

Renton CAO Update

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4-3-050 CRITICAL AREAS REGULATIONS

A. PURPOSE:

1. General. The purposes of this section are to:

- a. Manage development activities to protect environmental quality; and
- b. Assist or further the implementation of the policies of the Growth Management Act, the State Environmental Policy Act, chapter 4-3-050, and the City Comprehensive Plan; and
- c. Provide City officials with information to evaluate, approve, condition or deny public or private development proposals with regard to critical area impacts; and
- d. Protect the public life, health, safety, welfare, and property by minimizing and managing the adverse environmental impacts of development within and abutting critical areas; and
- e. Protect the public from:
 - i. Preventable maintenance and replacement of public facilities needed when critical area functioning is impaired; and
 - ii. Unnecessary costs for public emergency rescue and relief operations; and
 - iii. Potential litigation on improper construction practices occurring in critical areas.

2. Critical Aquifer Recharge Areas. The overall purpose of the regulations is to protect aquifers used as potable water supply sources by the City from contamination by hazardous materials. Other specific purposes include:

- a. Protect the groundwater resources of the City; and
- b. Provide a means of regulating specific land uses within critical aquifer recharge areas; and
- c. Provide a means of establishing safe construction practices for projects built within an critical aquifer recharge area; and
- d. Protect the City's drinking water supply from impacts by facilities that store, handle, treat, use, or produce substances that pose a hazard to groundwater quality.

3. Geologically Hazardous Areas. The purposes of the geologic hazard regulations are to:

- a. Minimize damage due to seismic, landslide, subsidence or erosion through the control of development, before, during and after construction; and
- b. Protect the public against avoidable monetary losses due to maintenance and replacement of public facilities, property damage, public mitigation of avoidable impacts, and public emergency rescue and relief operations; and
- c. Reduce the risks to the City and its citizens from development occurring on unstable slopes; and
- d. Control erosion and sediment run-off from development; and
- e. Reduce the potential for damage to life and property from abandoned coal mines, and return this land to productive uses.

4. Frequently Flooded Areas. It is the purpose of the frequently flooded area regulations to:

- a. Minimize public and private losses due to flood conditions in specific areas; and

- b. Minimize expenditure of public money and costly flood control projects; and
- c. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public; and
- d. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in frequently flooded areas; and
- e. Help maintain a stable tax base by providing for the sound use and development of areas of frequently flooded areas so as to minimize future flood blight areas; and
- f. Ensure that those who occupy the areas of frequently flooded areas assume responsibility for their actions; and
- g. Protect important hydrologic functions provided by floodplains.

5. Habitat Conservation Areas. The primary purpose of fish and wildlife habitat conservation (FWHCA) regulations is to minimize impacts to critical habitats and to restore and enhance degraded or lower quality habitat in order to:

- a. Maintain and promote diversity of species and habitat within the city; and
- b. Protect viable fish and wildlife populations over the long term; and
- c. Coordinate habitat protection with the City's open space system, whenever possible, to maintain and provide habitat connections; and
- d. Help maintain air and water quality, and control erosion; and
- e. Serve as areas for recreation, education, scientific study, and aesthetic appreciation.

6. Streams and Lakes. The purposes of the stream and lake regulations, critical areas considered to be a type of FWHCA, are to:

- a. Protect riparian habitat in order to provide for bank and channel stability, sustained water supply, flood storage, recruitment of woody debris, leaf litter, nutrients, sediment and pollutant filtering, shade, shelter, and other functions that are important to both fish and wildlife; and
- b. Prevent the loss of riparian acreage and functions and strive for a net gain over present conditions through restoration where feasible; and
- c. Protect aquatic habitat for salmonid species. Other fish/aquatic species are addressed through Fish and Wildlife Habitat Conservation Areas regulations (see subsection A5 of this Section).

7. Wetlands. The purposes of the wetland regulations are to:

- a. Ensure that activities in or affecting wetlands do not threaten public safety, cause nuisances, or destroy or degrade wetland functions and values; and
- b. Preserve, protect and restore wetlands by regulating development within them and around them; and
- c. Protect the public from costs associated with repair of downstream properties resulting from erosion and flooding due to the loss of water storage capacity provided by wetlands; and

d. Prevent the loss of wetland acreage and functions and strive for a net gain over present conditions. (Ord. 4851, 8-7-2000; Ord. 5137, 4-25-2005)

B. APPLICABILITY:

1. Lands to Which These Regulations Apply. The following critical areas, classified in subsections H1 through M1 of this Section, are regulated by this Section. Multiple development standards may apply to a site feature based upon overlapping critical area(s) and/or critical area classifications.

- a. Critical aquifer recharge areas.
- b. Frequently flooded areas.
- c. Steep slopes, landslide hazards, erosion hazards, seismic hazards, and/or coal mine hazards or on sites within fifty feet (50') of steep slopes, landslide hazards, erosion hazards, seismic hazards, and/or coal mine hazards classified under subsection E5a which are located on abutting or adjacent sites.
- h. Volcanic hazard areas.
- i. Habitat Conservation Areas.
- j. Streams and Lakes.
 - i. All applicable requirements of this Section apply to Class 2 to 4 water bodies, as classified in subsection L1 of this Section or on sites within 100 feet of Class 2 to 4 water bodies.
 - ii. Class 5 water bodies, classified in subsection L1 of this Section, are exempt from all provisions of this Section.
 - iii. Class 1 water bodies, defined in subsection L1 of this Section, are not subject to this section, and are regulated in RMC 4-3-090, Shoreline Master Program Regulations, and RMC 4-9-197, Shoreline Permits.
- k. Wetlands, Categories 1, 2, 3, and 4 or on sites within 100 feet of Category 1, 2, 3, and 4 wetlands.

2. Activities to Which These Regulations Apply. The provisions of this chapter shall apply to any regulated activity that potentially affects a critical area or its buffer unless otherwise exempted by these regulations. Where a regulated activity would be partly within and partly outside a critical area or its buffer, the entire activity shall be reviewed pursuant to the requirements of this chapter. Applicable activities are as follows:

- a. Removing, excavating, disturbing, or dredging soil, sand, gravel, minerals, organic matter or materials of any kind.
- b. Dumping, discharging, or filling with any material.
- c. Draining, flooding, or disturbing the water level or water table, or diverting or impeding water flow.
- d. Driving pilings or placing obstructions.
- e. Constructing, substantially reconstructing, demolishing, or altering the size of any structure or infrastructure.

- f. Destroying or altering vegetation through clearing, grading, harvesting, shading, or planting vegetation that would negatively affect the character of a critical area.
- g. Activities that result in significant changes in water temperature, physical or chemical characteristics of water sources, including quantity and pollutants.
- f. Any other activity potentially affecting a critical area or buffer not otherwise exempt from the provisions of this chapter as determined by the department.

C. EXEMPT, PROHIBITED, AND NONCONFORMING ACTIVITIES:

1. Permit Required:

- a. Development or Alteration:** Prior to any development or alteration of a property containing a critical area as defined in subsection B of this Section, Applicability, the owner or designee must obtain a development permit, critical area permit, and/or letter of exemption. No separate critical area permit is required for a development proposal which requires development permits or which has received a letter of exemption. If a proposed activity is not exempt and does not otherwise require a development permit, but is subject to this Section, the Department Administrator shall determine whether to grant or deny a separate critical areas permit based upon compliance with applicable standards and regulations of this Section.
- b. Critical Aquifer Recharge Areas – Operating and Closure Permits:** Critical aquifer recharge areas operating permit and closure permit requirements are contained in RMC [4-9-015](#), Critical Aquifer Recharge Areas Permits.

2. Letter of Exemption:

- a. Critical Aquifer Recharge Areas, Frequently Flooded Areas, Geologically Hazardous Areas, Fish and Wildlife Habitat Conservation Areas, FWHCAs - Streams and Lakes, Wetlands:** Except in the case of public emergencies, all exemptions in subsections C5, C6 and C7 of this Section require that a letter of exemption be obtained from the Department Administrator prior to construction or initiation of activities.
- b. Applicability of Section Requirements to Exempt Activities:** Exempt activities provided with a letter of exemption may intrude into the critical area or required buffer subject to any listed conditions or requirements. Exempt activities do not need to comply with mitigation ratios of subsection M7 unless required in exemption criteria.
- c. Reports and Mitigation Plans Required:** A critical area report, and/or enhancement or mitigation plan shall be required pursuant to subsections H to M of this Section, unless otherwise waived by the Department Administrator.
- d. Administrator Findings:** In determining whether to issue a letter of exemption for activities listed in subsections C5, C6, and C7 of this Section, the Administrator shall find that:
 - i. The activity is not prohibited by this or any other chapter of the RMC or State or Federal law or regulation; and

- ii. The activity will be conducted using best management practices as specified by industry standards or applicable Federal agencies or scientific principles; and
- iii. Impacts are minimized and, where applicable, disturbed areas are immediately restored; and
- iv. Where water body or buffer disturbance has occurred in accordance with an exemption during construction or other activities, revegetation with native vegetation shall be required; and
- v. If a hazardous material, activity, and/or facility that is exempt pursuant to this Section has a significant or substantial potential to degrade groundwater quality, then the Department Administrator may require compliance with the critical aquifer recharge area requirements of this Section otherwise relevant to that hazardous material, activity, and/or facility. Such determinations will be based upon site and/or chemical-specific data.

3. Exemptions – Critical Areas and Buffers. Exempt activities are listed in the following table. If an “X” appears in a box, the listed exemption applies in the specified critical area and required buffer. If an “X” does not appear in a box, then the exemption does not apply in the particular critical area or required buffer. Where utilized in the following table the term “restoration” means returning the subject area back at a minimum to its original state following the performance of the exempt activity. Activities taking place in critical areas and their associated buffers and listed in the following table are exempt from the applicable provisions of this Section, provided a letter of exemption has been issued per subsection C4 of this Section, Letter of Exemption. Whether the exempted activities are also exempt from permits will be determined based upon application of chapters 4-8 and 4-9 RMC, or other applicable sections of the Renton Municipal Code.

EXEMPT ACTIVITIES – PERMITTED WITHIN CRITICAL AREAS AND ASSOCIATED BUFFERS						
EXEMPT ACTIVITY	Critical Aquifer Recharge Areas	Frequently Flooded Areas	Geologic Hazard Area	Fish and Wildlife Habitat Conservation Area	FWHCAs - Streams and Lakes: Class 2 to 4	Wetlands
a. Conservation, Enhancement, Education and Related Activities:						
i. Natural Resource/Habitat Conservation or Preservation ²	X ¹	X	X	X	X	X
ii. Enhancement activities as defined in chapter 4-11 RMC.		X	X	X	X	X
iii. Approved Restoration/Mitigation ³	X ¹	X	X	X	X	X

b. Research and Site Investigation:						
i. Nondestructive Education and Research.	X ¹	X	X	X	X	X
ii. Site Investigative Work ⁴	X ¹	X	X	X	X	X
c. Agricultural, Harvesting, Vegetation Management:						
i. Harvesting Wild Foods ⁵	X ¹	X	X	X	X	X
ii. Existing/Ongoing Agricultural Activities ⁶		X	X	X	X	X
iii. Dead or Diseased Trees ⁷	X ¹	X	X	X	X ⁸	X ⁸
d. Surface Water:						
i. New Surface Water Discharges ⁹				X	X	X
ii. Modification of existing Regional Stormwater Facilities ¹⁰						X
iii. Frequently Flooded Areas Reduction ¹¹		X			X	
iv. Storm Drainage Piping ¹²			X			
e. Roads, Parks, Public and Private Utilities:						
i. Relocation of Existing Utilities out of Critical Area and Buffer ¹³	X ¹	X	X	X	X	X
ii. New trails, existing Parks, Trails, Roads, Facilities, and Utilities – Maintenance, Operation, Repair, and the Construction of New Trails ¹⁴			X	X	X	X
iii. Utilities, Traffic Control, Walkways, Bikeways Within Existing, Improved Right-of-Way or Easements ¹⁵			X	X	X	X
iv. Modification of Existing Utilities and Streets by Ten Percent (10%) or Less ¹⁶			X	X ¹⁷		X ¹⁷
f. Temporary Wetland Impacts:						

i. Temporary Wetland Impacts ¹⁹				X		X
g. Maintenance and Construction – Existing Uses and Facilities:						
i. Remodeling, Replacing, Removing Existing Structures, Facilities, and Improvements ²⁰			X	X	X	X
ii. Maintenance and Repair – Any Existing Public or Private Use ²¹			X	X	X	X
iii. Modification of an Existing Single Family Residence ²²			X	X	X	X
iv. Existing Activities ²³		X	X	X	X	X
h. Emergency Activities:						
i. Emergency Activities ²⁴	X ¹	X	X	X	X	X
ii. Emergency Tree/Ground Cover Cutting or Removal by Agency or Utility ²⁵	X ¹	X	X	X	X ⁸	X ⁸
iii. Emergency Activities in Critical Aquifer Recharge Areas ²⁶	X ¹					
i. Hazardous Materials:						
i. Federal or State Pre-emption ²⁷	X ¹					
ii. Use of Materials with No Risk ²⁸	X ¹					

¹If a hazardous material, activity, and/or facility that is exempt pursuant to this Section has a significant or substantial potential to degrade groundwater quality, then the Department Administrator may require compliance with the critical aquifer recharge area requirements of this Section otherwise relevant to that hazardous material activity and/or facility.

² Conservation or preservation of soil, water, vegetation, fish and other wildlife.

³ Any critical area and/or buffer restoration or other mitigation activities which have been approved by the City.

⁴ Site investigative work necessary for land use application submittals such as surveys, soil logs, percolation tests and other related activities. Investigative work shall not disturb any more than five percent (5%) of the critical area and required buffer. In every case, impacts shall be minimized and disturbed areas shall be immediately restored at a 1:1 ratio.

⁵ The harvesting of wild foods in a manner that is not injurious to natural reproduction of such foods and

provided the harvesting does not require tilling of soil, planting of crops or alteration of the critical area.

⁶ Existing and ongoing agricultural activities including farming, horticulture, aquaculture and/or maintenance of existing irrigation systems. Activities on areas lying fallow as part of a conventional rotational cycle are part of an ongoing operation; provided, that the agricultural activity must have been conducted within the last five (5) years. Activities that bring a critical area into agricultural use are not part of an ongoing operation. Maintenance of existing legally installed irrigation, ditch and pipe systems is allowed; new or expanded irrigation, ditch, outfall or other systems are not exempt. If it is necessary to reduce the impacts of agricultural practices to critical areas, a farm management plan may be required based on the King County Conservation District's Farm Conservation and Practice Standards, or other best management practices.

⁷ Removal of dead, terminally diseased, damaged, or dangerous ground cover or hazard trees which have been certified as such by a forester, registered landscape architect, or certified arborist, selection of which to be approved by the City based on the type of information required, or the City prior to their removal.

⁸ Limited to cutting of hazard trees; such hazard trees shall be retained as large woody debris in critical areas and/or associated buffers, where feasible.

⁹ New surface water discharges in the form of dispersion trenches, outfalls and bioswales are allowed within the outer 25% of the buffer of a Category III or IV wetland only provided that: the discharge meets the requirements of the Storm and Surface Water Drainage Regulations (RMC 4-6-030); no other location is feasible; will not degrade the functions or values of the wetland or stream. Where differences exist between these regulations and RMC 4-6-030, these regulations will take precedence.

¹⁰ Modifications to existing regional stormwater management facilities operated and maintained under the direction of the City Surface Water Utility that are designed consistent with the current version of the Washington State Department of Ecology Wetlands and Stormwater Management Guidelines or meeting equivalent objectives.

¹¹ Implementation of public frequently flooded areas reduction and public surface water projects, where habitat enhancement and restoration at a 1:1 ratio are provided, and appropriate Federal and/or State authorization has been received.

¹² Installation of new storm drainage lines in any geologic hazard area when a geotechnical report clearly demonstrates that the installation would comply with the criteria listed in RMC 4-3-050J2b and that the installation would be consistent with each of the purposes of the geologic hazard regulations listed in RMC 4-3-050A4. Also, to qualify for the exemption, the report must propose appropriate mitigation for any potential impacts identified in the report.

¹³ Relocation out of critical areas and required buffers of natural gas, cable, communication, telephone and electric facilities, lines, pipes, mains, equipment and appurtenances (not including substations), with an associated voltage of fifty five thousand (55,000) volts or less, only when required by a local governmental agency, and with the approval of the City. Disturbed areas shall be restored.

¹⁴ Normal and routine maintenance, operation and repair of existing parks and trails, or the construction of new trails, streets, roads, rights-of-way and associated appurtenances, facilities and utilities where no

alteration or additional fill materials will be placed other than the minimum alteration and/or fill needed to restore those facilities or to construct new trails to meet established safety standards. The use of heavy construction equipment shall be limited to utilities and public agencies that require this type of equipment for normal and routine maintenance and repair of existing utility structures and rights-of-way. In every case, critical area and required buffer impacts shall be minimized and disturbed areas shall be restored during and immediately after the use of construction equipment.

¹⁵ Within existing and improved public road rights-of-way or easements, installation, construction, replacement, operation, overbuilding or alteration of all natural gas, cable, communication, telephone and electric facilities, lines, pipes, mains, equipment or appurtenances, traffic control devices, illumination, walkways and bikeways. If activities exceed the existing improved area or the public right-of-way, this exemption does not apply. Where applicable, restoration of disturbed areas shall be completed.

¹⁶ Overbuilding (enlargement beyond existing project needs) or replacement of existing utility systems and replacement and/or rehabilitation of existing streets, provided:

(1) The work does not increase the footprint of the structure, line or street by more than ten percent (10%) within the critical area and/or buffer areas, and occurs in the existing right-of-way boundary or easement boundary.

(2) Restoration shall be conducted where feasible. Compensation for impacts to buffers shall include enhancement of the remaining buffer area along the impacted area where there is enhancement opportunity.

(3) The Administrator determines that, based on best judgment, a person would not: (a) be able to meaningfully measure, detect, or evaluate insignificant effects; or (b) expect discountable effects to occur.

(4) This exemption allows for 10% maximum expansion total, life of the project. After the 10% expansion cap is reached, future improvements are subject to all applicable provisions of this Section.

¹⁷ Exemption is not allowed in Category I wetlands.

¹⁸ Maintenance activities, including routine vegetation management and essential tree removal, and removal of non-native invasive vegetation or weeds listed by the King County Noxious Weed Board or other government agency, for public and private utilities, road rights-of-way and easements, and parks.

¹⁹ Temporary disturbances of a wetland due to construction activities that do not include permanent filling may be permitted; provided, that there are no permanent adverse impacts to the critical area or required buffer, and areas temporarily disturbed are restored at a 1:1 ratio. Category I wetlands and Category II forested wetlands shall be enhanced at a 2:1 ratio in addition to being restored. For Fish and Wildlife Habitat Conservation Areas, this exemption applies only to Category I wetlands.

²⁰ Remodeling, restoring, replacing or removing structures, facilities and other improvements in existence on the date this section becomes effective and that do not meet the setback or buffer requirements of this section provided the work complies with the criteria in RMC 4-10-090.

²¹ Normal and routine maintenance and repair of any existing public or private uses and facilities where no alteration of the critical area and required buffer or additional fill materials will be placed. The use of heavy construction equipment shall be limited to utilities and public agencies that require this type of equipment for normal and routine maintenance and repair of existing utility or public structures and rights-of-way. In every case, critical area and required buffer impacts shall be minimized and disturbed areas shall be restored during and immediately after the use of construction equipment.

²² Construction activity connected with an existing single family residence and/or garage; provided, that the work does not increase the footprint of the structure lying within the critical area or buffer; and provided, that no portion of the new work occurs closer to the critical area or required buffers than the existing structure unless the structure or addition can meet required buffers. Existing or rebuilt accessory structures associated with single family lots such as fences, gazebos, storage sheds, and play houses are exempt from this Section. New accessory structures may be allowed when associated with single family lots such as fences, gazebos, storage sheds, play houses and when built on and located in a previously legally altered area.

²³ Existing activities which have not been changed, expanded or altered, provided they comply with the applicable requirements of chapter 4-10 RMC.

²⁴ Emergency activities are those which are undertaken to correct emergencies that threaten the public health, safety and welfare pursuant to the criteria in subsection C9b of this Section. An emergency means that an action must be undertaken immediately or within a time frame too short to allow full compliance with this Section, to avoid an immediate threat to public health or safety, to prevent an imminent danger to public or private property, or to prevent an imminent threat of serious environmental degradation.

²⁵ Removal of trees and/or ground cover by any City department or agency and/or public or private utility in emergency situations involving immediate danger to life or property, substantial fire hazards, or interruption of services provided by a utility.

²⁶ Public interest emergency use, storage, and handling of hazardous materials by governmental organizations.

²⁷ Cleanups, monitoring and/or studies undertaken under supervision of the Washington Department of Ecology or the U.S. Environmental Protection Agency.

²⁸ Use, storage, and handling of specific hazardous materials that do not present a risk to the aquifer as determined and listed by the Department.

4. Exemptions in Buffers: The activities listed in the following table are allowed within critical area buffers, and are exempt from the applicable provisions of this Section, provided a letter of exemption has been issued per subsection C4 of this Section, Letter of Exemption. If an "X" appears in a box, the listed exemption applies in the specified buffer. If an "X" does not appear in a box, then the exemption does not apply in the required buffer. Whether the exempted activities are also exempt from permits will be determined based upon application of chapters 4-8 and 4-9 RMC, or other applicable sections of the Renton Municipal Code.

EXEMPTIONS WITHIN CRITICAL AREA BUFFERS						
EXEMPT ACTIVITY	Critical Aquifer Recharge Areas	Frequently Flooded Areas	Geologic Hazard Area	Fish and Wildlife Habitat Conservation Area	FWHCAs - Streams and Lakes: Class 2 to 4	Wetlands

a. Activities in Critical Area Buffers:

i. Trails and Open Space ¹			X	X	X	X
ii. Stormwater Treatment and Flow Control Facilities in Buffer ²						X
iii. Stormwater Conveyance in Buffer ³				X	X	X

¹ Walkways and trails, and associated open space in critical area buffers located on public property, or where easements or agreements have been granted for such purposes on private property. All of the following criteria shall be met:

(1) The trail, walkway, and associated open space shall be consistent with the Comprehensive Parks, Recreation, and Open Space Master Plan. The City may allow private trails as part of the approval of a site plan, subdivision or other land use permit approvals.

(2) Trails and walkways shall be located in the outer twenty-five percent (25%) of the buffer, i.e., the portion of the buffer that is farther away from the critical area. Exceptions to this requirement may be made for:

a. Trail segments connecting to existing trails where an alternate alignment is not practical.

b. Public access points to water bodies spaced periodically along the trail.

(3) Enhancement of the buffer area is required where trails are located in the buffer. Where enhancement of the buffer area abutting a trail is not feasible due to existing high quality vegetation, additional buffer area or other mitigation may be required. (Ord. 5676, 12-3-2012)

(4) Trail widths shall be a maximum width of twelve (12) feet. Trails shall be constructed of permeable materials which protect water quality, allow adequate surface water and ground water movements, do not contribute to erosion, are located where they do not disturb nesting, breeding, and rearing areas, and designed to avoid or reduce the removal of trees. Impervious materials may be allowed if pavement is required for handicapped or emergency access, or safety, or is a designated nonmotorized transportation route or makes a connection to an already dedicated trail, or reduces potential for other environmental impacts.

² Stormwater management facilities shall not be built within a critical area buffer except as allowed in Reference 5, Wetlands Protection Guidelines of the City's Surface Water Design Manual and shall require buffer enhancement or buffer averaging when they are sited in areas of forest vegetation, provided the standard buffer zone area associated with the critical area classification is retained pursuant to subsection L or M6c of this Section, and is sited to reduce impacts between the critical area and surrounding activities.

³ Necessary conveyance systems including stormwater dispersion outfall systems designed to minimize impacts to the buffer and critical area, where the site topography requires their location within the buffer to allow hydraulic function, provided the standard buffer zone area associated with the critical area classification is retained pursuant to subsection L or M6c of this Section, and is sited to reduce impacts between the critical area and surrounding activities.

5. Prohibited Activities: Prohibited activities are identified below for each critical area governed by this Section.

a. General – All Critical Areas: No action shall be taken by any person, company, agency, or applicant which results in any alteration of a critical area except as consistent with the purpose, objectives, and requirements of this Section.

b. Floodways: Encroachments, including fill, new construction, substantial improvements, and construction or reconstruction of residential structures is prohibited within designated floodways, unless it meets the provisions of subsection I4 of this Section, Additional Restrictions within Floodways.

c. Streams/Lakes and Wetlands: Grazing of animals is not allowed within a stream, lake, wetland or their associated buffers.

d. Critical Aquifer Recharge Areas - Prohibited Changes in Land Use and Types of New Facilities.

i. Zone 1:

(a) Changes in land use and types of new facilities in which any of the following will be on the premises:

- (1) More than five hundred (500) gallons of hazardous material;
- (2) More than one hundred fifty (150) gallons of hazardous material in containers that are opened and handled;
- (3) Containers exceeding five (5) gallons in size; or
- (4) Tetrachloroethylene (e.g., dry-cleaning fluid).

(b) Surface impoundments (as defined in chapters 173-303 and 173-304 WAC);

(c) Hazardous waste treatment, storage, and disposal facilities;

(d) All types of landfills, including solid waste landfills;

(e) Transfer stations;

- (f) Septic systems;
- (g) Recycling facilities that handle hazardous materials;
- (h) Underground hazardous material storage and/or distribution facilities;
- (i) New heating systems using fuel oil except for commercial uses when the source of fuel oil is an existing above-ground waste oil storage tank; and
- (j) Petroleum product pipelines.

ii. Zone 2:

- (a) Surface impoundments (as defined in chapters 173-303 and 173-304 WAC);
- (b) Recycling facilities that handle hazardous materials;
- (c) Hazardous waste treatment, storage, and disposal facilities;
- (d) Solid waste landfills;
- (e) Transfer stations;
- (f) New heating systems using fuel oil stored in underground storage tanks; and
- (g) Petroleum product pipelines.

6. Temporary Emergency Exemption:

a. Purpose: Temporary emergency exemptions shall be used only in extreme cases and not to justify poor planning by an agency or applicant.

b. Review Authority and Decision Criteria: Issuance of an emergency permit by the City does not preclude the necessity to obtain necessary approvals from appropriate Federal and State authorities. Notwithstanding the provisions of this section or any other City laws to the contrary, the Department Administrator may issue a temporary emergency exemption letter if the action meets the following requirements:

- i. An unacceptable threat to life or severe loss of property will occur if an emergency permit is not granted;
- ii. The anticipated threat or loss may occur before a permit can be issued or modified under the procedures otherwise required by this Section and other applicable laws;
- iii. Any emergency exemption letter granted shall incorporate, to the greatest extent practicable and feasible but not inconsistent with the emergency situation, the standards and criteria required for nonemergency activities under this Section.

c. Letter Process and Timing: The emergency exemption shall be consistent with the following procedural and time requirements:

i. Time Limits: The emergency shall be limited in duration to the time required to complete the authorized emergency activity; provided, that no emergency permit be granted for a period exceeding ninety (90) days except as specified in subsection C9c(ii) of this Section.

ii. Restoration Required: Require, within the ninety (90) day period, the restoration of any critical area altered as a result of the emergency activity, except that if more than ninety

(90) days from the issuance of the emergency permit is required to complete restoration, the emergency permit may be extended to complete this restoration. For the purposes of this paragraph, restoration means returning the affected area to its state prior to the performance of the emergency activity.

iii. Public Notice Required: Notice of the issuance of the emergency permit and request for public comments shall be posted at the affected site(s) and City Hall no later than ten (10) days after the issuance of the emergency permit. If significant comments are received, the City may reconsider the permit.

iv. Expiration of Exemption Authorization: The emergency exemption authorization may be terminated at any time without process upon a determination by the Department Administrator that the action was not or is no longer necessary to protect human health or the environment.

7. Nonconforming Activities or Structures: Regulated activities legally in existence prior to the passage of this Section, but which are not in conformity with the provisions of this Section are subject to the provisions of RMC [4-10-090](#), Critical Areas Regulations – Nonconforming Activities and Structures.

D. ADMINISTRATION AND INTERPRETATION:

1. All Critical Areas - General Provisions:

a. Duties of Administrator: The Community and Economic Development Administrator shall have the power and authority to enforce the provisions of this Section. For such purposes the Administrator shall have the power of a law enforcement officer. (Ord. 5450, 3-2-2009)

b. Interpretation: The Administrator shall have the power to render interpretations of this Section and to adopt and enforce rules and regulations supplemental to this Section as he/she may deem necessary in order to clarify the application of the provisions of this Code. Such interpretations, rules and regulations shall be in conformity with the intent and purpose of this Section. Provisions contained within this Section are considered the minimum requirements and will not limit or repeal other provisions under state statute.

c. Compliance: Unless specifically exempted by this Section, the City shall not grant any approval or permit any regulated activity in a critical area or associated buffer prior to fulfilling the requirements of this Section.

d. Review: The Administrator shall review all development permits to determine that the permit requirements of this Section have been satisfied.

e. Finding of Conformance Required: Conformance with these critical area regulations shall be a finding in any approval of a development permit or aquifer protection area permit, and such finding shall be documented in writing in the project file.

2. Critical Aquifer Recharge Areas:

a. Inspections Authorized: The Administrator or his/her designee shall have the right to conduct inspections of facilities at all reasonable times to determine compliance with this Section.

i. Annual Inspections: All permitted facilities in a CARA will be subject to a minimum of one inspection per year by a Department inspector.

ii. Monthly Inspections: All permitted facilities in Zone 1 of the critical aquifer recharge area will be subject to monthly inspections to determine compliance with the provisions of the Section.

b. Potential to Degrade Groundwater – Zone 2:

i. Potential for Impacts Equal to Facility in Zone 1: If the Administrator determines that an existing or proposed facility located in Zone 2 of a CARA has a potential to degrade groundwater quality which equals or exceeds that of a permitted facility in Zone 1, then the Administrator may require that facility to fully comply with requirements for Zone 1 contained in subsections C1ai, Development Permits, C8di, Zone 1, H2, Facilities, H4, Wastewater Disposal Requirements – Zones 1 and 2, and H7, Pipeline Requirements.

ii. Criteria: Criteria used to make the determination in subsection D2b(i) of this Section, Potential for Impacts Equal to Facility in Zone 1, shall include but not be limited to the present and past activities conducted at the facility; types and quantities of hazardous materials stored, handled, treated, used or produced; the potential for the activities or hazardous materials to degrade groundwater quality; history of spills at the site, and presence of contamination on site.

c. Finding of Conformance Required

i. Critical Aquifer Recharge Areas: No changes in land use shall be allowed nor shall permits for development be issued if the Department finds that the proposed land use, activity, or business is likely to impact the long-term, short-term or cumulative quality of the aquifer. The finding shall be based on the present or past activities conducted at the site; hazardous materials that will be stored, handled, treated, used or produced; and the potential for the land use, activity, or business to degrade groundwater quality.

3. Frequently Flooded Areas:

a. Duties and Responsibilities of the Administrator: The duties of the Administrator shall include, but not be limited to:

i. Review all development permits to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required; and

ii. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of subsection I4 of this Section, Additional Restrictions within Floodways, are met; and

iii. Obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, when base flood elevation data has not been provided in accordance with subsection I1bi of this Section in order to administer subsection I3, Specific Standards, and subsection I4, Additional Restrictions Within Floodways.

b. Information to Be Obtained and Maintained: The Administrator shall obtain and maintain the following information:

i. Record Required: Where base flood elevation data is provided through the flood insurance study or required as in subsection D3a(iv) of this Section, use of other base flood data, the applicant shall obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.

ii. Elevations and Certificates: For all new or substantially improved floodproofed structures:

(a) The applicant shall verify and record the actual elevation (in relation to mean sea level); and

(b) The Administrator shall maintain the floodproofing certifications required in RMC [4-8-120D6](#), Frequently Flooded Areas Data; and

(c) Flood elevation certificates shall be submitted by an applicant to the Development Services Division prior to the building's finished floor construction. Finished floor elevation should be verified by a preconstruction elevation certificate at the time of construction of a substantial structural element of the finished floor (i.e., foundation form for the concrete floor). An as-built elevation certificate will be provided prior to issuance of final occupancy, and the certificates shall be maintained by the Administrator.

iii. Public Records: The Administrator shall maintain for public inspection all records pertaining to the provisions of the frequently flooded area regulations (e.g., elevation certificates, notification of alteration/relocation of watercourses, frequently flooded areas regulation variances).

c. Alteration of Watercourses: The Administrator shall:

i. Notify abutting communities and the State of Washington Department of Ecology prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

ii. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished. The City may require covenants, or other mechanisms to ensure maintenance.

d. Interpretation of FIRM Boundaries: The Administrator shall make interpretations where needed, as to exact location of the boundaries of frequently flooded areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The best available information for frequently flooded areas identification shall be the basis for regulation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in RMC [4-8-070G](#), Hearing Examiner, and RMC [4-8-110](#), Appeals).

e. Record Required: The Administrator shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.

4. Review Authority: Reviewing Official shall have the authority to interpret, apply, and enforce this Section to accomplish the stated purpose. Based upon site specific review and analysis, the City may withhold, condition, or deny development permits or activity approvals to ensure that the proposed action is consistent with this Section.

a. General: The Administrator is authorized to make the following administrative allowances and determinations:

- i. Issue a critical areas permit for proposals not otherwise requiring a development permit.
- ii. Issue written letters of exemption.
- iii. Allow temporary emergency exemptions.
- iv. Interpret critical areas regulations.
- v. Approve the use of alternates in accordance with RMC [4-9-250E](#).
- vi. Waive report content or submittal requirements provided criteria to waive studies are met in subsections F3 through F8 of this Section.
- vii. Grant administrative variances to those specified code sections listed in RMC [4-9-250B](#).
- viii. Require tests for proof of compliance.
- ix. Grant modifications.

b. Conditions of Approval: The Administrator is authorized, through conditions of approval, to modify the proposal, including, but not limited to, construction techniques, design, drainage, project size/configuration, or seasonal constraints on development. Upon review of a special study, the development permit shall be conditioned to mitigate adverse environmental impacts and to assure that the development can be safely accommodated on the site and is consistent with the purposes of this Section. A mitigation plan may be required consistent with subsection F8 of this Section.

c. Geologically Hazardous Areas, Fish and Wildlife Habitat Conservation Areas, FWHCAs - Streams and Lakes, and Wetlands: The Administrator is authorized to make the following administrative allowances and determinations:

i. Geologically Hazardous Areas.

- (a) Waive independent review of geotechnical reports.
- (b) Increase or decrease required buffer for very high landslide hazard areas.
- (c) Waive coal mine hazard reports.
- (d) Grant a modification for created slopes.

ii. Fish and Wildlife Habitat Conservation Areas: Waive habitat/wildlife assessment reports.

iii. FWHCAs - Streams and Lakes:

- (a) Waive water body study requirement.
- (b) Approve proposals for buffer width reductions .
- (c) Approve proposals for buffer width averaging.

iv. Wetlands:

- (a) Waive wetland assessment requirement.
- (b) Determine whether wetlands are unregulated.
- (c) Extend the valid period of a wetland delineation.
- (d) Approve proposals for buffer width reductions of up to twenty five percent (25%).
- (e) Approve proposals for buffer width averaging.
- (f) Authorize other category level for created or restored wetlands.
- (g) Waive requirements of this Section upon determination that all impacts on wetlands would be mitigated as part of an approved area-wide wetlands plan that, when taken as a whole over an approved schedule or staging of plan implementation, will meet or exceed the requirements of this section.

v. Critical Aquifer Recharge Areas:

- (a). Issue operating and closure permits.
- (b). Determine pipeline requirements.
- (c). Determine if Zone 1 requirements should apply in Zone 2 of a CARA.

5. Maps: The approximate location and extent of critical areas within the City are shown on the critical areas inventory maps. The City supports a website, Maps and GIS Data, which supports mapping applications, a map gallery, and downloadable GIS data. These maps shall be used for informational purposes and as a general guide only, for the assistance of property owners and other interested parties; the boundaries and locations shown are generalized. The actual presence or absence, type, extent, boundaries, and classification of critical areas on a specific site shall be identified in the field by a qualified consultant and confirmed by the department, according to the procedures, definitions, and criteria established by this chapter. In the event of any conflict between the critical area location or designation shown on the City's maps and the criteria or standards of this chapter, the criteria and standards shall prevail.

a. Map Updates: The Department of Community and Economic Development updates critical area maps based on critical area reports prepared for permit applications. Where the City requires increased buffers rather than standard buffers as a result of studies prepared through the permit application process, it shall be noted on the map.

b. Critical Aquifer Recharge Areas: See Figure 4-3-050P1 for reference map.

c. Frequently Flooded Areas : see Figure 4-3-050P2 for reference map.

d. Geologically Hazardous Areas:

i. Coal Mine Hazards: See Figure 4-3-050P3a(i) for reference map.

ii. Erosion Hazards: See Figure 4-3-050P3b(i) for reference map.

iii. Landslide Hazards: See Figure 4-3-050P3c(i) for reference map.

iv. Seismic: See Figure 4-3-050P3d(i) for reference map.

v. Steep Slopes: Refer to the City of Renton Steep Slope Atlas and Figure 4-3-050P3e(i) for reference map.

vi. Volcanic Hazards: Volcanic hazard areas are those areas subject to a potential for inundation from post lahar sedimentation along the lower Green River as identified in Plate II, Map D, in the report U.S. Department of the Interior, U.S. Geological Survey (Revised 1998), *Volcano Hazards from Mount Rainier, Washington*. Open-File Report 98-428.

f. Streams and Lakes: See Figure 4-3-050P4 for reference map identifying Class 2 to 4 water bodies. Water class shall be determined in accordance with subsection L1 of this Section. For Class 1 waters, refer to RMC [4-3-090](#), Shoreline Master Program Regulations.

i. Reclassification: The reclassification of a water body to a lower class (i.e., 2 to 3, or 3 to 4, etc.) requires administrator acceptance of a stream or lake study, followed by a legislative amendment to the map in subsection P of this Section prior to its effect. The reclassification of a water body to a higher class (i.e., 5 to 4, or 4 to 3, or 3 to 2, etc.) requires either: administrator acceptance of a stream or lake study, or consultation with the Washington Department of Fish and Wildlife, followed by a legislative amendment to the map in Subsection P of this Section.

ii. Salmonid Migration Barriers: For the purposes of classifying or reclassifying water bodies, features determined by the Administrator to be salmonid migration barriers per definition in RMC [4-11-190](#) shall be mapped. The Administrator shall prepare and update the map as appropriate.

g. Wetlands: Refer to the City of Renton Wetland and Stream Corridors Critical Areas Inventory and see Figure 4-3-050P5 for reference map.

h. Drainage Basins: See Figures 4-3-050Q6a and b for maps identifying basins and subbasins in the Renton vicinity.

6. Relationship to Other Regulations and Agencies:

- a. These critical areas regulations shall be in addition to zoning and other regulations adopted by the City. Compliance with other regulations does not exempt the applicant from critical areas regulations. In the event of any conflict between these regulations and any other City regulations, those regulations which provide the greater protection to critical areas shall apply.
- b. Any individual critical area adjoined by another type of critical area shall have the buffer and meet the requirements that provide the most protection to the critical areas involved. When any provision of this chapter or any existing regulation, easement, covenant, or deed restriction conflicts with this chapter, that which provides more protection to the critical areas shall apply.
- c. Compliance with the provisions of this chapter does not constitute compliance with other federal, State, and local regulations and permit requirements that may be required (for

example, shoreline substantial development or conditional use permits, shoreline variances, the Washington State Department of Fish and Wildlife hydraulic project approval (HPA), Army Corps of Engineers Section 404 permits, and National Pollution Discharge Elimination System (NPDES) permits). The applicant is responsible for complying with these requirements, apart from the process established in this chapter.

7. Unauthorized Alterations and Enforcement

a. Stop Work Order: When a critical area or its buffer has been altered in violation of this Title, all ongoing development work shall stop. The City shall have the authority to issue a stop work order to cease all ongoing development work, and order restoration, rehabilitation, or replacement measures at the owner's or other responsible party's expense to compensate for violation of provisions of this Title.

b. Requirement for Restoration Plan: All development work shall remain stopped until a restoration plan is prepared and approved by City. Such a plan shall be prepared by a qualified professional using the best available science and shall describe how the actions proposed meet the minimum requirements described in subsection 3 of this section. The Administrator shall, at the violator's expense, seek expert advice in determining the adequacy of the plan. Inadequate plans shall be returned to the applicant or violator for revision and resubmittal.

c. Minimum Performance Standards for Restoration:

i. Critical aquifer recharge areas, frequently flooded areas, wetlands, and Fish and Wildlife Habitat Conservation Areas: The following minimum performance standards shall be met for the restoration of a critical area provided that if the violator can demonstrate that greater functional and habitat values can be obtained, these standards may be modified:

- (a) The historic structural and functional values shall be restored, including water quality and habitat functions; and
- (b) The historic soil types and configuration shall be replicated; and
- (c) The critical area and buffers shall be replanted with native vegetation that replicates the vegetation historically found on the site in species types, sizes, and densities. The historic functions and values should be replicated at the location of the alteration; and
- (d) Information demonstrating compliance with the requirements in Section B4 shall be submitted to the Department Administrator.

ii. Geologic hazards: The following minimum performance standards shall be met for the restoration of a critical area, provided that, if the violator can demonstrate that greater safety can be obtained, these standards may be modified:

- (a) The hazard shall be reduced to a level equal to, or less than, the pre-development hazard; and
- (b) Any risk of personal injury resulting from the alteration shall be eliminated or minimized; and

(c) The hazard area and buffers shall be replanted with native vegetation sufficient to minimize the hazard.

d. Site Investigations: The Administrator is authorized to make site inspections and take such actions as are necessary to enforce this Title. The Administrator shall present proper credentials and make a reasonable effort to contact any property owner before entering onto private property.

e. Penalties: Any person, party, firm, corporation, or other legal entity convicted of violating any of the provisions of this Title shall be guilty of a misdemeanor. Each day or portion of a day during which a violation of this Title is committed or continued shall constitute a separate offense. Any development carried out contrary to the provisions of this Title shall constitute a public nuisance and may be enjoined as provided by the statutes of the state of Washington. The City may levy civil penalties against any person, party, firm, corporation, or other legal entity for violation of any of the provisions of this Title. The civil penalty shall be assessed at a maximum rate of dollars per day per violation.

E. SUBMITTAL REQUIREMENTS AND FEES:

1. Preapplication Consultation: Any person intending to develop properties known or suspected to have critical areas present is strongly encouraged to meet with the appropriate City department representative during the earliest possible stages of project planning before major commitments have been made to a particular land use and/or project design. Effort put into a preapplication consultation and planning will help applicants create projects which will be more quickly and easily processed due to a better understanding on the part of applicants of regulatory requirements.

2. Plans and Studies Required: When an application is submitted for any building permit or land use review and/or to obtain approval of a use, development or construction, the location of the critical areas and buffers on the site shall be indicated on the plans submitted based upon an inventory provided by a qualified specialist.

3. Submittal Requirements: See chapter [4-8](#) RMC.

4. Fees: See RMC [4-1-170](#).

5. Independent Secondary Review: The City may require independent review of an applicant's report as follows:

a. Critical Aquifer Recharge Areas, Frequently Flooded Areas, Fish and Wildlife Habitat Conservation Areas, FWHCAs - Streams and Lakes, Wetlands: When appropriate due to the type of critical areas, habitat, or species present, or project area conditions, the applicant may be required to prepare and/or fund analyses or activities, including, but not limited to:

i. An evaluation by an independent qualified professional regarding the applicant's analysis and the effectiveness of any proposed mitigating measures or programs, to include any recommendations as appropriate. This shall be paid at the applicant's expense, and the Administrator shall select the third-party review professional; and/or

- ii. A request for consultation with the Washington Department of Fish and Wildlife, Washington State Department of Ecology, or the local Native American Tribe or other appropriate agency; and/or
- iii. Detailed surface and subsurface hydrologic features both on and abutting the site.

b. Geologically Hazardous Areas: Independent secondary review shall be conducted in accordance with the following:

i. Sensitive and Protected Slopes, and Medium, High, or Very High Landslide Hazards: All geotechnical reports submitted in accordance with subsection J2 of this Section, Special Studies Required, and chapter [4-8](#) RMC, Permits – General and Appeals, shall be independently reviewed by qualified specialists selected by the City, at the applicant’s expense. An applicant may request that independent review be waived by the Department Administrator in accordance with subsection D4b of this Section.

ii. Critical Facilities in Volcanic, High Erosion, High Seismic, Medium Coal Mine, or High Coal Mine Hazards: The City shall require independent review of a geotechnical report addressing a critical facility by qualified specialists selected by the City, at the applicant’s expense. An applicant may request that independent review be waived by the Department Administrator in accordance with subsection D4b of this Section.

iii. Volcanic, High Erosion, High Seismic, Medium Coal Mine, or High Coal Mine Hazards: For any proposal except critical facilities, the City may require independent review of an applicant’s geotechnical report by qualified specialists selected by the City, at the applicant’s expense.

6. Mitigation Plan Required:

a. Criteria: For any mitigation plans required through the application of subsections H to M of this Section, the applicant shall:

- i. Demonstrate sufficient scientific expertise, the supervisory capability, and the financial resources to carry out the mitigation project; and
- ii. Demonstrate the capability for monitoring the site and to make corrections during the monitoring period if the mitigation project fails to meet projected goals; and
- iii. Protect and manage, or provide for the protection and management, of the mitigation area to avoid further development or degradation and to provide for long-term persistence of the mitigation area; and
- iv. Provide for project monitoring and allow City inspections; and
- v. Avoid mitigation proposals that would result in additional future mitigation or regulatory requirements for adjacent or abutting properties, unless it is a result of a code requirement, or no other option is feasible or practical; and (Ord. 5676, 12-3-2012)
- vi. For on-site or off-site mitigation proposals, abutting or adjacent property owners shall be notified when wetland creation or restoration, stream relocation, critical area buffer increases, frequently flooded areas mitigation, habitat conservation mitigation, or geologic hazard mitigation have the potential to considerably decrease the development

potential of abutting or adjacent properties. For example, if a created wetland on a property would now result in a wetland buffer intruding onto a neighboring property, the neighboring property owner would be notified. Notification shall be given as follows:

- (a) For applications that are not subject to notices of application per chapter [4-8](#) RMC, notice of the mitigation proposal shall be given by posting the site and notifying abutting or adjacent property owners with the potential to be impacted. Written notification may be made prior to or at the time of the SEPA determination.
- (b) For applications that are subject to notices of application, the mitigation proposal shall be identified in the notice of application and mailed to abutting or adjacent property owners with the potential to be impacted; if the determination of the mitigation requirements is not known at the time of the notice of application, written notice to abutting or adjacent property owners shall be given instead at the time of the SEPA determination.

b. Mitigation Sequencing. If alterations to critical areas are proposed for a non-exempt activity, the applicant shall evaluate alternative methods of developing the property using the following criteria in this order and provide reasons why a less intrusive method of development is not feasible. In determining whether to grant permit approval per subsection C2a of this Section, Permit Required – Development or Alteration, a determination shall be made as to whether the feasibility of less intrusive methods of development have been adequately evaluated and that less intrusive methods of development are not feasible.

- i. Avoiding the impact altogether by not taking a certain action or parts of an action (usually by either finding another site or changing the location on the site).
- ii. Minimizing adverse impacts by limiting 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.
- iii. Rectifying adverse impacts to wetlands, critical aquifer recharge areas, frequently flooded areas, and fish and wildlife 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.
- iv. Minimizing or eliminating the hazard by restoring or stabilizing the hazard area through engineered or other methods.
- v. Reducing or eliminating the adverse impacts or hazard over time by preservation and maintenance operations over the life of the action.
- vi. Compensating for adverse impacts to wetlands, critical aquifer recharge areas, frequently flooded areas, and fish and wildlife habitat conservation areas by replacing, enhancing, or providing substitute resources or environments.
- vii. Monitoring the hazard or other required mitigation and taking remedial action when necessary.

c. Based on Best Available Science: The applicant shall demonstrate that the mitigation is based on consideration of the best available science as described in WAC 365-195-905; or where there is an absence of valid scientific information, the steps in RMC [4-9-250F](#) are followed.

d. Mitigation Location:

i. On-Site Mitigation: Mitigation shall be provided on-site, unless on-site mitigation is not scientifically feasible due to physical features of the property. The burden of proof shall be on the applicant to demonstrate that mitigation cannot be provided on-site.

ii. Off-Site Mitigation: When mitigation cannot be provided on-site, mitigation shall be provided in the immediate vicinity of the permitted activity on property owned or controlled by the applicant, and identified as such through a recorded document such as an easement or covenant, provided such mitigation is beneficial to the habitat area and associated resources.

iii. In-Kind Mitigation: In-kind mitigation shall be provided except when the applicant demonstrates and the City concurs that greater functional and habitat value can be achieved through out-of-kind mitigation.

e. Timing of Mitigation Plan – Final Submittal and Commencement: When a mitigation plan is required, the proponent shall submit a final mitigation plan for the approval of the Administrator prior to the issuance of building or construction permits for development. The proponent shall receive written approval of the mitigation plan prior to commencement of any mitigation activity.

7. Surety Devices:

a. Required for Mitigation Plans: For any mitigation plans required as a result of the application of these regulations, a surety device shall be required to ensure performance consistent with RMC [4-1-230](#). The King County Critical Areas Mitigation Bond Quantity Worksheet may be used by applicants to determine appropriate amounts sufficient to cover the cost of conformance with the conditions of this Section, including corrective measures associated with work that is not completed. After the Administrator determines that mitigation has been successfully completed in compliance with the approved mitigation plan and the monitoring period has expired, the surety device shall be released. The City may collect against the surety device and require the property owner to sign a property access release form when work, which is not completed, is found to be in violation of the conditions set forth in the mitigation plan and/or the Administrator determines that the site is in violation of the purposes of this Section.

b. Time Period – Wetlands, Streams, and Lakes: For wetland and/or stream/lake mitigation plans, the surety device shall be sufficient to guarantee that structures, improvements, and mitigation required by permit condition perform satisfactorily for a minimum of five (5) years after they have been completed. (Ord. 5137, 4-25-2005)

F. DEVELOPMENT STANDARDS:

1. Critical Area Buffers and Structure Setbacks from Buffers: The following critical area buffers and structure setbacks from buffers are established for each critical area set forth below. For information

about modifying and/or averaging the required critical are buffers and structure setbacks from buffers, see section (reference modification table here).

Critical Area Category or Type	Critical Area Buffer Width			Structure Setback from Buffer ¹
Critical Aquifer Recharge Areas				
Zones 1 and 2	None			None
Frequently Flooded Areas				
Frequently Flooded Areas	None			None
Geologically Hazardous Areas				
Steep Slopes:²				
Sensitive Slopes	None ³			None ^{3,4}
Protected Slopes ⁵	None ³			15 ft.
Landslide Hazards:²				
Low	None ³			None ^{3,4}
Medium	None ³			None ^{3,4}
High	None ³			None ^{3,4}
Very High ⁵	50 ft.			15 ft.
Erosion Hazards:				
Low	None			None
High	None			None
Seismic Hazards:				
Low	None			None
High	None			None
Coal Mine Hazards:				
Low	None ³			None ³
Medium	None ³			None ³
High	None ³			None ³
Volcanic Hazards	None			None
Habitat Conservation Areas				
Critical Habitats	Established by Reviewing Official per subsection _____			15 ft.
Streams and Lakes⁵				
Type F	115 ft.			15 ft.
Type Np	75 ft.			15 ft.
Type Ns	50 ft.			15 ft.
Wetlands⁶				
	Low Wildlife	Moderate Wildlife	High Wildlife Function	15 ft.

	Function (<20 points)	Function (20-28 points)	(>28 points)
Category I	125 ft.	150 ft.	225 ft.
Category II	100 ft.	150 ft.	225 ft.
Category III	75 ft.	125 ft.	150 ft.
Category IV	50 ft.	50 ft.	50 ft.

¹ The following may be allowed in the building setback area:

- i. Landscaping;
- ii. Uncovered decks;
- iii. Building overhangs, if such overhangs do not extend more than eighteen (18) inches into the setback area; and
- iv. Impervious ground surfaces, such as driveways and patios, provided that such improvements may be subject to water quality regulations

² Buffers shall be established from the top, toe, and sides of slopes.

³ Unless based upon the results of a geotechnical report and/or independent review, conditions of approval for developments may include buffers and/or setbacks from buffers.

⁴ Unless required per the adopted building code.

⁵ When a required stream/lake buffer falls within a protected slope or very high landslide hazard area, the stream/lake buffer width shall extend to the boundary of the protected slope of very high landslide hazard area.

⁶ Buffers shall not include areas that are functionally and effectively disconnected from the wetland by a permanent road or other substantially developed surface of sufficient width and with use characteristics such that buffer functions are not provided and that cannot be feasibly removed, relocated or restored to provide buffer functions.

2. Modification of Critical Area Buffers: The required critical area buffers may be reduced to no less than the minimums set forth in this subsection. Greater buffer width reductions required review as a variance per subsection ___ of this section.

Critical Area Category or Type	Reduced Buffer: Minimum Widths Possible	Averaged Buffer: Minimum Widths Possible
Geologically Hazardous Areas		
Landslide Hazard Areas:		
Very High	Based on City acceptance of a geotechnical report ¹	N/A
Streams and Lakes		

Type F	90 feet; Subject to the criteria outlined under RMC 4-3-050L.4.c.iv			75 feet; Subject to the criteria outlined under RMC 4-3-050L.4.d.iii		
Type Np	60 feet; Subject to the criteria outlined under RMC 4-3-050L.4.c.iv			37.5 feet; Subject to the criteria outlined under RMC 4-3-050L.4.d.iii		
Type Ns	40 feet; Subject to the criteria outlined under RMC 4-3-050L.4.c.iv			25 feet; Subject to the criteria outlined under RMC 4-3-050L.4.d.iii		
Wetlands						
	Low Wildlife Function (<20 points) ²	Moderate Wildlife Function (20-28 points) ²	High Wildlife Function (>28 points) ²	Low Wildlife Function (<20 points) ³	Moderate Wildlife Function (20-28 points) ³	High Wildlife Function (>28 points) ³
Category I	93.75 feet	112.5 feet	168.75 feet	93.75 feet	112.5 feet	168.75 feet
Category II	75 feet	112.5 feet	168.75 feet	75 feet	112.5 feet	168.75 feet
Category III	56.25 feet	93.75 feet	112.5 feet	56.25 feet	93.75 feet	112.5 feet
Category IV	37.5 feet	37.5 feet	37.5 feet	37.5 feet	37.5 feet	37.5 feet
¹ Subject to approval per the criteria in subsection ___ of this Section. ² Subject to approval per the criteria in subsection ___ of this Section. ³ Subject to approval per the criteria in subsection ___ of this Section.						

3. Native Growth Protection Areas and Building Setbacks:

a. Native Growth Protection Areas:

i. Required: A native growth protection area shall be instituted to protect a critical area from any proposed development for a non-exempt activity as follows:

- (a) Protected slopes.
- (b) Very high landslide hazard areas and their associated buffers.
- (c) Class 2 to 4 streams or lakes and their associated buffers.
- (d) Wetlands and their associated buffers.

ii. Applied with Discretion: Native growth protection areas may be required for very high landslide hazard area buffers, or for critical habitats and their buffers.

iii. Application as Condition of Approval When Otherwise Not Required: When a native growth protection area is not required, the proposal may be conditioned to provide for native growth protection areas.

iv. Standards:

- (a) Trees and ground cover shall be retained in designated native growth protection areas.
- (b) Activities allowed in native growth protection areas shall be consistent with applicable critical area regulations.
- (c) The City may require enhancement of native growth protection areas to improve functions and values, reduce erosion or landslide potential, or to meet another identified purpose of this section or of critical area regulations.

v. Method of Creation: Native growth protection areas shall be established by one of the following methods, in order of preference:

- (a) Conservation Easement: The permit holder shall, subject to the City's approval, convey to the City or other public or nonprofit entity specified by the City, a recorded easement for the protection of the critical area and/or its buffer.
- (b) Protective Easement: The permit holder shall establish and record a permanent and irrevocable easement on the property title of a parcel or tract of land containing a critical area and/or its buffer created as a condition of a permit. Such protective easement shall be held by the current and future property owner, shall run with the land, and shall prohibit development, alteration, or disturbance within the easement except for purposes of habitat enhancement as part of an enhancement project which has received prior written approval from the City and from any other agency with jurisdiction over such activity.
- (c) Tract and Deed Restriction: The permit holder shall establish and record a permanent and irrevocable deed restriction on the property title of any critical area management tract or tracts created as a condition of a permit. Such deed restriction(s) shall prohibit development, alteration, or disturbance within the tract except for purposes of habitat enhancement as part of an enhancement project which has received prior written approval from the City, and from any other agency with jurisdiction over such activity. A covenant shall be placed on the tract restricting its separate sale. Each abutting lot owner or the homeowners' association shall have an undivided interest in the tract.

vi. Marking During Construction: The location of the outer extent of the critical area buffer and areas not to be disturbed pursuant to an approved permit shall be marked with barriers easily visible in the field to prevent unnecessary disturbance by individuals and equipment during the development or construction of the approved activity.

vii. Fencing: The City shall require permanent fencing of the native growth protection area containing critical area and buffers when there is a substantial likelihood of human or domesticated animal intrusion, and such fencing will not adversely impact habitat connectivity.

viii. Signage: The common boundary between a native growth protection area and the abutting land must be permanently identified. This identification shall include permanent

wood or metal signs on treated or metal posts. Sign locations and size specifications shall be approved by the City. Suggested wording is as follows: "Protection of this natural area is in your care. Alteration or disturbance is prohibited by law."

ix. Maintenance: Responsibility for maintaining the native growth protection easements or tracts shall be held by a homeowners' association, abutting lot owners, the permit applicant or designee, or other appropriate entity, as approved by the City.

x. Maintenance Covenant and Note: The following note shall appear on the face of all plats, short plats, PUDs, or other approved site plans containing separate native growth protection easements or tracts, and shall also be recorded as a covenant running with the land on the title of record for all affected lots on the title: "MAINTENANCE RESPONSIBILITY: All owners of lots created by or benefiting from this City action abutting or including a native growth protection easement [tract] are responsible for maintenance and protection of the easement [tract]. Maintenance includes ensuring that no alterations occur within the tract and that all vegetation remains undisturbed unless the express written authorization of the City has been received."

3. Critical Aquifer Recharge Areas:

a. Applicability: The developments, facilities, uses and activities discussed in subsections H3 through H11 shall comply with the applicable provisions and restrictions of this Section and RMC 4-4, 4-5, 4-6, 4-9, and 5-5 for the critical areas recharge area (CARA) zone, as classified below, in which the developments, facilities, uses and activities are located, except as preempted by Federal or State law.

i. Critical Aquifer Recharge Areas (CARAs): Critical aquifer recharge areas are the portion of an aquifer within the zone of capture and recharge area for a well or well field owned or operated by the City, as depicted in subsection P1 of this Section, Maps.

ii. Critical Aquifer Recharge Area Zones: Zones of a CARA are designated to provide graduated levels of critical aquifer recharge. Zone boundaries are determined using best available science documented in the City of Renton Wellhead Protection Plan, an appendix of the City of Renton Water System Plan, as periodically updated. The following zones may be designated:

(a) Zone 1: The land area situated between a well or well field owned by the City and the three hundred sixty five (365) day groundwater travel time contour.

(b) Zone 1 Modified: The same land area described for Zone 1 but for the purpose of protecting a high-priority well, wellfield, or spring withdrawing from an aquifer that is partially protected by overlying geologic strata. Uses, activities, and facilities located in this area are regulated as if located within Zone 1 except as provided by subsection C6(a)(iii) of this Section.

(c) Zone 2: The land area situated between the three hundred sixty five (365) day groundwater travel time contour and the boundary of the zone of potential capture for a well or well field owned or operated by the City. If the aquifer supplying water to a well, well field, or spring is naturally protected by overlying geologic strata, the City may choose

not to subdivide a CARA into two (2) zones. In such a case, the entire CARA will be designated as Zone 2.

iii. Mapping:

(a) Determination of Location within a Zone of a Critical Aquifer Recharge Area: In determining the location of facilities within the zones defined by subsection P1 of this Section, the following rules shall apply:

- (1) Facilities located wholly within a CARA zone shall be governed by the restrictions applicable to that zone.
- (2) Facilities having parts lying within more than one zone of a CARA shall be reviewed and regulated by the requirements set forth in this Section for the zone in which that part of the facility is actually located.
- (3) Facilities having parts lying both in and out of a CARA shall be governed as follows:
 - a. That portion which is within a CARA shall be governed by the applicable restrictions in this Section; and
 - b. That portion which is not in a CARA shall not be governed by this Section.

(b) Zone Maps: The locations of critical aquifer recharge areas (CARA) in the City are depicted by the map in subsection P1 of this Section, Maps.

v. Authority to Require Hydrogeologic Assessment: The City may require an applicant to prepare a hydrogeologic study if the proposal has the potential to significantly impact groundwater quantity or quality, and sufficient information is not readily available. Such a report shall be prepared by a qualified professional at the applicant's expense. Report content requirements may be specified by the City in accordance with State or Federal guidelines or tailored to the particular development application. Peer review of the applicant's report may be required in accordance with subsection F7 of this Section.

b. Facilities:

i. Hazardous Materials: Persons that store, handle, treat, use, or produce a hazardous material as defined by RMC [4-11-060](#), Definitions F, which are new, existing, or to be closed, shall be subject to the requirements of this Section, and as further specified below:

- (a) All applications for development permits for uses in which hazardous materials are stored, handled, treated, used or produced or which increase the quantity of hazardous materials stored, handled, treated, used, or produced at a location in the CARA must be reviewed for compliance with this Chapter by the Department prior to approval.
- (b) The focus of review for all permits will be on the hazardous materials that will be stored, handled, treated, used, or produced; and the potential for these substances to degrade groundwater quality.
- (c) An inventory of hazardous materials on forms provided by the Department shall be submitted to the Department upon application for a development permit.

(d) Where required by the Department, plans and specifications for secondary containment shall be submitted and shall comply with subsection H2d(i) of this Section, Secondary Containment – Zones 1 and 2. Development permits shall not be issued until plans and specifications for secondary containment, if required, have been approved by the Department.

ii. New Facilities– Zones 1 and 2: All proposals for new facilities within any zone of an critical aquifer recharge area must be reviewed for compliance with this Section prior to issuance of any development permits for uses in which hazardous materials are stored, handled, treated, used or produced or which increase the quantity of hazardous materials stored, handled, treated, used, or produced.

iii. Removal of Existing Facilities – Zone 1:

(a) The storage, handling, use, treatment or production of hazardous materials in aggregate quantities greater than five hundred (500) gallons shall not be allowed within Zone 1 of a CARA after October 14, 2002. The storage, handling, use, treatment or production of tetrachloroethylene (e.g., dry-cleaning fluid) shall not be allowed within Zone 1 of a CARA after March 31, 1999.

(b) Once a facility in Zone 1 is closed, relocated, or the use of hazardous materials is terminated, reinstatement of the use of hazardous materials on the site in quantities greater than that allowed for new facilities locating in Zone 1 as described in subsection C8d(i) of this Section, Prohibited Activities, Zone 1, shall be prohibited.

(c) No person, persons, corporation or other legal entity shall temporarily or permanently abandon, close, sell, or otherwise transfer a facility in a CARA without complying with the requirements of RMC [4-9-015F](#), Closure Permit, and permit conditions of this Section..

iv. Existing Facilities Change in Quantities – Zone 1: In Zone 1 of a CARA, no change in operations at a facility shall be allowed that increases the aggregate quantity of hazardous materials stored, handled, treated, used, or produced with the following exception: [[An increase in the quantity of hazardous materials is allowed up to the amount allowed for a new facility in Zone 1 as provided by subsection C8d(i) of this Section, Prohibited Activities – Critical Aquifer Recharge Areas, Zone 1.

v. Existing Facilities – Allowances in Zone 2: The storage, handling, treatment, use or production of hazardous materials at existing facilities shall be allowed within Zone 2 of a CARA upon compliance with the permit requirements, release reporting requirements, and closure requirements of this Section.

vi. Requirements for Facilities – Zones 1 and 2: The following conditions in subsections H2d(i) to (vi) of this Section will be required as part of any operating permit issued for facilities in Zone 1 of a CARA. Conditions in subsections H2d(i) to (v) of this Section shall apply to facilities in Zone 2 of a CARA.

(a) Secondary Containment – Zones 1 and 2:

(1) Materials Stored in Tanks subject to DOE – Zones 1 and 2: Hazardous materials stored in tanks that are subject to regulation by the Washington Department of Ecology under chapter 173-360 WAC are exempt from containment requirements in subsection H2d(i) of this Section, Secondary Containment – Zones 1 and 2, but are subject to applicable requirements in RMC [4-5-120](#), Underground Storage Tank Secondary Containment Regulations.

(2) Secondary Containment Devices and Requirements – Zones 1 and 2: Every owner of a facility shall provide secondary containment devices adequate in size to contain on-site any unauthorized release of hazardous materials from any area where these substances are either stored, handled, treated, used, or produced. Secondary containment devices shall prevent hazardous materials from contacting soil, surface water, and groundwater and shall prevent hazardous materials from entering storm drains and, except for authorized and permitted discharges, the sanitary sewer. Design requirements for secondary containment devices are as follows:

- a. The secondary containment device shall be large enough to contain the volume of the primary container in cases where a single container is used to store, handle, treat, use, or produce a hazardous material. In cases where multiple containers are used, the secondary containment device shall be large enough to contain the volume of the largest container. Volumes specified are in addition to the design flow rate of the automatic fire extinguishing system, if present, to which the secondary containment device is subjected. The secondary containment device shall be capable of containing the fire flow for a period of twenty (20) minutes or more.
- b. All secondary containment devices shall be constructed of materials of sufficient thickness, density, and composition to prevent structural weakening of the containment device as a result of contact with any hazardous material. If coatings are used to provide chemical resistance for secondary containment devices, they shall also be resistant to the expected abrasion and impact conditions. Secondary containment devices shall be capable of containing any unauthorized release for at least the maximum anticipated period sufficient to allow detection and removal of the release.
- c. Hazardous materials stored outdoors and their attendant secondary containment devices shall be covered to preclude precipitation with the exception of hazardous materials stored in tanks that have been approved by and are under permit from the City of Renton Fire Prevention Bureau. Secondary containment for such tanks, if uncovered, shall be able to accommodate the volume of precipitation that could enter the containment device during a twenty four (24) hour, twenty five (25) year storm, in addition to the volume of the hazardous material stored in the tank. Storage

- of hazardous materials, both indoors and outdoors, shall, at all times, meet both the requirements of this Section and the Uniform Fire Code.
- d. Secondary containment devices shall include monitoring procedures or technology capable of detecting the presence of a hazardous material within twenty four (24) hours following a release. Hazardous materials shall be removed from the secondary containment device within twenty four (24) hours of detection and shall be legally stored or disposed.
 - e. Areas in which there are floor drains, catchbasins, or other conveyance piping that does not discharge into a secondary containment device that meets the requirements of this Chapter shall not be used for secondary containment of hazardous materials. Closure of existing piping shall be according to procedures and designs approved by the Department.
 - f. Primary containers shall be impervious to the contents stored therein, properly labeled, and fitted with a tight cover which is kept closed except when substances are being withdrawn or used.
 - g. Hazardous materials stored outdoors when the facility is left unsupervised must be inaccessible to the public. Such techniques as locked storage sheds, locked fencing, or other techniques may be used if they will effectively preclude access.
 - h. Stored hazardous materials shall be protected and secured, as needed, against impact and earthquake to prevent damage to the primary container that would result in release of hazardous materials that would escape the secondary containment area.

(b) Hazardous Material Monitoring Requirements for Existing Facilities – Zones 1 and 2:

- (1) The owners of all existing facilities shall implement hazardous materials monitoring that shall include the following:
 - a. A written routine monitoring procedure which includes, when applicable: the frequency of performing the monitoring method, the methods and equipment to be used for performing the monitoring, the location(s) from which the monitoring will be performed, the name(s) or title(s) of the person(s) responsible for performing the monitoring and/or maintaining the equipment, and the reporting format.
 - b. Written records of all monitoring performed shall be maintained on-site by the operator for a period of three (3) years from the date the monitoring was performed. The Department may require the submittal of the monitoring records or a summary at a frequency that the Department may establish. The written records of all monitoring performed in the past three (3) years shall be shown to the Department upon demand during any site inspection. Monitoring records shall include but not be limited to:
 - 1. The date and time of all monitoring or sampling;

2. Monitoring equipment calibration and maintenance records;
3. The results of any visual observations;
4. The results of all sample analysis performed in the laboratory or in the field, including laboratory data sheets;
5. The logs of all readings of gauges or other monitoring equipment, groundwater elevations or other test results; and
6. The results of inventory readings and reconciliations.
7. Visual monitoring must be implemented unless it is determined by the Department to be infeasible to visually monitor.

(2) On every day of operation, a responsible person designated by the permittee shall check for breakage or leakage of any container holding hazardous materials. Electronic sensing devices approved by the Department may be employed as part of the inspection process; provided, that the system is checked daily for malfunctions.

(c) Emergency Collection Devices – Zones 1 and 2: Vacuum suction devices, absorbent scavenger materials, or other devices approved by the Department shall be present on site (or available within an hour by contract with a cleanup company approved by the Department), in sufficient quantity to control and collect the total quantity of hazardous materials plus absorbent material. The presence of such emergency collection devices and/or cleanup contract are the responsibility and at the expense of the owner and shall be documented in the operating permit.

(d) Inspection of Containment and Emergency Equipment – Zones 1 and 2: Owners shall establish procedures for monthly in-house inspection and routine maintenance of containment and emergency equipment. Such procedures shall be in writing, a regular checklist and schedule of maintenance activity shall be established, and a log shall be kept of inspections and maintenance activities. Such logs and records shall be made available at all reasonable times to the Department for examination.

(e) Employee Training – Zones 1 and 2: Operators shall schedule training for all new employees upon hiring and once per year thereafter to explain the conditions of the operating permit such as emergency response procedures, proper hazardous waste disposal, monitoring and reporting requirements, record keeping requirements, and the types and quantities of hazardous materials on site. These training sessions will be documented and recorded and the names of those in attendance will be recorded. These records shall be made available at all reasonable times to the Department for inspection.

(f) Additional Facility Requirements for Zone 1: Owners shall complete the following:

(1) Site Monitoring: For facilities located in Zone 1 of a CARA, an owner of a facility may, at their own expense, be required to institute a program to monitor groundwater, surface water runoff, and/or site soils. The Department may require that the owner of a facility install one or more groundwater monitoring wells in a manner approved by the Department in order to accommodate the required groundwater monitoring. Criteria used to determine the need for site monitoring

shall include, but not be limited to, the proximity of the facility to the City's production or monitoring wells, the type and quantity of hazardous materials on site, and whether or not the hazardous materials are stored in underground vessels. Every owner required to monitor groundwater, surface water runoff, and/or soils shall perform such monitoring semi-annually and obtain independent analytical results of the presence and concentration of those chemicals requiring monitoring (including breakdown and transformation products) as identified by the Department in the operating permit. The analytical results shall be obtained through the use of Department of Ecology-approved methods for water and/or soils. The results shall be filed within ten (10) days with the Department.

If a facility is required to perform site monitoring pursuant to subsection H2d(vi) of this Section, Additional Facility Requirements for Zone 1, Site Monitoring, then a site monitoring plan will be required. This plan must indicate procedures to be followed to assess groundwater, surface water runoff, and/or soil for concentrations of those chemicals requiring monitoring as identified by the Department in the operating permit. If a groundwater monitoring program is in effect per the requirements of 40 CFR 264 or 265, and this program includes all of the chemicals identified in the operating permit, then it shall be incorporated into the site monitoring plan which shall also include provisions to address the groundwater monitoring requirements of subsection H2d(vi) of this Section, Additional Facility Requirements for Zone 1, Site Monitoring, and RMC [4-9-015G3](#), Unauthorized Releases, Monitoring Results.

(2) Site Improvements:

- a. For facilities located in Zone 1 of a CARA, the owner may be required to pave all currently unpaved areas of their facility that are subject to any vehicular use or storage, use, handling, or production of hazardous materials.
- b. For those facilities located in Zone 1 of a CARA in which the nature of the business involves the use of hazardous materials outside of fully enclosed structures, the City shall evaluate the existing stormwater collection and conveyance system, and reserves the right to require the owner to upgrade the system to meet the provisions of RMC [4-6-030E4f](#), Special Requirement 6 – Critical Aquifer Recharge Areas (CARA).
- c. For those facilities located in Zone 1 of a CARA, the City may require the owner to test interior wastewater plumbing and the building side sewer for tightness according to subsection H7a(ii) of this Section, Pipeline Requirements – Zone 1, and reserves the right to require that such wastewater conveyance be repaired or replaced according to subsection H7a(i) of this Section, Pipeline Requirements – Zone 1.

(3) Capital Cost Reimbursement for Additional Operating Permit Requirements:

The City shall pay fifty percent (50%) of documented capital costs up to twenty five thousand dollars (\$25,000.00) for required installation and construction of

monitoring wells, site paving, wastewater conveyance, and stormwater improvements as required in subsections H2d(vi)(a) and (b) of this Section, Site Monitoring and Site Improvements. Payment by the City shall be made according to adopted administrative rules.

c. Limited Exemptions. Activities that are exempt from some, but not all provisions of this Section are listed below. Whether the exempted activities are also exempt from permits will be determined based upon application of chapters 4-8 and 4-9 RMC, or other applicable sections of the Renton Municipal Code.

i. Hazardous Materials

(a) Materials for Sale in Original Small Containers: Hazardous materials offered for sale in their original containers of five (5) gallons or less shall be exempt from requirements in subsections H2d(i) through (vi) of this Section and the requirements pertaining to removal of existing facilities in subsection H2a(i).

(b) Activities Exempt from Specified Critical Aquifer Recharge Areas Requirements: The following are exempt from requirements in subsections H2d(i) through (vi) of this Section, the requirements pertaining to review of proposed facilities in subsection C8d, Prohibited Changes in Land Use and Types of New Facilities – Critical Aquifer Recharge Areas, and the requirements pertaining to removal of existing facilities in subsection H2a(i).

(1) Hazardous materials use, storage, and handling in de minimis amounts (aggregate quantities totaling twenty (20) gallons or less at the facility or construction site). Weights of solid hazardous materials will be converted to volumes for purposes of determining whether de minimis amounts are exceeded. Ten (10) pounds shall be considered equal to one gallon.

(2) Noncommercial residential use, storage, and handling of hazardous materials; provided, that no home occupation business (as defined by chapter 4-11 RMC) that uses, stores, or handles more than twenty (20) gallons of hazardous material is operated on the premises.

(3) Hazardous materials in fuel tanks and fluid reservoirs attached to a private or commercial motor vehicle and used directly in the operation of that vehicle.

(4) Fuel oil used in existing heating systems.

(5) Hazardous materials used, stored, and handled by the City of Renton in water treatment processes and water system operations.

(6) Fueling of equipment not licensed for street use; provided, that such fueling activities are conducted in a containment area that is designed and maintained to prevent hazardous materials from coming into contact with soil, surface water, or groundwater except for refueling associated with construction activity regulated by subsection H8 of this Section, Construction Activity Standards – Zones 1 and 2.

(7) Hazardous materials contained in properly operating sealed units (transformers, refrigeration units, etc.) that are not opened as part of routine use.

(8) Hazardous materials in fuel tanks and fluid reservoirs attached to private or commercial equipment and used directly in the operation of that equipment.

(9) Hazardous materials in aerosol cans.

(10) Hazardous materials at multi-family dwellings, hotels, motels, retirement homes, convalescent centers/nursing homes, mobile or manufactured home parks, group homes, and daycare family homes or centers when used by owners and/or operators of such facilities for on-site operation and maintenance purposes.

(11) Hazardous materials used for janitorial purposes at the facility where the products are stored.

(12) Hazardous materials used for personal care by workers or occupants of the facility at which the products are stored including but not limited to soaps, hair treatments, grooming aids, health aids, and medicines.

(c) Uses, Facilities, and Activities in Zone 1 Modified Critical Aquifer Recharge Areas

Exempt from Specified Critical Aquifer Recharge Areas Requirements: Facilities located in the Zone 1 Modified Critical Aquifer Recharge Areas in Figure 4-3-050P1 are exempt from the following:

(1) Removal requirements in subsection H2a(i) of this Section except that the storage, handling, use, treatment, and production of tetrachloroethylene (e.g., dry-cleaning fluid) shall continue to be prohibited;

(2) Additional facility requirements in subsection H2d(vi) of this Section;

(3) Wastewater requirements in RMC 4-6-040J1a but shall be subject to Zone 2 requirements in RMC 4-6-040J2;

(4) The prohibition of septic systems contained in subsection C8d(i)(f) of this Section; and

(5) Surface water management requirements of RMC 4-6-030E except that Zone 2 requirements contained in RMC 4-6-030E shall apply.

d. Use of Pesticides and Nitrates – CARA Zones 1 and 2:

i. Pesticides: The application of hazardous materials such as pesticides shall be allowed in a CARA, except within one hundred feet (100') of a well or two hundred feet (200') of a spring; provided, that:

(a) The application is in strict conformity with the use requirements as set forth by the EPA and as indicated on the containers in which the substances are sold.

(b) Persons who are required to keep pesticide application records by RCW 17.21.100.1 and WAC 16-228-190 shall provide a copy of the required records to the Department within seventy two (72) hours of the application.

ii. Nitrate-Containing Materials: The application of fertilizers containing nitrates shall be allowed in a CARA except within one hundred feet (100') of a well or two hundred feet (200') of a spring; provided, that:

- (a) No application of nitrate-containing materials shall exceed one-half (0.5) pound of nitrogen per one thousand (1,000) square feet per single application and a total yearly application of five (5) pounds of nitrogen per one thousand (1,000) square feet; except that an approved slow-release nitrogen may be applied in quantities of up to nine-tenths (0.9) pound of nitrogen per one thousand (1,000) square feet per single application and eight (8) pounds of nitrogen per one thousand (1,000) square feet per year; and
- (b) Persons who apply fertilizer containing nitrates to more than one contiguous acre of land located in the CARA either in one or multiple application(s) per year shall provide to the Department within seventy two (72) hours of any application the following information:

- (1) The name, address, and telephone number of the person applying the fertilizer;
- (2) The location and land area of the application;
- (3) The date and time of the application;
- (4) The product name and formulation;
- (5) The application rate.

e. Wastewater Disposal Requirements – Zones 1 and 2: Refer to RMC [4-6-040J](#), Sanitary Sewer Standards, Additional Requirements that Apply within Zones 1 and 2 of an Critical Aquifer Recharge Area.

f. Surface Water Requirements – Zones 1 and 2: Refer to RMC [4-6-030E](#), Drainage Plan Requirements and Methods of Analysis for additional surface water requirements applicable within Zones 1 and 2 of an Critical Aquifer Recharge Area.

g. Pipeline Requirements:

i. Pipeline Requirements – Zone 1:

- (a) All new and existing pipelines, as defined by RMC 4-11-160, in Zone 1 shall be constructed or repaired in accordance with material specifications contained in subsection S of this Section, Pipeline Material. All existing product pipelines in Zone 1 shall be repaired and maintained in accordance with best management practices and best available technology.
- (b) All new pipelines constructed in Zone 1 shall be tested for leakage in conformance with the following provisions prior to being placed into service.
 - (1) Pipeline leakage testing shall be conducted in accordance with best available technology, to the satisfaction of the Department.
 - (2) Pipeline leakage testing methods shall be submitted to the Department for review prior to testing and shall include a detailed description of the testing methods and technical assumptions; accuracy and precision of the test; proposed testing durations, pressures, and lengths of pipeline to be tested; and scale drawings of the pipeline(s) to be tested.

(3) Upon completion of testing, pipeline leakage testing results shall be submitted to the Department and shall include: record of testing durations, pressures, and lengths of pipeline tested; and weather conditions at the time of testing.

(4) Routine leakage testing of new pipelines constructed in Zone 1 may be required by the Department.

(c) If the Department has reason to believe that the operation or proposed operation of an existing pipeline in Zone 1 of a CARA may degrade groundwater quality, the Department may require leakage testing of the existing pipeline in accordance with subsection H7a(ii) of this Section; and installation, sampling, and sample analysis of monitoring wells. Routine leakage testing of existing pipelines in Zone 1 may be required by the Department. Criteria for this determination is specified under subsection D2b(ii) of this Section, Potential to Degrade Groundwater – Zone 2, Criteria.

(d) Should pipeline leakage testing reveal any leakage at any level then the Department shall require immediate repairs to the pipeline to the satisfaction of the Department such that no infiltration of water into the pipeline or exfiltration of substances conveyed in the pipeline shall occur. Any repairs which are made shall be tested for leakage pursuant to subsection H7a(ii) of this Section.

ii. Pipeline Requirements – Zone 2: If the Department has reason to believe that the operation or proposed operation of an existing pipeline in Zone 2 of a CARA may degrade groundwater quality, the Department may require leakage testing in accordance with subsection H7a(ii) of this Section; installation, sampling, and sample analysis of groundwater monitoring wells; repair of the pipeline to the satisfaction of the Department such that degradation of groundwater quality is minimized or eliminated. Criteria for this determination is specified under subsection D2b(ii), Potential to Degrade Groundwater – Zone 2, Criteria.

h. Construction Activity Standards – Zones 1 and 2:

[[Persons engaged in construction activities as defined in RMC [4-11-030](#), Definitions C, shall comply with subsection H8 of this Section, Construction Activity Standards – Zones 1 and 2, and RMC [4-4-030C8](#), Construction Activity Standards – CARA Zones 1 and 2]].

i. Fill Material Requirements – Zones 1 and 2:

Refer to RMC [4-4-060L4](#), Fill Material – Zones 1 and 2, regarding quality of fill and fill material source statement requirements within Critical Aquifer Recharge Areas.

j. Regulations for Existing Solid Waste Landfills – Zones 1 and 2:

i. Materials: Earth materials used as fill or cover at a solid waste landfill shall meet the requirements of RMC [4-4-060L4](#), Fill Material.

ii. Groundwater Monitoring: The Department shall have the authority to require an owner of a solid waste landfill to implement a groundwater monitoring program equal to that described by King County Board of Health Title 10 (King County Solid Waste Regulations) Section 10.72.020 and a corrective action program equal to that described by Section 10.72.030. The Department shall have the authority ascribed to the health officer in said regulations. Quarterly reports shall

be provided to the Department detailing groundwater monitoring activity during the preceding three (3) months. Reports detailing corrective action required by the Department shall be submitted according to a written schedule approved by the Department.

k. Fuel Oil Heating Systems – Zones 1 and 2: Owners of facilities and structures shall comply with subsection C8d(i)(i) and C8d(ii)(f) of this Section, Prohibited Activities – Critical Aquifer Recharge Areas, Zones 1 and 2, relating to conversion of heating systems to fuel oil and installation of new fuel oil heating systems.

l. Hazardous Materials – Release Restrictions – Zones 1 and 2: Hazardous materials shall not be spilled, leaked, emitted, discharged, disposed, or allowed to escape or leach into the air, into groundwater, surface water, surface soils or subsurface soils. Exception: Intentional withdrawals of hazardous materials for the purpose of legitimate sale, use, or disposal and discharges permitted under federal, state, or local law. Any unauthorized releases shall be subject to the procedural requirements of RMC [4-9-015G](#), Unauthorized Releases.

4. Frequently Flooded Areas:

a. Classification:

i. Areas of Special Flood Hazard: Frequently flooded areas are defined as the land in the floodplain subject to one percent or greater chance of flooding in any given year. Designation on flood maps always include the letters A or V.

ii. Mapping and Documentation:

(a) Basic Map and Documentation: Frequently flooded areas are identified by the Federal Insurance Administration in a scientific and engineering report entitled the Flood Insurance Study for the City of Renton, dated September 29, 1989, and any subsequent revision, with accompanying flood insurance maps which are hereby adopted by reference and declared to be a part of this section. The flood insurance study is on file at the Public Works Department.

(b) When Federal Insurance Study is Not Available: When base flood elevation data has not been provided in accordance with subsection I1b(i) of this Section the Department Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source in order to administer subsection I3 of this Section, Specific Standards, and subsection I4 of this Section, Additional Restrictions Within Floodways. The best available information for frequently flooded areas identification shall be the basis for regulation until a new Flood Insurance Rate Map is issued which incorporates the data utilized under subsection D3a(iv) of this Section.

(c) Data to be Used for Existing and Future Flow Conditions: The City shall determine the components of the frequently flooded areas after obtaining, reviewing and utilizing base flood elevations and available floodplain data for a flood having a one percent chance of being equaled or exceeded in any given year, often referred to as the “one-hundred-year flood.” The City may require projections of future flow conditions for proposals in

unmapped potential frequently flooded areas. In mapped or unmapped frequently flooded areas, future flow conditions shall be considered for proposed bridge proposals crossing floodways.

b. General Standards. In all frequently flooded areas, the following standards are required:

i. Anchoring – All New Construction: All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

ii. Anchoring – Manufactured Homes: All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (reference FEMA's Manufactured Home Installation in Frequently Flooded Areas guidebook for additional techniques).

iii. Materials and Methods:

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

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

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

iv. Utilities:

(a) Water: All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. The proposed water well shall be located on high ground that is not in the floodway (WAC 173-160-171).

(b) Sewer: New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.

(c) Waste Disposal: On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

v. Subdivision Proposals:

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

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

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

(d) All subdivision proposals shall show the frequently flooded areas information and boundary on the subdivision drawing including the nature, location, dimensions, and elevations of the subdivided area.

vi. Project Review:

(a) Building Permits: Where elevation data is not available either through the flood insurance study or from another authoritative source, i.e., subsection D3a(iv) of this Section, applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet (2') above grade in these zones may result in higher insurance rates.

(b) Land Use Applications: Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least fifty (50) lots or five (5) acres (whichever is less).

c. Specific Standards: In all frequently flooded areas where base flood elevation data has been provided as set forth in subsection I1b of this Section, Mapping and Documentation, or subsection D3a(iv) of this Section, Use of Other Base Flood Data, where such data provides flood elevations that exceed the regulatory standards in the FEMA flood insurance study, the following provisions are required:

i. Residential Construction:

(a) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated a minimum of one foot (1') above base flood elevation.

(b) Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

- (1) A minimum of two (2) openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided; and
- (2) The bottom of all openings shall be no higher than one foot above grade; and
- (3) Openings may be equipped with screens, louvers, or other coverings or devices; provided, that they permit the automatic entry and exit of flood waters.

ii. Manufactured Homes:

(a) All manufactured homes to be placed or substantially improved within Zones A1-A30, AH, and AE on the community's Flood Insurance Rate Map, on sites outside of a manufactured home park or subdivision, in a new manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood, shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated a minimum

of one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(b) Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH, and AE on the community's Flood Insurance Rate Map that are not subject to the above manufactured home provisions shall be elevated so that either the lowest floor of the manufactured home is elevated a minimum of one foot (1') above the base flood elevation or the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty six inches (36") in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

iii. Nonresidential Construction: New construction of any commercial, industrial or other nonresidential structure shall have the lowest floor, including basement, elevated a minimum of one foot (1') above the level of the base flood elevation. Substantial improvement of any commercial, industrial or other nonresidential structure shall have the lowest floor, including basement, elevated a minimum of one foot (1') above the level of the base flood elevation, or, together with attendant utility and sanitary facilities, shall:

(a) Be floodproofed so that below the minimum elevation required in subsection I3c of this Section the structure is watertight with walls substantially impermeable to the passage of water;

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

(c) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the Department Administrator;

(d) Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subsection I3a(ii) of this Section;

(e) Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot (1') below the floodproofed level (e.g., a building floodproofed to the base flood level will be rated as one foot (1') below).

iv. Recreational Vehicles: Recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's Flood Insurance Rate Map not including recreational vehicle storage lots shall either:

(a) Be on the site for fewer than one hundred eighty (180) consecutive days;

- (b) Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
- (c) Meet the requirements of subsection I3b of this Section and the elevation and anchoring requirements for manufactured homes.

d. Additional Restrictions within Floodways: Areas designated as floodways are located within frequently flooded areas established in subsection I1b of this Section, Frequently Flooded Areas: Mapping and Documentation. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

i. Increase in Flood Levels Prohibited: Encroachments, including fill, new construction, substantial improvements, and other development are prohibited unless certification by a registered professional engineer demonstrates through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that:

- (a) Encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge; and
- (b) There are no adverse impacts to the subject property or abutting or adjacent properties; and
- (c) There are no higher flood elevations upstream; and
- (d) The impact due to floodway encroachment shall be analyzed using future land use condition flows.

ii. Residential Construction in Floodways: Construction or reconstruction of residential structures is prohibited within designated floodways, except for:

- (a) Repairs, reconstruction, or improvements to a structure which do not increase the ground floor area; and
- (b) Repairs, reconstruction or improvements to a structure, the cost of which does not exceed fifty percent (50%) of the market value of the structure either: (a) before the repair, reconstruction, or improvement is started; or (b) if the structure has been damaged, and is being restored, before the damage occurred. Work done on structures to comply with existing health, sanitary, or safety codes or to structures identified as historic places may be excluded in the fifty percent (50%).

iii. Compliance Requirements: If subsections I4a and I4b of this Section are satisfied, all new construction and substantial improvements shall comply with all applicable frequently flooded areas reduction provisions of this Section.

e. Critical Facility: Construction of new critical facilities shall be, to the extent possible, located outside the limits of frequently flooded areas (one hundred (100) year) floodplain. Construction of new critical facilities shall be permissible within frequently flooded areas if no feasible alternative site is available. Critical facilities constructed within frequently flooded areas shall have the lowest floor elevated three feet (3') or more above the level of the base flood elevation (one hundred (100) year) at the site.

Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into flood waters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

f. Compensatory Storage: Development proposals and other alterations shall not reduce the effective base flood storage volume of the floodplain. If grading or other activity will reduce the effective storage volume, compensatory storage shall be created on the site or off the site if legal arrangements can be made to assure that the effective compensatory storage volume will be preserved over time.

Compensatory storage shall be configured so as not to trap or strand salmonids after flood waters recede and may be configured to provide salmonid habitat or high flow refuge whenever suitable site conditions exist and the configuration does not adversely affect bank stability or existing habitat.

ii. Additional Requirements – Springbrook Creek: The higher of the City hydrologic and hydraulic model results for the one hundred (100) year future land use conveyance and storage events shall be used by the City to determine the volume of compensatory storage required for filling within the one hundred (100) year flood zone of Springbrook Creek.

(a) An exception to this requirement shall apply where the Federal Emergency Management Agency (FEMA) defined one hundred (100) year flood zone is lower than the City model results for the one hundred (100) year future land use conveyance event.

(b) Under the exception, the lower FEMA floodplain elevation shall be used. The exception only applies for the reach of Springbrook Creek between SW 43rd Street and Oakesdale Avenue near SW 41st Street.

g. Determining Finished Floor Elevations According to FEMA: Although City model results will apply to compensatory storage requirements, the FEMA one hundred (100) year flood plain elevations shall be used to establish building finished floor elevations to comply with other National Flood Insurance Program requirements.

5. Geologically Hazardous Areas:

a. Classification:

i. Steep Slopes:

(a) Delineation Procedure: The boundaries of a regulated steep sensitive or protected slope are determined to be in the location identified on the City of Renton's Steep Slope Atlas. An applicant's qualified professional may substitute boundaries independently derived from survey data for the City's consideration in determining the boundaries of sensitive or protected steep slopes. All topographic maps shall utilize two foot (2') contour intervals or the standard utilized in the City of Renton Steep Slope Atlas.

(b) Types:

(1) Sensitive slopes. A hillside, or portion thereof, characterized by: (1) an average slope of twenty five percent (25%) to less than forty percent (40%) as identified in the City of Renton Steep Slope Atlas or in a method approved by the City; or (2) an average slope of forty percent (40%) or greater with a vertical rise of less than fifteen feet (15') as identified in the City of Renton Steep Slope Atlas or in a method

approved by the City; (3) abutting an average slope of twenty five percent (25%) to forty percent (40%) as identified in the City of Renton Steep Slope Atlas or in a method approved by the City. This definition excludes engineered retaining walls.

(2) Protected slopes. A hillside or portion thereof, characterized by an average slope of forty percent (40%) or greater grade and having a minimum vertical rise of fifteen feet (15') as identified in the City of Renton Steep Slope Atlas or in a method approved by the City.

ii. Landslide Hazards:

(a) Low Landslide Hazard (LL): Areas with slopes less than fifteen percent (15%).

(b) Medium Landslide Hazard (LM): Areas with slopes between fifteen percent (15%) and forty percent (40%) and underlain by soils that consist largely of sand, gravel or glacial till.

(c) High Landslide Hazards (LH): Areas with slopes greater than forty percent (40%), and areas with slopes between fifteen percent (15%) and forty percent (40%) and underlain by soils consisting largely of silt and clay.

(d) Very High Landslide Hazards (LV): Areas of known mapped or identified landslide deposits.

iii. Erosion Hazards:

(a) Low Erosion Hazard (EL): Areas with soils characterized by the Natural Resource Conservation Service (formerly U.S. Soil Conservation Service) as having slight or moderate erosion potential, and that slope less than fifteen percent (15%).

(b) High Erosion Hazard (EH): Areas with soils characterized by the Natural Resource Conservation Service (formerly U.S. Soil Conservation Service) as having severe or very severe erosion potential, and that slope more steeply than fifteen percent (15%).

iv. Seismic Hazards:

(a) Low Seismic Hazard (SL): Areas underlain by dense soils or bedrock. These soils generally have site classifications of A through D, as defined in the International Building Code, 2012.

(b) High Seismic Hazard (SH): Areas underlain by soft or loose, saturated soils. These soils generally have site classifications E or F, as defined in the International Building Code, 2012.

v. Coal Mine Hazards:

(a) Low Coal Mine Hazards (CL): Areas with no known mine workings and no predicted subsidence. While no mines are known in these areas, undocumented mining is known to have occurred.

(b) Medium Coal Mine Hazards (CM): Areas where mine workings are deeper than two hundred feet (200') for steeply dipping seams, or deeper than fifteen (15) times the thickness of the seam or workings for gently dipping seams. These areas may be affected by subsidence.

(c) High Coal Mine Hazard (CH): Areas with abandoned and improperly sealed mine openings and areas underlain by mine workings shallower than two hundred feet (200') in depth for steeply dipping seams, or shallower than fifteen (15) times the thickness of the seam or workings for gently dipping seams. These areas may be affected by collapse or other subsidence.

vi. Volcanic Hazards: Volcanic hazard areas are those areas subject to a potential for inundation from post lahar sedimentation along the lower Green River as identified in Plate II, Map D, in the report U.S. Department of the Interior, U.S. Geological Survey (Revised 1998), *Volcano Hazards from Mount Rainier, Washington*. Open-File Report 98-428.

b. Special Studies:

i. Whenever a proposed development requires a development permit and a geologic hazard is present on the site of the proposed development or on abutting or adjacent sites within fifty feet (50') of the subject site, geotechnical studies by licensed professionals, such as a geotechnical engineer and/or engineering geologist, shall be required. Specifically, geotechnical studies are required for developments proposed on sites with any of the following geologically hazardous areas:

- (a) Sensitive and protected slopes;
- (b) Medium, high, or very high landslide hazards;
- (c) High erosion hazards;
- (d) High seismic hazards;
- (e) Medium or high coal mine hazards.

ii. The required studies shall demonstrate the following review criteria can be met:

- (a) The proposal will not increase the threat of the geological hazard to adjacent or abutting properties beyond pre-development conditions; and (Ord. 5676, 12-3-2012)
- (b) The proposal will not adversely impact other critical areas; and
- (c) The development can be safely accommodated on the site.

iii. A mitigation plan may be required consistent with subsection F8 of this Section.

c. Protected Slopes:

i. Prohibited Development: Development is prohibited on protected slopes. Exceptions to the prohibition may be granted pursuant to subsection G of this section, Alternates, Exceptions, Modifications, and Variances.

ii. Exceptions through Waiver: Exceptions to the prohibition may be granted for both a 1) public agency utility exception (PAUE) for installation of public utilities; and 2) public improvements (e.g., road widening) needed to protect slope stability where all the following provisions have been demonstrated:

- (a) The utility or road improvement is consistent with the Renton Comprehensive Plan, adopted utility plans, and the Transportation Improvement Program where applicable.

(b) Alternative locations have been determined to be economically or functionally infeasible.

(c) A geotechnical evaluation indicates that the proposal will not increase the risk of occurrence of a geologic hazard, and measures are identified to eliminate or reduce risks.

(d) The plan for the improvement is based on consideration of the best available science as described in WAC 365-195-905; or where there is an absence of valid scientific information, the steps in RMC [4-9-250F](#) are followed.

Where the excepted activities above are allowed, the erosion control measures in subsection J6 of this Section, Sensitive Slopes, Medium, High and Very High Landslide Hazards, and High Erosion Hazards, shall also apply.

d. Sensitive Slopes – Medium, High and Very High Landslide Hazards – High Erosion Hazards. The following standards apply to development on sensitive slopes, medium/high/very high landslide hazard areas, and high erosion hazard areas:

i. Erosion Control Plans: Development applications shall submit erosion control plans consistent with subsection J2 of this Section, Special Studies Required, and chapter [4-8](#) RMC, Permits and Appeals.

ii. On-Site Inspections: During construction, weekly on-site inspections shall be required at the applicant's expense. Weekly reports documenting erosion control measures shall be required.

e. Very High Landslide Hazards

i. Prohibited Development: Development shall not be permitted on land designated with very high landslide hazards. Exceptions to the prohibition may be granted pursuant to subsection G of this section, Alternates, Exceptions, Modifications, and Variances.

ii. Buffer Modification: The Department Administrator may increase or decrease the required buffer based upon the results of a geotechnical report, and any increase or decrease based upon the results of the geotechnical study shall be documented in writing and included with the project approval.

(a) The modified standard shall be based on consideration of the best available science as described in WAC 365-195-905; or where there is an absence of valid scientific information, the steps in RMC [4-9-250F](#) shall be followed. Notification may be required pursuant to subsection F8 of this Section.

f. Coal Mine Hazards

i. Medium Hazard: Reports consistent with subsection J2 of this Section, Special Studies Required, and chapter [4-8](#) RMC, Permits and Appeals, shall be prepared for development proposed within medium coal mine hazard areas and for development proposed within two hundred feet (200') of a medium coal mine hazard area. An applicant may request that the Department Administrator waive the report requirement pursuant to subsection D4b of this Section, Review Authority – Geologically Hazardous Areas, Fish and Wildlife Habitat Conservation Areas, FWHCAs - Streams and Lakes, and Wetlands, where it has been determined through field documentation that coal mine hazards are not present.

ii. High Hazard: Reports consistent with subsection J2 of this Section, Special Studies Required, and chapter [4-8](#) RMC, Permits and Appeals, shall be prepared for development proposed within high coal mine hazard areas and for development proposed within five hundred feet (500') of a high coal mine hazard area. An applicant may request that the Department Administrator waive the report requirement pursuant to subsection D4b of this Section, Review Authority – Geologically Hazardous Areas, Fish and Wildlife Habitat Conservation Areas, FWHCAs - Streams and Lakes, and Wetlands, where it has been determined through field documentation that coal mine hazards are not present.

iii. Mitigation – Additional Engineering Design and Remediation Specifications: After approval of the mitigation approach proposed as a result of subsection J8c of this Section, and prior to construction, the applicant shall complete engineering design drawings and specifications for remediation. Upon approval of the plans and specifications, the applicant shall complete the remediation. Hazard mitigation shall be performed by or under the direction of a licensed geotechnical engineer or engineering geologist. The applicant shall document the hazard mitigation by submitting as-builts and a remediation construction report.

iv. Hazards Found during Construction: Any hazards found during any development activities shall be immediately reported to the Development Services Division. Any coal mine hazards shall be mitigated prior to recommencing construction based upon supplemental recommendations or reports by the applicant's geotechnical professional.

v. Construction in Areas with Combustion: Construction shall not be permitted where surface or subsurface investigations indicate the possible presence of combustion in the underlying seam or seams, unless the impact is adequately mitigated in accordance with the recommendations of the applicant's geotechnical professional.

g. Volcanic Hazards: Critical facilities on sites containing areas susceptible to inundation due to volcanic hazards shall require an evacuation and emergency management plan. The applicant for critical facilities shall evaluate the risk of inundation or flooding resulting from mudflows originating on Mount Rainier in a geotechnical report, and identify any engineering or other mitigation measures as appropriate. Mitigation plans may be required consistent with subsection F8 of this Section.

6. Habitat Conservation Areas:

a. Classification:

i. Critical Habitat: Critical habitats are those habitat areas that have a primary association with the documented presence of non-salmonid species (see subsection L1 of this Section and RMC [4-3-090](#), Shoreline Master Program Regulations, for salmonid species) proposed or listed by the Federal government or State of Washington as endangered, threatened, sensitive and/or of local importance.

ii. Mapping: Critical habitats are identified by lists, categories and definitions of species promulgated by the Washington State Department of Fish and Wildlife (Non-game Data System Special Animal Species) as identified in WAC 232-12-011; in the Priority Habitat and Species

Program of the Washington State Department of Fish and Wildlife; or by rules and regulations adopted currently or hereafter by the U.S. Fish and Wildlife Service.

b. Habitat Assessment Required: Based upon subsection K1 of this Section, Applicability, the City shall require a habitat/wildlife assessment for activities that are located within or abutting a critical habitat, or that are adjacent to a critical habitat, and have the potential to significantly impact a critical habitat. The assessment shall determine the extent, function and value of the critical habitat and potential for impacts and mitigation consistent with report requirements in RMC 4-8-120D. In cases where a proposal is not likely to significantly impact the critical habitat and there is sufficient information to determine the effects of a proposal, an applicant may request that this report be waived by the Department Administrator in accordance with subsection D4b of this Section.

c. Buffers: The Reviewing Official shall require the establishment of buffer areas for activities in, or adjacent to, fish and wildlife habitat conservation areas when needed to protect fish and wildlife habitats of importance. Buffers shall consist of an undisturbed area of native vegetation, or areas identified for restoration, established to protect the integrity, functions and values of the affected habitat. Buffer widths shall be based on:

- i. Type and intensity of human activity proposed to be conducted on the site and adjacent sites.
- ii. Recommendations contained within a habitat assessment report.
- iii. Management recommendations issued by the Washington Department of Fish and Wildlife.

d. Alterations Require Mitigation: See RMC 4-3-050. The Reviewing Official may approve mitigation to compensate for adverse impacts of a development proposal to fish and wildlife habitat conservation areas through use of a federally and/or state certified mitigation bank or in-lieu fee program.

7. Streams and Lakes:

a. Classification System: The following classification system is hereby adopted for the purposes of regulating FWHCAs - Streams and Lakes in the City. This classification system is based on the State's Permanent Water Typing System WAC 222-16-030. A complete description of the criteria for each stream class is found in WAC 222-16-030. Stream and lake buffer widths are based on the following rating system:

- i. Type S:** waters inventoried as "Shorelines of the State" under chapter RCW 90.58. These waters are regulated under Renton's Shoreline Master Program RMC Chapter 4-3-090.
- ii. Type F:** waters that are known to be used by fish or meet the physical criteria to be potentially used by fish and that have perennial (year-round) or seasonal flows.
- iii. Type Np:** waters that do not contain fish or fish habitat and that have perennial (year-round) flows. Perennial stream waters do not go dry any time of a year of normal rainfall. However, for the purpose of water typing, Type Np Waters include the intermittent dry portions of the perennial channel below the uppermost point of perennial flow.
- iv. Type Ns:** waters that do not contain fish or fish habitat and have intermittent flows. These are seasonal, non-fish 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 Water. Ns Waters must be physically connected by an above-ground channel system to Type S, F, or Np Waters.

b. Non-regulated: waters that are considered “intentionally created” not regulated under this section include irrigation ditches, grass-lined swales and canals that do not meet the criteria for any of the classes in L1(a). May also include streams created as mitigation. Purposeful creation must be demonstrated through documentation, photographs, statements and/or other evidence.

c. Measurement:

i. Stream/Lake Boundary: The boundary of a stream or lake shall be considered to be its ordinary high water mark (OHWM). The OHWM shall be flagged in the field by a qualified consultant when any study is required pursuant to subsection L of this Section.

ii. Buffer: The boundary of a buffer shall extend beyond the boundaries of the stream or lake to the width applicable to the stream/lake class as noted in Subsection L5 of this Section, Stream/Lake Buffer Width Requirements. Where streams enter or exit pipes, the buffer in this subsection L1b(ii) shall be measured perpendicular to the ordinary high water mark from the end of the pipe along the open channel section of the stream.

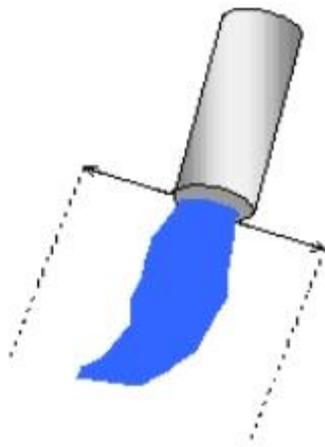


Figure 4-3-050L1b(ii). Buffer measurement at pipe opening.

d. Studies Required:

i. Stream or Lake Study: The applicant shall be required to conduct a stream or lake study per RMC [4-8-120](#) if a site contains a water body or buffer area and changes to buffer requirements or alterations of the water body or its associated buffer are proposed, either administratively or via a variance request. A stream or lake study is also required when the project area is within one hundred feet (100') of a water body even if the water body is not located on the subject property.

ii. Stream or Lake Mitigation Plan: The applicant shall be required to conduct a stream or lake mitigation plan per RMC [4-8-120](#) if impacts are identified within a stream or lake study. The approval of the stream or lake mitigation plan by the Administrator shall be based on the following criteria:

(a) Mitigation Location: Mitigation location shall follow the preferences in subsections L3c(ii)(a)(1) to (4) of this Section. Basins and subbasins are indicated in subsection P of this Section, Maps:

1. On-Site Mitigation: On-site mitigation is required unless a finding is made that on-site mitigation is not feasible or desirable.

2. Off-Site Mitigation within Same Drainage Subbasin as Subject Site: Off-site mitigation may be allowed when located within the same drainage subbasin as the subject site and if it achieves equal or improved ecological functions over mitigation on the subject site.

3. Off-Site Mitigation within Same Drainage Basin within City Limits: Off-site mitigation may be allowed when located within the same drainage basin within the Renton City limits if it achieves equal or improved ecological functions within the City over mitigation within the same drainage subbasin as the project.

4. Off-Site Mitigation within the Same Drainage Basin Outside the City Limits: Off-site mitigation may be allowed when located within the same drainage basin outside the Renton City limits if it achieves equal or improved ecological functions over mitigation within the same drainage basin within the Renton City limits and it meets City goals.

(b) Mitigation Type: Types of mitigation shall follow the preferences in subsections L3c(ii)(b)(1) to (4) of this Section:

1. Daylighting (returning to open channel) of streams or removal of manmade salmonid migration barriers.

2. Removal of impervious surfaces in buffer areas and improved biological function of the buffer.

3. In-stream or in-lake mitigation as part of an approved watershed basin restoration project.

4. Other mitigation suitable for site and water body conditions that meet all other provisions for a mitigation plan.

(c) Contiguous Corridors: Mitigation sites shall be located to preserve or achieve contiguous riparian or wildlife corridors to minimize the isolating effects of development on habitat areas, so long as mitigation of aquatic habitat is located within the same aquatic ecosystem as the area disturbed; and

(d) Non-Indigenous Species: Wildlife or fish species not indigenous to the region shall not be introduced into a riparian mitigation area unless authorized by a State or Federal permit or approval. Plantings shall be consistent with subsection L6c of this Section; and

(e) Equivalent or Greater Biological Functions: The Administrator shall utilize the report "City of Renton Best Available Science Literature Review and Stream Buffer Recommendations" by AC Kindig & Company and Cedarock Consultants, dated February 27, 2003, unless superseded with a City-adopted study, to determine the existing or

potential ecological function of the stream or lake or riparian habitat that is being affected. Mitigation shall address each function affected by the alteration. Mitigation to compensate alterations to stream/lake areas and associated buffers shall achieve equivalent or greater biologic and hydrologic functions and shall include mitigation for adverse impacts upstream or downstream of the development proposal site. No net loss of riparian habitat or water body function shall be demonstrated; and

(f) Minimum Mitigation Plan Performance Standards: See Subsection F8 of this Section.

(g) Alternative Mitigation: The mitigation requirements set forth in this subsection L3 may be modified at the Administrator's discretion if the applicant demonstrates that improved habitat functions, on a per function basis, can be obtained in the affected sub-drainage basin as a result of alternative mitigation measures.

(h) Based on Best Available Science: In all cases, mitigation shall provide for equivalent or greater biological functions per subsection L3c(ii)(e) of this Section. Additionally, there shall be no net loss of riparian area or shoreline ecological function resulting from any activity or land use occurring within the regulated buffer area.

iii. Studies Waived:

(a) Stream or Lake Study: May be waived by the Administrator only when the applicant provides satisfactory evidence that:

- (1) A road, building or other barrier exists between the water body and the proposed activity, or
- (2) The water body or required buffer area does not intrude on the applicant's lot, and based on evidence submitted, the proposal will not result in significant adverse impacts to nearby water bodies regulated under this Section; or
- (3) Applicable data and analysis appropriate to the proposed project exists and an additional study is not necessary.

(b) Stream or Lake Mitigation Plan: May be waived only when no impacts have been identified through a stream or lake study.

iv. Period of Validity for Studies Associated with This Section: Studies submitted and reviewed are valid for five (5) years from date of study completion unless the Administrator determines that conditions have changed significantly.

c. Stream/Lake Buffer Width Requirements:

i. Buffers and Setbacks:

(a) Minimum Stream/Lake Buffer Widths: See subsection _____

(b) Piped or Culverted Streams:

- (1) Building structures over a natural stream located in an underground pipe or culvert except as may be granted by a variance in RMC [4-9-250](#) is prohibited. Transportation or utility crossings or other alterations pursuant to subsection L8 of this Section are allowed. Pavement over a pre-existing piped stream is allowed.

Relocation of the piped stream system around structures is allowed. If structure locations are proposed to be changed or the piped stream is being relocated around buildings, a hydrologic and hydraulic analysis of existing piped stream systems will be required for any development project site that contains a piped stream to ensure it is sized to convey the one hundred (100) year runoff level from the total upstream tributary area based on future land use conditions.

(2) No buffers are required along segments of piped or culverted streams. The City shall require easements and setbacks from pipes or culverts consistent with stormwater requirements in RMC [4-6-030](#) and the adopted drainage manual.

ii. Increased Buffer Width:

(a) Areas of High Blow-down Potential: Where the stream/lake buffer is in an area of high blow-down potential as identified by a qualified professional, the buffer width may be expanded an additional fifty feet (50') on the windward side. Notifications may be required per subsection F8 of this Section.

(b) Habitat Corridors: Where the stream/lake buffer is adjacent to high functioning critical areas (e.g., wetlands, other streams, other identified habitats), the stream/lake buffer width shall be extend to the buffer boundary of the other protected critical area to establish a habitat corridor as needed to protect or establish contiguous vegetated areas between streams/lakes and other critical areas.

iii. Reduction of Buffer Width with Enhancement:

(a) Authority: Based upon an applicant's request, and the acceptance of a stream or lake study and enhancement plan, the Administrator may approve a reduction in the minimum buffer widths where the applicant can demonstrate that through enhancing the buffer and the use of low impact development strategies the reduced buffer will function at a higher level than the standard buffer.

(b) Minimum Buffer Width Permissible by Administrator: See subsection ____

(1) Sites Separated from Stream or Lake: As determined by the Administrator, for development proposed on sites separated from the stream or lake by pre-existing, intervening, and lawfully created structures, roads, or other substantial existing improvements. For the purposes of this Section, the intervening lots/parcels, roads, or other substantial improvements shall be found to:

a. Separate the subject upland property from the water body due to their height or width; and

b. Substantially prevent or impair delivery of most riparian functions from the subject upland property to the water body.

The buffer width established shall reflect the riparian functions that can be delivered to the regulated stream.

Greater buffer width reductions than listed in subsections L5c(ii)(a) through (c) of this Section require review as a variance per subsection N3 of this Section and RMC

[4-9-250B](#). Where a Type F, Np, or Ns stream is daylighted, greater buffer reductions may be allowed by modification in subsection N2 of this Section.

(c) Procedure: Such determination and evidence shall be included in the application file. Public notification shall be given as follows:

(1) For applications that are not subject to notices of application per chapter [4-8](#) RMC, notice of the buffer determination shall be given by posting the site and notifying parties of record, if any, in accordance with chapter [4-8](#) RMC.

(2) For applications that are subject to notices of application, the buffer determination or request for determination shall be included with notice of application. Upon determination, notification of parties of record, if any, shall be made.

(d) Criteria for Approval of Reduced Buffer Width: A reduced buffer will be approved in a degraded stream buffer only if:

(1) It will provide an overall improvement in water quality; and

(2) it will provide an overall enhancement to fish, wildlife, or their habitat; and

(3) It will provide a net improvement in drainage and/or stormwater detention capabilities; and

(4) It will not be materially detrimental to any other property or the city as a whole; and

(5) all exposed areas are stabilized with native vegetation, as appropriate.

(e) Enhancement Plan: As part of the buffer reduction request, the applicant shall submit a buffer enhancement plan prepared by a qualified professional and fund a review of the plan by the City's consultant. The plan shall assess habitat, water quality, stormwater detention, groundwater recharge, shoreline protection, and erosion protection functions of the buffer; assess the effects of the proposed modification on those functions; and address the six criteria listed above.

iv. Averaging of Buffer Width:

(a) Authority: Based upon an applicant's request, and the acceptance of a stream or lake study, the Administrator may approve buffer width averaging. Requests for buffer width averaging made in conjunction with buffer reduction will not be granted.

(b) Minimum Averaged Buffer Widths: See [subsection ____](#)

(c) Criteria for Approval: Buffer width averaging may be allowed by the Administrator only where the applicant demonstrates all of the following:

(1) The water body and associated riparian area contains variations in ecological sensitivity or there are existing physical improvements in or near the water body and associated riparian area; and

(2) Buffer width averaging will result in no net loss of stream/lake/riparian ecological function; and

- (3) The total area contained within the buffer after averaging is no less than that contained within the required standard buffer width prior to averaging; and
- (4) The proposed buffer standard is based on consideration of the best available science as described in WAC 365-195-905; or where there is an absence of valid scientific information, the steps in RMC [4-9-250F](#) are followed.

(d) Buffer Enhancement May be Required: Where the buffer width is reduced by averaging per this subsection, buffer enhancement shall be required where appropriate to site conditions, habitat sensitivity, and proposed land development characteristics.

(e) Notification: Notification may be required consistent with subsection F8 of this Section.

d. Criteria for Permit Approval – Type F, Np, and Ns: Permit approval for projects on or near regulated water bodies shall be granted only if the approval is consistent with the provisions of this subsection L, and complies and at least one of the following conditions must apply:

- (i) A proposed action meets the standard provisions of this Section and results in no net loss of regulated riparian area or shoreline ecological function in the drainage basin where the site is located; or
- (ii) A proposed action meets alternative administrative standards pursuant to this Section and the proposed activity results in no net loss of regulated riparian area or shoreline ecological function in the drainage basin where the site is located; or
- (iii) A variance process is successfully completed and the proposed activity results in no net loss of regulated riparian area or shoreline ecological function in the drainage basin where the site is located.

e. Alterations Within Streams and Lakes or Associated Buffers.

i. Transportation Crossings:

(a) Criteria for Administrative Approval: Construction of vehicular or non-vehicular transportation crossings may be permitted in accordance with an approved stream/lake study subject to the following criteria:

- (1) The proposed route is determined to have the least impact on the environment, while meeting City Comprehensive Plan Transportation Element requirements and standards in RMC [4-6-060](#); and
- (2) The crossing minimizes interruption of downstream movement of wood and gravel; and
- (3) Transportation facilities in buffer areas shall not run parallel to the water body; and
- (4) Crossings occur as near to perpendicular with the water body as possible; and
- (5) Crossings are designed according to the Washington Department of Fish and Wildlife *Fish Passage Design at Road Culverts*, 1999, and the National Marine Fisheries Service *Guidelines for Salmonid Passage at Stream Crossings*, 2000, as may

be updated, or equivalent manuals as determined by the Administrator; and (Ord. 5676, 12-3-2012)

(6) Seasonal work windows are determined and made a condition of approval; and

(7) Mitigation criteria of subsection L3c(ii) of this Section are met.

ii. Utilities:

(a) Criteria for Administrative Approval: New utility lines and facilities may be permitted to cross water bodies in accordance with an approved stream/lake study, if they comply with the following criteria:

(1) Fish and wildlife habitat areas shall be avoided to the maximum extent possible; and

(2) The utility is designed consistent with one or more of the following methods:

- a. Installation shall be accomplished by boring beneath the scour depth and hyporheic zone of the water body and channel migration zone; or
- b. The utilities shall cross at an angle greater than sixty (60) degrees to the centerline of the channel in streams or perpendicular to the channel centerline; or
- c. Crossings shall be contained within the footprint of an existing road or utility crossing; and

(3) New utility routes shall avoid paralleling the stream or following a down-valley course near the channel; and

(4) The utility installation shall not increase or decrease the natural rate of shore migration or channel migration; and

(5) Seasonal work windows are determined and made a condition of approval; and

(6) Mitigation criteria of subsection L3c(ii) of this Section are met.

iii. In-Water Structures and In-Water Work:

(a) Administrative Approval: In accordance with an approved stream or lake study, in-water structures or work may be permitted, subject to the following: In-stream structures, such as, but not limited to, high flow bypasses, sediment ponds, in-stream ponds, retention and detention facilities, tide gates, dams, and weirs, shall be allowed as part of an approved watershed basin restoration project approved by the City of Renton, and in accordance with mitigation criteria of subsection L3c(ii) of this Section. The applicant will obtain and comply with State or Federal permits and requirements.

iv. Dredging.

(a) Administrative Approval: Dredging may be permitted only when:

(1) Dredging is necessary for frequently flooded areas reduction purposes, if a definite frequently flooded area would exist unless dredging were permitted; or

(2) Dredging is necessary to correct problems of material distribution and water quality, when such problems are adversely affecting aquatic life; or

- (3) Dredging is associated with a stream habitat enhancement or creation project not otherwise exempt in subsection C of this Section; or
- (4) Dredging is necessary to protect public facilities; or
- (5) Dredging is required as a maintenance and operation condition of a federally funded frequently flooded areas reduction project or a hazard mitigation project; and
- (6) Applicable mitigation criteria of subsection L3c(ii) of this Section are met.

v. Stream Relocation:

(a) Administrative Approval: Stream relocation may be allowed when analyzed in an accepted stream or lake assessment and may only be permitted if associated with:

- (1) A public frequently flooded areas reduction/habitat enhancement project approved by appropriate State and/or Federal agencies; or
- (2) Expansion of public road or other public facility improvements where no feasible alternative exists; or
- (3) A public or private proposal restoring a water body and resulting in a net benefit to on- or off-site habitat and species.

(b) Additional Conditions: The following conditions also apply to any stream relocation proposal meeting one or more of the above criteria:

- (1) Buffer widths shall be based upon the new stream location; provided, that the buffer widths may be reduced or averaged if meeting criteria of subsection L5c or L5d of this Section or subsection L8e(i)(b)(2) of this Section. Where minimum required buffer widths are not feasible for stream relocation proposals that are the result of activities pursuant to criteria in subsections L8e(i)(a)(1) and (2) of this Section, other equivalent on- or off-site compensation to achieve no-net-loss of riparian function is provided;
- (2) When Class 4 streams are proposed for relocation due to expansions of public roads or other public facility improvements per subsection L8e(i)(a)(2) of this Section, the buffer area between the facility and the relocated stream shall not be less than the width prior to the relocation. The provided buffer between the facility and the relocated stream shall be enhanced or improved to provide appropriate function given the class and condition of the stream; or if there is no buffer currently, other equivalent on- or off-site compensation to achieve no net loss of riparian function is provided.
- (3) Applicable mitigation criteria of subsection L3c(ii) of this Section must be met.
- (4) Proper notifications and records must be made of stream relocations, per subsection D3b of this Section, Information to be Obtained and Maintained, and subsection D3c of this Section, Alterations of Watercourses, in cases where the stream/lake is subject to frequently flooded area regulations of this Section, as well as subsection F8 of this Section if neighboring properties are impacted.

f. Incentives for Restoration of Streams Located in an Underground Pipe or Culvert: Daylighting of culverted watercourses should be encouraged and allowed with the following incentives:

i. Modified Standards:

(a) Residential Zones: Reduced setbacks, lot width and lot depth standards of chapter [4-2](#) RMC may be approved without requirement of a variance for lots that abut the daylighted watercourse to accommodate the same number of lots as if the watercourse were not daylighted.

(b) Mixed Use, Commercial, and Industrial Zones: Where greater lot coverage allowances are provided for structured parking in chapter [4-2](#) RMC, lot coverage may be increased to the limit allowed for structured parking if instead a stream is daylighted. The increase in impervious surface allowed shall be equal to the area of stream restoration.

(1) Standard buffers may be reduced per subsection L5c of this Section. If reduced buffers in subsection L5c of this Section along with other development standards of the zone would not allow the same development level as without the watercourse daylighting, a modification may be requested as in subsection N of this Section.

(2) When designed consistent with the City's flood regulations in subsection I6 of this Section, portions of the daylighted stream/created buffer may be considered part of compensatory storage in frequently flooded areas.

(3) Stream relocation is permitted subject to subsection L8 of this Section.

8. Wetlands:

a. Applicability:

The wetland regulations apply to sites containing or abutting wetlands as described below. The City classifies wetlands according to the most current version of the Washington State Wetland Rating System for Western Washington, as described in subsection M5.

ii. Delineation of Wetland Edge: For the purpose of regulation, the wetland edge should be delineated pursuant to subsection M4 of this Section.

ii. Regulated and Nonregulated Wetlands: Refer to subsection M1a and M1e of this Section for applicability thresholds for regulatory and nonregulatory wetlands.

(a) General: Wetlands created or restored as a part of a mitigation project are regulated wetlands. Regulated wetlands do not include those artificial wetlands intentionally created from nonwetland sites for purposes other than wetland mitigation, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm pond, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. The Department Administrator shall determine that a wetland is not regulated on the basis of photographs, statements, and other evidence.

(b) Nonregulated Category III Wetlands: Based upon an applicant request, the Department Administrator may determine that Category III wetlands are not considered regulated wetlands, if the applicant demonstrates the following criteria are met:

- (1) The wetland formed on top of fill legally placed on a property; and
- (2) The wetland hydrology is solely provided by the compaction of the soil and fill material; and
- (3) The U.S. Army Corps of Engineers has determined that they will not take jurisdiction over the wetland.

b. Study Required. Wetland assessments are required as follows:

(i) Wetland Classification: The applicant shall be required to conduct a study to determine the classification of the wetland if the subject property or project area is within one hundred feet (100') of a wetland even if the wetland is not located on the subject property but it is determined that alterations of the subject property are likely to impact the wetland in question or its buffer. If there is a potential Category I or III wetland within three hundred feet (300') of a proposal, the City may require an applicant to conduct a study even if the wetland is not located on the subject property but it is determined that alterations of the subject property are likely to impact the wetland in question or its buffer.

(ii) Wetland Delineation: A wetland delineation is required for any portion of a wetland on the subject property that will be impacted by the permitted activities.

(iii) Wetland Assessment; The applicant shall prepare a wetland assessment pursuant to RMC 4-8-120(D)23a-j.

c. Study Waived. The wetland assessment shall be waived by the Department Administrator when the applicant provides satisfactory evidence that a road, building or other barrier exists between the wetland and the proposed activity, or when the buffer area needed or required will not intrude on the applicant's lot, or when applicable data and analysis appropriate to the project proposed exists and an additional report is not necessary.

d. Delineation of Regulatory Edge of Wetlands:

i. Methodology: For the purpose of regulation, the exact location of the wetland edge shall be determined by the wetlands specialist hired at the expense of the applicant through the performance of a field investigation in accordance with the approved federal wetland delineation manual and applicable regional supplements.

ii. Adjustments to Delineation by City: Where the applicant has provided a delineation of the wetland edge, the City shall review and may render adjustments to the edge delineation. In the event the adjusted edge delineation is contested by the applicant, the City shall, at the applicant's expense, obtain the services of an additional qualified wetlands specialist to review the original study and render a final delineation.

iii. Period of Validity for Wetland Delineation:

(a) Within City Limits: A final wetland delineation, for properties within the City limits at the time the delineation was prepared, is valid for five (5) years, unless the Administrator determines that conditions have changed.

(b) Outside City Limits: The period of validity of wetland delineations for properties, which were unincorporated at the time of the delineation, will be determined by the Administrator. Following a review of a wetland delineation prepared for an unincorporated property, since annexed into the City, the Administrator may require adjustments be made to the study or a new study prepared, per subsection M4 of this Section, Delineation of Regulatory Edge of Wetlands.

e. Determination of Wetland Classification: The City may accept a dual wetland classification for a wetland exhibiting a combination of Category I and II features or a combination of Category I and III features. The City will not accept a dual rating for a Category II wetland, such as a combined Category II and III rating. Dual ratings for a Category I wetland shall be consistent with the Washington State Wetland Rating System for Western Washington, revised August 2004, or as amended hereafter.

f. Classification System: The following classification system is hereby adopted for the purposes of regulating wetlands in the City. Wetlands buffer widths, replacement ratios and avoidance criteria shall be based on the following ratings:

i. Category I Wetlands: Category I wetlands are those wetlands of exceptional value in terms of protecting water quality, storing flood and stormwater, and/or providing habitat for wildlife as indicated by a rating system score of seventy (70) points or more. These are wetland communities of infrequent occurrence that often provide documented habitat for critical, threatened or endangered species, and/or have other attributes that are very difficult or impossible to replace if altered.

ii. Category II Wetlands: Category II wetlands have significant value based on their function as indicated by a rating system score of between fifty one (51) and sixty nine (69) points. They do not meet the criteria for Category I rating but occur infrequently and have qualities that are difficult to replace if altered.

iii. Category III Wetlands: Category III wetlands have important resource value as indicated by a rating system score of between thirty (30) and fifty (50) points.

iv. Category IV Wetlands: Category IV wetlands are wetlands of limited resource value as indicated by a rating system score of less than thirty (30) points. They typically have vegetation of similar age and class, lack special habitat features, and/or are isolated or disconnected from other aquatic systems or high quality upland habitats.

f. Wetland Buffers:

i. Standard Widths: See buffer table, section ____

ii. Measurement: All buffers shall be measured from the wetland boundary as surveyed in the field pursuant to the requirements of subsection M4a of this Section, Methodology.

iii. Increased Width: Each applicant shall document in required wetland assessments whether the criteria in subsections M6d(i) through (iv) of this Section are or are not met and increased

wetland buffers are warranted. Based on the applicant's report or third party review, increased standard buffer widths may be required in unique cases, i.e., endangered species, very fragile areas, when a larger buffer is necessary to protect wetlands functions and values. Such determination shall be attached as a condition of project approval. Analysis shall be prepared as directed in subsection M6d(v) of this section, and notification shall be given pursuant to criteria in subsection M6d(vi) of this Section.

(a) The wetland is used by species listed by the Federal or the State government as threatened, endangered and sensitive species and State-listed priority species, essential habitat for those species or has unusual nesting or resting sites such as heron rookeries or raptor nesting trees or evidence thereof; or

(b) The buffer or adjacent uplands have a slope greater than 15 percent or is susceptible to erosion and standard erosion control measures will not effectively prevent adverse wetland impacts.

iv. Reduction of Width with Enhancement:

(a) Authority: Based upon an applicant's request, and the acceptance of an enhancement plan, the Administrator may approve a reduction in the standard wetland buffer widths on a case-by-case basis where the applicant can demonstrate that through enhancement activities the reduced buffer will function at a higher level than the standard buffer in compliance with subsections M6e(i) through (iii) of this Section. Such determination and evidence shall be included in the application file and public notification shall be given in accordance with M6e(iv) of this Section. Conditions may be applied in accordance with subsection M6e(v) of this Section.

(b) The buffer area has less than fifteen percent (15%) slopes and no direct or indirect, short-term or long-term, adverse impacts to regulated wetlands, as determined by the City, will result from a regulated activity. The City's determination shall be based on specific site studies by recognized experts. The City may require long-term monitoring of the project and subsequent corrective actions if adverse impacts to regulated wetlands are discovered; or

(c) The project includes a buffer enhancement plan using native vegetation and substantiates that the enhanced buffer will be equal to or improve the functional attributes of the buffer. An enhanced buffer shall never be less than 75% of the standard width at its narrowest point. Greater buffer width reductions require review as a variance per subsection N3 of this Section.

(d) The proposal shall rely upon a site specific evaluation and documentation of buffer adequacy based upon *The Science of Wetland Buffers and Its Implications for the Management of Wetlands*, McMillan 2000, or similar approaches. The proposed buffer standard is based on consideration of the best available science as described in WAC 365-195-905; or where there is an absence of valid scientific information, the steps in RMC [4-9-250F](#) are followed.

(e) Public notification of the buffer reduction determination shall be given as follows:

(1) For applications that are not subject to notices of application per chapter [4-8](#) RMC, notice of the buffer determination shall be given by posting the site and notifying parties of record, if any, in accordance with chapter [4-8](#) RMC.

(2) For applications that are subject to notices of application, the buffer determination or request for determination shall be included with notice of application. Upon determination, notification of parties of record, if any, shall be made.

(f) Conditions of approval equivalent or greater than those identified in subsection M6c(ii) of this Section shall be applied to ensure that the reduced buffer width protects the functions and values of the associated wetlands. (Ord. 5676, 12-3-2012)

v. Averaging of Width: Standard wetland buffer may be modified by averaging buffer widths. Upon applicant request, wetland buffer width averaging may be allowed by the Department Administrator only where the applicant demonstrates all of the following:

(a) That the wetland contains variations in ecological sensitivity or there are existing physical improvements in or near the wetland and buffer; and

(b) That width averaging will not adversely impact the wetland function and values; and

(c) That the total area contained within the wetland buffer after averaging is no less than that contained within the required standard buffer prior to averaging; and

(d) A site specific evaluation and documentation of buffer adequacy based upon *The Science of Wetland Buffers and Its Implications for the Management of Wetlands*, McMillan 2000, or similar approaches have been conducted. The proposed buffer standard is based on consideration of the best available science as described in WAC 365-195-905; or where there is an absence of valid scientific information, the steps in RMC [4-9-250F](#) are followed.

(e) In no instance shall the buffer width be reduced by more than seventy five percent (75%) of the standard buffer. Greater buffer width reductions require review as a variance per subsection N3 of this Section and RMC [4-9-250B](#); and

(f) Buffer enhancement in the areas where the buffer is reduced shall be required on a case-by-case basis where appropriate to site conditions, wetland sensitivity, and proposed land development characteristics.

(g). Notification may be required pursuant to subsection F8 of this Section.

g. Requirements for Compensatory Mitigation:

i. Activities that adversely affect wetlands and/or wetland buffers shall include mitigation sufficient to achieve no net loss of wetland function and acreage and to strive for a net resource gain in wetlands over present conditions. The concept of “no net loss” means to create, restore and/or enhance a wetland so that there is no reduction to total wetland acreage and/or function. Compensation for wetland alterations shall occur in the following order of preference:

- (a) Re-establishing wetlands on upland sites that were formerly wetlands.
- (b) Rehabilitating wetlands for the purposes of repairing or restoring natural and/or historic functions.
- (c) Create wetlands on disturbed upland sites such as those consisting primarily of nonnative, invasive plant species.
- (d) Enhance significantly degraded wetlands.
- (e) Preserve Category I or II wetlands that are under imminent threat; provided, that preservation shall only be allowed in combination with other forms of mitigation and when the Department Administrator or designee determines that the overall mitigation package fully replaces the functions and values lost due to development.

ii. Mitigation Ratios for Wetland Impacts: Compensatory mitigation for wetland alterations shall be based on the wetland category and the type of mitigation activity proposed. The replacement ratio shall be determined according to the ratios provided in the table below. The created, re-established, rehabilitated, or enhanced wetland area shall at a minimum provide a level of function equivalent to the wetland being altered and shall be located in an appropriate landscape setting.

Wetland Mitigation Type and Replacement Ratio*			
Wetland Category	Creation or Re-establishment	Rehabilitation	Enhancement Only
Category IV	1.5:1	2:1	3:1
Category III	2:1	3:1	4:1
Category II	3:1	4:1	6:1
Category I	6:1	8:1	Not allowed

*Ratio is the replacement area: impact area.

iii. Mitigation Ratios for Wetland Buffer Impacts: Compensation for wetland buffer impacts shall occur at a minimum 1:1 ratio. Compensatory mitigation for buffer impacts shall include enhancement of degraded buffers by planting native species, removing structures and impervious surfaces within buffers, and other measures.

iv. Special Requirements for Mitigation Banks: Mitigation banks shall not be subject to the replacement ratios outlined in the replacement ratio table above, but shall be determined as part of the mitigation banking agreement and certification process.

v. Buffer Requirements for Replacement Wetlands: Replacement wetlands established pursuant to these mitigation provisions shall have adequate buffers to ensure their protection and sustainability. The buffer shall be based on the category in subsection M6a of this Section;

provided, that the Administrator of the Department of Community and Economic Development or designee shall have the authority to approve a smaller buffer when existing site constraints (such as a road) prohibit attainment of the standard buffer.

vi. Adjustment of Ratios: The Administrator of the Department of Community and Economic Development or designee shall have the authority to adjust these ratios when a combination of mitigation approaches is proposed. In such cases, the area of altered wetland shall be replaced at a 1:1 ratio through re-establishment or creation, and the remainder of the area needed to meet the ratio can be replaced by enhancement at a 2:1 ratio. For example, impacts to one acre of a Category II wetland requiring a 3:1 ratio for creation can be compensated by creating one acre and enhancing four (4) acres (instead of the additional two (2) acres of creation that would otherwise be required).

vii. Location: Compensatory mitigation shall be provided on-site or off-site in the location that will provide the greatest ecological benefit and have the greatest likelihood of success. Mitigation shall occur as close as possible to the impact area as possible, within the same watershed sub-basin, and in a similar habitat type as the permitted alteration unless the applicant demonstrates to the satisfaction of the Administrator through a watershed-or landscaped-based analysis that mitigation within an alternative sub-basin of the same watershed would have greater ecological benefit.

viii. Protection: All mitigation areas whether on- or off-site shall be permanently protected and managed to prevent degradation and ensure protection of critical area functions and values into perpetuity. Permanent protection shall be achieved through protective covenant in accordance with RMC 4-3-050.

ix. Timing: Mitigation activities shall be timed to occur in the appropriate season based on weather and moisture conditions and shall occur as soon as possible after the permitted alteration.

h. Cooperative Wetland Compensation: Mitigation Banks, In-Lieu Fee Programs, or Special Area Management Programs (SAMP):

i. Applicability: The City encourages and will facilitate and approve cooperative projects wherein a single applicant or other organization with demonstrated capability may undertake a compensation project under the following circumstances:

- (a) Restoration or creation on-site may not be feasible due to problems with hydrology, soils, or other factors; or
- (b) Where the cooperative plan is shown to better meet established regional goals for flood storage, flood conveyance, habitat or other wetland functions.

ii. Process: Applicants proposing a cooperative compensation project shall:

- (a) Submit a permit application;
- (b) Demonstrate compliance with all standards;
- (c) Demonstrate that long-term management will be provided; and
- (d) Demonstrate agreement for the project from all affected property owners of record.

iii. Mitigation Banks: Mitigation banks are defined as sites which may be used for restoration, creation and/or mitigation of wetland alternatives from a different piece of property than the property to be altered within the same drainage basin. The City of Renton maintains a mitigation bank. A list of City mitigation bank sites is maintained by the Public Works Department. With the approval of Administrator and the Public Works Department, non-City-controlled mitigation banks may be established and utilized. (Ord. 5450, 3-2-2009)

iv. In-Lieu Fee Programs: In-Lieu Fee mitigation involves the restoration, creation, enhancement, or preservation of aquatic resources through funds paid to a governmental or non-profit natural resources management entity to satisfy compensatory mitigation for federal, state, and local permits. Both the US Army Corps of Engineers (33 CFR Parts 325 and 332) and Washington State (WAC 173-700) support the use of in-lieu fee programs. The City of Renton is located within the service area of the King County Mitigation Reserves In-Lieu Fee Program, which may be used by applicants with the approval of the Administrator and Public Works Department.

v. Special Area Management Programs: Special area management programs are those wetland programs agreed upon through an interjurisdictional planning process involving the U.S. Army Corps of Engineers, the Washington State Department of Ecology, any affected counties and/or cities, private property owners and other parties of interest. The outcome of the process is a regional wetlands permit representing a plan of action for all wetlands within the special area.

vi. Compensation Payments to Mitigation Bank: If approved, compensation payments received as part of a mitigation or creation bank must be received prior to the issuance of an occupancy permit.

G. ALTERNATES, EXCEPTIONS, MODIFICATIONS AND VARIANCES:

1. Alternates: See RMC [4-9-250E](#).

2. Public Agency and Utility Exception: If the application of this Title 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.

a. Exception Request and Review Process. Applications shall be made to the Department Administrator. The Department Administrator shall review the application for compliance with the following criteria:

- i. There is no other practical alternative to the proposed development with less impact on the critical areas;
- ii. The application of this Title would unreasonably restrict the ability to provide utility services to the public;
- iii. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;
- iv. The proposal attempts to protect and mitigate impacts to the critical area functions and values consistent with the best available science; and
- v. The proposal is consistent with other applicable regulations and standards.

3. Modifications: The Department Administrator may grant modifications, in the following circumstances:

a. Critical Aquifer Recharge Areas: The Department will consider modification applications in the following cases:

- (i) The request is to find that a standard is inapplicable to that activity, facility, or development permit due to the applicant's proposed methods or location; or
- (ii) The request is to modify a specific standard or regulation due to practical difficulties; and
- (iii) The request meets the intent and purpose of the Critical Aquifer Recharge Area regulations.

Based upon application of the above tests in subsection N2a(i)(a), (b), and (c) of this Section, applications which are considered appropriate for review as modifications are subject to the procedures and criteria in RMC [4-9-250D](#), Modification Procedures. Requests to modify regulations or standards which do not meet the above tests shall be processed as variances.

- (iv) In addition to the criteria of RMC [4-9-250D](#), Modification Procedures, the proposed modification shall be based on consideration of the best available science as described in WAC 365-195-905 or where there is an absence of valid scientific information, the steps in RMC [4-9-250F](#) are followed.

b. Geologically Hazardous Areas:

- (i) An applicant may request that the Administrator grant a modification to allow:
 - (a) Regrading of any slope which was created through previous mineral and natural resource recovery activities or was created prior to adoption of applicable mineral and natural resource recovery regulations or through public or private road installation or widening and related transportation improvements, railroad track installation or improvement, or public or private utility installation activities;
 - (b) Filling against the toe of a natural rock wall or rock wall created through mineral and natural resource recovery activities or through public or private road installation or widening and related transportation improvements, railroad track installation or improvement or public or private utility installation activities; and/or
 - (c) Grading to the extent that it eliminates all or portions of a mound or to allow reconfiguration of protected slopes created through mineral and natural resource recovery activities or public or private road installation or widening and related transportation improvements, railroad track installation or improvement, or public or private utility installation activities.
- (ii) The following procedures shall apply to any of the above activities:
 - (a) The applicant shall submit a geotechnical report describing any potential impacts of the proposed regrading and any necessary mitigation measures;

- (b) All submitted reports shall be independently reviewed by qualified specialists selected by the City at the applicant's expense;
- (c) The Department Administrator may grant, condition, or deny the request based upon the proposal's compliance with the applicable modification criteria of RMC [4-9-250D](#);
- (d) Any slope which remains forty percent (40%) or steeper following site development shall be subject to all applicable geologic hazard regulations for steep slopes and landslide hazards, in this Section.
- (e) In addition to the criteria of RMC [4-9-250D](#), Modification Procedures, the proposed modification must be based on consideration of the best available science as described in WAC 365-195-905 or where there is an absence of valid scientific information, the steps in RMC [4-9-250F](#) are followed.

c. Wetlands: An applicant may request that the Administrator grant a modification as follows:

- (i) Modifications may be requested for a reduction in creation/restoration or enhancement ratios for a Category III wetland; however, the creation/restoration ratio shall not be reduced below 1:1.
- (ii) In addition to the criteria of RMC [4-9-250D](#), Modification Procedures, the following criteria shall apply:
 - (a) The proposal will result in no-net loss of wetland or buffer area and functions.
 - (b) The proposed modification is based on consideration of the best available science as described in WAC 365-195-905; or where there is an absence of valid scientific information, the steps in RMC [4-9-250F](#) are followed.

d. Streams: An applicant may request that the Administrator grant a modification as follows:

- (i) Modifications may be requested for a reduction in stream buffers for Class 2 or 3 watercourses proposed to be daylighted, below the stream buffer reduction levels of subsection L5c of this Section.
- (ii) In addition to the criteria of RMC [4-9-250D](#), Modification Procedures, the following criteria shall apply:
 - (a) The buffer is lowered only to the amount necessary to achieve the same amount of development as without the daylighting.
 - (b) The buffer width is no less than fifty feet (50') on a Class 2 watercourse and twenty five feet (25') on a Class 3 watercourse.
 - (c) The proposed modification is based on consideration of the best available science as described in WAC 365-195-905; or where there is an absence of valid scientific information, the steps in RMC [4-9-250F](#) are followed.

4. Variances:

a. Critical Aquifer Recharge Areas:

i. Applicability: If an applicant feels that the strict application of this Section would deny all reasonable use of the property or would deny installation of public transportation or utility facilities determined by the public agency proposing these facilities to be in the best interest of the public health, safety and welfare, the applicant of a development proposal may apply for a variance.

ii. Application Submittal: An application for a variance shall be filed with the **Development Services Division**.

iii. Review Authority: A variance shall be decided by the Administrator based on the standards set forth in RMC [4-9-250B](#), Variance Procedures.

b. Frequently Flooded Areas : Refer to RMC [4-9-250B](#).

c. Geologically Hazardous Areas, Fish and Wildlife Habitat Conservation Areas, FWHCAs - Streams and Lakes – Classes 2 to 4, and Wetlands:

i. Applicability: If an applicant feels that the strict application of this Section would deny all reasonable use of the property containing a critical area or associated buffer, or would deny installation of public transportation or utility facilities determined by the agency proposing these facilities to be in the best interest of the public health, safety and welfare, the public agency or an applicant of a development proposal may apply for a critical areas variance.

ii. Application Submittal: An application for a critical areas variance shall be filed with the Development Services Division.

iii. Review Authority: Variances shall be determined administratively by the Administrator, as indicated in RMC [4-9-250B](#).

H. MAINTENANCE AND MONITORING:

1. Requirements. All compensatory mitigation projects shall be monitored for a period necessary to establish that performance standards have been met, but generally not for a period less than five (5) years. Reports for wetland mitigation projects shall be submitted quarterly for the first year and annually for the next five (5) years following construction and subsequent reporting shall be required if applicable to document milestones, successes, problems, and contingency actions of the compensatory mitigation. The Administrator of the Department of Community and Economic Development or designee shall have the authority to modify or extend the monitoring period and require additional monitoring reports for up to ten (10) years when any of the following conditions apply:

- a.** The project does not meet the performance standards identified in the mitigation plan;
- b.** The project does not provide adequate replacement for the functions and values of the impacted critical area;
- c.** The project involves establishment of forested plant communities, which require longer time for establishment.

G. APPEALS:

- 1. General.** See RMC [4-8-070](#), Authority and Responsibilities, and RMC [4-8-110](#).
- 2. Frequently Flooded Areas - Record Required:** See RMC 4-9-250B(8)(e), Records.

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