



City of Stevenson

Planning Department

(509)427-5970

7121 E Loop Road, PO Box 371
Stevenson, Washington 98648

TO: Planning Commission
FROM: Ben Shumaker
DATE: May 17th, 2018
SUBJECT: Critical Areas Ordinance Review- Scope & Progress Update

Introduction

This provides the City Council with the Planning Commission's recommended revisions to the Stevenson Critical Areas Code (SMC 18.13). The revisions involve amendments to 16 of the codes current 23 sections, repeal of 3 current sections, and the addition 3 of new sections. The proposal also includes revision of the current regulations in SMC 15.24 for Frequently Flooded Areas, and a new chapter of the municipal code related to Critical Aquifer Recharge Areas (CARAs) and drinking water protection more generally. The updates are part of a state mandate to periodically review and if necessary revise our regulations for critical areas.

Following information related the process the Planning Commission used to conduct the review and revision, this memo highlights major changes for each critical area type and the code's general provisions.

Update Process

The Planning Commission began its review in November 2016. At that time, each of the Commission's 5 members agreed to serve as a liaison for each of the 5 types of critical areas. As liaison, Commissioners were involved in discussions between City staff, state agencies, and the public.

Through a series of meetings between November, 2018 and June, 2018, the Planning Commission held several workshop sessions to consider the current code, its effectiveness, its consistency with current statewide expectations, and whether it toward the vision established in the City's 2013 Comprehensive Plan.

The Planning Commission swiftly reviewed and recommended updates for CARAs and Frequently Flooded Areas. In an effort to align regulatory programs, the Planning Commission considered concurrent amendments to the City's Shoreline Management Program. When the development of that program was complete to the point where the public could comment on all of its components, the Planning Commission renewed its focus on the remaining critical area types and the general provisions of the Code.

Approach to Review & Update

The Planning Commission gave the following guidance to City staff as part of this update process:

- Incorporate greater flexibility into the existing regulations.
- "[Better is good](#)"; amend the regulations as possible based on Best Available Science, but accept that *perfect* may not be achievable during this review.
- Act on staff's "[say something once, why say it again](#)" principle to streamline the code and ease its implementation.

Best Available Science

The approach to the update also includes compliance with current state laws, guidelines, and the “best available science” (BAS), a required approach to the development and implementation of these ordinances. The key sources of best available science included 1) conversations with state agency staff (All critical area types), 2) conversations with federal agency staff (Frequently Flooded Areas, Geologically Hazardous Areas), 3) published state guidance (Fish & Wildlife Habitat Conservation Areas, Wetlands), and reviews of BAS performed by other jurisdictions (Fish & Wildlife Habitat Conservation Areas, Wetlands). Jefferson County, City of Woodinville, and City of Bingen were the most helpful of the latter sources.

Critical Aquifer Recharge Areas

Based on Staff’s advice that the current program was unworkable, the recommended update for CARAs is a wholesale change and a new Chapter of the Stevenson Municipal Code. The new regulations more closely resemble the stormwater and wastewater regulations of the City than they do the land use planning regulations. As such, implementation of these regulations would be transferred from the Planning Department to the Building/Public Works departments if the recommendation is adopted.

Fish & Wildlife Habitat Conservation Areas (FWHCAs)

The most ubiquitous of the critical area types for our area, the regulations related to FWHCAs have the greatest impact on our regulated public. The current regulations have been viewed as lacking flexibility and overly burdensome. The recommended updates attempt to add flexibility to this by 1) reducing the buffers related to Type Np (Non-Fish Bearing, Perennial) from 75’ to 50’, 2) allowing a greater degree of vegetation removal in protective buffer areas, and 3) adding overall clarity to the regulatory text.

Frequently Flooded Areas

Minor amendments are proposed for SMC 15.24 to ensure it remains in compliance with the state and federal flood regulations. The City receives very few applications within the limited floodplain coverage of the City.

Geologically Hazardous Areas

Another ubiquitous critical area types, geologically hazardous areas in the Gorge are currently the subject of a detailed analysis by the Department of Natural Resources (DNR). Unfortunately that study is not yet available in time to meet our current timelines, and no revision is recommend for this critical area type at this time. The City Council should expect an out-of-cycle amendment for this critical area type when the DNR effort is complete.

Wetlands

Similar to FWHCA’s but encountered less frequently, the regulations pertaining to wetlands are seen as overly rigid and burdensome. The City’s regulations had also fallen out of compliance with current state practices. The proposed amendments 1) restore compliance, 2) add flexibility (primarily via the mitigation ratio for wetland buffers), and 3) better aligns with the City’s other regulatory programs.

Addendum

On 7/13/2018, the Planning Department received notice from the Department of Ecology that minor changes were being suggested to the regulation of wetlands. In addition to the Planning Commission’s recommendation, an addendum is included here which will ensure compliance as part of this update.

General & Procedural Provisions

Much of the Planning Commission’s focus involved the general provisions related to the applicability and administration of the critical areas protections. Key changes include 1) relaxing the need for a Written Determination of Exemption for several types of developments and activities, 2) expanding the number of

activities which can occur without performing individual critical area assessments and mitigation reports, 3) and collocating/aligning regulatory tools that had been either duplicated in separate sections or implemented in slightly different manners.

Next Steps

A SEPA threshold determination of nonsignificance has been completed for the Planning Commission's recommended updates. No specific comments were received on the DNS. The state-required update process also includes a 60-day public comment period initiated by the Department of Commerce. This period closes in mid-August. One comment has been received from the Department of Health based on that notice (attached). After the close of the comment period, staff will review all the comments and prepare an updated draft for City Council review. Final adoption can occur as soon as the August City Council meeting.

Prepared by,

Ben Shumaker
Planning Director

Attachments

1. Draft Ordinance
2. Wetland Addendum
3. DOH Comment

CITY OF STEVENSON

ORDINANCE NO. 2018-1123

AN ORDINANCE OF THE CITY OF STEVENSON THE STEVENSON AMENDING THE CRITICAL AREAS CODE; ALIGNING IT WITH THE CITY’S OTHER REGULATORY PROGRAMS; AND REPEALING PORTIONS OF ORDINANCE 1022.

RECITALS

WHEREAS, the State of Washington has, in RCW 36.70A (the Growth Management Act [GMA]), authorized and required the City of Stevenson (City) to adopt, and periodically update, development regulations ensuring the conservation of agricultural, forest, and mineral resource lands and precluding land uses or developments that are incompatible with critical areas.

WHEREAS, critical areas are valuable and fragile natural resources with significant development constraints that, in their natural state, provide many valuable social and ecological functions;

WHEREAS, the City relied on syntheses performed by Jefferson County in 2009 and the City of Woodinville in 2013 as the best available science on which to protect the functions and values of critical areas;

WHEREAS, the attendant buffers of critical areas are essential to the maintenance and protection of the functions and values of important critical areas;

WHEREAS, adverse impacts of land use and development contribute to the loss of the social and ecological functions provided by critical areas;

WHEREAS, The loss of social and ecological functions provided by critical areas—especially wetlands, riparian zones, geologically hazardous areas, critical aquifer recharge areas, and fish and wildlife habitat—results in a detriment to public safety and welfare;

WHEREAS, the regulations promulgated below have been evaluated and determined to implement Objectives 2.2, 2.3, 2.6, 2.14, and 3.6 of the Stevenson Comprehensive Plan;

WHEREAS, the City Planning Commission, after soliciting, receiving, and evaluating public input and comment on the proposed regulations, has considered and recommended City Council approval of this ordinance; and

WHEREAS, the City has reached a Determination of Non-Significance under the State Environmental Policy Act;

AND, WHEREAS, the City Council has conducted a public hearing on the proposed update the critical areas ordinance;

NOW, THEREFORE, the City Council of the City of Stevenson do ordain as follows:

THAT, SMC Chapter 18.13- “Critical Areas and Natural Resource Lands” ” be amended as follows:

Section 1 – Section SMC 18.13.005 (a portion of Ordinance 1022) is repealed and replaced with Exhibit A, attached hereto and made a part hereof.

Section 2 – Section SMC 18.13.010 (a portion of Ordinance 1022) is repealed and replaced with Exhibit B, attached hereto and made a part hereof.

Section 3 – Section SMC 18.13.015 (a portion of Ordinance 1022) is repealed and replaced with Exhibit C, attached hereto and made a part hereof.

Section 4 – Section SMC 18.13.020 (a portion of Ordinance 1022) is repealed and replaced with Exhibit D, attached hereto and made a part hereof.

Section 5 – Section SMC 18.13.025 (a portion of Ordinance 1022) is repealed and replaced with Exhibit E, attached hereto and made a part hereof.

Section 6 – Section SMC 18.13.030 (a portion of Ordinance 1022) is repealed in its entirety.

Section 7 – Section SMC 18.13.035 (a portion of Ordinance 1022) is repealed and replaced with Exhibit F, attached hereto and made a part hereof.

Section 8 – Section SMC 18.13.040 (a portion of Ordinance 1022) is repealed and replaced with Exhibit G, attached hereto and made a part hereof.

Section 9 – Section SMC 18.13.050 (a portion of Ordinance 1022) is repealed and replaced with Exhibit H, attached hereto and made a part hereof.

Section 10 – Exhibit I, attached hereto and made a part hereof, shall be added as SMC 18.13.051, new section of the Stevenson Municipal Code.

Section 11 – Section SMC 18.13.055 (a portion of Ordinance 1022) is repealed and replaced with Exhibit J, attached hereto and made a part hereof.

Section 12 – Exhibit K, attached hereto and made a part hereof, shall be added as SMC 18.13.057, new section of the Stevenson Municipal Code.

Section 13 – Exhibit L, attached hereto and made a part hereof, shall be added as SMC 18.13.059, new section of the Stevenson Municipal Code.

Section 14 – Section SMC 18.13.060 (a portion of Ordinance 1022) is repealed and replaced with Exhibit M, attached hereto and made a part hereof.

Section 15 – Section SMC 18.13.065 (a portion of Ordinance 1022) is repealed and replaced with Exhibit N, attached hereto and made a part hereof.

Section 16 – Section SMC 18.13.070 (a portion of Ordinance 1022) is repealed and replaced with Exhibit O, attached hereto and made a part hereof.

Section 17 – Section SMC 18.13.075 (a portion of Ordinance 1022) is repealed and replaced with Exhibit P, attached hereto and made a part hereof.

Section 18 – Section SMC 18.13.085 (a portion of Ordinance 1022) is repealed in its entirety.

Section 19 – Section SMC 18.13.095 (a portion of Ordinance 1022) is repealed and replaced with Exhibit Q, attached hereto and made a part hereof.

Section 20 – Section SMC 18.13.100 (a portion of Ordinance 1022) is repealed and replaced with Exhibit R, attached hereto and made a part hereof.

Section 21 – Section SMC 18.13.110 (a portion of Ordinance 1022) is repealed and replaced with Exhibit S, attached hereto and made a part hereof.

Section 22 – Section SMC 18.13.115 (a portion of Ordinance 1022) is repealed in its entirety.

Section 23 – This ordinance affects SMC 18.13 of the Stevenson Municipal Code only insofar as set forth herein. All other provisions of SMC 18.13 shall remain in full force and effect, and that where the provisions of this ordinance are the same as the provisions they replace, the provisions of this ordinance shall be interpreted as a continuation of those previous provisions and not as a new enactment.

Section 24 – If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance.

This Ordinance shall take effect and be in force five (5) days after its publication according to law.

PASSED by the City Council of the City of Stevenson and approved by the Mayor this _____ day of _____, 2018.

Mayor of the City of Stevenson

APPROVED AS TO FORM:

ATTEST:

KEN WOODRICH, Attorney for the City of Stevenson

Clerk of the City of Stevenson

Stevenson Critical Areas Code**SMC 18.13 Critical Areas & Natural Resource Lands****SMC 18.13.005 Purpose & Intent****A. Purpose.** The purpose of SMC 18.13, herein referred to as the Chapter, is to:

1. Protect the public health, safety, and welfare by preventing adverse impacts of land use and development on the functions and values of critical areas;
2. Protect the public and public resources and facilities from injury, loss of life, property damage, or financial loss due to flooding, erosion, landslides, soils subsidence, or steep slope failure;
3. Further the public's interest in the conservation and wise use of our lands;
4. Implement, using the best available science, the goals, policies, guidelines, and requirements of the City's Comprehensive Plan and Washington's GMA;
5. Classify and designate critical areas;
6. Protect and conserve water resource areas, water quality, and water quantity, in support of human uses and enjoyment, fish and wildlife habitat, and to prevent degradation through direct or cumulative effect;
7. Protect and maintain the viability of natural fish and wildlife habitat for the long-term sustainable use and enjoyment of the public, and for a healthful quality of life for the citizens of Stevenson, through the development of strategies to avoid impacts to, mitigate impacts on, and enhance the functions of designated critical areas;
8. Preserve, protect, and/or enhance critical areas—with special consideration given to anadromous fisheries, as required by the GMA—by regulating activities within and adjacent to them, while allowing for the reasonable use of private property.

B. Intent.

1. The regulations of this Chapter are intended to protect critical areas in accordance with the GMA and through the application of the best available science, as determined according to WAC 365-190-900 through 365-190-925, and in consultation with state and federal agencies and other qualified professionals.
2. This Chapter is intended to be administered with flexibility and attention to site-specific characteristics. However, in the interpretation and application of these regulations, the provisions of this Chapter are considered to be the minimum requirements necessary, are to be liberally construed to serve the purposes stated above, and are not to be deemed to limit or repeal any other provisions under state statute.
3. It is not the intent of this Chapter to:
 - a. Make a parcel of property unusable by denying its owner reasonable economic use of the property, or
 - b. Prevent the provision of public facilities and services at levels of service determined by the City Council as necessary to support existing and planned development.

SMC 18.13.010 Definitions

A. General Definitions. Unless defined below, words or phrases shall be interpreted so as to give them the meaning they have in common usage and to give this Chapter its most reasonable interpretation and application.

1. The definitions provided in SMC 1.08.010 shall apply to this Chapter.
2. Where interpretation of words and phrases related to wetlands is necessary, the definitions provided in "Wetland Guidance for CAO Updates (Western Washington)" (Ecology Publication #16-06-001) shall apply.

B. Specific Definitions. For the purposes of this Chapter the definitions set forth below shall apply.

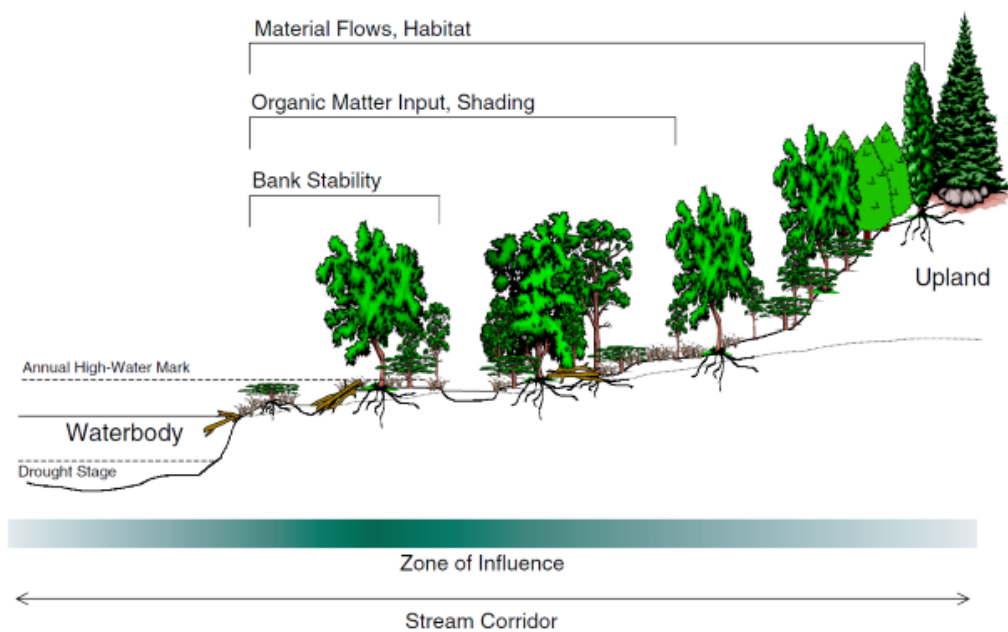
1. "Alteration" means any human induced change in an existing condition of a critical area or its buffer. Alterations include, but are not limited to grading, filling, channelizing, dredging, vegetation clearing, vegetation pruning or removal, planting nonnative vegetation, construction, compaction, excavation, applying pesticides, fertilizers and/or other chemicals, or any other activity that changes the character of the critical area.
2. "Anadromous" means fish that are born in freshwater, migrate to and live a portion of their lives in saltwater, and then return to freshwater to reproduce.
3. "Applicant" is the person or entity who files an application for a permit under this Chapter and who is either the owner of the land on which that proposed activity would be located, a contract purchaser, or the authorized agent of such a person.
4. "Aquifer recharge areas" means areas having a critical recharging effect on aquifers that are a source of drinking water and vulnerable to contamination that would affect the certifiable potability of the water.
5. "Best Available Science" (BAS) means current scientific information used in the process to designate, protect, or restore critical areas, that is derived from a valid scientific process as defined by WAC 365-195-900 through -925, as amended.
6. "BMP's" mean Best Management Practices and include conservation practices or systems of practices and management measures that adhere to the standards of this Chapter.
7. "Buffer" means an area that surrounds and protects critical area functions from adverse impacts.
8. "Canopy Cover" means the collection of branches and foliage of a single tree or group of trees forming an aggregate or collective tree crown. Canopy cover is often expressed in terms of percentage of a site. Covered areas are measured by including the area within the drip line of an individual tree and, for a stand of multiple trees, it is the sum of the area within the drip line of each tree less any overlap.
9. "City" is the City of Stevenson.
10. "City Council" means the City Council of the City of Stevenson.
11. "Conservation covenant" means a recorded instrument entered into as a condition of approval or permit issued under this Chapter.
12. "Critical Areas" mean any of the following areas or ecosystems: aquifer recharge areas, fish and wildlife habitat conservation areas, frequently flooded areas, geologically hazardous areas, and wetlands, as defined in RCW 36.70.A and this Chapter.
13. "Critical Areas Administrator" or "Administrator" means the person appointed by the Mayor or the Mayor's designee to administer the provisions of this Chapter.
14. "DBH" means diameter at breast height, 4.5 feet above existing grade.
15. "Degraded" in terms of critical area buffers means areas of vegetation dominated by more than 30% aerial coverage of noxious or invasive vegetation. Non-vegetated areas dominated by fill, gravel, debris, or other non-native material will also be considered degraded. Measurement of degraded areas shall be based on the base buffer width.
16. "Development" means activity upon the land consisting of construction or alteration of structures, earth movement, dredging, dumping, grading, filling, mining, removal of any sand, gravel, or minerals, driving of piles, drilling operations, bulkheading, clearing of vegetation, or other land disturbance. Development includes the storage or use of equipment or materials inconsistent with the existing use. Development also includes approvals issued by the City that binds land to specific patterns of use, including but

not limited to, subdivisions, short subdivisions, zone changes, conditional use permits, and binding site plans. Development does not include the following activities:

- a. Interior building improvements.
 - b. Exterior structure maintenance activities, including painting and roofing.
 - c. Routine landscape maintenance of established, ornamental landscaping, such as lawn mowing, pruning, and weeding.
 - d. Maintenance of the following existing facilities that does not expand the affected area: septic tanks, (routine cleaning); wells, individual utility service connections; and individual cemetery plots in established and approved cemeteries.
17. "Endangered species" means fish and wildlife species native to Washington that are seriously threatened with extinction throughout all or a significant part of their ranges within the state. State-listed endangered species are legally designated in WAC 232-12-014.
 18. "Enhancement" means the manipulation of the physical, chemical, or biological characteristics of a particular site in order to increase, heighten, intensify, or improve specific functions. Enhancement of critical areas or their buffers typically results in a net increase of the overall function of the critical area.
 19. "Feasible" means an action, such as a development project, mitigation, or preservation requirement, meets all of the following conditions: (1) the action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results; (2) the action provides a reasonable likelihood of achieving its intended purpose; and (3) the action does not physically preclude achieving the project's primary intended legal use. In cases where certain actions are required unless they are infeasible, the burden of proving infeasibility is on the applicant. In determining an action's infeasibility, the City and State may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames.
 20. "Fish and Wildlife Habitat Conservation Areas" or "FWHCA" mean areas with which anadromous fish, threatened and endangered species, priority species, and species of local importance have a primary association. Such areas do not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of and are maintained by a port district or an irrigation district or company.
 21. "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from (1) the overflow of inland or tidal waters; and/or (2) the unusual and rapid accumulation of runoff of surface waters from any source.
 22. "Functions and Values" means the beneficial roles served by critical areas, including, but not limited to, water quality protection and enhancement; fish and wildlife habitat; food chain support; flood storage, conveyance and attenuation; ground water recharge and discharge; erosion control, wave attenuation; protection from hazards; historical, archeological, and aesthetic value protection; educational opportunities; and recreation.
 23. "Geologically hazardous areas" means areas that, because of their susceptibility to erosion, sliding, earthquake, or other geological events, may not be suited to the siting of commercial, residential, or industrial development consistent with public health or safety.
 24. "Groundcover" means the low growing evergreen or deciduous vegetation, typically less than 3 feet in height at maturity, that provide relatively complete ground coverage beneath or between the canopy and/or understory.
 25. "Habitat" means the environment occupied by individuals of a particular species, population, or community.
 26. "Habitats of local importance" include a seasonal range or habitat element with which a given species has a primary association, and that, if altered, may reduce the likelihood that the species will maintain and reproduce over time. These might include areas of high relative density or species richness, breeding habitats, winter range, and

- movement corridors. They also might include habitats that are of limited availability or high vulnerability to alteration such as cliffs, talus, and wetlands.
27. "Hazard tree" means a tree with a high probability of falling due to a debilitating disease, a structural defect, or a rootball more than 50% exposed, and where there is an occupied building or accessory structure within a tree length of the base of the trunk, or where there is a risk to public safety or property.
 28. "Intermittent stream" means surface streams with no measurable flow during 30 consecutive days in a normal water year.
 29. "JARPA" means the Joint Aquatic Resource Permits Application required by the Department of Ecology.
 30. "Legal lot of record" means a parcel which was in compliance with both the platting, if applicable, and zoning laws in existence when the parcel was originally created or segregated, or which is otherwise determined to be consistent with the criteria of the Stevenson Municipal Code and State statutes. Owners of such lots shall be eligible to apply for development permits pursuant to the municipal code. Parcels segregated for tax purposes are not lots of record unless they comply with both platting and zoning laws in existence at the time that an application for segregation is received by the County Assessor, or are otherwise determined to be consistent with the Stevenson Municipal Code.
 31. "Local habitat area" means an area that contains sufficient food, water, or cover for native terrestrial or aquatic species identified by the City in this Chapter as being of significant local concern.
 32. "Mitigation" means actions that the approving agency shall require so as to avoid or compensate for impacts to critical areas resulting from the proposed project activity.
 33. "Mitigation Ratio" means a ratio expressing the amount of mitigation required based on the impact sustained by a critical area. The first number of a mitigation ratio specifies the number or area required for replacement, and the second specifies the number or area impacted.
 34. "Native," when referring to plants or plant communities, means those species or communities that are indigenous to the watershed, including extirpated species.
 35. "Natural Resource Lands" mean any areas which are not already characterized by urban growth and that have long-term significance for a) commercial production of food or other agricultural products, b) commercial production of timber, and c) extraction of minerals defined in RCW 36.70.A and this Chapter.
 36. "Ordinary High Water Mark (OHWM)" on all lakes, streams, and tidal water is that mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in ordinary years, as to mark upon the soil, a character distinct from that of the abutting upland in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or department: PROVIDED, That in any area where the ordinary high water line cannot be found, the ordinary high water line adjoining fresh water shall be line of high water. (RCW 90.58.030(2)(b)).
 37. "Person" means an individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or any agency of the state or local governmental unit however designated.
 38. "Preservation (Protection/Maintenance)" means removing a threat to, or preventing the decline of the functions and values of critical areas by an action in or near a critical area. Preservation does not result in a gain of critical area acres, may result in a gain in functions, and can be used as a mitigation technique only in exceptional circumstances.
 39. "Priority habitat and species areas", as defined by Washington State Department of Fish and Wildlife (WDFW), are areas requiring protective measures for the perpetuation of fish and wildlife species due to their population status, their sensitivity to habitat alteration, and/or their recreational, commercial, or tribal importance.
 40. "Qualified professional" means a person with experience and training in the pertinent scientific discipline, and who is a qualified scientific expert with expertise appropriate for the relevant critical area subject in accordance with WAC 365-195-905(4). A

- qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, engineering, environmental studies, fisheries, geomorphology, or related field, and two years of related work experience.
- a. A qualified professional for a geologic hazard must be a professional engineer or geologist, licensed in the State of Washington.
 - b. A qualified professional for habitats must have a degree in biology and professional experience related to the subject species.
 - c. A qualified professional for wetlands should be a professional wetland scientist with at least 2 years of full-time work experience as a wetlands professional, including delineating wetlands using the state or federal manuals, preparing wetland reports, conducting function assessments, and developing and implementing mitigation plans.
41. "Reasonable" means agreeable to reason, just, proper, ordinary or usual.
42. "Regulated activities" means those alterations [SMC 18.13.010(B)(1)] and developments [SMC 18.13.010(B)(14)] that would be subject to review by the city. This definition includes but is not limited to, proposals regulated under:
- a. SMC Title 12 – Streets, Sidewalks, and Public Places;
 - b. SMC Title 13 – Public Utilities;
 - c. SMC Title 15 – Building and Construction;
 - d. SMC Title 16 – Subdivision;
 - e. SMC Title 17 – Zoning;
 - f. SMC Title 18 – Environmental Protection.
43. "Restoration" means the manipulation of physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former or degraded wetland or habitat area. Restoration is divided into the following two classes:
- a. *Re-establishment* is the manipulation of physical, chemical, or biological characteristics with the goal of returning natural or historic functions to a former wetland and/or habitat area. Re-establishment results in a net gain of wetland and/or habitat acres.
 - b. *Rehabilitation* is the manipulation of physical, chemical, or biological characteristics of a site with the goal of repairing natural or historic functions of a degraded wetland and/or habitat area. Rehabilitation results in the gain in wetland and/or habitat function but does not result in a gain in wetland and/or habitat acres.
44. "Riparian habitat area" is defined as areas adjacent to aquatic systems with flowing water (e.g., rivers, perennial or intermittent streams, seeps, springs) that contain elements of both aquatic and terrestrial ecosystems that mutually influence each other. See Figure 13.13.010.R-1 for an example of the riparian habitat area.

Figure 18.13.010.R-1

Source: "Riparian Areas: Functions and Strategies for Management", National Research Council (2002).

45. "Seep" means a spot where water oozes from the earth, often forming the source of a small stream.
46. "Sensitive species" are species native to Washington that are vulnerable or declining, and are likely to become endangered or threatened in a significant portion of their ranges within the state, without cooperative management or the removal of the threats. These species are designated in WAC 232-12-011.
47. "SEPA" means State Environmental Policy Act, RCW 42.21C and WAC 197-11.
48. "Significant tree" means any tree that is at least 12 inches DBH. A tree growing with multiple stems shall be considered significant if at least one of the stems, measured at a point 6 inches from the point where the stems digress from the main trunk, is at least 8 inches in diameter. Any tree that is planted to fulfill requirements set forth by this Chapter shall be considered significant, regardless of size or species.
49. "Start of construction" means the date the building permit was issued, provided the actual start of construction, placement of a manufactured home on a foundation or other permanent construction beyond the stage of excavation, was within 180 days of the permit date.
 - a. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation.
 - b. Permanent construction does not include:
 - i. Land preparation, such as clearing, grading and filling,
 - ii. Installation of streets and/or walkways,
 - iii. Excavation for a basement, footings, piers, or foundation or the erection of temporary forms,
 - iv. Construction of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.
50. "Stormwater management facilities" include biofiltration swales, filter strips, bubbler diffusers, detention ponds, retention ponds, wet ponds, and similar facilities designed and intended to control and treat stormwater, but not including ditches designed and intended primarily for conveyance.
51. "Streams" means any portion of a watercourse, either perennial or intermittent, where surface water flow is sufficient to produce a defined channel or bed. Streams also include natural watercourses modified by humans. Streams do not include irrigation ditches, canals, stormwater run-off facilities, or other entirely artificial watercourses.
52. "Threatened" species are native to the state of Washington and likely to become endangered in the foreseeable future throughout a significant portion of its range

within the state without cooperative management or the removal of threats.

Threatened species are legally designated in WAC 232-12-011.

53. "Understory" means the vegetative layer of shrubs and trees between the canopy cover and the groundcover. Characteristics of the understory are often described based on the species, area of coverage, and the height of the vegetation, typically ranging between 3 to 15 feet.
54. "Vegetation" means aquatic and terrestrial plant life growing below, at, and above the soil or water surface. Terrestrial vegetation includes woody and herbaceous and occurs at multiple layers (e.g., canopy, understory, groundcover).
55. "Water-dependent" means a use or a portion of a use that requires direct contact with the water and cannot exist at a non-water location due to the intrinsic nature of its operations. Examples of water-dependent uses include: public and private boat launches, public water access facilities, fish hatcheries, commercial docks, and water related research facilities.
56. "Watershed" means the area draining to the Columbia River known as WRIA 29A.
57. "Wetland(s)" means areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from non-wetland in order to mitigate conversion of wetlands.

SMC 18.13.015 Administrative Provisions**A. Administrative Authority**

1. As provided herein, the Critical Areas Administrator is given the authority to interpret and apply, and the responsibility to enforce, this Chapter to accomplish the stated purpose.
2. The City shall regulate, and may withhold, condition, or deny permits or approvals for regulated activities to ensure that the proposed action is consistent with the requirements of this Chapter.

B. Title. This Chapter shall be known and may be cited as the Stevenson Critical Areas Code.

C. Relationship to Other Regulations.

1. These critical areas regulations shall apply as an overlay and in addition to zoning and other regulations adopted by the City.
2. Compliance with the provisions of this Chapter does not constitute compliance with other local, state, or federal reviews, regulations, or permit requirements (e.g., SEPA, SMP, HPA, etc.). The applicant is responsible for complying with such requirements, apart from the process established in this Chapter.
3. Regulated activities subject to this Chapter shall be routed to appropriate state and federal agencies for review and comment as required through the SEPA and/or JARPA review process.
4. These regulations shall apply concurrently with review under SEPA, and any conditions required pursuant to this Chapter shall be included in the SEPA review and threshold determination.
5. 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.

SMC 18.13.020 Applicability; Critical Areas & Natural Resource Lands Designated**A. Applicability**

1. The provisions of this Chapter apply to all lands within the Stevenson corporate limits.
2. The provisions of this Chapter apply to all persons and all land uses, alterations, developments and other regulated activities that are within, adjacent to, or likely to affect one or more critical areas or their buffers. No person shall alter a critical area or buffer except as consistent with the purposes and requirements of this Chapter.
3. Where a site contains two or more critical areas, the site shall meet the minimum standards and requirements for each identified critical area as set forth in this Chapter.
4. Approval of a permit or development proposal pursuant to the provisions of this Chapter does not discharge the obligation of the applicant to comply with the provisions of this Chapter.

B. Designation of Critical Areas.

1. The following critical areas are designated under RCW 36.70A.170 and regulated by this Chapter:
 - a. Geologically Hazardous Areas,
 - b. Fish and Wildlife Habitat Conservation Areas,
 - c. Wetlands,
 - d. Frequently Flooded Areas,
 - e. Critical Aquifer Recharge Areas (CARA).
2. Buffers- For the purpose of this Chapter, critical areas include their protective buffer areas as established herein.
3. Critical Areas Location. The City of Stevenson has designated critical areas by defining their characteristics. The precise limits of critical areas and their attendant buffers on a particular parcel of land shall be the responsibility of the applicant and subject to confirmation or concurrence by the City or appropriate agency prior to final approval of regulated activities on the subject property.
4. Critical Areas Map Inventory-
 - a. As an aid to both compliance and enforcement, a map inventory showing the approximate location and extent of known and likely critical areas will be displayed on various inventory maps available at City Hall. The Critical Areas Administrator shall keep the Critical Areas Map Inventory on permanent file and update it from time to time as required by the GMA.
 - b. Maps and inventory lists are neither precise nor complete and are to be considered only as guides to the general location and extent of critical areas. Maps will be used for a preliminary determination to suggest the presence or absence of a critical area.

C. Designation of Natural Resource Lands.

1. No lands within the City are designated as natural resource lands under RCW 36.70A.170(1).
2. No lands adjacent to the City are currently designated as natural resource lands under RCW 36.70A.170(1). Future annexation of territory may result in natural resource lands that are adjacent to the City.

SMC 18.13.025 Exemptions, Exceptions & Expedited Reviews

- A. Impact Avoidance and Minimization.** All activities described in this section shall use reasonable methods to avoid potential impacts to critical areas. An allowance under this section does not give permission to degrade a critical area or ignore risk from natural hazards. Any incidental damage to, or alteration of, a critical area that is not a necessary outcome of the approved activity shall be restored, rehabilitated, or replaced at the responsible party's expense.
- B. Exemptions.** The following developments, activities, and associated uses shall be exempt from the provisions of this Chapter, provided that they are otherwise consistent with the provisions of this section and other local, state, and federal laws and requirements:
1. Forest Practices. The growing and harvesting of timber, forest products and associated management activities in accordance with the Washington Forest Practices Act of 1974, as amended, and regulations adopted pursuant thereto; including, but not limited to, road construction and maintenance; aerial operations; applications of fertilizers and pesticides; helispots; and other uses specific to growing and harvesting timber, forest products and management activities, except those Forest Practices designated as "Class IV- General Forest Practices" under the authority of the "Washington State Forest Practices Act Rules and Regulations", WAC 222-16-030. Compliance with this Chapter is required for all new construction, grading, land clearing, other land uses and developments, and any Class IV Conversion Permit pursuant to the State Forest Practices Act, which involves conversion to a Permit Required Use.
 2. Agricultural Activities. Existing and ongoing agricultural activities. Exempt agricultural practices include: pasture, vineyards, Christmas tree farms, gardens, etc., but do not include machine-intensive row crop production;
 3. Seismic Hazard. Development occurring within a seismic hazard area as described in this Chapter and containing no other critical area as defined by this Chapter;
 4. Volcanic Hazard. Development occurring within a volcanic hazard area as described in this Chapter and containing no other critical area as defined by this Chapter;
 5. Critical Aquifer Recharge Areas. Regulated activities occurring within critical aquifer recharge areas and containing no other critical area as defined by this Chapter, provided the development meets the requirements of SMC 13.30 – Drinking Water Resource Protection.
 6. Frequently Flooded Areas. Regulated activities occurring within frequently flooded areas and containing no other critical area as defined by this Chapter, provided the development meets the requirements of Stevenson Municipal Code Chapter 15.24- Floodplain Management Regulations;
 7. Recreation. Passive outdoor recreational uses, sport fishing, scientific or educational review, or similar minimum impact, non-development activities.
- C. EXCEPTIONS.** Within the critical areas designated by this Chapter, there exist land uses, developments, and lots of record that were lawfully established or approved but which would be prohibited, regulated, or restricted under the terms of this Chapter. The following exceptions are available to ensure this Chapter allows reasonable use of private property.
1. Nonconforming Uses.
 - a. Any use or development existing on the effective date of this Chapter may continue so long as it is used in an equivalent or less intensive manner, footprint, and location and for the same purpose;
 - b. If a use or structure is abandoned for a period of 1 year, it shall be presumed to be abandoned and shall be subject to all provisions of this Chapter; and
 - c. Any existing building or structure damaged or destroyed by fire or other casualty not regulated by this Chapter may be replaced so long as it is used in an equivalent or less intensive manner, footprint, and location and for the same purpose, if a completed application is filed within 1 year of the date of such damage.
 2. Legal Lots of Record. On a legal lot of record where protective buffer areas are required, the buffer areas shall be limited to no more than 50% of the lot area located

beyond the critical area perimeter as determined by a qualified professional, provided all of the following criteria are met:

- a. All requirements of SMC 18.13.057 – Protective Buffer Standards are satisfied
 - b. The applicant demonstrates that a variance to the Zoning Code’s density and dimensional standards is not possible or would be insufficient to permit the proposed development, and
 - c. Any degraded areas of the remaining buffer are restored according to an approved mitigation plan.
3. Reasonable Use Allowance. If the application of this Chapter would deny all reasonable economic use of the subject property, the City shall determine if compensation is an appropriate action, or the property owner may apply for an exception pursuant to this Section. Nothing in this Chapter is intended to preclude a constitutional diminution in value of property caused by application of this Chapter, provided some economically viable use remains. A Reasonable Use Allowance shall be allowed only after the applicant demonstrates all of the following criteria are met:
- a. The proposed regulated activity is consistent with the permitted and allowed uses of the underlying zone;
 - b. The proposed regulated activity will not precipitate a threat to the public health, safety, or welfare on or off the site;
 - c. Any alteration of critical areas is the minimum necessary to allow for an economically viable use of the property;
 - d. The proposed regulated activity will not result in a “take” of a threatened or endangered species;
 - e. The inability of the applicant to derive an economically viable use of the property is not the result of actions taken by the applicant or immediate predecessor in interest, after the effective date of this Chapter, in subdividing the property or adjusting a boundary line, or otherwise creating the undevelopable condition;
 - f. The application of this Chapter is unduly oppressive on the landowner, and whether the regulation is narrowly applied to achieve its purpose, including an analysis of the nature of harm sought to be avoided; the availability and effectiveness of less drastic protection measures; and the economic loss suffered by the property owner. Factors for this analysis include, on the public’s side, the seriousness of the public problem; the extent to which the owner’s land contributes to it; the degree to which the regulation solves it; and the feasibility of less oppressive solutions, and on the owner’s side, the amount and percentage of value lost; the extent of remaining use; past, present and future uses; the temporary or permanent nature of the regulation; the extent to which the owner should have anticipated such regulation; and the feasibility of the owner altering present or currently planned uses; and
 - g. The proposal mitigates the impacts on critical areas to the maximum extent possible, while still allowing an economically viable use of the site.

D. Expedited Reviews. The following developments, activities, and associated uses require a Critical Areas Permit under this chapter but shall be exempt from the requirement to provide a Critical Area Report under SMC 18.13.050:

1. **Vegetation Removal.** When located in areas other than a wetland or wetland buffer, the following types of vegetation removal are eligible under this section, provided the removal is conducted as stated below.
 - a. **View Maintenance.** Selective pruning of trees to maintain, create, or expand views shall be subject to all of the following requirements:
 - i. Pruning shall not include removal of understory vegetation;
 - ii. Pruning shall not involve the topping of trees;
 - iii. Pruning shall not include the removal of more than 1/3rd of the limbs of an individual tree;
 - iv. Pruning shall not compromise the health of the tree(s); and
 - v. Pruning shall not occur more frequently than once every 5 years.
 - b. **Hazard Tree Removal.** A hazard tree may be removed or converted to a wildlife snag subject to the following standards:

- i. Where not immediately apparent to the Administrator, a written report by a certified arborist or other qualified professional is required to evaluate potential diseases or safety hazards.
 - ii. The applicant shall demonstrate that the hazard cannot be eliminated by pruning, crown thinning, or other technique that retains some of the tree's ecological function.
 - iii. The removed tree or vegetation should be left near the location it was removed from unless the Administrator or qualified professional warrants its removal to avoid spreading disease or pests.
 - iv. Any removed tree or vegetation shall be replaced within one year with new trees using a mitigation ratio of 2:1 and in accordance with an approved replacement plan. Replacement trees shall be species that provide similar ecological functions as the removed tree and have a minimum 1 inch DBH.
 - v. Hazard trees determined to pose an imminent threat or danger to public health or safety, to public or private property, or of serious environmental degradation may be removed or pruned prior to receiving expedited review provided that within 14 days following such action, the responsible party shall submit a restoration plan that demonstrates compliance with the provisions of this Chapter.
- c. Weed Control. Removal or control of invasive or noxious weeds included on the Skamania County Noxious Weed List is encouraged subject to the following standards and guidelines:
 - i. Coordination with the Skamania County and Washington State Noxious Weed Control Program is encouraged prior to undertaking removal projects to ensure that the control and disposal technique is appropriate.
 - ii. Removal of invasive species and noxious weeds within geologically hazardous areas and areas exceeding 15,000 square feet shall not be granted expedited review under this section.
 - iii. Removal shall occur using hand labor or light mechanical methods that do not result in substantial ground disturbance;
 - iv. Where removal results in bare soils that may be subject to erosion or recolonization by invasive or noxious species, the impacted area shall be stabilized using BMPs and planted with native species according to the planting standards of SMC 18.13.057(E).
- d. Fire Safety. Pruning vegetation for fire safety is encouraged subject to the following limitations:
 - i. Pruning of the tree canopy cover shall be limited to those branches and foliage less than 10 feet from the ground.
 - ii. Pruning shall not include the removal of more than 1/3rd of the limbs of an individual tree;
 - iii. Pruning shall not result in the removal of a significant tree.
 - iv. While understory vegetation may be allowed under this section, groundcover vegetation shall be present in a non-degraded state.
- 2. Emergencies. Emergency activities requiring immediate remediation or preventative action to avoid threatening the public health, safety, and welfare, or risking damages to private or public property, are eligible under this section, provided:
 - a. That emergency related activities that create an impact to a critical area or its buffer shall use reasonable methods to address the emergency; in addition, the activities must have the least possible impact to the critical area and/or its buffer;
 - b. That the person or agency undertaking such action shall notify the City within one working day following the commencement of the emergency activity. Following such notification, the City shall determine if the action taken was within the scope of the emergency actions allowed in this subsection. If the City determines that the action taken or part of the action taken is beyond the scope of allowed emergency actions, enforcement action is authorized, as outlined in section 18.13.075 of this Chapter;
 - c. That after the emergency, the person or agency undertaking the action shall fully restore and/or mitigate any impacts to the critical area and buffers resulting from

- the emergency action in accordance with the approved critical area report and mitigation plan prepared in accordance with the procedures outlined in this Chapter for a new development permit; and
- d. That within 30 days after the emergency, the person or agency undertaking the action shall consult with the City and any applicable state/federal agency to determine and schedule any needed follow up actions for restoration, mitigation, or modification of emergency work;
3. Utilities. Repair, operation, maintenance, replacement, reconstruction, and relocation of the utilities and works listed herein, provided:
- a. That any such activity occurs within an improved right-of-way and/or does not extend outside the previously disturbed area;
- b. That if the City initiates the activity, it is consistent with the Comprehensive Plan and/or anticipated in another duly approved infrastructure plan;
- c. That all persons, utility providers, public agencies, or homeowners' associations file memoranda of agreement with the City specifying best management practices to be used in situations of emergency and usual and customary repair, operation, and maintenance;
- d. That the Administrator determines that no reasonable alternative exists, based on environmental and topographic conditions; and
- e. That utility and works eligible for this exemption include:
- i. Existing below- or aboveground public utilities, facilities, and improvements, such as streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, navigational aids, utility lines, domestic water systems, storm and sanitary sewer systems, open space, and parks and recreational facilities,
- ii. Existing private roads, streets, driveways, and utility lines and facilities, and
- iii. Existing, intentionally created artificial wetlands or surface water systems including irrigation and drainage ditches, grass-lined swales and canals, detention facilities, farm ponds, and landscape or ornamental amenities;
4. Trails. Trails less than 8 feet wide used for non-motorized travel, provided:
- a. That the trail surface shall meet all other requirements, including water quality standards set forth in the Stormwater Management Manual for Western Washington (Ecology Publication # 14-10-055), as amended; and
- b. That trails must be located within the outer 25% of the most protective applicable critical area buffer and designed to avoid erosion hazard areas and to avoid damage to or removal of significant trees;
5. Site Investigation. Minimal site investigative work required by a city, state or federal agency, or any other applicant such as surveys, soil logs, percolation tests, and other related activities;
6. Activities Subsequent to Previous Review. Development permits and approvals that involve both discretionary land use approvals (such as subdivisions, rezones, or conditional use permits), and construction approvals (such as building permits) if all of the following conditions have been met:
- a. The provisions of this Chapter have been previously addressed as part of another approval;
- b. There have been no material changes in the potential impact to the critical area or buffer since the prior review;
- c. There is no new information available that is applicable to any critical area review of the site or particular critical area;
- d. The permit or approval has not expired or, if no expiration date, no more than 5 years has elapsed since the issuance of that permit or approval; and
- e. Compliance with any standards or conditions placed upon the prior permit or approval has been achieved or secured.

SMC 18.13.035 Critical Areas Permit – Application.

- A. Pre-Application Conference.** Prior to finalizing plans for a regulated activity and applying for permits, the applicant is encouraged to contact the Administrator to discuss permits, exemptions, exceptions, and critical areas on, near, or likely affected by regulated activities on the subject property. To the extent of available resources and information, the Administrator shall assist the applicant in determining how this Chapter may affect regulated activities on the subject property. This preliminary review is advisory only and is not binding on the applicant or the City. No charge shall be made by the City for assistance rendered during the pre-application conference.
- B. Approvals Required.** All persons proposing a regulated activity within the City of Stevenson shall first request and obtain a critical areas permit, expedited review, or exception pursuant to this Chapter. All such requests shall be submitted on application forms provided by the City.
- C. Submittal Requirements.** At a minimum, applications shall include:
1. The name and contact information of the applicant and landowner (if different),
 2. The street address and tax lot number of the site proposed for regulated activity,
 3. A written authorization allowing City staff to have reasonable access for purposes of examining the critical areas proposal and carrying out the administrative duties of this Chapter,
 4. The signatures of the applicant and landowner.
- D. Critical Area Reports, Required.** When required by this Chapter, applications shall be accompanied by critical area reports meeting the standards of SMC 18.13.050 and the regulations specific to the critical area.
- E. Expedited Review Submittal Requirements.** In addition to the information required above, applications requesting expedited review shall:
- a. Specify the type of expedited review requested;
 - b. Provide a site plan depicting the general location of the proposed activity, all existing development on the property, and all critical areas suspected on and/or near the subject property;
 - c. Submit any technical reports or assessments necessary to verify that all applicable criteria of SMC 18.13.025 have been met; and
 - d. Certify the applicant's understanding of the limitations associated with approval of expedited review activities.
- F. Reasonable Use Allowance Submittal Requirements.** In addition all other information required in this section, applications requesting a reasonable use allowance shall provide a Reasonable Use Technical Assessment, including:
- a. A description of the amount of the site which is within the setbacks and buffers required under this Chapter and SMC 17- Zoning,
 - b. An analysis of the impact that the proposed regulated activity would have on all applicable critical areas,
 - c. An analysis of whether any other reasonable use is possible that would result in less impact on critical areas and associated buffers,
 - d. An analysis of the modifications needed to the standards of this Chapter to accommodate the proposed regulated activity,
 - e. A description of any modifications needed to the required front, side, and rear setbacks; and buffer widths to provide for a reasonable use of the site while providing greater protection to critical areas,
 - f. A design of the proposal so that the amount of development proposed as reasonable use will have the least impact practicable on critical areas,
 - g. Such other information as the City determines is reasonably necessary to evaluate the issue of reasonable use as it relates to the proposed regulated activity.
- G. Determination of Completeness.** No application shall be deemed complete until the Administrator is satisfied that all provisions of this section have been met. The review period for applications shall not begin, no applications will be accepted, and no proposal will be considered vested, until an application is deemed complete.
- H. Third-Party Review.** When an application is deemed complete, the City may request third-party peer review of any critical area report, assessment, delineation, or mitigation plan by a qualified professional and/or state or federal resource management agency. Such request shall be accompanied by findings supporting the City's decision, which is appealable. The Administrator may incorporate recommendations from such third-party reports in findings

approving or denying an application. In general, the cost of any third-party review will be the responsibility of the applicant; however, where a project would provide a beneficial public amenity or service, on a case-by-case basis by City Council action, costs may be shared by the City.

SMC 18.13.040 Critical Areas Permit – Review & Approval. The Administrator shall review all applications for critical areas permits, expedited review permits, and reasonable use allowances.

A. Critical Areas Permit.

1. The Administrator shall issue a Critical Areas Permit for land use and development proposals, provided that such proposal meets all applicable criteria established in this Chapter.
2. The Administrator may attach conditions to ensure that land use and development will adequately mitigate the impacts on critical areas and fully comply with the provisions of this Chapter.
3. The Administrator shall deny land use and development proposals which do not adequately mitigate the impacts on the critical area and/or does not comply with the provisions of this Chapter.

B. Expedited Review Permits. The Administrator shall issue an Expedited Review Permit for land use and development proposals, provided that such proposal satisfactorily meets the criteria established in SMC 18.13.025. The Administrator shall deny land use and development proposals which do not comply with the provisions of that section. Application fees associated with a denied Expedited Review Permit may be credited toward a full Critical Areas Permit request, provided that, if within 6 months of such denial, the applicant submits a complete application for such permit.

C. Reasonable Use Allowance. The Administrator shall issue a Reasonable Use Allowance for land use and development proposals, provided that:

1. An applicant asserts that the application of this Chapter would deny all reasonable economic use of a legal lot and result in an unconstitutional taking without just compensation;
2. The City Council determines compensation is not an appropriate remedy for such taking;
3. Such taking cannot be remedied by other authorized techniques or means;
4. The proposed remedy meets the Reasonable Use Allowance criteria established in SMC 18.13.025; and
5. The Administrator may attach specific conditions to the Reasonable Use Allowance that will serve to meet the goals, objectives, and policies of this Chapter, including the preparation and implementation of a mitigation and monitoring plan.

D. Permit Processing.

1. Findings. The Administrator shall review all of the matters relating to the application and written findings shall be included in issuance of a permit or denial under this Chapter. All decisions and associated findings shall be kept on file with the City and communicated to the applicant in writing.
2. Expedited Review Permits. If the Administrator has not issued a permit or denial on an application for expedited review within 7 days of the submittal of a complete application, the proposed activity is authorized as if the Administrator had issued a written decision consistent with 1, above.
3. Permit Duration. Permits shall be valid for a period of one year from the date of issuance and shall expire at the end of that time unless a longer or shorter time limit is specified by the City upon issuance of the permit.
4. Extensions. An extension of an original permit may be granted upon written request from the original permit holder or successor in title. An extension shall be granted only where the proposal remains consistent with all land use and development regulations of the City in force at the time of the extension. Prior to granting an extension, the City may require updated reports if, in the Administrator's judgment, the original intent or the circumstances relevant to the review and issuance of the original permit have changed substantially, or if the applicant failed to abide by the terms of the original permit.

E. Burden of Proof. The burden of proof shall be on the applicant to bring forth evidence in support of the application and to provide sufficient information on which any decision has to be made on the application.

SMC 18.13.050 Critical Area Reports—Requirements.

- A. Qualified Professional.** When required by this Chapter, the applicant shall submit a critical area report prepared by, or under the direct supervision of, a qualified professional as defined herein.
- B. Best Available Science.** The critical area report shall use scientifically valid methods and studies in the analysis of critical area data and field reconnaissance and reference the source of science used. The critical area report shall evaluate the proposal and all probable impacts to critical areas in accordance with the provisions of this Chapter.
- C. Minimum Report Contents.** At a minimum, the report shall contain the following:
1. The name and contact information of the applicant and landowner (if different);
 2. The street address and tax lot number of the site proposed for the regulated activity;
 3. A description of the proposal and identification of the permit requested;
 4. A detailed plan of the proposal site and all adjoining areas within 100 feet, drawn to a standard engineering scale and submitted on 8 ½"x11" or 11"x17" paper, showing:
 - a. The location and description of all critical areas and buffers,
 - b. The existing conditions of the property including all property boundary lines, public and private roads, structures, utilities, easements, septic tanks and drainfield areas, wells, and other improvements,
 - c. The location, species and diameter of all significant trees,
 - d. The location and extent of all proposed regulated activities, and
 - e. Details related to the proposed stormwater management plan for the development and consideration of impacts to drainage alterations;
 5. The dates, names, and qualifications of the persons preparing the report and documentation of any fieldwork performed on the site;
 6. Identification and characterization of all critical areas, wetlands, water bodies, and buffers adjacent to the proposed project area. For areas off site of the project site, estimate conditions within 300 feet of the project boundaries using the best available information;
 7. A statement specifying the accuracy of the report, and all assumptions made and relied upon;
 8. A discussion of the regulatory standards applicable to the critical area and proposed activity;
 9. A description of reasonable efforts made to apply mitigation sequencing pursuant to SMC 18.13.055, including any specific avoidance, minimization, compensation, and preservation measures proposed for the critical areas; and
 10. Any additional information required for the critical area as specified in the corresponding section.
- D.** Unless otherwise provided, a critical areas report may be supplemented by or composed, in whole or in part, of any reports or studies required by other laws and regulations or previously prepared for and applicable to the development proposal site, as approved by the Administrator.

SMC 18.13.051 Critical Area Reports—Modifications to Requirements.

- A. Limitations to Study Area.** The Administrator may limit the required geographic area of the critical area report as appropriate if:
1. The applicant, with assistance from the City, cannot obtain permission to access properties adjacent to the project area; or
 2. The proposed activity will affect only a limited part of the subject site.
- B. Modifications to Required Contents.** The applicant may consult with the Administrator prior to or during preparation of the critical area report to obtain City approval of modifications to the required contents of the report where:
1. In the judgment of a qualified professional, more or less information is required to adequately address the potential critical area impacts and required mitigation; or
 2. Existing information is on file with the City that addresses the impacts.
- C. Additional Information Requirements.** The Administrator may require additional information to be included in the critical area report when determined to be necessary to the review of the proposed activity in accordance with this Chapter. Additional information that may be required, includes, but is not limited to:
1. Historical data, including original and subsequent mapping, aerial photographs, data compilations and summaries, and available reports and records relating to the site or past operations at the site;
 2. Grading and drainage plans; and
 3. Information specific to the type, location, and nature of the critical area.

SMC 18.13.055 Mitigation Sequencing. Before impacting any critical area, applicants shall demonstrate that the following actions have been taken. Actions are listed in the order of priority. Applicants shall consider and apply lower priority measures only where higher priority measures are determined to be infeasible or inapplicable.

- A. Avoid.** Avoid the impact altogether by not taking an action or parts of an action.
- B. Minimize.** Minimize impacts by limiting the degree or magnitude of the action or its implementation by using appropriate technology or by taking affirmative steps such as project redesign, relocation, or timing to avoid or reduce impacts.
- C. Rectify.** Rectify the impact by repairing, rehabilitating, or restoring the affected environment to the conditions existing at the time of the initiation of the project or activity.
- D. Reduce Over Time.** Reduce or eliminate the impact or hazard over time by preservation and maintenance operations during the life of the action.
- E. Compensate.** Compensate for the impact by replacing, enhancing, or providing substitute resources or environments.
- F. Monitor.** Monitor the impact and the compensation projects and take remedial or corrective measures when necessary.

SMC 18.13.057 Protective Buffers—Standards. Whenever protective buffers are required by this chapter, the following standards apply:

- A. Construction Staking.** The outer edge of the buffer area shall be clearly staked, flagged, and fenced in the field and maintained throughout the duration of any construction activities. The markers may be combined with temporary erosion control fencing and shall be clearly visible, durable, and posted in the ground.
- B. Notice on Deed.** A conservation covenant shall be recorded in a form approved by the City Attorney as adequate to incorporate the restrictions of this chapter and to give notice of the requirements for engaging in regulated activities.
 - 1. In the case of plats, short plats, and recorded site plans, the boundaries of critical areas and any protective buffers and a reference to the separately recorded conservation covenant shall be included on the face of such instrument.
 - 2. At the Administrator's discretion, a deed notice in a form approved by the City Attorney may be accepted in lieu of a conservation covenant.
- C. Permanent Demarcation.**
 - 1. A permanent and perpetual physical demarcation along the outer boundary of the buffer area shall be installed and thereafter maintained. Such demarcation may consist of logs, a tree or hedgerow, wood or wood like fencing, or other prominent physical marking approved by the Administrator.
 - 2. In the case of plats or short plats, the administrator may require that critical areas and buffers be placed in a separate tract which may be held by an appropriate natural land resource manager, such as a land trust.
 - 3. Permanent signs along the boundary of a buffer are required.
 - a. Permanent signs shall be made of an enamel-coated metal face and attached to a metal post or another non-treated material of equal durability. Signs must be posted at an interval of one every 50 feet, or one per lot if the lot is less than 50 feet wide, and must be maintained by the property owner in perpetuity. The signs shall be worded as follows or with alternative language approved by the Administrator: "Protected Area. Do Not Disturb. Contact the City of Stevenson Regarding Uses, Restrictions, and Opportunities for Stewardship."
 - b. The signage provisions above may be modified as necessary to assure protection of sensitive features or wildlife. For highly visible areas or areas located along a public right-of-way, interpretive signs may be required in lieu of other signage.
- D. Fencing.**
 - 1. The applicant shall install a permanent fence around a critical area or buffer when domestic grazing animals are present or may be introduced on site.
 - 2. Fencing installed as part of a proposed activity or as required in this section shall be designed so as to not interfere with species migration, including fish runs, and shall be constructed in a manner that minimizes impacts to critical areas.
- E. Planting.** Whenever planting is required within a protective buffer, the following standards shall apply unless other standards are recommended by a qualified professional and approved as part of a restoration or mitigation plan:
 - 1. Native plant material should be used.
 - 2. The minimum plant density should be 2 trees and 5 shrubs per 400 square feet.
 - 3. Bare root plants at least 24 inches long and/or containerized stock at least 1 gallon in size are preferred for mitigation planting. Live stakes at least 36 inches long may be used for willow, dogwood and cottonwood species. Hydroseeding may be used as an alternative when the above planting methods are demonstrated to be inadvisable.
 - 4. The base of each plant should be mulched at least 3 inches deep for a radius of at least 1 foot to inhibit weed growth, conserve water, and moderate soil temperature. The mulch should not be in contact with the plant stem.
- F. Maintenance.**
 - 1. Except as otherwise specified or allowed in accordance with this Code, buffers shall be retained in an undisturbed or enhanced condition. In the case of compensatory mitigation sites, removal of invasive non-native weeds is required for the duration of the monitoring period.

2. Unless waived by the Administrator, a temporary irrigation system shall be installed for newly planted buffer areas. Such areas shall receive at least one inch of water once a week from April 15 to September 15 for the first 2 years of the monitoring period.

SMC 18.13.059 Performance & Monitoring Standards

Whenever monitoring is required by this chapter, the following standards apply:

- A. Performance Standards.** Measureable standards for success or failure of critical areas permits shall be established in accordance with a plan prepared by a qualified professional. Such standards should be quantitative in nature and may include water quality standards, survival rates of planted vegetation, species abundance and diversity targets, habitat diversity indices, or other ecological, geological or hydrological criteria as appropriate.
- B. Maintenance Plan.** A qualified professionals shall provide a discussion of ongoing management and maintenances practices, including a schedule of actions proposed by year to protect the critical area after a development project has been implemented.
- C. Monitoring Plan.** The success or failure of any proposed mitigation action under this Chapter shall be monitored according to a Monitoring Plan prepared by a qualified professional. Monitoring Plans shall include the following, at a minimum:
 - 1. Data collection dates during the first, second, third, and fifth years of the monitoring period.
 - 2. Photo station locations to evaluate changes over time and vegetation community response,
 - 3. Vegetation plots to track changes in plant survival, species composition, and density over time,
 - 4. Hydrologic monitoring stations within any wetland creation areas to verify if wetland hydrology has been successfully created.
- D. Contingency Plan.** The monitoring program shall also include a Contingency Plan which identifies potential courses of action and any corrective measures to be taken when monitoring or evaluation indicates project performance standards are not being met.
- E. Monitoring Period.**
 - 1. All projects requiring monitoring shall be monitored for a minimum period of 5 years.
 - 2. At the Administrator's discretion and where woody vegetation (forested or scrub-shrub wetlands) is the intended result, the monitoring period may be increased to 10 years with additional data collection dates occurring during the seventh and tenth years.
 - 3. If the mitigation goals are not obtained within the initial monitoring period, the applicant remains responsible for the success of the approved mitigation action, and the monitoring period shall be extended until the mitigation goals agreed to in the mitigation plan are achieved.

SMC 18.13.060 Financial Surety to Ensure Mitigation, Maintenance, and Monitoring.

- A. Surety Required.** When mitigation required pursuant to a development proposal is not completed prior to the City final permit approval, such as final plat approval or final building inspection, the City shall require the applicant to post a performance bond or other security in a form and amount deemed acceptable by the City. Also, if the development proposal is subject to mitigation, the applicant shall post a mitigation performance bond or other security in a form and amount deemed acceptable by the City to ensure mitigation is fully functional. At the Administrator's discretion, the surety required in this section may be waived.
- B. Amount.** The surety shall be in the amount of 125% of the estimated cost of the uncompleted actions or the estimated cost of restoring the functions and values of the critical area that are at risk, whichever is greater and the cost of maintenance and monitoring for a 5-year minimum period.
- C. Form.** The surety shall be in the form of a surety bond, performance bond, assignment of savings account, or an irrevocable letter of credit guaranteed by an acceptable financial institution, with terms and conditions acceptable to the City Attorney.
- D. Term.** Bonds or other security authorized by this section shall remain in effect until the City determines, in writing, that the standards bonded for have been met. Bonds or other security shall be held by the City for a minimum of 5 years to ensure that the required mitigation has been fully implemented and demonstrated to function, and may be held for longer periods when necessary.
- E. Relief Limited.** Depletion, failure, or collection of surety funds shall not discharge the obligation of an applicant or violator to complete required mitigation, maintenance, monitoring, or restoration.
- F. Public Project Exception.** Public development proposals shall be relieved from having to comply with the bonding requirements of this section if public funds have previously been committed for mitigation, maintenance, monitoring, or restoration.
- G. Recovery of Funds.** Any failure to satisfy critical area requirements established by law or condition including, but not limited to, the failure to provide a monitoring report within 30 days after it is due or comply with other provisions of an approved mitigation plan shall constitute a default, and the City may demand payment of any financial guarantees or require other action authorized by the City code or any other law.
- H. Use of Recovered Funds.** Any funds recovered pursuant to this section shall be used to complete the required mitigation, maintenance, or monitoring.

SMC 18.13.065 Appeals.**A. Appeals Authorized.**

1. Any interpretation or decision made by the Critical Areas Administrator in the administration of this Chapter is final and conclusive unless appealed to the City of Stevenson Board of Adjustment as authorized by SMC 2.14 – Board of Adjustment.
2. Any person aggrieved by a decision of the Administrator may, within 30 days following the date of the Administrator's written decision, submit an appeal of the decision. The burden of proof in any appeal is the responsibility of the appellant. Any appeal shall be in written form and filed with the City together with a fee as established by resolution by the City Council. Any appeal shall minimally contain statements:
 - a. Describing why the appellant believes the decision of the Administrator is in error and the specific relief sought,
 - b. Showing why granting an appeal will not negate the functions of a critical area, the goals, objectives and policies of the Growth Management Act, and the purposes of this Chapter.
 - c. Describing any mitigation measures the appellant proposes to assure that the function of the critical area will not be irrevocably jeopardized in the event the appeal is successful.

B. Appeals Administrative Procedure.

1. Notice of appeal shall be provided as set forth in SMC 2.14.050 – Appeal and Variance Procedures.
2. The Administrator may provide the Board of Adjustment with additional information related to any material or facts not available prior to the Administrator's decision.
3. The Board of Adjustment shall determine if the appeal should be granted, granted subject to conditions, or denied.
4. Within 10 days after the public hearing, the Board of Adjustment shall issue a written decision, including findings of fact on which the decision is based. Such written decision shall be transmitted to the appellant and made available to the public upon request.
5. The action by the Board of Adjustment on an appeal from the decision of an administrative official shall be final and conclusive unless, within 10 days from the date of such action, the original applicant or an adverse party makes application to a court of competent jurisdiction for a writ of certiorari, a writ of prohibition, or a writ of mandamus.

SMC 18.13.070 Fees.

- A.** An application for an approval under this chapter shall be accompanied by an application fee payable to the City in an amount established and periodically adjusted by resolution of the City Council.
- B.** Fees are not refundable.
- C.** Payment of an application fee does not guarantee that a permit will be issued.

SMC 18.13.075 Violation—Penalty. Violations of this chapter are subject to enforcement according to SMC Chapter 17.52 – Violation and Penalty.

SMC 18.13.095 Critical Area – Fish and Wildlife Habitat Conservation Areas.

A. Purpose. The purpose of this section is to protect environmentally distinct, fragile, and valuable fish and wildlife habitat conservation areas. Fish and wildlife conservation areas include riparian areas where overwhelming evidence exists supporting the use of riparian buffers of adequate size to maintain healthy, productive fish and wildlife habitat. Although riparian areas comprise only a small portion of the surface landscape, approximately 90% of Washington's land based vertebrate species prefer, or are dependent upon, riparian habitat for essential life.

B. Classification & Designation.

1. Map Inventory. The City will maintain a habitat map inventory under SMC 18.13.020. The City consulted the following sources to identify critical fish and wildlife habitat areas:
 - a. Water Type Reference Maps, Washington Department of Natural Resources,
 - b. Natural Heritage Data Base, Washington Department of Natural Resources,
 - c. Priority Habitats and Species Program and Priority Habitat Species Maps, Washington Department of Fish and Wildlife,
 - d. Water Resource Inventory Areas (WRIA), Washington State Department of Ecology,
 - e. Field studies performed by qualified natural resource specialists.
2. Classification. Fish and wildlife habitat conservation areas are divided into 6 basic categories as outlined below:
 - a. Riparian areas- Riparian areas shall be classified according to the water type of adjacent waters. The following classifications shall be used based on the water typing system established in WAC 222-16-030:
 - i. Type S: Shoreline- Type S Waters are streams and waterbodies that are designated “shorelines of the state” as defined in chapter 90.58.030 RCW.
 - ii. Type F: Fish- Type F Waters are streams and waterbodies that are known to be used by fish, or meet the physical criteria to be potentially used by fish. Fish streams may or may not have flowing water all year; they may be perennial or seasonal.
 - iii. Type Np: Non-Fish- Type Np Waters are streams that have flow year round and may have spatially intermittent dry reaches downstream of perennial flow. Type Np streams do not meet the physical criteria of a Type F stream. This also includes streams that have been proven not to contain fish using methods described in Forest Practices Board Manual Section 13.
 - iv. Type Ns: Non-Fish- Type Ns Waters are streams that do not have surface flow during at least some portion of the year, and do not meet the physical criteria of a Type F stream.
 - v. Irrigation ditches, canals, stormwater run-off devices, or other entirely artificial watercourses, except where they exist in a natural watercourse that has been altered by humans are not assigned a water type and are therefore not regulated as riparian habitat areas.
 - b. Areas With Which State or Federally Designated Endangered, Threatened, and Sensitive Species Have a Primary Association-
 - i. Federally-designated endangered and threatened species are identified by the US Fish and Wildlife Service and the National Marine Fisheries Service, and each agency should be consulted for current listing status.
 - ii. State-designated endangered, threatened, and sensitive species are identified by WDFW. WDFW should be consulted to provide a technical review and an advisory role in the decision making process.
 - c. State Priority Habitats and Areas Associated with State Priority Species- WDFW has identified habitats and/or species considered to be priorities for conservation and management. Priority habitat types have unique or significant value to many species. Priority species require protective measures and/or management guidelines to ensure their perpetuation. WDFW has identified PHS areas within the city limits of Stevenson that if altered may reduce the likelihood that the species will maintain and reproduce over the long term. Maps showing the locations of PHS areas are on file at the City. WDFW should be consulted to provide a technical review and an advisory role in the decision making process.

- d. Areas of Rare Plant Species and High Quality Ecosystems. Areas of rare plant species and high quality ecosystems are identified by the Washington State Department of Natural Resources through the Natural Heritage Program.
- e. Local Species and Habitats of Importance-
 - i. Species of local importance are those species that are of local concern that, due to their population status or their sensitivity to habitat manipulation, warrant protection.
 - ii. Habitats of local importance include a seasonal range or habitat element with which a given species has a primary association and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term. These might include areas of high relative density or species richness, breeding habitat, winter range, and movement corridors. They might also include habitats that are of limited availability or high vulnerability to alteration such as cliffs, talus, and wetlands.
 - iii. Local habitat areas include those areas specifically identified as local habitat areas in the City’s adopted Critical Areas Map Inventory and background maps used to prepare the map inventory. The Administrator keeps the Critical Areas Map Inventory on file.
- f. Other Required Areas. Fish and wildlife habitat conservation areas also include commercial and recreational shellfish; smelt spawning areas; naturally occurring ponds under 20 acres and submerged aquatic beds that provide fish or wildlife habitat; water of the state; lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity; and state natural area preserves and natural resource conservation areas.

C. FWHCA Reports.

- 1. Preliminary Assessments- In order to determine the extent of the appropriate buffers on a site when the nature of the fish and wildlife habitat conservation area is unclear, the applicant may submit a preliminary habitat assessment report as prepared by a qualified professional in accordance with SMC 18.13.050 – Critical Area Reports— Requirements. This report shall suffice for the purpose of the development application if no habitat buffer impacts are proposed. In addition to the minimum requirements for critical area reports contained in SMC 18.13.050, a preliminary FWHCA report should also contain the following information:
 - a. A confirmation or correction of the classifications for the FWHCA and/or stream type as defined in this Chapter,
 - b. A detailed description of the critical area in question and a qualitative analysis of its general condition and vegetation types,
 - c. Recent photographs of the property, including detailed photographs of the habitat resource in question,
 - d. An outline of standard buffer widths, available buffer reductions, or potential opportunities for enhancement/mitigation.

D. Habitat Buffer Widths.

- 1. Base Buffer Widths. The following buffer widths have been established in accordance with the best available science. They are based on category of fish and wildlife habitat conservation area. Required buffer widths are detailed in tables 18.13.095-1:

TABLE 18.13.095-1 – FISH & WILDLIFE HABITAT CONSERVATION AREA PROTECTIVE BUFFER WIDTHS			
FWHCA Category ¹	Subcategory	Example ²	Buffer Width (ft)
Riparian Areas	Type S	Columbia River, Rock Cove, Rock Creek	150’ ³
	Type F	Foster Creek, Kanaka Creek, Vallett Creek	125’
	Type Np		50’
	Type Ns		50’ ⁴
Endangered, Threatened & Sensitive Species			Use BAS for Species
Priority Habitat & Species			Use BAS for Species
Natural Heritage Program			Use BAS for Species
Local Species & Habitats of Importance		n/a	Use BAS for Species

Other Required Areas		Use BAS.
<div>1 – If a FWHCA meets more than one of the characteristics of this table, the buffer to protect it is the widest one.</div> <div>2 – Examples are for illustrative purposes. Additional site-specific evaluation may be needed to confirm or modify the information shown in this table. FWHCA type will be determined at time of project review using the best available site-specific information.</div> <div>3 – A greater or lesser base buffer width may be established for a Type S stream, provided a preliminary habitat assessment is performed and indicates such greater or lesser width is necessary for the performance of functions occurring at the reach-scale for the shoreline in question. The maximum base buffer width in such cases shall not be wider than the shoreline jurisdiction, typically 200'. See also SMC 18.08 for additional regulatory standards and procedures related to Type S streams.</div> <div>4 – The outer 15' of the 50' base buffer for Type Ns streams is intended to protect the bank stabilization function of the riparian area. If a geotechnical assessment is performed and indicates that areas of the base buffer between 35' and 50' do not provide significant bank stabilization functions, the width of such areas shall be excluded from the base buffer width. In no case shall the base buffer width be less than 35'.</div>		

2. Buffer Averaging. Buffer averaging to allow reasonable use of a parcel may be permitted when all of the following are met:
- a. There are no feasible alternatives to the site design that could be accomplished without buffer averaging.

b. The averaged buffer will not result in degradation of the FWHCA’s functions and values as demonstrated by the FWHCA report.

c. The total buffer area after averaging is equal to the area required without averaging.

d. The buffer at its narrowest point is never less than 75% of the required base buffer width.
3. Functionally Isolated Buffers. Lawns, walkways, driveways, other mowed or paved areas, and areas which are functionally separated from a FWHCA and do not protect the FWHCA from adverse impacts due to pre-existing roads, structures, or vertical separation, shall be excluded from buffers otherwise required by this Chapter. If existing developments cause the width of the remaining buffer to be less than 50% of the base buffer, both of the following conditions shall apply:
- a. If the reduced buffer exists in a degraded condition, the reduced buffer shall be enhanced in accordance with 18.13.095.D.5. unless the area in question is utilized for activities consistent with water dependent uses.

b. The buffer cannot be further reduced through averaging or on-site mitigation.
4. Non-Riparian Buffer Reductions. Each case involving the reduction of buffers for endangered species points, priority habitats and species, and other non-riparian buffers will be handled individually. In general, applications for a buffer reduction shall include a habitat mitigation plan that demonstrates:
- a. The suggested buffer setbacks or best management practices to protect the FWHCA as described in the scientific literature,

b. A detailed description of the limitations of the property, proposed project, or other regulations that necessitate a departure from the suggested buffer or best management practices.

c. An analysis, based on BAS, that demonstrates that the proposed project will not negatively impact the FWHCA.
5. Riparian Habitat Buffer Reduction through On-Site Mitigation. Riparian habitat buffers that exist in a degraded [SMC 18.13.010(B)(15)] condition can be reduced to 70% of the base buffer width through the enhancement [SMC 18.13.010(B)(18)] or restoration [SMC 18.13.010(B)(43)] of the remaining portions of the buffer or preservation [SMC 18.13.010(B)(38)] of additional areas. Applications for a buffer reduction through on-site mitigation shall include a habitat mitigation plan that demonstrates:
- a. Mitigation in the buffers will be consistent with the compensatory mitigation and buffer standards requirements, below.

b. On-site mitigation involves restoration or enhancement of all remaining buffers in order to take advantage of the relevant reduction in buffer width.

c. Conservation covenants shall, and performance bonds may, be required as a part of all on-site mitigation.

d. The proposed reduction in buffer width will not result in a net loss of existing buffer functions.
6. Riparian Habitat Buffer Reduction through Off-Site Mitigation. Base riparian habitat buffers can be reduced to 33% of the base buffer area through off-site mitigation subject to the following:
- a. Mitigation in the buffers will be consistent with the compensatory mitigation and buffer standards requirements, below.

- b. On-site mitigation occurs and involves restoration or enhancement of all remaining buffers in order to take advantage of the relevant reduction in buffer width.
- c. Conservation covenants shall, and performance bonds may, be required as a part of all off-site mitigation.
- d. The proposal shall not result in a net loss of existing buffer functions.
- e. To aid in the implementation of off-site mitigation, the City may develop a Shoreline Restoration Plan or other program which prioritizes habitat corridors for use as mitigation and/or allows payment in lieu of providing mitigation on a development site. Such other program shall be developed and approved through a public process and should address:
 - i. The identification of sites within the City of Stevenson Urban Area that are suitable for use as off-site mitigation. Site suitability shall take into account hydrologic and biologic functions, potential for habitat fragmentation and degradation, and potential for urban growth and service expansion, and
 - ii. The use of fees for mitigation on available sites that have been identified as suitable and prioritized.

E. Buffer Standards.

- 1. Buffers associated with riparian areas shall be measured perpendicularly outward from the OHWM as determined by a qualified professional.
- 2. All proposals involving FWHCA buffers shall be subject to SMC 18.13.057 – Protective Buffers—Standards.
- 3. Vegetation Removal in Buffer Areas. The Administrator may waive the requirement to prepare a FWHCA Mitigation Plan for a proposed project that is solely related to vegetation removal and includes mitigation consistent with Table 18.13.095-2.

TABLE 18.13.095-2 – MITIGATION FOR VEGETATION REMOVAL WITHIN RIPARIAN HABITAT AREAS		
Location of Vegetation Removal	Type of Vegetation Removal	Mitigation Action Required ^{1,2,3}
Anywhere	Invasive or noxious vegetation	Native or non-native, replacement planting at 1:1 mitigation ratio
	Hazard tree	Similar species replacement planting at 2:1 mitigation ratio
50 Feet or Less from OHWM	Grass, pasture, non-woody, or non-native vegetation (excluding invasive or noxious vegetation)	Native or non-native replacement planting at 1:1 mitigation ratio
	Native groundcover and understory	Native replacement planting at 2:1 mitigation ratio
	Native trees <12 inches DBH	Similar species replacement planting at 2:1 mitigation ratio
	Significant trees	Similar species replacement planting at 3:1 mitigation ratio
More than 50 Feet from OHWM	Any non-native vegetation	Native or noninvasive replacement planting at 1:1 mitigation ratio
	Native groundcover or understory	Native replacement planting at 1:1 mitigation ratio
	Any native tree	Native tree replacement planting at 2:1 mitigation ratio
Outside Oregon White Oak Woodland Dripline	Any removal of native or non-native vegetation	Temporary tree protection fencing required prior to ground disturbance. No clearing, grading, trenching staging, boring, or any other activity is allowed within the dripline of the oak woodlands.
Inside, Entirely or Partially, Oregon White Oak Woodland Dripline	No oak removal and no significant damage to health of the oak trees as demonstrated by arborist’s report.	Install temporary tree protection fencing required prior to ground disturbance at the extent of proposed activity to ensure that no clearing, grading, trenching, staging, boring or any other activity will occur within the dripline of oak woodlands beyond what has been recommended by an arborist. Require mitigation for lost scrub/shrub vegetation, if appropriate. Conservation covenant or other mechanism is required to protect the oak woodland from future development.
	Oak removal or removal involving significant damage to the health of oak trees as demonstrated by arborist’s report.	At a minimum, replace oak trees based on area impacted with new Oregon white oak trees and contact WDFW for additional mitigation.
1 – The standards listed in SMC 18.13.057 apply to activities undertaken based on this table. A conservation covenant may be required if future development is likely to impact the mitigation area.		
2 – Replacement planting involves like-for-like replacement of either 1) the species removed or 2) the vegetative layer (strata) as that removed. No invasive vegetation shall be used for replacement purposes.		

3 – To assist applicants with in determining appropriate mitigation, the City may maintain a list of native vegetation that provide groundcover, understory, and tree canopy cover functions in riparian areas.

F. Habitat Mitigation.

1. Compensatory Mitigation, Required. Compensatory mitigation for impacts to FWHCA’s shall be used only for impacts that cannot be avoided or minimized and shall achieve equivalent or greater functions as those affected by the proposed project. Out-of-kind replacement of FWHCA type or functions may be considered if the applicant demonstrates it will best meet watershed goals formally identified by the City, such as replacement of historically diminished FWHCA types.
2. FWHCA Mitigation Plan. When a project involves FWHCA or FWHCA buffer impacts, enhancements, or reductions, a Habitat Mitigation Plan by a qualified professional shall be required. At a minimum, the Habitat Mitigation Plan must contain the following information:
 - a. Baseline Information. All the information required in the FWHCA Report prepared under SMC 18.13.095(C).
 - b. Site Plan. A copy of the site plan for the development proposal showing identified critical areas, buffers, and dimensions and limits of any areas to be cleared. This plan should include the proposed construction sequencing, grading and excavation details, erosion and sedimentation control features, and detailed site diagrams and any other drawings appropriate to show construction techniques or anticipated final outcome.
 - c. Project Impacts and Mitigation. A description of the existing and estimated future conditions of the enhancement area and/or compensatory mitigation site, including location and rational for selection. Include an assessment of all appropriate technical information necessary to assess the compensatory mitigation proposed.
 - d. Goals and Objectives. The environmental goals and objectives of the mitigation, and the goals and objectives must be related to the functions and values of the impacted critical area.
 - e. Monitoring and Maintenance Program. A proposed Monitoring Program compliant with SMC 18.13.059 – Performance & Monitoring Standards.
 - f. A bond estimate for the entire enhancement and/or compensatory mitigation project, including the following elements: site preparation, plant materials, construction materials, installation oversight, maintenance twice per year for up to 5 years, annual monitoring field work and reporting, and contingency actions for the monitoring period established under SMC 18.13.059 – Performance & Monitoring Standards.
3. FWHCA Mitigation Ratios.

TABLE 18.13.095-3 – RIPARIAN HABITAT MITIGATION RATIOS			
Location & Type of Mitigation ¹	Enhancement	Restoration	Preservation
On-Site	1:1	2:1	4:1
Off-Site (Preferred Locations)	2.5:1	5:1	10:1
Off-Site (Non-Preferred Locations)	5:1	10:1	20:1
1 – Compensatory mitigation for buffers shall replace those buffer functions lost from development.			

4. Mitigation Location. Preferred locations for off-site mitigation include areas within the City of Stevenson Urban Area or locations within the same drainage sub-basin as the proposed development site.

SMC 18.13.100 Critical Area – Wetlands.

A. Purpose. Wetlands constitute important natural resources which provide significant environmental functions including the control of flood waters, maintenance of summer stream flows, filtration of pollutants, recharge of groundwater, and provisions of significant habitat areas for fish and wildlife. Uncontrolled urban-density development in and adjacent to wetlands can eliminate or significantly reduce their ability to provide these important functions, thereby detrimentally affecting public health, safety, and general welfare.

B. Classification & Designation.

1. Identification & Delineation. Identification of wetlands and delineation of their boundaries shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplement. All areas within the City meeting the wetland designation criteria in that procedure are hereby designated critical areas and are subject to the provisions of this chapter.
2. Map Inventory. The City will maintain a wetlands map under SMC 18.13.020. To facilitate long-range planning using a landscape approach, the Administrator may identify and pre-delineate wetlands to facilitate protection, restoration, and enhancement. The Administrator will prepare maps of wetlands that have been pre-delineated in this manner.
3. Rating. Wetlands shall be rated according to “Washington State Wetland Rating System for Western Washington” (Ecology Publication #14-06-029), as amended. The Rating System contains the definitions and methods for determining whether the criteria below are met.
 - a. Wetland ratings shall be classified according to the following categories:
 - i. Category I- Category I wetlands are a) relatively undisturbed estuarine wetlands larger than 1 acre; b) wetlands of high conservation value that are identified by scientists of the Washington Natural Heritage Program/DNR; c) bogs; d) mature and old growth forested wetlands larger than 1 acre; e) wetlands in coastal lagoons; f) interdunal wetlands that score 8 or 9 habitat points and are larger than 1 acre; g) wetlands that perform many functions well (scoring 23 points or more). These wetlands a) represent unique or rare wetland types; b) are more sensitive to disturbance than most wetlands; c) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or d) provide a high level of functions.
 - ii. Category II- Category II wetlands are a) estuarine wetlands smaller than 1 acre or disturbed estuarine wetlands larger than 1 acre; b) interdunal wetlands larger than 1 acre or those found in a mosaic of wetlands; or c) wetlands with a moderately high level of functions (scoring between 20 and 22 points).
 - iii. Category III- Category III wetlands are: a) wetlands with a moderate level of functions (scoring between 16 and 19 points); b) can often be adequately replaced with a well-planned mitigation project; and c) interdunal wetlands between 0.1 and 1 acre. Wetlands scoring between 16 and 19 points generally have been disturbed in some ways and are often less diverse and more isolated or more isolated from other natural resources in the landscape than Category II wetlands.
 - iv. Category IV- Category IV wetlands have the lowest levels of functions (scoring fewer than 16 points) and are often heavily disturbed. They are wetlands that we should be able to replace, or in some cases to improve. However, experience has shown that replacement cannot be guaranteed in any specific case. These wetlands may provide some important functions, and should be protected to some degree.
4. Exempt Wetlands- The following wetlands may be exempt from the mitigation sequence requirement of SMC 18.13.055 to avoid impacts, and they may be filled if the impacts are fully mitigated based on the remaining actions in the mitigation sequence. In order to verify the following conditions, a Wetland Report must be submitted.
 - a. All isolated Category IV wetlands less than 4,000 square feet that:
 - i. Are not associated with riparian areas or their buffers;
 - ii. Are not associated with shorelines of the state or their associated buffers,
 - iii. Are not part of a wetland mosaic,

- iv. Do not score 5 or more points for habitat function based on the Rating System, and
 - v. Do not contain a) a Priority Habitat or Priority Area for Priority Species identified by the Washington Department of Fish and Wildlife, b) federally listed species or their critical habitat, or c) species of local importance identified in SMC 18.13.095.
- b. Wetlands less than 1,000 square feet that meet the above criteria and do not contain federally listed species or their critical habitat are exempt from the buffer provisions contained in this chapter.

C. Wetland Reports.

1. Wetland Report—Required. If the Administrator determines that the site of a proposed development includes, is likely to include, or is adjacent to a wetland, a Wetland Report, prepared by a qualified professional shall be required.
2. Wetland Report—Contents. Qualified professionals should use “Wetland Guidance for CAO Updates (Western Washington)” (Ecology Publication #16-06-001) for guidance in determining the necessary technical information to be provided. In addition to the minimum requirements for critical area reports contained in SMC 18.13.050, the written report and the accompanying plan sheets shall contain the following information, at a minimum:
 - a. The written report shall include:
 - i. Documentation of any fieldwork performed on the site, including field data sheets for delineations, rating system forms, baseline hydrologic data, etc.
 - ii. A description of the methodologies used to conduct the wetland delineations, wetland ratings, or impact analyses, including references.
 - iii. For each wetland identified on site and within 300 feet of the project boundary, provide: a) the wetland rating, including a description of and score for each functions; b) required buffers; c) wetland acreage based on a professional survey from the field delineation; and d) all other technical information necessary to assess wetland functions.
 - iv. A description of the proposed actions, including an estimation of acreages of impacts to wetlands and buffers based on the field delineation and survey and options for site development alternatives.
 - v. An assessment of the probable cumulative impacts to the wetlands and buffers resulting from the proposed development.
 - b. The site plan shall include:
 - i. Maps (to scale) depicting delineated and surveyed wetland and required buffers on site, including buffers for off-site critical areas that extend onto the project site; the development proposal; other critical areas; grading and clearing limits; and areas of proposed impacts to wetlands and/or buffers (include square footage estimates).
 - ii. A depiction of the proposed stormwater management facilities and outlets (to scale) for the development, including estimated areas of intrusion into the buffers of any critical areas.
3. Responsibility. The wetland delineation is the responsibility of the applicant. In addition, the applicant must arrange for the wetland boundaries to be reviewed for accuracy by the US Army Corps of Engineers prior to impacting any wetland. Wetland delineations are valid for 5 years; after such date the City shall determine whether a revision or additional assessment is necessary.

D. Wetland Buffer Widths.

1. Base Buffer Widths. The following buffer widths have been established in accordance with the best available science. They are based on category of wetland, habitat score, and land use intensity as determined by a qualified professional wetland scientist using the Rating System. Required buffers are included in SMC Table 18.13.100-1:

TABLE 18.13.100-1 – WETLAND PROTECTIVE BUFFER WIDTHS			
Wetland Category ^{1,2,3,4}	Category IV Wetland Buffers (ft)	Category III Wetland Buffers (ft)	Category I & II Wetland Buffers (ft)

Land Use Intensity ⁵		LowMediumHigh			LowMediumHigh			LowMediumHigh		
Habitat Score	4 or less ⁶				40	60	80	50	75	100
	5 to 7	25	40	50	75	110	150	75	110	150
	8 to 9 ^{7,8}				150	225	300	150	225	300

1 – Table modified from tables 8C-4, 8C-5, 8C-6, and 8C-7: Appendix 8-C: Guidance on Widths of Buffers and Ratios for Compensatory Mitigation for Use with the Western Washington Wetland Rating System, as amended.

2 – If a wetland meets more than one of the characteristics of this table, the buffer to protect the wetland is the widest one.

3 – For wetlands with special characteristics not covered by this table, standards are adopted based on the regulatory recommendations of Option 3 contained in Appendix 8-C: Guidance on Widths of Buffers and Ratios for Compensatory Mitigation for Use with the Western Washington Wetland Rating System, as amended.

4 – Any wetland or wetland mitigation site created, restored, or enhanced as compensation for approved wetland alteration shall have the standard buffer required for the category, habitat score, and land-use intensity of the created wetland expected at the end of the monitoring period.

5 – See Table 18.13.100-2 – Wetland Adjacent Land Use Intensity for explanation.

6 – In addition to other standards, wetland with water quality ratings of 8 or 9 shall also be protected from additional surface discharges of untreated runoff.

7 – In addition to other standards, wetlands with habitat ratings of 8 or 9 shall also maintain connections to other habitat areas.

8 – In addition to other standards, all degraded parts of the protective buffer for Category I & II wetlands with habitat ratings of 8 or 9 shall be restored.

TABLE 18.13.100-2 –LAND USE INTENSITY MATRIX			
Intensity ^{1,2,3}	Low	Medium	High
Commercial & Industrial	N/A	N/A	All site development
Residential	N/A	Density less than 1 unit per acre	Density 1 unit per acre or more
Streets & Roads	N/A	Residential driveways and access roads	Public and private streets, security fencing, retaining walls
Utilities	Underground and overhead utility lines, manholes, power poles (without footings)	Maintenance access roads, vegetation management needs	Paved or concrete surfaces, structures, facilities, pump stations, towers, vaults, security fencing, etc.
Parks & Recreation	Natural fields and grass areas, viewing areas, split rail fencing	Impervious trails, engineered fields, fairways	Greens, tees, structures, parking, lighting, concrete or gravel pads, security fencing

1 –Table modified from Table 8C-3: Appendix 8-C: Guidance on Widths of Buffers and Ratios for Compensatory Mitigation for Use with the Western Washington Wetland Rating System.

2 – Where characteristics of proposed development are not listed in this table, the Administrator shall determine the intensity categories applicable to the proposal.

3 – Intensity is measured at the landscape-scale and must include the development proposal in the determination of intensity made under the Rating System.

2. Increased Buffer Widths. Buffer widths shall be increased on a case-by-case basis as determined by the Administrator when a larger buffer is necessary to protect wetland functions and values. This determination shall be supported by appropriate documentation showing that it is reasonably related to protection of the functions and values of the wetland.
3. Buffer averaging to improve wetland protection may be permitted when all of the following conditions are met:

a. The wetland has significant differences in characteristics that affect its habitat functions, such as a wetland with a forested component adjacent to a degraded component.

b. The buffer is increased adjacent to the higher-functioning area of habitat or more-sensitive portion of the wetland and decreases adjacent to the lower-functioning or less-sensitive portion as demonstrated in the wetland report.

c. The total buffer area after averaging is equal to the area required without averaging.

d. The buffer at its narrowest point is never less than either 75% of the required width or the narrowest buffer listed for the appropriate wetland category in Table 18.13.100-1, whichever is greater.
4. Buffer averaging to allow reasonable use of a parcel may be permitted when all of the following are met:

a. There are no feasible alternatives to the site design that could be accomplished without buffer averaging.

b. The averaged buffer will not result in degradation of the wetland’s functions and values as demonstrated by the wetland report.

c. The total buffer area after averaging is equal to the area required without averaging.

d. The buffer at its narrowest point is never less than either 75% of the required width or the narrowest buffer listed for the appropriate wetland category in Table 18.13.100-1, whichever is greater.
- Page 3

5. Reduced Buffer Width. Base wetland buffer widths may be decreased under the following circumstances.
- a. Functionally Isolated Buffers- Lawns, walkways, driveways, other mowed or paved areas, and areas which are functionally separated from a wetland and do not protect the wetland from adverse impacts due to pre-existing roads, structures, or vertical separation, shall be excluded from buffers otherwise required by this Chapter.
 - b. Reduction in Land Use Intensity- High intensity buffers may be reduced to moderate intensity buffers, and moderate intensity buffers may be reduced to low intensity buffers, if the mitigation measures listed in SMC Table 18.13.100-3 are applied to the greatest extent practicable. In no case shall high intensity buffers be reduced to low intensity buffers.

TABLE 18.13.100-3 – EXAMPLE MEASURES TO REDUCE IMPACTS TO WETLANDS		
Disturbance	Typical Cause of Disturbance	Example Minimization Measures
Lights	<ul style="list-style-type: none">• Parking Lots• Warehouses• Manufacturing• Residential	<ul style="list-style-type: none">• Direct lights away from wetland
Noise	<ul style="list-style-type: none">• Manufacturing• Residential	<ul style="list-style-type: none">• Locate activity that generates noise away from wetland
Stormwater & Toxic Runoff ²	<ul style="list-style-type: none">• Parking Lots• Roads• Manufacturing• Commercial• Residential Areas• Landscaping	<ul style="list-style-type: none">• Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered• Retrofit stormwater detention and treatment for roads and existing adjacent development• Prevent channelized flow from lawns that directly enters buffers• Establish covenants limiting use of pesticides within 150 of wetland• Apply integrated pest management
Change in Water Regime	<ul style="list-style-type: none">• Impermeable Surfaces• Lawns• Filling & Grading	<ul style="list-style-type: none">• Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns• Ensure wetland is not dewatered
Pets & Human Disturbance	<ul style="list-style-type: none">• Residential Areas	<ul style="list-style-type: none">• Use privacy fencing; plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion• Place wetland and its buffer in a separate tract
Dust	<ul style="list-style-type: none">• Land Development	<ul style="list-style-type: none">• Use best management practices to control dust
1 - Table modified from Table 8C-8: Appendix 8-C: Guidance on Widths of Buffers and Ratios for Compensatory Mitigation for Use with the Western Washington Wetland Rating System.		
2 – These examples are not necessarily adequate for minimizing toxic runoff if threatened or endangered species are present at the site.		

- E. **Wetland Buffer Standards.**
- 1. All buffers shall be measured perpendicularly from the wetland boundary as surveyed in the field.
 - 2. Buffers must be fully vegetated in order to be included in buffer area calculations.
 - 3. All proposals requiring wetland buffers shall be subject to SMC 18.13.057 – Protective Buffers—Standards.
- F. **Wetland Compensatory Mitigation.**
- 1. Compensatory Mitigation, Required.
 - a. Compensatory mitigation for alterations to wetlands shall be used only for impacts that cannot be avoided or minimized and shall achieve equivalent or greater biologic functions. Compensatory mitigation plans shall be consistent with “Wetland Mitigation in Washington State-Part 2: Developing Mitigation Plans- Version 1” (Ecology Publication #06-06-011b), as revised and “Selecting Wetland Mitigation Sites Using a Watershed Approach (Western Washington)” (Ecology Publication #09-06-32), as revised.
 - b. Mitigation ratios shall be consistent with SMC Table 18.13.100-4.
 - c. As an alternative, mitigation requirements may also be determined using the credit/debit tool described in “Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Western Washington: Final Report (Ecology Publication #10-06-011), or as revised.

2. Compensating for Lost or Affected Functions. Compensatory mitigation shall address the functions affected by the proposed project, with an intention to achieve functional equivalency or improvement of functions. The goal shall be for the compensatory mitigation to provide similar wetland functions as those lost, except when either:
 - a. The lost wetland provides minimal functions, and the proposed compensatory mitigation action(s) will provide equal or greater functions or will provide functions shown to be limiting within a watershed through a formal Washington state watershed assessment plan or protocol; or
 - b. Out-of-kind replacement of wetland type or functions will best meet watershed goals formally identified by the City, such as replacement of historically diminished wetland types.
3. Approaches to Compensatory Mitigation. Mitigation for lost or diminished wetland and buffer functions shall rely on the approaches listed below.
 - a. Permittee-Responsible Mitigation. In this situation, the permittee performs the mitigation after the permit is issued and is ultimately responsible for implementation and success of the mitigation. Permittee-responsible mitigation may occur at the site of the permitted impacts or at an off-site location within the same watershed.
4. Wetland Mitigation Plan- When a project involves wetland and/or buffer impacts, a Wetland Mitigation Plan by a qualified professional shall be required. Qualified professionals should use "Wetland Guidance for CAO Updates (Western Washington)" (Ecology Publication #16-06-001) for guidance in determining the necessary technical information to be provided. At a minimum, the Wetland Mitigation Plan must contain the following information:
 - a. Baseline Information. All the information required in the Wetland Report prepared under SMC 18.13.100(C).
 - b. Written Report. The contents of the written report shall include:
 - i. Description of the existing and estimated future conditions of the compensatory mitigation site, including location and rationale for selection. Include an assessment of all appropriate technical information necessary to assess the compensatory mitigation proposed.
 - ii. Description of the proposed actions for compensation of wetland and upland areas affected by the project. Include overall goals of the proposed mitigation, including a description of the targeted functions, hydrogeomorphic classification, and categories of wetlands.
 - iii. Description of the proposed mitigation construction activities and timing of activities.
 - iv. A proposed Monitoring Program compliant with SMC 18.13.059.
 - v. A bond estimate for the entire compensatory mitigation project, including the following elements: site preparation, plant materials, construction materials, installation oversight, maintenance twice per year for up to 5 years, annual monitoring field work and reporting, and contingency actions for the monitoring period established under SMC 18.13.059 –Monitoring Standards.
 - c. Detailed Construction Plan. The scaled plan sheets for the Wetland Mitigation Plan shall include, at a minimum:
 - i. Surveyed edges of the existing wetland and buffers, proposed areas of wetland and/or buffer impacts, location of proposed wetland and/or buffer compensation actions.
 - ii. Existing and proposed topography and cross sections, ground-proofed, at 2-foot contour intervals in wetland and buffer areas where the compensation proposes grading activity.
 - iii. A planting plan for the compensation area, including all species by proposed community type and water regime, size and type of plant material to be installed, spacing of plants, typical clustering patterns, total number of each species by community type, and timing of installation.
5. Types of Compensatory Mitigation. Mitigation for lost or diminished wetland and buffer functions shall rely on a type listed below in order of preference. A lower-preference form of mitigation shall be used only if the applicant's Wetland Mitigation Plan demonstrates to the City's satisfaction that all higher-ranked types of mitigation are not viable, consistent

with the criteria of this section. All types of compensatory mitigation are defined in SMC 18.13.010.

- a. Restoration. For the purpose of tracking net gains in wetland areas, restoration is divided into re-establishment and rehabilitation.
- b. Establishment (Creation). If a site is not available for wetland restoration to compensate for expected wetland and/or buffer impacts, the City may authorize creation of a wetland and buffer upon demonstration by the Wetland Mitigation Plan that:
 - i. The hydrology and soil conditions at the proposed mitigation site are conducive for sustaining the proposed wetland and that creation of a wetland at the site will not likely cause hydrologic problems elsewhere;
 - ii. Adjacent land uses and site conditions do not jeopardize the viability of the proposed wetland and buffer (e.g., due to the presence of invasive plants or noxious weeds, stormwater runoff, noise, light, or other impacts); and
 - iii. The proposed wetland and buffer will eventually be self-sustaining with little or no long-term maintenance.
- c. Enhancement. Applicants proposing to enhance wetlands or associated buffers shall demonstrate how the proposed enhancement will increase the wetland’s/buffer’s functions, how this increase in function will adequately compensate for the impacts, and how existing wetland functions at the mitigation site will be protected.
- d. Protection/Maintenance (Preservation). Permanent protection of a Category I or II wetland and associated buffer at risk of degradation can be used only if:
 - i. The City determines that the proposed preservation is the best mitigation option;
 - ii. The proposed preservation site is under threat of undesirable ecological change due to permitted, planned, or likely actions that will not be adequately mitigated under existing regulations;
 - iii. The area proposed for preservation is of high quality or critical for the health of the watershed or basin due to its location. Some of the following features may be indicative of high-quality sites:
 - 1. Category I or II wetland rating (using the Rating System);
 - 2. Rare or irreplaceable wetland type (for example, bogs, mature forested wetlands) or aquatic habitat that is rare or a limited resource in the area;
 - 3. The presence of habitat for priority or locally important wildlife species;
 - 4. Areas that provide biological and/or hydrological connectivity;
 - 5. Priority sites in adopted watershed plan;
 - iv. Permanent preservation of the wetland and buffer will be provided through a conservation easement or tract held by an appropriate natural land resource manager, such as a land trust;
 - v. The City may approve other legal and administrative mechanisms in lieu of a conservation easement if it determines they are adequate to protect the site;
 - vi. Ratios for preservation in combination with other forms of mitigation generally range from 10:1 to 20:1, as determined on a case-by-case basis, depending on the quality of the wetlands being preserved. Ratios for preservation as the sole means of mitigation generally start at 20:1.

6. Wetland Mitigation Ratios.

TABLE 18.13.100-4 – WETLAND MITIGATION RATIOS			
Category & Type of Wetland ¹	Creation or Re-Establishment	Rehabilitation	Enhancement
Category I: Bog, Natural Heritage Site	Not Considered Possible	Case by case	Case by case
Category I: Mature Forested	6:1	12:1	24:1
Category I: Based on Function	4:1	8:1	16:1
Category II	3:1	6:1	12:1
Category III	2:1	4:1	8:1
Category IV	1.5:1	3:1	6:1
Wetland Buffers ²	1:1	1:1	1:1
1 - Table modified from Table 8C-11: Appendix 8-C: Guidance on Widths of Buffers and Ratios for Compensatory Mitigation for Use with the Western Washington Wetland Rating System.			
2 – Compensatory mitigation for buffers shall replace those buffer functions lost from development.			

7. **Compensatory Mitigation Location.** Compensatory mitigation actions shall generally be conducted within the same sub-drainage basin and on the site of the alteration except when the applicant can demonstrate that off-site mitigation is ecologically preferable. The following criteria will be evaluated when determining whether the proposal is ecologically preferable. When considering off-site mitigation, preference should be given to using alternative mitigation, such as advance mitigation.
 - a. There are no reasonable opportunities on site or within the sub-drainage basin (e.g., Considerations should include: anticipated replacement ratios for wetland mitigation, buffer conditions and required widths, available water to maintain anticipated hydrogeomorphic classes of wetlands when restored, proposed flood storage capacity, and potential to mitigate riparian fish and wildlife impacts (such as connectivity).
 - b. On-site mitigation would require elimination of high-quality upland habitat.
 - c. Off-site mitigation has a greater likelihood of providing equal or improved wetland functions than the altered wetland.
 - d. Off-site locations shall be in the same sub-drainage basin unless established watershed goals for water quality, flood storage or conveyance, habitat, or other wetland functions have been established by the City and strongly justify location of mitigation at another site.
 - e. The design for the compensatory mitigation project needs to be appropriate for its location (i.e., position in the landscape). Therefore, compensatory mitigation should not result in the creation, restoration, or enhancement of an atypical wetland.
 - f. Wetland mitigation sites shall be located such that the new associated wetland buffer does not cross onto adjacent property unless the applicant has established easement, conservation covenant, fee-title, or some other legal right to the adjacent property.
8. **Compensatory Mitigation Timing.** It is preferred that compensatory mitigation projects be completed prior to activities that will impact wetlands. At the least, compensatory mitigation shall be completed immediately following disturbance and prior to use or occupancy of the action or development. Construction of mitigation projects shall be timed to reduce impacts to existing fisheries, wildlife, and flora.
 - a. The Administrator may authorize a one-time temporary delay in completing construction or installation of the compensatory mitigation when the applicant provides a written explanation from a qualified professional wetland scientist as to the rationale for the delay. An appropriate rationale would include identification of the environmental conditions that could produce a high probability of failure or significant construction difficulties (e.g., project delay lapses past a fisheries window, or installing plants should be delayed until the dormant season to ensure greater survival of installed materials). The delay shall not create or perpetuate hazardous conditions or environmental damage or degradation, and the delay should not be injurious to the health, safety, or general welfare of the public.
 - b. **Advance Mitigation.** Mitigation for projects with pre-identified impacts to wetlands may be constructed in advance of the impacts if the mitigation is implemented according to federal rules, state policy on advance mitigation, and state water quality regulations consistent with "Interagency Regulatory Guide: Advance permittee-Responsible Mitigation" (Ecology Publication #12-06-015), as amended.
9. In order to ensure the completion and success of the planned mitigation, the City may require a performance and/or maintenance bond to be posted as detailed in 18.13.060.
- C. Revocation.** In addition to other remedies provided for elsewhere, the City may suspend or revoke a permit if the applicant or permittee has not complied with any of the conditions or limitations set forth in the permit, has exceeded the scope of work set forth in the permit, or has failed to undertake the project in the manner set forth in the permit.

SMC 18.13.110 Critical Area – Critical Aquifer Recharge Areas

- A. Classification & Designation.** All lands identified in SMC 13.30.150(1) – Critical Aquifer Recharge Areas are designated as critical aquifer recharge areas under this Chapter.
- B. Performance Standards.** All regulated activities within designated critical aquifer recharge areas shall comply with SMC 13.30 – Drinking Water Resource Protection, as now or hereafter amended.

SMC 15.24 Floodplain Management Regulations

SMC 15.24.010 Statement of Purpose. (No Change)

SMC 15.24.020 Definitions. Unless specifically defined in this section, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application...

“Basement” means any area of the building having its floor sub-grade (below ground level) on all sides.

“Development” means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials located within the area of special flood hazard.

“Elevation Certificate” means the official form (FEMA Form 81-31) used to track development, provide elevation information necessary to ensure compliance with community floodplain management ordinances, and determine the proper insurance premium rate with Section B completed by Community Officials.

“Flood Insurance Study” means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.

“Floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

SMC 15.24.030 Lands to which this Chapter Applies. (No Change)

SMC 15.24.040 Basis for Establishing the Areas of Special Flood Hazard. The areas of special flood hazard identified by the Federal Insurance Administration as Zone A as shown on the Flood Insurance Rate Map for City of Stevenson, WA, Community No. 530161 A, Panels 01-02, dated July 17, 1986 and Skamania County Washington, Community No. 530160, Panel 425, dated August 5, 1986, including any revisions thereto, and any revisions hereafter, are adopted by reference and declared to be a part of this chapter. The Flood Insurance Rate Map is on file at City Hall, 7121 East Loop Road, Stevenson, WA.

SMC 15.24.050 Establishment of Development Permit. (No Change)

SMC 15.24.060 Designated of the Permit Administrator. (No Change)

SMC 15.24.070 Duties and Responsibilities of the Permit Administrator.

Duties of the permit administrator shall include, but not be limited to:

- A. Permit Review. (No Change)
- B. Use of Other Base Flood Date. (No Change)

C. Information to be Obtained and Maintained.

1. Where base flood elevation data is provided through the Flood Insurance Study, FIRM, or required as in subsection B of this section, obtain and record the actual (as-built) elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement. Recorded on a current elevation certificate (FF 81-31) with Section B completed by the local official;
2. For all new or substantially improved floodproofed nonresidential structures where base flood elevation data is provided through the FIS, FIRM, or as required in subsection B of this section:
 - a. Obtain and record the elevation (in relation to mean sea level) to which the structure was floodproofed, and
 - b. Maintain the floodproofing certifications required in Section 15.24.050(B)(3);
3. Maintain for public inspection all records pertaining to the provisions of this chapter.

D. Alteration of Watercourses.

1. Notify adjacent communities and the Department of Ecology prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
2. (No Change)

E. Interpretation of FIRM Boundaries. (No Change)

SMC 15.24.075 Variance Procedure. (No Change)

SMC 15.24.080 General Standards for Flood Hazard Reduction. (No Change)

SMC 15.24.090 Specific Standards for Flood Hazard Reduction.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 15.24.080(B), the following provisions shall apply. Additional standards were clarified in FEMA Technical Bulletin 11-01 to allow crawlspace construction for buildings located in the special flood hazard areas; however, adopting this provision can result in a 20% increase in flood insurance premiums.

- A. Residential Construction. (No Change)
- B. Nonresidential Construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated one foot or more above the base flood elevation; or, together with attendant utility and sanitary facilities, shall:
 1. Be floodproofed so that below one foot or more above the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
 2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
 3. 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 official as set forth in Section 15.24.070(C)(2).

4. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subsection (A)(2) of this section.
 5. Applicants who are floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g. a building constructed to the base flood level will be rated as one foot below that level). Floodproofing the building an additional foot will reduce insurance premiums significantly.
- C. Manufactured Homes.
1. All manufactured homes to be placed or substantially improved on sites shall be elevated one foot or more above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
 2. A plan for evacuating residents of all manufactured home parks or subdivisions located within flood prone areas shall be developed and filed with and approved by appropriate community emergency management authorities.
- D. Recreational Vehicles. (No Change)

SMC 15.24.092 AE and A1-30 Zones with Base Flood Elevation by No Floodways. (New) In areas with base flood elevations (but a regulated floodway has not been designated), no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

SMC 15.24.094 Floodways. (New) Located within areas of special flood hazard established in SMC 15.24.040 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters that can carry debris, and increase erosion potential, the following provisions apply:

- A. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge.
- B. Construction or reconstruction of residential structures is prohibited within designated floodways, except for (i) repairs, reconstruction, or improvements to a structure which do not increase the ground floor area, and (ii) repairs, reconstruction or improvements to a structure, the cost of which does not exceed 50% of the market value of the structure either (A) before the repair, or reconstruction is started, or (B) if the structure has been damaged, and is being restored, before the damage occurred. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or to structures identified as historic places, may be excluded in the 50%.

Exhibit A

- C. If section A of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this chapter.

SMC 15.24.100 Encroachments. (No Change)

SMC 15.24.110 Repeal of Conflicting Ordinances and Provisions. (No Change)

Stevenson Municipal Code

13.30

Chapter 13.30

DRINKING WATER RESOURCE PROTECTION

Sections:

13.30.010	Purpose.
13.30.050	Authority, interpretation.
13.30.100	Definitions.
13.30.125	Adoption of manual.
13.30.150	Designation, scope and applicability.
13.30.175	Discharges to drinking water resources.
13.30.200	Minimum requirements.
13.30.300	Application of greater standards.
13.30.325	Greater standards for hazardous materials operations.
13.30.350	Restrictions in critical aquifer recharge areas.
13.30.400	Administrative programs.
13.30.500	Enforcement.
13.30.600	Trade secrets and confidential records.
13.30.700	Alternative practices.
13.30.725	Adjustments.
13.30.750	Special exceptions.
13.30.800	Appeals.
13.30.900	Halogenated solvent table.

Section 13.30.010 Purpose.

A. The purpose of this chapter is to protect drinking water resources in the City by establishing development regulations and minimum requirements to reduce the risks of contaminants entering drinking water resources (SMC 13.30.100(P)).

B. In furtherance of this purpose, the City prohibits the discharge of contaminants to drinking water resources as set forth in SMC 13.30.175 and requires certain operations to utilize best management practices as set forth in SMC sections 13.30.200, .300, and .325.

C. The City also recognizes that achieving successful pollution control must include a drinking water resources pollution prevention education component for agencies, businesses, industries, and the general public. Enforcement actions will normally be implemented when:

1. Education and technical assistance measures are unsuccessful at protecting the public interest;
2. Best management practices are not followed; or
3. Persons willfully contaminate the drinking water resources of the City.

D. It is not the intent of this chapter to have the City pursue enforcement actions against businesses, industries, or persons whose actions or activities result in the discharge of de minimus amounts (SMC 13.30.100(J)) of contaminants into the drinking water resources of the City.

E. The City finds this chapter is necessary to protect the health, safety and welfare of the residents of the City and the integrity of the drinking water resources for the benefit of all by:

1. Minimizing or eliminating surface and ground water quality degradation;
2. Preserving and enhancing the suitability of waters for drinking, recreation, fishing, wildlife habitat, aquatic life, and other beneficial uses; and
3. Preserving and enhancing the aesthetic quality and biotic integrity of the water.

F. The City recognizes the importance of maintaining economic viability while providing necessary environmental protection. This chapter helps achieve both goals.

Stevenson Municipal Code

13.30

G. The enforceable mechanisms and the application of best management practices (BMPs) within this chapter ensure compliance with state and federal water quality programs, including the Washington Growth Management Act's requirement for Critical Aquifer Recharge Areas.

Section 13.30.050 Authority, interpretation.

A. The City shall retain the authority to require implementation of any portion of this chapter, as defined herein and as necessary to protect drinking water resources when the City becomes aware of and documents specific circumstances concerning an operation that demonstrate that the measures are necessary to protect public health and safety. The City may impose additional requirements whenever documented specific circumstances applicable to an operation threaten drinking water resources.

B. The provisions of this chapter shall be liberally construed by the City to serve the purposes of this chapter. Where provisions of this chapter or the stormwater manual adopted under this section conflict with other provisions of the Stevenson Municipal Code, the more stringent requirements, which have the most protective effect on drinking water quality, shall apply.

Section 13.30.100 Definitions.

For the purposes of this chapter, the following definitions shall apply. The 2005 Stormwater Management Manual for Western Washington may be used for guidance interpreting any words or phrases not defined herein. Other words or phrases shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable interpretation and application.

A. "Aquifer Recharge Areas" means areas having a critical recharging effect on aquifers that are a source of drinking water and vulnerable to contamination that would affect the certifiable potability of the water.

B. "Best Management Practices" or "BMPs" means the schedules of activities, prohibitions of practices, maintenance procedures, and structural and/or managerial practices approved by the Washington State Department of Ecology and/or the City of Stevenson that, when used singly or in combination, control, prevent or reduce the release of pollutants and other adverse impacts to waters of Washington State.

C. "Bulk Petroleum Fuel Operation" means an operation that manages a cumulative total of 12,000 gallons or more of petroleum fuel on-site in tanks capable of holding volumes of at least 4,000 gallons.

D. "Chemical Lagoons and Pits" means any earthen basin or uncovered concrete basin or depression containing hazardous materials.

E. "City" means the City of Stevenson.

F. "Closure of Operation" means the cessation of activity such that hazardous materials are no longer managed at the operation. For the purposes of this chapter, an operation is considered closed if it has been non-operational for a continuous period of 2 years.

G. "Connection" means a link or channel between two otherwise separate conveyance systems whereby there may be flow from one system to the other.

H. "Connection, Illicit" means any man-made conveyance that is connected to a municipal separate storm sewer without a permit, excluding roof drains and other similar type connections. Examples include, but are not limited to, sanitary sewer connections, floor drains, channels, pipelines, conduits, inlets, or outlets that are connected directly to the stormwater drainage system.

I. "Container" means any portable device in which a material is stored, transported, treated,

Stevenson Municipal Code

13.30

disposed of, or otherwise handled.

J. “Dangerous Waste” means waste designated in the Washington State Dangerous Waste Regulations (WAC 173-303) as dangerous or extremely hazardous due to its physical, chemical or biological properties.

K. “De Minimus Amounts” means a small or miniscule amount of contaminant in a discharge that is demonstrated to be non-harmful to the environment.

L. “Direct Infiltration Facility” means, for the purposes of this chapter, any mechanism that is intended to direct stormwater or process wastewater directly into the ground without providing treatment. Examples include, but are not limited to, drywells, ponds, trenches and perforated pipe systems.

M. “Discharge” means, for purposes of this chapter only, the release of materials such that the materials may enter or be emitted to the air, land, or drinking water resources.

N. “Discharge, Illicit” means any discharge to a municipal separate storm sewer that is not composed entirely of storm water except discharges pursuant to a NPDES permit (other than the NPDES permit for discharges from the municipal separate storm sewer) and discharges resulting from fire fighting activities.

O. “Disposal” means discharging, discarding, or abandoning materials into or on any land, air, or water resources.

P. “Disposal Site” means an area of land or an excavation in which wastes are placed for permanent disposal, and which is not a land application site (SMC 13.30.100(U)), surface impoundment, injection well, or waste pile.

Q. “Drinking Water Resources” means the surface water or ground water supply for any Group A water system.

R. “Drywell” means a precast concrete manhole with perforations and installed with drain rock or other material for exfiltration of surface water runoff or other drainage to the subsurface.

S. “Ground Water” means water in a saturated zone or stratum beneath the surface of the land or below a surface water body.

T. “Hard Chrome Plating” means chrome plating applied in a sufficient thickness to provide a hardened protective surface rather than merely a decorative surface. A hard chrome shop is more likely to be a large single-purpose plating shop with higher quantities of hazardous plating materials onsite, whereas facilities which do decorative plating may do so as just one of the steps in their manufacturing process.

U. “Hazardous Material” means any product, substance, commodity, or waste in liquid, solid or gaseous form that exhibits a characteristic that presents a risk to drinking water resources. Risk may be due to ignitability, toxicity, reactivity, instability, corrosivity or persistence. This definition extends to all “dangerous wastes” and “hazardous substances” that are defined in WAC 173-303 (State Dangerous Waste Regulations). It also includes the chemicals and/or substances that are defined in the federal Emergency Planning and Community Right to Know Act (EPCRA) and/or the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA).

V. “Land Application Site” means a place where wastes such as sludge or gray water are applied to the land.

W. “Leachable Constituents” means constituents determined using the Toxicity Characteristic Leaching Procedure (TCLP), Test Method 1311 in “Test Methods for Evaluating Solid Waste, Physical/Chemical Methods,” EPA Publication SW-846.

X. “Manage” means a general term that includes, but is not limited to, the use, transfer,

Stevenson Municipal Code

13.30

storage, processing and re-packaging of materials. This does not include the active or immediate transportation of materials.

Y. "Municipal Waste" means general residential and commercial wastes including the waste collected by garbage haulers and the waste delivered to transfer or disposal sites by the waste generators themselves (self-haul).

Z. "National Pollutant Discharge Elimination System" or "NPDES" means the national program for issuing, modifying, revoking, and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under sections 307, 402, 318, and 405 of the Federal Clean Water Act, for the discharge of pollutants to surface waters of the state from point sources. These permits are referred to as NPDES permits and, in Washington State, are administered by the Washington State Department of Ecology.

AA. "Operation(s)" means industrial, commercial, institutional, or residential activity that may be publicly or privately-owned and operated, and may involve the use of stationary facilities, equipment, transport vehicles, or transfer equipment. To the extent allowed by state or federal law, this definition includes all federal, state, or local government entities.

BB. "Operation, Classified" means any operation that at any time within a one year time period will or do manage over 220 pounds in total of hazardous materials, including mixtures thereof that contain the following:

1. Constituents referenced in the Code of Federal Regulations, 40 CFR 302.4 (referenced in Section 103(a) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA));
2. Materials that exhibit the characteristic of toxicity (SMC 13.30.100(PP)) because they contain leachable constituents (SMC 13.30.100(V)) from the Toxicity Characteristic List of WAC 173-303-090(8) as amended; or
3. Constituents that are referenced on the Halogenated Solvent List set forth in SMC Table 13.30.900-1.

CC. "Outdoor Wood Preservation" means the act of pressure treating wood products for weather resistance and outdoor use, using organic-based preservatives such as creosote or pentachlorophenol, typically used to treat poles or heavy timbers, and inorganic-based preservatives such as chromium, copper and arsenic, typically used to treat dimension lumber.

DD. "Permeable Surface" means soil or other ground cover with a sufficiently rapid infiltration rate so as to eliminate surface runoff.

EE. "Person" means any human being, firm, labor organization, partnership, corporation, unincorporated association, trustee, trustee in bankruptcy, receiver, or any other legally recognized entity.

FF. "Potentially Harmful Materials" means hazardous materials (SMC 13.30.100(T)) as well as other materials including, but not limited to, the following which, if discharged or improperly disposed, may present a risk to drinking water resources:

Petroleum products including but not limited to petroleum fuel and petroleum based coating and preserving materials; oils containing PCBs; antifreeze and other liquid automotive products; metals, either in particulate or dissolved form, in concentrations above established regulatory standards; flammable or explosive materials; radioactive material; used batteries; corrosives, acids, alkalis, or bases; paints, stains, resins, lacquers or varnishes; degreasers; solvents; construction materials; drain cleaners and other toxic liquid household products; pesticides, herbicides, fungicides or fertilizers unless applied in accordance with local, state and federal standards; steam cleaning and carpet cleaning wastes; pressure cleaning wastes; car wash water; laundry wastewater; soaps, detergents, ammonia; swimming pool backwash; chlorine, bromine, and other disinfectants; heated water; domestic animal wastes; sewage; recreational vehicle waste; animal carcasses, excluding salmonids; food wastes; collected lawn clippings,

Stevenson Municipal Code

13.30

leaves or branches; trash or debris; silt, sediment, or gravel; dyes; and untreated or unapproved wastewater from industrial processes.

GG. “Process Wastewater” means wastewater discharged from one or more industrial processes or industrial cleanup procedures.

HH. “Qualified Professional” means a hydrogeologist, geologist, engineer, or other scientist with experience in preparing hydrogeologic assessments or can be otherwise considered a qualified scientific expert with expertise appropriate for critical aquifer recharge areas in accordance with WAC 365-195-905(4).

II. “Releasing” or “Release” means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including but not limited to the abandonment or discarding of barrels, containers, and other closed receptacles.

JJ. “Responsible Government Official” means a person employed by the federal, state, or a local government with authority to protect the public health and safety or water resources. Examples include, but are not limited to, persons employed by the police and fire departments, and employees of the Washington State Department of Ecology, the United States Environmental Protection Agency, Skamania County, and the City of Stevenson.

KK. “Sewage Disposal Cesspool” means a lined excavation in the ground which receives the discharge of a drainage system, designed to retain solids and organic matter while permitting liquids to seep through the sides and bottom.

LL. “Stormwater” means runoff during and following precipitation and snowmelt events, including surface runoff and drainage.

MM. “Stormwater Drainage System” means constructed and natural features that function together as a system to collect, convey, channel, hold, inhibit, retain, detain, infiltrate, divert, treat, or filter stormwater.

NN. “Stormwater Manual” means the Stormwater Management Manual for Western Washington (Ecology Publication #14-10-055), as amended, prepared by the Washington State Department of Ecology for use by local governments that contains BMPs to prevent, control, or treat pollution in stormwater.

OO. “Stormwater Treatment Facility” means a stormwater facility that is intended to remove pollutants from stormwater. Stormwater treatment facilities include, but are not limited to, wetponds, oil/water separators, biofiltration swales, and constructed wetlands.

PP. “Surface Water” means water that flows across the land surface, in channels, or is contained in depressions in the land surface, including but not limited to ponds, lakes, rivers, and streams.

QQ. “Tank” means a stationary device designed to contain liquids used or stored at an operation which may include hazardous materials, chemicals or dangerous wastes, and which is constructed primarily of non- earthen materials to provide structural support.

RR. “Toxicity” means having properties that cause or significantly contribute to death, injury, or illness in humans or wildlife. A material exhibits the characteristic of toxicity if it contains certain leachable constituents at sufficient concentrations to be considered dangerous to human health and the environment. Leachable constituents and toxicity concentrations are referenced in the Toxicity Characteristic List of WAC 173-303-090(8) as amended.

SS. “Underground Injection Control” or “UIC well” means a manmade subsurface fluid distribution system designed to discharge fluids into the ground, consisting of an assemblage of perforated pipes, drain tiles, or other similar mechanisms, or a dug hole that is deeper than the largest surface dimension. Subsurface infiltration systems include drywells, pipe or french drains, drain fields,

Stevenson Municipal Code

13.30

and other similar devices.

Section 13.30.125 Adoption of Manual.

A. For purposes of regulation of activities subject to this chapter, the City hereby adopts as its Stormwater Manual the 2005 Stormwater Management Manual for Western Washington.

B. At least one copy of the manual adopted in this section shall be filed in the Office of the City Clerk for use and examination by the public. The manual may also be made available for use and examination by the public at the Office of the Public Works Director, or on the City website.

C. Any reference to "Stormwater Management Manual" or "Puget Sound Erosion Control Manual" or "Washington Department of Ecology's Stormwater Management Manual for the Puget Sound" or "Puget Sound Water Quality Manual" or "BMP's approved by the Western Washington Stormwater Manual" or "Department of Ecology alternative paving Best Management Practices," wherever found within the Stevenson Municipal Code, shall refer to this chapter and to the equivalent manuals as adopted in this chapter.

Section 13.30.150 Designation, scope and applicability.

A. Designated Areas: The following areas are designated Drinking Water Resource Protection Areas:

1. Critical Aquifer Recharge Areas: The City designates the following as Critical Aquifer Recharge Areas, pursuant to WAC 365-190 and Chapter 36.70A RCW, for the protection of drinking water resources. The City shall apply development restrictions as defined in SMC 13.30.350 to activities inside Critical Aquifer Recharge Areas.
 - a. Wellhead Protection Areas. Wellhead protection areas shall be defined by the boundaries of the 10-year time of ground water travel, or boundaries established using alternate criteria approved by the Department of Health in those settings where ground water time of travel is not a reasonable delineation criterion, in accordance with WAC 246-290-135 for Group A water systems.
 - b. Sole Source Aquifers. Sole source aquifers are areas that have been designated by the U.S. Environmental Protection Agency pursuant to the Federal Safe Drinking Water Act. As of 2016, no Sole Source Aquifers are designated within Skamania County.
 - c. Susceptible Ground Water Management Areas. Susceptible ground water management areas that have been designated as moderately or highly vulnerable or susceptible in an adopted ground water management program developed pursuant to Chapter 173-100 WAC. As of 2016, no Susceptible Ground Water Management Areas are designated within Skamania County.
 - d. Special Protection Areas. Special protection areas are those areas defined by WAC 173-200-090. As of 2016, no special protection areas are defined within Skamania County.
2. Surface Water Protection Areas. The City designates all Surface Water Protection Systems identified by the Washington Department of Health for any Group A water system as Surface Water Protection Areas.

B. Mapping.

1. The approximate location and extent of designated Drinking Water Resource Protection Areas are shown on the adopted critical areas map.
2. These maps are to be used as a guide for the city, project applicants, and/or property owners, and may be continuously updated as new Drinking Water Resource Protection Areas are identified. The maps are a reference only and do not provide a final critical area designation.

Stevenson Municipal Code

13.30

C. Operations: All operations are subject to the provisions of this chapter. Each operation shall meet the Minimum Requirements defined in SMC 13.30.200. Operations that manage hazardous materials may also be required to meet the Greater Standards for Hazardous Materials Management, as defined in SMC sections 13.30.300 and .325.

D. Prohibitions: Regardless of operating status or location, the following uses and activities shall be prohibited within the City:

1. Hard Chrome Plating Operations
2. Outdoor Wood Preservation Operations
3. Chemical Lagoons and Pits
4. Sewage Disposal Cesspools
5. Hazardous Material Disposal Sites
6. Radioactive Waste Disposal Sites
7. Municipal Waste Disposal Sites

E. Emergency Response Exclusion: Emergency response activities shall be excluded from the requirements of this chapter, if such an activity is initiated and completed within a timeframe too short to allow for full compliance with this chapter. This exclusion shall only apply to immediate actions that are undertaken in response to an imminent threat to drinking water resources, public health or safety. This exclusion shall not apply unless a responsible government official (SMC 13.30.100(HH)) is notified and agrees that the event is a qualifying emergency.

Section 13.30.175 Discharges to Drinking Water Resources.

A. Prohibited Discharges: No person or operation shall discharge any potentially harmful materials (SMC 13.30.100(E)) into the drinking water resources of the City. Persons or operations shall use all known, available, and reasonable means to prevent the discharge of any potentially harmful materials into the drinking water resources of the City.

B. Illicit Connections:

1. Any connection that could allow conveyance of any solid, liquid, or gas material not composed entirely of surface and storm water directly to drinking water resources is considered an illicit connection and is prohibited, except:
 - a. Connections conveying allowable discharges as set forth at SMC 13.30.175.C and D herein;
 - b. Connections conveying discharges pursuant to a National Pollutant Discharge Elimination System (NPDES) permit or a state waste discharge permit; and
 - c. Connections conveying effluent from permitted or authorized onsite sewage disposal systems to subsurface soils.
2. Floor drains shall not be installed inside an operation which stores or uses hazardous materials unless approved by the City for connection to sanitary sewer. Existing floor drains connected to storm drains or to surface water drains located in or near indoor hazardous material storage or use areas are considered unauthorized connections and shall be sealed or removed to prevent liquid entry, piped to the sanitary sewer (with approval and appropriate shut-off valves), be routed to blind sumps, or be directed to additional containment or treatment systems meeting the standards of this chapter.

C. Allowable Discharges to Stormwater Drainage System: The following types of discharges shall be permitted unless the City determines that these discharges (whether singly or in combination with others) are causing significant contamination of drinking water resources:

1. Uncontaminated water from crawl space pumps or footing drains;
2. Materials placed as part of an approved habitat restoration or bank stabilization project;
3. Natural uncontaminated surface water or ground water;
4. Flows from riparian habitats and wetlands;

Stevenson Municipal Code

13.30

5. City-approved dye testing following verbal notification to the City at least one day prior to the date of test. The City and the Skamania County Environmental Health and Public Works departments are exempt from this requirement;
 6. Any discharge allowed by an operation's National Pollutant Discharge Elimination System (NPDES) permit or other authorized discharge permit;
 7. Any discharge specifically allowed in writing by a local, state or federal agency for remedial action in an agreed order, a consent decree or in a voluntary cleanup effort.
- D. Allowable Discharges to Permeable Surfaces. The following types of discharges shall be permitted onto a permeable surface unless the City determines that these discharges (whether singly or in combination with others) contain greater than de minimus amounts (SMC 13.30.100(J)) of contaminants:
1. All allowable discharges specified in SMC 13.30.175.C;
 2. Potable water;
 3. Potable water line flushing;
 4. Landscape watering;
 5. Residential car and boat washing;
 6. Residential swimming pool and spa water;
 7. Common discharge practices from water well disinfection.
- E. Non-stormwater Discharges to the Stormwater Drainage System Prohibited Unless Conditions Met. The following categories of non-stormwater discharges are prohibited discharges to any Stormwater Drainage System located within a Critical Aquifer Recharge Area unless the stated conditions are met:
1. Discharges from potable water sources, including water line flushing, hyperchlorinated water line flushing, fire hydrant system flushing, and pipeline hydrostatic test water. Planned discharges shall be de-chlorinated to a concentration of 0.1 ppm or less, pH-adjusted, if necessary, and volumetrically and velocity controlled to prevent re-suspension of sediments in the Stormwater Drainage System.
 2. Discharges from landscape watering and other irrigation runoff. These shall be minimized through, at a minimum, public education activities and water conservation efforts.
 3. Dechlorinated swimming pool discharges. The discharges shall be dechlorinated to a concentration of 0.1 ppm or less, pH-adjusted and reoxygenized if necessary, volumetrically and velocity controlled to prevent re-suspension of sediments in the Stormwater Drainage System. Swimming pool cleaning wastewater and filter backwash shall not be discharged to the Stormwater Drainage System.
 4. Street and sidewalk wash water, water used to control dust, and routine external building wash down that does not use detergents. The City shall reduce these discharges through, at a minimum, public education activities and/or water conservation efforts. To avoid washing pollutants into the Stormwater Drainage System, the City must minimize the amount of street wash and dust control water used.
 5. Other non-stormwater discharges. The discharges shall be in compliance with the requirements of the stormwater pollution prevention plan received by the City, which addresses control of construction site de-watering discharges.
- F. A UIC well may be used to manage stormwater when pollutant concentrations that reach ground water are not expected to exceed Washington state ground water quality standards (chapter 173-200WAC). This section shall not be construed to authorize any discharge to a UIC that does not conform to the requirements of WAC 173-218 – Underground Injection Control Program.

Section 13.30.200 Minimum requirements.

- A. Operational Best Management Practices (BMPs): All operations shall adopt the following

Stevenson Municipal Code

13.30

best management practices to ensure their operations minimize potential risks to drinking water resources.

1. Precautions: The owner/operator shall take precautions to prevent accidental releases of hazardous materials. Hazardous materials shall be separated and prevented from entering Stormwater Drainage Systems, septic systems, and drywells.
 2. Hazardous Materials Management: Hazardous materials shall be managed so that they do not threaten human health or the environment, or enter drinking water resources.
 3. Hazardous Material Releases: All hazardous materials that have been released shall be contained and abated immediately, and the hazardous materials recycled or disposed of properly. The City shall be notified of any release of hazardous materials that clearly impact drinking water resources, as soon as possible but no later than 24 hours after the release. The Stormwater Manual provides applicable operational BMPs for spills of oils and hazardous substances.
 4. Oil/Water Separators: Oil/water separators shall be inspected, cleaned and maintained as stipulated in the Stormwater Manual. The City may allow an operation to modify the regularity of cleanouts if the operation can demonstrate to the City's satisfaction that the separator operates effectively at less frequent cleaning intervals.
 5. Pesticide and Fertilizer Management. All pesticides, herbicides, fungicides and fertilizers shall be applied and managed according to the applicable BMPs for landscaping and lawn/vegetation management in the Stormwater Manual and SMC 18.13 Critical Areas and Natural Resource Lands.
 6. Stormwater Treatment Systems: Stormwater Drainage Systems and treatment facilities, in Critical Aquifer Recharge Areas including, but not limited to, catch basins, wetponds and vaults, biofilters, settling basins, and infiltration systems, shall be cleaned and maintained by the responsible party according to the applicable operational BMPs for the maintenance of stormwater, drainage and treatment systems in the Stormwater Manual.
 7. Decommissioning Water Wells: Any water well which is unusable, abandoned, or whose use has been permanently discontinued, or which is in such disrepair that its continued use is impractical or is an environmental, safety or public health hazard shall be decommissioned according to the provisions of the Washington Administrative Code WAC 173-160-381 and physically disconnected from any public water system used to replace the well. Any person decommissioning a water well shall consult with the City regarding consolidation of that well's water right with the municipal system.
 8. Operation Closure: At the closure of an operation, all hazardous materials shall be removed from the closing portion of the operation and disposed of in accordance with local, state and federal laws.
 9. Mobile Washing and Pressure Cleaning: Operations which engage in activities such as pressure washing, carpet cleaning, and equipment and vehicle washing shall apply best management practices according to applicable BMPs for washing and steam cleaning in the Stormwater Manual. Mobile washing operations shall ensure that all of their employees are knowledgeable of proper discharge practices. Washwater from such operations shall be captured and directed to an approved discharge location. Non-approved washwater shall not be discharged into the City's Stormwater Drainage System.
- B. Commercial Operations Requiring Additional BMPs: Operations which engage in the following commercial operations shall implement the applicable source control BMPs from the Stormwater Manual: commercial animal handling, commercial composting, printing operations, fueling stations, log sorting, railroad yards, recyclers, scrap yards, and wood treatment facilities.
- C. Specific Activities Requiring Additional BMPs: Operations performing the following activities shall implement the applicable source control BMPs from the Stormwater Manual and shall comply with the requirements of SMC 18.13 Critical Areas and Natural Resource Lands: construction/repair/maintenance of boats/ships, airfield/street deicing, dust control, landscaping, loading/unloading of trucks and railcars, repair/maintenance/parking of vehicles/equipment, erosion

Stevenson Municipal Code

13.30

control at industrial sites, maintenance of utility corridors, maintenance of roadside ditches/culverts, outdoor manufacturing, mobile fueling of vehicles/equipment, painting/coating of vehicles/buildings/equipment, storing dangerous wastes, managing raw materials.

Section 13.30.300 Application of greater standards.

- A. Classification: Certain non-residential operations present a greater potential risk to drinking water resources because of the volume and type of hazardous materials that are managed. These Classified Operations (SMC 13.30.100(AA)) are subject to the stipulated actions defined in this section.
- B. Stipulated Actions and Timelines: Classified operations shall adopt the Greater Standards for Hazardous Material Operations defined in SMC 13.30.325, according to the following stipulations:
1. New Operations: New classified operations shall adopt the Greater Standards beginning the date of issuance of certificate of occupancy or as otherwise specified in accordance with the provisions of this chapter.
 2. Existing Operations: Existing classified operations shall adopt the Greater Standards (or some portion thereof), within a time period specified by the City, if the City becomes aware of and documents specific circumstances which demonstrate that Greater Standards (or some portion thereof) are necessary to protect public health and safety, or reduce the risk of contamination to drinking water resources.
 3. Change of Class or Tenant: The City shall be notified as soon as possible and no later than 30 days after:
 - a. The amount of hazardous materials managed by an operation increases above the thresholds established in SMC 13.30.100(AA).
 - b. Occupation of an existing classified operation by a new tenant.
- C. Declassification: An operation shall no longer be classified if:
1. The constituents contained in a product or waste are individually present at less than 1% by weight for non-carcinogenic hazardous materials, and less than 0.1% by weight for known or suspected carcinogenic hazardous materials. (Operators should review the Material Safety Data Sheet for the hazardous materials to make this determination);
 2. Both of the following conditions are met:
 - a. The operation is focused on research, education, distribution or consumer oriented activities, including but not limited to laboratories, hospitals, schools, cargo handlers, distributors, warehouses, or retailers; and
 - b. Products containing classified hazardous materials are managed in closed containers or sealed bags with individual capacities of no more than 10 gallons for a liquid material and no more than 80 pounds for a dry or solid material;
 3. The reason for classification is due to the operation's management of solid metals and solid metal alloys, including but not limited to roll stock, bar stock, sheet stock, and manufactured articles such as equipment, parts, building materials, and piping, that contain one or more metals listed in 40 CFR 302.4 or WAC 173-303-090(8); EXCEPT, that where machining, forming, grinding, cutting, melting, or other activities produce residues such as shavings, grindings, swarf, fume, or other finely divided particulate forms of a listed metal or metal alloy that may present a threat to drinking water resources, such residues shall not be declassified; or
 4. The reason for classification is due to the presence of personal and commercial vehicles that are designed to or do hold quantities of fuel that would otherwise cause them to be classified under this section (SMC 13.30.300.A).

Section 13.30.325 Greater standards for hazardous materials operations.

- A. Best Management Practices (BMPs):

Stevenson Municipal Code

13.30

1. Design and Construction: Operations shall be designed, constructed, maintained and operated to minimize the possibility of an unplanned release of hazardous materials to soil or drinking water resources.
2. Container/Tank Management: A container or tank holding a hazardous material shall always be closed, except to add or remove materials. Hazardous materials shall also be managed so that they do not damage the structural integrity of the operation or devices containing the material.
3. Container/Tank Condition: All containers and tanks shall be maintained in such a manner as to assure effective operation and prevent the release of hazardous materials.
4. Container/Tank Identification: The owner/operator shall label all containers and tanks containing hazardous materials to identify the major risk(s) associated with the contents. This labeling shall conform to applicable sections of the Uniform Fire Code, Occupational Safety and Health standards, and/or the State of Washington's Dangerous Waste Regulations.
5. Ancillary Equipment: Any leaking pipe, pump, or other ancillary equipment shall be repaired or replaced promptly. Ancillary equipment associated with hazardous materials shall be supported and protected against physical damage and excessive stress.
6. Compatibility: The owner/operator shall use a container or tank made of or lined with materials which are compatible with the hazardous materials to be stored.
7. Containment: Container and tank storage areas shall have a containment system that is capable of collecting and holding spills and leaks. This containment shall:
 - a. Be constructed of an impervious surface with sealed joints.
 - b. Joints between concrete slabs and slab/foundation interfaces should be eliminated or minimized in the operation;
 - c. Provide pollution control measures to protect drinking water resources, including run-off collection and discharge from active areas;
 - d. Be designed to provide secondary containment of 110% of the container's or tank's capacity; or in areas with multiple tanks, 110% of the largest tank or 10% of the aggregate tank volumes, whichever is larger. Secondary containment shall be provided in all areas where hazardous materials are loaded/unloaded, transferred, accumulated or stored;
 - e. Be compatible with the materials that are being handled; and
 - f. Be routinely inspected as defined at SMC 13.30.325C.
8. Loading Areas: Loading and unloading areas shall be designed, constructed, operated and maintained to:
 - a. Contain spills and leaks that might occur during loading/unloading;
 - b. Prevent releases of hazardous materials to drinking water resources;
 - c. Contain wash waters (if any) resulting from the cleaning of contaminated transport vehicles and load/unload equipment; and
 - d. Allow for removal as soon as possible any collected hazardous materials resulting from spills, leaks, and equipment cleaning.
9. Closure: At closure of an operation, all remaining structures, containers, tanks, liners, and soil containing or contaminated with hazardous materials at concentrations above state and federal regulatory thresholds shall be decontaminated and properly disposed of or managed.
- B. Spill and Emergency Response Plan (SERP):
 1. A Spill and Emergency Response Plan (SERP) shall be developed, implemented, and maintained on site, and shall be made available to the City upon request.
 2. The SERP shall be updated at least every 5 years or as needed to reflect significant changes in operation or practices.
 3. At a minimum, the SERP shall include the following information:

Stevenson Municipal Code

13.30

- a. Spill Prevention.
 - i. Drawings including the layout of the operation, a floor plan, direction of drainage, entrance and exit routes, and areas where hazardous materials are received, stored, transported, handled or used in operations.
 - ii. Listings of all hazardous materials on site including types, volumes, locations and container types and sizes.
 - iii. Spill prevention related equipment including equipment which serves to detect releases of potential drinking water resources contaminants.
- b. Emergency Response.
 - i. Chain of command and procedures for spill response.
 - ii. Phone list of response agencies including federal, state and city emergency contact numbers and environmental cleanup companies.
 - iii. Procedures for treating and disposing of spilled hazardous materials.
- c. Certification. The SERP shall include a certification signed by an authorized representative of the operation stating: "I certify that the information provided in this document is to the best of my knowledge true and complete, and the spill prevention equipment and emergency response measures described herein are as stated." The signed certificate shall include the authorized representative's name (printed), title, and contact information.

C. Operational Inspections:

1. Schedule: The owner/operator shall develop a written schedule for inspecting all monitoring equipment, safety or emergency equipment, security devices, and any other equipment that helps prevent, detect, or respond to drinking water resource-related hazards.
2. Regular Inspections: The owner/operator shall perform site inspections to identify malfunctions and deterioration of equipment or containers, operator errors, discharges, or any other condition that may cause or lead to the release of hazardous materials to drinking water resources. The owner/operator shall conduct these inspections often enough to identify problems in time to correct them before they impact drinking water resources. Inspections shall be completed in all areas where hazardous materials are managed and a written record of those inspections made at least annually.
3. Water Resource-Related Hazard Mitigation: The owner/operator shall remedy any problems revealed by the inspection. Where a drinking water resource-related hazard is imminent or has already occurred, remedial action shall be taken immediately.

D. Engineering and Operating Report: When the City recognizes and demonstrates a need for additional information on an operation's practices, the City may require the operation to submit an engineering and operating report to accommodate the City's review of operations and to prevent releases of hazardous materials to drinking water resources. If required, the report shall provide the following:

1. The type of industry or business including the kind and quantity of finished products.
2. A process flow diagram illustrating the process flow of water and materials in a normal operating day. This will include details on the operation's plumbing and piping and where specific chemicals are added to processes.
3. A discussion of any discharges to the Stormwater Drainage System.
4. A discussion of any discharges through land applications, including seepage lagoons, irrigation, and subsurface disposal. As applicable, this discussion should also include the depth to ground water and anticipated overall effects of the operations on the quality of drinking water resources.
5. Provisions for any plans for future expansion or intensification.
6. A certification signed and dated by an authorized representative of the operation stating: "I certify that the information provided in this document is to the best of my knowledge true and complete." The signed certificate shall include the authorized representative's

Stevenson Municipal Code

13.30

name (printed), title, and contact information.

E. Records & Reports:

1. Operations shall maintain records of required inspection, cleaning and maintenance events. Where operations are otherwise required by the City or another agency to maintain such records, those records shall satisfy this requirement. All operations shall maintain these records on site for at least 3 years and shall make them available to the City upon request.
2. Plans, reports or other documentation concerning the management of hazardous materials shall also be made available to the City upon request.
3. Information provided to the City will be available to the public. Information may be claimed as confidential by the operation as outlined at SMC 13.30.600. If no claim is made at the time of submission, the City will make the information available to the public when requested.

F. Protections for Stormwater: All new classified operations shall implement the applicable structural Best Management Practices (BMPs) of the Stormwater Manual.

G. Completion Timeline: All new classified operations shall implement the greater standards of this section shall be completed **prior to/within 90 days** after the date of issuance of the certificate of occupancy. Operations that change in classification from unclassified to classified shall implement the provisions of this section within 90 days of change in classification. Other operations may also be required to implement these provisions if the city determines this action will help prevent releases of hazardous materials to drinking water resources.

Section 13.30.350 Restrictions in critical aquifer recharge areas.

A. Development Limitation:

1. New Operations. The City shall not approve applications for the following in Critical Aquifer Recharge Areas as designated in SMC 13.30.150(A):
 - a. New underground heating oil tank;
 - b. New bulk petroleum fuel operations (SMC 13.30.100(B)); or
 - c. New classified operations (SMC 13.30.100(AA)), EXCEPT a new classified operation may occupy an existing structure or facility appropriate for the use when:
 - i. All applicable provisions of this chapter are met; and
 - ii. The owner or operator provides an Engineering and Operating Report described in SMC 13.30.325(F) to the City's satisfaction.
2. Existing Operations.
 - a. Existing bulk petroleum fuel operations are nonconforming uses. However, existing bulk petroleum fuel operations throughout the Special Protection areas may become conforming by:
 - i. Filing such a request with the City; and
 - ii. Taking the necessary action(s) to meet all applicable provisions of this chapter to the City's satisfaction.
 - b. Existing classified operations are nonconforming uses. However, an existing classified operation may become conforming by:
 - i. Filing such a request with the City; and
 - ii. Taking the necessary action(s) to meet all applicable provisions of this chapter to the City's satisfaction.

B. Septic Systems:

1. The City shall accept no application for approval of a project in the Critical Aquifer Recharge Area designated at SMC 13.30.150(A) relying upon installation of a septic system until the system has been approved by Skamania County Environmental Health or

Stevenson Municipal Code

13.30

- a successor agency responsible for permitting of septic systems.
2. New septic systems and replacement of existing septic systems shall not be permitted in Critical Aquifer Recharge Areas. An owner/operator may seek relief from this prohibition by filing with the City a request for relief accompanied by an analysis prepared by a qualified professional to the City's satisfaction of the potential for ground water contamination at the site. This analysis may include a soils and ground water evaluation if deemed necessary by the City.
 3. The City shall not approve a project relying upon installation of a septic system in a Critical Aquifer Recharge Area unless all of the following findings are made:
 - a. Connection to an existing sewer line is impossible or impracticable; and
 - b. The property cannot be reasonably developed without use of a septic system; and
 - c. The septic system design poses no significant risk of ground water contamination.
 4. The City's decision may be appealed to the Board of Adjustment in accordance with SMC 2.14.
- C. Direct Infiltration Facilities:
1. New direct infiltration facilities, and replacement of existing direct infiltration facilities shall not be allowed for classified operations in Critical Aquifer Recharge Areas. An operation may seek relief from this prohibition by filing with the City a request for relief accompanied by an analysis prepared by a qualified professional to the City's satisfaction of the potential for ground water contamination at the site. This analysis may include a soils and ground water evaluation if deemed necessary by the City.
 2. The City's decision may be appealed to the Board of Adjustment in accordance with SMC 2.14.

Section 13.30.400 Administrative programs.

- A. Educational and Technical Assistance Program.
1. The City will work in conjunction with other agencies to implement an Education and Technical Assistance Program to assist property owners, business and industry owners and managers, residents, and other interested parties in understanding the importance of protecting the City's drinking water resources and in employing best management practices in pursuit of that goal.
 2. The Education and Technical Assistance Program will include but not be limited to:
 - a. Technical assistance visits, informational fact sheets, or self-audits for businesses and industries,
 - b. Education on the proper use of pesticides, herbicides, fungicides, and fertilizers;
 - c. Discussions of the impacts of unauthorized discharges to drywells, catch basins, storm basins and sanitary sewer; and
 - d. Activities to explain and promote the proper management and disposal of used oil and other contaminants.
- B. Compliance Inspections:
1. City personnel may inspect any operation in the City that is known to manage (or may potentially manage) hazardous materials or is reasonably believed to be a potential source of an illicit discharge.
 2. Inspections may be initiated as the result of a complaint or referral, or as defined by a routine schedule for compliance. Inspections will be used to determine if there is any risk to drinking water resources, and to determine if an operation is in compliance with this chapter.
 3. Inspections may involve a review of process equipment, structures, and operating practices; records or plan review; interviews with operators; photo documentation and sampling. As such, operators shall allow representatives of the City, upon presentation of

Stevenson Municipal Code

13.30

credentials, to:

- a. Enter the premises where hazardous materials are being managed, or where records may be kept under the provisions of this chapter. The owner/operator shall make necessary arrangements to allow access without delay. Unreasonable delay may constitute a violation of this chapter;
- b. Have access to and copy, at reasonable times, any records that must be kept under the provisions of this chapter;
- c. Inspect at reasonable times any facilities, equipment (e.g., safety, monitoring, operating, or other equipment), practices or operations regulated or required under the provisions of this chapter;
- d. Sample and monitor at reasonable times, any substances or parameters at any location for the purposes of assuring compliance or as otherwise authorized by the provisions of this chapter. This requirement may involve the City's installation or erection of equipment to conduct sampling, inspection, compliance monitoring or metering operations. As such, at the written or verbal request of the City, operators shall remove any temporary or permanent obstruction to safe and easy access to an operation to be inspected and/or sampled. The operator shall not replace such an obstruction without the City's consent.

Section 13.30.500 Enforcement.

- A. Enforcement. It shall be unlawful to violate the provisions of this chapter.
- B. Supplemental Enforcement Provisions for Drinking Water Resources Protection. In addition to civil and criminal enforcement as authorized elsewhere in the Stevenson Municipal Code, enforcement of this chapter may utilize the following authority:
 1. The City Council of the City of Stevenson finds that an operation not in compliance with the requirements of this chapter constitutes a public nuisance under RCW 7.48, Nuisances.
 2. The City may use field notes, observations, photo documentation, sample logs, analytical results or other information to define risk and to establish that an operation is in violation of this chapter.
 3. The City may require the implementation of the operational or structural best management practices, as defined through the provisions of this chapter. The City may also require the operator to sample and analyze any discharge, surface and storm water, ground water and/or sediment, in accordance with sampling and analytical procedures or requirements determined by the City. If the operator is required to complete this sampling and analysis, a copy of the analysis shall be provided to the City.
 4. The City may impose additional requirements whenever documented specific circumstances (applicable to the operation) threaten drinking water resources.
 5. Notwithstanding any other provisions of this chapter, whenever it appears to the City that conditions regulated by this chapter require immediate action to protect the public health and/or safety, the City is authorized to enter such property for the purpose of inspecting and investigating such emergency conditions.

Section 13.30.600 Trade secrets and confidential records.

Generally, information submitted to demonstrate compliance with this chapter will be freely available to the public. Users may have certain information, however, withheld as confidential if the following process is followed.

- A. When a User submits information to the Public Works Director, or provides information to inspectors, Users may request that specific information be maintained as

Stevenson Municipal Code

13.30

confidential. Users must promptly identify the specific information in writing, and describe why the release would divulge information, processes, or methods of production entitled to protection as trade secrets or confidential business information under applicable State or Federal laws.

B. The Public Works Director shall review and approve or deny such requests. When approved, the information shall not be available as public records and shall be marked Confidential.

C. All other information submitted to the City and obtained from the City's oversight shall be available to the public subject to the City records review policy.

D. Information held as confidential may not be withheld from governmental agencies for uses related to this chapter, the NPDES program, state water quality monitoring and enforcement, and other enforcement proceedings involving the person furnishing the report.

E. Federal rules prevent wastewater constituents and characteristics and other effluent data, as defined by 40 CFR 2.302 from being recognized as confidential information.

Section 13.30.700 Alternative practices.

A. Where appropriate, the City shall accept other local, state or federal approvals, permits or other authorization as satisfying certain provisions defined through this chapter. The City retains the authority to review plans, permits and operating conditions to determine compliance.

B. The City will accept an alternative practice, system, plan or structure only if the owner/operator can demonstrate to the City that the alternative will produce the same or a greater level of drinking water resource protection.

SMC 13.30.725 Adjustments

A. An Adjustment is a technical variation in the application of a Minimum Requirement (SMC 13.30.200) to a particular project. The City may grant Adjustments to this chapter, only, under this section. No other Adjustments are authorized under this section.

B. Adjustment Approval Process. Adjustments to the Minimum Requirements may be granted administratively by the City, provided that a written finding of fact is prepared showing compliance with these criteria:

1. The Adjustment provides substantially equivalent environmental protection.
2. Based on sound engineering practices, the objectives of safety, function, environmental protection and facility maintenance are met.
3. The Adjustment will not result in non-compliance with other Minimum Requirements.
4. No Adjustment shall be used in place of an Exception procedure under SMC 13.30.750, where such procedure is applicable.

C. The City shall maintain a record of such decisions and associated findings.

Section 13.30.750 Special Exceptions.

The City may grant Special Exceptions to this chapter under this section.

A. A Special Exception is a waiver of the application of a Minimum Requirement (SMC 13.30.200) to a particular project. The City may grant Special Exceptions to this chapter, only, under this section. No other Exceptions are authorized under this section.

B. Special Exception Approval Process. Special Exceptions from a Minimum Requirement may be granted by the Board of Adjustment, provided that written findings of fact is prepared showing compliance with the criteria in this section.

C. Special Exception Approval Criteria. The City may grant Special Exceptions to this chapter, if application of this chapter imposes a severe and unexpected economic hardship on a project

Stevenson Municipal Code

13.30

applicant.

1. The following must be documented with written findings of fact:
 - a. The current (pre-project) use of the site, and
 - b. How the application of this chapter restricts the proposed use of the site compared to the restrictions that existed prior to the adoption of this chapter; and
 - c. The possible remaining uses of the site if the Special Exception were not granted; and
 - d. The uses of the site that would have been allowed prior to the adoption of this chapter; and
 - e. A comparison of the estimated amount and percentage of value loss as a result of the requirements of this chapter versus the estimated amount and percentage of value loss as a result of requirements that existed prior to adoption of the requirements of this chapter; and
 - f. The feasibility for the owner to alter the project to apply the requirements of this chapter.
2. In addition any exception must meet the following criteria:
 - a. The exception will not increase risk to the public health and welfare, nor be injurious to other properties in the vicinity and/or downstream, and to the quality of waters of the state; and
 - b. The exception is the least possible exception that could be granted to comply with the intent of this chapter. This criteria is met by evidence that the owner/operator has employed measures to avoid and minimize impacts, such as:
 - i. Limiting the degree or magnitude of the regulated use or activity;
 - ii. Implementing best management practices;
 - iii. Phasing or limiting implementation;
 - iv. Changing the timing of activities; or
 - v. Revising site plans.

D. Administration. The Board of Adjustment shall not act on a request for a Special Exception until an open record hearing is held. Hearings under SMC 13.30.750 relating to Special Exceptions shall be consolidated with any required open record hearing or appeal related to any underlying application, where such open record hearing or appeal is required. The City shall maintain a record of any such hearings, decisions, and associated findings made under this section.

Section 13.30.800 Appeals.

A. Appeals of enforcement of this chapter under SMC 13.30.500 shall be governed by SMC 2.14.

B. Appeals under SMC 13.30.350 relating to critical aquifer recharge areas shall be consolidated with any open record hearing or appeal related to any underlying application, where such open record hearing or appeal is required.

Section 13.30.900 Halogenated solvent table.

TABLE 13.30.900-1 Halogenated Solvent Table		
Solvent	Synonym(s)	CAS No.
Benzyl chloride	Chloromethylbenzene	100-44-7
Bis(2-chloroethyl)ether	Bis(-chloroethyl)ether	111-44-4
Bis(2-chloroisopropyl)ether	Bis(-chloroisopropyl)ether	108-60-1

Stevenson Municipal Code

13.30

Bromobenzene	Phenyl bromide	108-86-1
Bromochloromethane	Chlorobromomethane	74-97-5
Bromodichloromethane	Dichlorobromomethane	75-27-4
Bromoethane	Ethyl bromide	74-96-4
Bromoform	Tribromomethane	75-25-2
Carbon tetrachloride	Tetrachloromethane	56-23-5
Chlorobenzene	Benzene chloride	108-90-7
2-Chloroethyl vinyl ether	(2-Chlorethoxy)ethane	110-75-8
Chloroform	Trichloromethane	67-66-3
1-Chloro-1-nitropropane	Chloronitropropane	600-25-9
2-Chlorophenol	o-Chlorophenol	95-57-8
4-Chlorophenyl phenyl ether	p-Chlorodiphenyl ether	7005-72-3
Chloropicrin	Trichloronitromethane	76-06-2
m-Chlorotoluene		108-41-8
o-Chlorotoluene	2-Chloro-1-methylbenzene	95-45-8
p-Chlorotoluene		106-43-4
Dibromochloromethane	Chlorodibromomethane	124-48-1
1,2-Dibromo-3-chloropropane	DPCP	96-12-8
Dibromodifluoromethane	Freon 12-B2	75-61-6
1,2-Dichlorobenzene	o-Dichlorobenzene	95-50-1
1,3-Dichlorobenzene	m-Dichlorobenzene	541-73-1
1,1-Dichloroethane	1,1-DCA	75-34-3
1,2-Dichloroethane	Ethylene dichloride, 1,2-DCA	107-06-2
1,1-Dichloroethene	Vinylidene chloride 1,1-DCE	75-35-4
trans-1,2-Dichloroethylene	trans-1,2-DCE	156-60-5
1,2-Dichloropropane	Propylene dichloride	78-87-5
cis-1,3-Dichloropropene	cis-1,3-Dichloropropylene	10061-01-5
trans-1,3-Dichloropropene	trans-1,3-Dichloropropylene	10061-02-0
Ethylene dibromide	1,2-Dibromoethane, EDB	106-93-4
Hexachlorobutadiene	HCBD	87-68-3
Hexachlorocyclopentadiene	HCCPD	77-47-4
Methylene chloride	Dichloromethane	75-09-2
Pentachloroethane	Ethane pentachloride	76-01-7

Stevenson Municipal Code**13.30**

1,1,2,2-Tetrabromoethane	Acetylene tetrabromide	79-27-6
1,1,2,2-Tetrachloroethane	Acetylene tetrachloride	79-34-5
Tetrachloroethylene	Perchloroethylene, PCE	127-18-4
1,2,4-Trichlorobenzene	1,2,4-TCB	120-82-1
1,1,1-Trichloroethane	Methyl chloroform, 1,1,1-TCA	71-55-6
1,1,2-Trichloroethane	1,1,2-TCA	79-00-5
Trichloroethylene	TCE	79-01-6
1,1,2-Trichlorofluoromethane	Freon 11	75-69-4
1,2,3-Trichloropropane	Allyl trichloride	96-18-4
Trichlorotrifluoroethane	Freon 113	76-13-1

- iv. Do not score ~~56~~ or more points for habitat function based on the Rating System, and
- v. Do not contain a) a Priority Habitat or Priority Area for Priority Species identified by the Washington Department of Fish and Wildlife, b) federally listed species or their critical habitat, or c) species of local importance identified in SMC 18.13.095.
- b. Wetlands less than 1,000 square feet that meet the above criteria and do not contain federally listed species or their critical habitat are exempt from the buffer provisions contained in this chapter.

C. Wetland Reports.

- 1. Wetland Report—Required. If the Administrator determines that the site of a proposed development includes, is likely to include, or is adjacent to a wetland, a Wetland Report, prepared by a qualified professional shall be required.
- 2. Wetland Report—Contents. Qualified professionals should use “Wetland Guidance for CAO Updates (Western Washington)” (Ecology Publication #16-06-001) for guidance in determining the necessary technical information to be provided. In addition to the minimum requirements for critical area reports contained in SMC 18.13.050, the written report and the accompanying plan sheets shall contain the following information, at a minimum:
 - a. The written report shall include:
 - i. Documentation of any fieldwork performed on the site, including field data sheets for delineations, rating system forms, baseline hydrologic data, etc.
 - ii. A description of the methodologies used to conduct the wetland delineations, wetland ratings, or impact analyses, including references.
 - iii. For each wetland identified on site and within 300 feet of the project boundary, provide: a) the wetland rating, including a description of and score for each functions; b) required buffers; c) wetland acreage based on a professional survey from the field delineation; and d) all other technical information necessary to assess wetland functions.
 - iv. A description of the proposed actions, including an estimation of acreages of impacts to wetlands and buffers based on the field delineation and survey and options for site development alternatives.
 - v. An assessment of the probable cumulative impacts to the wetlands and buffers resulting from the proposed development.
 - b. The site plan shall include:
 - i. Maps (to scale) depicting delineated and surveyed wetland and required buffers on site, including buffers for off-site critical areas that extend onto the project site; the development proposal; other critical areas; grading and clearing limits; and areas of proposed impacts to wetlands and/or buffers (include square footage estimates).
 - ii. A depiction of the proposed stormwater management facilities and outlets (to scale) for the development, including estimated areas of intrusion into the buffers of any critical areas.
- 3. Responsibility. The wetland delineation is the responsibility of the applicant. In addition, the applicant must arrange for the wetland boundaries to be reviewed for accuracy by the US Army Corps of Engineers prior to impacting any wetland. Wetland delineations are valid for 5 years; after such date the City shall determine whether a revision or additional assessment is necessary.

D. Wetland Buffer Widths.

- 1. Base Buffer Widths. The following buffer widths have been established in accordance with the best available science. They are based on category of wetland, habitat score, and land use intensity as determined by a qualified professional wetland scientist using the Rating System. Required buffers are included in SMC Table 18.13.100-1:

TABLE 18.13.100-1 – WETLAND PROTECTIVE BUFFER WIDTHS			
Wetland Category ^{1,2,3,4}	Category IV Wetland Buffers (ft)	Category III Wetland Buffers (ft)	Category I & II Wetland Buffers (ft)

Land Use Intensity ⁵		LowMediumHigh			LowMediumHigh			LowMediumHigh		
Habitat Score	4-5 or less ⁶				40	60	80	50	75	100
	5-6 to 7	25	40	50	75	110	150	75	110	150
	8 to 9 ^{7,8}				150	225	300	150	225	300

1 – Table modified from tables 8C-4, 8C-5, 8C-6, and 8C-7: Appendix 8-C: Guidance on Widths of Buffers and Ratios for Compensatory Mitigation for Use with the Western Washington Wetland Rating System, as amended.

2 – If a wetland meets more than one of the characteristics of this table, the buffer to protect the wetland is the widest one.

3 – For wetlands with special characteristics not covered by this table, standards are adopted based on the regulatory recommendations of Option 3 contained in Appendix 8-C: Guidance on Widths of Buffers and Ratios for Compensatory Mitigation for Use with the Western Washington Wetland Rating System, as amended.

4 – Any wetland or wetland mitigation site created, restored, or enhanced as compensation for approved wetland alteration shall have the standard buffer required for the category, habitat score, and land-use intensity of the created wetland expected at the end of the monitoring period.

5 – See Table 18.13.100-2 – Wetland Adjacent Land Use Intensity for explanation.

6 – In addition to other standards, wetland with water quality ratings of 8 or 9 shall also be protected from additional surface discharges of untreated runoff.

7 – In addition to other standards, wetlands with habitat ratings of 8 or 9 shall also maintain connections to other habitat areas.

8 – In addition to other standards, all degraded parts of the protective buffer for Category I & II wetlands with habitat ratings of 8 or 9 shall be restored.

TABLE 18.13.100-2 –LAND USE INTENSITY MATRIX			
Intensity ^{1,2,3}	Low	Medium	High
Commercial & Industrial	N/A	N/A	All site development
Residential	N/A	Density less than 1 unit per acre	Density 1 unit per acre or more
Streets & Roads	N/A	Residential driveways and access roads	Public and private streets, security fencing, retaining walls
Utilities	Underground and overhead utility lines, manholes, power poles (without footings)	Maintenance access roads, vegetation management needs	Paved or concrete surfaces, structures, facilities, pump stations, towers, vaults, security fencing, etc.
Parks & Recreation	Natural fields and grass areas, viewing areas, split rail fencing	Impervious trails, engineered fields, fairways	Greens, tees, structures, parking, lighting, concrete or gravel pads, security fencing

1 –Table modified from Table 8C-3: Appendix 8-C: Guidance on Widths of Buffers and Ratios for Compensatory Mitigation for Use with the Western Washington Wetland RatingSystem.

2 – Where characteristics of proposed development are not listed in this table, the Administrator shall determine the intensity categories applicable to the proposal.

3 – Intensity is measured at the landscape-scale and must include the development proposal in the determination of intensity made under the Rating System.

2. Increased Buffer Widths. Buffer widths shall be increased on a case-by-case basis as determined by the Administrator when a larger buffer is necessary to protect wetland functions and values. This determination shall be supported by appropriate documentation showing that it is reasonably related to protection of the functions and values of the wetland.
3. Buffer averaging to improve wetland protection may be permitted when all of the following conditions are met:

a. The wetland has significant differences in characteristics that affect its habitat functions, such as a wetland with a forested component adjacent to a degraded component.

b. The buffer is increased adjacent to the higher-functioning area of habitat or more-sensitive portion of the wetland and decreases adjacent to the lower-functioning or less-sensitive portion as demonstrated in the wetland report.

c. The total buffer area after averaging is equal to the area required without averaging.

d. The buffer at its narrowest point is never less than either 75% of the required width or the narrowest buffer listed for the appropriate wetland category in Table 18.13.100-1, whichever is greater.
4. Buffer averaging to allow reasonable use of a parcel may be permitted when all of the following are met:

a. There are no feasible alternatives to the site design that could be accomplished without buffer averaging.

b. The averaged buffer will not result in degradation of the wetland’s functions and values as demonstrated by the wetland report.

c. The total buffer area after averaging is equal to the area required without averaging.

d. The buffer at its narrowest point is never less than either 75% of the required width or the narrowest buffer listed for the appropriate wetland category in Table 18.13.100-1, whichever is greater.

Ben Shumaker

From: Johnson, Deborah L (DOH)
Sent: Tuesday, July 03, 2018 4:01 PM
To: ben@ci.stevenson.wa.us
Cc: Hayes, Corina M (DOH); Sayrs, Brian A (DOH); Dixel, Michael (DOH); Walsh, Brian (DOH)
Subject: 60-day review comments - critical areas amendments

Good afternoon,

In keeping with the [interagency correspondence principles](#), I am providing you with the following draft comments on Stevenson's proposed critical areas amendments (Commerce Material ID #25006):

Chapter 13.30 SMC (generally). We note in several places throughout this chapter that cross-references to the definitions within the individual regulations are "off." It seems probable this is due to the addition of definitions over time which caused the list in SMC 13.30.100 to be reorganized & renumbered. We recommend that you check all of them for accuracy.

SMC 13.30.150.A.1.a & B. For your purposes in keeping your maps up to date & administering permits, please use our [Source Water Assessment Program \(SWAP\) map](#). As you click on each WHPA it will pop up the identifying label showing the system information.

SMC 13.30.700.A. Please evaluate whether the use of "shall" compels the City to accept other approvals regardless of whether it determines compliance or whether the provisions of ss. B are met.

SMC 13.30.750.C.2.a. "Waters of the state" is undefined. You may wish to include a definition or cross-reference to [RCW 90.48.020](#), noting that groundwater is included.

SMC 18.13.025.C.3.c. While recognizing this is fairly standard language in reasonable use criteria, "minimum necessary" implies that some degree of degradation to an aquifer is acceptable. Allowing even a limited degree of harm to an aquifer could result in the water source becoming unusable. This proviso should not imply that some degree of degradation is viable in all types of critical areas. Similarly, the same comment applies to ss. g. We *strongly discourage* the notion of mitigation as applied to CARAs. Mitigation would not be capable of restoring this type of resource or making up for its loss. The compensatory mitigation provisions of WAC 365-196-830 are carried through to only two specific critical areas types: geohazard (WAC 365-190-120) & wetlands (WAC 365-190-090). They are not carried through to critical aquifer recharge areas (clause is not contained in WAC 365-190-100).

SMC 18.13.035.H. We support the inclusion of third-party review; this isn't something we often encounter in codes. (As an aside, in practice please keep in mind the designated [agencies with environmental expertise](#) for project-specific consultations.)

SMC 18.13.050.A (ties to SMC 18.13.010.B.40 & 13.30.100.HH). We'd like to suggest that, as applied to CARAs, a qualified professional be someone who is a currently licensed Washington State geologist holding a current specialty license in hydrogeology. A general practice geologist or PE, or one whose specialty lies in another area, may or may not have appropriate background to perform this work. (See Ch. 18.220 RCW & Ch. 308-15 WAC, generally, & specifically WAC 308-15-053 & -055.)

###

Thank you for considering our comments. I will be out of the office July 4 through 13, returning on the 16th. Please let me know if you have any questions or need additional information, & I'll plan on finalizing the comments when I return. Have a happy & safe Fourth of July!

Deborah Johnson

Wellhead Protection Specialist
Office of Drinking Water
Washington State Dept. of Health

Phone: 360.236.3133

Email: deborah.johnson@doh.wa.gov

Web: www.doh.wa.gov/drinkingwater

Mail:

PO Box 47822

Olympia, WA 98504-7822

Walk-In:

243 Israel Road SE, 2nd floor

Tumwater, WA