and discharge; erosion control; protection from hazards; historical, archaeological, and aesthetic value protection; educational opportunities; and recreation. These beneficial roles are not listed in order of priority. Critical area functions can be used to help set targets (species composition, structure, etc.) for managed areas, including mitigation sites.

"Grading" means any excavation, filling, or combination thereof.

"Groundwater" means water in a saturated zone or stratum beneath the surface of land or a surface water body.

"Growth Management Act" means Chapters 36.70A and 36.70B RCW, as amended.

"Habitat conservation areas" means areas designated as fish and wildlife habitat conservation areas.

"Hazardous substances" means any liquid, solid, gas, or sludge, including any material, substance, product, commodity, or waste, regardless of quantity, that exhibits any of the physical, chemical, or biological properties described in WAC 173-303-090 or 173-303-100.

"Hydraulic project approval (HPA)" means a permit issued by the Washington Department of Fish and Wildlife for modifications to waters of the state in accordance with Chapter 75.20 RCW.

"Hydric soil" means a soil that is saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part. The presence of hydric soil shall be determined following the methods described in the Washington State Wetland Identification and Delineation Manual.

"Impervious surface" means a hard surface area that either prevents the entry of water into the soil mantle as under natural conditions prior to development or that causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development.

"In-kind compensation" means to replace critical areas with substitute areas whose characteristics and functions closely approximate those destroyed or degraded by a regulated activity.

"Infiltration" means the downward entry of water into the immediate surface of soil.

"Isolated wetlands" means those wetlands that are outside of and not contiguous to any 100-year floodplain of a lake, river, or stream and have no contiguous hydric soil or hydrophytic vegetation between the wetland and any surface water.

"Mitigation" means avoiding, minimizing, or compensating for adverse critical areas impacts. Mitigation, in the following sequential order of preference, is:

- A. Avoiding the impact altogether by not taking a certain action or parts of an action;
- B. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps, such as project redesign, relocation, or timing, to avoid or reduce impacts;
- C. Rectifying the impact to wetlands, critical aquifer recharge areas, and habitat conservation areas by repairing, rehabilitating, or restoring the affected environment to the conditions existing at the time of the initiation of the project;
- D. Minimizing or eliminating the hazard by restoring or stabilizing the hazard area through engineered or other methods;

E. Reducing or eliminating the impact or hazard over time by preservation and maintenance operations during the life of the action;

F. Compensating for the impact to wetlands, critical aquifer recharge areas, and habitat conservation areas by replacing, enhancing, or providing substitute resources or environments; and

G. Monitoring the hazard or other required mitigation and taking remedial action when necessary. Mitigation for individual actions may include a combination of the above measures.

"Monitoring" means evaluating the impacts of development proposals on the biological, hydrological, and geological elements of such systems, and assessing the performance of required mitigation measures throughout the collection and analysis of data by various methods for the purpose of understanding and documenting changes in natural ecosystems and features, including gathering baseline data.

"Native vegetation" means plant species that are indigenous to the area in question.

"Nonconformity" means a legally established existing use or legally constructed structure that is not in compliance with current regulations.

"Nonindigenous". See "Exotic."

"Off-site compensation" means to replace critical areas away from the site on which a critical area has been impacted.

"On-site compensation" means to replace critical areas at or adjacent to the site on which a critical areas has been impacted.

"Ordinary high water mark (OHM)" means that mark which is found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, that the soil has a character distinct from that of the abutting upland in respect to vegetation.

"Out-of-kind compensation" means to replace critical areas with substitute critical areas whose characteristics do not closely approximate those destroyed or degraded.

"Permeability" means the capacity of an aquifer or confining bed to transmit water. It is a property of the aquifer or confining bed and is independent of the force causing movement.

"Porous soil types" means soils, as identified by the National Resources Conservation Service, U.S. Department of Agriculture, that contain voids, pores, interstices, or other openings which allow the passing of water.

"Potable water" means water that is safe and palatable for human use.

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

"Priority habitat" means habitat type or elements with unique or significant value to one or more species as classified by the state department of fish and wildlife. A priority habitat may consist of a unique vegetation type or dominant plant species, a described successional stage, or a specific structural element.

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

"Qualified professional" means a person with experience and training in the pertinent scientific discipline, and who is a qualified scientific expert with expertise appropriate for the relevant critical area subject in accordance with WAC 365-195-905(4). A qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, engineering, environmental studies, fisheries, or related field, and two years of related work experience. Also, a qualified professional must have the following license, degree or experience:

- A. A qualified professional for habitats or wetlands must have a degree in biology and professional experience related to the subject species. The professional must provide evidence of advanced training in plant identification and hydric soil identification.

- B. A qualified professional for a geological hazard must be a professional engineer or geologist, licensed in the state of Washington.

- B. A qualified professional for critical aquifer recharge areas means a hydrogeologist, geologist, engineer, or other scientist with experience in preparing hydrogeologic assessments.

"Recharge" means the process involved in the absorption and addition of water to groundwater.

"Reclaimed water" means municipal wastewater effluent that has been adequately and reliability treated so that it is suitable for beneficial use. Following treatment it is no longer considered wastewater (treatment levels and water quality requirements are given in the water reclamation and reuse standards adopted by the state departments of ecology and health).

"Repair or maintenance" means an activity that restores the character, scope, size, and design of a serviceable area, structure, or land use to its previously authorized and undamaged condition. Activities

that change the character, size, or scope of a project beyond the original design and drain, dredge, fill, flood, or otherwise alter critical areas are not included in this definition.

"Restoration" means measures taken to restore an altered or damaged natural feature including:

- A. Active steps taken to restore damaged wetlands, streams, protected habitat, or their buffers to the functioning condition that existed prior to an unauthorized alteration; and
- B. Actions performed to reestablish structural and functional characteristics of the critical area that have been lost by alteration, past management activities, or catastrophic events.

"Riparian habitat" means areas adjacent to aquatic systems with flowing water that contain elements of both aquatic and terrestrial ecosystems that mutually influence each other. The width of these areas extends to that portion of the terrestrial landscape that directly influences the aquatic ecosystem by providing shade, fine or large woody material, nutrients, organic and inorganic debris, terrestrial insects, or habitat for riparian-associated wildlife. Widths shall be measured from the ordinary high water mark or from the top of bank if the ordinary high water mark cannot be identified. It includes the entire extent of the floodplain and the extent of vegetation adapted to wet conditions as well as adjacent upland plant communities that directly influence the stream system. Riparian habitat areas include those riparian areas severely altered or damaged due to human development activities.

"River". See "Watercourse."

"Section 404 permit" means a permit issued by the U.S. Army Corps of Engineers for the placement of dredge or fill material or clearing in waters of the United States, including wetlands, in accordance with 33 USC Section 1344. Section 404 permits may also be for endangered species consultation. They require a consultation under [Section 7](#) of the Federal Endangered Species Act.

"SEPA" means Washington State Environmental Policy Act, Chapter 43.21C RCW.

"Serviceable" means presently usable.

"Soil survey" means the most recent soil survey for the local area or county by the National Resources Conservation Service, U.S. Department of Agriculture.

"Species" means any group of animals classified as a species or subspecies as commonly accepted by the scientific community.

"Species, endangered" means any fish or wildlife species that is threatened with extinction throughout all or a significant portion of its range and is listed by the state or federal government as an endangered species.

"Species, priority" means any fish or wildlife species requiring protective measures and/or management

guidelines to ensure their persistence as genetically viable population levels as classified by the Washington Department of Fish and Wildlife, including endangered, threatened, sensitive, candidate and monitor species, and those of recreational, commercial, or tribal importance.

"Species, sensitive" means any wildlife species native to the state of Washington that is vulnerable or declining and is likely to become endangered or threatened throughout a significant portion of its range within the state without cooperative management or removal of threats.

"Species, threatened" means any fish or wildlife species that is likely to become an endangered species within the foreseeable future throughout a significant portion of its range without cooperative management or removal of threats, and is listed by the state or federal government as a threatened species.

"Stream". See "Watercourse."

"UGMC" means the Union Gap Municipal Code.

"Unavoidable" means adverse impacts that remain after all appropriate and practicable avoidance and minimization have been achieved.

"Vulnerability" means the combined effect of susceptibility to contamination and the presence of potential contaminants.

"Water table" means that surface in an unconfined aquifer at which the pressure is atmospheric. It is defined by the levels at which water stands in wells that penetrate the aquifer just far enough to hold standing water.

"Water typing system."

A. Type 1 streams, lakes and ponds are those waters, within their ordinary high water mark (OHWM), meeting the criteria as "shorelines of the state" and "shorelines of statewide significance" under RCW Chapter 90.58, but not including those waters' associated wetlands as defined in RCW Chapter 90.58. The current list of shoreline waters, along with their specific shoreline environments are provided in Appendix B and C of the Shoreline Master Program. Type 1 streams and lakes are protected by the shoreline master program, rather than the CAO;

B. Type 2 streams, lakes and ponds are those surface water features which require protection due to the nature of their contributions to the functional properties listed in section 18.05.504, and are considered "Streams, Lakes and/or Ponds of Local Importance." Habitats of local importance are designated using the process listed in section 18.05.503 (Species and Habitats of Local Importance);

C. Type 3 streams include all perennial streams within Yakima County not classified as Type 1 or 2;

D. Type 4 streams are all intermittent streams within Yakima County not classified as Type 1, 2 or 3.

"Watercourse" means any portion of a channel, bed, bank, or bottom waterward of the ordinary high water line of waters of the state including areas in which fish may spawn, reside, or through which they may pass, and tributary waters with defined beds or banks, which influence the quality of fish habitat downstream. This definition includes watercourses that flow on an intermittent basis or which fluctuate in level during the year and applies to the entire bed of such watercourse whether or not the water is at peak level. This definition does not include irrigation ditches, canals, stormwater runoff devices, or other entirely artificial watercourses, except where they exist in a natural watercourse that has been altered by humans.

"Well" means a bored, drilled, or driven shaft, or a dug hole whose depth is greater than the largest surface dimension for the purpose of withdrawing or injecting water or other liquids.

"Wellhead protection area (WHPA)" means the portion of a zone of contribution for a well, wellfield, or spring, as defined using criteria established by the Washington State Department of Ecology.

"Wetland category" means a grouping of similar wetlands with respect to functions and values that are determined by the Eastern Washington Wetland Rating System. There are four categories of wetlands (I, II, III, and IV) in this chapter for which differing buffers are required. See [Section 17.19.410](#), Designation, rating, and mapping of wetlands.

"Wetland edge" means the boundary of a wetland as delineated based on the definitions contained in this chapter.

"Wetlands" means those areas that are inundated or saturated by surface [water] or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from non-wetland areas to mitigate the conversion of wetlands. Wetlands shall be delineated in accordance with the procedures outlined in WAC 173-22-035. All areas within the city meeting the wetland designation criteria in that procedure are hereby designated critical areas and are subject to the provisions of this chapter.

"Wetlands mitigation bank" means a site where wetlands are restored, created, enhanced, or in exceptional circumstances, preserved expressly for the purpose of providing compensatory mitigation in advance of authorized impacts to similar resources.

17.19.040 - Administrative procedures.

A. General. Applications for development in critical areas in the city of Union Gap shall be processed in accordance with the provisions of Union Gap Municipal Code Titles 17 and 18.

B. Designation of Review Classifications. Actions and approvals of this chapter are subject to review pursuant to Union Gap Municipal Code Titles 17 and 18. The administrator shall use Table 17.19.040B to determine the type of review based on the type of decision.

C. Public Notice.

1. If the administrator determines a development project warrants public notice and the project is not subject to any other public notice requirement, the administrator shall provide written notice to any agencies with jurisdiction or interest and any owner of record of real property within at least three hundred (300) feet of the external boundaries of the property upon which the project is proposed. The notice shall include, as a minimum, the name of the applicant, a map or general description of the project site location, a brief description of the proposed action, the identification of the lead agency, and any threshold determination under SEPA. The notice shall also include the name, address, and telephone number of the department at which additional information can be obtained, the comment period, and the final date by which such comment must be submitted. The comment period shall be a minimum of fourteen (14) days from the date of publication (if published) or from the date notice was provided.

2. If the administrator determines a development project warrants a public notice and the project is subject to another permit or authorization which requires public notice the administrator shall, wherever practical, utilize the public notice procedure associated with that development permit or authorization.

Table 17.19.040B. Type of Review

EXPAND

Type of Decision	Type of Review
Application for Development under Chapter 17.19 CAO pursuant to UGMC 17.19.190	Type I May be raised to T
Exemptions for Public Agency and Utility pursuant to UGMC 17.19.140	Type I May be raised to T

Type of Decision	Type of Review
Application for Variance Pursuant to UGMC 17.19.330	Pursuant to UGMC
Application for Reasonable Use Exception pursuant to UGMC 17.19.150	Type IV
Appeal of Administrative Decisions	Type IV

17.19.050 - Fees.

A. Fees for filing of a critical area information form, critical area review processing, and other services provided by the city shall be as established in UGMC [18.80.020](#).

B. Unless otherwise indicated in this chapter, the applicant shall be responsible for the initiation, preparation, submission, and expense of all required reports, assessment(s), studies, plans, reconnaissance(s), peer review(s) by qualified consultants, and other work prepared in support of or necessary to review the application.

17.19.060 - Severability.

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

17.19.070 - Interpretation.

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

17.19.080 - Jurisdiction—Critical areas.

A. The city shall regulate all uses, activities, and developments within, adjacent to, or likely to affect, one or more critical areas, consistent with the best available science and the provisions herein.

B. Critical areas regulated by this chapter include:

1. Wetlands;
2. Frequently flooded areas;

3. Critical aquifer recharge areas;

4. Geologically hazardous areas;

5. Fish and wildlife conservation areas;

6. Habitats and species of local importance as established in [Section 17.19.090](#).

C. All areas within the city meeting the definition of one or more critical areas, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this chapter.

17.19.090 - Designation of habitats and species of local importance.

A. Species and habitats of local importance are habitats or species that due to their declining population, sensitivity to habitat manipulation or other values, make them important on a local level. Habitats of local importance may include a seasonal range or habitat element with which a given species has a primary association, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term. Nominations for habitats and species of local importance shall include:

1. Precise identification of the nominated habitat;

2. A scientifically sound management plan;

3. A study, paid for by the nominator, containing sufficient information to verify compliance with the following criteria; and

4. Performance standards for the designated area which shall be determined by reference to applicable state and federal law for the protection of threatened, endangered, or sensitive priority species.

B. The designation criteria shall be as follows:

1. The species shall be local, native populations that are vulnerable, declining, or have special recreation, commercial, game, or other value;

2. The habitat shall be important for the long-term persistence of the local population;

3. The habitat shall be of high quality, or be capable of restoration to high quality, or connect otherwise isolated habitats;

4. Protection by other agencies, laws, or nonregulatory tools shall be inadequate to protect the species.

C. Designations of habitats and species of local importance together with appropriate performance standards shall form a part of these development regulations. Nominations of habitats and species of local importance shall be processed in accordance with UGMC [Chapter 17.25](#).

17.19.100 - Protection of critical areas.

A. Any action taken pursuant to this chapter shall result in at least equivalent functions and values of the critical areas associated with the proposed action, as determined by the best available science. All actions and developments shall be designed and constructed in accordance with UGMC [17.19.240](#), mitigation sequencing. Applicants must first demonstrate an inability to avoid and/or minimize impacts before restoration and compensation of impacts will be allowed. No activity or use shall be allowed that results in a net loss of the functions or values of critical areas without compensatory mitigation targeting those lost functions. Previous unpermitted actions by the property owner must be mitigated.

B. This chapter shall be interpreted to ensure, among other things, that no harm shall occur in critical areas as a result of activities and developments, but it shall not require enhancement of critical areas where such critical areas were degraded prior to the proposed land use activity or development, or where previously existing critical areas no longer exist.

17.19.110 - Best available science.

A. Protect Functions and Values of Critical Areas with Special Consideration to Anadromous Fish. Critical area reports and decisions to alter critical areas shall rely on the best available science to protect the functions and values of critical areas and must give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fish, such as salmon and bull trout, and their habitat.

B. Best Available Science to be Consistent with Criteria in WACs. The best available science is that scientific information applicable to the critical area prepared by local, state, or federal natural resource agencies, a qualified scientific professional, or team of qualified scientific professionals, that is consistent with criteria established in WAC 365-195-900 through 365-195-925.

C. Characteristics of a Valid Scientific Process. In the context of critical areas protection, a valid scientific process is one that produces reliable information useful in understanding the consequences of a local government's regulatory decisions, and in developing critical areas policies and development regulations that will be effective in protecting the functions and values of critical areas. To determine whether information received during the permit review process is reliable scientific information, the director shall determine whether the source of the information displays the characteristics of a valid scientific process. Such characteristics are as follows:

1. Peer Review. The information has been critically reviewed by other persons who are qualified

scientific experts in that scientific discipline. The proponents of the information have addressed the criticism of the peer reviewers. Publication in a refereed scientific journal usually indicates that the information has been appropriately peer-reviewed;

2. Methods. The methods used to obtain the information are clearly stated and reproducible. The methods are standardized in the pertinent scientific discipline or, if not, the methods have been appropriately peer-reviewed to ensure their reliability and validity;

3. Logical Conclusions and Reasonable Inferences. The conclusions presented are based on reasonable assumptions supported by other studies and consistent with the general theory underlying the assumptions. The conclusions are logically and reasonably derived from the assumptions and supported by the data presented. Any gaps in information and inconsistencies with other pertinent scientific information are adequately explained;

4. Quantitative Analysis. The data have been analyzed using appropriate statistical or quantitative methods;

5. Context. The information is placed in proper context. The assumptions, analytical techniques, data, and conclusions are appropriately framed with respect to the prevailing body of pertinent scientific knowledge; and

6. References. The assumptions, analytical techniques, and conclusions are well referenced with citations to relevant, credible literature and other pertinent existing information.

D. Nonscientific Information. Nonscientific information may supplement scientific information, but it is not an adequate substitute for valid and available scientific information. Common sources of nonscientific information include the following:

1. Anecdotal Information. One or more observations that are not part of an organized scientific effort (for example, "I saw a grizzly bear in that area while I was hiking");

2. Nonexpert Opinion. Opinion of a person who is not a qualified scientific expert in a pertinent scientific discipline (for example, "I do not believe there are grizzly bears in that area"); and

3. Hearsay. Information repeated from communication with others (for example, "At a lecture last week, Dr. Smith said there were no grizzly bears in that area").

E. Absence of Valid Scientific Information. 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 director 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
2. Require application of an effective adaptive management program that relies on scientific methods to evaluate how well regulatory and nonregulatory actions protect the critical area. An adaptive management program is a formal and deliberate scientific approach to taking action and obtaining information in the face of uncertainty. An adaptive management program shall:
 - a. Address funding for the research component of the adaptive management program;
 - b. Change course based on the results and interpretation of new information that resolves uncertainties; and
 - c. Commit to the appropriate timeframe and scale necessary to reliably evaluate regulatory and nonregulatory actions affecting protection of critical areas and anadromous fisheries.

Article II. - Applicability, Exemptions, Exceptions, and General Standards

17.19.120 - Applicability.

A. The provisions of this chapter shall apply to all lands, all land uses and development activity, and all structures and facilities in the city, whether or not a separate permit or authorization is required under other regulations. These standards shall apply to every person, firm, partnership, corporation, group, governmental agency, or other entity that owns, leases, or administers land within the city. No person, company, agency, or applicant shall alter a critical area or buffer except as consistent with the purposes and requirements of this chapter.

B. The city shall not approve any permit or otherwise issue any authorization to alter the condition of any land, water, or vegetation, or to construct or alter any structure or improvement in, over, or on a critical area or associated buffer, without first ensuring compliance with the requirements of this chapter, including, but not limited to, the following (as applicable):

1. Building permit;
2. Short subdivision;
3. Subdivision;
4. Sign permit;
5. Binding site plan;
6. Manufactured home or recreational vehicle park;

7. Planned unit development or planned residential development;
8. Shoreline management substantial development or conditional use permit;
9. Flood development permit;
10. Clearing and grading in fish and wildlife habitat buffers and wetlands, including wetland buffers. Authorization of any clearing and grading activity under this chapter, prior to undertaking this activity, is required, in conformance with UGMC [Chapter 14.50](#);
11. Any other adopted permit or required approval not expressly exempted by this chapter.

C. Approval of a permit or development proposal pursuant to the provisions of this chapter does not discharge the obligation of the applicant to comply with the provisions of this chapter.

17.19.130 - Exemptions.

A. Exemption Request and Review Process. The proponent of the activity may submit a written request for exemption to the administrator that describes the activity and states the exemption listed in this section that applies. The administrator shall review the exemption request to verify that it complies with this chapter and approve or deny the exemption. If the exemption is approved, it shall be placed on file with the community development department. If the exemption is denied, the proponent may continue in the review process and shall be subject to the requirements of this chapter.

B. Exempt Activities and Impacts to Critical Areas. Parties conducting exempt activities shall use reasonable methods to avoid potential impacts to critical areas. To be exempt from this chapter does not give permission to degrade a critical area or ignore risk from natural hazards. Any incidental damage to, or alteration of, a critical area that is not a necessary outcome of the exempted activity shall be restored, rehabilitated, or replaced at the responsible party's sole expense.

C. Exempt Activities. The following developments, activities, and associated uses shall be exempt from the provisions of this chapter, provided that they are otherwise consistent with the provisions of other local, state, and federal laws and requirements:

1. Emergencies. Those activities necessary to prevent an immediate threat to public health, safety, or welfare, or which pose an immediate risk of damage to private property and which require remedial or preventative action in a timeframe too short to allow for compliance with the requirements of this chapter. Emergency actions which create an impact to a critical area or its buffer shall use reasonable methods to address the emergency; in addition, they must have the least possible impact to the critical area or its buffer. The person or agency undertaking such action shall notify the city within one working day following commencement of the emergency activity.

Within thirty (30) days, the administrator shall determine if the action taken was within the scope of the emergency actions allowed in this subsection. If the administrator determines that the action taken, or any part of the action taken, was beyond the scope of an allowed emergency action, then enforcement provisions of UGMC [17.19.340](#), unauthorized alterations and enforcement, shall apply. After the emergency, the person or agency undertaking the action shall fully fund and conduct necessary restoration and/or mitigation for any impacts to the critical area and buffers resulting from the emergency action in accordance with an approved critical area report and mitigation plan. The person or agency undertaking the action shall apply for review, and the alteration, critical area report, and mitigation plan shall be reviewed by the city in accordance with the review procedures contained herein. Restoration and/or mitigation activities must be initiated within one year of the date of the emergency, and completed in a timely manner; provided, however, the restoration, mitigation, planning and financial requirements set forth in this subsection shall not apply to public safety or volunteer emergency services providers who, in good faith, render emergency response services, and while in the course and scope of such services determine it necessary to damage, destroy or alter property falling under the jurisdiction of this chapter; provided further, this exception from responsibility shall not extend to the landowner or to any persons other than such public safety or volunteer emergency services providers;

2. Operation, Maintenance, or Repair. Operation, maintenance, or repair of existing structures, infrastructure improvements, utilities, public or private roads, dikes, levees, or drainage systems, that do not require construction permits, if the activity does not further alter or increase the impact to, or encroach further within, the critical area or buffer and there is no increased risk to life or property as a result of the proposed operation, maintenance, or repair. Operation and maintenance includes vegetation management performed in accordance with best management practices that is part of ongoing maintenance of structures, infrastructure, or utilities, provided that such management actions are part of regular and ongoing maintenance, do not expand further into the critical area, are not the result of an expansion of the structure or utility, and do not directly impact a threatened, endangered or sensitive species; and

3. Passive Outdoor Activities. Recreation, education, and scientific research activities that do not degrade the critical area, including fishing, hiking, and bird watching. Trails must be constructed pursuant to UGMC [17.19.160](#)(C)(5), Public and Private Pedestrian Trails.

17.19.140 - Exception—Public agency and utility.

A. [Application for Exception.] If the application of this chapter would prohibit a development proposal by a public agency or public utility, the agency or utility may apply for an exception pursuant to this section.

B. Exception Request and Review Process. An application for a public agency and utility exception shall be made to the city and shall include a critical area information form; critical area report (UGMC [17.19.210](#) and [17.19.220](#)), including mitigation plan (UGMC [17.19.250](#)), if necessary; and any other

related project documents, such as permit applications to other agencies, special studies, and environmental documents prepared pursuant to the State Environmental Policy Act (Chapter 43.21C RCW).

C. Review. The administrator shall approve, approve with conditions, or deny the request based on the compliance of the proposal with all of the public agency and utility exception criteria in subsection (D) of this section.

D. Public Agency and Utility Review Criteria. The criteria for review and approval of public agency and utility exceptions are as follows:

1. There is no other practical alternative to the proposed development with less impact on the critical areas;
2. The application of this chapter would unreasonably restrict the ability to provide utility services to the public;
3. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;
4. The proposal attempts to protect and mitigate impacts to the critical area functions and values consistent with the best available science; and
5. The proposal is consistent with other applicable regulations and standards.

E. Burden of Proof. The burden of proof shall be on the applicant to bring forth evidence in support of the application and to provide sufficient information on which any decision has to be made on the application. ([Ord. No. 2802](#), § 4(Exh. A), 12-10-12)

17.19.150 - Exception—Reasonable use.

A. If the application of this chapter would deny all reasonable economic use of the subject property, the city shall determine if compensation is an appropriate action, or the property owner may apply for an exception pursuant to this section.

B. Exception Request and Review Process. An application for a reasonable use exception shall be made to the city and shall include a critical area information form; critical area report (UGMC [17.19.210](#) and [17.19.220](#)), including mitigation plan (UGMC [17.19.190](#)), if necessary; and any other related project documents, such as permit applications to other agencies, special studies, and environmental documents prepared pursuant to the State Environmental Policy Act (Chapter 43.21C RCW and WAC 197-11-158). The administrator shall prepare a report and recommendation, based on review of the submitted information, a site inspection, and the compliance of the proposal with reasonable use exception criteria in subsection (D) of this section.

C. Review. The request shall be reviewed pursuant to the provisions of UGMC [17.19.040](#). The application shall be approved, approved with conditions, or denied based on compliance of the proposal with all of the reasonable use exception review criteria as follows.

D. Reasonable Use Review Criteria. Criteria for review and approval of reasonable use exceptions:

1. No other reasonable economic use of the property has less impact on the critical area; and
2. The proposed impact to the critical area is the minimum necessary to allow for reasonable economic use of the property; and
3. The inability of the applicant to derive reasonable economic use of the property is not the result of actions by the applicant after the effective date of the ordinance codified in this chapter, or its predecessor; and
4. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site; and
5. The proposal will result in no net loss of critical area functions and values consistent with the best available science; and
6. The proposal is consistent with other applicable regulations and standards.

E. Burden of Proof. The burden of proof shall be on the applicant to bring forth evidence in support of the application and to provide sufficient information on which any decision has to be made.

17.19.160 - Allowed activities.

A. Critical Area Report (UGMC [17.19.210](#) and [17.19.220](#)). Activities allowed under this chapter shall have been reviewed and permitted or approved by the city or other agency with jurisdiction, but do not require submittal of a separate critical area information form or critical area report, unless such submittal was required previously for the underlying permit. The administrator may apply conditions to the underlying permit or approval to ensure that the allowed activity is consistent with the provisions of this chapter to protect critical areas.

B. Required Use of Best Management Practices. All allowed activities shall be conducted using the best management practices that result in the least amount of impact to the critical areas. Best management practices shall be used for tree and vegetation protection, construction management, erosion and sedimentation control, water quality protection, and regulation of chemical applications. The city shall observe the use of best management practices to ensure that the activity does not result in degradation to the critical area. Any incidental damage to, or alteration of, a critical area shall be restored, rehabilitated, or

replaced at the responsible party's expense.

C. Allowed Activities. The following activities are allowed:

1. Permit Requests Subsequent to Previous Critical Area Review. Development permits and approvals that involve both discretionary land use approvals (such as subdivisions, rezones, or conditional use permits), and construction approvals (such as building permits) if all of the following conditions have been met:

a. The provisions of this chapter have been previously addressed as part of another approval;

b. There have been no material changes in the potential impact to the critical area or buffer since the prior review;

c. There is no new information available that is applicable to any critical area review of the site or particular critical area;

d. The permit or approval has not expired or, if no expiration date, no more than five years have elapsed since the issuance of that permit or approval; and

e. Compliance with any standards or conditions placed upon the prior permit or approval has been achieved or secured;

2. Modification to Existing Structures. Structural modification of, addition to, demolition of or replacement of, an existing legally constructed structure (undertaken pursuant to an issued permit, if required) that does not further alter or increase the impact to the critical area or buffer and there is no increased risk to life or property as a result of the proposed modification or replacement, provided that restoration of structures or demolition pursuant to an approved demolition permit must be initiated within one year of the date of such damage, as evidenced by the issuance of a valid building permit, and diligently pursued to completion;

3. Activities within the Improved Right-of-Way. Replacement, modification, installation, or construction of utility facilities, lines, pipes, mains, equipment, or appurtenances, not including substations, when such facilities are located within the improved portion of the public right-of-way or a city-authorized private roadway, except those activities that alter a wetland or watercourse, such as culverts or bridges, or result in the transport of sediment or increased stormwater; subject to the following:

a. Critical area and/or buffer widths shall be increased, where possible, equal to the width of the right-of-way improvement, including disturbed areas; and

b. Retention and replanting of native vegetation shall occur wherever possible along the right-of-way improvement and resulting disturbance;

4. Minor Utility Projects. Utility projects which have minor or short-duration impacts to critical areas, as determined by the administrator in accordance with the criteria below, and which do not significantly impact the function or values of a critical area(s), provided that such projects are constructed with best management practices and additional restoration measures are provided. Minor activities shall not result in the transport of sediment or increased stormwater. Such allowed minor utility projects shall meet the following criteria:

- a. There is no practical alternative to the proposed activity with less impact on critical areas;
- b. The activity involves the placement of a utility pole, street signs, anchor, or vault or other small component of a utility facility; and
- c. The activity involves disturbance of an area less than seventy-five (75) square feet;

5. Public and Private Pedestrian Trails. Public and pedestrian trails in wetlands, wetland buffers and fish and wildlife habitat conservation buffers are subject the standards of UGMC 17.19.430.F.8.b.);

6. Select Vegetation Removal Activities. The following vegetation removal activities, provided that except for these activities no vegetation shall be removed from a critical area or its buffer without approval from the administrator:

- a. The removal of invasive and noxious weeds and vegetation with hand labor and light equipment;
- b. The removal of trees that are hazardous, posing a threat to public safety, or posing an imminent risk of damage to private property, provided that:
 - i. The applicant submits a report from a certified arborist, registered landscape architect, or professional forester that documents the hazard and provides a replanting schedule for the replacement trees;
 - ii. Tree cutting shall be limited to pruning and crown thinning, unless otherwise justified by a qualified professional. Where pruning or crown thinning is not sufficient to address the hazard, trees should be removed or converted to wildlife snags;
 - iii. All vegetation cut (tree stems, branches, etc.) shall be left within the critical area or buffer unless removal is warranted due to the potential for disease or pest transmittal to other healthy vegetation;
 - iv. The landowner shall replace any trees that are removed with new trees at a ratio of two replacement trees for each tree removed (2:1) within one year in accordance with an approved restoration plan. Replacement trees may be planted at a different; nearby location if it can be determined that planting in the same location would create a new hazard or potentially damage the critical area.

Replacement trees shall be species that are native and indigenous to the site and a minimum of one inch in diameter-at-breast height (dbh) for deciduous trees and a minimum of six feet in height for evergreen trees as measured from the top of the root ball;

v. Hazardous trees determined to pose an imminent threat or danger to public health or safety, to public or private property, or of serious environmental degradation, may be removed or pruned by the landowner prior to receiving written approval from the city, provided that within fourteen (14) days following such action, the landowner shall submit a restoration plan that demonstrates compliance with the provisions of this chapter;

c. Unless otherwise provided, or as a necessary part of an approved alteration, removal of any vegetation or woody debris from a habitat conservation area or wetland shall be prohibited;

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

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

9. Boundary Markers. Construction or modification of boundary markers.

17.19.170 - General requirements.

A. As part of this review, the city shall:

1. Verify the information submitted by the applicant;
2. Evaluate the project area and vicinity for critical areas;
3. Determine whether the proposed project is likely to impact the functions or values of critical areas; and
4. Determine if the proposed project adequately addresses the impacts and avoids impacts to the critical area associated with the project.

B. If the proposed project is within or is likely to impact a critical area, the city shall:

1. Require a critical area report from the applicant that has been prepared by a qualified professional;
2. Review and evaluate the critical area report;
3. Determine whether the development proposal conforms to the purposes and performance standards of this chapter, including the criteria in UGMC [17.19.280](#), Review criteria;
4. Assess the potential impacts to the critical area and determine if they can be avoided or minimized;
5. Determine if mitigation proposed by the applicant is sufficient to protect the functions and values of the critical area and public health, safety and welfare concerns consistent with the goals, purposes, objectives, and requirements of this chapter; and
6. Assess all residential and commercial redevelopment according to the following criteria and requirements. Standard buffer widths on legal lots or parcels recorded prior to the effective date of the ordinance codified in this chapter may be reduced by the administrator upon the receipt and consideration of a critical area report as required under UGMC [17.19.210](#) and [17.19.220](#). In addition to the requirements of such critical area report, the report shall include recommendations for the buffer width and mitigation from the experienced, qualified professional who produced the critical area report, provided the applicant for a development permit or other city approval demonstrates:
 - a. The lot was improved with a legally constructed structure prior to the effective date of the ordinance codified in this chapter. Current or continued occupancy is not required to meet this standard.
 - b. The legally constructed structure is currently present on the lot or was removed pursuant to a demolition permit approved by the city within five years prior to the effective date of the ordinance codified in this chapter.
 - c. The existing buffer or critical area has been degraded by past legal land uses and is currently in a degraded state.
 - d. The applicant mitigates for the proposed buffer to result in no net loss of buffer functions per best available science.
 - e. The applicant provides in the critical areas report a discussion comparing the functions

provided by the existing buffer and the functions provided by the proposed buffer with mitigation demonstrating no net loss of function.

f. The applicant provides for the protection of the reestablished buffer and critical area in perpetuity through one or more of the following measures:

i. Subdivisions, commercial developments, and multifamily residential developments completed under this section shall dedicate all buffers and critical areas as a critical area tract recorded prior to the issuance of an occupancy permit or other final city approval.

ii. Single-family development and boundary line adjustments shall record a notice on the title of affected properties identifying the presence and location of buffer widths and adjoining critical areas. Recording the notice on title shall occur prior to occupancy permits or other final city approvals and follow the procedure and requirements contained in UGMC [17.19.360](#).

17.19.180 - Critical area pre-application consultation.

Any person preparing to submit an application for development or use of land that may be regulated by the provisions of this chapter may request a consultation meeting with the administrator prior to submitting an application for development or other approval. At this meeting, the administrator shall discuss the requirements of this chapter; provide critical area maps, scientific information, and other source materials; outline the review process; and work with the activity proponent to identify any potential concerns that might arise during the review process, in addition to discussing other permit procedures and requirements.

17.19.190 - Critical area information form.

A. Submittal. Prior to the city's consideration of any proposed activity not found to be exempt under UGMC [17.19.130](#), Exemptions, or allowed pursuant to UGMC [17.19.160](#), Allowed activities, the applicant shall submit to the department complete information regarding the critical area on the application for the underlying development, on forms provided by the city.

B. Site Inspection. Upon receipt of a project application and the necessary information regarding the critical area, the administrator may conduct a site inspection to review critical area conditions on site. The administrator shall notify the property owner of the inspection prior to the site visit. Reasonable access to the site shall be provided by the property owner for the purpose of inspections during any proposal review, restoration, emergency action, or monitoring period.

C. Critical Area Information Review Process. The administrator and/or his/her designee shall review the critical area information form, conduct a site inspection, where applicable; and review other information available pertaining to the site and the proposal and make a determination as to whether any critical areas

may be affected by the proposal and if a more detailed critical area report shall be submitted.

1. Decision Indicators. The administrator may use the following indicators to assist in determining the need for a critical area report:

- a. Indication of a critical area on the city critical areas maps that may be impacted by the proposed activity;
- b. Information and scientific opinions from appropriate agencies, including but not limited to the Washington State Departments of Fish and Wildlife and Ecology, and the Yakama Nation;
- c. Documentation, from a scientific or other reasonable source, of the possible presence of a critical area;
- d. A finding by a qualified professional, or a reasonable belief by the administrator, that a critical area may exist on or adjacent to the site of the proposed activity.

D. Decision on Critical Area.

1. No Critical Areas Present. If after a site visit the administrator's analysis indicates that the project area is not within or adjacent to a critical area or buffer and that the proposed activity is unlikely to degrade the functions or values of a critical area, then the administrator shall rule that the critical area review is complete and note on the underlying application the reasons that no further review is required. A summary of this information shall be included in any staff report or decision on the underlying permit.

2. Critical Areas Present, But No Impact—Waiver. If the administrator determines there are critical areas within or adjacent to the project area, but that the best available science shows that the proposed activity is unlikely to degrade the functions or values of the critical area, the administrator may waive the requirement for a critical area report. A waiver may be granted if there is substantial evidence that all of the following requirements will be met:

- a. There will be no alteration of the critical area or buffer;
- b. The development proposal will not impact the critical area in a manner contrary to the purpose, intent, and requirements of this chapter; and
- c. The proposal is consistent with other applicable regulations and standards. A summary of this analysis and the findings shall be included in any staff report or decision on the underlying permit.

3. Critical Areas May Be Affected by Proposal. If the administrator determines that a critical area or

areas may be affected by the proposal, then the administrator shall notify the applicant that a critical area report must be submitted prior to further review of the project, and indicate each of the critical area types that should be addressed in the report.

E.

Effect of Administrator's Determination. A determination regarding the apparent absence of one or more critical areas by the administrator is not an expert certification regarding the presence of critical areas and the determination is subject to possible reconsideration and reopening if new information is received. If the applicant wants greater assurance of the accuracy of the critical area review determination, the applicant may choose to hire a qualified professional to provide such assurances.

17.19.210 - Critical area report—Requirements.

A. Preparation by Qualified Professional. If required by the administrator in accordance with UGMC [17.19.190\(D\)\(3\)](#), the applicant shall submit a critical area report prepared by a qualified professional as defined herein.

B. Incorporation of Best Available Science. The critical area report shall use scientifically valid methods and studies in the analysis of critical area data and field reconnaissance and reference the source of science used. The critical area report shall evaluate the proposal and all probable impacts to critical areas in accordance with the provisions of this chapter.

C. Minimum Report Contents. At a minimum, the report shall contain the following:

1. The name and contact information of the applicant, a description of the proposal, and identification of the permit requested;
2. A copy of the site plan for the development proposal including:
 - a. A map to scale depicting critical areas, buffers, the development proposal, and any areas to be cleared; and
 - b. A description of the proposed stormwater management plan for the development and consideration of impacts to drainage alterations;
3. The dates, names, and qualifications of the persons preparing the report and documentation of any fieldwork performed on the site;
4. Identification and characterization of all critical areas, water bodies, and buffers adjacent to the proposed project area;
5. Identification of the channel migration zone if applicable;

6. A statement specifying the accuracy of the report, and all assumptions made and relied upon;
7. An assessment of the probable cumulative impacts to critical areas resulting from development of the site and the proposed development;
8. A description of reasonable efforts made to apply mitigation sequencing pursuant to UGMC [17.19.240](#), Mitigation sequencing, to avoid, minimize, and mitigate impacts to critical areas;
9. Plans for adequate mitigation, as needed, to offset any impacts, in accordance with UGMC [17.19.250](#), Mitigation plan requirements, including, but not limited to:
 - a. The impacts of any proposed development within or adjacent to a critical area or buffer on the critical area; and
 - b. The impacts of any proposed alteration of a critical area or buffer on the development proposal, other properties and the environment;
10. A discussion of the performance standards applicable to the critical area and proposed activity;
11. Financial guarantees to ensure compliance; and
12. Any additional information required for the critical area as specified in the corresponding chapter.

D. Unless otherwise provided, a critical area report may be supplemented by or composed, in whole or in part, of any reports or studies required by other laws and regulations or previously prepared for and applicable to the development proposal site, as approved by the administrator.

17.19.220 - Critical area report—Modifications to requirements.

A. Limitations to Study Area. The administrator may limit the required geographic area of the critical area report as appropriate if:

1. The applicant, with assistance from the city, cannot obtain permission to access properties adjacent to the project area; or
2. The proposed activity will affect only a limited part of the subject site.

B. Modifications to Required Contents. The applicant may consult with the administrator prior to or during preparation of the critical area report to obtain city approval of modifications to the required contents of

the report where, in the judgment of a qualified professional, more or less information is required to adequately address the potential critical area impacts and required mitigation.

C. Additional Information Requirements. The administrator may require additional information to be included in the critical area report when determined to be necessary to the review of the proposed activity in accordance with this chapter. Additional information that may be required, includes, but is not limited to:

1. Historical data, including original and subsequent mapping, aerial photographs, data compilations and summaries, and available reports and records relating to the site or past operations at the site;
2. Grading and drainage plans; and
3. Information specific to the type, location, and nature of the critical area.

17.19.230 - Mitigation requirements.

A. The applicant shall avoid all impacts that degrade the functions and values of a critical area or areas when possible. Unless otherwise provided in this chapter, if alteration to the critical area is unavoidable, all adverse impacts to or from critical areas and buffers resulting from a development proposal or alteration shall be mitigated using the best available science in accordance with an approved critical area report and SEPA documents, so as to result in no net loss of critical area functions and values.

B. Mitigation shall be in-kind and on-site, when possible, and sufficient to maintain the functions and values of the critical area, and to prevent risk from a hazard posed by a critical area.

C. Mitigation shall not be implemented until after the administrator's approval of a critical area report that includes a mitigation plan, and mitigation shall be in accordance with the provisions of the approved critical area report.

17.19.240 - Mitigation sequencing.

Applicants shall demonstrate that all reasonable efforts have been examined with the intent to avoid and minimize impacts to critical areas in the following order. When an alteration to a critical area is proposed, such alteration shall be avoided, minimized, or compensated for in the following sequential order of preference:

A. Avoiding the impact altogether by not taking a certain action or parts of an action;

B. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps, such as project redesign, relocation, or timing, to avoid or reduce impacts;

C. Rectifying the impact to wetlands, critical aquifer recharge areas, frequently flooded areas, and habitat conservation areas by repairing, rehabilitating, or restoring the affected environment to the conditions existing at the time of the initiation of the project;

D. Compensating for the impact to wetlands, critical aquifer recharge areas, frequently flooded areas, and habitat conservation areas by replacing, enhancing, or providing substitute resources or environments; and

E. Mitigation for individual actions may include a combination of the above measures.

17.19.250 - Mitigation plan requirements.

When mitigation is required, the applicant shall submit for approval by the city, a mitigation plan as part of the critical area report. The mitigation plan shall include:

A. Environmental Goals and Objectives. The mitigation plan shall include a written report identifying environmental goals and objectives of the compensation proposed and including:

1. A description of the anticipated impacts to the critical areas and the mitigating actions proposed and the purposes of the compensation measures, including the site selection criteria; identification of compensation goals; identification of resource functions; and dates for beginning and completion of site compensation construction activities. The goals and objectives shall be related to the functions and values of the impacted critical area;
2. A description of the report author's experience to date in restoring or creating the type of critical area proposed;
3. A review of the best available science supporting the proposed mitigation; and
4. An analysis of the likelihood of success of the compensation project.

B. Performance Standards. The mitigation plan shall include measurable specific criteria for evaluating whether or not the goals and objectives of the mitigation project have been successfully attained and whether or not the requirements of this chapter have been met.

C. Detailed Construction Plans. The mitigation plan shall include written specifications and descriptions of the mitigation proposed, such as:

1. The proposed construction sequence, timing, and duration;
2. Grading and excavation details;
3. Erosion and sediment control features;

4. A planting plan specifying plant species, quantities, locations, size, spacing, and density; and
5. Measures to protect and maintain plants until established.

These written specifications shall be accompanied by detailed site diagrams, scaled cross-sectional drawings and topographic maps showing slope percentage and final grade elevations, and any other drawings appropriate to show construction techniques or anticipated final outcome.

D. Monitoring Program. The mitigation plan shall include a program for monitoring construction of the compensation project and for assessing a completed project. A protocol shall be included outlining the schedule for site monitoring (for example, monitoring shall occur in years one, three, five, and seven after site construction), and how the monitoring data will be evaluated to determine if the performance standards are being met. A monitoring report shall be submitted as needed to document milestones, successes, problems, and contingency actions of the compensation project. The compensation project shall be monitored for a period necessary to establish that performance standards have been met, but not for a period less than five years, but monitoring of sensitive target communities such as forested and scrub-shrub communities may be required for 10 years or more.

E. Contingency Plan. The mitigation plan shall include identification of potential courses of action, and any corrective measures to be taken if monitoring or evaluation indicates project performance standards are not being met.

F. Estimates of Cost. The mitigation plan shall include an estimate of the costs to implement the required activities under the proposed plan to include both labor and materials. Any required financial guarantees shall be posted in accordance with UGMC [17.19.390](#), Bonds to ensure mitigation, maintenance, and monitoring.

17.19.260 - Innovative mitigation.

A. The city should encourage, facilitate, and approve innovative mitigation projects that are based on the best available science. Advance mitigation and mitigation banking are examples of alternative mitigation projects allowed under the provisions of this section wherein one or more applicants, or an organization with demonstrated capability, may undertake a mitigation project together if it is demonstrated that all of the following circumstances exist:

1. Creation or enhancement of a larger system of critical areas and open space is preferable to the preservation of many individual habitat areas;
2. The applicant(s) demonstrates the organizational and fiscal capability to act cooperatively;
3. The applicant(s) demonstrates that long-term management of the habitat area will be provided;

and

4. There is a clear potential for success of the proposed mitigation at the identified mitigation site.

B. Conducting mitigation as part of a cooperative process does not reduce or eliminate the required replacement ratios.

17.19.270 - Determination.

The administrator shall make a determination as to whether the proposed activity and mitigation, if any, is consistent with the provisions of this chapter. The administrator's determination shall be based on the criteria of UGMC [17.19.280](#), Review criteria.

17.19.280 - Review criteria.

A. The review of any alteration to a critical area, unless otherwise provided for in this chapter, shall be based on the following criteria:

1. The proposal minimizes the impact on critical areas in accordance with UGMC [17.19.240](#), Mitigation sequencing;
2. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;
3. The proposal is consistent with the general purposes of this chapter and the public interest;
4. Any alterations permitted to the critical area are mitigated in accordance with UGMC [17.19.230](#), Mitigation requirements;
5. The proposal protects the critical area functions and values consistent with the best available science and results in no net loss of critical area functions and values; and
6. The proposal is consistent with other applicable regulations and standards.

B. The city may approve a project application and attach such conditions necessary to mitigate impacts to critical areas in order to conform to the standards required by this chapter.

C. Except as provided for by this chapter a project shall be denied if impacts to critical areas cannot be adequately mitigated in the sequencing order of preferences of UGMC [17.19.240](#).

17.19.290 - Report acceptance.

If the administrator determines that the report together with proposed mitigation meets the criteria in

UGMC [17.19.280](#), Review criteria, and complies with the applicable provisions of this chapter, the administrator shall prepare a written notice of determination and identify any required conditions of approval. Any conditions of approval included in a notice of determination shall be attached to the underlying permit or approval. Any subsequent changes to the conditions of approval shall void the previous determination pending re-review of the proposal and conditions of approval by the administrator. A favorable determination should not be construed as endorsement or approval of any underlying permit or approval.

17.19.300 - Report rejection.

A. If the administrator determines that the report and or proposed mitigation does not adequately mitigate impacts of the proposed project in accordance with the criteria set forth in UGMC [17.19.280](#), Review criteria, and the provisions of this chapter, the administrator shall prepare written notice of the determination that includes findings of noncompliance. No proposed activity or permit shall be approved or issued if it is determined that the proposed activity does not adequately mitigate its impacts on the critical areas and/or does not comply with the provisions of this chapter.

B. Following notice of determination that the proposed activity does not meet the review criteria and/or does not comply with the applicable provisions of this chapter, the applicant may request consideration of a revised critical area report. If the revision is found to be substantial and relevant to the critical area review, the administrator may reopen the critical area review and make a new determination based on the revised report.

17.19.310 - Completion of the critical area review.

The city's determination regarding critical areas pursuant to this chapter shall be final concurrent with the final decision to approve, condition, or deny the development proposal or other activity involved.

17.19.320 - Appeals.

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Any decision to approve, condition, or deny a development proposal or other activity based on the requirements of this chapter may be appealed according to, and as part of, the appeal procedure for the permit or approval involved.

17.19.330 - Variances.

A. Variances from the standards of this chapter may be authorized by the city in accordance with the procedures set forth in UGMC [Chapter 17.23](#). The decision to approve, approve with conditions or deny the request shall be based on written findings that the request meets or fails to meet the variance criteria.

B. Variance Criteria. A variance may be granted only if the applicant demonstrates that the all of the

following conditions apply to the requested action:

1. That unique circumstances exist. There must exist special circumstances or conditions, fully described in the findings, applicable to the land or structures for which the variance is sought. The special circumstances or conditions must be peculiar to such land or structures, and not generally applicable to land or structures in the neighborhood. The special circumstance or conditions must also be such that the strict application of the provisions of this title would deprive the applicant of reasonable use of such land or structure;

2. That unnecessary hardship exists. It is not sufficient proof of hardship to show that lesser cost would result if the variance were granted. Furthermore, the hardship complained of cannot be self-created; nor can it be established on this basis by one who purchases without knowledge of the restrictions. It must result from the application of this title to the land or structure. It must be suffered directly by the property in question, and evidence of variance granted under similar circumstance shall not be considered. Neither nonconforming uses or neighboring lands or structures, nor buildings in other zoning districts, shall be considered as controlling factors for the issuance of a variance;

3. That the special conditions and circumstances do not result from the actions of the applicant;

4. That granting the variance will not permit the establishment of any use not permitted in a particular zoning district;

5. That granting the variance will be consistent with the general purpose and intent of this title, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare;

6. That a literal interpretation of the provisions of this chapter would deprive the applicant of all reasonable economic uses and privileges permitted to other properties in the vicinity and zone of the subject property under the terms of this chapter, and the variance requested is the minimum necessary to provide the applicant with such rights;

7. That granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings under similar circumstances;

8. That the granting of the variance is consistent with the general purpose and intent of this chapter, and will not further degrade the functions or values of the associated critical areas or otherwise be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity of the subject property;

9. That the decision to grant the variance includes the best available science and gives special consideration to conservation or protection measures necessary to preserve or enhance

anadromous fish habitat; and

10. That the granting of the variance is consistent with the general purpose and intent of the city's comprehensive plan and adopted development regulations.

C. Conditions May Be Required. In granting any variance, the city may prescribe such conditions and safeguards as are necessary to secure adequate protection of critical areas from adverse impacts, and to ensure conformity with this chapter.

D. Time Limit. The city shall prescribe a time limit within which the action for which the variance is required shall be begun, completed, or both. Failure to begin or complete such action within the established time limit shall void the variance.

E. Burden of Proof. The burden of proof shall be on the applicant to bring forth evidence in support of the application and upon which any decision has to be made on the application.

17.19.340 - Unauthorized critical area alterations and enforcement.

A. When a critical area or its buffer has been altered in violation of this chapter, all ongoing development work shall stop and the critical area shall be restored. The city shall have the authority to issue a stop work order to cease all ongoing development work, and order restoration, rehabilitation, or replacement measures at the owner's or other responsible party's expense to compensate for violation of provisions of this chapter.

B. Requirement for Restoration Plan. All development work shall remain stopped until a restoration plan is prepared. The plan is subject to approval by the city. Such a plan shall be prepared by a qualified professional using the best available science and shall describe how the actions proposed meet the minimum requirements described in subsection (C) of this section. The administrator may, at the violator's expense, seek expert advice in determining the adequacy of the plan. Inadequate plans shall be returned to the applicant or violator for revision and resubmittal.

C. Minimum Performance Standards for Restoration. For alterations to wetlands and habitat conservation areas, the following minimum performance standards shall be met for the restoration of a critical area, provided that the administrator may modify these standards if the violator can demonstrate that greater functional and habitat values can be obtained:

1. The functional values that existed prior to the unauthorized alteration shall be restored, including water quality and habitat functions;

a. The soil types and configuration that existed prior to the unauthorized alteration shall be replicated;

b. The disturbed critical area and buffers shall be replanted with vegetation in species types, sizes, and densities chosen from an approved restoration plant list. The functions and values that existed prior to the unauthorized alteration should be replicated at the location of the alteration; and

c. Information demonstrating compliance with the requirements in UGMC [17.19.250](#), Mitigation plan requirements, must be submitted to the administrator.

D. Site Investigations. The administrator is authorized to make site inspections and take such actions as are necessary to enforce this chapter. The administrator shall present proper credentials and make a reasonable effort to contact any property owner before entering onto any property which may be subject to an investigation that could potentially lead to a critical area enforcement action.

17.19.350 - Critical area markers and signs.

A. The boundary at the outer edge of critical area tracts and easements shall be delineated with permanent survey stakes, using iron or concrete markers as established by local survey standards.

B. The boundary at the outer edge of the critical area or buffer shall be identified with temporary signs prior to any site alteration. Such temporary signs shall be replaced with permanent signs prior to occupancy or use of the site.

C. Fencing.

1. The administrator shall determine if fencing is necessary to protect the functions and values of the critical area. If found to be necessary, the administrator shall condition any permit or authorization issued pursuant to this chapter to require the applicant to install a permanent fence at the edge of the critical area, when fencing will prevent future impacts to the critical area.

2. The applicant shall be required to install a permanent fence around the critical area when domestic grazing animals are present or may be introduced on site.

3. Fencing installed as part of a proposed activity or as required in this subsection shall be designed so as to not interfere with species migration, including fish runs, and shall be constructed in a manner that minimizes habitat impacts.

D. These provisions may be modified by the administrator as necessary to ensure protection of sensitive features or wildlife needs.

17.19.360 - Notice on title.

A. In order to inform subsequent purchasers of real property of the existence of critical areas, the owner of any property containing a critical area or buffer on which a development proposal is submitted shall record a notice with the county auditor. The notice shall state the presence of the critical area or buffer on the property, the application of this chapter to the property, and the fact that limitations on actions in or affecting the critical area or buffer may exist. The notice shall "run with the land."

B. The applicant shall submit proof that the notice has been filed for public record before the city approves any site development or construction for the property or, in the case of subdivisions, short subdivisions, planned unit developments, and binding site plans, at or before recording.

17.19.370 - Subdivisions.

The subdivision of land within wetlands, wetland buffers and fish and wildlife habitat conservation areas shall be subject to the following:

1. Floodplains, frequently flooded areas, and critical areas shall be depicted on preliminary subdivision plats, and relevant information about them disclosed and depicted on the final plat.
2. Roads and utilities for the subdivision shall avoid critical areas and their buffers, as much as possible. The intent is to eliminate multiple crossings of critical areas and avoid creation of parcels that would require a reduced critical area buffer for their use, early in the design of the subdivision.
3. New lots partially within the floodplain shall provide a usable building envelope (five thousand (5,000) square feet or more for residential uses) outside the floodplain.
4. For new lots containing streams, wetlands, and/or vegetative buffers, outdoor use envelopes shall be provided on the plat that lies outside said critical areas.
5. Each proposed lot must have sufficient area outside of the critical area and associated buffer to accommodate all development outside of the critical area and buffer.
6. Degraded vegetative buffers shall be restored, or provided with protection measures that will allow them to recover.

17.19.380 - Critical area tracts.

A. Critical area tracts shall be used in development proposals for subdivisions, short subdivisions, planned unit developments, and binding site plans to delineate and protect those contiguous critical areas and buffers listed below:

1. All landslide hazard areas and buffers;
2. All wetlands and buffers;
3. All habitat conservation areas; and
4. All other lands to be protected from alterations as conditioned by project approval.

B. Critical area tracts shall be recorded on all documents of title of record for all affected lots.

C. Critical area tracts shall be designated on the face of the plat or recorded drawing in a format approved by the city attorney. The designation shall include the following restriction:

1. An assurance that native vegetation will be preserved for the purpose of preventing harm to property and the environment, including, but not limited to, controlling surface water runoff and erosion, maintaining slope stability, buffering, and protecting plants, fish, and animal habitat; and
2. The right of the city to enforce the terms of the restriction.

D. The city may require that any required critical area tract be dedicated to the city, held in an undivided interest by each owner of a building lot within the development with the ownership interest passing with the ownership of the lot, or held by an incorporated homeowner's association or other legal entity (such as a land trust, which ensures the ownership, maintenance, and protection of the tract).

17.19.390 - Bonds to ensure mitigation, maintenance, and monitoring.

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A. When mitigation required pursuant to a development proposal is not completed prior to the city final permit approval, such as final plat approval or final building inspection, the city shall require the applicant to post a performance bond or other security in a form and amount deemed acceptable by the city. If the development proposal is subject to mitigation, the applicant shall post a mitigation bond or other security in a form and amount deemed acceptable by the city to ensure mitigation is fully functional.

B. The bond shall be in the amount of one hundred twenty-five (125) percent of the estimated cost of the uncompleted actions or the estimated cost of restoring the functions and values of the critical area that are at risk, whichever is greater.

C. The bond shall be in the form of a surety bond, performance bond, assignment of savings account, or an irrevocable letter of credit guaranteed by an acceptable financial institution, with terms and conditions acceptable to the city attorney and with a company authorized to do business in the state of Washington.

D. Bonds or other security authorized by this section shall remain in effect until the city determines, in

writing, that the standards bonded for have been met. Bonds or other security shall be held by the city for a minimum of five years to ensure that the required mitigation has been fully implemented and demonstrated to function, and may be held for longer periods when necessary.

E. Depletion, failure, or collection of bond funds shall not discharge the obligation of an applicant or violator to complete required mitigation, maintenance, monitoring, or restoration.

F. Public development proposals shall be relieved from having to comply with the bonding requirements of this section if public funds have previously been committed for mitigation, maintenance, monitoring, or restoration.

G. Any failure to satisfy critical area requirements established by law or condition, including, but not limited to, the failure to provide a monitoring report within thirty (30) days after it is due or comply with other provisions of an approved mitigation plan shall constitute a default, and the city may demand payment of any financial guarantees or require other action authorized by the city code or any other law.

H. Any funds recovered pursuant to this section shall be used to complete the required mitigation and reimburse the city for its costs relating to the enforcement action.

17.19.400 - Critical area inspections.

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

17.19.405 - Enforcement and penalties.

A. Rights of Entry.

1. For Permitting or Inspection of Work Conducted Under Permit. Whenever a person applies for a permit or approval under any section of this chapter, the administrator shall have a limited right of entry to conduct studies necessary to determine whether to approve the proposal or to inspect work being conducted under the permit or approval. The property owner's failure to grant permission for the administrator to enter the property shall be grounds for denial of the permit or issuance of a stop work order.

2. To Investigate Violations and Corrections. The administrator is authorized to enter upon property to determine whether the provisions of this chapter are being obeyed and to make any examinations, surveys, and studies as may be necessary in the performance of his or her duties. The administrator shall obtain the property owner's permission prior to entry. If the property owner declines to give permission or cannot be located, the administrator shall enter upon the property only in a manner consistent with the constitutions and laws of the United States and the state of

Washington. If so required by the constitutions and laws of the United States and the state of Washington, the administrator shall apply to a court of competent jurisdiction for a search warrant authorizing access to such property for such purpose.

B. Violations and Penalties. Any person who violates or fails to comply with any of the provisions of this chapter, or who counsels, aids or abets any such violation or failure to comply, shall be deemed to have committed a civil infraction, punishable as set forth in UGMC [1.18.050](#).

C. Stop Work Orders.

1. Whenever any work or development is being done or use is being conducted contrary to the provisions of this chapter, the administrator may issue a stop work order requiring that all work on the project be stopped or that the use be discontinued.

2. Issuance of a stop work order shall not bar the imposition of a civil or criminal penalty under this chapter or the use of any other provision of this chapter.

3. It is unlawful for any person with actual or constructive knowledge of the issuance of a stop work order pursuant to this chapter to do work or an activity prohibited by the order until the administrator has removed or lifted the order and issued written authorization for the work or activity to be continued. Any person issued a stop work order who believes the issuance of such order was the result of a mistaken determination may appeal its issuance at an informal hearing before the administrator or his designee. To be timely, such appeal shall be filed in writing at the community development department within five business days of the date of issuance of the stop work order. The hearing will be conducted within three business days of the administrator's receipt of the written appeal, unless the appellant requests additional time not to exceed ten (10) business days following receipt of the appeal. At the hearing, the appellant will be provided: (a) an explanation of, and opportunity to ask questions about, the reasons for and evidence supporting issuance of the stop work order; (b) an opportunity to give any statements, reasons or documentation, personally or through others, explaining why the order was wrongfully or mistakenly issued; (c) an opportunity to identify any mitigating circumstances the appellant believes would justify withdrawal of the order; and (d) the right to have legal counsel present. The administrator shall issue a written decision within five days following the conclusion of the hearing.

D. Nuisance. Any development carried out contrary to the provisions of this chapter shall constitute a public nuisance and may be enjoined as provided by the statutes of the state of Washington.

Article III. - Wetlands

17.19.410 - Designation, rating, and mapping of wetlands.

A. Designating Wetlands. Wetlands are those areas meeting the definition of "wetland" in accordance with UGMC [17.19.035](#). All areas within the city meeting the definition of wetland are hereby designated as critical areas and are subject to the provisions of this chapter.

B. Wetland Ratings. Wetlands shall be rated according to the Washington State Department of Ecology wetland rating system found in the Washington State Wetland Rating System documents Washington State Wetland Rating System for Eastern Washington—Revised (Publication No. 04-06-015, Hruby, T., 2004) or as revised. These documents contain the definitions and methods for determining if the criteria below are met.

1. Category I.

a. Characteristics of Category I wetlands are as follows:

- i. Represent a unique or rare wetland type; or
- ii. Are more sensitive to disturbance than most wetlands; or
- iii. Are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; and
- iv. Provide a high level of function.

b. Category I wetlands are:

- i. Alkali wetlands; or
- ii. Wetlands that are identified by scientists of the Washington Natural Heritage Program/DNS as high quality wetlands; or
- iii. Bogs; or
- iv. Mature and old-growth forested wetlands over one-fourth acre with slow-growing trees; or
- v. Forests with stands of aspen; and
- vi. Wetlands that perform many functions very well (scores of seventy (70) points or more).

2. Category II.

a. Characteristics. These wetlands are difficult, though not impossible to replace, and

provide high levels of some functions.

b. Category II wetlands are:

- i. Forested wetlands in the floodplains of rivers; or
- ii. Mature and old-growth forested wetlands over one-fourth acre with fast-growing trees; or
- iii. Vernal pools; and
- iv. Wetlands that perform functions well (scores between fifty-one (51) and sixty-nine (69) points)

3. Category III.

a. Characteristics. Wetlands having a moderate level of function which do not satisfy Category I, II, or IV criteria.

b. Category III wetlands are:

- i. Vernal pools that are isolated; and
- ii. Wetlands with a moderate level of functions (scores between thirty (30) and fifty (50) points).

4. Category IV.

a. Characteristics. These are wetlands with the lowest level of function but still provide functions that warrant protection. Often the low function is because they have been heavily disturbed. Replacement of these wetlands can sometimes provide improved function.

b. Category IV wetlands have a function score of less than thirty (30).

5. Date of Wetland Rating. Wetland rating categories shall be applied as the wetland exists on the date of adoption of the rating system by the local government, as the wetland naturally changes thereafter, or as the wetland changes in accordance with permitted activities. Wetland rating categories shall not change due to illegal modifications.

C. Mapping. The approximate location and extent of potential wetlands are shown on the critical area maps adopted with this ordinance and listed below. Other maps may also be used as they are developed and subsequently adopted by the city. Soil maps produced by U.S. Department of Agriculture National

Resources Conservation Service may be useful in helping to identify potential wetland areas. These maps are to be used as a guide for the city, project applicants, and/or property owners, and may be continuously updated as new critical areas are identified. They are a reference and do not provide a final critical area designation:

1. City of Union Gap Hydrology and Wetlands Map.
2. The exact location of a wetland's boundary shall be determined in accordance with the procedure outlined in WAC 173-22-035 through the performance of a field investigation by a qualified professional wetland scientist applying the Washington State Wetlands Identification and Delineation Manual as required by RCW 36.70A.175 (Ecology Publication No. 96-94, 1997).

17.19.420 - Critical area report—Additional requirements for wetlands.

A. All critical areas located or near the project area that have been designated by the city and are shown on city, state, or federal government agency maps and/or reports shall be addressed in a critical area report for wetlands.

B. Wetland Analysis. A written assessment of the wetland, the appropriate wetland type, and required buffer under the provisions of this chapter.

C. As provided for under UGMC [17.19.220](#), the administrator may require additional information to be included in the critical area report when determined to be necessary for the review of the proposed activity. Additional information for wetlands that may be required includes, but is not limited to, the following:

1. Vegetative, faunal, and hydrologic characteristics;
2. Soil and substrate characteristics;
3. Topographic elevations;
4. A discussion of water sources supplying the wetland and documentation of the hydrologic regime. Such discussion shall include an analysis of existing and future hydrologic regimes and proposed hydrologic regime for enhanced, created, or restored mitigation areas, if provided for in the project.

17.19.430 - Performance standards—General requirements.

A. Activities may only be permitted in a wetland or wetland buffer if the applicant can show that the proposed activity will not degrade the functions and functional performance of the wetland and other critical areas. Full compensation for the acreage and loss functions will be provided under the terms

established under UGMC 17.19.440.F and G.

B. Activities and uses shall be prohibited in wetlands and wetland buffers, except as provided for in this chapter.

C. Category I Wetlands. Activities and uses shall be prohibited from Category I, except as provided for in the public agency and utility exception, reasonable use exception, and variance sections of this chapter.

D. Category II and III Wetlands. With respect to activities proposed in Category II and III wetlands, the following standards shall apply:

1. Water-dependent activities, as defined by the city's shoreline master program, may be allowed where there are no practicable alternatives that would have a less adverse impact on the wetland, its buffers and other critical areas.

2. Where non-water-dependent activities are proposed, it shall be presumed that alternative locations are available, and activities and uses shall be prohibited, unless the applicant demonstrates that:

- a. The basic project purpose cannot reasonably be accomplished and successfully avoid, or result in less adverse impact on, a wetland on another site or sites in the general region; and

- b. All alternative designs of the project as proposed that would avoid or result in less of an adverse impact on a wetland or its buffer, such as a reduction in the size, scope, configuration, or density of the project, are not feasible.

E. Category IV Wetlands. Activities and uses that result in unavoidable and necessary impacts may be permitted in Category IV wetlands and associated buffers in accordance with an approved critical area report and mitigation plan, but only if the proposed activity is the only reasonable alternative that will accomplish the applicant's objectives.

F. Wetland Buffers.

1. Buffer Requirements. The standard buffer widths in Table 17.19.430F(1-a) have been established in accordance with the best available science. They are based on the category of wetland and the intensity of the proposed land use. Table 17.19.430F(1-b) lists the types of proposed land uses that can result in high, moderate, and low levels of impacts to adjacent wetlands.

- a. The use of the standard buffer width requires the implementation of the measures in Table 17.19.430F(2), where applicable.

b. When an applicant chooses not to apply the mitigation measures in Table 17.40.430F(2) then a thirty-three (33) percent increase in the width of all buffers is required. For example, a 75-foot buffer with mitigation measures would become a 100-foot buffer without them.

c. The standard buffer widths assume that the buffer is vegetated with a native plant community appropriate for the eco-region. If the existing buffer is un-vegetated, 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.

Table 17.19.430F(1-a)
Required Wetland Buffers

Category of Wetland	Land Use with High Impact	Land Use with Moderate Impact
I	200	175
II	150	130
III	100	75
IV	50	40

Table 17.19.430F(1-b)
Types of Proposed Land Uses that Can Result in High, Moderate, and Low Levels of Impacts to Adjacent Wetlands

Level of Impact from Proposed Change in Land Use	Types of Land Use
High	• Commercial
	• Urban
	• Industrial
	• Institutional

Level of Impact from Proposed Change in Land Use	Types of Land Use
	<ul style="list-style-type: none"> • Retail sales
	<ul style="list-style-type: none"> • Residential (more than 1 unit/acre)
	<ul style="list-style-type: none"> • Conversion to high-intensity agriculture (dairies, nurseries, greenhouses, tilling and raising and maintaining animals, etc.)
	<ul style="list-style-type: none"> • High-intensity recreation (golf courses, ball fields, etc.)
	<ul style="list-style-type: none"> • Hobby farms
Moderate	<ul style="list-style-type: none"> • Residential (1 unit/acre or less)
	<ul style="list-style-type: none"> • Moderate-intensity open space (parks with biking, jogging, etc.)
	<ul style="list-style-type: none"> • Conversion to moderate-intensity agriculture (orchards, hay fields, etc.)
	<ul style="list-style-type: none"> • Paved trails
	<ul style="list-style-type: none"> • Building of logging roads
	<ul style="list-style-type: none"> • Utility corridor or right-of-way shared by several utilities and including
Low	<ul style="list-style-type: none"> • Forestry (cutting of trees only)
	<ul style="list-style-type: none"> • Low-intensity open space (hiking, bird-watching, preservation of natural resources)
	<ul style="list-style-type: none"> • Unpaved trails
	<ul style="list-style-type: none"> • Utility corridor without a maintenance road and little or no vegetation

Table 17.19.430F(2)
Source Specific Wetland Mitigation Requirements

Disturbance	Required Measures to Minimize Impact
Lights	<ul style="list-style-type: none"> • Direct lights away from wetland
Noise	<ul style="list-style-type: none"> • Locate activity that generates noise away from wetland
	<ul style="list-style-type: none"> • If warranted, enhance existing buffer with native vegetation plantings adjacent to
	<ul style="list-style-type: none"> • For activities that generate relatively continuous, potentially disruptive noise, such as construction, install an additional 10' heavily vegetated buffer strip immediately adjacent to the outer wetland
Toxic Runoff	<ul style="list-style-type: none"> • Route all new, untreated runoff away from wetland while ensuring wetland is not
	<ul style="list-style-type: none"> • Establish covenants limiting use of pesticides within 150 ft of wetland
	<ul style="list-style-type: none"> • Apply integrated pest management practices
Stormwater runoff	<ul style="list-style-type: none"> • Retrofit stormwater detention and treatment of roads and existing adjacent developments
	<ul style="list-style-type: none"> • Prevent channelized flow from lawns that directly enters the buffer
	<ul style="list-style-type: none"> • Use Low Intensity Development Techniques (per Puget Sound Action Team (PSAT))
Change in water regime	<ul style="list-style-type: none"> • Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces
Pets and human disturbance	<ul style="list-style-type: none"> • Use privacy fencing or plant dense vegetation to delineate buffer edge and to discourage access to wetland for the eco-region
	<ul style="list-style-type: none"> • Place wetland and use its buffer to in a separate tract or protect with a conservation easement
Dust	<ul style="list-style-type: none"> • Use best management practices to control dust
Disruption of corridors or connections	<ul style="list-style-type: none"> • Maintain connections to offsite areas that are undisturbed
	<ul style="list-style-type: none"> • Restore corridors or connections to offsite habitats by replanting

2. Measurement of Wetland Buffers. All buffers shall be measured from the wetland boundary as surveyed in the field. The width of the wetland buffer shall be determined according to the wetland category and the proposed land use. 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.

3. Increased Wetland Buffer Widths. The administrator may require increased buffer widths in accordance with the recommendations of the experienced, qualified professional wetland scientist who produced the required critical areas report and best available science on a case-by-case basis when a larger buffer is necessary to protect wetland functions and values based on site-specific characteristics. The increased buffer width shall not exceed a maximum of one hundred (100) percent increase over the buffer width that would otherwise be required by subsection (F)(1) of this section. This determination shall be based on one or more of the following criteria:

- a. A larger buffer is needed to protect other critical areas;
- b. The adjacent land is susceptible to severe erosion, and erosion-control measures will not effectively prevent adverse wetland impacts;
- c. The adjacent land has minimal vegetative cover or slopes greater than thirty (30) percent. The standard buffer is less than that which is necessary to protect documented endangered, threatened, or sensitive wildlife species which have a primary association with the wetland; or
- d. The wetland contains plant and/or animal species listed by the federal and/or state government as sensitive, endangered, threatened, candidate monitored or documented priority species habitats or essential or outstanding habitat for those species or has unusual nesting or resting sites such as heron rookeries or raptor nesting trees.

4. Wetland Buffer Width Averaging. The administrator may allow modification of the standard wetland buffer width in accordance with an approved critical area report and the best available science on a case-by-case basis by averaging buffer widths. Averaging of buffer widths may only be allowed where a qualified professional wetland scientist demonstrates that:

- a. It will not reduce wetland functions or functional performance;
- b. The wetland contains variations in sensitivity due to existing physical characteristics or the character of the buffer varies in slope, soils, or vegetation, and the wetland would benefit from a wider buffer in places and would not be adversely impacted by a narrower buffer in other places; and
- c. The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer.

5. Interrupted Buffer.

a. Where a legally established, pre-existing use of the buffer exists, those proposed activities that are within the wetland or stream buffer, but are separated from the critical area by an existing permanent substantial improvement, which serves to eliminate or greatly reduce the impact of the proposed activity upon the critical area, are exempt, provided that the detrimental impact to the critical area does not increase. However, if the impacts do increase, the city shall determine if additional buffer may be required along the impact area of the interruption. Substantial improvements may include developed public infrastructure such as roads and railroads. Substantial improvements may not include paved trails, sidewalks, or parking areas. An allowance for activity in an interrupted buffer may require a critical areas report for the type of critical areas buffer that is affected. In determining whether a critical areas report is necessary, the city shall consider the hydrologic, geologic and/or biological habitat connection potential and the extent and permanence of the interruption.

b. Where a legally established, pre-existing structure or use is located within a regulated wetland or stream buffer and where the regulated buffer is fully paved and does not conform to the interrupted buffer provision above, the buffer will end at the edge of the pavement, adjacent to the wetland or stream.

6. Buffer Consistency. All mitigation sites shall have buffers consistent with the buffer requirements of this chapter.

7. Buffer Maintenance. Except as otherwise specified or allowed in accordance with this chapter, wetland buffers and buffers of mitigation sites shall be retained in an undisturbed condition, or shall be maintained as enhanced pursuant to any required permit or approval. Removal of invasive nonnative weeds is required for the duration of the mitigation bond.

8. Buffer Uses. The following uses may be permitted within a wetland buffer in accordance with the review procedures of this chapter, provided they are not prohibited by any other applicable law and they are conducted in a manner so as to minimize impacts to the buffer and adjacent wetland:

a. Conservation and Restoration Activities. Conservation or restoration activities aimed at protecting the soil, water, vegetation, or wildlife.

b. Passive Recreation. Passive recreation facilities designed in accordance with an approved critical area report, including:

i. Walkways and trails, provided that those pathways which are generally parallel to

the perimeter of the wetland shall be located in the outer twenty-five (25) percent of the buffer area, and should be designed to avoid the removal of significant trees. Trails must be constructed with a surface that does not interfere with the permeability. Raised boardwalks utilizing nontreated pilings area may be acceptable;

ii. Wildlife viewing structures; and

iii. Fishing access areas down to the water's edge that shall be no larger than six feet.

c. Stormwater Management Facilities. Stormwater management facilities, limited to stormwater dispersion outfalls and bioswales, may be allowed within the outer twenty-five (25) percent of the buffer of Category III or IV wetlands only, provided that:

i. No other location is feasible; and

ii. The location of such facilities will not degrade the functions or values of the wetland. Stormwater management facilities are not allowed in buffers of Category I or II wetlands.

G. Signs and Fencing of Wetlands.

1. Temporary Markers. The outer perimeter of the wetland and buffer and the limits of those areas to be disturbed pursuant to an approved permit or authorization shall be marked in the field in such a way as to ensure that no unauthorized intrusion will occur and is subject to inspection by the administrator prior to the commencement of permitted activities. The administrator shall have the authority to require that temporary fencing be placed on site to mark the outer perimeter of the wetland and its associated buffer area. This temporary marking, and any required temporary fencing, 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 chapter, the administrator may require the applicant to install permanent signs along the boundary of a wetland or buffer.

a. Permanent signs shall be made of a metal face with a green color background and white letters; attached to a metal post, or another nontreated material of equal durability; made with a sign face no smaller than one foot by one foot square and no larger than two feet by two feet square; and mounted with the bottom of the sign face no less than three feet above and no more than five feet above adjacent grade. Signs must be posted at a

minimum of one per lot of record, or on large parcels every three hundred (300) feet, or additional signs as required by the administrator and must remain unobstructed and be maintained by the property owner in perpetuity. The sign(s) shall be worded as follows or with alternative language approved by the administrator:

**Protected Critical Area
Do Not Disturb
Contact the City of Union Gap
Regarding Uses and Restrictions**

b. The provisions of subsection (G)(2)(a) of this section may be modified by the administrator as necessary to assure protection of sensitive features or wildlife.

3. Fencing.

a. The administrator shall determine if fencing is necessary to protect the functions and values of the critical area. If found to be necessary, the administrator shall condition any permit or authorization issued pursuant to this chapter to require the applicant to install a permanent fence at the edge of the habitat conservation area or buffer, when fencing will prevent future impacts to the habitat conservation area.

b. The applicant shall be required to install a permanent fence around the habitat conservation area or buffer when domestic grazing animals are present or may be introduced on site.

c. Fencing installed as part of a proposed activity or as required in this subsection shall be designed so as to not interfere with species migration, including fish runs, and shall be constructed in a manner that minimizes habitat impacts.

17.19.440 - Performance standards—Compensatory mitigation requirements.

Compensatory mitigation for alterations to wetlands shall achieve equivalent or greater biologic functions. Compensatory mitigation plans shall be consistent with the state department of ecology Guidelines for Wetland Mitigation in Washington State, Parts 1 and 2 Publications #06-06-011a, and #06-06-11b March 2006.

A. Mitigation shall be required in the following order of preference:

1. Avoiding the impact altogether by not taking a certain action or parts of an action.
2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts.
3. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.

4. Reducing or eliminating the impact over time by preservation and maintenance operations.

5. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments.

B. Mitigation for Affected Functions or Functions Lost as a Result of the Proposed Activity. Compensatory mitigation actions shall address functions affected by the alteration to achieve functional equivalency or improvement and shall provide similar wetland functions as those lost by the proposed activity, except when:

1. The lost wetland provides minimal functions as determined by a site-specific function assessment, 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 will best meet formally identified watershed goals, such as replacement of historically diminished wetland types.

C. Preference of Mitigation Actions. Mitigation actions that require compensation by replacing, enhancing, or substitution shall occur in the following order of preference:

1. Restoring wetlands on upland sites that were formerly wetlands.

2. Creating wetlands on disturbed upland sites such as those with vegetative cover consisting primarily of nonnative introduced species. This should only be attempted when there is a consistent source of hydrology and it can be shown that the surface and subsurface hydrologic regime is conducive for the wetland community that is being designed.

3. Enhancing significantly degraded wetlands in combination with restoration or creation. Such enhancement should be part of a mitigation package that includes replacing the impacted area meeting appropriate ratio requirements.

D. Type and Location of Mitigation. Unless it is demonstrated that a higher level of ecological functioning would result from an alternate approach, compensatory mitigation for ecological functions shall be either in-kind and on-site, or in-kind and within the same stream reach, subbasin, or drift cell. Mitigation actions shall be conducted within the same subdrainage basin and on the same site as the alteration except when all of the following apply:

1. There are no reasonable on-site or in-subdrainage basin opportunities or on-site and in-subdrainage basin opportunities do not have a high likelihood of success, after a determination of the natural capacity of the site to mitigate for the impacts. Consideration should include:

anticipated wetland mitigation replacement ratios, buffer conditions and proposed widths, hydrogeomorphic classes of on-site wetlands when restored, proposed flood storage capacity, potential to mitigate riparian fish and wildlife impacts (such as connectivity);

2. Off-site mitigation has a greater likelihood of providing equal or improved wetland functions than the impacted wetland; and

3. Off-site locations shall be in the same subdrainage basin unless:

a. Established watershed goals for water quality, flood or conveyance, habitat, or other wetland functions have been established and strongly justify location of mitigation at another site; or

b. Credits from a state certified wetland mitigation bank are used as mitigation and the use of credits is consistent with the terms of the bank's certification.

E. Mitigation Timing.

1. Mitigation projects shall be completed with an approved monitoring plan prior to activities that will disturb wetlands. In all other cases, mitigation shall be completed immediately following disturbance and prior to use or occupancy of the activity or development. Construction of mitigation projects shall be timed to reduce impacts to existing fisheries, wildlife, and flora.

2. The administrator may authorize a one-time temporary delay, up to one hundred twenty (120) days, in completing minor construction and landscaping when environmental conditions 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, and general welfare of the public. The request for the temporary delay must include a written justification that documents the environmental constraints which preclude implementation of the mitigation plan. The justification must be verified and approved by the city and include a financial guarantee.

F. Wetland Mitigation Ratios. Wetland mitigation ratios shall be as established in Table 17.19.440F.

Table 17.19.440F

Wetland Mitigation Ratios

Category and Type of Wetland	Creation or Re-establishment	Rehabilitation
Category 1: Bog, Natural Heritage site	Not Permitted	6:1
Category I: Mature Forested	6:1	12:1
Category I based on functions	4:1	8:1
Category II	3:1	6:1
Category III	2:1	4:1
Category IV	1.5:1	3:1

G. 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 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 Sections [17.19.210](#), [17.19.220](#) and [17.19.420](#).

2. Compensatory Mitigation Report. The report must include a written report and plan sheets that must contain, at a minimum, the following elements:

a. A written report consisting of:

i. 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; identification of all the local, state, and/or federal wetland related permit(s) required for the project; and a vicinity map for the project.

ii. Description of how the project design has been modified to avoid, minimize, or reduce adverse impacts to wetlands.

iii. Description of the existing wetland and buffer areas proposed to be impacted. Include acreage (or square footage), water regime, vegetation, soils, landscape position, surrounding land uses, and functions. Also describe impacts in terms of acreage by Cowardin classification, hydrogeomorphic classification, and wetland rating, based on wetland ratings of this chapter.

iv. Description of the compensatory mitigation site, including location and rationale for selection. Include an assessment of existing conditions: acreage (or square footage) of wetlands and uplands, water regime, sources of water, vegetation, soils, landscape position, surrounding land uses, and functions. Estimate future conditions in this location if the compensation actions are not undertaken (i.e., how would the site progress through natural succession?).

v. A description of the proposed mitigation construction activities and timing of activities.

vi. A description of the proposed actions for compensation of wetland and upland areas affected by the project. Include overall 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.

vii. 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.

viii. 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.

ix. Proof of establishment of Notice on Title for the wetlands and buffers on the project site, including the compensatory mitigation areas.

b. Scaled plan sheets for the compensatory mitigation depicting:

i. 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.

ii. Existing topography, ground-proofed, at two-foot contour intervals in the zone of the proposed compensation actions if any grading activity is proposed to create the compensation area(s). Also existing cross-sections of the on-site wetland areas that are proposed to be impacted, and cross-section(s) (estimated one-foot intervals) for

the proposed areas of wetland or buffer compensation.

iii. Surface and subsurface hydrologic conditions including an analysis of existing and proposed hydrologic regimes for enhanced, created, or restored compensatory mitigation areas. Also, illustrations of how data for existing hydrologic conditions were used to determine the estimates of future hydrologic conditions.

iv. 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.

v. Required wetland buffers for existing wetlands and proposed compensation areas. Also, identify any zones where buffers are proposed to be reduced or enlarged outside of the standards identified in this chapter.

vi. 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 species by community type, and the timing of installation.

vii. Performance standards (measurable standards reflective of years post-installation) for upland and wetland communities, monitoring schedule, and maintenance schedule and actions by each biennium.

H. Wetland Mitigation Banks.

1. Credits from a wetland mitigation bank may be approved for use as compensation for unavoidable impacts to wetlands when:

- a. The bank is certified under Chapter 173-700 WAC;
- b. The administrator determines that the wetland mitigation bank provides appropriate compensation for the authorized impacts; and
- c. The proposed use of credits is consistent with the terms and conditions of the bank's certification.

2. Replacement ratios for projects using bank credits shall be consistent with replacement ratios specified in the bank's certification.

3. Credits from a certified wetland mitigation bank may be used to compensate for impacts located

within the service area specified in the bank's certification. In some cases, bank service areas may include portions of more than one adjacent drainage basin for specific wetland functions.

Article IV. - Frequently Flooded Areas

17.19.500 - Designation and mapping of frequently flooded areas.

All areas within the city meeting the frequently flooded designation criteria are hereby designated critical areas and are subject to the provisions of this chapter. Frequently flooded areas have been accurately delineated based on hydrologic and hydraulic studies completed as part of the National Flood Insurance Program by the Federal Emergency Management Agency in the flood insurance study for Yakima County Washington and Incorporated areas dated November 18, 2009, and any subsequent amendment. The methodology and detail of these studies is accepted as the best available science.

17.19.510 - Classification of frequently flooded areas.

The flood areas in the city are classified as either one of two types:

1. Floodway. Floodways are defined as the channel of a stream and adjacent land areas which are required to carry and discharge the flood water or flood flows of any river or stream associated with a regulatory flood.

2. Flood Fringe. The flood fringe is defined as that land area which is outside a stream's floodway, but is subject to periodic inundation due to flooding, associated with a regulatory flood.

17.19.520 - Existing regulations pertaining to frequently flooded areas.

Union Gap Municipal Code [Chapter 14.28](#), Flood Hazard Protection, regulates proposed activities within frequently flooded areas. If allowed, any structures permitted in the designated flood areas are subject to floodproofing regulations of this chapter. The existing regulations were adopted after careful study and fulfill the requirements of the Growth Management Act for protection of frequently flooded areas.

Article V. - Fish and Wildlife Conservation Areas

17.19.610 - Designation of fish and wildlife conservation areas.

A. Fish and wildlife conservation areas include:

1. Areas with which state or federally designated endangered, threatened, and sensitive species have a primary association;

2. Habitats of local importance, including but not limited to areas designated as priority habitat by

the Washington Department of Fish and Wildlife;

3. Naturally occurring ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat, including those artificial ponds intentionally created from dry areas in order to mitigate impacts to ponds;

4. Waters of the state, including lakes, rivers, ponds, streams, inland waters, underground waters, and all other surface waters and watercourses within the jurisdiction of the state of Washington;

5. Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity. "Fish and wildlife conservation areas" does not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of and are maintained by a port district or an irrigation district or company.

B. The following Type 2 stream reaches are designated critical areas under the Critical Areas Ordinance:

1. Wide Hollow Creek: From the east line of the SW¼ of the NW¼ (SEC28-TWP13N-RGE17E) downstream to the mouth at the Yakima River.

2. Bachelor Creek: From source at Ahtanum Creek (SEC13-TWP12N-RGE16 EWM) downstream to its mouth at Ahtanum Creek (SEC1-TWP12N-RGE18E).

C. All areas within the city meeting one or more of these criteria, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this chapter and shall be managed consistent with the best available science.

D. Mapping. The approximate location and extent of habitat conservation areas are shown on the critical area maps adopted with the ordinance codified in this chapter by the city, as most recently updated. The following maps and data are hereby adopted and are available from the city and/or the listed governmental agency:

1. Washington Department of Fish and Wildlife Priority Habitat and Species Maps;

2. Washington State Department of Natural Resources, Official Water Type Reference Maps, as amended; and

3. Anadromous and resident salmonid distribution maps published by the Department of Fish and Wildlife Salmonid Stock Inventory.

The above maps are to be used as a guide for the city, project applicants, and/or property owners and should be continuously updated as new critical areas are identified. The above maps are a reference and do

not provide a final critical area designation.

17.19.620 - Critical area report—Additional requirements for habitat conservation areas.

A. All critical areas located within or near the project area that have been designated by the city and are shown on city, state, or federal government agency maps and/or reports shall be addressed in a critical area report for habitat conservation areas.

B. Habitat Analysis. A habitat assessment to include at a minimum the following:

1. Detailed description of vegetation on the project area and its associated buffer.
2. Identification of any endangered, threatened, or sensitive species that have a primary association with habitat on the project area, and assessment of potential project impacts to use of the buffer and critical area on the site by the species.
3. A detailed discussion of the direct and indirect potential impacts on habitat by the project. Such discussion shall include a discussion of the ongoing management practices that will protect habitat after the project site has been developed.

17.19.630 - Performance standards—General requirements.

A. Nonindigenous Species. No plant, wildlife, or fish species not indigenous to the region shall be introduced into a habitat conservation area unless authorized by a state or federal permit or approval.

B. Mitigation and Contiguous Corridors. Mitigation sites shall be located to preserve or achieve contiguous wildlife habitat corridors in accordance with a mitigation plan that is part of an approved critical area report to minimize the isolating effects of development on habitat areas, so long as mitigation of aquatic habitat is located within the same aquatic ecosystem as the area disturbed.

C. Approvals of Activities. The administrator shall condition approvals of activities allowed within or adjacent to a habitat conservation area or its buffers, as necessary to minimize or mitigate any potential adverse impacts. Conditions shall be based on the best available science and may include, but are not limited to, the following:

1. Establishment of buffer zones;
2. Preservation of critically important vegetation and/or habitat features such as snags and downed wood;
3. Limitation of access to the habitat area, including fencing to deter unauthorized access;

4. Seasonal restriction of construction activities;
5. Establishment of a duration and timetable for periodic review of mitigation activities; and
6. Requirement of a performance bond, when necessary, to ensure completion and success of proposed mitigation.

D. Mitigation to Equivalent Biological Functions. Mitigation of alterations to habitat conservation areas shall achieve at least equivalent biologic and hydrologic functions and shall include mitigation for adverse impacts upstream or downstream of the development proposal site. Mitigation shall address each function affected by the alteration to achieve functional equivalency or improvement on a per function basis.

E. Approvals and the Best Available Science. Any approval of alterations or impacts to a habitat conservation area shall be supported by the best available science.

F. Buffers.

1. Establishment of Buffers. The administrator shall require the establishment of buffer areas for activities adjacent to habitat conservation areas when needed to protect habitat conservation areas. Buffers shall consist of an undisturbed area of native vegetation or areas identified for restoration established to protect the integrity, functions, and values of the affected habitat. Required buffer widths shall be designed to address the sensitivity of the habitat and the type and intensity of human activity proposed to be conducted nearby and shall consider the management recommendations issued by the Washington Department of Fish and Wildlife. Habitat conservation areas and their buffers shall be preserved in perpetuity through the use of critical area tracts in accordance with UGMC [17.19.380](#).

2. Seasonal Restrictions. When a species is more susceptible to adverse impacts during specific periods of the year, seasonal restrictions may apply.

G. Signs and Fencing of Habitat Conservation Areas.

1. Temporary Markers. The outer perimeter of the habitat conservation area or buffer and the limits of those areas to be disturbed pursuant to an approved permit or authorization shall be marked in the field in such a way as to ensure that no unauthorized intrusion will occur and verified by the administrator prior to the commencement of permitted activities. The administrator shall have the authority to require that temporary fencing be placed on site to mark the outer perimeter of the habitat conservation area and its associated buffer area. This temporary marking, and any required temporary fencing, 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 chapter, the administrator may require that applicant to install permanent signs along the boundary of a habitat conservation area or buffer.

a. Permanent signs shall be made of a metal face with a green color background and white letters; attached to a metal post or another non-treated material of equal durability; made with a sign face no smaller than one foot by one foot and no larger than two feet by two feet; and mounted with the bottom of the sign face no less than three feet above and no more than five feet above adjacent grade. Signs must be posted at a minimum of one per lot of record, or on large parcels every three hundred (300) feet, or additional signs as required by the administrator and must remain unobstructed and be maintained by the property owner in perpetuity. The sign(s) shall be worded as follows or with alternative language approved by the administrator:

**Protected Critical Area
Do Not Disturb
Contact the City of Union Gap
Regarding Uses and Restrictions**

3. Fencing.

a. The administrator shall determine if fencing is necessary to protect the functions and values of the critical area. If found to be necessary, the administrator shall condition any permit or authorization issued pursuant to this chapter to require the applicant to install a permanent fence at the edge of the habitat conservation area or buffer, when fencing will prevent future impacts to the habitat conservation area.

b. The applicant shall be required to install a permanent fence around the habitat conservation area or buffer when domestic grazing animals are present or may be introduced on site.

c.

Fencing installed as part of a proposed activity or as required in this subsection shall be designed so as to not interfere with species migration, including fish runs, and shall be constructed in a manner that minimizes habitat impacts.

17.19.640 - Performance standards—Specific habitats.

A. Endangered, Threatened, and Sensitive Species. No development shall be allowed within a habitat conservation area or buffer with which state or federally endangered, threatened, or sensitive species have a primary association, except that which is provided for by a management plan established by the Washington Department of Fish and Wildlife, the Yakama Nation and other applicable state or federal

agencies.

B. Anadromous Fish.

1. All activities, uses, and alterations proposed to be located in water bodies used by anadromous fish or where such fish have a primary association shall give special consideration to the preservation of anadromous fish habitat, including, but not limited to, adhering to the following standards:

- a. Activities shall be timed to occur only during the allowable work window as designated by the Washington Department of Fish and Wildlife and Yakama Nation for the applicable species;
- b. An alternative alignment or location for the activity is not feasible;
- c. The activity is designed so that it will not degrade the functions or values of the fish habitat or other critical areas;
- d. Shoreline erosion control measures shall be designed to use bioengineering methods or soft armoring techniques, according to an approved critical area report; and
- e. Any impacts to the functions or values of the habitat conservation area are mitigated in accordance with an approved critical area report.

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

C. Wetland Habitats. All proposed activities within or adjacent to habitat conservation areas containing wetlands shall conform to the wetland development performance standards set forth in UGMC [17.19.440](#). If non-wetlands habitat and wetlands are present at the same location, the provisions of this article or Article III of this chapter, Wetlands, whichever provides greater protection to the habitat, apply.

D. Riparian Habitat Areas. Unless otherwise allowed in this chapter, all structures and activities shall be located outside of the stream buffers.

1. **Establishment of Stream Buffer Areas.** Stream buffers shall be established for habitats that include aquatic and terrestrial ecosystems that mutually benefit each other and that are located adjacent to rivers, perennial or intermittent streams, seeps, and springs.

2. **Stream Buffer Widths.** Required stream buffer widths shown in Table 17.19.640D(1) have been

established in accordance with the best available science. Buffer widths are based upon the stream typing system as defined in [Section 17.19.035](#), Buffers, are subject to the following:

- a. Widths shall be measured outward in each direction, on the horizontal plane from the channel migration zone if delineated, the ordinary high water mark, or from the top of bank if the ordinary high water mark cannot be identified.
- b. Stream buffers must be sufficiently wide to achieve the full range of riparian and aquatic ecosystem functions, which include but are not limited to protection of in-stream fish habitat through control of temperature and sedimentation in streams; preservation of fish and wildlife habitat; and connection of riparian wildlife habitat to other habitats.
- c. The buffer width may be reduced or averaged by the administrator upon recommendation of the wetland report and consultation with affected agencies and tribes.
- d. Increased Stream Buffer Widths. The administrator may require increased buffer widths in accordance with the recommendations of the experienced, qualified professional wetland scientist who produced the required critical areas report and best available science on a case-by-case basis when a larger buffer is necessary to protect stream functions and values based on site-specific characteristics. The increased buffer width shall not exceed a maximum of one hundred (100) percent increase over the buffer width that would otherwise be required by subsection D.2 of this section. This determination shall be based on one or more of the following criteria:
 - i. A larger buffer is needed to protect other critical areas;
 - ii. The adjacent land is susceptible to severe erosion, and erosion-control measures will not effectively prevent adverse stream impacts;
 - iii. The adjacent land has minimal vegetative cover or slopes greater than 30 percent. The standard buffer is less than that which is necessary to protect documented endangered, threatened, or sensitive wildlife species which have a primary association with the stream or its buffer; or
 - iv. The stream or its buffer contains plant and/or animal species listed by the federal and/or state government as sensitive, endangered, threatened, candidate monitored or documented priority species habitats or essential or outstanding habitat for those species or has unusual nesting or resting sites such as heron rookeries or raptor nesting trees.
- e. The use of the standard buffer width requires the implementation of the measurers in

Table 17.19.640D(2), where applicable.

f. When an applicant chooses not to apply the mitigation measures in Table 17.19.670D(2) then a thirty-three (33) percent increase in the width of all buffers is required. For example, a 75-foot buffer with mitigation measures would become a 100-foot buffer without them.

g. The standard buffer widths assume that the buffer is vegetated with a native plant community appropriate for the eco-region. If the existing buffer is un-vegetated, 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.

Table 17.19.640D(1)
Required Stream Buffers

Stream Classification	Minimum Buffer Width	Minimum width of
Type 1	200	100
Type 2	100	50
Type 3	50	25
Type 4	50	25
Type 5	25	20

Table 17.19.640D(2)
Source Specific Stream Buffer Mitigation Requirements

Disturbance	Required Measures to Minimize Impact
Lights	<ul style="list-style-type: none"> • Direct lights away from buffer area.
Noise	<ul style="list-style-type: none"> • Locate activity that generates noise away from buffer area • If warranted, enhance existing buffer with native vegetation plantings adjacent to

Disturbance	Required Measures to Minimize Impact
	<ul style="list-style-type: none"> • For activities that generate relatively continuous, potentially disruptive noise, such as construction, an additional 10' heavily vegetated buffer strip immediately adjacent to the outer edge of the buffer
Toxic Runoff	<ul style="list-style-type: none"> • Route all new, untreated runoff away from the buffer while ensuring the buffer is not disturbed • Establish covenants limiting use of pesticides within 150 ft of the ordinary high water mark • Apply integrated pest management practices
Stormwater runoff	<ul style="list-style-type: none"> • Retrofit stormwater detention and treatment of roads and existing adjacent developments • Prevent channelized flow from lawns that directly enters the buffer • Use Low Intensity Development Techniques (per Puget Sound Action Team (PSAT) guidance)
Change in water regime	<ul style="list-style-type: none"> • Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces
Pets and human disturbance	<ul style="list-style-type: none"> • Use privacy fencing or plant dense vegetation to delineate buffer edge and to discourage access to the buffer for the eco-region • Place buffer in a separate tract or protect with a conservation easement
Dust	<ul style="list-style-type: none"> • Use best management practices to control dust
Disruption of corridors or connections	<ul style="list-style-type: none"> • Maintain connections to offsite areas that are undisturbed • Restore corridors or connections to offsite habitats by replanting

3. Buffer Maintenance. Except as otherwise specified or allowed in accordance with this chapter, stream buffers shall be retained in an undisturbed condition, or shall be maintained as enhanced pursuant to any required permit or approval. Removal of invasive nonnative weeds is required for the duration of the mitigation bond.

4. Stream Buffer Width Averaging. The administrator may allow the recommended stream buffer width to be reduced in accordance with a critical area report only if:

- a. The width reduction will not reduce stream or habitat functions, including those of non-fish habitat;

- b. The width reduction will not degrade the habitat, including habitat for anadromous fish;
- c. The proposal will provide additional habitat protection;
- d. The total area contained in the riparian habitat area of each stream on the development proposal site is not decreased;
- e. The recommended stream buffer width is not reduced by more than twenty-five (25) percent in any one location;
- f. The width reduction will not be located within another critical area or associated buffer; and
- g. The reduced stream buffer width is supported by the best available science.

5. Interrupted Buffer.

a. Where a legally established, pre-existing use of the buffer exists, those proposed activities that are within the wetland or stream buffer, but are separated from the critical area by an existing permanent substantial improvement, which serves to eliminate or greatly reduce the impact of the proposed activity upon the critical area, are exempt, provided that the detrimental impact to the critical area does not increase. However, if the impacts do increase, the city shall determine if additional buffer may be required along the impact area of the interruption. Substantial improvements may include developed public infrastructure such as roads and railroads. Substantial improvements may not include paved trails, sidewalks, or parking areas. An allowance for activity in an interrupted buffer may require a critical areas report for the type of critical areas buffer that is affected. In determining whether a critical areas report is necessary, the city shall consider the hydrologic, geologic and/or biological habitat connection potential and the extent and permanence of the interruption.

b. Where a legally established, pre-existing structure or use is located within a regulated wetland or stream buffer and where the regulated buffer is fully paved and does not conform to the interrupted buffer provision above, the buffer will end at the edge of the pavement, adjacent to the wetland or stream.

6. Riparian Habitat Mitigation. Mitigation of adverse impacts to stream buffers shall result in equivalent functions and values on a per function basis, be located as near the alteration as feasible, and be located in the same sub-drainage basin as the habitat impacted.

7. Alternative Mitigation for Stream Buffers. The performance standards set forth in this subsection may be modified at the city's discretion if the applicant demonstrates that greater habitat functions, on a per function basis, can be obtained in the affected sub-drainage basin as a result of alternative mitigation measures.

E. Aquatic Habitat. The following specific activities may be permitted within a stream buffer, pond, lake, water of the state, and associated buffer when the activity complies with the provisions set forth in the applicable shoreline management program and subject to the standards of this subsection. The standards that provide the most protection to protected habitat and species shall apply.

1. Stream Bank Stabilization. Stream bank stabilization to protect new structures from future channel migration is not permitted except when such stabilization is achieved through bioengineering or soft armoring techniques in accordance with an approved critical area report.

2. Roads, Trails, Bridges, and Rights-of-Way. Construction of trails, roadways, and minor road bridging, less than or equal to thirty (30) feet wide, may be permitted in accordance with an approved critical area report subject to the following standards:

a. There is no other feasible alternative route with less impact on the environment;

b. The crossing minimizes interruption of downstream movement of wood and gravel;

c. Roads in stream buffers shall not run parallel to the water body;

d. Trails shall be located on the outer edge of the buffer, except for limited viewing platforms, crossings and limited trails;

e. Crossings, where necessary, shall only occur as near to perpendicular with the water body as possible;

f. Mitigation for impacts is provided pursuant to a mitigation plan of an approved critical area report;

g. Road bridges are designed according to the Washington Department of Fish and Wildlife Fish Passage Design at Road Culverts, 1999, and the National Marine Fisheries Service Guidelines for Salmonid Passage at Stream Crossings, 2000; and

h. Trails and associated viewing platforms shall not be made of continuous impervious materials.

3. Utility Facilities. New utility lines and facilities may be permitted to cross watercourses in

accordance with an approved critical area report, if they comply with the following standards:

- a. Fish and wildlife habitat areas shall be avoided to the maximum extent possible;
- b. Installation shall be accomplished by boring beneath the scour depth and hyporheic zone of the water body and channel migration zone, where feasible;
- c. The utilities shall cross at an angle greater than 60 degrees to the centerline of the channel in streams or perpendicular to the channel centerline whenever boring under the channel is not feasible;
- d. Crossings shall be contained within the footprint of an existing road or utility crossing where possible;
- e. The utility route shall avoid paralleling the stream or following a down-valley course near the channel; and
- f. The utility installation shall not increase or decrease the natural rate of shore migration or channel migration.

4. Public Flood Protection Measures. New public flood protection measures and expansion of existing ones may be permitted, subject to the city's review and approval of a critical area report and the approval of a federal biological assessment by the federal agency responsible for reviewing actions related to a federally listed species.

5. In-stream Structures. In-stream structures, such as, but not limited to, high flow bypasses, sediment ponds, in-stream ponds, retention and detention facilities, dams, and weirs, shall be allowed only as part of an approved watershed basin restoration project approved by the agency with jurisdiction and upon acquisition of any required state or federal permits. The structure shall be designed to avoid modifying flows and water quality in ways that may adversely affect habitat conservation areas.

6. Stormwater Conveyance Facilities. Conveyance structures may be permitted in accordance with an approved critical area report subject to the following standards:

- a. No other feasible alternatives with less impact exist;
- b. Mitigation for impacts is provided;
- c. Stormwater conveyance facilities shall incorporate fish habitat features; and
- d. Vegetation shall be maintained and, if necessary, added adjacent to all open

channels and ponds in order to retard erosion, filter out sediments, and shade the water.

Article VI. - Geologically Hazardous Areas

17.19.710 - Purpose and intent.

A. Geologically hazardous areas include those areas susceptible to erosion, sliding, earthquake or other geological events. They pose a threat to the health and safety of the citizens of Union Gap when incompatible development is sited in areas of significant hazard. Some risks due to geologic hazards might be capable of mitigation through engineering, design, or modified construction standards so the level of risk is reduced to an acceptable level. However, when mitigation is not feasible, development within geologically hazardous areas is best avoided.

B. The purposes of this chapter are to:

1. Minimize risks to public health and safety and reduce the risk of property damage by regulating development on or adjacent to geologically hazardous areas;
2. Maintain natural geological processes while protecting existing and new development;
3. Establish review procedures for development proposals in geologically hazardous areas.

17.19.720 - Mapping and designation.

A. Geologically hazardous areas are areas that are susceptible to one or more of the following types of hazards, based on WAC 365-190-080(4)(b) through (f):

1. Erosion hazards;
2. Landslide hazards, which in the Yakima County inventory includes:
 - a. Oversteepened slope hazards;
 - b. Alluvial fan/flash flooding hazards;
 - c. Avalanche hazards; and
 - d. Stream undercutting hazards;
3. Seismic hazards (referred to below as earthquake hazards);

4. Volcanic hazards.

B. The approximate location and extent of erosion hazard areas are shown on the Yakima County's critical area map titled "Erosion Hazard Areas of Yakima County." Erosion hazard areas were identified by using the "Soil Survey of Yakima County Area, Washington" and the "Soil Survey of Yakima Indian Reservation Irrigated Area, Washington, Part of Yakima County." The analysis utilized the general soil map unit descriptions of severe and very severe hazard of water erosion.

C. The approximate location and extent of geologically hazardous areas are shown on the critical area maps adopted with this ordinance and listed below. The following geologically hazardous areas, with the corresponding map code in parentheses, were mapped and classified by Yakima County using the stated criteria based on WAC 365-190-080(4)(b) through (f). The geologically hazardous area mapped within Union Gap city limits and urban growth area include:

1. Landslide Hazard Areas (LS). These include places where landslides, debris flows, or slumps have already occurred. Where sliding is presumed to have occurred within ten thousand (10,000) years or less is shown as high risk (LS3) on the map.

2. Oversteepened Slope Hazard Areas (OS). These include areas with slopes steep enough to create potential problems. High risk areas (OS3) have a high potential to fail, and include slopes greater than forty (40) percent, and consist of areas of rock fall, creep, and places underlain with unstable materials. Intermediate risk areas (OS2) are less likely to fail but are still potentially hazardous. This category also includes some slopes between fifteen (15) and forty (40) percent.

3. Alluvial Fan/Flash Flooding Hazard Areas (AF). These are areas where flash flooding can occur, and are often associated with inundation by debris from flooding. They include alluvial fans, canyons, gullies, and small streams where catastrophic flooding can occur. They do not include all areas where flash flooding may occur within Union Gap. Flooding may also occur in larger streams and rivers, but these are depicted in the "Flood Insurance Study for the Unincorporated Areas of Yakima County," dated March 2, 1998, with accompanying flood insurance rate maps (FIRMs) and flood boundary and floodway maps, and any amendments which may thereafter be made by the Federal Emergency Management Agency, rather than on the geologically hazardous areas map. Intermediate risk areas (AF2) have some potential for flash flooding but involve smaller drainages and flatter slopes. Low risk areas where flash flooding is unlikely are unlabeled and combined with other low risk areas on the map.

D. Volcanic hazard areas are not mapped but are defined as areas subject to pyroclastic (formed by volcanic explosion) flows, lava flows and inundation by debris flows, mudflows or related flooding resulting from volcanic activity. Volcanic hazard areas in Yakima County are limited to pyroclastic (ash) deposits. While Yakima County contains a portion of Mt. Adams and is in close proximity to Mt. Rainier and Mt. St. Helens,

the threat of volcanic hazards is minimal and limited to ash deposition. The more devastating effects of volcanic activity such as lava flows, and lahars (volcanic landslide or mudflow) are not possible due to intervening ridges. No specific protection requirements are identified for volcanic hazard areas.

E. This chapter does not imply that land outside mapped geologically hazardous areas or uses permitted within such areas will be without risk. This chapter shall not create liability on the part of Yakima County or the City of Union Gap, any officer, or employee thereof for any damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

17.19.730 - Geologically hazardous areas protection approach.

A. Erosion Hazard Areas. Protection measures for erosion hazard areas will be accomplished by implementing the regulatory standards for erosion and drainage control required under UGMC [Chapter 14.30](#). Any future stormwater program erosion control measures that may be formally adopted by the Union Gap City Council shall supersede UGMC [Chapter 14.30](#) erosion control requirements. Standards to meet UGMC [Chapter 14.30](#) requirements can be met by the application of the best management practices (BMPs) in the Eastern Washington Stormwater Manual (WDOE publication number 04-10-076) or equivalent manual adopted by Yakima County, or any other approved manual deemed appropriate by the building official, including but not limited to applicable Natural Resource Conservation Service (NRCS) Field Office Technical Guide (FOTG) BMPs and the Washington State Department of Transportation Highway Runoff Manual. Application of the Environmental Protection Agency (EPA) "Construction Rainfall Erosivity Waiver" is at the discretion of the building official on a case-by-case basis.

B. Landslide Hazard Areas. Protection measures for landslide hazard areas will be accomplished through the review process of [Section 17.19.740](#) (Development Review Procedure for Geologically Hazardous Areas), by implementing the development standards of [Section 17.19.750](#) (general protection requirements), and by implementing the appropriate sections of the International Building Code (IBC) as adopted in UGMC [Title 14](#).

C. Alluvial Fan/Flash Flooding Hazard Areas. Protection measures for alluvial fan/flash flooding hazard areas will be accomplished through the review process of [Section 17.19.740](#) (development review procedure for geologically hazardous areas), by implementing the development standards of [Section 17.19.750](#) (general protection requirements), and by implementing the appropriate sections of the International Building Code (IBC) as adopted in UGMC [Title 14](#).

D. Oversteepened Slope Hazard Areas. Protection measures for oversteepened slope hazard areas will be accomplished through the review process of [Section 17.19.740](#) (development review procedure for geologically hazardous areas), by implementing the development standards of [Section 17.19.750](#) (general protection requirements), and by implementing the appropriate sections of the International Building Code (IBC) as adopted in UGMC [Title 14](#).

E. Earthquake/Seismic Hazard Area Protection Standards. Protection measures for earthquake/seismic hazard areas will be accomplished by implementing the appropriate sections of the International Building Code (IBC) as adopted in UGMC [Title 14](#).

17.19.740 - Development review criteria and additional requirements for geologically hazardous areas.

A. The administrator shall make a determination of hazard to confirm whether the development or its associated facilities (building site, access roads, limits of grading/excavation/filling, retaining walls, septic drainfields, landscaping, etc.):

1. Are located within a mapped geologically hazardous area;
2. Are abutting, or adjacent to a mapped geologically hazardous area and may result in or contribute to an increase in hazard, or pose a risk to life and property on or off the site;
3. Are located within a distance from the base of an adjacent landslide hazard area equal to the vertical relief of said hazard area;
4. Are located within the potential run-out path of a mapped avalanche hazard.

B. Developments that receive an affirmative determination of hazard by the administrator under subsection (1) above must conduct a geologic hazard report as provided in Section 17.79.760(A)(4), which may be part of a geo-technical report required under additional review below:

1. If the geologic hazard report determines no hazard exists or that the project area lies outside the hazard, then no geologic hazard review is needed.
2. The administrator is authorized to waive further geologic hazard review for oversteepened slope hazards on a determination that the hazards identified in the geologic hazard report will be adequately mitigated under grading or construction permits.

C. Developments that receive an affirmative determination of hazard, but do not meet the provisions of subsections (B)(1) or (B)(2) above, must:

1. Obtain a critical areas development authorization under Article II of this chapter;
2. Submit a geo-technical report that is suitable for obtaining the grading and construction permits that will be required for development. The geo-technical report should incorporate the submitted assessment, include the design of all facilities and include a description and analysis of the risk associated with the measures proposed to mitigate the hazards, ensure public safety, and protect property and other critical areas; and

3. Be consistent with the general protection requirements of [Section 17.19.750](#) (general protection requirements).

17.19.750 - General protection requirements.

A. Grading, construction, and development and their associated facilities shall not be located in a geologically hazardous area, or any associated setback for the project recommended by the geo-technical report, unless the applicant demonstrates that the development is structurally safe from the potential hazard, and that the development will not increase the hazard risk onsite or off-site.

B. Development shall be directed toward portions of parcels, or parcels under contiguous ownership, that are at the least risk of hazard in preference to lands with higher risk, unless determined to be infeasible in the geo-technical report.

C. The geo-technical report shall recommend methods to ensure the information and education about the hazard and any recommended buildable area for future landowners over the long term.

D. The applicable requirements of grading and construction permits for developments in hazardous areas must be included in the development proposal and geo-technical report.

([Ord. No. 2802](#), § 4(Exh. A), 12-10-12)

17.19.760 - Critical area report—Additional requirements for geologically hazardous areas.

A. When a critical areas report is required for a geologically hazardous area, it shall include the following, provided that the administrator may determine that any portion of these requirements is unnecessary given the scope and/or scale of the proposed development:

1. A description of the site features, including surface and subsurface geology. This may include surface exploration data such as borings, drill holes, test pits, wells, geologic reports, and other relevant reports or site investigations that may be useful in making conclusions or recommendations about the site under investigation;

2. A description of the geologic processes and hazards affecting the property, including a determination of the actual hazard types for any suspected and risk unknown hazards identified in the affirmative determination of hazard;

3. A description of the vulnerability of the site to seismic and other geologic processes and hazards;

4. A description of any potential hazards that could be created or exacerbated as a result of site development.

B. For developments in or affecting landslide hazard areas, the report shall also include:

1. Assessments and conclusions regarding slope stability including the potential types of landslide failure mechanisms (e.g., debris flow, rotational slump, translational slip, etc.) that may affect the site. The stability evaluation shall also consider dynamic earthquake loading, and shall use a minimum horizontal acceleration as established by the current version of the International Building Code (UGMC [Chapter 14.05.010](#));
2. An analysis of slope recession rate shall be presented in those cases where stability is impacted or influenced by stream meandering, or other forces acting on the toe of the slope;
3. Description of the run-out hazard of landslide debris to the proposed development that starts up-slope (whether part of the subject property or on a neighboring property) and/or the impacts of landslide run-out on down-slope properties and critical areas.

Article VII. - Critical Aquifer Recharge Areas

17.19.810 - Purpose and intent.

A. The Growth Management Act (RCW 36.70A) requires local jurisdictions to protect, through designation and protection, areas with a critical recharging effect on aquifers used for potable water, or areas where a drinking aquifer is vulnerable to contamination that would affect the potability of the water. These areas are referred to as critical aquifer recharge areas (CARAs) in this chapter.

B. Potable water is an essential life sustaining element. Much of Union Gap's drinking water comes from groundwater supplies. Once groundwater is contaminated it can be difficult, costly, and sometimes impossible to clean up. In some cases, the quality of groundwater in an aquifer is inextricably linked to its recharge area.

C. The intent of this chapter is to:

1. Preserve, protect, and conserve Union Gap's CARAs from contamination;
2. Establish a protection approach that emphasizes the use of existing laws and regulations, and minimizes the use of new regulations.

D. It is not the intent of this chapter to:

1. Regulate everyday activities (including the use of potentially hazardous substances that are used according to state and federal regulations and according to label specifications);

2. Enforce or prevent illegal activities;

3. Regulate land uses that use or store small volumes of hazardous substances (including in-field agricultural chemical storage facilities, which do not require permits, or are already covered under existing state, federal, or county review processes and have detailed permit review);

4. Establish additional review processes for septic systems, which are regulated by the Washington Department of Health and Yakima County Health District as mandated by WAC 246-270, 246-271, 246-272, 246-272A, 246-272B, 246-272C and 246-27;

5. Require review for uses that do not need building permits and/or zoning review.

The above items are deemed to have small risks of CARA contamination or are beyond the development review system's ability to control.

17.19.820 - Designation.

Critical aquifer recharge areas (CARAs) are those areas with a critical recharging effect on aquifers used for potable water as defined by WAC 365-190-030(2). CARAs have prevailing geologic conditions associated with infiltration rates that create a high potential for contamination of groundwater resources or contribute significantly to the replenishment of groundwater. The following areas have been identified based on local conditions:

1. Wellhead Protection Areas. Wellhead protection areas shall be defined by the boundaries of the ten-year time of groundwater travel, or boundaries established using alternate criteria approved by the department of health in those settings where groundwater time of travel is not a reasonable delineation criterion, in accordance with WAC 246-290-135.

2. Sole Source Aquifers. Sole source aquifers are areas that have been designated by the U.S. Environmental Protection Agency pursuant to the Federal Safe Drinking Water Act.

3. Susceptible Groundwater Management Areas. Susceptible groundwater management areas are areas that have been designated as moderately or highly vulnerable or susceptible in an adopted groundwater management program developed pursuant to Chapter 173-100 WAC.

4. Special Protection Areas. Special protection areas are those areas defined by WAC 173-200-090.

5. Moderately or Highly Vulnerable Aquifer Recharge Areas. Aquifer recharge areas that are moderately or highly vulnerable to degradation or depletion because of hydrogeologic characteristics are those areas delineated by a hydrogeologic study prepared in accordance with the state department of ecology guidelines.

6. Moderately or Highly Susceptible Aquifer Recharge Areas. Aquifer recharge areas moderately or highly susceptible to degradation or depletion because of hydrogeologic characteristics are those areas meeting the criteria established by the state department of ecology.

17.19.830 - Mapping.

A. Mapping Methodology. The CARAs are depicted in the map titled "City of Union Gap, WA Critical Aquifer Recharge Areas." The CARA map was developed through a geographic information system (GIS) analysis using the methodology outlined in the Washington Department of Ecology "Critical Aquifer Recharge Area Guidance Document" (Publication 05-10-028). This map depicts the general location of the critical aquifer recharge areas designated in [Section 17.19.820](#). Yakima County has developed a GIS database of the CARA map that shows the location and extent of critical aquifer recharge areas. This database may be used by the Union Gap administrator to determine whether proposed developments could potentially impact CARA. All applications for development within the County that are located within a mapped CARA will be required to follow the performance standards of this chapter. The CARA map estimates areas of moderate, high and extreme susceptibility to contamination, in addition to wellhead protection areas. To characterize hydrogeologic susceptibility of the recharge area to contamination, the GIS analysis used the following physical characteristics:

1. Depth to groundwater;
2. Soil (texture, permeability, and contaminant attenuation properties);
3. Geologic material permeability;
4. Recharge (amount of water applied to the land surface, including precipitation and irrigation).

B. Wellhead Protection Areas. The CARA map includes those wellhead protection areas for which the county has maps. Wellhead protection areas are required for all Class A public water systems in the state of Washington. The determination of a wellhead protection area is based upon the time of travel of a water particle from its source to the well. Water purveyors collect site specific information to determine the susceptibility of the water source to surface sources of contamination. Water sources are ranked by the Washington State Department of Health with a high, moderate or low susceptibility to surface contamination. Wellhead protection areas are defined by the boundaries of the ten-year time of groundwater travel, in accordance with WAC 246-290-135. For purposes of this chapter, all wellhead protection areas shall be considered highly susceptible.

17.19.840 - Submittal requirements.

A. Applications for any development activity or division of land which requires review by Union Gap and

which is located within a mapped critical aquifer recharge area or wellhead protection area shall be reviewed by the administrator to determine whether hazardous materials (see definitions) will be used, stored, transported, or disposed of in connection with the proposed activity. If there is insufficient information to determine whether hazardous materials will be used, the administrator may request additional information, in addition to the submittal requirements outlined in [Section 17.19.840](#).

B. The administrator shall make the following determination:

1. No hazardous materials are involved.
2. Hazardous materials are involved; however, existing laws or regulations adequately mitigate any potential impact, and documentation is provided to demonstrate compliance.
3. Hazardous materials are involved and the proposal has the potential to significantly impact critical aquifer recharge and wellhead protection areas; however, sufficient information is not available to evaluate the potential impact of contamination. The county may require a hydrogeologic report to be prepared by a qualified groundwater scientist in order to determine the potential impacts of contamination on the aquifer.

17.19.850 - Performance standards—General requirements.

A. Activities may only be permitted in a critical aquifer recharge area if the applicant can show that the proposed activity will not cause contaminants to enter the aquifer and that the proposed activity will not adversely affect the recharging of the aquifer.

B. The proposed activity must comply with the water source protection requirements and recommendations of the U.S. Environmental Protection Agency, Washington State Department of Health, and the Yakima County Health District.

17.19.860 - Performance standards—Specific uses.

A. Storage Tanks. All storage tanks proposed to be located in a critical aquifer recharge area must comply with local building code requirements and must conform to the following requirements:

1. Underground Tanks. All new underground storage facilities proposed for use in the storage of hazardous substances or hazardous wastes shall be designed and constructed so as to:
 - a. Prevent releases due to corrosion or structural failure for the operational life of the tank;
 - b. Be protected against corrosion, constructed of noncorrosive material, steel clad with a noncorrosive material, or designed to include a secondary containment system to prevent the release or threatened release of any stored substances; and

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

2. Aboveground Tanks. All new aboveground storage facilities proposed for use in the storage of hazardous substances or hazardous wastes shall be designed and constructed so as to:

a. Not allow the release of a hazardous substance to the ground, groundwaters, or surface waters;

b. Have a primary containment area enclosing or underlying the tank or part thereof; and

c. Have a secondary containment system either built into the tank structure or a dike system built outside the tank for all tanks.

C. Vehicle Repair and Servicing.

1. Vehicle repair and servicing must be conducted over impermeable pads and within a covered structure capable of withstanding normally expected weather conditions. Chemicals used in the process of vehicle repair and servicing must be stored in a manner that protects them from weather and provides containment should leaks occur.

2. No dry wells shall be allowed in critical aquifer recharge areas on sites used for vehicle repair and servicing. Dry wells existing on the site prior to facility establishment must be abandoned using techniques approved by the state department of ecology prior to commencement of the proposed activity.

D. Residential Use of Pesticides and Nutrients. Application of household pesticides, herbicides, and fertilizers shall not exceed times and rates specified on the packaging.

E. Use of Reclaimed Water for Surface Percolation or Direct Recharge. Water reuse projects for reclaimed water must be in accordance with the adopted water or sewer comprehensive plans that have been approved by the state departments of ecology and health.

1. Use of reclaimed water for surface percolation must meet the groundwater recharge criteria given in RCW 90.46.010(10) and 90.46.080(1). The state department of ecology may establish additional discharge limits in accordance with RCW 90.46.080(2).

2. Direct injection must be in accordance with the standards developed by authority of RCW 90.46.042.

17.19.870 - Uses prohibited from critical aquifer recharge areas.

The following activities and uses are prohibited in critical aquifer recharge areas:

1. Landfills. Landfills, including hazardous or dangerous waste, municipal solid waste, special waste, wood waste and inert and demolition waste landfills;
2. Underground Injection Wells. Class I, III and IV wells and subclasses 5F01, 5D03, 5F04, 5W09, 5W10, 5W11, 5W31, 5X13, 5X14, 5X15, 5W20, 5X28, and 5N24 of Class V wells;
3. Wood Treatment Facilities. Wood treatment facilities that allow any portion of the treatment process to occur over permeable surfaces (both natural and manmade);
4. Storage, Processing, or Disposal of Radioactive Substances. Facilities that store, process, or dispose of radioactive substances;
5. Mining. Hard rock; and sand and gravel mining, unless located within the mineral resource designation; and
6. Other Prohibited Uses or Activities.
 - a. Activities that would significantly reduce the recharge to aquifers currently or potentially used as a potable water source;
 - b. Activities that would significantly reduce the recharge to aquifers that are a source of significant base flow to a regulated stream.