



PLANNING COMMISSION AGENDA

April 14, 2025 – 6:30 PM

Stanwood Fire Station (8117 267th Pl NW)

1. Call to Order
2. Roll Call
3. Public Requests and Comments
4. Approval of Minutes
 - Approval of the February 10, 2025, Special Joint Planning Commission & City Council Meeting Minutes
5. Old Business
 - Continuation of Critical Areas Code Amendment Public Hearing
6. New Business
 - Subdivision Code
7. Miscellaneous Business
8. Recent Council Action on Commission Items
 - Council Adoption of Procedures Code
9. Upcoming Items
 - Continued Discussion of Subdivision Code
 - Missing Middle Housing Code Amendment
10. Adjourn

Zoom Meeting Information

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/82891360016>

Passcode: 502157

Telephone: 253-215-8782

Webinar ID: 830 9911 3579

February 10, 2025
Planning Commission Minutes

Call to Order: 5:30 pm

Roll Call

Commissioners Present:

Eric Warnat, Commissioner
Kathy Moe, Commissioner (Online)
Melissa Toner, Commissioner
Patrick Hosterman, Commission Chair
Cody Davis, Commission Vice-Chair
Gabrielle Braley, Commissioner (Online)
Jeff Wheatley, Commissioner

Staff Present:

Patricia Love, Community Development Director
Tansy Schroeder, City Planner
Audrey Rotrock, Associate Planner
Scott Black, Building Official
Kevin Hushagen, Public Works Director

Absent: N/A

Also known to be present: Matt Hough of CPH Consultants, Sam & Dennis Long, Cathy Wooten, Cindy Wilfong, Tim Poetzl, Beth Munson, Peter Kamb, Judy Williams, Peggy Wendel, Arne Wennerberg, Mike (online)

Public Requests and Comments: Kathy Wooten requested to have page numbers referencing to the packet materials added to the minutes.

Approval of Minutes:

The minutes from the January 13, 2025 Planning Commission meeting were unanimously approved.

New Business:

Public Meeting: Viking Village Site Development Permit 24-0121

WV Holdings I, LLC, the applicant, is proposing to construct a mixed-use development consisting of 78 townhome units, 24 multi-family flats, and 16,075 square feet of ground-level commercial space. The project is located northwest of the intersection of 88th Avenue NW and SR 532 with Viking Way traveling east-west through the site. The project is located on two parcels zoned as Mainstreet Business II (MB-II) which total 6.46 acres, of which 4.72 acres (approx. 205,603 square feet) are proposed for development. The development proposes to include 18,603 square feet of common open space areas and 19,674 square feet of “private open space” to serve as individual yards for the townhome units. The project will also include utility, storm water management, and street and landscaping improvements. This will be a two-phased project with the first phase consisting of the site area and public roadway frontage improvements on the north side of Viking Way. The second phase will complete the site area and roadway improvements on the south side of Viking Way. See page 7 of the February Planning Commission packet.

Commissioner Questions & Comments

- Will the garages fit larger sized vehicles? The garages will likely be 20' wide by 24' deep. It will be a challenge to fit larger vehicles. There will be no driveways, but there will be some street parking and shared commercial parking.
- Residential units will be for sale.

- Are there wetlands onsite? Staff has requested the work from the biologists who surveyed the site. Additional work may need to be done.
- How will the developer protect existing adjacent businesses from stormwater runoff from the project? Sheet flow is not allowed in Stanwood. Storm drainage will be installed onsite. All drainage plans will be reviewed against floodplain and city code requirements.
- Commissioners asked specific questions such as the square footage of residential and commercial spaces. Staff will follow up with these details.
- There are concerns that there is more residential and open space than commercial space proposed for this project. Since the zoning is Main Street Business II, some are concerned that more commercial space is needed.
- The developer has more experience with residential projects than commercial projects.

Public Questions & Comments

- Have current tenants in the existing building been given notice about the future of plans Viking Village? Tenants are aware of the project. The developer hopes to begin construction in 2026.
- A representative from FourSquare church has the following concerns: people using the new commercial properties might park in their parking lot; there is a potential for damage to their property from the future construction; church activities may disrupt future residents.
- Does the city have a Fee Simple Code? Currently, fee simple lots are not in the city code. Staff is considering adding it with the Municipal Code Update project.
- Please visit the city's website project page to view the Viking Village Site Development Traffic Study.
- A large sum of money was recently spent on Right of Way improvements in the Viking Village area, this project could potentially tear up that work.
- An attendee commented that this is an exciting project for Stanwood. It would provide opportunities for residents of the development to walk to church, trails, nearby businesses and more.

Special Joint Planning Commission and City Council Meeting

Commissioners Present

Eric Warnat, Commissioner
 Kathy Moe, Commissioner (Online)
 Melissa Toner, Commissioner
 Patrick Hosterman, Commission Chair
 Cody Davis, Commission Vice-Chair
 Gabrielle Braley, Commissioner (Online)
 Jeff Wheatley, Commissioner

Council Members Present

Sid Roberts, Mayor
 Dani Gaumond, Council Position 1
 Marcus Metz, Council Position 2
 Darren Robb, Council Position 3
 Robert 'Chili' Hicks, Council Position 4
 Steve Shepro, Council Position 5
 Andreena Bergman, Council Position 6
 Tim Schmitt, Council Position 7

Old Business:

Unified Development Code: Housing, Subdivisions, and Flexibility Discussion

The Growth Management Act mandates that cities plan for and accommodate housing for all income levels. The City recently adopted its 2024-2044 Comprehensive Plan, which provides policy guidance on meeting this requirement. The joint City Council and Planning Commission meeting aimed to facilitate an open discussion on how these housing policies translate into regulations within the Municipal Code. The meeting also provided an opportunity for the Council

to give direction to staff and the Planning Commission on drafting code changes that align with state law. The City has several policy plans that guide future housing decisions, including the Comprehensive Plan, Housing Action Plan, and Strategic Plan. The Comprehensive Plan and Housing Action Plan are long-term planning documents that shape city growth and development over a 20-year horizon, while the Strategic Plan serves as a short-term implementation strategy that helps the Council set annual budget priorities. Together, these plans support diversifying the city's housing stock to provide a range of housing options. See page 62 of the February Planning Commission Packet.

Housing Units in Existing Buildings

Comments / Concerns

- What safeguards can the city put in place to preserve the commercial building stock?
- Can the City restrict small commercial along 271st Street from converting to residential?
- Is the intent of the legislation to only allow conversion of larger office buildings/big box stores to convert to residential?
- What are the impacts to Main Street if commercial buildings/uses convert to residential?
- Can Cedarside convert their commercial building space to residential? Will the development agreement prohibit conversion?
- Does the conversion law apply to schools, churches, storage unit facilities, or other types of uses?

Accessory Dwelling Units

Comments / Concerns

- Require compliance with setback and lot coverage requirements.
- Evaluate design review requirements: compatibility with house and/or neighborhood characteristics.
- Prohibit use as a short-term rental; aka "AirB&B".
- Prohibit the use of yurts, RV's, shipping containers, or similar as ADU's.
- Define a maximum allowable size – such as not more than 50% of primary house, but not less than 1,000 square feet.
- Review height limitation in state law against RCW 64.04.140 and 150; can height be limited based on sunshine / solar or privacy needs. How is building height measured?
- Address parking constraints.
- Research who are building ADU's: builders, homeowners, new construction, or additions to existing structures.
- Detached ADU's should have their own separate water meters as they can be sold as fee simple units.
- Review utility and impact fees; the city needs to recover its cost of services.

Missing Middle Housing

Comments / Concerns

- Re-evaluate percentage mix of housing types in TN zone.
- Allow mix of housing unit types in SFR zones and consider location restrictions such as:

- o Townhouses on main streets and/or corners: 80th Ave, 64th Ave, 72nd Avenue, 284th Street, 276th Street, 272nd Street
- o Cottages within subdivisions.
- Restrict townhouses to 3- or 4-unit buildings in SFR zones to break up mass and scale.
- Support additional cottage housing; evaluate if 1,200 SF size limit should be changed.
- Consider cottage housing as “workforce” housing with potential density bonus and additional open space using cluster techniques.
- Mixed use buildings in industrial parks: are there any examples and how are use conflicts addressed?

Emergency Shelters, Transitional Housing, Emergency Housing & Permanent Supportive Housing

Comments / Concerns

- Concerned about potential impacts on adjacent properties.
- Are there potential mitigation measures such as fencing or landscaping?
- Consider an emergency / interim ordinance to meet GMA deadline.

Co-Living Housing

Comments / Concerns

- Can Co-Housing be prohibited in the uptown TN zone? Makes sense in TN mixed use and MF zones.

Uptown Commercial Infill

Comments / Concerns

- Carefully consider the uses that would be allowed; how would you feel living next door to a commercial use: odors, noise, trash?
- Only uses that support neighborhoods.
- Not intended to attract new traffic to neighborhoods.
- Keep small scale, “mom/pop” stores, not chain stores.

Unit Lot Subdivisions

Comments / Concerns

- Address needed easements: access, utilities, parking, landscaping, and open space.
- Require compliance with exterior setbacks.
- How is lot coverage addressed?
- Allow administrative unit lot subdivisions without public comments on built projects.

Split Lot Subdivisions

Comments / Concerns

- Allow 1 lot to be split into 2; more than 2 will require a short plat.
- Require street front improvements and utilities with building permit.

- Address how the “existing” lot frontage improvements will be installed – prior to final plat?
- Require any potential access and utility easements with final plat.
- If a private road is proposed, then require a short plat.
- Address standards for ADU’s versus new lots meeting underlying zoning standards.

Lot Size Averaging

Comments / Concerns

- Provide examples of existing projects.
- No increase in density; only lot design flexibility.

Cluster Housing and On-Site Density Transfers

Comments / Concerns

- Creates a perceived increase in density.
- No benefit to community.
- Consider if additional community benefits are provided: open space, park space, trails – above what is required by code.
- Provide examples.

Model Home Development Option

Comments / Concerns

- Limit to 4 units.

Other Issues Reviewed by Planning Commission

Comments / Concerns

- Consider in-lieu fees for park space (in addition to park impact fees)
- Support lot dimension flexibility to create interesting subdivision design – break up rows of similar housing and lots.
- Support use of PRD regulations for new base standard.
- Define what qualifies as open space versus park space; update park improvements options.
- Address grading / elevation changes and impacts on adjacent properties during the subdivision process.
- Evaluate how to address quality materials comment – cheap materials which causes future homeowners to pay cost of replacements sooner than expected.

Recent Council Action on Commission Items:

- Public Hearing and First Reading on Procedures Code

Upcoming Items:

- Continued discussion on Critical Areas Code

Adjourn: 8:31 pm

Staff Report



CITY OF STANWOOD
PLANNING COMMISSION

AGENDA STAFF REPORT

MEETING DATES: April 14, 2025

SUBJECT: April Agenda Items

CONTACT PERSON: Patricia Love, Community Development Director

Critical Area Code Amendment – Continued Public Hearing:

The Growth Management Act (GMA) requires all cities and counties to adopt development regulations that protect critical areas. These regulations help to preserve the natural environment, maintain fish and wildlife habitat, and protect drinking water. Protecting critical areas also helps reduce exposure to risks, such as landslides or flooding, and maintains the natural elements of our landscape.

RCW 36.70a.030(5) defines five types of critical areas:

- Wetlands.
- Fish and wildlife habitat conservation areas.
- Geologically hazardous areas.
- Frequently flooded areas.
- Areas with a critical recharging effect on aquifers used for potable water.

The City has elected to add protection of Cultural Resources to its environmental regulations as it is required under Washington State Executive Order 05-05. The Executive Order requires agencies to integrate cultural resource reviews into their planning processes. This includes assessing the potential impacts of construction, development, or land use projects on archaeological sites, historic buildings, and other cultural assets.

The attached Exhibits include:

- Critical Area Ordinance Summary
- Critical Area Ordinance
- Critical Area Ordinance Findings of Fact and Conclusions
- Public Comments

Continued Public Hearing:

The purpose of the public hearing is to provide a formal opportunity for the community, agencies, and stakeholders to comment on and participate in the adoption process. The Planning Commission has the option to continue the public hearing or close the public hearing and deliberate on the ordinance prior to making a recommendation to the City Council.

Continued Public Hearing Procedure:

Below is the recommended procedure for managing the Critical Areas Code Amendment public hearing:

1. Re-Open the Public Hearing
2. Receive the staff presentation and ask questions
3. Take public testimony and ask questions (if any)
4. Ask any additional questions of staff
5. Deliberate on the draft ordinance
6. Motion to forward the CAO to the City Council

Draft Motions:

Motion 1: Findings of Fact and Conclusions

I MOVE TO APPROVE THE FINDINGS OF FACT AND CONCLUSIONS FOR THE CRITICAL AREAS CODE AMENDMENT AS PRESENTED.

Motion 2: City Council Recommendation

I MOVE TO RECOMMEND APPROVAL OF THE CRITICAL AREAS CODE AMENDMENT TO THE STANWOOD CITY COUNCIL AS PRESENTED.

Preliminary Subdivision Code Language:

To comply with the Growth Management Act, cities must adopt regulations addressing subdivision rules and housing options in alignment with their Comprehensive Plans. The City has several policy plans that guide future housing decisions, including the Comprehensive Plan, Housing Action Plan, and Strategic Plan. The Comprehensive Plan and Housing Action Plan are long-term planning documents that shape city growth and development over a 20-year horizon, while the Strategic Plan serves as a short-term implementation strategy that helps the Council set annual budget priorities. Together, these plans support diversifying the city's housing stock to provide a range of housing options.

In February, the City Council and Planning Commission held a joint meeting to discuss the approach for updating the subdivision and housing codes. The attached Policy Direction Summary outlines key issues and the general strategies considered during the meeting.

Since that discussion, city staff and consultants have been actively developing the initial draft of the subdivision and housing code amendments. While the full draft is not yet ready for public review, the following bulk standards table provides an early look at how lot design flexibility is being proposed. While the concept is very preliminary and staff anticipates significant changes, the intent is to get early feedback on the code direction.

Things to consider when reviewing the preliminary code language:

- Lot density is based on existing Planned Residential Development (PRD) standards.
- Simplify the bulk standards table by eliminating the minimum lot size section: regulate by density.
- Lot width to depth requirements is based on ratios to provide lot design flexibility.

To incorporate lot design flexibility into the subdivision code, the old bulk matrix is being proposed to be changed from ridged lot size and dimension to a *Floor Area Ratio* concept. Floor Area Ratio is a zoning concept used in urban planning to control the bulk and intensity of development on a piece of land. It helps determine how much building area is allowed relative to the size of the lot.

$$\text{FAR} = \text{Total Building Floor Area} / \text{Lot Area}$$

Benefits of FAR include:

Floor Area Ratio: Controls Lot Size in Proportion to Building Sizes
Lot Width to Depth Ratio: Maintains Lot Proportionality
Density: Ensure Zoning is Consistent with Comprehensive Plan
Setbacks, Lot Coverage, and Height: Controls Development Form

Lot Size, Dimensions and Density

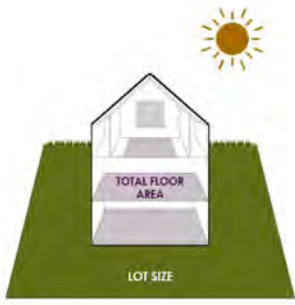
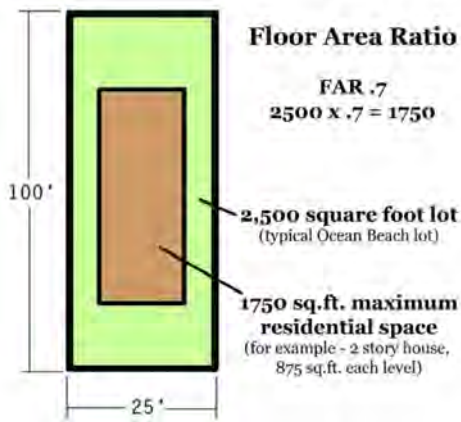
18.402.030 Lots and Density Standards.

Table 18.402.030 Bulk Standards – Lot Size, Dimensions, and Density

Bulk Standards - Lot size, dimensions, and density												
	Residential Zones ⁴					Residential/ Commercial Zones		Commercial/Industrial Zones				Public Facilities Zones
	SR 12.4	SR 9.6	SR 7.0	SR 5.0	MR	TN	DMU	NB	GC	PI ³	GI	PF
Maximum Density ^{1,2} Dwelling units per gross acre	5	6	8	10	*20	20	20	N/A	No limit	35%	N/a	N/A
Minimum Lot Area	Lot size determined by FAR, not to exceed underlying density						None	6,000	10,000	20,000	1 acre	5,000
Floor Area Ratio Square feet	0.50	1.00	1.00	1.00	2.00	2.00	3.00	N/A	N/A	N/A	N/A	N/A
Minimum Lot Width to Depth Ratio	1:1	1:1.2	1:1.2	1:1.2	1:1.5	1:1.5	1:1.5	None	None	None	None	None
Maximum Lot Width to Depth Ratio	1:3	1:3	1:3	1:3	1:4	1:3	1:5	None	None	None	None	None

Footnotes:

1. No detached single family residential units are allowed in the DMU zone.
2. Cottage housing projects may increase their density to 10 units/acre in the SR 12.4, SR 9.6 and SR 7.0 zones.
3. Mixed-use residential building are only allowed in Planned Industrial Parks per SMC 17.50.010.
4. Residential lot sizes are flexible subject to the underlying density requirements.

Example #1: Portland Oregon – Proposed 5,000 square foot lot with a 0.5 FAR	Example #2: Small Lot Development in Ocean Beach California: 2,500 square foot lot with a 0.7 FAR
 2,500 square feet of floor area allowed 5,000 square feet of lot area x 0.5 allowed floor area ratio 2,500 square feet of floor area allowed	 Floor Area Ratio FAR .7 2500 x .7 = 1750 2,500 square foot lot (typical Ocean Beach lot) 1750 sq.ft. maximum residential space (for example - 2 story house, 875 sq.ft. each level)

Continuation of Critical Areas Code Amendment Public Hearing



Stanwood Municipal Code Update Project

Critical Areas Summary

Overview

The City initiated the Municipal Code Update project in 2022 to modernize the code reflecting best practices with respect to content and administration of the code. The update is intended to be user friendly for staff, property owners and developers by 1) removing legalese and jargon unfamiliar to the lay person, 2) improving clarity and overall functionality, and 3) reflect regulatory best practices. The amendments will also be consistent with current case, state and federal laws.

As part of the Municipal Code Update, the City has elected to create a Unified Development Code (UDC) that merges Title 16, Subdivisions, and Title 17, Zoning, into a single Title. A UDC is a comprehensive set of regulations or standards that govern land use, zoning, and development within a single Municipal Code Title. The Critical Area Regulations will be integrated into the new UDC.

The purpose of Stanwood's 2025 Critical Area Code Update is to ensure compliance with state regulations, integrate best management practices, and address environmental changes. This update includes:

- Reorganizing and renumbering the existing critical areas regulations to new chapters and aligning them with state guidance based on Best Available Science.
- Duplicative sections were streamlined, definitions updated, and provisions made more consistent with Best Available Science and state regulations.
- Wetland regulations (SMC 18.802) have been revised to align with Washington State Department of Ecology guidance.
- Stream designation and buffers (SMC 18.804) have been revised to align with the Washington State Department of Natural Resources designations and Department of Fish and Wildlife's buffer best available science which include applying on site-potential tree height (SPTH) buffer widths.
- The geologically hazardous areas chapter (SMC 18.806) incorporates definitions consistent with RCW and WAC.
- Floodplain management is renamed "Frequently Flooded Areas" (SMC 18.810) with added protections for elevating HVAC systems above the floodplain.
- New cultural resources provisions were added based on Washington State Executive Order 05-05.

Organization

Part 8 of the new UDC contains the City's environmental regulations and will be notated as Stanwood Municipal Code, Chapter 18.800-18.812.

Chapter	Provisions
SMC 18.800	General Provisions - Applies to All Critical Areas
SMC 18.802	Wetlands
SMC 18.804	Fish and Wildlife Habitat Conservation Areas
SMC 18.06	Geologically Hazardous Areas
SMC 18.808	Critical Aquifer Recharge Areas
SMC 18.810	Frequently Flooded Areas
SMC 18.812	Cultural Resources

General Provisions Summary

The General Provisions Chapter serves as the foundational set of baseline regulations addressing critical areas. By including common requirements in one chapter, the aim is to streamline the overall code, ensuring that these provisions apply uniformly across each of the critical area sections without needing to be repeated. This reduces redundancy and improves the readability of the regulations. The General Provisions section includes:

- An explanation of how critical area codes are applied in Stanwood and how to use the chapter.
- Integrates with the procedures chapter in Part 2 of the UDC.
- Requires the application of Best Available Science (BAS) and No Net Loss of ecological functions and values.
- Identifies limitations around exempt activities:
 - o Operations, maintenance or repairs of existing facilities and structures
 - o Passive outdoor activities such as trails
 - o Forest practices per RCW 79.09
 - o Minor site investigation work
 - o Infill single family residential structures in the floodplain with no impact to wetlands, streams or buffers
- Identifies limitation around allowed activities:
 - o Modifications to existing structures
 - o Activities within improved right-of-way
 - o Minor utility projects
 - o Public and private trails within the outer 50% of buffers
 - o Invasive vegetation removal and vegetation management
 - o Minor site investigation work

- o Navigational aids and boundary markers
- Defines when a critical areas report or reconnaissance letter is required.
- Details the requirements for critical area reports, mitigation reports, and mitigation plans including application of a sequencing analysis to show avoidance and minimization to avoid impacts to critical areas.
- To avoid a “taking” of private property a reasonable use provision is included as well as a public agency / utility exemption. Defines reasonable use as 1,500 square feet for a single-family residence and clarifies that the reasonable use process is not a variance.
- Details variance criteria, bonding requirements, and preservation easement/tract requirements.
- Establishes enforcement processes and references to Chapter 13, Enforcement.
- Moved bonding requirements to the procedures chapter, SMC 18.310.

Wetlands Summary

It is US policy to protect the integrity of the nation's waters, which include lakes, rivers, streams, and wetlands. Protection of wetlands falls under the Clean Water Act and is administered through local governmental critical area regulations, the State Department of Ecology (via authorization from the Environmental Protection Agency) and the Federal Corp of Engineers.

Wetlands are defined as (WAC 173-22-035) those areas that are inundated or saturated by surface 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 must have three characteristics: hydrology, hydric soils and plants adapted to wet conditions.

Critical area regulations provide for the protection of not just the wetland themselves, but what is referred to as wetland “functions and values”. Functions refers to what wetlands do, such as water filtration, flood control, water storage, groundwater recharge, erosion control, shoreline stabilization, and wildlife habitat areas. Whereas values refers to the benefits wetlands provide to humans, wildlife and the environment such as ecosystem biodiversity and recreational opportunities.

Wetlands are classified into four categories using the 2014 Washington State Wetland Rating System for Western Washington: Type 1 being the rarest and most difficult to replace to Type 4 having the lowest level of functions and values. Buffer widths are applied to a wetland based on a habitat score associated with site specific characteristics. A 15-foot building setback is then applied to the outer edge of the wetland buffer.

The buffers have been modified to be consistent with the Department of Ecology’s best available science for Western Washington using habitat score ranges. Buffer widths for wetlands with habitat scores of 3-5 have remained the same, but the buffer widths for wetlands with higher habitat scores have increased between 40 – 75 feet. The table below shows the new buffers and the change differential in parenthesis.

Buffers are measured in one of two ways:

- Table 1 – Standard wetland buffers without connection to a habitat corridor; or
- Table 2 – Reduced wetland buffers if connected to a 100 foot habitat corridor

When a habitat corridor is not present, buffers are determined solely by the wetland's category and its habitat function score. When no habitat corridor (a connection to other natural areas) exists, wetlands are more isolated, and wildlife has fewer movement options. To compensate, WA DOE requires wider buffers to maintain ecological functions.

Table 18.802.060-1 Wetland Buffers (without a habitat corridor)

Wetland Category	Habitat Score			Buffer Based on Special Characteristics (when Identified on Wetland Rating Form by Qualified Biologist)
	3-5	6-7	8-9	
Category I or II: Based on rating of wetland functions (and not listed below)	75	150	300	Not Applicable / Use Habitat Score
Category I: Bogs and Wetlands of High Conservation Value	190	See Special Characteristic Buffer	300	250
Category I: Forested	75	150	300	Not Applicable / Use Habitat Score
Category I: Estuarine and Coastal Lagoons	150	See Special Characteristic Buffer		200
Category II: Estuarine and wetlands in coastal lagoons	110	See Special Characteristic Buffer		150
Category III: All	60	150	300	Not Applicable / Use Habitat Score
Category IV: All	40	50	50	50

When a habitat corridor is present, Ecology allows for reduced wetland buffer widths compared to areas without a corridor. A habitat corridor is a natural or restored connection between wetlands and other critical areas (such as streams, native growth protection areas or steep slopes) and provides the following benefits:

- **Wildlife Movement** – A corridor helps wildlife travel between wetlands and other natural areas, reducing their dependence on a single or isolated wetland.
- **Improved Ecological Functions** – A connected landscape provides better habitat conditions, reducing the need for wide buffers.

Table 18.802.060-2 Wetland Buffers (with a habitat corridor)

Wetland Category	Habitat Score			Buffer Based on Special Characteristics (when Identified on Wetland Rating Form by Qualified Biologist)
	3-5	6-7	8-9	
Category I or II: Based on rating of wetland functions (and not listed below)	75	110	225	Not Applicable / Use Habitat Score
Category I: Bogs and Wetlands of High Conservation Value	See Special Characteristic Buffer		225	190
Category I: Forested	75	110	225	Not Applicable / Use Habitat Score
Category I: Estuarine and Coastal Lagoons	See Special Characteristic Buffer			150
Category II: Estuarine and wetlands in coastal lagoons	See Special Characteristic Buffer			110
Category III: All	60	110	225	Not Applicable / Use Habitat Score
Category IV: All	40	40	40	Not Applicable / Use Habitat Score

Buffer adjustment options are provided in the code to provide some flexibility in site design.

Buffer Averaging: The width of a buffer may be averaged, thereby reducing the width of a portion of the buffer and increasing the width of another portion. However, no part of the buffer width can be less than 65% of the required buffer.

Category IV Wetlands Less Than 4,000 Square Feet: These wetlands are not subject to the avoidance and minimization requirements, and they may be filled if the impacts are fully mitigated through the purchase of credits from a mitigation bank or an in-lieu fee program.

Wetlands Less than 1,000 Square Feet: Most Category IV wetlands are exempt from the buffer provisions.

Functionally Disconnected Buffers: Buffers may exclude areas that are functionally and effectively disconnected from the wetland by an existing public or private road, or other legally established development.

If wetlands are impacted, mitigation must be provided in an amount necessary to successfully replace the existing wetland functions and values. The code encourages the use of mitigation banks, but if a bank is not available, the following mitigation ratios are applied.

Table 18.802.090-1 Replacement Ratios

Wetland Category	Re-Establishment of Creation	Rehabilitation	Preservation	Enhancement	Other
Wetlands of High Conservation Value	Consult with WA DNR	Consult with WA DNR	24:1	Consult with WA DNR	As Determined by the Dept. of Ecology or Corp of Engineers
Category 1 – Forested	6:1	12:1	24:1	24:1	
Category 1 – Bogs	N/A	N/A	24:1	N/A	
Category 1 – Estuarine	3:1 (Re-establishment only)	6:1	12:1	Limited Circumstances (case by case)	
Category I – All Others	4:1	8:1	16:1	16:1	
Category II - Estuarine	4:1 (Re-establishment only)	8:1	16:1	Limited Circumstances (case by case)	
Category II – All Others	3:1	6:1	12:1	12:1	
Category III	2:1	4:1	8:1	8:1	
Category IV	1.5:1	3:1	6:1	6:1	

Wetland Buffer Impact Analysis:

A question was raised about the impact of the proposed buffer changes. To address this, staff reviewed all critical area reports from 2019 to 2024 to compare the previous and updated buffer requirements. The analysis identified 21 wetlands, ranging from Category 1 to Category 4, with the majority classified as Category 3 or 4.

Wetland Category	Number of Wetlands
Category 1	1
Category 2	1
Category 3	12
Category 4	7
Total:	21

The Category 1 and 2 wetlands were part of the Cedarside project which is adjacent to Church Creek.

Since buffer widths are based on habitat scores, the 21 identified wetlands were categorized accordingly. As a reminder, buffer widths for wetlands with a low habitat score of 3 to 5 remain unchanged, except for Category 2 estuaries. However, for wetlands with habitat scores of 6 or higher, buffer widths are increasing by 10 to 75 feet.

Wetland Habitat Score	Number of Wetlands	2 Wetlands were not counted: One wetland was filled and mitigated via a wetland bank; and the other a stream buffer was applied.
8-9	1	
6-7	3	
3-5	15	
Total:	19	

The results indicate that 79% (15 out of 19) of the wetlands would retain the same buffer widths, while 21% (4) would have increased buffers. The wetlands requiring larger buffers are also higher-quality wetlands, making the increase appropriate.

Most of the City's vacant land is concentrated in the downtown area, which is largely paved, and in the uptown area as infill lots. Since these areas are surrounded by existing development, future project wetlands are expected to be Category 3 or 4 with low habitat scores due to their isolation from larger habitat areas. Given these conditions, staff does not anticipate that updates to the critical areas code will significantly impact development activity in the city.

Additionally, the impact of these increased buffer widths will be mitigated by upcoming changes to the city's subdivision codes. These revisions aim to introduce lot size averaging and greater design flexibility, allowing developments to better accommodate irregular lot configurations, topography, and critical areas.

The analysis shows that the majority of wetlands (79%) will retain their existing buffer widths, while a smaller portion (21%) will see an increase, primarily affecting higher-quality wetlands where greater protection is appropriate. These changes align with best practices for wetland preservation while balancing development needs. Furthermore, the city's upcoming subdivision code update will help mitigate potential impacts by providing greater flexibility in site design. Overall, the revised buffer standards support environmental conservation while allowing for responsible land use planning.

The table below shows the difference between the City's existing wetland buffers and the proposed wetland buffers – without association with a habitat corridor.

	2018 City Interpretation Buffer Width in Feet	2025 Proposed Buffer Width in Feet	Difference Buffer Width in Feet
Category I			
Natural Heritage Wetlands			
Bog			
Bog Habitat Score 3-7	190	190	0
Bog Habitat Score 8-9	225	300	75
Interdunal	225	N/A	
Forested Habitat Score 8-9	225	300	75
Forested Habitat Score 6-7	110	150	40
Forested Habitat Score 3-5	75	75	0
Estuarine / Coastal Lagoons >6	150	200	50
Estuarine / Coastal Lagoons 3-5	150	150	0
Habitat Score 8-9	225	300	75
Habitat Score 5-7			0
Habitat Score 6-7	110	150	40
Habitat Score 3-5	75	75	0
Category II			
Estuarine			
Habitat Score 8-9	225	150	-75
Habitat Score 6-7	110	150	40
Habitat Score 5-7			0
Habitat Score 3-5	75	110	35
Category III			
Habitat Score 5-7			
Habitat Score 8-9	225	300	75
Habitat Score 6-7	110	150	40
Habitat Score 3-5	60	60	0
Category IV			
All			
Habitat Score 6-9	40	50	10
Habitat Score 3-5	40	40	0

Fish and Wildlife Habitat Conservation Areas Summary

As noted above, protection of streams is a US public policy regulated under the Clean Water Act. Wildlife habitat is generally protected under the Endangered Species Act and the US Fish and Wildlife Services Ecological Services Program. The Washington State Department of Fish and Wildlife (WDFW) is part of the federal Ecological Services Program. Local governments are required to adopt critical area regulations consistent with the WDFW to protect fish, wildlife, plants and their habitats throughout Washington for future generations.

The draft code designates fish and wildlife habitat as follows:

Wildlife	Streams
Federally designated endangered and threatened species	Type S Streams – Shorelines of the State
State designated endangered, threatened, and sensitive species	Type F Streams – Rivers and associated systems that have fish or the potential to support fish habitat
State Priority Habitats and the Habitats of State Priority Species	Type Np Streams - Perennial non-fish habitat streams (Streams that do not dry up any time during the year)
Habitats and Species of Local Importance	Type Ns Streams – Seasonal, nonfish habitat streams (streams in which surface flow is not present for at least some portion of a year)
Commercial and Recreational Shellfish Areas	<i>* The stream classification methodology shown above is different from the current Municipal Code which classifies streams on a numerical scale of Type 1 – Type 5, but have similar definitions. However, the buffer widths are based on the above referenced methodology which causes confusion.</i> <i>Existing Buffer Widths:</i> <i>For Type S streams – 150 feet;</i> <i>For Type F streams – 100 feet;</i> <i>For Type Np streams – 75 feet; and</i> <i>For Type Ns streams – 50 feet.</i>
Naturally Occurring Ponds under 20 Acres	
Waters of the State (lakes, ponds, streams, inland waters, underground waters, and all other surface waters and watercourses)	
State Natural Area Preserves and Natural Resource Conservation Areas	
Land essential for preserving connections between habitat blocks and open spaces	

Stream and wildlife habitat are determined based on a site investigation by a qualified biologist who uses the following resources:

- City's critical area maps contained in the comprehensive plan;
- Washington State DNR hydro-watercourse maps; and

- Washington State Department of Fish and Wildlife Priority Habitats and Species Website and on-line maps.

River and stream buffers are based on site-potential tree height (SPTH) and range in width from 100 feet to 235 feet based on existing vegetation. The maps below show the typical buffer widths, but the actual buffer will be determined by applying the WDFW site potential tree height mapping tool.

Site potential tree height (SPTH) refers to the maximum height that trees can reach at a specific site, given the local environmental conditions such as soil, water availability, climate, and other ecological factors. It is used in forestry and ecological studies to assess the growth potential of a forest or a stand of trees. The SPTH is typically determined by the dominant tree species in an area, as different species have different height potentials. The SPTH for the northwest has been calculated by the Washington Department of Fish and Wildlife.

Similar to wetlands, FWHCA buffer averaging and reduction options are provided in the code to provide some flexibility in site design. A 15-foot building setback is also applied to the outer edge of the buffer.

As the buffers overlay many developed lots, the code includes some provisions for existing properties and nonconforming uses.

Nonconforming Uses in Buffers: Existing nonconforming development is not required to utilize SPTH buffers if routine maintenance, modifications, renovations, or redevelopment of existing structures do not intensify the nonconformity of the existing structure or use or increase impacts on a stream.

Existing Properties in Buffers: If existing properties have a previously approved buffer, the approved buffer will remain in effect.

Buffer and mitigation requirements for wildlife habitat varies based on species and is determined by applying best available science specified in a critical areas report and habitat management plan prepared by a qualified biologist.

Stream Buffer Impact Analysis:

River and stream buffers are based on site-potential tree height (SPTH) and range in width from 100 feet to 235 feet based on existing vegetation. Site potential tree height (SPTH) refers to the maximum height that trees can reach at a specific site, given the local environmental conditions such as soil, water availability, climate, and other ecological factors. It is used in forestry and ecological studies to assess the growth potential of a forest or a stand of trees. The SPTH is typically determined by the dominant tree species in an area, as different species have different height potentials. The SPTH for the northwest has been calculated by the Washington Department of Fish and Wildlife.

To assess the impact of the updated stream buffer methodology, staff compared the existing buffer widths to the Department of Natural Resources (DNR) mapping of Stanwood. While the updated buffers are significantly larger than those in the current code, a comprehensive

evaluation of the city's vacant land supply is needed to determine the extent of the impact. Additionally, it is essential to consider how the code addresses buffer impacts on already developed properties.

Existing Stream Buffers		DNR	
Stream Type	Buffer Width	Vegetation Type	Buffer Width
Type S	150 Feet	Limited Vegetation	105 Feet
Type F	100 Feet	Mix	185 Feet
Type Np	75 Feet	Forested / Relatively Undisturbed	225 Feet
Type Ns	50 Feet		

Overlaying the Site-Specific Tree Height Buffer onto the DNR stream typing maps, alongside the City's existing buffers, provides a more precise assessment of potential impacts. Based on this evaluation, staff has reached the following conclusions:

Douglas Creek

- Within city limits, impacts are minimal as most adjacent properties are already developed or have established native growth protection areas.
- In the Urban Growth Area and unincorporated Snohomish County, larger buffers could limit future development potential. Mitigation measures and flexible lot development standards may help address these constraints.
- Any expansion of the existing places of worship will require a critical areas study and appropriate mitigation.

Church Creek

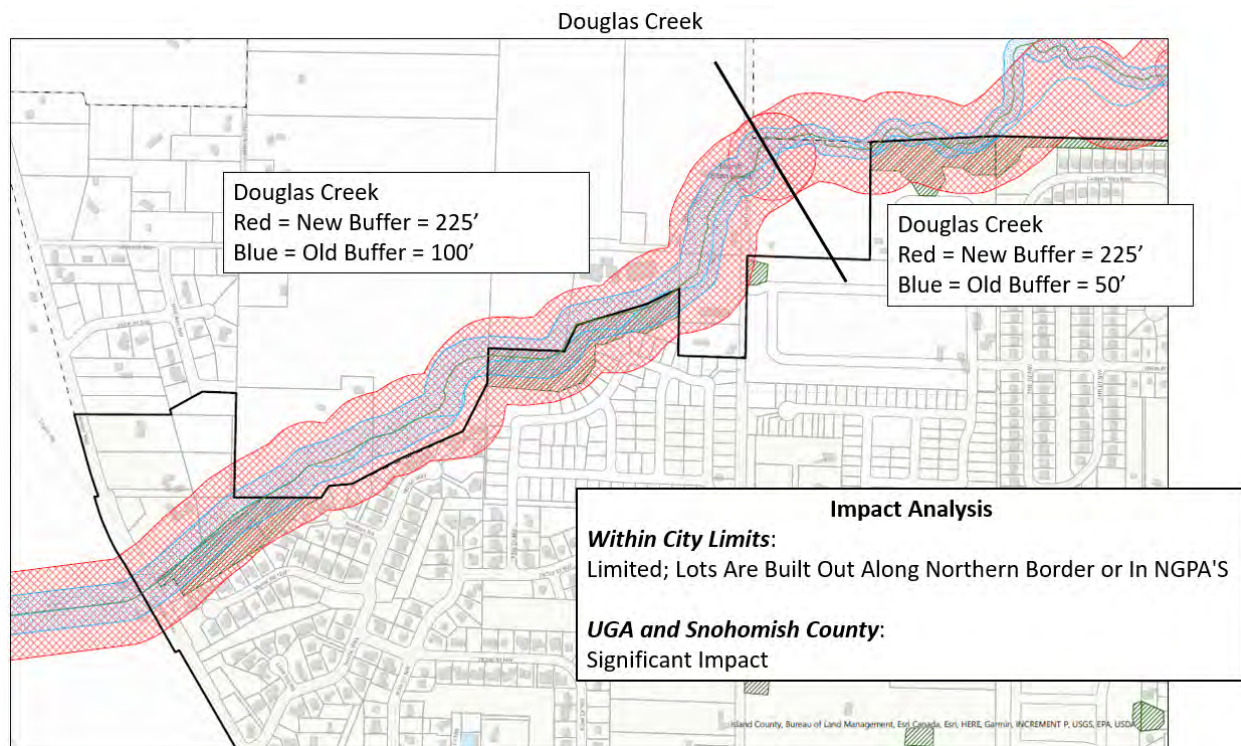
- Similar to Douglas Creek, impacts within city limits are minimal due to existing development and native growth protection areas.
- Larger buffers may affect future development in the Urban Growth Area and unincorporated Snohomish County. Mitigation measures and flexible lot development standards could be applied to manage these impacts.

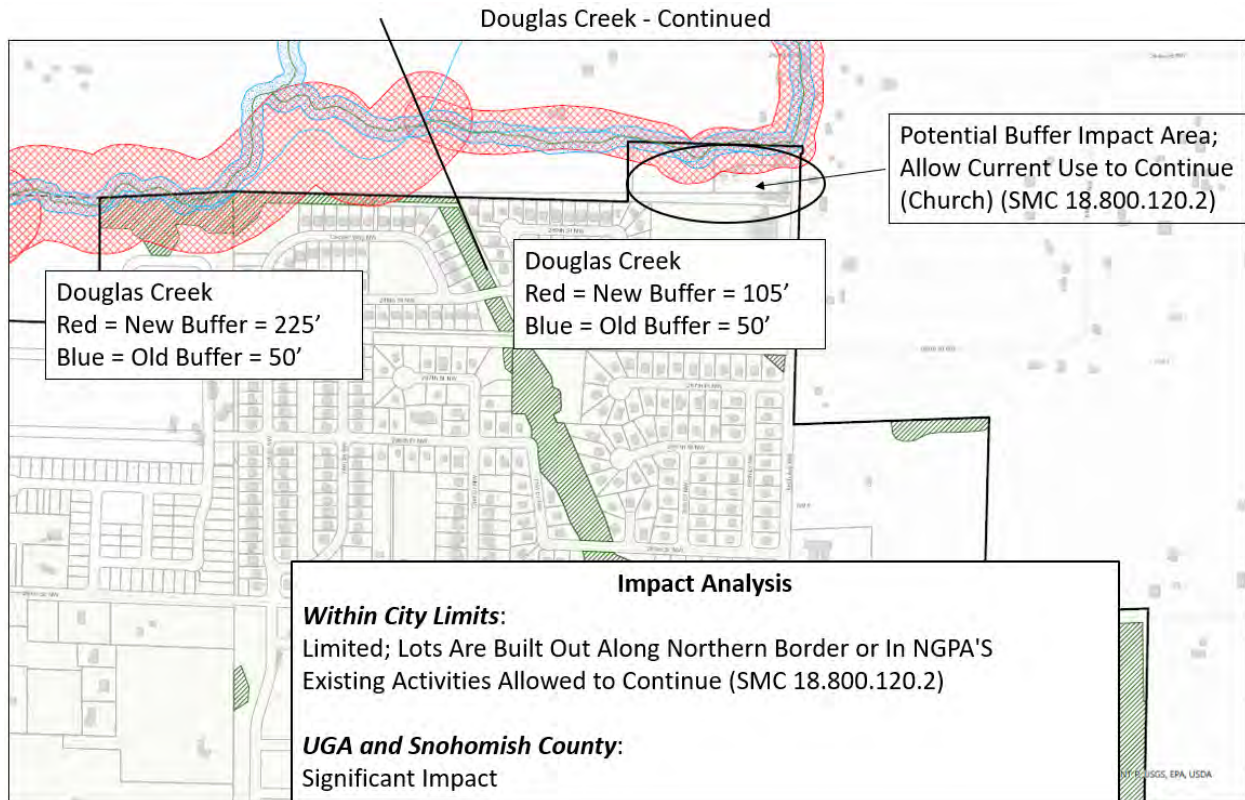
Downtown

- Downtown is likely to be most affected by larger buffers. While much of the area is built out or paved, there are few established Native Growth Protection Areas due to the age of the developments.
- The City's code includes provisions that allow existing uses to continue and recognize disconnected buffers separated by roads or buildings. These provisions may need to be applied downtown.
- Buffer requirements will be determined on a case-by-case basis as permits are submitted.

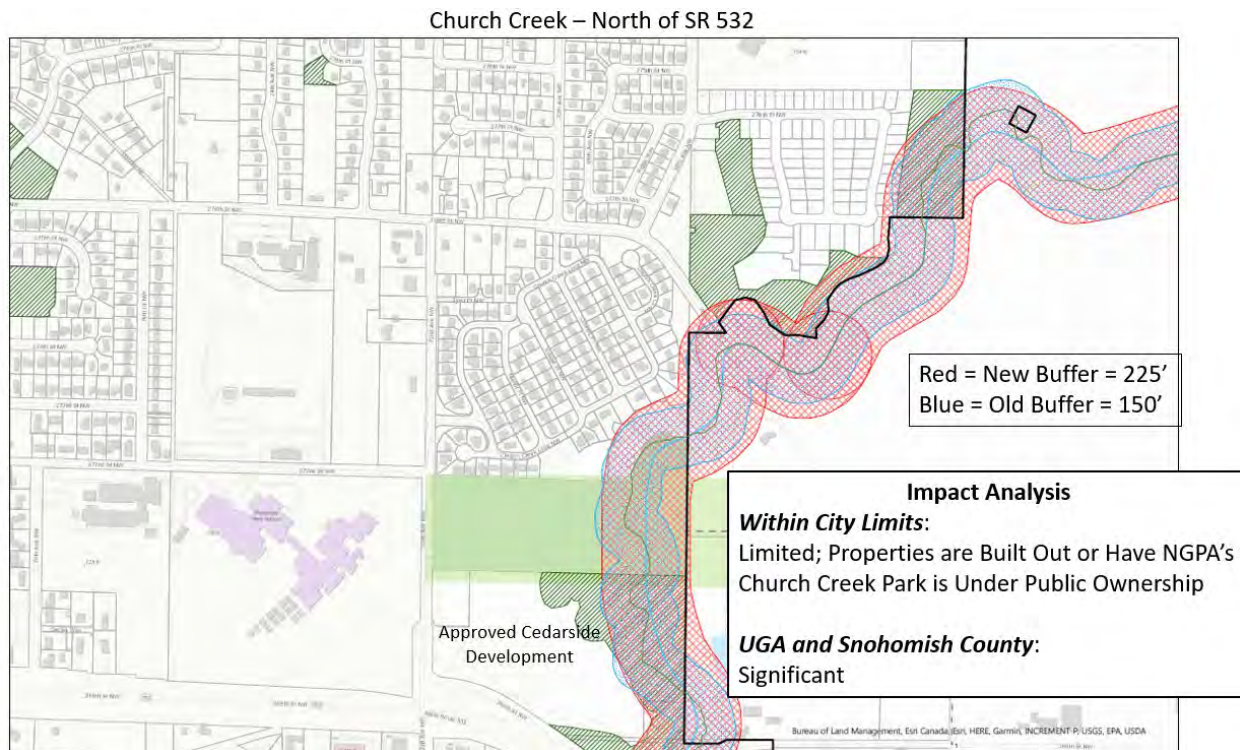
The stream buffer analysis highlights the complexities of balancing environmental protection and development potential within Stanwood and its surrounding areas. Larger buffers could constrain future development, particularly in the Urban Growth Area, unincorporated Snohomish County, and Stanwood's historic downtown. Tools such as mitigation measures, lot development standards, and case-by-case permit evaluations will help the City maintain a balance between ecological preservation and urban development.

Uptown – Douglas Creek:

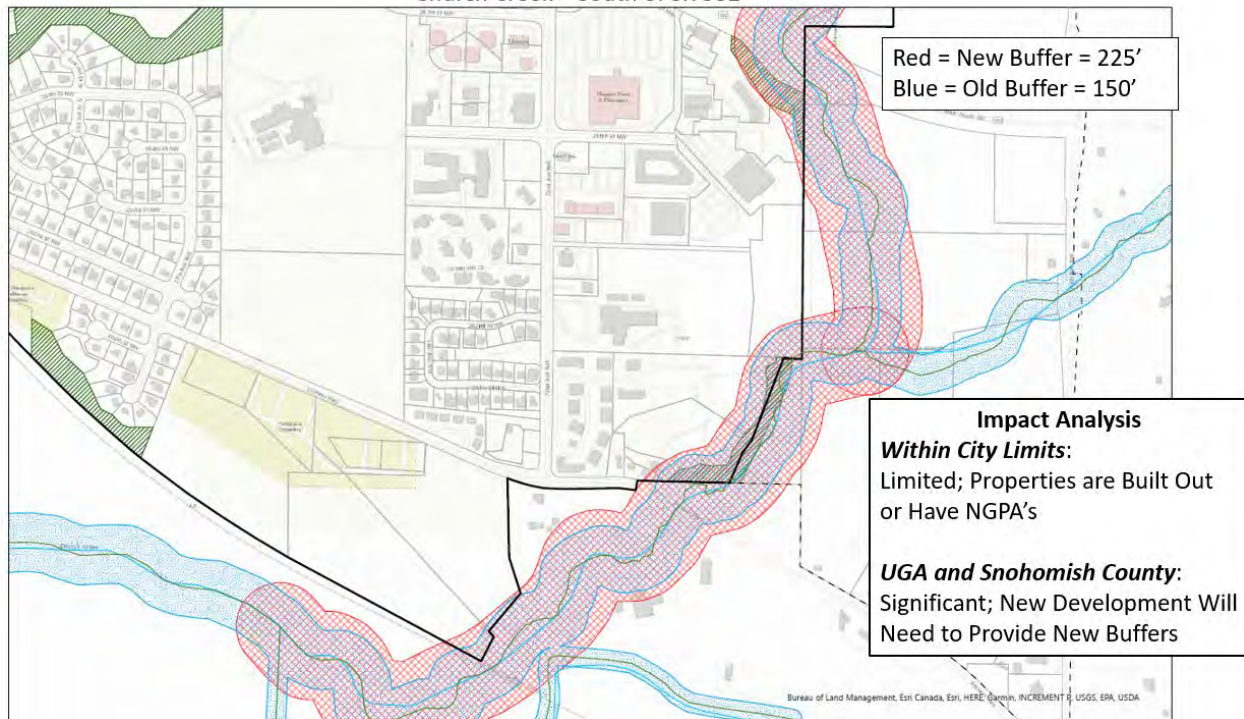




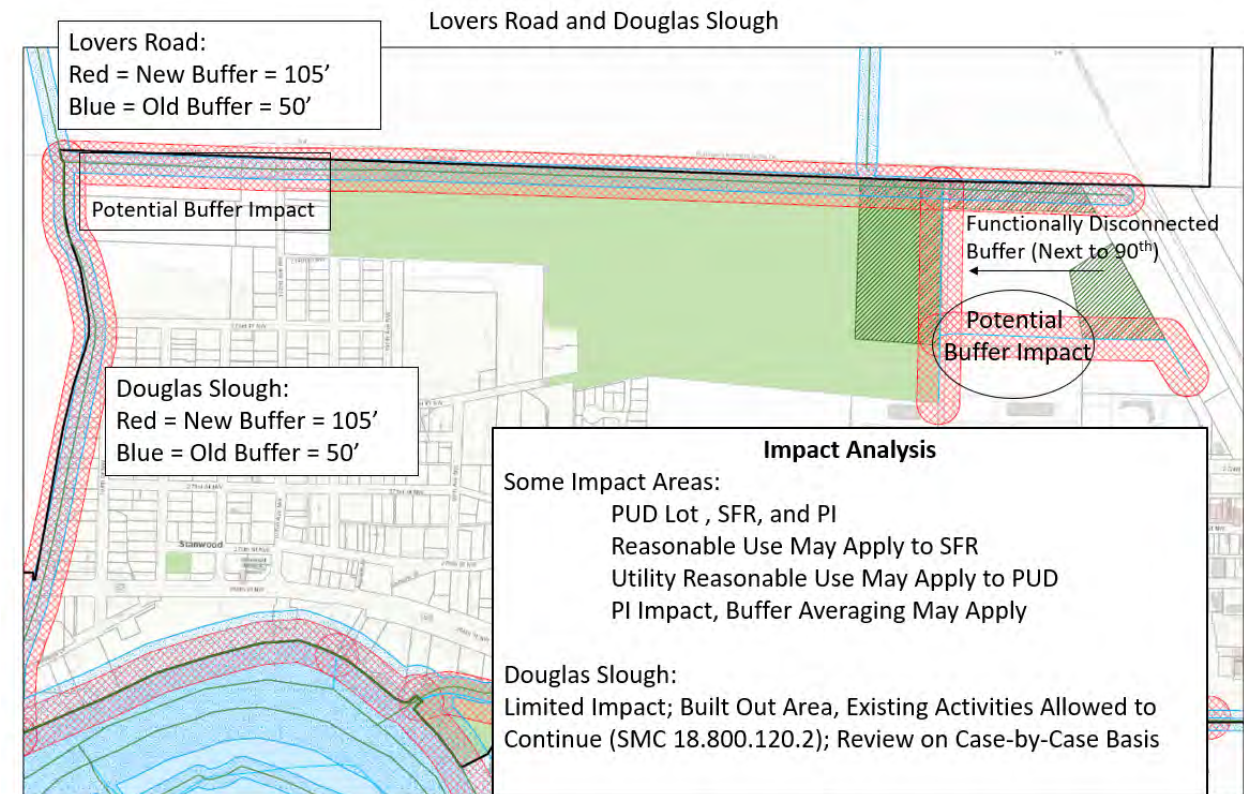
Uptown – Church Creek:



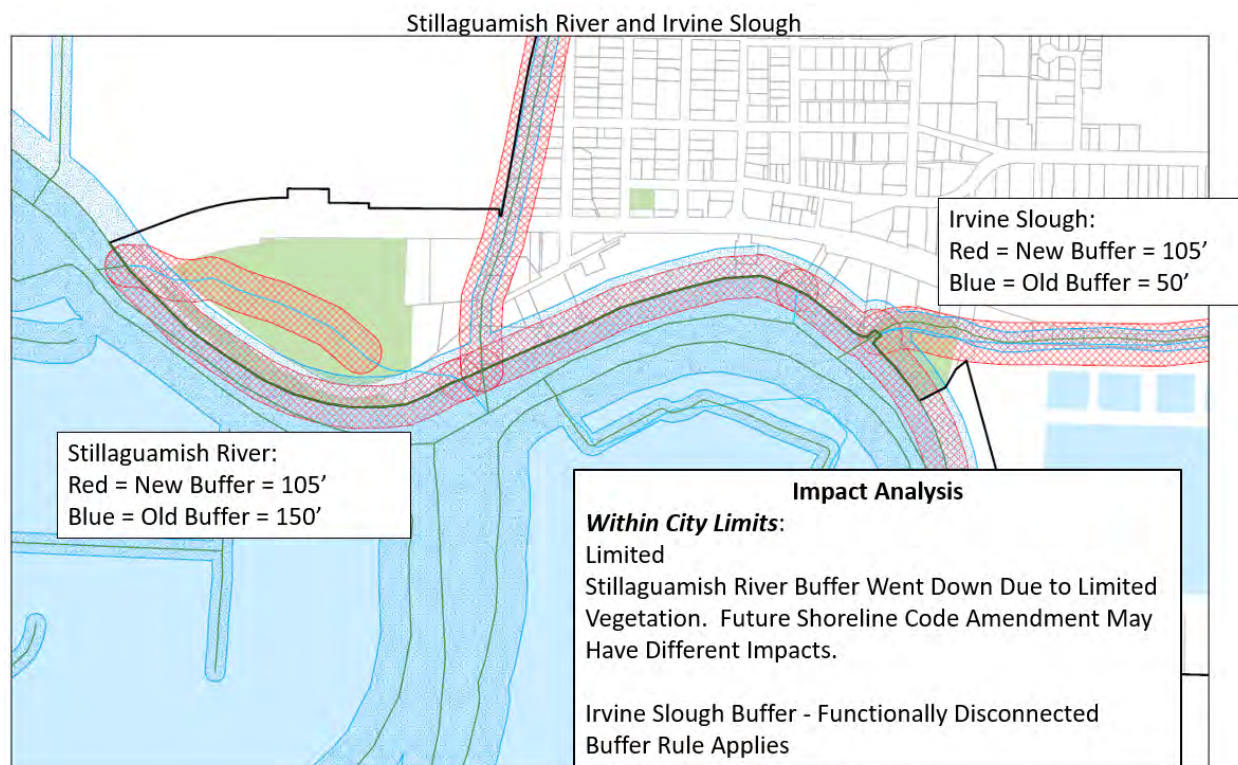
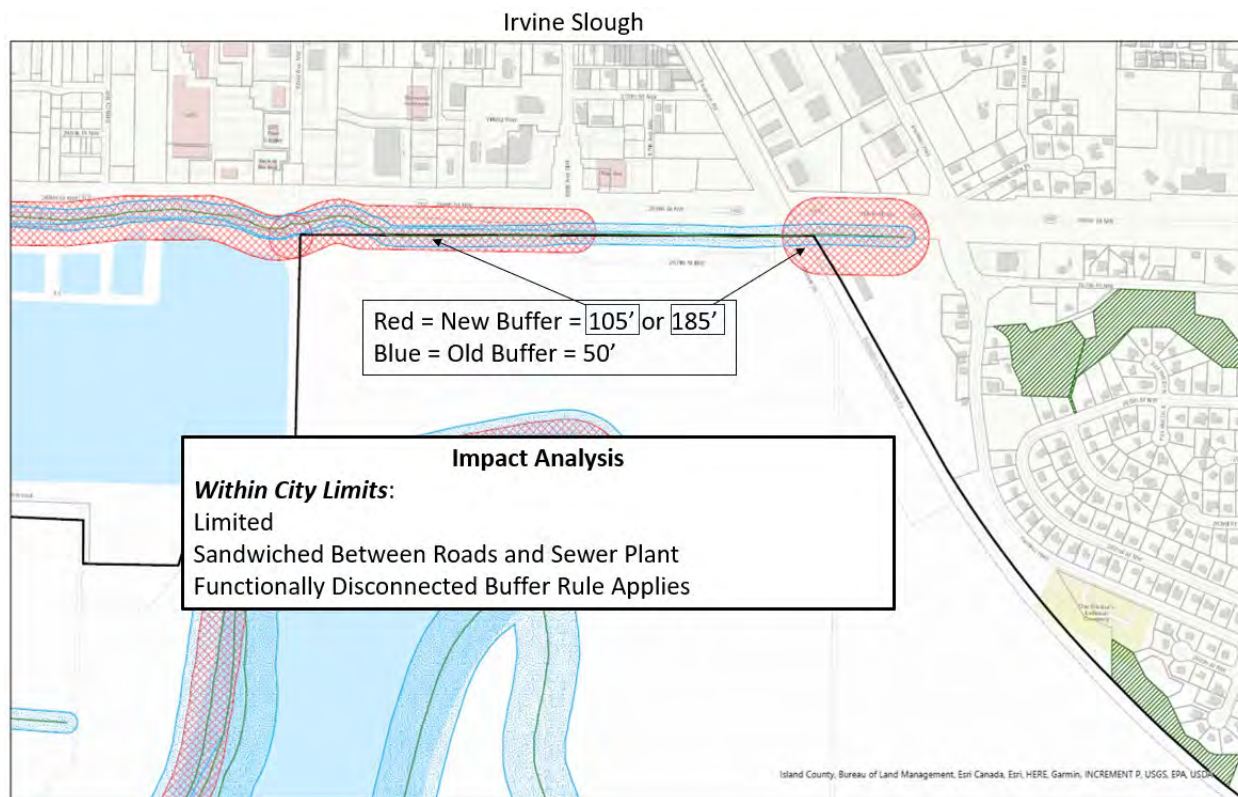
Church Creek – South of SR 532



Downtown – Lovers Road and Douglas Slough:



Downtown – Irvine Slough and Stillaguamish River:

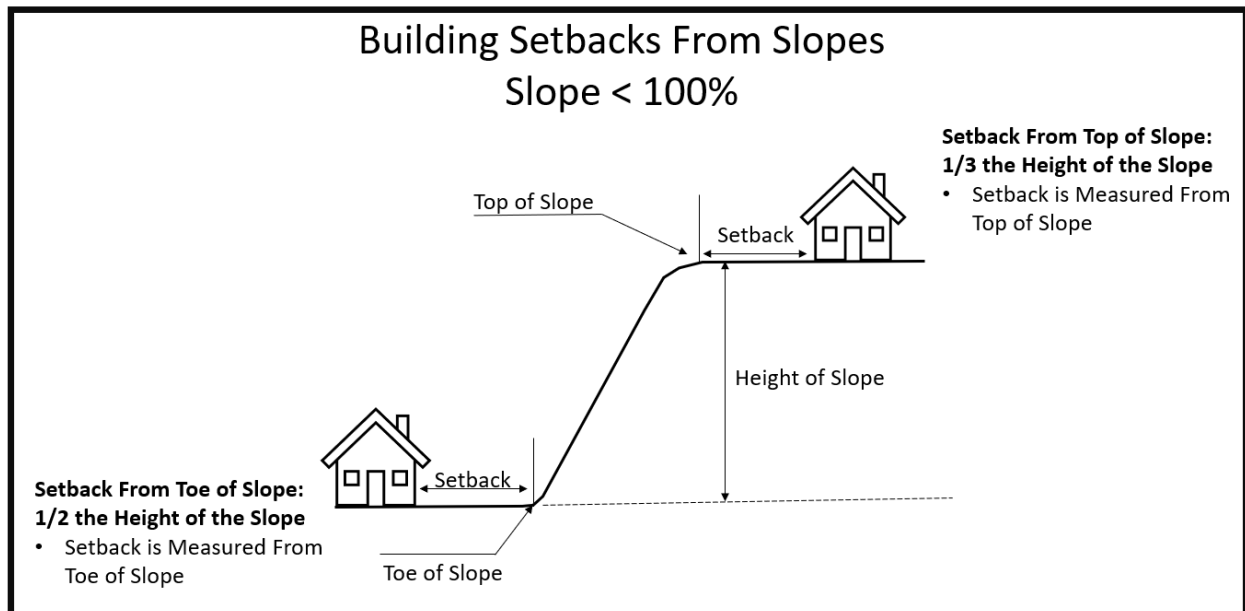


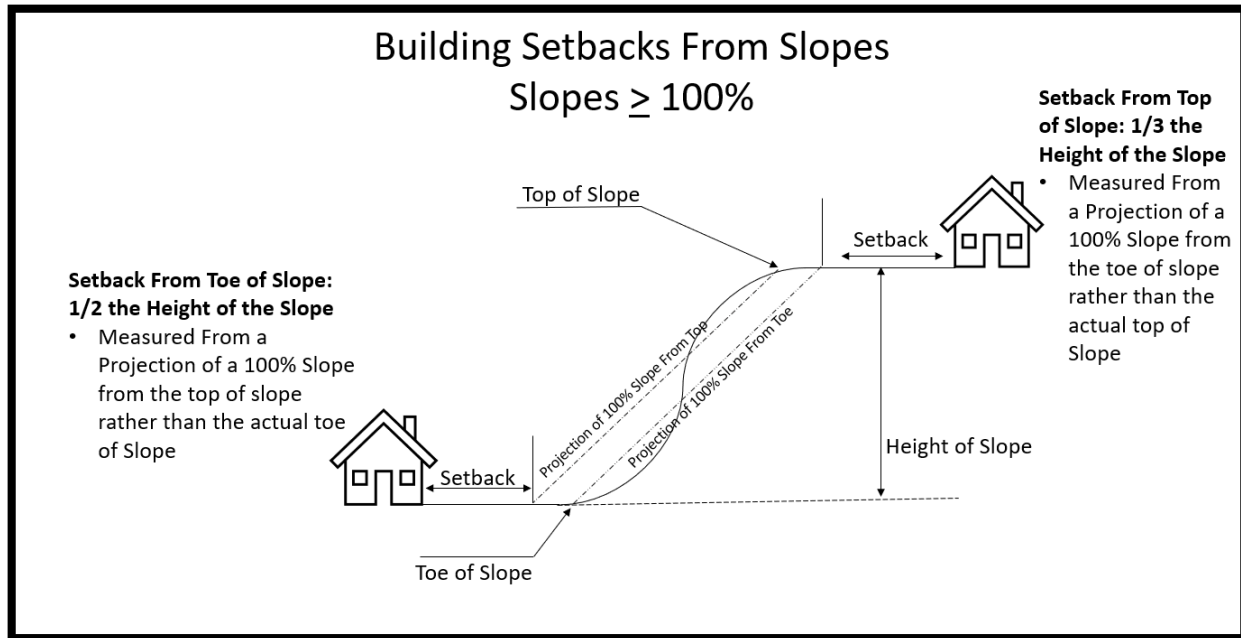
Geologically Hazardous Areas Summary

Geologically hazardous areas include areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, pose a risk or threat to public health and safety. In Stanwood, the following types of hazards are designated as a geologically hazardous area:

- Erosion hazard;
- Landslide hazard;
- Seismic hazard; and
- Other geological events including tsunamis, volcanic hazards, and differential settlement.

Development in these areas requires the submittal of a geotechnical report and structures must be setback from the top and toe of a steep slope as follows unless otherwise specified in the geotech report.





Other standards for developing in a Geologic Hazardous Area include:

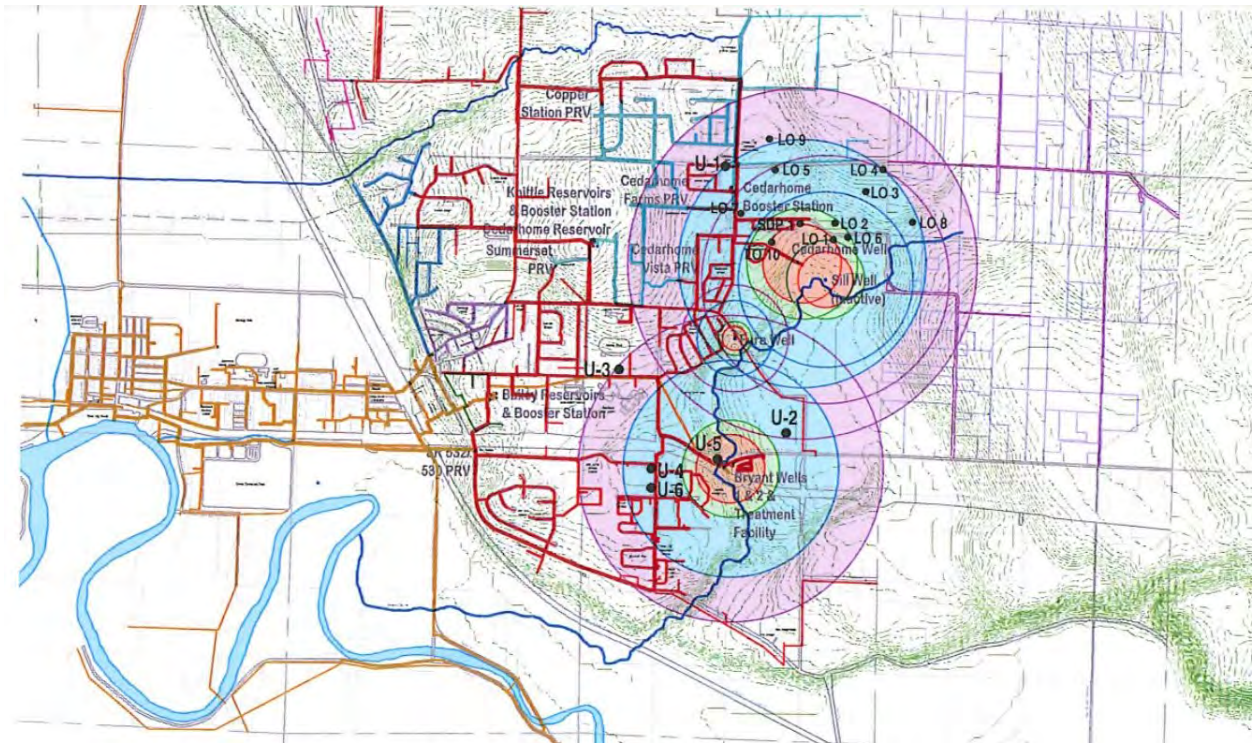
- Maintain vegetation on steep slopes
- Utilities are allowed on steep slopes if above ground and anchored in
- Point discharges are only allowed with energy dissipaters and not directly on a slope
- For subdivisions, landslide hazard and erosion areas must be located in separate tracts
- Tsunami hazard areas require an evacuation plan (none in Stanwood)

Aquifer Recharge Area Summary

An **aquifer recharge area** is a region where water from rain, streams, rivers, or other surface sources infiltrates the ground and replenishes an underground aquifer. Under the Growth Management Act, Cities are required to protect these areas as part of their critical area regulations. In Stanwood, Aquifer Recharge Areas include:

- Wellhead Protection Areas
- Sole Source Aquifers
- Susceptible Groundwater Management Areas per WAC 173-100
- Special Protection Areas per WAC 173-200-090
- Moderately or Highly Vulnerable Aquifer Recharge Areas per the Department of Ecology
- Moderately or Highly Susceptible Aquifer Recharge Areas per the Department of Ecology

Stanwood Wellhead Protection Areas



The following uses are generally prohibited in Aquifer Recharge Areas: landfills, underground injection wells, mining, wood treatment facilities, hard chrome plating operations, chemical lagoons and pits, hazardous material disposal sites, storage/processing/disposal of radioactive substances, new septic systems and other activities that negatively impact ground water sources.

Uses that are allowed in an aquifer resource area may be subject to special regulations referred to as Class I or Class II operations. These include nonresidential uses and operations that present a risk to water resources because of the volume and type of hazardous materials that are used. Restrictions include:

- Potential location restrictions
- Application of current best management practices
- Inclusion of spill and emergency response plan
- An employee training program
- A site closure plan for decommissioning of hazardous materials
- An engineering and operations report detailing how to prevent the release of hazardous materials
- Ongoing maintenance of records and inspection reports

Also included in the code is a halogenated solvent list. This is a list of chemicals that are commonly used in various industrial applications due to their effectiveness in dissolving oils, fats, waxes, and resins, but are hazardous to health and the environment.

Frequently Flooded Areas Summary

The City of Stanwood is impacted by periodic flooding resulting from large storm events combined with high tides. Due to the topographic nature of the City, all of west Stanwood lies in the 100-year floodplain. This area generally includes land to the west of the railroad tracks and a small area west of Pioneer Highway just east of the railroad tracks. A 100-year flood area is defined as those lands that are subject to a one percent or greater chance of flooding in any one year.



The city's floodplain regulations are included as part of its critical area regulations. The draft includes all of the 2020 FEMA (Federal Emergency Management Agency) model ordinance requirements with two small changes: 1) allowing building modifications up to 50% of the buildings valuation every 12 months versus every 24 months and 2) includes increased protections for HVAC systems by requiring new and replacement HVAC systems to be located above the base flood elevation and elevated off the floor to minimize damage from flooding.

In summary, the proposed ordinance includes the following floodplain requirements:

- Readopts the 2020 FIRM maps
- Defines substantial development as work and costs incurred within a 12-month period
- Requires a floodplain permit that raises a building 1-foot above floodplain elevations or floodproofs the building

General building and construction provisions includes:

- Buildings must be anchored to the ground to avoid the potential to float;
- Construction materials need to be resistant to flood damage;
- Water supply systems and other utilities need to be designed to minimize or eliminate infiltration of flood waters;
- Building design standards for residential, non-residential and manufactured homes
- Limitations on storage of recreational vehicles;
- Detached structures used solely for parking or storage don't need to be raised above flood elevation with conditions; and
- Includes variance and appeal provisions.
-

Cultural Resources Summary

Protection of cultural resources is a new section added to the environmental code. Typically, cultural resource protection is implemented through SEPA (State Environmental Policy Act), which results in permit delays if local tribes or the State Department of Archaeology and Historic Preservation asks for an analysis during the comment period or after the SEPA determination has been issued. The Growth Management Act gives local governments the flexibility to expand

their environmental regulations to include protections for cultural resources. By adding cultural resource protection to city codes, it requires an evaluation early in the permit review process and helps avoid costly redesigns or project delays if cultural resources are discovered later in a project.

The draft code is based on Ecology's model language, Pierce County Code, and La Center, WA Municipal Code and includes the following provisions:

- Establishes clear procedures and specific standards for preservation of cultural resources;
- Requires submittal of a cultural resource report when a project is within 500 feet of a known historic site;
- A Cultural Resource Management Plan must be prepared when a Cultural Resource Site Assessment identifies the presence of significant cultural resources;
- The Community Development Director has the authority to require an Inadvertent Discovery Plan if requested by DAHP or local Tribes or if discoveries are found during project construction; and
- Local tribes will be noticed of pending projects as part of the city's standard noticing process.

CITY OF STANWOOD
Planning Commission Findings of Fact and Recommendation



10220-270TH Street NW
Stanwood, WA 98292

City of Stanwood, Washington

Critical Areas Code Amendment

Findings of Fact and Conclusions of Law

A. GENERAL INFORMATION

File Number(s): 24-0132 (Code Amendment)

Project Summary: Critical Areas Code Amendment

Applicant: City of Stanwood

Location: Applies Throughout the City of Stanwood Jurisdictional Limits

Staff Contact: Patricia Love, Community Development Director

B. BACKGROUND AND DESCRIPTION OF PROPOSAL

Washington's Growth Management Act (GMA) requires all cities and counties to designate and regulate "critical areas", which are defined as wetlands, areas with a critical recharging effect on aquifers used for potable water, fish and wildlife habitat conservation areas, frequently flooded areas, and geologically hazardous areas. The City has elected to add Cultural Resources as a protected critical area as it is required under Washington State Executive Order 05-05. The Executive Order requires agencies to integrate cultural resource reviews into their planning processes. This includes assessing the potential impacts of construction, development, or land use projects on archaeological sites, historic buildings, and other cultural assets.

The legislature set a staggered schedule for cities and counties throughout the state to update their plans. Jurisdictions within King, Pierce, Kitsap and Snohomish County are required to update their comprehensive plans by December 31, 2024 and critical area regulations by December 2025.

The City of Stanwood has initiated a code amendment to merge Title 16, Subdivisions, and Title 17, Zoning, into a single new title referred to as a Unified Development Code

(UDC). A UDC is a comprehensive set of regulations or standards that govern land use, zoning, and development within a single Municipal Code Title. As part of the Unified Development Code adoption process, the critical areas codes are being migrated from existing Title 17, Zoning, to new Title 18, Part 8 – Environmental.

The critical area code amendment includes the following environmental protections and has been organized into the UDC as follows and will be notated as Stanwood Municipal Code, Chapter 18.800-18.812.

Chapter	Provisions
SMC 18.800	General Provisions - Applies to All Critical Areas
SMC 18.802	Wetlands
SMC 18.804	Fish and Wildlife Habitat Conservation Areas
SMC 18.06	Geologically Hazardous Areas
SMC 18.808	Critical Aquifer Recharge Areas
SMC 18.810	Frequently Flooded Areas
SMC 18.812	Cultural Resources

C. CRITICAL AREA CODE AMENDMENT SUMMARY

The City of Stanwood's current critical areas codes were adopted in 2004 with various updates and amendments in the subsequent years. The 2025 critical area code amendments integrate recent state legislation and best available science developed by the Department of Ecology, Department of Fish and Wildlife and Department of Natural Resources. Updates to the Critical Area Regulations include:

- Reorganizing and renumbering the existing critical areas regulations to new chapters and aligning them with state guidance based on Best Available Science.
- Duplicative sections were streamlined, definitions updated, and provisions made more consistent with Best Available Science and state regulations.
- Wetland regulations (SMC 18.802) and stream buffers (SMC 18.804) have been revised to align with Washington State Department of Ecology guidance, including buffer updates based on site-potential tree height (SPTH).
- The geologically hazardous areas chapter (SMC 18.806) incorporates definitions consistent with RCW and WAC.
- Floodplain management is renamed "Frequently Flooded Areas" (SMC 18.810) with added protections for HVAC systems.
- New cultural resources provisions were added based on state recommendations.

A Critical Areas Summary paper has been prepared and presented to the Planning Commission summarizing the 2025 critical area code amendments. A full copy of that paper is included in the official public hearing record. The following highlights the objectives of the amendments by subject matter.

General Provisions:

The General Provisions Chapter serves as the foundational set of baseline regulations addressing critical areas. By including common requirements in one chapter, the aim is to streamline the overall code, ensuring that these provisions apply uniformly across each of the critical area sections without needing to be repeated.

Wetlands:

Wetlands are classified into four categories using the 2014 Washington State Wetland Rating System for Western Washington: Type 1 being the rarest and most difficult to replace to Type 4 having the lowest level of functions and values. Buffer widths have been updated to be consistent with the Department of Ecology's best available science for Western Washington using habitat score ranges.

Fish and Wildlife Habitat Conservation Areas:

Wildlife habitat is generally protected under the Endangered Species Act and the US Fish and Wildlife Services Ecological Services Program. The Washington State Department of Fish and Wildlife (WDFW) is part of the federal Ecological Services Program. The ordinance adopts regulations consistent with the WDFW to protect fish, wildlife, plants and their habitats:

- Stream protection is based on the Washington State DNR stream typing identification system: Shorelines, Fish Baring, Non-Fish Baring and Non-Fish Seasonal Streams.
- Critical habitat and species protection includes endangered, threatened, sensitive, priority, and those of local importance.
- Buffers are based on site potential tree height or based on a habitat management plan prepared by a qualified biologist.

Geologically Hazardous Areas:

Geologically hazardous areas include areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, pose a risk or threat to public health and safety. In Stanwood, the following types of hazards are designated as a geologically hazardous area:

- Erosion hazard;
- Landslide hazard;
- Seismic hazard; and
- Other geological events including tsunamis, volcanic hazards, and differential settlement.

Development in these areas requires the submittal of a geotechnical report and structures must be setback from the top and toe of a steep slope unless otherwise specified in the geotech report.

Aquifer Recharge Areas:

The City of Stanwood has two wellhead protection zones that are protected under the aquifer recharge regulations. The following uses are generally prohibited in Aquifer Recharge Areas: landfills, underground injection wells, mining, wood treatment facilities, hard chrome plating operations, chemical lagoons and pits, hazardous material disposal sites, storage/processing/disposal of radioactive substances, new septic systems and other activities that negatively impact ground water sources.

Frequently Flooded Areas:

The City of Stanwood is impacted by periodic flooding resulting from large storm events combined with high tides. Due to the topographic nature of the City, all of west Stanwood lies in the 100-year floodplain. The regulations are consistent with the 2020 FEMA (Federal Emergency Management Agency) model ordinance. In summary, the proposed ordinance includes the following floodplain requirements:

- Readopts the 2020 FIRM maps;
- Defines substantial development as work and costs incurred within a 12-month period; and
- Requires a floodplain permit that raises a building 1-foot above floodplain elevations or floodproofs the building.

Cultural Resources:

Protection of cultural resources is a new section added to the critical areas code. The Growth Management Act gives local governments the flexibility to expand their critical areas ordinances to include protections for cultural resources. By adding cultural resource protection to critical area codes, it requires an evaluation early in the permit review process and helps avoid costly redesigns or project delays if cultural resources are discovered later in a project. The draft code:

- Establishes clear procedures and specific standards for preservation of cultural resources;
- Requires submittal of a cultural resource report when a project is within 500 feet of a known historic site;
- A Cultural Resource Management Plan must be prepared when a Cultural Resource Site Assessment identifies the presence of significant cultural resources; and
- Requires an Inadvertent Discovery Plan if requested by DAHP or local Tribes or if discoveries are found during project construction.

D. CODE AMENDMENT CRITERIA (SMC 17.155.090(2))

The city may approve zoning code text amendments per the following criteria:

- (a) The purpose and desired effect of the proposed zoning code(s) are consistent with the Stanwood Municipal Code;**

Critical Area Codes and zoning codes serve distinct but interrelated purposes in land-use regulation, and their consistency is crucial for ensuring balanced development and environmental protection. By integrating Critical Area Codes into the review process, the city ensures that zoning permissions are not granted without addressing environmental considerations. Having both development laws that provide land use rights and critical areas codes that protect the environment allows the City to grow per the vision of the Comprehensive Plan while safeguarding critical environmental resources.

(b) There is a positive relationship to the public health, safety and welfare of the community; and

One of the fundamental premises of the Growth Management Act is to manage growth while protecting the public health, welfare and safety. Critical Area Codes balance the need to growth while protecting the environment. Critical areas perform key functions that enhance our environment and protect us from hazards. The beneficial functions and values that critical areas provide include but are not limited to:

- Water quality protection and enhancement;
- Fish and wildlife habitat and food chain support;
- Flood storage, conveyance, and attenuation (the slow release) of flood waters;
- Groundwater recharge and discharge;
- Drinking water quality and quantity;
- Erosion control; wave attenuation; and protection from natural hazards;
- Historical, archaeological, and aesthetic value; and
- Open space and recreation.

(c) The proposed amendment is consistent with the Stanwood Comprehensive Plan.

Stanwood's 2024-20244 Comprehensive Plan envisions a strong community that provides urban services while preserving its rural community heritage and unique natural environment. The Plan envisions a community with diverse commercial districts and a variety of housing types ranging from detached single family residential homes to mixed use commercial developments.

One of the primary goals of the Growth Management Act is to protect environmentally sensitive lands, including wetlands, wildlife habitats, and areas prone to natural hazards like flooding and landslides. The 2024 – 2044 Comprehensive Plan was built around these goals and contains two elements dedicated to protecting and enhancing the environment: Natural Features and Shorelines. These two elements contain 110 polices dedicated to protecting, preserving and enhancing the City's natural features.

The critical area regulations, as drafted, reflect the Growth Managements two primary environmental protection goals:

- Apply best available science from credible, peer reviewed scientific data; and
- Ensure no net loss of critical areas.

The following Natural Features Goal and associated policies directly relate to updating critical areas regulations.

Natural Features Goal #3: Protect, preserve, and enhance critical areas most sensitive to human activities by applying guidance derived from best available science.

Policy NFP 3.2: Protect the functions and values of Stanwood’s critical areas by maintaining and updating the Critical Areas Regulations consistent with the most recent best available science with the goal of achieving “properly functioning conditions” while maintaining Stanwood’s unique character.

Policy NFP 3.3: Designation and classification of critical areas should be consistent with the most recent systems and protocols prepared by the appropriate state and federal agencies.

E. FINDINGS OF FACT

1. In 2022 the City of Stanwood began a process to comprehensively update its municipal code to conform to current law and practices, eliminate conflicts, improve clarity and overall function of the municipal code, and reflect current city and best practices.
2. The City Council has opted to comprehensively revise and consolidate its zoning, subdivision and development regulations in a new Unified Development Code to be housed in Title 18 of the Stanwood Municipal Code.
3. The critical area regulations are being deleted from Title 17, Zoning and readopted with changes in Title 18, Unified Development Code.
4. The Growth Management Act requires cities and counties update their comprehensive plans and regulations every ten years, including critical areas regulations.
5. The GMA defines critical areas as wetlands, fish and wildlife habitat conservation areas, geological hazard areas, aquifer recharge areas, and floodplains.
6. The City Council has opted to include cultural resources as a regulated critical area.

7. Cities in Snohomish County must review and update their critical areas by December 31, 2025.
8. Cities must include best available science in developing policies and development regulations to protect the function and values of critical areas.
9. Cities must also give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fish.
10. Stanwood has comprehensively reviewed its critical areas regulations applying best available science practices provided by the Department of Fish and Wildlife, Department of Ecology, and Department of Natural Resources.
11. Wetland classification, protection, buffers and mitigation is based on the Washington State Wetland Rating System for Western Washington, publication number 23-06-009.
12. Salmon, fish protection and stream typing classification is based on the Department of Natural Resource typing system listed in WAC 222-16-030.
13. Endangered, threatened, sensitive, priority species habitat identification, protection, and mitigation must be based on a habitat assessment and management plan prepared by a qualified biologist applying best available science.
14. Geologic hazardous areas are defined following state law and the Department of Natural Resources guidelines; development is subject to a geotechnical report prepared by a geotechnical engineer or geologist.
15. The City's groundwater is protected from contamination by applying critical aquifer recharge regulations around the City's two wellhead protection zones consistent with the Washington Department of Health and Department of Ecology rules and guidelines.
16. While the downtown is located in the 100-year floodplain, new and remodeled buildings are subject to floodplain regulations consistent with the 2020 FEMA (Federal Emergency Management Agency) model ordinance and FIRM maps.
17. Cultural resource protection will now be a zoning requirement and no longer subject to limitations under the State Environmental Policy Act (SEPA).
18. The critical area amendments proposed implement the goals and policies of the Comprehensive Plan for protection and preservation of critical areas.
19. Pursuant to RCW 36.70A.106, the City submitted the proposed critical area code amendment for the 60-day review to the Washington State Department of Commerce on September 26, 2024. The 60-day review period was completed on November 25, 2024.

20. The code amendment was circulated for public review on October 22 through November 5, 2024.
21. The City received comments on the draft amendments from the Department of Ecology, Department of Natural Resources and Tulalip Tribes and their comments were incorporated into the code amendment.
22. A SEPA determination of non-significance for the draft ordinance was issued on October 22, 2024, and the comment / appeal period ended on November 5, 2024.
23. The Stanwood Advisory Group reviewed the draft ordinance at their October 16, 2024, meeting and provided comments which were integrated into the amendments.
24. The Stanwood Community Development Committee reviewed the draft ordinance at their November 7, 2024, meeting and provided comments which were integrated into the amendments.
25. The Stanwood Planning Commission held their first reading of the ordinance on October 14, 2024, held a public hearing on ordinance on January 13, 2025, and forwarded their findings of fact and conclusions recommending approval of the ordinance to the City Council.
26. All persons desiring to either provide written testimony or speak for or against the ordinance were given the opportunity to do so.
27. Staff prepared a report summarizing the proposed code amendment. This report is part of the public record and was presented to the Planning Commission at the public hearing on January 13, 2025, for their consideration.

F. CONCLUSIONS OF LAW

1. The City of Stanwood has authority under RCW Title 35A, to adopt plans and regulations related to development and operations within the City of Stanwood.
2. Stanwood Municipal Code requires that the Planning Commission review and make recommendations to the Stanwood City Council regarding code amendments to Title 17, Zoning.
3. On December 31, 2024, the Planning Commission public hearing notice was printed in the Stanwood Camano News and notices were sent to the party of record list and agency distribution list as required by law.
4. SEPA review was conducted on the proposal and a Determination of Nonsignificance (DNS) was issued per City Code and under WAC 197-11-340(2). No appeals of the SEPA determination were filed.

5. The proposal is consistent with the 2024-2044 Comprehensive Plan Natural Features and Shoreline Elements, including Natural Features Goal Number 3 and 3.2 and 3.3.
6. The proposal is beneficial to the public health, safety and welfare by ensuring the City's critical area regulations are consistent with the Growth Management Act, are based on best available science and provides for no net loss of critical areas.
7. After considering staff comments and public testimony, the Stanwood Planning Commission determined the draft code amendment is consistent with the Comprehensive Plan and should be adopted.

G. STAFF RECOMMENDATION

I Move that the Planning Commission **ADOPT** the Findings of Fact and Conclusions of Law contained herein and **AUTHORIZE** the Planning Commission Chair to sign the Findings on behalf of the Commission and recommend that the Stanwood City Council **APPROVE** the proposed amendments to the Stanwood Municipal Code.

Dated this _____ day of _____ 2025.

Patrick Hosterman, Planning Commission Chair
City of Stanwood

**CITY OF STANWOOD
WASHINGTON**

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF STANWOOD, WASHINGTON, ADOPTING REVISIONS
TO SMC TITLE 18 FOR CRITICAL AREAS AND ENVIRONMENTAL REGULATIONS,
ESTABLISHING SEVERABILITY, AND AN AFFECTIVE DATE**

WHEREAS, the Growth Management Act requires cities and counties update their comprehensive plans and regulations every ten years, including critical areas regulations; and

WHEREAS, the GMA defines critical areas as wetlands, fish and wildlife habitat conservation areas, geological hazard areas, aquifer recharge areas, and floodplains; and

WHEREAS, the City Council has opted to include cultural resources as a regulated critical area; and

WHEREAS, cities in Snohomish County must review and update their critical areas by December 31, 2025; and

WHEREAS, cities must include best available science in developing policies and development regulations to protect the function and values of critical areas; and

WHEREAS, cities must also give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fish; and

WHEREAS, the City has comprehensively reviewed its critical areas regulations applying best available science practices provided by the Department of Fish and Wildlife, Department of Ecology, and Department of Natural Resources; and

WHEREAS, the critical area amendments proposed implement the goals and policies of the Comprehensive Plan for protection and preservation of critical areas; and

WHEREAS, the City of Stanwood is in the process of consolidating Title 16, Subdivisions and Title 17, Zoning into a new Unified Development Code codified as Title 18; and

WHEREAS, the critical area regulations are being deleted from Title 17, Zoning and readopted with changes in Title 18, Unified Development Code; and

WHEREAS, pursuant to RCW 36.70A.106, the City submitted the proposed critical area code amendment for the 60-day review to the Washington State Department of Commerce on September 26, 2024. The 60-day review period was completed on November 25, 2024; and

WHEREAS, the code amendment was circulated for public review on October 22 through November 5, 2024; and

WHEREAS, the City received comments on the draft amendments from the Department of Ecology and Department of Natural Resources; and

WHEREAS, their comments have been incorporated into the amendments; and

WHEREAS, a SEPA determination of non-significance for the draft ordinance was issued on October 22, 2024, and the comment / appeal period ended on November 5, 2024; and

WHEREAS, the Stanwood Advisory Group reviewed the draft ordinance at their October 16, 2024, meeting and has recommended that the City Council adopt the ordinance; and

WHEREAS, the Stanwood Community Development Committee reviewed the draft ordinance at their November 7, 2024, meeting and has recommended that the City Council adopt the ordinance; and

WHEREAS, the Stanwood Planning Commission held their first reading of the ordinance on October 14, 2024, held a public hearing on ordinance on January 13, 2025 and forwarded their findings of fact and conclusions recommending to approve the ordinance on _____; and

WHEREAS, all persons desiring to either provide written testimony or speak for or against the ordinance were given the opportunity to do so before both the Planning Commission and City Council; and

WHEREAS, the City Council held a public hearing and first reading of the draft code amendment on _____, a second reading on _____, and accepted public comment; and

WHEREAS, the City Council of Stanwood has authority under RCW 36.70A to adopt plans and regulations related to development and operations within the City of Stanwood; and

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

Section 1. Stanwood Municipal Code Title 18, Part 8 – Environment, is adopted as shown in Exhibit “A” attached to this ordinance and incorporated herein by reference as if set forth in full.

Section 2. Severability. The various parts, sections and clauses of this ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

Section 3. Authority to Make Necessary Corrections. The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener’s clerical errors, references, ordinance numbers, section/subsection numbers and any references thereto.

Section 4. Effective Date. This Ordinance shall take effect five days after its passage and publication as required by law.

PASSED and APPROVED this ____ day of _____, 2025.

CITY OF STANWOOD:

Sid Roberts, Mayor

Attest:

Lisa Sokolik, City Clerk

Approved as to Form:

Nikki Thompson, City Attorney

Date of Publication: _____

Effective Date: _____

Exhibit A

Title 18 Unified Development Code

Part 8 Environment

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Chapter 18.800 Critical Areas – General Provisions

i The existing SMC section 17.114 has been moved to this new section, SMC 18.800. Many of the subsections remain the same but have been renumbered. All of the SMP sections have been taken out and moved under Title 18 Part 9 SMP.

18.800.010 Purpose.

- (1) The purpose of SMC chapters 18.800-18.810 is to:
 - (a) designate and classify ecologically sensitive and hazardous areas and to protect these areas and ensure no net loss of functions and values, while also allowing for reasonable use of private property;
 - (b) implement the goals, policies, guidelines, and requirements of the Stanwood Comprehensive Plan and the Growth Management Act.
- (2) By limiting development and alteration of critical areas, this chapter seeks to:
 - (a) Protect the public and public resources and facilities from injury, loss of life, or property damage due to landslides and steep slope failures, erosion, seismic events, volcanic hazards, or flooding;
 - (b) 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, and to conserve the biodiversity of plant and animal species, and to protect and enhance anadromous fisheries;
 - (c) 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;
 - (d) 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; and
 - (e) Increase the quantity and quality of Stanwood’s wetland resource base over the long term.
- (3) The City finds that critical areas provide a variety of valuable and beneficial biological and physical functions that benefit Stanwood and its residents, or that 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 flood waters, groundwater recharge and discharge, erosion control, wave attenuation, protection from hazards, historical, archaeological, and aesthetic value protection, and recreation. These beneficial functions are not listed in order of priority.

- (4) This chapter is intended to protect critical areas in accordance with the Growth Management Act and through the application of 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.
- (5) 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.

18.800.020 Applicability.

i This is a new section that incorporates the content of existing SMC 17.114.070 and 17.114.100(1).

- (1) This Chapter applies:
 - (a) to the regulations in SMC Chapters 18.802-18.810; and
 - (b) to all uses, activities, and developments within, adjacent to, or likely to affect any critical area.
- (2) For the purpose of this section, "adjacent to" means located:
 - (a) on a site immediately adjoining a critical area; and
 - (b) a distance equal to or less than the required critical area buffer width and building setback.
- (3) Exception. Where a use, activity, or development is regulated by the Shoreline Master Plan, SMC Part 9, those regulations apply instead.
- (4) 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 as well as compliance with all state and federal regulations and permits.

18.800.030 How to use the Critical Areas Code.

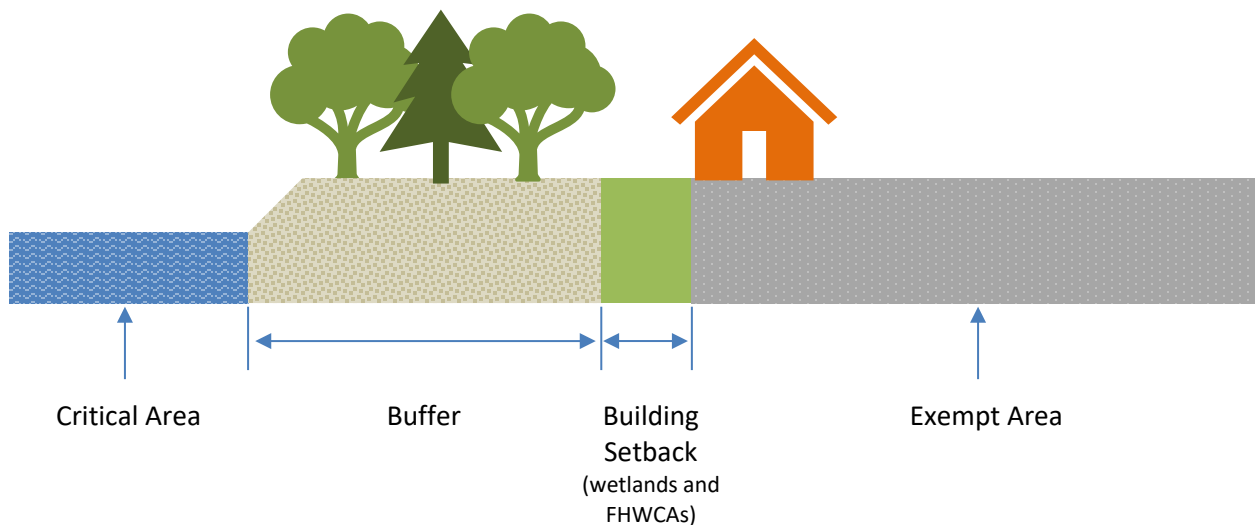
i This is a new section to explain how the various components and chapters of the critical areas code is applied.

i This section incorporates the content of existing SMC 17.114.030, Relationship to Other Regulations.

- (1) Critical areas exist throughout the City. An activity, land use, or development must comply with the City's critical areas code to protect those critical areas, and in some cases, to protect the proposed activity from the critical area.
- (2) The City's critical areas code is found in SMC Chapters 18.800-18.810. This chapter contains general provisions for all critical areas, while additional standards specific to each of the five types of critical area may be found in the following chapters:
 - (a) Chapter 18.802 Wetlands
 - (b) Chapter 18.804 Fish and Wildlife Habitat Conservation Areas
 - (c) Chapter 18.806 Geologically Hazardous Areas

- (d) Chapter 18.808 Critical Aquifer Recharge Areas
- (e) Chapter 18.810 Frequently Flooded Areas
- (3) The City's critical areas code regulates activities (including land uses and development) in and near critical areas. To determine the regulations that must be applied to an activity, land use, or development:
 - (a) Determine if the activity is within shoreline jurisdiction, as defined in the City's Shoreline Master Plan (SMC Title 18 Part 9). If it is, the SMP regulations apply instead of the City's critical areas code.
 - (b) Determine if the activity is exempt from critical areas regulation (SMC 18.800.110).
 - (c) If the activity is not exempt, determine whether the activity is proposed within the buffer or building setback for the relevant type(s) of critical area.

Figure 18.800.040-1 Buffer and Setback Areas



- (d) If the activity is proposed within the buffer or building setback, determine whether the activity is allowed (SMC 18.800.120) and if so, comply with the standards applicable to that activity in that section and in the chapter applicable to the relevant type(s) of critical area.
- (e) If the activity is neither exempt nor allowed, obtain a Critical Areas Report (SMC 18.800.150) to determine whether and how the activity can mitigate for its impacts on the critical area or its buffer. The first step in the required sequence of mitigation is to avoid impacts; see SMC 18.800.160 for the remainder of the sequence.
- (f) If the activity's effects cannot be mitigated, you might be eligible to seek an exception from the City's critical areas code:
 - (i) For situations where no reasonable economic use of the property would otherwise be allowed, per SMC 18.800.180;
 - (ii) For public agencies or utilities, per SMC 18.800.190.
- (g) If special conditions peculiar to your property exist, you may be eligible for a variance from the City's critical areas code per SMC 18.800.200.
- (4) Where regulations for multiple types of critical areas overlap, each set of regulations applies to provide the most protection to the critical areas.

- (5) Compliance with the City's critical areas code does not constitute compliance with other federal, state, and local regulations and permit requirements that may be required (e.g., other permits required by SMC Title 18, shoreline permits, Hydraulic Permit Act (HPA) permits, U.S. Army Corps of Engineers Section 404 permits, Department of Ecology's implementation of section 401 of the federal Clean Water Act, National Pollution Discharge Elimination System permits). The applicant is responsible for separately complying with those requirements.

18.800.040 Administration.

i Based on existing SMC 17.114.020 Authority.

- (1) The Director has the authority to interpret and apply, and the responsibility to enforce, this chapter.
- (2) The City may withhold, condition, or deny development permits or activity approvals to ensure that the proposed action is consistent with this chapter.

i Next sentence based on existing SMC 17.114.050.

- (3) The Director is authorized to adopt such administrative rules and regulations as necessary and appropriate to implement this chapter and to prepare and require the use of such forms as necessary for its administration.

i Next section moved from 18.800.260 in prior drafts.

- (4) Reasonable access to the site must 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.

18.800.050 Interpretation.

In the interpretation and application of this title, the provisions of this chapter are the minimum requirements necessary, must be liberally construed to serve the purpose of this title, and must be deemed to neither limit nor repeal any other provisions under state statute.

18.800.100 Protection requirements.

i This section is based on existing SMC 17.114.080, Protection of critical areas, but has been retitled. It also integrates existing SMC 17.114.100(2) et seq, formerly named Applicability, but deleting the list of example permits; and existing SMC 17.114.090, Best available science. The definition of Best Available Science in 17.114.090 has been deleted, because it duplicated the definition in the definitions chapter.

- (1) The Director may 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 SMC Chapters 18.800-18.810.
- (2) No activity or use is allowed if it results in a net loss of critical area functions and values. Any action taken pursuant to this chapter and Chapters 18.802 through 18.810 SMC must result in equivalent or greater functions and values of the critical areas associated with the proposed action, as determined by Best Available Science.
- (3) Per SMC 18.800.160, all actions and developments must be designed and constructed to mitigate adverse impacts and an applicant must first demonstrate an inability to avoid or reduce impacts before restoration and compensation of impacts may be allowed.

- (4) Critical area reports and decisions to alter critical areas must:
- (a) rely on Best Available Science to protect the functions and values of critical areas; and
 - (b) give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fish, such as salmon and bull trout, and their habitat.

i The following two sections were moved from 18.802.050 in prior drafts.

- (5) Legal Nonconforming Uses. Existing legal pre-existing development that would not conform to current buffer requirements is not required to comply with the buffer widths in this chapter and Chapters 18.802 through 18.810 SMC if routine maintenance, modification, renovations, or redevelopment of existing structures do not intensify the nonconformity of the existing structure or use or increase impacts on the critical area from activities in the buffer. If activities in the buffer intensify the nonconformity of the existing structure or use or increase impacts on the buffer the development is subject to current buffer requirements.
- (6) Existing Properties. If a parcel has a previous critical area buffer that was approved by the city and included in a native growth protection area tract or easement, proposed redevelopment or other modifications to the existing footprint are subject to the previously approved buffer if changes in use or activities on the property do not result in increased impacts to the critical area. If the existing buffer has become degraded or is not functioning or the buffer may be negatively impacted by the proposed modification or activities, the buffer must be enhanced.

18.800.110 Exempt activities.

i This section is based on existing SMC 17.114.110.

- (1) Exempt activities are exempt from the substantive requirements of this chapter and Chapters 18.802 through 18.810 SMC.
- (a) Exempt activities do not require submittal of a critical areas reconnaissance or report.
 - (b) Exempt activities must use best available science to avoid direct and indirect impacts to critical areas.
 - (c) Exempt activities do not have permission to degrade a critical area or ignore risk from natural hazards.
 - (d) Any incidental damage to, or alteration of, a critical area that is not a necessary outcome of the exempt activity must be restored, rehabilitated, or replaced at the responsible party's expense.
 - (e) Exempt activities must still comply with other local, state, and federal laws and requirements.
- (2) The proponent of an activity must submit an application for exemption, consistent with SMC Title 18 Part 2, that describes the activity and identifies the applicable exemption from the list in this section. The Director must review the exemption request to verify that it complies with this chapter and approve or deny the exemption. If the exemption is approved, it must be placed on file with the department. If the exemption is denied, the proponent may apply for critical areas review of a non-exempt activity, subject to the requirements of this chapter.
- (3) Exempt activities defined:
- (a) Emergencies.
 - (i) Emergencies are defined as those activities necessary to prevent an immediate threat to public health, safety, or welfare, or that pose an immediate risk of damage to private property and that require remedial or preventative action in a time frame too short to allow for compliance with the requirements of this chapter and Chapters 18.802 through 18.810 SMC.

- (ii) Emergency actions that create an impact to a critical area or its buffer must:
 - (A) use reasonable methods to address the emergency; and
 - (B) have the least possible impact to the critical area or its buffer.
- (iii) The person or agency undertaking such action must notify the city within one working day following commencement of the emergency activity. Within 30 days, the Director must determine if the action taken was within the scope of the emergency actions allowed in this subsection. If the Director 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 SMC 18.800.210, Unauthorized critical area alterations and enforcement, apply.
- (iv) After the emergency, the person or agency undertaking the action must 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 must apply for review, and the alteration, critical area report, and mitigation plan must 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;
- (b) 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 an endangered or threatened species;
- (c) 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 SMC 18.800.120(2)(e);
- (d) Forest Practices. Forest practices regulated and conducted in accordance with the provisions of Chapter 76.09 RCW and forest practices regulations, WAC Title 222, and those that are exempt from the city's jurisdiction, except that forest practice conversions are not exempt;
- (e) Minor Site Investigative Work. Work necessary for land use submittals, such as surveys, soil logs, percolation tests, and other related activities, where such activities do not require construction of new roads or significant amounts of excavation. In every case, impacts to critical areas and buffers must be minimized and disturbed areas must be immediately restored; and
- (f) Existing Structures. Existing structures may be maintained, repaired, and remodeled provided there is no further intrusion into a critical area or its buffer. New construction or reconstruction must conform to the requirements of this chapter and Chapters 18.802 through 18.810 SMC.

18.800.120 Allowed activities.

i This section is based on existing SMC 17.114.140.

i The first paragraph attempts to parallel the first paragraph of .110 Exempt Activities.

- (1) Allowed activities are subject to the substantive requirements of this chapter and Chapters 18.802 through 18.810 SMC.
 - (a) Allowed activities must be reviewed and approved by the City, but do not require submittal of a critical areas report.
 - (b) The Director may apply conditions to the underlying or associated project permit, such as a building permit, to ensure protection of critical areas and compliance with the City's critical areas code.
 - (c) Allowed activities must be conducted, and the Director must require, using the best management practices that result in the least amount of impact to the critical areas. Best management practices are required for tree and vegetation protection, construction management, erosion and sedimentation control, water quality protection, and regulation of chemical applications.
 - (d) Any incidental damage to, or alteration of, a critical area as the result of an allowed activity must be restored, rehabilitated, or replaced at the responsible party's expense.
- (2) Allowed activities defined:
 - (a) Permit Requests Subsequent to Previous Critical Area Review. A new project permit when all the following conditions have been met:
 - (i) The provisions of this chapter have been addressed as part of a prior approval;
 - (ii) The critical area has been placed in a native growth protection area, open space tract, or protective easement;
 - (iii) There have been no material changes in the potential impact to the critical area or buffer since the prior review;
 - (iv) There is no new information available that is applicable to any critical area review of the site or particular critical area; and
 - (v) Compliance with any standards or conditions placed upon the prior permit or approval has been achieved or secured.
 - (b) Modification to Existing Structures. Structural modification of, addition to, or replacement of an existing legally constructed structure that does not further alter or increase the impact to the critical area or buffer and there is no increased risk to life or property as a result of the proposed modification or replacement; provided, that restoration of structures substantially damaged by fire, flood, or act of nature 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;
 - (c) Activities Within the Improved Right-of-Way. Replacement, modification, installation, or construction of utility facilities, lines, pipes, mains, equipment, or appurtenances, not including substations, when such facilities are located within the improved portion of the public right-of-way or a city-authorized private roadway except those activities that alter a wetland or watercourse, such as culverts or bridges, or result in the transport of sediment or increased stormwater;
 - (d) Minor Utility Projects. Utility projects that have minor or short duration impacts to critical areas, as determined by the Director 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 may not

result in the transport of sediment or increased stormwater. Such allowed minor utility projects must meet the following criteria:

- (i) There is no practical alternative to the proposed activity with less impact on critical areas;
 - (ii) The activity involves the placement of a utility pole, street sign, anchor, or vault or other small component of a utility facility; and
 - (iii) The activity involves disturbance of an area less than 75 square feet;
- (e) Public and Private Pedestrian Trails. Public and private pedestrian trails subject to the following:
- (i) The trail surface must meet all other requirements including water quality standards set forth in the city's adopted stormwater manual; and
 - (ii) Buffer widths, if applicable, must be increased, where possible, equal to the width of the trail corridor, including disturbed areas;
 - (iii) In wetlands and fish and wildlife habitat conservation areas, public and private pedestrian trails must be constructed of pervious materials and are restricted to the outer 50% of the buffer area except where necessary.
- (f) Select Vegetation Removal Activities. The following vegetation removal activities are allowed, with approval from the Director:
- (i) The removal of the following vegetation with hand labor and light equipment:
 - (A) Invasive and noxious weeds;
 - (B) Ivy (*Hedera* sp.);
 - (C) Himalayan blackberry (*Rubus discolor*, *R. procerus*); and
 - (D) Evergreen blackberry (*Rubus laciniatus*);
 - (ii) The removal of trees from critical areas and buffers that are hazardous, posing a threat to public safety, or posing an imminent risk of damage to private property; provided, that:
 - (A) 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;
 - (B) Tree cutting is limited to limbing and crown thinning, unless otherwise justified by a qualified professional. Where pruning or crown thinning is not sufficient to address the hazard, trees may be cut to remove the hazard (first choice) or removed or converted to wildlife snags (second choice);
 - (C) All vegetation cut (tree trunks, stems, branches, etc.) must 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;
 - (D) The landowner must 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 must be species that are native and indigenous to the site and a minimum caliper of two inches in diameter at breast height (dbh) must be used;
 - (E) If a tree to be removed provides critical habitat, such as an eagle perch, a qualified wildlife biologist must be consulted to determine timing and methods of removal that minimize impacts; and

- (F) Hazard 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 14 days following such action, the landowner must submit a restoration plan that demonstrates compliance with the provisions of this chapter;
- (iii) Measures to control a fire or halt the spread of disease or damaging insects consistent with the State Forest Practices Act, Chapter 76.09 RCW, recognized wildfire protection measures, and local forest practices regulations if adopted; provided, that the removed vegetation is replaced in kind or with similar native species within one year in accordance with an approved restoration plan;
- (g) 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 is restricted in accordance with State Department of Fish and Wildlife Management Recommendations and the regulations of the State Department of Agriculture and the U.S. Environmental Protection Agency;
- (h) Minor Site Investigative Work. Work necessary for land use submittals, such as surveys, soil logs, percolation tests, and other related activities, where such activities do not require construction of new roads or significant amounts of excavation. In every case, impacts to the critical area must be minimized and disturbed areas immediately restored; and
- (i) Navigational Aids and Boundary Markers. Construction or modification of navigational aids and boundary markers.

18.800.130 Critical area review process.

i This section is based on existing SMC 17.114.150 Critical area report – Review process.

- (1) Requirement. For any proposed activity not (a) exempt under SMC 18.800.110, or (b) allowed pursuant to SMC 18.800.120, the proponent must submit the activity to critical area review as described in this section.
- (2) To initiate critical areas review, an applicant must submit to the Director a completed critical area review request form.
- (3) Site Inspection. Upon receipt of a critical area review request form, the Director must conduct a site inspection to identify critical area conditions on-site. The Director must notify the property owner of the inspection prior to the site visit. Reasonable access to the site must be provided by the property owner for the purpose of inspections during proposal review, restoration, emergency action, or monitoring.
- (4) Determination. The Director must determine whether any critical areas may be affected by the proposal.
 - (a) Determination Criteria. The Director must use the following indicators to assist in determining the need for a critical area report:
 - (i) Indication of a critical area on the city critical areas maps that may be impacted by the proposed activity;
 - (ii) Information and scientific opinions from appropriate agencies, including but not limited to the Departments of Fish and Wildlife, Natural Resources, and Ecology;
 - (iii) Documentation, from a scientific or other reasonable source, of the possible presence of a critical area; or
 - (iv) A finding by a qualified professional or a reasonable belief by the Director that a critical area may exist on or adjacent to the site of the proposed activity.
 - (b) Decision on Review.

- (i) No critical areas present. If, after a site visit, the Director'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 Director may determine that the critical area review is complete and note in writing the reasons that no further review is required.
 - (ii) Critical areas present, but no impact. If the Director determines that there are critical areas within or adjacent to the project area, but that Best Available Science shows that the proposed activity is unlikely to degrade the functions or values of the critical area, the Director may waive the requirement for a critical area report. A waiver may be granted if there is substantial evidence that all the following requirements are met:
 - (A) No alteration of the critical area or buffer is proposed;
 - (B) The development proposal will not impact the critical area in a manner contrary to the purpose, intent, and requirements of this chapter and Chapters 18.802 through 18.810 SMC; and
 - (C) The proposal is consistent with other applicable regulations and standards.
 - (iii) Critical areas may be affected by proposal. If the Director determines that a critical area or areas are present and may be affected by the proposal, then the Director may require the applicant to submit either or both of the following prior to further review of the project:
 - (A) A critical areas reconnaissance consistent with SMC 18.800.140. If the reconnaissance identifies the presence of critical areas, the Director may require a critical areas report.
 - (B) A critical areas report consistent with SMC 18.800.150. The Director may indicate which of the critical area types that must be addressed in the report.
- (5) Determination Subject to Reconsideration.
- (a) A determination regarding the apparent absence of one or more critical areas by the Director 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.
 - (b) 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 or consult with relevant state agencies.
- (6) The Director must condition any subsequent project permit approvals upon compliance with relevant critical areas reports and their proposed mitigation strategies and other methods to achieve protection of critical areas and compliance with Chapters 18.802 through 18.810 SMC.

18.800.140 Critical area reconnaissance.

 This is a new section.

- (1) When required per SMC 18.800.130, the applicant must submit a critical areas reconnaissance consistent with this section.
- (2) Preparation by Qualified Professional. A critical area reconnaissance must be performed by one or more qualified professionals for the types of critical areas subject to the report.
- (3) Objective. The objective of a critical areas reconnaissance is to professionally determine, based on Best Available Science and consistent with the standards in Chapters 18.802 through 18.810 SMC, whether critical areas are present on or adjacent to a project site.
- (4) Minimum documentation. At a minimum, the critical area reconnaissance must result in a letter that:

- (a) identifies the presence or absence of critical areas, and which types, on or adjacent to the site of the proposed project;
- (b) describes the means and methods the qualified professional used in making determinations.

18.800.150 Critical area report.

- (1) Preparation by Qualified Professional. A critical area report must be prepared by one or more qualified professionals for the types of critical areas subject to the report.
- (2) Incorporate Best Available Science. The critical area report must 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 must evaluate the proposal and all probable impacts to critical areas in accordance with the provisions of this chapter.
- (3) Minimum Report Contents. At a minimum, the report must contain the following:
 - (a) The name and contact information of the applicant, a description of the proposal, and identification of the permit requested;
 - (b) A copy of the site plan for the development proposal including:
 - (i) A map to scale depicting critical areas, buffers, the development proposal, and any areas to be cleared; and
 - (ii) A description of the proposed stormwater management plan for the development and consideration of impacts to drainage alterations;
 - (c) The dates, names, and qualifications of the persons preparing the report and documentation of any fieldwork performed on the site;
 - (d) Identification and characterization of all critical areas, wetlands, water bodies, and buffers adjacent to the proposed project area;
 - (e) A statement specifying the accuracy of the report, and all assumptions made and relied upon;
 - (f) An assessment of the probable cumulative impacts to critical areas resulting from development of the site and the proposed development;
 - (g) An analysis of site development alternatives including a no development alternative;
 - (h) A description of reasonable efforts made to apply mitigation sequencing pursuant to SMC 18.800.180(4), Mitigation Sequencing, to avoid, minimize, and mitigate impacts to critical areas;
 - (i) Plans for adequate mitigation, as needed, to offset any impacts, in accordance with SMC 18.800.190, Mitigation plan requirements, including, but not limited to:
 - (i) The impacts of any proposed development within or adjacent to a critical area or buffer on the critical area; and
 - (ii) The impacts of any proposed alteration of a critical area or buffer on the development proposal, other properties and the environment;
 - (j) A discussion of the performance standards applicable to the critical area and proposed activity;
 - (k) Additional information for the relevant critical area type as required by:
 - (i) SMC 18.802.080 for wetlands;
 - (ii) SMC 18.804.080 for fish and wildlife habitat conservation areas;
 - (iii) SMC 18.806.070 for geologically hazardous areas;

- (iv) SMC 18.808.070 for critical aquifer recharge areas; and
 - (v) SMC 18.810.060 for frequently flooded areas.
- (4) 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 Director.
- (5) Limitations to Study Area. The Director may limit the required geographic area of the critical area report if:
- (a) The applicant, with assistance from the city, cannot obtain permission to access properties adjacent to the project area; or
 - (b) The proposed activity affects only a limited part of the subject site.
- (6) Modifications to Required Contents. The applicant may consult with the Director 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, either more or less information is required to adequately address the potential critical area impacts and required mitigation.
- (7) Additional Information. The Director 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:
- (a) 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;
 - (b) Grading and drainage plans; and
 - (c) Information specific to the type, location, and nature of the critical area.

18.800.160 Mitigation requirements.

- (1) The applicant must endeavor to avoid all impacts that degrade the functions and values of critical areas. If alteration to the critical area is unavoidable, all adverse impacts to critical areas and buffers resulting from a development proposal or alteration are required to be mitigated using 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.
- (2) Mitigation must be in-kind and on-site, when possible, or utilizing a wetland mitigation bank, and sufficient to maintain the functions and values of the critical area, and to prevent risk from a hazard posed by a critical area.
- (3) Mitigation may not be implemented until after city permit issuance, and must be in accordance with the provisions of the mitigation plan in the approved critical area report.
- (4) Mitigation Sequencing. An applicant must 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 must 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 by repairing, rehabilitating, or restoring the affected environment to the historical conditions or the conditions existing at the time of the initiation of the project;

- (d) Minimizing or eliminating the hazard by restoring or stabilizing the area through engineered or other methods;
 - (e) Reducing or eliminating the impact by preservation and maintenance operations during the life of the action;
 - (f) Compensating for the impact by replacing, enhancing, or providing substitute resources or environments;
 - (g) Monitoring the impact or other required mitigation and taking remedial action when necessary; and
 - (h) Mitigation for individual actions may include a combination of the above measures.
- (5) The city may encourage, facilitate, and approve innovative mitigation projects that are based on Best Available Science. Conducting mitigation as part of a cooperative process does not reduce or eliminate the required replacement ratios. Advance mitigation or 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 the following circumstances exist:
- (a) Creation or enhancement of a larger system of critical areas and open space is preferable to the preservation of many individual habitat areas;
 - (b) The group demonstrates the organizational and fiscal capability to act cooperatively;
 - (c) The group demonstrates that long-term management of the habitat area will be provided; and
 - (d) There is a clear potential for success of the proposed mitigation at the identified mitigation site.
- (6) Timing. Any approved mitigation must be completed concurrently with project impacts. The Director may choose to accept a performance bond when seasonal restrictions occur, when availability of the mitigation site is limited, or when on-site construction may impact the critical area.
- (7) Mitigation is required for all unauthorized impacts.

18.800.170 Mitigation plan requirements.

When mitigation is required, the applicant must submit a mitigation plan as part of the critical area report for approval by the city. The mitigation plan must include:

- (1) Environmental Goals and Objectives. The mitigation plan must include a written report identifying environmental goals and objectives of the compensation proposed and including:
 - (a) 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 must be related to the functions and values of the impacted critical area;
 - (b) A review of Best Available Science supporting the proposed mitigation and a description of the report author's experience to date in restoring or creating the type of critical area proposed; and
 - (c) An analysis of the likelihood of success of the compensation project.
- (2) Performance Standards. The mitigation plan must include measurable specific criteria for evaluating whether the goals and objectives of the mitigation project have been successfully attained and whether or not the requirements of this chapter have been met.
- (3) Detailed Construction Plans. The mitigation plan must include written specifications and descriptions of the mitigation proposed, such as:

- (a) The proposed construction sequence, timing, and duration;
 - (b) Grading and excavation details;
 - (c) Erosion and sediment control features;
 - (d) A planting plan specifying native plant species, quantities, locations, size, spacing, and density; and
 - (e) Measures to protect and maintain plants until established;
 - (f) These written specifications must be accompanied by detailed site diagrams, scaled cross-sectional drawings, topographic maps showing slope percentage and final grade elevations, and any other drawings appropriate to show construction techniques or anticipated outcome.
- (4) **Monitoring Program.** The mitigation plan must include a program for monitoring construction of the compensation project and for assessing a completed project. A protocol must be included outlining the schedule for site monitoring (for example, monitoring occurring 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 must be submitted as needed to document milestones, successes, problems, and contingency actions of the compensation project. The compensation project must be monitored for a period necessary to establish that performance standards have been met, but not for a period less than 10 years.
- (5) **Contingency Plan.** The mitigation plan must 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.
- (6) **Financial Guarantees.** The mitigation plan must include financial guarantees, if necessary, to ensure that the mitigation plan is fully implemented. Financial guarantees ensuring fulfillment of the compensation project, monitoring program, and any contingency measures are required in accordance with SMC 18.310.080.

18.800.180 Exception – Reasonable use.

- (1) If the application of this chapter or SMC Chapters 18.802 through 18.810 would deny all reasonable economic use of the subject property, the city is responsible for determining if compensation is an appropriate action, or the property owner may apply for a reasonable use permit pursuant to this section. Note that a reasonable use exception is distinguished from a variance by the fact that a reasonable use exception is available *only* when the application of the critical areas code would deny *all* reasonable economic use of the subject property.

i Limitation on reasonable use based on Mukilteo Municipal Code 17.52.025.

- (2) **Reasonable use.** On existing legal lots 9,600 square feet or less, a maximum building footprint of 1,500 square feet is allowed. Additional impervious area for the driveway access that provides the shortest and most direct access to the house with minimal encroachment or impact into the critical area or buffer may be permitted. When determining if the access has minimum encroachment or impact on a critical area the use of bridges and open bottom culverts are considered minimal impact. Yard areas may be permitted only if they do not encroach into the critical area or buffer.
- (3) **Exception Request and Review Process.** An application for a reasonable use permit must be made to the Director and must include:
- (a) a Reasonable Use Permit application form;
 - (b) a critical area report, including mitigation plan, if necessary; and

- (c) 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) (SEPA documents).
- (4) The application is reviewed per SMC Title 18 Part 2. The Director must prepare a recommendation based on review of the submitted information, a site inspection, and the proposal's ability to comply with the reasonable use permit criteria in subsection (5) of this section.
- (5) Review Criteria. An application for a reasonable use exception may be granted if consistent with all of the following criteria:
 - (a) The application of this chapter or Chapters 18.802 through 18.810 SMC would deny all reasonable economic use of the property;
 - (b) No other reasonable economic use of the property has less impact on the critical area;
 - (c) The proposed impact to the critical area is the minimum necessary to allow for reasonable economic use of the property;
 - (d) The inability of the applicant to derive reasonable economic use of the property is not the result of actions by the applicant, or their predecessor;
 - (e) The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;
 - (f) The proposed mitigation plan will result in no net loss of critical area functions and values consistent with Best Available Science; and
 - (g) The proposal is consistent with other applicable regulations and standards.
- (6) Burden of Proof. The burden of proof is 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.

18.800.190 Exception – Public agency and utility.

- (1) If the application of this chapter or Chapters 18.802 through 18.810 SMC 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.
- (2) Exception Request and Review Process. An application for a reasonable use permit must be made to the Director and must include:
 - (a) A reasonable use permit application form;
 - (b) critical area report, including mitigation plan, if necessary; and
 - (c) 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).
- (3) The Director must prepare a recommendation based on review of the submitted information, a site inspection, and the proposal's ability to comply with the public agency and utility exception review criteria in subsection (4) of this section.
- (4) Review Criteria. An application for a public agency and utility exception may be granted if all of the following criteria apply:
 - (a) The mitigation plan sequencing analysis shows there is no other practical alternative to the proposed development with less impact on the critical areas;

- (b) The application of this chapter or Chapters 18.802 through 18.810 SMC would unreasonably restrict the ability to provide utility services to the public;
 - (c) The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;
 - (d) The proposal protects and mitigates impacts to the critical area functions and values consistent with Best Available Science; and
 - (e) The proposal is consistent with other applicable regulations and standards.
- (5) Burden of Proof. The burden of proof is 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.

i The following is a new subsection to allow for special treatment for temporary construction impacts.

- (6) The Director may provide expedited approval of temporary construction impacts, and may condition such approval to require best practices to minimize those impacts.

18.800.200 Variances.

- (1) Variances from the standards of this chapter or Chapters 18.802 through 18.808 SMC may be authorized by the city in accordance with the criteria in this section and the procedures in SMC Chapter 18.330. For variances from SMC Chapter 18.810, see the variance procedures and criteria in that chapter. Note that if application of this critical areas code would deny all reasonable economic use of the property, a reasonable use exception (SMC 18.800.180) may be appropriate.
- (2) Variance Criteria. For deviations from critical areas regulations, a variance may be granted only if the applicant demonstrates that the requested action conforms to all of the criteria in this section. The decisionmaker must review the request and make a written finding that the request meets or fails to meet the variance criteria.
 - (a) Special conditions and circumstances exist that are peculiar to the land, the lot, or something inherent in the land, and that are not applicable to other lands in the same district;
 - (b) The special conditions and circumstances do not result from the actions of the applicant;
 - (c) A literal interpretation of the provisions of this chapter or Chapters 18.802 through 18.810 SMC would deprive the applicant of 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;
 - (d) Granting the variance requested does not confer on the applicant any special privilege that is denied by this chapter or Chapters 18.802 through 18.810 SMC to other lands, structures, or buildings under similar circumstances;
 - (e) The granting of the variance is consistent with the general purpose and intent of this chapter and Chapters 18.802 through 18.810 SMC, and does 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;
 - (f) The decision to grant the variance includes Best Available Science and gives special consideration to conservation or protection measures necessary to preserve or enhance anadromous fish-habitat; and
 - (g) The granting of the variance is consistent with the general purpose and intent of the Stanwood Comprehensive Plan and adopted development regulations.

- (3) Conditions May Be Required. In granting any variance, the decisionmaker 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.
- (4) Burden of Proof. The burden of proof is on the applicant to bring forth evidence in support of the application and upon which any decision must be made on the application.

18.800.210 Unauthorized critical area alterations and enforcement.

- (1) When a critical area or its buffer has been altered in violation of this chapter or Chapters 18.802 through 18.810 SMC, all ongoing development work must stop and the critical area must be restored. The city has 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 the provisions of this chapter using the provisions of SMC Title 13.
- (2) Site Investigations. The Director is authorized to make site inspections and take such actions as are necessary to enforce this chapter. The Director is required to present proper credentials and make a reasonable effort to contact any property owner before entering onto private property.
- (3) Requirement for Restoration Plan. All development work must remain stopped until a restoration plan is approved by the city. Such a plan is required to be prepared by a qualified professional using Best Available Science and must describe how the actions proposed meet the minimum requirements described in subsection (3) of this section. The Director, at the violator's expense, is required to seek expert advice in determining the adequacy of the plan. Inadequate plans must be returned to the applicant or violator for revision and resubmittal.
- (4) Minimum Performance Standards for Restoration.
 - (a) For alterations to critical aquifer recharge areas, frequently flooded areas, wetlands, and habitat conservation areas, the following minimum performance standards must be met for the restoration of a critical area; if the violator can demonstrate that greater functional and habitat values can be obtained, these standards may be modified.
 - (i) The historic structural and functions and values must be restored, including water quality and habitat functions;
 - (ii) The historic soil types and configuration must be replicated;
 - (iii) The critical area and buffers must remove invasive species and be replanted with native vegetation that replicates the vegetation historically found on the site in species types, sizes, and densities. The historic functions and values must be replicated at the location of the alteration; and
 - (iv) Information demonstrating compliance with the mitigation requirements in SMC 18.800.160 must be submitted to the Director.
 - (b) For alterations to flood and geological hazards, the following minimum performance standards must be met for the restoration of a critical area; if the violator can demonstrate that greater safety can be obtained, these standards may be modified.
 - (i) The hazard must be reduced to a level equal to, or less than, the pre-development hazard;
 - (ii) Any risk of personal injury resulting from the alteration must be eliminated or minimized; and
 - (iii) The hazard area and buffers must be replanted with native vegetation sufficient to minimize the hazard.
- (5) Penalties. This chapter may be enforced pursuant to SMC Title 13 Civil Enforcement.

18.800.220 Critical area markers and signs.

- (1) The boundary at the outer edge of critical area tracts and easements must be delineated with permanent survey stakes, using iron or concrete markers as established by local survey standards.
- (2) The boundary at the outer edge of the critical area or buffer must be identified with temporary signs prior to any site alteration. Such temporary signs must be replaced with permanent signs prior to occupancy or use of the site. Sign design must be approved by the Director.
- (3) These provisions may be modified by the Director as necessary to ensure protection of sensitive features or wildlife needs.

18.800.230 Notice on title.

- (1) In order to inform subsequent purchasers of real property of the existence of critical areas, an applicant for a land division including any property containing a critical area or buffer on which a development proposal is submitted is required to file a title notice with the county records and elections division against the subject property, per the direction of the city.
- (2) The notice must 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.
- (3) This notice on title is not required for a development proposal by a public agency or public or private utility.
- (4) The applicant is required to submit proof that the notice has been filed for public record before the city approves any site project permit for the property or, in the case of land divisions, at or before recording.

18.800.240 Native growth protection areas or tracts.

- (1) Unless otherwise required in this chapter, an application for a land division must use native growth protection areas, placed in easements or tracts, to delineate and protect those contiguous critical areas and buffers listed below:
 - (a) All landslide hazard areas and buffers;
 - (b) All wetlands, streams, and their buffers;
 - (c) All habitat conservation areas; and
 - (d) All other lands to be protected from alterations as conditioned by project approval.
- (2) Native growth protection areas must be recorded on all documents of title of record for all affected lots.
- (3) Native growth protection areas must be designated on the face of the plat or recorded drawing in a format approved by the city attorney. The designation must include the following restrictions:
 - (a) An assurance that native vegetation is to 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
 - (b) The right of the city to enforce the terms of the restriction.
- (4) Larger areas that are accepted by the city for dedication may be placed in a critical area tract.

18.800.250 Bonds to ensure mitigation construction.

- (1) An applicant may submit a request to deter installation of any, or a portion of, their mitigation as required by their permit approval where it is not feasible, practical, or effective prior to the city final permit approval only as follows:

- (a) Seasonal or environmental factors affecting site conditions would result in low probability of plant survival;
 - (b) When project impacts occur in stages, and mitigation is only needed to align with specific phases of the project; or
 - (c) When compliance with regulatory requirements involves consultations or approvals from other agencies and cannot be finalized at the time of project approval.
- (2) If approval is granted by the City, the applicant must post a performance bond or other security in a form and amount deemed acceptable by the city.
 - (3) Deferral shall only be granted for up to 6 months. One 6-month extension may be permitted under if the applicant provides reasonable justification for the delay.

Chapter 18.802 Critical Areas – Wetlands

i The existing SMC Chapter 17.125 has been moved to this new chapter SMC 18.802. Major edits to this chapter include revising wetland regulations to align with Ecology guidance.

18.802.010 Applicability.

i This draft replaces the purpose, objectives, and "relationship to general standards" sections in each critical area chapter, which were largely duplicative of each other, with this new applicability section that makes reference to the general critical areas chapter.

This chapter provides standards for the "wetland" type of critical area and is applied pursuant to the general critical area regulations and processes in SMC Chapter 18.800.

18.802.020 Designation.

- (1) Per WAC 173-22-035, wetlands are those areas that are inundated or saturated by surface 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.
- (2) All areas within the City of Stanwood that meet the wetland designation criteria are hereby designated critical areas and are subject to the provisions of this chapter, whether or not they have been previously formally identified.

18.802.030 Classification.

- (1) Wetlands are classified using the Washington State Wetland Rating System for Western Washington, Publication Number 23-06-009, or as hereafter amended:
 - (a) Category I wetlands are wetlands that (a) represent a unique or rare wetland type; or (b) are more sensitive to disturbance than most wetlands; or (c) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or (d) provide a high level of functions. Category I wetlands include the following:
 - (i) Estuarine wetlands greater than one acre;
 - (ii) Natural heritage wetlands that are identified by the Natural Heritage Program as supporting state-listed threatened or endangered plants;

- (iii) Bogs;
 - (iv) Mature and old-growth forested wetlands;
 - (v) Wetlands in coastal lagoons; and
 - (vi) Wetlands scoring 23 to 27 based on functions in the Wetland Rating System.
- (b) Category II wetlands are those that are difficult, though not impossible, to replace and provide high levels of some functions, including:
- (i) Estuarine wetlands smaller than an acre or disturbed estuarine wetlands larger than an acre;
 - (ii) Interdunal wetlands larger than one acre; and
 - (iii) Wetlands scoring 20 to 22 based on functions in the Wetland Rating System.
- (c) Category III wetlands include:
- (i) Interdunal wetlands between one-tenth acre and one acre in size; and
 - (ii) Wetlands scoring 16 to 19 based on functions in the Wetland Rating System.
- (d) Category IV wetlands are those that have the lowest level of functions in the Wetland Rating System, scoring 9 to 15 based on functions in the Wetland Rating System.
- (2) All determinations of wetlands ratings and a wetlands delineation must be made based on the entire extent of the wetlands, unrelated to property lines or ownership patterns.

i The existing SMC section 17.125.060 Standard buffer width requirements has been moved to this section. Wetland buffer tables and the mitigation table were updated based on current Ecology guidance and the Administrative Interpretation 2018-0520. Additional allowances for existing development and acceptable activities in buffers have been added.

18.802.040 Mapping.

i This is a new section, added to maintain parallel organization with the other CA chapters.

The City maintains wetland survey maps which may be used as a guide to the presence or absence of wetlands but are not a substitute for the critical areas reconnaissance or reports required by Chapter 18.800 SMC.

18.802.050 Allowed activities.

In addition to the activities allowed in SMC 18.800.120, the following activities are allowed in wetlands and their buffers. In the event of a conflict between this section and SMC 18.800.120, this section controls.

- (1) Conservation, Preservation, Restoration, and Enhancement. Restoration and enhancement of the critical area or its buffers if that action:
- (a) does not alter the location, dimensions, or size of the critical area and buffer;
 - (b) does not alter or disturb existing native vegetation or wildlife habitat attributes (except as required for restoration or enhancement);
 - (c) improves and does not reduce the existing functions of the critical area or buffer; and
 - (d) is implemented according to a restoration or enhancement plan that has been approved by the city of Stanwood.

- (2) Disturbance of Soils. When disturbance of soils is allowed in the critical area or its buffers as part of an authorized, permitted activity or as otherwise allowed in these standards, the following rules apply:
- (a) Disturbance of soils is allowed only during the dry season, which is typically regarded as beginning on May 1 and ending on October 1 of each year; the Director may extend or shorten the dry season on a case-by-case basis, based on actual weather conditions.
 - (b) The soil duff layer in ungraded areas must remain undisturbed to the maximum extent possible. Where feasible, any soil disturbed must be redistributed to other areas of the project site outside the critical area.
 - (c) The moisture-holding capacity of the topsoil layer must be maintained by minimizing soil compaction or reestablishing natural soil structure and infiltrative capacity on all areas of the project area not covered by impervious surfaces.
 - (d) Erosion and sediment control that meets or exceeds the standards set forth in the city of Stanwood's stormwater regulations (Chapter 17.140 SMC) must be provided.
- (3) Public and Private Roadway Crossings, Bridges, and Culverts. Construction of public roadway crossings, culverts, and bridges less than or equal to 60 feet wide and private roads, bridges, or culverts less than or equal to 20 feet long, are subject to the following standards:
- (a) There is no other feasible alternative route with less impact on the critical area or buffer;
 - (b) Critical area crossings do not result in fill of greater than one-tenth of an acre of critical area;
 - (c) Mitigation for impacts is according to an approved mitigation plan; and
 - (d) The culvert will not alter the hydrology of any existing wetland.
- (4) Utility Lines. New utility lines may be permitted to cross critical area and their buffers if they comply with the following standards:
- (a) Critical areas and their buffers must be avoided to the maximum extent feasible;
 - (b) Mitigation for impacts is according to an approved mitigation plan;
 - (c) Installation under a critical area must be accomplished when feasible by boring beneath the critical area at a depth sufficient to prevent adverse hydrology impacts, or beneath the scour depth and hyporheic zone of the water body and channel migration zone, unless it is not feasible due to engineering constraints;
 - (d) When boring under the critical area is not feasible, the utilities must cross the critical area at an angle to minimize the potential impact (e.g., at an angle between 60 and 90 degrees to the centerline of the channel in a stream) and must avoid paralleling a stream or following a down-valley course near a channel;
 - (e) Critical area crossings do not result in fill of greater than one-tenth of an acre of wetland; and
 - (f) Crossings must be contained within the footprint of an existing street, driveway, or utility crossing where possible.
- (5) Modification of Existing Structures. No existing structure may be modified to increase impervious surface in a critical area or buffer.

18.802.060 Buffers.

- (1) Buffers are required for all wetlands regulated by this chapter. The required buffer widths in this section are appropriate for buffers that are well-vegetated and have applied impact minimization measures from Table 18.802.060(3); where vegetation is lacking, buffers may need to be widened or re-vegetated to create the appropriate plant community.
- (2) Required widths, in feet, for wetland buffers are as shown in the tables in this subsection.
 - (a) Table 18.802.060-1 applies when no habitat corridor meeting the criteria in this subsection is provided.
 - (b) Table 18.802.060-2 applies when a habitat corridor meeting the following criteria is provided:
 - (i) The corridor has a width of 100 ft or more; and
 - (ii) The corridor connects wetlands that score 6 or more habitat points with any of the following:
 - (A) A legally protected relatively undisturbed and vegetated area (e.g., Priority Habitats, other compensation sites, wildlife areas/refuges, or national, county and state parks where they have management plans with identified areas designated as Natural, Natural Forest, or Natural Area Preserve);
 - (B) An area that is the site of a Watershed Project identified within and fully consistent with a Watershed Plan, as these terms are defined by RCW 89-08-46054;
 - (C) An area where development is prohibited per the provisions of the local shoreline master program; or
 - (D) An area with equivalent habitat quality that has conservation status in perpetuity, in consultation with WDFW.
 - (c) An increased buffer width greater than that shown in these tables may be required per SMC 18.802.060(5).
 - (d) An additional building setback is also required per SMC 18.802.070.

Table 18.802.060-1 Wetland Buffers (without a habitat corridor)

Wetland Category	Habitat Score			Buffer Based on Special Characteristics (when Identified on Wetland Rating Form by Qualified Biologist)
	3-5	6-7	8-9	
Category I or II: Based on rating of wetland functions (and not listed below)	75	150	300	Not Applicable / Use Habitat Score
Category I: Bogs and Wetlands of High Conservation Value	190	See Special Characteristic Buffer	300	250
Category I: Forested	75	150	300	Not Applicable / Use Habitat Score
Category I: Estuarine and Coastal Lagoons	150	See Special Characteristic Buffer		200
Category II: Estuarine and wetlands in coastal lagoons	110	See Special Characteristic Buffer		150
Category III: All	60	150	300	Not Applicable / Use Habitat Score
Category IV: All	40	50	50	50

Table 18.802.060-2 Wetland Buffers (with a habitat corridor)

Wetland Category	Habitat Score			Buffer Based on Special Characteristics (when Identified on Wetland Rating Form by Qualified Biologist)
	3-5	6-7	8-9	
Category I or II: Based on rating of wetland functions (and not listed below)	75	110	225	Not Applicable / Use Habitat Score
Category I: Bogs and Wetlands of High Conservation Value	See Special Characteristic Buffer		225	190
Category I: Forested	75	110	225	Not Applicable / Use Habitat Score
Category I: Estuarine and Coastal Lagoons	See Special Characteristic Buffer			150
Category II: Estuarine and wetlands in coastal lagoons	See Special Characteristic Buffer			110
Category III: All	60	110	225	Not Applicable / Use Habitat Score
Category IV: All	40	40	40	Not Applicable / Use Habitat Score

(3) The following impact minimization measures are required in addition to the buffers described above:

Table 18.802.060-3 Wetland Impact Minimization Measures

Disturbance	Activities and Uses That May Cause Disturbance	Examples of Measures to Minimize Impacts
Lights	Parking lots, warehouses, manufacturing, high density residential	Direct lights away from wetland; use motion-activated lights; only use lighting where necessary for public safety and keep lights off when not needed; use lower-intensity LED lighting; dim light to the lowest acceptable intensity.
Noise	Manufacturing, high density residential	Place activity that generates noise away from wetland; construct a fence to reduce noise impacts on adjacent wetland and buffer; plant a strip of dense shrub vegetation adjacent to wetland buffer.
Toxic runoff	Parking lots, roads, manufacturing, residential areas, application of agricultural pesticides, landscaping	Route all new untreated runoff away from wetland while ensuring wetland is not dewatered; establish covenants limiting use of pesticides within 150 feet of wetland; apply integrated pest management program.
Stormwater runoff/Change in water regime	Any impermeable surface, lawns, tilling	Infiltrate or treat, detain, and disperse runoff from impervious surfaces; retrofit stormwater detention and treatment for roads and existing adjacent development; prevent channelized or sheet flow from lawns that directly enters the buffer.
Pests and humans	Residential areas	Privacy fencing or landscaping with dense vegetation to delineate buffer edge and to discourage disturbance of wildlife by humans and pets; educational signage.
Dust	Tilled fields, roads	Best management practices for dust control.
Degraded buffer	Existing degraded buffer condition	Non-native plants to be removed and replaced with native vegetation per an approved planting plan; and restoration to be bonded and monitored per SMC 18.800.250.
Other	Other	Other as further defined by DOE wetlands guidance documents.

(4) Measurement.

- (a) The buffer must be measured horizontally in a landward direction from the wetland edge.
- (b) Where lands adjacent to a wetland display a continuous slope of 25% or greater, the buffer must include all such sloping areas.

(5) Increased Buffers.

- (a) Priority Habitat Areas. If a Category I or II wetland with habitat score greater than five points is located within 300 feet of a priority habitat area as defined by the Washington State Department of Fish and Wildlife, the buffers established by subsection (2) of this section must be increased by 50 feet unless the applicant provides a relatively undisturbed vegetated corridor at least 100 feet wide between the wetland and all priority habitat areas located within 300 feet of the wetland. The corridor must be protected for the entire distance between the wetland and the priority habitat through a conservation easement, native growth protection easement or the equivalent.
- (b) Habitat for Endangered or Threatened Species, or Species of Local Importance. If the wetland contains documented habitat for endangered or threatened species, or species of local importance, the Director must establish the appropriate buffer based on a habitat assessment to ensure that the buffer provides adequate protection for the species.

(6) Averaging Buffer Widths. The width of a buffer may be averaged, thereby reducing the width of a portion of the buffer, and increasing the width of another portion, if the Director determines that all the following requirements are met:

- (a) The ecological structure and function of the buffer after averaging is equivalent to or greater than the structure and function before averaging;
- (b) The total area of the buffer after averaging is equivalent to or greater than the area of the buffer before averaging;
- (c) The additional buffer is contiguous with the standard buffer;
- (d) If the buffer averaging allows a structure or landscaped area to intrude into the original buffer, the resulting intrusion may extend no more than 15 feet into the original buffer area; and
- (e) No part of the width of the resulting buffer is less than 65% of the required buffer.

(7) Category IV wetlands less than 4,000 square feet: Wetlands that meet the following criteria are not subject to the avoidance and minimization requirements of this code and they may be filled if the impacts are fully mitigated through the purchase of credits from a mitigation bank or an in-lieu fee program, if available. A critical areas report must be submitted verifying that the wetlands:

- (a) Are located in the areas covered by the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region (U.S. Army Corps of Engineers, 2010);
- (b) Are not associated with riparian areas or their buffers;
- (c) Are not associated with shorelines of the state or their associated buffers;
- (d) Are not part of a wetland mosaic;
- (e) Do not score 6 or more points for habitat function based on the Washington State Wetland Rating System for Western Washington (Ecology Publication #14-06-029 or as revised by Ecology);
- (f) Do not contain a Priority Habitat or a Priority Area for a Priority Species identified by the Washington Department of Fish and Wildlife;

- (g) Do not contain state or federally listed species, or their critical habitat; and
 - (h) Do not contain species of local importance as identified by the city of Stanwood.
- (8) Wetlands less than 1,000 square feet: Wetlands that meet the criteria listed in subsection 7 above are exempt from the buffer provisions contained in this Chapter.
- (9) Functionally Disconnected Buffers. Buffers may exclude areas that are functionally and effectively disconnected from the wetland by an existing public or private road, or legally established development as determined by the Director. Functionally and effectively disconnected means that the road or other significant development blocks the protective measures provided by a buffer.
- (a) Significant developments include built public infrastructure such as roads, railroads, dikes, and private developments such as homes or commercial structures.
 - (b) Allowable buffer exclusion should be limited in scope to just the portion of the buffer affected and may not interrupt the entire buffer's functions.
 - (c) A critical area report may be required by the Director to analyze and document the buffer functionality.

18.802.070 Building setbacks.

Unless otherwise provided, buildings and other structures must be set back 15 feet from the edges of all wetland buffer boundaries. The following may be allowed in the building setback area:

- (1) Landscaping;
- (2) Uncovered decks;
- (3) Building overhangs if such overhangs do not extend more than 18 inches into the setback area; and
- (4) Impervious ground surfaces, such as driveways and patios; such improvements may be subject to water quality regulations as adopted in Chapter 17.140 SMC.

18.802.080 Critical area report requirements.

A critical area report is required for any development activity allowed under this chapter and SMC 18.802.100 within the critical area or its buffer. In addition to the general requirements of SMC 18.800.150, the following must be included in the critical area report:

- (1) A map drawn to scale or survey showing the following information:
 - (a) the edge of the wetland based on the standards listed in WAC 173-22-035;
 - (b) the wetland characteristics and plant communities based on the U.S. Fish and Wildlife Service Classification of Wetlands and Deep Water Habitats in the U.S.;
 - (c) stream corridors including name (if named) and stream type based on the State Department of Natural Resources' Official Water Type Maps; and
 - (d) observed or reported wildlife that make use of the area including, but not limited to, nesting, breeding, and feeding areas;
- (2) A description of the streams and wetlands within 225 feet of the subject property, including:
 - (a) buffers;
 - (b) drainage systems entering and leaving the site;
 - (c) a list of observed and documented plant and wildlife species;
 - (d) a description of the relative abundance of documented plant and wildlife species; and
 - (e) a description of the method used for flagging the wetland edge, stream corridor, and buffers;

- (3) A description and illustration of proposed development activities allowed under this section and SMC 18.802.100 within the wetlands or buffers;
- (4) A description of any previous disturbances to the wetlands or buffers;
- (5) A summary of the methodology used to conduct the study, including documentation of any fieldwork performed on the site, field data sheets for delineations, rating system forms, and baseline hydrologic data;
- (6) A description of the methodologies used to conduct the wetland delineations, wetland ratings and impact analyses, including references;
- (7) A proposed classification of the wetlands based on SMC 18.802.050 and an explanation or rationale for the proposed rating;
- (8) A mitigation plan that meets the requirements of SMC 18.802.090;
- (9) A discussion of existing functions and values of the wetland(s) and buffers;
- (10) A discussion of the changes to wetland and buffer functions and values resulting from the proposed development activity.

18.802.090 Mitigation plan requirements.

- (1) If alteration of a wetland is unavoidable, all adverse impacts to the wetland must be mitigated in accordance with the mitigation plan component of an approved critical area report. When mitigation is required by this chapter, it must address restoration, rehabilitation, and compensation in accordance with SMC 18.800.160 and 18.800.170 and the following requirements:
 - (a) Wetland acreage must be replaced at the following ratios when proposed on site or off site within the same subdrainage basin ("Stillaguamish floodplain"):

Table 18.802.090-1 Replacement Ratios

Wetland Category	Re-Establishment of Creation	Rehabilitation	Preservation	Enhancement	Other
Wetlands of High Conservation Value	Consult with WA DNR	Consult with WA DNR	24:1	Consult with WA DNR	As Determined by the Dept. of Ecology or Corp of Engineers
Category 1 – Forested	6:1	12:1	24:1	24:1	
Category 1 – Bogs	N/A	N/A	24:1	N/A	
Category 1 – Estuarine	3:1 (Re-establishment only)	6:1	12:1	Limited Circumstances (case by case)	
Category I – All Others	4:1	8:1	16:1	16:1	
Category II - Estuarine	4:1 (Re-establishment only)	8:1	16:1	Limited Circumstances (case by case)	
Category II – All Others	3:1	6:1	12:1	12:1	

Category III	2:1	4:1	8:1	8:1	
Category IV	1.5:1	3:1	6:1	6:1	

(b) In kind, on-site mitigation that is sufficient to achieve equivalent or greater critical area and/or buffer biologic functions and values is preferred to ensure, to the greatest extent feasible, that the plan results in mitigation for direct impacts resulting from the alteration.

(c) Off-site mitigation may be used in those situations where adequate on-site mitigation is not feasible to achieve.

(2) The mitigation plan must:

(a) Include a baseline study that analyzes the existing functions and values of the wetlands and buffer, functions and values that may be lost, and the system's functions and values after mitigation;

(b) Specify how lost functions and values will be replaced;

(c) Specify when mitigation will occur relative to project construction and to the requirements of permits required by other jurisdictions;

(d) Address the need for and, when appropriate, determine the width of the buffer adjacent to any altered wetland edge;

(e) In public projects, provide interpretative signage at the rate of one per every five acres or portion thereof, the contents and design of which must be approved by the Director prior to installation;

(f) Include a narrative monitoring plan and plan sheet with sufficient detail for the City to field verify mitigation success.

18.802.100 Wetland mitigation bank credit.

(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 Director 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 must 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.

Chapter 18.804 Critical Areas – Fish and Wildlife Habitat Conservation Areas

i The existing SMC Chapter 17.130 has been moved to this new Chapter SMC 18.804. The definition for FWHCA's will be updated in the definitions section, consistent with RCW 36.70A.030(6). The following sections were updated based on Ecology guidance, including changing the stream typing to be consistent

throughout the chapter. The stream buffers were also updated by adding a requirement for using SPTH for new development.

18.804.010 Applicability.

i This draft replaces the purpose, objectives, and "relationship to general standards" sections in each critical area chapter, which were largely duplicative of each other, with this new applicability section that makes reference to the general critical areas chapter.

This chapter provides standards for the "Fish and Wildlife Habitat Conservation Area" type of critical area and is applied pursuant to the general critical area regulations and processes in SMC Chapter 18.800.

18.804.020 Designation.

- (1) All areas within the City meeting one or more of the criteria in (2) are hereby designated Fish and Wildlife Habitat Conservation Areas and are subject to the provisions of this chapter.
- (2) Fish and Wildlife Habitat Conservation Areas include:
 - (a) Areas with which state or federally designated endangered, threatened, and sensitive species have a primary association.
 - (i) Federally designated endangered and threatened species are those fish and wildlife species identified by the U.S. Fish and Wildlife Service and the National Marine Fisheries Service that are in danger of extinction or are threatened to become endangered. The U.S. Fish and Wildlife Service and the National Marine Fisheries Service may be consulted as necessary for current listing status.
 - (ii) State designated endangered, threatened, and sensitive species are those fish and wildlife species native to the state of Washington identified by the Washington Department of Fish and Wildlife that are in danger of extinction, threatened to become endangered, vulnerable, or declining and are likely to become endangered or threatened in a significant portion of their range within the state without cooperative management or removal of threats. State designated endangered, threatened, and sensitive species are periodically recorded in WAC 232-12-014 (state endangered species), and WAC 232-12-011 (state threatened and sensitive species). The Washington Department of Fish and Wildlife maintains the most current listing and may be consulted as necessary for current listing status.
 - (b) State Priority Habitats and the Habitats of State Priority Species. Priority habitats and species are priorities for conservation and management. Priority species require protective measures for their perpetuation due to their population status; sensitivity to habitat alteration; and/or recreational, commercial, or tribal importance. Priority habitats are those habitat types or elements with unique or significant value to a diverse assemblage of species. A priority habitat may consist of a unique vegetation type or dominant plant species, a described successional stage, or a specific structural element. Priority habitats and species are identified by the Washington Department of Fish and Wildlife; maps and reports can be obtained by contacting the Washington Department of Fish and Wildlife's Priority Habitats and Species Program.
 - (c) Habitats and Species of Local Importance. Habitats and species of local importance are those identified by the City Council, including those that possess unusual or unique habitat warranting protection. Any species identified by the City Council must be listed.
 - (d) Commercial and Recreational Shellfish Areas. These areas include all public and private tidelands or bedlands suitable for shellfish harvest, kelp, eelgrass beds and forage fish spawning areas, including shellfish protection districts established pursuant to Chapter 90.72 RCW.

- (e) Naturally Occurring Ponds under 20 Acres. Naturally occurring ponds are those ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat, including those artificial ponds intentionally created from dry areas to mitigate impacts to ponds. Naturally occurring ponds do not include ponds deliberately designed and created from dry sites, such as canals, detention facilities, farm ponds, temporary construction ponds, and landscape amenities, unless such artificial ponds were intentionally created for mitigation.
- (f) Waters of the State. In the city of Stanwood, waters of the state include lakes, ponds, streams, inland waters, underground waters, and all other surface waters and watercourses within the jurisdiction of the state of Washington, as classified in WAC 222-16-031.
- (g) State Natural Area Preserves and Natural Resource Conservation Areas. Natural area preserves and natural resource conservation areas are defined, established, and managed by the Washington Department of Natural Resources.
- (h) Land essential for preserving connections between habitat blocks and open spaces.

18.804.030 Classification.

i This section is based on existing SMC 17.130.050.

i The classification of streams was updated based on the new water typing system in WAC 222-16-030. Language closely mirrors the WAC and was not updated for grammar or plain language. Some inconsistencies between code and WAC were inherited from existing code. Updated “department” in the definition to “Ecology.”

Streams are classified as described in this section, consistent with WAC [222-16-030](#):

- (1) Type S Streams. All waters, within their bankfull width, as inventoried as “shorelines of the state” under Chapter 90.58 RCW and the rules promulgated pursuant to Chapter 90.58 RCW, including periodically inundated areas of their associated wetlands.
- (2) Type F Streams. Segments of natural waters other than Type S Waters, which are within the bankfull widths of defined channels and periodically inundated areas of their associated wetlands, or within lakes, ponds, or impoundments having a surface area of 0.5 acre or greater at seasonal low water, as more fully described in WAC [222-16-030](#).
- (3) Type Np Streams. All segments of natural waters within the average bankfull width of defined channels that are perennial non-fish habitat streams. Perennial streams are streams that do not dry any time during a year of normal rainfall. Type Np streams are not used by fish and do not have the potential to provide fish habitat. If the uppermost point of perennial flow cannot be identified with simple, nontechnical observations (see State Forest Practices Board Manual, Section 23), then Type Np Streams begin at a point along the channel where the contributing basin area is at least 52 acres.
- (4) Type Ns Streams. All segments of natural waters within the average bankfull width of the defined channels that are not Type S, F, or Np Streams. These are seasonal, nonfish habitat streams in which surface flow is not present for at least some portion of a year of normal rainfall and are not located downstream from any stream reach that is a Type Np streams. Ns Waters must be physically connected by an above-ground channel system to Type S, F, or Np streams.

18.804.040 Mapping

- (1) The approximate location and extent of fish and wildlife habitat conservation areas are shown on the City's critical area maps contained in the comprehensive plan. These maps may be used as a general guide only and actual type, extent, and boundaries must be determined by a qualified biologist.

- (2) The City and Washington State DNR maintain hydro-watercourse maps which may be used as a guide to identification of stream types, but not as a definitive declaration of stream type. To establish the stream type for the purposes of this chapter, stream typing must generally include on-site reconnaissance by a qualified biologist.
- (3) Critical habitat is the specific areas within the geographic area, occupied by the species at the time it was listed, that contain the physical or biological features that are essential to the conservation of endangered and threatened species and that may need special management or protection. Washington State Department of Fish and Wildlife maintains a Priority Habitats and Species Website which contains on-line maps which can be used as a guide to identify potential development impacts on species.

18.804.050 Allowed activities.

In addition to the activities allowed in SMC 18.800.120, the following activities are allowed in FWHCAs and their buffers. In the event of a conflict between this section and SMC 18.800.120, this section controls.

i The activities in SMC 18.802.050 for wetlands duplicated almost the entirety of this section, so we're incorporating that by reference.

- (1) Any of the activities allowed in SMC 18.802.050.
- (2) Streambank Stabilization.
 - (a) Streambank stabilization to protect new structures from future channel migration is not permitted except when such stabilization is achieved through bioengineering or soft armoring techniques in accordance with an approved critical area report. All actions must comply with the appropriate state and federal guidelines and obtain any required state and federal permits.
 - (b) Streambank stabilization to protect existing structures from channel migration is permitted in accordance with an approved critical area report. All actions must comply with the appropriate state and federal guidelines and obtain any required state and federal permits.
 - (c) Maintenance of existing streambank stabilization features is allowed subject to the following:
 - (i) Only hand equipment (no power tools) may be used within the stream and stream buffer;
 - (ii) No clearing of vegetation within the stream or stream buffer;
 - (iii) Maintenance actions must be restricted to May 1st through October 1st or as modified by appropriate state and federal timing restrictions; and
 - (iv) All actions must comply with the appropriate state and federal guidelines and obtain any required state and federal permits.

i Note previous subsections (6) and (7) from earlier drafts have been moved to chapter 18.800.

18.804.060 Buffers.

i This section is based on existing SMC 17.130.060.

i Consistent with Department of Fish and Wildlife guidance and Best Available Science, this section proposes to abandon the table of buffer widths based on stream type and instead set buffer width based on site-

Buffers are required for all streams regulated by this chapter. Required minimum stream buffer widths are as stated in this section.

- (1) New development must utilize the Washington Department of Fish and Wildlife (WDFW) site potential tree height (SPTH) mapping tool to determine appropriate stream buffers. The buffer must be equal to the height of the tallest 200-year-old site-potential tree (SPTH₂₀₀) or 100 feet, whichever is greater. Note an additional building setback as required by SMC 18.804.070 is also required.
- (2) Buffers for state or federally designated endangered, threatened, and sensitive species per SMC 18.804.020(2) must be established per an approved habitat management plan as described in SMC 18.804.090.
- (3) Measurement.
 - (a) The buffer must be measured horizontally in a landward direction from the ordinary high-water mark.
 - (b) Where lands adjacent to a stream display a continuous slope of 25% or greater, the buffer must include all such sloping areas.
- (4) Averaging Buffer Widths. The width of a buffer may be averaged, thereby reducing the width of a portion of the buffer, and increasing the width of another portion, if all the following requirements are met:
 - (a) Averaging does not impair or reduce the habitat, water quality purification and enhancement, stormwater detention, groundwater recharge, shoreline protection and erosion protection, and other functions of the stream or buffer;
 - (b) The total area of the buffer on the subject property is not less than the buffer which would be required if averaging were not allowed; and
 - (c) No part of the width of the buffer is less than 65% of the required width or 25 feet, whichever is greater.
- (5) Buffer Width Reduction. Buffer widths may be reduced if the buffer is enhanced in accordance with the following requirements:
 - (a) Buffer width reduction and enhancement is targeted for buffer areas that have minimal functions and values due to existing physical characteristics;
 - (b) The applicant demonstrates that proposed buffer enhancement, together with proposed buffer width reduction, will result in an increase in the functional value of the buffer when compared with the functional value of the standard buffer;
 - (c) The applicant includes a comparative analysis of buffer values prior to and after enhancement, and demonstrates compliance with this section, as part of the critical area report described in SMC 18.804.080;
 - (d) The buffer width is not reduced below 75% of the standard buffer width, or 25 feet, whichever is greater, and the total buffer area reduction is not less than 75% of the total buffer area before reduction; and
 - (e) The functions and values of the stream protected by the buffer are not decreased.
- (6) Functionally Disconnected Buffers. Buffers may exclude areas that are functionally and effectively disconnected from the stream by an existing public or private road, or legally established development as determined by the Director. Functionally and effectively disconnected means that the road or other significant development blocks the protective measures provided by a buffer.

- (a) Significant developments include built public infrastructure such as roads, railroads, dikes, and private developments such as homes or commercial structures.
- (b) Allowable buffer exclusion should be limited in scope to just the portion of the buffer affected and shall not interrupt the entire buffer functions.
- (c) A critical area report may be required by the Director to analyze and document the buffer functionality.

18.804.070 Building setbacks.

- (1) Buildings and other structures must be set back 15 feet from the outer edges of stream buffers, except as provided in subsection (2).
- (2) The following may be allowed in the building setback area:
 - (a) Landscaping;
 - (b) Uncovered decks;
 - (c) Building overhangs if such overhangs do not extend more than 18 inches into the setback area; and
 - (d) Impervious surfaces such as driveways and patios (subject to City stormwater regulations).

i New provisions addressing existing development and activities in buffers have been added.

18.804.080 Critical area report requirements.

- (1) If a critical area report is required, the Director may require that the critical area report contain any or all of the components described in this section, in addition to the general requirements of SMC 18.800.150.
- (2) Stream and buffer impacts:
 - (a) Stream corridors, name (if named), and stream type based on the State Department of Natural Resources' Official Water Type Maps and SMC 18.804.050;
 - (b) Observed or reported wildlife that make use of the area including, but not limited to, nesting, breeding, and feeding areas;
 - (c) A description of the streams and wetlands within 150 feet of the subject property, including buffers, drainage systems entering and leaving the site, a list of observed and documented plant and wildlife species, a description of the relative abundance of documented plant and wildlife species, and a description of the method used for flagging the wetlands edge, stream corridor, and buffers;
 - (d) A description and illustration of proposed development activities within the stream or buffer;
 - (e) A description of any previous disturbances to the stream or buffer;
 - (f) A summary of the methodology used to prepare the report;
 - (g) A mitigation plan which meets the requirements of SMC 18.800.160 and 18.800.170;
 - (h) A stream relocation plan, if applicable;
 - (i) A discussion of existing functions and values of the stream and buffers; and
 - (j) A discussion of the changes to stream and buffer functions and values resulting from the proposed development activity.
- (3) Wildlife Habitat:
 - (a) If a habitat assessment is required, it must be integrated into the critical area report as described in subsection (2) above;

- (b) A map drawn to scale or survey showing the location and description of the primary association area(s) of the species or natural habitats on the property;
- (c) Physical and biological features that the species needs for life processes including:
 - (i) Space for individual and population growth for normal behavior;
 - (ii) Cover or shelter;
 - (iii) Food, water, air light minerals, or other nutritional or physiological requirements;
 - (iv) Site for breeding and rearing offspring, germination, or seed dispersal; and
 - (v) Habitats that protected from disturbances or are representative of the historical geographical and ecological disturbances of the species;
- (d) If the habitat assessment identifies a fish and wildlife habitat conversation area is present or adjacent to a development, then a habitat management plan consistent with SMC 18.804.090 must be prepared and integrated into the critical areas report.

18.804.090 Mitigation and management requirements

- (1) If the habitat assessment determines that the proposed development could potentially adversely impact a fish and wildlife habitat conservation area, the applicant must provide a habitat management and mitigation plan consistent with this section for evaluation by the city, state, and federal agencies.
- (2) The habitat management and mitigation plan must be prepared by a qualified biologist.
- (3) The habitat management and mitigation plan must be based on the most currently available best available science to minimize impacts associated with the proposed development. The following guidance documents must be used when preparing the plan:
 - (a) Washington State Department of Fish and Wildlife Priority Habitats and Species (PHS) Program;
 - (b) Washington State Department of Fish and Wildlife Land Use Planning for Salmon, Steelhead, and Trout guidance paper;
 - (c) Governor's Salmon Recovery Office and Recreation and Conservation Office website for ecosystem connectively and riparian vegetation; and
 - (d) Statewide Strategy to Recovery Salmon: the Washington Way.
- (4) The habitat management and mitigation plan must contain:
 - (a) A description of how the proposal will avoid, minimize or mitigate impacts to fish or critical species and their habitats;
 - (b) A mitigation plan that specifies how functions and values lost as a result of the activity will be replaced;
 - (c) Specifications for when and how mitigation will occur relative to construction;
 - (d) Performance standards for monitoring and maintenance of the mitigation area; and
 - (e) Calculation of performance and maintenance surety amounts.

Chapter 18.806 Critical Areas – Geologically Hazardous Areas

i The existing SMC Chapter 17.115 Critical Areas – Geologically Hazardous Areas – Specific Standards has been moved to this new Chapter SMC 18.806. A definition for geologically hazardous areas will be added to the definitions section, consistent with RCW 36.70A.030(14) and WAC 365-190-120(1).

18.806.010 Applicability.

i This draft replaces the purpose, objectives, and "relationship to general standards" sections in each critical area chapter, which were largely duplicative of each other, with this new applicability section that makes reference to the general critical areas chapter.

This chapter provides standards for the "Geologically Hazardous Area" type of critical area and is applied pursuant to the general critical area regulations and processes in SMC Chapter 18.800.

18.806.020 Designation.

i The following definition is taken from the critical areas checklist and RCW 36.70A.030(14) and WAC 365-190-120(1). This definition also appears in the definitions chapter of Title 18.

- (1) Geologically hazardous areas, as defined in RCW 36.70A.030 and WAC 365-190-120, include areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to the siting of commercial, residential, or industrial development consistent with public health and safety concerns. They pose a threat to the health and safety if incompatible development is sited in areas of significant hazard. Such incompatible development may not only place itself at risk, but also may increase the hazard to surrounding development and use. Areas susceptible to one or more of the following types of hazards must be designated as a geologically hazardous area:
 - (a) Erosion hazard;
 - (b) Landslide hazard;
 - (c) Seismic hazard; and
 - (d) Other geological events including tsunamis, volcanic hazards, and differential settlement.
- (2) Erosion Hazard Areas. Erosion hazard areas include, but are not limited to, those areas identified by the U.S. Department of Agriculture's Natural Resources Conservation Service as having a "moderate to severe," "severe," or "very severe" rill and inter-rill erosion hazard. On the city's critical areas maps, these are shown as areas of moderate or steep slopes. Erosion hazard areas are also those areas impacted by shore land or stream bank erosion, or both.
- (3) Landslide Hazard Areas. Landslide hazard areas are areas potentially subject to landslides based on a combination of geologic, topographic, and hydrologic factors. They include areas susceptible because of any combination of bedrock, soil, slope (gradient), slope aspect, structure, hydrology, or other factors. Examples include:
 - (a) Areas of historic failures, such as those areas delineated by the U.S. Department of Agriculture's Natural Resources Conservation Service as having a "severe" limitation for building site development;
 - (b) Areas with all three of the following characteristics:
 - (i) Slopes steeper than 15%; and

- (ii) Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and
 - (iii) Springs or groundwater seepage;
 - (c) Areas that have shown movement during the Holocene epoch (from 10,000 years ago to the present) or that are underlain or covered by mass wastage debris of that epoch;
 - (d) Slopes that are parallel or subparallel to planes of weakness (such as bedding planes, joint systems, and fault planes) in subsurface materials;
 - (e) Areas potentially unstable because of rapid stream incision, stream bank erosion, and undercutting by wave action, including stream channel migration zones;
 - (f) Areas located in a canyon or on an active alluvial fan, presently or potentially subject to inundation by debris flows or catastrophic flooding; and
 - (g) Any area with a slope of 40% or steeper and with a vertical relief of 10 or more feet except areas composed of consolidated rock. A slope is delineated by establishing its toe and top and measured by averaging the inclination over at least 10 feet of vertical relief.
- (4) Seismic Hazard Areas. Seismic hazard areas are areas subject to severe risk of damage as a result of earthquake-induced ground shaking, slope failure, settlement, soil liquefaction, lateral spreading, or surface faulting. Settlement and soil liquefaction conditions occur in areas underlain by cohesionless, loose, or soft-saturated soils of low density, typically in association with a shallow groundwater table. One indicator of potential for future earthquake damage is a record of earthquake damage in the past. Ground shaking is the primary cause of earthquake damage in Washington. The strength of ground shaking is primarily affected by:
- (a) The magnitude of an earthquake;
 - (b) The distance from the source of an earthquake;
 - (c) The type of thickness of geologic materials at the surface; and
 - (d) The type of subsurface geologic structure.
- (5) Tsunami Hazard Areas. Tsunami hazard areas are coastal areas and large lake shoreline areas susceptible to flooding and inundation as the result of excessive wave action derived from seismic or other geologic events.

i The following sections were reworked based on the Critical Areas Checklist.

- (6) Volcanic Hazard Areas. Areas susceptible to mud or debris flows from volcanic eruptions (Glacier Peak).
- (7) Other Hazard Areas. Geologically hazardous areas also include areas determined by the city to be susceptible to other geological events including mass wasting, debris flows, rock falls, and differential settlement, and hazards from mine workings (such as adits, gangways, tunnels, drifts, or air shafts).

18.806.030 Classification.

Geologic hazard areas are classified according to the following categories for each geologic hazard type.

Table 18.806.040-1 Geologic hazard types

Classification	Documentation and Data Sources
Known or suspected risk	Documentation or projection of the hazard by a qualified professional exists.
Risk unknown	Documentation or projection of the lack of hazard by a qualified professional exists, or data are not available to determine the presence or absence of a geologic hazard.

18.806.040 Mapping.

i This section is based on existing SMC 19.70.420 Mapping.

- (1) The approximate location and extent of geologically hazardous areas are shown on the adopted critical area maps (see the Natural Features Element of the Stanwood Comprehensive Plan). The adopted critical area maps include:
 - (a) U.S. Geological Survey landslide, seismic, and volcanic hazard maps;
 - (b) Department of Natural Resources Geological Survey's Geologic Information Portal, including seismic hazards and slope stability, as applicable;
 - (c) National Oceanic and Atmospheric Administration tsunami hazard maps (pending); and
 - (d) Locally adopted maps.
- (2) These maps are to be used as a guide for city staff, 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.

18.806.050 Allowed activities.

In addition to the activities allowed in SMC 18.800.120, the following activities are allowed in geologically hazardous areas and their setbacks. In the event of a conflict between this section and SMC 18.800.120, this section controls.

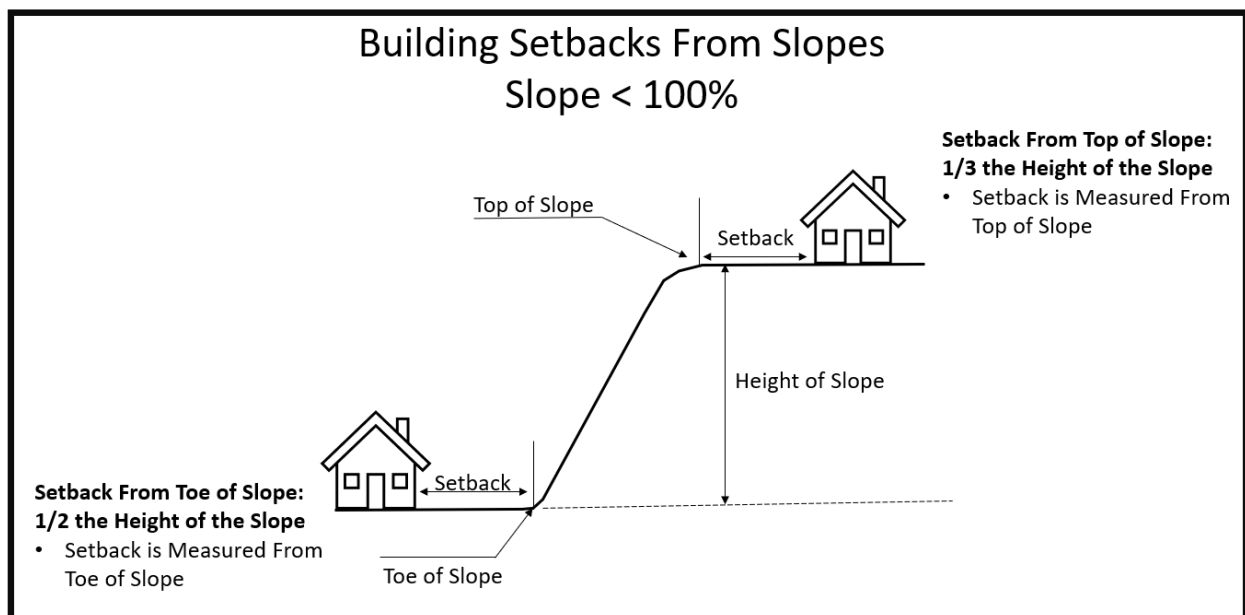
- (1) In addition to the standards in SMC 18.800.120, trails proposed to be located in landslide or erosion hazard areas must be constructed in a manner that does not increase the risk of landslide or erosion and in accordance with an approved geotechnical report.
- (2) Moderate and Severe Erosion Hazards and Landslide Hazards on Moderate and Steep Slopes. Except as otherwise provided for in this chapter and Chapter 18.800 SMC, only those activities approved and permitted consistent with an approved geotechnical report in accordance with this chapter are allowed in moderate or severe erosion hazard areas or in landslide hazard areas with moderate or steep (severe) slopes.
- (3) The following activities are allowed within slight erosion, low landslide, all volcanic, and all seismic hazard areas without a geotechnical report:
 - (a) Construction of new buildings with less than 2,500 square feet of floor area or roof area, whichever is greater, and which are not residential structures or used as places of employment or public assembly;
 - (b) Single-Family Infill Development. Construction of a single-family unit, additions, and accessory structures that do not impact streams, wetlands, or their buffers; and
 - (c) Installation of fences.
- (4) Critical facilities are not permitted on seismic faults or tsunami inundation areas. If such a prohibition is unreasonable, an allowance for critical facilities in tsunami areas can be made with the following specific conditions:
 - (a) Construction of new critical facilities is permissible if no feasible alternative site is available.
 - (b) Critical facilities must have the lowest floor elevated three feet or more above the level of the base flood elevation (100-year flood).
 - (c) Floodproofing and sealing measures must be taken to ensure that toxic substances are not displaced by or released into flood waters.

- (d) Access routes elevated to or above the level of the base flood elevation are provided to all critical facilities to the extent possible.

18.806.060 Setbacks and Other Performance Standards.

- (1) Erosion and Landslide Hazard Areas. Activities on sites containing moderate or high erosion or landslide hazards must meet the following requirements:
- (a) Setback Required. A setback must be established from all edges of moderate or high erosion or landslide hazard areas. The size of the setback must be determined by the city to eliminate or minimize the risk of property damage, death or injury resulting from erosion and landslides caused in whole or part by the development, based upon review of and concurrence with a geotechnical report prepared by a qualified professional.
- (i) Minimum Setback. At the base of a slope, the setback must be equal to one-half the height of the slope (as measured vertically from the toe to the top of the slope). For slopes less than 100%, the setback must be measured from the toe of the slope. For slopes greater than 100%, the setback must be measured from a projection of a 100% slope from the top of the slope rather than the actual toe of the slope. See Figure 18.806.080-1.
- (ii) At the top of a slope, the setback must be equal to one-third the height of the slope. For slopes less than 100%, this setback must be measured from the top of the slope. For slopes greater than 100%, this setback must be measured from the projection of a 100% slope originating at the toe.

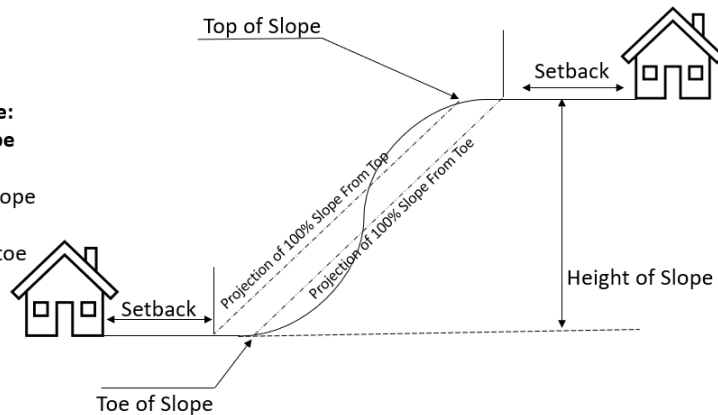
Figure 18.806.080-1 Setback widths for slopes



Building Setbacks From Slopes Slopes $\geq 100\%$

Setback From Toe of Slope: $\frac{1}{2}$ the Height of the Slope

- Measured From a Projection of a 100% Slope from the top of slope rather than the actual toe of Slope



Setback From Top of Slope: $\frac{1}{3}$ the Height of the Slope

- Measured From a Projection of a 100% Slope from the toe of slope rather than the actual top of Slope

- (iii) **Setback Reduction.** The setback may be reduced to a minimum of 25 feet if a qualified professional demonstrates to the city's satisfaction that the reduction adequately protects the proposed development, adjacent developments and uses and the subject critical area.
- (iv) **Increased Setback.** The setback may be increased where the city determines a larger setback is necessary to prevent risk of damage to proposed and existing development.
- (b) **Alterations.** Alterations of an erosion or landslide hazard area and/or setback may only occur for activities for which a geotechnical analysis is submitted and certifies that:
 - (i) The development will not increase surface water discharge or sedimentation to adjacent properties beyond pre-development conditions;
 - (ii) The development will not decrease slope stability on adjacent properties; and
 - (iii) Such alterations will not adversely impact other critical areas.
- (c) **Design Standards.** Development within an erosion or landslide hazard area and/or setback must be designed to meet the following basic requirements unless it can be demonstrated that an alternative design that deviates from one or more of these standards provides greater long-term slope stability while meeting all other provisions of this chapter. The requirement for long-term slope stability excludes designs that require regular and periodic maintenance to maintain their level of function. The basic development design standards are:
 - (i) The proposed development may not decrease the factor of safety for landslide occurrences below the limits of 1.5 for static conditions and 1.2 for dynamic conditions. Analysis of dynamic conditions must be based on a minimum horizontal acceleration as established by the current version of the Uniform Building Code;
 - (ii) Structures and improvements must be clustered to avoid geologically hazardous areas and other critical areas;
 - (iii) Structures and improvements must minimize alterations to the natural contour of the slope and foundations shall be tiered where possible to conform to existing topography;
 - (iv) Structures and improvements must be located to preserve the most critical portion of the site and its natural landforms and vegetation;

- (v) The proposed development may not result in greater risk or a need for increased setbacks on neighboring properties;
 - (vi) The use of retaining walls that allow the maintenance of existing natural slope area is preferred over graded artificial slopes;
 - (vii) Development must be designed to minimize impervious lot coverage.
- (d) **Vegetation Must Be Retained.** Unless otherwise provided or as part of an approved alteration, removal of vegetation from an erosion or landslide hazard area is prohibited. Yard and other uses are allowed in the setback if allowed by the approved geotechnical report.
- (e) **Seasonal Restriction.** Clearing is allowed only from May 1st to October 1st of each year; the city may extend or shorten the dry season on a case-by-case basis depending on actual weather conditions, except that timber harvest, not including brush clearing or stump removal, may be allowed pursuant to an approved forest practice permit issued by the Department of Natural Resources.
- (f) **Utility Lines and Pipes.** Utility lines and pipes are permitted in erosion and landslide hazard areas only if the applicant demonstrates that no other practical alternative is available. The line or pipe must be located above ground and properly anchored and/or designed so that it will continue to function in the event of an underlying slide. Stormwater conveyance are allowed only through a high-density polyethylene pipe with fuse-welded joints, or similar product that is technically equal or superior.
- (g) **Point Discharges.** Point discharges from surface water facilities and roof drains onto or upstream from an erosion or landslide hazard area are prohibited except as follows:
- (i) Conveyed via continuous storm pipe downslope to a point where there are no erosion hazard areas;
 - (ii) Discharged at flow durations matching predeveloped conditions, with adequate energy dissipation, into existing channels that previously conveyed stormwater runoff in the predeveloped state; or
 - (iii) Dispersed discharge upslope of the steep slope onto a low-gradient undisturbed setback demonstrated to be adequate to infiltrate all surface and stormwater runoff, and where it can be demonstrated that such discharge will not increase the saturation of the slope.
- (h) **Subdivisions.** The division of land in erosion and landslide hazard areas and associated setbacks is subject to the following:
- (i) Land that is located wholly within an erosion or landslide hazard area or its setback may not be subdivided. Land that is located partially within an erosion or landslide hazard area or its setback may be divided; if each resulting lot has sufficient buildable area outside of, and will not affect, the erosion or landslide hazard or its setback.
 - (ii) Access roads and utilities may be permitted within the erosion or landslide hazard area and associated setbacks if the city determines that no other feasible alternative exists.
- (i) **Prohibited Development.** On-site sewage disposal systems, including drain fields, are prohibited within erosion and landslide hazard areas and related setbacks.
- (2) **Tsunami Hazard Areas (Unknown Hazard).** Activities on sites containing areas susceptible to inundation due to tsunami hazards require an evacuation and emergency management plan. Uses in all tsunami hazard areas must adhere to the following standards, in addition to the other requirements of this chapter:
- (a) All new construction must be located landward of the reach of mean high tide.
 - (b) All new construction and substantial improvements must be elevated on pilings and columns so that:
 - (i) The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated one foot or more above the base flood level; and

- (ii) The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind and water loading values must each have a 1% chance of being equaled or exceeded in any given year (100-year mean recurrence interval).
- (c) Design Must Be Certified. The structural design, specifications and plans for a proposed activity within a tsunami hazard area must be developed, reviewed, and certified by a registered professional engineer or architect that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the standards of this section.
- (d) Space Below Lowest Floor Must Be Free of Obstruction. The space below the lowest floor of all new construction and substantial improvements must be either free of obstruction or constructed with nonsupporting breakaway walls, open wood latticework, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purposes of this section, a breakaway wall is required to have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or if required by local or state codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:
 - (i) Breakaway wall collapse must result from water load less than that which would occur during the base flood; and
 - (ii) The elevated portion of the building and supporting foundation system is not subject to collapse, displacement, or other structural damage because of wind and water loads acting simultaneously on all building components (structural and nonstructural). Maximum wind and water loading values to be used in this determination must each have a 1% chance of being equaled or exceeded in any given year (100-year mean recurrence interval).
- (e) Use of Breakaway Walls Must Be Limited. If breakaway walls are utilized, such enclosed space must be used solely for parking of vehicles, building access, or storage, and may not be used for human habitation.
- (f) Manufactured Homes. Manufactured homes to be placed or substantially improved in tsunami hazard areas must meet the requirements of this chapter.
- (g) Recreational Vehicles. Recreational vehicles placed on sites within tsunami hazard areas must meet the requirements of this chapter.
- (3) Seismic and Other Hazard Areas. Alterations of these geologically hazardous areas or associated setbacks may only occur for activities that:
 - (a) Do not increase the threat of the geological hazard to adjacent properties beyond pre-development conditions;
 - (b) Do not adversely impact other critical areas;
 - (c) Are designed so that the hazard to the project is eliminated or mitigated to a level equal to or less than pre-development conditions; and
 - (d) Are certified as safe as designed and under anticipated conditions by a qualified engineer or geologist, licensed in the state of Washington.

18.806.070 Geotechnical report requirements.

In addition to the general requirements of SMC 18.800.150, geotechnical reports for geologically hazardous areas must meet the requirements of this section.

- (1) Erosion and Landslide Hazard Areas. A geotechnical report for an erosion hazard or landslide hazard area must include the following information at a minimum:
 - (a) Site Plan. The report must include a copy of the site plan for the proposal showing:
 - (i) The height of slope, slope gradient, and cross section of the project area;
 - (ii) The location of springs, seeps, or other surface expressions of groundwater on or within 200 feet of the project area or that have the potential to be affected by the proposal; and
 - (iii) The location and description of surface water runoff.
 - (b) Hazards Analysis. The hazards analysis must specifically include:
 - (i) A description of subsurface conditions based on data from site-specific explorations;
 - (ii) Descriptions of surface and groundwater conditions, public and private sewage disposal systems, fills and excavations, and all structural improvements;
 - (iii) An estimate of slope stability and the effect construction and placement of structures may have on the slope over the estimated life of the structure;
 - (iv) An estimate of the bluff retreat rate that recognizes and reflects potential catastrophic events such as seismic activity or a 100-year storm event;
 - (v) Consideration of the run-out hazard of landslide debris and/or the impacts of landslide run-out on down slope properties;
 - (vi) A study of slope stability including an analysis of proposed cuts, fills, and other site grading;
 - (vii) Recommendations for building siting limitations;
 - (viii) An analysis of proposed surface and subsurface drainage, and the vulnerability of the site to erosion.
 - (c) Geotechnical Engineering Report. The technical information for a project within a landslide hazard area must include a geotechnical engineering report prepared by an engineer licensed in the State of Washington that presents engineering recommendations for the following:
 - (i) Parameters for design of site improvements including appropriate foundations and retaining structures. These must include allowable load and resistance capacities for bearing and lateral loads, installation considerations, and estimates of settlement performance;
 - (ii) Recommendations for drainage and subdrainage improvements;
 - (iii) Earthwork recommendations including clearing and site preparation criteria, fill placement and compaction criteria, temporary and permanent slope inclinations and protection, and temporary excavation support, if necessary; and
 - (iv) Mitigation of adverse site conditions including slope stabilization measures and seismically unstable soils, if appropriate.
 - (d) Erosion and Sediment Control Plan. For any development proposal on a site containing an erosion hazard area, an erosion and sediment control plan is required. The erosion and sediment control plan must be prepared in compliance with requirements set forth in the city's stormwater management regulations.
 - (e) Drainage Plan. The report must include a drainage plan for the collection, transport, treatment, discharge and/or recycling of water prepared in accordance with the city's surface water management plan. The drainage plan must consider on-site septic system disposal volumes where the additional volume will affect the erosion or landslide hazard area.

- (f) Mitigation Plans. Hazard and environmental mitigation plans for erosion and landslide hazard areas must include the location and methods of drainage, surface water management, locations and methods of erosion control, a vegetation management and/or replanting plan and/or other means for maintaining long-term soil stability.
 - (g) Monitoring Surface Waters. If the city determines that there is a significant risk of damage to downstream receiving waters due to potential erosion from the site, based on the size of the project, the proximity to the receiving waters, or the sensitivity of the receiving waters, the geotechnical report must include a plan to monitor the surface water discharge from the site. The monitoring plan must include a recommended schedule for submitting monitoring reports to the city.
- (2) Seismic Hazard Areas. In addition to the basic report requirements, a geotechnical report for a seismic hazard area must also meet the following requirements:
- (a) The site map must show all known and mapped faults that are within 200 feet of the project area or that have potential to be affected by the proposal.
 - (b) The hazards analysis must include a complete discussion of the potential impacts of seismic activity on the site (for example, forces generated and fault displacement).
 - (c) A geotechnical engineering report must evaluate the physical properties of the subsurface soils, especially the thickness of unconsolidated deposits and their liquefaction potential. If it is determined that the site is subject to liquefaction, mitigation measures appropriate to the scale of the development must be recommended and implemented.
- (3) Tsunami Hazard Areas. In addition to the basic report requirements, a geotechnical report for a tsunami hazard area must meet the following requirements:
- (a) Site Plan. The site plan must show all areas within 200 feet of the project area that have the potential to be inundated by wave action derived from a seismic event;
 - (b) Hazards Analysis. The hazards analysis must include a complete discussion of the potential impacts of the tsunami hazard on the site; and
 - (c) Emergency Management Plan. The emergency management plan must include plans for emergency building exit routes, site evacuation routes, emergency training, notification of local emergency management officials, and an emergency warning system.
- (4) Volcanic and Other Geologically Hazardous Areas. In addition to the basic report requirements, the Director may require additional information to be included in the geotechnical report if determined to be necessary to review the proposed activity and the subject hazard. Additional information that may be required includes, but is not limited to:
- (a) Site Plan. The site plan must show all hazard areas located within 200 feet of the project area or that have the potential to be affected by the proposal; and
 - (b) Hazards Analysis. The hazards analysis must include a complete discussion of the potential impacts of the hazard on the project area and of the proposal on the hazard.

Chapter 18.808 Critical Areas – Critical Aquifer Recharge Areas

i The existing SMC Chapter 17.135 Critical Areas – Critical Aquifer Recharge Areas – Specific Standards has been moved to this new Chapter SMC 18.808.

18.808.010 Applicability.

i This draft replaces the purpose, objectives, and "relationship to general standards" sections in each critical area chapter, which were largely duplicative of each other, with this new applicability section that makes reference to the general critical areas chapter.

This chapter provides standards for the "Critical Aquifer Recharge Area" type of critical area and is applied pursuant to the general critical area regulations and processes in SMC Chapter 18.800.

18.808.020 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(3). 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. These areas include the following:

- (1) Wellhead Protection Areas. Wellhead protection areas may be defined by the boundaries of the 10-year time of groundwater travel or boundaries established using alternate criteria approved by the Washington State Department of Health in those settings where groundwater time of travel is not a reasonable delineation criterion, in accordance with WAC 246-290-135.
- (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 Water Drinking 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.

18.808.040 Mapping.

- (1) The approximate location and extent of critical aquifer recharge areas are shown on the adopted critical areas maps (see the Natural Features Element of the Stanwood Comprehensive Plan).
- (2) 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.

18.808.050 Allowed activities.

The following activities are permitted in a CARA without a critical areas report:

- (1) Activities permitted under SMC 18.800.120.
- (2) Residential uses connected to the city sewer.
- (3) Commercial/industrial/institutional uses connected to the city sewer that do not utilize, produce, store, or otherwise discharge hazardous materials, as defined in WAC 173-303-090(8) or SMC 18.808.110.
- (4) Utility lines.

18.808.060 Prohibited activities.

The following activities or uses are prohibited within all critical areas identified as CARAs:

- (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) Mining.
 - (a) Metals and hard rock mining; and
 - (b) Sand and gravel mining, prohibited from critical aquifer recharge areas determined to be highly susceptible or vulnerable;
- (4) Wood Treatment Facilities. Wood treatment facilities that allow any portion of the treatment process to occur over permeable surfaces (both natural and manmade);
- (5) Hard chrome plating operations;
- (6) Chemical lagoons and pits;
- (7) Hazardous material disposal sites;
- (8) Storage, Processing, or Disposal of Radioactive Substances. Facilities that store, process, or dispose of radioactive substances;
- (9) New septic systems; and
- (10) 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 baseflow to a regulated stream; and
 - (c) Activities that are not connected to an available sanitary sewer system, prohibited from critical aquifer recharge areas associated with sole source aquifers.

18.808.070 Critical area report requirements.

- (1) A critical area report is required for:
 - (a) any proposed use that is not allowed under SMC 18.808.050;
 - (b) any activity that is located within the one-year time of travel zone for any wellhead.

- (2) In addition to the requirements of SMC 18.800.150, a hydrogeological assessment must be provided in a critical area report, and contain the following information:
- (a) Available information regarding geologic and hydrogeologic characteristics of the site including the surface location of all critical aquifer recharge areas located on-site or immediately adjacent to the site, and permeability of the unsaturated zone;
 - (b) Groundwater depth, flow direction, and gradient based on available information;
 - (c) Currently available data on wells and springs within 1,300 feet of the project area;
 - (d) Location of other critical areas, including surface waters, within 1,300 feet of the project area;
 - (e) Available historic water quality data for the area to be affected by the proposed activity;
 - (f) Best management practices proposed to be utilized, including any low impact development techniques;
 - (g) Historic water quality data for the area to be affected by the proposed activity compiled for at least the previous five-year period;
 - (h) Groundwater monitoring plan provisions;
 - (i) Discussion of the effects of the proposed project on the groundwater quality and quantity, including:
 - (i) Predictive evaluation of groundwater withdrawal effects on nearby wells and surface water features; and
 - (ii) Predictive evaluation of contaminant transport based on potential releases to groundwater; and
 - (j) A spill plan that identifies equipment and/or structures that could fail, resulting in an impact. Spill plans must include provisions for regular inspection, repair, and replacement of structures and equipment that could fail.

18.808.080 Class I and Class I operations.

Certain nonresidential operations present a greater potential risk to water resources because of the volume and type of hazardous materials that are managed. These nonresidential operations are classified below and are subject to the stipulated actions defined in this section.

Table 18.808.090-1 Classifications

Class I Operations	
Definition	Operations that at any time within a one-year period will or do manage over 220 pounds in total of the following: A. Hazardous materials, including any mixtures thereof, that contain constituents referenced in the Code of Federal Regulations, 40 CFR 302.4 (referenced in Section 103(a) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)); or B. Hazardous materials, including any mixtures thereof, that contain constituents from the lists specified for Class II operations below.
Concentration Declassification	A Class I operation is no longer a classified operation if the Class I constituents (40 CFR 302.4) contained in a product or waste are individually present at less than 1% by weight for noncarcinogenic hazardous materials, and less than 0.1% by weight for known or suspected carcinogenic hazardous materials. (Operators should review the Safety Data Sheet for the hazardous materials to make this determination).

Consumer Quantity Declassification	A Class I operation is no longer a classified operation if both of the following conditions are met: A. The operation is focused on research, education, distribution or consumer-oriented activities, including but not limited to laboratories, hospitals, schools, cargo handlers, distributors, warehouses, or retailers; and B. Products containing Class I or Class II hazardous materials are managed in closed containers or sealed bags with individual capacities of no more than 10 gallons for a liquid material and no more than 80 pounds for a dry or solid material.
Metal and Metal Alloy Declassification	Solid metals and solid metal alloys, including but not limited to roll stock, bar stock, sheet stock, and manufactured articles such as equipment, parts, building materials, and piping, that contain one or more metals listed in 40 CFR 302.4 or WAC 173-303-090(8) must be declassified; except, that where machining, forming, grinding, cutting, melting, or other activities produce residues such as shavings, grindings, swarf, fume, or other finely divided particulate forms of a listed metal or metal alloy that may present a threat to water resources, such residues shall not be declassified.
Class II Operations	
Definition	Operations that at any time within a one-year period will or do manage over 2,200 pounds in total of the following: A. Hazardous materials, including any mixtures thereof, that exhibit the characteristic of toxicity because they contain leachable constituents as defined in WAC 173-303-090(8) as amended; or B. Hazardous materials, including any mixtures thereof, that contain constituents that are referenced on the Halogenated Solvent List in SMC 18.808.110.
Site Cleanup Reclassification	A Class II operation must be reclassified as a Class I operation if the primary activity is site remediation or cleanup pursuant to an approved settlement agreement or a remedial action under Chapter 70.105B RCW.
Concentration Reclassification	A Class II operation must be reclassified as a Class I operation if the Class II constituents (from WAC 173-303-090(8)) are present in the hazardous materials being managed at concentrations of less than 5% by weight.
Transfer Warehouse Reclassification	A Class II operation must be reclassified as a Class I operation if the following conditions are met: A. The operation is a transfer warehouse where shipments of products, which may be hazardous materials but not dangerous wastes, are held in portable containers for transfer; and B. Containers of hazardous materials are not opened at the site under any circumstance; and Products containing Class II hazardous materials are managed in containers with individual capacities of no more than 400 gallons.
Consumer Quantity Declassification	A Class II operation is no longer a classified operation if both of the following conditions are met: A. The operation is focused on research, education, distribution, or consumer-oriented activities, including but not limited to laboratories, hospitals, schools, cargo handlers, distributors, warehouses, or retailers; and B. Products containing Class I or Class II hazardous materials are managed in closed containers or sealed bags with individual capacities of no more than 10 gallons for a liquid material and no more than 80 pounds for a dry or solid material.

18.808.090 Required BMPs for Class I and Class II operations.

(1) Development Restrictions.

- (a) No Class I or Class II operations are permitted within the one-year time of travel zone in a wellhead protection area.
- (b) No Class II operations are permitted within the five-year time of travel zone in a wellhead protection area.

(2) Structural Best Management Practices. All new Class I and II operations must implement the provisions of this section prior to the date of issuance of the certificate of occupancy.

- (a) Design and Construction. Operations must be designed, constructed, maintained, and operated to minimize the possibility of an unplanned release of hazardous materials to soil or water resources.

- (b) Container/Tank Management. A container or tank holding a hazardous material must always be closed, except to add or remove materials. Hazardous materials must also be managed so that they do not damage the structural integrity of the operation or devices containing the material.
 - (c) Container/Tank Condition. All containers and tanks must be maintained in such a manner as to ensure effective operation and prevent the release of hazardous materials.
 - (d) Container/Tank Identification. The owner/operator is required to label all containers and tanks containing hazardous materials to identify the major risk(s) associated with the contents. This labeling must conform to applicable sections of the Uniform Fire Code, Occupational Safety and Health Standards, and/or the State of Washington's Dangerous Waste Regulations.
 - (e) Releases and Ancillary Equipment. Any leaking pipe, pump, or other ancillary equipment must be repaired or replaced promptly. All hazardous materials that have been released are to be contained and abated immediately. The City is to be notified of any release of hazardous materials in quantities greater than or equal to the reportable quantities referenced in 40 CFR 302.4 (also referenced in Section 103a of CERCLA), or releases of other hazardous materials that clearly impact water resources, as soon as possible but no later than 24 hours after the release. Ancillary equipment associated with hazardous materials must be supported and protected against physical damage and excessive stress.
 - (f) Compatibility. The owner/operator must use a container or tank made of or lined with materials which are compatible with the hazardous materials to be stored.
 - (g) Containment. Container and tank storage areas must have a containment system that can collect and holding spills and leaks. This containment must:
 - (i) Be constructed of an impervious surface with sealed joints;
 - (ii) Eliminate or minimize joints between concrete slabs and slab/foundation interfaces in the operation;
 - (iii) Provide pollution control measures to protect water resources, including run-off collection and discharge from active areas;
 - (iv) Be designed to provide secondary containment of 110% of the container's or tank's capacity; or in areas with multiple tanks, 110% of the largest tank or 10% of the aggregate tank volumes, whichever is larger. Secondary containment must be provided in all areas where hazardous materials are loaded/unloaded, transferred, accumulated, or stored; and
 - (v) Be compatible with the materials that are being handled.
 - (h) Loading Areas. Loading and unloading areas must be designed, constructed, operated, and maintained to:
 - (i) Contain spills and leaks that might occur during loading/unloading;
 - (ii) Prevent releases of hazardous materials to water resources;
 - (iii) Contain wash waters (if any) resulting from the cleaning of contaminated transport vehicles and load/unload equipment; and
 - (iv) Allow for removal as soon as possible any collected hazardous materials resulting from spills, leaks, and equipment cleaning.
 - (i) Closure. At closure of an operation, all remaining structures, containers, tanks, liners, and soil containing or contaminated with hazardous materials at concentrations above state and federal regulatory thresholds must be decontaminated and properly disposed of or managed.
- (3) Spill and Emergency Response Plan (SERP).

- (a) All new Class I and II operations must develop and implement a Spill and Emergency Response Plan (SERP) within 90 days of the date of issuance of the certificate of occupancy. Other operations may also be required to develop and implement a SERP if the city determines this action will help prevent releases of hazardous materials to water resources.
- (b) The SERP must be maintained on-site and be made available to the city upon request.
- (c) The SERP must be updated at least every five years or as needed to reflect significant changes in operation or practices.
- (d) At a minimum, the SERP must include the following information:
 - (i) Spill Prevention.
 - (A) Drawings including the layout of the operation, a floor plan, direction of drainage, entrance and exit routes, and areas where hazardous materials are received, stored, transported, handled or used in operations.
 - (B) Listings of all hazardous materials on-site including types, volumes, locations and container types and sizes.
 - (C) Spill prevention related equipment including equipment which serves to detect releases of potential water resources contaminants.
 - (ii) Emergency Response.
 - (A) Chain of command and procedures for spill response.
 - (B) Phone list of response agencies including federal, state and city emergency contact numbers and environmental cleanup companies.
 - (C) Procedures for treating and disposing of spilled hazardous materials.
 - (iii) Certification. The SERP must include a certification signed by an authorized representative of the operation stating: "I certify that the information provided in this document is to the best of my knowledge true and complete, and the spill prevention equipment and emergency response measures described herein are as stated." The signed certificate must include the authorized representative's name (printed), title, and contact information.

(4) Operational Inspections.

- (a) All new Class I and II operations must implement the provisions of this section upon issuance of certificate of occupancy. Other operations may also be required to implement these provisions if the city determines this action will help prevent releases of hazardous materials to water resources.
- (b) Schedule. The owner/operator must develop a written schedule for inspecting all monitoring equipment, safety or emergency equipment, security devices, and any other equipment that helps prevent, detect, or respond to water resource-related hazards.
- (c) Regular Inspections. The owner/operator must perform site inspections to identify malfunctions and deterioration of equipment or containers, operator errors, discharges, or any other condition that may cause or lead to the release of hazardous materials to water resources. The owner/operator must conduct these inspections often enough to identify problems in time to correct them before they impact water resources. Inspections must be completed in all areas where hazardous materials are managed, and a written record of those inspections made at least annually.
- (d) Water Resource-Related Hazard Mitigation. The owner/operator must remedy any problems revealed by the inspection. Where a water resource-related hazard is imminent or has already occurred, remedial action must be taken immediately.

(5) Training Program.

- (a) All new Class I and II operations must implement the provisions of this section upon issuance of certificate of occupancy. Other facilities also may be required to implement these provisions if the city determines this action will help prevent releases of hazardous materials to water resources.
- (b) Operations must develop a training program or amend an existing program that informs employees at least once each year of any possible risks to water resources associated with on-site operations. The owner/operator must ensure that employees know or understand:
 - (i) The location of hazardous materials managed at the operation and the associated potential risks to water resources;
 - (ii) The location of safety data sheets (SDS) at the operation;
 - (iii) How employees can detect the presence or release of hazardous materials;
 - (iv) How employees can protect themselves through work practices, emergency procedures, and with personal protective equipment;
 - (v) How to locate and use the operation's spill and emergency response plan; and
 - (vi) How to prevent the pollution or contamination of water resources.

(6) Closure Plan.

- (a) Each new Class II operation must prepare and submit to the city a closure plan within six months of the date of issuance of the certificate of occupancy. Class II operations must ensure that their facilities are closed in a manner that prevents the release of hazardous materials during closure, protects water resources, and prevents post-closure escape of hazardous materials to water.
- (b) Plan Requirements. The closure plan must detail how the operation will, upon any closure anticipated to be longer than two years, remove and properly dispose of hazardous materials, and perform an investigation to confirm the presence or absence of hazardous materials in the soil and groundwater, if potential contamination is indicated. Specifically, the closure plan must include the following:
 - (i) A listing of the types and quantities of hazardous materials reasonably expected to be present on-site during the operating life of the operation.
 - (ii) A description of the plan for removal and disposal of hazardous materials.
 - (iii) A description of the plan to decontaminate containment systems and ancillary equipment.
 - (iv) An estimate of the cost to implement the closure plan, using the assumption that a third party will conduct removal and disposal activities.
 - (v) A certification signed by an authorized representative of the business/industry submitting the closure plan stating, "I certify that the information provided in this document is to the best of my knowledge accurate and the closure measures described herein will be implemented as stated." The signed certificate must include the authorized representative's name (printed), title, and contact information.
- (c) Report Update. The owner/operator of an operation must update the closure plan every five years or recertify the current information and estimates. The closure plan must also be updated if operating procedures change in such a way that the volume/mass of hazardous material is increased by 25% or more.

(7) Engineering and Operating Report. If the city recognizes and demonstrates a need for additional information on an operation's practices, the city may require the operation to submit an engineering and operating

report to accommodate the city's review of operations and to prevent releases of hazardous materials to water resources. If required, the report must provide the following:

- (a) The type of industry or business including the kind and quantity of finished products.
- (b) A process flow diagram illustrating the process flow of water and materials in a normal operating day. This must include details on the operation's plumbing and piping and where specific chemicals are added to processes.
- (c) A discussion of any discharges to the municipal sewer system.
- (d) A discussion of any discharges through land applications, including seepage lagoons, irrigation, and subsurface disposal. As applicable, this discussion may also include the depth to groundwater and anticipated overall effects of the operations on the quality of water resources.
- (e) Provisions for any plans for future expansion or intensification.
- (f) A certification signed and dated by an authorized representative of the operation stating: "I certify that the information provided in this document is to the best of my knowledge true and complete." The signed certificate must include the authorized representative's name (printed), title, and contact information.

(8) Records and Reports.

- (a) Operations must maintain records of required inspection, training, cleaning, and maintenance events. Where operations are otherwise required by the city or another agency to maintain such records, those records must satisfy this requirement. All operations are required to maintain these records on-site for at least three years and must make them available to the city upon request.
- (b) Plans, reports, or other documentation concerning the management of hazardous materials must also be made available to the city upon request.
- (c) Information provided to the city must be available to the public. Information not claimed as confidential at the time of submission must be made available to the public if requested.

18.808.100 Halogenated solvent list.

i This section is existing SMC 17.135.110, and is referenced in the Class I/Class II Operations section above.

Table 18.808.110-1 Halogenated Solvent List

Solvent	Synonym(s)	CAS No.	Specific Density (g/cc)
Benzyl chloride	Chloromethylbenzene	100-44-7	1.100
Bis(2-chloroethyl)ether	Bis(-chloroethyl)ether	111-44-4	1.220
Bis(2-chloroisopropyl)ether	Bis(-chloroisopropyl)ether	108-60-1	1.103
Bromobenzene	Phenyl bromide	108-86-1	1.495
Bromochloromethane	Chlorobromomethane	74-97-5	1.934
Bromodichloromethane	Dichlorobromomethane	75-27-4	1.980
Bromoethane	Ethyl bromide	74-96-4	1.460
Bromoform	Tribromomethane	75-25-2	2.890
Carbon tetrachloride	Tetrachloromethane	56-23-5	1.594
Chlorobenzene	Benzene chloride	108-90-7	1.106
2-Chloroethyl vinyl ether	(2-Chlorethoxy)ethane	110-75-8	1.048

Solvent	Synonym(s)	CAS No.	Specific Density (g/cc)
Chloroform	Trichloromethane	67-66-3	1.483
1-Chloro-1-nitropropane	Chloronitropropane	600-25-9	1.209
2-Chlorophenol	o-Chlorophenol	95-57-8	1.263
4-Chlorophenyl phenyl ether	p-Chlorodiphenyl ether	7005-72-3	1.203
Chloropicrin	Trichloronitromethane	76-06-2	1.656
m-Chlorotoluene		108-41-8	1.072
o-Chlorotoluene	2-Chloro-1-methylbenzene	95-45-8	1.082
p-Chlorotoluene		106-43-4	1.066
Dibromochloromethane	Chlorodibromomethane	124-48-1	2.451
1,2-Dibromo-3-chloropropane	DPCP	96-12-8	2.050
Dibromodifluoromethane	Freon 12-B2	75-61-6	2.297
1,2-Dichlorobenzene	o-Dichlorobenzene	95-50-1	1.305
1,3-Dichlorobenzene	m-Dichlorobenzene	541-73-1	1.288
1,1-Dichloroethane	1,1-DCA	75-34-3	1.176
1,2-Dichloroethane	Ethylene dichloride, 1,2-DCA	107-06-2	1.235
1,1-Dichloroethene	Vinylidene chloride 1,1-DCE	75-35-4	1.218
trans-1,2-Dichloroethylene	trans-1,2-DCE	156-60-5	1.257
1,2-Dichloropropane	Propylene dichloride	78-87-5	1.560
cis-1,3-Dichloropropene	cis-1,3-Dichloropropylene	10061-01-5	1.224
trans-1,3-Dichloropropene	trans-1,3-Dichloropropylene	10061-02-0	1.182
Ethylene dibromide	1,2-Dibromoethane, EDB	106-93-4	2.179
Hexachlorobutadiene	HCBD	87-68-3	1.554
Hexachlorocyclopentadiene	HCCPD	77-47-4	1.702
Methylene chloride	Dichloromethane	75-09-2	1.327
Pentachloroethane	Ethane pentachloride	76-01-7	1.680
1,1,2,2-Tetrabromoethane	Acetylene tetrabromide	79-27-6	2.875
1,1,2,2-Tetrachloroethane	Acetylene tetrachloride	79-34-5	1.595
Tetrachloroethylene	Perchloroethylene, PCE	127-18-4	1.623
1,2,4-Tetrachlorobenzene	1,2,4-TCB	120-82-1	1.454
1,1,1-Trichloroethane	Methyl chloroform, 1,1,1-TCA	71-55-6	1.339
1,1,2-Trichloroethane	1,1,2-TCA	79-00-5	1.440
Trichloroethylene	TCE	79-01-6	1.464
1,1,2-Trichlorofluoromethane	Freon 11	75-69-4	1.487
1,2,3-Trichloropropane	Allyl trichloride	96-18-4	1.389
1,1,2-Trichlorotrifluoroethane	Freon 113	76-13-1	1.564

Chapter 18.810 Critical Areas – Frequently Flooded Areas

i The existing SMC Chapter 17.120 is moved to this new Chapter SMC 18.810. This section was renamed from “Floodplain Management” to “Critical Areas – Frequently Flooded Areas”

18.810.010 Applicability.

i This draft replaces the purpose, objectives, and "relationship to general standards" sections in each critical area chapter, which were largely duplicative of each other, with this new applicability section that makes reference to the general critical areas chapter.

- (1) This chapter provides standards for the Frequently Flooded Area type of critical area and is applied pursuant to the general critical area regulations and processes in SMC Chapter 18.800.
- (2) Because this chapter implements requirements for the City’s participation in the National Flood Insurance Program, in the event of a conflict between this chapter and Chapter 18.800 SMC, this chapter controls.

18.810.020 Methods of reducing flood losses.

To accomplish its purpose, this chapter includes methods and provisions for:

- (1) Restricting or prohibiting development that is dangerous to health, safety, and property due to water or erosion hazards, or which results in damaging increases in erosion or in the flood heights or velocities;
- (2) Requiring that development vulnerable to floods be protected against flood damage at the time of initial construction;
- (3) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- (4) Controlling filling, grading, dredging and other development which may increase flood damage; and
- (5) Preventing or regulating the construction of flood barriers that unnaturally divert flood water or may increase flood hazards in other areas.

18.810.030 General provisions.

- (1) Lands to Which These Standards Apply. These standards apply to all areas of special flood hazards within the jurisdiction of the city of Stanwood. All development within special flood hazard areas is subject to the regulations contained within this chapter and all other state or federal regulations. Special flood hazards may result from high river flow, alteration of river channels, tsunamis, high tides combined with high winds, sea level rise associated with global warming, and increased runoff due to increased impervious surface area.
- (2) Basis for Establishing the Areas of Special Flood Hazard. The areas of special flood hazard identified by the Federal Insurance Administrator in a scientific and engineering report entitled “The Flood Insurance Study for Snohomish County, Washington and Incorporated Areas,” dated June 19, 2020, and any revisions thereto, with accompanying Flood Insurance Rate Map (FIRM), and any revisions thereto, is adopted by reference and declared to be a part of this code. The flood insurance study is on file at City Hall.
- (3) Penalties for Noncompliance. No structure or land may hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of these standards and other applicable regulations. Violation of the provisions of these standards by failure to comply with any of their requirements (including violations of conditions and safeguards established in connection with conditions) constitutes a misdemeanor. Any person who violates this chapter or fails to comply with any of its

requirements must upon conviction thereof be fined not more than \$1,000 or imprisoned for not more than 90 days or both for each violation and in addition must pay all costs and expenses involved in the case. Nothing herein contained may prevent the city of Stanwood from taking such other lawful action as is necessary to prevent or remedy any violation.

- (4) Abrogation and Greater Restrictions. These standards are not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where these standards and any other code, easement, covenant, or deed restriction conflict or overlay, whichever imposes the more stringent restrictions must prevail.
- (5) Interpretation. In the interpretation and application of these standards, all provisions must be:
 - (a) Considered as minimum requirements;
 - (b) Liberally construed in favor of the governing body; and
 - (c) Deemed neither to limit nor repeal any other powers granted under state statutes.
- (6) Warning and Disclaimer of Liability. The degree of flood protection required by these standards is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by humanmade or natural causes. These standards do not imply that land outside the areas of special flood hazards, or uses permitted within such areas, will be free from flooding or flood damages. These standards may not create liability on the part of the city of Stanwood, any officer or employee thereof, or the Federal Insurance and Mitigation Administration for any flood damages that result from reliance on them, or any administrative decision lawfully made hereunder.

i The definition for “substantial improvement” has been moved to this section and updated to allow for upgrades up to 50% of the building’s value every year, rather than every two years.

- (7) For the purpose of this chapter, “substantial improvement” means any reconstruction, rehabilitation, addition, or other improvement of a structure taking place during the last 12-month period, the cost of which equals or exceeds 50% of the market value of the structure before “the start of construction” of the improvement must comply with the requirements of SMC 18.810. This includes structures which have incurred “substantial damage,” regardless of the actual repair work performed. Substantial improvement does not include either:
 - (a) Any project for improvement of a structure to correct previously identified existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and that are the minimum necessary to assure safe living conditions; or
 - (b) Any alteration of a “historic structure”; provided, that the alteration will not preclude the structure’s continued designation as a “historic structure.”

18.810.040 Administration.

i This section is based on SMC 17.120.030 Administration.

- (1) Designation. The Director serves as the city’s floodplain administrator and is hereby appointed to administer, implement, and enforce these standards by granting or denying development permit applications in accordance with their provisions.

i Several of the duties below were restructured and renumbered to make clear that they are responsibilities of the floodplain administrator/director.

(2) Duties. The duties of the Director include, but are not limited to:

- (a) Review all development permits to determine that:
 - (i) The permit requirements of these standards have been satisfied;
 - (ii) All necessary permits have been obtained from those federal, state, or local government agencies from which prior approval is required.
 - (iii) The site is reasonably safe from flooding;
 - (iv) Notify Federal Insurance Administrator if annexations occur in the special flood hazard area.
 - (b) Use of Other Base Flood Data. If base flood elevation data has not been provided in accordance with SMC 18.810.020(2), Basis for Establishing the Areas of Special Flood Hazard, the Director is required to obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source to administer SMC 18.810.080, Specific Standards.
 - (c) Obtain and maintain flood information.
 - (i) Where base flood elevation data is provided through the flood insurance study or otherwise required, these data must be obtained and a record made of the actual (as-built) elevation (in relation to mean sea level) of the lowest floor, including basement, of all new or substantially improved structures, and whether the structure contains a basement.
 - (ii) For all new or substantially improved floodproofed nonresidential structures where base flood elevation data is provided through the FIS or FIRM, or as otherwise required:
 - (A) Obtain and maintain the actual elevation (in relation to mean sea level) to which the structure was floodproofed.
 - (B) Maintain the floodproofing certifications required in subsection (7)(c) of this section.
 - (iii) Maintain for public inspection all records pertaining to the provisions of these standards.
 - (iv) Records of all variance actions; include justification for their issuance.
 - (v) Improvement and damage calculations.
 - (d) Whenever a watercourse is to be altered or relocated:
 - (i) Notify adjacent communities and the Washington State Department of Ecology prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Insurance Administrator through appropriate notification means.
 - (ii) Ensure that the flood-carrying capacity of the altered or relocated portion of said watercourse is maintained.
 - (e) Interpretation of FIRM Boundaries. Make interpretations, where needed, as to exact location of the boundaries of the areas of special flood hazards. (For example, where there appears to be a conflict between a mapped boundary and actual field conditions.) The person contesting the location of the boundary must be given a reasonable opportunity to appeal the interpretation. Such appeals must be granted consistent with the standards of Section 60.6 of the Rules and Regulations of the NFIP.
- (3) Changes to Special Flood Hazard Area.
- (a) A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information

becomes available, a community, or project proponent, must notify FEMA of the changes by submitting technical or scientific data in accordance with this chapter. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements must be based upon current data.

- (b) If a CLOMR application is made, then the project proponent must also supply the full CLOMR documentation package to the floodplain administrator to be attached to the floodplain development permit, including all required property owner notifications. Once a CLOMR has been approved, the project proponent must follow up with the LOMR application once the project is complete.

18.810.050 Permits and review required.

i This is a new section that includes some content from the Administration section that didn't belong there.

- (1) A project permit must be obtained before construction or development begins within any area of special flood hazard area. A permit is required for all structures, including manufactured homes, and for all development activities, including fill and other activities.
- (2) Application for a project permit must be made consistent with SMC Title 18 Part 2 and must include all of the application requirements of the underlying permit and the following:
 - (a) plans drawn to scale showing:
 - (i) the nature, location, dimensions, and elevations of the area in question;
 - (ii) existing or proposed structures;
 - (iii) fill;
 - (iv) storage of materials;
 - (v) drainage facilities;
 - (b) elevation, in relation to mean sea level, of the lowest floor (including basement) of all structures recorded on a current elevation certificate with Section B completed by the floodplain administrator;
 - (c) elevation in relation to mean sea level to which any nonresidential structure has been floodproofed;
 - (d) certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in SMC 18.810.050(2);
 - (e) description of the extent to which a watercourse may be altered or relocated because of the proposed development; and
 - (f) any other such information that may be reasonably required by the floodplain administrator to review the application.

18.810.060 Critical area report requirements.

In addition to the general requirements of SMC 18.800.150, critical area reports for frequently flooded areas must meet the requirements of this section.

- (1) Area addressed in critical area report:
 - (a) The site area of the proposed activity;
 - (b) All areas of special flood hazard, as indicated on the flood insurance map(s) within 200 feet of the project area; and
 - (c) All other flood areas indicated on the flood insurance map(s) within 200 feet of the project area.

- (2) Flood Hazard Assessment Required. A critical area report for a proposed activity within a frequently flooded area must contain a flood hazard assessment including the following site- and proposal-related information at a minimum:
- (a) Site and Construction Plans. A copy of the site and construction plans for the development proposal showing:
 - (i) Floodplain (100-year flood elevation), 10- and 50-year flood elevations, floodway, other critical areas, buffers, and shoreline areas;
 - (ii) Proposed development, including the location of existing and proposed structures, fill, storage of materials, and drainage facilities, with dimensions indicating distances to the floodplain;
 - (iii) Clearing limits; and
 - (iv) Elevation of the lowest floor (including basement) of all structures, and the level to which any nonresidential structure has been floodproofed.

18.810.070 Provisions for flood hazard reduction.

In all areas of special flood hazard, the following standards are required to be met:

- (1) Anchoring.
 - (a) All new construction and substantial improvements must be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads including the effects of buoyancy.
 - (b) All manufactured homes must likewise be anchored to prevent flotation, collapse, or lateral movement, and be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques).
- (2) Construction Materials and Methods.
 - (a) All new construction and substantial improvements must be constructed with materials and utility equipment resistant to flood damage.
 - (b) All new construction and substantial improvements must be constructed using methods and practices that minimize flood damage.
 - (c) Electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities must be designed and/or otherwise elevated or located to prevent water from entering or accumulating within the components during conditions of flooding.
 - (d) All structures, utilities and other improvements must be located on the buildable portion of the site outside of the floodplain unless there is no buildable site area out of the floodplain. For sites with no buildable area out of the floodplain, structures must be placed on the highest land on the site, oriented parallel to flow rather than perpendicular, and sited as far from the watercourse and other critical areas as possible. If the city detects any evidence of active hyporheic exchange on a site, the development must be located to minimize disruption of such exchange.
 - (e) Fill and grading within the floodplain must only occur upon a determination from a qualified professional that the fill or grading will not block side channels, inhibit channel migration, increase flood hazards to others, or be placed within a channel migration zone, whether or not the city has delineated such zones as of the time of the application.
- (3) Utilities.

- (a) All new and replacement water supply systems must be designed to minimize or eliminate infiltration of flood waters into the system.
- (b) New and replacement sanitary sewage systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems in flood waters.
- (c) On-site waste disposal systems must be located to avoid impairment to them or contamination from them during flooding.

i The following line was added to increase protections of HVAC systems in the event of a flood.

- (d) New and replacement HVAC systems must be located above the base flood elevation and elevated off the floor to minimize damage from flooding.

(4) Subdivision and Development Proposals.

- (a) All development proposals, including subdivisions and manufactured home parks, must be consistent with the need to minimize flood damage.
- (b) All development proposals, including subdivisions and manufactured home parks, must have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.
- (c) All development proposals, including subdivisions and manufactured home parks, must have adequate drainage provided to reduce exposure to flood damage.
- (d) Where base flood elevation data has not been provided or is not available from another authoritative source, it must be generated for development proposals, including subdivisions and manufactured home parks, greater than 50 lots or five acres (whichever is the lesser).

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

(6) Storage of Materials and Equipment.

- (a) The storage or processing of materials that could be injurious to human, animal, or plant life if released due to damage from flooding is prohibited in special flood hazard areas.
- (b) Storage of other materials or equipment may be allowed if not subject to damage by floods and if firmly anchored to prevent flotation, or if readily removable from the area within the time available after flood warning.

18.810.080 Specific standards.

In all areas of special flood hazard where base flood elevation data has been provided as set forth in SMC 18.810.020(2), Basis for Establishing the Areas of Special Flood Hazard, or SMC 18.810.030(2), Use of Other Base Flood Data, the following provisions are required:

(1) Residential Construction.

- (a) New construction and substantial improvement of any residential structure must have the lowest floor elevated to the base flood elevation plus one foot. Mechanical equipment and utilities, including HVAC systems, must be waterproofed or elevated at least one foot above base flood elevation.

(b) Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or if usable solely for parking, access or storage must be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Other uses that are subject to flooding are prohibited. Designs must meet or exceed the following minimum criteria. Alternatively, a registered engineer or architect may design and certify engineering openings.

- (i) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding ;
- (ii) The bottom of all openings shall be no higher than one-foot above grade;
- (iii) Openings may be equipped with screens, louvers, valves or other coverings or devices so long as they permit the automatic entry and exit of flood waters; and
- (iv) A garage attached to a residential structure, constructed with the garage floor slab below the base flood elevation, must be designed to allow for the automatic entry and exit of flood waters.

(2) Nonresidential Construction.

- (a) New construction and substantial improvement to any commercial, industrial, or other nonresidential structure must either have the lowest floor elevated to the level of the base flood elevation plus one foot, or, together with attendant utility and sanitary facilities, must:
 - (i) Be dry floodproofed so that below one foot above the base flood level, the structure is watertight, with walls substantially impermeable to the passage of water, or dry floodproofed to the elevation required by ASCE 24, whichever is greater;
 - (ii) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
 - (iii) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection based on their development and/or review of the structural design, specifications, and plans. Such certification must be provided to the Director as set forth in SMC 18.810.030(3)(b);
 - (iv) Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subsection (1)(b) of this section; and
 - (v) An applicant floodproofing nonresidential buildings must be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g., a building floodproofed to one foot above the base flood level will be rated as at the base flood level).

(3) Manufactured Homes.

- (a) All manufactured homes to be placed or substantially improved on the following sites must be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated one foot or more above the base flood elevation and be securely anchored to the foundation system to resist flotation, collapse, and lateral movement:
 - (i) Outside of a manufactured home park or subdivision;
 - (ii) In a new manufactured home park or subdivision;
 - (iii) In an expansion to an existing manufactured home park or subdivision; or
 - (iv) In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood.

- (b) Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision that are not subject to the above manufactured home provisions must be elevated so that either:
 - (i) The lowest floor of the manufactured home is elevated one foot or more above the base flood elevation; or
 - (ii) The manufactured home chassis is supported by reinforced piers or other foundation elements, of at least equivalent strength that are no less than 36 inches in height above grade and is securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- (4) Recreational Vehicles. Recreational vehicles to be placed on sites within zones A1 – A30 and AE on the community's FIRM are required to either:
 - (a) Be on site for fewer than 180 consecutive days;
 - (b) Be fully licensed and ready for highway use, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or
 - (c) Must obtain a development permit and meet the requirements, including elevation and anchoring, for manufactured homes.
- (5) Appurtenant Structures (Detached Garages and Small Storage Structures). Appurtenant structures used solely for parking of vehicles or limited storage may be constructed such that the floor is below the base flood elevation, provided the structure is designed and constructed in accordance with the following requirements:
 - (a) Use of the appurtenant structure must be limited to parking of vehicles or limited storage;
 - (b) The portions of the appurtenant structure located below the base flood elevation must be built using flood resistant materials;
 - (c) The appurtenant structure must be adequately anchored to prevent flotation, collapse, and lateral movement;
 - (d) Any machinery or equipment servicing the appurtenant structure must be elevated or floodproofed to or above the BFE;
 - (e) The appurtenant structure must be designed to allow for the automatic entry and exit of flood waters in accordance with subsection (1)(b) of this section;
 - (f) The structure must have low damage potential;
 - (g) If the structure is converted to another use, it must be brought into full compliance with the standards governing such use;
 - (h) The structure may not be used for human habitation;
 - (i) Detached garages, storage structures, and other appurtenant structures not meeting the above standards must be constructed in accordance with all applicable standards in subsection (1) of this section; and
 - (j) Upon completion of the structure, certification that the requirements of this section have been satisfied must be provided to the floodplain administrator for verification.
- (6) Requirements for All Crawlspaces Construction. All crawlspaces that have enclosed areas or floors below the base flood elevation must be:
 - (a) Designed and adequately anchored to resist flotation, collapse and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

- (b) Have openings that allow for the automatic entry and exit of flood waters. The bottom of the flood opening can be no more than one foot above the lowest adjacent exterior grade and meet the requirements in subsection (1)(b) of this section;
- (c) Constructed with materials resistant to flood damage, including foundation walls, joists, insulation or other materials that will be below BFE;
- (d) Located in areas where flood velocities do not exceed five feet per second;
- (e) Any building utility systems, including HVAC systems, within the crawlspace must be elevated above the BFE or designed so that flood waters cannot enter or accumulate within the system components during flood conditions; and
- (f) In addition to the above requirements, below-grade crawlspaces must be constructed so that:
 - (i) The interior grade of the crawlspace below the BFE is not more than two feet below the lowest adjacent exterior grade;
 - (ii) The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall, does not exceed four feet at any point;
 - (iii) An adequate drainage system to remove flood waters from the interior area of the crawlspace is installed.

18.810.090 Encroachments.

The cumulative effect of any proposed development, if combined with all other existing and anticipated development, may not increase the water surface elevation of the base flood more than one foot at any point.

18.810.100 Prohibited uses.

i Since the term “critical facility” exists nowhere else in the municipal code, we’ve extracted it from the definitions chapter and placed it here.

- (1) The following uses and activities are prohibited in frequently flooded areas:
 - (a) Critical facilities. Critical facilities are prohibited within frequently flooded areas to prevent damage to such facilities, to avoid costs that may be incurred by the public, and to maintain functionality of such facilities during flood events. If such a prohibition is unreasonable, an allowance for critical facilities in frequently flooded areas can be made with the following specific conditions:
 - (i) Construction of new critical facilities may be permissible within frequently flooded areas if no feasible alternative site is available.
 - (ii) Critical facilities constructed within frequently flooded areas must have the lowest floor elevated three feet or more above the level of the base flood elevation (100-year flood).
 - (iii) Floodproofing and sealing measures must be taken to ensure that toxic substances are not displaced by or released into flood waters.
 - (iv) Access routes elevated to or above the level of the base flood elevation must be provided to all critical facilities to the extent possible.
- (2) For the purpose of this section, “critical facility” means a facility for which even a slight chance of flooding, inundation, or impact from a hazard event might be too great. Critical facilities include, but are not limited to, essential public facilities, schools, nursing homes, hospitals, fire and emergency response installations, and installations that produce, use or store hazardous materials or hazardous waste.

18.810.110 Variance procedure and appeal process.

- (1) Variances from these regulations and appeals are heard as provided by Chapter 18.330 SMC, Variances.
- (2) In reviewing such applications for variances, the city must consider all technical evaluations, all relevant factors, and criteria specified in other sections of these standards, including criteria in SMC 18.800.200, and:
 - (a) The danger that materials may be swept onto other lands to the injury of others;
 - (b) The danger to life and property due to flooding or erosion damage;
 - (c) The susceptibility of the proposed facility and its contents to flood damage on the owner;
 - (d) The importance of the services provided by the proposed facility to the community;
 - (e) The necessity that the facility has a waterfront location, where applicable;
 - (f) The availability of alternative locations for the proposed use that are not subject to the flooding or erosion damage;
 - (g) The compatibility of the proposed use with existing and anticipated development;
 - (h) The relationship of the proposed use to the city's Comprehensive Plan and floodplain management program for that area;
 - (i) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (j) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
 - (k) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, and streets and bridges.

18.810.120 Conditions for variances.

- (1) Variances may only be issued upon a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nuisances, fraud on or victimization of the public, or conflict with existing laws or ordinances. Unavoidable impacts to floodplain functions and values must be mitigated in accordance with SMC 18.800.180(4), Mitigation Sequencing.
- (2) Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of historic structures upon a determination that the proposed repair or rehabilitation does not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- (3) Variances may only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (4) Variances must be issued upon:
 - (a) A showing of good and sufficient cause;
 - (b) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (c) Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the BFE, provided the procedures of SMC 18.810.030, Administration, and SMC 18.810.040,

Provisions for flood hazard reduction, have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.

- (5) Variances, as interpreted in the National Flood Insurance Program, are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure or its inhabitants' economical or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevation should be quite rare.
- (6) Variances may be issued for nonresidential buildings in very limited circumstances to allow less floodproofing than watertight or dry floodproofing, where it can be determined that such action has low damage potential, complies with all other variance criteria, except subsection (1) of this section, and otherwise complies with SMC 18.810.040(1) through (3).
- (7) Any applicant to whom a variance is granted must be given written notice that the structure may be permitted to be built with a lowest floor elevation below the base flood elevation and that:
 - (a) The issuance of a variance to construct a structure below the BFE may result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage; and
 - (b) Such construction below the BFE increases risks to life and property.
- (8) The floodplain administrator must maintain a record of all variance actions, including justification for their issuance.

Chapter 18.812 Cultural Resources

- i** This is all new code, except for some parts from SMC 18.906.040 Preservation of Cultural Resources in the SMP. The new language was adapted from Ecology's model language from Appendix B to the Shoreline Master Program Handbook, Pierce County 18S.30.020, and La Center Municipal Code 18.360.
- i** A definition of "cultural resources" is included in the proposed UDC procedures ordinance and encompasses cultural, historical, and archaeological resources.

18.812.010 Purpose.

The purposes of this chapter are to:

- (1) Establish clear procedures and specific standards for preservation of cultural resources.
- (2) Recognize that cultural resources may be found throughout the city and are valuable resources because they are limited and irreplaceable.
- (3) Ensure coordination and consistency with the State Environmental Policy Act, the Shoreline Management Act, the Growth Management Act, and RCW Chapters [27.34](#), [27.44](#), [27.48](#), and [27.53](#).

18.812.020 Applicability.

This chapter applies to all areas within the City of Stanwood and all applications for a project permit.

18.812.030 Preservation of Cultural Resources.

i This section is based on SMC 18.906.040, Preservation of Cultural Resources, in the SMP. References specific to the SMP were removed. Some text was moved to 18.812.030(2)(a) and 18.812.040(1) of this chapter.

- (1) An owner of property containing identified or probable cultural resource sites is encouraged to coordinate well in advance of application for development to ensure that appropriate agencies such as the Washington State Department of Archaeology and Historic Preservation, affected tribes, and historic preservation groups have ample time to assess the site and identify the potential for cultural resources.

i And some portion of this section is reorganized recommended language from DAHP and Ecology.

- (2) The Department must provide notice of an application for a project permit consistent with SMC 18.230.055.
- (3) The Director may condition approval of a project permit to comply with this chapter when:
 - (a) The project site contains known cultural resources, as identified by any of the following:
 - (i) Department of Archaeology and Historic Preservation (DAHP);
 - (ii) a tribal government;
 - (iii) National Register of Historic Places;
 - (iv) Washington Heritage Register;
 - (b) The property is listed by DAHP as eligible for listing in either the National Register of Historic Places or the Washington Heritage Register;
 - (c) The property is listed in any city register of historic places;
 - (d) When the city determines that reliable and credible information indicates the probable existence of an archaeological resource or site;
 - (e) When a permit or approval is required for any ground-disturbing activities.
- (4) The Director may condition approval of a project permit to require:
 - (a) consultation with the Washington Department of Archaeology and Historic Preservation and any affected tribal governments;
 - (b) preservation or conservation of cultural resources as required by applicable federal, state, and local statutes;
 - (c) an inadvertent discovery plan prepared by a professional archaeologist or using the department's template.
- (5) An application for development in an area known to be significant must provide for monitoring of any development activity for previously unidentified cultural resources.

18.812.040 Cultural Resource Site Assessment

i Capitalized Cultural Resource Site Assessment to make it a term of art like CRMP.

- (1) The Director may require a Cultural Resource Site Assessment prior to approval of development on a property within 500 feet of a site known to contain or in an area identified as having the potential for the presence of cultural resources or when requested by an entity identified in 18.812.030(3)(a).

- (2) Exception. A Cultural Resource Site Assessment is not required when a Cultural Resource Management Plan is prepared pursuant to SMC 18.812.050.
- (3) A Cultural Resource Site Assessment must:
 - (a) Be performed by a professional archaeologist or historic preservation professional whose documentation and methodology should be replicable by another archaeologist to reach a similar conclusion;
 - (b) Use best available technology and archaeological techniques;
 - (c) Be based on a thorough review of records, documentation, and other relevant literature;
 - (d) Describe any cultural resources that are discovered on the site, using any relevant maps, written descriptions, and photographs;
 - (e) Assess whether the proposed use would affect any cultural resources discovered;
 - (f) Be submitted to the city, DAHP, and to any interested or affected tribal governments.

18.812.050 Cultural Resource Management Plan

- (1) A Cultural Resource Management Plan ("CRMP") must be prepared when a Cultural Resource Site Assessment identifies the presence of significant cultural resources.

i The remainder of this section is recommended language from DAHP and Ecology.

- (2) A CRMP must be prepared by a professional archaeologist or historic preservation professional.
- (3) To prepare recommendations for a CRMP, the author must solicit comments from the Washington Department of Archaeology and Historic Preservation and any affected Tribal government. Any comments received must be incorporated into the conclusions and recommendations of the CRMP to the maximum extent practicable.
- (4) A CRMP must contain at least the following elements:
 - (a) Purpose of the project; a site plan; the depth and location of all ground disturbing activities including, but not limited to, utilities, driveways, clearing and grading; an examination of project on-site design alternatives; an explanation of why the proposed activity requires location on or access through an historic or significant archaeological resource.
 - (b) A description of the cultural resources affected by the proposal;
 - (c) An evaluation of the cultural resource and an analysis of the potential adverse impacts as a result of the activity;
 - (d) An analysis of how these impacts have been avoided, or where avoidance is not possible, how these impacts have been or will be mitigated/minimized; and
 - (e) A recommendation of appropriate mitigation measures for the impacts to cultural resources, which may include but are not limited to the following:
 - (i) Recording the site with the Washington Department of Archaeology and Historic Preservation; listing the site in the National Register of Historic Places, Washington Heritage Register, or any locally developed historic registry;
 - (ii) Preservation in place;
 - (iii) Reinternment in the case of grave sites;

- (iv) Covering an archaeological site with a nonstructural surface to discourage pilferage (i.e., maintained grass or pavement);
 - (v) Excavation and recovery of archaeological resources;
 - (vi) Inventorying prior to covering of archaeological resources with structures or development; and
 - (vii) Monitoring of construction excavation.
- (f) The Director must use the recommendations and conclusions of the CRMP in determining the presence and extent of cultural resources and appropriate mitigation measures.
 - (g) The Director may reject or request revision of the conclusions reached in a CRMP when the Director can demonstrate that the assessment is inaccurate or does not fully address the cultural resource management concerns.

18.812.060 Inadvertent discovery.

- (1) If archaeological, cultural, or historical sites or artifacts of potential significance, or human skeletal remains are discovered in the process of development:
 - (a) work on that portion of the site must be stopped immediately;
 - (b) the site must be secured;
 - (c) the discovery must be reported as soon as possible to the Director;
 - (d) the Director must notify the Washington State Department of Archaeology and Historic Preservation, affected tribes, and other appropriate agencies;
 - (e) the Director must require the applicant to immediately prepare a Cultural Resources Site Assessment to determine the significance of the discovery and the extent of damage to the resource.
- (2) If a Cultural Resources Site Assessment is required per subsection (1):
 - (a) The Director must distribute the assessment to the Washington Department of Archaeology and Historic Preservation and affected tribes to determine the significance of the discovery.
 - (b) The Director must allow 15 days for review, or 30 days in the case of inadvertent discovery of human remains.
 - (c) At the conclusion of the review period:
 - (i) if the site has been determined not to be significant by the above listed agencies or governments, or if the above listed agencies or governments have failed to respond, such stopped work may resume;
 - (ii) if the site is determined to be significant, a Cultural Resources Management Plan must be prepared per SMC 18.812.050.
- (3) Treatment of cultural artifacts or human skeletal remains must comply with RCW 27.44.055, 68.50.645, and 68.60.055.



March 7, 2025

Stanwood Planning Commission
City of Stanwood
10220 270th St. NW
Stanwood, WA 98202

RE: Critical Areas Ordinance

Dear Stanwood Planning Commission:

The Master Builders Association of King and Snohomish Counties (MBAKS) thanks you for the opportunity to engage with you as you consider changes to the Critical Areas Ordinance (CAO). With nearly 2,600 members, MBAKS is the largest local homebuilders' association in the United States, providing a range of housing choice and affordability. We aspire to be the most trusted and respected housing experts in the region.

Changes to Stanwood's CAO impact housing affordability and availability. Stanwood faces an acute housing shortage, with a documented need to plan for 4608 new units by 2044 according to the recently adopted City of Stanwood 2024-2044 Comprehensive Plan. Limiting the use of areas around wetlands and streams, as initially proposed, would exacerbate housing affordability challenges by reducing buildable land supply and increasing development costs. Changes to the critical area ordinance proposed could stunt the city's ability to meet its housing obligations within existing Urban Growth Areas (UGAs).

In discussions with the city, it has been pointed out that Stanwood is not able to make any substantive changes to or consider deviations from the recommendations from WDFW or DOE because it is a small city with limited resources and staff. One solution to this dilemma would be to adopt the county CAO.

Here, small cities like Stanwood may take advantage of a recent 2023 change to the law. SB 5374 is codified as RCW 36.70A.060(4)(a) and states:

A city with a population fewer than 25,000 may adopt the county's critical areas regulations by reference to satisfy the requirements under this section to designate and protect critical areas; provided, that the county's critical areas regulations are not subject to any outstanding administrative or judicial appeals at the time of the city's adoption. Nothing in this subsection prohibits a city from adopting its own critical areas regulations.

This option would save an enormous amount of staff time and city resources. Moreover, if the county's CAO were challenged, Stanwood could wait for the results of the litigation and any changes from the litigation would be adopted by reference as



well. Thus, the fear of a challenge to the CAO and the accompanying legal costs would be minimized as well.

However, if the city chooses to adopt its own CAO, MBAKS would like to continue to outline our concerns. In our letter of January 7, 2024, it is important to note that there is no evidence – let alone any “Best Available Science” – before the Planning Commission demonstrating that the city’s current approach to regulating critical areas and stream buffers is insufficient in meeting the important goals of preserving the natural environment, maintaining fish and wildlife habitat and protecting drinking water. Nor is there evidence that the current regulations are out of compliance with GMA. Indeed, there is no evidence that current regulations are failing to protect the functions and values of critical areas and associated buffers.

For example, in May of 2024 the Snohomish County Planning Commission received a memo from Sarah Titcomb, Principal Planner, titled Response to Planning Commissioners Questions, (attached). One of the questions posed was whether the best available science from 2006 was still valid. First, it found, “the site potential tree height (SPTH) methodology is based on soil data and processes that have not been updated since before 2006.” Pg 3. Furthermore, “the buffer widths selected by the county in 2006 remain in line with the BAS synthesized in 2020 by WDFW.” Id.

The current wetland and stream buffers were last changed by the city of Stanwood in 2022 and have not been challenged. It is reasonable to assume they are valid. This could be, in part, because in challenges to a CAO, the challenge would need to demonstrate through best available science that the current ordinance on the books fails to protect the function and value of the critical areas or yielded buffer widths which were not supported by the science the city relied on. Pilchuck Audubon Society v. Snohomish County, CPSGMHB No. 07-3-0033.

Wetlands

First, the 2022 buffers set by Stanwood are still valid and have not been challenged. They do not need to be altered. As was pointed out, the underlying science for critical areas has not changed since 2006 such that there has been no need to change the best available science. Stanwood could either choose to leave the current buffers in place or adopt the Snohomish County CAO to be in compliance.

Stream Buffers

In addition, WDFW acknowledges SPTH is not the best available science. On panel twelve of the WDFW’s Recommendation for Riparian Ecosystems, by Mary Huff, Tom O’Brien, Tim Quinn, and George Wilhere (attached), the presenters acknowledge, “Volume 2 is not in and of itself Best Available Science (BAS). It states our policy preferences, reflective of WDFW’s mandate, based on the science.” As a note, Volume 1 is an outline of the science and research done on stream buffers. Volume 2 gives WDFW’s management recommendations.



SPTH is not best available science. The research and science underlying the policy preference from WDFW is only a recommendation. Moreover, the decisions the city made in 2022 are based on 2006 BAS. The BAS has not changed. The recommendations are guidelines, not rules or mandates. Cities, like Stanwood, at their discretion may choose to follow the recommendations, but are not required to do so.

As a result, the stream buffers do not need to change and changing them could negatively impact the cost of housing and housing supply. In the alternative, the Planning Commission could recommend adoption of the Snohomish County CAO to be in compliance with the GMA and state law.

We understand and appreciate the challenges that come from increased growth in our region. MBAKS is committed to working with you and city staff as the Critical Areas Ordinance update moves forward.

Please let us know if you have any questions or would like to discuss this further.

Sincerely,

Russell Joe

Russell Joe
Snohomish County Government Affairs Manager

Everyone deserves a place to call home.

cc: Sid Roberts, City of Stanwood Mayor
Patricia Love, Community Development Director
Tansy Schroeder, City Planner
Audrey Rotrock, Associate Planner



Snohomish County

Planning and Development Services

3000 Rockefeller Ave., M/S 604

Everett, WA 98201-4046

(425) 388-3311

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MEMORANDUM

TO: Snohomish County Planning Commission

FROM: Sarah Titcomb, Principal Planner

SUBJECT: Response to Planning Commissioners Questions

DATE: May 3, 2024

Below are responses to the questions Planning Commissioners Busteed and Campbell asked during the April 23, 2024, Critical Area Regulations (CAR) Amendments briefing. Responses were provided during the briefing, although there is more detail below than staff was able to provide in the moment.

Commissioner Busteed's question was related to the exceptions within SCC 30.62A.320(1)(d)(ii) where total new effective impervious surfaces are limited to 10 percent within 300 feet of certain critical areas. Commissioner Busteed asked what happens if the developers or builders change the grade of the property, and the stormwater flow is directed elsewhere?

It is important to first note that in addition to the CAR chapters of Snohomish County Code, all development applications must also comply with the Snohomish County Drainage Manual, as well as Chapters 30.63A (Drainage) and 30.63B (Land Disturbing Activity). Under SCC 30.62A.520, for instance, all non-exempt new development and redevelopment activities must comply with Minimum Requirement 4, which requires the maintenance of natural drainage patterns to the extent feasible. If an applicant were able to comply with the drainage code, and still ensure that runoff from the new effective impervious surfaces would not be within a 300 foot flow path of the critical areas listed in SCC 30.62A.320(1)(d)(ii), then the applicant would not be limited to 10 percent new effective impervious surfaces. Flow path is defined within the Snohomish County Drainage Manual Volume I as "The route that stormwater runoff follows between two points of interest." The proposed amendments clarify that the intent of the exception is to except areas where runoff would not drain into the nearby waterbody because of slope, geography, etc. that impact the flow and direction of stormwater.

Vice Chair Campbell brought up three topics: 1) the need for consistent buffers with neighboring jurisdictions, 2) questioned whether best available science (BAS) from 2006 was still valid, and 3) noted that the Department of Fish and Wildlife's (WDFW's) Priority Habitat and Species (PHS) program should be more prevalent in the proposed amendments.

Consistency and 2006 BAS

For consistency of review and application, staff agree that it would be ideal if every jurisdiction of the state adopted the same CAR. It is important to note here that there is new legislation (Senate Bill 5374) that was signed into law last May 2023, that allows cities with a population below 25,000 people to adopt the County's critical area regulations by reference to satisfy their requirements to protect critical areas. RCW 36.70A.060(4)(a) does not require these cities to adopt the county code, although it is now an option.

Staff have not heard of this occurring yet, although it could which could help with consistency within the county. Although to date, the CAR of different counties and jurisdictions are not the exact same because of the unique and different realities of each jurisdiction related to, for instance, the existing environment and critical areas, housing needs, population, and political wills. With these differences, the state allows each jurisdiction to comply with the 15 goals of the Growth Management Act (GMA; RCW 36.70A.020) as they see fit. Additionally, each jurisdiction is permitted to interpret the best available science for their own jurisdiction. While there are some differences in buffer widths for wetlands and water bodies between King County, Pierce County, Kitsap County, Snohomish County, Everett, and Seattle, the differences are primarily for buffers for water bodies such as fish bearing streams, and generally do not deviate by more than 50 feet. Please see the tables below for a visual comparison of proposed or recently adopted codes.

Table 1. Comparing water body buffers of nearby jurisdictions

	Snohomish Co	King Co (proposed)	Pierce Co (proposed)	Kitsap Co (proposed)	Seattle (2022)	Everett (2019)
Type S	150 ft	200 ft rural / 180 ft urban				100 ft intact native vegetation / 150 ft unvegetated
Type F	150 ft	200 ft rural / 180 ft urban	200 ft	200 ft rural / 150 ft urban	100 ft	100 ft intact native vegetation / 150 ft unvegetated
Type Np	50 ft	100 ft	115 ft	100 ft rural / 75 ft urban	100 ft	50 ft intact native vegetation / 75 ft unvegetated
Type Ns	50 ft	100 ft	100 ft	100 ft rural / 75 ft urban	100 ft	50 ft intact native vegetation / 75 ft unvegetated

Sources: [King Co](#), [Pierce Co](#), [Kitsap Co](#), [Seattle](#), [Everett](#)

Table 2. Comparing wetland buffer ranges of nearby jurisdictions

	Snohomish Co (proposed)	King Co (proposed)	Pierce Co (proposed)	Kitsap Co (proposed)	Seattle (2022)	Everett (2019)
Cat I	50-300 ft	50-300 ft	100-300 ft	50-250 ft	100-200 ft	100-300 ft
Cat II	50-300 ft	50-300 ft	100-300 ft	50-300 ft	100-200 ft	100-300 ft
Cat III	40-150 ft	40-300 ft	80-300 ft	40-150 ft	60-200 ft	80-300 ft
Cat IV	25-50 ft	35-60 ft	Exempt or 50 ft	25-50 ft	Exempt – 50 ft	50 ft

Sources: [King Co](#), [Pierce Co](#), [Kitsap Co](#), [Seattle](#), [Everett](#)

Snohomish County wrote a Best Available Science (BAS) Report in 2006 and chose to update it for the 2024 Update with an Annotated Bibliography. Reviewing the science analyzed and synthesized within the 2006 Report, and the newer studies and reports within the 2024 Annotated Bibliography, staff determined that the science itself has not drastically changed. Where there were clear advances, such as with the watershed approach to mitigation, amendments are proposed. The county has determined that the BAS utilized to create the existing buffer widths for streams, lakes, marine waters, and wetlands is adequately reviewed and included within the county's 2006 BAS Report.

Focusing in particular on the riparian management zone recommended by WDFW, the site potential tree height (SPTH) methodology is based on soil data and processes that have not been updated since before 2006. There are a range of widths provided by the science acknowledged within WDFW's Riparian Ecosystems Volumes I and II, 2020, as well as the 2006 BAS Report for the protection of each value and function of streams, lakes, and marine waters. The buffer widths selected by the county in 2006 remain in line with the BAS synthesized in 2020 by WDFW.

More specifically, while there has been some new science (notably within the pollutant removal value and function of riparian areas) the results do not deviate from the BAS included within the 2006 County BAS Report. For instance, 2008 through 2014 scientific work displays that 80% efficacy of pollutant removal can be provided by approximately 62 feet of buffer, and 90% with approximately 96 feet of buffer (WDFW, 2020, Volume 1). The 2006 BAS Report cites 2000 scientific work that indicates 80% efficacy of sediment and nutrient removal could be achieved with 98 feet of buffer.

The 2006 BAS Report also discusses SPTH that was first proposed in 1993. The first mention of SPTH in the WDFW, 2020, Volume 1 is on page 183 in relation to full litter delivery to streams, and then the document moves to recommend on page 271 that "The width of the riparian ecosystem is estimated by one 200-year site-potential tree height (SPTH) measured from the edge of the active channel or active floodplain. Protecting functions within at least one 200-year SPTH is a scientifically supported approach if the goal is to protect and maintain full function of the riparian ecosystem." There does not appear to be new science supporting this recommendation outside of the 1993 FEMAT curves. While Fox (2003) identified mean heights, this does not necessarily change the FEMAT curves or buffer widths selected after considering the science within the 2006 County Report.

Below are three tables included in the 2006 BAS report displaying the breadth of information analyzed in 2006 to create the buffers. After the three tables from the 2006 Report there is a table created by staff that summarizes the buffer recommendations made within WDFW's Riparian Ecosystem Volume 1 to protect "five key riparian ecosystem functions including bank stability, stream shading, wood recruitment, litter fall, and pollutant removal." The majority of the conclusions present between pages 265 to 272 in Volume 1 do not include buffer width recommendations, and are captured in the three tables from the 2006 Report. Figure 9.1 from Volume 1 is also provided.

3 Tables from page 80 of the BAS Report, 2006

Table 3.2. Riparian Buffer Functions and Appropriate Widths Identified by May (2000).

Function	Range of Effective Buffer Widths	Minimum Recommended	Notes On Function
Sediment Removal/Erosion Control	26 - 600 ft (8 - 183 m)	98 ft (30 m)	For 80% sediment removal
Pollutant Removal	13 - 860 ft (4 - 262 m)	98 ft (30 m)	For 80% nutrient removal
Large Woody Debris Recruitment	33-328 ft (10-100 m)	262 ft (80 m)	1 SPTH based on long-term natural levels
Water Temperature Protection	36 - 141 ft (11 - 43 m)	98 ft (30 m)	Based on adequate shade
Wildlife Habitat	33 - 656 ft (10 - 200 m)	328 ft (100 m)	Coverage not inclusive
Microclimate Protection	148 - 656 ft (45 - 200 m)	328 ft (100 m)	Optimum long-term support

Table 3.3. Riparian Functions and Appropriate Widths from Literature Identified by Knutson and Naef (1997).

Function	Range of Effective Buffer Widths
Water Temperature Protection	35 - 151 ft (11 - 46 m)
Pollutant Removal	13 - 600 ft (4 - 183 m)
Large Woody Debris Recruitment	100 - 180 ft (30 - 61 m)
Erosion Control	100 - 125 ft (30 - 38 m)
Wildlife Habitat	25 - 984 ft (8 - 300 m)
Sediment filtration	26 - 300 ft (8 - 91 m)
Microclimate	200 - 525 ft (61 - 160 m)

Table 3.4. Riparian Functions and Appropriate Widths Identified from FEMAT (1993).

Function	Number of SPTH	Equivalent Based on SPTH of 200 ft (m)
Shade	0.75	150 ft (46 m)
Microclimate	up to 3	up to 600 ft (183 m)
Large Woody Debris	1.0	200 ft (61 m)
Organic Litter	0.5	100 ft (30 m)
Sediment Control	1.0	200 ft (61 m)
Bank Stabilization	0.5	100 ft (30 m)
Wildlife Habitat	—	98 - 600 ft (30 - 183 m)

Table 3. Summary of conclusions in Volume 1 WDFW related to buffer widths

Function	Buffer Range	Number of SPTH	Notes on Function
Stream Channel Morphology	33 feet	-	Full contribution of root strength to streambank stability
Wood	85-230 ft	-	100% of a site's large wood recruitment potential
Stream Temperature	-	-	Shade from riparian vegetation is affected by vegetation height, canopy density, and stem density. The width of a riparian area affects the amount of shading to the stream.
Pollution Removal	56-251 ft	-	95% removal efficacy of sediment
Nutrient Dynamics	-	.39 - .54	95% of annual litter input from mature conifer forests to streams
Watersheds	-	-	Longitudinal, lateral, and vertical connectivity are critical for maintaining or restoring riparian ecological composition, structure, and functions. Studies have shown the importance of connectivity along the riparian corridor, but are often lacking specific guidance for management beyond "more is better."

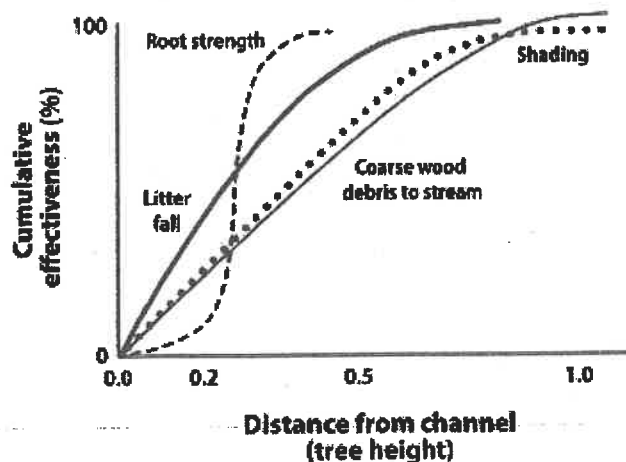
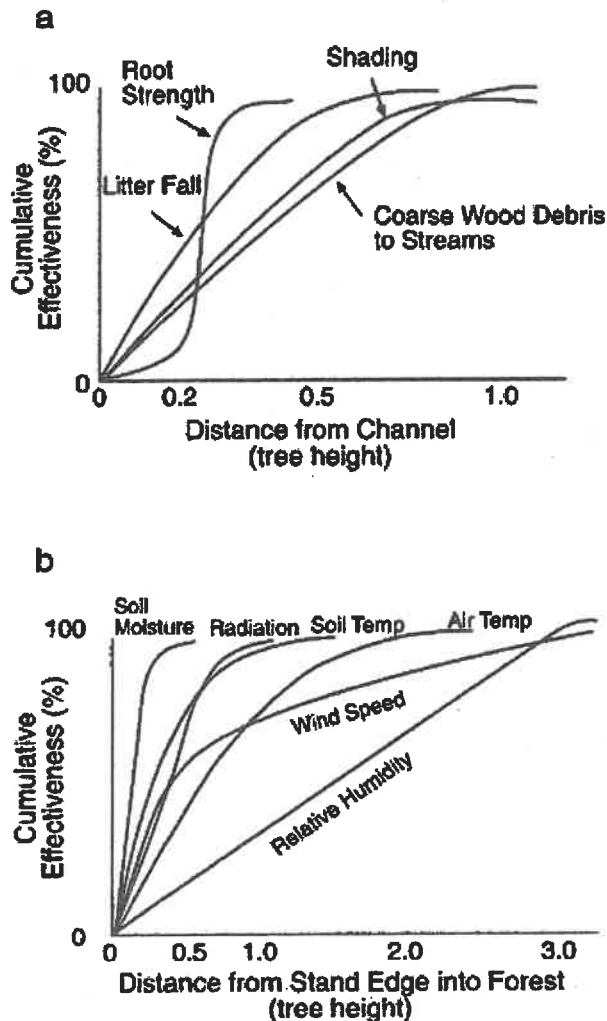


Figure 9.1 The "FEMAT Curves" (FEMAT 1993) are generalized conceptual models describing some riparian ecosystem functions and processes as the distance from a stream channel increases. "Tree height" in this figure is based on the average maximum height of the tallest dominant trees (200 years old or greater) and is referred to as site-potential tree height (SPTH).

The same FEMAT site potential tree height information was analyzed within the 2006 BAS report:

Graph (a) shows cumulative effectiveness of four riparian processes as a function of relative distance from the edge of a stream, in fractions of a dominant tree height. Graph (b) shows cumulative effectiveness for six microclimate factors as a function of relative distance from the stream edge. Modified from FEMAT (1993) and Naiman et al (2000).



PHS

Fish and wildlife habitat conservation areas in Snohomish County Code include "primary association of critical species" which the county defines in SCC 30.91P.290 and SCC 30.91C.370.

- Critical species are defined in county code as including species listed by the state and federal government as endangered or threatened, species of local importance, and sensitive species are also listed by name in the definition.
- Species of local importance are defined in county code within SCC 30.91S.535 as "species that are of local concern due to their population status or their sensitivity to habitat manipulation or

that are game species of local importance including a seasonal range or habitat element with which a given species has a primary association, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long-term. These might include areas of high relative density or species richness, breeding habitat, winter range, and movement corridors." Designation criteria for species of local importance and implementation processes are located within SCC 30.62A.470.

- The county currently defines primary association areas as "the area necessary for the viability and protection of any critical species, including its habitat and surrounding areas needed for protection of the habitat. Primary association areas include habitat areas that are known to contain a critical species, or where evidence from the best available science indicates that a critical species is using a habitat area. Primary association areas include but are not limited to areas for breeding, feeding, cover and migration. The size of the primary association area is species and population dependent and based on the known habitat requirements of the species."

The County's obligation is to consult WDFW's current information on priority habitats and species, the DNR's natural heritage program and aquatic resources program (for endangered, threatened, and sensitive species), and list of high quality ecological communities and systems and rare plants (for habitats and species of local importance) pursuant to WAC 395-190-130(4)(a) and (b).

To fulfill this obligation, the County's proposed amendments to SCC 30.62A.470 include the addition of WDFW PHS Program and DNR's Washington Natural Heritage Program as two circumstances that could be used to designate species of local importance. There are proposed amendments to the definition of species of local importance in SCC 30.91S.53 to update the list of state listed sensitive species to be consistent with the WDFW February 2022 list.

No further changes are proposed within Chapter 30.62A SCC to incorporate the PHS program.

WDFW's Recommendation for Riparian Ecosystems

Mary Huff, Tom O'Brien,
Tim Quinn, and George Wilhere

Habitat Program



Presentation Outline

Volume 1 – Science Synthesis (Best Available Science)

Volume 2 – Management Recommendations

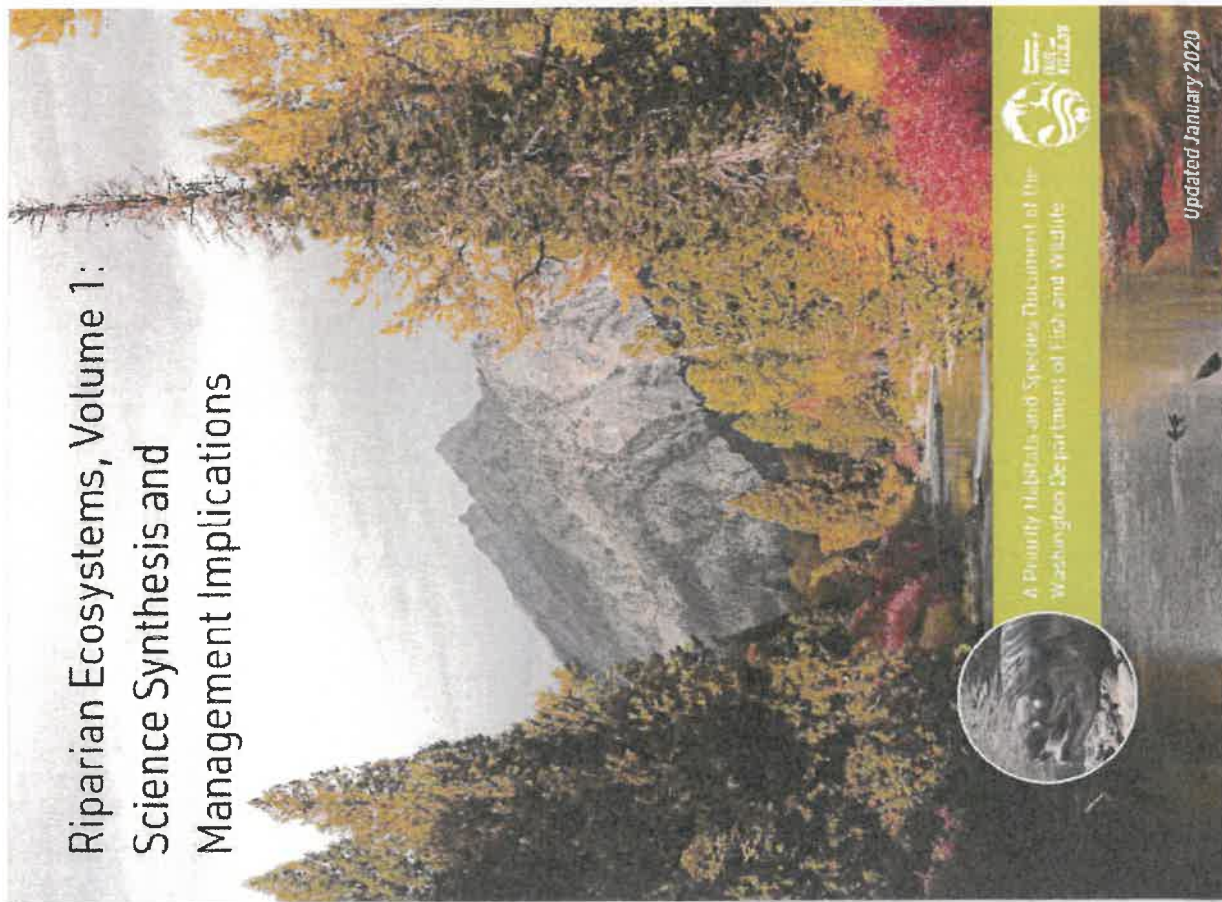
Where we are today

- Both the science and our recommendations have evolved since our 1997 Riparian ecosystems publication

Question and Answer time (at the end)



Riparian Ecosystems, Volume 1: Science Synthesis and Management Implications



Department of Fish and Wildlife

Riparian Ecosystems, Volume 2: Management Recommendations



Riparian Ecosystems, Volume 1: Science Synthesis and Management Implications



A Priority Habitat and Species Component of the
Washington Department of Fish and Wildlife



Updated January 2020

Volume 1: Overview



- Addresses five riparian functions:
 1. bank integrity
 2. inputs of wood
 3. stream shading
 4. nutrients (e.g., leaf litter) input
 5. pollutant removal
- ✓ This is consistent with the two major federal and state riparian conservation strategies (Northwest Forest Plan, and Forests and Fish)
- Includes a review of watershed-scale processes



Volume 1: Science Synthesis

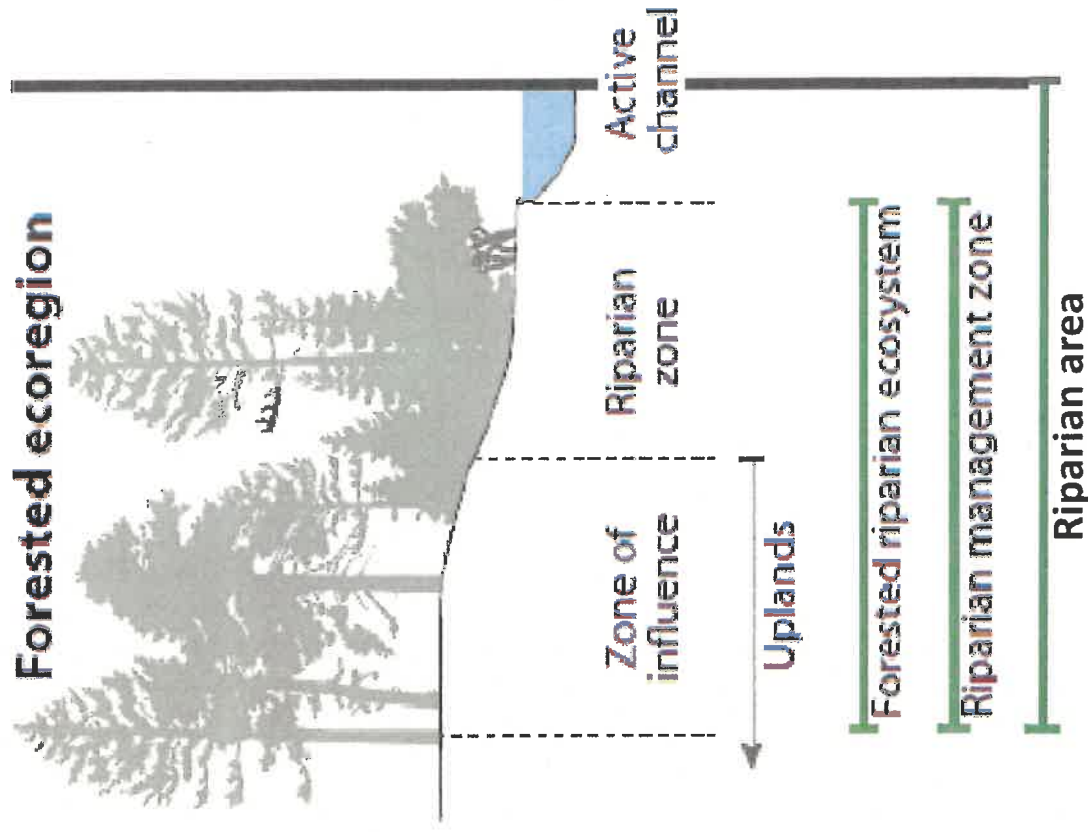
Today, we're focusing on four of the key scientific findings related to riparian ecosystems:

- What areas they encompass on the landscape
- The use of 200-year-old Site Potential Tree Height (SPTH) for determining the width of the Riparian Management Zone (RMZ)
- The pollution removal function
- The importance of protecting the Channel Migration Zone (CMZ)



Riparian Ecosystems encompass:

- the riparian zone,
- the **active floodplain** (including riverine wetlands), *and*
- the **zone of influence** (the terraces and adjacent uplands that directly contribute matter and energy to the stream.)



Riparian Ecosystems: Width

In general, the height of trees determines the width of the riparian ecosystem.

- Protecting functions within at least one 200-year Site Potential Tree Height ($SPTH_{200}$) is a scientifically supported approach if the goal is to protect and maintain full function of the riparian ecosystem.
- Exception: Where the riparian zone does not support tree growth (e.g., wetlands) the pollution removal function may determine the width of the riparian ecosystem.



Pollution Removal Function

The focus is on mitigating activities occurring outside the riparian area.

Riparian buffers reduce nonpoint source water pollution for a variety of pollutants.

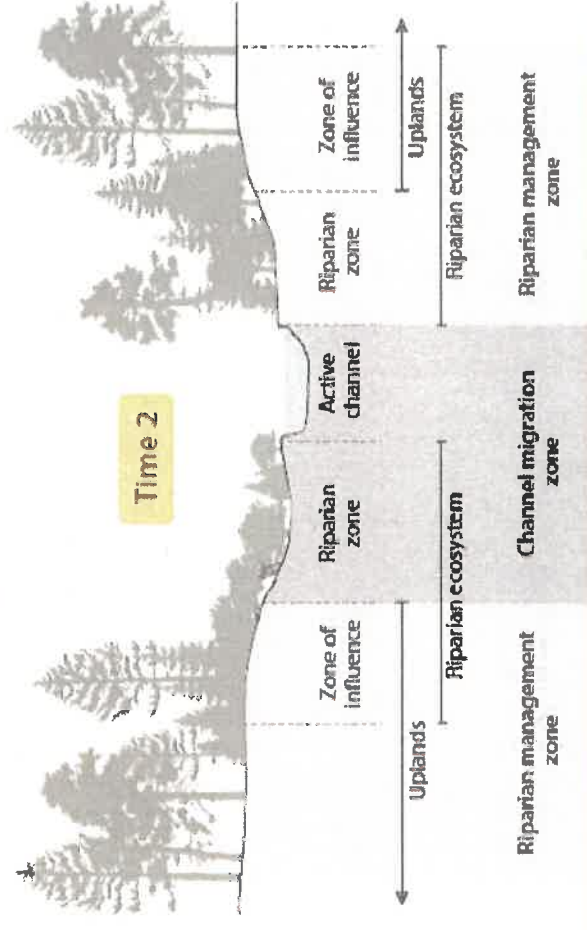
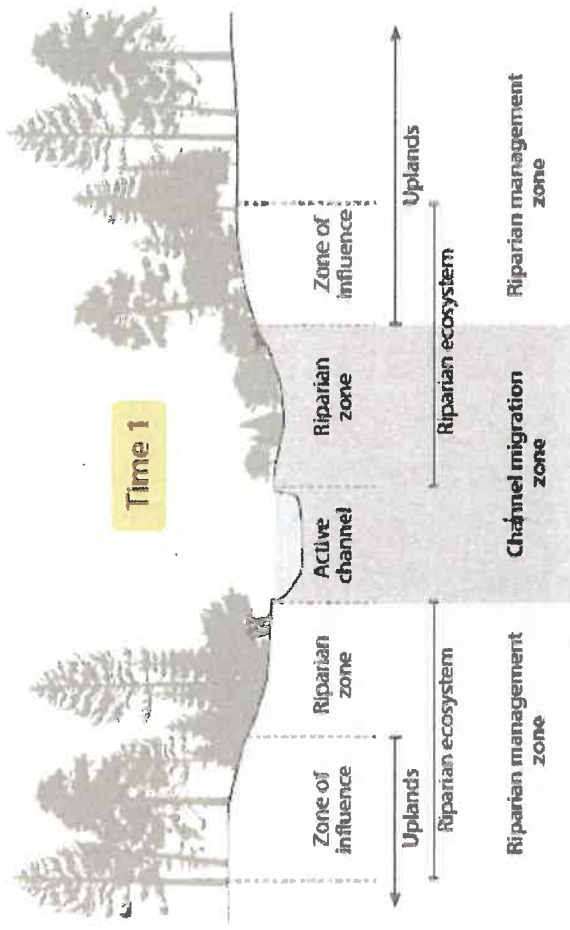
- Results vary considerably depending on
 - local conditions, and
 - the pollutant(s) needing removal.
- Still, the most important variables for explaining removal efficacy are clear:
 - #1: riparian buffer width
 - #2: vegetative composition and structure



Riparian Ecosystems & the CMZ

As the active channel moves, the riparian ecosystem moves back and forth across the Channel Migration Zone (CMZ.)

- To maintain ecological functions, management should anticipate future locations of the riparian ecosystem.



Riparian Ecosystems, Volume 2: Management Recommendations



A Priority Habitats and Species Document of the
Washington Department of Fish and Wildlife

December 2020

Volume 2: Relationship to Vol. 1

Volume 2 provides policy-based recommendations for how to apply the science in Volume 1.

- Volume 2 is not in and of itself Best Available Science (BAS). It states our policy preferences, reflective of WDFW's mandate, based on the science.

Our policy is that
we want full riparian function
to support healthy
fish and wildlife populations.



Volume 2: Bottom Line Up Front

Within the context of wise watershed management, preserve, protect, and—where possible—restore the full extent of the riparian ecosystem.



- Restoration is essential: The amount and quality of riparian areas that exist in Washington today are insufficient to meet the needs of the state's fish and aquatic wildlife.



RMZ Recommendations



Where trees are the native riparian vegetation, we recommend the width of the Riparian Management Zone (RMZ) be at least one SPTH₂₀₀.

We also recommended a minimum 100-foot wide RMZ in order to achieve:

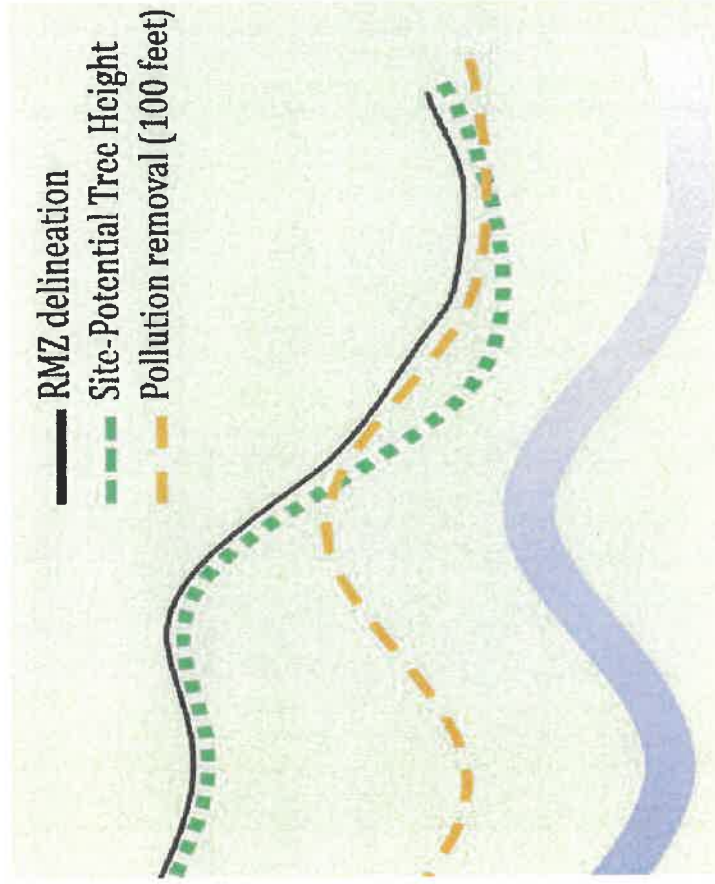
- 95% or more removal efficacy of sediment, phosphorous, and most pesticides; and
- 80% removal efficacy for surface runoff containing excess nitrogen
 - actual risk posed and efficacy of removal of excess nitrogen are site-specific



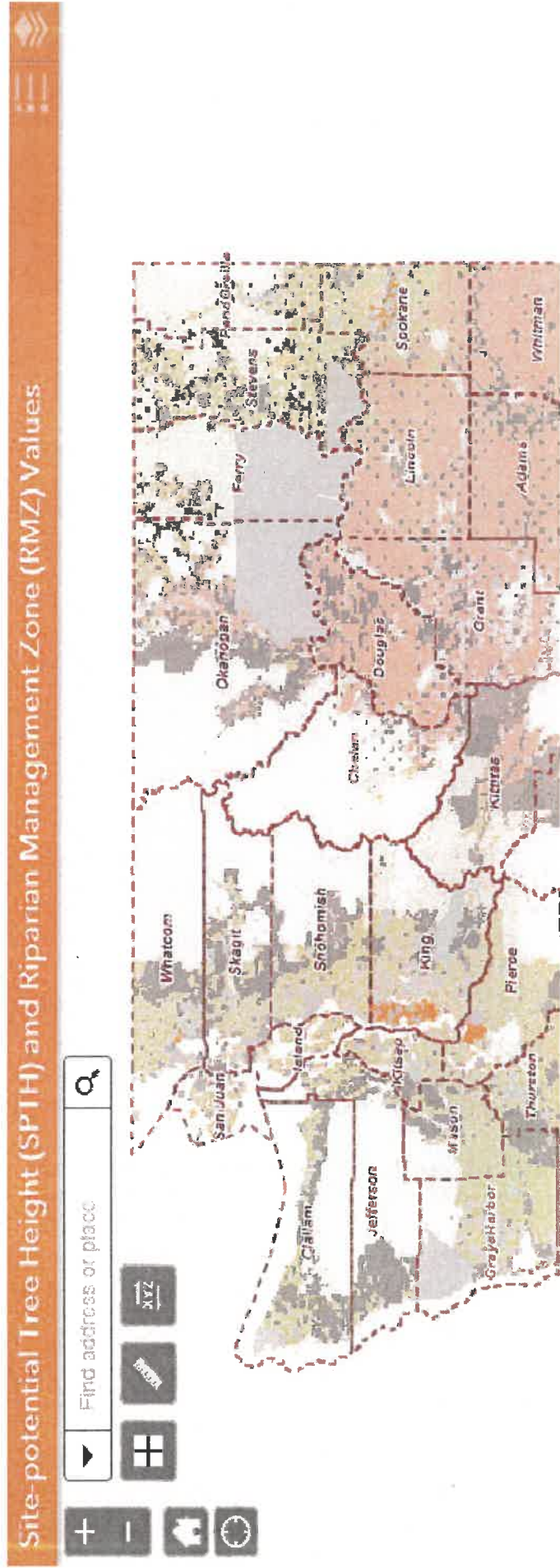
RMZ Delineation

1. Identify the RMZ inner edge (using OHWM or CMZ)
2. Determine RMZ width:
 - A. Identify $SPTH_{200}$ then
 - B. Overlay the minimum 100-foot pollution removal delineation
3. Set the RMZ outer edge using the wider of A or B

Forested RMZ



Online Mapping Tool Example



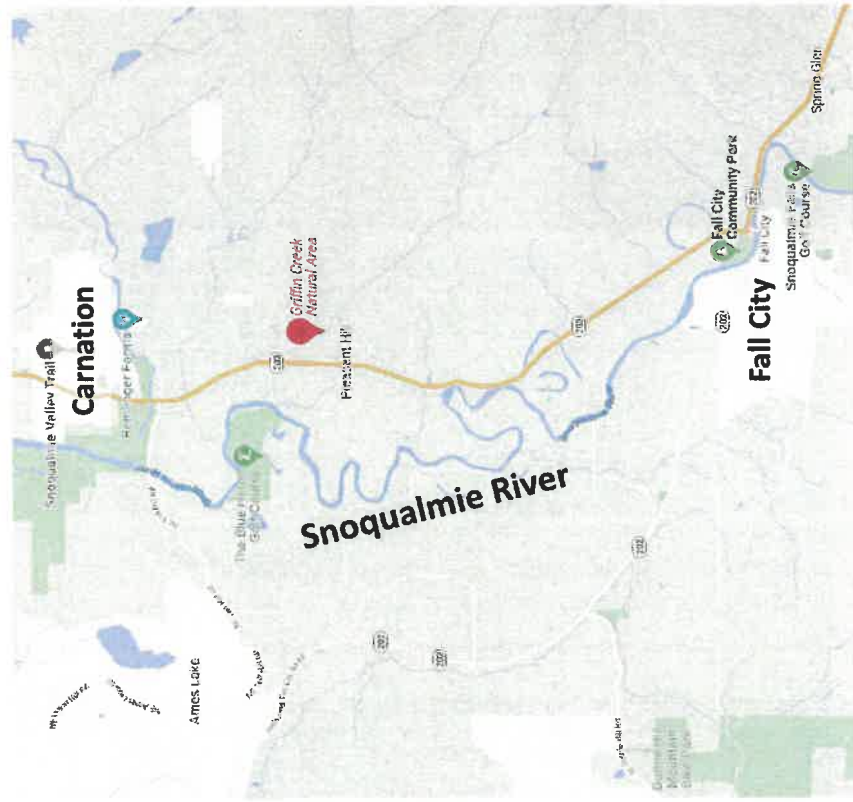
Site-Potential Tree Height & Riparian Management Zone Online Mapping Tool

<https://wdfw.maps.arcgis.com/apps/MapJournal/index.html?appid=35b39e40a2af447b9556ef1314a5622d>



Department of Fish and Wildlife

Griffin Creek Natural Area vicinity



The dashed yellow line (above right) shows the approximate area within the mapping tool that we will examine in the next slide



Example 1

Site Potential Tree Height at 200 Years: King

County Name King

200 Year SPTH (in feet) 100
Tree Name Red Alder

Reference Worthington 1950

Note Additional considerations for terrestrial wildlife are encouraged. See Chapter 2 of the Riparian Ecosystems, Volume 2: Management. Recommendations for more information.

Example 2

Site Potential Tree Height at 200 Years: King

County Name King

200 Year SPTH (in feet) 211
Tree Name Douglas-fir

Reference King 1966

Note Additional considerations for terrestrial wildlife are encouraged. See Chapter 2 of the Riparian Ecosystems, Volume 2: Management. Recommendations for more information.

Example 3

Site Potential Tree Height at 200 Years: King

County Name King

200 Year SPTH (in feet) 235
Tree Name Douglas-fir

Reference King 1966

Note Additional considerations for terrestrial wildlife are encouraged. See Chapter 2 of the Riparian Ecosystems, Volume 2: Management. Recommendations for more information.

Site Potential Tree Height at 200 Years: King

County Name King

200 Year SPTH (in feet) 215
Tree Name Western Hemlock

Reference Wiley 1978

Note Additional considerations for terrestrial wildlife are encouraged. See Chapter 2 of the Riparian Ecosystems, Volume 2: Management. Recommendations for more information.



Department of Fish and Wildlife

Final thoughts

- Governor Inslee spoke about SPTH at the 2019 Centennial Accord and is continuing to demonstrate support for other state agencies to follow WDFW's recommendations.
- We encourage focusing on all five riparian functions and doing as much as you can starting from the edge of the stream and working outward.
 - Evaluate the relative risk to the resource: e.g., for pollution removal function, consider adjacent land uses, slope, soil type, etc.



Questions?

Volume 1

Tim Quinn/George Wilhere

Volume 2

Tom O'Brien/Mary Huff



Department of Fish and Wildlife

Schroeder, Tansy

From: Audrey Rotrock
Sent: Monday, March 17, 2025 8:15 AM
To: Schroeder, Tansy
Subject: FW: letter for the record



Audrey Rotrock
Associate Planner
Office (360) 454-5214
stanwoodwa.org

Email may be considered a public record subject to public disclosure under RCW 42.56

From: colleen shannon <cashannon1952@gmail.com>
Sent: Sunday, March 16, 2025 1:05 PM
To: Audrey Rotrock <Audrey.Rotrock@ci.stanwood.wa.us>
Subject: letter for the record



CAUTION. This email originated from outside of this organization. Please exercise caution with links and attachments.

Colleen Shannon
27626 65th Lane NW
Stanwood, WA 98292

11 March 2025

City of Stanwood
Planning Commission

Re: Reduced buffers/riparian areas

Dear Planning Commission,

I will keep this very short. As you are deliberating the choice between housing and the environment please consider that I weigh in on the side of the environment. The science is clear. No need to beat that dead horse. Riparian areas are essential for healthy waterways and wetlands and the creatures that live in and near them. I encourage you to think long term and follow the science, not short term and follow the money. We have way too much of that and the results are obvious, locally, nationally and worldwide!

Please make me a party of record on this ordinance.

Sincerely,

Colleen Shannon ARNP

3-7-2025

Dear Mayor, Council members and Stanwood City staff,

As residents and concerned citizens of Stanwood, we would like to express our support for maintaining and increasing Wetlands and Stream buffers. We understand that builders, wanting to maximize profits, oppose any regulation that might impact their ability to use all available space on land they've purchased including the naturally vulnerable areas. However, we see this as a short-sighted view.

The future quality of life for people and protected wildlife, depends directly on decisions we make now. These values must be codified in law in order to channel growth in a healthy and sustainable way. We agree with the Tulalip Tribes that, "Jurisdictions should elect to adopt a "Net Ecological Gain" standard, and require mechanisms for restoration and/or enhancement at an equal or greater rate than reduction mechanisms."

We moved to, and want to continue living in this area, because of it's natural beauty. We strongly request that our council representatives and Stanwood City Staff diligently advocate for the natural wetlands and buffer areas. Any changes to our codes and regulations should have in mind the kind of environment we are leaving to our children and grandchildren.

Sincerely,

Samuel and Denise Long



Snohomish County

Planning and Development Services

3000 Rockefeller Ave., M/S 604

Everett, WA 98201-4046

(425) 388-3311

www.snoco.org

MEMORANDUM

TO: Snohomish County Council

FROM: Terri Strandberg, Principal Planner
Sarah Titcomb, Principal Planner

SUBJECT: Responding to CM Mead Question – How many dwelling units will be lost from Ordinance No. 24-097?

DATE: January 27, 2025

CM Mead Question – How many dwelling units will be lost from Ordinance No. 24-097?

Introduction

It is not possible to give one definitive number of the salmon saved¹ or dwelling units lost due to amendments proposed within Ordinance No. 24-097 because there is not one calculation to perform or one input to consider. Further, while the county must balance 15 planning goals from the state, the Growth Management Hearings Board has consistently harmonized the GMA's mandate to accommodate growth with its mandate to protect critical areas. PDS also believes the GMA goals most relevant to critical areas protection [Goal 8, Natural Resource Industries, Goal 9, Open Space and Recreation, and Goal 10, Environment] contain some of the most directive language to “maintain,” “protect,” and “enhance” the environment, consistent with the GMA requirement to designate and protect critical areas.

Best available science (BAS)² also gives us information about what actions do and do not benefit salmon as well as all other species in Snohomish County. Because of science, we know that wider buffers from streams and wetlands provide more habitat for wildlife, more opportunity for contaminants to be filtered

¹ While we cannot definitively say the impact of Snohomish County policies on salmon and whales, there is data on recent runs of [salmon](#) and number of [orcas](#) remaining.

² [Chapter 365-195 WAC](#) is dedicated to BAS with sections on background and purpose as well as criteria for determining, obtaining, and including BAS within policies and development regulations. In particular, WAC 365-195-910(1) notes, “Consultation with state and federal natural resources agencies and tribes can provide a quick and cost-effective way to develop scientific information and recommendations. State natural resource agencies provide numerous guidance documents and model ordinances that incorporate the agencies' assessments of the best available science.” WAC 365-195-905 clarifies that counties may use local, state, or federal information as BAS, as well as collect and review additional BAS that follows the scientific process.

out before they enter the water, more shade to keep water and microenvironments cool, and more areas for human recreation. One critical area does not only have one benefit because there are multiple, layered benefits to each. Just like one property does not require one site design, density, or housing type.

This memo addresses CM Mead's question by providing further context about flexibility in site design under the proposed amendments of Ordinance No. 24-097, and the historical relationship between unbuildable land and density.

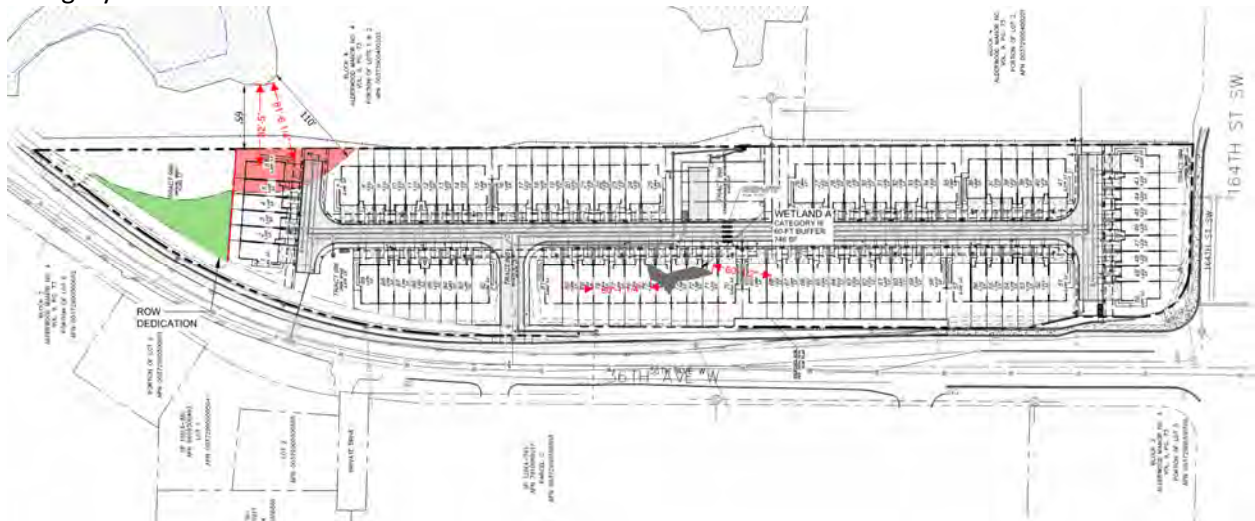
Flexibility in Site Design and Housing Type

Two of the many reasons why it is not possible to pinpoint the exact impact to the dwelling units from Ordinance No. 24-097 are that the county does not design residential developments nor require that developers maximize the number of dwelling units per site. The county incentivizes higher densities, although we do not require them. Looking specifically at the example presented during the public hearing on January 15th by Council Staff highlights this fact. Council staff noted that if the recommended amendments to critical area regulations (CAR) occur, the developer may have lost around 11 dwelling units with the same site design. Taking a step back, it is important to note that the site displayed by Council Staff was zoned Urban Center (UC) and will be zoned Mixed Use Corridor (MUC) moving forward with the recent adoption of [Amended Ordinance No. 24-065](#).

Consider first the standards of the UC zone in 2022 when the development application was proposed. The minimum Floor Area Ratio (FAR) for a residential development in the UC zone was 0.5 with a maximum FAR of 2.5 with bonuses for the provision of, for instance, affordable housing, community gardens, and daycare. The maximum height allowed was 90 feet and there was no maximum density. The applicant noted that the maximum allowed FAR on the property was 1.25 due to a selection of containing parking in a structure (i.e., within each townhouse unit's garage). The applicant chose to propose 89 dwelling units for a FAR of 1.07 and a maximum height of a little over 28 feet. The applicant did not propose to designate any units as affordable housing.

Adopting Ordinance No. 24-097 would reduce the number of townhouse units possible within the applicant's 2022 selected design. Although this was not the only design possible, and, as discussed above, the applicant did not maximize the potential dwelling units allowed on the site under 2022 code. The applicant chose to utilize buffer averaging and fill a small Category III wetland as allowed in the 2022 CARs. The applicant did not utilize buffer width reductions. The recommended code changes within the ordinance would increase the buffer averaging width required from the offsite wetland from 65 feet to 82.5 feet. This would impact Unit 6 although wouldn't necessarily cost the development a unit. Unit 6 could potentially be reduced in size or shifted west to accommodate the increased buffer. Additionally, the increased buffer averaging width near Unit 6 would also reduce the necessary buffer that was added in Tract 999 (shown as green in the site plan below). This could lead to an additional unit added to the site. The recommended code changes would also prevent the filling of the Category III wetland onsite which would reduce the number of townhouse units in that area. The site plan below displays an

approximate buffer width of 82.5 feet that could cross into Unit 6, and the 60 foot buffer from the Category III wetland.



It is also true that this same site could have been developed with a higher density using the 2022 UC zone standards and the 2022 CAR as well as the proposed CAR amendments. A multifamily development with apartment building(s) up to 90 feet tall without a maximum number of dwelling units could have been selected by the applicant instead of townhouses. This could have significantly increased the number of dwelling units and also avoided all critical areas. For instance, just one 6 story structure with dimensions of about 265 feet by 162 feet as superimposed on the site below (the footprint is the actual plans of a different UC development proposed in 2020 on a smaller property) would have avoided all critical areas, provided at least 134 dwelling units, and a FAR of a little over 0.6. This would not require buffer averaging, filling wetlands, or reducing buffer widths and is also likely not the maximum density that could be proposed on this same property. Even more buildings and units could be proposed on the property with some impacts to critical areas and mitigation that would meet the proposed amendments of Ordinance No. 24-097. Granted there would be drainage, open space, and other requirements such as traffic, although this is an example of how an approved development is not the only possible design for a property. Dwelling units do not necessarily need to be lost on this site and others through the adoption of the ordinance.



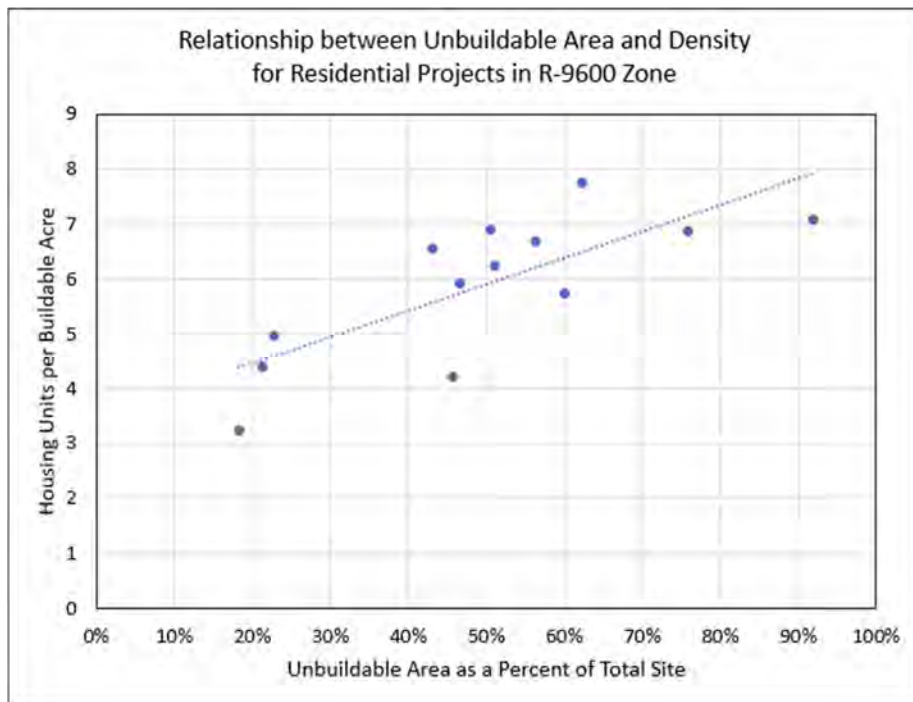
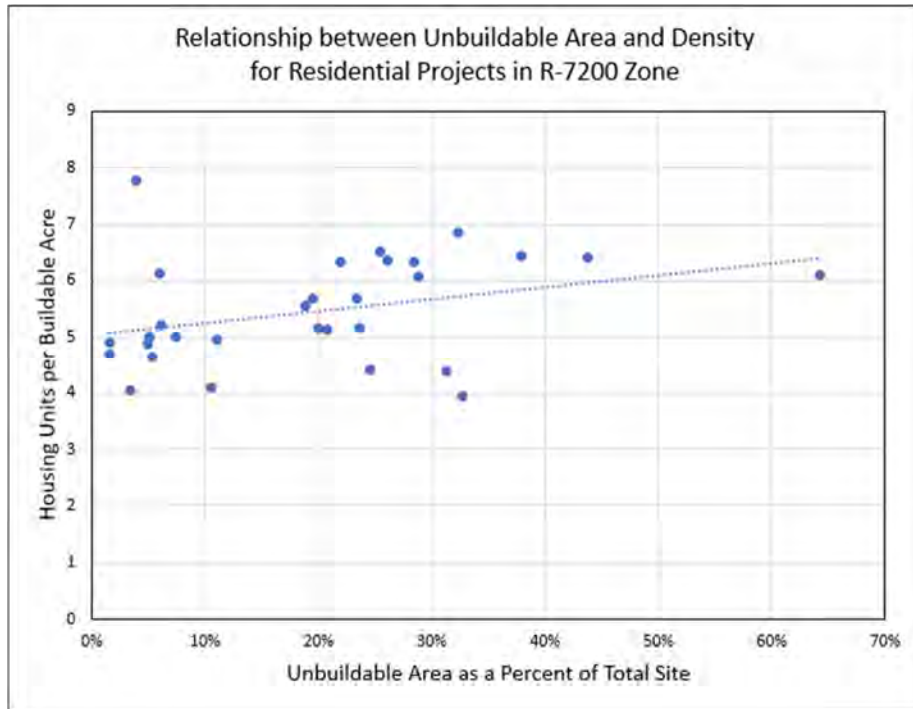
Finally, if a new development were proposed on this property today the development would need to meet MUC standards regardless of how or if the CAR changes. The MUC allows for even more density than the UC zone with no density maximums and a maximum potential height of 135 feet. The MUC zone does not allow for townhouse developments. An MUC development on this property would likely exceed the existing 89 units and still be able to comply with the recommendations within Ordinance 24-097.

This exercise at looking at the same site plan that was presented during the January 15th public hearing but imagining a different site layout and a different housing type shows the complexity in trying to isolate the specific impact the amendments within the ordinance will have on density. While the ordinance will impact the existing site design of some developments as presented on January 15th, these do not represent the only development or design possible on each property. The development community will adapt to the amended CAR just as they do all code changes and find opportunities to develop the highest and best use as they see fit while also still protecting the environment. Any estimate for the potential reduction in dwelling units from Ordinance No. 24-097 also must take into consideration the opportunities that the Comprehensive Plan adoption have presented for higher density infill development and expanded UGA boundaries.

Historical Relationship Between Unbuildable Lands and Density

In response to a Planning Commission question before the Comprehensive Plan was adopted, PDS analyzed the potential impact to development capacity if stream and lake buffers were to increase in line with recommendations from WDFW to 200 feet for Type F and S water bodies and 100 feet for Type Ns and Np water bodies. Staff responded that increasing buffers across the board in this manner could result in a percent increase in unbuildable acres of 2.9% in unincorporated Snohomish County overall. If staff assumed that developers did not adapt to changes in code with different site designs and housing types, a potential decrease of 2.4% in housing unit capacity within the unincorporated UGA could be expected.

However, this analysis did not take into consideration the potential increases in residential density stemming from changes to critical areas and buffers. This is in fact what occurs on development sites with greater critical area constraints. Developers will attempt to recoup potential lost yields by building to higher densities on the remaining buildable portions of affected properties by taking advantage of existing code provisions for onsite density transfer such as lot size averaging. The development history data assembled for the 2021 buildable lands report shows that within the county's unincorporated urban zones that allow this type of development flexibility (such as the R-7200 and R-9600 zones where we have enough examples), this has clearly been the case for subdivisions with unbuildable areas present that were submitted after 2003.



The graphs above show that as critical areas and buffers increase, densities achieved on the remaining buildable portions of development sites zoned R-7200 and R-9600 also increase. As such, when housing capacity is estimated under an expanded critical area and buffer scenario, assumed densities achieved on the remaining buildable portions of a site should be increased. This has the effect of greatly reducing or potentially eliminating the impact of the critical area regulation change on housing capacity. In addition, with adoption of the Missing Middle ordinance in 2022, projects in the R-7200 zone could have even

greater flexibility using townhouses that could allow them to achieve greater densities on constrained sites. The net effect of these code changes, along with any number of other potential code changes, are required to be evaluated comprehensively in the county's next buildable lands report, which will rely on an updated development history that empirically documents how all code changes have affected actual development densities.

As Ordinance No. 24-097 does not propose to increase wetland buffer widths, a similar analysis was not performed for wetlands for the Planning Commission. Further, determining buffer widths for streams is very different than for wetlands. Streams are located and typed across the county much more accurately in existing mapping databases than wetlands. Wetland categories and habitat function can typically only be determined from on the ground analysis. The county does not have the location of all wetlands and the locations that are known are not categorized. This means that increasing a stream buffer can be mapped fairly accurately across the county to look at the land impacted, while the same is not true for wetlands. Further, as discussed above not every project implements the currently allowed maximum reductions, utilizes buffer averaging to the full degree, fills wetlands, or maximizes allowed density.

Estimating the impact on capacity from amendments that will not result in one consistent method of implementation requires a lot of assumptions. What Snohomish County's land capacity analysis typically does is consider the density that has been achieved by developers under the adopted Comprehensive Plan and projects that out into the future. It is also important to note, that even that has historically overestimated the impact of critical area regulations on capacity. The reality of residential growth after the 2012 buildable lands report showed that the number of dwelling units created from 2013 through 2018 was 31 percent higher than what was expected based on assumed densities and critical area regulations. The actual amount of unbuildable land was 31 percent less than the amount originally predicted. This points to the uncertainty when there is not a one size fits all requirement.

Conclusion

Critical area regulation updates are a balancing act. The code must incorporate the best available science, and Snohomish County also has other planning priorities such as reducing sprawl, affordable housing, and property rights. Once again it is important to note that while the 15 planning goals of the GMA are not in priority order, the GMA requires the protection of critical area functions and values.

Further, while the amendments of Ordinance No. 24-097 will impact development, they will not necessarily decrease the number of housing units possible in the county. Development regulations allow flexibility in design, and developers do not always choose to maximize a property's density. As seen in the example from the January 15th public hearing, the amendments in the ordinance would have required a different design, although it would not have necessarily reduced the density. History also shows that as CAR becomes more restrictive, densities actually get higher as developers more fully utilize the allowed densities of the zone.

March 10th, 2025 Planning Commission Comments - Critical Area Ordinance

I very much appreciate the due diligence that City Staff, this Commission and our City Council are showing in updating our Critical Area Ordinance. After reading the collaborative letters responding to requests for review and feedback, I see that those comments from WA State Department of Fish and Wildlife and Ecology, as well as Tulalip Tribes, are being incorporated into this Ordinance. I appreciate the suggestions those organizations have contributed, and the reception their comments received.

Yes, we have State mandates to provide housing. Yes, developers are pushing us to reduce the protective buffers that our wetlands need to survive so that they can build and sell more homes. There are now several alternative options to build more housing, although they may not provide the same level of profit that the developers prefer. The job of protecting our Wetlands and Critical Areas is imperative upon our Cities and Counties, and I appreciate the increased buffers that this update includes. Once infringed upon and replaced by development, those fragile ecosystems and all of the species dependent upon them are gone. Gone forever, with little chance of recovery. We need to hold fast, make decisions based on the best available science, and continue to pass Ordinances that will stand as protection for future generations.

I recently spent some time reading the October 2022 WA ST Dept of Ecology Wetland Guidance for Critical Areas Ordinance. A couple of things jumped out at me right away. On page 20 it is noted that the buffers recommended are based on a **moderate risk approach**. This means that there is a moderate risk that wetland functions will still be impacted when we use the recommended buffer. As Tulalip Tribes noted, "We are still seeing a slow and steady loss of these ecosystems." Adopting narrower buffers represents a higher risk approach, and we need to be prepared to justify, using the best available science, why such an approach is necessary and to offer alternative wetland protections that help reduce the risk. "In effect, we are still compromising the best outcome of environmental health for flexible development opportunities." (Terri Strandberg, County Planner, Everett Herald.)

I also noted page 21, where it is stated that the Buffer recommendations assume that the buffer area is well vegetated with native species appropriate to the ecoregion. Then direction is given as to what needs to happen if not well vegetated. I have not revisited the slope above Church Creek in our Park to see if revegetation of denuded buffers is being followed. I hope it is so that Church Creek has the buffer protection that is needed.

Thank you for the time and efforts that you are putting into carefully crafting our Critical Area Ordinance. Future generations depend on the decisions you are making now.

Sincerely, Cathy Wooten

**CITY OF STANWOOD
WASHINGTON**

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF STANWOOD, WASHINGTON, ADOPTING REVISIONS
TO SMC TITLE 18 FOR CRITICAL AREAS AND ENVIRONMENTAL REGULATIONS,
ESTABLISHING SEVERABILITY, AND AN AFFECTIVE DATE**

WHEREAS, the City of Stanwood has begun a process to comprehensively update its municipal code to conform to current law and practice; and

WHEREAS, the purpose of this code amendment is to eliminate conflicts, improve clarity and overall function of the municipal code, and reflect current city and best practices; and

WHEREAS, the City Council has opted to comprehensively revise and consolidate development regulations in a new Unified Development Code in Title 18; and

WHEREAS, the City of Stanwood SEPA Responsible Official has reviewed the proposed amendments to the Stanwood Municipal Code, determined that the amendments are categorically exempt from SEPA, and memorialized those conclusions under file number ____; and

WHEREAS, the Stanwood Advisory Group reviewed the draft ordinance at their _____ meeting, and has recommended that the City Council adopt the ordinance as presented; and

WHEREAS, the Stanwood Planning Commission reviewed the draft ordinance at their _____ meeting and has recommended that the City Council adopt the ordinance as presented; and

WHEREAS, the City Council held a public meeting and first reading of the draft code amendment on _____, a second reading on _____, and accepted public comment; and

WHEREAS, the City Council of Stanwood has authority under RCW 36.70A to adopt plans and regulations related to development and operations within the City of Stanwood; and

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

Section 1. Stanwood Municipal Code Title 18, Part 8 – Environment, is adopted as shown in Exhibit “A” attached to this ordinance and incorporated herein by reference as if set forth in full.

Section 2. Severability. The various parts, sections and clauses of this ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

Section 3. Authority to Make Necessary Corrections. The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not

limited to, the correction of scrivener's clerical errors, references, ordinance numbers, section/subsection numbers and any references thereto.

Section 4. Effective Date. This Ordinance shall take effect five days after its passage and publication as required by law.

PASSED and APPROVED this ____ day of _____, 2024.

CITY OF STANWOOD:

Sid Roberts, Mayor

Attest:

Lisa Sokolik, City Clerk

Approved as to Form:

Nikki Thompson, City Attorney

Date of Publication: _____

Effective Date: _____

Exhibit A

Title 18 Unified Development Code

Part 8 Environment

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Chapter 18.800 Critical Areas – General Provisions

i The existing SMC section 17.114 has been moved to this new section, SMC 18.800. Many of the subsections remain the same but have been renumbered. All of the SMP sections have been taken out and moved under Title 18 Part 9 SMP.

18.800.010 Purpose.

- (1) The purpose of SMC chapters 18.800-18.810 is to:
 - (a) 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) implement the goals, policies, guidelines, and requirements of the Stanwood Comprehensive Plan and the Growth Management Act.
- (2) By limiting development and alteration of critical areas, this chapter seeks to:
 - (a) Protect the public and public resources and facilities from injury, loss of life, or property damage due to landslides and steep slope failures, erosion, seismic events, volcanic hazards, or flooding;
 - (b) 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, and to conserve the biodiversity of plant and animal species;
 - (c) 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
 - (d) 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.
- (3) The City finds that critical areas provide a variety of valuable and beneficial biological and physical functions that benefit Stanwood and its residents, or that 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 flood waters, groundwater recharge and discharge, erosion control, wave

attenuation, protection from hazards, historical, archaeological, and aesthetic value protection, and recreation. These beneficial functions are not listed in order of priority.

- (4) This chapter is intended to protect critical areas in accordance with the Growth Management Act and through the application of 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.
- (5) 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.

18.800.020 Applicability.

i This is a new section that incorporates the content of existing SMC 17.114.070 and 17.114.100(1).

- (1) **This Chapter applies:**
 - (a) to the regulations in SMC Chapters 18.802-18.810; and
 - (b) to all uses, activities, and developments within, adjacent to, or likely to affect any critical area.
- (2) For the purpose of this section, "adjacent to" means located:
 - (a) on a site immediately adjoining a critical area; and
 - (b) a distance equal to or less than the required critical area buffer width and building setback.
- (3) Exception. Where a use, activity, or development is regulated by the Shoreline Master Plan, SMC Part 9, those regulations apply instead.
- (4) 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.

Commented [EA1]: You might consider including (if not elsewhere) note of adherence to other federal, state, and local regulations and permits.

18.800.030 How to use the Critical Areas Code.

i This is a new section to explain how the various components and chapters of the critical areas code is applied.

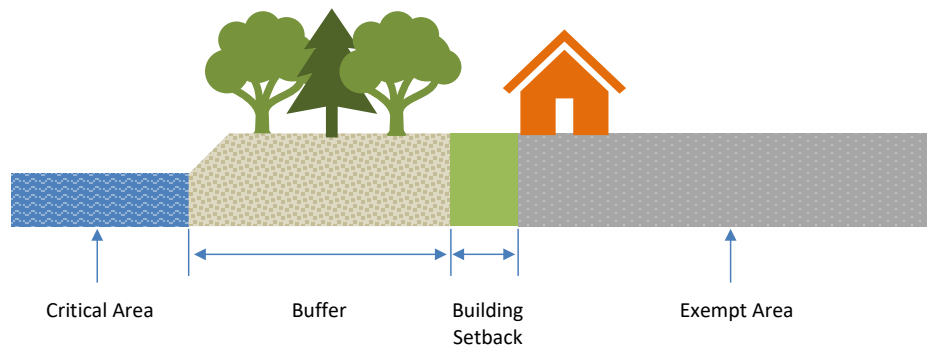
i This section incorporates the content of existing SMC 17.114.030, Relationship to Other Regulations.

! City staff, please carefully review to see if I've captured the mechanism of the CA code correctly.

- (1) Critical areas exist throughout the City. An activity, land use, or development must comply with the City's critical areas code to protect those critical areas, and in some cases, to protect the proposed activity from the critical area.
- (2) The City's critical areas code is found in SMC Chapters 18.800-18.810. This chapter contains general provisions for all critical areas, while additional standards specific to each of the five types of critical area may be found in the following chapters:
 - (a) Chapter 18.802 Wetlands
 - (b) Chapter 18.804 Fish and Wildlife Habitat Conservation Areas
 - (c) Chapter 18.806 Geologically Hazardous Areas

- (d) Chapter 18.808 Critical Aquifer Recharge Areas
- (e) Chapter 18.810 Frequently Flooded Areas
- (3) The City's critical areas code regulates activities (including land uses and development) in and near critical areas. To determine the regulations that must be applied to an activity, land use, or development:
 - (a) Determine if the activity is within shoreline jurisdiction, as defined in the City's Shoreline Master Plan (SMC Title 18 Part 9). If it is, the SMP regulations apply instead of the City's critical areas code.
 - (b) Determine if the activity is exempt from critical areas regulation (SMC 18.800.110).
 - (c) If the activity is not exempt, determine whether the activity is proposed within the buffer or building setback for the relevant type(s) of critical area.

Figure 18.800.040-1 Buffer and Setback Areas



- (d) If the activity is proposed within the buffer or building setback, determine whether the activity is allowed (SMC 18.800.120) and if so, comply with the standards applicable to that activity in that section and in the chapter applicable to the relevant type(s) of critical area.
- (e) If the activity is neither exempt nor allowed, obtain a Critical Areas Report (SMC 18.800.140) to determine whether and how the activity can mitigate for its impacts on the critical area or its buffer. The first step in the required sequence of mitigation is to avoid impacts; see SMC 18.800.160 for the remainder of the sequence.
- (f) If the activity's effects cannot be mitigated, you might be eligible to seek an exception from the City's critical areas code:
 - (i) For situations where no reasonable economic use of the property would otherwise be allowed, per SMC 18.800.180;
 - (ii) For public agencies or utilities, per SMC 18.800.190.
- (g) If special conditions peculiar to your property exist, you may be eligible for a variance from the City's critical areas code per SMC 18.800.200.
- (4) Where regulations for multiple types of critical areas overlap, each set of regulations applies to provide the most protection to the critical areas.
- (5) Compliance with the City's critical areas code does not constitute compliance with other federal, state, and local regulations and permit requirements that may be required (e.g., other permits required by SMC Title 18, shoreline permits, Hydraulic Permit Act (HPA) permits, U.S. Army Corps of Engineers Section 404

permits, National Pollution Discharge Elimination System permits). The applicant is responsible for separately complying with those requirements.

18.800.040 Administration.

i Based on existing SMC 17.114.020 Authority.

- (1) The Director has the authority to interpret and apply, and the responsibility to enforce, this chapter.
- (2) The City may withhold, condition, or deny development permits or activity approvals to ensure that the proposed action is consistent with this chapter.

i Next sentence based on existing SMC 17.114.050.

- (3) The Director is authorized to adopt such administrative rules and regulations as necessary and appropriate to implement this chapter and to prepare and require the use of such forms as necessary for its administration.

18.800.050 Interpretation.

In the interpretation and application of this title, the provisions of this chapter are the minimum requirements necessary, must be liberally construed to serve the purpose of this title, and must be deemed to neither limit nor repeal any other provisions under state statute.

18.800.060 Fees.

i This section is both understood and addressed elsewhere and should be deleted.

- (1) The city by ordinance or resolution may establish fees for filing of a critical area identification form, critical area review processing, and other services provided by the city as required by this chapter. These fees must be based on the anticipated sum of direct costs incurred by the city for any individual development or action and may be established as a sliding scale to recover all of the city costs including the enforcement of these code provisions. The basis for these fees may include, but is not limited to, the cost of engineering and planning review time, cost of inspection time, costs for administration, and any other special costs attributable to the critical area review process.
- (2) Unless otherwise indicated in this chapter, the applicant is 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.

18.800.100 Protection requirements.

i This section is based on existing SMC 17.114.080, Protection of critical areas, but has been retitled. It also integrates existing SMC 17.114.100(2) et seq, formerly named Applicability, but deleting the list of example permits; and existing SMC 17.114.090, Best available science. The definition of Best Available Science in 17.114.090 has been deleted, because it duplicated the definition in the definitions chapter.

- (1) The Director may 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 SMC Chapters 18.800-18.810.

- (2) No activity or use is allowed if it results in a net loss of critical area functions and values. Any action taken pursuant to this chapter and Chapters 18.802 through 18.810 SMC must result in equivalent or greater functions and values of the critical areas associated with the proposed action, as determined by Best Available Science.
- (3) Per SMC 18.800.180, all actions and developments must be designed and constructed to avoid, minimize, and restore all adverse impacts and an applicant must first demonstrate an inability to avoid or reduce impacts before restoration and compensation of impacts may be allowed.
- (4) Critical area reports and decisions to alter critical areas must:
 - (a) rely on Best Available Science to protect the functions and values of critical areas; and
 - (b) give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fish, such as salmon and bull trout, and their habitat.

18.800.110 Exempt activities.

i This section is based on existing SMC 17.114.110.

- (1) Exempt activities are exempt from the substantive requirements of this chapter and Chapters 18.802 through 18.810 SMC.
 - (a) Exempt activities do not require submittal of a critical area identification form or a critical areas report.
 - (b) Exempt activities must use **reasonable methods** to avoid potential impacts to critical areas.
 - (c) Exempt activities do not have permission to degrade a critical area or ignore risk from natural hazards.
 - (d) Any incidental damage to, or alteration of, a critical area that is not a necessary outcome of the exempt activity must be restored, rehabilitated, or replaced at the responsible party's expense.
 - (e) Exempt activities must still comply with other local, state, and federal laws and requirements.

Commented [EA2]: Is there a standard for "reasonable methods"? Maybe using "best available science" would be better here since it is defined in your definitions section of your city code.

i Do we want a requirement to submit an exemption request, or optional? Existing code is not clear.

- (2) The proponent of an activity may submit an application for exemption, consistent with SMC Title 18 Part 2, that describes the activity and identifies the applicable exemption from the list in this section. The Director must review the exemption request to verify that it complies with this chapter and approve or deny the exemption. If the exemption is approved, it must be placed on file with the department. If the exemption is denied, the proponent may apply for critical areas review of a non-exempt activity, subject to the requirements of this chapter.
- (3) Exempt activities defined:
 - (a) Emergencies.
 - (i) Emergencies are defined as those activities necessary to prevent an immediate threat to public health, safety, or welfare, or that pose an immediate risk of damage to private property and that require remedial or preventative action in a time frame too short to allow for compliance with the requirements of this chapter and Chapters 18.802 through 18.810 SMC.
 - (ii) Emergency actions that create an impact to a critical area or its buffer must:
 - (A) use reasonable methods to address the emergency; and
 - (B) have the least possible impact to the critical area or its buffer.

- (iii) The person or agency undertaking such action must notify the city within one working day following commencement of the emergency activity. Within 30 days, the Director must determine if the action taken was within the scope of the emergency actions allowed in this subsection. If the Director 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 SMC 18.800.210, Unauthorized critical area alterations and enforcement, apply.
- (iv) After the emergency, the person or agency undertaking the action must 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 must apply for review, and the alteration, critical area report, and mitigation plan must 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;
- (b) 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 an endangered or threatened species;
- (c) 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 SMC 18.800.140(4)(e);
- (d) Forest Practices. Forest practices regulated and conducted in accordance with the provisions of Chapter 76.09 RCW and forest practices regulations, WAC Title 222, and those that are exempt from the city's jurisdiction, except that forest practice conversions are not exempt;
- (e) Minor Site Investigative Work. Work necessary for land use submittals, such as surveys, soil logs, percolation tests, and other related activities, where such activities do not require construction of new roads or significant amounts of excavation. In every case, impacts to critical areas and buffers must be minimized and disturbed areas must be immediately restored;
- (f) Existing Structures. Existing structures may be maintained, repaired, and remodeled provided there is no further intrusion into a critical area or its buffer. New construction or reconstruction must conform to the requirements of this chapter and Chapters 18.802 through 18.810 SMC; and

 Recommend deletion of the (existing) exemption below. If we want to require compliance with the frequently flooded portion of this code, does it make sense to say the activity is exempt? What effect does that this provision have? How many SFRs does this allow?

- (g) Single-Family Infill Development in Floodplain. Construction of single-family units, additions, and accessory structures that meet the city's floodplain regulations in Chapters 18.810 SMC, but do not impact streams, wetlands, or their buffers, are exempt. The city must require recording of a covenant on the title of the property, stating as follows: "This property is potentially subject to flooding, geologic (seismic), and volcanic lahars (mudflow) hazards."

18.800.120 Allowed activities.

i This section is based on existing SMC 17.114.140.

i The first paragraph attempts to parallel the first paragraph of .110 Exempt Activities.

- (1) Allowed activities are subject to the substantive requirements of this chapter and Chapters 18.802 through 18.810 SMC.
 - (a) Allowed activities must be reviewed and approved by the City, but do not require submittal of a critical area identification form or a critical areas report.
 - (b) The Director may apply conditions to the underlying or associated project permit, such as a building permit, to ensure protection of critical areas and compliance with the City's critical areas code.
 - (c) Allowed activities must be conducted, and the Director must require, using the best management practices that result in the least amount of impact to the critical areas. Best management practices are required for tree and vegetation protection, construction management, erosion and sedimentation control, water quality protection, and regulation of chemical applications.
 - (d) Any incidental damage to, or alteration of, a critical area as the result of an allowed activity must be restored, rehabilitated, or replaced at the responsible party's expense.
- (2) Allowed activities defined:
 - (a) Permit Requests Subsequent to Previous Critical Area Review. Development permits and approvals that involve both discretionary land use approvals (e.g., subdivisions, rezones, or conditional use permits), and construction approvals (e.g., building permits) if all the following conditions have been met:
 - (i) The provisions of this chapter have been previously addressed as part of another approval;
 - (ii) There have been no material changes in the potential impact to the critical area or buffer since the prior review;
 - (iii) There is no new information available that is applicable to any critical area review of the site or particular critical area;
 - (iv) The permit or approval has not expired or, if no expiration date, no more than five years has elapsed since the issuance of that permit or approval; and
 - (v) Compliance with any standards or conditions placed upon the prior permit or approval has been achieved or secured;
 - (b) Modification to Existing Structures. Structural modification of, addition to, or replacement of an existing legally constructed structure that does not further alter or increase the impact to the critical area or buffer and there is no increased risk to life or property as a result of the proposed modification or replacement; provided, that restoration of structures substantially damaged by fire, flood, or act of nature 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;
 - (c) Activities Within the Improved Right-of-Way. Replacement, modification, installation, or construction of utility facilities, lines, pipes, mains, equipment, or appurtenances, not including substations, when such facilities are located within the improved portion of the public right-of-way or a city-authorized private roadway except those activities that alter a wetland or watercourse, such as culverts or bridges, or result in the transport of sediment or increased stormwater;
 - (d) Minor Utility Projects. Utility projects that have minor or short duration impacts to critical areas, as determined by the Director 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 may not result in the transport of sediment or increased stormwater. Such allowed minor utility projects must meet the following criteria:

- (i) There is no practical alternative to the proposed activity with less impact on critical areas;
 - (ii) The activity involves the placement of a utility pole, street sign, anchor, or vault or other small component of a utility facility; and
 - (iii) The activity involves disturbance of an area less than 75 square feet;
- (e) Public and Private Pedestrian Trails. Public and private pedestrian trails subject to the following:
- (i) The trail surface must meet all other requirements including water quality standards set forth in the city's adopted stormwater manual; and
 - (ii) Buffer widths, if applicable, must be increased, where possible, equal to the width of the trail corridor, including disturbed areas;
 - (iii) In wetlands and fish and wildlife habitat conservation areas, public and private pedestrian trails must be constructed of pervious materials and are restricted to the outer 25% of the buffer area except where necessary.
- (f) Select Vegetation Removal Activities. The following vegetation removal activities are allowed, with approval from the Director:
- (i) The removal of the following vegetation with hand labor and light equipment:
 - (A) Invasive and noxious weeds;
 - (B) Ivy (*Hedera* sp.);
 - (C) Himalayan blackberry (*Rubus discolor*, *R. procerus*); and
 - (D) Evergreen blackberry (*Rubus laciniatus*);
 - (ii) The removal of trees from critical areas and buffers that are hazardous, posing a threat to public safety, or posing an imminent risk of damage to private property; provided, that:
 - (A) 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;
 - (B) Tree cutting is limited to limbing and crown thinning, unless otherwise justified by a qualified professional. Where pruning or crown thinning is not sufficient to address the hazard, trees may be cut to remove the hazard (first choice) or removed or converted to wildlife snags (second choice);
 - (C) All vegetation cut (tree stems, branches, etc.) must 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;
 - (D) The landowner must 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 must be species that are native and indigenous to the site and a minimum caliper of two inches in diameter at breast height (dbh) must be used;

- (E) If a tree to be removed provides critical habitat, such as an eagle perch, a qualified wildlife biologist must be consulted to determine timing and methods of removal that minimize impacts; and
- (F) Hazard 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 14 days following such action, the landowner must submit a restoration plan that demonstrates compliance with the provisions of this chapter;
- (iii) Measures to control a fire or halt the spread of disease or damaging insects consistent with the State Forest Practices Act, Chapter 76.09 RCW, and local forest practices regulations if adopted; provided, that the removed vegetation is replaced in kind or with similar native species within one year in accordance with an approved restoration plan;
- (g) 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 is restricted in accordance with State Department of Fish and Wildlife Management Recommendations and the regulations of the State Department of Agriculture and the U.S. Environmental Protection Agency;
- (h) Minor Site Investigative Work. Work necessary for land use submittals, such as surveys, soil logs, percolation tests, and other related activities, where such activities do not require construction of new roads or significant amounts of excavation. In every case, impacts to the critical area must be minimized and disturbed areas immediately restored; and
- (i) Navigational Aids and Boundary Markers. Construction or modification of navigational aids and boundary markers.

18.800.130 Critical area review process.

i This section is based on existing SMC 17.114.150 Critical area report – Review process.

- (1) Requirement. For any proposed activity not (a) exempt under SMC 18.800.110, or (b) allowed pursuant to SMC 18.800.120, the proponent must submit the activity to critical area review as described in this section.

! Note Tansy says you don't have the critical area identification form mentioned in current code, so I changed it to a form to request/kickoff critical area review. We could change the name...

- (2) To initiate critical areas review, an applicant must submit to the Director a complete critical area request form.
- (3) Site Inspection. Upon receipt of a critical area request form, the Director must conduct a site inspection to identify critical area conditions on-site. The Director must notify the property owner of the inspection prior to the site visit. Reasonable access to the site must be provided by the property owner for the purpose of inspections during proposal review, restoration, emergency action, or monitoring.
- (4) Determination. The Director must determine whether any critical areas may be affected by the proposal and if a more detailed critical area report is required.
 - (a) Determination Criteria. The Director must use the following indicators to assist in determining the need for a critical area report:
 - (i) Indication of a critical area on the city critical areas maps that may be impacted by the proposed activity;

- (ii) Information and scientific opinions from appropriate agencies, including but not limited to the Departments of Fish and Wildlife, Natural Resources, and Ecology;
 - (iii) Documentation, from a scientific or other reasonable source, of the possible presence of a critical area; or
 - (iv) A finding by a qualified professional or a reasonable belief by the Director that a critical area may exist on or adjacent to the site of the proposed activity.
- (b) Decision on Identification Form.
- (i) No critical areas present. If, after a site visit, the Director'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 Director must rule that the critical area review is complete and note on the identification form the reasons that no further review is required.
 - (ii) Critical areas present, but no impact. If the Director determines that there are critical areas within or adjacent to the project area, but that Best Available Science shows that the proposed activity is unlikely to degrade the functions or values of the critical area, the Director may waive the requirement for a critical area report. A waiver may be granted if there is substantial evidence that all the following requirements are met:
 - (A) There must 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 Chapters 18.802 through 18.810 SMC; and
 - (C) The proposal is consistent with other applicable regulations and standards.
 - (iii) Critical areas may be affected by proposal. If the Director determines that a critical area or areas may be affected by the proposal, then the Director must 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 must be addressed in the report.
- (5) Determination Subject to Reconsideration. A determination regarding the apparent absence of one or more critical areas by the Director 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.
- (6) 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.

18.800.140 Critical area report.

i The subsection below is now where the requirements for a "qualifying professional" are identified.

- (1) Preparation by Qualified Professional. A critical area report must be prepared by one or more qualified professionals for the types of critical areas subject to the report, as follows:
 - (a) For wetlands or fish and wildlife habitat conservation areas: a person with a B.S. or B.A. or equivalent degree in biology, engineering, environmental studies, fisheries, geomorphology or related field, and two years of relevant work experience.
 - (b) For geologically hazardous areas: a geotechnical engineer or geologist, licensed in the state of Washington, with experience analyzing geologic, hydrologic, and groundwater flow systems; or by a geologist who earns his or her livelihood from the field of geology and/or geotechnical analysis, with experience analyzing geologic, hydrologic and groundwater flow systems, who has experience preparing reports for the relevant type of hazard.

- (c) For critical aquifer recharge areas: a hydrogeologist, geologist, or engineer, who is licensed in the state of Washington and has experience in preparing hydrogeologic assessments.
- (d) For frequently flooded areas: a hydrologist or engineer and who is licensed in the state of Washington with experience in preparing flood hazard assessments.
- (2) Incorporate Best Available Science. The critical area report must 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 must evaluate the proposal and all probable impacts to critical areas in accordance with the provisions of this chapter.
- (3) Minimum Report Contents. At a minimum, the report must contain the following:
 - (a) The name and contact information of the applicant, a description of the proposal, and identification of the permit requested;
 - (b) A copy of the site plan for the development proposal including:
 - (i) A map to scale depicting critical areas, buffers, the development proposal, and any areas to be cleared; and
 - (ii) A description of the proposed stormwater management plan for the development and consideration of impacts to drainage alterations;
 - (c) The dates, names, and qualifications of the persons preparing the report and documentation of any fieldwork performed on the site;
 - (d) Identification and characterization of all critical areas, wetlands, water bodies, and buffers adjacent to the proposed project area;
 - (e) A statement specifying the accuracy of the report, and all assumptions made and relied upon;
 - (f) An assessment of the probable cumulative impacts to critical areas resulting from development of the site and the proposed development;
 - (g) An analysis of site development alternatives including a no development alternative;
 - (h) A description of reasonable efforts made to apply mitigation sequencing pursuant to SMC 18.800.180(4), Mitigation Sequencing, to avoid, minimize, and mitigate impacts to critical areas;
 - (i) Plans for adequate mitigation, as needed, to offset any impacts, in accordance with SMC 18.800.190, Mitigation plan requirements, including, but not limited to:
 - (i) The impacts of any proposed development within or adjacent to a critical area or buffer on the critical area; and
 - (ii) The impacts of any proposed alteration of a critical area or buffer on the development proposal, other properties and the environment;
 - (j) A discussion of the performance standards applicable to the critical area and proposed activity;
 - (k) Any additional information required for the critical area as specified in Chapters 18.802 through 18.810 SMC.
- (4) 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 Director.

18.800.150 Critical area report – Modifications to requirements.

- (1) Limitations to Study Area. The Director may limit the required geographic area of the critical area report if:

- (a) The applicant, with assistance from the city, cannot obtain permission to access properties adjacent to the project area; or
 - (b) The proposed activity affects only a limited part of the subject site.
- (2) Modifications to Required Contents. The applicant may consult with the Director 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, either more or less information is required to adequately address the potential critical area impacts and required mitigation.
- (3) Additional Information. The Director 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:
- (a) 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;
 - (b) Grading and drainage plans; and
 - (c) Information specific to the type, location, and nature of the critical area.

18.800.160 Mitigation requirements.

- (1) The applicant must avoid all impacts that degrade the functions and values of a critical area or areas. Unless otherwise stated in this chapter, if alteration to the critical area is unavoidable, all adverse impacts to critical areas and buffers resulting from a development proposal or alteration are required to be mitigated using 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.
- (2) Mitigation must 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.
- (3) Mitigation may not be implemented until after city approval of a critical area report that includes a mitigation plan, and mitigation must be in accordance with the provisions of the approved critical area report.
- (4) Mitigation Sequencing. An applicant must 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 must 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 historical conditions or the conditions existing at the time of the initiation of the project;
 - (d) Minimizing or eliminating the hazard by restoring or stabilizing the hazard area through engineered or other methods;
 - (e) Reducing or eliminating the impact or hazard over time by preservation and maintenance operations during the life of the action;
 - (f) Compensating for the impact to wetlands, critical aquifer recharge areas, and habitat conservation areas by replacing, enhancing, or providing substitute resources or environments;

- (g) Monitoring the hazard or other required mitigation and taking remedial action when necessary; and
 - (h) Mitigation for individual actions may include a combination of the above measures.
- (5) The city may encourage, facilitate, and approve innovative mitigation projects that are based on Best Available Science. Conducting mitigation as part of a cooperative process does not reduce or eliminate the required replacement ratios. Advance mitigation or 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 the following circumstances exist:
- (a) Creation or enhancement of a larger system of critical areas and open space is preferable to the preservation of many individual habitat areas;
 - (b) The group demonstrates the organizational and fiscal capability to act cooperatively;
 - (c) The group demonstrates that long-term management of the habitat area will be provided; and
 - (d) There is a clear potential for success of the proposed mitigation at the identified mitigation site.
- (6) Timing. Any approved mitigation must be completed concurrently with project impacts. The Director may choose to accept a performance bond when seasonal restrictions occur, when availability of the mitigation site is limited, or when on-site construction may impact the critical area.
- (7) Mitigation is required for all unauthorized impacts.

18.800.170 Mitigation plan requirements.

When mitigation is required, the applicant must submit a mitigation plan as part of the critical area report for approval by the city. The mitigation plan must include:

- (1) Environmental Goals and Objectives. The mitigation plan must include a written report identifying environmental goals and objectives of the compensation proposed and including:
 - (a) 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 must be related to the functions and values of the impacted critical area;
 - (b) A review of Best Available Science supporting the proposed mitigation and a description of the report author's experience to date in restoring or creating the type of critical area proposed; and
 - (c) An analysis of the likelihood of success of the compensation project.
- (2) Performance Standards. The mitigation plan must include measurable specific criteria for evaluating whether the goals and objectives of the mitigation project have been successfully attained and whether or not the requirements of this chapter have been met.
- (3) Detailed Construction Plans. The mitigation plan must include written specifications and descriptions of the mitigation proposed, such as:
 - (a) The proposed construction sequence, timing, and duration;
 - (b) Grading and excavation details;
 - (c) Erosion and sediment control features;
 - (d) A planting plan specifying native plant species, quantities, locations, size, spacing, and density; and
 - (e) Measures to protect and maintain plants until established;

- (f) These written specifications must be accompanied by detailed site diagrams, scaled cross-sectional drawings, topographic maps showing slope percentage and final grade elevations, and any other drawings appropriate to show construction techniques or anticipated outcome.
- (4) Monitoring Program. The mitigation plan must include a program for monitoring construction of the compensation project and for assessing a completed project. A protocol must be included outlining the schedule for site monitoring (for example, monitoring occurring 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 must be submitted as needed to document milestones, successes, problems, and contingency actions of the compensation project. The compensation project must be monitored for a period necessary to establish that performance standards have been met, but not for a period less than five years.
- (5) Contingency Plan. The mitigation plan must 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.
- (6) Financial Guarantees. The mitigation plan must include financial guarantees, if necessary, to ensure that the mitigation plan is fully implemented. Financial guarantees ensuring fulfillment of the compensation project, monitoring program, and any contingency measures are required to be posted in accordance with SMC 18.800.250.

18.800.180 Exception – Reasonable use.

- (1) If the application of this chapter or SMC Chapters 18.802 through 18.810 would deny all reasonable economic use of the subject property, the city is responsible for determining if compensation is an appropriate action, or the property owner may apply for an exception pursuant to this section.
- (2) Exception Request and Review Process. An application for a reasonable use exception must be made to the Director and must include:
 - (a) a critical area review request form;
 - (b) a critical area report, including mitigation plan, if necessary; and
 - (c) 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) (SEPA documents).
- (3) The application is reviewed per SMC Title 18 Part 2. The Director must prepare a recommendation based on review of the submitted information, a site inspection, and the proposal's ability to comply with the reasonable use exception criteria in subsection (4) of this section.
- (4) Review Criteria. An application for a reasonable use exception may be granted if at least one of the following criteria apply:
 - (a) The application of this chapter or Chapters 18.802 through 18.810 SMC would deny all reasonable economic use of the property;
 - (b) No other reasonable economic use of the property has less impact on the critical area;
 - (c) The proposed impact to the critical area is the minimum necessary to allow for reasonable economic use of the property;
 - (d) 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;

Commented [EA3]: What is the effective date of the ordinance? Would this effective of the current version of the CAO or in the first instance of the city's CAO? We would not recommend this effective date changing with each new update of the CAO. This might allow for degrading of wetlands and wetland functions over time.

- (e) The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;
 - (f) The proposal will result in no net loss of critical area functions and values consistent with Best Available Science; or
 - (g) The proposal is consistent with other applicable regulations and standards.
- (5) Burden of Proof. The burden of proof is 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.

18.800.190 Exception – Public agency and utility.

- (1) If the application of this chapter or Chapters 18.802 through 18.810 SMC 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.
- (2) Exception Request and Review Process. An application for a reasonable use exception must be made to the Director and must include:
 - (a) critical area review request form;
 - (b) critical area report, including mitigation plan, if necessary; and
 - (c) 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).
- (3) The Director must prepare a recommendation based on review of the submitted information, a site inspection, and the proposal's ability to comply with the public agency and utility exception review criteria in subsection (4) of this section.
- (4) Review Criteria. An application for a public agency and utility exception may be granted if all of the following criteria apply:
 - (a) There is no other practical alternative to the proposed development with less impact on the critical areas;
 - (b) The application of this chapter or Chapters 18.802 through 18.810 SMC would unreasonably restrict the ability to provide utility services to the public;
 - (c) The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;
 - (d) The proposal attempts to protect and mitigate impacts to the critical area functions and values consistent with Best Available Science; and
 - (e) The proposal is consistent with other applicable regulations and standards.
- (5) Burden of Proof. The burden of proof is 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.

18.800.200 Variances.

- (1) Variances from the standards of this chapter or Chapters 18.802 through 18.808 SMC may be authorized by the city in accordance with the criteria in this section and the procedures in SMC Chapter 18.330. For variances from SMC Chapter 18.810, see the variance procedures and criteria in that chapter.
- (2) Variance Criteria. For deviations from critical areas regulations, a variance may be granted only if the applicant demonstrates that the requested action conforms to all of the criteria in this section. The

decisionmaker must review the request and make a written finding that the request meets or fails to meet the variance criteria.

- (a) Special conditions and circumstances exist that are peculiar to the land, the lot, or something inherent in the land, and that are not applicable to other lands in the same district;
 - (b) The special conditions and circumstances do not result from the actions of the applicant;
 - (c) A literal interpretation of the provisions of this chapter or Chapters 18.802 through 18.810 SMC would deprive the applicant of 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;
 - (d) Granting the variance requested does not confer on the applicant any special privilege that is denied by this chapter or Chapters 18.802 through 18.810 SMC to other lands, structures, or buildings under similar circumstances;
 - (e) The granting of the variance is consistent with the general purpose and intent of this chapter and Chapters 18.802 through 18.810 SMC, and does 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;
 - (f) The decision to grant the variance includes Best Available Science and gives special consideration to conservation or protection measures necessary to preserve or enhance anadromous fish-habitat; and
 - (g) The granting of the variance is consistent with the general purpose and intent of the Stanwood Comprehensive Plan and adopted development regulations.
- (3) Conditions May Be Required. In granting any variance, the decisionmaker 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.

 We added standard time limits to Part 2. If you want to use those, delete the next line.

- (4) Time Limit. The decisionmaker must prescribe a time limit within which the action for which the variance is required must be begun, completed, or both. Failure to begin or complete such action within the established time limit voids the variance.
- (5) Burden of Proof. The burden of proof is on the applicant to bring forth evidence in support of the application and upon which any decision must be made on the application.

18.800.210 Unauthorized critical area alterations and enforcement.

- (1) When a critical area or its buffer has been altered in violation of this chapter or Chapters 18.802 through 18.810 SMC, all ongoing development work must stop and the critical area must be restored. The city has 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 the provisions of this chapter.
- (2) Requirement for Restoration Plan. All development work must remain stopped until a restoration plan is approved by the city. Such a plan is required to be prepared by a qualified professional using Best Available Science and must describe how the actions proposed meet the minimum requirements described in subsection (3) of this section. The Director, at the violator's expense, is required to seek expert advice in determining the adequacy of the plan. Inadequate plans must be returned to the applicant or violator for revision and resubmittal.
- (3) Minimum Performance Standards for Restoration.

- (a) For alterations to critical aquifer recharge areas, frequently flooded areas, wetlands, and habitat conservation areas, the following minimum performance standards must be met for the restoration of a critical area; if the violator can demonstrate that greater functional and habitat values can be obtained, these standards may be modified.
 - (i) The historic structural and functions and values must be restored, including water quality and habitat functions;
 - (ii) The historic soil types and configuration must be replicated;
 - (iii) The critical area and buffers must be replanted with native vegetation that replicates the vegetation historically found on the site in species types, sizes, and densities. The historic functions and values must be replicated at the location of the alteration; and
 - (iv) Information demonstrating compliance with the mitigation requirements in SMC 18.800.160 must be submitted to the Director.
- (b) For alterations to flood and geological hazards, the following minimum performance standards must be met for the restoration of a critical area; if the violator can demonstrate that greater safety can be obtained, these standards may be modified.
 - (i) The hazard must be reduced to a level equal to, or less than, the pre-development hazard;
 - (ii) Any risk of personal injury resulting from the alteration must be eliminated or minimized; and
 - (iii) The hazard area and buffers must be replanted with native vegetation sufficient to minimize the hazard.
- (4) Site Investigations. The Director is authorized to make site inspections and take such actions as are necessary to enforce this chapter. The Director is required to present proper credentials and make a reasonable effort to contact any property owner before entering onto private property.
- (5) Penalties. This chapter may be enforced pursuant to SMC Title 13 Civil Enforcement.

18.800.220 Critical area markers and signs.

- (1) The boundary at the outer edge of critical area tracts and easements must be delineated with permanent survey stakes, using iron or concrete markers as established by local survey standards.
- (2) The boundary at the outer edge of the critical area or buffer must be identified with temporary signs prior to any site alteration. Such temporary signs must be replaced with permanent signs prior to occupancy or use of the site.
- (3) These provisions may be modified by the Director as necessary to ensure protection of sensitive features or wildlife needs.

18.800.230 Notice on title.

 Tansy reports she is not sure you've been following this section.

- (1) 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 is required to file a title notice with the county records and elections division against the subject property, per the direction of the city.
- (2) The notice must 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.

- (3) This notice on title is not required for a development proposal by a public agency or public or private utility.
- (4) The applicant is required to submit proof that the notice has been filed for public record before the city approves any site project permit for the property or, in the case of land divisions, at or before recording.

18.800.240 Native growth protection areas or tracts.

- (1) Unless otherwise required in this chapter, native growth protection areas must 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:
 - (a) All landslide hazard areas and buffers;
 - (b) All wetlands and buffers;
 - (c) All habitat conservation areas; and
 - (d) All other lands to be protected from alterations as conditioned by project approval.
- (2) Native growth protection areas must be recorded on all documents of title of record for all affected lots.
- (3) Native growth protection areas must be designated on the face of the plat or recorded drawing in a format approved by the city attorney. The designation must include the following restrictions:
 - (a) An assurance that native vegetation is to 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
 - (b) The right of the city to enforce the terms of the restriction.
- (4) Larger areas that are accepted by the city for dedication may be placed in a critical area tract.

18.800.250 Bonds to ensure mitigation construction, maintenance, and monitoring.

 Except for subsection (2), this material is not specific to critical areas. Can we deal with this material exclusively in Title 18 Part 2 Procedures? Also note x-ref in (9).

- (1) 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 must 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 is required to post a mitigation bond or other security in a form and amount deemed acceptable by the city to ensure mitigation is fully functional.
- (2) The bond must be in the amount of 150% of the estimated cost of the uncompleted actions or the estimated cost of restoring the functions and values of the critical area that are at risk, whichever is greater. The bond must be based on a detailed, itemized cost estimate of the mitigation activity including clearing and grading, plant materials, plant installation, irrigation, weed management, and all other costs.
- (3) The bond must 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.
- (4) Bonds or other security authorized by this section must remain in effect until the city determines, in writing, that the permit conditions, code requirements and/or standards bonded for have been met. Once the mitigation installation has been accepted by the Director, the bond may be reduced to 20% of the original mitigation installation cost estimate and become a maintenance surety. Bonds or other security must 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.

- (5) Depletion, failure, or collection of bond funds does not discharge the obligation of an applicant or violator to complete required mitigation, maintenance, monitoring, or restoration.
- (6) Public development proposals must be relieved from having to comply with the bonding requirements of this section if public funds have previously been committed for mitigation, maintenance, monitoring, or restoration.
- (7) Any failure to satisfy critical area requirements established by law or condition including, but not limited to, the failure to provide a monitoring report within 30 days after it is due or comply with other provisions of an approved mitigation plan constitutes 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.
- (8) Any funds recovered pursuant to this section must be used to complete the required mitigation.
- (9) The provisions of SMC 16.30.030, Security Mechanisms, also apply if necessary to ensure adequate protection of the public interest.

18.800.260 Inspections.

 This content is also in 18.800.130 Critical area review process, subsection (3). Can we delete this section?

Reasonable access to the site must 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.

Chapter 18.802 Critical Areas – Wetlands

 The existing SMC Chapter 17.125 has been moved to this new chapter SMC 18.802. Major edits to this chapter include revising wetland regulations to align with Ecology guidance.

18.802.010 Applicability.

 This draft replaces the purpose, objectives, and "relationship to general standards" sections in each critical area chapter, which were largely duplicative of each other, with this new applicability section that makes reference to the general critical areas chapter.

This chapter provides standards for the "wetland" type of critical area and is applied pursuant to the general critical area regulations and processes in SMC Chapter 18.800.

18.802.020 Designation.

- (1) Per WAC 173-22-035, wetlands are those areas that are inundated or saturated by surface 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.
- (2) All areas within the City of Stanwood that meet the wetland designation criteria are hereby designated critical areas and are subject to the provisions of this chapter, whether or not they have been previously formally identified.

18.802.030 Classification.

- (1) Wetlands are classified using the Washington State Wetland Rating System for Western Washington 2014, or as hereafter amended:

Commented [EA4]: You do not define wetland in this chapter but do have it defined in Chapter 17.20 of your code. You could include reference to the definition as required by GMA (maybe under designation?) for clarity to any applicants of what the definition of wetland is.

After checking 17.20.240 we saw that a reference to the Washington State Delineation manual is referenced in the definition for wetlands. This document is no longer supported by Ecology and instead should follow WAC 173-22-035. We highly recommend removing reference to this if possible. You might consider using your SMP version of the wetland definition which does reference the correct use of the federal delineation manual.

Commented [EA5]: You might consider giving the Ecology Publication #23-06-009 or saying that the most recent version of the rating system should be used. This was given a version 2.0 in 2023.

- (a) Category I wetlands are wetlands that (a) represent a unique or rare wetland type; or (b) are more sensitive to disturbance than most wetlands; or (c) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or (d) provide a high level of functions. Category I wetlands include the following:
- (i) Estuarine wetlands greater than one acre;
 - (ii) Natural heritage wetlands that are identified by the Natural Heritage Program as supporting state-listed threatened or endangered plants;
 - (iii) Bogs;
 - (iv) Mature and old-growth forested wetlands;
 - (v) Wetlands in coastal lagoons; and
 - (vi) Wetlands scoring 23 to 27 based on functions in the Wetland Rating System.
- (b) Category II wetlands are those that are difficult, though not impossible, to replace and provide high levels of some functions, including:
- (i) Estuarine wetlands smaller than an acre or disturbed estuarine wetlands larger than an acre;
 - (ii) Interdunal wetlands larger than one acre; and
 - (iii) Wetlands scoring 20 to 22 based on functions in the Wetland Rating System.
- (c) Category III wetlands include:
- (i) Interdunal wetlands between one-tenth acre and one acre in size; and
 - (ii) Wetlands scoring 16 to 19 based on functions in the Wetland Rating System.
- (d) Category IV wetlands are those that have the lowest level of functions in the Wetland Rating System, scoring 9 to 15 based on functions in the Wetland Rating System.
- (2) All determinations of wetlands ratings and a wetlands delineation must be made based on the entire extent of the wetlands, unrelated to property lines or ownership patterns.

i The existing SMC section 17.125.060 Standard buffer width requirements has been moved to this section. Wetland buffer tables and the mitigation table were updated based on current Ecology guidance and the Administrative Interpretation 2018-0520. Additional allowances for existing development and acceptable activities in buffers have been added.

18.802.040 Mapping.

i This is a new section, added to maintain parallel organization with the other CA chapters.

Reserved.

18.802.050 Allowed activities.

In addition to the activities allowed in SMC 18.800.120, the following activities are allowed in wetlands and their buffers:

- (1) Conservation, Preservation, Restoration and/or Enhancement. Restoration and/or enhancement of wetlands or their buffers; if actions do not alter the location, dimensions or size of the wetland and/or buffer; that actions do not alter or disturb existing native vegetation or wildlife habitat attributes; that actions improve

and do not reduce the existing functions of the wetland or buffer; and that actions are implemented according to a restoration and/or enhancement plan that has been approved by the city of Stanwood.

- (2) Disturbance of Soils. When disturbance of soils is allowed in streams, wetlands, or their buffers as part of an authorized, permitted activity or as otherwise allowed in these standards, the following rules apply:
- (a) Disturbance of soils is allowed only during the dry season, which is typically regarded as beginning on May 1 and ending on October 1 of each year; the Director may extend or shorten the dry season on a case-by-case basis, based on actual weather conditions.
 - (b) The soil duff layer in ungraded areas must remain undisturbed to the maximum extent possible. Where feasible, any soil disturbed must be redistributed to other non-wetland and stream areas of the project site.
 - (c) The moisture-holding capacity of the topsoil layer must be maintained by minimizing soil compaction or reestablishing natural soil structure and infiltrative capacity on all areas of the project area not covered by impervious surfaces.
 - (d) Erosion and sediment control that meets or exceeds the standards set forth in the city of Stanwood's stormwater regulations (Chapter 17.140 SMC) must be provided.
- (3) Public and Private Roadway Crossings, Bridges, and Culverts. Construction of public and private roadway crossings and bridges less than or equal to 30 feet wide and culverts less than or equal to 30 feet long, subject to the following standards:
- (a) There is no other feasible alternative route with less impact on the wetland or buffer;
 - (b) Wetland crossings do not result in fill of greater than one-tenth of an acre of wetland; and
 - (c) Mitigation for impacts is according to an approved mitigation plan.
- (4) Utility Lines. New utility lines may be permitted to cross wetlands and their buffers if they comply with the following standards:
- (a) Critical areas and their buffers must be avoided to the maximum extent feasible;
 - (b) Installation under a wetland must be accomplished when feasible by boring beneath the wetland at a depth sufficient to prevent adverse hydrology impacts;
 - (c) Mitigation for impacts is according to an approved mitigation plan;
 - (d) Wetland crossings do not result in fill of greater than one-tenth of an acre of wetland; and
 - (e) Crossings must be contained within the footprint of an existing street, driveway, or utility crossing where possible.
- (5) Modification of Existing Structures. No existing structure may be modified to increase impervious surface in a wetland or buffer.
- (6) Nonconforming Uses in Buffers. Existing nonconforming development is not required to utilize the buffers in SMC 18.802.060(1) if routine maintenance, modification, renovations, or redevelopment of existing structures do not intensify the nonconformity of the existing structure or use or increase impacts on the stream from activities in the buffer. If activities in the buffer intensify the nonconformity of the existing structure or use or increase impacts on the buffer, the buffer would need to be increased to the appropriate buffers in SMC 18.802.060(1).
- ~~(6)~~(7) Existing Properties. If existing properties have a previous wetland buffer that was approved by the city, the approved wetland buffer will remain in effect. Redevelopment or other modifications to the existing footprint are subject to the previously approved wetland buffer. If the existing buffer has become degraded

Commented [EA6]: Would it be a good idea to include a criteria that the culvert would not alter the hydrology of the existing wetland?

or is not functioning or the buffer may be negatively impacted by the proposed modification or activities, the buffer must be enhanced.

(7)(8) In the event of a conflict between this section and SMC 18.800.120, this section controls.

18.802.060 Buffers.

- (1) Buffers are required for all wetlands regulated by this chapter. The required buffer widths in this section are appropriate for buffers that are well-vegetated and have applied mitigation measures from Table 18.802.060(E); where vegetation is lacking, buffers may need to be widened or re-vegetated to create the appropriate plant community.
- (2) Required widths for wetland buffers are as follows:
 - (a) For Category I wetlands:

Table 18.802.060-1 Category I Wetland Buffers

Wetland Category	Buffer Width (in feet) based on habitat score		
	3-5	6-7	8-9
Category I: Based on Total Score	75	110	225
Category I: Bogs and Wetlands of High Conservation Value	190	190	225
Category I: Interdunal	225	225	225
Category I: Forested	75	110	225
Category I: Estuarine and Coastal Lagoons	150	150	150

- (b) For Category II wetlands:

Table 18.802.060-2 Category II Wetland Buffers

Wetland Category	Buffer Width (in feet) based on habitat score		
	3-5	6-7	8-9
Category II: Based on Total Score	75	110	225
Category II: Interdunal	110	110	110

- (c) For Category III wetlands:

Table 18.802.060-3 Category III Wetland Buffers

Wetland Category	Buffer Width (in feet) based on habitat score		
	3-5	6-7	8-9
Category III: All	60	110	225
Category III: Interdunal	60	60	60

 Note Tansy says to delete Cat III interdunal wetlands.

- (d) For Category IV wetlands:

Table 18.802.060-4 Category IV Wetland Buffers

Commented [RC7]: TS: Idk about this, yes for recorded NGPAs but wetlands are not static and can change over time.

(native growth protection areas)

Commented [EA8]: The use of the word mitigation might be confusing here. This method of buffers appears to be based on Ecology guidance to wetland buffers and we call this minimization measures. Since mitigation in wetlands often means actions taken to offset proposed impacts (rehabilitation, restoration, etc.) this might be confusing. We would recommend following our guidance and calling the table and all references to it "Impact Minimization Measures" rather than mitigation.

Commented [EA9]: These buffer widths appear to be based on Ecology Guidance for buffers found in Appendix C (Option 1). Our recommended buffer widths for this method include the use of a habitat corridor for wetlands that score 6 or higher on habitat in addition to the mitigation measures in order to use the widths. If not using a habitat corridor we do actually recommend wider buffers (also found in our guidance).

Wetland Category	Buffer Width (in feet) based on habitat score		
	3-5	6-7	8-9
Category IV: All	40	40	40

- (3) Measurement. The buffer must be measured horizontally in a landward direction from the wetland edge. Where lands adjacent to a stream or wetland display a continuous slope of 25% or greater, the buffer must include all such sloping areas. Where the horizontal distance of the sloping area is greater than the required standard buffer, the buffer must be extended to a point 25 feet beyond the top of the bank of the sloping area.
- (4) Increased Buffers.
- (a) Priority Habitat Areas. If a Category I or II wetland with habitat score greater than five points is located within 300 feet of a priority habitat area as defined by the Washington State Department of Fish and Wildlife, the buffer established by subsection (1) of this section must be increased by 50 feet unless:
- (i) The applicant provides a relatively undisturbed vegetated corridor at least 100 feet wide between the wetland and all priority habitat areas located within 300 feet of the wetland. The corridor must be protected for the entire distance between the wetland and the priority habitat through a conservation easement, native growth protection easement or the equivalent; and
- (ii) The applicable mitigation measures in subsection (4) of this section are provided.
- (b) Habitat for Endangered or Threatened Species, or Species of Local Importance. If the wetland contains documented habitat for endangered or threatened species, or species of local importance, the Director must establish the appropriate buffer based on a habitat assessment to ensure that the buffer provides adequate protection for the species.
- (5) Reduced Buffer Widths.
- (a) Averaging Buffer Widths. The width of a buffer may be averaged, thereby reducing the width of a portion of the buffer, and increasing the width of another portion, if the Director determines that all the following requirements are met:
- (i) The ecological structure and function of the buffer after averaging is equivalent to or greater than the structure and function before averaging;
- (ii) The total area of the buffer after averaging is equivalent to or greater than the area of the buffer before averaging;
- (iii) The additional buffer is contiguous with the standard buffer;
- (iv) If the buffer averaging allows a structure or landscaped area to intrude into the original buffer, the resulting intrusion may extend no more than 15 feet into the original buffer area; and
- (v) No part of the width of the resulting buffer is less than 65% of the required buffer.
- (b) Buffer Width Reduction. Buffer widths for all categories of wetlands may be reduced by 25 feet if the following mitigation measures are applied:

Table 18.802.060-5 Wetland Impact Mitigation Measures

Disturbance	Activities and Uses That May Cause Disturbance	Examples of Measures to Minimize Impacts
Lights	Parking lots, warehouses, manufacturing, high density residential	Direct lights away from wetland; use motion-activated lights; only use lighting where necessary for public safety and keep

Commented [EA10]: We generally do not support buffer reductions (buffer averaging is preferred) and this seems to contradict what is stated in your code at 18.802.060 (1) where the buffer widths in the table section "are appropriate for buffers that are well-vegetated and have applied mitigation measures" already. This language seems to imply that they get a reduction for applying minimization measures they should already be using. An additional 25 foot reduction with buffer widths that (in our guidance) are already reduced would result in higher risk of wetland function loss. Our guidance is already based on a moderate-risk approach and best available science. We would recommend removing this language and instead deferring to your existing buffers and buffer averaging but with the addition of habitat corridors.

		lights off when not needed; use lower-intensity LED lighting; dim light to the lowest acceptable intensity.
Noise	Manufacturing, high density residential	Place activity that generates noise away from wetland; construct a fence to reduce noise impacts on adjacent wetland and buffer; plant a strip of dense shrub vegetation adjacent to wetland buffer.
Toxic runoff	Parking lots, roads, manufacturing, residential areas, application of agricultural pesticides, landscaping	Route all new untreated runoff away from wetland while ensuring wetland is not dewatered ; ~~or~~ establish covenants limiting use of pesticides within 150 feet of wetland; ~~or~~ apply integrated pest management program.
Stormwater runoff /Change in water regime	Any impermeable surface, lawns, tilling	Infiltrate or treat, detain, and disperse runoff from impervious surfaces; retrofit stormwater detention and treatment for roads and existing adjacent development; prevent channelized or sheet flow from lawns that directly enters the buffer.
Pests and humans	Residential areas	Privacy fencing or landscaping with dense vegetation to delineate buffer edge and to discourage disturbance of wildlife by humans and pets; educational signage.
Dust	Tilled fields, roads	Best management practices for dust control.
Degraded buffer	Existing degraded buffer condition	Non-native plants to be removed and replaced with native vegetation per an approved planting plan; and restoration to be bonded and monitored per SMC 18.800.250.
Other as further defined by DOE wetlands guidance documents	Other as furthered by DOE wetlands guidance documents	Other as further defined by DOE wetlands guidance documents.

18.802.070 Building setbacks.

Unless otherwise provided, buildings and other structures must be set back 15 feet from the edges of all wetland buffer boundaries. The following may be allowed in the building setback area:

- (1) Landscaping;
- (2) Uncovered decks;
- (3) Building overhangs if such overhangs do not extend more than 18 inches into the setback area; and
- (4) Impervious ground surfaces, such as driveways and patios; such improvements may be subject to water quality regulations as adopted in Chapter 17.140 SMC.

18.802.080 Critical area report requirements.

 Note the amended threshold here.

A critical area report is required for any development activity allowed under this chapter and SMC 18.802.100 within the critical area or its buffer. In addition to the general requirements of SMC 18.800.140, the following must be included in the critical area report:

- (1) A map drawn to scale or survey showing the following information:
 - (a) the edge of the wetland based on the standards listed in WAC 173-22-035;
 - (b) the wetland characteristics and plant communities based on the U.S. Fish and Wildlife Service Classification of Wetlands and Deep Water Habitats in the U.S.;

Commented [EA11]: A critical area report for wetlands should contain, at minimum, documentation of any fieldwork performed on the site, including field data sheets for delineations, rating system forms, baseline hydrologic data, etc. and a description of the methodologies used to conduct the wetland delineations, wetland ratings, and impact analyses, including references. Your ordinance does require the classification of wetlands using the Western WA Wetland Rating System and the delineation of wetlands using the federal manual and applicable regional supplement. Field data sheets and rating system forms from field work should probably be a listed as a requirement as well.

- (c) stream corridors including name (if named) and stream type based on the State Department of Natural Resources' Official Water Type Maps; and
- (d) observed or reported wildlife that make use of the area including, but not limited to, nesting, breeding, and feeding areas;
- (2) A description of the streams and wetlands within 150 feet of the subject property, including:
 - (a) buffers;
 - (b) drainage systems entering and leaving the site;
 - (c) a list of observed and documented plant and wildlife species;
 - (d) a description of the relative abundance of documented plant and wildlife species; and
 - (e) a description of the method used for flagging the wetland edge, stream corridor, and buffers;
- (3) A description and illustration of proposed development activities allowed under this section and SMC 18.802.100 within the wetlands or buffers;
- (4) A description of any previous disturbances to the wetlands or buffers;
- (5) A summary of the methodology used to conduct the study;
- (6) A proposed classification of the wetlands based on SMC 18.802.050 and an explanation or rationale for the proposed rating;
- (7) A mitigation plan that meets the requirements of SMC 18.802.090;
- (8) A discussion of existing functions and values of the wetland(s) and buffers;
- (9) A discussion of the changes to wetland and buffer functions and values resulting from the proposed development activity.

Commented [EA12]: You might consider extending this out to 225 as that is your largest possible buffer and we generally recommend using that as your surrounding area of information.

18.802.090 Mitigation plan requirements.

- (1) If alteration to a wetland or buffer is unavoidable, all adverse impacts to the wetland or buffer must be mitigated in accordance with an approved critical area report. When mitigation is required by this chapter, it must address restoration, rehabilitation, and compensation in accordance with SMC 18.800.180 and 18.800.190 and the following requirements:
 - (a) Wetland acreage must be replaced at the following ratios when proposed on site or off site within the same subdrainage basin ("Stillaguamish floodplain"):

Table 18.802.090-1 Replacement Ratios

Wetland Category	Replacement Ratio
Category I	6:1
Category II	3:1
Category III	2:1
Category IV	1.5:1

Commented [EA13]: This table doesn't describe the type of mitigation associated with the ratios listed. Our *Wetland Mitigation in Washington State – Part 1: Agency Policies and Guidance – Version 2* (Ecology et al., 2021 or as revised) which is also in our guidance document has a table that includes the required ratios for each mitigation option (creation, rehabilitation, preservation, enhancement). This table is unclear about the mitigation taking place. Our guidance doesn't place the same "weight" for all methods of mitigation so the ratios vary depending on the action. We very highly recommend you consider using the ratios from our guidance here. This will provide clarity and flexibility for those proposing mitigation for impacts.

 Tansy says the next paragraph has been causing issues. Delete? Or add a new column to the table above for mitigation outside the sub-basin?

- (b) The ratios in subsection (1)(a) of this section must be doubled for off-site mitigation located outside the sub-basin ("Stillaguamish floodplain"), but within the larger mainstem Stillaguamish Basin. The ratios in subsection (1)(a) of this section must also be doubled when mitigation proposes enhancement of an existing wetland. At a minimum a 1:1 replacement ratio must be met first and enhancement may be utilized to meet ratio requirements beyond that.
 - (c) In kind, on-site mitigation that is sufficient to achieve equivalent or greater critical area and/or buffer biologic functions and values is preferred to ensure, to the greatest extent feasible, that the plan results in mitigation for direct impacts resulting from the alteration.
 - (d) Off-site mitigation may be used only in those situations where appropriate, adequate on-site mitigation is not feasible to achieve.
- (2) The mitigation plan must:
- (a) Include a baseline study that analyzes the existing functions and values of the wetlands and buffer, functions and values that may be lost, and the system's functions and values after mitigation;
 - (b) Specify how lost functions and values will be replaced;
 - (c) Specify when mitigation will occur relative to project construction and to the requirements of permits required by other jurisdictions;
 - (d) Address the need for and, when appropriate, determine the width of the buffer adjacent to any altered wetland edge; and
 - (e) In commercial or other public projects, provide interpretative signage at the rate of one per every five acres or portion thereof. The contents and design of the signage must be approved by the Director prior to installation.

 Additional allowances for existing development and acceptable activities in buffers have been added to the section below.

 Note to staff: We have added the language Patricia discussed for nonconforming uses in buffers to the streams section below, but do you also want this to apply to wetland buffers? It is included here, but can be removed, if desired.

18.802.110 Wetland mitigation bank credit.

- (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 Director 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 must 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.

Chapter 18.804 Critical Areas – Fish and Wildlife Habitat Conservation Areas

i The existing SMC Chapter 17.130 has been moved to this new Chapter SMC 18.804. The definition for FWHCA's will be updated in the definitions section, consistent with RCW 36.70A.030(6). The following sections were updated based on Ecology guidance, including changing the stream typing to be consistent throughout the chapter. The stream buffers were also updated by adding a requirement for using SPTH for new development.

18.804.010 Applicability.

i This draft replaces the purpose, objectives, and "relationship to general standards" sections in each critical area chapter, which were largely duplicative of each other, with this new applicability section that makes reference to the general critical areas chapter.

This chapter provides standards for the "Fish and Wildlife Habitat Conservation Area" type of critical area and is applied pursuant to the general critical area regulations and processes in SMC Chapter 18.800.

18.804.020 Designation.

- (1) All areas within the City meeting one or more of the criteria in (2) are hereby designated Fish and Wildlife Habitat Conservation Areas and are subject to the provisions of this chapter.
- (2) Fish and Wildlife Habitat Conservation Areas include:
- (a) Areas with which state or federally designated endangered, threatened, and sensitive species have a primary association.
 - (i) Federally designated endangered and threatened species are those fish and wildlife species identified by the U.S. Fish and Wildlife Service and the National Marine Fisheries Service that are in danger of extinction or are threatened to become endangered. The U.S. Fish and Wildlife Service and the National Marine Fisheries Service may be consulted as necessary for current listing status.
 - (ii) State designated endangered, threatened, and sensitive species are those fish and wildlife species native to the state of Washington identified by the Washington Department of Fish and Wildlife that are in danger of extinction, threatened to become endangered, vulnerable, or declining and are likely to become endangered or threatened in a significant portion of their range within the state without cooperative management or removal of threats. State designated endangered, threatened, and sensitive species are periodically recorded in WAC 232-12-014 (state endangered species), and WAC 232-12-011 (state threatened and sensitive species). The Washington Department of Fish and Wildlife maintains the most current listing and may be consulted as necessary for current listing status.
 - (b) State Priority Habitats and the Habitats of State Priority Species. Priority habitats and species are priorities for conservation and management. Priority species require protective measures for their perpetuation due to their population status; sensitivity to habitat alteration; and/or recreational, commercial, or tribal importance. Priority habitats are those habitat types or elements with unique or significant value to a diverse assemblage of species. A priority habitat may consist of a unique

vegetation type or dominant plant species, a described successional stage, or a specific structural element. Priority habitats and species are identified by the Washington Department of Fish and Wildlife; maps and reports can be obtained by contacting the Washington Department of Fish and Wildlife's Priority Habitats and Species Program.

- (c) Habitats and Species of Local Importance. Habitats and species of local importance are those identified by the City Council, including those that possess unusual or unique habitat warranting protection. Any species identified by the City Council must be listed.
- (d) Commercial and Recreational Shellfish Areas. These areas include all public and private tidelands or bedlands suitable for shellfish harvest, including shellfish protection districts established pursuant to Chapter 90.72 RCW.
- (e) Naturally Occurring Ponds under 20 Acres. Naturally occurring ponds are those ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat, including those artificial ponds intentionally created from dry areas to mitigate impacts to ponds. Naturally occurring ponds do not include ponds deliberately designed and created from dry sites, such as canals, detention facilities, farm ponds, temporary construction ponds, and landscape amenities, unless such artificial ponds were intentionally created for mitigation.
- (f) Waters of the State. In the city of Stanwood, waters of the state include lakes, ponds, streams, inland waters, underground waters, and all other surface waters and watercourses within the jurisdiction of the state of Washington, as classified in WAC 222-16-031.
- (g) State Natural Area Preserves and Natural Resource Conservation Areas. Natural area preserves and natural resource conservation areas are defined, established, and managed by the Washington Department of Natural Resources.
- (h) Land essential for preserving connections between habitat blocks and open spaces.

18.804.030 Classification.

i This section is based on existing SMC 17.130.050.

i The classification of streams was updated based on the new water typing system in WAC 222-16-030. Language closely mirrors the WAC and was not updated for grammar or plain language. Some inconsistencies between code and WAC were inherited from existing code. Updated "department" in the definition to "Ecology."

- (1) Streams are classified as described below, consistent with WAC [222-16-030](#):
 - (a) Type S Streams. All waters, within their bankfull width, as inventoried as "shorelines of the state" under Chapter 90.58 RCW and the rules promulgated pursuant to Chapter 90.58 RCW, including periodically inundated areas of their associated wetlands.
 - (b) Type F Streams. Segments of natural waters that are not classified as Type S Streams, which are the bankfull widths of defined channels and periodically inundated areas of their associated wetlands, or within lakes, ponds, or impoundments having a surface area of 0.5 acre or greater at seasonal low water, and have fish or the potential to support fish habitat or are described by one of the following four categories:
 - (i) Waters, which are diverted for domestic use by more than 10 residential or camping units or by a public accommodation facility licensed to serve more than 10 persons, where such diversion is determined by Ecology to be a valid appropriation of water and the only practical water source for such users. Such waters shall be considered to be Type F Water upstream from the point of such diversion for 1,500 feet or until the drainage area is reduced by 50%, whichever is less;

- (ii) Waters, which are diverted for use by federal, state, tribal, or private fish hatcheries. Such waters shall be considered Type F Water upstream from the point of diversion for 1,500 feet, including tributaries if highly significant for protection of downstream water quality. Ecology may allow additional harvest beyond the requirements of Type F Water designation provided Ecology determines after a landowner-requested on-site assessment by the department of fish and wildlife, department of ecology, the affected tribes and interested parties that:
 - (A) The management practices proposed by the landowner will adequately protect water quality for the fish hatchery; and
 - (B) Such additional harvest meets the requirements of the water type designation that would apply in the absence of the hatchery;
- (iii) Waters, which are within a federal, state, local, or private campground having more than 10 camping units: If the water is not considered to enter a campground until it reaches the boundary of the park lands available for public use and comes within 100 feet of a camping unit, trail, or other park improvement;
- (iv) Riverine ponds, wall-based channels, and other channel features that are used by fish for off-channel habitat. These areas are critical to the maintenance of optimum survival of fish. This habitat must be identified based on the following criteria:
 - (A) The site must be connected to a fish habitat stream and be accessible during some period of the year; and
 - (B) The off-channel water must be accessible to fish through a drainage with less than a 5% gradient.
- (c) Type Np Streams. All segments of natural waters within the average bankfull width of defined channels that are perennial non-fish habitat streams. Perennial streams are streams that do not dry any time during a year of normal rainfall. Type Np streams are not used by fish and do not have the potential to provide fish habitat. If the uppermost point of perennial flow cannot be identified with simple, nontechnical observations (see State Forest Practices Board Manual, Section 23), then Type Np Streams begin at a point along the channel where the contributing basin area is at least 52 acres.
- (d) Type Ns Streams. All segments of natural waters within the average bankfull width of the defined channels that are not Type S, F, or Np Streams. These are seasonal, nonfish habitat streams in which surface flow is not present for at least some portion of a year of normal rainfall and are not located downstream from any stream reach that is a Type Np streams. Ns Waters must be physically connected by an above-ground channel system to Type S, F, or Np streams.

18.804.040 Mapping

i This is a new section, added to maintain parallel organization with the other CA chapters.

Reserved.

18.804.050 Allowed activities.

In addition to the activities allowed in SMC 18.800.120, the following activities are allowed in wetlands and their buffers:

- (1) Conservation, Preservation, Restoration and/or Enhancement. Restoration and/or enhancement of wetlands or their buffers; so long as actions do not alter the location, dimensions or size of the buffer; that actions do not alter or disturb existing native vegetation or wildlife habitat attributes; that actions improve and do not

reduce the existing functions of the stream or buffer; and that actions are implemented according to a restoration and/or enhancement plan that has been approved by the city of Stanwood.

- (2) Disturbance of Soils. If disturbance of soils is necessary in stream buffers as part of an authorized, permitted activity or as otherwise allowed in these standards, the following apply:
 - (a) Grading is allowed only during the dry season, which is typically regarded as beginning on May 1 and ending on October 1 of each year; the Director may extend or shorten the dry season on a case-by-case basis, based on actual weather conditions.
 - (b) The soil duff layer in ungraded areas must remain undisturbed to the maximum extent possible. Where feasible, any soil disturbed must be redistributed to other non-wetland and stream areas of the project site.
 - (c) The moisture-holding capacity of the topsoil layer must be maintained by minimizing soil compaction or reestablishing natural soil structure and infiltrative capacity on all areas of the project area not covered by impervious surfaces.
 - (d) Erosion and sediment control that meets or exceeds the standards set forth in the city of Stanwood's stormwater regulations must be provided.
- (3) Public and Private Roadway Crossings, Bridges, and Culverts. Construction of public and private roadway crossings and bridges less than or equal to 30 feet wide and culverts less than or equal to 30 feet long, subject to the following standards:
 - (a) There is no other feasible alternative route with less impact on the stream or buffer;
 - (b) Stream crossings must minimize interruption of downstream movement of wood and gravel;
 - (c) Mitigation for impacts must be provided pursuant to an approved mitigation plan; and
 - (d) Stream bridges and culverts must be designed according to the Washington Department of Fish and Wildlife "Fish Passage Design at Road Culverts," March 1999, or the National Marine Fisheries Service "Guidelines for Salmonid Passage at Stream Crossings," 2000.
- (4) Utility Lines. New utility lines may be permitted to cross FWHCA and their buffers if they comply with the following standards:
 - (a) Critical areas and their buffers must be avoided to the maximum extent feasible;
 - (b) Installation across a stream must be accomplished by boring beneath the scour depth and hyporheic zone of the water body and channel migration zone, unless it is not feasible due to engineering constraints;
 - (c) Installation under a wetland must be accomplished if feasible by boring beneath the wetland at a depth sufficient to prevent adverse hydrology impacts;

i Deleted "by the City of Stanwood" in the next line. Utility lines are not necessarily city utilities.

- (d) Mitigation for impacts is provided;
- (e) The utilities must cross at an angle between 60 and 90 degrees to the centerline of the channel in streams or perpendicular to the channel centerline whenever boring under the channel is not feasible due to engineering constraints;
- (f) Crossings must be contained within the footprint of an existing street, driveway, or utility crossing where possible;
- (g) The utility route must avoid paralleling the stream or following a down-valley course near the channel; and

(h) The utility installation may not increase or decrease the natural rate of shore migration or channel migration.

(5) Streambank Stabilization.

(a) Streambank stabilization to protect new structures from future channel migration is not permitted except when such stabilization is achieved through bioengineering or soft armoring techniques in accordance with an approved critical area report. All actions must comply with the appropriate state and federal guidelines and obtain any required state and federal permits.

(b) Streambank stabilization to protect existing structures from channel migration is permitted in accordance with an approved critical area report. All actions must comply with the appropriate state and federal guidelines and obtain any required state and federal permits.

(c) Maintenance of existing streambank stabilization features is allowed subject to the following:

(i) Only hand equipment (no power tools) may be used within the stream and stream buffer;

(ii) No clearing of vegetation within the stream or stream buffer;

(iii) Maintenance actions must be restricted to May 1st through October 1st or as modified by appropriate state and federal timing restrictions; and

(iv) All actions must comply with the appropriate state and federal guidelines and obtain any required state and federal permits.

(6) Modification of Existing Structures. No existing structure may be modified to increase impervious surface in the stream or stream buffer.

(7) Nonconforming Uses in Buffers. Existing nonconforming development is not required to utilize SPTH buffers if routine maintenance, modification, renovations, or redevelopment of existing structures do not intensify the nonconformity of the existing structure or use or increase impacts on the stream from activities in the buffer. If activities in the buffer intensify the nonconformity of the existing structure or use or increase impacts on the stream, the buffer would need to be increased to the appropriate SPTH buffer.

(7)(8) Existing Properties. If existing properties have a previous buffer that was approved by the city, the approved buffer will remain in effect. Redevelopment or other modifications to the existing footprint are subject to the previously approved buffer. If the existing buffer has become degraded or is not functioning or the buffer may be negatively impacted by the proposed modification or activities, the buffer must be enhanced.

Commented [RC14]: TS: FWHCAs can also change over time, i.e. stream meandering.

18.804.060 Buffers.

i This section is based on existing SMC 17.130.060.

i Consistent with Department of Fish and Wildlife guidance and Best Available Science, this section proposes to abandon the table of buffer widths based on stream type and instead set buffer width based on site-potential tree height (SPTH) using the associated [mapping tool](#) to determine stream buffers for new development.

Buffers are required for all streams regulated by this chapter. Required minimum stream buffer widths are as stated in this section.

(1) New development must utilize the Washington Department of Fish and Wildlife (WDFW) site potential tree height (SPTH) mapping tool to determine appropriate stream buffers. The buffer must be equal to the height of the tallest 200-year-old site-potential tree (SPTH₂₀₀) or 100 feet, whichever is greater.

Commented [RC15]: TS: What about Douglas Slough?

- (2) **Measurement.** The buffer must be measured horizontally in a landward direction from the ordinary high-water mark. Where lands adjacent to a stream display a continuous slope of 25% or greater, the buffer must include all such sloping areas. Where the horizontal distance of the sloping area is greater than the required standard buffer, the buffer must be extended to a point 25 feet beyond the top of the bank of the sloping area.
- (3) **Averaging Buffer Widths.** The width of a buffer may be averaged, thereby reducing the width of a portion of the buffer, and increasing the width of another portion, if all the following requirements are met:
 - (a) Averaging does not impair or reduce the habitat, water quality purification and enhancement, stormwater detention, groundwater recharge, shoreline protection and erosion protection, and other functions of the stream or buffer;
 - (b) The total area of the buffer on the subject property is not less than the buffer which would be required if averaging were not allowed; and
 - (c) No part of the width of the buffer is less than 65% of the required width or 25 feet, whichever is greater.
- (4) **Buffer Width Reduction.** Buffer widths may be reduced if the buffer is enhanced in accordance with the following requirements:
 - (a) Buffer width reduction and enhancement is targeted for buffer areas that have minimal functions and values due to existing physical characteristics;
 - (b) The applicant demonstrates that proposed buffer enhancement, together with proposed buffer width reduction, will result in an increase in the functional value of the buffer when compared with the functional value of the standard buffer;
 - (c) The applicant includes a comparative analysis of buffer values prior to and after enhancement, and demonstrates compliance with this section, as part of the critical area report required by SMC 18.804.090;
 - (d) The buffer width is not reduced below 75% of the standard buffer width, or 25 feet, whichever is greater, and the total buffer area reduction is not less than 75% of the total buffer area before reduction; and
 - (e) The functions and values of the stream protected by the buffer are not decreased.

18.804.070 Building setbacks.

- (1) Buildings and other structures must be set back 15 feet from the outer edges of stream buffers, except as provided in subsection (2).
- (2) The following may be allowed in the building setback area:
 - (a) Landscaping;
 - (b) Uncovered decks;
 - (c) Building overhangs if such overhangs do not extend more than 18 inches into the setback area; and
 - (d) Impervious surfaces such as driveways and patios (subject to City stormwater regulations).

i New provisions addressing existing development and activities in buffers have been added.

18.804.080 Critical area report requirements.

If a critical area report is required, the Director may require any or all of the following as part of the critical area report, in addition to the general requirements of SMC 18.800.140:

Commented [RC16]: TS: + trails

Commented [RC17]: TS: We need mitigation ratios for FWHCA's!!

- (1) Stream corridors, name (if named), and stream type based on the State Department of Natural Resources' Official Water Type Maps and SMC 18.804.050;
- (2) Observed or reported wildlife that make use of the area including, but not limited to, nesting, breeding, and feeding areas;
- (3) A description of the streams and wetlands within 150 feet of the subject property, including buffers, drainage systems entering and leaving the site, a list of observed and documented plant and wildlife species, a description of the relative abundance of documented plant and wildlife species, and a description of the method used for flagging the wetlands edge, stream corridor, and buffers;
- (4) A description and illustration of proposed development activities within the stream or buffer;
- (5) A description of any previous disturbances to the stream or buffer;
- (6) A summary of the methodology used to conduct the study;
- (7) A mitigation plan which meets the requirements of SMC 18.800.180 and 18.800.190;
- (8) A stream relocation plan, if applicable;
- (9) A discussion of existing functions and values of the stream and buffers; and
- (10) A discussion of the changes to stream and buffer functions and values resulting from the proposed development activity.

 Mitigation ratios for FWHCAs could be added to a new .090 Mitigation plan requirements.

Chapter 18.806 Critical Areas – Geologically Hazardous Areas

 The existing SMC Chapter 17.115 Critical Areas – Geologically Hazardous Areas – Specific Standards has been moved to this new Chapter SMC 18.806. A definition for geologically hazardous areas will be added to the definitions section, consistent with RCW 36.70A.030(14) and WAC 365-190-120(1).

18.806.010 Applicability.

 This draft replaces the purpose, objectives, and "relationship to general standards" sections in each critical area chapter, which were largely duplicative of each other, with this new applicability section that makes reference to the general critical areas chapter.

This chapter provides standards for the "Geologically Hazardous Area" type of critical area and is applied pursuant to the general critical area regulations and processes in SMC Chapter 18.800.

18.806.020 Designation.

 The following definition is taken from the critical areas checklist and RCW 36.70A.030(14) and WAC 365-190-120(1).

- (1) Geologically hazardous areas include areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to the siting of commercial, residential, or industrial development consistent with public health and safety concerns. They pose a threat to the health and safety if incompatible development is sited in areas of significant hazard. Such incompatible development may not only place itself at risk, but also may increase the hazard to surrounding development and use. Areas

susceptible to one or more of the following types of hazards must be designated as a geologically hazardous area:

- (a) Erosion hazard;
 - (b) Landslide hazard;
 - (c) Seismic hazard; and
 - (d) Other geological events including tsunamis, volcanic hazards, and differential settlement.
- (2) Erosion Hazard Areas. Erosion hazard areas include, but are not limited to, those areas identified by the U.S. Department of Agriculture's Natural Resources Conservation Service as having a "moderate to severe," "severe," or "very severe" rill and inter-rill erosion hazard. On the city's critical areas maps, these are shown as areas of moderate or steep slopes. Erosion hazard areas are also those areas impacted by shore land or stream bank erosion, or both.
- (3) Landslide Hazard Areas. Landslide hazard areas are areas potentially subject to landslides based on a combination of geologic, topographic, and hydrologic factors. They include areas susceptible because of any combination of bedrock, soil, slope (gradient), slope aspect, structure, hydrology, or other factors. Examples include:
- (a) Areas of historic failures, such as those areas delineated by the U.S. Department of Agriculture's Natural Resources Conservation Service as having a "severe" limitation for building site development;
 - (b) Areas with all three of the following characteristics:
 - (i) Slopes steeper than 15%; and
 - (ii) Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and
 - (iii) Springs or groundwater seepage;
 - (c) Areas that have shown movement during the Holocene epoch (from 10,000 years ago to the present) or that are underlain or covered by mass wastage debris of that epoch;
 - (d) Slopes that are parallel or subparallel to planes of weakness (such as bedding planes, joint systems, and fault planes) in subsurface materials;
 - (e) Areas potentially unstable because of rapid stream incision, stream bank erosion, and undercutting by wave action;
 - (f) Areas located in a canyon or on an active alluvial fan, presently or potentially subject to inundation by debris flows or catastrophic flooding; and
 - (g) Any area with a slope of 40% or steeper and with a vertical relief of 10 or more feet except areas composed of consolidated rock. A slope is delineated by establishing its toe and top and measured by averaging the inclination over at least 10 feet of vertical relief.
- (4) Seismic Hazard Areas. Seismic hazard areas are areas subject to severe risk of damage as a result of earthquake-induced ground shaking, slope failure, settlement, soil liquefaction, lateral spreading, or surface faulting. Settlement and soil liquefaction conditions occur in areas underlain by cohesionless, loose, or soft-saturated soils of low density, typically in association with a shallow groundwater table. One indicator of potential for future earthquake damage is a record of earthquake damage in the past. Ground shaking is the primary cause of earthquake damage in Washington. The strength of ground shaking is primarily affected by:
- (a) The magnitude of an earthquake;
 - (b) The distance from the source of an earthquake;

- (c) The type of thickness of geologic materials at the surface; and
- (d) The type of subsurface geologic structure.

- (5) Tsunami Hazard Areas. Tsunami hazard areas are coastal areas and large lake shoreline areas susceptible to flooding and inundation as the result of excessive wave action derived from seismic or other geologic events.

i The following sections were reworked based on the Critical Areas Checklist.

- (6) Volcanic Hazard Areas. Areas susceptible to mud or debris flows from volcanic eruptions (Glacier Peak).
- (7) Other Hazard Areas. Geologically hazardous areas also include areas determined by the city to be susceptible to other geological events including mass wasting, debris flows, rock falls, and differential settlement, and hazards from mine workings (such as adits, gangways, tunnels, drifts, or air shafts).

18.806.030 Classification.

Geologic hazard areas are classified according to the following categories for each geologic hazard type.

Table 18.806.040-1 Geologic hazard types

Classification	Documentation and Data Sources
Known or suspected risk	Documentation or projection of the hazard by a qualified professional exists.
Risk unknown	Documentation or projection of the lack of hazard by a qualified professional exists, or data are not available to determine the presence or absence of a geologic hazard.

18.806.040 Mapping.

i This section is based on existing SMC 19.70.420 Mapping.

- (1) The approximate location and extent of geologically hazardous areas are shown on the adopted critical area maps (see the Natural Features Element of the Stanwood Comprehensive Plan). The adopted critical area maps include:
 - (a) U.S. Geological Survey landslide, seismic, and volcanic hazard maps;
 - (b) Department of Natural Resources seismic hazard maps for Western Washington, as applicable;
 - (c) Department of Natural Resources slope stability maps, as applicable;
 - (d) National Oceanic and Atmospheric Administration tsunami hazard maps (pending); and
 - (e) Locally adopted maps.
- (2) These maps are to be used as a guide for city staff, 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.

18.806.050 Allowed activities.

- (1) In addition to the activities allowed in SMC 18.800.120, the following activities are allowed in geologically hazardous areas and their buffers:

- (2) In addition to the standards in SMC 18.800.120, trails proposed to be located in landslide or erosion hazard areas must be constructed in a manner that does not increase the risk of landslide or erosion and in accordance with an approved geotechnical report.
- (3) Moderate and Severe Erosion Hazards and Landslide Hazards on Moderate and Steep Slopes. Except as otherwise provided for in this chapter and Chapter 18.800 SMC, only those activities approved and permitted consistent with an approved critical area report in accordance with this chapter are allowed in moderate or severe erosion hazard areas or in landslide hazard areas with moderate or steep (severe) slopes.
- (4) The following activities are allowed within slight erosion, low landslide, all volcanic, and all seismic hazard areas without a critical areas report:
 - (a) Construction of new buildings with less than 2,500 square feet of floor area or roof area, whichever is greater, and which are not residential structures or used as places of employment or public assembly;
 - (b) Single-Family Infill Development. Construction of a single-family unit, additions, and accessory structures that do not impact streams, wetlands, or their buffers; and
 - (c) Installation of fences.
- (5) For single-family permits meeting the criteria of subsection (4) of this section, the city must require, prior to occupancy, recording of a covenant on the title of the property for which a building permit is issued, stating as follows:

Persons with interest in this property are advised that this property is potentially subject to flooding, geologic (seismic), erosion, and volcanic lahars (mudflow) hazards.

Commented [RC18]: TS: ??

- (6) Critical facilities are not permitted on seismic faults or tsunami inundation areas. If such a prohibition is unreasonable, an allowance for critical facilities in tsunami areas can be made with the following specific conditions:
 - (a) Construction of new critical facilities is permissible if no feasible alternative site is available.
 - (b) Critical facilities must have the lowest floor elevated three feet or more above the level of the base flood elevation (100-year flood).
 - (c) Floodproofing and sealing measures must be taken to ensure that toxic substances are not displaced by or released into flood waters.
 - (d) Access routes elevated to or above the level of the base flood elevation are provided to all critical facilities to the extent possible.

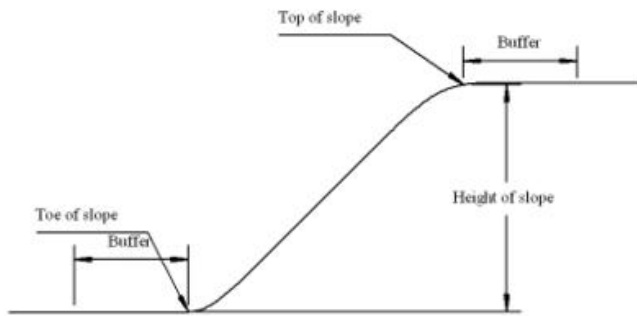
Commented [RC19]: TS: floodplain??

18.806.060 Buffers and Other Performance Standards.

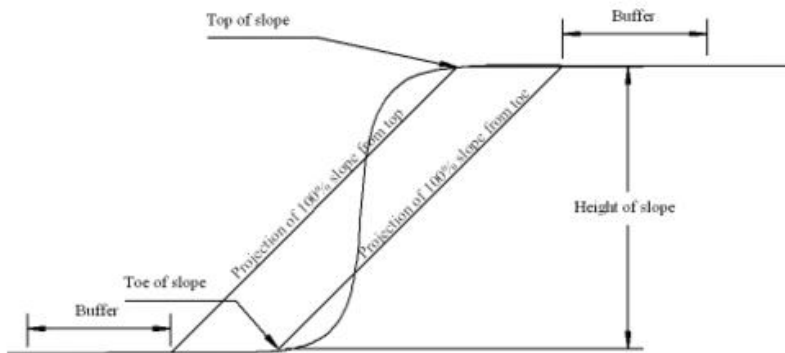
- (1) Erosion and Landslide Hazard Areas. Activities on sites containing moderate or high erosion or landslide hazards must meet the following requirements:
 - (a) Buffer Required. A buffer must be established from all edges of moderate or high erosion or landslide hazard areas. The size of the buffer must be determined by the city to eliminate or minimize the risk of property damage, death or injury resulting from erosion and landslides caused in whole or part by the development, based upon review of and concurrence with a critical area report prepared by a qualified professional.
 - (i) Minimum Buffer. At the base of a slope, the buffer must be equal to one-half the height of the slope (as measured vertically from the toe to the top of the slope). For slopes less than 100%, the setback must be measured from the toe of the slope. For slopes greater than 100%, the buffer must be measured from a projection of a 100% slope from the top of the slope rather than the actual toe of the slope. See Figure 18.806.080-1.

- (ii) At the top of a slope, the setback must be equal to one-third the height of the slope. For slopes less than 100%, this buffer must be measured from the top of the slope. For slopes greater than 100%, this buffer must be measured from the projection of a 100% slope originating at the toe.

Figure 18.806.080-1 Buffer widths for slopes



For slope 100% or less, buffer = $1/2$ height of slope, measured as vertical distance between toe and top of slope.
Buffer begins at toe or top of slope, as applicable.



For slope 100% or less, buffer = $1/2$ height of slope, measured as vertical distance between toe and top of slope.
Buffer at toe measured from projection of 100% slope from top of slope.
Buffer at top measured from projection of 100% slope from toe of slope.

- (iii) Buffer Reduction. The buffer may be reduced to a minimum of 25 feet if a qualified professional demonstrates to the city's satisfaction that the reduction adequately protects the proposed development, adjacent developments and uses and the subject critical area.
- (iv) Increased Buffer. The buffer may be increased where the city determines a larger buffer is necessary to prevent risk of damage to proposed and existing development.

- (b) Alterations. Alterations of an erosion or landslide hazard area and/or buffer may only occur for activities for which a geotechnical analysis is submitted and certifies that:
 - (i) The development will not increase surface water discharge or sedimentation to adjacent properties beyond pre-development conditions;
 - (ii) The development will not decrease slope stability on adjacent properties; and
 - (iii) Such alterations will not adversely impact other critical areas.
- (c) Design Standards. Development within an erosion or landslide hazard area and/or buffer must be designed to meet the following basic requirements unless it can be demonstrated that an alternative design that deviates from one or more of these standards provides greater long-term slope stability while meeting all other provisions of this chapter. The requirement for long-term slope stability excludes designs that require regular and periodic maintenance to maintain their level of function. The basic development design standards are:
 - (i) The proposed development may not decrease the factor of safety for landslide occurrences below the limits of 1.5 for static conditions and 1.2 for dynamic conditions. Analysis of dynamic conditions must be based on a minimum horizontal acceleration as established by the current version of the Uniform Building Code;
 - (ii) Structures and improvements must be clustered to avoid geologically hazardous areas and other critical areas;
 - (iii) Structures and improvements must minimize alterations to the natural contour of the slope and foundations shall be tiered where possible to conform to existing topography;
 - (iv) Structures and improvements must be located to preserve the most critical portion of the site and its natural landforms and vegetation;
 - (v) The proposed development may not result in greater risk or a need for increased buffers on neighboring properties;
 - (vi) The use of retaining walls that allow the maintenance of existing natural slope area is preferred over graded artificial slopes;
 - (vii) Development must be designed to minimize impervious lot coverage.
- (d) Vegetation Must Be Retained. Unless otherwise provided or as part of an approved alteration, removal of vegetation from an erosion or landslide hazard area or related buffer is prohibited.
- (e) Seasonal Restriction. Clearing is allowed only from May 1st to October 1st of each year; the city may extend or shorten the dry season on a case-by-case basis depending on actual weather conditions, except that timber harvest, not including brush clearing or stump removal, may be allowed pursuant to an approved forest practice permit issued by the Department of Natural Resources.
- (f) Utility Lines and Pipes. Utility lines and pipes are permitted in erosion and landslide hazard areas only if the applicant demonstrates that no other practical alternative is available. The line or pipe must be located above ground and properly anchored and/or designed so that it will continue to function in the event of an underlying slide. Stormwater conveyance are allowed only through a high-density polyethylene pipe with fuse-welded joints, or similar product that is technically equal or superior.
- (g) Point Discharges. Point discharges from surface water facilities and roof drains onto or upstream from an erosion or landslide hazard area are prohibited except as follows:
 - (i) Conveyed via continuous storm pipe downslope to a point where there are no erosion hazard areas;
 - (ii) Discharged at flow durations matching predeveloped conditions, with adequate energy dissipation, into existing channels that previously conveyed stormwater runoff in the predeveloped state; or

- (iii) Dispersed discharge upslope of the steep slope onto a low-gradient undisturbed buffer demonstrated to be adequate to infiltrate all surface and stormwater runoff, and where it can be demonstrated that such discharge will not increase the saturation of the slope.
- (h) Subdivisions. The division of land in erosion and landslide hazard areas and associated buffers is subject to the following:
 - (i) Land that is located wholly within an erosion or landslide hazard area or its buffer may not be subdivided. Land that is located partially within an erosion or landslide hazard area or its buffer may be divided; if each resulting lot has sufficient buildable area outside of, and will not affect, the erosion or landslide hazard or its buffer.
 - (ii) Access roads and utilities may be permitted within the erosion or landslide hazard area and associated buffers if the city determines that no other feasible alternative exists.
- (i) Prohibited Development. On-site sewage disposal systems, including drain fields, are prohibited within erosion and landslide hazard areas and related buffers.
- (2) Tsunami Hazard Areas (Unknown Hazard). Activities on sites containing areas susceptible to inundation due to tsunami hazards require an evacuation and emergency management plan. Uses in all tsunami hazard areas must adhere to the following standards, in addition to the other requirements of this chapter:
 - (a) All new construction must be located landward of the reach of mean high tide.
 - (b) All new construction and substantial improvements must be elevated on pilings and columns so that:
 - (i) The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated one foot or more above the base flood level; and
 - (ii) The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind and water loading values must each have a 1% chance of being equaled or exceeded in any given year (100-year mean recurrence interval).
 - (c) Design Must Be Certified. The structural design, specifications and plans for a proposed activity within a tsunami hazard area must be developed, reviewed, and certified by a registered professional engineer or architect that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the standards of this section.
 - (d) Space Below Lowest Floor Must Be Free of Obstruction. The space below the lowest floor of all new construction and substantial improvements must be either free of obstruction or constructed with nonsupporting breakaway walls, open wood latticework, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purposes of this section, a breakaway wall is required to have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or if required by local or state codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:
 - (i) Breakaway wall collapse must result from water load less than that which would occur during the base flood; and
 - (ii) The elevated portion of the building and supporting foundation system is not subject to collapse, displacement, or other structural damage because of wind and water loads acting simultaneously on all building components (structural and nonstructural). Maximum wind and water loading values to be used in this determination must each have a 1% chance of being equaled or exceeded in any given year (100-year mean recurrence interval).

- (e) Use of Breakaway Walls Must Be Limited. If breakaway walls are utilized, such enclosed space must be used solely for parking of vehicles, building access, or storage, and may not be used for human habitation.
 - (f) Manufactured Homes. Manufactured homes to be placed or substantially improved in tsunami hazard areas must meet the requirements of this chapter.
 - (g) Recreational Vehicles. Recreational vehicles placed on sites within tsunami hazard areas must meet the requirements of this chapter.
- (3) Seismic and Other Hazard Areas. Alterations of these geologically hazardous areas or associated buffers may only occur for activities that:
- (a) Do not increase the threat of the geological hazard to adjacent properties beyond pre-development conditions;
 - (b) Do not adversely impact other critical areas;
 - (c) Are designed so that the hazard to the project is eliminated or mitigated to a level equal to or less than pre-development conditions; and
 - (d) Are certified as safe as designed and under anticipated conditions by a qualified engineer or geologist, licensed in the state of Washington.

18.806.070 Critical area report requirements.

In addition to the general requirements of SMC 18.800.140, critical area reports for geologically hazardous areas must meet the requirements of this section.

- (1) Erosion and Landslide Hazard Areas. In addition to the basic critical area report requirements, a critical area report for an erosion hazard or landslide hazard area must include the following information at a minimum:
- (a) Site Plan. The report must include a copy of the site plan for the proposal showing:
 - (i) The height of slope, slope gradient, and cross section of the project area;
 - (ii) The location of springs, seeps, or other surface expressions of groundwater on or within 200 feet of the project area or that have the potential to be affected by the proposal; and
 - (iii) The location and description of surface water runoff.
 - (b) Hazards Analysis. The hazards analysis must specifically include:
 - (i) A description of subsurface conditions based on data from site-specific explorations;
 - (ii) Descriptions of surface and groundwater conditions, public and private sewage disposal systems, fills and excavations, and all structural improvements;
 - (iii) An estimate of slope stability and the effect construction and placement of structures may have on the slope over the estimated life of the structure;
 - (iv) An estimate of the bluff retreat rate that recognizes and reflects potential catastrophic events such as seismic activity or a 100-year storm event;
 - (v) Consideration of the run-out hazard of landslide debris and/or the impacts of landslide run-out on down slope properties;
 - (vi) A study of slope stability including an analysis of proposed cuts, fills, and other site grading;
 - (vii) Recommendations for building siting limitations;
 - (viii) An analysis of proposed surface and subsurface drainage, and the vulnerability of the site to erosion.

- (c) Geotechnical Engineering Report. The technical information for a project within a landslide hazard area must include a geotechnical engineering report prepared by a licensed engineer that presents engineering recommendations for the following:
 - (i) Parameters for design of site improvements including appropriate foundations and retaining structures. These must include allowable load and resistance capacities for bearing and lateral loads, installation considerations, and estimates of settlement performance;
 - (ii) Recommendations for drainage and subdrainage improvements;
 - (iii) Earthwork recommendations including clearing and site preparation criteria, fill placement and compaction criteria, temporary and permanent slope inclinations and protection, and temporary excavation support, if necessary; and
 - (iv) Mitigation of adverse site conditions including slope stabilization measures and seismically unstable soils, if appropriate.
- (d) Erosion and Sediment Control Plan. For any development proposal on a site containing an erosion hazard area, an erosion and sediment control plan is required. The erosion and sediment control plan must be prepared in compliance with requirements set forth in the city's stormwater management regulations.
- (e) Drainage Plan. The report must include a drainage plan for the collection, transport, treatment, discharge and/or recycling of water prepared in accordance with the city's surface water management plan. The drainage plan must consider on-site septic system disposal volumes where the additional volume will affect the erosion or landslide hazard area.
- (f) Mitigation Plans. Hazard and environmental mitigation plans for erosion and landslide hazard areas must include the location and methods of drainage, surface water management, locations and methods of erosion control, a vegetation management and/or replanting plan and/or other means for maintaining long-term soil stability.
- (g) Monitoring Surface Waters. If the city determines that there is a significant risk of damage to downstream receiving waters due to potential erosion from the site, based on the size of the project, the proximity to the receiving waters, or the sensitivity of the receiving waters, the critical area report must include a plan to monitor the surface water discharge from the site. The monitoring plan must include a recommended schedule for submitting monitoring reports to the city.
- (2) Seismic Hazard Areas. In addition to the basic report requirements, a critical area report for a seismic hazard area must also meet the following requirements:
 - (a) The site map must show all known and mapped faults that are within 200 feet of the project area or that have potential to be affected by the proposal.
 - (b) The hazards analysis must include a complete discussion of the potential impacts of seismic activity on the site (for example, forces generated and fault displacement).
 - (c) A geotechnical engineering report must evaluate the physical properties of the subsurface soils, especially the thickness of unconsolidated deposits and their liquefaction potential. If it is determined that the site is subject to liquefaction, mitigation measures appropriate to the scale of the development must be recommended and implemented.
- (3) Tsunami Hazard Areas. In addition to the basic report requirements, a critical area report for a tsunami hazard area must meet the following requirements:
 - (a) Site Plan. The site plan must show all areas within 200 feet of the project area that have the potential to be inundated by wave action derived from a seismic event;

- (b) Hazards Analysis. The hazards analysis must include a complete discussion of the potential impacts of the tsunami hazard on the site; and
 - (c) Emergency Management Plan. The emergency management plan must include plans for emergency building exit routes, site evacuation routes, emergency training, notification of local emergency management officials, and an emergency warning system.
- (4) Volcanic and Other Geologically Hazardous Areas. In addition to the basic report requirements, the Director may require additional information to be included in the critical area report if determined to be necessary to review the proposed activity and the subject hazard. Additional information that may be required includes, but is not limited to:
- (a) Site Plan. The site plan must show all hazard areas located within 200 feet of the project area or that have the potential to be affected by the proposal; and
 - (b) Hazards Analysis. The hazards analysis must include a complete discussion of the potential impacts of the hazard on the project area and of the proposal on the hazard.

Chapter 18.808 Critical Areas – Critical Aquifer Recharge Areas

i The existing SMC Chapter 17.135 Critical Areas – Critical Aquifer Recharge Areas – Specific Standards has been moved to this new Chapter SMC 18.808.

18.808.010 Applicability.

i This draft replaces the purpose, objectives, and "relationship to general standards" sections in each critical area chapter, which were largely duplicative of each other, with this new applicability section that makes reference to the general critical areas chapter.

This chapter provides standards for the "Critical Aquifer Recharge Area" type of critical area and is applied pursuant to the general critical area regulations and processes in SMC Chapter 18.800.

18.808.020 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(3). 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. These areas include the following:

- (1) Wellhead Protection Areas. Wellhead protection areas may be defined by the boundaries of the 10-year time of groundwater travel or boundaries established using alternate criteria approved by the Washington State Department of Health in those settings where groundwater time of travel is not a reasonable delineation criterion, in accordance with WAC 246-290-135.
- (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 Water Drinking 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.

18.808.040 Mapping.

- (1) The approximate location and extent of critical aquifer recharge areas are shown on the adopted critical areas maps (see the Natural Features Element of the Stanwood Comprehensive Plan).
- (2) 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.

18.808.050 Allowed activities.

The following activities are permitted in a CARA without a critical areas report:

- (1) Activities permitted under SMC 18.800.120.
- (2) Residential uses connected to the city sewer.
- (3) Commercial/industrial/institutional uses connected to the city sewer that do not utilize, produce, store, or otherwise discharge hazardous materials, as defined in WAC 173-303-090(8) or SMC 18.808.110.
- (4) Utility lines.

18.808.060 Prohibited activities.

The following activities or uses are prohibited within all critical areas identified as CARAs:

- (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) Mining.
 - (a) Metals and hard rock mining; and
 - (b) Sand and gravel mining, prohibited from critical aquifer recharge areas determined to be highly susceptible or vulnerable;
- (4) Wood Treatment Facilities. Wood treatment facilities that allow any portion of the treatment process to occur over permeable surfaces (both natural and manmade);
- (5) Hard chrome plating operations;
- (6) Chemical lagoons and pits;
- (7) Hazardous material disposal sites;
- (8) Storage, Processing, or Disposal of Radioactive Substances. Facilities that store, process, or dispose of radioactive substances;
- (9) New septic systems; and

(10) 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 baseflow to a regulated stream; and
- (c) Activities that are not connected to an available sanitary sewer system, prohibited from critical aquifer recharge areas associated with sole source aquifers.

18.808.070 Critical area report requirements.

(1) A critical area report is required for:

- (a) any proposed use that is not allowed under SMC 18.808.050;
- (b) any activity that is located within the one-year time of travel zone for any wellhead.

(2) In addition to the requirements of SMC 18.800.140, a hydrogeological assessment must be provided in a critical area report, and contain the following information:

- (a) Available information regarding geologic and hydrogeologic characteristics of the site including the surface location of all critical aquifer recharge areas located on-site or immediately adjacent to the site, and permeability of the unsaturated zone;
- (b) Groundwater depth, flow direction, and gradient based on available information;
- (c) Currently available data on wells and springs within 1,300 feet of the project area;
- (d) Location of other critical areas, including surface waters, within 1,300 feet of the project area;
- (e) Available historic water quality data for the area to be affected by the proposed activity;
- (f) Best management practices proposed to be utilized, including any low impact development techniques;
- (g) Historic water quality data for the area to be affected by the proposed activity compiled for at least the previous five-year period;
- (h) Groundwater monitoring plan provisions;
- (i) Discussion of the effects of the proposed project on the groundwater quality and quantity, including:
 - (i) Predictive evaluation of groundwater withdrawal effects on nearby wells and surface water features; and
 - (ii) Predictive evaluation of contaminant transport based on potential releases to groundwater; and
- (j) A spill plan that identifies equipment and/or structures that could fail, resulting in an impact. Spill plans must include provisions for regular inspection, repair, and replacement of structures and equipment that could fail.

18.808.080 Class I and Class I operations.

Certain nonresidential operations present a greater potential risk to water resources because of the volume and type of hazardous materials that are managed. These nonresidential operations are classified below and are subject to the stipulated actions defined in this section.

Table 18.808.090-1 Classifications

Class I Operations	
Definition	Operations that at any time within a one-year period will or do manage over 220 pounds in total of the following: A. Hazardous materials, including any mixtures thereof, that contain constituents referenced in the Code of Federal Regulations, 40 CFR 302.4 (referenced in Section 103(a) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)); or B. Hazardous materials, including any mixtures thereof, that contain constituents from the lists specified for Class II operations below.
Concentration Declassification	A Class I operation is no longer a classified operation if the Class I constituents (40 CFR 302.4) contained in a product or waste are individually present at less than 1% by weight for noncarcinogenic hazardous materials, and less than 0.1% by weight for known or suspected carcinogenic hazardous materials. (Operators should review the Safety Data Sheet for the hazardous materials to make this determination).
Consumer Quantity Declassification	A Class I operation is no longer a classified operation if both of the following conditions are met: A. The operation is focused on research, education, distribution or consumer-oriented activities, including but not limited to laboratories, hospitals, schools, cargo handlers, distributors, warehouses, or retailers; and B. Products containing Class I or Class II hazardous materials are managed in closed containers or sealed bags with individual capacities of no more than 10 gallons for a liquid material and no more than 80 pounds for a dry or solid material.
Metal and Metal Alloy Declassification	Solid metals and solid metal alloys, including but not limited to roll stock, bar stock, sheet stock, and manufactured articles such as equipment, parts, building materials, and piping, that contain one or more metals listed in 40 CFR 302.4 or WAC 173-303-090(8) must be declassified; except, that where machining, forming, grinding, cutting, melting, or other activities produce residues such as shavings, grindings, swarf, fume, or other finely divided particulate forms of a listed metal or metal alloy that may present a threat to water resources, such residues shall not be declassified.
Class II Operations	
Definition	Operations that at any time within a one-year period will or do manage over 2,200 pounds in total of the following: A. Hazardous materials, including any mixtures thereof, that exhibit the characteristic of toxicity because they contain leachable constituents as defined in WAC 173-303-090(8) as amended; or B. Hazardous materials, including any mixtures thereof, that contain constituents that are referenced on the Halogenated Solvent List in SMC 18.808.110.
Site Cleanup Reclassification	A Class II operation must be reclassified as a Class I operation if the primary activity is site remediation or cleanup pursuant to an approved settlement agreement or a remedial action under Chapter 70.105B RCW.
Concentration Reclassification	A Class II operation must be reclassified as a Class I operation if the Class II constituents (from WAC 173-303-090(8)) are present in the hazardous materials being managed at concentrations of less than 5% by weight.
Transfer Warehouse Reclassification	A Class II operation must be reclassified as a Class I operation if the following conditions are met: A. The operation is a transfer warehouse where shipments of products, which may be hazardous materials but not dangerous wastes, are held in portable containers for transfer; and B. Containers of hazardous materials are not opened at the site under any circumstance; and Products containing Class II hazardous materials are managed in containers with individual capacities of no more than 400 gallons.
Consumer Quantity Declassification	A Class II operation is no longer a classified operation if both of the following conditions are met: A. The operation is focused on research, education, distribution, or consumer-oriented activities, including but not limited to laboratories, hospitals, schools, cargo handlers, distributors, warehouses, or retailers; and B. Products containing Class I or Class II hazardous materials are managed in closed containers or sealed bags with individual capacities of no more than 10 gallons for a liquid material and no more than 80 pounds for a dry or solid material.

18.808.090 Required BMPs for Class I and Class II operations.

- (1) Development Restrictions.
 - (a) No Class I or Class II operations are permitted within the one-year time of travel zone in a wellhead protection area.
 - (b) No Class II operations are permitted within the five-year time of travel zone in a wellhead protection area.
- (2) Structural Best Management Practices. All new Class I and II operations must implement the provisions of this section prior to the date of issuance of the certificate of occupancy.
 - (a) Design and Construction. Operations must be designed, constructed, maintained, and operated to minimize the possibility of an unplanned release of hazardous materials to soil or water resources.
 - (b) Container/Tank Management. A container or tank holding a hazardous material must always be closed, except to add or remove materials. Hazardous materials must also be managed so that they do not damage the structural integrity of the operation or devices containing the material.
 - (c) Container/Tank Condition. All containers and tanks must be maintained in such a manner as to ensure effective operation and prevent the release of hazardous materials.
 - (d) Container/Tank Identification. The owner/operator is required to label all containers and tanks containing hazardous materials to identify the major risk(s) associated with the contents. This labeling must conform to applicable sections of the Uniform Fire Code, Occupational Safety and Health Standards, and/or the State of Washington's Dangerous Waste Regulations.
 - (e) Releases and Ancillary Equipment. Any leaking pipe, pump, or other ancillary equipment must be repaired or replaced promptly. All hazardous materials that have been released are to be contained and abated immediately. The City is to be notified of any release of hazardous materials in quantities greater than or equal to the reportable quantities referenced in 40 CFR 302.4 (also referenced in Section 103a of CERCLA), or releases of other hazardous materials that clearly impact water resources, as soon as possible but no later than 24 hours after the release. Ancillary equipment associated with hazardous materials must be supported and protected against physical damage and excessive stress.
 - (f) Compatibility. The owner/operator must use a container or tank made of or lined with materials which are compatible with the hazardous materials to be stored.
 - (g) Containment. Container and tank storage areas must have a containment system that can collect and holding spills and leaks. This containment must:
 - (i) Be constructed of an impervious surface with sealed joints;
 - (ii) Eliminate or minimize joints between concrete slabs and slab/foundation interfaces in the operation;
 - (iii) Provide pollution control measures to protect water resources, including run-off collection and discharge from active areas;
 - (iv) Be designed to provide secondary containment of 110% of the container's or tank's capacity; or in areas with multiple tanks, 110% of the largest tank or 10% of the aggregate tank volumes, whichever is larger. Secondary containment must be provided in all areas where hazardous materials are loaded/unloaded, transferred, accumulated, or stored; and
 - (v) Be compatible with the materials that are being handled.
 - (h) Loading Areas. Loading and unloading areas must be designed, constructed, operated, and maintained to:

- (i) Contain spills and leaks that might occur during loading/unloading;
 - (ii) Prevent releases of hazardous materials to water resources;
 - (iii) Contain wash waters (if any) resulting from the cleaning of contaminated transport vehicles and load/unload equipment; and
 - (iv) Allow for removal as soon as possible any collected hazardous materials resulting from spills, leaks, and equipment cleaning.
 - (i) Closure. At closure of an operation, all remaining structures, containers, tanks, liners, and soil containing or contaminated with hazardous materials at concentrations above state and federal regulatory thresholds must be decontaminated and properly disposed of or managed.
- (3) Spill and Emergency Response Plan (SERP).
- (a) All new Class I and II operations must develop and implement a Spill and Emergency Response Plan (SERP) within 90 days of the date of issuance of the certificate of occupancy. Other operations may also be required to develop and implement a SERP if the city determines this action will help prevent releases of hazardous materials to water resources.
 - (b) The SERP must be maintained on-site and be made available to the city upon request.
 - (c) The SERP must be updated at least every five years or as needed to reflect significant changes in operation or practices.
 - (d) At a minimum, the SERP must include the following information:
 - (i) Spill Prevention.
 - (A) Drawings including the layout of the operation, a floor plan, direction of drainage, entrance and exit routes, and areas where hazardous materials are received, stored, transported, handled or used in operations.
 - (B) Listings of all hazardous materials on-site including types, volumes, locations and container types and sizes.
 - (C) Spill prevention related equipment including equipment which serves to detect releases of potential water resources contaminants.
 - (ii) Emergency Response.
 - (A) Chain of command and procedures for spill response.
 - (B) Phone list of response agencies including federal, state and city emergency contact numbers and environmental cleanup companies.
 - (C) Procedures for treating and disposing of spilled hazardous materials.
 - (iii) Certification. The SERP must include a certification signed by an authorized representative of the operation stating: "I certify that the information provided in this document is to the best of my knowledge true and complete, and the spill prevention equipment and emergency response measures described herein are as stated." The signed certificate must include the authorized representative's name (printed), title, and contact information.
- (4) Operational Inspections.
- (a) All new Class I and II operations must implement the provisions of this section upon issuance of certificate of occupancy. Other operations may also be required to implement these provisions if the city determines this action will help prevent releases of hazardous materials to water resources.

- (b) Schedule. The owner/operator must develop a written schedule for inspecting all monitoring equipment, safety or emergency equipment, security devices, and any other equipment that helps prevent, detect, or respond to water resource-related hazards.
 - (c) Regular Inspections. The owner/operator must perform site inspections to identify malfunctions and deterioration of equipment or containers, operator errors, discharges, or any other condition that may cause or lead to the release of hazardous materials to water resources. The owner/operator must conduct these inspections often enough to identify problems in time to correct them before they impact water resources. Inspections must be completed in all areas where hazardous materials are managed, and a written record of those inspections made at least annually.
 - (d) Water Resource-Related Hazard Mitigation. The owner/operator must remedy any problems revealed by the inspection. Where a water resource-related hazard is imminent or has already occurred, remedial action must be taken immediately.
- (5) Training Program.
- (a) All new Class I and II operations must implement the provisions of this section upon issuance of certificate of occupancy. Other facilities also may be required to implement these provisions if the city determines this action will help prevent releases of hazardous materials to water resources.
 - (b) Operations must develop a training program or amend an existing program that informs employees at least once each year of any possible risks to water resources associated with on-site operations. The owner/operator must ensure that employees know or understand:
 - (i) The location of hazardous materials managed at the operation and the associated potential risks to water resources;
 - (ii) The location of safety data sheets (SDS) at the operation;
 - (iii) How employees can detect the presence or release of hazardous materials;
 - (iv) How employees can protect themselves through work practices, emergency procedures, and with personal protective equipment;
 - (v) How to locate and use the operation's spill and emergency response plan; and
 - (vi) How to prevent the pollution or contamination of water resources.
- (6) Closure Plan.
- (a) Each new Class II operation must prepare and submit to the city a closure plan within six months of the date of issuance of the certificate of occupancy. Class II operations must ensure that their facilities are closed in a manner that prevents the release of hazardous materials during closure, protects water resources, and prevents post-closure escape of hazardous materials to water.
 - (b) Plan Requirements. The closure plan must detail how the operation will, upon any closure anticipated to be longer than two years, remove and properly dispose of hazardous materials, and perform an investigation to confirm the presence or absence of hazardous materials in the soil and groundwater, if potential contamination is indicated. Specifically, the closure plan must include the following:
 - (i) A listing of the types and quantities of hazardous materials reasonably expected to be present on-site during the operating life of the operation.
 - (ii) A description of the plan for removal and disposal of hazardous materials.
 - (iii) A description of the plan to decontaminate containment systems and ancillary equipment.
 - (iv) An estimate of the cost to implement the closure plan, using the assumption that a third party will conduct removal and disposal activities.

- (v) A certification signed by an authorized representative of the business/industry submitting the closure plan stating, "I certify that the information provided in this document is to the best of my knowledge accurate and the closure measures described herein will be implemented as stated." The signed certificate must include the authorized representative's name (printed), title, and contact information.
- (c) Report Update. The owner/operator of an operation must update the closure plan every five years or recertify the current information and estimates. The closure plan must also be updated if operating procedures change in such a way that the volume/mass of hazardous material is increased by 25% or more.
- (7) Engineering and Operating Report. If the city recognizes and demonstrates a need for additional information on an operation's practices, the city may require the operation to submit an engineering and operating report to accommodate the city's review of operations and to prevent releases of hazardous materials to water resources. If required, the report must provide the following:
 - (a) The type of industry or business including the kind and quantity of finished products.
 - (b) A process flow diagram illustrating the process flow of water and materials in a normal operating day. This must include details on the operation's plumbing and piping and where specific chemicals are added to processes.
 - (c) A discussion of any discharges to the municipal sewer system.
 - (d) A discussion of any discharges through land applications, including seepage lagoons, irrigation, and subsurface disposal. As applicable, this discussion may also include the depth to groundwater and anticipated overall effects of the operations on the quality of water resources.
 - (e) Provisions for any plans for future expansion or intensification.
 - (f) A certification signed and dated by an authorized representative of the operation stating: "I certify that the information provided in this document is to the best of my knowledge true and complete." The signed certificate must include the authorized representative's name (printed), title, and contact information.
- (8) Records and Reports.
 - (a) Operations must maintain records of required inspection, training, cleaning, and maintenance events. Where operations are otherwise required by the city or another agency to maintain such records, those records must satisfy this requirement. All operations are required to maintain these records on-site for at least three years and must make them available to the city upon request.
 - (b) Plans, reports, or other documentation concerning the management of hazardous materials must also be made available to the city upon request.
 - (c) Information provided to the city must be available to the public. Information not claimed as confidential at the time of submission must be made available to the public if requested.

18.808.100 Halogenated solvent list.

i This section is existing SMC 17.135.110, and is referenced in the Class I/Class II Operations section above.

Table 18.808.110-1 Halogenated Solvent List

Solvent	Synonym(s)	CAS No.	Specific Density (g/cc)
Benzyl chloride	Chloromethylbenzene	100-44-7	1.100

Solvent	Synonym(s)	CAS No.	Specific Density (g/cc)
Bis(2-chloroethyl)ether	Bis(-chloroethyl)ether	111-44-4	1.220
Bis(2-chloroisopropyl)ether	Bis(-chloroisopropyl)ether	108-60-1	1.103
Bromobenzene	Phenyl bromide	108-86-1	1.495
Bromochloromethane	Chlorobromomethane	74-97-5	1.934
Bromodichloromethane	Dichlorobromomethane	75-27-4	1.980
Bromoethane	Ethyl bromide	74-96-4	1.460
Bromoform	Tribromomethane	75-25-2	2.890
Carbon tetrachloride	Tetrachloromethane	56-23-5	1.594
Chlorobenzene	Benzene chloride	108-90-7	1.106
2-Chloroethyl vinyl ether	(2-Chlorethoxy)ethane	110-75-8	1.048
Chloroform	Trichloromethane	67-66-3	1.483
1-Chloro-1-nitropropane	Chloronitropropane	600-25-9	1.209
2-Chlorophenol	o-Chlorophenol	95-57-8	1.263
4-Chlorophenyl phenyl ether	p-Chlorodiphenyl ether	7005-72-3	1.203
Chloropicrin	Trichloronitromethane	76-06-2	1.656
m-Chlorotoluene		108-41-8	1.072
o-Chlorotoluene	2-Chloro-1-methylbenzene	95-45-8	1.082
p-Chlorotoluene		106-43-4	1.066
Dibromochloromethane	Chlorodibromomethane	124-48-1	2.451
1,2-Dibromo-3-chloropropane	DPCP	96-12-8	2.050
Dibromodifluoromethane	Freon 12-B2	75-61-6	2.297
1,2-Dichlorobenzene	o-Dichlorobenzene	95-50-1	1.305
1,3-Dichlorobenzene	m-Dichlorobenzene	541-73-1	1.288
1,1-Dichloroethane	1,1-DCA	75-34-3	1.176
1,2-Dichloroethane	Ethylene dichloride, 1,2-DCA	107-06-2	1.235
1,1-Dichloroethene	Vinylidene chloride 1,1-DCE	75-35-4	1.218
trans-1,2-Dichloroethylene	trans-1,2-DCE	156-60-5	1.257
1,2-Dichloropropane	Propylene dichloride	78-87-5	1.560
cis-1,3-Dichloropropene	cis-1,3-Dichloropropylene	10061-01-5	1.224
trans-1,3-Dichloropropene	trans-1,3-Dichloropropylene	10061-02-0	1.182
Ethylene dibromide	1,2-Dibromoethane, EDB	106-93-4	2.179
Hexachlorobutadiene	HCBD	87-68-3	1.554
Hexachlorocyclopentadiene	HCCPD	77-47-4	1.702
Methylene chloride	Dichloromethane	75-09-2	1.327
Pentachloroethane	Ethane pentachloride	76-01-7	1.680
1,1,2,2-Tetrabromoethane	Acetylene tetrabromide	79-27-6	2.875
1,1,2,2-Tetrachloroethane	Acetylene tetrachloride	79-34-5	1.595
Tetrachloroethylene	Perchloroethylene, PCE	127-18-4	1.623
1,2,4-Tetrachlorobenzene	1,2,4-TCB	120-82-1	1.454
1,1,1-Trichloroethane	Methyl chloroform, 1,1,1-TCA	71-55-6	1.339
1,1,2-Trichloroethane	1,1,2-TCA	79-00-5	1.440

Solvent	Synonym(s)	CAS No.	Specific Density (g/cc)
Trichloroethylene	TCE	79-01-6	1.464
1,1,2-Trichlorofluoromethane	Freon 11	75-69-4	1.487
1,2,3-Trichloropropane	Allyl trichloride	96-18-4	1.389
1,1,2-Trichlorotrifluoroethane	Freon 113	76-13-1	1.564

Chapter 18.810 Critical Areas – Frequently Flooded Areas

i The existing SMC Chapter 17.120 is moved to this new Chapter SMC 18.810. This section was renamed from “Floodplain Management” to “Critical Areas – Frequently Flooded Areas”

18.810.010 Applicability.

i This draft replaces the purpose, objectives, and "relationship to general standards" sections in each critical area chapter, which were largely duplicative of each other, with this new applicability section that makes reference to the general critical areas chapter.

- (1) This chapter provides standards for the Frequently Flooded Area type of critical area and is applied pursuant to the general critical area regulations and processes in SMC Chapter 18.800.
- (2) Because this chapter implements requirements for the City’s participation in the National Flood Insurance Program, in the event of a conflict between this chapter and Chapter 18.800 SMC, this chapter controls.

18.810.020 Methods of reducing flood losses.

To accomplish its purpose, this chapter includes methods and provisions for:

- (1) Restricting or prohibiting development that is dangerous to health, safety, and property due to water or erosion hazards, or which results in damaging increases in erosion or in the flood heights or velocities;
- (2) Requiring that development vulnerable to floods be protected against flood damage at the time of initial construction;
- (3) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- (4) Controlling filling, grading, dredging and other development which may increase flood damage; and
- (5) Preventing or regulating the construction of flood barriers that unnaturally divert flood water or may increase flood hazards in other areas.

18.810.030 General provisions.

- (1) Lands to Which These Standards Apply. These standards apply to all areas of special flood hazards within the jurisdiction of the city of Stanwood. All development within special flood hazard areas is subject to the regulations contained within this chapter and all other state or federal regulations. Special flood hazards may result from high river flow, alteration of river channels, tsunami, high tides combined with high winds, sea level rise associated with global warming, and increased runoff due to increased impervious surface area.
- (2) Basis for Establishing the Areas of Special Flood Hazard. The areas of special flood hazard identified by the Federal Insurance Administrator in a scientific and engineering report entitled “The Flood Insurance Study for Snohomish County, Washington and Incorporated Areas,” dated June 19, 2020, and any revisions

thereto, with accompanying Flood Insurance Rate Map (FIRM), and any revisions thereto, is adopted by reference and declared to be a part of this code. The flood insurance study is on file at City Hall.

- (3) Penalties for Noncompliance. No structure or land may hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of these standards and other applicable regulations. Violation of the provisions of these standards by failure to comply with any of their requirements (including violations of conditions and safeguards established in connection with conditions) constitutes a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements must upon conviction thereof be fined not more than \$1,000 or imprisoned for not more than 90 days or both for each violation and in addition must pay all costs and expenses involved in the case. Nothing herein contained may prevent the city of Stanwood from taking such other lawful action as is necessary to prevent or remedy any violation.
- (4) Abrogation and Greater Restrictions. These standards are not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where these standards and any other code, easement, covenant, or deed restriction conflict or overlay, whichever imposes the more stringent restrictions must prevail.
- (5) Interpretation. In the interpretation and application of these standards, all provisions must be:
 - (a) Considered as minimum requirements;
 - (b) Liberally construed in favor of the governing body; and
 - (c) Deemed neither to limit nor repeal any other powers granted under state statutes.
- (6) Warning and Disclaimer of Liability. The degree of flood protection required by these standards is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by humanmade or natural causes. These standards do not imply that land outside the areas of special flood hazards, or uses permitted within such areas, will be free from flooding or flood damages. These standards may not create liability on the part of the city of Stanwood, any officer or employee thereof, or the Federal Insurance and Mitigation Administration for any flood damages that result from reliance on them, or any administrative decision lawfully made hereunder.

 The definition for “substantial improvement” has been moved to this section and updated to allow for upgrades up to 50% of the building’s value every year, rather than every two years.

- (7) For the purpose of this chapter, “substantial improvement” means any reconstruction, rehabilitation, addition, or other improvement of a structure taking place during the last 12-month period, the cost of which equals or exceeds 50% of the market value of the structure before “the start of construction” of the improvement must comply with the requirements of SMC 18.810. This includes structures which have incurred “substantial damage,” regardless of the actual repair work performed. Substantial improvement does not include either:
 - (a) Any project for improvement of a structure to correct previously identified existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and that are the minimum necessary to assure safe living conditions; or
 - (b) Any alteration of a “historic structure”; provided, that the alteration will not preclude the structure’s continued designation as a “historic structure.”

18.810.040 Administration.

i This section is based on SMC 17.120.030 Administration.

- (1) Designation. The Director serves as the city's floodplain administrator and is hereby appointed to administer, implement, and enforce these standards by granting or denying development permit applications in accordance with their provisions.

i Several of the duties below were restructured and renumbered to make clear that they are responsibilities of the floodplain administrator/director.

- (2) Duties. The duties of the Director include, but are not limited to:
- (a) Review all development permits to determine that:
 - (i) The permit requirements of these standards have been satisfied;
 - (ii) All necessary permits have been obtained from those federal, state, or local government agencies from which prior approval is required.
 - (iii) The site is reasonably safe from flooding;
 - (iv) Notify Federal Insurance Administrator if annexations occur in the special flood hazard area.
 - (b) Use of Other Base Flood Data. If base flood elevation data has not been provided in accordance with SMC 18.810.020(2), Basis for Establishing the Areas of Special Flood Hazard, the Director is required to obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source to administer SMC 18.810.080, Specific Standards.
 - (c) Obtain and maintain flood information.
 - (i) Where base flood elevation data is provided through the flood insurance study or otherwise required, these data must be obtained and a record made of the actual (as-built) elevation (in relation to mean sea level) of the lowest floor, including basement, of all new or substantially improved structures, and whether the structure contains a basement.
 - (ii) For all new or substantially improved floodproofed nonresidential structures where base flood elevation data is provided through the FIS or FIRM, or as otherwise required:
 - (A) Obtain and maintain the actual elevation (in relation to mean sea level) to which the structure was floodproofed.
 - (B) Maintain the floodproofing certifications required in subsection (7)(c) of this section.
 - (iii) Maintain for public inspection all records pertaining to the provisions of these standards.
 - (iv) Records of all variance actions; include justification for their issuance.
 - (v) Improvement and damage calculations.
 - (d) Whenever a watercourse is to be altered or relocated:
 - (i) Notify adjacent communities and the Washington State Department of Ecology prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Insurance Administrator through appropriate notification means.
 - (ii) Ensure that the flood-carrying capacity of the altered or relocated portion of said watercourse is maintained.

(e) Interpretation of FIRM Boundaries. Make interpretations, where needed, as to exact location of the boundaries of the areas of special flood hazards. (For example, where there appears to be a conflict between a mapped boundary and actual field conditions.) The person contesting the location of the boundary must be given a reasonable opportunity to appeal the interpretation. Such appeals must be granted consistent with the standards of Section 60.6 of the Rules and Regulations of the NFIP.

(3) **Changes to Special Flood Hazard Area.**

- (a) A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, a community, or project proponent, must notify FEMA of the changes by submitting technical or scientific data in accordance with this chapter. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements must be based upon current data.
- (b) If a CLOMR application is made, then the project proponent must also supply the full CLOMR documentation package to the floodplain administrator to be attached to the floodplain development permit, including all required property owner notifications. Once a CLOMR has been approved, the project proponent must follow up with the LOMR application once the project is complete.

Commented [RC20]: TS: Mukilteo flood code is interesting, its very brief. The CAO and expanded on in the building code chapter.

18.810.050 Permits and review required.

i This is a new section that includes some content from the Administration section that didn't belong there.

- (1) A project permit must be obtained before construction or development begins within any area of special flood hazard area. A permit is required for all structures, including manufactured homes, and for all development activities, including fill and other activities.
- (2) Application for a project permit must be made consistent with SMC Title 18 Part 2 and must include all of the application requirements of the underlying permit and the following:
 - (a) plans drawn to scale showing:
 - (i) the nature, location, dimensions, and elevations of the area in question;
 - (ii) existing or proposed structures;
 - (iii) fill;
 - (iv) storage of materials;
 - (v) drainage facilities;
 - (b) elevation, in relation to mean sea level, of the lowest floor (including basement) of all structures recorded on a current elevation certificate with Section B completed by the floodplain administrator;
 - (c) elevation in relation to mean sea level to which any nonresidential structure has been floodproofed;
 - (d) certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in SMC 18.810.050(2);
 - (e) description of the extent to which a watercourse may be altered or relocated because of the proposed development; and
 - (f) any other such information that may be reasonably required by the floodplain administrator to review the application.

18.810.060 Critical area report requirements.

In addition to the general requirements of SMC 18.800.140, critical area reports for frequently flooded areas must meet the requirements of this section.

- (1) Area addressed in critical area report:
 - (a) The site area of the proposed activity;
 - (b) All areas of special flood hazard, as indicated on the flood insurance map(s) within 200 feet of the project area; and
 - (c) All other flood areas indicated on the flood insurance map(s) within 200 feet of the project area.
- (2) **Flood Hazard Assessment Required.** A critical area report for a proposed activity within a frequently flooded area must contain a flood hazard assessment including the following site- and proposal-related information at a minimum:
 - (a) Site and Construction Plans. A copy of the site and construction plans for the development proposal showing:
 - (i) Floodplain (100-year flood elevation), 10- and 50-year flood elevations, floodway, other critical areas, buffers, and shoreline areas;
 - (ii) Proposed development, including the location of existing and proposed structures, fill, storage of materials, and drainage facilities, with dimensions indicating distances to the floodplain;
 - (iii) Clearing limits; and
 - (iv) Elevation of the lowest floor (including basement) of all structures, and the level to which any nonresidential structure has been floodproofed.

Commented [RC21]: TS: None of our experienced private consultants have been able to easily decipher this "flood hazard assessment" section and what it means.

18.810.070 Provisions for flood hazard reduction.

In all areas of special flood hazard, the following standards are required to be met:

- (1) Anchoring.
 - (a) All new construction and substantial improvements must be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads including the effects of buoyancy.
 - (b) All manufactured homes must likewise be anchored to prevent flotation, collapse, or lateral movement, and be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques).
- (2) Construction Materials and Methods.
 - (a) All new construction and substantial improvements must be constructed with materials and utility equipment resistant to flood damage.
 - (b) All new construction and substantial improvements must be constructed using methods and practices that minimize flood damage.
 - (c) Electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities must be designed and/or otherwise elevated or located to prevent water from entering or accumulating within the components during conditions of flooding.
 - (d) All structures, utilities and other improvements must be located on the buildable portion of the site outside of the floodplain unless there is no buildable site area out of the floodplain. For sites with no

buildable area out of the floodplain, structures must be placed on the highest land on the site, oriented parallel to flow rather than perpendicular, and sited as far from the watercourse and other critical areas as possible. If the city detects any evidence of active hyporheic exchange on a site, the development must be located to minimize disruption of such exchange.

- (e) Fill and grading within the floodplain must only occur upon a determination from a qualified professional that the fill or grading will not block side channels, inhibit channel migration, increase flood hazards to others, or be placed within a channel migration zone, whether or not the city has delineated such zones as of the time of the application.

(3) Utilities.

- (a) All new and replacement water supply systems must be designed to minimize or eliminate infiltration of flood waters into the system.
- (b) New and replacement sanitary sewage systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems in flood waters.
- (c) On-site waste disposal systems must be located to avoid impairment to them or contamination from them during flooding.

i The following line was added to increase protections of HVAC systems in the event of a flood.

- (d) New and replacement HVAC systems must be located above the base flood elevation and elevated off the floor to minimize damage from flooding.

(4) Subdivision and Development Proposals.

- (a) All development proposals, including subdivisions and manufactured home parks, must be consistent with the need to minimize flood damage.
- (b) All development proposals, including subdivisions and manufactured home parks, must have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.
- (c) All development proposals, including subdivisions and manufactured home parks, must have adequate drainage provided to reduce exposure to flood damage.
- (d) Where base flood elevation data has not been provided or is not available from another authoritative source, it must be generated for development proposals, including subdivisions and manufactured home parks, greater than 50 lots or five acres (whichever is the lesser).

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

(6) Storage of Materials and Equipment.

- (a) The storage or processing of materials that could be injurious to human, animal, or plant life if released due to damage from flooding is prohibited in special flood hazard areas.
- (b) Storage of other materials or equipment may be allowed if not subject to damage by floods and if firmly anchored to prevent flotation, or if readily removable from the area within the time available after flood warning.

18.810.080 Specific standards.

In all areas of special flood hazard where base flood elevation data has been provided as set forth in SMC 18.810.020(2), Basis for Establishing the Areas of Special Flood Hazard, or SMC 18.810.030(2), Use of Other Base Flood Data, the following provisions are required:

(1) Residential Construction.

- (a) New construction and substantial improvement of any residential structure must have the lowest floor elevated to the base flood elevation plus one foot. Mechanical equipment and utilities, including HVAC systems, must be waterproofed or elevated at least one foot above base flood elevation.
- (b) Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or if usable solely for parking, access or storage must be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Other uses that are subject to flooding are prohibited. Designs must meet or exceed the following minimum criteria. Alternatively, a registered engineer or architect may design and certify engineering openings.
 - (i) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding ;
 - (ii) The bottom of all openings shall be no higher than one-foot above grade;
 - (iii) Openings may be equipped with screens, louvers, valves or other coverings or devices so long as they permit the automatic entry and exit of flood waters; and
 - (iv) A garage attached to a residential structure, constructed with the garage floor slab below the base flood elevation, must be designed to allow for the automatic entry and exit of flood waters.

(2) Nonresidential Construction.

- (a) New construction and substantial improvement to any commercial, industrial, or other nonresidential structure must either have the lowest floor elevated to the level of the base flood elevation plus one foot, or, together with attendant utility and sanitary facilities, must:
 - (i) Be dry floodproofed so that below one foot above the base flood level, the structure is watertight, with walls substantially impermeable to the passage of water, or dry floodproofed to the elevation required by ASCE 24, whichever is greater;
 - (ii) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
 - (iii) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection based on their development and/or review of the structural design, specifications, and plans. Such certification must be provided to the Director as set forth in SMC 18.810.030(3)(b);
 - (iv) Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subsection (1)(b) of this section; and
 - (v) An applicant floodproofing nonresidential buildings must be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g., a building floodproofed to one foot above the base flood level will be rated as at the base flood level).

(3) Manufactured Homes.

- (a) All manufactured homes to be placed or substantially improved on the following sites must be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated one foot or more above the base flood elevation and be securely anchored to the foundation system to resist flotation, collapse, and lateral movement:

- (i) Outside of a manufactured home park or subdivision;
 - (ii) In a new manufactured home park or subdivision;
 - (iii) In an expansion to an existing manufactured home park or subdivision; or
 - (iv) In an existing manufactured home park or subdivision on which a manufactured home has incurred “substantial damage” as the result of a flood.
- (b) Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision that are not subject to the above manufactured home provisions must be elevated so that either:
- (i) The lowest floor of the manufactured home is elevated one foot or more above the base flood elevation; or
 - (ii) The manufactured home chassis is supported by reinforced piers or other foundation elements, of at least equivalent strength that are no less than 36 inches in height above grade and is securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- (4) Recreational Vehicles. Recreational vehicles to be placed on sites within zones A1 – A30 and AE on the community’s FIRM are required to either:
- (a) Be on site for fewer than 180 consecutive days;
 - (b) Be fully licensed and ready for highway use, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or
 - (c) Must obtain a development permit and meet the requirements, including elevation and anchoring, for manufactured homes.
- (5) Appurtenant Structures (Detached Garages and Small Storage Structures). Appurtenant structures used solely for parking of vehicles or limited storage may be constructed such that the floor is below the base flood elevation, provided the structure is designed and constructed in accordance with the following requirements:
- (a) Use of the appurtenant structure must be limited to parking of vehicles or limited storage;
 - (b) The portions of the appurtenant structure located below the base flood elevation must be built using flood resistant materials;
 - (c) The appurtenant structure must be adequately anchored to prevent flotation, collapse, and lateral movement;
 - (d) Any machinery or equipment servicing the appurtenant structure must be elevated or floodproofed to or above the BFE;
 - (e) The appurtenant structure must be designed to allow for the automatic entry and exit of flood waters in accordance with subsection (1)(b) of this section;
 - (f) The structure must have low damage potential;
 - (g) If the structure is converted to another use, it must be brought into full compliance with the standards governing such use;
 - (h) The structure may not be used for human habitation;
 - (i) Detached garages, storage structures, and other appurtenant structures not meeting the above standards must be constructed in accordance with all applicable standards in subsection (1) of this section; and

- (j) Upon completion of the structure, certification that the requirements of this section have been satisfied must be provided to the floodplain administrator for verification.
- (6) Requirements for All Crawlspace Construction. All crawlspaces that have enclosed areas or floors below the base flood elevation must be:
 - (a) Designed and adequately anchored to resist flotation, collapse and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 - (b) Have openings that allow for the automatic entry and exit of flood waters. The bottom of the flood opening can be no more than one foot above the lowest adjacent exterior grade and meet the requirements in subsection (1)(b) of this section;
 - (c) Constructed with materials resistant to flood damage, including foundation walls, joists, insulation or other materials that will be below BFE;
 - (d) Located in areas where flood velocities do not exceed five feet per second;
 - (e) Any building utility systems, including HVAC systems, within the crawlspace must be elevated above the BFE or designed so that flood waters cannot enter or accumulate within the system components during flood conditions; and
 - (f) In addition to the above requirements, below-grade crawlspaces must be constructed so that:
 - (i) The interior grade of the crawlspace below the BFE is not more than two feet below the lowest adjacent exterior grade;
 - (ii) The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall, does not exceed four feet at any point;
 - (iii) An adequate drainage system to remove flood waters from the interior area of the crawlspace is installed.

18.810.090 Encroachments.

The cumulative effect of any proposed development, if combined with all other existing and anticipated development, may not increase the water surface elevation of the base flood more than one foot at any point.

18.810.100 Prohibited uses.

i Since the term “critical facility” exists nowhere else in the municipal code, we’ve extracted it from the definitions chapter and placed it here.

- (1) The following uses and activities are prohibited in frequently flooded areas:
 - (a) Critical facilities. Critical facilities are prohibited within frequently flooded areas to prevent damage to such facilities, to avoid costs that may be incurred by the public, and to maintain functionality of such facilities during flood events. If such a prohibition is unreasonable, an allowance for critical facilities in frequently flooded areas can be made with the following specific conditions:
 - (i) Construction of new critical facilities may be permissible within frequently flooded areas if no feasible alternative site is available.
 - (ii) Critical facilities constructed within frequently flooded areas must have the lowest floor elevated three feet or more above the level of the base flood elevation (100-year flood).
 - (iii) Floodproofing and sealing measures must be taken to ensure that toxic substances are not displaced by or released into flood waters.

- (iv) Access routes elevated to or above the level of the base flood elevation must be provided to all critical facilities to the extent possible.
- (2) For the purpose of this section, “critical facility” means a facility for which even a slight chance of flooding, inundation, or impact from a hazard event might be too great. Critical facilities include, but are not limited to, essential public facilities, schools, nursing homes, hospitals, fire and emergency response installations, and installations that produce, use or store hazardous materials or hazardous waste.

18.810.110 Variance procedure and appeal process.

- (1) Variances from these regulations and appeals are heard as provided by Chapter 18.330 SMC, Variances.
- (2) In reviewing such applications for variances, the city must consider all technical evaluations, all relevant factors, and criteria specified in other sections of these standards, including criteria in SMC 18.800.200, and:
 - (a) The danger that materials may be swept onto other lands to the injury of others;
 - (b) The danger to life and property due to flooding or erosion damage;
 - (c) The susceptibility of the proposed facility and its contents to flood damage on the owner;
 - (d) The importance of the services provided by the proposed facility to the community;
 - (e) The necessity that the facility has a waterfront location, where applicable;
 - (f) The availability of alternative locations for the proposed use that are not subject to the flooding or erosion damage;
 - (g) The compatibility of the proposed use with existing and anticipated development;
 - (h) The relationship of the proposed use to the city’s Comprehensive Plan and floodplain management program for that area;
 - (i) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (j) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
 - (k) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, and streets and bridges.

18.810.120 Conditions for variances.

- (1) Variances may only be issued upon a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nuisances, fraud on or victimization of the public, or conflict with existing laws or ordinances. Unavoidable impacts to floodplain functions and values must be mitigated in accordance with SMC 18.800.180(4), Mitigation Sequencing.
- (2) Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of historic structures upon a determination that the proposed repair or rehabilitation does not preclude the structure’s continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- (3) Variances may only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (4) Variances must be issued upon:
 - (a) A showing of good and sufficient cause;

- (b) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (c) Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the BFE, provided the procedures of SMC 18.810.030, Administration, and SMC 18.810.040, Provisions for flood hazard reduction, have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
- (5) Variances, as interpreted in the National Flood Insurance Program, are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure or its inhabitants' economical or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevation should be quite rare.
- (6) Variances may be issued for nonresidential buildings in very limited circumstances to allow less floodproofing than watertight or dry floodproofing, where it can be determined that such action has low damage potential, complies with all other variance criteria, except subsection (1) of this section, and otherwise complies with SMC 18.810.040(1) through (3).
- (7) Any applicant to whom a variance is granted must be given written notice that the structure may be permitted to be built with a lowest floor elevation below the base flood elevation and that:
- (a) The issuance of a variance to construct a structure below the BFE may result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage; and
 - (b) Such construction below the BFE increases risks to life and property.
- (8) The floodplain administrator must maintain a record of all variance actions, including justification for their issuance.

Chapter 18.812 Cultural Resources

- i** This is all new code, except for some parts from SMC 18.906.040 Preservation of Cultural Resources in the SMP. The new language was adapted from Ecology's model language from Appendix B to the Shoreline Master Program Handbook, Pierce County 18S.30.020, and La Center Municipal Code 18.360.
- i** A definition of "cultural resources" is included in the proposed UDC procedures ordinance and encompasses cultural, historical, and archaeological resources.

18.812.010 Purpose.

The purposes of this chapter are to:

- (1) Establish clear procedures and specific standards for preservation of cultural resources.
- (2) Recognize that cultural resources may be found throughout the city and are valuable resources because they are limited and irreplaceable.
- (3) Ensure coordination and consistency with the State Environmental Policy Act, the Shoreline Management Act, the Growth Management Act, and RCW Chapters [27.34](#), [27.44](#), [27.48](#), and [27.53](#).

18.812.020 Applicability.

This chapter applies to all areas within the City of Stanwood and all applications for a project permit.

18.812.030 Preservation of Cultural Resources.

i This section is based on SMC 18.906.040, Preservation of Cultural Resources, in the SMP. References specific to the SMP were removed. Some text was moved to 18.812.030(2)(a) and 18.812.040(1) of this chapter.

- (1) An owner of property containing identified or probable cultural resource sites is encouraged to coordinate well in advance of application for development to ensure that appropriate agencies such as the Washington State Department of Archaeology and Historic Preservation, affected tribes, and historic preservation groups have ample time to assess the site and identify the potential for cultural resources.

i And some portion of this section is reorganized recommended language from DAHP and Ecology.

- (2) When the Department receives an application for a project permit in an area of known cultural resources, the Director must send a copy of the Notice of Application (or equivalent notice) to appropriate agencies, such as the Washington Department of Archaeology and Historic Preservation and any affected tribal governments.
- (3) The Director may condition approval of a project permit to comply with this chapter when:
- (a) The project site contains known cultural resources, as identified by any of the following:
 - (i) Department of Archaeology and Historic Preservation (DAHP);
 - (ii) a tribal government;
 - (iii) National Register of Historic Places;
 - (iv) Washington Heritage Register;
 - (b) The property is listed by DAHP as eligible for listing in either the National Register of Historic Places or the Washington Heritage Register;

! If Stanwood does not have a local register of historic places, you could delete the next line.

- (c) The property is listed in a local register of historic places;
 - (d) When the city determines that reliable and credible information indicates the probable existence of an archaeological resource or site;
 - (e) When a permit or approval is required for any ground-disturbing activities.
- (4) The Director may condition approval of an application to:
- (a) require consultation with the Washington Department of Archaeology and Historic Preservation and any affected tribal governments;
 - (b) require preservation or conservation of cultural resources as required by applicable federal, state, and local statutes;
- (5) An application for development in an area known to be significant must provide for monitoring of any development activity for previously unidentified cultural resources.

! The following language is recommended by agencies, but seems overly broad to me.

- (6) All developments proposed for location adjacent to historical sites, which are registered on the local, state, or national historic register, must be located and designed to be complimentary to the historic site. Development which is detrimental to the historic character of such sites is not permitted.

18.812.040 Cultural Resource Site Assessment

i Capitalized Cultural Resource Site Assessment to make it a term of art like CRMP.

(1) A Cultural Resource Site Assessment is required:

- (a) Prior to approval of development on a property within 500 feet of a site known to contain or in an area identified as having the potential for the presence of cultural resources, when requested by an agency identified in 18.812.020(1)(a); and

! Shouldn't the following line trigger a CRMP, not just a CRSA?

- (b) When any cultural resources item of potential significance is discovered during a permitted development activity.

! Added the following line, but I may be misunderstanding the purpose of the CRSA.

(2) Exception. A Cultural Resource Site Assessment is not required when a Cultural Resource Management Plan is prepared pursuant to SMC 18.812.040.

(3) A Cultural Resource Site Assessment must:

- (a) Be performed by a professional archaeologist or historic preservation professional whose documentation and methodology should be replicable by another archeologist to reach a similar conclusion;
- (b) Use best available technology and archaeological techniques;
- (c) Be based on a thorough review of records, documentation, and other relevant literature;
- (d) Describe any cultural resources that are discovered on the site, using any relevant maps, written descriptions, and photographs;
- (e) Assess whether the proposed use would affect any cultural resources discovered;
- (f) Be submitted to the city, DAHP, and to any interested or affected tribal governments.

18.812.050 Cultural Resource Management Plan

(1) A Cultural Resource Management Plan ("CRMP") must be prepared when a Cultural Resource Site Assessment identifies the presence of significant cultural resources.

i The remainder of this section is recommended language from DAHP and Ecology.

(2) A CRMP must be prepared by a professional archaeologist or historic preservation professional.

(3) To prepare recommendations for a CRMP, the author must solicit comments from the Washington Department of Archaeology and Historic Preservation and any affected Tribal government. Any comments received must be incorporated into the conclusions and recommendations of the CRMP to the maximum extent practicable.

(4) A CRMP must contain at least the following elements:

- (a) Purpose of the project; a site plan; the depth and location of all ground disturbing activities including, but not limited to, utilities, driveways, clearing and grading; an examination of project on-site design alternatives; an explanation of why the proposed activity requires location on or access through an historic or significant archaeological resource.

- (b) A description of the cultural resources affected by the proposal;
- (c) An evaluation of the cultural resource and an analysis of the potential adverse impacts as a result of the activity;
- (d) An analysis of how these impacts have been avoided, or where avoidance is not possible, how these impacts have been or will be mitigated/minimized; and
- (e) A recommendation of appropriate mitigation measures for the impacts to cultural resources, which may include but are not limited to the following:
 - (i) Recording the site with the Washington Department of Archaeology and Historic Preservation; listing the site in the National Register of Historic Places, Washington Heritage Register, or any locally developed historic registry;
 - (ii) Preservation in place;
 - (iii) Reinternment in the case of grave sites;
 - (iv) Covering an archaeological site with a nonstructural surface to discourage pilferage (i.e., maintained grass or pavement);
 - (v) Excavation and recovery of archaeological resources;
 - (vi) Inventorying prior to covering of archaeological resources with structures or development; and
 - (vii) Monitoring of construction excavation.
- (f) The Director must use the recommendations and conclusions of the CRMP in determining the presence and extent of cultural resources and appropriate mitigation measures.
- (g) The Director may reject or request revision of the conclusions reached in a CRMP when the Director can demonstrate that the assessment is inaccurate or does not fully address the cultural resource management concerns.

18.812.060 Inadvertent discovery.

- (1) If archaeological, cultural, or historical sites or artifacts of potential significance, or human skeletal remains are discovered in the process of development:
 - (a) work on that portion of the site must be stopped immediately;
 - (b) the site must be secured;
 - (c) the discovery must be reported as soon as possible to the Director;
 - (d) the Director must notify the Washington State Department of Archaeology and Historic Preservation, affected tribes, and other appropriate agencies;
 - (e) the Director must require the applicant to immediately prepare a Cultural Resources Site Assessment to determine the significance of the discovery and the extent of damage to the resource.
- (2) If a Cultural Resources Site Assessment is required per subsection (1):
 - (a) The Director must distribute the assessment to the Washington Department of Archaeology and Historic Preservation and affected tribes to determine the significance of the discovery.
 - (b) The Director must allow 15 days for review, or 30 days in the case of inadvertent discovery of human remains.
 - (c) At the conclusion of the review period:

- (i) if the site has been determined not to be significant by the above listed agencies or governments, or if the above listed agencies or governments have failed to respond, such stopped work may resume;
 - (ii) if the site is determined to be significant, a Cultural Resources Management Plan must be prepared per SMC 18.812.050.
- (3) Treatment of cultural artifacts or human skeletal remains must comply with RCW 27.44.055, 68.50.645, and 68.60.055.

From: [Sears, Tricia \(DNR\)](#)
To: [Love, Patricia](#)
Cc: [Sears, Tricia \(DNR\)](#); [Holman, Carol \(COM\)](#)
Subject: Stanwood's Development Regulation Amendment update (Commerce ID# 2024-S-7432): WGS comments
Date: Thursday, October 10, 2024 12:59:15 PM



CAUTION. This email originated from outside of this organization. Please exercise caution with links and attachments.

10/10/24

Hello Patricia,

In keeping with the interagency correspondence principles, I am providing you with comments on Stanwood's Development Regulation Amendment update (Commerce ID# 2024-S-7432).

For this proposal submitted via Planview, I looked at the proposal and focused on areas related to WGS work. Of note, but not limited to, I look for language around the geologically hazardous areas, mineral resource lands, mining, climate change, and natural hazards mitigation plans.

Specifically in this proposal, I reviewed the document Ordinance_SMC Title 18 Part 2 v3 draft 2024-08-26.

Critical areas is a term mentioned three times in this document. There is a Part 8 Environment on page 46 that says Reserved. There is not much detail here in Title 18 regarding the focus areas of WGS work, so details must be elsewhere.

Recognizing the limitations of the current proposals, I want to mention that it would be great for you to consider these in future work, be it in your comprehensive plan, development code, and SMP updates, and in your work in general:

- Consider adding a reference to WAC 365-190-120 geologically hazardous areas for definitions in other areas besides the CAO. In addition, consider adding a reference to WAC 365-196-480 for natural resource lands.
- Consider adding a reference to the WGS Geologic Information Portal in other areas besides the CAO. If you have not checked our interactive database, the WGS Geologic Information Portal, lately, you may wish to do so. [Geologic Information Portal | WA - DNR](#)
- If you have not checked out our Geologic Planning page, you may wish to do so. [Geologic Planning | WA - DNR](#)

Thank you for considering our comments. If you have any questions or need additional information, please contact me. For your convenience, if there are no concerns or follow-up discussion, you may consider these comments to be final as of the 60-day comment deadline of 11/9/24.

Cheerio,
Tricia

Tricia R. Sears (she/her/hers)

Geologic Planning Liaison

Washington Geological Survey (WGS)

Washington Department of Natural Resources (DNR)

Cell: 360-628-2867 | Email: tricia.sears@dnr.wa.gov

Schroeder, Tansy

From: DNR RE SEPACENTER <SEPACENTER@dnr.wa.gov>
Sent: Monday, October 28, 2024 6:32 AM
To: Schroeder, Tansy
Cc: Sears, Tricia (DNR)
Subject: FW: City of Stanwood Notice of SEPA DNS - 24-0132 Stanwood Unified Development Code: Critical Areas Ordinance Update



CAUTION. This email originated from outside of this organization. Please exercise caution with links and attachments.

Good morning Tansy,

Thank you for the opportunity to comment on this Critical Areas Ordinance update. Please accept the comments below from WGS division of DNR.

Thank you,

Emma Oliver

SEPA External Affairs Coordinator
Office of Legal Affairs & Business Practices
Washington State Department of Natural Resources (DNR)
(360) 902-1709
Emma.Oliver@DNR.wa.gov
www.dnr.wa.gov

From: Sears, Tricia (DNR) <Tricia.Sears@dnr.wa.gov>
Sent: Thursday, October 24, 2024 5:00 PM
To: DNR RE SEPACENTER <SEPACENTER@dnr.wa.gov>
Subject: RE: City of Stanwood Notice of SEPA DNS - 24-0132 Stanwood Unified Development Code: Critical Areas Ordinance Update

Hi Emma,

Thanks for sending this! And thanks for sending me the link that works, that is appreciated!

I reviewed the Critical Area Code Narrative Summary, the Determination of Non-Significance, Title 18 Part 8 – Environment V2 wo Comments, and the Request for Review documents.

Critical Area Code Narrative Summary:

It states, “The geologically hazardous areas chapter (SMC 18.806) incorporates definitions consistent with RCW and WAC.” Great!

Title 18 Part 8 – Environment V2 wo Comments:

On page 7 it states, “i(f) If the activity’s effects cannot be mitigated, you might be eligible to seek an exception from the City’s critical areas code.” It also states, “(g) If special conditions peculiar to your property exist, you may be eligible for a variance from the City’s critical areas code per SMC 18.800.200.” It’s unusual to see the word “you” in the code. Typically, the code says applicant or property owner. That’s what most of the other provisions in Title 18 use.

On page 37 there is a blue information box that says, “A definition for geologically hazardous areas will be added to the definitions section, consistent with RCW 36.70A.030(14) and WAC 365-190-120(1).” And another box that says, “The following definition is taken from the critical areas checklist and RCW 36.70A.030(14) and WAC 365-190-120(1).” When the provisions are in finalized form and the blue boxes are removed, will the code be written to include the references to RCWs and WACs?

On page 39, in 18.806.040 Mapping, suggest adding a reference to the Department of Natural Resources, Washington Geological Survey’s Geologic Information Portal.

On page 45, it says “Geotechnical Engineering Report. The technical information for a project within a landslide hazard area must include a geotechnical engineering report prepared by a licensed engineer that presents engineering recommendations for the following:” Suggest stating a licensed in Washington engineer.

Thank you for the opportunity to comment.

Cheerio,
Tricia

Tricia R. Sears (she/her/hers)
Geologic Planning Liaison
Washington Geological Survey (WGS)
Washington Department of Natural Resources (DNR)
Cell: 360-628-2867 | Email: tricia.sears@dnr.wa.gov

From: DNR RE SEPACENTER <SEPACENTER@dnr.wa.gov>
Sent: Tuesday, October 22, 2024 10:32 AM
To: Sears, Tricia (DNR) <Tricia.Sears@dnr.wa.gov>
Subject: FW: City of Stanwood Notice of SEPA DNS - 24-0132 Stanwood Unified Development Code: Critical Areas Ordinance Update

Hello Tricia,

This sounded like the kind of ordinance update you said to forward on, let me know if it isn’t. The Stanwood links sent me in circles looking for the related documents, so here is the Ecology link:
<https://apps.ecology.wa.gov/separ/Main/SEPA/Record.aspx?SEPANumber=202404651>

Comments are due by November 5th.

Thank you,

Emma Oliver
SEPA External Affairs Coordinator
Office of Legal Affairs & Business Practices
Washington State Department of Natural Resources (DNR)

(360) 902-1709
Emma.Oliver@DNR.wa.gov
www.dnr.wa.gov

From: Schroeder, Tansy <Tansy.Schroeder@ci.stanwood.wa.us>

Sent: Tuesday, October 22, 2024 9:23 AM

To: Alex Funderburg Jr - BNSF <Alex.FunderburgJr@BNSF.com>; Amy Trainer - Swinomish Tribe <atrain@swinomish.nsn.us>; White, Brenda <bjwhite@snopud.com>; Brett Shattuck <bshattuck@tulaliptribes-nsn.gov>; Bridget Moran - Skagit River System Cooperative <bmoran@skagitcoop.org>; Cascade Natural Gas <service@cngc.com>; csteven <csteven@stillaguamish.com>; Charlotte Scofield - Stillaguamish Tribe <cscofield@Stillaguamish.com>; COM GMU Review Team <reviewteam@commerce.wa.gov>; Community Transit <construction.supervisor@commtrans.org>; DAHP SEPA <sepa@dahp.wa.gov>; Daniel Katz - Army Corp <daniel.m.katz@usace.army.mil>; Klein, Darin M. (DOC) <darin.klein@doc1.wa.gov>; DFW R4Cplanning <R4Cplanning@dfw.wa.gov>; DOH EPH SEPA <SEPA.reviewteam@doh.wa.gov>; DNR RE SEPACENTER <SEPACENTER@dnr.wa.gov>; DNR RE NORTHWEST REGION <northwest.region@dnr.wa.gov>; Gresham, Doug (ECY) <DGRE461@ECY.WA.GOV>; EFSEC (EFSEC) <efsec@efsec.wa.gov>; Erika Harris - PSRC <eharris@psrc.org>; Henry Lippek <lippek@aol.com>; Hoffman - SCSD <shoffman@stanwood.wednet.edu>; Island County Parks <janv@islandcountywa.gov>; Island County Planning <PlanningDept@islandcountywa.gov>; Jason Griffith <jgriffith@Stillaguamish.com>; Storrar, Jeff <jeff.storrar@wsdot.wa.gov>; John Cermak <jcermak@northcountyfireems.com>; Josephine Jefferson - Swinomish Tribe <jjefferson@swinomish.nsn.us>; Kate Tourtellot - Community Transit <Kate.Tourtellot@commtrans.org>; McLain, Kelly (AGR) <KAardal@agr.wa.gov>; Kerry Lyste - Stillaguamish Tribe <klyste@stillaguamish.com>; Kurt Nelson - Tulalip Tribe <knelson@tulaliptribes-nsn.gov>; Covey, Larry (DSHS/FFA) <larry.covey@dsht.wa.gov>; Palma-De Guzman Acuario, Maria <Maria.Palma-DeGuzman@snoco.org>; Mary Wicklund - PUD <mlwicklund@snopud.com>; Maureen Barnes - PUD <mlbarnes@snopud.com>; Michelle Walker - Army Corp <michelle.walker@usace.army.mil>; McCrary, Michael <Michael.McCrary@co.snohomish.wa.us>; Nora Krammer - Skagit River System Cooperative <nkammer@skagitcoop.org>; Puget Sound Clean Air Agency <sepa@psc Clean Air Agency>; Info (PSP) <info@psp.wa.gov>; Dotson, Rachel <Rachel.Dotson@co.snohomish.wa.us>; Pazooki, Ramin <ramin.pazooki@wsdot.wa.gov>; Storme, Roland <roland.storme@wsdot.wa.gov>; Sam Barr - Stillaguamish Tribe <sbarr@stillaguamish.com>; Shawn Nakano - Community Transit <Shawn.Nakano@commtrans.org>; SPW-Contact.pwCMS <Contact.pwCMS@snoco.org>; Abbott, Stacey <stacey.abbott@co.snohomish.wa.us>; Stanwood Post Master <98292stanwoodwa@usps.gov>; Barney, Stephanie (ECY) <BARS461@ECY.WA.GOV>; Jolivette, Stephanie (DAHP) <stephanie.jolivette@dahp.wa.gov>; Steve Goforth <sgoforth@northcountyfireems.com>; Stillaguamish Tribe SEPA <sepa@stillaguamish.com>; Swinomish Tribe THPO <THPO@swinomish.nsn.us>; Todd Gray - Tulalip Tribe <toddgray@tulaliptribes-nsn.gov>; Tracey Boser - Stillaguamish Tribe <traceyboser@stillaguamish.com>; Troy Fair <fair@islandtransit.org>; Baran, Geoff (ECY) <geba461@ECY.WA.GOV>; SEPA (PARKS) <SEPA@PARKS.WA.GOV>; Waste Management <eniguidula@wm.com>

Cc: Audrey Rotrock <Audrey.Rotrock@ci.stanwood.wa.us>

Subject: City of Stanwood Notice of SEPA DNS - 24-0132 Stanwood Unified Development Code: Critical Areas Ordinance Update

External Email

Good morning,

The City of Stanwood has issued a Notice of SEPA Determination of Non-Significance for 24-0132 Stanwood Unified Development Code: Critical Areas Ordinance Update.

The City of Stanwood has initiated a code amendment to update the City's Critical Areas Regulations and move the amendments from Title 17, Zoning to new Title 18, Unified Development Code. Amendments include updates to the

general provisions, wetlands, fish and wildlife habitat conservation areas, geologically hazardous areas, aquifer recharge areas, and frequently flooded areas. A new section, protection of cultural resources, has been added.

SEPA Threshold Determination: The lead agency for this proposal has determined that this project does not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030(2)(c). This decision was made after review of a completed environmental checklist and other information on file with the City of Stanwood. This information is available to the public on request.

DNS Comment Period: This DNS is issued under WAC 197-11-340(2); the lead agency will not act on this proposal for 14 days from the date issued. Any person may comment on this determination by writing to the mailing or email address below. Comments must be submitted by 4:30 PM on Tuesday, November 5, 2024. Any person may comment on this application by writing to the address below. The formal public comment period is open **Tuesday, October 22, 2024, through 4:30 pm on Tuesday, November 5, 2024.** Comments on this application must be received by **4:30 pm on Tuesday, November 5, 2024.** Any person wishing to comment on the SEPA Notice of Determination of Non-Significance shall do so in writing by either mail or email prior to the scheduled comment deadline. Please reference file number 24-0132.

Appeals: You may appeal this threshold determination in writing by addressing the criteria outlined in SMC 17.80.390 and sending it to the lead agency at the address below. Appeals must be submitted by **4:30 PM on Tuesday, November 5, 2024.** Appeals must provide specific reasons for the appeal and be accompanied by a \$500.00 non-refundable filing fee.

If you would like any additional application information, please do not hesitate to reach out and I am more than happy to supply it. This notice and project materials are also posted on the City's website available here <https://stanwoodwa.org/CivicAlerts.aspx?AID=422>.

Thank you,

Tansy Schroeder *(They/Them/Theirs)*

Senior Planner | City of Stanwood

10220 270th St NW

Stanwood, WA 98292

Direct: 360-454-5211 | City Hall: 360-629-2181

Email: tansy.schroeder@stanwoodwa.org



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*****Email may be considered a public record subject to public disclosure under RCW 42.56*****

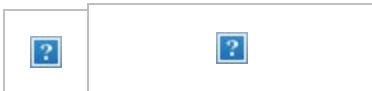
From: [Schroeder, Tansy](#)
To: [DNR RE SEPACENTER](#); [Love, Patricia](#)
Cc: [Sears, Tricia \(DNR\)](#)
Subject: RE: City of Stanwood Notice of SEPA DNS - 24-0132 Stanwood Unified Development Code: Critical Areas Ordinance Update
Date: Monday, October 28, 2024 8:42:53 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)

Good morning Emma,

Thank you for providing comments. Staff will review and follow up with you if there are any questions.

Have a great day,

Tansy Schroeder (They/Them/Theirs)
Senior Planner | City of Stanwood
10220 270th St NW
Stanwood, WA 98292
Direct: 360-454-5211 | City Hall: 360-629-2181
Email: tansy.schroeder@stanwoodwa.org



[City of Stanwood](#) | [Discover Stanwood Camano](#)

Email may be considered a public record subject to public disclosure under RCW 42.56

From: DNR RE SEPACENTER <SEPACENTER@dnr.wa.gov>
Sent: Monday, October 28, 2024 6:32 AM
To: Schroeder, Tansy <Tansy.Schroeder@ci.stanwood.wa.us>
Cc: Sears, Tricia (DNR) <Tricia.Sears@dnr.wa.gov>
Subject: FW: City of Stanwood Notice of SEPA DNS - 24-0132 Stanwood Unified Development Code: Critical Areas Ordinance Update



CAUTION. This email originated from outside of this organization. Please exercise caution with links and attachments.

Good morning Tansy,

Thank you for the opportunity to comment on this Critical Areas Ordinance update. Please accept the comments below from WGS division of DNR.

Thank you,

Emma Oliver

SEPA External Affairs Coordinator

Office of Legal Affairs & Business Practices

Washington State Department of Natural Resources (DNR)

(360) 902-1709

Emma.Oliver@DNR.wa.gov

www.dnr.wa.gov

From: Sears, Tricia (DNR) <Tricia.Sears@dnr.wa.gov>

Sent: Thursday, October 24, 2024 5:00 PM

To: DNR RE SEPACENTER <SEPACENTER@dnr.wa.gov>

Subject: RE: City of Stanwood Notice of SEPA DNS - 24-0132 Stanwood Unified Development Code: Critical Areas Ordinance Update

Hi Emma,

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Critical Area Code Narrative Summary:

It states, “The geologically hazardous areas chapter (SMC 18.806) incorporates definitions consistent with RCW and WAC.” Great!

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Resources, Washington Geological Survey's Geologic Information Portal.

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Thank you for the opportunity to comment.

Cheerio,
Tricia

Tricia R. Sears (she/her/hers)
Geologic Planning Liaison
Washington Geological Survey (WGS)
Washington Department of Natural Resources (DNR)
Cell: 360-628-2867 | Email: tricia.sears@dnr.wa.gov

From: DNR RE SEPACENTER <SEPACENTER@dnr.wa.gov>
Sent: Tuesday, October 22, 2024 10:32 AM
To: Sears, Tricia (DNR) <Tricia.Sears@dnr.wa.gov>
Subject: FW: City of Stanwood Notice of SEPA DNS - 24-0132 Stanwood Unified Development Code: Critical Areas Ordinance Update

Hello Tricia,

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Comments are due by November 5th.

Thank you,

Emma Oliver
SEPA External Affairs Coordinator
Office of Legal Affairs & Business Practices
Washington State Department of Natural Resources (DNR)
(360) 902-1709
Emma.Oliver@DNR.wa.gov

From: Schroeder, Tansy <Tansy.Schroeder@ci.stanwood.wa.us>

Sent: Tuesday, October 22, 2024 9:23 AM

To: Alex Funderburg Jr - BNSF <Alex.FunderburgJr@BNSF.com>; Amy Trainer - Swinomish Tribe <atrain@swinomish.nsn.us>; White, Brenda <bjwhite@snopud.com>; Brett Shattuck <bshattuck@tulaliptribes-nsn.gov>; Bridget Moran - Skagit River System Cooperative <bmoran@skagitcoop.org>; Cascade Natural Gas <service@cngc.com>; csteven <csteven@stillaguamish.com>; Charlotte Scofield - Stillaguamish Tribe <cscofield@Stillaguamish.com>; COM GMU Review Team <reviewteam@commerce.wa.gov>; Community Transit <construction.supervisor@commtrans.org>; DAHP SEPA <sepa@dahp.wa.gov>; Daniel Katz - Army Corp <daniel.m.katz@usace.army.mil>; Klein, Darin M. (DOC) <darin.klein@doc1.wa.gov>; DFW R4Cplanning <R4Cplanning@dfw.wa.gov>; DOH EPH SEPA <SEPA.reviewteam@doh.wa.gov>; DNR RE SEPACENTER <SEPACENTER@dnr.wa.gov>; DNR RE NORTHWEST REGION <northwest.region@dnr.wa.gov>; Gresham, Doug (ECY) <DGRE461@ECY.WA.GOV>; EFSEC (EFSEC) <efsec@efsec.wa.gov>; Erika Harris - PSRC <eharris@psrc.org>; Henry Lippek <lippek@aol.com>; Hoffman - SCSD <shoffman@stanwood.wednet.edu>; Island County Parks <janv@islandcountywa.gov>; Island County Planning <PlanningDept@islandcountywa.gov>; Jason Griffith <jgriffith@Stillaguamish.com>; Storrar, Jeff <jeff.storrar@wsdot.wa.gov>; John Cermak <jcermak@northcountyfireems.com>; Josephine Jefferson - Swinomish Tribe <jjefferson@swinomish.nsn.us>; Kate Tourtellot - Community Transit <Kate.Tourtellot@commtrans.org>; McLain, Kelly (AGR) <KAardal@agr.wa.gov>; Kerry Lyste - Stillaguamish Tribe <klyste@stillaguamish.com>; Kurt Nelson - Tulalip Tribe <knelson@tulaliptribes-nsn.gov>; Covey, Larry (DSHS/FFA) <larry.covey@dshs.wa.gov>; Palma-De Guzman Acuario, Maria <Maria.Palma-DeGuzman@snoco.org>; Mary Wicklund - PUD <mlwicklund@snopud.com>; Maureen Barnes - PUD <mlbarnes@snopud.com>; Michelle Walker - Army Corp <michelle.walker@usace.army.mil>; McCrary, Michael <Michael.McCrary@co.snohomish.wa.us>; Nora Krammer - Skagit River System Cooperative <nkammer@skagitcoop.org>; Puget Sound Clean Air Agency <sepa@pscleanair.org>; Info (PSP) <info@psp.wa.gov>; Dotson, Rachel <Rachel.Dotson@co.snohomish.wa.us>; Pazooki, Ramin <ramin.pazooki@wsdot.wa.gov>; Storme, Roland <roland.storme@wsdot.wa.gov>; Sam Barr - Stillaguamish Tribe <sbarr@stillaguamish.com>; Shawn Nakano - Community Transit <Shawn.Nakano@commtrans.org>; SPW-Contact.pwCMS <Contact.pwCMS@snoco.org>; Abbott, Stacey <stacey.abbott@co.snohomish.wa.us>; Stanwood Post Master <98292stanwoodwa@usps.gov>; Barney, Stephanie (ECY) <BARS461@ECY.WA.GOV>; Jolivette, Stephanie (DAHP) <stephanie.jolivette@dahp.wa.gov>; Steve Goforth <sgoforth@northcountyfireems.com>; Stillaguamish Tribe SEPA <sepa@stillaguamish.com>; Swinomish Tribe THPO <THPO@swinomish.nsn.us>; Todd Gray - Tulalip Tribe <toddgray@tulaliptribes-nsn.gov>; Tracey Boser - Stillaguamish Tribe <traceyboser@stillaguamish.com>; Troy Fair <fair@islandtransit.org>; Baran, Geoff (ECY) <geba461@ECY.WA.GOV>; SEPA (PARKS) <SEPA@PARKS.WA.GOV>; Waste Management <eniguidula@wm.com>

Cc: Audrey Rotrock <Audrey.Rotrock@ci.stanwood.wa.us>

Subject: City of Stanwood Notice of SEPA DNS - 24-0132 Stanwood Unified Development Code: Critical Areas Ordinance Update

External Email

Good morning,

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SEPA Threshold Determination: The lead agency for this proposal has determined that this project does not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030(2)(c). This decision was made after review of a completed environmental checklist and other information on file with the City of Stanwood. This information is available to the public on request.

DNS Comment Period: This DNS is issued under WAC 197-11-340(2); the lead agency will not act on this proposal for 14 days from the date issued. Any person may comment on this determination by writing to the mailing or email address below. Comments must be submitted by 4:30 PM on Tuesday, November 5, 2024. Any person may comment on this application by writing to the address below. The formal public comment period is open **Tuesday, October 22, 2024, through 4:30 pm on Tuesday, November 5, 2024.** Comments on this application must be received by **4:30 pm on Tuesday, November 5, 2024.** Any person wishing to comment on the SEPA Notice of Determination of Non-Significance shall do so in writing by either mail or email prior to the scheduled comment deadline. Please reference file number 24-0132.

Appeals: You may appeal this threshold determination in writing by addressing the criteria outlined in SMC 17.80.390 and sending it to the lead agency at the address below. Appeals must be submitted by **4:30 PM on Tuesday, November 5, 2024.** Appeals must provide specific reasons for the appeal and be accompanied by a \$500.00 non-refundable filing fee.

If you would like any additional application information, please do not hesitate to reach out and I am more than happy to supply it. This notice and project materials are also posted on the City's website available here <https://stanwoodwa.org/CivicAlerts.aspx?AID=422>.

Thank you,

Tansy Schroeder (They/Them/Theirs)
Senior Planner | City of Stanwood
10220 270th St NW
Stanwood, WA 98292

Direct: 360-454-5211 | City Hall: 360-629-2181

Email: tansy.schroeder@stanwoodwa.org



[City of Stanwood](#) | [Discover Stanwood Camano](#)

Email may be considered a public record subject to public disclosure under RCW 42.56

From: [Sears, Tricia \(DNR\)](#)
To: [Love, Patricia](#)
Cc: [Sears, Tricia \(DNR\)](#); [Aken, Jeff \(COM\)](#)
Subject: Stanwood's Critical Areas Ordinance update (Commerce ID# 2024-S-7513): WGS comments
Date: Tuesday, October 29, 2024 4:13:45 PM



CAUTION. This email originated from outside of this organization. Please exercise caution with links and attachments.

10/29/24

Hello Patricia,

In keeping with the interagency correspondence principles, I am providing you with comments on Stanwood's Critical Areas Ordinance update (Commerce ID# 2024-S-7513).

For this proposal submitted via Planview, I looked at the proposal and focused on areas related to WGS work. Of note, but not limited to, I look for language around the geologically hazardous areas, mineral resource lands, mining, climate change, and natural hazards mitigation plans.

Specifically in this proposal, I reviewed Title 18 Part 8 Environment v2 2024-08-25.

I have reviewed the document via another review process, related to Tansy Shroeder's email to Emma Oliver at DNR for the City of Stanwood which has issued a Notice of SEPA Determination of Non-Significance for 24-0132, Stanwood Unified Development Code: Critical Areas Ordinance Update. Tansy is a Senior Planner at Stanwood and Emma is the SEPA External Affairs Coordinator at DNR. After Emma received the email from Tansy, Emma reached out to me, and I provided her with the following comments on 10/24/24.

I reviewed the Critical Area Code Narrative Summary, the Determination of Non-Significance, Title 18 Part 8 – Environment V2 wo Comments, and the Request for Review documents.

Critical Area Code Narrative Summary:

It states, "The geologically hazardous areas chapter (SMC 18.806) incorporates definitions consistent with RCW and WAC." Great!

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On page 45, it says "Geotechnical Engineering Report. The technical information for a project within a landslide hazard area must include a geotechnical engineering report prepared by a licensed engineer that presents engineering recommendations for the following:" Suggest stating a licensed in Washington engineer.

Below, I include our usual language for future endeavors.

Recognizing the limitations of the current proposals, I want to mention that it would be great for you to consider these in current or future work, be it in your comprehensive plan, development code, and SMP updates, and in your work in general:

- Consider adding a reference to WAC 365-190-120 geologically hazardous areas for definitions in other areas besides the CAO. In addition, consider adding a reference to WAC 365-196-480 for natural resource lands.
- Consider adding a reference to the WGS Geologic Information Portal in other areas besides the CAO. If you have not checked our interactive database, the WGS Geologic Information Portal, lately, you may wish to do so. [Geologic Information Portal | WA - DNR](#)
- If you have not checked out our Geologic Planning page, you may wish to do so. [Geologic Planning | WA - DNR](#)

Thank you for considering our comments. If you have any questions or need additional information, please contact me. For your convenience, if there are no concerns or follow-up discussion, you may consider these comments to be final as of the 60-day comment deadline of 11/25/24.

Cheerio,
Tricia

Tricia R. Sears (she/her/hers)

Geologic Planning Liaison

Washington Geological Survey (WGS)

Washington Department of Natural Resources (DNR)

Cell: 360-628-2867 | Email: tricia.sears@dnr.wa.gov

From: [Atkins, Emily \(ECY\)](#)
To: [Love, Patricia](#)
Cc: [Ryan Walters](#); [Schroeder, Tansy](#); [Katie Cote](#); [Gresham, Doug \(ECY\)](#)
Subject: Re: Stanwood CAO Amendments
Date: Thursday, October 31, 2024 11:11:05 AM
Attachments: [image001.png](#)
[image002.jpg](#)



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Patricia,

Thank you for allowing us the opportunity to go over your draft CAO with you. We appreciate your willingness to discuss our concerns on October 22nd, 2024 and we are glad to see our recommendations implemented, in particular the mitigation ratio table and the increase of buffer widths consistent with Ecology guidance. We know that a lot of work has gone into creating a CAO that protects wetland functions while updating your current city code. Based on our review of the current draft CAO attached in this email it generally appears consistent with Ecology guidance for wetlands. We have no further feedback at this time.

If anything else comes up or you have any other questions or concerns please feel free to reach out to me!

Best,

Emily Atkins
She/Her
Critical Areas Ordinance Coordinator
Shorelands and Environmental Assistance Program
WA State Dept of Ecology
emily.atkins@ecy.wa.gov | 360-628-6680

From: Love, Patricia <Patricia.Love@ci.stanwood.wa.us>
Sent: Monday, October 28, 2024 4:03 PM
To: Atkins, Emily (ECY) <eatk461@ECY.WA.GOV>
Cc: Ryan Walters <mail@ryanwalters.com>; Schroeder, Tansy <Tansy.Schroeder@ci.stanwood.wa.us>; Katie Cote <Katie.Cote@bhccconsultants.com>
Subject: Stanwood CAO Amendments

External Email

Emily,

Attached is the amended CAO with changes as suggested from our meeting last week.

In summary, the amendments include:

- Minor changes to text as discussed
- Deleted the buffer reduction section
- Added fill allowance and buffer reduction for Type 4 wetlands
- Added buffer reductions for functionally disconnected buffers
- Deleted the buffer doubling requirement for off-site mitigation
- Updated the mitigation ratios

For buffer widths, I made the following changes:

- Kept the existing buffers for wetlands with habitat scores of 5 or less based on guidance: “for wetlands that score 5 or fewer habitat points, only the measures in Table 2 are required for the use of the buffers in Table 1.”
- Increased the buffers for wetlands based on habitat scores of 6 or greater.

Please review and let me know if you have any additional comments. I’ve highlighted the changes in

yellow, for ease of finding the changes.

I was able to make these edits sooner than expected. I'm hoping you can review and get your comments back to me by November 4. That gives you about a week. Do you think that is feasible?

Thanks,

Patricia Love

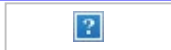
Patricia Love | City of Stanwood
Community Development Director



10220 270th St NW, Stanwood, WA 98292
Main 360-629-2181 | Direct 360-454-5206

www.stanwoodwa.org

www.discoverstanwoodcamano.com





Natural Resources Department
Environmental Division
6406 Marine DR NW
Tulalip, WA 98271
.....

October 31, 2024

Tansy Schroeder | Senior Planner
City of Stanwood, WA.

**Re: City of Stanwood Notice of SEPA DNS 24-0132 Stanwood Unified Development Code:
Critical Areas Ordinance Update**

The Tulalip Tribes appreciates the opportunity to review and provide comments on Stanwood's Critical Areas Ordinance update, SEPA DNS 24-0132. The Tulalip Tribes are federally recognized and are signatories to the Treaty of Point Elliott of 1855. The Tulalip Tribes retain constitutionally protected, treaty-reserved rights to harvest, consume, and otherwise manage fish, shellfish, and other treaty reserved resources within our usual and accustomed areas. These treaty rights and resources are integral to supporting our tribal economy, and furthermore play a vital role in ensuring the health, welfare, and cultural ways of life of our tribal nation and our members.

Our natural resources are of paramount importance to us, and we strive to maintain, restore, and protect ecological processes in our watersheds wherever possible. We believe that with any development or land disturbing activity adjacent to critical areas that contain or impact fish-bearing waters, special care must be taken to maintain or restore the natural environment, to allow these processes to continue. Stanwood's regulations pertaining to Wetlands and Fish & Wildlife Habitat Conservation Areas are a key component to the protections we rely on for the health and productivity of our natural resources.

In the interest of ensuring that the City's regulations are aligned with our treaty-reserved rights, we offer the following suggested additions and changes to Title 18 Draft Ordinance, Unified Development Code. Our suggested additions/changes are underlined, and explanations for these edits are in italics:

Pg 5 of 69: 18.800.010(e) implement the goals of Executive Order 89-10, section 1: "It is the further long-term goal to increase the quantity and quality of Washington's wetlands resource base".

The Tulalip Tribes are federally recognized successors in the interest to the Snohomish, Snoqualmie, Skykomish, and other allied tribes and bands signatory to the Treaty of Point Elliott.



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Tulalip, WA 98271
360-716-4617

Rationale: It is not enough to only require protection of what is left of our wetlands and the buffers required to protect them. It is not enough to rely on the “No Net Loss” mandate. Through administrative buffer reductions, exemptions, reasonable use, and other mechanisms, we are still seeing a slow and steady loss of these ecosystems. Jurisdictions should elect to adopt a “Net Ecological Gain” standard, and require mechanisms for restoration and/or enhancement at an equal or greater rate than reduction mechanisms.

Pg 9 of 69: 18.800.100(5) No new activity or use is allowed in a previously-degraded wetland or stream buffer, unless that activity or use allows for immediate or future restoration or enhancement of that buffer.

Rationale: Current code does not take into consideration the long term goal of increasing the quantity and quality of Washington’s wetland resource base (pursuant to Executive Order 89-10, Section 1). More than 50% of the State’s original wetlands have been lost through anthropomorphic alterations. Critical Areas protections, including buffer widths, have increased over the years as best available science advances our knowledge of the importance of these increases. Consequently, there is a vast amount of legally existing development and disturbance within areas that we now realize should never have been disturbed. Current code considers these areas to be lost, and therefore allows new development within them. In the interest of increasing the state’s wetland resource base, we believe when the use or activity in any of these previously degraded buffer areas is proposed to be discontinued, the area should be restored to it’s original natural condition, not redeveloped.

Pg 18 of 69: 18.800.180(4) Review Criteria. An application for a reasonable use exception may be granted if 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 at least one of the following criteria apply:

- (a) The application of this chapter or Chapters 18.802 through 18.810 SMC would deny all reasonable economic use of the property;
- (b) No other reasonable economic use of the property has less impact on the critical area;
- (c) The proposed impact to the critical area is the minimum necessary to allow for reasonable economic use of the property;
- ~~(d) 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;~~



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(d) The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;

(e) The proposal will result in no net loss of critical area functions and values consistent with Best Available Science; or

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

Rationale: If a property was purchased after critical areas ordinances were established that result in such an encumbrance that it would deny all reasonable economic use, it must be acknowledged that the purchaser acted in full knowledge that this property was “unbuildable” according to the provisions of critical areas code, and purchased it anyways. In this case, reasonable use should be categorically denied if they wish to develop it. Otherwise, any parcel that is encumbered enough can be considered exempt from critical areas protections.

Pr 25 of 69: 18.802.050 ~~(6)~~(7) Existing Properties. If existing properties have a previous wetland buffer that was approved by the city, the approved wetland buffer will remain in effect, unless changes in the use or activities on the property would result in increased impacts to the wetland. In this case, the provisions of this chapter would apply. **Redevelopment or other modifications to the existing footprint are subject to the previously approved wetland buffer. If the existing buffer has become degraded or is not functioning or the buffer may be negatively impacted by the proposed modification or activities, the buffer must be enhanced.**

Rationale: Many pre-recorded CASP’s exist with what would now be considered undersized buffers. As a protective mechanism, it does makes sense for a CASP to remain in perpetuity if pressure on recorded critical areas won’t increase. However, in the event a parcel goes from, say, one SFR to a 25-lot subdivision, there will be a much greater potential for impacts to the critical area, and that already-undersized buffer will become less effective. The level of protection a buffer provides in a pre-recorded CASP should be what remains in perpetuity, not necessarily the width of the buffer. Note: This suggested change would also apply to SMC 18.804.050(8)

Pg 33 of 69: 18.804.040 Mapping, and Pg 37 of 69: 18.804.080(1): It should be noted that GIS layers depicting stream type, including WaDNR’s hydro-watercourse map, should only be used as a guide, and not a definitive declaration of stream type. Stream typing to be used when establishing buffer widths for development and land disturbing activities should include on-site reconnaissance by a qualified biologist.



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360-716-4617

The Tulalip Tribes appreciates the city of Stanwood's diligence in addressing potential impacts to critical areas, essential fish habitat, and Tribal fisheries interests. Thank you for considering our suggestions, and we look forward to continuing our shared commitment to conservation together.

Todd Gray
Environmental Protection Ecologist
The Tulalip Tribes | Natural Resources Dept.
360-716-4620 | toddgray@tulaliptribes-nsn.gov

From: [Schroeder, Tansy](#)
To: [KarenP at SAHSFNCC](#)
Cc: [Love, Patricia](#)
Subject: RE: 24-0132 Stanwood Unified Development Code: Critical Areas Ordinance Update - cultural
Date: Monday, January 6, 2025 4:51:35 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)

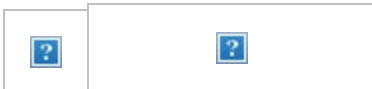
Good afternoon Karen,

It's lovely to hear from you! I hope you've been doing well.

In general when the zoning code refers to the "Director", it's referring to the Community Development Director. Historic preservation in Stanwood is something that is actively being discussed by city staff and Council. If you have any suggestions or would like to meet to discuss, we would be more than happy to.

Thank you,

Mx. Tansy Schroeder (They/Them/Theirs)
Senior Planner | City of Stanwood
10220 270th St NW
Stanwood, WA 98292
Direct: 360-454-5211 | City Hall: 360-629-2181
Email: tansy.schroeder@stanwoodwa.org



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From: KarenP at SAHSFNCC <sahsfnc@gmail.com>
Sent: Friday, January 3, 2025 8:21 AM
To: Schroeder, Tansy <Tansy.Schroeder@ci.stanwood.wa.us>
Subject: Re: 24-0132 Stanwood Unified Development Code: Critical Areas Ordinance Update - cultural



CAUTION. This email originated from outside of this organization. Please exercise caution with links and attachments.

Hi Tansy,
Thanks for the notice about the Code changes.
I have many questions about the Cultural Resources section.
I was confused about who the "Director" is referring to. The CRMP is a good idea but seems to only

apply to archaeological issues, not historic structures or roads or other historic features, e.g. brick street, Hamilton stack, etc...There are many historic buildings in Stanwood that can be identified though there is no local mechanism for recognition. It would be good to start talking about that. I will try to come to the Hearing but if you have time to fill me in a bit more that might help. I wouldn't necessarily be speaking for SAHS.

Karen Prasse

Volunteer/Local Historian

Stanwood Area Historical Society

On Tue, Dec 31, 2024 at 4:45 PM Schroeder, Tansy <Tansy.Schroeder@ci.stanwood.wa.us> wrote:

All,

Please note the typo in the below email.

The Planning Commission Public Hearing will be on Monday, January 13, 2025; not January 12.

Thank you,

Mx. Tansy Schroeder (They/Them/Theirs)

Senior Planner | City of Stanwood

10220 270th St NW

Stanwood, WA 98292

Direct: 360-454-5211 | City Hall: 360-629-2181

Email: tansy.schroeder@stanwoodwa.org



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Email may be considered a public record subject to public disclosure under RCW 42.56

From: Schroeder, Tansy

Sent: Tuesday, December 31, 2024 8:32 AM

To: Schroeder, Tansy <Tansy.Schroeder@ci.stanwood.wa.us>

Subject: City of Stanwood Notice of Planning Commission Public Hearing - 24-0132 Stanwood Unified Development Code: Critical Areas Ordinance Update

Good morning,

You are receiving this email as a Party of Record for the Stanwood Municipal Code Update. Please see the attached Notice of Planning Commission Public Hearing for 24-0132 Stanwood Unified Development Code: Critical Areas Ordinance Update Code Amendments.

The City of Stanwood has initiated a code amendment to update the City's Critical Areas Regulations and move the amendments from Title 17, Zoning to new Title 18, Unified Development Code. Amendments include updates to the general provisions, wetlands, fish and wildlife habitat conservation areas, geologically hazardous areas, aquifer recharge areas, and frequently flooded areas. A new section, protection of cultural resources, has been added.

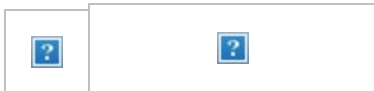
The City of Stanwood Planning Commission will hold a Public Hearing on the proposed code amendments on **Monday, January 12, 2025 at 6:30 PM** at the at the Stanwood Fire Station located at 8117 267th St NW, Stanwood, WA 98292 and via an online meeting. Following the Public Hearing, the Planning Commission will make a recommendation to City Council on the proposed amendments.

Any person may comment on the proposed code amendment by writing to the address below. The formal public comment period is open **Tuesday, December 31, 2024, through 4:30 pm on Monday, January 13, 2025**. Comments on this application must be received by **4:30 pm on Monday, January 13, 2025**. Any person wishing to comment on the proposed code amendment shall do so in writing by either mail or email prior to the scheduled comment deadline.

If you would like any additional application information, please do not hesitate to reach out and I am more than happy to supply it. This notice and project materials are also posted on the City's website available here <https://stanwoodwa.org/CivicAlerts.aspx?AID=435>.

Thank you,

Mx. Tansy Schroeder (They/Them/Theirs)
Senior Planner | City of Stanwood
10220 270th St NW
Stanwood, WA 98292
Direct: 360-454-5211 | City Hall: 360-629-2181
Email: tansy.schroeder@stanwoodwa.org



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January 7, 2025

Stanwood Planning Commission
City of Stanwood
10220 270th St. NW
Stanwood, WA 98202

RE: Critical Areas Ordinance

Dear Stanwood Planning Commission:

The Master Builders Association of King and Snohomish Counties (MBAKS) thanks you for the opportunity to engage with you as you consider changes to the Critical Areas Ordinance (CAO). With nearly 2,600 members, MBAKS is the largest local homebuilders' association in the United States, providing a range of housing choice and affordability. We aspire to be the most trusted and respected housing experts in the region.

First, congratulations on adoption of the 2024 Comprehensive Plan. As you are aware, the Growth Management Act (GMA) directs most growth to existing urban areas. As a result, there is a substantial challenge which lies ahead as you embark on the review of the development regulations or Unified Development Code.

This letter outlines some of the concerns we have in the Critical Areas Ordinance under consideration. The concerns fall into two categories that are separate, but related. The first is the expansion of the wetland buffers. The second is the use of sight potential tree height (SPTH) to delineate stream buffers.



As part of the comprehensive plan adopted by Stanwood, the Planning Commission alongside staff and city council will be working on Unified Development Code changes to accommodate additional housing (4,608 units), population (10,963 people) and employment out to 2044.

GMA and Comprehensive Code Update Guidance

As you know, with housing, Goal 4 of the GMA (RCW 36.70A.020(4)) states "Housing. Plan for and accommodate housing affordable to all economic segments of the



population of this state, promote a variety of residential densities and housing types, and encourage preservation of existing housing stock.”

In the Stanwood Comprehensive Plan, the Land Use Chapter gives some additional guidance. Under UP 3.1: New development and growth should be concentrated within the City's underutilized lands.

In the Housing Chapter, HG-2 Housing Variety Update, urges the Stanwood Municipal Code to allow for the development of a range of housing types to ensure a diverse variety of living accommodations for those desiring to live in Stanwood.

Moreover, HP 2.6: Encourage and support the development of a variety of housing types that effectively uses the City's remaining land supply to meet housing needs, including accessory dwelling units, cottages, manufactured homes and similar infill housing types.

Wetlands

First, the initial buffers presented to the Comprehensive Plan & Municipal Code Update Project Advisory Group for the October 16th meeting noted:

The buffers shown below are the same buffers which are currently being applied to projects via a 2018 administrative zoning interpretation consistent with the Department of Ecology's 2018 modified habitat score ranges.

However, in the most recent materials under consideration the buffers are proposed to be expanded by an additional 40 to 75 feet for wetlands with habitat scores 6-7 and 8-9 without reference to what available science is being relied upon and how the increased buffer widths improve wetland functions.

We would request more information for the basis of this decision. How has best available science has changed? What improvement to the wetland system is seen by expanding the buffers and how is this improvement measured?

Stream Buffers

Primarily, the concern is SPTH is not the best available science. On panel 12 of the WDFW's Recommendation for Riparian Ecosystems, by Mary Huff, Tom O'Brien, Tim Quinn, and George Wilhere (attached), the presenters acknowledge, "Volume 2 is not in and of itself Best Available Science (BAS). It states our policy preferences, reflective of WDFW's mandate, based on the science." As a note, Volume 1 is an outline of the science and research done on stream buffers. Volume 2 gives WDFW's management recommendations.

This is not best available science. The recommendations are guidelines, not rules or mandates. Cities, like Stanwood, at their discretion may choose to follow the recommendations, but are not required to do so. This is an unfunded



recommendation from a state agency, not that different from the unfunded mandates from the legislature.

Furthermore, a Clark County study recommended against adopting SPTH for steam buffers (Designating Riparian Habitat Areas Using WAC 222 Site Class and 200-year Site Potential Tree Height, Brent Davis, Community Development, February 19, 2023):

Based on the averaging analysis and findings regarding the extent of impact full implantation of the Management Recommendations would have on property owners and the County's ability to meet its GMA planning goals, the County proposes to maintain the existing reduction in Riparian Management Zones applied to perennial non-fish bearing waters (Type Np streams) and maintain the WDFW recommended width to protect water quality functions in seasonal non-fish bearing waters (Type Ns streams).

Please note, the study acknowledged SPTH would subject additional land to critical areas designation, especially for non-fish bearing waters. Like Stanwood, according to the stream maps the impacted land was largely undeveloped. The study found the magnitude of this increase in regulated area poses several risks in the context of the Growth Management Act.

Here, the impacts should be evaluated against Goal 4 of the GMA (RCW 36.70A.020(4)) which states "Housing. Plan for and accommodate housing affordable to all economic segments of the population of this state, promote a variety of residential densities and housing types, and encourage preservation of existing housing stock."

In addition, Stanwood's recently adopted 2024 Comprehensive Plan gives some guidance. Under UP 3.1: New development and growth should be concentrated within the City's underutilized lands.

Moreover, there are additional risks to property owners pointed out in the Clark County study that may include:

1. Increased chances current property owners cannot achieve reasonable investment backed expectations. (However, see exceptions built in the current legislation).
2. Increased design, development, permitting, and mitigation costs.
3. Opportunity costs resulting from reduced future growth in values.

In past correspondence, I reminded the city as new and revised policies are developed and considered through new regulations, those new rules often have a direct or indirect impact on the cost to provide housing.



Furthermore, to avoid new and revised policies negatively impacting the cost of housing in the future, we ask that the concerns outlined above be analyzed at the staff level and discussed by the Planning Commission.

This new policy proposal expanding wetland buffers and using SPTH for stream buffer management must be scrutinized closely. The connection between new and revised policies and impacts on housing should be evaluated upfront. We believe this will equip you to make more informed choices as policies are developed and considered. This work will also help ensure you are meeting GMA housing, employment, and population requirements.

We understand and appreciate the challenges that come from increased growth in our region. MBACKS is committed to working with you and city staff as the Critical Areas Ordinance update moves forward.

Please let us know if you have any questions or would like to discuss this further.

Sincerely,

Russell Joe

Russell Joe
Snohomish County Government Affairs Manager

Everyone deserves a place to call home.

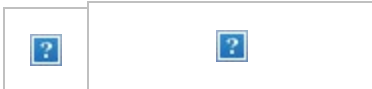
cc: Sid Roberts, City of Stanwood Mayor
Patricia Love, Community Development Director
Tansy Schroeder, City Planner



From: [Schroeder, Tansy](#)
To: [Love, Patricia](#)
Subject: FW: City of Stanwood Notice of Planning Commission Public Hearing - 24-0132 Stanwood Unified Development Code: Critical Areas Ordinance Update
Date: Tuesday, January 7, 2025 2:46:38 PM
Attachments: [image003.png](#)
[image004.png](#)
[image005.png](#)
[image001.png](#)

Comments from stillaguamish on cao

Mx. Tansy Schroeder (They/Them/Theirs)
Senior Planner | City of Stanwood
10220 270th St NW
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Email: tansy.schroeder@stanwoodwa.org



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From: Sam Barr <sbarr@stillaguamish.com>
Sent: Tuesday, January 7, 2025 2:38 PM
To: Schroeder, Tansy <Tansy.Schroeder@ci.stanwood.wa.us>
Cc: THPO Stillaguamish <THPO@stillaguamish.com>
Subject: RE: City of Stanwood Notice of Planning Commission Public Hearing - 24-0132 Stanwood Unified Development Code: Critical Areas Ordinance Update



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Hi Tansy,

Happy new year and thanks for sending this along to our Stillaguamish THPO office for comment. Overall, we view this as an important step to have Cultural Resource protection incorporated into the Critical Area Ordinance. There are a couple comments that we would like to submit and we would also appreciate having a meeting to discuss this further.

Comments:

It isn't clear when these protections for cultural resources are triggered and fall within a critical area. How is this critical area defined?

It states that 500 feet from a known cultural resource site would be considered a critical area.

But we think that area needs to be expanded further than that.
We would recommend considering [DAHP's Statewide Predictive Model](#), in addition to tribal knowledge that may or may not be published.
Also, we are wondering if there is a standard template for an Inadvertent Discovery Plan and we would like to make sure that you have the correct contact info for our staff that should be listed on there.

Thanks again and we are happy to work though this together,

Sam Barr | Cultural Resources/THPO Supervisor

Direct Line: (360)631-5587

Cell Phone: (360)622-7055

Cultural Department

3322 236th St NE, Arlington, WA 98223



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From: Schroeder, Tansy <Tansy.Schroeder@ci.stanwood.wa.us>

Sent: Tuesday, December 31, 2024 8:12 AM

To: Alex Funderburg Jr - BNSF <Alex.FunderburgJr@BNSF.com>; Amy Trainer - Swinomish Tribe <atrain@swinomish.nsn.us>; White, Brenda <bjwhite@snopud.com>; Brett Shattuck <bshattuck@tulaliptribes-nsn.gov>; Bridget Moran - Skagit River System Cooperative <bmoran@skagitcoop.org>; Cascade Natural Gas <service@cngc.com>; Casey Stevens <cstevens@stillaguamish.com>; Charlotte Scofield <cscofield@Stillaguamish.com>; Commerce Review <Reviewteam@commerce.wa.gov>; Community Transit <construction.supervisor@commtrans.org>; DAHP SEPA <sepa@dahp.wa.gov>; Daniel Katz - Army Corp <daniel.m.katz@usace.army.mil>; Darin Klein - Dept. of Corrections <darin.klein@doc.wa.gov>; Dept of Fish and Wildlife <R4Cplanning@dfw.wa.gov>; Dept of Health <sepa.reviewteam@doh.wa.gov>; Dept of Natural Resources <sepacenter@dnr.wa.gov>; Dept of Natural Resources - NW Region <northwest.region@dnr.wa.gov>; Doug Gresham - DOE <doug.gresham@ecy.wa.gov>; Energy Facility Site Evaluation Council <efsec@utc.wa.gov>; Erika Harris - PSRC <eharris@psrc.org>; Henry Lippek <lippek@aol.com>; Hoffman - SCSD <shoffman@stanwood.wednet.edu>; Island County Parks <janv@islandcountywa.gov>; Island County Planning <PlanningDept@islandcountywa.gov>; Jason Griffith <jgriffith@Stillaguamish.com>; Jeff Storrar - WSDOT <Storraj@wsdot.wa.gov>; John Cermak <jcermak@northcountyfireems.com>; Josephine Jefferson - Swinomish Tribe <jjefferson@swinomish.nsn.us>; Kate Tourtellot - Community Transit <Kate.Tourtellot@commtrans.org>; Kelly McLain - Dept. of Agr <kmclain@agr.wa.gov>; Kerry Lyste <klyste@stillaguamish.com>; Kurt Nelson - Tulalip Tribe <knelson@tulaliptribes-nsn.gov>; Larry Covey - DSHS <Larry.Covey@dshs.wa.gov>; Palma-De Guzman Acuario, Maria <Maria.Palma-DeGuzman@snoco.org>; Mary Wicklund - PUD <mlwicklund@snopud.com>; Maureen Barnes - PUD <mlbarnes@snopud.com>; Michelle Walker - Army Corp <michelle.walker@usace.army.mil>;

McCrary, Michael <Michael.McCrary@co.snohomish.wa.us>; Nora Krammer - Skagit River System Cooperative <nkammer@skagitcoop.org>; Puget Sound Clean Air Agency <sepa@psccleanair.org>; Puget Sound Partnership <info@psp.wa.gov>; Dotson, Rachel <Rachel.Dotson@co.snohomish.wa.us>; Ramin Pazooki - WSDOT <ramin.pazooki@wsdot.wa.gov>; Roland Storme - WSDOT <stormer@wsdot.wa.gov>; Sam Barr <sbarr@stillaguamish.com>; Shawn Nakano - Community Transit <Shawn.Nakano@commtrans.org>; SPW-Contact.pwCMS <Contact.pwCMS@snoco.org>; Abbott, Stacey <stacey.abbott@co.snohomish.wa.us>; Stanwood Post Master <98292stanwoodwa@usps.gov>; Stephanie Barney - DOE <BARS461@ECY.WA.GOV>; Stephanie Jolivette - DAHP <stephanie.jolivette@dahp.wa.gov>; Steve Goforth <sgoforth@northcountyfireems.com>; SEPA <sepa@stillaguamish.com>; Swinomish Tribe THPO <THPO@swinomish.nsn.us>; Todd Gray - Tulalip Tribe <toddgray@tulaliptribes-nsn.gov>; Tracey Boser <traceyboser@stillaguamish.com>; Troy Fair <fair@islandtransit.org>; Unknown - DOE <geba461@ecy.wa.gov>; WA State Parks <sepa@parks.wa.gov>; Waste Management <eniguidula@wm.com>

Cc: Audrey Rotrock <Audrey.Rotrock@ci.stanwood.wa.us>; Love, Patricia <Patricia.Love@ci.stanwood.wa.us>

Subject: City of Stanwood Notice of Planning Commission Public Hearing - 24-0132 Stanwood Unified Development Code: Critical Areas Ordinance Update

Good morning all –

Please see the attached Notice of Planning Commission Public Hearing for 24-0132 Stanwood Unified Development Code: Critical Areas Ordinance Update Code Amendments.

The City of Stanwood has initiated a code amendment to update the City's Critical Areas Regulations and move the amendments from Title 17, Zoning to new Title 18, Unified Development Code. Amendments include updates to the general provisions, wetlands, fish and wildlife habitat conservation areas, geologically hazardous areas, aquifer recharge areas, and frequently flooded areas. A new section, protection of cultural resources, has been added.

The City of Stanwood Planning Commission will hold a Public Hearing on the proposed code amendments on **Monday, January 12, 2025 at 6:30 PM** at the at the Stanwood Fire Station located at 8117 267th St NW, Stanwood, WA 98292 and via an online meeting. Following the Public Hearing, the Planning Commission will make a recommendation to City Council on the proposed amendments.

Any person may comment on the proposed code amendment by writing to the address below. The formal public comment period is open **Tuesday, December 31, 2024, through 4:30 pm on Monday, January 13, 2025**. Comments on this application must be received by **4:30 pm on Monday, January 13, 2025**. Any person wishing to comment on the proposed code amendment shall do so in writing by either mail or email prior to the scheduled comment deadline.

If you would like any additional application information, please do not hesitate to reach out and I am more than happy to supply it. This notice and project materials are also posted on the City's website available here <https://stanwoodwa.org/CivicAlerts.aspx?AID=435> [stanwoodwa.org].

Thank you,

Mx. Tansy Schroeder (They/Them/Theirs)

Senior Planner | City of Stanwood

10220 270th St NW

Stanwood, WA 98292

Direct: 360-454-5211 | City Hall: 360-629-2181

Email: tansy.schroeder@stanwoodwa.org



[City of Stanwood \[stanwoodwa.org\]](http://stanwoodwa.org) | [Discover Stanwood Camano \[discoverstanwoodcamano.com\]](http://discoverstanwoodcamano.com)

Email may be considered a public record subject to public disclosure under RCW 42.56

**Caution: This email came from outside the Stillaguamish Tribe.
Do not click on links or open attachments unless you are sure you recognize the sender and you know the contents are safe**

State of Washington
DEPARTMENT OF FISH AND WILDLIFE
Mailing Address: PO Box 43200, Olympia, WA 98504-3200 · 360 902-2200 · TDD 360 902-2207
Main Office Location: Natural Resources Building, 1111 Washington Street, Olympia, WA

January 10, 2025

RE: Proposed Amendments relating to the Critical Area Ordinance pursuant to the Growth Management Act, amending Stanwood Municipal Code 18.804 Critical Areas – Fish and Wildlife Habitat Conservation Areas

Dear Planning Commission Members,

My name is Morgan Krueger, and I am the Regional Land Use Lead for this area representing the Washington Department of Fish and Wildlife (WDFW). Thank you for the opportunity to comment **in support** of the proposed stream buffer amendments to Stanwood’s Critical Areas Ordinance (CAO), Chapter 18.804. I would like to provide additional information to address possible concerns, clarify state law requirements, and emphasize the vital connection between healthy environments and thriving communities.

Under the Washington Administrative Code (WAC 365-195-900 through WAC 365-195-925), jurisdictions are required to include Best Available Science (BAS) when updating their critical area regulations. This ensures that regulations are grounded in science and helps achieve the requirement for no net loss of ecological values and functions.

As an example, the importance of adhering to BAS is underscored by the legal case involving the City of Anacortes. Anacortes’ updated CAO was challenged at the Growth Management Hearings Board (GMHB) due to concerns that its stream buffer widths did not fully reflect BAS. The GMHB ultimately ruled against the city, requiring it to revise its regulations and align them with BAS. Following this decision, Anacortes adopted revised stream buffers informed by WDFW’s BAS recommendations, incorporating Site Potential Tree Height at 200 years (SPTH₂₀₀).

The BAS underpinning WDFW’s riparian buffer recommendations is outlined in the 2020 document, **Riparian Ecosystems, Volume 1: Science Synthesis and Management Implications**. Volume 1 synthesizes peer-reviewed research regarding riparian area functions, such as pollution filtering, flood control, and nutrient cycling. Volume 1 Chapter 9 specifically details SPTH₂₀₀, stating that “Protecting functions within at least one 200-year SPTH is a scientifically supported approach if the goal is to protect and maintain full function of the riparian ecosystem.”

While Volume 1 is WDFW’s BAS, **Volume 2** translates this science into practical management recommendations. The two volumes work together, with Volume 1 establishing the scientific foundation and Volume 2 providing actionable guidance for implementing that science in policy.

Recognizing the importance of WDFW’s BAS, many jurisdictions, including Clark, Peirce, Kitsap, and King counties, have designed stream buffers that integrate WDFW’s recommendations while tailoring them

State of Washington
DEPARTMENT OF FISH AND WILDLIFE

Mailing Address: PO Box 43200, Olympia, WA 98504-3200 · 360 902-2200 · TDD 360 902-2207

Main Office Location: Natural Resources Building, 1111 Washington Street, Olympia, WA

to meet local needs. By incorporating WDFW's BAS, Stanwood is strengthening its CAO and increasing the potential for achieving its intended goals.

It is important to note that riparian areas are essential in maintaining ecosystem services that directly benefit communities. They filter pollutants, reduce flood risks, stabilize streambanks, and support critical habitat for fish and wildlife, including salmon. Protecting riparian areas is not simply an environmental mandate; it is a fundamental investment in public health, safety, and resilience.

We commend the city for valuing the health of local communities and the environment by incorporating WDFW's BAS into its regulations. The connection between healthy environments and healthy communities cannot be overstated.

If additional technical assistance or clarification is needed, WDFW is available to support your efforts.

Thank you for your time.

Morgan Krueger

Region 4 Land Use Lead

Morgan.Krueger@dfw.wa.gov

[WDFW's Land-use planning priorities and resources page link](#)



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47600, Olympia, WA 98504-7600 • 360-407-6000

January 13th, 2025

Patricia Love, Community Development Director
City of Stanwood
10220 270th St NW
Stanwood, WA 98292

Subject: Ecology Letter on Draft Buffer Width Updates to City of Stanwood CAO

Dear Patricia Love,

Thank you for giving the Department of Ecology (Ecology) the opportunity to review the City of Stanwood's draft Critical Area Ordinance (CAO) sent to us on October 28th, 2024. We appreciate your willingness to discuss our recommendations on the wetland portions of the ordinance and we see some of our feedback has been made for the update. It is obvious that a lot of effort and work was put into referencing the 2022 [Wetland Guidance for Critical Area Ordinance \(CAO\) Updates: Western and Eastern Washington](#)¹ (Ecology Publication #22-06-014), which is based on best available science (BAS).

Ecology helps local governments meet the requirements of the Growth Management Act (GMA) by providing guidance and example language that is based on BAS. When we reviewed the draft provided by planning staff on October 2024, we saw the wetland buffer tables (Tables 18.802.060 1-4) were updated to be based on Ecology's recommended buffers in Option 1 of our wetland guidance. However, in our feedback we noted that the standard buffer widths (with 225 feet being the widest) proposed in the October 2024 draft should be used along with a habitat corridor and minimization measures as described in the wetland guidance document.

The current draft's standard wetland buffers have 40 feet as the lowest possible buffer and 300 feet as the widest possible buffer. This would be consistent with our guidance which recommends these buffer widths if not providing a habitat corridor for wetlands with a habitat score of 6 or higher and minimization measures. The current draft CAO, as of the date of this letter, does not require the use of a habitat corridor so the wider standard buffers would be appropriate. However, if the city decides to require the use of habitat corridors as defined in our guidance it could be appropriate to use the reduced buffers from our guidance in the Option 1 buffer tables.

Please call or email me with any questions or for further discussion. I can be reached at (360) 628-6680 or Emily.Atkins@ECY.WA.GOV.

Sincerely,

Emily Atkins
Critical Area Ordinance Coordinator
Shorelands and Environmental Assistance Program

cc:

Doug Gresham, Department of Ecology

¹ <https://apps.ecology.wa.gov/publications/documents/2206014.pdf>



From: [Meagen Watne](#)
To: [Love, Patricia](#); [Schroeder, Tansy](#)
Subject: Comment on Critical Area Code definitions
Date: Tuesday, January 14, 2025 12:47:48 PM
Attachments: [IMG_0986.png](#)



CAUTION. This email originated from outside of this organization. Please exercise caution with links and attachments.

Good Afternoon Ladies!

I hope y'all had a great holiday. In reading through Mondays packet there is one comment I have. I am so used to sending you two comments I wasn't sure who else to send these to. If you could assist me there it would be very appreciated.

For qualified professional: if at all possible I would like to see additional language requiring professional certifications for all categories. There are multiple professional organizations across many of the disciplines that provide proof an individual isn't just someone who studied, but someone competent in their field. Simply having a degree in the field doesn't mean one is immediately qualified to make and provide public assessments. This sort of vague language leaves a door open for someone to I hate to say it, snag a friend to make an assessment regardless of their actual qualifications on the matter. Also relevant work experience could be a two year internship out of school and then a ten year gap to today. Tying work experience to current work/ within the last five years brings the qualifications up to modern times and modern information.

These are not huge game changers, but we seem to spend quite a bit of money on studies. Having them contain the best possible information they can starts with ensuring the people making the studies are as qualified as we can ask for.



From: [Cathy Wooten](#)
To: [Love, Patricia](#)
Subject: Re: DOE Wetland Guidance Document
Date: Friday, February 7, 2025 5:50:52 AM
Attachments: [image001.png](#)
[image002.jpg](#)



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Thank you Patricia, for sending this resource to me. Very interesting, I sure appreciate your willingness to educate me! I feel very reassured by your (repeated!) statement about your commitment to following Ecology's guidelines. Thank you for holding that line for our environment!

A couple of things jumped out at me right away.

1. (page 20) The buffers recommended are based on a moderate risk approach. This means that there is a moderate risk that wetland functions will be impacted when we use the recommended buffer. Adopting narrower buffers represents a higher-risk approach, and we need to be prepared to justify, using BAS (best available science) why such an approach is necessary and to offer alternative means of protecting wetland functions that help reduce the risk.
2. (pg 21) Buffer recommendations are based on the assumption that the buffer area is well vegetated with native species appropriate to the ecoregion. Then direction is given as to what needs to happen if not well vegetated.

I have not yet taken the time to look further into the western WA specific info in the appendices.. Leaving that for another day.

I hope you have a lovely weekend! Good thing you went over the pass when you did, so much snow to deal with starting last weekend...

Cathy

On Thu, Feb 6, 2025 at 1:49 PM Love, Patricia <Patricia.Love@ci.stanwood.wa.us> wrote:

Cathy – please see the attached DOE wetland guidance document. I’m happy to talk to you about this if you’d like.

Patricia Love

Patricia Love | City of Stanwood

Community Development Director



10220 270th St NW, Stanwood, WA 98292

Main 360-629-2181 | Direct 360-454-5206

www.stanwoodwa.org
www.discoverstanwoodcamano.com



From: [Atkins, Emily \(ECY\)](#)
To: [Love, Patricia](#)
Subject: Re: Stanwood Critical Area Code Amendment
Date: Friday, February 14, 2025 11:49:44 AM
Attachments: [image001.png](#)
[image002.jpg](#)
[02142025ECYComments2ndDraft_Title 18 Part 8 - Environment v7 2025-02-11.docx](#)



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Hello Patricia,

Thanks again for sending your current draft to review! I double checked the wetland buffer tables and I only have two recommendations on your tables.

Table 18.802.060-1 Wetland Buffers (without a habitat corridor)

Your table currently lists "Category II: Estuarine and wetlands in coastal lagoons" with a habitat score of 3-5 as 75 feet. Our guidance for using the option 1 buffer width tables recommends a 110 foot buffer for these wetlands if minimization measures and habitat corridor are provided. For wetlands that score 5 or fewer habitat points, only impact minimization measures are needed to use the recommended reduced buffers. 110 feet is also the width used in your draft CAO for Table 18.802.060-2 for those wetlands. You might consider changing the 75 to 110 to reflect our guidance and your Table 2 (see recommended edit in attached document).

This is a formatting recommendation. You might make the columns for habitat scores of 6-7 and 8-9 as "See Special Characteristic Buffer" for "Category II: Estuarine and wetlands in coastal lagoons". This would be consistent with the way it is formatted for your "Category I: Estuarine and Coastal Lagoons".

Table 18.802.060-2 appears to be consistent with our guidance on buffer widths recommended in option 1 of our wetland CAO guidance so good job!

Best,

Emily Atkins
She/Her
Critical Areas Ordinance Coordinator
Shorelands and Environmental Assistance Program
WA State Dept of Ecology
emily.atkins@ecy.wa.gov | 360-628-6680

From: Love, Patricia <Patricia.Love@ci.stanwood.wa.us>

Sent: Wednesday, February 12, 2025 3:54 PM
To: Atkins, Emily (ECY) <eatk461@ECY.WA.GOV>
Subject: Stanwood Critical Area Code Amendment

External Email

Emily,

Please review this version. I've changed the wetland tables – hopefully I got it right!

I also moved bonds to a new section 18.800.250, so it applies to all critical area sections – not just wetlands.

Thanks for your help today!

Patricia Love

Patricia Love | City of Stanwood
Community Development Director



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Subdivision Code



CITY OF STANWOOD
JOINT CITY COUNCIL / PLANNING COMMISSION

POLICY DIRECTION SUMMARY
February 11, 2025

Summary:

To comply with the Growth Management Act, cities must adopt regulations addressing subdivision rules and housing options in alignment with their Comprehensive Plans. Stanwood initiated this process by engaging the community through a series of public meetings:

- Advisory Group – November 20, 2024
- Community Development Committee – January 2, 2025
- Planning Commission – January 13, 2025
- Virtual Public Open House – January 29, 2025
- In-Person Public Open House – January 29, 2025
- Joint City Council / Planning Commission Meeting – February 10, 2025

The following summary outlines key discussion topics and the policy direction that will guide the drafting of Stanwood's subdivision and housing regulations.

Policy Guidance:

The City has several policy plans that guide future housing decisions, including the Comprehensive Plan, Housing Action Plan, and Strategic Plan. The Comprehensive Plan and Housing Action Plan are long-term planning documents that shape city growth and development over a 20-year horizon, while the Strategic Plan serves as a short-term implementation strategy that helps the Council set annual budget priorities. Together, these plans support diversifying the city's housing stock to provide a range of housing options.

2024-2044 Comprehensive Plan

Goal	Policy
Housing Goal 2 – Housing Variety Update the Stanwood Municipal Code to allow for the development of a range of housing types to ensure a diverse variety of living accommodations for those desiring to live in Stanwood.	HP 2.1: Recognize and plan for the variable housing needs of the entire community when determine development regulations as informed by the Stanwood Housing Action Plan. HP 2.2: Encourage the development of a full range of housing types sizes, and densities to meet the different needs of Stanwood homeowners and renters at all income levels. HP 2.3: Allow for vertical and horizontal mixed-use housing units in additional to live-work housing units where appropriate. HP 2.4: Encourage moderate-density development such as townhouses, duplexes, triplexes, fourplexes, permanent supportive housing, apartments, condominiums, or other

Goal	Policy
	housing types to bridge the gap between higher-density residential areas to single family residential areas to promote affordable housing ownership and rental opportunities. HP 2.5: Consider the development of affordable housing incentives, as recommended in the Stanwood Housing Action Plan, for new or redeveloped housing located close to transportation facilities, public services and employment centers. HP 2.6: Encourage and support the development of a variety of housing types that effectively uses the City's remaining land supply to meet housing needs, including accessory dwelling units, cottages, manufactured homes and similar infill housing types.
Housing Goal 5: Encourage the preservation of open space and minimize environment impacts of new housing developments.	HP 5.5: Allow for density transfer methods, such as clustering and smaller lot sizes when it would result in increased open space and protection of sensitive critical areas.

Housing Action Plan

Goal	Implementing Initiative
Goal B: Promote a wider variety of housing opportunities for homeowners and renters.	Strategy 1: Allow for higher density residential development in proximity to services and transit. Strategy 2: Promote infill development. Strategy 3: Allow for more flexible development of single-family residential housing units.

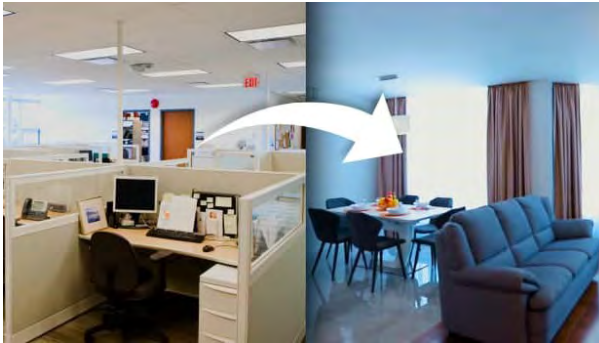
2025-2030 Strategic Plan

Goal	Implementing Initiative
Goal 5, Set clear targets for growth, and implement measures to ensure that growth occurs in a sustainable and controlled manner.	Adopt zoning regulations that allow a variety of housing types in residential zones. Apply growth management strategies to meet population and employment targets.

Housing Units in Existing Buildings

HB 1042 is intended to promote the conversion of existing commercial and mixed-use buildings to multi-family housing. GMA-planning cities must amend their development regulations to remove barriers and promote the conversion no later than six months after their next periodic update. For Stanwood, the deadline is June 30, 2025. If cities do not amend their development regulations, state law will preempt local regulations and the new provisions will apply.

Housing Units in Existing Buildings Commercial Conversion Projects



- 50% density increase above underlying zoning if constructed entirely within the envelope of an existing building;
- No new parking stalls required— maintain existing parking;
- Same permitting process as existing use;
- Same design standards as required for residential uses;
- Cannot require any unchanged portions of the building to be upgraded to current energy code standards; and
- Cannot deny project based on nonconforming status.



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General Policy Direction: Supportive with Questions

Comments / Concerns:

- What safeguards can the city put in place to preserve the commercial building stock?
- Can the City restrict the small commercial along 271st Street from converting to residential?
- Is the intent of the legislation to only allow conversion of larger office buildings / big box stores to convert to residential?
- What are the impacts to Main Street if commercial buildings / uses convert to residential?
- Can Cedarside convert their commercial building space to residential? Will the development agreement prohibit conversion?
- Does the conversion law apply to schools, churches, storage unit facilities, or other types of uses?

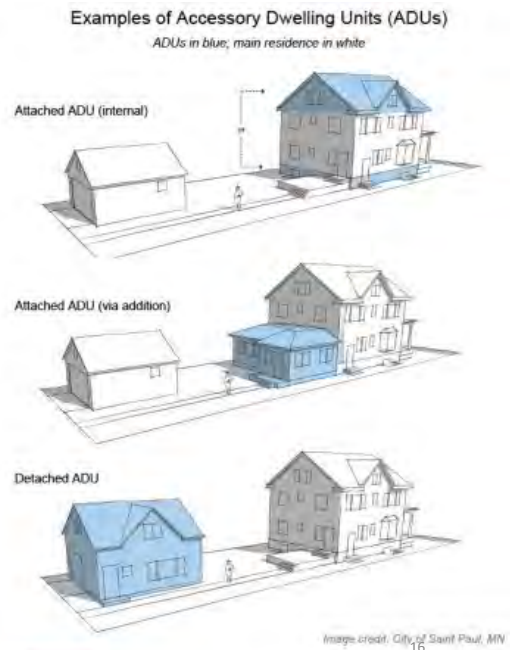
Accessory Dwelling Units

Since HB 1337 became effective in July 2023, state law (RCW 36.70A.680 and 36.70A.681) requires all local governments planning under the Growth Management Act (GMA), regardless of population and including counties (unincorporated urban growth areas) as well as cities, to revise their regulations as needed to conform, within six months after their periodic update due date, with the following requirements:

Accessory Dwelling Units

Infill Housing Option

- 2 Units / Lot
- Not Less Than 1,000 sf
- Cannot Require Street Improvements
- Can be Sold as Condominiums
- No Additional Design Review
- Reduced Parking Requirements
- No More than 50% of Impact Fees Can Be Charged
- New CCR's Cannot Restrict ADU's



With the exception of ADUs accessing from alleys, all setbacks required for the principal lot may be applied. No setback is required for ADUs with alley access.

General Policy Direction: Supportive with Conditions

Comments / Concerns:

- Require compliance with setback and lot coverage requirements.
- Evaluate design review requirements: compatibility with house and/or neighborhood characteristics.
- Prohibit use as a short-term rental; aka "AirB&B".
- Prohibit the use of yurts, RV's, shipping containers, or similar as ADU's.
- Define a maximum allowable size – such as not more than 50% of primary house, but not less than 1,000 square feet.
- Review height limitation in state law against RCW 64.04.140 and 150; can height be limited based on sunshine / solar or privacy needs. How is building height measured?
- Address parking constraints.

- Research who are building ADU's: builders, homeowners, new construction, or additions to existing structures.
- Detached ADU's should have their own separate water meters as they can be sold as fee simple units.
- Review utility and impact fees; the city needs to recover its cost of services.

Missing Middle Housing

In 2023 the State Legislature passed HB 1110 which requires cities and counties to allow middle housing in their residential zoning districts. While Stanwood is not required to meet the density / requirements of that house bill, the city is required to provide missing middle housing options per the Growth Management Act and the Comprehensive Plan. The difference is we have more flexibility, or local control, on how and where missing middle housing is allowed.

"Middle housing" is defined as "buildings that are compatible in scale, form, and character with single-family houses and contain two or more attached, stacked, or clustered homes including duplexes, triplexes, fourplexes, fiveplexes, sixplexes, townhouses, stacked flats, courtyard apartments, and cottage housing."

Missing Middle Housing

Housing Types by Zone



Land Use – Proposed Amendments	Residential Zones						Commercial Zones				Industrial	
	SR 12.4	SR 9.6	SR 7.0	SR 5.0	MR	TN	TN- MU	DMU	NB	GC	PI	GI
Single Family Residential - Detach	P	P	P	P	P	P						
Duplex – 2 Units		P	P	P	P	P	P	P		P		
Townhome - 3-6 Units		P	P	P	P	P	P	P		P	P	
Cottage - SF Detached	P	P	P	P	P	P	P	P		P		
Multi-Family					P	P	P	P		P	P	



Consider How Missing Middle Housing Could Fit Into Traditional Single-Family Zones: Lot Size, Location?

Black = Existing Municipal Code Red = Required Code Changes

General Policy Direction: Supportive

Comments / Concerns:

- Re-evaluate percentage mix of housing types in TN zone.
- Allow mix of housing unit types in SFR zones and consider location restrictions such as:
 - Townhouses on main streets and/or corners: 80th Ave, 64th Ave, 72nd Avenue, 284th Street, 276th Street, 272nd Street
 - Cottages within subdivisions
- Restrict townhouses to 3- or 4-unit buildings in SFR zones to break up mass and scale.

- Support additional cottage housing; evaluate if 1,200 sf size limit should be changed.
- Consider cottage housing as “workforce” housing with potential density bonus and additional open space using cluster techniques.
- Mixed use buildings in industrial parks: are there any examples and how are use conflicts addressed?

Emergency Shelters, Transitional Housing, Emergency Housing & Permanent Supportive Housing

State law now requires cities and counties to provide various supportive housing options. The following must be allowed in the City of Stanwood.

Emergency Housing



Cities Must Allow Emergency Housing In All Zones that Allow Residential Dwelling Units or Hotels

Land Use – Proposed Amendments	Residential Zones						Commercial Zones				Industrial	
	SR 12.4	SR 9.6	SR 7.0	SR 5.0	MR	TN	TN- MU	DMU	NB	GC	PI	GI
Emergency Shelters	P	P	P	P	P	P	P	P		P	P	
Transitional Housing	P	P	P	P	P	P	P	P		P	P	
Emergency Housing	P	P	P	P	P	P	P	€ P		€ P	P	
Permanent Supportive Housing	P	P	P	P	P	P	P	P		P	P	
Hotels							P	P/C		P	P	



Black = Existing Municipal Code Red = Required Code Changes³⁵

General Policy Direction: Concerned

Comments / Concerns:

- Concerned about potential impacts on adjacent properties.
- Are there potential mitigation measures such as fencing or landscaping?
- Consider an emergency / interim ordinance to meet GMA deadline.

Co-Living Housing

Co-housing in another housing type that the state legislature included in their 2024 housing bills. RCW 36.70a.535 mandates that cities planning under the Growth Management Act allow co-housing units as a permitted use on any lots that allows six multifamily residential units or more and in mixed-used zones. For Stanwood, co-housing must be allowed in our Downtown Mixed Use (DMU), Multifamily (MR) and Traditional Neighborhood – Mixed-Use (TN – MU) zones.

Co-Living Housing

2023 / 2024 Legislative Session Bills

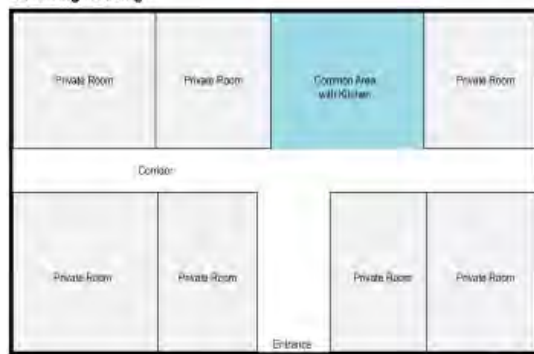
Co-living housing:

- Residential Development
- Independent Living And Sleeping Units
- Rented And Lockable
- Shared Kitchen And Common Area Facilities

Commonly Referred to As:

Congregate Living Facilities, Single Room Occupancy, Rooming House, Boarding House, Lodging House, And Residential Suites

Co-Living Housing



State law mandates that cities planning under the Growth Management Act allow co-housing units as a permitted use on any **lots that allows six multifamily residential units or more and in mixed-used zones**.



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General Policy Direction: Concerned

Comments / Concerns:

- Can Co-Housing be prohibited in the uptown TN zone? Makes sense in TN mixed use and MF zones.

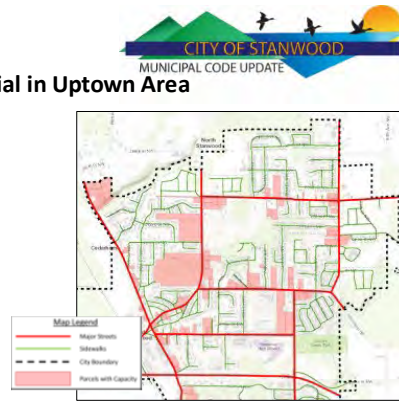
Uptown Commercial Infill

As part of the 2024–2044 Comprehensive Plan, the idea of introducing small-scale commercial uses in the uptown area was explored as a way to integrate businesses into residential neighborhoods. The goal is to provide essential goods and services within walking distance of homes, reducing the need for car trips. This concept reflects a return to early 1900's neighborhood design, before commercial and residential uses were fully separated, requiring residents to drive for everyday necessities.

Uptown Commercial Infill

Proposal: Allow Small Scale Commercial in Uptown Area

- Option to allow small -scale commercial uses and live -work units in the Uptown Area
- Along Major Streets
- Serve limited convenience shopping and personal service needs of the immediate surrounding neighborhood
- Allows commercial daycares or small family businesses that do not qualify as home occupations



Red = Parcels along major roads in the Uptown area that have development capacity



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Uptown Commercial Infill

Return of Neighborhood Corner Stores

Potential Uses:

Food & Beverage	Office & Retail	Services
Coffee Shops Small Restaurant / Bakeries	Boutique Retail Shop Small Grocery Store Art Gallery Financial / Insurance Offices	Daycare / Preschool Centers Hair Salons Vet / Dental / Doctor Clinics

Potential Development Standards:

Space Size	Location	Development Standards
Limit Floor Area: ▪ 1,500 – 3,000 sf for Coffee Shop / Café / Boutique Shop ▪ 3,000 - 5,000 sf Office ▪ 6,000 sf Daycare Center	Major Road Corner Lot or Minimum ½ Acre Infill Lot	On-Site or On-Street Parking Meet Setbacks Landscaping



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General Policy Direction: Supportive

Comments / Concerns:

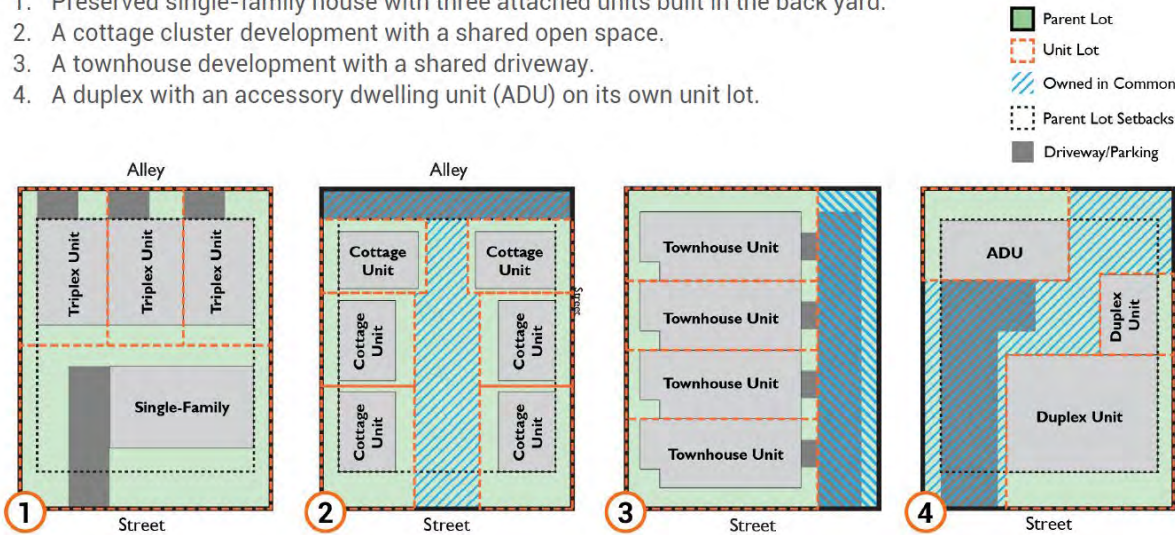
- Carefully consider the uses that would be allowed; how would you feel living next door to a commercial use: odors, noise, trash?
- Only uses that support neighborhoods.
- Not intended to attract new traffic to neighborhoods.
- Keep small scale, “mom/pop” stores, not chain stores.

Unit Lot Subdivisions

In 2023, the legislature adopted Engrossed Second Substitute Senate Bill (ESSSB) 5258 requiring cities include unit lot subdivisions in their short plat regulations. A unit lot subdivision is a type of land division that allows for the creation of individual lots within a larger development, such as townhouses, condominiums, or other multi-unit residential projects.

Unit Lot Subdivision Concepts

1. Preserved single-family house with three attached units built in the back yard.
2. A cottage cluster development with a shared open space.
3. A townhouse development with a shared driveway.
4. A duplex with an accessory dwelling unit (ADU) on its own unit lot.



General Policy Direction: Supportive

Comments / Concerns:

- Address needed easements: access, utilities, parking, landscaping and open space.
- Require compliance with exterior setbacks.
- How is lot coverage addressed?
- Allow administrative unit lot subdivisions without public comments on built projects.

Split Lot Subdivisions

Split lot subdivisions are similar to short plats in that they divide land into two or more residential lots. The difference between the two is that with split lot subdivisions, many of the infrastructure improvements can be deferred until lot development.

- Small – Infill – Subdivisions with Existing Infrastructure
- Typically, 1 or 2 lots with no new roads or frontage improvements required.
- Driveways or utilities installed with building.
- Jurisdiction has authority to limit the number and / or to delay infrastructure improvements such as utility connections with building permits.



General Policy Direction: Supportive

Comments / Concerns:

- Allow 1 lot to be split into 2; more than 2 will require a short plat.
- Require street front improvements and utilities with building permit.
- Address how the “existing” lot frontage improvements will be installed – prior to final plat?
- Require any potential access and utility easements with final plat.
- If a private road is proposed, then require a short plat.
- Address standards for ADU’s versus new lots meeting underlying zoning standards.

Lot Size Averaging

Lot size averaging provisions align lot flexibility with existing density goals to foster efficient land use, protects natural resources, and creates communities that reflect both local character and planning vision.

Lot Size Averaging

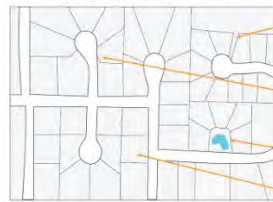
Lot Design Flexibility

Allows for a mix of smaller and larger lots within a subdivision.

Average lot size meets the underlying density requirements.



Lot Averaging Examples and Uses



Lot averaging allows site design flexibility to meet zoned densities while also providing flexibility to respect existing features, constraints, and provide variety.

No scale

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General Policy Direction: Supportive

Comments / Concerns:

- Provide examples of existing projects.
- No increase in density; only lot design flexibility.

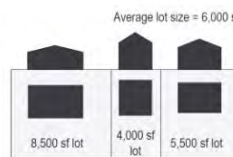
Lot Size Averaging

Lot Design Flexibility

What is Lot Averaging?



No Averaging



With Averaging

Lot averaging allows land division resulting in lots that are smaller than the minimum size requirements, but the average remains equal to or above the minimum.



No scale

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Benefits to Lot Size Averaging:

- Accommodate Road Design
- Limit Irregular Lot Shapes
- Address Topography Constraints
- Reduce The Monotony Of Rows Of Houses

General Policy Direction: Supportive of Lot Width Variations

Comments / Concerns:

- Provide examples of existing projects.
- No increase in density; only lot design flexibility.

Cluster Housing and On-Site Density Transfers

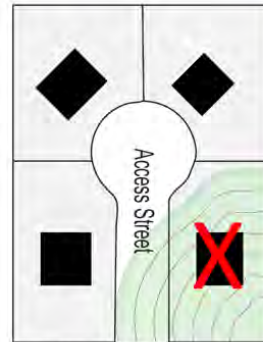
Transfers density rights within the same development to concentrate housing in specific areas while preserving open spaces or critical areas while maintaining existing density levels.

Cluster or On-Site Density Transfer

Lot Design Flexibility

Groups homes on smaller lots to create larger shared open spaces or preserve natural features.

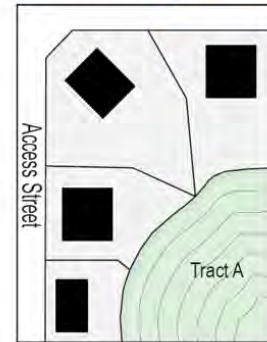
Shift density from critical areas to upland areas, creating clustered housing or other development forms.



Traditional subdivision design ignores natural features.

■ Building footprints
■ Natural area

No scale



Clustering and lot flexibility used to avoid and preserve natural features.



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General Policy Direction: *Mixed*
Planning Commission Supportive
City Council Not Supportive

Comments / Concerns:

- Creates a perceived increase in density.
- No benefit to community.
- Consider if additional community benefits are provided: open space, park space, trails – above what is required by code.
- Provide examples.

Model Home Development Option

Developers in Stanwood have requested that the City adopt a model home ordinance which It has been requested that the City adopt an ordinance that would allow 4 to 6 homes be built prior to final plat approval. A model home ordinance would allow the developer to build a few houses at the same time as roads and utilities are being installed, giving the developer the opportunity to open a model home, or sell a house as soon as final plat approval is granted.

General Policy Direction: Supportive

Comments / Concerns:

- Limit to 4 units.

Other Issues Reviewed by Planning Commission

General Policy Direction: Supportive

Comments / Concerns:

- Consider in-lieu fees for park space (in addition to park impact fees)
- Support lot dimension flexibility to create interesting subdivision design – break up rows of similar housing and lots.
- Support use of PRD regulations for new base standard.
- Define what qualifies as open space versus park space; update park improvements options.
- Address grading / elevation changes and impacts on adjacent properties during the subdivision process.
- Evaluate how to address quality materials comment – cheap materials which causes future homeowners to pay cost of replacements sooner than expected.

Outreach Comments

Community Development Committee Comments – January 2, 2025:

Commercial Conversions: Council members would like more information on types of commercial buildings that could be converted to residential such as schools, churches, and storage containers. They would also like to see a clearer definition of the term “accessory”.

Accessory Dwelling Units (ADU's): Consider adding a maximum limit on the sizes of ADU's. There are concerns that parking would become an issue. With a maximum height of 25 feet, ADU's could potentially block sunlight from neighbors. Consider restricting types of structures that will be allowed to be used as an ADU. Also consider restricting ADU's for short-term rentals.

Council members are supportive missing middle housing types such as cottages, townhomes and duplexes, unit lot subdivisions, lot size averaging, and cluster/onsite density transfers. Members would like to see more examples of lot size averaging and cluster/onsite density transfers.

Split Lot Subdivisions: The CDC is supportive of this only in areas that won't require new roads or road improvements. Limit how this would be allowed, such as for infill only.

Model Home Ordinance: Council members are supportive of allowing a Model Home Ordinance of up to 4 model homes.

Development Code Amendments: The CDC is supportive of using the PRD standards as the new base standard. Council members are supportive of a width to depth ratio as a standard but would first like to learn more about it.

Planning Commission Comments – January 13, 2025:

- On the ADU Infill Housing Option, how will the readjusted lots comply with setbacks in the code? This is something that will have to be looked into. It might be a situation where the master lot meets zoning standards and the ADU's will be “condominium-ized”.
- Will new ADU's be subject to impact fees such as traffic and parks? State law says impact fees for new ADUs can't be any more than 50% of the residential impact fees. This law is already implemented in Stanwood's fee resolution. There will need to be a proportion to the impact.
- Will ADU's be separately metered from the master lot? Staff is currently working on this subject in SMC Title 12 Utility. The current thought is an attached ADU would run off the master meter. A detached ADU will likely need a separate meter.
- Can an ADU be built and rented as a VRBO or Airbnb? There can be restrictions added to what type of use will be allowed.

- The lot ratio suggestion would seem to break up monotony in a subdivision.
- If a property owner wanted to “condominium-ize”, the lot ratio might not work. Ratios will work better in the Single-Family zones.

Public Comments

- Russell Joe commented that ADUs can be a way to increase infill housing. The ability to have flexibility in housing is an important tool.

Public Open House – Virtual and In Person – January 29, 2025:

Everyone attending the virtual and in-person open house were generally favorable and supportive of allowing ADU’s and middle housing in Stanwood. There was also support (and some excitement) of the small-scale commercial infill within the uptown area.

While there was support more affordable housing, there were some reservations and / or some questions that need to be addressed:

- How do lot sizes relate to housing types?
- Why is recycling not required for multi-family developments?
- Why is cottage housing limited by size?
- Concerns about the feasibility of ADU’s and middle housing due to lack of bank support for financing
- Concerns about school district overcrowding
- Concerns about if additional police officers are needed with housing growth
- Concerns about city “flip-flopping”, explained that the City listens to constituents and makes changes base on feedback
 - o This comment was specifically regarding TN zoning
- Should the City consider allowing mobile home parks?

Bills to Watch

2025 Bills Currently Being Considered in the State Legislature:

The following housing bills are being considered by the Washington State Legislature.

Lot Splitting Bill: HB 1096 and SB 5559	Mandate lot splitting for up to 1 additional lot, require administrative review and concurrent review with residential permit.
Childcare Bill: HB 1212	Cities must allow commercial day care centers in all zones except industrial.
Housing Accountability Act: SB 5148 and HB 1235	Requires Commerce to approval housing elements of Comprehensive Plans and all housing regulations.
Neighborhood Café: HB 1175	Must allow stores and cafés in residential zones; must provide food if alcoholic drinks are offered; and cities may regulate parking, hours of operation and square footage if over 500 sf.
Parking Regulations: SB 5184	Restrict local government's ability to require parking for certain types of housing and uses.
Design Review: HB1160	Makes design review an administrative process and limits the number of reviews.
Home on Wheels: HB 1443 and SB 5332	Must allow use of RV's and other vehicles on wheels as homes / residences; one per lot is allowed; must allow connection to power and utilities.
Building Code: HB 1183	Defines how building setbacks are measured and limits the ability to require additional parking on building conversions.
Automatic Permit Approval: HB 1438	A local government that misses the deadline for issuing a final decision on a project permit application must approve the project and issue building permits the next business day after the expiration of the deadline under certain conditions.
STEP Housing Approval: SB 5497	Requires a city or county to use an administrative process for reviewing and approving a project permit application for indoor emergency shelters, transitional housing, indoor emergency housing, or permanent supportive housing (STEP housing).

Mixed-Use and Mass Timber: SB 5555	Requires planning cities to allow the addition of housing units in ground floor commercial or retail in a station area that is not designated as a major pedestrian corridor. Stipulates that planning cities may not designate more than 10 percent of its area zoned as mixed-use or commercial as a major pedestrian corridor. Requires planning cities to allow an expedited ability for a development to deviate from any street level use standards based on a showing that the requirement would result in the creation of fewer housing units in the development. Requires cities to adopt zoning regulations that allow for greater building height and increased density in all commercial and mixed-use zones for developments built with all mass timber products.
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