

Chapter 20.740

CRITICAL AREAS PROTECTION

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20.740.010 Purpose.

- A. The purpose of this chapter is to designate and protect critical areas and their functions and values, while also allowing reasonable use of property. Critical areas are ecologically sensitive and hazardous areas, and protecting them or mitigating any impacts to them is important for protection of the environment and quality of life for the citizens of Vancouver, and is mandated by the Washington Growth Management Act (GMA) (RCW 36.70A).
- B. This chapter provides protection for the following critical areas: Wetlands, Fish and Wildlife Habitat Conservation Areas, Geologically Hazardous Areas, and Frequently Flooded Areas. Critical Aquifer Recharge Areas are covered in VMC Chapter 14.26.
- C. This chapter implements the goals and policies of the Vancouver Comprehensive Plan, 2003-2023, under the GMA and other related state and federal laws. (Ord. M-3692, Added, 02/28/2005, Sec 2)

20.740.020 General Provisions.

A. *No Net Loss of Functions.* Development activity shall result in no net loss of the functions and values of critical areas. The beneficial functions provided by each type of critical area include, but are not limited to:

1. *Fish and Wildlife Habitat Conservation Areas.* Providing habitat for breeding, rearing, foraging, protection and escape, migration, and over-wintering; and providing complexity of physical structure, supporting biological diversity, regulating stormwater runoff and infiltration, providing wave attenuation, removing pollutants from water, and maintaining appropriate water temperatures.
2. *Frequently Flooded Areas.* Providing flood storage, conveyance, and attenuation of flood waters; minimizing the amount of development at risk in such areas to protect human life and safety, including reducing damage to homes, places of business, public facilities, and utilities; and minimizing business interruptions.
3. *Geologic Hazard Areas.* Providing erosion control and protecting public safety, including people, structures, and infrastructure, from damage during earthquakes and landslides.
4. *Wetlands.* Providing carbon sequestration, cleansing surface water, storing and conveying floodwater, and providing fish and wildlife habitat.

B. *Temporary and Permanent Markers and Signs.* With the exception of Frequently Flooded Areas and Seismic Hazard Areas, temporary and permanent markers and signs shall be installed for critical areas as follows:

1. The location of the outer perimeter of the critical area(s) and buffer(s) shall be marked in the field and approved by the Planning Official prior to the commencement of permitted activities and maintained throughout the duration of the construction.
2. A permanent physical demarcation along the outer/upland boundary of the critical area buffer(s) shall be installed and thereafter maintained. Such demarcation may consist of fencing, hedging, or other prominent physical marking that allows wildlife passage, blends with the critical area environment, and is approved by the Planning Official. If the function and values of the critical area would be degraded by the

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- existing or proposed activity, such as the presence of grazing animals, a fence shall be erected and maintained.
3. Permanent signs are posted at intervals of one every 50 feet, or, if this interval cannot be met, an interval of one per lot for single-family residential uses or at a maximum interval of 200 feet, or as otherwise determined by the Planning Official, and must be perpetually maintained by the property owner. The sign shall be worded as follows or with alternative language approved by the Planning Official: "The area beyond this sign is a critical area or critical area buffer. Alteration or disturbance is prohibited by law. Please call the City of Vancouver for more information."
 4. Additional standards for temporary and permanent marking of geologic hazards are contained in VMC 20.740.130.

C. Relationship to Other Regulations.

1. The critical areas regulations apply in addition to zoning and other regulations adopted by the City.
2. When more than one critical area is located on a project site, regulations protecting each critical area apply to the site. Where critical areas overlap (e.g., a wetland buffer and a riparian buffer), the most restrictive regulations that provide the most protection for the critical areas present establish the outer boundary of the regulated critical areas.
3. When there is a conflict between any provisions of this chapter and any other regulations, the requirement that provides the most protection to the critical area(s) applies.
4. Compliance with the provisions of this chapter does not constitute compliance with other federal, state, and local regulations and permit requirements. The applicant is responsible for complying with other state and federal requirements in addition to the requirements of this chapter.

D. *Jurisdiction.*

1. All areas within the city meeting the definition of one or more critical areas and their buffers, whether mapped or not, are hereby designated critical areas and are subject to the provisions of this chapter.

E. *Warning and Disclaimer of Liability.* Critical areas development should be based on sound scientific and engineering considerations that may be more stringent than those presented in this chapter. The City assumes no liability if these established standards prove to be insufficient protection of property or the environment.

20.740.030 Applicability and Exemptions from Requirement to Obtain Permit.

A. *Applicability.*

1. No person, company, agency, or applicant shall alter a critical area or buffer except as consistent with the requirements of this chapter, whether or not a permit is required.

B. *Statements of Exemption Process.* For activities listed in subsection (C)(1) of this section, a written Statement of Exemption from the requirement to obtain a Critical Areas Permit is required prior to undertaking the activity. Activities listed in subsection (C)(2) of this section do not require a statement of exemption.

1. Exempt activities are not required to obtain a Critical Areas Permit. However, all activities in critical areas, including exempt activities, are subject to the policies and regulations of this chapter. If a land use permit is not required, the Planning Official may attach conditions to building and engineering permits, as necessary, to enforce the provisions of this chapter.
2. The request for the Statement of Exemption shall be in writing, on forms required by the Planning Official, and include the information required by the Planning Official. Statements of Exemption shall be processed as a Type I procedure per Chapter 20.210 Decision Making Procedures.

C. *Exemptions from Requirement to Obtain a Critical Areas Permit.*

1. *Activities requiring a Statement of Exemption.*

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- a. *Existing Structure Remodel – Impervious Surface Increase of 500 Square Feet or Less.* Development or clearing inside a Critical Area or buffer as necessary to remodel an existing structure, provided:
- i. The activity will increase the footprint of structures with impervious surfaces by 500 square feet or less;
 - ii. The distance from the nearest structure or impervious surface to a critical area is not decreased;
 - iii. All native vegetation disturbed as a result of the development shall be replaced one-to-one, except that trees shall be replaced using tree units derived from VMC Chapter [20.770](#), Tree, Vegetation, and Soil Conservation. Native vegetation shall be used where feasible;
 - iv. Impacts to critical areas and buffers shall be minimized and mitigated in accordance with the City's critical areas approval criteria; and
 - v. No adverse impacts to priority Oregon white oak trees may result.
- b. *No Impervious Surface Increase in the Riparian Management Area (RMA) or Riparian Buffer (RB) and Located outside Frequently Flooded Areas.* Development activity on a site within the footprint of existing structures or impervious surfaces that does not increase the impervious surface area in the RMA or RB, not located in Frequently Flooded Areas, and that is not otherwise exempt under subsection [B](#) of this section shall be exempt from the provisions of VMC [20.740.110](#) (Fish and Wildlife Habitat Conservation Areas).

The applicant is encouraged to provide enhancement to the extent feasible. Such enhancement activities may include, but are not limited to, landscaping using native plants, additional treatment of stormwater as appropriate, and implementation of best management practices (BMPs) that would enhance habitat functions.

- c. *Approved Subarea Plan with EIS.* Development activity covered by and in compliance with all the conditions of an approved subarea plan that contains:

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- i. Baseline information on existing critical areas and their functions at the level of detail required for an Environmental Impact Statement (EIS) under the State Environmental Policy Act (SEPA);
 - ii. An analysis of the impacts of full development at the level of detail required for an EIS under SEPA and in keeping with the plan; and
 - iii. Mitigation for those impacts consistent with the requirements of this chapter.
 - d. *Fence*. A fence may be installed in a critical area buffer (not in a critical area) where:
 - i. The fence is necessary for safety and security;
 - ii. The property was developed prior to the effective date of VMC Chapter [20.740](#) (April 29, 2005); and/or
 - iii. The fence is designed and installed in a manner that protects the critical area and buffer functions and blends with the critical area environment.
 - e. *On-site Critical Area Will Be Avoided*. Development may be permitted on a site containing a critical area or buffer when the Planning Official determines that impacts to critical areas and buffers will be avoided. In making this determination, the Planning Official may utilize any of the following procedures and criteria or other methods as necessary to determine that the adverse impacts will be avoided.
 - i. The critical area(s) and buffer(s) has/have been identified in the field, clearly mapped by a qualified professional, and documented by a limited-scope critical areas report (for example, a wetland boundary delineation without categorization or functional assessment, but with the minimum documentation necessary to justify the boundary location).

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- ii. The site plan and preliminary plat show a development envelope that demonstrates that all activity will take place outside critical areas and buffers.
 - iii. The boundaries of the development envelope are clearly outside of all maximum critical areas and all maximum buffers.
- f. *Maintaining Fire-Defensible Space.* Maintaining fire-defensible space around a structure to reduce fire hazards, involving regular maintenance of existing trees at least 6 inches in diameter at breast height, grasses, and underbrush, not tree removal or other ground-disturbing or soil-destabilizing activities. Creating fire-defensible space or undertaking other development requires a Critical Areas Permit per the critical areas approval process and could require other permits as well.
- i. Pruning trees, grasses, and brush within a critical area or buffer to maintain fire-defensible space around a structure may be permitted when one or more of the following criteria are met:
 - (A) The structure nearest the property line is within 30 feet of a slope of at least 25 percent (also designated as a Landslide Hazard Area under this chapter);
 - (B) The nearest structure is within 30 feet of a forested area;
 - (C) The vegetation within 30 feet of the structure is comprised of less than 50 percent native species;
 - (D) The vegetation within 30 feet of the structure is higher than 12 inches;
 - (E) Trees are crowded within 30 feet of the structure or overhanging the structure's roof; or
 - (F) The structure is located in an area designated by the Fire Marshal as a "Wildfire Safety Area."
 - ii. When maintenance of a fire-defensible space is permitted, the following standards shall apply:

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- (A) Trees may be pruned or limbed-up to mitigate a hazard, but trees may not be removed without a Critical Areas Permit and any other necessary permit(s).
 - (B) Topping trees is prohibited.
 - (C) Grasses and underbrush shall be maintained between 8 inches and 12 inches in height.
 - (D) Any debris from pruning shall be disposed of promptly and properly.
- g. *Development Located within Soil Erosion Hazard Areas Only.* When no other type of critical area, including other types of geologic hazards is present, development within Soil Erosion Hazard Areas shall meet the requirements of VMC Chapter 14,24, Erosion Control, including preparation of . a Stormwater Report, if required,. In addition, the applicant shall file a limited scope Geotechnical Report prepared by a qualified professional as defined by VMC Chapter 20.150, which shall be provided to the Planning Official for review at the earlier of development application, engineering document review, or building permit review. Upon review of the limited scope Geotechnical Report, the Planning Official may exempt the development from the need for a Critical Areas Permit.
- h. *Development/Expansion of a Single-Family Residence with a Loss of a Single, Standalone Oregon white oak.* The loss of a single, standalone Oregon white oak tree that meets the WDFW PHS status (must not be part of a woodland that includes off-site trees) and in accordance with the definition listed in VMC 20.150.150(D) that is equal to or less than 12 inches dbh for the purpose of developing a single-family residence or expansion of an existing single-family residence structure (does not include expansion of detached garages, outbuildings, accessory dwellings, decks, gardens, etc.).
2. *Activities for which a Statement of Exemption is not required.* Reasonable methods shall be used to avoid potential impacts to critical areas. Any damage to, or alteration of, a critical area that is not a necessary outcome of the exempt activity shall be corrected at the property owner's expense.

The following activities are exempt from needing a Critical Areas Permit and do not require a statement of exemption:

- a. *Emergencies.* Those activities necessary to prevent an immediate threat to public health, safety, or welfare, or that pose an immediate risk of property damage and that require remedial or preventative action in a time frame too short to allow for compliance with the requirements of this chapter, so long as all of the following apply:
 - i. The emergency action uses reasonable methods to address the emergency.
 - ii. The emergency action must have the minimum possible impact to the critical area or its buffer.
 - iii. The property owner, person, or agency undertaking such action shall notify the City within 10 working days following commencement of the emergency activity.
 - iv. Within 14 days the Planning Official shall determine if the action taken was within the scope of the emergency actions allowed in this section. If the Planning Official determines that the action taken, or any part of the action taken, was beyond the scope of an allowed emergency action, then the critical areas enforcement provisions shall apply.
 - v. After the emergency, the property owner, person or agency undertaking the action shall fully fund and conduct necessary restoration and/or mitigation for any impacts to the critical area and buffers resulting from the emergency action in accordance with an approved Critical Areas Report and mitigation plan. The property owner, person or agency undertaking the action shall apply for review. The alteration, Critical Areas Report, and mitigation plan shall be reviewed by the City in accordance with the review procedures contained in this chapter.

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- vi. Restoration and/or mitigation activities must be initiated within three months of the date of an approved Critical Areas Report and mitigation plan or as otherwise determined by the Planning Official and completed in a timely manner.
 - b. *Hazard Tree*. Emergency or hazard tree removal (as defined in VMC Chapter [20.770](#)) conducted so that critical area impacts are minimized.
 - c. *Landscape Maintenance*. Landscape maintenance (other than tree removal) consistent with accepted horticultural practices, such as those recommended by the Washington State University Extension Service, within the boundaries of an existing lawn, garden or landscaped area and not associated with development.
 - d. *Noxious or Invasive Plants*. Clearing of noxious or invasive plants using hand-held equipment such as a weed-whacker, provided (1) fueling and maintenance take place outside the critical area and buffer; (2) all cleared vegetation is taken away and disposed of properly; and (3) denuded soils are stabilized with native vegetation. The City of Vancouver's Noxious or Invasive Plants List and Native Plant Species List are available from the Planning Official.
 - e. *Pesticides, Herbicides, Fungicides, or Fertilizers*. Application of pesticides, herbicides, fungicides, or fertilizers, when done as directed in the package instructions as required by state and federal laws.
 - f. *State or Federally Approved Conservation or Preservation*. State or federally approved conservation or preservation of soil, water, vegetation, fish, shellfish, and other wildlife that does not entail changing the structure or functions of the existing critical area or buffer.
 - g. *Harvesting Wild Crops*. The harvesting of wild crops in a manner that is not injurious to natural reproduction of such crops or other native vegetation and provided the harvesting does not require tilling of soil, planting of crops, chemical applications, or alteration of the critical area or buffer by changing existing topography, water conditions or water sources.

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- h. *Passive Activities.* Passive outdoor recreation, education, and scientific research activities such as fishing, hiking, and bird watching that do not degrade the critical area or buffer.
 - i. *Land surveys, soil sampling, percolation tests, and other related activities.* In every case, impacts to the critical area or buffer shall be minimized and disturbed areas shall be stabilized and replanted immediately.
 - j. *Navigational Aids and Boundary Markers.* Construction or modification of navigational aids and boundary markers. Impacts to the critical area or buffer shall be minimized and disturbed areas shall be restored within 72 hours.
 - k. *Agricultural Activities.* Existing and ongoing agricultural activities protected under the federal Food Security Act occurring in wetland areas.

Existing and ongoing agriculture within Fish and Wildlife Habitat Conservation Areas so long as livestock and application of pesticides, herbicides, fungicides, and fertilizers is done in accordance with package instructions.

- l. *State or Federally Approved Restoration or Enhancement Project.* Implementation of a state or federally approved restoration or enhancement project not related to any development project.
- m. *Operation, Repair and Maintenance.* Operation, repair and maintenance of existing structures, infrastructure, roads, sidewalks, railroads, trails, dikes, or levees or water, sewer, stormwater, power, gas, telephone, cable, or fiber optic facilities if the activity does not further increase the impact to, or encroach farther within, the critical area or buffer and there is no increased risk to life or property as a result of the proposed operation, repair, or maintenance.
- n. *Public Improvement Projects.* Public improvement projects located within existing impervious surface areas.
- o. *City, State or Federally Approved Stand-alone "Critical Area" Creation Project.* Implementation of a City, State or federally approved stand-alone "critical

area” creation project that is not mitigation. Also see the definition of “Wetlands” in VMC Chapter [20.150](#).

- p. *Clearing in Frequently Flooded Areas and Seismic Hazard Areas Only*. Clearing vegetation within the floodplain and within a Seismic Hazard Area, but outside other types of critical areas.
- q. *Vegetation Clearing*. Clearing vegetation in critical areas that are only Seismic Hazard Areas
- r. *Fence Repair*. Maintenance, repair, and in-kind replacement of existing fences.
- s. *Seismic Hazard Areas Only*. Sites identified as located within only a Seismic Hazard Area (VMC [20.740.130](#) – Geologic Hazard Areas) shall be exempt from needing to obtain a Critical Areas Permit. All projects within the Seismic Hazard Area must comply with the Building Code at time of building permit review, including providing a Geotechnical Report. (Ord. M-4034 § 23, 12/03/2012; Ord. M-4017 § 5, 07/16/2012; Ord. M-3931 § 22, 11/02/2009; Ord. M-3922 § 36, 07/06/2009; Ord. M-3844 § 2, 10/01/2007; Ord. M-3692, Added, 02/28/2005, Sec 2)

20.740.040 Approval Process.

A. Critical Areas Permit Process.

1. *Pre-application Conference Required.* A pre-application meeting or waiver per VMC Chapter 20.210 is required prior to submitting a Critical Areas Permit. Pre-application conferences shall not be required for the following:
 - a. Activities and developments listed as exempted from critical areas standards and permits.
 - b. Proposals involving only an addition to an existing single-family or duplex house, including accessory structures, such as accessory dwelling units, attached and detached garages, and/or carports, shops, and sheds.
 - c. Other minor improvements determined by the Planning Official to not warrant a pre-application meeting or waiver.
2. *Critical Areas Permit.* If a proposed development activity is determined not to be exempt per the listed critical areas exemptions, the applicant and/or owner shall obtain a Critical Areas Permit prior to commencing the development activity. Critical Areas Permits shall be processed as a Type I permit when no other permits are filed concurrently or reviewed according to the procedures of the underlying land use application pursuant to VMC Chapter 20.210.
3. *Review Procedure.* The Planning Official shall make a determination as to whether the proposed activity and mitigation, if any, are consistent with the critical areas

approval criteria of VMC Chapter 20.740 and in compliance with the performance standards for the type(s) of critical area(s) involved.

4. *Expiration of Permit.* The Critical Areas Permit shall be valid for as long as the underlying land use permit is in effect or as otherwise specified by the Planning Official.

B. *Notice on Title – Covenant and Tracts.*

1. *Covenants.* This section applies to all nonexempt projects that involve critical areas and buffers, with the exception of Frequently Flooded Areas.
 - a. The owner of any property containing a critical area or buffer on which a development proposal is approved shall file a covenant with the county records and elections division according to the direction of the City. The covenant shall state the presence of the critical area and/or buffer on the property, the application of this chapter to the property, and the fact that limitations on actions in or affecting the critical area or buffer may exist, including that the area(s) within the conservation covenant be maintained in a natural state without disturbance to vegetation or other features unless otherwise approved by the City. The covenant shall “run with the land” in perpetuity. The covenant shall include a map and legal description of the critical area, with wording in the notice substantially similar to the following:

“Prior to and during the course of any grading, building construction or other development activity on this property containing or abutting a critical area, the area of development activity must be fenced or otherwise marked to the satisfaction of the City. The critical area shall be maintained in its natural state without disturbance to vegetation or other features, except as provided for by VMC Chapter 20.740 , Critical Areas Protection. Yard waste, debris, fill, equipment, vehicles, and materials shall not be placed in the critical area.”
 - b. The applicant shall submit proof that the covenant has been filed for public record before the City approves any site development or construction for the property or, in the case of subdivisions, short subdivisions, planned unit

developments, binding site plans, and other developments that involve platting, at or before recording of the plat.

- c. Any modifications to an established and recorded conservation covenant shall be consistent with the standards of this chapter and the originally issued Critical Areas Permit that established the subject conservation covenant. The modification shall be processed as under a Type I review process. Any modification of the covenant that is inconsistent with the originally issued Critical Areas Permit or with the standards of this chapter shall be subject to a review and receive a Critical Areas Permit consistent with the standards of this chapter.
2. *Tracts.* This section applies in addition to subsection (B)(1) of this section, to projects that involve platting on properties containing Fish and Wildlife Habitat Conservation Areas, Wetlands, Geologic Hazard Areas, and their buffers.
 - a. The property owner shall place the subject critical areas and buffers in one or more nondevelopable tracts except when the responsible official determines that a tract cannot be provided given the constraints of the site, such as size of the property in question, while meeting all other standards of VMC Title 20.
 - b. When the exception in subsection (B)(2)(a) of this section applies, residential lots may extend into the critical area(s) or buffer(s) provided:
 - i. Temporary and permanent markers and signs are installed in compliance with the requirements of VMC 20.740.020, General Provisions.
 - i. The applicant records a conservation covenant protecting the critical area in perpetuity in conformance with VMC 20.740.040(B)(1).

C. *Financial Assurances.*

1. When mitigation required pursuant to a development proposal is not completed prior to the City's final permit approval, such as final plat approval or final building inspection, the City shall require the applicant to provide security in a form deemed

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- acceptable by the City, including to ensure that mitigation is fully functional taking into account remaining construction, maintenance, and monitoring.
2. The security shall be in the amount of 125 percent of the estimated cost of restoring the functions of the critical area that are at risk.
 3. The security shall remain in effect until the City determines, in writing, that the applicable standards have been met. The security shall be held by the City for a minimum of five years to ensure fully functional mitigation.
 4. Depletion, failure, or collection of bond funds shall not discharge the obligation of an applicant or violator to complete required mitigation, maintenance, monitoring, or restoration.
 5. 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.
 6. Failure to satisfy any 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.
 7. Any funds recovered pursuant to this section shall be used to complete the required mitigation. Excess funds shall be returned to the applicant.
- D. *Critical Area Inspections.* Reasonable access to the site shall be provided to the City, State, and federal agency review staff for the purpose of inspections during any proposal review, delineation, restoration, emergency action, or monitoring period.
- 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 exemption, Critical Areas Permit, Minor Exception, Reasonable Use Exception, or any other approval requested under this chapter.

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- F. *Appeals*. Any decision to approve, condition, or deny a development proposal or other activity based on the requirements of this chapter may be appealed according to VMC [20.210.130](#).
- G. *Programmatic Permits*. The purpose of a programmatic permit is to provide for ongoing, routine maintenance, operation, or repair activities on sites containing critical areas or buffers (1) so as not to impair an agency's or business's ability to operate effectively and efficiently by requiring separate Critical Areas Permits for each activity; and (2) at the same time protect critical areas and buffers in accordance with this chapter.
1. In addition to the submittal requirements in VMC [20.740.050](#) and any additional Critical Areas report requirements under VMC 20.740.110-140, applicants for a programmatic permit shall submit a proposed management plan. The management plan shall contain:
 - a. A narrative explaining the need for the programmatic permit;
 - b. A list of the ongoing, routine, maintenance, operation, or repair activities that impact or potentially impact critical areas and buffers;
 - c. A description of the potentially impacted critical area and buffer functions;
 - d. Proposed measures and standards for avoiding impacts to critical area and buffer functions and, where unavoidable, mitigating those impacts to achieve no net loss of functions; and
 - e. A training program ensuring that all employees, contractors, and individuals under the supervision of the applicant who are involved in permitted activities understand and perform them in accordance with the terms of the permit.
 2. A programmatic permit may be approved for up to seven years. The permit duration may be tied to other permits or processes.
 3. Every two years for the duration of the programmatic permit 30 days prior to the original date of permit issuance, the applicant shall submit a report to the Planning Official summarizing activities undertaken. The report shall also document the training provided in accordance with subsection [\(G\)\(1\)\(e\)](#) of this section.
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4. The applicant or the City may initiate an amendment to the programmatic permit if anticipated activities, terms, or conditions of the programmatic permit will change. An amendment shall be considered through a Type 1 process following a pre-application conference.
5. An application for reauthorization of a programmatic permit shall be submitted at least 90 days prior to the date the current permit expires. Programmatic permits may be reauthorized through a Type 1 process following a required pre-application conference. Permit standards and conditions may be modified to conform to the current codes, policies, and standards or based on past performance. Where the review of the reauthorization application will extend beyond the expiration date of the current programmatic permit, the Planning Official may extend the duration of the current permit for up to 60 days at a time, not to exceed 180 days.

20.740.050 Submittal Requirements.

- A. *Preparation by Qualified Professional.* Any required critical areas report shall be prepared by a qualified professional as defined in VMC Chapter 20.150.
- B. *General Critical Areas Report Contents.* At a minimum, the critical areas report shall contain the following:
 1. The name and contact information of the applicant, a description of the proposal, and identification of the permit requested;
 2. A copy of the site plan for the development proposal, including:
 - a. A map to scale depicting critical areas, buffers, the development proposal, and any areas to be altered or developed; and
 - b. A proposed stormwater management and sediment control plan for the development, including a description of any impacts to drainage alterations;
 3. The dates, names, and qualifications of the persons preparing the report and documentation of any fieldwork performed on the site. Critical Areas Reports shall be prepared by a qualified professional for the type of critical area involved;

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4. *Identification and scientific characterization of all critical areas and buffers.* The scientific characterization shall include a detailed assessment of the functional characteristics of the critical areas;
 5. An assessment of the probable impacts to critical areas and buffers and risk of injury or property damage including permanent, temporary, and indirect impacts resulting from development of the site and the operations of the proposed development;
 6. A written response to each of the approval criteria in VMC [20.740.060](#);
 7. Plans for adequate mitigation, as needed, to offset any impacts, in accordance with VMC [20.740.050\(F\)](#) Mitigation Plan Requirements; and
 8. *Additional Information.* Any additional information required for the specific critical areas and buffers as specified in VMC [20.740.110](#) Fish and Wildlife Habitat Conservation Area, VMC [20.740.120](#) Frequently Flooded Areas, VMC [20.740.130](#) Geologic Hazard Areas, and VMC [20.740.140](#) Wetlands.
- C. *Other Reports or Studies.* 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 Planning Official. Provided, the site conditions shall not have changed since the earlier report or study was completed.
- D. *Critical Areas Report – Modifications to Requirements.* The applicant may consult with the Planning Official prior to or during preparation of the Critical Areas Report when the Planning Official determines and a qualified professional recommends that less information is necessary to adequately address the potential impacts to any critical areas or buffers and the required mitigation. In such case the Planning Official may allow a reduced scoped critical areas report.
- E. *Mitigation Plan Requirements.* When mitigation is required, the applicant shall submit a mitigation plan as part of the Critical Areas Report. The mitigation plan shall include:
1. Mitigation rationale: A discussion of the rationale for the proposed mitigation that includes other mitigation options and why the proposed method best achieves the approval criteria in 20.740.060 as compared with other forms and locations for mitigation.

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2. 1. *Detailed Construction Plans.* The mitigation plan shall include descriptions and plans of the mitigation proposed, such as:
 - a. The proposed construction sequence, timing, and duration;
 - b. Grading and excavation details;
 - c. Erosion and sediment control features;
 - d. A planting plan specifying plant species, quantities, locations, size, spacing, and density;
 - e. Measures to protect and maintain plants until established; and
 - f. Detailed site diagrams, scaled cross sectional drawings, topographic maps showing slope percentage and final grade elevations, and any other drawings appropriate to show construction techniques or anticipated final outcome.
 3. *Adaptive Management.* The mitigation plan shall include identification of potential courses of action and any corrective measures to be taken if monitoring or evaluation indicates project performance standards are not being met.
 4. *Monitoring Program.* The mitigation plan shall include a program for monitoring construction of the mitigation project and for assessing a completed project.
 - a. A protocol shall be included outlining the schedule for site monitoring, and how the monitoring data will be evaluated to determine if the performance standards are being met.
 - b. A monitoring report shall be submitted as needed to document milestones, successes, problems, and contingency actions of the mitigation project. The mitigation project shall be monitored for a period necessary to establish that performance standards have been met, but not for a period less than five years or more than 10 years, unless otherwise specified in this code.
 - c. When the applicant believes that the conditions of the monitoring plan are met, the applicant shall contact the City and request that the City certify so in writing. The City shall conduct an on-site assessment as part of the verification process.

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- d. When the City has verified and certified that the conditions of the monitoring plan have been met, the critical area shall no longer be considered as mitigation, but as a critical area when processing a future development permit application(s).
- F. Development may be permitted on a site containing a critical area(s) or buffer(s) which may also be subject to state or federal permits prior to all necessary state or federal permits being obtained when all of the following criteria are met:
1. A phased master plan is submitted under VMC Chapter [20.260](#) or Chapter [20.268](#) as appropriate, demonstrating:
 - a. How the maximum critical area(s) and maximum buffer(s) will be clearly avoided until all local, state, or federal permits are obtained;
 - b. How each phase could be permitted as an individual project not relying on development of any other phases in any way;
 - c. How each phase could be developed regardless of whether any or all of the pending state or federal permits are ever obtained; and
 - d. The applicant demonstrates that there will be no net loss of critical area functions for each phase or for the project as a whole even if state and/or federal permits are not obtained.
 2. Development is permitted only in the area that clearly avoids the maximum critical area(s) and buffer(s). (Ord. M-4105 § 3, 11/17/2014; Ord. M-4017 § 6, 07/16/2012; Ord. M-3959 § 37, 07/19/2010; Ord. M-3931 § 23, 11/02/2009; Ord. M-3844 § 2, 10/01/2007; Ord. M-3692, Added, 02/28/2005, Sec 2)

20.740.060 Approval Criteria.

Any activity or development subject to this chapter shall be reviewed and approved, approved with conditions, or denied based on the proposal's ability to comply with all of the following criteria. The City may condition the proposed activity as necessary to mitigate impacts to critical areas and their buffers and to conform to the standards required by this chapter.

-
- A. *Avoid Impacts.* The Applicant shall first seek to avoid all impacts that degrade the functions and values of (a) critical area(s). This may necessitate a redesign of the proposal.
- B. *Minimize Impacts.* Where avoidance is not feasible, the applicant shall minimize the impact of the activity. The applicant shall seek to minimize the fragmentation of the resource to the greatest extent possible.
- C. *Rectifying.* Rectify the impact by repairing, rehabilitating, or restoring the affected environment.
- D. *Reducing.* Reduce or eliminate the impact over time by preservation and maintenance operations during the life of the action.
- E. *Compensatory Mitigation.* The applicant shall compensate for the unavoidable impacts by replacing each of the affected functions. The compensatory mitigation shall be designed to achieve the functions as soon as practicable. Compensatory mitigation shall be in-kind and on-site, when feasible, and sufficient to maintain the functions of the critical area, and to prevent risk from a hazard posed by a critical area to a development or by a development to a critical area. Compensatory mitigation priority for wetlands is specified in VMC 20.740.140(C)(3)(b). Compensatory mitigation shall offset both permanent and temporal impacts.
- F. D. *No Net Loss.* The proposal protects the critical area functions and values and results in no net loss of critical area functions and values. If loss of critical area functions are expected, adequate mitigation is provided to offset impacts of anticipated loss.
- G. E. *Consistency with General Purposes.* The proposal is consistent with the general purposes of this chapter and does not pose a significant threat to the public health, safety, or welfare on or off the development proposal site.
- H. *Performance Standards.* The proposal meets the specific performance standards of VMC 20.740.110 Fish and Wildlife Habitat Conservation Areas, VMC 20.740.120 Frequently Flooded Areas, VMC 20.740.130 Geologic Hazard Areas and VMC 20.740.140 Wetlands, as applicable.

20.740.070 Minor Exceptions.

- A. *Minor Exceptions Authorized.* Minor exceptions of no greater than 10 percent from the numeric standards of this chapter may be authorized by the City in accordance with the Type II procedures set forth in VMC Chapter [20.210](#). Minor exceptions shall not be combined with buffer averaging or buffer reduction for Fish and Wildlife Habitat Conservation Areas or Wetlands. Minor exceptions from the National Flood Insurance Program development standards of VMC [20.740.120](#), Frequently Flooded Areas, are prohibited.
- B. *Minor Exception Criteria.* A minor exception from the standards of this chapter may be granted only if the applicant demonstrates that the requested action conforms to all of the following criteria:
1. Unusual conditions or circumstances exist that are specific to the intended use, the land, the lot, or something inherent in the land, and that are not applicable to all other lands in the same vicinity or zoning district;
 2. The unusual conditions or circumstances do not result from the actions of the applicant;
 3. Granting the minor exception requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings under similar circumstances;
 4. The minor exception is necessary for the preservation and enjoyment of a substantial property right of the applicant such as is possessed by the owners of other properties in the same vicinity or district;
 5. The minor exception requested is the least necessary and no greater than 10 percent of the subject standard to relieve the unusual circumstances or conditions identified in Subsection VMC [20.740.070\(B\)\(1\)](#) above;
 6. The granting of the minor exception or the cumulative effect of granting more than one minor exception is consistent with the general purpose and intent of the City of Vancouver Comprehensive Plan, this title, this chapter, and the underlying zoning district;

7. Degradation of the functions (including public health and safety) of the subject critical areas and any other adverse impacts resulting from granting the minor exception will be minimized and mitigated to the extent feasible in accordance with the provision of this chapter;
 8. Granting the minor exception will not otherwise be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity of the subject property; and
 9. The proposed development complies with all other applicable standards.
- C. *Conditions May Be Required.* In granting any minor exception, the City may attach such conditions and safeguards as are necessary to secure adequate protection of critical areas and developments from adverse impacts, and to ensure conformity with this chapter.

20.740.080 Reasonable Economic Use Exceptions.

- A. *Exception Request and Review Process.* 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. Exceptions from the standards of this chapter may be authorized by the City in accordance with the Type III procedures set forth in VMC [20.210](#).

An application for a reasonable economic use exception shall be made to the City and shall include a Critical Areas Report with a mitigation plan and any other related project documents, such as permit applications to other agencies, special studies, and environmental documents prepared pursuant to the State Environmental Policy Act (RCW [43.21C](#)). The Planning Official shall prepare a recommendation to the Hearings Examiner based on review of the submitted information, a site inspection, and the proposal's ability to comply with the critical areas reasonable use exception criteria.

- B. *Reasonable Use Review Criteria.* The City shall approve applications for reasonable use exceptions when all of the following criteria are met:
1. The application of this chapter would deny all reasonable economic use of the property;

2. No other reasonable economic use of the property has less impact on the critical area;
3. The proposed impact to the critical area is the minimum necessary to allow for reasonable economic use of the property;
4. The inability of the applicant to derive reasonable economic use of the property is not the result of actions by the applicant after the effective date of this chapter, or its predecessor;
5. The proposal does not pose a significant threat to the public health, safety, or welfare on or off the development proposal site;
6. The proposal mitigates for the loss of critical area functions to the greatest extent feasible; and
7. The proposal is consistent with other applicable regulations and standards.

20.740.090 Unauthorized Critical Areas Alterations and Enforcement.

A. Enforcement.

1. It shall be unlawful to violate the provisions of VMC Chapter [20.740](#). Any violation of this chapter shall constitute a public nuisance.
2. VMC Title [22](#) shall provide the enforcement provisions for VMC Chapter [20.740](#). VMC Title [22](#) may impose any of the remedies, requirements or corrective actions contained in this chapter. In lieu of or in addition to the enforcement provisions contained in VMC Title [22](#), the City may also seek injunctive or other relief from any court of competent jurisdiction.

B. Requirement for Restoration Plan. In the event the City initiates enforcement action under VMC Title [22](#) or files a complaint in court, the City may require a restoration plan consistent with the requirements of this chapter. Such a plan shall be prepared by a qualified professional using the best available science and shall describe how the actions proposed meet the minimum performance standards for restoration requirements. The Planning Official shall, at the violator's expense, seek expert advice in determining whether the plan restores the affected area to its pre-existing condition or, where that is not possible,

restores the functions of the affected area. Inadequate plans shall be returned to the applicant or violator for revision and re-submittal.

C. *Minimum Performance Standards for Restoration.*

1. For alterations to Frequently Flooded Areas, Wetlands, and Fish and Wildlife Habitat Conservation Areas, the following minimum performance standards shall be met for the restoration of a critical area, provided that if the violator can demonstrate that greater functional and habitat values can be obtained, these standards may be modified:
 - a. The structure and functions of the critical area or buffer prior to violation shall be restored, including water quality and habitat functions;
 - b. The soil types and configuration prior to violation shall be replicated;
 - c. The critical area and buffers shall be replanted with native vegetation (a list of native species is available from the Planning Official). If the critical area or buffer is on a site that meets the criteria of VMC [20.740.030\(C\)\(1\)\(f\)\(i\)](#), the vegetation for replanting must be not only native but also fire-resistant. A list of native, fire-resistant species is available from the Planning Official; and
 - d. Information demonstrating compliance with this chapter's Mitigation Plan Requirements shall be submitted to the Planning Official.
2. For alterations to Frequently Flooded and Geologic Hazard Areas, the following minimum performance standards shall be met for the restoration of a critical area or buffer, provided that, if the violator can demonstrate that greater safety can be obtained, these standards may be modified:
 - a. The hazard shall be reduced to a level equal to, or less than, the pre-violation hazard;
 - b. The risk of personal injury resulting from the alteration shall be eliminated or minimized;
 - c. Drainage patterns shall be restored to those existing before the alteration; and

- d. The hazard area and buffers shall be replanted consistent with pre-violation conditions with native vegetation sufficient to minimize the hazard. If the critical area or buffer is on a site that meets the criteria of VMC [20.740.030\(C\)\(1\)\(f\)\(i\)](#), the vegetation for replanting must be not only native but also fire-resistant. A list of native, fire-resistant species is available from the Planning Official.
- D. *Site Investigations*. The Planning Official is authorized to make site inspections and take such actions as are necessary to enforce this chapter.
- E. *Noncompliance in Frequently Flooded Areas*. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violations of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall upon conviction be subject to enforcement under subsection A of this section. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation. (Ord. M-4325 § 3, 2020; Ord. M-3844 § 2, 2007; Ord. M-3692 § 2, 2005)

20.740.100 Designation Process for Habitats of Local Importance.

- A. *Eligibility and Approval Criteria*. Habitats of Local Importance are Fish and Wildlife Habitat Conservation Areas that are not designated under VMC 20.740.110, but are designated as locally significant by the City. Criteria for designation include all of the following:
1. A need for protection exists due to a high diversity of fish or wildlife species, declining populations, scarcity of the habitat type, sensitivity to disturbance from human activity or development, or other unique local habitat functions.
 2. The area is sufficient in size to support the species or habitat functions for which it is designated.
 3. The designation will not compromise the ability of the City to achieve the goals of the Comprehensive Plan.

4. There is a proposed management strategy describing how the functions of the habitat will be protected after designation.
 5. The area and habitat are not otherwise protected under other critical areas regulations.
- B. *Designation Process.* Habitats of Local Importance may be proposed by the property owner or the City and shall be designated according to a Type IV legislative procedure (VMC Chapter [20.210](#)). (Ord. M-3692, Added, 02/28/2005, Sec 2)

20.740.110 Fish and Wildlife Habitat Conservation Areas.

A. Designation and Location.

1. The City designates the following identified areas as Fish and Wildlife Habitat Conservation Areas. Final designations shall be based on site conditions and other available data or information (see VMC [20.740.020\[C\]\[1\]](#)).
 - a. Areas where endangered, threatened, and sensitive species have a primary association, including priority habitats and areas associated with priority species as listed by the Washington Department of Fish and Wildlife (WDFW). Within the city, these areas and species primarily include, but may not be limited to, the following:
 - i. Riparian areas composed of Riparian Management Areas (RMA's) and Riparian Buffers (RB's);
 - ii. Priority Oregon white oak habitat;
 - iii. Biodiversity areas;
 - iv. Waterfowl concentrations: and
 - v. Aquatic habitat.
 - b. Forage fish spawning areas;
 - c. Naturally occurring ponds under 20 acres and their submerged aquatic beds that provide fish and wildlife habitat;

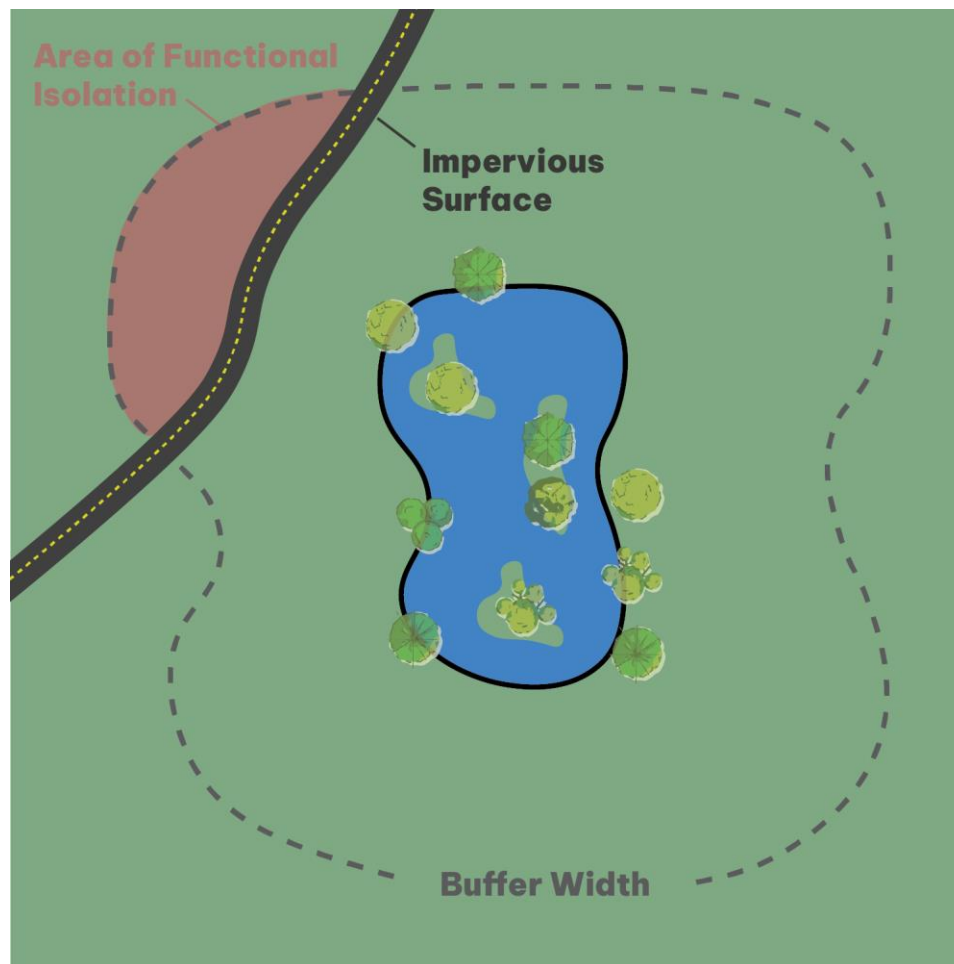
- d. Waters of the state;
- e. Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity;
- f. State natural area preserves, natural resource conservation areas, and state wildlife areas; and
- g. *d Habitats and Species of Local Importance*. Fish and Wildlife Habitat Conservation Areas or individual species that are designated as locally significant by the City in accordance with VMC [20.740.100](#).
- g. *Fish and Wildlife Habitat Conservation Area Locations* . Information on the approximate location and extent of Fish and Wildlife Habitat Conservation Areas is available from the following sources:
 - h. U.S. Fish and Wildlife Service (USFWS) and National Oceanic and Atmospheric Administration (NOAA) Fisheries species list;
 - i. a. WDFW Priority Habitat and Species Maps;
 - j. WDFW Anadromous and Resident Salmonid Distribution Maps in the Salmon and Steelhead Habitat Inventory Assessment Program (SSHIAP);
 - k. StreamNet.org maps from the Pacific States Marine Fisheries Commission;
 - l. Washington State Department of Natural Resources (DNR) Official Water Type Reference Maps; and
 - m. Other information acquired by the City such as site-specific or area-specific delineations or studies.

B. *Development activities that functionally or physically isolate the RMA or RMB buffer.*

When existing impervious surfaces or other built structures, such as a levee or railroad corridor, functionally or physically isolate the RMA or RB buffer from the waterbody, the regulated RMA or RB wetland buffer shall extend landward from the ordinary high water mark (OHWM) or channel migration zone (CMZ), whichever is greater and terminate at the waterward edge of the impervious surface or manmade structure. Development activities that occur within the area

of functional isolation, or further landward, are exempt from the requirement to obtain a Critical Areas Permit.

Figure 20.740.110-1: Functional Isolation



The Planning Official shall rely on a site visit, aerial photographs, or other evidence provided by the applicant or the applicant's qualified professional in making a determination to reduce the width of the RMA, RB, or wetland buffer based on functional and/or physical isolation.

Note: RMA's and RB's are measured from the OHWM or the edge of a channel migration zone (CMZ), whichever is further landward. However, no CMZs have been identified within the city limits as of the date this chapter was adopted.

C. *Performance Standards.*

1. *Development Standards*

a. *Development and Clearing Activities.*

- i. Development or clearing activities shall protect the functions of the Fish and Wildlife Habitat Conservation Areas on the site and shall result in no net loss of functions, as required by the approval criteria of this chapter.
- ii. If development or clearing activity is within a Priority Habitat and Species area, the applicant shall follow WDFW Management Guidelines, Management Recommendations, or other standards approved by WDFW.
- iii. Functionally significant habitat, defined as habitat that cannot be replaced or restored within 20 years, shall be preserved unless the activity meets the conditions of VMC 20.740.110(B)(2)(b). An example of habitat that cannot be replaced within 20 years would be a stand of mature trees or a peat bog.

b. *Mitigation.*

- i. Mitigation for impacts within Fish and Wildlife Habitat Conservation Areas shall follow the sequence specified in this chapter's approval criteria.
- ii. Disrupted functions and values shall be mitigated on site as a first priority, and off site thereafter.
- iii. An up-to-date science-based guide, such as applicable watershed, fish recovery, sub-basin, or other science-based plans should be used to guide the proposed mitigation. Any science used to guide mitigation actions, whether on site or off site, must meet the criteria and characteristics of best available science listed in WAC 365-195-905 (Criteria for determining which information is the "best available science"), or the state standards in effect at the time of application.

c. d. *Signs for Fish and Wildlife Conservation Areas.*

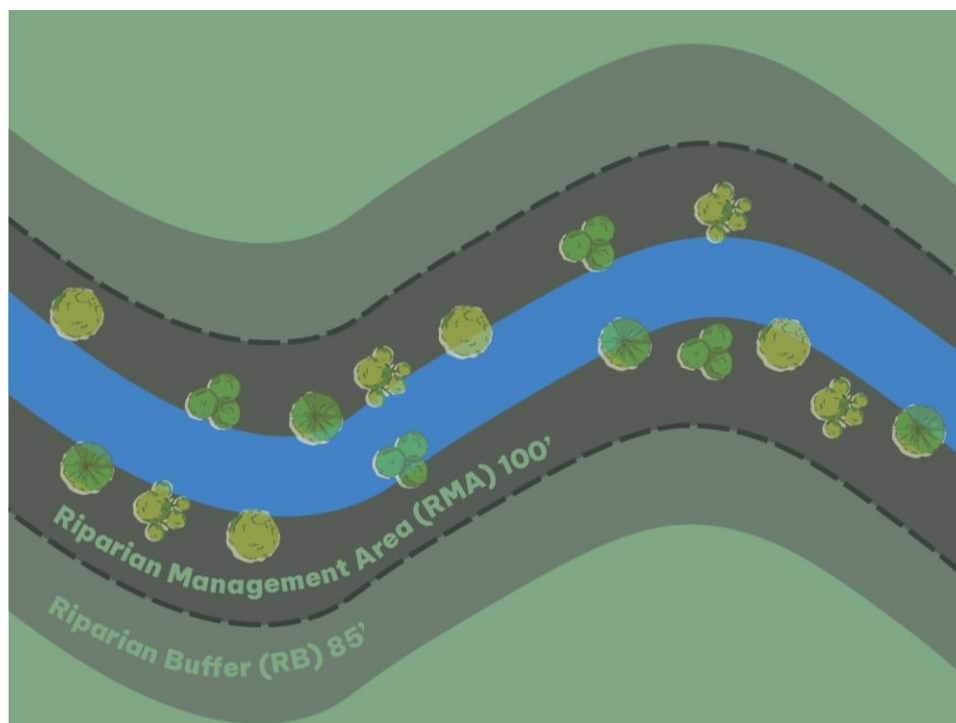
- i. Temporary and permanent markers and signs shall be installed as required by this chapter's General Provisions.

2. Standards for *RMAs RBs*.

a. *RMA and RB Location and Width.*

- i. *Standard Width.* Standard RMA widths are 100 feet for Shorelines of the State (Type S), for both fish-bearing and non-fish-bearing waterbodies and for unclassified streams. The RB is 85 feet for all classified and unclassified waterbody types. The RMA and RB widths shall be combined for a total regulated riparian area width of 185 feet.
- ii. *Site Potential Tree Height (SPTH) RMA and RB Width.* If the applicant cannot accommodate the standard-width RMA and RB on the project site for the proposed development, , applicants may use the 200-year SPTH mapping tool referenced in WDFW's Riparian Ecosystems, Volume 2: Management Recommendations and justify a lesser-width RMA and/or RB in the project's Critical Areas Report. For project locations with multiple SPTH values, the largest SPTH value shall be used to establish the riparian area width. If the tool does not have data available to establish SPTH, the minimum combined RMA and RB width shall be the standard width as established in subsection (2)(a)(i).
- iii. *Measurement.* Whether the standard or SPTH RMA and RB is used, the RMA is measured horizontally from the OHWM of the stream, river, or lake or from the CMZ, where present, to the specified width. The RB is measured horizontally from the landward boundary of the RMA as shown in Figure 20.740.110-1.

Figure 20.740.110-2



- b. *Riparian Management Area Width Averaging.* The width of the RMA may be modified (see VMC [20.170.080\[B\]\[1\]](#)) if all the following are met:
- i. The total square footage of the Riparian Management Area RMA (VMC [20.740.110\[B\]\[2\]\[a\]\[i\]](#)) is not reduced;
 - ii. There is no net loss of functions as a result of the averaging; and
 - iii. The reduction of the Riparian Management Area RMA width at any location is no greater than 25 percent of the required standard or SPTH width under VMC 20.740.110(2)(a)(i or ii).
- c. *Permitted Development and Uses within RMAs and RBs and Development Standards.*
- i. *Development and Uses within the Riparian Buffer.* Development or clearing activity is permitted in the RB that meets the general performance standards in VMC 20.740.110(B).

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- ii. *Development and Uses within the RMA* . No development or clearing activity is allowed within the RMA unless such activity is:
- (A) A water-dependent, water-related or water-enjoyment activity for which there are no feasible alternatives that would have a less adverse impact on the RMA ;
 - (B) Infrastructure, including a road, railroad, trail, dike, or levee or a water, sewer, stormwater conveyance, gas, power, cable, fiber optic, or telephone facility that cannot feasibly be located outside of the RMA.;
 - (C) Mitigation for activities allowed by this chapter, providing the activity results in no net loss of riparian habitat functions on the site; or
 - (D) Trails and wildlife viewing structures, provided that the trails and structures minimize the impact and are constructed so that they do not interfere with hydrology of the waterbody and do not result in increased sediment entering the waterbody.
- iii. *Modifications to Existing Development*. When replacing or removing existing development within an RMA or RB, the applicant shall implement the following, where applicable, during site construction:
- (A) Evaluate the RMA and RB to pinpoint the best sites to restore and consider connectivity and adjacency to other priority habitats;
 - (B) Improve aquatic connectivity by replacing culverts and removing barriers to movement;
 - (C) Revegetate with native plants and consider improvements for wildlife by integrating structures necessary for nesting, breeding, and foraging;

- (D) As existing development is remodeled or replaced, incorporate additional setbacks for streams;
 - (E) Control access to RMAs and RBs during construction to limit soil compaction. Avoid operating equipment near waterbodies to reduce sedimentation and soil compaction; and
 - (F) Avoid using chemicals in the RMA and RB that are not approved by the Washington State Department of Ecology (Ecology).
- iv. *Mitigation.* When mitigating on-site impacts, the following guidelines, where applicable, shall be implemented when designing mitigation for impacted riparian areas, if a restoration opportunity is available on site and within the RMA or RB:
- (A) Protect riparian functions that remain, especially in places that are high functioning and implement actions that enhance degraded functions;
 - (B) Increase riparian width in areas of high function; and
 - (C) Prioritize opportunities to maintain and restore in-stream and riparian connectivity.

D. *Additional Critical Areas Report Requirements.*

1. A Critical Areas Report for an RMA or RB shall include:
 - a. The SPTH riparian area width in the mapping tool referenced in WDFW's Riparian Ecosystems, Volume 2: Management Recommendations document, if the applicant is not proposing to use the standard-width RMA and RB.
 - b. Evaluation of the habitat functions using a habitat evaluation tool approved by WDFW.
 - c. In addition to the standards of VMC [20.740.050\(F\)](#), where a mitigation plan is required as part of the Critical Areas Report for a Fish and Wildlife Habitat

Conservation Area that involves a waterbody, RMA, or RB, the monitoring program protocol shall include, where relevant to the impacted functions:

- i. Observations and measurements of riparian integrity and quality (buffer width, riparian corridor continuity or fragmentation, species diversity, stand age, plant survival rates);
 - ii. Large woody debris surveys; and
 - iii. Streamflow monitoring.
 - iv. Water quality monitoring to detect pollution impacts.
 - v. Biological monitoring (including fish surveys and benthic macroinvertebrate sampling).
2. If the clearing or development activity is in the RMA, the Critical Areas Report shall contain all the following information, if applicable:
- a. How the clearing or development activity constitutes a water-dependent, water-related, or water-enjoyment use;
 - b. How the clearing or development activity cannot feasibly be located on the site outside of the RMA;
 - c. How the proposal meets the RMA width averaging standard (VMC [20.740.110\(B\)\(2\)\(b\)](#)); and
 - d. How the proposal will not adversely affect the connectivity of habitat functions.
3. For land use and development-related activities on a site with PHS-designated priority Oregon white oak woodland habitat, the applicant shall be required to demonstrate compliance with WDFW's latest guidance: *Best Management Practices for Mitigating Oregon White Oak Priority Habitat* (January 2024) the Washington Department of Fish and Wildlife WDFW's latest guidance: *Best Management Practices for Mitigating Oregon White Oak Priority Habitat* (January 2024) and any subsequent revisions. The report shall include mapping and an evaluation of the habitat functions.

- a. The critical areas report shall also identify protection and mitigation for the impacted Oregon white oaks on the site. In circumstances where it is demonstrated that preservation or mitigation of impacts on-site is not practicable, the applicant shall provide a minimum of two alternative site designs and layouts to demonstrate that impacts cannot be avoided or be reduced to result in less impacts. The planning director may approve reductions to numerical standards including parking and setbacks under the minor exception process in VMC 20.740.070 to avoid or reduce impacts.
- b. If compensation is determined to be the only available option for the proposed impact, the report shall include the quantity and method of mitigation to compensate for permanent and temporal impacts in accordance with WDFW's Best Management Practices for Mitigating Impacts to Oregon White Oak Priority Habitat, including the following:
 - i. Assessment of priority Oregon white oak woodlands and individuals to determine if they meet the designation criteria for priority habitat and species, the size of each woodland or individual, and the level of ecological function provided;
 - ii. Analysis of the physical and temporal loss of the impacted Oregon white oak woodland habitat;
 - iii. The corresponding mitigation ratios for both physical and temporal loss of the impacted Oregon white oak habitat and the location of such mitigation; and
 - iv. Description of monitoring as outlined by WDFW's guidance.

20.740.130 Geologic Hazard Areas.

A. Designation and Location.

1. Designated or potential Geologic Hazard Areas include Landslide, Seismic, and Erosion Hazard Areas. With the exception of Bank Erosion Hazard Areas and Fault Rupture Hazard Areas, their potential locations are shown on maps available from the City of Vancouver, Clark County, and the State of Washington. Final designations

shall be based on site conditions and other available data or information (see this chapter's General Provisions section).

2. *Landslide Hazard Areas.* These areas are subject to landslides due to a combination of geologic, topographic, and hydrologic factors. They include any areas susceptible to landslide because of any combination of bedrock, soil, slope (gradient), slope aspect, structure, hydrology, or other factors as defined in VMC Chapter 20.150. Landslides are areas shown as "areas of historic or active landslides," "areas of potential instability," and "areas of older landslide debris" on maps available from Clark County Maps Online ("Slope Stability of Clark County" report [1975] and "Geologic Map of Vancouver Quadrangle" map [1987]) and maps available through the DNR's Geologic Information Portal, including the "Washington Geologic Survey-Protocol Landslide Mapping" and "Other Compiled Landslide Mapping" layers.
3. *Seismic Hazard Areas.* Seismic Hazard Areas include Liquefaction, Ground Shaking Amplification, and Fault Rupture Hazard Areas as designated below and defined in VMC Chapter 20.150.
 - a. *Liquefaction Hazard Areas.* Settlement and soil liquefaction conditions occur in areas underlain by cohesionless soils of low density, typically in association with a shallow groundwater table. The following are designated Liquefaction Hazard Areas:
 - i. Areas with Low to Moderate,, Moderate, Moderate to High, or High liquefaction susceptibility or Peat Deposits as indicated on liquefaction susceptibility maps from the DNR Geologic Information Portal as revised or superseded.
 - b. *Ground-Shaking Amplification Areas.* The following are designated Ground Shaking Amplification Hazard Areas:

Site Classes C to D, D, D to E, E and F, as shown on the National Earthquake Hazard Reduction Program (NEHRP) Seismic Site Class layer available on the DNR Geologic Information Portal.
 - c. *Fault Rupture Hazard Areas.* Potential Fault Rupture Hazard Areas are faults identified by the DNR Geologic Information Portal "Seismogenic Folds, Known

or Suspected” and “Active Faults, Known or Suspected” layers; USGS, on geologic maps available from the Oregon Department of Geology and Mineral Industries (DOGAMI), Clark County Maps Online, or identified from other available data or in the field by a qualified professional and adjacent areas within 100 feet.

4. *Erosion Hazard Areas.* Erosion Hazard Areas include Soil Erosion and Bank Erosion Hazard Areas and as defined in VMC Chapter 20.150. These are also areas that are likely to become unstable, such as bluffs, steep slopes, and areas with unconsolidated soils.

- a. *Soil Erosion Hazard Areas.* The following are designated Soil Erosion Hazard Areas:

- i. *Severe or Very Severe Erosion Hazard Areas.* Areas with soils identified as having a severe or very severe erosion hazard by the 1972 U.S. Department of Agriculture (USDA) Soil Conservation Service Soil Survey of Clark County, Washington.
- ii. *Bank Erosion Hazard Areas.* Bank Erosion Hazard Areas are areas along lakes, streams, and rivers that are subject to regression or retreat due to lacustrine or fluvial processes and adjacent land within 100 feet.

B. *Performance Standards.*

1. *General Standards.*

- a. Critical facilities, as defined in VMC Chapter 20.150, are prohibited in the following areas unless there is no other location available, a mitigation proposal is included in the development plan, and a Critical Areas Report prepared by a qualified professional for geologically hazardous areas establishes that the area is safe for development for the type of facility proposed and the type of hazard:
 - i. Landslide Hazard Areas
 - ii. Bank Erosion Hazard Areas
 - iii. Fault Rupture Hazard Areas

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- b. Buffer width shall be measured on a horizontal plane from a perpendicular line established at all edges of the geologic hazard area (see VMC Chapter 20.170).
 - c. The applicant shall demonstrate that, during construction and for the anticipated life of the proposed development, the proposed use(s), activity(ies), and structure(s):
 - i. Are designed so that the hazard to the proposed project is eliminated or mitigated to a level equal to or less than pre-development conditions;
 - ii. Will not adversely impact other critical areas, if avoidable, given the type of critical areas involved and the characteristics of the site;
 - iii. Are designed to minimize or eliminate life safety risk; and
 - iv. Are certified by a qualified professional as safe as designed and under anticipated conditions.
2. *Landslide and Erosion Hazard Areas.* Development in non-disturbance areas shall be prohibited. In other areas, development in Landslide and -Erosion Hazard Areas and their buffers shall be prohibited except where the applicant has demonstrated compliance with the following standards or requirements.
- a. Landslide Hazard Areas may be able to be mitigated through grading based on a Critical Areas Report that demonstrates that the slope will be stabilized as described in Additional Critical Areas Report Requirements for Geologic Hazards.
 - i. The Critical Areas Permit shall be conditioned on a final inspection approval confirming that the grading and site are stable. At the applicant's expense, after site grading, the applicant shall:
 - (A) Provide inspection specifications from the qualified professional who prepared the Critical Areas Report; and

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- (B) Inspect the grading and the site using an inspector acceptable to the City Building Official and submit a report to the City indicating whether the site is stable.
- ii. Clearing, grading, uprooting, or otherwise impairing the soil stabilizing function of vegetation shall be prohibited during the wet season (November 1 to May 1), except as authorized under a valid state or federal permit or a City Type I permit.
- b. Any required erosion mitigation work is to be performed by a certified erosion and sediment control lead in accordance with Ecology requirements.
 - c. The requirements of VMC Chapter [14.24](#), Erosion Control, shall be met.
 - d. Drainage patterns shall not be altered such that potential for damage or risk to the proposed project, the Geologic Hazard Area, or other critical areas or buffers is increased.
 - e. Trails shall be for pedestrian and nonmotorized vehicular use only and shall be the minimum width necessary to meet applicable regulations.
 - f. *Roads in Landslide and Bank Erosion Hazard Areas.* A road through or across a Landslide or Bank Erosion Hazard Area shall meet the standards of VMC [20.740.130\(B\)\(2\)](#) and shall not be:
 - i. The sole access for a proposed subdivision (not including short subdivision) or critical facility;
 - ii. Longer than 200 feet; or
 - iii. Steeper than a 15 percent grade.
 - g. *Markers and Signs in Landslide Hazard Areas.*
 - i. The boundary at the outer edge of the furthest of the Landslide Hazard Area, non-disturbance area (see this chapter's additional Critical Areas Report requirements for Geologic Hazard Areas), or buffer shall be identified with temporary signs prior to any site alteration.

- ii. The boundary at the outer edge of landslide area tracts and easements shall be delineated with permanent survey stakes, using iron or concrete markers as established by local survey standards.
- iii. These provisions may be modified by the Planning Official as necessary to ensure protection of people and structures from the hazard.

h. *Stabilization in Bank Erosion Hazard Areas.*

- i. Bank stabilization measures may be employed to protect an existing structure when a Critical Areas Report conclusively demonstrates all of the following:
 - (A) Bank erosion threatens an established use or existing structure(s) within a three-year timeframe;
 - (B) The threatened use or structure(s) cannot be relocated landward of any non-disturbance area (VMC [20.740.130\(B\)\(7\)\(a\)\(2\)](#));
 - (C) Bank stabilization measures will not cause a significant adverse impact on upstream or downstream properties or an impact that cannot be mitigated without developing bank stabilization measures for those properties; and
 - (D) Bank stabilization measures will not cause a significant adverse impact on a Fish and Wildlife Habitat Conservation Area protected by this chapter.
- i. When bank stabilization is allowed, it shall be accomplished using beach nourishment, bioengineering (soft armoring) techniques, or a combination of the two. Other techniques may be used when an approved Critical Areas Report demonstrates conclusively that beach nourishment, bioengineering (soft armoring) techniques, or a combination of the two will not provide sufficient protection for the remaining useful life of the structure(s) to be protected.

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- j. *Buffer.* The following regulations apply to Landslide and Bank Erosion Hazard Area buffers:
- i. Buffer widths
 - (A) No buffer is required for Soil Erosion Hazard Areas.
 - (B) The minimum buffer width from the top and bottom of slope for Landslide and Bank Erosion Hazard Areas shall be equal to two times the slope height or as recommended by a qualified professional in a geotechnical report.
 - (C) A larger buffer width may be required for Landslide and Bank Erosion Hazard Areas at the discretion of the Planning Official when:
 - (1) The adjacent land is susceptible to severe erosion and erosion control measures will not effectively prevent adverse impacts;
 - (2) The area has a severe risk of slope failure or downslope stormwater drainage impacts;
 - (3) The area is directly adjacent to a riparian area, or wetland; or
 - (4) Recommended in an approved Critical Areas Report.
 - ii. Buffers may be included in non-disturbance areas (VMC 20.740.130(B)(7)(a)(2)) and required planting and maintenance activities may be undertaken within them.
 - iii. The buffer around Landslide and Bank Erosion Hazard Areas shall be vegetated and shall be maintained by the property owner. New plantings shall consist of native vegetation.
 - iv. No alteration to the buffer that involves clearing of vegetation shall be undertaken without an erosion control plan approved pursuant to the provisions of VMC [14.24](#), Erosion Control and this chapter.

3. *Seismic Hazard Areas.*

a. *Liquefaction or Dynamic Settlement and Ground Shaking Amplification Hazard Areas.* All building structures in Liquefaction or Ground Shaking Amplification Hazard Areas shall comply with the requirements of VMC Title 17, Building and Construction. No buffer is required for Liquefaction or Ground Shaking Amplification Hazard Areas.

b. *Fault Rupture Hazard Areas.*

i. A road through or across a fault rupture hazard area shall not be:

- (A) The sole access for a proposed subdivision (not including short subdivision) or critical facility;
- (B) Longer than 200 feet; or
- (C) Steeper than a 15 percent grade.

ii. Buffer.

(A) The buffer width shall be the greater of the following distances:

- (1) 50 feet from all edges of a Fault Rupture Hazard Area, except where critical facilities are involved, the minimum buffer distance shall be 100 feet (see VMC [20.170.030\[L\]](#)); or
- (2) The minimum distance recommended in an approved Critical Areas Report.

(B) A larger buffer width may be required when the Planning Official determines that the buffer is not adequate to protect the proposed development.

iii. Structures for human habitation shall be prohibited within Fault Rupture Hazard Areas and buffers.

C. *Additional Critical Areas Report Requirements.* In addition to the requirements of VMC [20.740.050](#), the following are Critical Areas Report requirements for development proposals in potential Geologic Hazard Areas. These requirements may be adjusted as appropriate by the Planning Official. The Critical Areas Report will result in a conclusion as to whether the potential geologic hazard area is an actual geologic hazard area (see VMC [20.740.130\[B\]\[6\]](#)). If it is, the Critical Areas Report requires the following additional information, mapping, and analysis (see VMC [20.740.130\[B\]\[7\]](#)):

1. Identification of the site and project area (defined at VMC [20.150](#)); topography of the site in 2-foot contours (or other increment at the discretion of the Planning Official); planned gas, power, cable, fiber optic, telephone, sewer, water, and stormwater management facilities, wells, on-site septic systems, dikes, levees; and existing structures on the site plan required by VMC [20.740.050](#);
2. Detailed review of field investigations, published data and references, data and conclusions from past geologic studies or investigations, site-specific measurements, tests, investigations, or studies, and the methods of data analysis and calculations that support the results, conclusions, and recommendations;
3. Field investigation and evaluation of the areas on Landslide, Erosion, Liquefaction or dynamic settlement, Ground Shaking Amplification, and Fault Rupture Hazard Areas on or within 100 feet of the site;
4. A description of the surface and subsurface geology, hydrology, drainage patterns, soils, and vegetation for Liquefaction or dynamic settlement, Ground Shaking Amplification, Fault Rupture, Soil Erosion Hazards, Landslide, and Bank Erosion Hazard Areas on or within 100 feet of the site;
5. Identification of any hazard area indicators that were found on site for Liquefaction or dynamic settlement, Ground Shaking Amplification, Fault Rupture, and Soil Erosion Hazards Areas and on or within 100 feet of the site for Landslide and Bank Erosion Hazard Areas;
6. Conclusion as to whether there is a geologic hazard area on site or within 100 feet of the site; and

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7. If a geologic hazard is found to exist on site or if a landslide or bank erosion hazard is found to exist on or within 100 feet of the site, the report must include the following:
 - a. Labeling and showing the following on the site plan required by VMC [20.740.050](#):
 - i. The location(s), extent, and type(s) of geologic hazard area(s) identified;
 - ii. The location(s) and extent of any area(s) that must be left undisturbed to protect the proposed development from damage or destruction and to protect the hazard area(s) from the impacts of the proposed development;
 - iii. The boundaries of the area that may be disturbed;
 - iv. The dimension of the closest distance(s) between the geologic hazard area(s) and non-disturbance area and the project area;
 - v. For Bank Erosion Hazard Areas, show these areas, boundaries, and dimensions based upon natural processes and, if applicable, proposed bank stabilization measures; and
 - vi. The recommended buffer for Bank Erosion Hazard Areas.
 - b. Analysis of the erosion processes on site for Soil Erosion Hazard Areas and on or within 100 feet of the site for Bank Erosion Hazard Areas;
 - c. Evaluation of the impact of the Geologic Hazard Area(s) on the proposed development, other properties, and other critical areas, as follows:
 - i. *Landslide Hazard Areas*. The impact of the run-out hazard of landslide debris from both upslope and downslope shall be included in the evaluation.
 - ii. *Bank Erosion Hazard Areas*. Evaluation of impacts on other properties shall include properties both upstream and downstream of the subject property.

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- d. Evaluation of the impact of the proposed development on the geologic hazard area(s);
 - e. Assessments and conclusions regarding geologic hazard(s) for both existing and proposed (post-development) site conditions. The ultimate build-out scenarios must be considered and addressed in cases such as land division and master planning where build-out is not scheduled to occur as a direct or immediate result of project approval.
 - f. Written discussion of:
 - i. The risk of damage or destruction from the geologic hazard(s) with respect to human health and safety; infrastructure; the proposed development; other properties (both upstream and downstream for Bank Erosion Hazard Areas); and other critical areas; and
 - ii. Whether and to what degree the proposed development would increase the risk from the geologic hazard(s), such as the occurrence of a landslide or the rate of regression.
 - g. Recommendations for mitigation of impacts to protect:
 - i. Human health and safety;
 - ii. Infrastructure;
 - iii. The proposed development;
 - iv. Other properties (both upstream and downstream for Bank Erosion Hazard Areas);
 - v. Other critical areas; and
 - vi. The hazard area during construction and for the anticipated life of the proposed development. The ultimate build-out scenarios must be considered and addressed in cases such as land division and master planning where build-out is not scheduled to occur as a direct or immediate result of project approval.

- h. A demonstration of how the standards of VMC [20.740.130\(C\)](#) applicable to each geologic hazard area will be met.

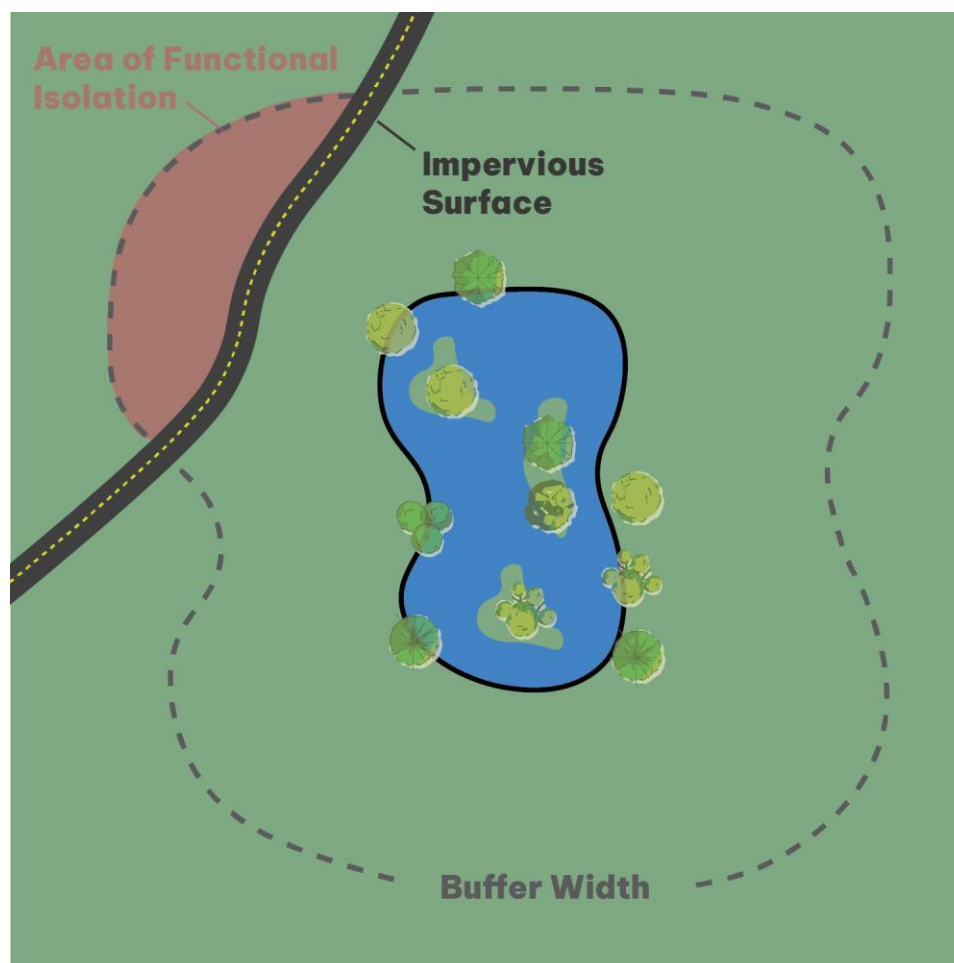
20.740.140 Wetlands.

A. Designating and Rating Wetlands.

1. *Designating Wetlands.* Wetlands are areas that have been designated in accordance with the 1987 Federal Wetland Delineation Manual and the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains Valleys and Coast Region Version 2.0 (2010 or as further updated) and are defined in VMC 20.150.. Wetlands are subject to a local government's regulatory authority if they meet the definition of wetlands, including non-federally regulated (isolated) wetlands. Final designations shall be based on site conditions as documented in a Wetland Critical Areas Report, and other available data or information (see VMC [20.740.020\[C\]\[1\]](#)).
2. *Wetland Ratings.* Wetlands shall be rated according to the Ecology wetland rating system, *-Ecology Publication No. 23-06-009, Washington State Wetland Rating System for Western Washington: 2014 Update, published July 2023, or as revised by Ecology.* The rating system document contains the definitions and methods for determining if the criteria below are met. The most recent version of the rating system form must be used.
 - a. *Wetland Rating Categories.*
 - i. *Category I.* Category I Wetlands are:
 - (A) Wetlands of high conservation value that are identified by scientists of the Washington Natural Heritage Program of the DNR;
 - (B) Bogs;
 - (C) Mature and old-growth forested wetlands larger than one acre

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- (D) Wetlands that perform functions at a high level, scoring 23 points or more.
 - ii. *Category II.* Category II Wetlands function at a moderately high function and are difficult, though not impossible to replace, scoring between 20 and 22 points.
 - iii. *Category III.* Category III Wetlands have generally been disturbed in some way and are often less diverse or more isolated from other natural resources in the landscape than Category II wetlands.
Category III wetlands:
 - (A) Have a moderate level of functions, scoring between 16 and 19 points; and
 - (B) Can often be adequately replaced with a well-planned mitigation project.
 - iv. *Category IV.* Category IV Wetlands have the lowest levels of functions (scoring fewer than 16 points) and are often heavily disturbed. These are wetlands that should be able to be replaced, or in some cases improved. However, experience has shown that replacement cannot be guaranteed in any specific case. These wetlands may provide some important functions and should be protected to some degree.
- B. *Development activities that functionally or physically isolate the wetland buffer.*

When existing impervious surfaces or other built structures, such as a levee or railroad corridor, functionally or physically isolate the wetland buffer from the waterbody or wetland, the regulated wetland buffer shall extend landward from the ordinary high water mark (OHWM) or channel migration zone (CMZ), whichever is greater and terminate at the waterward edge of the impervious surface or manmade structure. Development activities that occur within the area of functional isolation, or further landward, are exempt from the requirement to obtain a Critical Areas Permit.

Figure 20.740.140-1: Functional Isolation

The Planning Official shall rely on a site visit, aerial photographs, or other evidence provided by the applicant or the applicant's qualified professional in making a determination to reduce the width of the wetland buffer based on functional and/or physical isolation.

C. Performance Standards.

1. *General Requirements.* Development or clearing activities shall protect the functions of wetlands and wetland buffers on the site. Activities shall result in no net loss of wetland or buffer functions. Protection may be provided by avoiding (preferred) or minimizing and mitigating as described in the general critical areas performance standards (VMC [20.740.060](#)).

- a. *Uses in Wetlands.*

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- i. In Category I Wetlands, only the following activities may be allowed:
 - (A) A road, railroad, trail, dike, or levee or a water, sewer, stormwater conveyance, gas, power, cable, fiber optic or telephone facility that cannot feasibly be located outside of the wetland, that minimizes the impact, and that mitigates for any unavoidable impact to functions;
 - (B) Trails and wildlife viewing structures, provided that the trails and structures minimize the impact and are constructed so that they do not interfere with wetland hydrology and do not result in increased sediment entering the wetland;
 - (C) Enhancement and restoration activities aimed at protecting the soil, water, vegetation, or wildlife; and
 - (D) Repair and maintenance of legally established non-conforming uses or structures, provided they do not increase the degree of nonconformity.
 - ii. In Category II Wetlands, only the following activities may be allowed:
 - (A) Activities allowed in Category I Wetlands pursuant to subsection (C)(1)(a)(i) of this section;
 - (B) A water-dependent, water-related or water-enjoyment activity where there are not feasible alternatives that would have less impact on the wetland; or
 - iii. Where non-water-dependent, related, or enjoyment activities are proposed, it shall be presumed that alternative locations are available, and activities and uses shall be prohibited unless the applicant demonstrates that the basic project purpose cannot reasonably be accomplished and successfully avoid or result in less adverse impacts on a wetland on another site or sites in the City or Vancouver urban growth area. In Category III Wetlands, only the following activities may be allowed:

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- (A) Activities allowed in Category II Wetlands pursuant to subsection (C)(1)(a)(ii) of this section;
- (B) *Stormwater management facilities*. A Category III wetland can be physically or hydrologically altered to meet the requirements of a Low Impact Development (LID) methodology or Flow Control BMP, if all of the following criteria are met:
- (1) If proposed, an LID BMP is determined to be feasible through a site-specific characterization;
 - (2) The wetland has a habitat score of 3 to 5 points;
 - (3) There will be no net loss of functions and values of the wetland;
 - (4) The wetland does not contain a breeding population of any native amphibian species;
 - (5) The hydrologic functions of the wetland can be improved as outlined in questions 3, 4, and 5 of Chart 4 and questions 2, 3, and 4 of Chart 5 in *Selecting Mitigation Sites Using a Watershed Approach, (Western Washington) (Ecology Publication [#09-06-032 or #10-06-007], or as revised)*; or the wetland is part of a restoration plan intended to achieve restoration goals identified in the City of Vancouver's Shoreline Master Program or a local or regional watershed plan;
 - (6) The wetland lies in the natural routing of the runoff, and the discharge follows the natural routing.
 - (7) All regulations regarding stormwater and wetland management are followed, including in this chapter and VMC 14.24, Erosion Control; and

- (8) Modifications that alter the structure of a wetland or its soils will require permits. Existing functions and values that are lost will need to be compensated for in accordance with the requirements of this chapter.
 - (C) Other activities may be allowed if the applicant demonstrates that the basic project purpose cannot reasonably be accomplished and avoid or result in less adverse impacts on a wetland or its buffer than alternative uses or designs (including reduction in the size, scope, configuration or density of the project).
- iv. In Category IV Wetlands, activities and uses that result in impacts may be permitted in accordance with an approved Critical Areas Report and mitigation plan if the proposed activity is the only reasonable alternative that will accomplish the applicant's objectives. Full mitigation for the loss of acreage and functions shall be provided under the terms established pursuant to subsection (C)(2) of this section.
- (A) If stormwater management facilities are proposed, they must meet the requirements of an LID or flow control BMP as specified for Category III Wetlands.

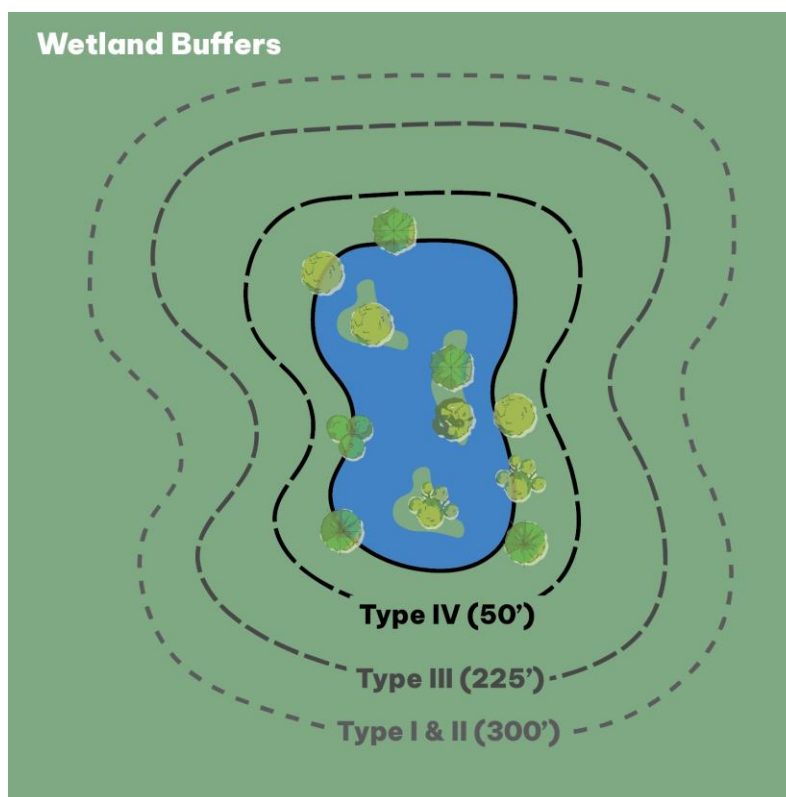
b. *Wetland Buffers.*

- i. *Required Buffer Widths.* Standard buffer widths are measured in feet from the edge of the wetland (see VMC 20.170.030[B]) and [H]). Applicants are required to implement the wetland buffer widths by wetland category as shown in Table 20.740.140-1.
- ii. If the applicant is unable to implement the full width buffers from Table 20.740.140-1 and avoid impacts as a result of proposed development, the planning director shall permit the applicant to use the alternative buffer widths in subsection (v)(B) and (v)(C) below, if the Applicant has first demonstrated they have met the following criteria:

- (A) The applicant has met the mitigation sequencing in VMC 20.740.060 (A-E).
- (B) The applicant shall provide a minimum of two alternative site designs and layouts to demonstrate that impacts cannot be avoided or be reduced to result in less impacts. The planning director may approve reductions to numerical standards including parking and setbacks under the minor exception process in VMC 20.740.070 to avoid or reduce impacts.
- iii. The required and alternative -buffer widths assume that the buffer is vegetated with a native plant community appropriate for the ecoregion. If the existing buffer is un-vegetated, sparsely vegetated, and/or vegetated with invasive species that do not perform needed functions, the buffer must either be planted to create the appropriate native plant community or be widened to ensure that the buffer provides adequate functions to protect the wetland.
- iv. If the buffer is functionally isolated by an existing impervious surface or built structure, the remaining buffer area must be revegetated with native species, but the buffer does not need to be widened to exceed widths greater than those listed in Tables 20.740.140-1, 20.740-140-2, and 20.740.140-4.
- (A) Required Buffers Based on Wetland Category – see Table 20.740.140-1.

Table 20.740.140-1. WETLAND BUFFER WIDTH REQUIREMENTS

Wetland Category	Buffer Width (Feet)
I	300
II	300
III	225
IV	50

Figure 20.740.140-2. WETLAND BUFFER WIDTH REQUIREMENTS

(B) Alternative 1 Wetland Buffers: Buffers based on wetland category, wetland type, and habitat score and providing a habitat corridor and implementing minimization measures.

(1) In order for an applicant to use the buffer widths of Table 20.740.140-2, the applicant must provide a habitat corridor as outlined in this subsection and implement the impact minimization measures listed in Table 20.740.140-3. Not all impact minimization measures are applicable. An undisturbed vegetated corridor at least 100 feet wide must be provided between the wetland and another priority area for preservation that meets the following:

(a) A legally protected, high-functioning vegetated area (priority habitats; other compensation sites; wildlife areas/refuges; or national, county, and state parks that have

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- management plans with identified areas designated as Natural, Natural Forest, or Natural Area Preserve);
- (b) An area that is the site of a Watershed Project identified within and fully consistent with a Watershed Plan, as these terms are defined by RCW 89-08-460;
 - (c) An area where development is prohibited under the provisions of the local shoreline master program;
 - (d) An area with equivalent habitat quality that has conservation status in perpetuity, in consultation with WDFW;
 - (e) The corridor is permanently protected for the entire distance between the wetland and the legally protected area by a conservation easement, deed restriction, or other legal means;
 - (f) Presence of the shoreline or Priority Habitat must be confirmed by a qualified biologist or the Planning Official;
 - (g) If a wetland scores five or fewer habitat points, only the impact minimization measures listed in Table 20.740.140-3 are required, in order to use the buffers in Table 20.740.140-2; or
 - (h) If an applicant does not apply the mitigation measures in Table 20.740.140-3 and is unable to provide a protected corridor, then the

buffers in Tables 20.740.140-1 or 20.740.140-4 shall be used.

Table 20.740.140-2. ALTERNATIVE 1: WETLAND BUFFER WIDTH REQUIREMENTS

Category of Wetland	Habitat Score 3 to 5 Points (corridor not required)	Habitat Score 6 to 7 Points	Habitat Score of 8 to 9 Points	Buffer width Based on Special Characteristics
Category I: Bogs and Wetlands of High Conservation Value	NA	NA	225 feet	190 feet
Category I: Forested	75 feet	110 feet	225 feet	NA
Category I or II: Based on Rating of Wetland Functions (and not listed above)	75 feet	110 feet	225 feet	NA
Category III: All Types	60 feet	110 feet	225 feet	NA
Category IV: All Types	40 feet	40 feet	40 feet	NA

Note: Special characteristics are defined in the Washington State Wetland Rating System for Western Washington: 2014 Update, published July 2023 or as revised by Ecology.

Table 20.740.140-3. IMPACT MINIMIZATION MEASURES REQUIRED TO IMPLEMENT ALTERNATIVE 1 WETLAND BUFFERS.

Examples of Disturbance	Uses and Activities that Cause the Disturbance	Examples of Measures to Minimize Impacts
Lights	Parking lots, warehouses, manufacturing, residential, recreational	<p>Direct lights away from wetland.</p> <p>Only use lighting where necessary for public safety and keep lights off when not needed.</p> <p>Use motion-activated lights.</p> <p>Use full cut-off filters to cover light bulbs and direct light only where needed.</p> <p>Limit use of blue-white colored lights in favor of red-amber hues.</p> <p>Use lower-intensity LED lighting.</p> <p>Dim light to the lowest acceptable intensity.</p>
Noise	Manufacturing and other industrial, residential, commercial, recreational	<p>Locate activity that generates noise away from wetland.</p> <p>Construct a fence to reduce noise impacts on adjacent wetland and buffer.</p> <p>Plant a strip of dense shrub vegetation adjacent to wetland buffer.</p>
Toxic runoff	Parking lots, roads, manufacturing, residential, application of agricultural or landscaping chemicals, landscaping	<p>Route only treated runoff to a wetland and route untreated runoff away from wetland while ensuring wetland is not dewatered.</p> <p>Establish covenants limiting use of toxic chemicals within 150 feet of wetland.</p> <p>Apply integrated pest management.</p>

Examples of Disturbance	Uses and Activities that Cause the Disturbance	Examples of Measures to Minimize Impacts
Stormwater runoff	Parking lots, roads, residential, commercial/industrial, recreational, landscaping/lawns, and other impermeable surfaces/compacted soils	<p>Retrofit stormwater detention and treatment for roads and existing adjacent development.</p> <p>Prevent channelized or sheet flow from lawns that directly enters the buffer.</p> <p>Infiltrate or treat, detain, and disperse new runoff from impervious surfaces and lawns.</p>
Change in water regime	Impervious surfaces, lawns, tilling	Infiltrate or treat, detain, and disperse new runoff into buffer.
Pets and human disturbance	Residential, recreational, commercial, industrial	<p>Plant dense vegetation around buffer, such as rose or hawthorn, to delineate buffer edge and discourage disturbance.</p> <p>Place wetland and its buffer in a separate tract.</p> <p>Place signs around the wetland buffer every 50 to 200 feet and for subdivisions place signs at the back of each residential lot.</p> <p>When platting new subdivisions, locate greenbelts, stormwater facilities, and other lower intensity uses adjacent to wetland buffers.</p>
Human disturbance	Residential, commercial, industrial	Plant dense vegetation around buffer, such as rose or hawthorn
Dust	Tilled fields, roads	Utilize best management practices BMPs to control dust.

- (C) Alternative 2 Wetland Buffer Widths: Buffers based on wetland category wetland type, and habitat score (see Table 20.740.140-4) without providing a habitat corridor or minimization measures as outlined in subsection (B) above.

Table 20.740.140-4. ALTERNATIVE 2 WETLAND BUFFER WIDTH REQUIREMENTS

- v. *Wetland Buffer Width Averaging.* The Planning Official may allow modification of the standard wetland buffer width in accordance with

Category of Wetland	Habitat Score 3 to 5 Points (corridor not required)	Habitat Score 6 to 7 Points	Habitat Score of 8 to 9 Points	Buffer width Based on Special Characteristics
Category I: Bogs and Wetlands of High Conservation Value	NA	NA	300 feet	250 feet
Category I: Forested	100 feet	150 feet	300 feet	NA
Category I or II: Based on rating of wetland functions (and not listed above)	100 feet	150 feet	300 feet	NA
Category III: All types	80 feet	150 feet	300 feet	NA
Category IV: All Types	50 feet	50 feet	50 feet	50 feet

an approved Critical Areas Report by averaging buffer widths. Buffer width averaging shall not be used in combination with buffer width reduction or a minor exception (VMC 20.740.070). Averaging of buffer widths (see VMC 20.170.080(B)(2)) may only be allowed when

implementing the impact minimization measures, as applicable, in Table 20.740.140-3 and where a qualified professional wetland scientist demonstrates that:

- (A) Such averaging will not reduce wetland functions or functional performance;
- (B) The wetland varies in sensitivity due to existing physical characteristics, or the character of the buffer varies in slope, soils, or vegetation, and the wetland would benefit from a wider buffer in places and would not be adversely impacted by a narrower buffer in other places;
- (C) The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer; and
- (D) The buffer width is not reduced at any point by more than 25 percent of the standard width and is no less than 30 feet wide.

vi. *Buffer Maintenance.* Except as otherwise specified or allowed in accordance with this chapter, wetland buffers shall be maintained and fully vegetated according to the approved Critical Areas Permit.

vii. *Buffer Uses.* The following uses may be permitted within a wetland buffer in accordance with the review procedures of this chapter, provided they are not prohibited by any other applicable laws or regulations and they are conducted in a manner so as to minimize impacts to the buffer and the wetland:

- (A) Activities allowed under the same terms and conditions as in the associated wetlands pursuant to subsection (C)(1)(a) of this section;
- (B) Enhancement and restoration activities aimed at protecting the soil, water, vegetation or wildlife;

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- (1) Removal of invasive plant species shall be restricted to hand removal. All removed plant material shall be taken away from the site and appropriately disposed of. Plants that appear on the City's Noxious Weed list should be handled and disposed of according to a noxious weed control plan appropriate to that species. Revegetation with appropriate native species at natural densities is allowed in conjunction with removal of invasive plant species.
- (C) Passive recreation facilities, including trails and wildlife viewing structures, provided that the trails and structures are constructed with a surface that does not interfere with wetland hydrology;
 - (1) Trails shall be located in the outer 25 to 50 percent of the buffer, when feasible.
 - (D) Stormwater management facilities are not allowed in Category I or II Wetland buffers. Stormwater management facilities must meet the requirements of an LID or flow control BMP as specified for uses in Category III wetlands.
 - (E) Educational and scientific research activities;
 - (F) Normal and routine maintenance and repair of any existing public or private facilities within an existing right-of-way, provided that the maintenance or repair does not increase the footprint or use of the facility or right-of-way;
 - (G) The harvesting of wild crops in a manner that is not injurious to natural reproduction of such crops and provided that the harvesting does not require tilling of soil, planting of crops, chemical applications, or alteration of the wetland by changing existing topography, water conditions, or water sources; and
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(H) Drilling for utilities/utility corridors under a buffer, with entrance/exit portals located completely outside of the wetland buffer boundary, provided that the drilling does not alter the ground water connection to the wetland or percolation of surface water down through the soil column.

(1) Specific studies by a hydrologist are necessary to determine whether the ground water connection to the wetland or percolation of surface water down through the soil column would be disturbed.

c. *Temporary and permanent markers and signs for wetlands.*

i. Temporary and permanent markers and signs are installed in compliance with the requirements of VMC 20.740.020, General Provisions.

2. *Compensatory Mitigation.* Compensatory mitigation for impacts to wetlands shall be provided pursuant to VMC [20.740.060](#) and shall be consistent with Ecology's Wetland Mitigation in Washington State, Part 1: Agency Policies and Guidance, Version 2, Ecology Publication No. 21-06-003 April 2021, and Part 2: Developing Mitigation Plans, Version 1, Ecology Publication No. 06-06-011b, March 2006, or as revised by Ecology. Watersheds are defined in VMC [20.740.020\(C\)\(2\)](#) and Chapter [20.150](#) VMC.

a. *Mitigation for Lost or Affected Functions.* Compensatory mitigation actions shall address functions affected by the alteration to achieve functional equivalency or improvement and shall provide wetland or buffer functions similar to those lost, except when:

i. The lost wetland or buffer provides minimal functions as determined by a site-specific functional assessment, and the proposed compensatory mitigation action(s) will provide equal or greater functions or will provide functions shown to be limited within a watershed through a formal Washington State watershed assessment plan or protocol; or

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- ii. Out-of-kind replacement will best meet formally identified watershed goals, such as replacement of historically diminished wetland types.
- b. *Compensatory Mitigation Actions.* If, through mitigation sequencing in accordance with VMC 20.740.060, it is determined that compensatory mitigation is necessary, the applicant must provide an alternative approach to compensation. Compensation is prioritized as follows:
- i. *Mitigation bank credits:* Allows applicants to compensate for wetland loss by purchasing credits from a bank that is commissioned to restore, create, enhance, or preserve wetland areas in providing compensatory mitigation for authorized impacts to wetlands;
 - ii. *In-lieu fee program credits:* Allows applicants to compensate for wetland losses by paying a fee to a third party, such as a government agency or conservation organization, where the fee is used to ensure protection, creation, and enhancement of wetlands;
 - iii. *Permittee-responsible mitigation (PRM)* under a watershed approach;
 - iv. *PRM* that is on site and in-kind;
 - v. *PRM* that is off site and/or out-of-kind.
- c. PRM includes the following approaches:
- i. *Creation.* The manipulation of the physical, chemical, or biological characteristics present to develop a wetland where a biological wetland did not previously exist. Activities typically involve excavation of upland soils to elevations that will produce a wetland hydroperiod, create hydric soils, and support the growth of hydrophytic plant species. Creation results in a gain in wetland acres and functions.
 - ii. *Reestablishment.* The manipulation of the physical, chemical or biological characteristics of a site with the goal of returning natural or historic functions and environmental processes to a former wetland. Activities could include removing fill material, plugging ditches or

breaking drain tiles. Reestablishment results in a gain in wetland acres and functions.

- iii. *Rehabilitation.* The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural or historic functions and processes of a degraded wetland. Activities could involve breaching a dike to reconnect wetlands to a floodplain, restoring tidal influence to a wetland, or breaking drain tiles and plugging drainage ditches. Rehabilitation results in a gain in wetland functions but not in wetland acres.
- iv. *Preservation.* The removal of a threat to, or preventing the decline of, wetland conditions by an action in or near a wetland. This term includes activities commonly associated with the protection and maintenance of wetlands through the implementation of appropriate legal and physical mechanisms (such as recording conservation easements and providing structural protection like fences and signs). Preservation does not result in a gain of wetland area and functions (but may result in a gain in functions over the long term).
- v. *Enhancement.* The manipulation of the physical, chemical, or biological characteristics of a biological wetland to increase or improve specific functions or to change the growth stage or composition of the vegetation present. Enhancement is undertaken for specified purposes such as water quality improvement, flood water retention or wildlife habitat. Activities typically consist of planting vegetation, controlling nonnative or invasive species, modifying site elevations to result in open water ponds, or some combination of these. Enhancement results in a change in certain wetland functions and can lead to a decline in other wetland functions. It does not result in a gain in wetland acres.
- vi. *Mixed Compensatory Mitigation.* Involves more than one of the listed types of compensatory mitigation.

d. *Mitigation Ratios.*

i. *Replacement Ratios.*

(A) The replacement ratios shall apply to wetland mitigation that: (1) is for the same hydrogeomorphic subclass (e.g., riverine flow-through, depressional outflow, or flats), and Cowardin class (e.g., palustrine emergent, palustrine forested or estuarine wetlands); (2) is on site; (3) is in the same category; (4) is implemented prior to or concurrent with alteration; and (5) has a high probability of success.

(B) *Mitigation Ratios.* Mitigation ratios are as follows (see subsection of this section for definitions of mitigation actions):

Table 20.740.140-5. MITIGATION REPLACEMENT RATIOS

Wetland Category and Type	Reestablishment or Creation	Rehabilitation	Preservation	Enhancement
Category I forested	6:1	12:1	24:1	24:1
Bog	NA	NA	24:1	NA
Wetlands of High Conservation Value	Consult with DNR	Consult with DNR	24:1	Consult with DNR
Category II	3:1	6:1	12:1	12:1
Category III	2:1	4:1	8:1	8:1

Wetland Category and Type	Reestablishment or Creation	Rehabilitation	Preservation	Enhancement
Category IV	1.5:1	3:1	6:1	6:1

ii. *Adjustment of Replacement Ratios.* The Planning Official may adjust the replacement ratios to compensate for deviations from the requirements under this section, subject to the following:

(A) In most cases, adjustments to the replacement ratios will increase the required amount of mitigation. The required mitigation may be decreased under exceptional circumstances—for example, if programmatic out-of-kind mitigation yields watershed-scale benefits that would not be realized from in-kind mitigation, or if out-of-kind mitigation would protect irreplaceable wetlands.

e. *Mitigation Timing.* The mitigation shall be implemented prior to or concurrent with alterations. If mitigation is implemented after alteration is allowed, the Planning Official may require additional mitigation to compensate for temporal losses of wetland functions.

f. *Buffers for Mitigation Wetlands.* Refer to Wetland Buffer Tables 20.7470.140-1, 20.740.140-1, 20.740.140-2, and through 20.740.140-4.

g. *Wetland Mitigation Banks.*

i. Credits from a wetland mitigation bank may be approved for use as mitigation for unavoidable impacts to wetlands when:

(A) The bank is certified under Chapter [173-700 WAC](#);

(B) The Planning Official determines that the wetland mitigation bank provides appropriate mitigation for the authorized impacts; and

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- (C) The proposed use of credits is consistent with the terms and conditions of the bank's certification.
- ii. Replacement ratios for projects using bank credits shall be consistent with replacement ratios specified in the bank's certification.
 - iii. Credits from a certified wetland mitigation bank may be used to compensate for impacts located within the service area specified in the bank's certification. In some cases, bank service areas may include portions of more than one adjacent drainage basin for specific wetland functions.
- E. *Additional Critical Areas Report Requirements.* A Critical Areas Report for wetlands shall be prepared according to the Washington State Wetland Rating System for Western Washington – 2014 Update, Ecology Publication No. 14-06-02923-06-009, Washington State Wetland Rating System For Western Washington: 2014 Update, published July 2023October 2014 or as revised by Ecology. The Critical Areas Report shall contain an analysis of the wetlands including the following site- and proposal-related information:
1. A written assessment, data sheets, and accompanying maps of any wetlands or buffers on the site, including the following information:
 - a. Hydrogeomorphic (HGM) subclassification and Cowardin class;
 - b. Wetland category;
 - c. Wetland delineation and required buffers;
 - d. Existing wetland acreage;
 - e. Vegetative, faunal, and hydrologic characteristics;
 - f. Soil types and substrate conditions;
 - g. Topographic elevations, at one-foot contours; and
 - h. A discussion of the water sources supplying the wetland and documentation of hydrologic regime (locations of inlet and outlet features, water depths throughout the wetland, evidence of recharge or discharge, or evidence of

water depths throughout the year, including drift lines, algal layers, moss lines, and sediment deposits).

2. Functional evaluation for the wetland and buffer using Ecology's most current approved data sheets. method and including the reference of the method and all data sheets.
3. Proposed mitigation, if needed, including a discussion of alternatives and trade-offs of the various alternatives (for example, where enhancement for one function would adversely affect another) and a written description and accompanying maps of the mitigation area, including the following information:
 - a. Existing and proposed wetland acreage;
 - b. Existing and proposed vegetative and faunal conditions;
 - c. Surface and subsurface hydrological conditions of existing and proposed wetlands and hydrologically associated wetlands, including an analysis of existing hydrologic regime and proposed hydrologic regime for enhanced, created, or restored mitigation areas;
 - d. Relationship to lakes, streams, and rivers in the watershed;
 - e. Soil type and substrate conditions;
 - f. Topographic elevations, at one-foot contours;
 - g. Required wetland buffers including existing and proposed vegetation;
 - h. Identification of the wetland's contributing area; and
 - i. A functional assessment of proposed mitigation to ensure no net loss of shoreline ecological function.