



**CITY OF FIRCREST
PLANNING COMMISSION
MEETING AGENDA**

**TUESDAY, MARCH 03, 2026
6:00 P.M.**

**COUNCIL CHAMBERS
FIRCREST CITY HALL, 115 RAMSDELL STREET**

Pg. #

- 1. CALL TO ORDER**
- 2. PLEDGE OF ALLEGIANCE**
- 3. ROLL CALL**
 - A. Motion to Excuse Absent Planning Commissioners
- 4. APPROVAL OF THE AGENDA**
- 5. APPROVAL OF THE MINUTES**
 - A. [January 06, 2026, Regular Meeting](#) 2
- 6. CITIZEN COMMENTS (FOR ITEMS NOT ON THE AGENDA)**
- 7. PUBLIC HEARING**
- 8. UNFINISHED BUSINESS**
 - A. [Critical Areas Ordinance \(CAO\) Update Discussion](#) 5
 - B. [2026 Fircrest Planning Legislative Priorities](#) 126
 - C. [2026 Comprehensive Plan Amendment](#) 165
- 9. NEW BUSINESS**
- 10. COMMISSIONER COMMENTS/ROUNDTABLE UPDATES/STAFF UPDATES**
- 11. FUTURE BUSINESS**
- 12. ADJOURNMENT**



**CITY OF FIRCREST
PLANNING COMMISSION
MEETING MINUTES**

**TUESDAY, JANUARY 06, 2026
6:00 P.M.**

**COUNCIL CHAMBERS
FIRCREST CITY HALL, 115 RAMSDELL STREET**

1. CALL TO ORDER

Permit Coordinator Danielle O’Galleher called the Fircrest Planning Commission regular meeting to order at 6:00 PM.

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

Planning Commissioners Present: Commissioner Kathy McVay, Commissioner Shirley Schultz, and Commissioner Andreas Schonger

Motion to excuse Commissioner Eric Lane.

Motion: Commissioner Schultz

Vote: Unanimous

Second: Commissioner McVay

Abstaining: None

The Motion Carried (3-0).

Motion to excuse Commissioner Ben Ferguson.

Motion: Commissioner Schultz

Second: Commissioner Schonger

The Motion Failed (1-2) with Commissioner McVay and Schultz dissenting.

Commissioner Ferguson was absent and unexcused.

City Staff Present: Permit Coordinator Danielle O’Galleher, City Clerk Arlette Burkhart.

4. NOMINATION OF CHAIR AND VICE CHAIR, PURSUANT TO FMC 23.08.070

Permit Coordinator O’Galleher reviewed the process for the nomination of Chair and Vice Chair based on the information provided by the Planning and Building Department. She highlighted that the positions serve a one-year term. Permit Coordinator O’Galleher stated that two motions would need to occur.

Commissioner Schultz nominated Commissioner Kathy McVay to serve as the Chair of the City of Fircrest Planning Commission for a one-year term, effective immediately; seconded by Commissioner Schonger. Permit Coordinator O’Galleher invited Commissioner comment; none were provided.

The Motion Carried (3-0).

Permit Coordinator O’Galleher opened the floor for nominations for the vice chair position.

Commissioner Schultz nominated Commissioner Eric Lane to serve as the Vice Chair of the City of Fircrest Planning Commission for a one-year term, effective immediately; seconded by Chair McVay. Permit Coordinator O’Galleher invited Commissioner comment; none were provided.

The Motion Carried (3-0).

5. APPROVAL OF THE AGENDA

Motion to approve the agenda for the January 6, 2026, Regular Planning Commission Meeting.

Motion: Commissioner Schultz Vote: Unanimous
Second: Commissioner Schonger Abstaining: None

The Motion Carried (3-0).

6. APPROVAL OF THE MINUTES

Motion to approve the minutes for the May 20, 2025, Special Planning Commission Meeting.

Motion: Commissioner Schultz Vote: Unanimous
Second: Commissioner Schonger Abstaining: None

The Motion Carried (3-0).

Motion to approve the minutes for the December 02, 2025, Regular Planning Commission Meeting.

Motion: Commissioner Schonger Vote: Unanimous
Second: Commissioner Schultz Abstaining: None

The Motion Carried (3-0).

7. CITIZEN COMMENTS (FOR ITEMS NOT ON THE AGENDA)

Chair McVay invited public comments. There were none.

8. PUBLIC HEARING

There was no public hearing scheduled.

9. UNFINISHED BUSINESS

A. Joint Planning Commission/Council Meeting Agenda Topics Discussion

Permit Coordinator O’Galleher briefed the Planning Commission on the upcoming Joint City Council and Planning Commission meeting on February 3, 2026. The Planning Commission identified several topics to include the 2026 Comprehensive Plan Amendment, including STEP Housing, design review relating to Middle Housing Legislation, and traffic calming measures. Discussions included residential design standards, commercial signage updates, and built environmental considerations.

B. HB 1220 - STEP Housing Discussion

Kimberly Gunderson, Mahoney Planning LLC, presented draft amendments to implement House Bill 1220, requiring cities to allow permanent supportive housing, transitional housing, emergency housing, and emergency shelters. She highlighted the creation of a new Type II C Administrative Use Permit, notice of application and notice of decision requirements, appeal rights to the Hearing Examiner, parking requirements, operational agreement requirements, removal of family definition from the code, and codification of approval criteria.

10. NEW BUSINESS

A. Critical Areas Ordinance (CAO) Update Discussion

Kimberly Gunderson, Mahoney Planning LLC, provided an overview of the upcoming Critical Areas Ordinance update required under the Growth Management Act and Department of Commerce checklist. There were critical areas identified in Fircrest to include wetlands, critical aquifer recharge areas (CARAs), fish and wildlife habitat conservation areas, frequently flooded areas, and geologically hazardous areas. Mrs. Gunderson reported that future draft amendments will be presented for review.

B. 2026 Fircrest Legislative Priorities

Kim Gunderson, Mahoney Planning LLC, presented the draft legislation regarding STEP Housing and the schedule for legislative compliance and development regulation updates. The schedule extends throughout the year, with the Planning Commission’s main engagement in Q2 2026.

11. COMMISSIONER COMMENTS/ROUNDTABLE UPDATES/STAFF UPDATES

None.

12. FUTURE BUSINESS

None.

13. ADJOURNMENT

Motion to adjourn the January 6, 2026 Planning Commission regular meeting at 7:41 PM.

Motion: Commissioner Schonger Vote: Unanimous
Second: Commissioner Schultz Abstaining: None

The Motion Carried (3-0).

Kathy McVay
Chair, Fircrest Planning Commission

Danielle O’Galleher
Permit Coordinator

February 15, 2026

City of Fircrest Planning Commission
115 Ramsdell Street
Fircrest, WA 98466

Re: Critical Areas Ordinance Update, RCW 36.70A.070

Dear Planning Commission,

The City of Fircrest is overdue to update its critical areas ordinance (CAO), chiefly codified as FMC Chapters 22.92, 22.93, 22.94, 22.97, 22.99, and 22.100.

As a fully planning city subject to the Washington Growth Management Act (“GMA,” RCW Chapter 36.70A), Fircrest is required to update its CAO in alignment with the schedule set forth in RCW 36.70A.130(7)(a)(ii)¹. Being a city in Pierce County, Fircrest’s Periodic Comprehensive Plan Amendment and its implementing regulations were due in December 2024. As it relates specifically to regulations that protect critical area features in Fircrest, the Washington legislature allowed cities 12 months after the due date of their Comprehensive Plan update to amend their CAOs before deeming the city “out of compliance” with Comprehensive Planning deadlines established in the GMA. Therefore, Fircrest was due to update its CAO by December 2025.

Fircrest has timely adopted its 2024 Periodic Comprehensive Plan Update, but had not advanced progress toward its CAO Update meaningfully enough to meet the December 2025 deadline, and is therefore noncompliant with the GMA in this manner. Cities that are noncompliant with the CAO Update deadline are ineligible for state monies issued under RCW Chapter 43.155 (Public Works Projects) and RCW Chapter 70A.135 (Water Pollution Control Facilities Financing). While important for the City to progress toward GMA compliance, the City’s 2026 budget does not include any reliance on state monies from these RCWs, and so no projects planned in 2026 will be affected by the City’s ineligibility for these particular funds.

Mahoney Planning has been tasked to update the City’s CAO in 2026. The effort of this project is to comply with the GMA, and also to adopt germane provisions of the RCW and WAC that afford protections to Fircrest’s critical areas based on today’s best available science (BAS). Mahoney Planning has prepared a project schedule that aims to complete this project in November 2026, positioning the City as an eligible recipient of funds sourced from RCW Chapters 43.155 and 70A.135 for 2027 projects, as needed (see **Figure 1** of this memo).

¹ RCW 36.70A.130(7)(a)(ii): “The requirements imposed on counties and cities under this section shall be considered “requirements of this chapter” under the terms of RCW 36.70A.040(1). Only those counties and cities that meet the following criteria may receive grants, loans, pledges, or financial guarantees under chapter 43.155 or 70A.135 RCW...The county or city demonstrates substantial progress towards compliance with the deadlines in this section for development regulations that protect critical areas. For the purposes of this subsection (7)(a)(ii), a county or city that is fewer than 12 months out of compliance with the deadlines in this section for development regulations that protect critical areas is making substantial progress towards compliance with the deadlines in this section.”

Fircrest Guiding Context

Beyond simply complying with state mandates to update Fircrest’s CAO, it is Fircrest’s consistently outspoken intention to foster a sense of community that balances the enjoyment of its natural settings, accommodates the built environment needs of its citizens, and minds our evolving understanding of how critical area protections add value and resilience in our communities. These intentions are captured in Fircrest’s guiding documents and offer important framework to inform the scope of this project.

Comprehensive Plan Principles

Principle 2: *Peaceful and connected to nature. This principle suggests the City aspires to remain a walkable and forested place that provides a peaceful setting to live in. The City will prioritize the walkability and protection of natural resources in Fircrest so that it remains a peaceful place that is connected to nature.*

Comprehensive Plan Goals

Goal CR-2: *Manage surface, ground, storm, waste, and creek waters in an ecologically responsible manner and as interconnected components of the region’s watershed to achieve a healthy watershed that is resilient to climate change.*

Goal CR-4: *Protect vulnerable infrastructure and the local economy from climate impacts.*

Goal P-5: *Enhance Fircrest’s landscape and provide habitat for wildlife by increasing the amount of property permanently dedicated for open space uses with preference given to properties having the greatest significance as critical areas, properties that can act as buffers between different land use types and intensities, and properties that represent a valuable natural or aesthetic asset to the community.*

Goal LU-10: *Guide land uses and development and redevelopment projects to preserve and improve the natural environment as well as the built environment and protect development from climate change impacts.*

Fircrest Critical Areas and the Basics of Regulating Critical Areas

Regulated critical areas in Fircrest include wetlands, critical aquifer recharge areas (CARAs), frequently flooded areas, fish and wildlife habitat conservation areas (FHWCA), and geological hazards including erosion and landslide hazard areas. Descriptions of these critical area and local examples of each are included in **Exhibit A** to familiarize the Planning Commission with local examples of Fircrest’s regulated features.

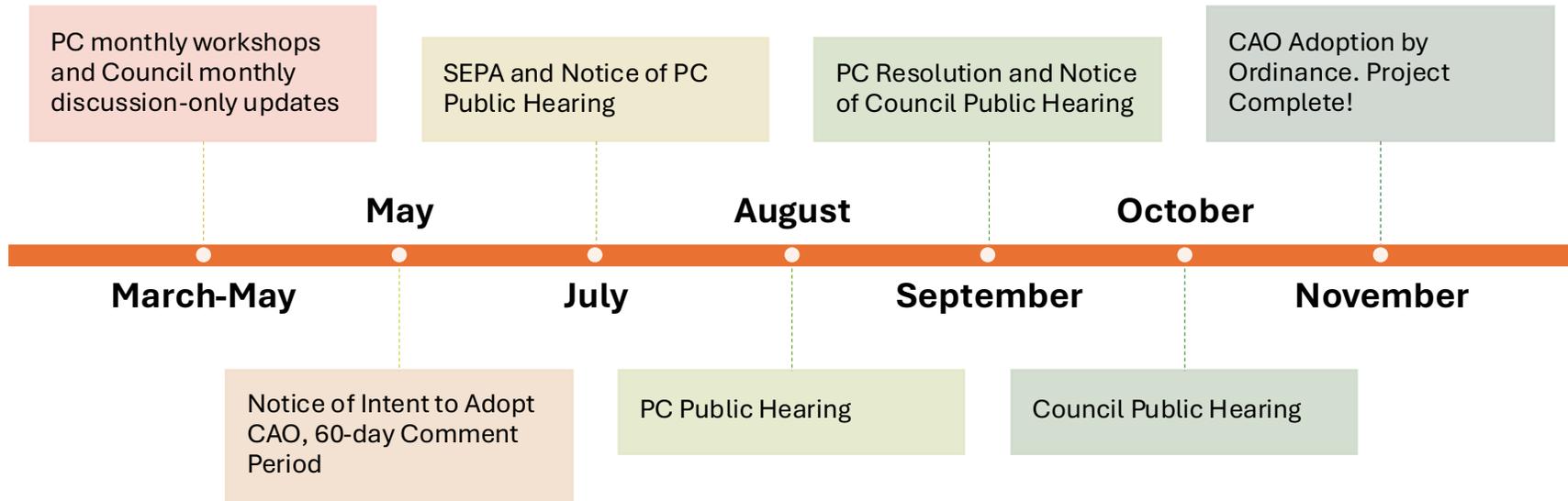
Focus of March 3 Meeting

At the March 3, 2026 Planning Commission meeting, I will present the Planning Commission with early feedback the City has received from the Department of Natural Resources (DNR) and Department of Ecology (ECY) in response to a request for their early engagement in Fircrest's CAO Update project (**Exhibit B**). I will also present edits that have been drafted to the City's CAO (**Exhibit C** and **Exhibit D**) that incorporate feedback from state agencies and align Fircrest's code with the Department of Commerce (Commerce) Critical Area Checklist (**Exhibit E**).

Project Schedule

Fircrest's CAO Update is expected to be complete by November 2026. Importantly, the project schedule affords ample engagement with Fircrest's elected and appointed officials, state agencies, interested parties, and the general public. See **Figure 1** below.

Figure 1
Fircrest CAO Project Schedule



It is expected that I will return to Planning Commission in April with additional edits to Fircrest's CAO that incorporate feedback from the City Manager, input from Planning Commission and City Council, and any as-needed general edits to improve the CAO's readability and enforceability. A final draft CAO will be presented to Planning Commission in May before being transmitted to the Commerce for a 60-day comment period.

I look forward to discussing this project with Planning Commission at its March 3 meeting!



Kimberly A. Gunderson
Mahoney Planning, LLC

Exhibits:

- A. [Critical Areas in Fircrest](#)
- B. [Early feedback from DNR and ECY](#)
- C. [FMC Chapters 22.92, 22.93, 22.94, 22.97, 22.99, and 22.100, in redline to reflect CAO Updates](#)
- D. [FMC Chapter 22.98, Definitions, in redline to reflect CAO Updates](#)
- E. [Commerce Critical Areas Checklist](#)

Exhibit A
Critical Areas in Fircrest

Regulated critical areas in Fircrest include wetlands, critical aquifer recharge areas (CARAs), frequently flooded areas, fish and wildlife habitat conservation areas (FHWCA), and geological hazards including erosion and landslide hazard areas. Descriptions of these critical areas and examples of each are included below to familiarize the Planning Commission with local examples of Fircrest’s regulated features.

Wetlands

Fircrest governs wetlands in FMC Chapter 22.93. As a brief summary, wetlands are inundated or saturated surfaces that can typically support vegetation in saturated soil conditions. Artificially created wet features, such as drainage ditches or stormwater ponds, are not regulated wetlands unless the feature was created as mitigation for a project’s impacts to wetlands. See **Figure 1**.

Figure 1
Wetlands in Fircrest

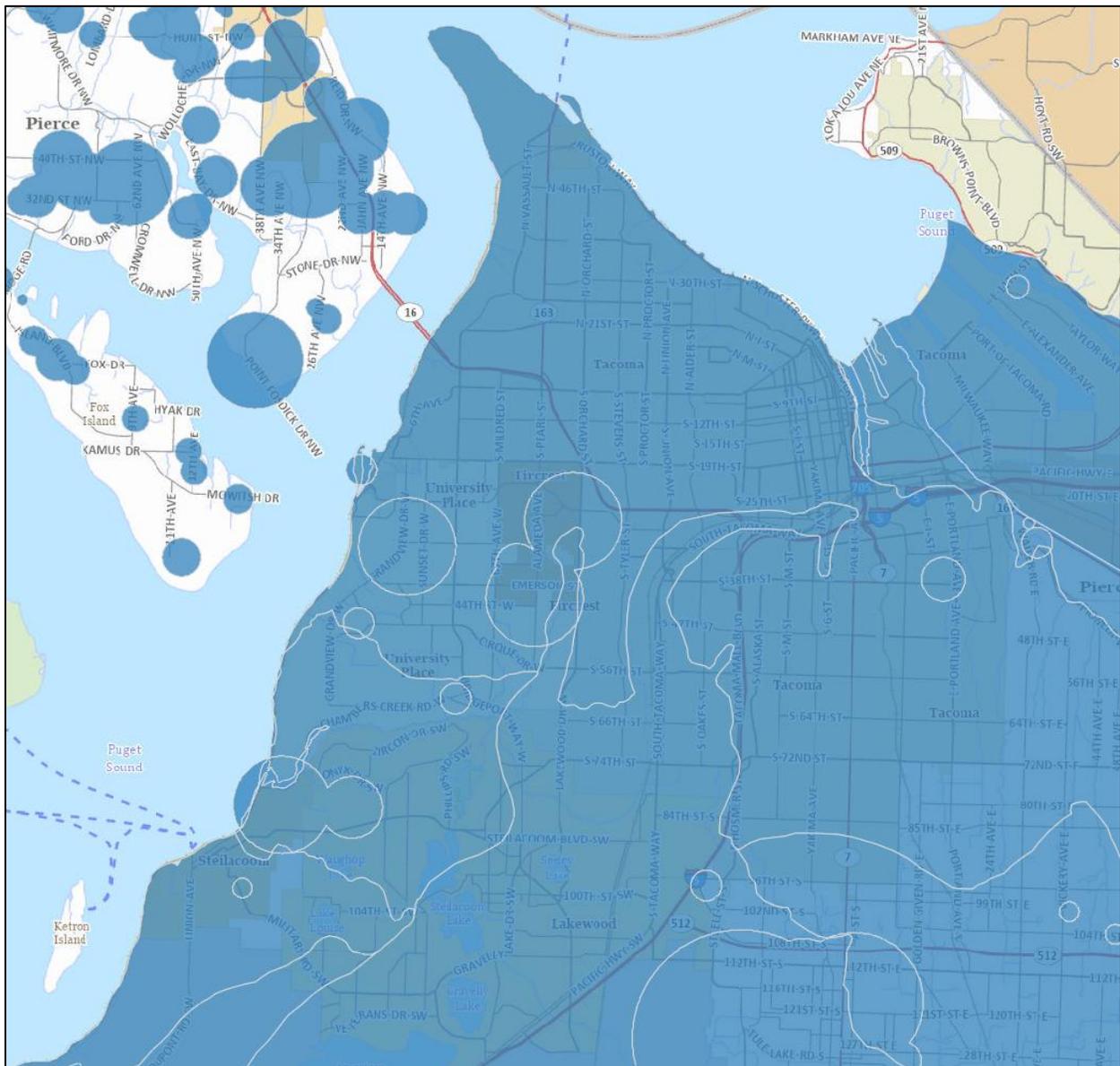


National Wetlands Inventory map of wetlands in Fircrest. Note that some features are manmade.

CARAs

Critical aquifer recharge areas (CARAs) are regulated in FMC Chapter 22.94. CARAs “are those areas with a critical recharging effect on aquifers used for potable water” (FMC 22.94.010). All of Fircrest is a CARA; see **Figure 2**, which displays a blue polygon as representative of a CARA. Development in CARAs is less restricted than in other critical areas, as is typical across jurisdictions.

Figure 2
 CARAs in Fircrest

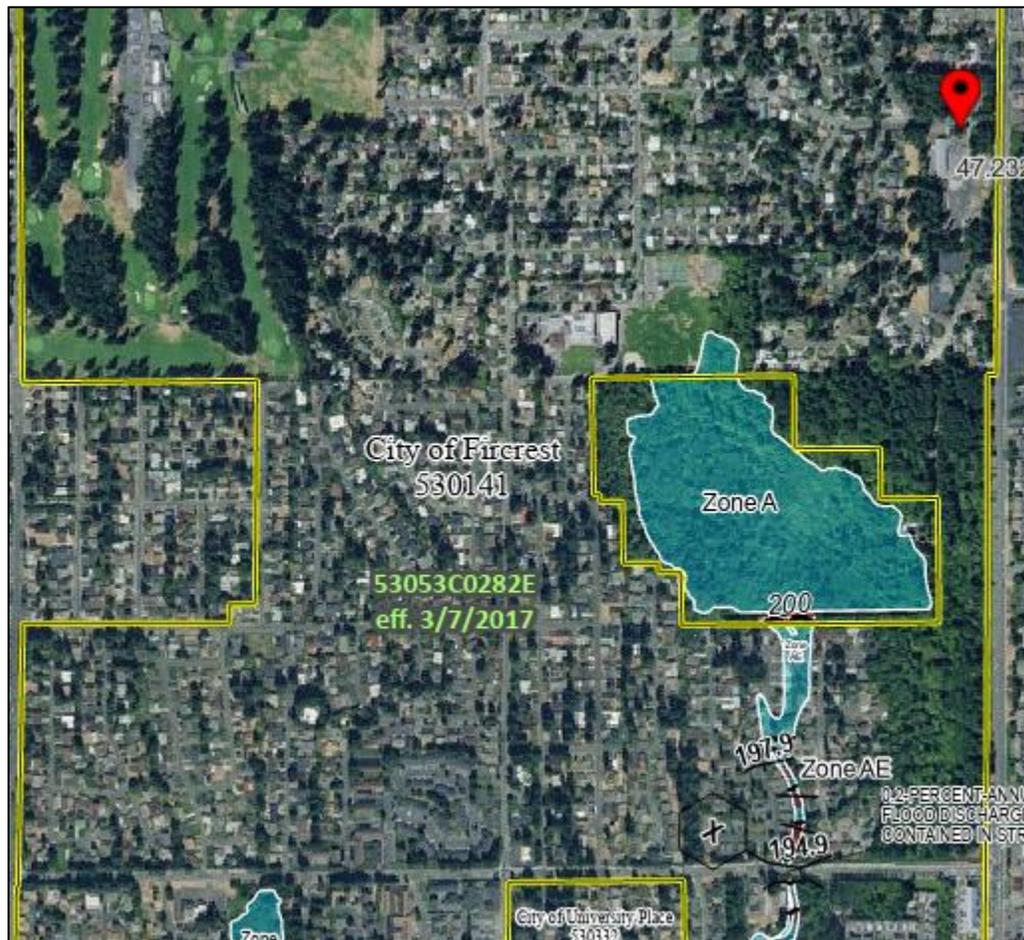


Pierce County CARA map, which shows CARAs as blue polygons.

Frequently Flooded Areas

Fircrest’s frequently flooded areas are regulated under FMC Chapter 22.99. Predominantly, these areas are those listed as “special flood hazard” areas on flood insurance maps produced by the Federal Emergency Management Agency (FEMA). Development in frequently flooded areas is limited, and often is required to be constructed on tall foundations at the highest elevation possible to minimize the potential risks associated with floods. Frequently flooded areas in Fircrest, as mapped by FEMA, are generally concentrated at the City of Tacoma Stormwater Facility south of Holly Drive and along Leach Creek. See **Figure 3**.

Figure 3
Frequently Flooded Areas in Fircrest



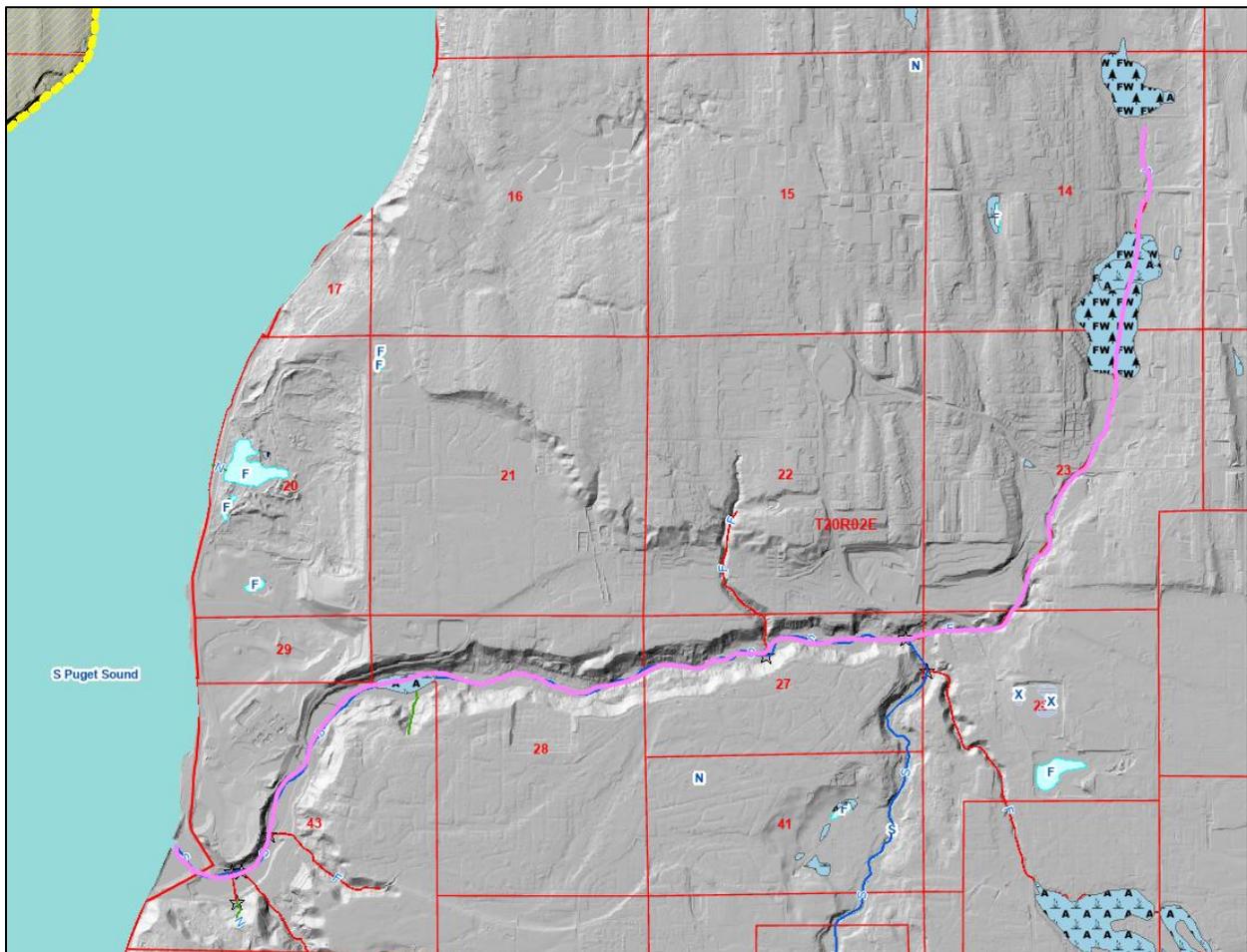
FEMA flood map of Fircrest. Zones A and AE represent special flood hazard areas that are regulated in Fircrest as frequently flooded areas.

FWHCAs

Fish and wildlife habitat conservation areas (FWHCAs) in Fircrest are protected under FMC Chapter 22.97. These areas include a broad array of natural spaces in Fircrest, including areas associated with protected species, waters of the state, high quality ecosystems identified by the Department of Natural Resources, and lands that are useful in preserving connections between habitat blocks and open spaces.

A well-known FWHCA in Fircrest is Leach Creek, particularly given its confluence with Chambers Creek and, eventually, the Puget Sound. See **Figure 4**.

Figure 4
Leach Creek FWHCA



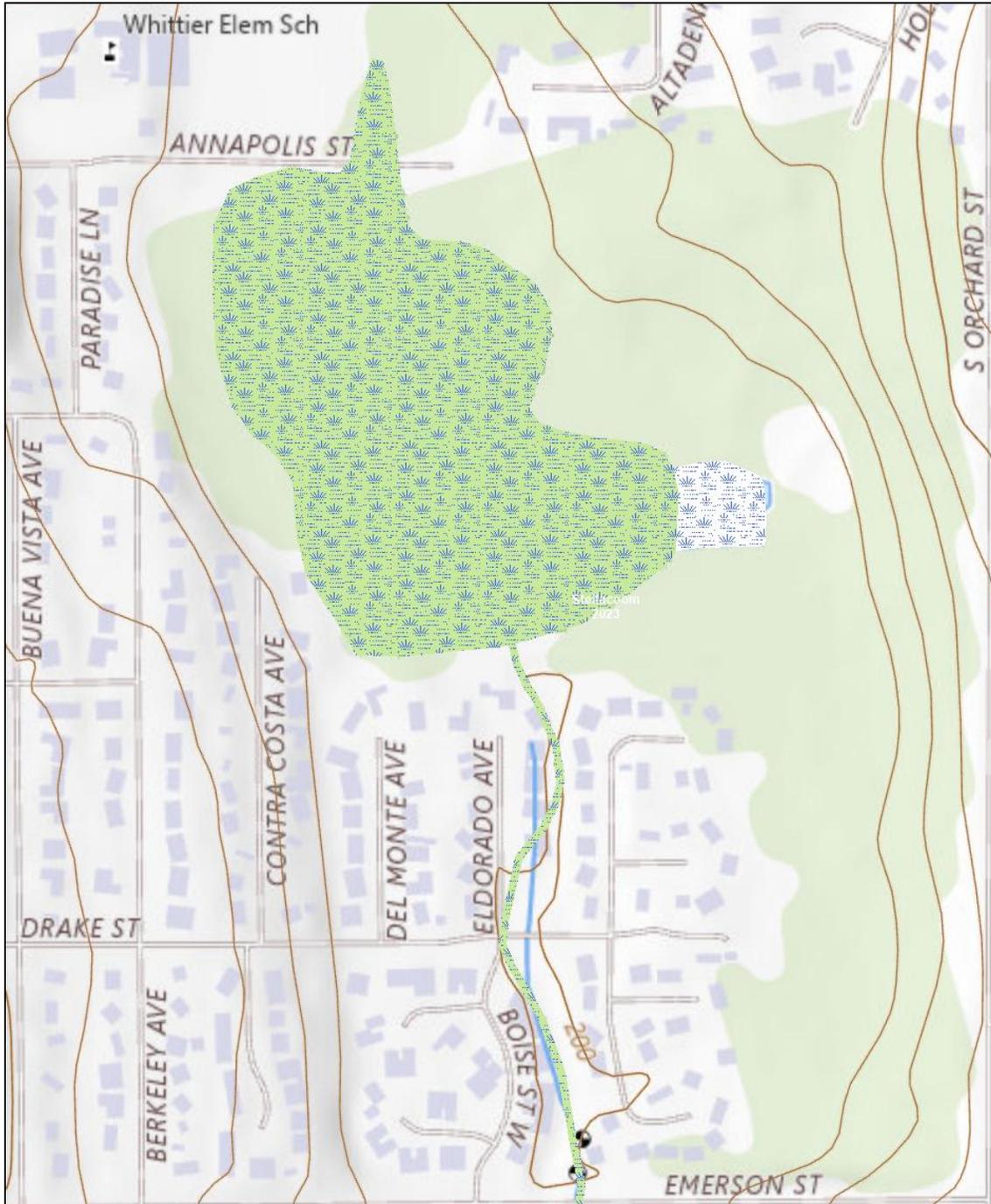
Washington Department of Natural Resources Forest Practices Application Mapping Tool, Leach Creek connection to Chambers Creek drawn in pink

Geological Hazards

Fircrest’s geological hazard regulations are codified in FMC Chapter 22.100 and include erosion hazards and landslide hazards. These areas are “susceptible to erosion, sliding, earthquake, or other geological events. They pose a threat to the health and safety of citizens when incompatible development is sited in areas of significant hazard.”

Steep slopes are a common geological erosion hazard. Perhaps the most well-known erosion hazard in Fircrest is associated with the “Bourgaize property” at the intersection of Emerson Street and Orchard Street, where steep slopes run the length of Orchard Street; see **Figure 5**.

Figure 5
Fircrest Erosion Hazard



United States Geological Survey, map of Fircrest with 20' contours

Exhibit B
March 3, 2026
Fircrest Planning Commission
CAO Update

(3) Activities within the Improved Right-of-Way. Replacement, modification, installation, or construction of utility facilities, lines, pipes, mains, equipment, or appurtenances, not including substations, when such facilities are located within the improved portion of the public right-of-way or a city-authorized private roadway except those activities that alter a wetland or watercourse, such as culverts or bridges, or result in the transport of sediment or increased stormwater, subject to the following:

(A) Critical area and/or buffer widths shall be increased, where possible, equal to the width of the right-of-way improvement, including disturbed areas; and

(B) Retention and replanting of native vegetation shall occur wherever possible along the right-of-way improvement and resulting disturbance;

(4) Minor Utility Projects. Utility projects that have minor or short-duration impacts to critical areas, as determined by the director in accordance with the criteria below, and that do not significantly impact the function or values of a critical area(s); provided, that such projects are constructed with best management practices and additional restoration measures are provided. Minor activities shall not result in the transport of sediment or increased stormwater. Such allowed minor utility projects shall meet the following criteria:

(A) There is no practical alternative to the proposed activity with less impact on critical areas;

(B) The activity involves the placement of a utility pole, street signs, anchor, or vault or other small component of a utility facility; and

(C) The activity involves disturbance of an area less than 75 square feet;

(5) Public and Private Pedestrian Trails. Public and private pedestrian trails, subject to the following:

(A) The trail surface shall meet all other requirements including water quality standards set forth in the Department of Ecology Stormwater Management Manual for Western Washington;

(B) Critical area and/or buffer widths shall be increased, where possible, equal to the width of the trail corridor, including disturbed areas;

(C) Trails proposed to be located in landslide or erosion hazard areas shall be constructed in a manner that does not increase the risk of landslide or erosion and in accordance with an approved geotechnical report; and

(D) Trails proposed to be located in wetlands, fish and wildlife habitat conservation areas, or their buffers, should be limited to permeable surfaces no more than five feet wide, located only in the outer 25 percent of a buffer, and located to avoid removal of significant trees;

(6) Select Vegetation Removal Activities. The following vegetation removal activities; provided, that no vegetation shall be removed from a critical area or its buffer without approval from the director:

(A) The removal of the following vegetation with hand labor and light equipment:

(i) Invasive and noxious weeds classified by the Washington State Noxious Weed Board;

(ii) English ivy (*Hedera helix*);

(iii) Himalayan blackberry (*Rubus armeniacus*, *R. procerus*); and

(iv) Evergreen blackberry (*Rubus laciniatus*);

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

Commented [EA1]: We generally don't recommend that trails be allowed through wetlands and instead kept to the outer edge of buffer to reduce risk of impacts to the functions and values of the wetlands. They should be generally parallel to the perimeter of the wetland, located only in the outer twenty-five percent (25%) of the wetland buffer area, and located to avoid removal of significant [as defined in ordinance], old growth, or mature trees. They should be limited to pervious surfaces no more than five (5) feet in width and designed for pedestrian use only.

(4) Determine if the proposed project adequately addresses the impacts and avoids impacts to the critical area associated with the project.

(b) If the proposed project is within, adjacent to, or is likely to impact a critical area, the city shall:

- (1) Require a critical area report from the applicant that has been prepared by a qualified professional;
- (2) Review and evaluate the critical area report;
- (3) Determine whether the development proposal conforms to the purposes and performance standards of the applicable critical areas chapters, including the review criteria in FMC 22.92.230;
- (4) Assess the potential impacts to the critical area and determine if they can be avoided or minimized; and
- (5) Determine if any mitigation proposed by the applicant is sufficient to protect the functions and values of the critical area and public health, safety, and welfare concerns consistent with the goals, purposes, objectives, and requirements of the applicable critical areas chapters. (Ord. 1375 § 1, 2005).

22.92.130 Critical area preapplication consultation.

Any person preparing to submit an application for development or use of land that may be regulated by the provisions of a critical areas chapter shall conduct a consultation meeting with the director prior to submitting an application for development or other approval. At this meeting, the director shall discuss the requirements of these chapters; provide critical area maps, scientific information, and other source materials; outline the review process; and work with the activity proponent to identify any potential concerns that might arise during the review process, in addition to discussing other permit procedures and requirements. (Ord. 1375 § 1, 2005).

22.92.140 Critical area identification form.

(a) Submittal. Prior to the city's consideration of any proposed activity not found to be exempt under FMC 22.92.080 or allowed pursuant to FMC 22.92.110, the applicant shall submit to the department a complete critical area identification form on forms provided by the city.

(b) Site Inspection. Upon receipt of a project application and a critical area identification form, the director shall conduct a site inspection to review critical area conditions on site. The director shall notify the property owner of the inspection prior to the site visit. Reasonable access to the site shall be provided by the property owner for the purpose of inspections during any proposal review, restoration, emergency action, or monitoring period.

(c) Critical Area Identification Form Review Process. The director or his/her designee shall review the critical area identification form, conduct a site inspection, and review other information available pertaining to the site and the proposal and make a determination as to whether any critical areas may be affected by the proposal and if a more detailed critical area report shall be submitted.

(1) Decision Indicators. The director may use the following indicators to assist in determining the need for a critical area report:

- (A) Indication of a critical area on the city critical areas maps that may be impacted by the proposed activity;
- (B) Information and scientific opinions from appropriate agencies, including but not limited to the Departments of Fish and Wildlife, Natural Resources, and Ecology;
- (C) Documentation, from a scientific or other reasonable source, of the possible presence of a critical area; or
- (D) A finding by a qualified professional or a reasonable belief by the director that a critical area may exist on or adjacent to the site of the proposed activity.

(d) Decision on Identification Form.

Commented [KM2]: Recommend revising or creating these forms. To my knowledge, these are not forms that we currently have.

Commented [EA3]: How is qualified professional defined in Firecrest's code? We would recommend using our definition from our guidance as follows to help ensure good work is done on these reports:
"Qualified wetland professional: A person with professional wetland experience that meets the following criteria:
(a) A Bachelor of Science or Bachelor of Arts or equivalent degree in hydrology, soil science, botany, ecology, resource management, or related field, or four years of full-time work experience as a wetland professional may substitute for a degree, and
(b) At least two additional years of full-time work experience as a wetland professional; including delineating wetlands, preparing wetland reports, conducting function assessments, and developing and implementing mitigation plans, and
(c) Completion of additional wetland-specific training programs. This could include a more comprehensive program such as the University of Washington Wetland Science and Management Certificate Program or individual workshops on topics such as wetland delineation, function assessment, mitigation design, hydrophytic plant or hydric soil identification. A person certified as a Professional Wetland Scientist through the Society of Wetland Scientists professional certification program meets the above criteria. "

Chapter 22.93 WETLANDS

Sections:

- 22.93.010 Designating, defining, identifying, and mapping wetlands.
- 22.93.020 Regulated activities.
- 22.93.030 Activities allowed in wetlands.
- 22.93.040 Wetland ratings.
- 22.93.050 Standards – General requirements.
- 22.93.060 Critical area report – Additional requirements for wetlands.
- 22.93.070 Compensatory mitigation requirements.
- 22.93.080 Standards – Subdivisions.
- 22.93.090 Signs and fencing of wetlands.
- 22.93.100 Wetland buffers.
- 22.93.110 Residential density and on-site density transfer.
- 22.93.120 *Repealed.*
- 22.93.130 Alternate review process – Army Corps of Engineers Section 404 individual permits.

22.93.010 Designating, defining, identifying, and mapping wetlands.

(a) Designating, Defining and Identifying Wetlands. Wetlands are those areas designated in accordance with the procedures outlined in WAC 173-22-035.

All areas within the city meeting the wetland definition criteria, regardless of whether these areas have previously been identified or mapped, are hereby designated critical areas and are subject to the provisions of Chapter 22.92 FMC and this chapter.

(b) Mapping. The approximate location and extent of wetlands are shown on the adopted critical area map contained within the comprehensive plan. In addition, the maps contained within the National Wetlands Inventory are hereby adopted. Additionally, soil maps produced by the U.S. Department of Agriculture National Resources Conservation Service may be useful in helping to identify potential wetland areas. These maps are to be used as a guide for the city, project applicants, and/or property owners, and may be continuously updated as new critical areas are identified.

It is the actual presence of a wetland on a parcel, as delineated by WAC 173-22-035, which triggers the requirements of Chapter 22.92 FMC and this chapter, whether or not the wetland is identified on the adopted maps. The exact location of a wetland's boundary shall be determined through the performance of a field delineation by a qualified wetlands professional in accordance with the approved federal wetland delineation manual and applicable regional supplements pursuant to WAC 173-22-035. (Ord. 1512 § 6, 2011; Ord. 1375 § 2, 2005).

22.93.020 Regulated activities.

The following activities are regulated if they occur in a regulated wetland or its buffer:

- (a) The removal, excavation, grading, or dredging of soil, sand, gravel, minerals, organic matter, or material of any kind;
- (b) The dumping, discharging, or filling with any material;
- (c) The draining, flooding, or disturbing of the water level or water table;
- (d) The driving of pilings;
- (e) The placing of obstructions;
- (f) The construction, reconstruction, demolition, or expansion of any structure;

Commented [EA4]: You might consider including some language the regulated activities "include but are not limited to" the following.

(2) The director shall determine if the mitigation and monitoring plans and bonding measures proposed by the applicant are sufficient to protect the public health, safety, and welfare, consistent with the goals, purposes, objectives and requirements of Chapter 22.92 FMC and this chapter. (Ord. 1574 § 5, 2016; Ord. 1375 § 2, 2005).

22.93.070 Compensatory mitigation requirements.

(a) Compensatory mitigation for alterations to wetlands shall be used only for impacts that cannot be avoided or minimized and shall achieve equivalent or greater biologic functions. Compensatory mitigation plans shall be consistent with Wetland Mitigation in Washington State, Part 2: Developing Mitigation Plans – Version 1 (Ecology Publication No. 06-06-011b, Olympia, WA, March 2006 or as revised), and Selected Wetland Mitigation Sites using a Watershed Approach (Western Washington) (Publication No. 09-06-32, Olympia, WA, December 2009).

(b) Mitigation shall be required in the following order of preference:

- (1) Avoiding the impact altogether by not taking a certain action or parts of an action.
- (2) Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts.
- (3) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.
- (4) Reducing or eliminating the impact over time by preservation and maintenance operations.
- (5) Compensating for the impact by replacing, enhancing, or providing substitute resources or environments.
- (6) Monitoring the impact and taking appropriate corrective measures.

(c) Compensation for Lost or Affected Functions. Compensation shall address the functions affected by the proposed project, with an intention to achieve functional equivalency or improvement of functions. The goal shall be for the compensatory mitigation to provide similar wetland functions as those lost, except when either:

- (1) The lost wetland provides minimal functions as determined by a site-specific function assessment, and the proposed compensatory mitigation action(s) will provide equal or greater functions or will provide functions shown to be limiting within a watershed through a formal Washington State watershed assessment plan or protocol; or
- (2) Out-of-kind replacement of wetland type or functions will best meet watershed goals formally identified by the city, such as replacement of historically diminished wetland types.

(d) Preference of Mitigation Actions. Methods to achieve compensation for wetland functions shall be approached in the following order of preference:

- (1) Restoration (reestablishment and rehabilitation) of wetlands.
- (2) Creation (establishment) of wetlands on disturbed upland sites such as those with vegetative cover consisting primarily of nonnative introduced species. This should only be attempted when there is an adequate source of water and it can be shown that the surface and subsurface hydrologic regime is conducive for the wetland community that is anticipated in the design.
- (3) Enhancement of significantly degraded wetlands in combination with restoration or creation. Such enhancement should be part of a mitigation package that includes replacing the impacted area and meeting appropriate ratio requirements.

(e) Type and Location of Mitigation. Unless it is demonstrated that a higher level of ecological functioning would result from an alternate approach, compensatory mitigation for ecological functions shall be either in-kind and on-site, or in-kind and within the same stream reach or subbasin. Mitigation actions shall be conducted within the same subdrainage basin and on the same site as the alteration except when all of the following apply:

Commented [EA5]: We would strongly recommend that you include preservation in the preference of mitigation actions list. Per the interagency mitigation guidance preservation would be 3rd in order of preference. Please see the sample language in our CAO Guidance for an example of what we recommend (page A-17).

(1) There are no reasonable on-site or in-subdrainage basin opportunities (e.g., on-site options would require elimination of high functioning upland habitat), or on-site and in-subdrainage basin opportunities do not have a high likelihood of success based on a determination of the natural capacity of the site to compensate for the impacts. Consideration should include: anticipated wetland mitigation replacement ratios, buffer conditions and proposed widths, available water to maintain anticipated hydrogeomorphic classes of wetlands when restored, proposed flood storage capacity, potential to mitigate riparian fish and wildlife impacts (such as connectivity);

(2) Off-site mitigation has a greater likelihood of providing equal or improved wetland functions than the impacted wetland; and

(3) Off-site locations shall be in the same subdrainage basin unless:

(A) Established watershed goals for water quality, flood or conveyance, habitat, or other wetland functions have been established by the city and strongly justify location of mitigation at another site; or

(B) Credits from a state certified wetland mitigation bank are used as mitigation and the use of credits is consistent with the terms of the bank's certification.

(f) Timing of Compensatory Mitigation. It is preferred that compensation projects be completed prior to activities that will disturb the on-site wetlands. At the least, compensatory mitigation shall be completed immediately following disturbance and prior to use or occupancy of the action or development. Construction of mitigation projects shall be timed to reduce impacts to existing fisheries, wildlife, and flora.

The director may authorize a one-time temporary delay in completing construction or installation of the compensatory mitigation when the applicant provides a written explanation from a qualified wetland professional as to the rationale for the delay. An appropriate rationale would include identification of the environmental conditions that could produce a high probability of failure or significant construction difficulties (for example, project delay lapses past a fisheries window; or plan installation should be delayed until the dormant season to ensure greater survivability of installed materials). The delay shall not create or perpetuate hazardous conditions or environmental damage or degradation, and the delay shall not be injurious to the health, safety, and general welfare of the public. The request for the temporary delay must include a written justification that documents the environmental constraints that preclude implementation of the mitigation plan. The justification must be verified and approved by the city.

(g) Mitigation Ratios.

(1) Acreage Replacement Ratios. The following ratios in Table 22.93.A shall apply to creation or restoration, rehabilitation, reestablishment or creation and enhancement, or enhancement only, that is in-kind, is on-site, is the same category, is timed prior to or concurrent with alteration, and has a high probability of success. These ratios do not apply to remedial actions resulting from unauthorized alterations; greater ratios shall apply in those cases. These ratios do not apply to the use of credits from a state-certified wetland mitigation bank. When credits from a certified bank are used, replacement ratios should be consistent with the requirements of the bank's certification. The first number specifies the acreage of replacement wetlands and the second specifies the acreage of wetlands altered.

Table 22.93.A Mitigation Ratios

Category and Type of Wetland	Reestablishment or Creation	Rehabilitation**	1:1 Reestablishment or Creation (R/C) and Enhancement (E)	Wetland Preservation or Enhancement Only
All Category IV	1.5:1	3:1	1:1 R/C and 2:1 E	6:1
All Category III	2:1	4:1	1:1 R/C and 2:1 E	8:1
All Category II	3:1	6:1	1:1 R/C and 2:1 E	12:1

Commented [EA6]: Please refer to Wetlands in Washington State Volume 2 – Protecting and Managing Wetlands Appendix 8-C for the ratios for (R/C) and (E). In that guidance we show our recommended ratios for wetlands using that combination of mitigation methods that differ from the ones provided here.
 CAT III: 1:1 R/C and 4:1 E
 CAT II: 1/1 R/C and 8:1 E
 Forested: 1/1 R/C and 20:1 E
 CAT I based on score for functions: 1/1 R/C and 12:1

(b) Critical areas regulated by this title include:

- (1) Wetlands as designated in Chapter 22.93 FMC;
- (2) Critical aquifer recharge areas as designated in Chapter 22.94 FMC;
- (3) Frequently flooded areas as designated in Chapter 22.99 FMC;
- (4) Fish and wildlife habitat conservation areas as designated in Chapter 22.97 FMC; and
- (5) Geologically hazardous areas as designated in Chapter 22.100 FMC.

(c) All areas within the city meeting the definition of one or more critical areas, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of the applicable critical areas chapters.

(d) Areas Adjacent to Critical Areas Subject to Regulation. Areas adjacent to critical areas shall be considered ~~to be~~ within the jurisdiction of these requirements and regulations to support the intent of the applicable critical areas chapters and ensure protection of the functions and values of critical areas. **“Adjacent” shall mean any activity located:**

- (1) On a site immediately adjoining a critical area;
- (2) **A distance equal to or less than the required critical area buffer width and building setback;**
- (3) A distance equal to or less than 800 feet from a bald eagle nest;
- (4) A distance equal to or less than 300 feet upland from a stream, wetland, or water body; or
- (5) Within the floodway, floodplain, or channel migration zone. (Ord. 1375 § 1, 2005).

Commented [TS1]: So critical area buffers are described/defined later in the chapter. Building setbacks are listed elsewhere. Usually building setbacks are different than critical area buffers, so how does one know which distance is applicable to the activity?

22.92.050 Protection of critical areas.

Any action taken pursuant to the applicable critical areas chapters shall result in equivalent or greater functions and values of the critical areas associated with the proposed action, as determined by the best available science. All actions and developments shall be designed and constructed in accordance with the mitigation sequencing order specified in FMC 22.92.190 to avoid, minimize, and restore all adverse impacts. Applicants must first demonstrate an inability to avoid or reduce impacts before restoration and compensation of impacts will be allowed. No activity or use shall be allowed that results in a net loss of the functions or values of critical areas. (Ord. 1375 § 1, 2005).

22.92.060 Best available science.

(a) Protect Functions and Values of Critical Areas with Special Consideration to Anadromous Fish. Critical area reports and decisions to alter critical areas shall rely on the best available science to protect the functions and values of critical areas and must give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fish, such as salmon and bull trout, and their habitat, consistent with RCW 36.70A.172.1.

(b) Best Available Science to Be Consistent with Criteria. The best available science is that scientific information applicable to the critical area prepared by local, state, or federal natural resource agencies, a qualified scientific professional, or team of qualified scientific professionals that is consistent with criteria established in WAC 365-195-900 through 365-195-925.

(c) Characteristics of a Valid Scientific Process. In the context of critical areas protection, a valid scientific process is one that produces reliable information useful in understanding the consequences of a local government’s regulatory decisions, and in developing critical areas policies and development regulations that will be effective in protecting the functions and values of critical areas. To determine whether information received during the permit review process is reliable scientific information, the director shall determine whether the source of the information displays the characteristics of a valid scientific process. Such characteristics are as follows:

(5) The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site; and

(6) The proposal will result in no net loss of critical area functions and values consistent with the best available science.

(7) All proposed activities will be conducted using best available management practices adopted by the city, as described in FMC 22.92.110(b).

(c) Burden of Proof. The burden of proof shall be on the applicant to bring forth evidence in support of the application and to provide sufficient information on which any decision has to be made on the application. (Ord. 1638 § 61, 2019; Ord. 1375 § 1, 2005).

22.92.110 Allowed activities.

(a) Critical Area Report. Activities allowed under the applicable critical areas chapter(s) shall have been reviewed and permitted or approved by the city or other agency with jurisdiction, but do not require submittal of a separate critical area identification form or critical area report, unless such submittal was required previously for the underlying permit. The director may apply conditions to the underlying permit or approval to ensure that the allowed activity is consistent with the provisions of these chapters to protect critical areas.

(b) Required Use of Best Management Practices. All allowed activities shall be conducted using the best management practices adopted by the city, including but not limited to those contained within the Department of Ecology Stormwater Management Manual for Western Washington, that result in the least amount of impact to the critical areas. Best management practices shall be used for tree and vegetation protection, construction management, erosion and sedimentation control, water quality protection, and regulation of chemical applications. The city shall observe the use of best management practices to ensure that the activity does not result in degradation to the critical area. Any incidental damage to, or alteration of, a critical area shall be restored, rehabilitated, or replaced at the responsible party's expense.

(c) Allowed Activities. The following activities are allowed:

(1) Permit Requests Subsequent to Previous Critical Area Review. Development permits and approvals that involve both discretionary land use approvals (such as subdivisions, rezones, or conditional use permits), and construction approvals (such as building permits) if all of the following conditions have been met:

(A) The provisions of the applicable critical areas chapter(s) have been previously addressed as part of another approval;

(B) There have been no material changes in the potential impact to the critical area or buffer since the prior review;

(C) There is no new information available that is applicable to any critical area review of the site or particular critical area;

(D) The permit or approval has not expired or, if no expiration date, no more than five years has elapsed since the issuance of that permit or approval; and

(E) Compliance with any standards or conditions placed upon the prior permit or approval has been achieved or secured;

(2) Modification to Existing Structures. Structural modification of, addition to, or replacement of an existing legally constructed structure that does not further alter or increase the impact to the critical area or buffer and there is no increased risk to life or property as a result of the proposed modification or replacement; provided, that restoration of structures substantially damaged by fire, flood, or act of nature must be initiated within one year of the date of such damage, as evidenced by the issuance of a valid building permit, and diligently pursued to completion;

(4) Determine if the proposed project adequately addresses the impacts and avoids impacts to the critical area associated with the project.

(b) If the proposed project is within, adjacent to, or is likely to impact a critical area, the city shall:

(1) Require a critical area report from the applicant that has been prepared by a qualified professional;

Commented [TS2]: Definition of qualified professional? Look for it.

(2) Review and evaluate the critical area report;

(3) Determine whether the development proposal conforms to the purposes and performance standards of the applicable critical areas chapters, including the review criteria in FMC 22.92.230;

(4) Assess the potential impacts to the critical area and determine if they can be avoided or minimized; and

(5) Determine if any mitigation proposed by the applicant is sufficient to protect the functions and values of the critical area and public health, safety, and welfare concerns consistent with the goals, purposes, objectives, and requirements of the applicable critical areas chapters. (Ord. 1375 § 1, 2005).

22.92.130 Critical area preapplication consultation.

Any person preparing to submit an application for development or use of land that may be regulated by the provisions of a critical areas chapter shall conduct a consultation meeting with the director prior to submitting an application for development or other approval. At this meeting, the director shall discuss the requirements of these chapters; provide critical area maps, scientific information, and other source materials; outline the review process; and work with the activity proponent to identify any potential concerns that might arise during the review process, in addition to discussing other permit procedures and requirements. (Ord. 1375 § 1, 2005).

22.92.140 Critical area identification form.

(a) Submittal. Prior to the city's consideration of any proposed activity not found to be exempt under FMC 22.92.080 or allowed pursuant to FMC 22.92.110, the applicant shall submit to the department a complete critical area identification form on forms provided by the city.

Commented [KM3]: Recommend revising or creating these forms. To my knowledge, these are not forms that we currently have.

(b) Site Inspection. Upon receipt of a project application and a critical area identification form, the director shall conduct a site inspection to review critical area conditions on site. The director shall notify the property owner of the inspection prior to the site visit. Reasonable access to the site shall be provided by the property owner for the purpose of inspections during any proposal review, restoration, emergency action, or monitoring period.

(c) Critical Area Identification Form Review Process. The director or his/her designee shall review the critical area identification form, conduct a site inspection, and review other information available pertaining to the site and the proposal and make a determination as to whether any critical areas may be affected by the proposal and if a more detailed critical area report shall be submitted.

(1) Decision Indicators. The director may use the following indicators to assist in determining the need for a critical area report:

(A) Indication of a critical area on the city critical areas maps that may be impacted by the proposed activity;

(B) Information and scientific opinions from appropriate agencies, including but not limited to the Departments of Fish and Wildlife, Natural Resources, and Ecology;

(C) Documentation, from a scientific or other reasonable source, of the possible presence of a critical area; or

(D) A finding by a qualified professional or a reasonable belief by the director that a critical area may exist on or adjacent to the site of the proposed activity.

(d) Decision on Identification Form.

(1) No Critical Areas Present. If after a site visit the director's analysis indicates that the project area is not within or adjacent to a critical area or buffer and that the proposed activity is unlikely to degrade the functions or values of a critical area, then the director shall rule that the critical area review is complete and note on the identification form the reasons that no further review is required. A summary of this information shall be included in any staff report or decision on the underlying permit.

(2) Critical Areas Present, But No Impact – Waiver. If the director determines that there are critical areas within or adjacent to the project area, but that the best available science shows that the proposed activity is unlikely to degrade the functions or values of the critical area, the director may waive the requirement for a critical area report. A waiver may be granted if there is substantial evidence that all of the following requirements will be met:

(A) There will be no alteration of the critical area or buffer;

(B) The development proposal will not impact the critical area in a manner contrary to the purpose, intent, and requirements of the applicable critical areas chapter(s); and

(C) The proposal is consistent with other applicable regulations and standards.

A summary of this analysis and the findings shall be included in any staff report or decision on the underlying permit.

(3) Critical Areas May Be Affected by Proposal. If the director determines that a critical area or areas may be affected by the proposal, then the director shall notify the applicant that a critical area report must be submitted prior to further review of the project, and indicate each of the critical area types that should be addressed in the report.

(e) Director's Determination Subject to Reconsideration. A determination regarding the apparent absence of one or more critical areas by the director is not an expert certification regarding the presence of critical areas and the determination is subject to possible reconsideration and reopening if new information is received.

If the applicant wants greater assurance of the accuracy of the critical area review determination, the applicant may choose to hire a qualified professional to provide such assurances. (Ord. 1375 § 1, 2005).

22.92.150 Public notice of initial determination.

The city shall notify the public of proposals in accordance with Chapter 22.07 FMC.

(a) If the director determines that no critical area report is necessary, the city shall state the reasons for this determination in the notice of application issued by the city for the proposal.

(b) If the director determines that there are critical areas on the site that the proposed project is unlikely to impact and the project meets the requirements for and has been granted a waiver from the requirement to complete a critical area report, a summary of the analysis and findings for this decision shall be stated in the notice of application for the proposal.

(c) If the director determines that critical areas may be affected by the proposal and a critical area report is required, public notice of the application shall include a description of the critical area that might be affected and state that a critical area report is required. (Ord. 1375 § 1, 2005).

22.92.160 Critical area report – Requirements.

(a) Preparation by Qualified Professional. If required by the director in accordance with FMC 22.92.140(d)(3), the applicant shall submit a critical area report prepared by a qualified professional as defined herein.

Commented [TS4]: Defined herein...where?

(b) Incorporating of Best Available Science. The critical area report shall use scientifically valid methods and studies in the analysis of critical area data and field reconnaissance and reference the source of science used. The critical area report shall evaluate the proposal and all probable impacts to critical areas in accordance with the provisions of the applicable critical areas chapters.

(c) Minimum Report Contents. At a minimum, the report shall contain the following:

- (1) The name and contact information of the applicant, a description of the proposal, and identification of the permit requested;
- (2) A copy of the site plan for the development proposal including:
 - (A) A map to scale depicting critical areas, buffers, the development proposal, and any areas to be cleared; and
 - (B) A description of the proposed stormwater management plan for the development and consideration of impacts to drainage alterations;
- (3) The dates, names, and qualifications of the persons preparing the report and documentation of any fieldwork performed on the site;
- (4) Identification and characterization of all critical areas, wetlands, water bodies, and buffers adjacent to the proposed project area;
- (5) A statement specifying the accuracy of the report, and all assumptions made and relied upon;
- (6) An assessment of the probable cumulative impacts to critical areas resulting from development of the site and the proposed development;
- (7) An analysis of site development alternatives including a no development alternative;
- (8) A description of reasonable efforts made to apply mitigation sequencing pursuant to FMC 22.92.190 to avoid, minimize, and mitigate impacts to critical areas;
- (9) Plans for adequate mitigation, as needed, to offset any impacts, in accordance with FMC 22.92.200, including, but not limited to:
 - (A) The impacts of any proposed development within or adjacent to a critical area or buffer on the critical area; and
 - (B) The impacts of any proposed alteration of a critical area or buffer on the development proposal, other properties and the environment;
- (10) A discussion of the performance standards applicable to the critical area and proposed activity;
- (11) Financial guarantees to ensure compliance; and
- (12) Any additional information required for the critical area as specified in the corresponding chapter.

(d) Unless otherwise provided, a critical area report may be supplemented by or composed, in whole or in part, of any reports or studies required by other laws and regulations or previously prepared for and applicable to the development proposal site, as approved by the director. (Ord. 1375 § 1, 2005).

22.92.170 Critical area report – Modifications to requirements.

(a) Limitations to Study Area. The director may limit the required geographic area of the critical area report as appropriate if:

- (1) The applicant, with assistance from the city, cannot obtain permission to access properties adjacent to the project area; or
- (2) The proposed activity will affect only a limited part of the subject site.

(b) Modifications to Required Contents. The applicant may consult with the director prior to or during preparation of the critical area report to obtain city approval of modifications to the required contents of the report where, in the

Commented [TS5]: Good to see the stormwater management info being required. There is not a provision about grading and erosion specifically mentioned. There is mention of the critical area buffer impacts need to be described in addition to the impacts to the critical area. Great. Suggest asking the applicant to state which buffer type from the earlier described buffers, is being used. The earlier described buffers relate to the term adjacent in 22.92.040(d).

judgment of a qualified professional, more or less information is required to adequately address the potential critical area impacts and required mitigation.

(c) Additional Information Requirements. The director may require additional information to be included in the critical area report when determined to be necessary to the review of the proposed activity in accordance with the applicable critical areas chapters. Additional information that may be required includes, but is not limited to:

- (1) Historical data, including original and subsequent mapping, aerial photographs, data compilations and summaries, and available reports and records relating to the site or past operations at the site;
- (2) Grading and drainage plans; and
- (3) Information specific to the type, location, and nature of the critical area. (Ord. 1375 § 1, 2005).

22.92.180 Mitigation requirements.

(a) The applicant shall avoid all impacts that degrade the functions and values of a critical area or areas. Unless otherwise provided in the applicable critical areas chapter, if alteration to the critical area is unavoidable, all adverse impacts to or from critical areas and buffers resulting from a development proposal or alteration shall be mitigated using the best available science in accordance with an approved critical area report and SEPA documents, so as to result in no net loss of critical area functions and values.

(b) Unless it is demonstrated that a higher level of ecological functioning would result from an alternate approach such as the use of off-site mitigation, mitigation shall be in-kind and on-site, when possible, and sufficient to maintain the functions and values of the critical area, and to prevent risk from a hazard posed by a critical area.

(c) Mitigation shall not be implemented until after city approval of a critical area report that includes a mitigation plan, and mitigation shall be in accordance with the provisions of the approved critical area report. (Ord. 1574 § 2, 2016; Ord. 1375 § 1, 2005).

22.92.190 Mitigation sequencing.

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

- (a) Avoiding the impact altogether by not taking a certain action or parts of an action;
- (b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps, such as project redesign, relocation, or timing, to avoid or reduce impacts;
- (c) Rectifying the impact to wetlands, critical aquifer recharge areas, frequently flooded areas, and habitat conservation areas by repairing, rehabilitating, or restoring the affected environment to the historical conditions or the conditions existing at the time of the initiation of the project;
- (d) Minimizing or eliminating the hazard by restoring or stabilizing the hazard area through engineered or other methods;
- (e) Reducing or eliminating the impact or hazard over time by preservation and maintenance operations during the life of the action;
- (f) Compensating for the impact to wetlands, critical aquifer recharge areas, frequently flooded areas, and habitat conservation areas by replacing, enhancing, or providing substitute resources or environments; and
- (g) Monitoring the hazard or other required mitigation and taking remedial action when necessary.

Mitigation for individual actions may include a combination of the above measures. (Ord. 1375 § 1, 2005).

Commented [TS6]: Suggest mentioning that additional info (maybe it fits already in (3), about geologically hazardous areas information can be required to be submitted for additional consideration of the impacts.

Commented [TS7]: Why isn't geologically hazardous areas included in this list?

Commented [TS8]: Is this any hazard? Like wildfire is a hazard. Or is this specific to geologically hazardous areas?

Commented [TS9]: What does this monitoring look like ? A report submitted to the city each year for the next five years? Who's monitoring this hazard and taking action when necessary? Does the applicant address the provisions of 22.92.190 when they make an application/ do the critical areas report? So you get written responses from the applicant to these provisions?

22.92.200 Mitigation plan requirements.

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

(a) Environmental Goals and Objectives. The mitigation plan shall include a written report identifying environmental goals and objectives of the compensation proposed and including:

- (1) A description of the anticipated impacts to the critical areas and the mitigating actions proposed and the purposes of the compensation measures, including the site selection criteria; identification of compensation goals; identification of resource functions; and dates for beginning and completion of site compensation construction activities. The goals and objectives shall be related to the functions and values of the impacted critical area;
- (2) A review of the best available science supporting the proposed mitigation and a description of the report author's experience to date in restoring or creating the type of critical area proposed; and
- (3) An analysis of the likelihood of success of the compensation project.

(b) Performance Standards. The mitigation plan shall include measurable specific criteria for evaluating whether or not the goals and objectives of the mitigation project have been successfully attained and whether or not the requirements of the applicable critical areas chapters have been met.

(c) Detailed Construction Plans. The mitigation plan shall include written specifications and descriptions of the mitigation proposed, such as:

- (1) The proposed construction sequence, timing, and duration;
- (2) Grading and excavation details;
- (3) Erosion and sediment control features;
- (4) A planting plan specifying plant species, quantities, locations, size, spacing, and density; and
- (5) Measures to protect and maintain plants until established.

These written specifications shall be accompanied by detailed site diagrams, scaled cross-sectional drawings, topographic maps showing slope percentage and final grade elevations, and any other drawings appropriate to show construction techniques or anticipated final outcome.

Commented [TS10]: This refers to 22.92.200, so all of these provisions, a through f, are addressed by the applicant as part of the application., right?

(d) Monitoring Program. The mitigation plan shall include a program for monitoring construction of the compensation project and for assessing a completed project. A protocol shall be included outlining the schedule for site monitoring (for example, monitoring shall occur in years one, two, three, five, seven and 10 after site construction), and how the monitoring data will be evaluated to determine if the performance standards are being met. A monitoring report shall be submitted as needed to document milestones, successes, problems, and contingency actions of the compensation project. The compensation project shall be monitored for a period necessary to establish that performance standards have been met, but not for a period less than five years, or 10 years for forested and scrub-shrub wetland communities.

(e) Contingency Plan. The mitigation plan shall include identification of potential courses of action, and any corrective measures to be taken if monitoring or evaluation indicates project performance standards are not being met.

(f) Financial Guarantees. The mitigation plan shall include financial guarantees, if necessary, to ensure that the mitigation plan is fully implemented. Financial guarantees ensuring fulfillment of the compensation project, monitoring program, and any contingency measures shall be posted in accordance with FMC 22.92.350. (Ord. 1375 § 1, 2005).

Any conditions of approval included in a notice of determination shall be attached to the underlying permit or approval. Any subsequent changes to the conditions of approval shall void the previous determination pending re-review of the proposal and conditions of approval by the director.

A favorable determination should not be construed as endorsement or approval of any underlying permit or approval. (Ord. 1375 § 1, 2005).

22.92.250 Unfavorable determination.

If the director determines that a proposed activity does not adequately mitigate its impacts on the critical areas and/or does not comply with the criteria in FMC 22.92.230 and the provisions of the applicable critical areas chapters, the director shall prepare written notice of the determination that includes findings of noncompliance.

No proposed activity or permit shall be approved or issued if it is determined that the proposed activity does not adequately mitigate its impacts on the critical areas and/or does not comply with the provisions of the applicable critical areas chapters.

Following notice of determination that the proposed activity does not meet the review criteria and/or does not comply with the applicable critical areas chapters, the applicant may request consideration of a revised critical area report. If the revision is found to be substantial and relevant to the critical area review, the director may reopen the critical area review and make a new determination based on the revised report. (Ord. 1375 § 1, 2005).

22.92.260 Completion of the critical area review.

The city's determination regarding critical areas pursuant to the applicable critical areas chapters shall be final concurrent with the final decision to approve, condition, or deny the development proposal or other activity involved. (Ord. 1375 § 1, 2005).

22.92.270 Appeals.

Any decision to approve, condition, or deny a development proposal or other activity based on the requirements of a critical areas chapter may be appealed according to, and as part of, the appeal procedure for the permit or approval involved. (Ord. 1375 § 1, 2005).

22.92.280 Variances.

(a) Variances from the standards of a critical areas chapter may be authorized by the city in accordance with the procedures set forth in Chapter 22.74 FMC. The director or hearing examiner, as authorized, shall review the request and make a written finding that the request meets or fails to meet the variance criteria.

(b) Variance Criteria. A variance may be granted only if the applicant demonstrates that the requested action conforms to all of the criteria set forth in FMC 22.74.003 and as follows:

- (1) A literal interpretation of the provisions of this chapter would deprive the applicant of all reasonable economic uses and privileges permitted to other properties in the vicinity and zone of the subject property under the terms of this chapter, and the variance requested is the minimum necessary to provide the applicant with such rights;
- (2) The granting of the variance is consistent with the general purpose and intent of this chapter, and will not further degrade the functions or values of the associated critical areas; and
- (3) The decision to grant the variance includes the best available science and gives special consideration to conservation or protection measures necessary to preserve or enhance anadromous fish habitat.

(c) Conditions May Be Required. In granting any variance, the city may prescribe such conditions and safeguards as are necessary to secure adequate protection of critical areas from adverse impacts, and to ensure conformity with this chapter.

(d) Burden of Proof. The burden of proof shall be on the applicant to bring forth evidence in support of the application and upon which any decision has to be made on the application. (Ord. 1638 § 62, 2019; Ord. 1375 § 1, 2005).

Commented [TS11]: Good!

22.92.290 Unauthorized critical area alterations and enforcement.

(a) When a critical area or its buffer has been altered in violation of a critical areas chapter, all ongoing development work shall stop and the critical area shall be restored. The city shall have the authority to issue a stop work order to cease all ongoing development work, and order restoration, rehabilitation, or replacement measures at the owner's or other responsible party's expense to compensate for violation of provisions of the applicable critical areas chapter.

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

(c) Minimum Performance Standards for Restoration.

(1) For alterations to critical aquifer recharge areas, frequently flooded areas, wetlands, and habitat conservation areas, the following minimum performance standards shall be met for the restoration of a critical area; provided, that if the violator can demonstrate that greater functional and habitat values can be obtained, these standards may be modified:

(A) The historic structural and functional values shall be restored, including water quality and habitat functions;

(B) The historic soil types and configuration shall be replicated;

(C) The critical area and buffers shall be replanted with native vegetation that replicates the vegetation historically found on the site in species types, sizes, and densities. The historic functions and values should be replicated at the location of the alteration; and

(D) Information demonstrating compliance with the requirements in FMC 22.92.250 shall be submitted to the director.

(2) For alterations to flood **and geological hazards**, the following minimum performance standards shall be met for the restoration of a critical area; provided, that if the violator can demonstrate that greater safety can be obtained, these standards may be modified:

(A) The hazard shall be reduced to a level equal to, or less than, the predevelopment hazard;

(B) Any risk of personal injury resulting from the alteration shall be eliminated or minimized; and

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

(d) Site Investigations. The director is authorized to make site inspections and take such actions as are necessary to enforce the city's critical areas regulations pursuant to Chapters 22.92, 22.93, 22.94, 22.95, 22.96, 22.97, 22.99, and 22.100 FMC. The director shall present proper credentials and make a reasonable effort to contact any property owner before entering onto private property. (Ord. 1375 § 1, 2005).

22.92.300 Critical area markers and signs.

(a) The boundary at the outer edge of critical area tracts and easements shall be delineated with permanent survey stakes, using iron or concrete markers as established by local survey standards.

(b) The boundary at the outer edge of the critical area or buffer shall be identified with temporary signs prior to any site alteration. Such temporary signs shall be replaced with permanent signs prior to occupancy or use of the site.

(c) These provisions may be modified by the director as necessary to ensure protection of sensitive features or wildlife needs. (Ord. 1375 § 1, 2005).

Commented [TS12]: Awkwardly written. I see what you mean. Consider rewriting for clarity.

Commented [TS13]: Great!

22.92.310 Title notice.

(a) In order to inform subsequent purchasers of real property of the existence of critical areas, the owner of any property containing a critical area or buffer on which a development proposal is submitted shall file a notice with the county auditor according to the direction of the city. The notice shall state the presence of the critical area or buffer on the property, the application of the critical areas regulations to the property, and the fact that limitations on actions in or affecting the critical area or buffer may exist. The notice shall “run with the land.”

Commented [TS14]: Good to see this detailed section.

(b) This title notice shall not be required for a development proposal by a public agency or public or private utility:

- (1) Within a recorded easement or right-of-way;
- (2) Where the agency or utility has been adjudicated the right to an easement or right-of-way; or
- (3) On the site of a permanent public facility.

(c) The applicant shall submit proof that the notice has been filed for public record before the city approves any site development or construction for the property or, in the case of subdivisions, short subdivisions, and planned unit developments, at or before recording. (Ord. 1375 § 1, 2005).

22.92.320 Native growth protection areas.

(a) Unless otherwise required in the applicable critical areas chapters, native growth protection areas shall be used in development proposals for subdivisions, short subdivisions, and planned unit developments to delineate and protect those contiguous critical areas and buffers listed below:

- (1) All landslide hazard areas and buffers;
- (2) All wetlands and buffers;
- (3) All habitat conservation areas; and
- (4) All other lands to be protected from alterations as conditioned by project approval.

(b) Native growth protection areas shall be recorded on all documents of title of record for all affected lots.

(c) Native growth protection areas shall be designated on the face of the plat of recorded drawing in a format approved by the city. The designation shall include the following restrictions:

- (1) An assurance that native vegetation will be preserved for the purpose of preventing harm to property and the environment, including, but not limited to, controlling surface water runoff and erosion, maintaining slope stability, buffering, and protecting plants, fish, and animal habitat; and
- (2) The right of the city to enforce the terms of the restriction. (Ord. 1375 § 1, 2005).

22.92.330 Critical area tracts.

(a) Critical area tracts shall be used in development proposals for subdivisions, short subdivisions, and planned unit developments to delineate and protect those contiguous critical areas and buffers listed below that total 5,000 or more square feet:

Commented [TS15]: Good!

- (1) All landslide hazard areas and buffers;
- (2) All wetlands and buffers;
- (3) All habitat conservation areas; and
- (4) All other lands to be protected from alterations as conditioned by project approval.

Commented [TS16]: Good!

(b) Critical area tracts shall be recorded on all documents of title of record for all affected lots.

(c) Critical area tracts shall be designated on the face of the plat or recorded drawing in a format approved by the city. The designation shall include the following restriction:

(1) An assurance that native vegetation will be preserved for the purpose of preventing harm to property and the environment, including, but not limited to, controlling surface water runoff and erosion, maintaining slope stability, buffering, and protecting plants, fish, and animal habitat; and

(2) The right of the city to enforce the terms of the restriction.

(d) The city may require that any required critical area tract be dedicated to the city, held in an undivided interest by each owner of a building lot within the development with the ownership interest passing with the ownership of the lot, or held by an incorporated homeowner's association or other legal entity (such as a land trust, which ensures the ownership, maintenance, and protection of the tract). (Ord. 1375 § 1, 2005).

22.92.340 Building setbacks.

Unless otherwise provided, buildings and other structures shall be set back a distance of 15 feet from the edges of all critical area buffers or from the edges of all critical areas, if no buffers are required. The following may be allowed in the building setback area:

(a) Landscaping;

(b) Uncovered decks;

(c) Building overhangs, if such overhangs do not extend more than 18 inches into the setback area; and

(d) Impervious and pervious ground surfaces, such as driveways and patios; provided, that such improvements may be subject to water quality regulations as adopted in the Department of Ecology Stormwater Management Manual for Western Washington. (Ord. 1375 § 1, 2005).

22.92.350 Bonds to ensure mitigation, maintenance, and monitoring.

(a) When mitigation required pursuant to a development proposal is not completed prior to the city final permit approval, such as final plat approval or final building inspection, the city shall require the applicant to post a performance bond or other security in a form and amount deemed acceptable by the city. If the development proposal is subject to mitigation, the applicant shall post a mitigation bond or other security in a form and amount deemed acceptable by the city to ensure mitigation is fully functional.

(b) The bond shall be in the amount of 125 percent of the estimated cost of the uncompleted actions or the estimated cost of restoring the functions and values of the critical area that are at risk, whichever is greater.

(c) The bond shall be in the form of a surety bond, performance bond, assignment of a savings account, or an irrevocable letter of credit guaranteed by an acceptable financial institution with terms and conditions acceptable to the city attorney.

(d) Bonds or other security authorized by this section shall remain in effect until the city determines, in writing, that the standards bonded for have been met. Bonds or other security shall be held by the city for a minimum of five years to ensure that the required mitigation has been fully implemented and demonstrated to function, and may be held for longer periods when necessary.

(e) Depletion, failure, or collection of bond funds shall not discharge the obligation of an applicant or violator to complete required mitigation, maintenance, monitoring, or restoration.

(f) Public development proposals shall be relieved from having to comply with the bonding requirements of this section if public funds have previously been committed for mitigation, maintenance, monitoring, or restoration.

(g) Any failure to satisfy critical area requirements established by law or condition including, but not limited to, the failure to provide a monitoring report within 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.

Commented [TS17]: See earlier comment about 22.92.040 with the word adjacent and the buffers.

Commented [TS18]: Good.

Chapter 22.100
GEOLOGICALLY HAZARDOUS AREAS

Sections:

- 22.100.010 Designation of geologically hazardous areas.
- 22.100.020 Designation of specific hazard areas.
- 22.100.030 Classification of geologically hazardous areas.
- 22.100.040 Mapping of geologically hazardous areas.
- 22.100.050 Activities allowed in geologically hazardous areas.
- 22.100.060 Critical area report – Additional requirements for geologically hazardous areas.
- 22.100.070 Critical area report – Additional technical information requirements for specific hazards.
- 22.100.080 Performance standards – General requirements.
- 22.100.090 Performance standards – Erosion and landslide hazard areas.

22.100.010 Designation of geologically hazardous areas.

Geologically hazardous areas include areas susceptible to erosion, sliding, earthquake, or other geological events. They pose a threat to the health and safety of citizens when incompatible development is sited in areas of significant hazard. Such incompatible development may not only place itself at ~~risk, but risk~~ but also may increase the hazard to surrounding development and use. Areas susceptible to one or more of the following types of hazards shall be designated as geologically hazardous areas:

- (a) Erosion hazard; and
- (b) Landslide hazard. (Ord. 1375 § 5, 2005).

~~(c) Seismic hazard.~~

22.100.020 Designation of specific hazard areas.

(a) Erosion Hazard Areas. Erosion hazard areas are at least those areas identified by the U.S. Department of Agriculture’s Natural Resources Conservation Service as having a “moderate to severe,” “severe,” or “very severe” rill and inter-rill erosion hazard. Erosion hazard areas are also those areas impacted by shoreland and/or stream bank erosion and those areas within a river’s channel migration zone.

(b) Landslide Hazard Areas. Landslide hazard areas are areas potentially subject to landslides based on a combination of geologic, topographic, and hydrologic factors. They include areas susceptible because of any combination of bedrock, soil, slope (gradient), slope aspect, structure, hydrology, or other factors. Examples of these may include, but are not limited to, the following:

(1) Areas of historic failures, such as:

- (A) Those areas delineated by the U.S. Department of Agriculture’s Natural Resources Conservation Service as having a “severe” limitation for building site development;
- (B) Those areas mapped by the Washington State Department of Natural Resources (slope stability mapping) as unstable (U or class 3), unstable old slides (UOS or class 4), or unstable recent slides (URS or class 5); or
- (C) Areas designated as quaternary slumps, earthflows, mudflows, lahars, or landslides on maps published by the U.S. Geological Survey or Washington State Department of Natural Resources;

(2) Areas with all three of the following characteristics:

- (A) Slopes steeper than 15 percent;
- (B) Hillside intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and

Commented [TS20]: In the email from Kim Gunderson 1/6/26 and 1/12/26, there is mention of having seismic hazard information in the geologically hazardous areas code provisions. It would be appropriate to list seismic hazards here so it’s clear that Fircrest is designating seismic hazards as one of their geologically hazardous areas hazards.

Commented [TS21]: WGS has the Washington Geologic Information Portal which has our best available science for landslides and earthquakes/seismic. Suggest checking it out and referring to it in the code provisions. If you would like a review of the landslide or seismic info with our hazard experts, let me know and we can set up a time.

(C) Springs or ground water seepage.

- (3) Areas that have shown movement during the Holocene epoch (from 10,000 years ago to the present) or that are underlain or covered by mass wastage debris of that epoch;
- (4) Slopes that are parallel or subparallel to planes of weakness (such as bedding planes, joint systems, and fault planes) in subsurface materials;
- (5) Areas potentially unstable because of rapid stream incision, stream bank erosion, and undercutting by wave action;
- (6) Any area with a slope of 40 percent or steeper and with a vertical relief of 10 or more feet except areas composed of consolidated rock. A slope is delineated by establishing its toe and top and is measured by averaging the inclination over at least 10 feet of vertical relief.

(c) Seismic Hazard Areas. Seismic hazard areas are areas subject to severe risk of damage as a result of earthquake induced ground shaking, slope failure, settlement, soil liquefaction, debris flows, lahars, or tsunamis. (Ord. 1375 § 5, 2005).

22.100.030 Classification of geologically hazardous areas.

All geologic hazard areas should be classified according to the following categories for each geologic hazard type:

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

(Ord. 1375 § 5, 2005).

22.100.040 Mapping of geologically hazardous areas.

(a) The approximate location and extent of geologically hazardous areas are shown on the adopted critical area map contained within the comprehensive plan. In addition, the following maps are hereby adopted by reference and declared part of this chapter:

- (1) U.S. Geological Survey landslide hazard and seismic hazard maps;
- (2) Washington State Department of Natural Resources seismic hazard maps for Western Washington;
- (3) Washington State Department of Natural Resources slope stability maps; and
- (4) Federal Emergency Management Administration flood insurance maps.

(b) These maps are to be used as a guide for the city, project applicants and/or property owners and may be continuously updated as new critical areas are identified. They are a reference and do not provide a final critical area designation. (Ord. 1375 § 5, 2005).

22.100.050 Activities allowed in geologically hazardous areas.

The following activities are allowed in geologically hazardous areas pursuant to FMC 22.92.110: ~~and do not require submission of a critical area report.~~

Commented [TS22]: Since Fircrest is in Pierce Co, here are jurisdictions in Pierce Co that have seismic hazard development standards: Pierce Co, Bonney Lake, Carbonado, DuPoint, Lakewood, Orting, Puyallup, Ruston, and Tacoma, according to my notes.

Commented [TS23]: "WAC 360-190-030 (18) "Seismic hazard areas" are areas subject to severe risk of damage as a result of earthquake induced ground shaking, slope failure, settlement, soil liquefaction, debris flows, lahars, or tsunamis." Good to use the WAC, suggest you refer to it here so that it is clear that the definition you have matches the WAC.

Commented [KM24]: All of Fircrest is in a "very strong shaking" (just under "severe") category of seismic hazard risk. Building codes are applied here accordingly. Maybe it's sufficient just to say that application of the building code is sufficient?

Commented [TS25R24]: Many jurisdictions have provisions about seismic in the land use code provisions. I think it is a good idea to have them. I'll add a list of jurisdictions with seismic hazards code provisions into comments.

Commented [TS26]: Suggest adding a reference to the Washington Geologic Information Portal. [Geologic Information Portal | Department of Natural Resources](#)

Commented [KM27]: This section essentially reverses its position. Deserves edit for clarity.

(a) Erosion and Landslide Hazard Areas. Except as otherwise provided for in the applicable critical area chapters, only those activities approved and permitted consistent with an approved critical area report in accordance with these chapters shall be allowed in erosion or landslide hazard areas. (Ord. 1375 § 5, 2005).

22.100.060 Critical area report – Additional requirements for geologically hazardous areas.

(a) Preparation by a Qualified Professional. A critical areas report for a geologically hazardous area shall be prepared by an engineer or geologist, licensed in the state of Washington, with experience analyzing geologic, hydrologic, and ground water flow systems, and who has experience preparing reports for the relevant type of hazard.

(b) Area Addressed in Critical Area Report. The following areas shall be addressed in a critical area report for geologically hazardous areas:

- (1) The project area of the proposed activity; and
- (2) All geologically hazardous areas within 200 feet of the project area or that have potential to be affected by the proposal;

(c) Geological Hazards Assessment. A critical area report for a geologically hazardous area shall contain an assessment of geological hazards including the following site- and proposal-related information at a minimum:

(1) Site and Construction Plans. The report shall include a copy of the site plans for the proposal showing:

- (A) The type and extent of geologic hazard areas, any other critical areas, and buffers on, adjacent to, within 200 feet of, or that are likely to impact the proposal;
- (B) Proposed development, including the location of existing and proposed structures, fill, storage of materials, and drainage facilities, with dimensions indicating distances to the floodplain, if available;
- (C) The topography, in two-foot contours, of the project area and all hazard areas addressed in the report; and

(D) Clearing limits; and

(2) Assessment of Geological Characteristics. The report shall include an assessment of the geologic characteristics of the soils, sediments, and/or rock of the project area and potentially affected adjacent properties, and a review of the site history regarding landslides, erosion, and prior grading. Soils analysis shall be accomplished in accordance with accepted classification systems in use in the region. The assessment shall include, but not be limited to:

- (A) A description of the surface and subsurface geology, hydrology, soils, and vegetation found in the project area and in all hazard areas addressed in the report;
- (B) A detailed overview of the field investigations, published data, and references; data and conclusions from past assessments of the site; and site-specific measurements, tests, investigations, or studies that support the identification of geologically hazardous areas; and

(C) A description of the vulnerability of the site to seismic and other geologic events;

(3) Analysis of Proposal. The report shall contain a hazards analysis including a detailed description of the project, its relationship to the geologic hazard(s), and its potential impact upon the hazard area, the subject property, and affected adjacent properties; and

(4) Minimum Buffer and Building Setback. The report shall make a recommendation for the minimum no-disturbance buffer and minimum building setback from any geologic hazard based upon the geotechnical analysis.

Commented [KM28]: This language contradicts the above highlighted language. Recommending deletion of above statement accordingly.

Commented [TS29]: Great to see the qualified professional term defined! And that it is with a licensed in WA geologist or engineer. Suggest adding clarifying language in the earlier provisions that were general and applicable to all critical areas. Suggest stating more specifically, rather than "as defined herein" that the term is defined in each critical area specific code provision and or list the applicable code provisions. That way the reader knows that if it isn't defined in that spot, it will be defined later and they have a place to look for it. "As defined herein" is not very specific.

Commented [TS30]: Thinking about language and terms here. The Critical Areas Report will include a Geological Hazards Assessment which includes the Assessment of Geological Characteristics, the Site and Construction Plan, and an Analysis of Proposal. Ok. Now in (4) Minimum Buffer and Building Setback, it mentions the geotechnical analysis. So is the geotechnical analysis the Geological Hazards Assessment or the geotechnical analysis is a through c. Suggest clarifying. Perhaps in part a, it could say the Critical Areas Report contains the geotechnical analysis provided in the responses to a through c or a through e or whatever.

(d) Incorporation of Previous Study. Where a valid critical areas report has been prepared within the last five years for a specific site, and where the proposed land use activity and surrounding site conditions are unchanged, said report may be incorporated into the required critical area report. The applicant shall submit a hazards assessment detailing any changed environmental conditions associated with the site.

(e) Mitigation of Long-Term Impacts. When hazard mitigation is required, the mitigation plan shall specifically address how the activity maintains or reduces the preexisting level of risk to the site and adjacent properties on a long-term basis (equal to or exceeding the projected lifespan of the activity or occupation). Proposed mitigation techniques shall be considered to provide long-term hazard reduction only if they do not require regular maintenance or other actions to maintain their function. Mitigation may also be required to avoid any increase in risk above the preexisting conditions following abandonment of the activity. (Ord. 1375 § 5, 2005).

22.100.070 Critical area report – Additional technical information requirements for specific hazards.

In addition to the general critical area report requirements of FMC 22.92.160 and 22.100.060, critical area reports for geologically hazardous areas must meet the requirements of this section. Critical area reports for two or more types of critical areas must meet the report requirements for each relevant type of critical area.

(a) Erosion and Landslide Hazard Areas. In addition to the basic critical area report requirements, the technical information for an erosion hazard or landslide hazard area shall include the following information at a minimum:

(1) Site Plan. The critical area report shall include a copy of the site plan for the proposal showing:

- (A) The height of slope, slope gradient, and cross-section of the project area;
- (B) The location of springs, seeps, or other surface expressions of ground water on or within 200 feet of the project area or that have potential to be affected by the proposal; and
- (C) The location and description of surface water runoff features;

(2) Hazards Analysis. The hazards analysis component of the critical areas report shall specifically include:

- (A) A description of the extent and type of vegetative cover;
- (B) A description of subsurface conditions based on data from site-specific explorations;
- (C) Descriptions of surface and ground water conditions, public and private sewage disposal systems, fills and excavations, and all structural improvements;
- (D) An estimate of slope stability and the effect construction and placement of structures will have on the slope over the estimated life of the structure;
- (E) An estimate of the bluff retreat rate that recognizes and reflects potential catastrophic events such as seismic activity or a 100-year storm event;
- (F) Consideration of the run-out hazard of landslide debris and/or the impacts of landslide run-out on downslope properties;
- (G) A study of slope stability including an analysis of proposed cuts, fills, and other site grading;
- (H) Recommendations for building siting limitations; and
- (I) An analysis of proposed surface and subsurface drainage, and the vulnerability of the site to erosion;

(3) Geotechnical Engineering Report. The technical information for a project within a landslide hazard area shall include a geotechnical engineering report prepared by a licensed engineer that presents engineering recommendations for the following:

Commented [TS31]: Good to see this.

Commented [TS32]: So there are general critical areas provisions to address, then the geologically hazardous areas provisions, then also the hazard specific provisions. Good, ok. Here we have a geotechnical report. So this is in addition to the previously required items such as the Geologic Hazards Assessment. Suggest creating a table that lists the different hazard terms, code # reference, and the requirements to help clarify the requirements.

(A) Parameters for design of site improvements including appropriate foundations and retaining structures. These should include allowable load and resistance capacities for bearing and lateral loads, installation considerations, and estimates of settlement performance;

(B) Recommendations for drainage and subdrainage improvements;

(C) Earthwork recommendations including clearing and site preparation criteria, fill placement and compaction criteria, temporary and permanent slope inclinations and protection, and temporary excavation support, if necessary; and

(D) Mitigation of adverse site conditions including slope stabilization measures and seismically unstable soils, if appropriate;

(4) Erosion and Sediment Control Plan. For any development proposal on a site containing an erosion hazard area, an erosion and sediment control plan shall be required. The erosion and sediment control plan shall be prepared in compliance with requirements set forth in the Department of Ecology Stormwater Management Manual for Western Washington;

(5) Drainage Plan. The technical information shall include a drainage plan for the collection, transport, treatment, discharge, and/or recycle of water prepared in accordance with the Department of Ecology Stormwater Management Manual for Western Washington, as modified by the city. The drainage plan should consider on-site septic system disposal volumes where the additional volume will affect the erosion or landslide hazard area;

(6) Mitigation Plans. Hazard and environmental mitigation plans for erosion and landslide hazard areas shall include the location and methods of drainage, surface water management, locations and methods of erosion control, a vegetation management and/or replanting plan, and/or other means for maintaining long-term soil stability; and

(7) Monitoring Surface Waters. If the director determines that there is a significant risk of damage to downstream receiving waters due to potential erosion from the site, based on the size of the project, the proximity to the receiving waters, or the sensitivity of the receiving waters, the technical information shall include a plan to monitor the surface water discharge from the site. The monitoring plan shall include a recommended schedule for submitting monitoring reports to the city. (Ord. 1375 § 5, 2005).

22.100.080 Performance standards – General requirements.

(a) Alterations of geologically hazardous areas or associated buffers may only occur for activities that:

(1) Will not increase the threat of the geological hazard to adjacent properties beyond pre-development conditions;

(2) Will not adversely impact other critical areas;

(3) Are designed so that the hazard to the project is eliminated or mitigated to a level equal to or less than predevelopment conditions; and

(4) Are certified as safe as designed and under anticipated conditions by a qualified engineer or geologist, licensed in the state of Washington.

(b) Critical Facilities Prohibited. Critical facilities shall not be sited within geologically hazardous areas unless there is no other practical alternative. (Ord. 1375 § 5, 2005).

22.100.090 Performance standards – Erosion and landslide hazard areas.

Activities on sites containing erosion or landslide hazards shall meet the standards of FMC 22.100.080 and the specific following requirements:

(a) Buffer Requirement. A buffer shall be established from all edges of landslide hazard areas. The size of the buffer shall be determined by the director to eliminate or minimize the risk of property damage, death, or injury resulting

Commented [TS33]: Some codes include a factor of safety requirement. Oh I see that is in the code later.

Commented [TS34]: Does the geologist or engineer have to address this specifically, in the application?

Commented [TS35]: Good.

from landslides caused in whole or part by the development, based upon review of and concurrence with a critical area report prepared by a qualified professional.

- (1) Minimum Buffer. The minimum buffer shall be equal to the height of the slope or 50 feet, whichever is greater.
- (2) Buffer Reduction. The buffer may be reduced to a minimum of 10 feet when a qualified professional demonstrates to the director's satisfaction that the reduction will adequately protect the proposed development, adjacent developments, and uses and the subject critical area.
- (3) Increased Buffer. The buffer may be increased where the director determines a larger buffer is necessary to prevent risk of damage to proposed and existing development;

(b) Alterations. Alterations of an erosion or landslide hazard area and/or buffer may only occur for activities for which a hazards analysis is submitted and certifies that:

- (1) The development will not increase surface water discharge or sedimentation to adjacent properties beyond predevelopment conditions;
- (2) The development will not decrease slope stability on adjacent properties; and
- (3) Such alterations will not adversely impact other critical areas;

(c) Design Standards. Development within an erosion or landslide hazard area and/or buffer shall be designed to meet the following basic requirements unless it can be demonstrated that an alternative design that deviates from one or more of these standards provides greater long-term slope stability while meeting all other provisions of the applicable critical areas chapters. The requirement for long-term slope stability shall exclude designs that require regular and periodic maintenance to maintain their level of function. The basic development design standards are:

- (1) The proposed development shall not decrease the factor of safety for landslide occurrences below the limits of 1.5 for static conditions and 1.2 for dynamic conditions. Analysis of dynamic conditions shall be based on a minimum horizontal acceleration as established by the current version of the International Building Code;
- (2) Structures and improvements shall be clustered to avoid geologically hazardous areas and other critical areas;
- (3) Structures and improvements shall minimize alterations to the natural contour of the slope, and foundations shall be tiered where possible to conform to existing topography;
- (4) Structures and improvements shall be located to preserve the most critical portion of the site and its natural landforms and vegetation;
- (5) The proposed development shall not result in greater risk or a need for increased buffers on neighboring properties;
- (6) The use of retaining walls that allow the maintenance of existing natural slope area is preferred over graded artificial slopes; and
- (7) Development shall be designed to minimize impervious lot coverage;

(d) Vegetation Retention. Unless otherwise provided or as part of an approved alteration, removal of vegetation from an erosion or landslide hazard area or related buffer shall be prohibited;

(e) Seasonal Restriction. Clearing shall be allowed only from May 1st to October 1st of each year; provided, that the city may extend or shorten the dry season on a case-by-case basis depending on actual weather conditions, except that timber harvest, not including brush clearing or stump removal, may be allowed pursuant to an approved forest practice permit issued by the Washington State Department of Natural Resources;

Commented [TS36]: Aha there is the factor of safety!

22.98.179 Critical aquifer recharge area.

“Critical aquifer recharge area” means areas designated by WAC 365-190-080(2) that are determined to have a critical recharging effect on aquifers used for potable water as defined by WAC 365-190-030(23). (Ord. 1375 § 9, 2005).

22.98.285 Fish and wildlife habitat conservation areas.

“Fish and wildlife habitat conservation areas” means areas necessary for maintaining species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created as designated by WAC 365-190-080(5). These areas include:

- (a) Areas with which state or federally designated endangered, threatened, and sensitive species have a primary association;
- (b) Habitats of local importance, including but not limited to areas designated as priority habitat by the Washington State Department of Fish and Wildlife;
- (c) Naturally occurring ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat, including those artificial ponds intentionally created from dry areas in order to mitigate impacts to ponds;
- (d) Waters of the state, including lakes, rivers, ponds, streams, inland waters, underground waters, salt waters, and all other surface waters and watercourses within the jurisdiction of the state of Washington;
- (e) Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity;
- (f) State natural area preserves and natural resource conservation areas; and
- (g) Land essential for preserving connections between habitat blocks and open spaces.

Fish and wildlife habitat conservation areas do not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of, and are maintained by, a port district or an irrigation district or company. (Ord. 1375 § 18, 2005; Ord. 1246 § 27, 2000).

22.98.298 Frequently flooded areas.

“Frequently flooded areas” means lands in the floodplain subject to a one percent or greater chance of flooding in any given year and those lands that provide important flood storage, conveyance, and attenuation functions, as determined by the director in accordance with WAC 365-190-080(3). Frequently flooded areas can also include areas subject to flooding due to high groundwater. Frequently flooded areas perform important hydrologic functions and may present a risk to persons and property. Classifications of frequently flooded areas include, at a minimum, the 100-year floodplain designations of the Federal Emergency Management Agency and the National Flood Insurance Program. (Ord. 1375 § 9, 2005).

22.98.623 Seismic hazard areas.

“Seismic hazard areas” are areas subject to severe risk of damage as a result of earthquake induced ground shaking, slope failure, settlement, soil liquefaction, debris flows, lahars, or tsunamis.

Commented [TS1]: WAC 360-19-030 (18) “Seismic hazard areas” are areas subject to severe risk of damage as a result of earthquake induced ground shaking, slope failure, settlement, soil liquefaction, debris flows, lahars, or tsunamis.

Commented [TS2]: The seismic hazard definition does not have a WAC reference like the frequently flooded areas, fish and wildlife conservation areas, and the critical aquifer recharge areas. Is that because there is a WAC reference in the geologically hazardous areas definition (not shown here) so the WAC reference is not repeated in the individual hazard types? There is not another hazard type listed in this section to do a comparison to.

Exhibit C
March 3, 2026
Fircrest Planning Commission
CAO Update

Fircrest Municipal Code
Chapter 22.92 CRITICAL AREAS

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Chapter 22.92
CRITICAL AREAS

Sections:

- 22.92.010 Purpose.
- 22.92.020 Authority.
- 22.92.030 Relationship to other regulations.
- 22.92.040 Jurisdiction – Critical areas.
- 22.92.050 Protection of critical areas.
- 22.92.060 Best available science.
- 22.92.070 Applicability.
- 22.92.080 Exemptions.
- 22.92.090 Exception – Public agency and utility.
- 22.92.100 Exception – Reasonable use.
- 22.92.110 Allowed activities.
- 22.92.120 General requirements.
- 22.92.130 Critical area preapplication consultation.
- 22.92.140 Critical area identification form.
- 22.92.150 Public notice of initial determination.
- 22.92.160 Critical area report – Requirements.
- 22.92.170 Critical area report – Modifications to requirements.
- 22.92.180 Mitigation requirements.
- 22.92.190 Mitigation sequencing.
- 22.92.200 Mitigation plan requirements.
- 22.92.210 Innovative mitigation.
- 22.92.220 Determination.
- 22.92.230 Review criteria.
- 22.92.240 Favorable determination.
- 22.92.250 Unfavorable determination.
- 22.92.260 Completion of the critical area review.
- 22.92.270 Appeals.
- 22.92.280 Variances.
- 22.92.290 Unauthorized critical area alterations and enforcement.
- 22.92.300 Critical area markers and signs.
- 22.92.310 Title notice.
- 22.92.320 Native growth protection areas.
- 22.92.330 Critical area tracts.
- 22.92.340 Building setbacks.
- 22.92.350 Bonds to ensure mitigation, maintenance, and monitoring.
- 22.92.360 Critical area inspections.

22.92.010 Purpose.

(a) The purpose of the city’s critical areas regulations contained in Chapters 22.92, 22.93, 22.94, 22.95, 22.96, 22.97, 22.99 and 22.100 FMC is to designate and classify ecologically sensitive and hazardous areas and to protect these areas and their functions and values, while also allowing for reasonable use of private property.

(b) These regulations are to implement the goals, policies, guidelines, and requirements of the city’s comprehensive plan and the Growth Management Act.

(c) The city finds that critical areas provide a variety of valuable and beneficial biological and physical functions that benefit the city and its residents, and/or may pose a threat to human safety or to public and private property. The beneficial functions and values provided by critical areas include, but are not limited to, water quality protection and enhancement, fish and wildlife habitat, food chain support, flood storage, conveyance and attenuation of floodwaters, ground water recharge and discharge, erosion control, protection from hazards, historical, archaeological, and aesthetic value protection, and recreation. These beneficial functions are not listed in order of priority.

The Fircrest Municipal Code is current through Ordinance 1738, passed March 25, 2025.

(d) Goals. By limiting development and alteration of critical areas, these regulations seek to:

- (1) Protect members of the public and public resources and facilities from injury, loss of life, or property damage due to landslides and steep slope failures, erosion, seismic events, or flooding;
- (2) Maintain healthy, functioning ecosystems through the protection of unique, fragile, and valuable elements of the environment, including ground and surface waters, wetlands, and fish and wildlife and their habitats, and to conserve the biodiversity of plant and animal species;
- (3) Direct activities not dependent on critical areas resources to less ecologically sensitive sites and mitigate unavoidable impacts to critical areas by regulating alterations in and adjacent to critical areas; and
- (4) Prevent cumulative adverse environmental impacts to water quality, wetlands, and fish and wildlife habitat, and the overall net loss of wetlands, frequently flooded areas, and habitat conservation areas.

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

(f) These regulations are to be administered with flexibility and attention to site-specific characteristics. Consistent with RCW 36.70A.020(12), it is not the intent of these regulations to make a parcel of property unusable by denying its owner reasonable economic use of the property or to prevent the provision of public facilities and services necessary to support existing development and planned for by the community without decreasing current service levels below minimum standards.

(g) The city's enactment or enforcement of these regulations shall not be construed for the benefit of any individual person or group of persons other than the general public. (Ord. 1375 § 1, 2005).

22.92.020 Authority.

(a) As provided herein, the director is given the authority to interpret and apply, and the responsibility to enforce these regulations, to accomplish the stated purpose.

(b) The city may withhold, condition, or deny development permits or activity approvals to ensure that the proposed action is consistent with these regulations. (Ord. 1375 § 1, 2005).

22.92.030 Relationship to other regulations.

(a) These critical areas regulations shall apply as an overlay and in addition to zoning and other regulations adopted by the city.

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

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

(d) Compliance with these critical areas regulations does not constitute compliance with other federal, state, and local regulations and permit requirements that may be required (for example, Hydraulic Permit Act (HPA) permits, Section 106 of the National Historic Preservation Act, U.S. Army Corps of Engineers Section 404 permits, and National Pollution Discharge Elimination System (NPDES) permits). The applicant is responsible for complying with these requirements, apart from the process established in the city's critical areas regulations. (Ord. 1375 § 1, 2005).

22.92.040 Jurisdiction – Critical areas.

(a) The city shall regulate all uses, activities, and developments within, adjacent to, or likely to affect, one or more critical areas, consistent with the best available science and the provisions herein.

(b) Critical areas regulated by this title include:

- (1) Wetlands as designated in Chapter 22.93 FMC;
- (2) Critical aquifer recharge areas as designated in Chapter 22.94 FMC;
- (3) Frequently flooded areas as designated in Chapter 22.99 FMC;
- (4) Fish and wildlife habitat conservation areas as designated in Chapter 22.97 FMC; and
- (5) Geologically hazardous areas as designated in Chapter 22.100 FMC.

(c) All areas within the city meeting the definition of one or more critical areas, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of the applicable critical areas chapters.

(d) Areas Adjacent to Critical Areas Subject to Regulation. Areas adjacent to critical areas shall be considered to be within the jurisdiction of these requirements and regulations to support the intent of the applicable critical areas chapters and ensure protection of the functions and values of critical areas. "Adjacent" shall mean any activity located:

- (1) On a site immediately adjoining a critical area;
- (2) A distance equal to or less than the required critical area buffer width- and the building setback established in FMC 22.92.340;
- (3) A distance equal to or less than 800 feet from a bald eagle nest;
- (4) A distance equal to or less than 300 feet upland from a stream, wetland, or water body; or
- (5) Within the floodway, floodplain, or channel migration zone. (Ord. 1375 § 1, 2005).

Commented [KG1]: General code cleanup recommended by DNR.

22.92.050 Protection of critical areas.

Any action taken pursuant to the applicable critical areas chapters shall result in equivalent or greater functions and values of the critical areas associated with the proposed action, as determined by the best available science. All actions and developments shall be designed and constructed in accordance with the mitigation sequencing order specified in FMC 22.92.190 to avoid, minimize, and restore all adverse impacts. Applicants must first demonstrate an inability to avoid or reduce impacts before restoration and compensation of impacts will be allowed. No activity or use shall be allowed that results in a net loss of the functions or values of critical areas. (Ord. 1375 § 1, 2005).

22.92.060 Best available science.

(a) Protect Functions and Values of Critical Areas with Special Consideration to Anadromous Fish. Critical area reports and decisions to alter critical areas shall rely on the best available science to protect the functions and values of critical areas and must give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fish, such as salmon and bull trout, and their habitat, consistent with RCW 36.70A.172.1.

(b) Best Available Science to Be Consistent with Criteria. The best available science is that scientific information applicable to the critical area prepared by local, state, or federal natural resource agencies, a qualified scientific professional, or team of qualified scientific professionals that is consistent with criteria established in WAC 365-195-900 through 365-195-925.

(c) Characteristics of a Valid Scientific Process. In the context of critical areas protection, a valid scientific process is one that produces reliable information useful in understanding the consequences of a local government's regulatory decisions, and in developing critical areas policies and development regulations that will be effective in protecting the functions and values of critical areas. To determine whether information received during the permit review process is reliable scientific information, the director shall determine whether the source of the information displays the characteristics of a valid scientific process. Such characteristics are as follows:

- (1) Peer Review. The information has been critically reviewed by other persons who are qualified scientific experts in that scientific discipline. The proponents of the information have addressed the criticism of the peer reviewers. Publication in a refereed scientific journal usually indicates that the information has been appropriately peer-reviewed;
 - (2) Methods. The methods used to obtain the information are clearly stated and reproducible. The methods are standardized in the pertinent scientific discipline or, if not, the methods have been appropriately peer-reviewed to ensure their reliability and validity;
 - (3) Logical Conclusions and Reasonable Inferences. The conclusions presented are based on reasonable assumptions supported by other studies and consistent with the general theory underlying the assumptions. The conclusions are logically and reasonably derived from the assumptions and supported by the data presented. Any gaps in information and inconsistencies with other pertinent scientific information are adequately explained;
 - (4) Quantitative Analysis. The data have been analyzed using appropriate statistical or quantitative methods;
 - (5) Context. The information is placed in proper context. The assumptions, analytical techniques, data, and conclusions are appropriately framed with respect to the prevailing body of pertinent scientific knowledge; and
 - (6) References. The assumptions, analytical techniques, and conclusions are well-referenced with citations to relevant, credible literature and other pertinent existing information.
- (d) Nonscientific Information. Nonscientific information may supplement scientific information, but it is not an adequate substitute for valid and available scientific information. Common sources of nonscientific information include the following:
- (1) Anecdotal Information. One or more observations that are not part of an organized scientific effort (for example, "I saw a bald eagle in that area while I was hiking");
 - (2) Non-Expert Opinion. Opinion of a person who is not a qualified scientific expert in a pertinent scientific discipline (for example, "I do not believe there are bald eagles in that area"); and
 - (3) Hearsay. Information repeated from communication with others (for example, "At a lecture last week, Dr. Jones said there were no bald eagles in that area").
- (e) Absence of Valid Scientific Information. Where there is an absence of valid scientific information or incomplete scientific information relating to a critical area leading to uncertainty about the risk to critical area function of permitting an alteration of or impact to the critical area, the director shall:
- (1) Take a "precautionary" or a "no-risk approach," that strictly limits development and land use activities until the uncertainty is sufficiently resolved; and
 - (2) Require application of an effective adaptive management program that relies on scientific methods to evaluate how well regulatory and nonregulatory actions protect the critical area. An adaptive management program is a formal and deliberate scientific approach to taking action and obtaining information in the face of uncertainty. An adaptive management program shall:
 - (A) Address funding for the research component of the adaptive management program;
 - (B) Change course based on the results and interpretation of new information that resolves uncertainties; and
 - (C) Commit to the appropriate timeframe and scale necessary to reliably evaluate regulatory and nonregulatory actions affecting protection of critical areas and anadromous fisheries. (Ord. 1375 § 1, 2005).

22.92.070 Applicability.

(a) The provisions of the critical areas chapters shall apply to all lands, all land uses and development activity, and all structures and facilities in the city, whether or not a permit or authorization is required, and shall apply to every person, firm, partnership, corporation, group, governmental agency, or other entity that owns, leases, or administers land within the city. No person, company, agency, or applicant shall alter a critical area or buffer except as consistent with the purposes and requirements of these chapters.

(b) The city shall not approve any permit or otherwise issue any authorization to alter the condition of any land, water, or vegetation, or to construct or alter any structure or improvement in, over, or on a critical area or associated buffer, without first ensuring compliance with the requirements of these chapters.

(c) Approval of a permit or development proposal pursuant to the provisions of these chapters does not discharge the obligation of the applicant to comply with the provisions of these chapters. (Ord. 1375 § 1, 2005).

22.92.080 Exemptions.

(a) Exemption Request and Review Process. The proponent of the activity may submit a written request for exemption to the director that describes the activity and states the exemption listed in this section that applies.

The director shall review the exemption request to verify that it complies with the applicable critical areas chapters and approve or deny the exemption. If the exemption is approved, it shall be placed on file with the department. If the exemption is denied, the proponent may continue in the review process and shall be subject to the requirements of these chapters.

(b) Exempt Activities and Impacts to Critical Areas. All exempted activities shall use reasonable methods to avoid potential impacts to critical areas. To be exempt from the applicable critical areas chapters does not give permission to degrade a critical area or ignore risk from natural hazards. Any incidental damage to, or alteration of, a critical area that is not a necessary outcome of the exempted activity shall be restored, rehabilitated, or replaced at the responsible party's expense.

(c) Exempt Activities. The following developments, activities, and associated uses shall be exempt from the provisions of the applicable critical areas chapters; provided, that they are otherwise consistent with the provisions of other local, state, and federal laws and requirements:

(1) Emergencies. Those activities necessary to prevent an immediate threat to public health, safety, or welfare, or that pose an immediate risk of damage to private property and that require remedial or preventative action in a timeframe too short to allow for compliance with the requirements of these chapters.

Emergency actions that create an impact to a critical area or its buffer shall use reasonable methods to address the emergency; in addition, they must have the least possible impact to the critical area or its buffer. The person or agency undertaking such action shall notify the city within one working day following commencement of the emergency activity. Within 30 days, the director shall determine if the action taken was within the scope of the emergency actions allowed in this subsection. If the director determines that the action taken, or any part of the action taken, was beyond the scope of an allowed emergency action, then enforcement provisions of FMC 22.92.290 shall apply.

After the emergency, the person or agency undertaking the action shall fully fund and conduct necessary restoration and/or mitigation for any impacts to the critical area and buffers resulting from the emergency action in accordance with an approved critical area report and mitigation plan. The person or agency undertaking the action shall apply for review, and the alteration, critical area report, and mitigation plan shall be reviewed by the city in accordance with the review procedures contained herein. Restoration and/or mitigation activities must be initiated within one year of the date of the emergency, and completed in a timely manner;

(2) Operation, Maintenance, or Repair. Operation, maintenance, or repair of existing structures, infrastructure improvements, utilities, public or private roads, dikes, levees, or drainage systems, that do not require construction permits, if the activity does not further alter or increase the impact to, or encroach further within, the critical area or buffer and there is no increased risk to life or property as a result of the proposed operation,

maintenance, or repair. Operation and maintenance includes vegetation management performed in accordance with best management practices that is part of ongoing maintenance of structures, infrastructure, or utilities; provided, that such management actions are part of regular and ongoing maintenance, do not expand further into the critical area, are not the result of an expansion of the structure or utility, and do not directly impact an endangered or threatened species;

(3) **Passive Outdoor Activities.** Recreation, education, and scientific research activities that do not degrade the critical area, including fishing, hiking, and bird watching. Trails must be constructed pursuant to the public and private pedestrian trails standards specified in FMC 22.92.110(c)(5);

(4) **Forest Practices.** Forest practices regulated and conducted in accordance with the provisions of Chapter 76.09 RCW and forest practices regulations, WAC Title 222;

(5) **Construction within Previously Approved Planned Developments.** Construction or reconstruction of a single-family, duplex or condominium unit on a lot that was platted or approved within a planned development subsequent to the city's adoption of interim critical areas regulations in 1993 and prior to the effective date of the ordinance codified in this chapter, provided such unit is constructed in accordance with all applicable critical areas regulations in effect at the time of platting or approval; and

(6) **Structural Modification of, Additions to, or Replacement of, Existing Residential Structures.** Structural modification of, additions to, or replacement of, existing principal residential structures lawfully established prior to the effective date of the ordinance codified in this chapter that do not meet the critical area buffer or building setback requirements; provided, that:

(A) The structure is located within a wetland buffer, fish and wildlife habitat conservation area buffer, or associated buffer building setback;

(B) The structure is not located within a frequently flooded area, geologically hazardous area buffer, or associated buffer building setback;

(C) The modification, addition, replacement or related activity will not increase impervious surface by more than 500 square feet, in total, on the site;

(D) There is no other practicable location within the site that will accommodate the activity, meet the buffer and building setback requirements, and satisfy all other requirements of this title; and

(E) For lots adjoining Leach Creek or Ross Creek, the proposed activity will not encroach into the required buffer beyond that of the existing principal residential structure, and any increase in impervious surface will be compensated for by the planting of native plants within the buffer at a 1:1 ratio of native planting area to increased impervious surface area (i.e., 100 square feet of native planting area would need to be installed in the buffer for 100 square feet of new impervious surface). (Ord. 1375 § 1, 2005).

22.92.090 Exception – Public agency and utility.

(a) If the application of a critical areas chapter would prohibit a development proposal by a public agency or public utility, the agency or utility may apply for an exception pursuant to this section.

(b) **Exception Request and Review Process.** An application for a public agency and utility exception shall be made to the city and shall include a critical area identification form; critical area report, including mitigation plan, if necessary; and any other related project documents, such as permit applications to other agencies, special studies, and environmental documents prepared pursuant to the State Environmental Policy Act (Chapter 43.21C RCW). The director shall prepare a recommendation to the hearing examiner based on review of the submitted information, a site inspection, and the proposal's ability to comply with public agency and utility exception review criteria in subsection (d) of this section.

(c) **Hearing Examiner Review.** The hearing examiner shall review the application and director's recommendation, and conduct a public hearing pursuant to the provisions of Chapter 22.09 FMC. The hearing examiner shall approve,

approve with conditions, or deny the request based on the proposal's ability to comply with all of the public agency and utility exception criteria in subsection (d) of this section.

(d) Public Agency and Utility Review Criteria. The criteria for review and approval of public agency and utility exceptions follow:

- (1) There is no other practical alternative to the proposed development with less impact on the critical areas;
- (2) The application of the critical areas chapter would unreasonably restrict the ability to provide utility services to the public;
- (3) The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;
- (4) The proposal attempts to protect and mitigate impacts to the critical area functions and values consistent with the best available science; and
- (5) The proposal is consistent with other applicable regulations and standards.
- (6) All proposed activities will be conducted using the best management practices adopted by the city, as described in FMC 22.92.110(b).

(e) Burden of Proof. The burden of proof shall be on the applicant to bring forth evidence in support of the application and to provide sufficient information on which any decision has to be made on the application. (Ord. 1638 § 60, 2019; Ord. 1375 § 1, 2005).

22.92.100 Exception – Reasonable use.

(a) If the application of a critical areas chapter would deny all reasonable economic use of the subject property, the city shall determine if compensation is an appropriate action, or the property owner may apply for an exception pursuant to this section.

(b) Exception Request and Review Process. An application for a reasonable use exception shall be made to the city and shall include a critical area identification form; critical area report, including mitigation plan, if necessary; and any other related project documents, such as permit applications to other agencies, special studies, and environmental documents prepared pursuant to the State Environmental Policy Act (Chapter 43.21C RCW) (SEPA documents). The director shall prepare a recommendation to the hearing examiner based on review of the submitted information, a site inspection, and the proposal's ability to comply with reasonable use exception criteria in subsection (d) of this section.

(c) Hearing Examiner Review. The hearing examiner shall review the application and conduct a public hearing pursuant to the provisions of Chapter 22.09 FMC. The hearing examiner shall approve, approve with conditions, or deny the request based on the proposal's ability to comply with all of the reasonable use exception review criteria in subsection (d) of this section.

(d) Reasonable Use Review Criteria. Criteria for review and approval of reasonable use exceptions follow; one or more may apply:

- (1) The application of the critical areas chapters 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, or its predecessor, after the effective date of the critical area chapters;

(5) The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site; and

(6) The proposal will result in no net loss of critical area functions and values consistent with the best available science.

(7) All proposed activities will be conducted using best available management practices adopted by the city, as described in FMC 22.92.110(b).

(c) Burden of Proof. The burden of proof shall be on the applicant to bring forth evidence in support of the application and to provide sufficient information on which any decision has to be made on the application. (Ord. 1638 § 61, 2019; Ord. 1375 § 1, 2005).

22.92.110 Allowed activities.

(a) Critical Area Report. Activities allowed under the applicable critical areas chapter(s) shall have been reviewed and permitted or approved by the city or other agency with jurisdiction, but do not require submittal of a separate critical area identification form or critical area report, unless such submittal was required previously for the underlying permit. The director may apply conditions to the underlying permit or approval to ensure that the allowed activity is consistent with the provisions of these chapters to protect critical areas.

(b) Required Use of Best Management Practices. All allowed activities shall be conducted using the best management practices adopted by the city, including but not limited to those contained within the Department of Ecology Stormwater Management Manual for Western Washington, that result in the least amount of impact to the critical areas. Best management practices shall be used for tree and vegetation protection, construction management, erosion and sedimentation control, water quality protection, and regulation of chemical applications. The city shall observe the use of best management practices to ensure that the activity does not result in degradation to the critical area. Any incidental damage to, or alteration of, a critical area shall be restored, rehabilitated, or replaced at the responsible party's expense.

(c) Allowed Activities. The following activities are allowed:

(1) Permit Requests Subsequent to Previous Critical Area Review. Development permits and approvals that involve both discretionary land use approvals (such as subdivisions, rezones, or conditional use permits), and construction approvals (such as building permits) if all of the following conditions have been met:

(A) The provisions of the applicable critical areas chapter(s) have been previously addressed as part of another approval;

(B) There have been no material changes in the potential impact to the critical area or buffer since the prior review;

(C) There is no new information available that is applicable to any critical area review of the site or particular critical area;

(D) The permit or approval has not expired or, if no expiration date, no more than five years has elapsed since the issuance of that permit or approval; and

(E) Compliance with any standards or conditions placed upon the prior permit or approval has been achieved or secured;

(2) Modification to Existing Structures. Structural modification of, addition to, or replacement of an existing legally constructed structure that does not further alter or increase the impact to the critical area or buffer and there is no increased risk to life or property as a result of the proposed modification or replacement; provided, that restoration of structures substantially damaged by fire, flood, or act of nature must be initiated within one year of the date of such damage, as evidenced by the issuance of a valid building permit, and diligently pursued to completion;

(3) Activities within the Improved Right-of-Way. Replacement, modification, installation, or construction of utility facilities, lines, pipes, mains, equipment, or appurtenances, not including substations, when such facilities are located within the improved portion of the public right-of-way or a city-authorized private roadway except those activities that alter a wetland or watercourse, such as culverts or bridges, or result in the transport of sediment or increased stormwater, subject to the following:

(A) Critical area and/or buffer widths shall be increased, where possible, equal to the width of the right-of-way improvement, including disturbed areas; and

(B) Retention and replanting of native vegetation shall occur wherever possible along the right-of-way improvement and resulting disturbance;

(4) Minor Utility Projects. Utility projects that have minor or short-duration impacts to critical areas, as determined by the director in accordance with the criteria below, and that do not significantly impact the function or values of a critical area(s); provided, that such projects are constructed with best management practices and additional restoration measures are provided. Minor activities shall not result in the transport of sediment or increased stormwater. Such allowed minor utility projects shall meet the following criteria:

(A) There is no practical alternative to the proposed activity with less impact on critical areas;

(B) The activity involves the placement of a utility pole, street signs, anchor, or vault or other small component of a utility facility; and

(C) The activity involves disturbance of an area less than 75 square feet;

(5) Public and Private Pedestrian Trails. Public and private pedestrian trails, subject to the following:

(A) The trail surface shall meet all other requirements including water quality standards set forth in the Department of Ecology Stormwater Management Manual for Western Washington;

(B) Critical area and/or buffer widths shall be increased, where possible, equal to the width of the trail corridor, including disturbed areas;

(C) Trails proposed to be located in landslide or erosion hazard areas shall be constructed in a manner that does not increase the risk of landslide or erosion and in accordance with an approved geotechnical report; and

(D) Trails proposed to be located in ~~wetlands, fish and wildlife habitat conservation areas, or their outer 25 percent of wetland buffers which are~~ should be limited to permeable surfaces no more than five feet wide and designed for pedestrian use only, located only in the outer 25 percent of a buffer, and located to avoid removal of significant trees, old growth trees, or stands of mature forest. As the term is used in this subsection, a mature forest stand is one with an average diameter exceeding 21 inches diameter at breast height (dbh) whose crown cover may be less than 100% and whose decay, decadence, snags, and quantity of large downed material is generally less than that of an old growth forest. ~~or mature trees.~~

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(6) Select Vegetation Removal Activities. The following vegetation removal activities; provided, that no vegetation shall be removed from a critical area or its buffer without approval from the director:

(A) The removal of the following vegetation with hand labor and light equipment:

(i) Invasive and noxious weeds classified by the Washington State Noxious Weed Board;

(ii) English ivy (*Hedera helix*);

(iii) Himalayan blackberry (*Rubus armeniacus*, *R. procerus*); and

(iv) Evergreen blackberry (*Rubus laciniatus*);

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

(i) The applicant submits a report from a certified arborist, registered landscape architect, or professional forester that documents the hazard and provides a replanting schedule for the replacement trees;

(ii) Tree cutting shall be limited to pruning and crown thinning, unless otherwise justified by a qualified professional. Where pruning or crown thinning is not sufficient to address the hazard, trees should be removed or converted to wildlife snags;

(iii) All vegetation cut (tree stems, branches, etc.) shall be left within the critical area or buffer unless removal is warranted due to the potential for disease or pest transmittal to other healthy vegetation;

(iv) The landowner shall replace any trees that are removed with new trees at a ratio of two replacement trees for each tree removed (2:1) within one year in accordance with an approved restoration plan. Replacement trees may be planted at a different nearby location if it can be determined that planting in the same location would create a new hazard or potentially damage the critical area. Replacement trees shall be species that are native and indigenous to the site and a minimum of one inch in diameter at breast height (dbh) for deciduous trees and a minimum of six feet in height for evergreen trees as measured from the top of the root ball;

(v) If a tree to be removed provides critical habitat, such as an eagle perch, a qualified wildlife biologist shall be consulted to determine timing and methods of removal that will minimize impacts; and

(vi) Hazard trees determined to pose an imminent threat or danger to public health or safety, to public or private property, or of serious environmental degradation may be removed or pruned by the landowner prior to receiving written approval from the city; provided, that within 14 days following such action, the landowner shall submit a restoration plan that demonstrates compliance with the provisions of this chapter;

(C) Measures to control a fire or halt the spread of disease or damaging insects consistent with the State Forest Practices Act, Chapter 76.09 RCW; provided, that the removed vegetation shall be replaced in-kind or with similar native species within one year in accordance with an approved restoration plan; and

(D) Unless otherwise provided, or as a necessary part of an approved alteration, removal of any vegetation or woody debris from a habitat conservation area or wetland shall be prohibited;

(7) Chemical Applications. The application of herbicides, pesticides, organic or mineral-derived fertilizers, or other hazardous substances, if necessary, as approved by the city; provided, that their use shall be restricted in accordance with State Department of Fish and Wildlife management recommendations and the regulations of the State Department of Agriculture, the State Department of Ecology, and the U.S. Environmental Protection Agency;

(8) Minor Site Investigative Work. Work necessary for land use submittals, such as surveys, soil logs, percolation tests, and other related activities, where such activities do not require construction of new roads or significant amounts of excavation. In every case, impacts to the critical area shall be minimized and disturbed areas shall be immediately restored; and

(9) Boundary Markers. Construction or modification of boundary markers. (Ord. 1574 § 1, 2016; Ord. 1375 § 1, 2005).

22.92.120 General requirements.

(a) As part of this review, the city shall:

(1) Verify the information submitted by the applicant;

- (2) Evaluate the project area and vicinity for critical areas;
 - (3) Determine whether the proposed project is likely to impact the functions or values of critical areas; and
 - (4) Determine if the proposed project adequately addresses the impacts and avoids impacts to the critical area associated with the project.
- (b) If the proposed project is within, adjacent to, or is likely to impact a critical area, the city shall:
- (1) Require a critical area report from the applicant that has been prepared by a qualified professional;
 - (2) Review and evaluate the critical area report;
 - (3) Determine whether the development proposal conforms to the purposes and performance standards of the applicable critical areas chapters, including the review criteria in FMC 22.92.230;
 - (4) Assess the potential impacts to the critical area and determine if they can be avoided or minimized; and
 - (5) Determine if any mitigation proposed by the applicant is sufficient to protect the functions and values of the critical area and public health, safety, and welfare concerns consistent with the goals, purposes, objectives, and requirements of the applicable critical areas chapters. (Ord. 1375 § 1, 2005).

22.92.130 Critical area preapplication consultation.

Any person preparing to submit an application for development or use of land that may be regulated by the provisions of a critical areas chapter shall conduct a consultation meeting with the director prior to submitting an application for development or other approval. At this meeting, the director shall discuss the requirements of these chapters; provide critical area maps, scientific information, and other source materials; outline the review process; and work with the activity proponent to identify any potential concerns that might arise during the review process, in addition to discussing other permit procedures and requirements. (Ord. 1375 § 1, 2005).

22.92.140 Critical area identification form.

(a) Submittal. Prior to the city's consideration of any proposed activity not found to be exempt under FMC 22.92.080 or allowed pursuant to FMC 22.92.110, the applicant shall submit to the department a complete critical area identification form on forms provided by the city.

(b) Site Inspection. Upon receipt of a project application and a critical area identification form, the director shall conduct a site inspection to review critical area conditions on site. The director shall notify the property owner of the inspection prior to the site visit. Reasonable access to the site shall be provided by the property owner for the purpose of inspections during any proposal review, restoration, emergency action, or monitoring period.

(c) Critical Area Identification Form Review Process. The director or his/her designee shall review the critical area identification form, conduct a site inspection, and review other information available pertaining to the site and the proposal and make a determination as to whether any critical areas may be affected by the proposal and if a more detailed critical area report shall be submitted.

(1) Decision Indicators. The director may use the following indicators to assist in determining the need for a critical area report:

- (A) Indication of a critical area on the city critical areas maps that may be impacted by the proposed activity;
- (B) Information and scientific opinions from appropriate agencies, including but not limited to the Departments of Fish and Wildlife, Natural Resources, and Ecology;
- (C) Documentation, from a scientific or other reasonable source, of the possible presence of a critical area;
or

Commented [KM3]: KG to work with Dawn - should we create this form, or delete this section any rely on tabletop indications of critical area presence we conduct during 1st review of a project?

(D) A finding by a qualified professional or a reasonable belief by the director that a critical area may exist on or adjacent to the site of the proposed activity.

(d) Decision on Identification Form.

(1) No Critical Areas Present. If after a site visit the director's analysis indicates that the project area is not within or adjacent to a critical area or buffer and that the proposed activity is unlikely to degrade the functions or values of a critical area, then the director shall rule that the critical area review is complete and note on the identification form the reasons that no further review is required. A summary of this information shall be included in any staff report or decision on the underlying permit.

(2) Critical Areas Present, But No Impact – Waiver. If the director determines that there are critical areas within or adjacent to the project area, but that the best available science shows that the proposed activity is unlikely to degrade the functions or values of the critical area, the director may waive the requirement for a critical area report. A waiver may be granted if there is substantial evidence that all of the following requirements will be met:

(A) There will be no alteration of the critical area or buffer;

(B) The development proposal will not impact the critical area in a manner contrary to the purpose, intent, and requirements of the applicable critical areas chapter(s); and

(C) The proposal is consistent with other applicable regulations and standards.

A summary of this analysis and the findings shall be included in any staff report or decision on the underlying permit.

(3) Critical Areas May Be Affected by Proposal. If the director determines that a critical area or areas may be affected by the proposal, then the director shall notify the applicant that a critical area report must be submitted prior to further review of the project, and indicate each of the critical area types that should be addressed in the report.

(e) Director's Determination Subject to Reconsideration. A determination regarding the apparent absence of one or more critical areas by the director is not an expert certification regarding the presence of critical areas and the determination is subject to possible reconsideration and reopening if new information is received.

If the applicant wants greater assurance of the accuracy of the critical area review determination, the applicant may choose to hire a qualified professional to provide such assurances. (Ord. 1375 § 1, 2005).

22.92.150 Public notice of initial determination.

The city shall notify the public of proposals in accordance with Chapter 22.07 FMC.

(a) If the director determines that no critical area report is necessary, the city shall state the reasons for this determination in the notice of application issued by the city for the proposal.

(b) If the director determines that there are critical areas on the site that the proposed project is unlikely to impact and the project meets the requirements for and has been granted a waiver from the requirement to complete a critical area report, a summary of the analysis and findings for this decision shall be stated in the notice of application for the proposal.

(c) If the director determines that critical areas may be affected by the proposal and a critical area report is required, public notice of the application shall include a description of the critical area that might be affected and state that a critical area report is required. (Ord. 1375 § 1, 2005).

22.92.160 Critical area report – Requirements.

(a) Preparation by Qualified Professional. If required by the director in accordance with FMC 22.92.140(d)(3), the applicant shall submit a critical area report prepared by a qualified professional as defined herein, [and as defined in FMC Chapter 22.98, Definitions.](#)

(b) Incorporating of Best Available Science. The critical area report shall use scientifically valid methods and studies in the analysis of critical area data and field reconnaissance and reference the source of science used. The critical area report shall evaluate the proposal and all probable impacts to critical areas in accordance with the provisions of the applicable critical areas chapters.

(c) Minimum Report Contents. At a minimum, the report shall contain the following:

- (1) The name and contact information of the applicant, a description of the proposal, and identification of the permit requested;
- (2) A copy of the site plan for the development proposal including:
 - (A) A map to scale depicting critical areas, buffers, the development proposal, and any areas to be cleared; and
 - (B) A description of the proposed stormwater management plan for the development and consideration of impacts to drainage alterations;
- (3) The dates, names, and qualifications of the persons preparing the report and documentation of any fieldwork performed on the site;
- (4) Identification and characterization of all critical areas, wetlands, water bodies, and buffers adjacent to the proposed project area;
- (5) A statement specifying the accuracy of the report, and all assumptions made and relied upon;
- (6) An assessment of the probable cumulative impacts to critical areas resulting from development of the site and the proposed development;
- (7) An analysis of site development alternatives including a no development alternative;
- (8) A description of reasonable efforts made to apply mitigation sequencing pursuant to FMC 22.92.190 to avoid, minimize, and mitigate impacts to critical areas;
- (9) Plans for adequate mitigation, as needed, to offset any impacts, in accordance with FMC 22.92.200, including, but not limited to:
 - (A) The impacts of any proposed development within or adjacent to a critical area or buffer on the critical area; and
 - (B) The impacts of any proposed alteration of a critical area or buffer on the development proposal, other properties and the environment;
- (10) A discussion of the performance standards applicable to the critical area and proposed activity;
- (11) Financial guarantees to ensure compliance; and
- (12) Any additional information required for the critical area as specified in the corresponding chapter.

(d) Unless otherwise provided, a critical area report may be supplemented by or composed, in whole or in part, of any reports or studies required by other laws and regulations or previously prepared for and applicable to the development proposal site, as approved by the director. (Ord. 1375 § 1, 2005).

22.92.170 Critical area report – Modifications to requirements.

(a) Limitations to Study Area. The director may limit the required geographic area of the critical area report as appropriate if:

- (1) The applicant, with assistance from the city, cannot obtain permission to access properties adjacent to the project area; or
- (2) The proposed activity will affect only a limited part of the subject site.

(b) **Modifications to Required Contents.** The applicant may consult with the director prior to or during preparation of the critical area report to obtain city approval of modifications to the required contents of the report where, in the judgment of a qualified professional, more or less information is required to adequately address the potential critical area impacts and required mitigation.

(c) **Additional Information Requirements.** The director may require additional information to be included in the critical area report when determined to be necessary to the review of the proposed activity in accordance with the applicable critical areas chapters. Additional information that may be required includes, but is not limited to:

- (1) Historical data, including original and subsequent mapping, aerial photographs, data compilations and summaries, and available reports and records relating to the site or past operations at the site;
- (2) Grading and drainage plans; and
- (3) Information specific to the type, location, and nature of the critical area. (Ord. 1375 § 1, 2005).

22.92.180 Mitigation requirements.

(a) The applicant shall avoid all impacts that degrade the functions and values of a critical area or areas. Unless otherwise provided in the applicable critical areas chapter, if alteration to the critical area is unavoidable, all adverse impacts to or from critical areas and buffers resulting from a development proposal or alteration shall be mitigated using the best available science in accordance with an approved critical area report and SEPA documents, so as to result in no net loss of critical area functions and values.

(b) Unless it is demonstrated that a higher level of ecological functioning would result from an alternate approach such as the use of off-site mitigation, mitigation shall be in-kind and on-site, when possible, and sufficient to maintain the functions and values of the critical area, and to prevent risk from a hazard posed by a critical area.

(c) Mitigation shall not be implemented until after city approval of a critical area report that includes a mitigation plan, and mitigation shall be in accordance with the provisions of the approved critical area report. (Ord. 1574 § 2, 2016; Ord. 1375 § 1, 2005).

22.92.190 Mitigation sequencing.

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

- (a) Avoiding the impact altogether by not taking a certain action or parts of an action;
- (b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps, such as project redesign, relocation, or timing, to avoid or reduce impacts;
- (c) Rectifying the impact to wetlands, critical aquifer recharge areas, geologically hazardous areas, frequently flooded areas, and habitat conservation areas by repairing, rehabilitating, or restoring the affected environment to the historical conditions or the conditions existing at the time of the initiation of the project;
- (d) Minimizing or eliminating the hazard by restoring or stabilizing the hazard area through engineered or other methods;
- (e) Reducing or eliminating the impact or hazard over time by preservation and maintenance operations during the life of the action;

(f) Compensating for the impact to wetlands, critical aquifer recharge areas, frequently flooded areas, and habitat conservation areas by replacing, enhancing, or providing substitute resources or environments; and

(g) Monitoring the hazard or other required mitigation and taking remedial action when necessary. Monitoring shall occur at least annually for five (5) years, unless best available science would inform otherwise. A monitoring report shall be provided to the City following each monitoring event and shall document the success of the mitigation against performance standards established in the mitigation plan accepted by the City.

Commented [KG4]: Recommended edit to add definition around the City's expectation (industry standard) for monitoring reports.

Mitigation for individual actions may include a combination of the above measures. (Ord. 1375 § 1, 2005).

22.92.200 Mitigation plan requirements.

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

(a) Environmental Goals and Objectives. The mitigation plan shall include a written report identifying environmental goals and objectives of the compensation proposed and including:

- (1) A description of the anticipated impacts to the critical areas and the mitigating actions proposed and the purposes of the compensation measures, including the site selection criteria; identification of compensation goals; identification of resource functions; and dates for beginning and completion of site compensation construction activities. The goals and objectives shall be related to the functions and values of the impacted critical area;
- (2) A review of the best available science supporting the proposed mitigation and a description of the report author's experience to date in restoring or creating the type of critical area proposed; and
- (3) An analysis of the likelihood of success of the compensation project.

(b) Performance Standards. The mitigation plan shall include measurable specific criteria for evaluating whether or not the goals and objectives of the mitigation project have been successfully attained and whether or not the requirements of the applicable critical areas chapters have been met.

(c) Detailed Construction Plans. The mitigation plan shall include written specifications and descriptions of the mitigation proposed, such as:

- (1) The proposed construction sequence, timing, and duration;
- (2) Grading and excavation details;
- (3) Erosion and sediment control features;
- (4) A planting plan specifying plant species, quantities, locations, size, spacing, and density; and
- (5) Measures to protect and maintain plants until established.

These written specifications shall be accompanied by detailed site diagrams, scaled cross-sectional drawings, topographic maps showing slope percentage and final grade elevations, and any other drawings appropriate to show construction techniques or anticipated final outcome.

(d) Monitoring Program. The mitigation plan shall include a program for monitoring construction of the compensation project and for assessing a completed project. A protocol shall be included outlining the schedule for site monitoring (for example, monitoring shall occur in years one, two, three, five, seven and 10 after site construction), and how the monitoring data will be evaluated to determine if the performance standards are being met. A monitoring report shall be submitted as needed to document milestones, successes, problems, and contingency actions of the compensation project. The compensation project shall be monitored for a period necessary to establish that performance standards have been met, but not for a period less than five years, or 10 years for forested and scrub-shrub wetland communities.

(e) Contingency Plan. The mitigation plan shall include identification of potential courses of action, and any corrective measures to be taken if monitoring or evaluation indicates project performance standards are not being met.

(f) Financial Guarantees. The mitigation plan shall include financial guarantees, if necessary, to ensure that the mitigation plan is fully implemented. Financial guarantees ensuring fulfillment of the compensation project, monitoring program, and any contingency measures shall be posted in accordance with FMC 22.92.350. (Ord. 1375 § 1, 2005).

22.92.210 Innovative mitigation.

(a) The city may encourage, facilitate, and approve innovative mitigation projects that are based on the best available science. Advance mitigation or mitigation banking are examples of alternative mitigation projects allowed under the provisions of this section wherein one or more applicants, or an organization with demonstrated capability, may undertake a mitigation project together if it is demonstrated that all of the following circumstances exist:

- (1) Creation or enhancement of a larger system of critical areas and open space is preferable to the preservation of many individual habitat areas;
- (2) The group demonstrates the organizational and fiscal capability to act cooperatively;
- (3) The group demonstrates that long-term management of the habitat area will be provided; and
- (4) There is a clear potential for success of the proposed mitigation at the identified mitigation site.

(b) Conducting mitigation as part of a cooperative process does not reduce or eliminate the required replacement ratios. (Ord. 1375 § 1, 2005).

22.92.220 Determination.

The director shall make a determination as to whether the proposed activity and mitigation, if any, is consistent with the provisions of the applicable critical areas chapters. The director's determination shall be based on the criteria of FMC 22.92.230. (Ord. 1375 § 1, 2005).

22.92.230 Review criteria.

(a) Any alteration to a critical area, unless otherwise provided for in the applicable critical areas chapters, shall be reviewed and approved, approved with conditions, or denied based on the proposal's ability to comply with all of the following criteria:

- (1) The proposal minimizes the impact on critical areas in accordance with the mitigation sequencing order specified in FMC 22.92.190;
- (2) The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;
- (3) The proposal is consistent with the general purposes of the applicable critical areas chapters and the public interest;
- (4) Any alterations permitted to the critical area are mitigated in accordance with FMC 22.92.180;
- (5) The proposal protects the critical area functions and values consistent with the best available science and results in no net loss of critical area functions and values; and
- (6) The proposal is consistent with other applicable regulations and standards.

(b) The city may condition the proposed activity as necessary to mitigate impacts to critical areas and to conform to the standards required by the applicable critical areas chapters.

(c) Except as provided for by the applicable critical areas chapters, any project that cannot adequately mitigate its impacts to critical areas in the sequencing order of preferences in FMC 22.92.190 shall be denied. (Ord. 1375 § 1, 2005).

22.92.240 Favorable determination.

If the director determines that the proposed activity meets the criteria in FMC 22.92.230 and complies with the applicable provisions of the applicable critical areas chapters, the director shall prepare a written notice of determination and identify any required conditions of approval. The notice of determination and conditions of approval shall be included in the project file and be considered in the next phase of the city's review of the proposed activity in accordance with any other applicable codes or regulations. A decision to approve a permit for a proposed activity subject to critical area reporting governed by this chapter, or a written recommendation to a legislative or quasi-judicial decisionmaker to approve such a permit, may act as the director's written favorable determination.

Any conditions of approval included in a notice of determination shall be attached to the underlying permit or approval. Any subsequent changes to the conditions of approval shall void the previous determination pending re-review of the proposal and conditions of approval by the director.

A favorable determination should not be construed as endorsement or approval of any underlying permit or approval. (Ord. 1375 § 1, 2005).

22.92.250 Unfavorable determination.

If the director determines that a proposed activity does not adequately mitigate its impacts on the critical areas and/or does not comply with the criteria in FMC 22.92.230 and the provisions of the applicable critical areas chapters, the director shall prepare written notice of the determination that includes findings of noncompliance. Written notice of an unfavorable determination may include remarks offered by the director or his/her designee during a review of the critical area reporting governed by this chapter and associated with a permit application under Title 22 of this code, or may include remarks conveying inadequate mitigation or noncompliance with FMC 22.92.230 written on behalf of the city by its third-party contract specialists.

No proposed activity or permit shall be approved or issued if it is determined that the proposed activity does not adequately mitigate its impacts on the critical areas and/or does not comply with the provisions of the applicable critical areas chapters.

Following notice of determination that the proposed activity does not meet the review criteria and/or does not comply with the applicable critical areas chapters, the applicant may request consideration of a revised critical area report. If the revision is found to be substantial and relevant to the critical area review, the director may reopen the critical area review and make a new determination based on the revised report. (Ord. 1375 § 1, 2005).

22.92.260 Completion of the critical area review.

The city's determination regarding critical areas pursuant to the applicable critical areas chapters shall be final concurrent with the final decision to approve, condition, or deny the development proposal or other activity involved. (Ord. 1375 § 1, 2005).

22.92.270 Appeals.

Any decision to approve, condition, or deny a development proposal or other activity based on the requirements of a critical areas chapter may be appealed according to, and as part of, the appeal procedure for the permit or approval involved. (Ord. 1375 § 1, 2005).

22.92.280 Variances.

(a) Variances from the standards of a critical areas chapter may be authorized by the city in accordance with the procedures set forth in Chapter 22.74 FMC. The director or hearing examiner, as authorized, shall review the request and make a written finding that the request meets or fails to meet the variance criteria.

(b) Variance Criteria. A variance may be granted only if the applicant demonstrates that the requested action conforms to all of the criteria set forth in FMC 22.74.003 and as follows:

(1) A literal interpretation of the provisions of this chapter would deprive the applicant of all reasonable economic uses and privileges permitted to other properties in the vicinity and zone of the subject property under the terms of this chapter, and the variance requested is the minimum necessary to provide the applicant with such rights;

(2) The granting of the variance is consistent with the general purpose and intent of this chapter, and will not further degrade the functions or values of the associated critical areas; and

(3) The decision to grant the variance includes the best available science and gives special consideration to conservation or protection measures necessary to preserve or enhance anadromous fish habitat.

(c) Conditions May Be Required. In granting any variance, the city may prescribe such conditions and safeguards as are necessary to secure adequate protection of critical areas from adverse impacts, and to ensure conformity with this chapter.

(d) Burden of Proof. The burden of proof shall be on the applicant to bring forth evidence in support of the application and upon which any decision has to be made on the application. (Ord. 1638 § 62, 2019; Ord. 1375 § 1, 2005).

22.92.290 Unauthorized critical area alterations and enforcement.

(a) When a critical area or its buffer has been altered in violation of a critical areas chapter, all ongoing development work shall stop and the critical area shall be restored. The city shall have the authority to issue a stop work order to cease all ongoing development work, and order restoration, rehabilitation, or replacement measures at the owner's or other responsible party's expense to compensate for violation of provisions of the applicable critical areas chapter.

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

(c) Minimum Performance Standards for Restoration.

(1) For alterations to critical aquifer recharge areas, frequently flooded areas, wetlands, and habitat conservation areas, the following minimum performance standards shall be met for the restoration of a critical area; provided, that if the violator can demonstrate that greater functional and habitat values can be obtained, these standards may be modified:

(A) The historic structural and functional values shall be restored, including water quality and habitat functions;

(B) The historic soil types and configuration shall be replicated;

(C) The critical area and buffers shall be replanted with native vegetation that replicates the vegetation historically found on the site in species types, sizes, and densities. The historic functions and values should be replicated at the location of the alteration; and

(D) Information demonstrating compliance with the requirements in FMC 22.92.250 shall be submitted to the director.

(2) For alterations to flood and geological hazards, the following minimum performance standards shall be met for the restoration of a critical area; provided, that if the violator can demonstrate that greater safety can be obtained, these standards may be modified:

(A) The hazard shall be reduced to a level equal to, or less than, the predevelopment hazard;

(B) Any risk of personal injury resulting from the alteration shall be eliminated or minimized; and

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

(d) Site Investigations. The director is authorized to make site inspections and take such actions as are necessary to enforce the city's critical areas regulations pursuant to Chapters 22.92, 22.93, 22.94, 22.95, 22.96, 22.97, 22.99, and 22.100 FMC. The director shall present proper credentials and make a reasonable effort to contact any property owner before entering onto private property. (Ord. 1375 § 1, 2005).

22.92.300 Critical area markers and signs.

(a) The boundary at the outer edge of critical area tracts and easements shall be delineated with permanent survey stakes, using iron or concrete markers as established by local survey standards.

(b) The boundary at the outer edge of the critical area or buffer shall be identified with temporary signs prior to any site alteration. Such temporary signs shall be replaced with permanent signs prior to occupancy or use of the site.

(c) These provisions may be modified by the director as necessary to ensure protection of sensitive features or wildlife needs. (Ord. 1375 § 1, 2005).

22.92.310 Title notice.

(a) In order to inform subsequent purchasers of real property of the existence of critical areas, the owner of any property containing a critical area or buffer on which a development proposal is submitted shall file a notice with the county auditor according to the direction of the city. The notice shall state the presence of the critical area or buffer on the property, the application of the critical areas regulations to the property, and the fact that limitations on actions in or affecting the critical area or buffer may exist. The notice shall "run with the land."

(b) This title notice shall not be required for a development proposal by a public agency or public or private utility:

- (1) Within a recorded easement or right-of-way;
- (2) Where the agency or utility has been adjudicated the right to an easement or right-of-way; or
- (3) On the site of a permanent public facility.

(c) The applicant shall submit proof that the notice has been filed for public record before the city approves any site development or construction for the property or, in the case of subdivisions, short subdivisions, and planned unit developments, at or before recording. (Ord. 1375 § 1, 2005).

22.92.320 Native growth protection areas.

(a) Unless otherwise required in the applicable critical areas chapters, native growth protection areas shall be used in development proposals for subdivisions, short subdivisions, and planned unit developments to delineate and protect those contiguous critical areas and buffers listed below:

- (1) All landslide hazard areas and buffers;
- (2) All wetlands and buffers;
- (3) All habitat conservation areas; and
- (4) All other lands to be protected from alterations as conditioned by project approval.

(b) Native growth protection areas shall be recorded on all documents of title of record for all affected lots.

(c) Native growth protection areas shall be designated on the face of the plat of recorded drawing in a format approved by the city. The designation shall include the following restrictions:

- (1) An assurance that native vegetation will be preserved for the purpose of preventing harm to property and the environment, including, but not limited to, controlling surface water runoff and erosion, maintaining slope stability, buffering, and protecting plants, fish, and animal habitat; and

(2) The right of the city to enforce the terms of the restriction. (Ord. 1375 § 1, 2005).

22.92.330 Critical area tracts.

(a) Critical area tracts shall be used in development proposals for subdivisions, short subdivisions, and planned unit developments to delineate and protect those contiguous critical areas and buffers listed below that total 5,000 or more square feet:

- (1) All landslide hazard areas and buffers;
- (2) All wetlands and buffers;
- (3) All habitat conservation areas; and
- (4) All other lands to be protected from alterations as conditioned by project approval.

(b) Critical area tracts shall be recorded on all documents of title of record for all affected lots.

(c) Critical area tracts shall be designated on the face of the plat or recorded drawing in a format approved by the city. The designation shall include the following restriction:

- (1) An assurance that native vegetation will be preserved for the purpose of preventing harm to property and the environment, including, but not limited to, controlling surface water runoff and erosion, maintaining slope stability, buffering, and protecting plants, fish, and animal habitat; and
- (2) The right of the city to enforce the terms of the restriction.

(d) The city may require that any required critical area tract be dedicated to the city, held in an undivided interest by each owner of a building lot within the development with the ownership interest passing with the ownership of the lot, or held by an incorporated homeowner's association or other legal entity (such as a land trust, which ensures the ownership, maintenance, and protection of the tract). (Ord. 1375 § 1, 2005).

22.92.340 Building setbacks.

Unless otherwise provided, buildings and other structures shall be set back a distance of 15 feet from the edges of all critical area buffers or from the edges of all critical areas, if no buffers are required. The following may be allowed in the building setback area:

- (a) Landscaping;
- (b) Uncovered decks;
- (c) Building overhangs, if such overhangs do not extend more than 18 inches into the setback area; and
- (d) Impervious and pervious ground surfaces, such as driveways and patios; provided, that such improvements may be subject to water quality regulations as adopted in the Department of Ecology Stormwater Management Manual for Western Washington. (Ord. 1375 § 1, 2005).

22.92.350 Bonds to ensure mitigation, maintenance, and monitoring.

(a) When mitigation required pursuant to a development proposal is not completed prior to the city final permit approval, such as final plat approval or final building inspection, the city shall require the applicant to post a performance bond or other security in a form and amount deemed acceptable by the city. If the development proposal is subject to mitigation, the applicant shall post a mitigation bond or other security in a form and amount deemed acceptable by the city to ensure mitigation is fully functional.

(b) The bond shall be in the amount of 125 percent of the estimated cost of the uncompleted actions or the estimated cost of restoring the functions and values of the critical area that are at risk, whichever is greater.

(c) The bond shall be in the form of a surety bond, performance bond, assignment of a savings account, or an irrevocable letter of credit guaranteed by an acceptable financial institution with terms and conditions acceptable to the city attorney.

(d) Bonds or other security authorized by this section shall remain in effect until the city determines, in writing, that the standards bonded for have been met. Bonds or other security shall be held by the city for a minimum of five years to ensure that the required mitigation has been fully implemented and demonstrated to function, and may be held for longer periods when necessary.

(e) Depletion, failure, or collection of bond funds shall not discharge the obligation of an applicant or violator to complete required mitigation, maintenance, monitoring, or restoration.

(f) Public development proposals shall be relieved from having to comply with the bonding requirements of this section if public funds have previously been committed for mitigation, maintenance, monitoring, or restoration.

(g) Any failure to satisfy critical area requirements established by law or condition including, but not limited to, the failure to provide a monitoring report within 30 days after it is due or comply with other provisions of an approved mitigation plan shall constitute a default, and the city may demand payment of any financial guarantees or require other action authorized by the city code or any other law.

(h) Any funds recovered pursuant to this section shall be used to complete the required mitigation. (Ord. 1375 § 1, 2005).

22.92.360 Critical area inspections.

Reasonable access to the site shall be provided to the city, state, and federal agency review staff for the purpose of inspections during any proposal review, restoration, emergency action, or monitoring period. (Ord. 1375 § 1, 2005).

**Chapter 22.93
WETLANDS**

Sections:

- 22.93.010 Designating, defining, identifying, and mapping wetlands.
- 22.93.020 Regulated activities.
- 22.93.030 Activities allowed in wetlands.
- 22.93.040 Wetland ratings.
- 22.93.050 Standards – General requirements.
- 22.93.060 Critical area report – Additional requirements for wetlands.
- 22.93.070 Compensatory mitigation requirements.
- 22.93.080 Standards – Subdivisions.
- 22.93.090 Signs and fencing of wetlands.
- 22.93.100 Wetland buffers.
- 22.93.110 Residential density and on-site density transfer.
- 22.93.120 *Repealed.*
- 22.93.130 Alternate review process – Army Corps of Engineers Section 404 individual permits.

22.93.010 Designating, defining, identifying, and mapping wetlands.

(a) Designating, Defining and Identifying Wetlands. Wetlands are those areas designated in accordance with the procedures outlined in WAC 173-22-035.

All areas within the city meeting the wetland definition criteria, regardless of whether these areas have previously been identified or mapped, are hereby designated critical areas and are subject to the provisions of Chapter 22.92 FMC and this chapter.

(b) Mapping. The approximate location and extent of wetlands are shown on the adopted critical area map contained within the comprehensive plan. In addition, the maps contained within the National Wetlands Inventory are hereby adopted. Additionally, soil maps produced by the U.S. Department of Agriculture National Resources Conservation Service may be useful in helping to identify potential wetland areas. These maps are to be used as a guide for the city, project applicants, and/or property owners, and may be continuously updated as new critical areas are identified.

It is the actual presence of a wetland on a parcel, as delineated by WAC 173-22-035, which triggers the requirements of Chapter 22.92 FMC and this chapter, whether or not the wetland is identified on the adopted maps. The exact location of a wetland's boundary shall be determined through the performance of a field delineation by a qualified wetlands professional in accordance with the approved federal wetland delineation manual and applicable regional supplements pursuant to WAC 173-22-035. (Ord. 1512 § 6, 2011; Ord. 1375 § 2, 2005).

22.93.020 Regulated activities.

The following activities are regulatedRegulated activities, if they occur in a regulated wetland or its buffer, include but are not limited to:

- (a) The removal, excavation, grading, or dredging of soil, sand, gravel, minerals, organic matter, or material of any kind;
- (b) The dumping, discharging, or filling with any material;
- (c) The draining, flooding, or disturbing of the water level or water table;
- (d) The driving of pilings;
- (e) The placing of obstructions;
- (f) The construction, reconstruction, demolition, or expansion of any structure;

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(g) The destruction or alteration of wetland vegetation through clearing, harvesting, shading, intentional burning, or planting of vegetation that would alter the character of a regulated wetland; provided, that these activities are not part of a forest practice governed under Chapter 76.09 RCW and its rules; or

(h) Activities that result in:

- (1) A significant change of water temperature;
- (2) A significant change of physical or chemical characteristics of the sources of water to the wetland;
- (3) A significant change in the quantity, timing or duration of the water entering the wetland; or
- (4) The introduction of pollutants. (Ord. 1375 § 2, 2005).

22.93.030 Activities allowed in wetlands.

The activities listed below are allowed in wetlands in addition to those activities listed in, and consistent with, the provisions established in FMC 22.92.110. These activities do not require submission of a critical area report, except where such activities result in a loss to the functions and values of a wetland or wetland buffer. These activities include:

- (a) Conservation or preservation of soil, water, vegetation, fish, shellfish, and other wildlife that does not entail changing the structure or functions of the existing wetland.
- (b) The harvesting of wild crops in a manner that is not injurious to natural reproduction of such crops, and provided 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.
- (c) Drilling for utilities/utility corridors under a wetland with the entrance/exit portals located completely outside of the wetland buffer; provided, that the drilling does not interrupt the ground water connection to the wetland or percolation of surface water down through the soil column. 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 will be disturbed.
- (d) Enhancement of a wetland through the removal of nonnative invasive plant species. Removal of invasive plant species shall be restricted to hand removal unless permits from the appropriate regulatory agencies have been obtained for approved biological or chemical treatments. All removed plant material shall be taken away from the site and disposed of appropriately. Plants that appear on the Washington State Noxious Weed Control Board list of noxious weeds must be handled and disposed of according to a noxious weed control plan appropriate to the species. Revegetation with appropriate native species at natural densities is allowed in conjunction with removal of invasive plant species.
- (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. (Ord. 1574 § 3, 2016; Ord. 1375 § 2, 2005).

22.93.040 Wetland ratings.

(a) Wetlands shall be rated according to the Washington State Department of Ecology Wetland Rating System for Western Washington – 2014 Update (Ecology Publication No. [23-06-02914-06-030](#)) or as revised by Ecology. Wetland rating categories shall be applied as the wetland exists at the time of the adoption of this chapter or as it exists at the time of an associated permit application. Wetland rating categories shall not change due to illegal modifications.

(b) Wetland Rating Categories.

- (1) Category I. Category I wetlands are those that 1) represent a unique or rare wetland type; or 2) are more sensitive to disturbance than most wetlands; or 3) are relatively undisturbed and contain ecological attributes.

that are impossible to replace within a human lifetime; or 4) provide a very high level of functions, scoring a minimum of 23 points on the wetland rating form. Category I wetlands can include, but are not limited to: large undisturbed estuarine wetlands, wetlands of high conservation value, bogs, wetlands with mature old-growth forests, wetlands in coastal lagoons, or interdunal wetlands larger than 1 acre and scoring 8-9 points for habitat scores on the wetland rating form. Category I wetlands are: (A) wetlands that are identified by scientists of the Washington Natural Heritage Program/DNR as high quality wetland; (B) bogs; (C) mature and old growth forested wetlands larger than one acre; and (D) wetlands that perform many functions well (scoring between 23 and 27 points).

These wetlands are those that: (A) represent unique or rare wetland types; or (B) are more sensitive to disturbance than most wetlands; or (C) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or (D) provide a high level of functions.

(2) Category II. Category II wetlands are difficult, though not impossible, to replace, and provide high levels of some functions. These wetlands occur more commonly than Category I wetlands, but still need a relatively high level of protection. Category II wetlands in western Washington can include, but are not limited to Category II wetlands are wetlands with a moderately high level of functions (score between 20 and 22 points): smaller estuarine wetlands, wetlands that score between 20-22 points on wetland rating form questions related to the functions present at the wetland, interdunal wetlands larger than 1 acre, or those in a wetland mosaic.

(3) Category III. Category III wetlands are 1) wetlands with a moderate level of functions (scores between 16-19 points on the wetland rating form), 2) can often be adequately replaced with a well-planned mitigation project, and 3) interdunal wetlands between 0.1 and 1 ac in size. Wetlands scoring between 16-19 points generally have been disturbed in some ways and are often less diverse or more isolated from other natural resources in the landscape than Category II wetlands. Category III wetlands are those wetlands with a moderate level of functions (scoring between 16 and 19). Wetlands scoring between 16 and 19 points generally have been disturbed in some ways, and are often less diverse or more isolated from other natural resources in the landscape than Category II wetlands.

(4) Category IV. Category IV wetlands have the lowest levels of functions (scores fewer than 16 points on the wetland rating form) and are often heavily disturbed. These are wetlands that we should be able to replace, and in some cases be able to improve. However, experience has shown that replacement cannot be guaranteed in any specific case. These wetlands may provide some important functions, and also need to be protected. Category IV wetlands are those wetlands with the lowest levels of functions (between nine and 15 points) and are often heavily disturbed. These are wetlands that are possible to replace, and in some cases improve. However, experience has shown that replacement cannot be guaranteed in any specific case. These wetlands may provide some important functions, and should be protected to some degree. (Ord. 1574 § 4, 2016; Ord. 1375 § 2, 2005).

Commented [KG6]: Recommended edits by ECY to reflect newest guidance and BAS.

22.93.050 Standards – General requirements.

- (a) Activities and uses shall be prohibited in wetlands and wetland buffers, except as provided for in Chapter 22.92 FMC and this chapter.
- (b) Category I Wetlands. Activities and uses shall be prohibited from Category I wetlands, except as provided for in the public agency and utility exception, reasonable use exception, and variance sections of Chapter 22.92 FMC.
- (c) Category II and III Wetlands. For activities proposed in Category II and III wetlands, the following standards shall apply:
 - (1) Activities and uses shall be prohibited unless the applicant can demonstrate that:
 - (A) The basic project purpose cannot reasonably be accomplished on another site or sites in the general region while still successfully avoiding or resulting in less adverse impact on a wetland; and
 - (B) All on-site alternative designs that would avoid or result in less adverse impact on a wetland or its buffer, such as a reduction in the size, scope, configuration, or density of the project, are not feasible.

Full compensation for the loss of acreage and functions of wetland and buffers shall be provided under the terms established under FMC 22.93.070.

(d) Category IV Wetlands. Activities and uses that result in unavoidable impacts may be permitted in Category IV wetlands and associated buffers in accordance with an approved critical area report and compensatory mitigation plan, and only if the proposed activity is the only reasonable alternative that will accomplish the applicant's objectives. Full compensation for the loss of acreage and functions of wetlands and buffers shall be provided under the terms established under FMC 22.93.070. (Ord. 1375 § 2, 2005).

22.93.060 Critical area report – Additional requirements for wetlands.

In addition to the general critical area report requirements of FMC 22.92.160, critical area reports for wetlands must meet the requirements of this section. Critical area reports for two or more types of critical areas must meet the report requirements for each relevant type of critical area.

(a) Preparation by a Qualified Professional. A critical area report for wetlands shall be prepared by a qualified professional who is a certified professional wetland scientist or a noncertified professional wetland scientist with a minimum of five years' experience in the field of wetland science and with experience preparing wetland reports.

(b) Areas Addressed in Critical Area Report. The following areas shall be addressed in a critical area report for wetlands:

- (1) The project area of the proposed activity;
- (2) All wetlands and recommended buffers within 300 feet of the project area; and
- (3) All shoreline areas, water features, floodplains, and other critical areas, and related buffers within 300 feet of the project area.

(c) Minimum Standards for Wetland Reports. In addition to the minimum required contents in FMC 22.92.160, a critical area report for wetlands shall contain an analysis of the wetlands including the following site- and proposal-related information at a minimum:

- (1) A written assessment and accompanying maps of the wetlands and buffers within 300 feet of the project area, including the following information at a minimum:
 - (A) Wetland delineation and required buffers;
 - (B) Existing wetland acreage based on a professional survey from the field delineation (acreages for on-site portion and entire wetland area including off-site portions);
 - (C) Wetland rating and category based on entire wetland complex;
 - (D) Cowardin classification of vegetation communities including vegetation characterization;
 - (E) Habitat elements;
 - (F) Soil and substrate conditions based on site assessment and/or soil survey information;
 - (G) Topographic elevations, at two-foot contours;
 - (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, evidence of water depths throughout the year – algal mats, flood debris, and sediment deposits); and
 - (I) Hydrogeomorphic (HGM) classification.

- (2) A discussion of measures, including avoidance, minimization, and mitigation, proposed to preserve existing wetlands and restore any wetlands that were degraded prior to the current proposed land use activity.
- (3) A habitat and native vegetation conservation strategy that addresses methods to protect and enhance on-site habitat and wetland functions.
- (4) Functional evaluation for the wetland and adjacent buffer using a local or state agency staff-recognized method and including the reference of the method and all data sheets.
- (5) A scale map of the development proposal site and adjacent area.
- (6) A discussion of ongoing management practices that will protect wetlands after the project site has been developed; including proposed monitoring and maintenance programs.
- (7) A bond estimate for the installation (including site preparation, plant materials and installation, fertilizers, mulch, stakes) and the proposed monitoring and maintenance work for the required number of years.
- (8) Title Notification. All activity in critical area protection areas shall be accompanied by a notice on title.

(d) Compensatory Mitigation Reports. When a project involves wetland and/or buffer impacts, a compensatory mitigation report shall be required (in addition to the wetland critical area report), meeting the following minimum standards:

- (1) Preparation by a Qualified Professional(s). A compensatory mitigation report for wetland or buffer impacts shall be prepared by one or more qualified professional(s) including someone who is a certified professional wetland scientist or a noncertified professional wetland scientist; either of them must have a minimum of five years' experience designing compensatory mitigation designs that have been installed and monitored for a minimum of two years to verify success. In addition, the design team may include civil engineers, landscape architects or landscape designers depending upon the complexity of the project.
- (2) Minimum Standards for Compensatory Mitigation Report. This report shall include a written report and plan sheets that contain, at a minimum, the following elements. Full guidance can be found in Wetland Mitigation in Washington State, Part 2: Developing Mitigation Plans (Version 1, Ecology Publication No. 06-06-011b, March 2006).

(A) The written report must contain, at a minimum:

- (i) The name and contact information of the applicant, the name, qualifications, and contact information for the primary author(s) of the report, a description of the proposal, a summary of the impacts and proposed compensation concept, and identification of all the local, state, and/or federal wetland related permit(s) required for the project, plus a vicinity map for the project;
- (ii) Description of the existing wetland and buffer areas proposed to be impacted including: acreages (or square footage) based on professional surveys of the delineations; Cowardin classifications including dominant vegetation community types (for upland and wetland habitats); the results of a functional assessment for the entire wetland and the portions proposed to be impacted; wetland rating based on the provisions of this chapter;
- (iii) An assessment of the potential changes in wetland hydroperiod from the proposed project and how the design has been modified to avoid, minimize or reduce adverse impacts to the wetland hydroperiod;
- (iv) A description of the proposed conceptual compensation actions for wetland and upland areas. A description of future vegetation community types for years one, three, five, 10 and 25 post-installation including the succession of vegetation community types and dominants expected. A description of the successional sequence of expected changes in hydroperiod for the compensation site(s) for the same time periods as vegetation success. A description of the change in habitat characteristics expected over the same 25-year time period;

The Fircrest Municipal Code is current through Ordinance 1738, passed March 25, 2025.

- (v) An assessment of existing conditions in the zone of the proposed compensation, including: vegetation community structure and composition, existing hydroperiod, existing soil conditions, and existing habitat functions. An estimate of future conditions in this location if the compensation actions are not undertaken (i.e., how would this site progress through natural succession);
- (vi) The field data collected to document existing conditions and on which future condition assumptions are based for hydroperiod (e.g., soil pit data – hand dug or mechanically trenched; soil boring data). Soil survey data is not sufficient to rely upon for establishing existing conditions;
- (vii) A discussion of ongoing management practices that will protect wetlands after the project site has been developed, including proposed monitoring and maintenance programs;
- (viii) A bond estimate for the entire compensatory mitigation including the following elements: site preparation, plant materials, construction materials, installation oversight, maintenance twice per year for up to five years, annual monitoring field work and reporting, and contingency actions for a maximum of the total required number of years for monitoring; and
- (ix) Proof of establishment of a notice on title for the wetlands and buffers on the project site, including the compensatory mitigation areas.

(B) The scaled plan sheets for the compensatory mitigation must contain, at a minimum:

- (i) Existing wetland and buffer surveyed edges, proposed areas of wetland and/or buffer impacts, location of proposed wetland and/or buffer compensation actions;
- (ii) Existing topography, ground-proofed, at two-foot contour intervals in the zone of the proposed compensation actions if any grading activity is proposed to create the compensation area(s). Existing cross-sections of on-site wetland areas that are proposed to be impacted. Cross-section(s) (estimated one-foot intervals) for the proposed areas of wetland or buffer compensation;
- (iii) Surface and subsurface hydrologic conditions including an analysis of existing and proposed hydrologic regimes for enhanced, created, or restored compensatory mitigation areas. Illustration of how data for existing hydrologic conditions were utilized to inform the estimates of future hydrologic regimes;
- (iv) Proposed conditions expected from the proposed actions on site including future HGM types, vegetation community types by dominant species (wetland and upland), and future hydrologic regimes;
- (v) Required wetland buffers for existing wetlands and proposed compensation areas. Zones where buffers are proposed to be reduced or enlarged outside of the standards identified in this chapter;
- (vi) A plant schedule including all species by proposed community type and hydrologic regime, size and type of plant material to be installed, spacing of plants, “typical” clustering patterns, total number of each species by community type, and timing of installation;
- (vii) Performance standards (measurable standards reflective of years post-installation) for upland and wetland communities, monitoring schedule, and maintenance schedule and actions by each bi-annum.

(c) Additional Information. When appropriate, the director may also require the critical area report to include an evaluation by the state Department of Ecology or an independent qualified expert regarding the applicant’s analysis and the effectiveness of any proposed mitigating measures or programs, and to include any recommendations as appropriate.

(1) If the development proposal site contains or is within a wetland area, the applicant shall submit an affidavit, which declares whether the applicant has knowledge of any illegal alteration to any or all wetlands on the proposed site and whether the applicant previously had been found in violation of this title. If the applicant has been found previously in violation, the applicant shall declare whether such violation has been corrected to the satisfaction of the jurisdiction.

(2) The director shall determine if the mitigation and monitoring plans and bonding measures proposed by the applicant are sufficient to protect the public health, safety, and welfare, consistent with the goals, purposes, objectives and requirements of Chapter 22.92 FMC and this chapter. (Ord. 1574 § 5, 2016; Ord. 1375 § 2, 2005).

22.93.070 Compensatory mitigation requirements.

(a) Compensatory mitigation for alterations to wetlands shall be used only for impacts that cannot be avoided or minimized and shall achieve equivalent or greater biologic functions. Compensatory mitigation plans shall be consistent with Wetland Mitigation in Washington State, Part 2: Developing Mitigation Plans – Version 1 (Ecology Publication No. 06-06-011b, Olympia, WA, March 2006 or as revised), and Selected Wetland Mitigation Sites using a Watershed Approach (Western Washington) (Publication No. 09-06-32, Olympia, WA, December 2009).

(b) Mitigation shall be required in the following order of preference:

- (1) Avoiding the impact altogether by not taking a certain action or parts of an action.
- (2) Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts.
- (3) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.
- (4) Reducing or eliminating the impact over time by preservation and maintenance operations.
- (5) Compensating for the impact by replacing, enhancing, or providing substitute resources or environments.
- (6) Monitoring the impact and taking appropriate corrective measures.

(c) Compensation for Lost or Affected Functions. Compensation shall address the functions affected by the proposed project, with an intention to achieve functional equivalency or improvement of functions. The goal shall be for the compensatory mitigation to provide similar wetland functions as those lost, except when either:

- (1) The lost wetland provides minimal functions as determined by a site-specific function assessment, and the proposed compensatory mitigation action(s) will provide equal or greater functions or will provide functions shown to be limiting within a watershed through a formal Washington State watershed assessment plan or protocol; or
- (2) Out-of-kind replacement of wetland type or functions will best meet watershed goals formally identified by the city, such as replacement of historically diminished wetland types.

(d) Preference of Mitigation Actions. Methods to achieve compensation for wetland functions shall be approached in the following order of preference:

- (1) Restoration (reestablishment and rehabilitation) of wetlands.
- (2) Creation (establishment) of wetlands on disturbed upland sites such as those with vegetative cover consisting primarily of nonnative introduced species. This should only be attempted when there is an adequate source of water and it can be shown that the surface and subsurface hydrologic regime is conducive for the wetland community that is anticipated in the design.

(3) Preservation (protection and maintenance) of wetlands. The removal of a threat to, or preventing the decline of, wetlands by an action in or near those wetlands. 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 aquatic resource area or functions but may result in a gain in functions over the long term. Preservation of a wetland and associated buffer can be used only if:

(a) The Administrator determines that the proposed preservation is the best mitigation option;

(b) The proposed preservation site is under threat of undesirable ecological change due to permitted, planned, or likely actions that will not be adequately mitigated under existing regulations;

(c) The area proposed for preservation is of high quality or critical for the health and ecological sustainability of the watershed or sub-basin. Some of the following features may be indicative of high-quality sites:

(i) Category I or II wetland rating;

(ii) Rare or irreplaceable wetland type (e.g. peatlands, mature forested wetland, estuaries, vernal pools, alkali wetlands) or aquatic habitat that is rare or a limited resource in the area;

(iii) The presence of habitat for threatened or endangered species (state, federal, or both);

(iv) Provides biological and/or hydrological connectivity to other habitats;

(v) Priority sites identified in an adopted watershed plan.

(d) Permanent preservation of the wetland and buffer shall be provided through a legal mechanism such as a conservation easement or tract held by an appropriate natural land resource manager/land trust.

(e) The Administrator may approve another legal and administrative mechanism in lieu of a conservation easement if it is determined to be adequate to protect the site.

(34) Enhancement of significantly degraded wetlands in combination with restoration or creation. Such enhancement should be part of a mitigation package that includes replacing the impacted area and meeting appropriate ratio requirements.

(e) Type and Location of Mitigation. Unless it is demonstrated that a higher level of ecological functioning would result from an alternate approach, compensatory mitigation for ecological functions shall be either in-kind and on-site, or in-kind and within the same stream reach or subbasin. Mitigation actions shall be conducted within the same subdrainage basin and on the same site as the alteration except when all of the following apply:

(1) There are no reasonable on-site or in-subdrainage basin opportunities (e.g., on-site options would require elimination of high functioning upland habitat), or on-site and in-subdrainage basin opportunities do not have a high likelihood of success based on a determination of the natural capacity of the site to compensate for the impacts. Consideration should include: anticipated wetland mitigation replacement ratios, buffer conditions and proposed widths, available water to maintain anticipated hydrogeomorphic classes of wetlands when restored, proposed flood storage capacity, potential to mitigate riparian fish and wildlife impacts (such as connectivity);

(2) Off-site mitigation has a greater likelihood of providing equal or improved wetland functions than the impacted wetland; and

(3) Off-site locations shall be in the same subdrainage basin unless:

(A) Established watershed goals for water quality, flood or conveyance, habitat, or other wetland functions have been established by the city and strongly justify location of mitigation at another site; or

(B) Credits from a state certified wetland mitigation bank are used as mitigation and the use of credits is consistent with the terms of the bank's certification.

(f) Timing of Compensatory Mitigation. It is preferred that compensation projects be completed prior to activities that will disturb the on-site wetlands. At the least, compensatory mitigation shall be completed immediately following disturbance and prior to use or occupancy of the action or development. Construction of mitigation projects shall be timed to reduce impacts to existing fisheries, wildlife, and flora.

The director may authorize a one-time temporary delay in completing construction or installation of the compensatory mitigation when the applicant provides a written explanation from a qualified wetland professional as

Commented [KG7]: Recommended addition by ECY to reflect current guidance and BAS.

to the rationale for the delay. An appropriate rationale would include identification of the environmental conditions that could produce a high probability of failure or significant construction difficulties (for example, project delay lapses past a fisheries window; or plan installation should be delayed until the dormant season to ensure greater survivability of installed materials). The delay shall not create or perpetuate hazardous conditions or environmental damage or degradation, and the delay shall not be injurious to the health, safety, and general welfare of the public. The request for the temporary delay must include a written justification that documents the environmental constraints that preclude implementation of the mitigation plan. The justification must be verified and approved by the city.

(g) Mitigation Ratios.

(1) Acreage Replacement Ratios. The following ratios in Table 22.93.A shall apply to creation or restoration, rehabilitation, reestablishment or creation and enhancement, or enhancement only, that is in-kind, is on-site, is the same category, is timed prior to or concurrent with alteration, and has a high probability of success. These ratios do not apply to remedial actions resulting from unauthorized alterations; greater ratios shall apply in those cases. These ratios do not apply to the use of credits from a state-certified wetland mitigation bank. When credits from a certified bank are used, replacement ratios should be consistent with the requirements of the bank's certification. The first number specifies the acreage of replacement wetlands and the second specifies the acreage of wetlands altered.

Table 22.93.A Mitigation Ratios

Category and Type of Wetland	Reestablishment or Creation	Rehabilitation**	1:1 Reestablishment or Creation (R/C) and Enhancement (E)	Wetland Preservation or Enhancement Only
All Category IV	1.5:1	3:1	1:1 R/C and 2:1 E	6:1
All Category III	2:1	4:1	1:1 R/C and 2:1 E	8:1
All Category II	3:1	6:1	1:1 R/C and 2:1 E	12:1
Category I Forested	6:1	12:1	1:1 R/C and 4:1 E	24:1
Category I based on score for functions	4:1	8:1	1:1 R/C and 2:1 E	16:1
Category I Natural Heritage site or Bog	Not considered possible*	6:1 rehabilitation of a Natural Heritage site Case-by-case	Not considered possible* Case-by-case	Case-by-case
Category I Bog	Not considered possible*	6:1 rehabilitation of a bog	Case-by-case	Case-by-case

Commented [KG8]: Edits in this table align the FMC with current mitigation ratio recommendations

* Natural Heritage sites and bogs are considered irreplaceable wetlands, and therefore no amount of compensation would replace these ecosystems. Avoidance is the best option. In the rare cases when impacts cannot be avoided, replacement ratios will be assigned on a case-by-case basis. However, these ratios will be significantly higher than the other ratios for Category I wetlands.

** Rehabilitation ratios are based on the assumption that actions judged to be most effective for that site are being implemented.

(2) Increased Replacement Ratio. The director may increase the ratios under the following circumstances:

- (A) Uncertainty exists as to the probable success of the proposed restoration or creation; or
- (B) A significant period of time will elapse between impact and establishment of wetland functions at the mitigation site; or
- (C) Proposed mitigation will result in a lower category wetland or reduced functions relative to the wetland being impacted; or
- (D) The impact was an unauthorized impact.

(3) Reduced Replacement Ratio. The director may reduce the ratios under the following circumstances:

(A) Documentation by a qualified wetland specialist demonstrates that the proposed mitigation actions have a very high likelihood of success based on prior experience; or

(B) Documentation by a qualified wetland specialist demonstrates that the proposed actions for compensation will provide functions and values that are significantly greater than the wetland being impacted; or

(C) The proposed actions for compensation are conducted in advance of the impact and are shown to be successful; or

(D) In wetlands where several HGM classes are found within one delineated boundary, the ratios can be decreased if:

(i) Impacts to the wetland are all within an area that has a different HGM class from the one used to establish the category; and

(ii) The category of this area with a different class is “lower” than that of the entire wetland; and

(iii) The proponents provide adequate hydrologic and geomorphic data to establish that the boundary between the HGM classes lies outside of the footprint of the impacts.

(h) Preservation. Impacts to wetlands may be mitigated by preservation of wetland areas when used in combination with other forms of mitigation such as creation, restoration, or enhancement at the preservation site or at a separate location. Preservation may also be used by itself, but more restrictions apply as outlined below.

(1) Preservation in Combination with Other Forms of Compensation. Using preservation as compensation is acceptable when done in combination with restoration, creation, or enhancement; provided, that a minimum of 1:1 acreage replacement is provided by restoration or creation and the criteria below are met:

(A) The impact area is small, and/or impacts are to a Category III or IV wetland;

(B) Preservation of a high quality system occurs in the same water resource inventory area (WRIA) or watershed basin where the wetland impact occurs;

(C) Preservation sites include buffer areas adequate to protect the habitat and its functions from encroachment and degradation; and

(D) Mitigation ratios for preservation in combination with other forms of mitigation shall range from 10:1 to 20:1, as determined on a case-by-case basis, depending on the quality of the wetlands being mitigated and the quality of the wetlands being preserved.

(2) Preservation as the Sole Means of Compensation for Wetland Impacts. Preservation of at-risk, high quality habitat may be considered as the sole means of compensation for wetland impacts when all of the following criteria are met:

(A) Preservation is used as a form of compensation only after the standard sequencing of mitigation (avoid, minimize, and then compensate) has been applied;

(B) Creation, restoration, and enhancement opportunities have also been considered, and preservation is the best mitigation option;

(C) The impact area is small, and/or impacts are to a Category III or IV wetland;

(D) Preservation of a high quality system occurs in the same water resource inventory area (WRIA) or watershed basin where the wetland impact occurs;

(E) Preservation sites include buffer areas adequate to protect the habitat and its functions from encroachment and degradation;

(F) The preservation site is determined to be under imminent threat, specifically, sites with the potential to experience a high rate of undesirable ecological change due to on-site or off-site activities. "Potential" includes permitted, planned, or likely actions that are not adequately protected under existing regulations (e.g., logging of forested wetlands); and

(G) The area proposed for preservation is of high quality and critical for the health of the watershed or basin. Some of the following features may be indicative of high quality sites:

- (i) Category I or II wetland rating;
- (ii) Rare wetland type (e.g., bogs and mature forested wetlands);
- (iii) Habitat for threatened or endangered species;
- (iv) Wetland type that is rare in the area;
- (v) Provides biological and/or hydrological connectivity;
- (vi) High regional or watershed importance (e.g., listed as priority site in watershed plan); and
- (vii) Large size with high species diversity (plants and/or animals) and/or high abundance.

(H) Mitigation ratios for preservation as the sole means of mitigation shall generally start at 20:1. Specific ratios should depend upon the significance of the preservation project and the quality of the wetland resources lost.

(i) Wetland Mitigation Banks.

(1) Credits from a wetland mitigation bank may be approved for use as compensation for unavoidable impacts to wetlands when:

- (A) The bank is certified under state rules;
- (B) The director determines that the wetland mitigation bank provides appropriate compensation for the authorized impacts; and
- (C) The proposed use of credits is consistent with the terms and conditions of the certified bank instrument.

(2) Replacement ratios for projects using bank credits shall be consistent with replacement ratios specified in the certified bank instrument.

(3) Credits from a certified wetland mitigation bank may be used to compensate for impacts located within the service area specified in the bank's certification. In some cases, bank service areas may include portions of more than one adjacent drainage basin for specific wetland functions.

(j) Credit/Debit Method. To more fully protect functions and values, and as an alternative to the mitigation ratios found in the joint guidance "Wetland Mitigation in Washington State Parts I and II" (Ecology Publication No. 06-06-011a-b, Olympia, WA, March, 2006), the director may allow mitigation based on the "credit/debit" method developed by the Department of Ecology in "Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Western Washington: Final Report," (Ecology Publication No. 10-06-011, Olympia, WA, March 2012, or as revised).

(k) In-Lieu Fee. To aid in the implementation of off-site mitigation, the city may develop an in-lieu fee program. This program shall be developed and approved through a public process and be consistent with federal rules, state

policy on in-lieu fee mitigation, and state water quality regulations. An approved in-lieu fee program sells compensatory mitigation credits to permittees whose obligation to provide compensatory mitigation is then transferred to the in-lieu program sponsor, a governmental or nonprofit natural resource management entity. Credits from an approved in-lieu fee program may be used when subsections (k)(1) through (6) of this section apply:

- (1) The approval authority determines that it would provide environmentally appropriate compensation for the proposed impacts.
- (2) The mitigation will occur on a site identified using the site selection and prioritization process in the approved in-lieu fee program instrument.
- (3) The proposed use of credits is consistent with the terms and conditions of the approved in-lieu fee program instrument.
- (4) Land acquisition and initial physical and biological improvements of the mitigation site must be completed within three years of the credit sale.
- (5) Projects using in-lieu fee credits shall have debits associated with the proposed impacts calculated by the applicant's qualified wetland scientist using the method consistent with the credit assessment method specified in the approved instrument for the in-lieu fee program.
- (6) Credits from an approved in-lieu fee program may be used to compensate for impacts located within the service area specified in the approved in-lieu fee instrument.

(l) Advance Mitigation. Mitigation for projects with pre-identified impacts to wetlands may be constructed in advance of the impacts if the mitigation is implemented according to federal rules, state policy on advance mitigation, and state water quality regulations.

(m) Alternative Mitigation Plans. The director may approve alternative critical areas mitigation plans that are based on best available science. Alternative mitigation proposals must provide an equivalent or better level of protection of critical area functions and values than would be provided by the strict application of this chapter.

The director shall consider the following for approval of an alternative mitigation proposal:

- (1) The proposal uses a watershed approach consistent with *Selecting Wetland Mitigation Sites Using a Watershed Approach (Western Washington)* (Ecology Publication No. 09-06-32, Olympia, WA, December 2009).
- (2) Creation or enhancement of a larger system of natural areas and open space is preferable to the preservation of many individual habitat areas.
- (3) Mitigation according to subsection (e) of this section is not feasible due to site constraints such as parcel size, stream type, wetland category, or geologic hazards.
- (4) There is clear potential for success of the proposed mitigation at the proposed mitigation site.
- (5) The plan shall contain clear and measurable standards for achieving compliance with the specific provisions of the plan. A monitoring plan shall, at a minimum, meet the provisions in FMC 22.93.060(d).
- (6) The plan shall be reviewed and approved as part of overall approval of the proposed use.
- (7) A wetland of a different type is justified based on regional needs or functions and values; the replacement ratios may not be reduced or eliminated unless the reduction results in a preferred environmental alternative.
- (8) Mitigation guarantees shall meet the minimum requirements as outlined in FMC 22.93.060(d)(2)(A)(viii).
- (9) Qualified professionals in each of the critical areas addressed shall prepare the plan.

(10) The city may consult with agencies with expertise and jurisdiction over the resources during the review to assist with analysis and identification of appropriate performance measures that adequately safeguard critical areas. (Ord. 1574 § 6, 2016; Ord. 1375 § 2, 2005).

22.93.080 Standards – Subdivisions.

The subdivision and short subdivision of land in wetlands and associated buffers is subject to the following:

- (a) Land that is located wholly within a wetland or its buffer may not be subdivided.
- (b) Land that is located partially within a wetland or its buffer may be subdivided; provided, that an accessible and contiguous portion of each new lot is located outside of the wetland and its buffer.
- (c) Access roads and utilities serving the proposed subdivision may be permitted within the wetland and associated buffers only if the city determines that no other feasible alternative exists and when consistent with Chapter 22.92 FMC and this chapter. (Ord. 1375 § 2, 2005).

22.93.090 Signs and fencing of wetlands.

(a) Temporary Markers. The outer perimeter of the wetland buffer and the clearing limits identified by an approved permit or authorization shall be marked in the field with temporary “clearing limits” fencing in such a way as to ensure that no unauthorized intrusion will occur. The marking is subject to inspection by the director prior to the commencement of permitted activities. This temporary marking shall be maintained throughout construction and shall not be removed until permanent signs, if required, are in place.

(b) Permanent Signs. As a condition of any permit or authorization issued pursuant to this chapter, the director may require the applicant to install permanent signs along the boundary of a wetland or buffer.

(1) Permanent signs shall be made of an enamel-coated metal face and attached to a metal post, or another nontreated material of equal durability. Signs must be posted at an interval of one per lot or every 50 feet, whichever is less, and must be maintained by the property owner in perpetuity. The sign shall be worded as follows or with alternative language approved by the director:

Protected Wetland Area
Do Not Disturb
Contact City of Fircrest
Regarding Uses, Restrictions, and Opportunities for Stewardship

(2) The provisions of subsection (b)(1) of this section may be modified as necessary to assure protection of sensitive features or wildlife.

(c) Fencing.

(1) The director shall determine if fencing is necessary to protect the functions and values of the critical area. If found to be necessary, the director shall condition any permit or authorization issued pursuant to this chapter to require the applicant to install a permanent fence at the edge of the wetland buffer, when fencing will prevent future impacts to the wetland.

(2) The applicant shall be required to install a permanent fence around the wetland or buffer when domestic grazing animals are present or may be introduced on site.

(3) Fencing installed as part of a proposed activity or as required in this subsection shall be designed so as to not interfere with species migration, including fish runs, and shall be constructed in a manner that minimizes impacts to the wetland and associated habitat. (Ord. 1375 § 2, 2005).

22.93.100 Wetland buffers.

(a) Buffer Requirements. The standard buffer widths in Table 22.93.B, below, have been established in accordance with the best available science. They are based on the category of wetland and the habitat score as determined by a qualified wetland professional using the Washington State wetland rating system for western Washington.

- (1) The use of the standard buffer widths requires the implementation of the measures in Table 22.93.C, below, where applicable, to minimize the impacts of the adjacent land uses.
- (2) If an applicant chooses not to apply the mitigation measures in Table 22.93.C, then a 33 percent increase in the width of all buffers is required. For example, a 75-foot buffer with the mitigation measures would be a 100-foot buffer without them.
- (3) The standard buffer widths assume that the buffer is vegetated with a native plant community appropriate for the ecoregion. If the existing buffer is unvegetated, sparsely vegetated, or vegetated with invasive species that do not perform needed functions, the buffer should either be planted to create the appropriate plant community or the buffer should be widened to ensure that adequate functions of the buffer are provided.
- (4) Additional buffer widths are added to the standard buffer widths. ~~For example, a Category I wetland scoring 32 points for habitat function would require a buffer of 225 feet (75 plus 150).~~

Commented [KM9]: Recommend deleting, given the change in habitat rating scores and standard buffer widths. We can still say that additional buffer can be added to minimum buffer widths without the second sentence.

Table 22.93.B Wetland Buffer Requirements for Western Washington

Commented [KG10]: Adding this table cleanly represents the City's wetland buffer requirements in alignment with state guidance/BAS.

Wetland Buffer Requirements				
Overall Wetland Rating	Wetland Characteristics	Intensity Land Use on the Upland Side of the Buffer		
		High ¹	Medium ²	Low ³
Category I	Habitat score of 8-9 points	300'	225'	150'
Category I	Habitat score of 6-7 points	150'	110'	75'
Category I	Water quality score of 8-9 points and a habitat score of less than 6 points	100'	75'	50'
Category I	Wetlands that do not meet the characteristics described above for category I wetlands	100'	75'	50'
Category II	Habitat score of 8-9 points	300'	225'	150'
Category II	Habitat score of 6-7 points	150'	110'	75'
Category II	Water quality score of 8-9 points and a habitat score of less than 6 points	100'	75'	50'
Category II	Wetlands that do not meet the characteristics described above for category II wetlands	100'	75'	50'
Category III	Habitat score of 8-9 points	300'	225'	150'
Category III	Habitat score of 6-7 points	150'	110'	75'
Category III	Habitat score of 3-5 points	80'	60'	40'
Category IV	Scores for all 3 basic functions are less than 16 points	50'	40'	25'

Table 22.93.C Required Measures to Minimize Impacts to Wetlands

Disturbance	Required Measures to Minimize Impacts
Lights	• Direct lights away from wetland
Noise	• Locate activity that generates noise away from wetland
	• If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source
	• For activities that generate relatively continuous, potentially disruptive noise, such as certain heavy industry or mining,

¹ High intensity land uses include commercial, industrial, and retail developments; institutional use; residential developments at more than 1 unit per acre; high intensity recreation areas (golf course, ball fields, etc.); and solar farms.

² Moderate intensity land uses include residential developments at less than 1 unit per acre; moderate intensity open space (parks with biking, jogging, etc.); and paved trails and utility corridors with maintenance roads.

³ Low intensity land uses include low intensity open space (hiking, birdwatching, preservation of natural resources, etc.); and unpaved trails and utility corridors without maintenance roads.

The Fircrest Municipal Code is current through Ordinance 1738, passed March 25, 2025.

Disturbance	Required Measures to Minimize Impacts
	establish an additional 10-foot, heavily vegetated buffer strip immediately adjacent to the outer wetland buffer
Toxic runoff	<ul style="list-style-type: none"> • Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered • Establish covenants limiting use of pesticides within 150 feet of wetland • Apply integrated pest management
Stormwater runoff	<ul style="list-style-type: none"> • Retrofit stormwater detention and treatment for roads and existing adjacent development • Prevent channelized flow from lawns that directly enters the buffer • Use low intensity development techniques (per PSAT publication on LID techniques)
Change in water regime	<ul style="list-style-type: none"> • Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns
Pets and human disturbance	<ul style="list-style-type: none"> • Use privacy fencing or plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion • Place wetland and its buffer in a separate tract or protect with a conservation easement
Dust	<ul style="list-style-type: none"> • Use best management practices to control dust
Disruption of corridors or connections	<ul style="list-style-type: none"> • Maintain connections to offsite areas that are undisturbed • Restore corridors or connections to offsite habitats by replanting

(b) Conditions for Increasing Buffer Widths or Enhancing Buffers.

(1) Buffer is not vegetated with plants appropriate for the region. The recommended widths for buffers are based on the assumption that the buffer is vegetated with a native plant community appropriate for the ecoregion or with one that performs similar functions. If the existing buffer is unvegetated, sparsely vegetated, or vegetated with nonnative species that do not perform needed functions, the buffer should either be planted to create the appropriate plant community or the buffer should be widened to ensure that adequate functions in the buffer are provided. Generally, improving the vegetation will be more effective than widening the buffer.

(2) Buffer has a steep slope. The effectiveness of buffers at removing pollutants before they enter a wetland decreases as the slope increases. If the buffer for a wetland is to be based on the score for its ability to improve water quality rather than habitat or other criteria, then the buffer should be increased by 50 percent if the slope is greater than 30 percent.

(3) Buffer is used by sensitive species. If the wetland provides habitat for a particularly sensitive species (such as a threatened or endangered species), the buffer width should be increased to provide adequate protection for the species based on its particular life history needs. Buffer requirements for certain priority species may be obtained from the Washington State Department of Fish and Wildlife.

(c) Buffer Averaging. The widths of buffers may be averaged if this will improve the protection of wetland functions, or if it is the only way to allow for reasonable use of a parcel.

(1) Averaging to improve wetland protection may be permitted when all of the following conditions are met:

(A) The wetland has significant differences in characteristics that affect its habitat functions, such as a wetland with a forested component adjacent to a degraded emergent component or a “dual-rated” wetland with a Category I area adjacent to a lower rated area; and

(B) The buffer is increased adjacent to the higher-functioning area of habitat or more sensitive portion of the wetland and decreased adjacent to the lower functioning or less sensitive portion; and

(C) The total area of the buffer after averaging is equal to the area required without averaging; and

(D) The buffer at its narrowest point is never less than 75 percent of the standard width or 75 feet for Category I and II, 50 feet for Category III, and 25 feet for Category IV, whichever is greater.

(2) Averaging to allow reasonable use of a parcel may be permitted when all of the following conditions are met:

(A) There are no feasible alternatives to the site design that could be accomplished without buffer averaging; and

(B) The averaged buffer will not result in degradation of the wetland's functions and values as demonstrated by a report from a qualified wetland expert; and

(C) The total area of the buffer after averaging is equal to the area required without averaging; and

(D) The buffer at its narrowest point is never less than 75 percent of the standard width or 75 feet for Category I and II, 50 feet for Category III, and 25 feet for Category IV, whichever is greater.

(d) Buffers on Mitigation Sites. All mitigation sites shall have buffers consistent with the buffer requirements of this chapter and based on expected or target category of the proposed wetland mitigation site.

(e) Buffer Maintenance. Except as otherwise specified or allowed in accordance with Chapter 22.92 FMC and this chapter, wetland buffers shall be retained in an undisturbed or enhanced condition. Removal of invasive nonnative weeds is required for the duration of the mitigation bond.

(f) Buffer Uses. The following uses may be permitted within a wetland buffer in accordance with the review procedures of Chapter 22.92 FMC and this chapter, provided they are not prohibited by any other applicable law and they are conducted in a manner so as to minimize impacts to the buffer and adjacent wetland:

(1) Conservation and restoration activities. Conservation or restoration activities aimed at protecting the soil, water, vegetation, or wildlife.

(2) Passive recreation. Passive recreation facilities designed and in accordance with an approved critical area report, including:

(A) Walkways and trails; provided, that those pathways are limited to minor crossings that have no adverse impact on water quality. They should be generally parallel to the perimeter of the wetland located only in the outer 25 percent of the buffer area, and located to avoid removal of significant trees. They should be limited to pervious surfaces no more than five feet in width for pedestrian use only. Raised boardwalks utilizing nontreated pilings area may be acceptable; and

(B) Wildlife viewing structures.

(3) Educational and scientific research activities.

(4) 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.

(5) The harvesting of wild crops in a manner that is not injurious to natural reproduction of such crops, and provided 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.

(6) Drilling for utilities/utility corridors under a buffer with the entrance/exit portals located completely outside of the wetland buffer boundary; provided, that the drilling does not interrupt the ground water connection to the wetland or percolation of surface water down through the soil column. 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 will be disturbed.

(7) Enhancement of a wetland buffer through the removal of nonnative invasive plant species. Removal of invasive plant species shall be restricted to hand removal unless permits from the appropriate regulatory agencies have been obtained for approved biological or chemical treatments. All removed plant material shall be taken away from the site and appropriately disposed of. Plants that appear on the Washington State Noxious Weed Control Board list of noxious weeds must be handled and disposed of according to a noxious weed control plan appropriate to the species. Revegetation with appropriate native species at natural densities is allowed in conjunction with removal of invasive plant species.

(8) Stormwater management facilities. Stormwater management facilities are limited to stormwater dispersion outfalls and bioswales. They may be allowed within the outer 25 percent of the buffer of Category III or IV wetlands only; provided, that:

- (A) No other location is feasible;
- (B) The location of such facilities will not degrade the functions or values of the wetland; and
- (C) Stormwater management facilities are not allowed in buffers of Category I or II wetlands.

(9) Nonconforming uses. Repair and maintenance of nonconforming uses or structures, where legally established within the buffer, provided they do not increase the degree of nonconformity. (Ord. 1574 § 7, 2016; Ord. 1375 § 2, 2005).

22.93.110 Residential density and on-site density transfer.

The purpose of on-site density transfer is to cluster development in a manner that provides protection for wetlands and allows transfer of residential density from a wetland and/or wetland buffer to an area on the same site that is neither wetland nor buffer. A request for on-site density transfer shall be considered pursuant to the planned development review process in Chapter 22.76 FMC.

Those portions of the wetland and/or wetland buffer in which regulated activities are proposed to occur shall not be considered in calculating density transfer. Density transfer shall be determined as follows:

- (a) For sites containing regulated wetland buffer areas, full density credit may be transferred from the buffer area to the nonbuffer area.
- (b) For sites containing regulated wetland areas, density transfer shall be calculated from the following table.

On-Site Density Transfer

Percentage of site in wetland	Amount of credit
0 – 25%	75%
26 – 50%	50%
51 – 100%	25%

(Ord. 1375 § 2, 2005).

22.93.120 Stormwater management impacts to wetlands.

Repealed by Ord. 1574. (Ord. 1375 § 2, 2005).

22.93.130 Alternate review process – Army Corps of Engineers Section 404 individual permits.

When an Army Corps of Engineers Section 404 permit is required for a project involving wetlands, the Army Corps permitting process may be substituted for the city permitting process. If a proposal reviewed and conditioned by the Corps satisfies the intent of this chapter, no further wetland review shall be required by the city. If a proposal reviewed and conditioned by the Corps does not satisfy the intent of this chapter, then a critical areas report shall be prepared in accordance with FMC 22.93.030, and modifications made to the project if warranted, in order to

demonstrate compliance with this chapter. All permits and approvals required by other city development regulations shall be required. (Ord. 1375 § 2, 2005).

Chapter 22.94
CRITICAL AQUIFER RECHARGE AREAS

Sections:

- 22.94.010 Critical aquifer recharge areas designation.
- 22.94.020 Aquifer recharge area susceptibility ratings.
- 22.94.030 Location and designation of critical aquifer recharge areas.
- 22.94.040 Activities allowed in critical aquifer recharge areas.
- 22.94.050 Critical area report – Additional requirements for critical aquifer recharge areas.
- 22.94.060 Performance standards – General requirements.
- 22.94.070 Performance standards – Specific uses.
- 22.94.080 Uses prohibited from critical aquifer recharge areas.

22.94.010 Critical aquifer recharge areas designation.

Critical aquifer recharge areas (CARAs) are those areas with a critical recharging effect on aquifers used for potable water as defined by WAC 365-190-030(2). CARAs have prevailing geologic conditions associated with infiltration rates that create a high potential for contamination of ground water resources or contribute significantly to the replenishment of ground water. These areas include the following:

- (a) Wellhead Protection Areas. Wellhead protection areas may be defined by the boundaries of the 10-year time of ground water travel or boundaries established using alternate criteria approved by the Washington State Department of Health in those settings where ground water time of travel is not a reasonable delineation criterion, in accordance with WAC 246-290-135.
- (b) Sole Source Aquifers. Sole source aquifers are areas that have been designated by the U.S. Environmental Protection Agency pursuant to the Federal Safe Drinking Water Act.
- (c) Susceptible Ground Water Management Areas. Susceptible ground water management areas are areas that have been designated as moderately or highly vulnerable or susceptible in an adopted ground water management program developed pursuant to Chapter 173-100 WAC.
- (d) Special Protection Areas. Special protection areas are those areas defined by WAC 173-200-090.
- (e) Moderately or Highly Vulnerable Aquifer Recharge Areas. Aquifer recharge areas that are moderately or highly vulnerable to degradation or depletion because of hydrogeologic characteristics are those areas delineated by a hydrogeologic study prepared in accordance with the state Department of Ecology guidelines.
- (f) Moderately or Highly Susceptible Aquifer Recharge Areas. Aquifer recharge areas moderately or highly susceptible to degradation or depletion because of hydrogeologic characteristics are those areas meeting the criteria established by the state Department of Ecology. (Ord. 1375 § 3, 2005).

22.94.020 Aquifer recharge area susceptibility ratings.

Aquifer recharge areas shall be rated as having high, moderate, or low susceptibility based on soil permeability, geologic matrix, infiltration, and depth to water as determined by the criteria established by the state Department of Ecology. (Ord. 1375 § 3, 2005).

22.94.030 Location and designation of critical aquifer recharge areas.

The entire city is located within the Clover-Chambers Creek Groundwater Management Area, which has a critical recharging effect on the Tacoma and Clover-Chambers Creek Aquifers. The EPA Region X has designated the Clover-Chambers Creek Aquifer a sole source aquifer. (Ord. 1375 § 3, 2005).

22.94.040 Activities allowed in critical aquifer recharge areas.

The following activities are allowed in critical aquifer recharge areas pursuant to FMC 22.94.010 and do not require submission of a critical area report:

(a) Construction of structures and improvements, including additions, resulting in less than five percent or 2,500 square feet (whichever is greater) total site impervious surface area that does not result in a change of use or increase the use of a hazardous substance.

(b) Development and improvement of parks, recreation facilities, open space, or conservation areas resulting in less than five percent total site impervious surface area that do not increase the use of a hazardous substance.

(c) On-site domestic septic systems releasing less than 14,500 gallons of effluent per day and that are limited to a maximum density of one system per one acre, except as prohibited under FMC Title 20. (Ord. 1375 § 3, 2005).

22.94.050 Critical area report – Additional requirements for critical aquifer recharge areas.

In addition to the general critical area report requirements of FMC 22.92.160, critical area reports for critical aquifer recharge areas must meet the requirements of this section. Critical area reports for two or more types of critical areas must meet the report requirements for each relevant type of critical area.

(a) Preparation by a Qualified Professional. An aquifer recharge area critical area report shall be prepared by a qualified professional who is a hydrogeologist, geologist, or engineer, who is licensed in the state of Washington and has experience in preparing hydrogeologic assessments.

(b) Hydrogeologic Assessment. For all proposed activities to be located in a critical aquifer recharge area, a critical area report shall contain a level one hydrogeological assessment. A level two hydrogeologic assessment shall be required for any of the following proposed activities:

- (1) Activities that result in five percent or more impervious site area;
- (2) Activities that divert, alter, or reduce the flow of surface or ground waters, of otherwise reduce the recharging of the aquifer;
- (3) The use of hazardous substances, other than household chemicals used according to the directions specified on the packaging for domestic applications;
- (4) The use of injection wells, including on-site septic systems, except those domestic septic systems releasing less than 14,500 gallons of effluent per day and that are limited to a maximum density of one system per one acre, except as prohibited by FMC Title 20; or
- (5) Any other activity determined by the director likely to have an adverse impact on ground water quality or quantity or on the recharge of the aquifer.

(c) Level One Hydrogeologic Assessment. A level one hydrogeologic assessment shall include the following site- and proposal-related information at a minimum:

- (1) Available information regarding geologic and hydrogeologic characteristics of the site including the surface location of all critical aquifer recharge areas located on site or immediately adjacent to the site, and permeability of the unsaturated zone;
- (2) Ground water depth, flow direction, and gradient based on available information;
- (3) Currently available data on wells and springs within 1,300 feet of the project area;
- (4) Location of other critical areas, including surface waters, within 1,300 feet of the project area;
- (5) Available historic water quality data for the area to be affected by the proposed activity; and
- (6) Best management practices proposed to be utilized.

(d) Level Two Hydrogeologic Assessment. A level two hydrogeologic assessment shall include the following site- and proposal-related information at a minimum, in addition to the requirements for a level one hydrogeological assessment:

- (1) Historic water quality data for the area to be affected by the proposed activity compiled for at least the previous five-year period;
- (2) Ground water monitoring plan provisions;
- (3) Discussion of the effects of the proposed project on the ground water quality and quantity, including:
 - (A) Predictive evaluation of ground water withdrawal effects on nearby wells and surface water features; and
 - (B) Predictive evaluation of contaminant transport based on potential releases to ground water; and
- (4) A spill plan that identifies equipment and/or structures that could fail, resulting in an impact. Spill plans shall include provisions for regular inspection, repair, and replacement of structures and equipment that could fail. (Ord. 1375 § 3, 2005).

22.94.060 Performance standards – General requirements.

- (a) Activities may only be permitted in a critical aquifer recharge area if the applicant can show that the proposed activity will not cause contaminants to enter the aquifer and that the proposed activity will not adversely effect the recharging of the aquifer.
- (b) The proposed activity must comply with the water source protection requirements and recommendations of the U.S. Environmental Protection Agency, Washington State Department of Health, and Tacoma-Pierce County Health Department.
- (c) The proposed activity must be designed and constructed in accordance with the Department of Ecology Stormwater Management Manual for Western Washington. (Ord. 1375 § 3, 2005).

22.94.070 Performance standards – Specific uses.

- (a) Storage Tanks. All storage tanks proposed to be located in a critical aquifer recharge area must comply with local building code requirements and must conform to the following requirements:
 - (1) Underground Tanks. All new underground storage facilities proposed for use in the storage of hazardous substances or hazardous wastes shall be designed and constructed so as to:
 - (A) Prevent releases due to corrosion or structural failure for the operational life of the tank;
 - (B) Be protected against corrosion, constructed of noncorrosive material, steel clad with a noncorrosive material, or designed to include a secondary containment system to prevent the release or threatened release of any stored substances; and
 - (C) Use material in the construction or lining of the tank that is compatible with the substance to be stored.
 - (2) Aboveground Tanks. All new aboveground storage facilities proposed for use in the storage of hazardous substances or hazardous wastes shall be designed and constructed so as to:
 - (A) Not allow the release of a hazardous substance to the ground, ground waters, or surface waters;
 - (B) Have a primary containment area enclosing or underlying the tank or part thereof; and
 - (C) A secondary containment system either built into the tank structure or a dike system built outside the tank for all tanks.
- (b) Vehicle Repair and Servicing.
 - (1) Vehicle repair and servicing must be conducted over impermeable pads and within a covered structure capable of withstanding normally expected weather conditions. Chemicals used in the process of vehicle repair

and servicing must be stored in a manner that protects them from weather and provides containment should leaks occur.

(2) No dry wells shall be allowed in critical aquifer recharge areas on sites used for vehicle repair and servicing. Dry wells existing on the site prior to facility establishment must be abandoned using techniques approved by the state Department of Ecology prior to commencement of the proposed activity.

(c) Residential Use of Pesticides and Nutrients. Application of household pesticides, herbicides, and fertilizers shall not exceed times and rates specified on the packaging.

(d) Use of Reclaimed Water for Surface Percolation or Direct Recharge. Water reuse projects for reclaimed water must be in accordance with the adopted water or sewer comprehensive plans that have been approved by the state Departments of Ecology and Health.

(1) Use of reclaimed water for surface percolation must meet the ground water recharge criteria given in RCW 90.46.010(10) and 90.46.080(1). The state Department of Ecology may establish additional discharge limits in accordance with RCW 90.46.080(2).

(2) Direct injection must be in accordance with the standards developed by authority of RCW 90.46.042.

(e) State and Federal Regulations. The uses listed below shall be conditioned as necessary to protect critical aquifer recharge areas in accordance with the applicable state and federal regulations.

**Statutes, Regulations, and Guidance Pertaining to
 Ground-Water-Impacting Activities**

Activity	Statute – Regulation – Guidance
Aboveground Storage Tanks	WAC 173-303-640
Automobile Washers	Chapter 173-216 WAC, Best Management Practices for Vehicle and Equipment Discharges (Washington Department of Ecology WQ-R-95-56)
Belowground Storage Tanks	Chapter 173-360 WAC
Chemical Treatment Storage and Disposal Facilities	WAC 173-303-182
Hazardous Waste Generator (Boat Repair Shops, Biological Research Facility, Dry Cleaners, Furniture Stripping, Motor Vehicle Service Garages, Photographic Processing, Printing and Publishing Shops, etc.)	Chapter 173-303 WAC
Injection Wells	40 CFR Parts 144 and 146, Chapter 173-218 WAC
On-Site Sewage Systems (Large Scale)	Chapter 173-240 WAC
On-Site Sewage Systems (< 14,500 gal/day)	Chapter 246-272 WAC, Local Health Ordinances
Pesticide Storage and Use	Chapter 15.54 RCW, Chapter 17.21 RCW
Solid Waste Handling and Recycling Facilities	Chapter 173-304 WAC

(Ord. 1375 § 3, 2005).

The Fircrest Municipal Code is current through Ordinance 1738, passed March 25, 2025.

22.94.080 Uses prohibited from critical aquifer recharge areas.

The following activities and uses are prohibited in critical aquifer recharge areas:

- (a) Landfills. Landfills, including hazardous or dangerous waste, municipal solid waste, special waste, wood waste, and inert and demolition waste landfills;
- (b) Underground Injection Wells. Class I, III, and IV wells and subclasses 5F01, 5D03, 5F04, 5W09, 5W10, 5W11, 5W31, 5X13, 5X14, 5X15, 5W20, 5X28, and 5N24 of Class V wells;
- (c) Mining.
 - (1) Metals and hard rock mining; and
 - (2) Sand and gravel mining, prohibited from critical aquifer recharge areas determined to be highly susceptible or vulnerable;
- (d) Wood Treatment Facilities. Wood treatment facilities that allow any portion of the treatment process to occur over permeable surfaces (both natural and manmade);
- (e) Storage, Processing, or Disposal of Radioactive Substances. Facilities that store, process, or dispose of radioactive substances; and
- (f) Other Prohibited Uses or Activities.
 - (1) Activities that would significantly reduce the recharge to aquifers currently or potentially used as a potable water source;
 - (2) Activities that would significantly reduce the recharge to aquifers that are a source of significant baseflow to a regulated stream; and
 - (3) Activities that are not connected to an available sanitary sewer system, prohibited from critical aquifer recharge areas associated with sole source aquifers. (Ord. 1375 § 3, 2005).

Chapter 22.97
FISH AND WILDLIFE HABITAT CONSERVATION AREAS

Sections:

- 22.97.010 Designation of fish and wildlife habitat conservation areas.
- 22.97.020 Critical area report – Additional requirements for habitat conservation areas.
- 22.97.030 Performance standards – General requirements.
- 22.97.040 Performance standards – Specific habitats.

22.97.010 Designation of fish and wildlife habitat conservation areas.

(a) Fish and wildlife habitat conservation areas include:

(1) Areas with which State or Federally Designated Endangered, Threatened, and Sensitive Species Have a Primary Association.

(A) Federally designated endangered and threatened species are those fish and wildlife species identified by the U.S. Fish and Wildlife Service and the National Marine Fisheries Service that are in danger of extinction or threatened to become endangered. The U.S. Fish and Wildlife Service and the National Marine Fisheries Service should be consulted for current listing status.

(B) State-designated endangered, threatened, and sensitive species are those fish and wildlife species native to the state of Washington, identified by the Washington State Department of Fish and Wildlife, that are in danger of extinction, threatened to become endangered, vulnerable, or declining and are likely to become endangered or threatened in a significant portion of their range within the state without cooperative management or removal of threats. State-designated endangered, threatened, and sensitive species are periodically recorded in WAC 232-12-014 (state endangered species) and WAC 232-12-011 (state threatened and sensitive species). The state Department of Fish and Wildlife maintains the most current listing and should be consulted for current listing status.

(2) State Priority Habitats and Areas Associated with State Priority Species. Priority habitats and species are considered to be priorities for conservation and management. Priority species require protective measures for their perpetuation due to their population status, sensitivity to habitat alteration, and/or recreational, commercial, or tribal importance. Priority habitats are those habitat types or elements with unique or significant value to a diverse assemblage of species. A priority habitat may consist of a unique vegetation type or dominant plant species, a described successional stage, or a specific structural element. Priority habitats and species are identified by the state Department of Fish and Wildlife.

(3) Habitats and Species of Local Importance. Habitats and species of local importance are those identified by the city, including but not limited to those habitats and species that, due to their population status or sensitivity to habitat manipulation, warrant protection. Habitats may include a seasonal range or habitat element with which a species has a primary association, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term.

(4) Naturally Occurring Ponds Under 20 Acres. Naturally occurring ponds are those ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat, including those artificial ponds intentionally created from dry areas in order to mitigate impacts to ponds. Naturally occurring ponds do not include ponds deliberately designed and created from dry sites, such as canals, detention facilities, wastewater treatment facilities, farm ponds, temporary construction ponds, and landscape amenities, unless such artificial ponds were intentionally created for mitigation.

(5) Waters of the State. Waters of the state include lakes, rivers, ponds, streams, inland waters, underground waters, salt waters, and all other surface waters and watercourses within the jurisdiction of the state of Washington, as classified in WAC 222-16-031 (or WAC 222-16-030 depending on classification used).

(6) Lakes, ponds, streams, and rivers planted with game fish by a governmental entity.

(7) State Natural Area Preserves and Natural Resource Conservation Areas. Natural area preserves and natural resource conservation areas are defined, established, and managed by the Washington State Department of Natural Resources.

(8) Areas of Rare Plant Species and High Quality Ecosystems. Areas of rare plant species and high quality ecosystems are identified by the Washington State Department of Natural Resources through the Natural Heritage Program.

(9) Land useful or essential for preserving connections between habitat blocks and open spaces.

(b) All areas within the city meeting one or more of these criteria, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of Chapter 22.92 FMC and this chapter and shall be managed consistent with the best available science, such as the Washington State Department of Fish and Wildlife's Management Recommendations for Priority Habitat and Species.

(c) Mapping. The approximate location and extent of habitat conservation areas are shown on the adopted critical area map contained within the comprehensive plan. In addition, the following maps are hereby adopted by reference and declared part of this chapter:

- (1) Washington State Department of Fish and Wildlife Priority Habitat and Species maps;
- (2) Washington State Department of Natural Resources, Official Water Type Reference maps, as amended;
- (3) Washington State Department of Natural Resources Natural Heritage Program mapping data;
- (4) Anadromous and resident salmonid distribution maps contained in the Habitat Limiting Factors reports published by the Washington Conservation Commission; and
- (5) Washington State Department of Natural Resources State Natural Area Preserves and Natural Resource Conservation Area maps.

These maps are to be used as a guide for the city, project applicants, and/or property owners and should be continuously updated as new critical areas are identified. They are a reference and do not provide a final critical area designation. (Ord. 1375 § 6, 2005).

22.97.020 Critical area report – Additional requirements for habitat conservation areas.

In addition to the general critical area report requirements of FMC 22.92.160, critical area reports for habitat conservation areas must meet the requirements of this section. Critical area reports for two or more types of critical areas must meet the report requirements for each relevant type of critical area.

(a) Preparation by a Qualified Professional. A critical areas report for a habitat conservation area shall be prepared by a qualified professional who is a biologist with experience preparing reports for the relevant type of habitat.

(b) Areas Addressed in Critical Area Report. The following areas shall be addressed in a critical area report for habitat conservation areas:

- (1) The project area of the proposed activity;
- (2) All habitat conservation areas and recommended buffers within 300 feet of the project area; and
- (3) All shoreline areas, floodplains, other critical areas, and related buffers within 300 feet of the project area.

(c) Habitat Assessment. A habitat assessment is an investigation of the project area to evaluate the potential presence or absence of designated critical fish or wildlife species or habitat. A critical area report for a habitat conservation area shall contain an assessment of habitats including the following site- and proposal-related information at a minimum:

- (1) Detailed description of vegetation on and adjacent to the project area and its associated buffer;

(2) Identification of any species of local importance, priority species, or endangered, threatened, sensitive, or candidate species that have a primary association with habitat on or adjacent to the project area, and assessment of potential project impacts to the use of the site by the species;

(3) A discussion of any federal, state, or local special management recommendations, including Washington State Department of Fish and Wildlife habitat management recommendations, that have been developed for species or habitats located on or adjacent to the project area;

(4) A detailed discussion of the direct and indirect potential impacts on habitat by the project, including potential impacts to water quality;

(5) A discussion of measures, including avoidance, minimization, and mitigation, proposed to preserve existing habitats and restore any habitat that was degraded prior to the current proposed land use activity and to be conducted in accordance with the mitigation sequencing order specified in FMC 22.92.190; and

(6) A discussion of ongoing management practices that will protect habitat after the project site has been developed, including proposed monitoring and maintenance programs.

(d) Additional Information May Be Required. When appropriate due to the type of habitat or species present or the project area conditions, the director may also require the habitat management plan to include:

(1) An evaluation by an independent qualified professional regarding the applicant's analysis and the effectiveness of any proposed mitigating measures or programs, to include any recommendations as appropriate;

(2) A request for consultation with the Washington State Department of Fish and Wildlife or other appropriate agency; and

(3) Detailed surface and subsurface hydrologic features both on and adjacent to the site. (Ord. 1375 § 6, 2005).

22.97.030 Performance standards – General requirements.

(a) Alterations. A habitat conservation area may be altered only if the proposed alteration of the habitat or the mitigation proposed does not degrade the quantitative and qualitative functions and values of the habitat. All new structures and land alterations shall be prohibited from habitat conservation areas, except in accordance with Chapter 22.92 FMC and this chapter.

(b) Nonindigenous Species. No plant, wildlife, or fish species not indigenous to the region shall be introduced into a habitat conservation area unless authorized by a state or federal permit or approval.

(c) Mitigation and Contiguous Corridors. Mitigation sites shall be located to reserve or achieve contiguous wildlife habitat corridors in accordance with a mitigation plan that is part of an approved critical area report to minimize the isolating effects of development on habitat areas, so long as mitigation of aquatic habitat is located within the same aquatic ecosystem as the area disturbed.

(d) Approvals of Activities. The director shall condition approvals of activities allowed within or adjacent to a habitat conservation area or its buffers, as necessary to minimize or mitigate any potential adverse impacts. Conditions shall be based on the best available science and may include, but are not limited to, the following:

(1) Establishment of buffer zones;

(2) Preservation of critically important vegetation and/or habitat features such as snags and downed wood;

(3) Limitation of access to the habitat area, including fencing to deter unauthorized access;

(4) Seasonal restriction of construction activities;

(5) Establishment of a duration and timetable for periodic review of mitigation activities; and

(6) Requirement of a performance bond, when necessary, to ensure completion and success of proposed mitigation.

(e) Mitigation and Equivalent or Greater Biological Functions. Mitigation of alterations to habitat conservation areas shall achieve equivalent or greater biologic and hydrologic functions and shall include mitigation for adverse impacts upstream or downstream of the development proposal site. Mitigation shall address each function affected by the alteration to achieve functional equivalency or improvement on a per function basis.

(f) Approvals and the Best Available Science. Any approval of alterations or impacts to a habitat conservation area shall be supported by the best available science.

(g) Buffers.

(1) Establishment of Buffers. The director shall require the establishment of buffer areas for activities adjacent to habitat conservation areas when needed to protect habitat conservation areas. Buffers shall consist of an undisturbed area of native vegetation or areas identified for restoration established to protect the integrity, functions, and values of the affected habitat. Required buffer widths shall reflect the sensitivity of the habitat and the type and intensity of human activity proposed to be conducted nearby and shall be consistent with the management recommendations issued by the Washington State Department of Fish and Wildlife. Habitat conservation areas and their buffers shall be preserved in perpetuity through the use of native growth protection areas and critical area tracts in accordance with FMC 22.92.320 and 22.92.330.

(2) Seasonal Restrictions. When a species is more susceptible to adverse impacts during specific periods of the year, seasonal restrictions may apply. Larger buffers may be required and activities may be further restricted during the specified season.

(3) Habitat Buffer Averaging. The director may allow the recommended habitat area buffer width to be reduced in accordance with a critical area report, the best available science, and the management recommendations issued by the Washington State Department of Fish and Wildlife, only if:

(A) It will not reduce stream or habitat functions;

(B) It will not adversely affect salmonid habitat;

(C) It will provide additional natural resource protection, such as buffer enhancement;

(D) The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer; and

(E) The buffer area width is not reduced by more than 25 percent in any location.

(h) Signs and Fencing of Habitat Conservation Areas.

(1) Temporary Markers. The outer perimeter of the habitat conservation area or buffer and the limits of those areas to be disturbed pursuant to an approved permit or authorization shall be marked in the field in such a way as to ensure that no unauthorized intrusion will occur and verified by the director prior to the commencement of permitted activities. This temporary marking shall be maintained throughout construction and shall not be removed until permanent signs, if required, are in place.

(2) Permanent Signs. As a condition of any permit or authorization issued pursuant to this chapter, the director may require that applicant to install permanent signs along the boundary of a habitat conservation area or buffer.

(A) Permanent signs shall be made of a metal face and attached to a metal post or another material of equal durability. Signs must be posted at an interval of one per lot or every 50 feet, whichever is less, and must be maintained by the property owner in perpetuity. The sign shall be worded as follows or with alternative language approved by the director:

Habitat Conservation Area
Do Not Disturb
Contact City of Fircrest
Regarding Uses, Restrictions and Opportunities for Stewardship

(B) The provisions of subsection (h)(2)(A) of this section may be modified by the director as necessary to assure protection of sensitive features or wildlife.

(3) Fencing.

(A) The director shall determine if fencing is necessary to protect the functions and values of the critical area. If found to be necessary, the director shall condition any permit or authorization issued pursuant to this chapter to require the applicant to install a permanent fence at the edge of the habitat conservation area or buffer, when fencing will prevent future impacts to the habitat conservation area.

(B) The applicant shall be required to install a permanent fence around the habitat conservation area or buffer when domestic grazing animals are present or may be introduced on site.

(C) Fencing installed as part of a proposed activity or as required in this subsection shall be designed so as to not interfere with species migration, including fish runs, and shall be constructed in a manner that minimizes habitat impacts.

(i) Subdivisions. The subdivision and short subdivision of land in fish and wildlife habitat conservation areas and associated buffers is subject to the following:

(1) Land that is located wholly within a habitat conservation area or its buffer may not be subdivided.

(2) Land that is located partially within a habitat conservation area or its buffer may be divided; provided, that the developable portion of each new lot and its access is located outside of the habitat conservation area or its buffer and meets the minimum lot size requirements of this title.

(3) Access roads and utilities serving the proposed subdivision may be permitted within the habitat conservation area and associated buffers only if the city determines that no other feasible alternative exists and when consistent with this chapter. (Ord. 1375 § 6, 2005).

22.97.040 Performance standards – Specific habitats.

(a) Endangered, Threatened, and Sensitive Species.

(1) No development shall be allowed within a habitat conservation area or buffer with which state or federally endangered, threatened, or sensitive species have a primary association, except that which is provided for by a management plan established by the Washington State Department of Fish and Wildlife or applicable state or federal agency.

(2) Whenever activities are proposed adjacent to a habitat conservation area with which state or federally endangered, threatened, or sensitive species have a primary association, such area shall be protected through the application of protection measures in accordance with a critical area report prepared by a qualified professional and approved by the city. Approval for alteration of land adjacent to the habitat conservation area or its buffer shall not occur prior to consultation with the Washington State Department of Fish and Wildlife for animal species, the Washington State Department of Natural Resources for plant species, and other appropriate federal or state agencies.

(3) Bald eagle habitat shall be protected pursuant to the Washington State Bald Eagle Protection Rules (WAC 232-12-292). Whenever activities are proposed adjacent to a verified nest territory or communal roost, a habitat management plan shall be developed by a qualified professional. Activities are adjacent to bald eagle sites when they are within 800 feet. The city shall verify the location of eagle management areas for each proposed activity. Approval of the activity shall not occur prior to approval of the habitat management plan by the Washington State Department of Fish and Wildlife.

(b) Anadromous Fish.

(1) All activities, uses, and alterations proposed to be located in water bodies used by anadromous fish or in areas that affect such water bodies shall give special consideration to the preservation and enhancement of anadromous fish habitat, including, but not limited to, adhering to the following standards:

(A) Activities shall be timed to occur only during the allowable work window as designated by the Washington State Department of Fish and Wildlife for the applicable species;

(B) An alternative alignment or location for the activity is not feasible;

(C) The activity is designed so that it will not degrade the functions or values of the fish habitat or other critical areas;

(D) Shoreline erosion control measures shall be designed to use bioengineering methods or soft armoring techniques, according to an approved critical area report; and

(E) Any impacts to the functions or values of the habitat conservation area are mitigated in accordance with an approved critical area report.

(2) Structures that prevent the migration of salmonids shall not be allowed in the portion of water bodies currently or historically used by anadromous fish. Fish bypass facilities shall be provided that allow the upstream migration of adult fish and shall prevent fry and juveniles migrating downstream from being trapped or harmed.

(3) Fills shall not adversely impact anadromous fish or their habitat or shall mitigate any unavoidable impacts and shall only be allowed for a water dependent use.

(c) Wetland Habitats. All proposed activities within or adjacent to habitat conservation areas containing wetlands shall conform to the wetland development performance standards set forth in Chapter 22.93 FMC. If nonwetlands habitat and wetlands are present at the same location, the provisions of Chapter 22.93 FMC or this chapter, whichever provides greater protection to the habitat, shall apply.

(d) Riparian Habitat Areas. Unless otherwise allowed in Chapter 22.92 FMC and this chapter, all structures and activities shall be located outside of the riparian habitat area.

(1) Establishment of Riparian Habitat Areas. Riparian habitat areas shall be established for habitats that include aquatic and terrestrial ecosystems that mutually benefit each other and that are located adjacent to rivers, perennial or intermittent streams, seeps, and springs.

(2) Riparian Habitat Area Widths. Recommended riparian habitat area widths are shown in the table below. A riparian habitat area shall have the width recommended, unless a greater width is required pursuant to subsection (d)(3) of this section, or a lesser width is allowed pursuant to subsection (d)(4) of this section. Widths shall be measured outward in each direction, on the horizontal plane, from the ordinary high water mark, or from the top of bank, if the ordinary high water mark cannot be identified. Riparian areas should be sufficiently wide to achieve the full range of riparian and aquatic ecosystem functions, which include but are not limited to protection of instream fish habitat through control of temperature and sedimentation in streams; preservation of fish and wildlife habitat; and connection of riparian wildlife habitat to other habitats.

Riparian Habitat Areas

Stream type	Recommended RHA widths
Type 1 and 2; or shorelines of the state, or shorelines of statewide significance	250 feet
Type 3; or other perennial or fish-bearing streams, 5 – 20 feet wide	200 feet

The Fircrest Municipal Code is current through Ordinance 1738, passed March 25, 2025.

Stream type	Recommended RHA widths
Type 3; or other perennial or fish-bearing streams, < 5 feet wide	150 feet
Type 4 and 5; or intermittent streams and washes with low mass wasting potential	150 feet

(3) Increased Riparian Habitat Area Widths. The recommended riparian habitat area widths shall be increased, as follows:

- (A) When the director determines that the recommended width is insufficient to prevent habitat degradation and to protect the structure and functions of the habitat area;
- (B) When the frequently flooded area exceeds the recommended riparian habitat area width, the riparian habitat area shall extend to the outer edge of the frequently flooded area;
- (C) When a channel migration zone is present, the riparian habitat area width shall be measured from the outer edge of the channel migration zone;
- (D) When the habitat area is in an area of high blowdown potential, the riparian habitat area width shall be expanded an additional 50 feet on the windward side; or
- (E) When the habitat area is within an erosion or landslide hazard area or buffer, the riparian habitat area width shall be the recommended distance, or the erosion or landslide hazard area or buffer, whichever is greater.

(4) Riparian Habitat Area Width Averaging. The director may allow the recommended riparian habitat area width to be reduced in accordance with a critical area report only if:

- (A) The width reduction will not reduce stream or habitat functions, including those of nonfish habitat;
- (B) The width reduction will not degrade the habitat, including habitat for anadromous fish;
- (C) The proposal will provide additional habitat protection;
- (D) The total area contained in the riparian habitat area of each stream on the development proposal site is not decreased;
- (E) The recommended riparian habitat area width is not reduced by more than 25 percent in any one location;
- (F) The width reduction will not be located within another critical area or associated buffer; and
- (G) The reduced riparian habitat area width is supported by the best available science.

(5) Riparian Habitat Mitigation. Mitigation of adverse impacts to riparian habitat areas shall result in equivalent functions and values on a per function basis, be located as near the alteration as feasible, and be located in the same subdrainage basin as the habitat impacted.

(6) Alternative Mitigation for Riparian Habitat Areas. The performance standards set forth in this subsection may be modified at the city's discretion if the applicant demonstrates that greater habitat functions, on a per function basis, can be obtained in the affected subdrainage basin as a result of alternative mitigation measures.

(e) Aquatic Habitat. The following specific activities may be permitted within a riparian habitat area, pond, lake, and water of the state or associated buffer subject to the standards of this subsection.

- (1) Clearing and Grading. When clearing and grading is permitted as part of an authorized activity or as otherwise allowed in these standards, the following shall apply:

The Fircrest Municipal Code is current through Ordinance 1738, passed March 25, 2025.

(A) Grading is allowed only during the dry season, which is typically regarded as beginning on May 1st and ending on October 1st of each year; provided, that the city may extend or shorten the dry season on a case-by-case basis, determined on actual weather conditions.

(B) Filling or modification of a wetland or wetland buffer is permitted only if it is conducted as part of an approved wetland alteration.

(C) The soil duff layer shall remain undisturbed to the maximum extent possible. Where feasible, any soil disturbed shall be redistributed to other areas of the project area.

(D) The moisture-holding capacity of the topsoil layer shall be maintained by minimizing soil compaction or reestablishing natural soil structure and infiltrative capacity on all areas of the project area not covered by impervious surfaces.

(E) Erosion and sediment control that meets or exceeds the standards set forth in the Department of Ecology Stormwater Management Manual for Western Washington shall be provided.

(2) Shoreline Erosion Control Measures. New, replacement, or substantially improved shoreline erosion control measures may be permitted in accordance with an approved critical area report that demonstrates the following:

(A) Natural shoreline processes will be maintained. The project will not result in alterations to, or loss of, shoreline substrate within one-quarter mile of the project area.

(B) The shoreline erosion control measures will not degrade fish or wildlife habitat conservation areas or associated wetlands.

(C) Adequate mitigation measures ensure that there is no net loss of the functions or values of riparian habitat as a result of the proposed shoreline erosion control measures.

(3) Streambank Stabilization. Streambank stabilization to protect new structures from future channel migration is not permitted except when such stabilization is achieved through bioengineering or soft armoring techniques in accordance with an approved critical area report.

(4) Roads, Trails, Bridges, and Rights-of-Way. Construction of trails, roadways, and minor road bridging, less than or equal to 30 feet wide, may be permitted in accordance with an approved critical area report subject to the following standards:

(A) There is no other feasible alternative route with less impact on the environment;

(B) The crossing minimizes interruption of downstream movement of wood and gravel;

(C) Roads in riparian habitat areas or their buffers shall not run parallel to the water body;

(D) Trails shall be located on the outer edge of the riparian area or buffer, except for limited viewing platforms and crossings;

(E) Crossings, where necessary, shall only occur as near to perpendicular with the water body as possible;

(F) Mitigation for impacts is provided pursuant to a mitigation plan of an approved critical area report;

(G) Road bridges are designed according to the Washington State Department of Fish and Wildlife Fish Passage Design at Road Culverts, 1999, and the National Marine Fisheries Service Guidelines for Salmonid Passage at Stream Crossings, 2000; and

(H) Trails and associated viewing platforms shall not be made of continuous impervious materials.

(5) Utility Facilities. New utility lines and facilities may be permitted to cross watercourses in accordance with an approved critical area report, if they comply with the following standards:

The Fircrest Municipal Code is current through Ordinance 1738, passed March 25, 2025.

- (A) Fish and wildlife habitat areas shall be avoided to the maximum extent possible;
- (B) Installation shall be accomplished by boring beneath the scour depth and hyporheic zone of the water body and channel migration zone, where feasible;
- (C) The utilities shall cross at an angle greater than 60 degrees to the centerline of the channel in streams or perpendicular to the channel centerline whenever boring under the channel is not feasible;
- (D) Crossings shall be contained within the footprint of an existing road or utility crossing where possible;
- (E) The utility route shall avoid paralleling the stream or following a down-valley course near the channel; and
- (F) The utility installation shall not increase or decrease the natural rate of shore migration or channel migration.

(6) Public Flood Protection Measures. New public flood protection measures and expansion of existing ones may be permitted, subject to the city's review and approval of a critical area report and the approval of a federal biological assessment by the federal agency responsible for reviewing actions related to a federally listed species.

(7) Instream Structures. Instream structures, such as, but not limited to, high flow bypasses, sediment ponds, instream ponds, retention and detention facilities, tide gates, dams, and weirs, shall be allowed only as part of an approved watershed basin restoration project approved by the city and upon acquisition of any required state or federal permits. The structure shall be designed to avoid modifying flows and water quality in ways that may adversely affect habitat conservation areas.

(8) Stormwater Conveyance Facilities. Conveyance structures may be permitted in accordance with an approved critical area report subject to the following standards:

- (A) No other feasible alternatives with less impact exist;
- (B) Mitigation for impacts is provided;
- (C) Stormwater conveyance facilities shall incorporate fish habitat features; and
- (D) Vegetation shall be maintained and, if necessary, added adjacent to all open channels and ponds in order to retard erosion, filter out sediments, and shade the water.

(9) On-Site Sewage Systems and Wells.

(A) New on-site sewage systems and individual wells may be permitted in accordance with an approved critical area report only if accessory to an approved residential structure, for which it is not feasible to connect to a public sanitary sewer system.

(B) Repairs to failing on-site sewage systems associated with an existing structure shall be accomplished by utilizing one of the following methods that result in the least impact:

- (i) Connection to an available public sanitary sewer system;
- (ii) Replacement with a new on-site sewage system located in a portion of the site that has already been disturbed by development and is located landward as far as possible, provided the proposed sewage system is in compliance with the Tacoma-Pierce County Health Department; or
- (iii) Repair to the existing on-site septic system. (Ord. 1375 § 6, 2005).

**Chapter 22.99
FREQUENTLY FLOODED AREAS**

Sections:

- 22.99.010 Designation of frequently flooded areas.
- 22.99.020 Critical area report – Additional requirements.
- 22.99.030 Warning and disclaimer of liability.
- 22.99.040 Performance standards – General requirements.
- 22.99.050 Performance standards – Specific uses.
- 22.99.060 Performance standards – Areas of shallow flooding.
- 22.99.070 Uses and activities prohibited from frequently flooded areas.
- 22.99.080 Variances – Additional considerations for frequently flooded areas.

22.99.010 Designation of frequently flooded areas.

(a) Frequently Flooded Areas. Frequently flooded areas shall include:

(1) Areas Identified on the Flood Insurance Map(s). The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled “The Flood Insurance Study for Pierce County, and Incorporated Areas” dated March 7, 2017, and any revisions thereto, with an accompanying flood insurance rate map (FIRM), and any revisions thereto, are hereby adopted by reference and declared to be a part of this chapter. The flood insurance study and the FIRM are on file at City Hall, 115 Ramsdell Street, Fircrest WA.

(2) Areas Identified by the Director. Those areas of special flood hazard identified by the director, or his or her designee, based on review of base flood elevation and floodway data available from federal, state, city, or other valid sources when base flood elevation data has not been provided from the Federal Insurance Administration [“A” zone of the flood insurance map(s)].

(b) Use of Additional Information. The director may use additional flood information that is more restrictive or detailed than that provided in the flood insurance study conducted by the Federal Emergency Management Agency (FEMA) to designate frequently flooded areas, including data on channel migration, historical data, high water marks, photographs of past flooding, location of restrictive floodways, maps showing future build-out conditions, maps that show riparian habitat areas, or similar information.

(c) Flood Elevation Data. When base flood elevation data is not available (“A” zones), the director shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source, in order to administer this chapter.

(d) Designation Made by Director. The flood insurance maps are to be used as a guide for the city, project applicants and/or property owners and the public and should be considered a minimum designation of frequently flooded areas. As flood insurance maps may be continuously updated as areas are reexamined or new areas are identified, newer and more restrictive information for flood hazard area identification shall be the basis for regulation.

(e) Maintenance of Records. Where base flood elevation data is provided through the flood insurance study or required through subsection (c) of this section, the director shall obtain and record the as-built elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement. The director shall also maintain for public inspection all records of floodplain hazards, certificates of floodproofing, and flood elevation data. (Ord. 1596 § 1, 2017; Ord. 1375 § 4, 2005).

22.99.020 Critical area report – Additional requirements.

In addition to the general critical area report requirements of FMC 22.92.160, critical area reports for frequently flooded areas must meet the requirements of this section. Critical area reports for two or more types of critical areas must meet the report requirements for each relevant type of critical area.

(a) Preparation by a Qualified Professional. A frequently flooded areas report shall be prepared by a qualified professional who is a hydrologist or engineer, licensed in the state of Washington with experience in preparing flood hazard assessments.

(b) Areas to Be Addressed. The following areas shall be addressed in a critical area report for frequently flooded areas:

- (1) The site area of the proposed activity;
- (2) All areas of a special flood hazard area, as indicated on the flood insurance map(s) within 200 feet of the project area; and
- (3) All other flood areas indicated on the flood insurance map(s) within 200 feet of the project area.

(c) Flood Hazard Assessment. A critical area report for a proposed activity within a frequently flooded area shall contain a flood hazard assessment including the following site- and proposal-related information at a minimum:

- (1) Site and Construction Plans. A copy of the site and construction plans for the development proposal showing:
 - (A) Floodplain (100-year flood elevation), 10- and 50-year flood elevations, floodway, other critical areas, buffers, and shoreline areas;
 - (B) Proposed development, including the location of existing and proposed structures, fill, storage of materials, and drainage facilities, with dimensions indicating distances to the floodplain;
 - (C) Clearing limits; and
 - (D) Elevation of the lowest floor (including basement) of all structures, and the level to which any nonresidential structure has been floodproofed.
- (2) Watercourse Alteration. Alteration of natural watercourses shall be avoided, if feasible. If unavoidable, a critical area report shall include:
 - (A) Extent of Watercourse Alteration. A description of and plan showing the extent to which a watercourse will be altered or relocated as a result of proposal;
 - (B) Maintenance Program Required for Watercourse Alterations. A maintenance program that provides maintenance practices for the altered or relocated portion of the watercourse to ensure that the flood-carrying capacity is not diminished; and
 - (C) Compliance Documentation. Information describing and documenting how the proposed watercourse alteration complies with the requirements of Chapter 22.97 FMC, Fish and Wildlife Habitat Conservation Areas, and other applicable state or federal permit requirements.

(d) Information Regarding Other Critical Areas. Potential impacts to wetlands, fish and wildlife habitat, and other critical areas shall be addressed in accordance with the applicable critical area chapters. (Ord. 1375 § 4, 2005).

22.99.030 Warning and disclaimer of liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. The provisions of this chapter do not imply that land outside frequently flooded areas or uses permitted within such areas will be free from flooding or flood damages. These provisions shall not create liability on the part of the city, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder. (Ord. 1375 § 4, 2005).

22.99.040 Performance standards – General requirements.

The following standards shall be adhered to in all frequently flooded areas, except as otherwise provided for in this chapter:

(a) Development Permit. A development permit shall be obtained before land is altered or a new use is commenced within a frequently flooded area. For application of this chapter, development shall include any manmade alteration to land, including but not limited to buildings, structures, mining, dredging, filling, grading, paving, excavation, drilling operations, or storage of equipment or materials within the area of special flood hazard.

(b) All Other Necessary Permits. The director shall verify that all necessary permits have been obtained from those governmental agencies from which prior approval is required by federal, state, or local law including Section 404 of the Federal Water Pollution Control Act Amendment of 1972 and the Endangered Species Act of 1973.

(c) Before Regulatory Floodway. In areas where the base flood elevation is provided, but where a regulatory floodway has not been designated, new construction, substantial improvements, or other development, including fill, shall not be permitted within zones A1 – 30 and AE, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

(d) Areas Without Base Flood Elevation Data. Where base flood elevation data is not available (“A” zones) and there is insufficient data available from federal, state, or other sources, the director shall determine the base flood elevation using approved engineering methods and historical data, such as high water marks, photographs of past flooding, and other available information. If there is insufficient data available for the director to make a determination of the base flood elevation and standards requiring a base flood elevation cannot be implemented, the director shall require measures that ensure the proposed structures will be reasonably safe from flooding. At a minimum, the base flood elevation should be set at least two feet above the highest adjacent grade to avoid higher flood insurance rates.

(e) Construction Materials and Methods.

(1) Structures Shall Be Located Outside the Floodplain. All structures, utilities, and other improvements shall be located on the buildable portion of the site out of the floodplain unless there is no buildable site area out of the floodplain. For sites with no buildable area out of the floodplain, structures, utilities, and other improvements shall be placed on the highest land on the site, oriented parallel to flow rather than perpendicular, and sited as far from the watercourse and other critical areas as possible. However, in no case shall stormwater treatment or flow control facilities be allowed within the floodplain. If the director detects any evidence of active hyporheic exchange on a site, the development shall be located to minimize disruption of such exchange.

(2) Methods That Minimize Flood Damage. All new construction and substantial improvements shall be constructed using flood-resistant materials and using methods and practices that minimize flood damage.

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

(f) Elevation Certificate Following Construction. Following construction of a structure within the floodplain where the base flood elevation is provided, the applicant shall obtain an elevation certificate that records the elevation of the lowest floor. The elevation certificate shall be completed by a surveyor or engineer licensed in the state of Washington and shall be submitted to the city for recording.

(g) Anchoring.

(1) Anchoring Requirement. All new construction and substantial improvements within the floodplain shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

(2) Manufactured Homes. All manufactured homes placed within the floodplain must be anchored to prevent flotation, collapse, or lateral movement and shall be installed using methods and practices that minimize flood

damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

(h) Fill and Grading. Fill and grading within the floodplain shall only occur on a determination from a qualified professional that the fill or grading will not block side channels, inhibit channel migration, increase flood hazards to others, or be placed within a channel migration zone, whether or not the city has delineated such zones as of the time of the application. (Ord. 1375 § 4, 2005).

22.99.050 Performance standards – Specific uses.

Specific uses shall adhere to the following relevant standards, in addition to the general standards of FMC 22.99.040. Subsections (a) through (d) of this section apply where base flood elevation data is provided through the flood insurance study or required through FMC 22.99.010(c); subsections (e) through (g) of this section apply to all frequently flooded areas.

(a) Residential Construction.

(1) Must Be Above Base Flood Elevation. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated two feet or more above the base flood elevation.

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

(A) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;

(B) The bottom of all openings shall be no higher than one foot above grade; and

(C) Openings may be equipped with screens, louvers, or other coverings or devices; provided, that they permit the automatic entry and exit of floodwaters.

(b) Manufactured Homes Must Be Elevated. All manufactured homes to be placed or substantially improved shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated two feet or more above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(c) Recreational Vehicles. Recreational vehicles are required to either:

(1) Be on the site for fewer than 180 consecutive days;

(2) Be fully licensed and ready for highway use on its wheels or jacking system, be attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or

(3) Obtain a development permit and meet the requirements, including elevation and anchoring, for manufactured homes.

(d) Nonresidential Construction.

(1) Above Base Flood Elevation. New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall either have the lowest floor, including basement, elevated two feet or more above the base flood elevation, or, together with attendant utility and sanitary facilities, shall:

(A) Be floodproofed so that below two feet or more above the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

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

(C) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications, and plans. Such certification shall be provided to the director in accordance with FMC 22.99.010(e). Following construction of the structure, certifications shall be submitted to the city that record the actual (as-built) elevation to which the structure was floodproofed.

Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are two feet below the floodproofed level (for example, a building floodproofed to the base flood level will be rated as two feet below).

(2) Areas Below the Lowest Floor. Fully enclosed areas below the lowest floor that are not floodproofed shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or must meet or exceed the following minimum criteria:

(A) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;

(B) The bottom of all openings shall be no higher than two feet above grade; and

(C) Openings may be equipped with screens, louvers, or other coverings or devices; provided, that they permit the automatic entry and exit of floodwaters.

(e) Utilities.

(1) Infiltration of Floodwaters. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems.

(2) Sanitary Sewage Systems. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.

(3) On-Site Waste Disposal Systems. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding. New on-site sewage disposal systems are prohibited pursuant to FMC 22.99.070(c).

(f) Subdivision Proposals.

(1) Adequate Space Outside Flood Areas. All lots created through subdivision or short subdivision shall have adequate building space outside the 100-year floodplain, the floodway, and the channel migration zone.

(2) All subdivisions and short subdivisions shall:

(A) Minimize Flood Damage. Subdivisions and short subdivisions shall be designed to minimize or eliminate flood damage and impacts to floodplain functions and values. Public utilities and facilities that are installed as part of such subdivisions, such as sewer, gas, electrical, and water systems, shall be located and constructed to also minimize flood damage and impacts to floodplain functions and values. Subdivisions should be designed using natural features of the landscape and should not incorporate flood protection changes.

(B) Have Adequate Drainage. Subdivisions and short subdivisions shall have adequate natural surface water drainage in accordance with the Department of Ecology Stormwater Management Manual for Western Washington, as modified by the city, and to reduce exposure to flood hazards; and

(C) Show Flood Areas on Plat Maps. Subdivisions and short subdivisions shall show the 100-year floodplain, floodway, and channel migration zone on the preliminary and final plat and short plat maps and designate such areas as “no build,” when applicable.

(3) Detailed Base Flood Elevation Data. Where detailed base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or five acres, whichever is less.

(g) Alteration of Watercourses. Alteration of natural watercourses shall be avoided, if feasible. If unavoidable, the following provisions shall apply to the alteration:

(1) Habitat Regulations. Watercourse alterations shall only be allowed in accordance with the fish and wildlife habitat conservation areas standards in Chapter 22.97 FMC.

(2) Blockage. Watercourse alteration projects shall not result in blockage of side channels.

(3) Notification. The city shall notify adjacent communities, the state Departments of Ecology and Fish and Wildlife, and the Federal Insurance Administration about the proposed watercourse alteration at least 30 days prior to permit issuance.

(4) Maintenance of Alterations. The applicant shall maintain the altered or relocated portion of the watercourse to ensure that the flood-carrying capacity is not diminished. Maintenance shall be bonded for a period of five years, and be in accordance with an approved maintenance program. (Ord. 1375 § 4, 2005).

22.99.060 Performance standards – Areas of shallow flooding.

Uses in areas of shallow flooding shall adhere to the following standards, in addition to the general standards of FMC 22.99.040 and relevant specific standards of FMC 22.99.050.

(a) Residential Structures. New construction and substantial improvements of residential structures and manufactured homes within AO zones shall have the lowest floor (including basement) elevated above the highest grade adjacent to the building, one foot or more above the depth number specified in feet on the flood insurance map or at least two feet if no depth number is specified.

(b) Nonresidential Structures. New construction and substantial improvements of nonresidential structures within AO zones shall either:

(1) Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site one foot or more above the depth number specified on the flood insurance map or at least two feet if no depth number is specified; or

(2) Together with attendant utility and sanitary facilities, be completely floodproofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications, and plans. Following construction of the structure, certifications shall be submitted to the city that record the actual (as-built) elevation to which the structure was floodproofed.

(c) Drainage Paths. All development shall include adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

(d) Recreational Vehicles. Recreational vehicles placed on sites within AO zones on the flood insurance map(s) shall meet the requirements of this chapter. (Ord. 1375 § 4, 2005).

22.99.070 Uses and activities prohibited from frequently flooded areas.

(a) Critical Facilities. Critical facilities are prohibited from frequently flooded areas to prevent damage to such facilities, to avoid costs that will be incurred by the public, and to maintain functionality of such facilities during

flood events. If such a prohibition is unreasonable, an allowance for critical facilities in frequently flooded areas may be made with the following specific conditions:

- (1) Construction of new critical facilities shall be permissible within frequently flooded areas if no feasible alternative site is available.
- (2) Critical facilities constructed within frequently flooded areas shall have the lowest floor elevated three feet or more above the level of the base floor elevation (100-year flood).
- (3) Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters.
- (4) Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

(b) Wells Used for Potable Water. Water wells shall be located on high ground and are prohibited from the floodway.

(c) On-Site Sewage Disposal Systems. On-site sewage disposal systems are prohibited from the floodway, the channel migration zone, and the 10-year floodplain elevation.

(d) Construction in Floodways.

- (1) New Construction Certification. Encroachments, including new construction, substantial improvements, fill, and other development, are prohibited within designated floodways unless certified by a registered professional engineer. Such certification shall demonstrate through hydrologic and hydraulic analyses, performed in accordance with standard engineering practice, that the proposed encroachment will not result in any increase in flood levels during the occurrence of the base flood discharge.

Small projects that are solely to protect or create fish habitat and designed by a qualified professional may be allowed without certification, if the director determines that the project will not obstruct flood flows. Fish protection projects shall be reviewed on behalf of the city by a qualified professional in the field of hydraulics.

- (2) Residential Construction and Reconstruction. Construction and reconstruction of residential structures is prohibited within designated floodways, except for:

- (A) Repairs, reconstruction, or improvements to a structure that do not increase the ground floor area; and
- (B) Repairs, reconstruction, or improvements to a structure, for which the cost does not exceed 50 percent of the market value of the structure either:
 - (i) Before the repair or reconstruction is started, or
 - (ii) If the structure has been damaged and is being restored, before the damage occurred.

Improvement to a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and that are the minimum necessary to ensure safe living conditions or to structures identified as historic places may be excluded from the 50 percent.

- (3) If subsections (d)(1) and (2) of this section are satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions. (Ord. 1375 § 4, 2005).

22.99.080 Variances – Additional considerations for frequently flooded areas.

(a) Additional Variance Considerations. In review of variance requests for activities within frequently flooded areas, the hearing examiner shall consider all technical evaluations, relevant factors, standards specified in this chapter, and:

- (1) The danger to life and property due to flooding, erosion damage, or materials swept onto other lands during flood events;
 - (2) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the proposed use;
 - (3) The importance of the services provided by the proposed use to the community;
 - (4) The necessity to the proposed use of a waterfront location, where applicable, and the availability of alternative locations for the proposed use that are not subject to flooding or erosion damage;
 - (5) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (6) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
 - (7) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.
- (b) Variances shall only be issued upon a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nuisances, fraud on or victimization of the public, or conflict with existing laws or ordinances. Unavoidable impacts to floodplain functions and values shall be mitigated in accordance with the mitigation sequencing order specified in FMC 22.92.190.
- (c) Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result. (Ord. 1638 § 68, 2019; Ord. 1375 § 4, 2005).

**Chapter 22.100
GEOLOGICALLY HAZARDOUS AREAS**

Sections:

- 22.100.010 Designation of geologically hazardous areas.
- 22.100.020 Designation of specific hazard areas.
- 22.100.030 Classification of geologically hazardous areas.
- 22.100.040 Mapping of geologically hazardous areas.
- 22.100.050 Activities allowed in geologically hazardous areas.
- 22.100.060 Critical area report – Additional requirements for geologically hazardous areas.
- 22.100.070 Critical area report – Additional technical information requirements for specific hazards.
- 22.100.080 Performance standards – General requirements.
- 22.100.090 Performance standards – Erosion and landslide hazard areas.

22.100.010 Designation of geologically hazardous areas.

Geologically hazardous areas include areas susceptible to erosion, sliding, earthquake, or other geological events. They pose a threat to the health and safety of citizens when incompatible development is sited in areas of significant hazard. Such incompatible development may not only place itself at risk, but also may increase the hazard to surrounding development and use. Areas susceptible to one or more of the following types of hazards shall be designated as geologically hazardous areas:

- (a) Erosion hazard; and
- (b) Landslide hazard. (Ord. 1375 § 5, 2005).

22.100.020 Designation of specific hazard areas.

(a) Erosion Hazard Areas. Erosion hazard areas are at least those areas identified by the U.S. Department of Agriculture's Natural Resources Conservation Service as having a "moderate to severe," "severe," or "very severe" rill and inter-rill erosion hazard. Erosion hazard areas are also those areas impacted by shoreland and/or stream bank erosion and those areas within a river's channel migration zone.

(b) Landslide Hazard Areas. Landslide hazard areas are areas potentially subject to landslides based on a combination of geologic, topographic, and hydrologic factors. They include areas susceptible because of any combination of bedrock, soil, slope (gradient), slope aspect, structure, hydrology, or other factors. Examples of these may include, but are not limited to, the following:

(1) Areas of historic failures, such as:

- (A) Those areas delineated by the U.S. Department of Agriculture's Natural Resources Conservation Service as having a "severe" limitation for building site development;
- (B) Those areas mapped by the Washington State Department of Natural Resources (slope stability mapping) as unstable (U or class 3), unstable old slides (UOS or class 4), or unstable recent slides (URS or class 5); or
- (C) Areas designated as quaternary slumps, earthflows, mudflows, lahars, or landslides on maps published by the U.S. Geological Survey, ~~or~~ Washington State Department of Natural Resources, or the Washington Geological Survey's Washington Geologic Information Portal ;

(2) Areas with all three of the following characteristics:

- (A) Slopes steeper than 15 percent;
- (B) Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and
- (C) Springs or ground water seepage.

The Fircrest Municipal Code is current through Ordinance 1738, passed March 25, 2025.

- (3) Areas that have shown movement during the Holocene epoch (from 10,000 years ago to the present) or that are underlain or covered by mass wastage debris of that epoch;
- (4) Slopes that are parallel or subparallel to planes of weakness (such as bedding planes, joint systems, and fault planes) in subsurface materials;
- (5) Areas potentially unstable because of rapid stream incision, stream bank erosion, and undercutting by wave action;
- (6) Any area with a slope of 40 percent or steeper and with a vertical relief of 10 or more feet except areas composed of consolidated rock. A slope is delineated by establishing its toe and top and is measured by averaging the inclination over at least 10 feet of vertical relief. (Ord. 1375 § 5, 2005).

22.100.030 Classification of geologically hazardous areas.

All geologic hazard areas should be classified according to the following categories for each geologic hazard type:

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

(Ord. 1375 § 5, 2005).

22.100.040 Mapping of geologically hazardous areas.

(a) The approximate location and extent of geologically hazardous areas are shown on the adopted critical area map contained within the comprehensive plan. In addition, the following maps are hereby adopted by reference and declared part of this chapter:

- (1) U.S. Geological Survey landslide hazard and seismic hazard maps;
- (2) Washington State Department of Natural Resources seismic hazard maps for Western Washington, [including its Geologic Information Portal](#);
- (3) Washington State Department of Natural Resources slope stability maps; and
- (4) Federal Emergency Management Administration flood insurance maps.

Commented [KG11]: Recommended by DNR.

(b) These maps are to be used as a guide for the city, project applicants and/or property owners and may be continuously updated as new critical areas are identified. They are a reference and do not provide a final critical area designation. (Ord. 1375 § 5, 2005).

22.100.050 Activities allowed in geologically hazardous areas.

The following activities are allowed in geologically hazardous areas pursuant to FMC 22.92.110: ~~and do not require submission of a critical area report.~~

Commented [KM12]: This section essentially reverses its position. Deserves edit for clarity.

(a) Erosion and Landslide Hazard Areas. Except as otherwise provided for in the applicable critical area chapters, only those activities approved and permitted consistent with an approved critical area report in accordance with these chapters shall be allowed in erosion or landslide hazard areas. (Ord. 1375 § 5, 2005).

Commented [KM13]: This language contradicts language in the section above. Recommending deletion of above statement accordingly.

22.100.060 Critical area report – Additional requirements for geologically hazardous areas.

(a) Preparation by a Qualified Professional. A critical areas report for a geologically hazardous area shall be prepared by an engineer or geologist, licensed in the state of Washington, with experience analyzing geologic, hydrologic, and ground water flow systems, and who has experience preparing reports for the relevant type of hazard.

(b) Area Addressed in Critical Area Report. The following areas shall be addressed in a critical area report for geologically hazardous areas:

- (1) The project area of the proposed activity; and
- (2) All geologically hazardous areas within 200 feet of the project area or that have potential to be affected by the proposal;

(c) Geological Hazards Assessment. A critical area report for a geologically hazardous area shall contain an assessment of geological hazards including the following site- and proposal-related information at a minimum:

- (1) Site and Construction Plans. The report shall include a copy of the site plans for the proposal showing:
 - (A) The type and extent of geologic hazard areas, any other critical areas, and buffers on, adjacent to, within 200 feet of, or that are likely to impact the proposal;
 - (B) Proposed development, including the location of existing and proposed structures, fill, storage of materials, and drainage facilities, with dimensions indicating distances to the floodplain, if available;
 - (C) The topography, in two-foot contours, of the project area and all hazard areas addressed in the report; and
 - (D) Clearing limits; and
- (2) Assessment of Geological Characteristics. The report shall include an assessment of the geologic characteristics of the soils, sediments, and/or rock of the project area and potentially affected adjacent properties, and a review of the site history regarding landslides, erosion, and prior grading. Soils analysis shall be accomplished in accordance with accepted classification systems in use in the region. The assessment shall include, but not be limited to:
 - (A) A description of the surface and subsurface geology, hydrology, soils, and vegetation found in the project area and in all hazard areas addressed in the report;
 - (B) A detailed overview of the field investigations, published data, and references; data and conclusions from past assessments of the site; and site-specific measurements, tests, investigations, or studies that support the identification of geologically hazardous areas; and
 - (C) A description of the vulnerability of the site to seismic and other geologic events;
- (3) Analysis of Proposal. The report shall contain a hazards analysis including a detailed description of the project, its relationship to the geologic hazard(s), and its potential impact upon the hazard area, the subject property, and affected adjacent properties; and
- (4) Minimum Buffer and Building Setback. The report shall make a recommendation for the minimum no-disturbance buffer and minimum building setback from any geologic hazard based upon the geotechnical analysis.

(d) Incorporation of Previous Study. Where a valid critical areas report has been prepared within the last five years for a specific site, and where the proposed land use activity and surrounding site conditions are unchanged, said report may be incorporated into the required critical area report. The applicant shall submit a hazards assessment detailing any changed environmental conditions associated with the site.

(e) Mitigation of Long-Term Impacts. When hazard mitigation is required, the mitigation plan shall specifically address how the activity maintains or reduces the preexisting level of risk to the site and adjacent properties on a long-term basis (equal to or exceeding the projected lifespan of the activity or occupation). Proposed mitigation techniques shall be considered to provide long-term hazard reduction only if they do not require regular maintenance or other actions to maintain their function. Mitigation may also be required to avoid any increase in risk above the preexisting conditions following abandonment of the activity. (Ord. 1375 § 5, 2005).

22.100.070 Critical area report – Additional technical information requirements for specific hazards.

In addition to the general critical area report requirements of FMC 22.92.160 and 22.100.060, critical area reports for geologically hazardous areas must meet the requirements of this section. Critical area reports for two or more types of critical areas must meet the report requirements for each relevant type of critical area.

(a) Erosion and Landslide Hazard Areas. In addition to the basic critical area report requirements, the technical information for an erosion hazard or landslide hazard area shall include the following information at a minimum:

(1) Site Plan. The critical area report shall include a copy of the site plan for the proposal showing:

- (A) The height of slope, slope gradient, and cross-section of the project area;
- (B) The location of springs, seeps, or other surface expressions of ground water on or within 200 feet of the project area or that have potential to be affected by the proposal; and
- (C) The location and description of surface water runoff features;

(2) Hazards Analysis. The hazards analysis component of the critical areas report shall specifically include:

- (A) A description of the extent and type of vegetative cover;
- (B) A description of subsurface conditions based on data from site-specific explorations;
- (C) Descriptions of surface and ground water conditions, public and private sewage disposal systems, fills and excavations, and all structural improvements;
- (D) An estimate of slope stability and the effect construction and placement of structures will have on the slope over the estimated life of the structure;
- (E) An estimate of the bluff retreat rate that recognizes and reflects potential catastrophic events such as seismic activity or a 100-year storm event;
- (F) Consideration of the run-out hazard of landslide debris and/or the impacts of landslide run-out on downslope properties;
- (G) A study of slope stability including an analysis of proposed cuts, fills, and other site grading;
- (H) Recommendations for building siting limitations; and
- (I) An analysis of proposed surface and subsurface drainage, and the vulnerability of the site to erosion;

(3) Geotechnical Engineering Report. The technical information for a project within a landslide hazard area shall include a geotechnical engineering report prepared by a licensed engineer that presents engineering recommendations for the following:

- (A) Parameters for design of site improvements including appropriate foundations and retaining structures. These should include allowable load and resistance capacities for bearing and lateral loads, installation considerations, and estimates of settlement performance;
- (B) Recommendations for drainage and subdrainage improvements;
- (C) Earthwork recommendations including clearing and site preparation criteria, fill placement and compaction criteria, temporary and permanent slope inclinations and protection, and temporary excavation support, if necessary; and
- (D) Mitigation of adverse site conditions including slope stabilization measures and seismically unstable soils, if appropriate;

(4) Erosion and Sediment Control Plan. For any development proposal on a site containing an erosion hazard area, an erosion and sediment control plan shall be required. The erosion and sediment control plan shall be prepared in compliance with requirements set forth in the Department of Ecology Stormwater Management Manual for Western Washington;

(5) Drainage Plan. The technical information shall include a drainage plan for the collection, transport, treatment, discharge, and/or recycle of water prepared in accordance with the Department of Ecology Stormwater Management Manual for Western Washington, as modified by the city. The drainage plan should consider on-site septic system disposal volumes where the additional volume will affect the erosion or landslide hazard area;

(6) Mitigation Plans. Hazard and environmental mitigation plans for erosion and landslide hazard areas shall include the location and methods of drainage, surface water management, locations and methods of erosion control, a vegetation management and/or replanting plan, and/or other means for maintaining long-term soil stability; and

(7) Monitoring Surface Waters. If the director determines that there is a significant risk of damage to downstream receiving waters due to potential erosion from the site, based on the size of the project, the proximity to the receiving waters, or the sensitivity of the receiving waters, the technical information shall include a plan to monitor the surface water discharge from the site. The monitoring plan shall include a recommended schedule for submitting monitoring reports to the city. (Ord. 1375 § 5, 2005).

22.100.080 Performance standards – General requirements.

(a) Alterations of geologically hazardous areas or associated buffers may only occur for activities that:

- (1) Will not increase the threat of the geological hazard to adjacent properties beyond pre-development conditions;
- (2) Will not adversely impact other critical areas;
- (3) Are designed so that the hazard to the project is eliminated or mitigated to a level equal to or less than predevelopment conditions; and
- (4) Are certified as safe as designed and under anticipated conditions by a qualified engineer or geologist, licensed in the state of Washington.

(b) Critical Facilities Prohibited. Critical facilities shall not be sited within geologically hazardous areas unless there is no other practical alternative. (Ord. 1375 § 5, 2005).

22.100.090 Performance standards – Erosion and landslide hazard areas.

Activities on sites containing erosion or landslide hazards shall meet the standards of FMC 22.100.080 and the specific following requirements:

(a) Buffer Requirement. A buffer shall be established from all edges of landslide hazard areas. The size of the buffer shall be determined by the director to eliminate or minimize the risk of property damage, death, or injury resulting from landslides caused in whole or part by the development, based upon review of and concurrence with a critical area report prepared by a qualified professional.

- (1) Minimum Buffer. The minimum buffer shall be equal to the height of the slope or 50 feet, whichever is greater.
- (2) Buffer Reduction. The buffer may be reduced to a minimum of 10 feet when a qualified professional demonstrates to the director's satisfaction that the reduction will adequately protect the proposed development, adjacent developments, and uses and the subject critical area.
- (3) Increased Buffer. The buffer may be increased where the director determines a larger buffer is necessary to prevent risk of damage to proposed and existing development;

(b) Alterations. Alterations of an erosion or landslide hazard area and/or buffer may only occur for activities for which a hazards analysis is submitted and certifies that:

- (1) The development will not increase surface water discharge or sedimentation to adjacent properties beyond predevelopment conditions;
- (2) The development will not decrease slope stability on adjacent properties; and
- (3) Such alterations will not adversely impact other critical areas;

(c) Design Standards. Development within an erosion or landslide hazard area and/or buffer shall be designed to meet the following basic requirements unless it can be demonstrated that an alternative design that deviates from one or more of these standards provides greater long-term slope stability while meeting all other provisions of the applicable critical areas chapters. The requirement for long-term slope stability shall exclude designs that require regular and periodic maintenance to maintain their level of function. The basic development design standards are:

- (1) The proposed development shall not decrease the factor of safety for landslide occurrences below the limits of 1.5 for static conditions and 1.2 for dynamic conditions. Analysis of dynamic conditions shall be based on a minimum horizontal acceleration as established by the current version of the International Building Code;
- (2) Structures and improvements shall be clustered to avoid geologically hazardous areas and other critical areas;
- (3) Structures and improvements shall minimize alterations to the natural contour of the slope, and foundations shall be tiered where possible to conform to existing topography;
- (4) Structures and improvements shall be located to preserve the most critical portion of the site and its natural landforms and vegetation;
- (5) The proposed development shall not result in greater risk or a need for increased buffers on neighboring properties;
- (6) The use of retaining walls that allow the maintenance of existing natural slope area is preferred over graded artificial slopes; and
- (7) Development shall be designed to minimize impervious lot coverage;

(d) Vegetation Retention. Unless otherwise provided or as part of an approved alteration, removal of vegetation from an erosion or landslide hazard area or related buffer shall be prohibited;

(e) Seasonal Restriction. Clearing shall be allowed only from May 1st to October 1st of each year; provided, that the city may extend or shorten the dry season on a case-by-case basis depending on actual weather conditions, except that timber harvest, not including brush clearing or stump removal, may be allowed pursuant to an approved forest practice permit issued by the Washington State Department of Natural Resources;

(f) Utility Lines and Pipes. Utility lines and pipes shall be permitted in erosion and landslide hazard areas only when the applicant demonstrates that no other practical alternative is available. The line or pipe shall be located aboveground and properly anchored and/or designed so that it will continue to function in the event of an underlying slide. Stormwater conveyance shall be allowed only through a high-density polyethylene pipe with fuse-welded joints, or similar product that is technically equal or superior;

(g) Point Discharges. Point discharges from surface water facilities and roof drains onto or upstream from an erosion or landslide hazard area shall be prohibited except as follows:

- (1) Conveyed via continuous storm pipe downslope to a point where there are no erosion hazard areas downstream from the discharge;

(2) Discharged at flow durations matching predeveloped conditions, with adequate energy dissipation, into existing channels that previously conveyed stormwater runoff in the predeveloped state; or

(3) Dispersed discharge upslope of the steep slope onto a low-gradient undisturbed buffer demonstrated to be adequate to infiltrate all surface and stormwater runoff, and where it can be demonstrated that such discharge will not increase the saturation of the slope;

(h) Subdivisions. The division of land in landslide hazard areas and associated buffers is subject to the following:

(1) Land that is located wholly within a landslide hazard area or its buffer may not be subdivided. Land that is located partially within a landslide hazard area or its buffer may be divided; provided, that each resulting lot has sufficient buildable area outside of, and will not affect, the landslide hazard area or its buffer.

(2) Access roads and utilities may be permitted within the landslide hazard area and associated buffers if the city determines that no other feasible alternative exists; and

(i) Prohibited Development. On-site sewage disposal systems, including drain fields, shall be prohibited within erosion and landslide hazard areas and related buffers. (Ord. 1375 § 5, 2005).

Exhibit D
March 3, 2026
Fircrest Planning Commission
CAO Update

22.98.179 Critical aquifer recharge area.

“Critical aquifer recharge area” means areas designated by WAC 365-190-080(2) that are determined to have a critical recharging effect on aquifers used for potable water as defined by WAC 365-190-030(23). (Ord. 1375 § 9, 2005).

22.98.285 Fish and wildlife habitat conservation areas.

“Fish and wildlife habitat conservation areas” means areas necessary for maintaining species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created as designated by WAC 365-190-080(5). These areas include:

- (a) Areas with which state or federally designated endangered, threatened, and sensitive species have a primary association;
- (b) Habitats of local importance, including but not limited to areas designated as priority habitat by the Washington State Department of Fish and Wildlife;
- (c) Naturally occurring ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat, including those artificial ponds intentionally created from dry areas in order to mitigate impacts to ponds;
- (d) Waters of the state, including lakes, rivers, ponds, streams, inland waters, underground waters, salt waters, and all other surface waters and watercourses within the jurisdiction of the state of Washington;
- (e) Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity;
- (f) State natural area preserves and natural resource conservation areas; and
- (g) Land essential for preserving connections between habitat blocks and open spaces.

Fish and wildlife habitat conservation areas do not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of, and are maintained by, a port district or an irrigation district or company. (Ord. 1375 § 18, 2005; Ord. 1246 § 27, 2000).

22.98.298 Frequently flooded areas.

“Frequently flooded areas” means lands in the floodplain subject to a one percent or greater chance of flooding in any given year and those lands that provide important flood storage, conveyance, and attenuation functions, as determined by the director in accordance with WAC 365-190-080(3). Frequently flooded areas can also include areas subject to flooding due to high groundwater. Frequently flooded areas perform important hydrologic functions and may present a risk to persons and property. Classifications of frequently flooded areas include, at a minimum, the 100-year floodplain designations of the Federal Emergency Management Agency and the National Flood Insurance Program. (Ord. 1375 § 9, 2005).

22.98.579 Qualified professional.

“Qualified professional” means a person with experience and training in the pertinent scientific discipline, and who is a qualified scientific expert with expertise appropriate for the relevant critical area subject in accordance with WAC 365-195-905(4). A qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, engineering, environmental studies, fisheries, geomorphology, or related field, and two years of related work experience.

- (a) A qualified professional for habitats ~~or wetlands~~ must have a degree in biology and professional experience related to the subject species.
- (b) A qualified professional for a geological hazard must be a professional engineer or geologist, licensed in the state of Washington.
- (c) A qualified professional for critical aquifer recharge areas means a hydrogeologist, geologist, engineer, or other scientist with experience in preparing hydrogeologic assessments.

(d) A qualified wetland specialist is a person with professional wetland experience that meets the following criteria:

(i) A Bachelor of Science or Bachelor of Arts or equivalent degree in hydrology, soil science, botany, ecology, resource management, or related field, or four years of full-time work experience as a wetland professional may substitute for a degree, and

(ii) At least two additional years of full-time work experience as a wetland professional; including delineating wetlands, preparing wetland reports, conducting function assessments, and developing and implementing mitigation plans, and

(iii) Completion of additional wetland-specific training programs. This could include a more comprehensive program such as the University of Washington Wetland Science and Management Certificate Program or individual workshops on topics such as wetland delineation, function assessment, mitigation design, hydrophytic plant or hydric soil identification.

A person certified as a Professional Wetland Scientist through the Society of Wetland Scientists professional certification program meets the above criteria.

22.98.623 Seismic hazard areas.

“Seismic hazard areas” are areas subject to severe risk of damage as a result of earthquake induced ground shaking, slope failure, settlement, soil liquefaction, debris flows, lahars, or tsunamis, or other areas as defined by WAC 360-119-030(18) (or as amended).

Commented [KG1]: Recommended edit by ECY to align with current agency guidance

Commented [KG2]: Recommended edit by DNR to align with current WAC definitions

Critical Areas Checklist

A Technical Assistance Tool from Growth Management Services – updated May 2024

<p>Name of city or county: City of Fircrest</p>	
<p>Staff contact, phone, and e-mail address: Kimberly Gunderson, 253-389-1864, kmahoney.planning@gmail.com</p>	
<p>INSTRUCTIONS</p> <p>This checklist is intended to help local governments update their development regulations, pursuant to the schedule in RCW 36.70A.130(5). We strongly encourage but do not require jurisdictions to complete the checklist and return it to Growth Management Services (GMS), along with their updates. However, If the jurisdiction is using a portion of their Periodic Update Grant (PUG) to update the Critical Areas Ordinance, this checklist is required.</p> <p>This checklist may be used by all jurisdictions, including those local governments planning for resource lands and critical areas only. For general information on update requirements, refer to A Guide to the Periodic Update Process Under the Growth Management Act – Fully Planning Counties & Cities, 2022 and WAC 365-196-610 .</p> <p>For additional information, resources, and general checklists pertaining to comprehensive plan and development regulation periodic updates please visit Commerce’s Growth Management Act Periodic Update webpage.</p> <p>Bold items are a GMA requirement or may be related requirements of other state or federal laws. Underlined items are links to Internet sites and may include best practices or other ideas to consider.</p> <p>Commerce WAC provisions are advisory under Commerce’s statutory mandate to provide technical assistance, RCW 43.330.120 which states that the Department of Commerce “...<i>shall help local officials interpret and implement the different requirements of the act through workshops, model ordinances, and information materials.</i>” If you have questions, call GMS at (360) 725-3066.</p> <p>How to fill out the checklist</p> <p>Using the current version of your critical areas regulations, fill out each item in the checklist. Select the check box or type in text fields, answering the following question:</p> <p>Is this item addressed in your current Critical Areas Ordinance (CAO)? If YES, fill in the form with citation(s) to where in the plan or code the item is addressed. We recommend using citations rather than page numbers because they stay the same regardless of how the document is printed. If you have questions about the requirement, follow the hyperlinks to the relevant statutory provision or rules. If you still have questions, visit the Commerce Growth Management Services Web page or contact one of the Commerce planners assigned to your region.</p>	<p>CONTENTS</p> <p>Instructions..... 1</p> <p>Overall Requirements.....2</p> <p>Wetlands.....3</p> <p>Critical Aquifer Recharge Areas.....5</p> <p>Frequently Flooded Areas....6</p> <p>Geologically Hazardous Areas..... 7</p> <p>Fish and Wildlife Habitat Conservation Areas.....8</p> <p>Designating and Protecting Waters of the State.....9</p> <p>Anadromous Fisheries.....10</p> <p>Reasonable Use Exceptions..... 10</p> <p>Agricultural Activities.....11</p> <p>Forest Practices Regulations.....11</p> <p>Good Ideas.....12</p>

CRITICAL AREAS

Regulations protecting critical areas are required by **RCW 36.70A.060(2)** and **RCW 36.70A.172(1)**. [WAC 365-195-900 through 925](#) provide guidelines. Guidance can also be found in [Commerce’s Critical Areas Handbook](#) (2022); the Minimum Guidelines [WAC 365-190-080 through 130](#); Best Available Science [WAC 365-195](#); and Procedural Criteria, [WAC 365-196-485](#) and [WAC 365-196-830](#), and on Growth Management’s [Critical Areas](#) webpage.

Regulations required to protect critical areas	Addressed in current plan or regulations? If yes, note where
<p>OVERALL REQUIREMENTS</p> <p>The CAO includes best available science to clearly designate and protect all critical areas that might be found within the jurisdiction.</p> <p>1. Designation of Critical Areas</p> <p>RCW 36.70A.170(1)(d) requires all counties and cities to designate critical areas. RCW 36.70A.170(2) requires that counties and cities consider the Commerce Minimum Guidelines pursuant to RCW 36.70A.050.</p> <p>RCW 36.70A.050 directs Commerce to adopt the Minimum Guidelines to classify critical areas. WAC 365-190-080 through 130 provide guidance on defining or “designating” each of the five critical areas.</p> <p>WAC 365-190-040 outlines the process to classify and designate natural resource lands and critical areas.</p> <p>2. Definition of Critical Areas</p> <p>RCW 36.70A.030(11) provides definitions for critical areas. Sections (20) regarding geologically hazardous areas; and (48) regarding wetlands were updated in 2010.</p> <p>WAC 365-190-030 provides definitions in the Minimum Guidelines.</p> <p>3. Protection of Critical Areas</p> <p>RCW 36.70A.060(2) requires counties and cities to adopt development regulations that protect the critical areas required to be designated under RCW 36.70A.170.</p> <p>RCW 36.70A.172(1) requires the inclusion of best available science in developing policies and development regulations to protect the functions and values of critical areas. In addition, counties and cities must give special consideration to</p>	<p>Was BAS documented in the record for the review and updates to the critical areas regulations?</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Location in Text:</p> <p>All 5 critical area types set forth in WAC 365-190-090 through 365-190-130 (wetlands, CARAs, FWHCAs, frequently flooded areas, and geologically hazardous areas) are designated in FMC 22.92.040(b).¹</p> <p>Critical area definitions are found in the following FMC sections. While most are compliant with the definitions set forth in WAC 365-190-030 (indicated in blue text), a few of the terms’ definitions should be revised as an element of the Critical Areas Ordinance Update and are indicated in red text:</p>

¹ The current definition for critical areas in FMC Chapter 22.98, Definitions, should be updated to match what is set forth in the City’s Critical Areas Ordinance and in WAC 365-190. The term should include critical aquifer recharge areas (rather than “aquifer recharge areas”) and fish and wildlife conservation areas (rather than “fish and wildlife habitats”).

<p>conservation or protection measures necessary to preserve or enhance anadromous fisheries.</p> <p>WAC 365-196-830 provides guidance on protection of critical areas.</p> <p>4. Inclusion of Best Available Science</p> <p>RCW 36.70A.172(1) requires inclusion of the best available science (BAS).</p> <p>WAC 365-195-900 through 925 outlines recommended criteria for determining which information is the BAS, for obtaining the BAS, for including BAS in policies and regulations, for addressing inadequate scientific information, and for demonstrating “special consideration” to conservation or protection measures necessary to preserve or enhance anadromous fisheries.</p> <p>WAC 365-195-915 provides criteria for including BAS in the record.</p> <p>5. No net loss of critical area functions and values is a requirement for development regulations in WAC 365-196-830(4). If development regulations allow harm to critical areas, they must require compensatory mitigation of the harm.</p>	<p>-FMC 22.98.756 (wetlands) -FMC 22.98.309 (geologically hazardous areas) -FMC 22.98.179 (critical aquifer recharge area²) -FMC 22.98.298 (frequently flooded areas) -FMC 22.98.285 (fish and wildlife habitat conservation areas)</p> <p>Best available science (BAS) is documented to guide the review of critical area reports and the application of critical area regulations in FMC 22.92.060. This section of the FMC codifies WAC 365-195-900 through 365-195-925 to remain consistent with state guidance.</p> <p>FMC 22.92.280(b)(3) codifies an approval criterion for critical area variances that requires the decisionmaker to base the decision in BAS, as required by WAC 365-195-915. Approval of reasonable use exceptions from critical area regulations are set forth in FMC 22.92.100(d) and also require an evaluation of the application of BAS in decision making, as required by WAC 365-195-915.</p> <p>Do your regulations address no net loss and require compensatory mitigation?</p>
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² The current definition for a critical aquifer recharge area in FMC 22.98.179 refers to the term’s definition in WAC 365-190-030(2). The term has since been defined in WAC 365-190-030(3). This definition in the FMC should be edited for clarity.

	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Location in Text: Requirements that development achieve no net loss of ecological function is captured in the FMC – see FMC 22.92.100, 22.92.180, and 22.92.230.</p> <p>In FMC Chapter 22.92 broadly governing all Fircrest critical areas, and also more specifically in FMC Chapter 22.93 governing wetlands in particular, compensatory mitigation requirements are codified. It is clearly expressed that impacts must first be avoided or minimized. Compensatory mitigation requirements also include monitoring, contingency, and financial guarantees to ensure long-term critical area mitigation success.</p> <p>Intended edits to make as a part of Fircrest’s CAO Update that will bring the CAO into greater compliance with RCW and WAC provisions governing critical areas include:</p> <ol style="list-style-type: none"> 1. Update FMC 22.98.179 (critical aquifer recharge area) to refer to WAC 365-090-030(3) rather than (2). 2. Update FMC 22.98.298 (frequently flooded areas definition) and FMC 22.98.285 (fish and wildlife habitat conservation areas definition) to align more closely with the terms’
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	definitions in WAC 365-190-030.
<p>WETLANDS DEFINITION</p> <p>The definition of wetlands is consistent with RCW 36.70A.030(48).</p>	<p>Is the wetland definition consistent with RCW 36.70A.030(48)?</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>Location in Text: FMC 22.98.756</p>
<p>WETLANDS DELINEATION</p> <p>Wetlands are delineated using the approved federal wetland delineation manual and applicable regional supplements in accordance with WAC 173-22-035.</p> <p>See Ecology’s Wetland Delineation page and WAC 365-190-090 for additional assistance.</p>	<p>Are wetlands delineated using the approved Federal Wetland Delineation Manual and Regional Supplements?</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>Location in Text: FMC 22.93.010</p>
<p>WETLANDS PROTECTION</p> <p>Policies and regulations protect the functions and values of wetlands. RCW 36.70A.172(1).</p> <p>Counties and cities are encouraged to make their actions consistent with the intent and goals of “protection of wetlands”, Executive Order 89-10 as it existed on September 1, 1990.</p> <p>WAC 365-190-090(3) recommends using a wetlands rating system that evaluates the existing wetland functions and values to determine what functions must be protected. Ecology updated its recommended wetlands rating systems effective January 2015. For information on the rating system, including the July 2018 adjustments to ranges for habitat scores, see:</p> <ul style="list-style-type: none"> • 2014 Updates to the Washington State Wetland Rating Systems • Washington State Wetland Rating System for Western Washington • Washington State Wetland Rating System for Eastern Washington <p>For other resources and guidance on protecting wetlands, go to Ecology’s Local Wetland Regulations: Growth Management Act technical assistance and see:</p> <ul style="list-style-type: none"> • Wetland Guidance for Critical Areas Ordinance (CAO) Updates: Western and Eastern Washington (2022) 	<p>Do the regulations use a rating system to determine wetlands protection?</p> <p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>Location in Text: FMC 22.93.040. Fircrest has not adopted the 2018 habitat score adjustments.</p> <p>Intended edits to make as a part of Fircrest’s CAO Update that will bring the CAO into greater compliance with RCW and WAC provisions governing critical areas include:</p>

1. Update FMC 22.93.040 to adopt Ecology's 2018 ratings and habitat scores.

CRITICAL AQUIFER RECHARGE AREAS

Policies and regulations protect the functions and values of critical aquifer recharge areas. **RCW 36.70A.172(1)**.

Policies and regulations protect the quality and quantity of groundwater used for public water supplies. **RCW 36.70A.070(1)** and [WAC 365-196-485\(1\)\(d\)](#).

The following references also relate to protection of groundwater resources:

- **RCW 90.44** – Regulation of Public Groundwaters
- **RCW 90.48** – Water Pollution Control
- **RCW 90.54** – Water Resources Act of 1971
- **RCW 36.36.020** - Creation of aquifer protection area (1985)
- [WAC 365-190-100](#) Critical Aquifer Recharge Areas 2023
- [WAC 173-100](#) Groundwater Management Areas and Programs (1988)
- [WAC 173-200](#) Water Quality Standards for Groundwaters of the State of Washington (1990)
- [WAC 365-196-735](#) Consideration of state and regional planning provisions (list) (2010)

The [Critical Aquifer Recharge Areas Guidance Document](#) (2021) provides information on protecting functions and values of critical aquifer recharge areas, best available science, how to work with state and local regulations and adaptive management.

Also, consider the following:

- Prohibiting or strictly regulating hazardous uses in critical aquifer recharge areas (CARAs) and designating and protecting wellhead areas. See Ecology's guidance on [Critical Aquifer Recharge Areas](#).
- Limiting impervious surfaces to reduce stormwater runoff, as required under Phase I and II municipal stormwater permits. Ecology's Stormwater Manual for Western Washington (2012) includes low impact development (LID) related definitions, requirements, and an LID performance standard. See [Stormwater Management and Design Manuals](#) on Ecology's web page.
- For additional guidance on LID resources, see Commerce's [Incentivizing low-impact development guidebook](#).

If groundwater is used for potable water, do regulations protect the quality and quantity of ground water?

- Yes
- No
- N/A

Location in text:

[Fircrest prohibits all uses or activities that would significantly reduce the recharge to aquifers currently or potentially used as a potable water source, and prohibits wells from being located in floodways to protect their structural and human health integrity – see FMC 22.94.080 and FMC 22.99.070.](#)

[Fircrest maintains active municipal stormwater permitting with the Department of Ecology and annually updates its Stormwater Management Plan as needed to ensure discharged water is of a quality and quantity aligned with state health standards – this contributes to Fircrest's obligation under RCW 36.70A.070\(1\) to provide guidance toward the mitigation or cleansing of discharge to waters of the state.](#)

Are the critical aquifer recharge regulations consistent with

<p>CRITICAL AQUIFER RECHARGE AREAS</p>	<p>current mapping of these critical areas?</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>Location in text: FMC 22.94.030 correctly designates all of Fircrest as a CARA, consistent with Pierce County mapping.</p>
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<p>FREQUENTLY FLOODED AREAS</p> <p>Regulations protect the functions and values of frequently flooded areas and safeguard the public from hazards to health and safety. RCW 36.70A.172(1).</p> <p>WAC 365-196-830 provides: "Protection' in this context means preservation of the functions and values of the natural environment, or to safeguard the public from hazards to health and safety."</p> <p>WAC 365-190-110 directs counties and cities to consider the following when designating and classifying frequently flooded areas:</p> <ul style="list-style-type: none"> (a) Effects of flooding on human health and safety, and to public facilities and services; (b) Available documentation including federal, state, and local laws, regulations, and programs, local studies and maps, and federal flood insurance programs, including the provisions for urban growth areas in RCW 36.70A.110; (c) The future flow flood plain, defined as the channel of the stream and that portion of the adjoining flood plain that is necessary to contain and discharge the base flood flow at build out; (d) The potential effects of tsunami, high tides with strong winds, sea level rise, and extreme weather events, including those potentially resulting from global climate change; (e) Greater surface runoff caused by increasing impervious surfaces. <p>Classification of and regulations for frequently flooded areas should not conflict with the FEMA requirements for the National Flood Insurance Program (NFIP). See Ecology's Frequently Flooded areas: Critical Areas Ordinance webpage and 44 CFR 60.</p> <p>Communities that are located on Puget Sound or the Strait of Juan de Fuca, or have lakes, rivers or streams that directly or indirectly drain to those water bodies, are subject to the NFIP Biological Opinion (BiOp) for Puget Sound. The biological opinion required changes to the implementation of the NFIP in order to meet the requirements of the Endangered Species Act (ESA) in the Puget Sound watershed. FEMA Region X has developed an implementation plan that allows communities to apply the performance standards contained in the Biological Opinion by implementing:</p>	<p>Are frequently flooded areas designated and regulated using FEMA and Ecology guidance?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>Location in Text: FMC 22.99.010 designates frequently flooded areas, in part, as those areas determined by FEMA as informed by their Flood Insurance Study for Pierce County. This FMC section also calls on the City's director to require other additional information that can inform risk to safety and infrastructure, future built conditions, and likely impacts of floods to administratively determine frequently flooded areas subject to related CAO provisions.</p> <p>Are you utilizing your CAO as part of a programmatic response to the BiOp?</p>
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<p>FREQUENTLY FLOODED AREAS</p> <p>1) a model ordinance; 2) a programmatic Checklist; or 3) on a permit by permit basis as long as it can be demonstrated that there is no adverse effect to listed species. Communities have the <u>option</u> of utilizing their CAOs as part of a programmatic response to address the requirements of the biological opinion. FEMA must approve a community's biological opinion compliance strategy.</p> <p>Additional resources: RCW 86.12 Flood Control by Counties RCW 86.16 Floodplain Management RCW 86.26 State Participation in Flood Control Maintenance RCW 86.16.041 Floodplain Management Ordinance and Amendments WAC 173-158-070 Requirements for construction in Special Flood Hazard Areas</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>Location in Text: FMC 22.99.040 sets forth the permit-by-permit basis for flood-related activity in Fircrest and represents the City's response to the NFIP BiOp.</p>
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<p>DEFINITION OF GEOLOGICALLY HAZARDOUS AREAS</p> <p>The definition of geologically hazardous areas is consistent with <u>RCW 36.70A.030(20)</u> and WAC 365-190-120(1).</p> <p>"Geologically hazardous areas" means areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns.</p>	<p>Is the geologically hazardous areas definition consistent with RCW 36.70A.030(20)?</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>Location in Text: FMC 22.98.309</p>
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<p>PROTECTION OF GEOLOGICALLY HAZARDOUS AREAS</p> <p>Regulations protect the functions and values of geologically hazardous areas and safeguard the public from hazards to health and safety. <u>RCW 36.70A.172(1)</u>.</p> <p>WAC 365-196-830 provides: "'Protection'" in this context means preservation of the functions and values of the natural environment, or to safeguard the public from hazards to health and safety."</p> <p>Geologically hazardous areas are designated, and their use is regulated or limited consistent with public health and safety concerns. <u>RCW 36.70A.030(20)</u></p> <p>WAC 365-190-120 describes the different types of hazardous areas:</p> <ul style="list-style-type: none"> • Geologically hazardous areas include: <ul style="list-style-type: none"> • Erosion hazards • Landslide hazards • seismic hazards • tsunami hazards • volcanic hazards • channel migration zones 	<p>Are uses in geologically hazardous areas designated and regulated or limited consistent with public health and safety?</p> <p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>Location in Text: Fircrest's CAO does a good job of protecting erosion hazards, landslide hazards, and channel migration zones. In reviewing DNR's seismic risk mapping, Fircrest should consider adopting definitions and</p>
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<ul style="list-style-type: none"> • areas subject to other geological events such as coal mine hazards including: mass wasting, debris flows, rock falls, and differential settlement. <p>The Department of Natural Resource’s Washington Geological Survey Geologic Hazards and the Environment website includes information on earthquakes and faults, landslides, volcanoes and lahars, tsunamis, hazardous minerals, emergency preparedness, historic mines and includes geologic hazard maps that can be accessed from the Geologic Information Portal.</p>	<p>provisions which afford protection against seismic hazards, too. Fircrest already adopts USGS and DNR seismic hazard maps as reference material in its CAO, and should consider additional content to particularly define these hazard areas and regulate their use.</p> <p>Intended edits to make as a part of Fircrest’s CAO Update that will bring the CAO into greater compliance with RCW and WAC provisions governing critical areas include:</p> <ol style="list-style-type: none"> 1. Define and add provisions protecting seismic hazards.
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<p>DEFINITION OF FISH AND WILDLIFE HABITAT AND CONSERVATION AREAS</p> <p>The definition of fish and wildlife habitat conservation areas is consistent with WAC 365-190-030(6). The definition of fish and wildlife habitat conservation areas was amended to state that they do not include: <i>“such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of and are maintained by a port district or an irrigation district or company”</i>.</p>	<p>Is the FWHCA definition consistent with WAC 365-190-030(6)?</p> <p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>Location in Text: FMC 22.98.285</p> <p>Intended edits to make as a part of Fircrest’s CAO Update that will bring the CAO into greater compliance with RCW and WAC provisions governing critical areas include:</p> <ol style="list-style-type: none"> 1. Update FMC 22.98.285 (fish and wildlife habitat conservation areas definition) to align more closely with the terms’ definitions in WAC 365-190-030.
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PROTECTION OF FISH AND WILDLIFE HABITAT AND CONSERVATION AREAS

Policies and regulations protect the functions and values of fish and wildlife habitat conservation areas. [RCW 36.70A.172\(1\)](#) and [WAC 365-190-030\(6\)](#).

[WAC 365-190-130\(4\)](#) says local jurisdictions must consult current information on priority habitats and species identified by [WDFW](#). Additional information that must be consulted is available from DNR's [natural heritage program](#) and [aquatic resources program](#). BAS regarding biodiversity areas and corridors has advanced significantly. Recent updates and resources include:

- [Aquatic Habitat Guidelines](#)
- [Priority Habitat and Species maps](#)
- [Priority Habitats and Species List](#) (updated June 2023)
- [Priority Habitats and Species: Management recommendations:](#)
 - [Landscape Planning for Washington's Wildlife](#) (2009)
 - [Land Use Planning for Salmon, Steelhead and Trout](#) (2009)
 - [Riparian Ecosystems, Volume 1: Science Synthesis and Management Implications](#) (2020)
 - [Riparian Ecosystems, Volume 2: Management Recommendations](#) (2020)
 - [Riparian Management Zone Checklist for CAOs](#) (2023)
 - [Shrub-Steppe Management Recommendations](#) (2020)
 - [Oregon White Oak Woodlands Ecosystems Management Recommendations](#) (1998)
 - [Management recommendations for Washington's Priority Species](#) (by taxa)
- [Puget Sound Kelp Conservation and Recovery Plan](#) (2020)
- [Stream Habitat Restoration Guidelines](#) (2012)
- [Water Crossing Design Guidelines](#) (2013)

"Areas where endangered, threatened, and sensitive species have a primary association" must be considered per [WAC 365-190-130\(2\)\(a\)](#). Consult WDFW's [Threatened and Endangered Species list](#) and U.S. Fish and Wildlife Service's [Information for Planning and Consultation](#) resources for up to date information on all state and federal listed species.

Also see the [Puget Sound Partnership's Salmon Recovery website](#) for Water Resource Inventory Area (WRIA) Plans in Puget Sound.

Have you reviewed your regulations regarding any applicable changes in management recommendations for priority habitats and species?

- Yes
 No
 N/A

Location in Text

In FMC 22.97.010, the City has codified that it will consult many of the current information resources listed in the adjacent cell, including: PHS mapping, WDFW management recommendations, DNR's natural heritage program mapping, and DNR's water type reference maps.

Importantly, while Fircrest's CAO does not include an exhaustive list of state agency resources, it does contain a helpful list of reference material and sets a principled basis in interagency reviews of matters affecting critical areas. In doing so, Fircrest could accept agency recommendations sourced from other reference material that is not necessarily included in its CAO – this is Fircrest's preferred approach, given the potential for new or revised reference material to apply to development and activities with the potential to affect critical areas.

	<p>Notably, Fircrest is disconnected from any saltwater system.</p> <p>Have you reviewed your regulations regarding any changes in species listings?</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>Location in Text FMC 22.97.010(a)(1)-(3)</p>
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<p>DESIGNATING AND PROTECTING WATERS OF THE STATE</p> <p>RCW 90.48.020 defines waters of the state, which include all surface waters, salt waters, groundwater and all other water courses in Washington. WAC 365-190-130(2)(f) recommends designating all waters of the state as fish and wildlife habitat conservation areas (FWHCAs).</p> <p>Stream types are classified in WAC 222-16-030 with field verification, or an alternate system that considers factors listed in WAC 365-190-130(4)(f)(iii). See http://www.dnr.wa.gov/forest-practices-water-typing to use Washington State Department of Natural Resources (DNR)'s stream typing system.</p> <p>Establish riparian management zones to maintain no net loss of riparian ecosystem functions and values.</p> <p>Designate areas that risk contaminating or harming shoreline resources including tidelands and bedland suitable for shellfish harvest, kelp and eelgrass beds and forage fish spawning areas.</p>	<p>Do you designate waters of the state as FWHCAs?</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>Location in Text: FMC 22.97.010(a)(5)</p> <p>Do your regulations protect waters of the state?</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>Location in Text: FMC 22.97.010(b)</p>
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<p>ANADROMOUS FISHERIES</p> <p>Policies and regulations for protecting critical areas give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries. RCW 36.70A.172(1) is the requirement and WAC 365-195-925 lists criteria involved. This requirement applies to all five types of critical areas.</p> <p>WAC 365-190-130(4)(i) recommends sources and methods for protecting fish and wildlife habitat conservation areas, including salmonid habitat. Counties and cities may use information prepared by the United States Department of the Interior Fish and Wildlife Service, National Marine Fisheries Service, the Washington State Department of Fish and Wildlife, the State Recreation and Conservation Office, and the Puget Sound Partnership to designate, protect and restore salmonid habitat.</p>	<p>Do your regulations give special consideration to anadromous fisheries?</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>Location in Text: FMC 22.92.060 expressly requires</p>
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<p>Counties and cities should consider recommendations found in the regional and watershed specific salmon recovery plans (see the Governor's Salmon Recovery Office webpage and the Puget Sound Partnership's Salmon Recovery webpage).</p> <p>Land Use Planning for Salmon, Steelhead and Trout: A land use planner's guide to salmonid habitat protection and recovery (October 2009) is an excellent resource.</p>	<p>"special consideration to anadromous fish" to be employed when analyzing BAS.</p> <p>"Special consideration to conservation or protection measures necessary to preserve or enhance anadromous fish habitat" is also a criterion for variance applications from critical area standards – see FMC 22.92.280(b)(3).</p> <p>Anadromous fish are protected by specific performance standards in FMC 22.97.040(b) that require special consideration for their preservation and enhancement to be demonstrated.</p> <p>Finally, applications that propose buffer width averaging of habitat for anadromous fish can only be approved if the width reduction is shown not to degrade anadromous fish habitat, further protecting these species through the application of Fircrest's CAO. See FMC 22.97.040(d)(4).</p>
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<p>REASONABLE USE EXCEPTIONS</p> <p>The Critical Areas Ordinance (CAO) allows for "reasonable use" if the CAO would otherwise deny all reasonable use of property. Reasonable use provisions should limit intrusions into critical areas to the greatest extent possible and apply the mitigation sequence as needed for no net loss of ecosystem functions and values RCW 36.70A.370. Common exemptions include emergencies, remodels that do not further extend into critical areas, surveying, walking, and development that has already been completed with critical areas review under a previous permit. See Critical Areas Handbook, Chapter 3: Structuring Critical Areas Regulations, p.10 (Updated 2022).</p>	<p>Do you have reasonable use provisions?</p> <p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>Location in Text: FMC 22.92.100</p>
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<p>AGRICULTURAL ACTIVITIES (COUNTIES ONLY)</p> <p>Non-VSP Counties</p> <p>Critical areas regulations as they specifically apply to agricultural activities in counties or watersheds not participating in the Voluntary Stewardship Program (VSP) have been reviewed, and if needed, revised pursuant to RCW 36.70A.130. RCW 36.70A.710(6)</p> <p>"Agricultural activities" means all agricultural uses and practices as defined in RCW 90.58.065.</p> <p>VSP Counties</p> <p>After watershed work plan approval, VSP counties are encouraged to reference and describe their participation in the program within their critical areas development regulations (WAC 365-196-832). See Critical Areas Handbook, Chapter 5: Protecting Critical Areas in Natural Resource Lands (2022).</p>	<p>Did you review your regulations as they apply to agricultural activities?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input checked="" type="checkbox"/> N/A</p> <p>Location in Text:</p> <p>This Checklist is not being prepared for a County.</p>
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<p>FOREST PRACTICES APPLICATION REGULATIONS</p> <p><i>If applicable, regulations for forest practices have been adopted: RCW 36.70A.570.</i></p> <p>RCW 76.09.240, requires many counties over 100,000 in population, and the cities and towns within those counties to adopt regulations for forest practices. These are often included in clearing and grading ordinances.</p>	<p>Have you adopted forest practices regulations?</p> <p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> N/A</p> <p>Location in Text:</p> <p>The City has adopted critical area regulations that require development to acquire forest practice permits as required by state agencies (FMC 22.100.090) or otherwise engage in forest practices in manners compliant with RCW Chapter 76.09 (FMC 22.92.080).</p> <p>The City has also adopted a Clear and Grade chapter (FMC 12.28) that requires the City review and issue a grading permit for activities in excess of codified exemptions.</p>
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GOOD IDEAS

Non-regulatory measures to protect or enhance functions and values of critical areas may be used to complement regulatory methods. These may include:

- public education
- stewardship programs
- pursuing grant opportunities
- water conservation
- joint planning with other jurisdictions and non-profit organizations
- stream and wetland restoration activities
- [transfer of development rights](#)

Monitoring and adaptive management is encouraged in [WAC 365-195-905\(6\)](#) to improve implementation of your regulations. See Commerce's Monitoring and Adaptive Management chapter in the [Critical Areas Handbook](#), Chapter 7: Monitoring and Adaptive Management of Critical Areas (2022).

Are you using non-regulatory measures to protect critical areas?

Yes

No

Location in Text:

The City's CAO views agency partnership toward environmental stewardship as an instrumental component of safe critical area development and activity allowances. See FMC 22.92.030(d) and FMC 22.92.140(c)(1)(B) as examples of this multi-jurisdiction partnership relied on for critical area protection.

The City is also interested in pursuing available grant dollars to explore passing a voluntary ordinance protecting urban forests. It is the City's aim to first comply with all state mandated zoning ordinances, and then pursue available grants to fund legislative and research efforts for urban forest protection.

Do you have a monitoring and adaptive management program for your CAO?

Yes

No

Location in Text:

FMC 22.92.060(e) outlines the City's adaptive management program, which applies in the absence of valid scientific information in an analysis of no net

February 17, 2026

City of Fircrest Planning Commission
115 Ramsdell Street
Fircrest, WA 98466

Re: 2026 Legislative Priorities (Group 1 of 2) | HBs 1377, 1757, 1096, SBs 6015 & 5559

Dear Planning Commission,

This memorandum has been prepared to support the project kickoff for Fircrest’s 2026 Legislative Priorities. This project has been separated into two segments, grouping house bills (HBs) and senate bills (SBs) governing local legislative amendments into more manageable efforts. Planning Commission will begin by assessing “Group 1 of 2” legislative priorities at its March 3 regular meeting. This meeting is intended to introduce Planning Commission to the topics of these bills and general areas of the Fircrest Municipal Code (FMC) that will need to be amended to implement each bill. Fircrest Legislative Priorities, Group 1 of 2, include:

- HB 1377 | Increased density bonus for affordable housing on religious organization owned property
- HB 1096 | Residential lot splitting
- HB 1757 | Existing buildings used for residential purposes
- SB 6015 | Residential parking
- SB 5559 | Unit lot subdivision

Table 1 has been prepared to summarize each of the aforementioned bills and offer early indications of broad areas in the FMC that will require amendments.

Table 1
Fircrest Legislative Priorities, Group 1 of 2

HB/SB	RCW	Bill Summary	FMC Changes
<u>1377</u> Increased density bonus for affordable housing on religious organization owned property	35A.63.300 35.63.280	<p>GMA-planning cities are required to allow an increased density bonus for any affordable housing development of single-family and multi-family residences on property owned or controlled by a religious organization, as long as:</p> <ul style="list-style-type: none"> • The development is set aside for or occupied by low-income households only; • A binding obligation commits the development to being occupied for low-income households for at least 50 years, even if the religious organization no longer owns the property, and; • The development does not discriminate against protected classes. <p>HB 1377 is included as Exhibit A to this memo.</p>	<p>FMC Zoning Chapters, footnoting allowed density</p> <p>FMC Chapter 22.58, Specific Use and Structure Regulations</p> <ul style="list-style-type: none"> • Create new section FMC 22.58.031 Religious Organization-Owned Affordable Housing Density Bonus <p>FMC Chapter 22.98, Definitions</p> <ul style="list-style-type: none"> • Add definitions for the following terms that match the HB: <ul style="list-style-type: none"> ○ Affordable housing development ○ Low-income household ○ Religious organization
<u>1096</u> Residential lot splitting	36.70A.635	<p>In general, cities must allow a “parent lot” to be divided via an administrative process creating two lots, each of which must meet minimum density and lot size zoning standards. “Unbuildable lots” due to critical areas are not eligible for lot splits.</p> <p>HB 1096 is included as Exhibit B to this memo.</p>	<p>FMC Chapter 22.25, Lot Splitting</p> <ul style="list-style-type: none"> • Create new chapter. <p>FMC Chapter 22.98, Definitions</p> <ul style="list-style-type: none"> • Add definitions for the following terms that match the HB: <ul style="list-style-type: none"> ○ Lot split ○ Lot split survey ○ Newly created lot ○ Parent lot

HB/SB	RCW	Bill Summary	FMC Changes
<p><u>1757</u> Existing buildings used for residential purposes</p>	<p>35A.21.440 35.21.990</p>	<p>Related to the conversion of existing buildings for residential use, code cities may not:</p> <ul style="list-style-type: none"> • Restrict density increases of up to 50% for housing units built within existing buildings, subject to building code and fire and life safety limitations. • Require off-street parking commensurate with added dwelling units in an existing building. • Require a change of use permit or other use-based permitting requirement for an existing building’s residential conversion or use, except for transitional or emergency housing. • Impose design regulations, setbacks, FAR, or lot coverage requirements for residential use of an existing building beyond what applies in the underlying zone. • Impose exterior design requirements on residential use of an existing building beyond what’s necessary for health and safety of the interior use of the structure, or to preserve character-defining streetscapes. • Prohibit housing units along major pedestrian corridors, except on the ground floor. • Require unchanged portions of a building used or previously permitted for residences to comply with current energy codes. Require changed portions of the building to comply with new energy codes, except under certain instances. • Deny building permit application for the addition of housing units if nonconformities to parking, height, setbacks, etc. exist. • Require a transportation concurrency study or SEPA environmental study based on the addition of living units in an existing building. <p>HB 1757 is included as Exhibit C to this memo.</p>	<p>FMC Section 22.30.005, Zoning Regulations Applicable within Districts</p> <ul style="list-style-type: none"> • Create new subsection that sets forth the broad applicability of these nonresidential to residential conversion parameters.

HB/SB	RCW	Bill Summary	FMC Changes
<p><u>6015</u> Residential parking</p>	<p>36.70A.622</p>	<p>Cities cannot require garages or carports for off-street parking requirements. Tandem parking stall dimensions are defined, as well as maximum area of parking stalls.</p> <p>Existing nonconforming gravel stalls (of to 6 stalls) cannot justify a prohibition on utilizing the existing parking space to meet local standards.</p> <p>Existing parking lots are not required to be retrofitted or reconfigured if it would be more costly than resurfacing to existing conditions.</p> <p>SB 6015 is included as Exhibit D to this memo.</p>	<p>FMC Chapter 22.60, Parking and Circulation</p> <ul style="list-style-type: none"> • Revise to adopt provisions from HB regarding parking location, amount, and sizing.
<p><u>5559</u> Unit lot subdivision</p>	<p>58.17.020 58.17.060</p>	<p>Cities are required to allow for unit lot subdivisions and unit lot short subdivisions, which are new ways to subdivide land that rely on a “parent lot” and “children lot” collectively meeting the minimum dimensional standards of a zone, rather than each individual lot needing to meet those requirements (as is typical in a traditional subdivision).</p> <p>SB 5559 is included as Exhibit E to this memo.</p>	<p>FMC Chapter 22.17, Short Plats FMC Chapter 22.18, Preliminary Plats FMC Chapter 22.19, Final Plats</p> <ul style="list-style-type: none"> • Revise all chapters to incorporate Unit Lot Short Subdivisions and Unit Lot Subdivisions <p>FMC Chapter 22.98, Definitions</p> <ul style="list-style-type: none"> • Add or revise definitions for the following terms that match the HB: <ul style="list-style-type: none"> ○ Parent Lot ○ Unit Lot ○ Unit Lot Subdivisions ○ Clear and Objective Design and Development Standards

Focus of March 3 Meeting

At the regular Planning Commission meeting on March 3, 2026, I will present a summary of each of these bills (now passed into legislation) and describe their effect on the FMC. The intent of the meeting is to familiarize the Planning Commission with these new laws, priming a presentation of recommended FMC amendments at its April meeting which would implement Fircrest Legislative Priorities, Group 1 of 2.

I look forward to discussing this project with Planning Commission at its March 3 meeting!



Kimberly A. Gunderson
Mahoney Planning, LLC

Exhibits:

- A. [HB 1337](#)
- B. [HB 1096](#)
- C. [HB 1757](#)
- D. [SB 6015](#)
- E. [SB 5559](#)

Exhibit A
March 3, 2026
Fircrest Planning Commission
Legislative Priorities, Group 1 of 2

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1377

Chapter 218, Laws of 2019

66th Legislature
2019 Regular Session

AFFORDABLE HOUSING DEVELOPMENT ON RELIGIOUS ORGANIZATION PROPERTY

EFFECTIVE DATE: July 28, 2019

Passed by the House April 18, 2019
Yeas 85 Nays 9

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 12, 2019
Yeas 42 Nays 3

CYRUS HABIB

President of the Senate

Approved April 30, 2019 2:43 PM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1377** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

May 1, 2019

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1377

AS AMENDED BY THE SENATE

Passed Legislature - 2019 Regular Session

State of Washington 66th Legislature 2019 Regular Session

By House Housing, Community Development & Veterans (originally sponsored by Representatives Walen, Barkis, Jenkin, Harris, Springer, Macri, Wylie, Ryu, Reeves, Robinson, Griffey, Appleton, Bergquist, Jinkins, Tharinger, Slatter, Kloba, Doglio, Goodman, Leavitt, Ormsby, and Santos)

READ FIRST TIME 02/08/19.

1 AN ACT Relating to affordable housing development on religious
2 organization property; adding a new section to chapter 35.63 RCW;
3 adding a new section to chapter 35A.63 RCW; adding a new section to
4 chapter 36.70A RCW; and adding a new section to chapter 44.28 RCW.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 35.63
7 RCW to read as follows:

8 (1) A city planning under this chapter must allow an increased
9 density bonus consistent with local needs for any affordable housing
10 development of any single-family or multifamily residence located on
11 real property owned or controlled by a religious organization
12 provided that:

13 (a) The affordable housing development is set aside for or
14 occupied exclusively by low-income households;

15 (b) The affordable housing development is part of a lease or
16 other binding obligation that requires the development to be used
17 exclusively for affordable housing purposes for at least fifty years,
18 even if the religious organization no longer owns the property; and

19 (c) The affordable housing development does not discriminate
20 against any person who qualifies as a member of a low-income
21 household based on race, creed, color, national origin, sex, veteran

1 or military status, sexual orientation, or mental or physical
2 disability; or otherwise act in violation of the federal fair housing
3 amendments act of 1988 (42 U.S.C. Sec. 3601 et seq.).

4 (2) A city may develop policies to implement this section if it
5 receives a request from a religious organization for an increased
6 density bonus for an affordable housing development.

7 (3) The religious organization developing the affordable housing
8 development must pay all fees, mitigation costs, and other charges
9 required through the development of the affordable housing
10 development.

11 (4) If applicable, the religious organization developing the
12 affordable housing development should work with the local transit
13 agency to ensure appropriate transit services are provided to the
14 affordable housing development.

15 (5) This section applies to any religious organization
16 rehabilitating an existing affordable housing development.

17 (6) For purposes of this section:

18 (a) "Affordable housing development" means a proposed or existing
19 structure in which one hundred percent of all single-family or
20 multifamily residential dwelling units within the development are set
21 aside for or are occupied by low-income households at a sales price
22 or rent amount that may not exceed thirty percent of the income limit
23 for the low-income housing unit;

24 (b) "Low-income household" means a single person, family, or
25 unrelated persons living together whose adjusted income is less than
26 eighty percent of the median family income, adjusted for household
27 size, for the county where the affordable housing development is
28 located; and

29 (c) "Religious organization" has the same meaning as in RCW
30 35.21.915.

31 NEW SECTION. **Sec. 2.** A new section is added to chapter 35A.63
32 RCW to read as follows:

33 (1) A city planning under this chapter must allow an increased
34 density bonus consistent with local needs for any affordable housing
35 development of any single-family or multifamily residence located on
36 real property owned or controlled by a religious organization
37 provided that:

38 (a) The affordable housing development is set aside for or
39 occupied exclusively by low-income households;

1 (b) The affordable housing development is part of a lease or
2 other binding obligation that requires the development to be used
3 exclusively for affordable housing purposes for at least fifty years,
4 even if the religious organization no longer owns the property; and

5 (c) The affordable housing development does not discriminate
6 against any person who qualifies as a member of a low-income
7 household based on race, creed, color, national origin, sex, veteran
8 or military status, sexual orientation, or mental or physical
9 disability; or otherwise act in violation of the federal fair housing
10 amendments act of 1988 (42 U.S.C. Sec. 3601 et seq.).

11 (2) A city may develop policies to implement this section if it
12 receives a request from a religious organization for an increased
13 density bonus for an affordable housing development.

14 (3) The religious organization developing the affordable housing
15 development must pay all fees, mitigation costs, and other charges
16 required through the development of the affordable housing
17 development.

18 (4) If applicable, the religious organization developing the
19 affordable housing development should work with the local transit
20 agency to ensure appropriate transit services are provided to the
21 affordable housing development.

22 (5) This section applies to any religious organization
23 rehabilitating an existing affordable housing development.

24 (6) For purposes of this section:

25 (a) "Affordable housing development" means a proposed or existing
26 structure in which one hundred percent of all single-family or
27 multifamily residential dwelling units within the development are set
28 aside for or are occupied by low-income households at a sales price
29 or rent amount that may not exceed thirty percent of the income limit
30 for the low-income housing unit;

31 (b) "Low-income household" means a single person, family, or
32 unrelated persons living together whose adjusted income is less than
33 eighty percent of the median family income, adjusted for household
34 size, for the county where the affordable housing development is
35 located; and

36 (c) "Religious organization" has the same meaning as in RCW
37 35A.21.360.

38 NEW SECTION. **Sec. 3.** A new section is added to chapter 36.70A
39 RCW to read as follows:

1 (1) Any city or county fully planning under this chapter must
2 allow an increased density bonus consistent with local needs for any
3 affordable housing development of any single-family or multifamily
4 residence located on real property owned or controlled by a religious
5 organization provided that:

6 (a) The affordable housing development is set aside for or
7 occupied exclusively by low-income households;

8 (b) The affordable housing development is part of a lease or
9 other binding obligation that requires the development to be used
10 exclusively for affordable housing purposes for at least fifty years,
11 even if the religious organization no longer owns the property; and

12 (c) The affordable housing development does not discriminate
13 against any person who qualifies as a member of a low-income
14 household based on race, creed, color, national origin, sex, veteran
15 or military status, sexual orientation, or mental or physical
16 disability; or otherwise act in violation of the federal fair housing
17 amendments act of 1988 (42 U.S.C. Sec. 3601 et seq.).

18 (2) A city or county may develop policies to implement this
19 section if it receives a request from a religious organization for an
20 increased density bonus for an affordable housing development.

21 (3) An affordable housing development created by a religious
22 institution within a city or county fully planning under RCW
23 36.70A.040 must be located within an urban growth area as defined in
24 RCW 36.70A.110.

25 (4) The religious organization developing the affordable housing
26 development must pay all fees, mitigation costs, and other charges
27 required through the development of the affordable housing
28 development.

29 (5) If applicable, the religious organization developing the
30 affordable housing development should work with the local transit
31 agency to ensure appropriate transit services are provided to the
32 affordable housing development.

33 (6) This section applies to any religious organization
34 rehabilitating an existing affordable housing development.

35 (7) For purposes of this section:

36 (a) "Affordable housing development" means a proposed or existing
37 structure in which one hundred percent of all single-family or
38 multifamily residential dwelling units within the development are set
39 aside for or are occupied by low-income households at a sales price

1 or rent amount that may not exceed thirty percent of the income limit
2 for the low-income housing unit;

3 (b) "Low-income household" means a single person, family, or
4 unrelated persons living together whose adjusted income is less than
5 eighty percent of the median family income, adjusted for household
6 size, for the county where the affordable housing development is
7 located; and

8 (c) "Religious organization" has the same meaning as in RCW
9 36.01.290.

10 NEW SECTION. **Sec. 4.** A new section is added to chapter 44.28
11 RCW to read as follows:

12 The joint committee must review the efficacy of the increased
13 density bonus incentive for affordable housing development located on
14 property owned by a religious organization pursuant to this act and
15 report its findings to the appropriate committees of the legislature
16 by December 1, 2030. The review must include a recommendation on
17 whether this incentive should be continued without change or should
18 be amended or repealed.

Passed by the House April 18, 2019.
Passed by the Senate April 12, 2019.
Approved by the Governor April 30, 2019.
Filed in Office of Secretary of State May 1, 2019.

--- END ---

Exhibit B
March 3, 2026
Fircrest Planning Commission
Legislative Priorities, Group 1 of 2

CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1096

Chapter 301, Laws of 2025

69th Legislature
2025 Regular Session

RESIDENTIAL LOT SPLITTING

EFFECTIVE DATE: July 27, 2025

Passed by the House April 27, 2025
Yeas 94 Nays 4

LAURIE JINKINS

**Speaker of the House of
Representatives**

Passed by the Senate April 14, 2025
Yeas 43 Nays 4

DENNY HECK

President of the Senate

Approved May 17, 2025 11:25 AM

BOB FERGUSON

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1096** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

May 19, 2025

**Secretary of State
State of Washington**

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1096

AS AMENDED BY THE SENATE

Passed Legislature - 2025 Regular Session

State of Washington 69th Legislature 2025 Regular Session

By House Appropriations (originally sponsored by Representatives Barkis, Ryu, Connors, Leavitt, Klicker, Reed, Fitzgibbon, Richards, Couture, Macri, Callan, Doglio, Bronoske, Tharinger, Wylie, Duerr, Timmons, Ormsby, Fosse, Stonier, Bernbaum, and Hill)

READ FIRST TIME 02/21/25.

1 AN ACT Relating to increasing housing options through lot
2 splitting; amending RCW 36.70A.635; adding a new section to chapter
3 58.17 RCW; and creating new sections.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds that allowing an
6 existing residential lot to be split to create a new residential lot
7 through a simple, administrative process can offer many advantages to
8 both the existing homeowner and to prospective homebuyers. The
9 legislature further finds that administrative lot splitting can
10 provide current owners the opportunity to maintain homeownership in
11 changing life circumstances while facilitating development of middle
12 housing to provide homebuyers, including first-time homebuyers, with
13 more affordable ownership opportunities. The legislature also finds
14 that lot splitting can be combined with the review of a residential
15 building permit application to create a single integrated process
16 benefiting both homeowners and cities. Therefore, it is the intent of
17 the legislature to ease restrictions on, and expand opportunities
18 for, lot splitting in cities.

19 NEW SECTION. **Sec. 2.** A new section is added to chapter 58.17
20 RCW to read as follows:

1 (1) Cities shall include in their development regulations a
2 process through which an applicant can seek review and approval of an
3 administrative lot split, which may be combined with concurrent
4 review of a residential building permit to create new middle housing,
5 as defined in RCW 36.70A.030, or single-family housing. The
6 application process for a residential lot to be split may require
7 only an administrative decision, through which the application is
8 reviewed, approved, or denied by the planning director or other
9 designee based on applicable clear and objective development
10 standards, with neither a predecision public hearing, nor any design
11 review other than administrative design review. A new buildable
12 residential lot and residential building permit or permits must be
13 administratively approved and are not subject to administrative
14 appeal if they comply with applicable development standards and the
15 following conditions are met:

16 (a) No more than one newly created lot is created through the
17 administrative lot split;

18 (b) Both the parent lot and the newly created lot meet the
19 minimum lot size allowed under applicable development regulations;

20 (c) The parent lot was not created through the splitting of a
21 residential lot authorized by this section;

22 (d) The parent lot is located in a residential zone and not in an
23 exclusively nonresidential zone including, but not limited to, zones
24 that are exclusively commercial, retail, agricultural, or industrial;

25 (e) If the lot split would require demolition or alteration of
26 any existing housing that would displace a renter, the applicant must
27 recommend a displacement mitigation strategy that may include, but is
28 not limited to, relocation assistance;

29 (f) The applicable sewer and water purveyors have issued
30 certificates of availability to serve the newly created lot and
31 dwelling units;

32 (g) Access and utility rights are granted or conveyed as
33 necessary on or before recording of the lot split survey to provide
34 access for the maximum number of dwelling units that could be
35 developed on the newly created lot, provided such access rights may
36 be reduced consistent with a city's adopted codes, regulations, or
37 design standards as applicable through review of a subsequent
38 application for a building permit, short subdivision, unit lot
39 subdivision, subdivision application, or short subdivision if less

1 than the maximum number of dwelling units are built on the newly
2 created lot;

3 (h) The planning director or other designee determines that the
4 application follows all applicable development regulations; and

5 (i) The lot split survey has been approved by the planning
6 director or other designee and includes a condition on the face of
7 the survey that further lot splits of the parent lot and newly
8 created lot are not authorized by this section.

9 (2) A proposed lot split may be conditioned upon dedication of
10 right-of-way on the parent lot to the extent such dedication is
11 required under applicable codes, regulations, and design standards
12 for the development, short plat, or subdivision of the parent lot
13 absent an administrative lot split.

14 (3) Development of dwelling units on the newly created lot may be
15 conditioned upon construction of frontage improvements to a right-of-
16 way adjacent to either the parent lot or the newly created lot to the
17 extent required under applicable codes, regulations, and design
18 standards.

19 (4) Any construction on the newly created lot is subject to all
20 existing state and local laws including those specified in this
21 section. Nothing in this section modifies the requirements for
22 approval of residential building permits in chapter 19.27 RCW.

23 (5) A city subject to the requirements of this section may not
24 impose a limit on the total number of dwelling units allowed on the
25 parent lot or newly created lot that is less than the number of
26 dwelling units allowed by the underlying zoning of the parent lot
27 prior to the administrative lot split.

28 (6) Notwithstanding the provisions of this section, lots that are
29 not buildable according to locally adopted development regulations
30 including, but not limited to, critical areas, shorelines,
31 stormwater, setbacks, impervious surface areas, and building coverage
32 standards, are not eligible for a lot split under this section.

33 (7) If a lot split results in a lot of a size that would allow
34 for further land division, the lot is not eligible for a lot split
35 but may be divided under other applicable land subdivision processes.

36 (8) The newly created lot must meet any locally adopted minimum
37 density requirements.

38 (9) Cities are immune from any liability, loss, or other damage
39 suffered by another that is related to the city's approval of a lot

1 split under this act, including if the lot split creates a lot that
2 is later determined to not be buildable.

3 (10) Parent lots and newly created lots approved under this
4 section must have a lot split survey recorded with the county auditor
5 with a notation that future lot splits are not allowed on the lot.

6 (11) An application process or a residential lot to be split
7 under this section is subject to the maximum time period for local
8 government actions as set forth in RCW 36.70B.080, unless extended
9 pursuant to project-specific mutual agreement as permitted by RCW
10 36.70B.080.

11 (12) Ordinances adopted to comply with this section are not
12 subject to administrative or judicial appeal under chapter 43.21C
13 RCW.

14 (13) The department of commerce must develop guidance for cities
15 in implementing the lot splitting requirements.

16 (14) A city required to comply with the requirements of this
17 section that has its next comprehensive plan update due in 2027,
18 pursuant to RCW 36.70A.130, must adopt or amend by ordinance, and
19 incorporate into its development regulations, zoning regulations, and
20 other official controls, the requirements of this section in its next
21 comprehensive plan update. All other cities required to comply with
22 this section must implement the requirements within two years of the
23 effective date of this section.

24 (15) For the purposes of this section, the following definitions
25 apply unless the context clearly requires otherwise:

26 (a) "Lot split" means the administrative process of dividing an
27 existing lot into two lots for the purpose of sale, lease, or
28 transfer of ownership pursuant to this section.

29 (b) "Lot split survey" means the final survey prepared for filing
30 for record with the county auditor and containing all elements and
31 requirements for a lot split under this section and any local
32 regulations.

33 (c) "Newly created lot" means a lot that was created by a lot
34 split under this section.

35 (d) "Parent lot" means a lot that is subjected to a lot split
36 under this section.

37 (16) The provisions of this section do not apply to areas
38 designated as sole-source aquifers by the United States environmental
39 protection agency on islands in the Puget Sound.

1 **Sec. 3.** RCW 36.70A.635 and 2024 c 152 s 2 are each amended to
2 read as follows:

3 (1) Except as provided in subsection (4) of this section, any
4 city that is required or chooses to plan under RCW 36.70A.040 must
5 provide by ordinance and incorporate into its development
6 regulations, zoning regulations, and other official controls,
7 authorization for the following:

8 (a) For cities with a population of at least 25,000 but less than
9 75,000 based on office of financial management population estimates:

10 (i) The development of at least two units per lot on all lots
11 zoned predominantly for residential use, unless zoning permitting
12 higher densities or intensities applies;

13 (ii) The development of at least four units per lot on all lots
14 zoned predominantly for residential use, unless zoning permitting
15 higher densities or intensities applies, within one-quarter mile
16 walking distance of a major transit stop; and

17 (iii) The development of at least four units per lot on all lots
18 zoned predominantly for residential use, unless zoning permitting
19 higher densities or intensities applies, if at least one unit is
20 affordable housing.

21 (b) For cities with a population of at least 75,000 based on
22 office of financial management population estimates:

23 (i) The development of at least four units per lot on all lots
24 zoned predominantly for residential use, unless zoning permitting
25 higher densities or intensities applies;

26 (ii) The development of at least six units per lot on all lots
27 zoned predominantly for residential use, unless zoning permitting
28 higher densities or intensities applies, within one-quarter mile
29 walking distance of a major transit stop; and

30 (iii) The development of at least six units per lot on all lots
31 zoned predominantly for residential use, unless zoning permitting
32 higher densities or intensities applies, if at least two units are
33 affordable housing.

34 (c) For cities with a population of less than 25,000, that are
35 within a contiguous urban growth area with the largest city in a
36 county with a population of more than 275,000, based on office of
37 financial management population estimates the development of at least
38 two units per lot on all lots zoned predominantly for residential
39 use, unless zoning permitting higher densities or intensities
40 applies.

1 (2) (a) To qualify for the additional units allowed under
2 subsection (1) of this section, the applicant must commit to renting
3 or selling the required number of units as affordable housing. The
4 units must be maintained as affordable for a term of at least 50
5 years, and the property must satisfy that commitment and all required
6 affordability and income eligibility conditions adopted by the local
7 government under this chapter. A city must require the applicant to
8 record a covenant or deed restriction that ensures the continuing
9 rental of units subject to these affordability requirements
10 consistent with the conditions in chapter 84.14 RCW for a period of
11 no less than 50 years. The covenant or deed restriction must also
12 address criteria and policies to maintain public benefit if the
13 property is converted to a use other than which continues to provide
14 for permanently affordable housing.

15 (b) The units dedicated as affordable must be provided in a range
16 of sizes comparable to other units in the development. To the extent
17 practicable, the number of bedrooms in affordable units must be in
18 the same proportion as the number of bedrooms in units within the
19 entire development. The affordable units must generally be
20 distributed throughout the development and have substantially the
21 same functionality as the other units in the development.

22 (c) If a city has enacted a program under RCW 36.70A.540, the
23 terms of that program govern to the extent they vary from the
24 requirements of this subsection.

25 (3) If a city has enacted a program under RCW 36.70A.540,
26 subsection (1) of this section does not preclude the city from
27 requiring any development, including development described in
28 subsection (1) of this section, to provide affordable housing, either
29 on-site or through an in-lieu payment, nor limit the city's ability
30 to expand such a program or modify its requirements.

31 (4) (a) As an alternative to the density requirements in
32 subsection (1) of this section, a city may implement the density
33 requirements in subsection (1) of this section for at least 75
34 percent of lots in the city that are primarily dedicated to single-
35 family detached housing units.

36 (b) The 25 percent of lots for which the requirements of
37 subsection (1) of this section are not implemented must include but
38 are not limited to:

1 (i) Any areas within the city for which the department has
2 certified an extension of the implementation timelines under RCW
3 36.70A.637 due to the risk of displacement;

4 (ii) Any areas within the city for which the department has
5 certified an extension of the implementation timelines under RCW
6 36.70A.638 due to a lack of infrastructure capacity;

7 (iii) Any lots, parcels, and tracts designated with critical
8 areas or their buffers that are exempt from the density requirements
9 as provided in subsection (8) of this section;

10 (iv) Any portion of a city within a one-mile radius of a
11 commercial airport with at least 9,000,000 annual enplanements that
12 is exempt from the parking requirements under subsection (7)(b) of
13 this section; and

14 (v) Any areas subject to sea level rise, increased flooding,
15 susceptible to wildfires, or geological hazards over the next 100
16 years.

17 (c) Unless identified as at higher risk of displacement under RCW
18 36.70A.070(2)(g), the 25 percent of lots for which the requirements
19 of subsection (1) of this section are not implemented may not
20 include:

21 (i) Any areas for which the exclusion would further racially
22 disparate impacts or result in zoning with a discriminatory effect;

23 (ii) Any areas within one-half mile walking distance of a major
24 transit stop; or

25 (iii) Any areas historically covered by a covenant or deed
26 restriction excluding racial minorities from owning property or
27 living in the area, as known to the city at the time of each
28 comprehensive plan update.

29 (5) A city subject to the requirements of subsection (1)(a) or
30 (b) of this section must allow at least six of the nine types of
31 middle housing to achieve the unit density required in subsection (1)
32 of this section. A city may allow accessory dwelling units to achieve
33 the unit density required in subsection (1) of this section. Cities
34 are not required to allow accessory dwelling units or middle housing
35 types beyond the density requirements in subsection (1) of this
36 section. A city must also allow zero lot line short subdivision where
37 the number of lots created is equal to the unit density required in
38 subsection (1) of this section.

39 (6) Any city subject to the requirements of this section:

1 (a) If applying design review for middle housing, only
2 administrative design review shall be required;

3 (b) Except as provided in (a) of this subsection, shall not
4 require through development regulations any standards for middle
5 housing that are more restrictive than those required for detached
6 single-family residences, but may apply any objective development
7 regulations that are required for detached single-family residences,
8 including, but not limited to, set-back, lot coverage, stormwater,
9 clearing, and tree canopy and retention requirements;

10 (c) Shall apply to middle housing the same development permit and
11 environmental review processes that apply to detached single-family
12 residences, unless otherwise required by state law including, but not
13 limited to, shoreline regulations under chapter 90.58 RCW, building
14 codes under chapter 19.27 RCW, energy codes under chapter 19.27A RCW,
15 or electrical codes under chapter 19.28 RCW;

16 (d) Shall not require off-street parking as a condition of
17 permitting development of middle housing within one-half mile walking
18 distance of a major transit stop;

19 (e) Shall not require more than one off-street parking space per
20 unit as a condition of permitting development of middle housing on
21 lots no greater than 6,000 square feet before any zero lot line
22 subdivisions or lot splits;

23 (f) Shall not require more than two off-street parking spaces per
24 unit as a condition of permitting development of middle housing on
25 lots greater than 6,000 square feet before any zero lot line
26 subdivisions or lot splits; and

27 (g) Are not required to achieve the per unit density under
28 chapter 332, Laws of 2023 on lots after subdivision below 1,000
29 square feet unless the city chooses to enact smaller allowable lot
30 sizes.

31 (7) The provisions of subsection (6)(d) through (f) of this
32 section do not apply:

33 (a) If a local government submits to the department an empirical
34 study prepared by a credentialed transportation or land use planning
35 expert that clearly demonstrates, and the department finds and
36 certifies, that the application of the parking limitations of
37 subsection (6)(d) through (f) of this section for middle housing will
38 be significantly less safe for vehicle drivers or passengers,
39 pedestrians, or bicyclists than if the jurisdiction's parking
40 requirements were applied to the same location for the same number of

1 detached houses. The department must develop guidance to assist
2 cities on items to include in the study; or

3 (b) To portions of cities within a one-mile radius of a
4 commercial airport in Washington with at least 9,000,000 annual
5 enplanements.

6 (8) The provisions of this section do not apply to:

7 (a) Portions of a lot, parcel, or tract designated with critical
8 areas designated under RCW 36.70A.170 or their buffers as required by
9 RCW 36.70A.170, except for critical aquifer recharge areas where a
10 single-family detached house is an allowed use provided that any
11 requirements to maintain aquifer recharge are met;

12 (b) Areas designated as sole-source aquifers by the United States
13 environmental protection agency on islands in the Puget Sound;

14 (c) A watershed serving a reservoir for potable water if that
15 watershed is or was listed, as of July 23, 2023, as impaired or
16 threatened under section 303(d) of the federal clean water act (33
17 U.S.C. Sec. 1313(d));

18 (d) Lots that have been designated urban separators by countywide
19 planning policies as of July 23, 2023; or

20 (e) A lot that was created through the splitting of a single
21 residential lot pursuant to section 2 of this act.

22 (9) Nothing in this section prohibits a city from permitting
23 detached single-family residences.

24 (10) Nothing in this section requires a city to issue a building
25 permit if other federal, state, and local requirements for a building
26 permit are not met.

27 (11) A city must comply with the requirements of this section on
28 the latter of:

29 (a) Six months after its next periodic comprehensive plan update
30 required under RCW 36.70A.130 if the city meets the population
31 threshold based on the 2020 office of financial management population
32 data; or

33 (b) 12 months after their next implementation progress report
34 required under RCW 36.70A.130 after a determination by the office of
35 financial management that the city has reached a population threshold
36 established under this section.

37 (12) A city complying with this section and not granted a
38 timeline extension under RCW 36.70A.638 does not have to update its
39 capital facilities plan element required by RCW 36.70A.070(3) to
40 accommodate the increased housing required by chapter 332, Laws of

1 2023 until the first periodic comprehensive plan update required for
2 the city under RCW 36.70A.130(5) that occurs on or after June 30,
3 2034.

4 (13) Until June 30, 2026, for cities subject to a growth target
5 adopted under RCW 36.70A.210 that limit the maximum residential
6 capacity of the jurisdiction, any additional residential capacity
7 required by this section for lots, parcels, and tracts with critical
8 areas or critical area buffers outside of critical areas or their
9 buffers may not be considered an inconsistency with the countywide
10 planning policies, multicounty planning policies, or growth targets
11 adopted under RCW 36.70A.210.

12 NEW SECTION. **Sec. 4.** If specific funding for the purposes of
13 this act, referencing this act by bill or chapter number, is not
14 provided by June 30, 2025, in the omnibus appropriations act, this
15 act is null and void.

Passed by the House April 27, 2025.
Passed by the Senate April 14, 2025.
Approved by the Governor May 17, 2025.
Filed in Office of Secretary of State May 19, 2025.

--- END ---

Exhibit C
March 3, 2026
Fircrest Planning Commission
Legislative Priorities, Group 1 of 2

CERTIFICATION OF ENROLLMENT

HOUSE BILL 1757

Chapter 203, Laws of 2025

69th Legislature
2025 Regular Session

EXISTING BUILDINGS USED FOR RESIDENTIAL PURPOSES—VARIOUS PROVISIONS

EFFECTIVE DATE: July 27, 2025

Passed by the House April 18, 2025
Yeas 94 Nays 1

LAURIE JINKINS

**Speaker of the House of
Representatives**

Passed by the Senate April 2, 2025
Yeas 48 Nays 1

DENNY HECK

President of the Senate

Approved May 7, 2025 1:20 PM

BOB FERGUSON

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1757** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

May 12, 2025

**Secretary of State
State of Washington**

HOUSE BILL 1757

AS AMENDED BY THE SENATE

Passed Legislature - 2025 Regular Session

State of Washington **69th Legislature** **2025 Regular Session**

By Representatives Walen, Fitzgibbon, Parshley, Paul, Ramel, and Reed

Read first time 01/31/25. Referred to Committee on Housing.

1 AN ACT Relating to modifying regulations for existing buildings
2 used for residential purposes; and amending RCW 35A.21.440 and
3 35.21.990.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 35A.21.440 and 2023 c 285 s 1 are each amended to
6 read as follows:

7 (1)(a) Code cities must adopt or amend by ordinance, and
8 incorporate into their development regulations, zoning regulations,
9 and other official controls the requirements of subsection (2) of
10 this section for buildings (~~that are zoned for commercial or mixed~~
11 ~~use no later than six months after its next periodic comprehensive~~
12 ~~plan update required under RCW 36.70A.130)) in commercial, mixed-use,
13 or residential zones no later than June 30, 2026.~~

14 (b) The requirements of subsection (2) of this section apply and
15 take effect in any code city that has not adopted or amended
16 ordinances, regulations, or other official controls as required under
17 this section by the timeline in (a) of this subsection and supersede,
18 preempt, and invalidate any conflicting local development
19 regulations.

1 (2) Through ordinances, development regulations, zoning
2 regulations, or other official controls as required under subsection
3 (1) of this section, code cities may not:

4 (a) Impose a restriction on housing unit density that prevents
5 the addition of housing units at a density up to 50 percent more than
6 what is allowed in the underlying zone if constructed entirely within
7 an existing building envelope in a building located within a zone
8 that permits multifamily housing, provided that generally applicable
9 health and safety standards, including but not limited to building
10 code standards and fire and life safety standards, can be met within
11 the building;

12 (b) Impose parking requirements on the addition of dwelling units
13 or living units added within an existing building, however, cities
14 may require the retention of existing parking that is required to
15 satisfy existing residential parking requirements under local laws
16 and for nonresidential uses that remain after the new units are
17 added;

18 (c) With the exception of emergency housing and transitional
19 housing uses, impose permitting requirements on the use of an
20 existing building for residential purposes beyond those requirements
21 generally applicable to all residential development within the
22 building's zone, including requiring a change of use permit;

23 (d) Impose design standard requirements, including setbacks, lot
24 coverage, and floor area ratio requirements, on the use of an
25 existing building for residential purposes beyond those requirements
26 generally applicable to all residential development within the
27 building's zone;

28 (e) Impose exterior design or architectural requirements on the
29 residential use of an existing building beyond those necessary for
30 health and safety of the use of the interior of the building or to
31 preserve character-defining streetscapes, unless the building is a
32 designated landmark or is within a historic district established
33 through a local preservation ordinance;

34 (f) Prohibit the addition of housing units in any specific part
35 of a building except ground floor commercial or retail that is along
36 a major pedestrian corridor as defined by the code city, unless the
37 addition of the units would violate applicable building codes or
38 health and safety standards;

39 (g) Require unchanged portions of an existing building that have
40 been used for residential or previously permit-approved conditioned

1 space purposes to meet the current energy code solely because of the
2 addition of new dwelling units within the building(~~(, however, if any~~
3 ~~portion of an~~)). When any other existing building is converted to new
4 dwelling units, changed portions of each of those new units must meet
5 the requirements of the current energy code(~~(+)~~), except if:

6 (i) The square footage of new dwelling units does not exceed
7 2,500 square feet or 50 percent of the total building square footage,
8 whichever is greater;

9 (ii) The building owner submits documentation, in a form
10 acceptable to the code city, showing the building's residential
11 units' projected energy use intensity is less than or equal to the
12 energy use intensity target in accordance with the clean buildings
13 performance standard in RCW 19.27A.210; or

14 (iii) In all areas zoned for residential housing, an additional
15 housing unit is created within an existing home;

16 (h) Deny a building permit application for the addition of
17 housing units within an existing building due to nonconformity
18 regarding parking, height, setbacks, elevator size for gurney
19 transport, or modulation, unless the code city official with
20 decision-making authority makes written findings that the
21 nonconformity is causing a significant detriment to the surrounding
22 area; or

23 (i) Require a transportation concurrency study under RCW
24 36.70A.070 or an environmental study under chapter 43.21C RCW based
25 on the addition of residential units within an existing building.

26 (3) Nothing in this section requires a code city to approve a
27 building permit application for the addition of housing units
28 constructed entirely within an existing building envelope in a
29 building located within a zone that permits multifamily housing in
30 cases in which the building cannot satisfy life safety standards.

31 (4) For the purpose of this section, "existing building" means a
32 building that received a certificate of occupancy at least three
33 years prior to the permit application to add housing units.

34 **Sec. 2.** RCW 35.21.990 and 2023 c 285 s 2 are each amended to
35 read as follows:

36 (1)(a) Cities must adopt or amend by ordinance, and incorporate
37 into their development regulations, zoning regulations, and other
38 official controls the requirements of subsection (2) of this section
39 for buildings (~~that are zoned for commercial or mixed use no later~~

1 ~~than six months after its next periodic comprehensive plan update~~
2 ~~required under RCW 36.70A.130))~~ in commercial, mixed-use, or
3 residential zones no later than June 30, 2026.

4 (b) The requirements of subsection (2) of this section apply and
5 take effect in any city that has not adopted or amended ordinances,
6 regulations, or other official controls as required under this
7 section by the timeline in (a) of this subsection and supersede,
8 preempt, and invalidate any conflicting local development
9 regulations.

10 (2) Through ordinances, development regulations, zoning
11 regulations, or other official controls as required under subsection
12 (1) of this section, cities may not:

13 (a) Impose a restriction on housing unit density that prevents
14 the addition of housing units at a density up to 50 percent more than
15 what is allowed in the underlying zone if constructed entirely within
16 an existing building envelope in a building located within a zone
17 that permits multifamily housing, provided that generally applicable
18 health and safety standards, including but not limited to building
19 code standards and fire and life safety standards, can be met within
20 the building;

21 (b) Impose parking requirements on the addition of dwelling units
22 or living units added within an existing building, however, cities
23 may require the retention of existing parking that is required to
24 satisfy existing residential parking requirements under local laws
25 and for nonresidential uses that remain after the new units are
26 added;

27 (c) With the exception of emergency housing and transitional
28 housing uses, impose permitting requirements on the use of an
29 existing building for residential purposes beyond those requirements
30 generally applicable to all residential development within the
31 building's zone, including requiring a change of use permit;

32 (d) Impose design standard requirements, including setbacks, lot
33 coverage, and floor area ratio requirements, on the use of an
34 existing building for residential purposes beyond those requirements
35 generally applicable to all residential development within the
36 building's zone;

37 (e) Impose exterior design or architectural requirements on the
38 residential use of an existing building beyond those necessary for
39 health and safety of the use of the interior of the building or to
40 preserve character-defining streetscapes, unless the building is a

1 designated landmark or is within a historic district established
2 through a local preservation ordinance;

3 (f) Prohibit the addition of housing units in any specific part
4 of a building except ground floor commercial or retail that is along
5 a major pedestrian corridor as defined by each city, unless the
6 addition of the units would violate applicable building codes or
7 health and safety standards;

8 (g) Require unchanged portions of an existing building that have
9 been used for residential or previously permit-approved conditioned
10 space purposes to meet the current energy code solely because of the
11 addition of new dwelling units within the building(~~(, however, if any~~
12 ~~portion of an~~)). When any other existing building is converted to new
13 dwelling units, changed portions of each of those new units must meet
14 the requirements of the current energy code(~~(+)~~), except if:

15 (i) The square footage of new dwelling units does not exceed
16 2,500 square feet or 50 percent of the total building square footage,
17 whichever is greater;

18 (ii) The building owner submits documentation, in a form
19 acceptable to the city, showing the building's residential units'
20 projected energy use intensity is less than or equal to the energy
21 use intensity target in accordance with the clean buildings
22 performance standard in RCW 19.27A.210; or

23 (iii) In all areas zoned for residential housing, an additional
24 housing unit is created within an existing home;

25 (h) Deny a building permit application for the addition of
26 housing units within an existing building due to nonconformity
27 regarding parking, height, setbacks, elevator size for gurney
28 transport, or modulation, unless the city official with decision-
29 making authority makes written findings that the nonconformity is
30 causing a significant detriment to the surrounding area; or

31 (i) Require a transportation concurrency study under RCW
32 36.70A.070 or an environmental study under chapter 43.21C RCW based
33 on the addition of residential units within an existing building.

34 (3) Nothing in this section requires a city to approve a building
35 permit application for the addition of housing units constructed
36 entirely within an existing building envelope in a building located
37 within a zone that permits multifamily housing in cases in which the
38 building cannot satisfy life safety standards.

1 (4) For the purpose of this section, "existing building" means a
2 building that received a certificate of occupancy at least three
3 years prior to the permit application to add housing units.

Passed by the House April 18, 2025.

Passed by the Senate April 2, 2025.

Approved by the Governor May 7, 2025.

Filed in Office of Secretary of State May 12, 2025.

--- **END** ---

Exhibit D
March 3, 2026
Fircrest Planning Commission
Legislative Priorities, Group 1 of 2

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 6015

Chapter 274, Laws of 2024

68th Legislature
2024 Regular Session

MINIMUM PARKING REQUIREMENTS—RESIDENTIAL DEVELOPMENT

EFFECTIVE DATE: June 6, 2024

Passed by the Senate March 4, 2024
Yeas 28 Nays 21

DENNY HECK

President of the Senate

Passed by the House February 29, 2024
Yeas 95 Nays 1

LAURIE JINKINS

**Speaker of the House of
Representatives**

Approved March 26, 2024 9:43 AM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Sarah Bannister, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 6015** as passed by the Senate and the House of Representatives on the dates hereon set forth.

SARAH BANNISTER

Secretary

FILED

March 27, 2024

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 6015

AS AMENDED BY THE HOUSE

Passed Legislature - 2024 Regular Session

State of Washington **68th Legislature** **2024 Regular Session**

By Senate Local Government, Land Use & Tribal Affairs (originally sponsored by Senators Shewmake, Kuderer, and Liias)

READ FIRST TIME 01/31/24.

1 AN ACT Relating to parking configurations for residential uses;
2 and adding a new section to chapter 36.70A RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 36.70A
5 RCW to read as follows:

6 (1) Cities and counties planning under this chapter shall enforce
7 land use regulations for residential development as provided in this
8 section:

9 (a) Garages and carports may not be required as a way to meet
10 minimum parking requirements for residential development;

11 (b) Parking spaces that count towards minimum parking
12 requirements may be enclosed or unenclosed;

13 (c) Parking spaces in tandem must count towards meeting minimum
14 parking requirements at a rate of one space for every 20 linear feet
15 with any necessary provisions for turning radius. For purposes of
16 this subsection, "tandem" is defined as having two or more vehicles,
17 one in front of or behind the others with a single means of ingress
18 and egress;

19 (d) Existence of legally nonconforming gravel surfacing in
20 existing designated parking areas may not be a reason for prohibiting

1 utilization of existing space in the parking area to meet local
2 parking standards, up to a maximum of six parking spaces;

3 (e) Parking spaces may not be required to exceed eight feet by 20
4 feet, except for required parking for people with disabilities;

5 (f) Any county planning under this chapter, and any cities within
6 those counties with a population greater than 6,000, may not require
7 off-street parking as a condition of permitting a residential project
8 if compliance with tree retention would otherwise make a proposed
9 residential development or redevelopment infeasible; and

10 (g) Parking spaces that consist of grass block pavers may count
11 toward minimum parking requirements.

12 (2) Existing parking spaces that do not conform to the
13 requirements of this section by the effective date of this act are
14 not required to be modified or resized, except for compliance with
15 the Americans with disabilities act. Existing paved parking lots are
16 not required to change the size of existing parking spaces during
17 resurfacing if doing so will be more costly or require significant
18 reconfiguration of the parking space locations.

19 (3) The provisions in subsection (1) of this section do not apply
20 to portions of cities within a one-mile radius of a commercial
21 airport in Washington with at least 9,000,000 annual enplanements.

Passed by the Senate March 4, 2024.

Passed by the House February 29, 2024.

Approved by the Governor March 26, 2024.

Filed in Office of Secretary of State March 27, 2024.

--- END ---

CERTIFICATION OF ENROLLMENT

ENGROSSED SENATE BILL 5559

Chapter 271, Laws of 2025

69th Legislature
2025 Regular Session

UNIT LOT SUBDIVISIONS—LOCAL GOVERNMENT PROCEDURES

EFFECTIVE DATE: July 27, 2025

Passed by the Senate April 21, 2025
Yeas 48 Nays 0

JOHN LOVICK

President of the Senate

Passed by the House April 10, 2025
Yeas 95 Nays 0

LAURIE JINKINS

**Speaker of the House of
Representatives**

Approved May 13, 2025 10:37 AM

BOB FERGUSON

Governor of the State of Washington

CERTIFICATE

I, Sarah Bannister, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SENATE BILL 5559** as passed by the Senate and the House of Representatives on the dates hereon set forth.

SARAH BANNISTER

Secretary

FILED

May 14, 2025

**Secretary of State
State of Washington**

ENGROSSED SENATE BILL 5559

AS AMENDED BY THE HOUSE

Passed Legislature - 2025 Regular Session

State of Washington **69th Legislature** **2025 Regular Session**

By Senators Lovelett, Nobles, and Trudeau

Read first time 01/28/25. Referred to Committee on Local Government.

1 AN ACT Relating to streamlining the subdivision process inside
2 urban growth areas; and amending RCW 58.17.020 and 58.17.060.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 58.17.020 and 2002 c 262 s 1 are each amended to
5 read as follows:

6 As used in this chapter, unless the context or subject matter
7 clearly requires otherwise, the words or phrases defined in this
8 section shall have the indicated meanings.

9 (1) "Subdivision" is the division or redivision of land into five
10 or more lots, tracts, parcels, sites, or divisions for the purpose of
11 sale, lease, or transfer of ownership, except as provided in
12 subsection (6) of this section.

13 (2) "Plat" is a map or representation of a subdivision, showing
14 thereon the division of a tract or parcel of land into lots, blocks,
15 streets and alleys, or other divisions and dedications.

16 (3) "Dedication" is the deliberate appropriation of land by an
17 owner for any general and public uses, reserving to himself or
18 herself no other rights than such as are compatible with the full
19 exercise and enjoyment of the public uses to which the property has
20 been devoted. The intention to dedicate shall be evidenced by the
21 owner by the presentment for filing of a final plat or short plat

1 showing the dedication thereon; and, the acceptance by the public
2 shall be evidenced by the approval of such plat for filing by the
3 appropriate governmental unit.

4 A dedication of an area of less than two acres for use as a
5 public park may include a designation of a name for the park, in
6 honor of a deceased individual of good character.

7 (4) "Preliminary plat" is a neat and approximate drawing of a
8 proposed subdivision showing the general layout of streets and
9 alleys, lots, blocks, and other elements of a subdivision consistent
10 with the requirements of this chapter. The preliminary plat shall be
11 the basis for the approval or disapproval of the general layout of a
12 subdivision.

13 (5) "Final plat" is the final drawing of the subdivision and
14 dedication prepared for filing for record with the county auditor and
15 containing all elements and requirements set forth in this chapter
16 and in local regulations adopted under this chapter.

17 (6) "Short subdivision" is the division or redivision of land
18 into four or fewer lots, tracts, parcels, sites, or divisions for the
19 purpose of sale, lease, or transfer of ownership. However, the
20 legislative authority of any city or town may by local ordinance
21 increase the number of lots, tracts, or parcels to be regulated as
22 short subdivisions to a maximum of nine. The legislative authority of
23 any county planning under RCW 36.70A.040 that has adopted a
24 comprehensive plan and development regulations in compliance with
25 chapter 36.70A RCW may by ordinance increase the number of lots,
26 tracts, or parcels to be regulated as short subdivisions to a maximum
27 of nine in any urban growth area.

28 (7) "Binding site plan" means a drawing to a scale specified by
29 local ordinance which: (a) Identifies and shows the areas and
30 locations of all streets, roads, improvements, utilities, open
31 spaces, and any other matters specified by local regulations; (b)
32 contains inscriptions or attachments setting forth such appropriate
33 limitations and conditions for the use of the land as are established
34 by the local government body having authority to approve the site
35 plan; and (c) contains provisions making any development be in
36 conformity with the site plan.

37 (8) "Short plat" is the map or representation of a short
38 subdivision.

39 (9) "Lot" is a fractional part of divided lands having fixed
40 boundaries, being of sufficient area and dimension to meet minimum

1 zoning requirements for width and area. The term shall include tracts
2 or parcels.

3 (10) "Block" is a group of lots, tracts, or parcels within well
4 defined and fixed boundaries.

5 (11) "County treasurer" shall be as defined in chapter 36.29 RCW
6 or the office or person assigned such duties under a county charter.

7 (12) "County auditor" shall be as defined in chapter 36.22 RCW or
8 the office or person assigned such duties under a county charter.

9 (13) "County road engineer" shall be as defined in chapter 36.40
10 RCW or the office or person assigned such duties under a county
11 charter.

12 (14) "Planning commission" means that body as defined in chapter
13 36.70, 35.63, or 35A.63 RCW as designated by the legislative body to
14 perform a planning function or that body assigned such duties and
15 responsibilities under a city or county charter.

16 (15) "County commissioner" shall be as defined in chapter 36.32
17 RCW or the body assigned such duties under a county charter.

18 (16) "Parent lot" means a residential lot that is subdivided into
19 unit lots through the unit lot subdivision process.

20 (17) "Unit lot" means a subdivided lot within a residential
21 development as created from a parent lot and approved through the
22 unit lot subdivision process.

23 (18) "Unit lot subdivision" means a subdivision or short
24 subdivision proposed as part of a residential development project
25 that meets the development standards applicable to the parent lot at
26 the time the application is vested, but which may result in
27 development on one or more individual unit lots becoming
28 nonconforming as to specified land use and development standards
29 based on the analysis of the individual unit lot. By June 30, 2026,
30 all unit lot subdivisions shall require notification to purchasers of
31 their legal status as further described in RCW 58.17.060.

32 (19) "Clear and objective design and development standards" means
33 locally adopted development regulations that involve no personal or
34 subjective judgment by a public official, and are ascertainable by
35 reference to measurable written or graphic criteria available and
36 knowable to the permit applicant, the public, and public officials
37 prior to submittal.

38 **Sec. 2.** RCW 58.17.060 and 2023 c 337 s 11 are each amended to
39 read as follows:

1 (1) The legislative body of a city, town, or county shall adopt
2 regulations and procedures, and appoint administrative personnel for
3 the summary approval of short plats and short subdivisions or
4 alteration or vacation thereof. When an alteration or vacation
5 involves a public dedication, the alteration or vacation shall be
6 processed as provided in RCW 58.17.212 or 58.17.215. Such regulations
7 shall be adopted by ordinance and shall provide that a short plat and
8 short subdivision may be approved only if written findings that are
9 appropriate, as provided in RCW 58.17.110, are made by the
10 administrative personnel, and may contain wholly different
11 requirements than those governing the approval of preliminary and
12 final plats of subdivisions and may require surveys and
13 monumentations and shall require filing of a short plat, or
14 alteration or vacation thereof, for record in the office of the
15 county auditor: PROVIDED, That such regulations must contain a
16 requirement that land in short subdivisions may not be further
17 divided in any manner within a period of five years without the
18 filing of a final plat, except that when the short plat contains
19 fewer than four parcels, nothing in this section shall prevent the
20 owner who filed the short plat from filing an alteration within the
21 five-year period to create up to a total of four lots within the
22 original short plat boundaries: PROVIDED FURTHER, That such
23 regulations are not required to contain a penalty clause as provided
24 in RCW 36.32.120 and may provide for wholly injunctive relief.

25 An ordinance requiring a survey shall require that the survey be
26 completed and filed with the application for approval of the short
27 subdivision.

28 (2) Cities, towns, and counties shall include in their short plat
29 regulations and procedures pursuant to subsection (1) of this section
30 provisions for considering sidewalks and other planning features that
31 assure safe walking conditions for students who walk to and from
32 school.

33 (3) All cities(~~(,)~~) and towns(~~(, and counties shall include in~~
34 ~~their short plat regulations)~~) located in a county planning under RCW
35 36.70A.040 shall adopt or enact procedures for unit lot subdivisions
36 (~~(allowing division of a parent lot into separately owned unit~~
37 ~~lots)~~). Portions of the parent lot not subdivided for individual unit
38 lots shall be owned in common by the owners of the individual unit
39 lots, or by a homeowners' association comprised of the owners of the
40 individual unit lots.

1 (a) These procedures shall include, at a minimum, the requirement
2 that prominent informational notes be placed on the unit lot
3 subdivision's plat, and recorded in the county or counties in which
4 such land is located, to acknowledge each of the following:

5 (i) Approval of the design and layout of the unit lot's housing
6 development project was granted based on detailed review of that
7 specified project, as a whole, on the parent lot, including specific
8 reference to the applicable permit or file number for that specified
9 project;

10 (ii) Subsequent subdivision actions, additions, or modifications
11 to the unit lot housing development project's structures may not
12 create or increase any nonconformity of the parent lot as a whole,
13 and shall conform to the approved unit lot housing development
14 project or to the land use and development standards in effect at the
15 time of the proposed actions, additions, or modifications;

16 (iii) If a structure or portion of a structure within the unit lot
17 housing development project has been damaged or destroyed, any
18 repair, reconstruction, or replacement of any structure shall conform
19 to the approved unit lot housing development project or to the land
20 use and development standards in effect at the time the proposed
21 repair, reconstruction, or replacement project's permit application
22 becomes vested; and

23 (iv) Additional development or redevelopment of the individual
24 unit lots may be limited as a result of the application of
25 development standards to the parent lot.

26 (b) These procedures shall also:

27 (i) Not require any public predecision meeting or hearing, nor
28 any design review other than administrative design review, except for
29 those required to comply with state law, including chapter 90.58 RCW.
30 A city must ensure that the community and property owners within 250
31 feet of the unit lot to be subdivided are provided notice consistent
32 with RCW 36.70B.110 of how to provide written comments to the
33 administrative decision maker, including through notice posted on the
34 closest public sidewalk or roadway;

35 (ii) Apply only clear and objective design and development
36 standards;

37 (iii) Be logically integrated with the application, review, and
38 approval procedures that apply to the underlying unit lot housing
39 development project to the greatest extent feasible; and

1 (iv) Be specifically subject to the maximum time period for local
2 government actions as set forth in RCW 36.70B.080, unless extended
3 pursuant to project-specific mutual agreement as permitted by RCW
4 36.70B.080.

5 (c) After the deadlines in (e) of this subsection, no city or
6 town subject to this section may decline to accept, process, or
7 approve an application for a unit lot subdivision, consistent with
8 the procedural requirements of (a) and (b) of this subsection, solely
9 because that city or town has not completed adoption or enactment of
10 the procedures required under this section.

11 (d) Nothing in this section:

12 (i) Prohibits a city or county from applying public health,
13 safety, building code, and environmental permitting requirements to a
14 development project that is subject to or integrated with a unit lot
15 subdivision process;

16 (ii) Requires a city or county to authorize a development project
17 or a unit lot subdivision in a location where development is
18 restricted under other laws, rules, or ordinances, such as in
19 locations where development is limited as a result of physical
20 proximity to on-site sewage system infrastructure, critical areas, or
21 other unsuitable physical characteristics of a property.

22 (e) Cities and towns that are required to submit their next
23 comprehensive plan update in 2027 pursuant to RCW 36.70A.130 must
24 adopt or amend by ordinance, and incorporate into their development
25 regulations, zoning regulations, and other official controls, the
26 requirements of this section in their next comprehensive plan update.
27 All other cities and towns must implement the requirements of this
28 section within two years of the effective date of this section.

29 (f) Nothing in this subsection alters the vesting requirements
30 set forth in RCW 58.17.033.

Passed by the Senate April 21, 2025.
Passed by the House April 10, 2025.
Approved by the Governor May 13, 2025.
Filed in Office of Secretary of State May 14, 2025.

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February 23, 2026

City of Fircrest Planning Commission
115 Ramsdell Street
Fircrest, WA 98466

Re: 2026 Comprehensive Plan Amendment | Supplemental Land Capacity Analysis and Implementing Development Regulations (“STEP” Housing)

Dear Planning Commission,

This memorandum has been prepared to support the expected **final Planning Commission workshop** on STEP Housing as a key component of the 2026 Fircrest Comprehensive Plan Update. This project will consist of a completed analysis of Fircrest’s land capacity to accommodate its projected 20-year growth (Supplemental Land Capacity Analysis [LCA]) and amendments to the Fircrest Municipal Code (FMC) that would allow broader housing types within the fiscal reach of the city’s forecasted growth. These project components are explained in more depth below.

2026 Comprehensive Plan Amendment, Supplemental LCA

Fircrest is a fully-planning city in Pierce County, which requires the City to comply with the Growth Management Act (GMA)¹. The GMA mandates that fully-planning cities adopt a Comprehensive Plan and, on a decennial basis, update their Comprehensive Plan to comply with the then-current GMA. Cities in Pierce County were required to update their Comprehensive Plan by December 31, 2024², which Fircrest timely accomplished. The Puget Sound Regional Council issued a Certification Report of Fircrest’s Comprehensive Plan update on April 24, 2025, concluding the lengthy project.

The City’s adopted Comprehensive Plan fails to comply with key Housing Element requirements of the GMA. Specific requirements for a city’s Comprehensive Plan Housing Element are set forth in RCW 36.70A.070; in general, cities are required to analyze their capacity for all income bands of their projected 20-year growth and implement development regulations which support the potential for land to be developed with housing types affordable to all, including Shelters, Transitional housing, Emergency housing, and Permanent supportive housing³ (“STEP” Housing). Fircrest’s Comprehensive Plan does not include this complete analysis, nor does its FMC currently allow for STEP Housing.

As a component of its 2024 Comprehensive Plan Periodic Update, the City completed an LCA (BHC, 2024) and **observed deficient land availability** for housing that could meet its projected growth across all economic segments. The LCA studied Fircrest’s projected growth, its existing

¹ RCW 36.70A.040

² RCW 36.70A.130(5)(a)

³ HB 1220 (2021): <https://app.leg.wa.gov/billsummary/?BillNumber=1220&Year=2021&Initiative=false>.

housing capacity in each of the City’s zoning districts, and assumed housing affordability across each economic segment and captured its findings in Tables 1-3 of the 2024 Fircrest Comprehensive Plan, Appendix B: Housing Element. The resulting calculated housing adequacy in Fircrest’s existing zoning landscape is captured in Table 4 of its Housing Element. The aforementioned tables have been included with this memorandum as **Exhibit A**.

Table 1 of Fircrest’s Housing Element has been included below for ease in observing the city’s 20-year forecasted growth, and how that growth is expected to span over income levels.

Table 1 Housing Need Allocations by Income Bracket
(Pierce County Ordinance No. 2023-22s)

Income Level (% of Area Median Income)		2020 Estimated Supply	Units Needed in 2044
0-30%	Non-PSH*	12	99
	PSH*	0	134
30 - 50%		140	143
50 - 80%		812	113
80 - 100%		537	49
100 - 120%		322	44
>120%		1,104	188
Total		2,927	769
Temporary Emergency Housing Needs (beds)		0	47

*Permanent Supportive Housing (PSH)
 Bracket >120% AMI not required to be planned for under HB 1220 but included for informational purposes.

Table 1, Fircrest Comprehensive Plan, Appendix B: Housing

Table 4 of the Housing Element represents the conclusions of the LCA, which find that persons of **“extremely low income” will have a deficit of 10 housing units** without amendments made to Fircrest’s zoning landscape, even with allowances for ADUs and middle housing. Table 4 is included below for ease in observing areas of Fircrest’s studied land deficiency.

Table 4 Projected Housing Unit Scenario Surplus/Deficits

Income Level	Household Income Bracket (Pierce County median income, rounded to nearest 1k)	Surplus/ (Deficit) (Estimated Unit Capacity - Housing Need)			
		1. Baseline (No Change)	2. ADUs	3. Duplexes	Total
Extremely low income (0-30% AMI)	\$0 - \$25,000	(20)	(10)	(20)	(10)
Very Low income (30-50% AMI)	\$25,000 - \$41,000	70	80	70	80
Low income (50-80% AMI)	\$41,000 - \$66,000	100	120	100	120
Moderate income (80-120% AMI)	\$66,000 - \$99,000	134	134	153	153
Total Net Capacity <i>(includes >120% AMI for overall)</i>		139	179	146	186

Table 4, Fircrest Comprehensive Plan, Appendix B: Housing

To address its land deficiency, Fircrest is required to apply “adequate provisions” that will enable a sufficient housing supply to be built in the city. Because Fircrest’s zoning code does not allow for the establishment of housing types assumed to be affordable to those earning 0-30% AMI, an efficient resolve to Fircrest’s LCA findings is to adopt provisions for STEP housing.

What is STEP Housing?

The Washington 2021-22 legislature passed HB 1220, Emergency Shelters and Housing – Local Planning and Development, which created a new statute (RCW 35.21.683) requiring that all cities and towns allow STEP Housing in their zoning codes. In summary, HB 1220 requires cities to:

- Allow permanent supportive housing (PSH) and transitional housing in any zones where residential dwelling units or hotels are allowed;
- Allow emergency shelters and emergency housing in any zones where hotels are allowed, and;
- Apply only reasonable⁴ occupancy, spacing, and intensity of use requirements for STEP housing.

Each STEP Housing type is defined in the RCW as follows:

⁴ “Reasonable” has been contextually defined in RCW 35.21.683 as having a nexus to public health and safety. Occupancy, spacing, and intensity limitations cannot be so severe that they prevent the ability for the city’s 20-year projected growth of STEP housing to be sited.

Emergency Housing: Temporary indoor accommodations for individuals or families who are homeless or at imminent risk of becoming homeless that is intended to address the basic health, food, clothing, and personal hygiene needs of individuals or families. Emergency housing may or may not require occupants to enter into a lease or an occupancy agreement (RCW 36.70A.030).

Emergency Shelter: A facility that provides a temporary shelter for individuals or families who are currently homeless. Emergency shelter may not require occupants to enter into a lease or an occupancy agreement. Emergency shelter facilities may include day and warming centers that do not provide overnight accommodations (RCW 36.70A.030).

Transitional Housing: A project that provides housing and supportive services to homeless persons or families for up to two years and that has as its purpose facilitating the movement of homeless persons and families into independent living (RCW 84.36.043).

Permanent Supportive Housing: Subsidized, leased housing with no limit on length of stay that prioritizes people who need comprehensive support services to retain tenancy and utilizes admissions practices designed to use lower barriers to entry than would be typical for other subsidized or unsubsidized rental housing, especially related to rental history, criminal history, and personal behaviors. Permanent supportive housing is paired with on-site or off-site voluntary services designed to support a person living with a complex and disabling behavioral health or physical health condition who was experiencing homelessness or was at imminent risk of homelessness prior to moving into housing to retain their housing and be a successful tenant in a housing arrangement, improve the resident's health status, and connect the resident of the housing with community-based health care, treatment, or employment services. Permanent supportive housing is subject to all of the rights and responsibilities defined in chapter 59.18 RCW (RCW 36.70A.030).

Implementing STEP housing into the FMC has been a focused effort between Mahoney Planning and the Fircrest Planning Commission since November 2025. The Planning Commission has studied where STEP housing could occur, potential methods for administering its development, and a suitable approach to regulating their use in Fircrest, all while employing thoughtful attention toward the priorities and preferences of the Fircrest community. Current draft amendments to the FMC governing STEP housing are discussed below.

Implementing STEP Housing Development Regulations

To implement HB 1220, and to create housing opportunities for all income earners of Fircrest's expected 20-year growth, the City will need to allow STEP housing in the zoning districts set forth in **Table 1:**

Table 1
STEP Housing Allowed Zones

PSH and Transitional Housing Zones	Emergency Housing and Shelter Zones
<ul style="list-style-type: none"> • Residential-4 (R-4) • Residential-4-Conservation (R-4-C) • Residential-6 (R-6) • Residential-8 (R-8) • Residential-10-Transitional Community Design (R-10-TCD) • Residential-20 (R-20) • Residential-30 (R-30) • Neighborhood Office (NO) • Neighborhood Commercial (NC) • Mixed-Use Neighborhood (MUN) • Mixed-Use Urban (MUU) • Golf Course (GC) 	<ul style="list-style-type: none"> • Mixed-Use Neighborhood (MUN) • Mixed-Use Urban (MUU)

Planning Commission Feedback

Having considered varied approaches on administering applications for STEP housing and regulating their use, the Fircrest Planning Commission has offered relatively consistent feedback to guide Mahoney Planning’s drafting of code amendments for this project. In general, this project has been built on the following key principles:

- STEP Housing should be decided on **administratively**, with the opportunity to appeal to the Hearing Examiner. **Public noticing** of STEP Housing projects should be required.
 - A **Type-II C application** was conceptualized to govern this procedural design. The new permit type would include an **Administrative Use Permit**, which would be used to review STEP Housing applications. The City Manager would issue these decisions.
- The City should require an **Operational Agreement** with STEP Housing applications that outline procedures for serious **criminal screening** and responses to noncompliance with established rules and **behavioral expectations** of the facility.
- Each project review should be fluid. It is not appropriate to apply a static review of these development proposals.
- The decisionmaker should consider the **scale** of the project and the **context** of the neighborhood. The concept of an “adverse impact” on neighboring residences or existing communities should be informed by measurable criteria. For example, only one STEP Housing facility should be allowed per lot.

These guiding principles have been incorporated in draft edits to the FMC included with this memorandum as **Exhibit B** and are summarized in **Table 2**.

Table 2
FMC Edits to Implement STEP Housing

Topic	FMC Section	FMC Edits (Draft)
Create a Type II-C permit to review Administrative Use Permits.	22.05.003 Project Permit Application Framework	<p>Type II-C: Administrative Use Permit (see Table A)</p> <p>Type II-C: Procedures (see Table B)</p>
Establish increased public engagement and noticing.	22.05.007 Exemptions from Project Permit Application Processing	<p>Pursuant to RCW 36.70B.140(2), building permits, boundary line adjustments, short plats, administrative design review, minor site plan review, minor variances, administrative use permits, other construction permits, or similar administrative approvals which are categorically exempt from environmental review under SEPA (Chapter 43.21C RCW) and the city's SEPA requirements, or permits/approvals for which environmental review has been completed in connection with other project permits, are excluded from the following procedures, <u>unless otherwise expressly required in this title</u>:</p> <ul style="list-style-type: none"> (1) Determination of completeness (FMC 22.06.004(a)); (2) Notice of application (FMC 22.06.005); (3) Except as provided in RCW 36.70B.140, optional consolidated project permit review processing (FMC 22.05.002(b)); (4) Joint public hearings (FMC 22.05.004); (5) Single report stating all the decisions and recommendations made as of the date of the report that do not require an open record hearing (FMC 22.09.002(c)); (6) Notice of decision (FMC 22.09.008); (7) Completion of project review within any applicable time periods (including the 120-day permit processing time)
	22.06.004(a) Determination of Completeness	Within 28 days after receiving a Type II-C , Type III-A, Type III-B, or Type IV project permit application, the city shall mail or personally provide a written determination to the applicant...
	22.06.005(a) Notice of Application	A notice of application shall be issued on all Type II-C , Type III-A, III-B, and IV project permit applications pursuant to Chapter 22.07 FMC (RCW 36.70B.110) within 14 days after the city has issued a determination of completeness for a project permit application.

Topic	FMC Section	FMC Edits (Draft)
Allow Permanent Supportive Housing and Transitional Housing in all zones that permit residential development.	22.32.006 R-4 Admin Use	Uses permitted subject to administrative use permit approval in accordance with Chapter 22.70 FMC: Permanent support housing. Transitional housing.
	22.34.006 R-4-C Admin Use	
	22.36.006 R-6 Admin Use	
	22.38.006 R-8 Admin Use	
Establish that STEP Housing is reviewed via Administrative Use Permit.	22.40.006 R-10-TCD Admin Use	
	22.42.006 R-20 Admin Use	
	22.43.006 R-30 Admin Use	
	22.44.007 NO Admin Use	
	22.46.005(d),(e) NC Admin Use	
	22.48.005(g),(h) MUN Admin Use	
	22.50.006(g),(h) MUU Admin Use	
	22.56.005(c), (d) GC Admin Use	

Topic	FMC Section	FMC Edits (Draft)
<p>Allow Emergency Housing and Emergency Shelters in all zones that permit residential or lodging/hotel development.</p> <p>Establish that STEP Housing is reviewed via Administrative Use Permit.</p>	<p>22.48.005(i),(j) MUN Admin Use</p>	<p>Uses permitted subject to administrative use permit approval in accordance with Chapter 22.70 FMC:</p> <p>Emergency shelters.</p> <p>Emergency housing.</p>
	<p>22.50.006(i),(j) MUU Admin Use</p>	
<p>Create STEP Housing review and approval framework.</p>	<p>22.58.030 STEP⁵</p>	<p><i>See Exhibit A, pages 94-95⁶.</i></p>
	<p>22.70.002 Administrative Use Permit – Authority</p>	<p>The director may approve, approve with conditions, modify and approve with conditions, or deny, an administrative use permit...These conditions may include, but are not limited to restrictions in hours of operations; restrictions on locations of structures and uses; structural requirements which address safety, noise, light and glare, vibration, odor, views, aesthetics and other impacts; production of an operational agreement stipulating limitations on the use of the land or facilities thereon...</p>
	<p>22.70.005 Administrative Use Permit – Submittal Requirements</p>	<p>Applications for an administrative use permit to develop or operate a facility for permanent supportive housing, transitional housing, emergency shelters, or emergency housing shall submit a draft Operational Agreement as set forth in FMC 22.58.030 with their application.</p>

⁵ For brevity, this acronym has been incorporated into Table 2. Exhibit B reflects the full title of this section, which is “Permanent supportive housing, transitional housing, emergency housing, emergency shelters.”

⁶ FMC 22.58.030 is a detailed newly created section, the length of which may detract from ease in reading this table. For brevity, the reader is being directed to Exhibit B.

Topic	FMC Section	FMC Edits (Draft)
Add off-street parking requirements for STEP Housing.	22.60.003 Parking Space Requirements per Activity	<p><u>Permanent supportive housing and transitional housing: 0.5 per bedroom + 1 per staff</u></p> <p><u>Emergency housing and emergency shelters: 0.5 per bed + 1 per staff¹</u></p> <p>¹ <u>Emergency housing and emergency shelters within 0.25 miles of a major transit stop are required to only provide 0.25 parking spaces per bed.</u></p>
Add germane definitions.	<u>22.98.229.2</u> <u>Emergency Housing</u>	<u>“Emergency housing” means temporary indoor accommodations for individuals or families who are homeless or at imminent risk of becoming homeless that is intended to address the basic health, food, clothing, and personal hygiene needs of individuals or families.</u>
Remove dated definitions.	<u>22.98.229.3</u> <u>Emergency Shelter</u>	<u>“Emergency shelter” means a facility that provides a temporary shelter for individuals or families who are currently homeless. Emergency shelter may not require occupants to enter into a lease or an occupancy agreement. Emergency shelter facilities may include day and warming centers that do not provide overnight accommodations.</u>
	<u>22.98.267</u> <u>Family</u>	<u>“Family” means an individual, individuals related by blood, marriage, or adoption, up to and including six individuals who are not related by blood, marriage, or adoption, residing in a single family dwelling unit (including family group home), individuals with a handicap as defined in the Federal Fair Housing Amendments Act of 1988 (42 USCS Section 3602) as amended and residing in a group home or children residing in a group home.</u>
	<u>22.98.437.3</u> <u>Major transit stop</u>	<u>“Major transit stop” means the same as is defined in RCW 36.70A.030, or as amended or recodified.</u>
	<u>22.98.518.1</u> <u>Permanent Supportive Housing</u>	<u>“Permanent supportive housing” means subsidized, leased housing with no limit on length of stay that prioritizes people who need comprehensive support services to retain tenancy and utilizes admissions practices designed to use lower barriers to entry than would be typical for other subsidized or unsubsidized rental housing, especially related to rental history, criminal history, and personal behaviors. Permanent supportive housing is paired with on-site or off-site voluntary services designed to support a person living with a complex and disabling behavioral health or physical health condition who was experiencing homelessness or was at imminent risk of homelessness prior to moving into housing to retain their housing and be a successful tenant in a housing arrangement, improve the resident’s health status, and connect the resident of the housing with community-based health care, treatment, or employment services. Permanent supportive housing is subject to all of the rights and responsibilities defined in chapter 59.18 RCW.</u>

Topic	FMC Section	FMC Edits (Draft)
	<u>22.98.706</u> <u>Transitional</u> <u>Housing</u>	<u>“Transitional housing” means a project that provides housing and supportive services to homeless persons or families for up to two years and that has as its purpose facilitating the movement of homeless persons and families into independent living.</u>

Supplemental LCA Initial Findings

To reevaluate Fircrest’s capacity for its projected housing growth, a Supplemental LCA is being prepared that will consider Fircrest’s anticipated allowance for STEP Housing. Fircrest’s Supplemental LCA will detail the response taken by the city to create sufficient land capacity for all economic segments of its projected growth through 2044 and will be separately appended to the Fircrest Comprehensive Plan to include revised housing capacity findings, an analysis of emergency housing capacity, and a review of Fircrest’s development regulations, processes, land availability, environmental constraints, and funding gaps that could be barriers to the development of housing (known as “adequate provisions”).

Even in a zoning landscape revised to allow for accessory dwelling units (ADUs) and duplexes required by HBs 1110 and 1337, the City is poised to have more than sufficient capacity in all income levels except for the 0-30% AMI level. **Table 3** below combines the findings of Tables 1, 3, and 4 in Fircrest’s LCA to seamlessly represent the city’s land use capacity and the zones intended to serve Fircrest’s growth:

Table 3
Housing Need Surplus/Deficit: Baseline Landscape

Income Level (% AMI)	Income Bracket	Projected Housing Need ⁷	Zones Serving Income Levels	Baseline Capacity Assignment	Surplus/ (Deficit)
0-30% AMI	\$0 - \$25,000	99 (Non-PSH)	R-30, MUN, MUU	398 (Non-PSH) ⁸	299
		134 (PSH)		0 (PSH) ⁹	(134) (PSH)
>30-50%	\$25,000 - \$41,000	143	R-20, R-30, MUN, MUU	197 ¹⁰	54
>50-80%	\$41,000 - \$66,000	113	R-8, R-20, R-30, MUN, MUU	197 ⁹	84
>80-100%	\$66,000 - \$82,000	49	R-8, R-10-TCD, R-20, R-30, MUN, MUU	60 ¹¹	11
>100-120%	\$82,000 - \$99,000	44	R-4, R-4-C, R-6, R-8, R-10-TCD, R-20	58 ¹²	14
Total		582		910	328

⁷ HB 1220 does not require cities to plan for housing in the >120% AMI bracket. Fircrest is expected to need 188 housing units for those earning >120% AMI by 2044; those housing units are not contemplated in the Supplementary LCA.

⁸ It is assumed that the baseline capacity for the MUN zone found in Fircrest Comprehensive Plan, Appendix B: Housing, Table 2, will serve the city’s expected growth in the >0-30% AMI (Non-PSH) income bracket. Notably, while Table 2 of the current Housing Element in Fircrest notes a total capacity of 395 units in the MUN, further computation of its assumed densities yields a total baseline capacity of 398 units.

⁹ According to the Department of Commerce *Guidance for Updating Your Housing Element (Book 2)*, housing capacity within any zone cannot be assumed as satisfying projected PSH growth unless the zone in question allows PSH housing types. Efforts made by the City to allow all STEP Housing types has been a key component of this project and its effects alone will create housing capacity for this income bracket.

¹⁰ It is assumed that the baseline capacity for the MUU zone found in Fircrest Comprehensive Plan, Appendix B: Housing, Table 2, will serve the city’s expected growth in the >30-50% AMI and >50-80% AMI income brackets. Notably, while Table 2 of the current Housing Element in Fircrest notes a total capacity of 395 units in the MUU, further computation of its assumed densities yields a total baseline capacity of 394 units. This total capacity has been evenly divided between the >30-50% AMI and >50-80% AMI income brackets in this table.

¹¹ It is assumed that the baseline capacity for the R-30 zone found in Fircrest Comprehensive Plan, Appendix B: Housing, Table 2, will serve the city’s expected growth in the >80-100% AMI income bracket.

¹² It is assumed that the cumulative baseline capacity for the R-4, R-4-C, and R-6 zones found in Fircrest Comprehensive Plan, Appendix B: Housing, Table 2, will serve the city’s expected growth in the >100-120% AMI income bracket.

Table 4
Housing Need Surplus/Deficit: STEP Housing, Duplex, and ADU Landscape

Income Level (% AMI)	Income Bracket	Projected Housing Need	Zones Serving Income Levels	Baseline Capacity Assignment	Capacity Adjustment with STEP, Duplex, and ADU	Surplus/ (Deficit)
0-30% AMI	\$0 - \$25,000	99 (Non-PSH)	R-30, MUN, MUU	398 (Non-PSH)	-199 (Non-PSH)	100
		134 (PSH)		0 (PSH)	+199 (PSH) ¹³	65
>30-50%	\$25,000 - \$41,000	143	R-20, R-30, MUN, MUU	197	-	54
>50-80%	\$41,000 - \$66,000	113	R-8, R-20, R-30, MUN, MUU	197	-	84
>80-100%	\$66,000 - \$82,000	49	R-8, R-10-TCD, R-20, R-30, MUN, MUU	60	+20 (ADUs) ¹⁴ +10 (Duplex)	41
>100-120%	\$82,000 - \$99,000	44	R-4, R-4-C, R-6, R-8, R-10-TCD, R-20	58	+20 (ADUs) ¹⁴ +9 (Duplex)	43
Total (less Emergency Housing beds)		582		910	+59	387

STEP Housing

With the adoption of Fircrest’s 2026 Comprehensive Plan Amendment and its Supplemental LCA, Fircrest expects to adopt by ordinance amendments to its development regulations which will allow STEP Housing as per RCW 35A.21.425. In doing so, Fircrest would allow for the development of permanent supportive housing (PSH), a housing type which is not currently included as a permitted use in Fircrest’s Land Use Matrix. This important adjustment to the zoning

¹³ Fircrest expects to pass by ordinance in Q4 2026 development regulation amendments which would allow for permanent supportive housing (PSH) in all zones that allow for residential development, including the R-30, MUN, and MUU zones. With the intended passing of said ordinance prior to the adoption of this Supplemental LCA, the 398 unit capacity in Fircrest’s MUN zone would sufficiently accommodate its projected 20-year growth of those earning 0-30% AMI, both non-PSH and PSH. Assumed unit capacity in Fircrest’s MUN zone has been equally distributed among those earning 0-30% AMI in Fircrest’s projected housing need.

¹⁴ While assumptions made in the Fircrest Comprehensive Plan Housing Appendix demonstrate a growth of housing capacity attributed to the development of ADUs with the passing of HB 1337, Table 4 of the Housing Appendix assigns this assumed growth of 40 ADUs to those earning less than 80% AMI. According to the Department of Commerce *Guidance for Updating Your Housing Element (Book 2)*, ADUs in higher-cost communities (including all of Pierce County) are likely only affordable to those earning 80% AMI or more. This table reappropriates that growth to an equal distribution between the >80-100% AMI and the >100-120% AMI income brackets to better align with state guidance.

landscape in Fircrest, combined with Fircrest’s recent adoption of ordinances allowing for middle housing and ADUs in compliance with HBs 1110 and 1337, will create the capacity needed for Fircrest’s expected population growth in the 0-30% AMI range, particularly the 134 future residents expected to need PSH. These adjustments are reflected in **Table 4**.

Adequate Provisions

The City will need to analyze “adequate provisions” as a part of the Supplemental LCA, which aim to identify barriers to the development of housing affordable to all income bands that may be caused by local jurisdictions’ development regulations, processes, land availability, environmental constraints, and funding gaps. Municipalities are required to adopt any changes to their zoning landscape found to be necessary in removing barriers to the potential for housing development in all income bands in conjunction with its Comprehensive Plan update¹⁵. It is expected that adequate provisions will be analyzed and presented to the Planning Commission at its April or May project workshop.

Emergency Housing LCA

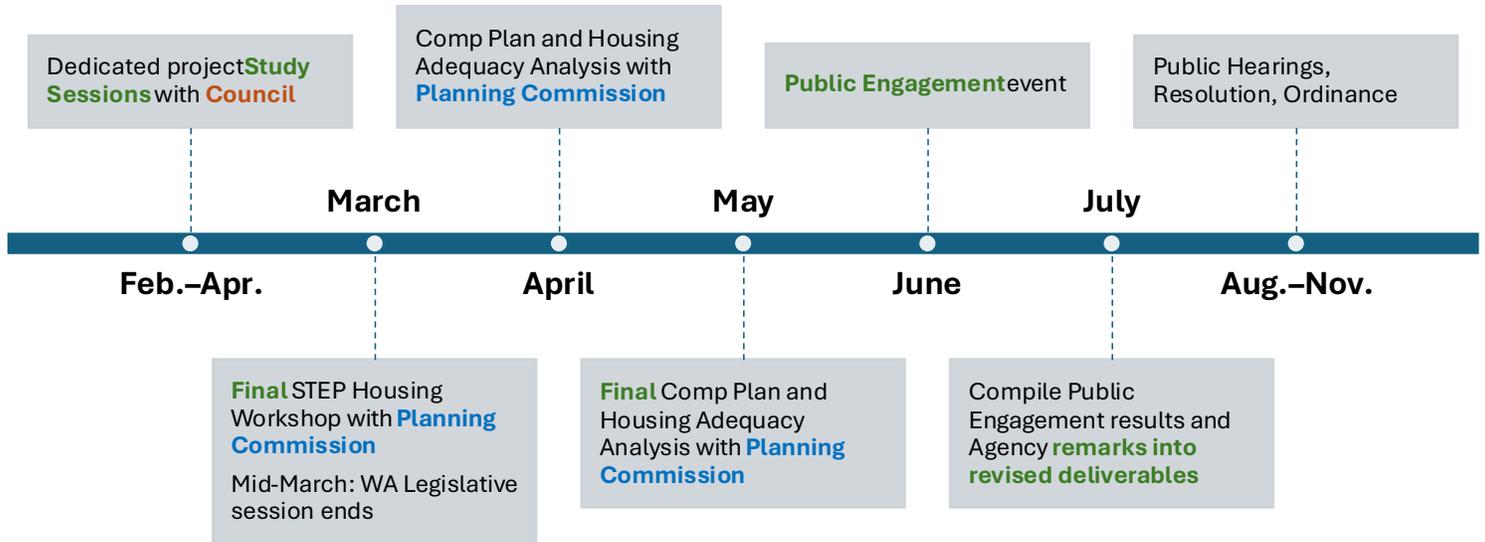
As a fully-planning City under the GMA, Fircrest is required to quantify its capacity for emergency housing¹⁶. A distinct LCA specific to Fircrest’s ability to accommodate its projected growth of emergency housing will be analyzed and presented to the Planning Commission at its April or May project workshop.

Project Schedule

The project’s schedule has been intentionally designed to expedite this important work without segueing from valued public engagement, agency feedback, and collaborative workshopping with Fircrest’s appointed and elected officials. A detailed project schedule has been included with this memorandum as **Exhibit C**, and an abbreviated version highlighting project milestones is included below. It is expected that this project will conclude by November 2026.

¹⁵ RCW 36.70A.130(1)(a). See Commerce’s *Guidance for Updating Your Housing Element (January 2026)*, p. 55

¹⁶ RCW 36.70A.070(2)(c)



I look forward to discussing this project with Planning Commission at its March 3 meeting!

Kimberly A. Gunderson
Mahoney Planning, LLC

Exhibits:

- A. [2024 Fircrest Comprehensive Plan, Appendix B: Housing Element, Tables 1-4](#)
- B. [Fircrest Municipal Code Chapters 22.05, 22.06, 22.32, 22.34, 22.36, 22.38, 22.40, 22.42, 22.43, 22.44, 22.46, 22.48, 22.50, 22.56, 22.58, 22.60, 22.70, and 22.98 \(redline\)](#)
- C. [Project Schedule, 2026 Fircrest Comprehensive Plan Amendment](#)

Pierce County adopted housing targets for all jurisdictions, including by income level, under Ordinance No. 2023-46s. The allocations for Fircrest for 2044 are shown below in Exhibit 1.

Table 1 Housing Need Allocations by Income Bracket

(Pierce County Ordinance No. 2023-22s)

Income Level (% of Area Median Income)		2020 Estimated Supply	Units Needed in 2044
0-30%	<i>Non-PSH*</i>	12	99
	<i>PSH*</i>	0	134
30 - 50%		140	143
50 - 80%		812	113
80 - 100%		537	49
100 - 120%		322	44
>120%		1,104	188
Total		2,927	769
<i>Temporary Emergency Housing Needs (beds)</i>		0	47

*Permanent Supportive Housing (PSH)

Bracket >120% AMI not required to be planned for under HB 1220 but included for informational purposes.

Land Capacity for residential units was determined both through identifying underutilized and vacant lands from the Pierce County Assessor and from the 2021 Pierce County Buildable Lands Analysis. In addition to developable lands, the analysis identified 156 units for the MUN zone and 235 units for the MUU zone as expected as part of the Prose application. These units were also counted as part of the analysis.

This analysis used a series of density assumptions based on zoned and achieved densities in the city, shown in the following exhibit, to convert acreage to units. To establish a baseline scenario for comparison, these initial assumptions did not include density adjustments considering ADUs and duplexes under new state legislation. This analysis then determined the number of units.

The assumed densities and estimated vacant and under-utilized capacities are established on the following page, in Table 2.

Table 2 Land Capacity Acreage and Assumed Density

Zone	Net Developable Land (acres)			Assumed density/pipeline units		Total baseline capacity (dwelling units)
	Vacant*	Under-utilized*	Total	Baseline assumed Dwelling units/acre	Pipeline and recent units added	
Residential-4, R-4	1.0	0.0	1.0	4	0	4
Residential-4-Conservation, R-4-C	13.0	0.0	13.0	4	0	52
Residential-6, R-6	0.4	0.0	0.4	5.5	0	2
Residential-8, R-8	0.0	0.0	0.0	8	0	0
Residential-10-Traditional Community Design, R-10-TCD	0.0	0.0	0.0	10	0	0
Residential-20, R-20	0.0	0.0	0.0	20	0	0
Residential-30, R-30	0.0	2.0	2.0	30	0	60
Neighborhood Office, NO	0.0	0.0	0.0	6	0	0
Neighborhood Commercial, NC	0.0	0.0	0.0	6	0	0
Mixed-Use Neighborhood, MUN	0.0	4.1	4.1	59	156	395
Mixed-Use Urban, MUU	0.0	2.7	2.7	59	235	395
Park, Recreation and Open Space, PROS	0.0	0.0	0.0	0	0	0
Golf Course, GC	0.0	0.0	0.0	15	0	0

Source: Pierce County 2021 Buildable Lands Report (Fourth Edition).

*15% market/infrastructure deduction for vacant lands, 25% for underutilized.

To compare unit capacity with the adopted housing need by income bracket, the land capacity analysis created assumed income brackets served by each zone. These assumptions were based both on the Washington State Department of Commerce's Guidance and on local conditions in Fircrest. The analysis used allocation ratios to consider the fact that zones serve multiple income brackets. The assumptions are shown in the following, Table 3.

Table 3 Assumed Affordability Allocation Ratios by Zone

Residential Zones	0-30% AMI	30-50% AMI	50-80% AMI	80-100% AMI	100-120% AMI	>120% AMI
Residential-4, R-4					0.25	0.75
Residential-4-Conservation, R-4-C					0.25	0.75
Residential-6, R-6					0.25	0.75
Residential-8, R-8			0.25	0.25	0.25	0.25
Residential-10-Traditional Community Design, R-10-TCD				0.25	0.25	0.50
Residential-20, R-20		0.25	0.25	0.25	0.25	
Residential-30, R-30	0.25	0.25	0.25	0.25		
Mixed-Use Neighborhood, MUN	0.25	0.25	0.25	0.25		
Mixed-Use Urban, MUU	0.25	0.25	0.25	0.25		
Golf Course, GC						1.00

Row add up to 100 horizontally to ensure no under/over counting.

This analysis compared the following scenarios and trends to better understand Fircrest's expected capacity or deficits by income level.

1. Baseline (No Change). This scenario assumes that despite state legislation, density and housing production will remain consistent with historic levels and will not include additional duplexes or ADUs.
2. Accessory Dwelling Units (ADUs). This scenario includes estimates of ADUs. This analysis assumes an average of two ADUs produced over the next 20 years, consistent with recent permit data trends at the City. ADUs were assumed to be affordable for the 0-80% AMI brackets.
3. Duplexes. Under this scenario, the analysis increases the assumed density for R-4 to 4.5 dwellings per acre (du's/acre) and 4.5 du's/acre fore the R-6 zone. This then adjusts affordability for these zones for 50-120% AMI brackets, rather than the >100% AMI in the baseline.
4. Total (Combined Trends). This adds the ADU and Duplex scenarios to show the overall, expected surplus or deficit expected for housing unit supply compared to need.

The results are shown in the following table. In summary, while the City may expect an overall surplus at the citywide level, there will be a likely deficit of supply affordable to the 0-30% AMI bracket.

Table 4 Projected Housing Unit Scenario Surplus/Deficits

Income Level	Household Income Bracket (Pierce County median income, rounded to nearest 1k)	Surplus/ (Deficit) (Estimated Unit Capacity - Housing Need)			
		1. Baseline (No Change)	2. ADUs	3. Duplexes	Total
Extremely low income (0-30% AMI)	\$0 - \$25,000	(20)	(10)	(20)	(10)
Very Low income (30-50% AMI)	\$25,000 - \$41,000	70	80	70	80
Low income (50-80% AMI)	\$41,000 - \$66,000	100	120	100	120
Moderate income (80-120% AMI)	\$66,000 - \$99,000	134	134	153	153
Total Net Capacity <i>(includes >120% AMI for overall)</i>		139	179	146	186

Fircrest will need to make adequate provisions to meet these housing targets and the projected deficit for the 0-30% AMI bracket as part of the Comprehensive Plan Update.

Exhibit B
March 3, 2026
Fircrest Planning Commission
2026 Comprehensive Plan & STEP Housing

Chapter 22.05

TYPES OF PROJECT PERMIT APPLICATIONS

Sections:

- 22.05.001 Classification of project permits.
- 22.05.002 Determination of classification.
- 22.05.003 Project permit application framework.
- 22.05.004 Joint public hearings.
- 22.05.005 Legislative decisions.
- 22.05.006 Legislative enactments not restricted.
- 22.05.007 Exemptions from project permit application processing.

22.05.001 Classification of project permits.

For the purpose of project permit processing, all project permit applications shall be classified as shown in Table A, FMC 22.05.003, as one of the following: Type I, Type II-A, Type II-B, Type III-A, Type III-B, or Type IV. Legislative decisions are Type V actions, and are addressed in FMC 22.05.005. Exclusions from the requirements of project permit application processing are contained in FMC 22.05.007 (RCW 36.70B.120). (Ord. 1512 § 1, 2011; Ord. 1120 § 1, 1996).

22.05.002 Determination of classification.

(a) Determination by Director. The director of the planning/building department or his designee (hereinafter the “director”) shall determine the proper classification for each project permit application. If there is a question as to the appropriate classification, the director shall resolve the question in favor of the higher classification type.

(b) Optional Consolidated Permit Processing. An application that involves two or more classification types may be processed collectively under the highest numbered type required for any part of the application or processed individually under each of the procedures identified by the code. The applicant may determine whether the application shall be processed collectively or individually. If the application is processed individually, the highest numbered type shall be processed prior to the subsequent lower numbered type (RCW 36.70B.060(3), RCW 36.70B.120).

(c) Hearing Bodies. Applications processed in accordance with subsection (b) of this section which involve different hearing bodies shall be heard collectively by the highest-ranking hearing body. The city council is the highest rank, followed by the planning commission and hearing examiner, and then the director. Joint public hearings with other agencies shall be processed according to FMC 22.05.004 (RCW 36.70B.060(3), RCW 36.70B.120). (Ord. 1638 § 1, 2019; Ord. 1120 § 1, 1996).

22.05.003 Project permit application framework.

Table A – Classifications

Type I	Type II-A	Type II-B	Type II-C	Type III-A	Type III-B	Type IV	Type V
Permitted use not requiring site plan or design review	Minor variance	Short plat, short plat vacation or alteration	Administrative use permit	Major variance	Zoning map amendment	Final plat	Comprehensive plan amendment
Boundary line adjustment	Minor site plan	Final site plan		Conditional use permit			Development regulation amendment
Minor amendment to Type III-A project permit	Administrative use permit	Final development plan		Preliminary plat, plat vacation or alteration			Area-wide rezone

The Fircrest Municipal Code is current through Ordinance 1738, passed March 25, 2025.

Type I	Type II-A	Type II-B	Type II-C	Type III-A	Type III-B	Type IV	Type V
Temporary accessory structure and use		Design review		Preliminary site plan (major)			Annexation
Home occupation permit, not requiring CUP		Land clearing/grading permit		Preliminary development plan			
Short-term rental permit, not requiring CUP		Administrative interpretation		Major amendment to Type III-A project permit			
De minimis variance		Critical areas determination		Critical areas reasonable use exception and public agency and utility exception			
		Binding site plan		Development agreement associated with project permit			

Table B – Procedures

Action	Type I	Type II-A	Type II-B	Type II-C	Type III-A	Type III-B	Type IV	Type V
Recommendation made by:	N/A	N/A	N/A	N/A	N/A	Hearing examiner	Hearing examiner	Planning commission
Final decision made by:	Director	Director	Director	Director	Hearing examiner	City council	City council	City council
Notice of complete application/comment period:	Not required	Not required; see FMC 22.07.004	Not required	Required	Required	Required	Required	Not required
Open record public hearing/public review:	Not required	Not required; see FMC 22.07.005	Hearing required only if director decision appealed, then hearing before hearing examiner	Hearing required only if director decision appealed, then hearing before hearing examiner	Hearing required before hearing examiner	Hearing required before hearing examiner, who will forward recommendation to city council	Public review required before hearing examiner, who will forward recommendation to city council	Hearing required before planning commission and city council
Closed record review/appeal hearing/decision:	Not required	Not required	Not required	Not required	Not required	Closed record review required before city council, which will render final decision	Closed record review required before city council, which will render final decision	N/A
Judicial appeal:	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes

(Ord. 1638 § 2, 2019; Ord. 1611 § 1, 2018; Ord. 1575 § 1, 2016; Ord. 1562 § 1, 2015; Ord. 1527 § 1, 2012; Ord. 1468 § 1, 2009; Ord. 1375 § 8, 2005; Ord. 1245 § 1, 2000).

The Fircrest Municipal Code is current through Ordinance 1738, passed March 25, 2025.

22.05.004 Joint public hearings.

(a) Director's Decision to Hold Joint Hearing. The director may combine any public hearing on a project permit application with any hearing that may be held by another local, state, regional, federal, or other agency, on the proposed action, as long as: (1) the hearing is held within the city limits; and (2) the requirements of subsection (c) of this section are met (RCW 36.70B.110(7)).

(b) Applicant's Request for a Joint Hearing. The applicant may request that the public hearing on a permit application be combined as long as the joint hearing can be held within the time periods set forth in this title. In the alternative, the applicant may agree to a particular schedule if that additional time is needed in order to complete the hearings (RCW 36.70B.110(7)).

(c) Prerequisites to Joint Public Hearing. A joint public hearing may be held with another local, state, regional, federal or other agency and the city, as long as:

- (1) The other agency is not expressly prohibited by statute from doing so (RCW 36.70B.110(8));
- (2) Sufficient notice of the hearing is given to meet each of the agencies; adopted notice requirements as set forth in statute, ordinance, or rule;
- (3) The agency has received the necessary information about the proposed project from the applicant in enough time to hold its hearing at the same time as the local government hearing; and
- (4) The hearing is held within the geographic boundary of the local government. (Ord. 1120 § 1, 1996).

22.05.005 Legislative decisions.

(a) Decisions. The following decisions are legislative, and are not subject to the procedures in this chapter, unless otherwise specified:

- (1) Zoning code text and zoning district amendments;
- (2) Adoption of development regulations and amendments;
- (3) Area-wide rezones to implement new city policies;
- (4) Adoption of the comprehensive plan and any plan amendments; and
- (5) Annexations.

(b) Planning Commission. The planning commission shall hold a public hearing and make recommendations to the city council on the decisions listed in subsection (a) of this section. The public hearing shall be held in accordance with the requirements of Chapter 22.09 FMC.

(c) City Council. The city council may consider the planning commission's recommendation in a public hearing held in accordance with the requirements of Chapter 22.09 or 22.10 FMC.

(d) Public Notice. Notice of the public hearing or public meeting shall be provided to the public as set forth in FMC 22.07.003(b)(4).

(e) Implementation. The city council's decision shall become effective by passage of an ordinance. (Ord. 1120 § 1, 1996).

22.05.006 Legislative enactments not restricted.

Nothing in this chapter or the permit processing procedures shall limit the authority of the city council to make changes to the city's comprehensive plan, as part of an annual revision process, or to make changes to the city's development regulations (RCW 36.70B.020(4)). (Ord. 1120 § 1, 1996).

22.05.007 Exemptions from project permit application processing.

(a) Whenever a permit or approval in this code has been designated as a Type I, II-A, II-B, III-A, III-B, or IV permit, the procedures in this title shall be followed in project permit processing. The following permits or approvals are, however, specifically excluded from the procedures set forth in this title:

- (1) Landmark designations;
- (2) Street vacations;
- (3) Street use permits.

(b) Pursuant to RCW 36.70B.140(2), building permits, boundary line adjustments, short plats, administrative design review, minor site plan review, minor variances, ~~administrative use permits~~, other construction permits, or similar administrative approvals which are categorically exempt from environmental review under SEPA (Chapter 43.21C RCW) and the city's SEPA requirements, or permits/approvals for which environmental review has been completed in connection with other project permits, are excluded from the following procedures, unless otherwise expressly required in this title:

- (1) Determination of completeness (FMC 22.06.004(a));
- (2) Notice of application (FMC 22.06.005);
- (3) Except as provided in RCW 36.70B.140, optional consolidated project permit review processing (FMC 22.05.002(b));
- (4) Joint public hearings (FMC 22.05.004);
- (5) Single report stating all the decisions and recommendations made as of the date of the report that do not require an open record hearing (FMC 22.09.002(c));
- (6) Notice of decision (FMC 22.09.008);
- (7) Completion of project review within any applicable time periods (including the 120-day permit processing time) (FMC 22.09.008, 22.09.009) (RCW 36.70B.140). (Ord. 1468 § 2, 2009; Ord. 1245 § 2, 2000).

Chapter 22.06

TYPE I-IV PROJECT PERMIT APPLICATIONS

Sections:

- 22.06.001 Preapplication conference.
- 22.06.002 Project permit application.
- 22.06.003 Application fees.
- 22.06.004 Determination of completeness.
- 22.06.005 Notice of application.
- 22.06.006 Referral and review of project permit applications.

22.06.001 Preapplication conference.

(a) Preapplication Conference. A preapplication conference may be held with city staff and a potential applicant for a Type II-A, Type II-B, Type III-A, Type III-B or Type IV permit to discuss application submittal requirements and pertinent fees. The purpose of the preapplication conference is to acquaint the applicant with the requirements of this code.

(b) The applicant may request that the following be provided:

- (1) A form which lists the requirements for a completed application;
- (2) A general summary of the procedures to be used to process the application;
- (3) The references to the relevant code provisions or development standards which may apply to the approval of the application;
- (4) The city's design guidelines.

(c) The conference is not intended to be an exhaustive review of all potential issues. The discussions at the conference or information provided by the city to the applicant under subsection (b) of this section shall not bind or prohibit the city's future application or enforcement of all applicable law. (Ord. 1638 § 3, 2019; Ord. 1120 § 1, 1996).

22.06.002 Project permit application.

Applications for project permits shall be submitted upon forms provided by the director. Pursuant to Washington State Department of Ecology requirements, all documents to be submitted to the SEPA Register, including all application materials, technical reports, and other supporting documentation, shall be provided to the city in electronic format. The city may also require electronic format submittals for non-SEPA Register documents. An application shall consist of all materials required by the applicable development regulations, and shall include the following general information:

- (a) A completed project permit application form;
- (b) A verified statement by the applicant that the property affected by the application is in the exclusive ownership of the applicant, or that the applicant has submitted the application with the consent of all owners of the affected property;
- (c) A property and/or legal description of the site for all applications, as required by the applicable development regulations;
- (d) The applicable fees;
- (e) Evidence of adequate water supply as required by RCW 19.27.097;
- (f) A completed environmental checklist for project subject to review under the State Environmental Policy Act;

(g) Any supplemental information or special studies identified by the director. (Ord. 1575 § 2, 2016; Ord. 1245 § 3, 2000; Ord. 1120 § 1, 1996).

22.06.003 Application fees.

Filing fees and filing deposits for project permit applications shall be paid upon the filing of an application in accordance with the planning service fee schedule established by council resolution. (Ord. 1120 § 1, 1996).

22.06.004 Determination of completeness.

(a) Determination of Completeness. Within 28 days after receiving a [Type II-C](#), Type III-A, Type III-B, or Type IV project permit application, the city shall mail or personally provide a written determination to the applicant which states either: (1) that the application is complete; or (2) that the application is incomplete and what is necessary to make the application complete (RCW 36.70B.070).

(b) Identification of Other Agencies with Jurisdiction. To the extent known by the city, other agencies with jurisdiction over the project permit application shall be identified in the city's determination required by subsection (a) of this section (RCW 36.70B.070).

(c) "Complete" Application/Additional Information. A project permit application is complete for purposes of this section when it meets the submission requirements in FMC 22.06.002, as well as the submission requirements contained in the applicable development regulations. The determination of completeness shall be made when the application is sufficient for continued processing even though additional information may be required or project modifications may be undertaken subsequently. The city's determination of completeness shall not preclude the city from requesting additional information or studies either at the time of the notice of completeness or at some later time, if new information is required or where there are substantial changes in the proposed action (RCW 36.70B.090(1)).

(d) Incomplete Application Procedure.

(1) If the applicant receives a determination from the city that an application is not complete, the applicant shall have 120 days to submit the necessary information to the city. Within 14 days after an applicant has submitted the requested additional information, the city shall make the determination as described in subsection (a) of this section, and notify the applicant in the same manner.

(2) If the applicant either refuses in writing to submit additional information or does not submit the required information within the 120-day period, the application shall lapse.

(3) If the application has lapsed because the applicant has failed to submit the required information within the necessary time period, the applicant may request a refund of any unused portion of an application deposit fee.

(e) City's Failure to Provide Determination of Completeness. A project permit application shall be deemed complete under this section if the city does not provide a written determination to the applicant that the application is incomplete as provided in subsection (a) of this section (RCW 36.70B.070(4)(a)).

(f) Date of Determination of Completeness. When the project permit application is deemed complete, the director shall accept the application and note the date of the determination of completeness. If the city has not provided a written determination to the applicant that an application is either complete or incomplete within 28 days of receiving the application, the date of the determination of completeness shall be noted as 5:00 p.m. on the twenty-eighth day. (Ord. 1245 § 4, 2000; Ord. 1145 § 2, 1997; Ord. 1120 § 1, 1996).

22.06.005 Notice of application.

(a) Issuance/Timeframe. A notice of application shall be issued on all [Type II-C](#), Type III-A, III-B, and IV project permit applications pursuant to Chapter 22.07 FMC (RCW 36.70B.110) within 14 days after the city has issued a determination of completeness for a project permit application. If any open record predecision hearing is required for the requested project permit(s), the notice of application shall be provided at least 15 days prior to the open record hearing (RCW 36.70B.110).

(b) SEPA Exempt Projects. A notice of application shall not be required for project permits that are categorically exempt under SEPA, unless a public comment period or an open record predecision hearing is required (RCW 36.70B.140(2)).

(c) Contents. The notice of application shall include:

- (1) The name of applicant;
- (2) The date of application, the date of the determination of completeness for the application, and the date of the notice of application;
- (3) A description of the proposed project action and a list of the project permits included in the application and, if applicable, a list of any studies requested under RCW 36.70B.070;
- (4) The identification of other permits not included in the application, to the extent known by the city;
- (5) The identification of existing environmental documents that evaluate the proposed project, and, if not otherwise stated on the document providing notice of application, the location where the application and any studies can be reviewed;
- (6) A statement of the limits of the public comment period, which shall be not less than 14 nor more than 30 days following the date of notice of application, and statements of the right of any person to comment on the application, receive notice of and participate in any hearings, request a copy of the decision once made, and any appeal rights;
- (7) The date, time, place and type of hearing, if applicable and scheduled at the time of issuance of the notice of application;
- (8) A statement of the preliminary determination of consistency, if one has been made at the time of issuance of the notice of application, and of those development regulations that will be used for project mitigation and the determination of consistency as provided in Chapter 22.08 FMC;
- (9) Any other information determined appropriate by the city, such as the city's threshold determination, if complete at the time of issuance of the notice of application (RCW 36.70B.110).

(d) Public Comment on the Notice of Application. All public comments on the notice of application must be received in the planning/building department by 5:00 p.m. on the last day of the comment period. Comments may be mailed, personally delivered or sent by facsimile. Comments should be as specific as possible.

(e) Except for a determination of significance, the city may not issue its threshold determination or issue a decision or recommendation on a project permit until the expiration of the public comment period on the notice of application (RCW 36.70B.110). (Ord. 1145 § 3, 1997; Ord. 1120 § 1, 1996).

22.06.006 Referral and review of project permit applications.

Within 10 days of issuing a determination of completeness, the director shall do the following:

(a) Transmit a copy of the application, or appropriate parts of the application, to each affected agency and city department for review and comment, including those responsible for determining compliance with state and federal requirements. The affected agencies and city departments shall have 15 days to comment. The referral agency or city department is presumed to have no comments if comments are not received within the specified time period. The director shall grant an extension of time for comment only if the application involves unusual circumstances. Any extension shall only be for a maximum of three additional days (RCW 36.70B.070).

(b) If a Type III-A or III-B procedure is required, notice and hearing shall be provided as set forth in Chapter 22.07 FMC. (Ord. 1120 § 1, 1996).

Chapter 22.32

RESIDENTIAL-4 DISTRICT (R-4)

Sections:

- 22.32.001 Purpose.
- 22.32.002 Permitted uses.
- 22.32.003 Accessory uses.
- 22.32.004 Conditional uses.
- 22.32.005 Development standards.
- 22.32.006 Administrative uses.

22.32.001 Purpose.

The R-4 zoning district is intended to implement the comprehensive plan's low density residential land use designation. The district standards aim to preserve and enhance the character of neighborhoods that have a well-established suburban development pattern. The predominant land uses in these neighborhoods are detached single-family dwellings located on 8,000- to 12,000-square-foot lots. New construction must fit within this context. (Ord. 1246 § 2, 2000).

22.32.002 Permitted uses.

Uses permitted subject to administrative design review approval, when applicable, in accordance with Chapter 22.66 FMC:

- (a) Single-family dwelling.
- (b) Family group home, including adult family home.
- (c) Nonmotorized recreational trail or passive recreational park with no permanent on-site staff.
- (d) Necessary public or quasi-public utility building, structure or equipment, unstaffed and less than or equal to 500 square feet in gross floor area (subject to compliance with landscape standards in Chapter 22.62 FMC). Excludes substation. (Ord. 1562 § 5, 2015; Ord. 1246 § 2, 2000).

22.32.003 Accessory uses.

Uses permitted in conjunction with, or accessory to, a principal use permitted in FMC 22.32.002:

- (a) Accessory dwelling unit (subject to compliance with FMC 22.58.012).
- (b) Family day-care facility (subject to compliance with FMC 22.58.010).
- (c) Home occupation – Type I (subject to compliance with FMC 22.58.013).
- (d) Amateur and citizen band transmitter, support structure and antenna array (subject to compliance with FMC 22.58.002(h)).
- (e) Residential accessory use or structure which is subordinate and incidental to a permitted residential dwelling unit (subject to compliance with Chapter 22.58 FMC). Residential accessory uses and structures may include, but are not limited to: garage, carport, storage shed, noncommercial greenhouse, patio, swimming pool, sport court, gazebo, pergola, trellis, fence, and similar uses or structures.
- (f) Temporary accessory use or structure (subject to compliance with FMC 22.58.015).
- (g) Other accessory use or structure which is subordinate and incidental to a principally permitted use, as determined by the director.
- (h) Electric vehicle charging station (subject to compliance with FMC 22.58.025). (Ord. 1509 § 1, 2011; Ord. 1246 § 2, 2000).

22.32.004 Conditional uses.

Uses permitted subject to conditional use permit approval in accordance with Chapter 22.68 FMC and administrative design review approval in accordance with Chapter 22.66 FMC:

- (a) Child day-care center.
- (b) Home occupation – Type II (subject to compliance with FMC 22.58.013).
- (c) School, accredited K-12, public or private.
- (d) Preschool, accredited, public or private.
- (e) Religious institution.
- (f) Bed and breakfast establishment (subject to compliance with FMC 22.58.011).
- (g) Assisted living facility, including congregate care facility, convalescent home, hospice care center, residential care facility, and residential treatment facility.
- (h) Necessary public or quasi-public structure or equipment, greater than 500 square feet in gross floor area (subject to compliance with landscape standards in Chapter 22.62 FMC). Excludes substation.
- (i) Personal wireless telecommunications facility (subject to compliance with Chapter 22.24 FMC).
- (j) A use not listed above which: is not listed in another zoning district as a permitted or conditional use; is similar in nature to the above list of permitted and conditional uses; is consistent with the purpose and intent of this zoning district; and is compatible with the uses on adjoining properties. (Ord. 1246 § 2, 2000).

22.32.005 Development standards.

Maximum density	4 dwelling units per gross acre.
Minimum lot area	8,000 square feet.
Maximum height	30 feet. See FMC 22.58.007 for exceptions.
Maximum floor area ratio	0.35. See FMC 22.58.026 for FAR standards.
Minimum front yard setback	25 feet. See FMC 22.58.002 for setback reduction and allowable encroachments.
Minimum interior side yard setback	8 feet. See FMC 22.58.002 for allowable encroachments.
Minimum side street side yard setback	15 feet. See FMC 22.58.002 for allowable encroachments.
Minimum rear yard setback	20 feet. See FMC 22.58.002 for allowable encroachments.
Exterior wall modulation	Building elevations greater than 40 feet in length, measured horizontally, shall incorporate wall plane projections or recesses having a depth of at least 4 feet for front and side street side yard elevations of single-family dwellings, and 6 feet for all elevations of all other buildings. The projections or recesses shall extend at least 20% of the length of the facade. No uninterrupted length of any elevation shall exceed 40 horizontal

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	feet. See FMC 22.64.009 for an illustration of this requirement.
Articulation	Building elevations exceeding 20 feet in length, measured horizontally, shall incorporate a minimum of 2 articulation components, such as a stoop, porch, chimney or other substantial projections, windows, multiple contrasting siding materials, or substantial trim including a belt course, to visually and/or functionally break up flat, blank or undifferentiated elevations. Building elevations greater than 30 feet in length, measured horizontally, and exceeding 12 feet in height, measured from finished grade to top of wall where it connects to roof structure, shall incorporate a minimum of 3 articulation components.
Accessory building standards	See FMC 22.58.003.
Maximum lot coverage for structures	40% for all structures combined.
Maximum impervious surface coverage	50% for structures and other impervious surfaces combined.
Minimum lot width	60 feet.
Minimum frontage on a public street	60 feet. 45 feet if located on a cul-de-sac or facing the inside curve of a street.
Additional specific use and structure regulations	See Chapter 22.58 FMC.
Parking and circulation	See Chapter 22.60 FMC.
Landscape regulations	See Chapter 22.62 FMC.
Design standards	See Chapter 22.64 FMC.
<i>Calculations resulting in a fraction shall be rounded to the nearest whole number with .50 being rounded up.</i>	

22.32.006 Administrative uses.

Uses permitted subject to administrative use permit approval in accordance with Chapter 22.70 FMC:

- (a) Permanent support housing.
- (b) Transitional housing.

(Ord. 1611 § 5, 2018; Ord. 1562 § 6, 2015; Ord. 1311 § 2, 2002; Ord. 1272 § 1, 2001; Ord. 1246 § 2, 2000).

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Chapter 22.34

RESIDENTIAL-4-CONSERVATION DISTRICT (R-4-C)

Sections:

- 22.34.001 Purpose.
- 22.34.002 Permitted uses.
- 22.34.003 Accessory uses.
- 22.34.004 Conditional uses.
- 22.34.005 Development standards.
- 22.34.006 Administrative uses.

22.34.001 Purpose.

The R-4-C zoning district is intended to implement the comprehensive plan's low density residential – conservation overlay land use designation. The district standards permit limited residential development within areas that contain significant environmental constraints such as wetlands, frequently flooded areas and steep slopes. These constraints place practical limits on building intensity and provide for the clustering of new development to further protect critical areas and to retain additional open space. (Ord. 1461 § 1, 2008; Ord. 1246 § 3, 2000).

22.34.002 Permitted uses.

Uses permitted subject to administrative design review approval in accordance with Chapter 22.66 FMC:

- (a) Small lot development (subject to compliance with small lot design standards and guidelines adopted by reference in Chapter 22.63 FMC).
- (b) Family group home, including adult family home.
- (c) Cottage housing (subject to compliance with cottage housing standards in FMC 22.58.027).
- (d) Nonmotorized recreational trail or passive recreational park with no permanent on-site staff.
- (e) Necessary public or quasi-public utility building, structure or equipment, unstaffed and less than or equal to 500 square feet in gross floor area (subject to compliance with landscape standards in Chapter 22.62 FMC). Excludes substation. (Ord. 1562 § 7, 2015; Ord. 1461 § 2, 2008; Ord. 1246 § 3, 2000).

22.34.003 Accessory uses.

Uses permitted in conjunction with, or accessory to, a principal use permitted in FMC 22.34.002:

- (a) Accessory dwelling unit (subject to compliance with FMC 22.58.012).
- (b) Family day-care facility (subject to compliance with FMC 22.58.010).
- (c) Home occupation – Type I (subject to compliance with FMC 22.58.013).
- (d) Amateur and citizen band transmitter, support structure and antenna array (subject to compliance with FMC 22.58.002(h)).
- (e) Residential accessory use or structure which is subordinate and incidental to a permitted residential dwelling unit (subject to compliance with Chapter 22.58 FMC). Residential accessory uses and structures may include, but are not limited to: garage, carport, storage shed, noncommercial greenhouse, patio, gazebo, pergola, trellis, fence, and similar uses or structures. Excludes swimming pools, sport courts and other facilities identified through the planned development permit review process that may add significantly to impervious surface coverage.
- (f) Temporary accessory use or structure (subject to compliance with FMC 22.58.015).
- (g) Other accessory use or structure which is subordinate and incidental to a principally permitted use, as determined by the director.

(h) Electric vehicle charging station (subject to compliance with FMC 22.58.025). (Ord. 1509 § 2, 2011; Ord. 1246 § 3, 2000).

22.34.004 Conditional uses.

Uses permitted subject to conditional use permit approval in accordance with Chapter 22.68 FMC and administrative design review approval in accordance with Chapter 22.66 FMC:

- (a) Child day-care center.
- (b) Home occupation – Type II (subject to compliance with FMC 22.58.013).
- (c) Assisted living facility, including congregate care facility, convalescent home, hospice care center, residential care facility, and residential treatment facility.
- (d) Necessary public or quasi-public utility building, structure or equipment, unstaffed and greater than 500 square feet in gross floor area (subject to compliance with landscape standards in Chapter 22.62 FMC). Excludes substation.
- (e) Personal wireless telecommunications facility (subject to compliance with Chapter 22.24 FMC).
- (f) A use not listed above which is not listed in another zoning district as a permitted or conditional use; is similar in nature to the above list of permitted and conditional uses; is consistent with the purpose and intent of this zoning district; and is compatible with the uses on adjoining properties. (Ord. 1246 § 3, 2000).

22.34.005 Development standards.

Maximum density	4 dwelling units per gross acre for small lot development. 8 dwelling units per gross acre for cottage housing.
Density bonus	The following density bonuses, not to exceed 30% combined, may be permitted for small lot development: a. A 5% increase in density if ≥30% of the development site is retained as common open space, and which must be contiguous or larger than 1 acre in area. b. A 10% increase in density if a pedestrian trail system is provided within the common open space area, consistent with a trails plan. c. A 10% percent increase in density if a minimum 35% of the required common open space is improved as an active recreational area. Active recreational areas include, but are not limited to: i. Clearly defined athletic fields and/or activity courts. ii. Recreation centers or community facilities. d. A 1% increase in density for each 5% additional increase in common open space provided beyond the minimum percentage required.
Minimum and maximum lot area	Small lot development: See Chapter 22.63 FMC. Cottage housing: See FMC 22.58.027.
Maximum height	Other uses: 35 feet. Small lot development: See Chapter 22.63 FMC. Cottage housing: See FMC 22.58.027. Exceptions may be authorized per FMC 22.58.007.

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Minimum and maximum front yard, interior side yard, side street side yard, and rear yard setback	Small lot development: See Chapter 22.63 FMC. Cottage housing: See FMC 22.58.027. Other uses: To be determined through the administrative design review process. If not specified, FMC 22.58.002 encroachment standards will apply.
Exterior wall modulation	Small lot development: See Chapter 22.63 FMC. Cottage housing: See FMC 22.58.027. For other uses, elevations greater than 40 feet in length, measured horizontally, shall incorporate wall plane projections or recesses having a depth of at least 6 feet. The projections or recesses shall extend at least 20% of the length of the facade. No uninterrupted length of any elevation shall exceed 40 horizontal feet. See FMC 22.64.009 for an illustration of this requirement.
Articulation	Small lot development: See Chapter 22.63 FMC. Cottage housing: See FMC 22.58.027. For other uses, building elevations exceeding 20 feet in length, measured horizontally, shall incorporate a minimum of 2 articulation components, such as a stoop, porch, chimney or other substantial projections, windows, multiple contrasting siding materials, or substantial trim including a belt course, to visually and/or functionally break up flat, blank or undifferentiated elevations. Building elevations greater than 30 feet in length, measured horizontally, and exceeding 12 feet in height, measured from finished grade to top of wall where it connects to roof structure, shall incorporate a minimum of 3 articulation components.
Accessory building standards	Small lot development: See Chapter 22.63 FMC. Cottage housing: See FMC 22.58.027. If not specified, FMC 22.58.003 standards will apply.
Maximum impervious surface coverage	Small lot development: See Chapter 22.63 FMC. Cottage housing: See FMC 22.58.027. For other uses, 50% for all structures and other impervious surfaces combined.
Maximum developable slope	Subject to the requirements of Chapter 22.100 FMC.
Additional specific use and structure regulations	See Chapter 22.58 FMC.
Parking and circulation	Small lot development: See Chapter 22.63 FMC. Cottage housing: See FMC 22.58.027. For other uses, see Chapter 22.60 FMC.
Landscape regulations	Small lot development: See Chapter 22.63 FMC. Cottage housing: See FMC 22.58.027. For other uses: See Chapter 22.62 FMC.

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Design standards	Small lot development: See Chapter 22.63 FMC. Cottage housing: See FMC 22.58.027. For other uses: See Chapter 22.64 FMC.
Critical areas	See Chapter 22.92 FMC.
<i>Calculations resulting in a fraction shall be rounded to the nearest whole number, with .50 being rounded up.</i>	

22.34.006 Administrative uses.

Uses permitted subject to administrative use permit approval in accordance with Chapter 22.70 FMC:

(a) Permanent support housing.

(b) Transitional housing.

(Ord. 1611 § 6, 2018; Ord. 1562 § 8, 2015; Ord. 1481 § 1, 2009; Ord. 1461 § 3, 2008; Ord. 1311 § 3, 2002; Ord. 1272 § 2, 2001; Ord. 1246 § 3, 2000).

Chapter 22.36

RESIDENTIAL-6 DISTRICT (R-6)

Sections:

- 22.36.001 Purpose.
- 22.36.002 Permitted uses.
- 22.36.003 Accessory uses.
- 22.36.004 Conditional uses.
- 22.36.005 Development standards.
- 22.36.006 Administrative uses.

22.36.001 Purpose.

The R-6 zoning district is intended to implement the comprehensive plan's low density residential land use designation. The district standards aim to preserve the historic development pattern established in the city's original residential neighborhoods (the circa 1907 Regents Park I and II plats). These neighborhoods include an eclectic mix of architecture within a pedestrian-oriented urban grid development pattern. The predominant land uses are detached modestly-scaled single-family dwellings located on 5,000- to 8,000-square-foot lots. New construction must fit within this context. (Ord. 1246 § 4, 2000).

22.36.002 Permitted uses.

Uses permitted subject to administrative design review approval, when applicable, in accordance with Chapter 22.66 FMC:

- (a) Single-family dwelling.
- (b) Family group home, including adult family home.
- (c) Nonmotorized recreational trail or passive recreational park with no permanent on-site staff.
- (d) Necessary public or quasi-public utility building, structure or equipment, unstaffed and less than or equal to 500 square feet in gross floor area (subject to compliance with landscape standards in Chapter 22.62 FMC). Excludes substation. (Ord. 1562 § 9, 2015; Ord. 1246 § 4, 2000).

22.36.003 Accessory uses.

Uses permitted in conjunction with, or accessory to, a principal use permitted in FMC 22.36.002:

- (a) Accessory dwelling unit (subject to compliance with FMC 22.58.012).
- (b) Family day-care facility (subject to compliance with FMC 22.58.010).
- (c) Home occupation – Type I (subject to compliance with FMC 22.58.013).
- (d) Amateur and citizen band transmitter, support structure and antenna array (subject to compliance with FMC 22.58.002(h)).
- (e) Residential accessory use or structure which is subordinate and incidental to a permitted residential dwelling unit (subject to compliance with Chapter 22.58 FMC). Residential accessory uses and structures may include, but are not limited to: garage, carport, storage shed, noncommercial greenhouse, patio, swimming pool, sport court, gazebo, pergola, trellis, fence, and similar uses or structures.
- (f) Temporary accessory use or structure (subject to compliance with FMC 22.58.015).
- (g) Other accessory use or structure which is subordinate and incidental to a principally permitted use, as determined by the director.

(h) Electric vehicle charging station (subject to compliance with FMC 22.58.025). (Ord. 1509 § 3, 2011; Ord. 1246 § 4, 2000).

22.36.004 Conditional uses.

Uses permitted subject to conditional use permit approval in accordance with Chapter 22.68 FMC and administrative design review approval in accordance with Chapter 22.66 FMC:

- (a) Child day-care center.
- (b) Home occupation – Type II (subject to compliance with FMC 22.58.013).
- (c) School, accredited K-12, public or private.
- (d) Preschool, accredited, public or private.
- (e) Religious institution.
- (f) Bed and breakfast establishment (subject to compliance with FMC 22.58.011).
- (g) Assisted living facility, including congregate care facility, convalescent home, hospice care center, residential care facility, and residential treatment facility.
- (h) Necessary public or quasi-public structure or equipment, greater than 500 square feet in gross floor area (subject to compliance with landscape standards in Chapter 22.62 FMC). Excludes substation.
- (i) Personal wireless telecommunications facility (subject to compliance with Chapter 22.24 FMC).
- (j) A use not listed above which: is not listed in another zoning district as a permitted or conditional use; is similar in nature to the above list of permitted and conditional uses; is consistent with the purpose and intent of this zoning district; and is compatible with the uses on adjoining properties. (Ord. 1246 § 4, 2000).

22.36.005 Development standards.

Maximum density	6 dwelling units per gross acre.
Minimum lot area	5,000 square feet.
Maximum height	27 feet (where minimum roof slope of 6:12 for all parts of the roof above 18 feet is provided). Otherwise, 18 feet. See FMC 22.58.007 for exceptions.
Maximum floor area ratio	0.35. See FMC 22.58.026 for FAR standards.
Minimum front yard setback	20 feet. See FMC 22.58.002 for setback reduction and allowable encroachments.
Minimum interior yard setback	5 feet for first story. 8 feet for side second story. See FMC 22.58.002 for allowable encroachments.
Minimum side street side yard setback	15 feet. See FMC 22.58.002 for allowable encroachments.
Exterior wall modulation	Building elevations greater than 40 feet in length, measured horizontally, shall incorporate wall plane projections or recesses having a depth of at least 4 feet for front and side street side yard elevations of single-family dwellings, and 6 feet for all elevations of all other buildings.

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	The projections or recesses shall extend at least 20% of the length of the elevation. No uninterrupted length of any elevation shall exceed 40 horizontal feet. See FMC 22.64.009 for an illustration of this requirement.
Articulation	Building elevations exceeding 20 feet in length, measured horizontally, shall incorporate a minimum of 2 articulation components, such as a stoop, porch, chimney or other substantial projections, windows, multiple contrasting siding materials, or substantial trim including a belt course, to visually and/or functionally break up flat, blank or undifferentiated elevations. Building elevations greater than 30 feet in length, measured horizontally, and exceeding 12 feet in height, measured from finished grade to top of wall where it connects to roof structure, shall incorporate a minimum of 3 articulation components.
Minimum rear yard setback	20 feet. See FMC 22.58.002 for allowable encroachments.
Accessory building standards	See FMC 22.58.003.
Maximum lot coverage for structures	40% for all structures combined, except that up to 200 square feet of a covered, unenclosed front porch having a 6-foot minimum depth may be excluded from total.
Maximum impervious surface coverage	50% for all structures and other impervious surfaces combined, except that porches excluded above, and driveway strips less than or equal to 2 feet wide leading to a detached garage in rear 50% of a lot, may be excluded from total.
Minimum lot width	50 feet.
Minimum frontage on a public street	50 feet. 35 feet if located on a cul-de-sac or facing the inside curve of a street.
Additional specific use and structure regulations	See Chapter 22.58 FMC.
Parking and circulation	See Chapter 22.60 FMC.
Landscaping regulations	See Chapter 22.62 FMC.
Design standards	See Chapter 22.64 FMC.
<i>Calculations resulting in a fraction shall be rounded to the nearest whole number with .50 being rounded up.</i>	

22.36.006 Administrative uses.
Uses permitted subject to administrative use permit approval in accordance with Chapter 22.70 FMC:

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(a) Permanent support housing.

(b) Transitional housing.

(Ord. 1611 § 7, 2018; Ord. 1562 § 10, 2015; Ord. 1311 § 4, 2002; Ord. 1272 § 3, 2001; Ord. 1246 § 4, 2000).

Chapter 22.38

RESIDENTIAL-8 DISTRICT (R-8)

Sections:

- 22.38.001 Purpose.
- 22.38.002 Permitted uses.
- 22.38.003 Accessory uses.
- 22.38.004 Conditional uses.
- 22.38.005 Development standards.
- 22.38.006 Administrative uses.

22.38.001 Purpose.

The R-8 zoning district is intended to implement the comprehensive plan's medium density residential land use designation. The district provides for a mix of residential dwelling units, including duplex and multifamily structures with three or four dwelling units. (Ord. 1246 § 5, 2000).

22.38.002 Permitted uses.

Uses permitted subject to planned development approval in accordance with Chapter 22.76 FMC and administrative design review approval in accordance with Chapter 22.66 FMC:

- (a) Family group home, including adult family home.
- (b) Duplex dwelling.
- (c) Multifamily dwelling within a structure containing no more than four dwelling units, when clustered to avoid critical areas or to retain significant open space.
- (d) Manager's office, recreation facilities, laundry facilities, and other structures and facilities intended for use by residents of a residential complex.
- (e) Nonmotorized recreational trail or passive recreational park with no permanent on-site staff.
- (f) Necessary public or quasi-public utility building, structure or equipment, unstaffed and less than or equal to 500 square feet in gross floor area (subject to compliance with landscape standards in Chapter 22.62 FMC). Excludes substation. (Ord. 1562 § 11, 2015; Ord. 1246 § 5, 2000).

22.38.003 Accessory uses.

Uses permitted in conjunction with, or accessory to, a principal use permitted in FMC 22.38.002:

- (a) Accessory dwelling unit (subject to compliance with FMC 22.58.012).
- (b) Family day-care facility (subject to compliance with FMC 22.58.010).
- (c) Home occupation – Type I (subject to compliance with FMC 22.58.013).
- (d) Amateur and citizen band transmitter, support structure and antenna array (subject to compliance with FMC 22.58.002(h)).
- (e) Residential accessory use or structure which is subordinate and incidental to a permitted residential dwelling unit (subject to compliance with Chapter 22.58 FMC). Residential accessory uses and structures may include, but are not limited to: garage, carport, storage shed, noncommercial greenhouse, patio, swimming pool, sport court, gazebo, pergola, trellis, fence, and similar uses or structures.
- (f) Temporary accessory use or structure (subject to compliance with FMC 22.58.015).

(g) Other accessory use or structure which is subordinate and incidental to a principally permitted use, as determined by the director.

(h) Electric vehicle charging station (subject to compliance with FMC 22.58.025). (Ord. 1509 § 4, 2011; Ord. 1246 § 5, 2000).

22.38.004 Conditional uses.

Uses permitted subject to conditional use permit approval in accordance with Chapter 22.68 FMC and administrative design review approval in accordance with Chapter 22.66 FMC:

(a) Child day-care center.

(b) Home occupation – Type II (subject to compliance with FMC 22.58.013).

(c) School, accredited K-12, public or private.

(d) Preschool, accredited, public or private.

(e) Religious institution.

(f) Assisted living facility, including congregate care facility, convalescent home, hospice care center, residential care facility, and residential treatment facility.

(g) Necessary public or quasi-public structure or equipment, greater than 500 square feet in gross floor area (subject to compliance with landscape standards in Chapter 22.62 FMC). Excludes substation.

(h) Personal wireless telecommunications facility (subject to compliance with Chapter 22.24 FMC).

(i) A use not listed above which: is not listed in another zoning district as a permitted or conditional use; is similar in nature to the above list of permitted and conditional uses; is consistent with the purpose and intent of this zoning district; and is compatible with the uses on adjoining properties. (Ord. 1246 § 5, 2000).

22.38.005 Development standards.

Maximum density	8 dwelling units per gross acre.
Minimum lot area	To be determined through the PD review process – see Chapter 22.76 FMC.
Maximum height	35 feet. Exceptions may be authorized per FMC 22.58.007 and through the PD review process – see Chapter 22.76 FMC.
Minimum and maximum front yard, interior side yard, side street side yard, and rear yard setback	Setbacks and allowable encroachments to be determined through the PD review process – see Chapter 22.76 FMC. If not specified, FMC 22.58.002 encroachment standards will apply.
Exterior wall modulation	Building elevations greater than 40 feet in length, measured horizontally, shall incorporate wall plane projections or recesses having a depth of at least 4 feet for front and side street side yard elevations of single-family dwellings, and 6 feet for all elevations of all other buildings. The projections or recesses shall extend at least 20% of the length of the elevation. No uninterrupted

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	length of any elevation shall exceed 40 horizontal feet. See FMC 22.64.009 for an illustration of this requirement.
Articulation	Building elevations exceeding 20 feet in length, measured horizontally, shall incorporate a minimum of 2 articulation components, such as a stoop, porch, chimney or other substantial projections, windows, multiple contrasting siding materials, or substantial trim including a belt course, to visually and/or functionally break up flat, blank or undifferentiated elevations. Building elevations greater than 30 feet in length, measured horizontally, and exceeding 12 feet in height, measured from finished grade to top of wall where it connects to roof structure, shall incorporate a minimum of 3 articulation components.
Accessory building standards	To be determined through the PD process – see Chapter 22.76 FMC. If not specified, FMC 22.58.003 standards will apply.
Maximum lot coverage for structures	To be determined through the PD review process – see Chapter 22.76 FMC.
Maximum impervious surface coverage	65% of the developable site area for all structures and other impervious surfaces combined.
Development not subject to planned development approval	For development that is not subject to planned development approval, or for modifications to existing development constructed prior to adoption of planned development requirements, lot size, setbacks, lot coverage and impervious surface area coverage shall comply with the development standards in FMC 22.36.005 (R-6 zone).
Additional specific use and structure regulations	See Chapter 22.58 FMC.
Parking and circulation	See Chapter 22.60 FMC.
Landscaping regulations	See Chapter 22.62 FMC.
Design standards	See Chapter 22.64 FMC. Site-specific design guidelines may be required as part of planned development approval. See also multifamily design standards and guidelines adopted by reference in Chapter 22.63 FMC.
Critical areas	See Chapter 22.92 FMC.
<i>Calculations resulting in a fraction shall be rounded to the nearest whole number with .50 being rounded up.</i>	

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22.38.006 Administrative uses.

Uses permitted subject to administrative use permit approval in accordance with Chapter 22.70 FMC:

(a) Permanent support housing.

(b) Transitional housing.

(Ord. 1611 § 8, 2018; Ord. 1562 § 12, 2015; Ord. 1311 § 5, 2002; Ord. 1272 § 4, 2001; Ord. 1246 § 5, 2000).

Chapter 22.40

RESIDENTIAL-10-TRADITIONAL COMMUNITY DESIGN DISTRICT (R-10-TCD)

Sections:

- 22.40.001 Purpose.
- 22.40.002 Permitted uses.
- 22.40.003 Accessory uses.
- 22.40.004 Conditional uses.
- 22.40.005 Development standards.
- 22.40.006 Administrative uses.

22.40.001 Purpose.

The R-10-TCD zoning district is intended to implement the comprehensive plan's medium density residential – traditional community design overlay land use designation. The district standards encourage a broad range of housing types, including single-family, duplex, and multifamily structures containing up to eight units per building when this facilitates the protection of critical areas or the retention of significant open space. Development plans must use neo-traditional designs that achieve pedestrian-friendly, human-scale neighborhoods. These neighborhoods will have interconnected street patterns, buildings that face streets, sidewalks or other public space, small setbacks, parking placed to the rear of buildings with access from alleys where feasible, and a variety of architectural building styles, design features and amenities which provide visual interest and reinforce the human-scale character of the neighborhood. (Ord. 1246 § 6, 2000).

22.40.002 Permitted uses.

Uses permitted subject to planned development approval in accordance with Chapter 22.76 FMC and administrative design review approval in accordance with Chapter 22.66 FMC:

- (a) Single-family dwelling.
- (b) Family group home, including adult family home.
- (c) Duplex dwelling.
- (d) Multifamily dwelling within a structure containing no more than eight dwelling units, when clustered to avoid critical areas or to retain significant open space.
- (e) Assisted living facility, including congregate care facility, convalescent home, hospice care center, residential care facility, and residential treatment facility.
- (f) Manager's office, recreation facilities, laundry facilities, and other structures and facilities intended for use by residents of a residential complex.
- (g) Nonmotorized recreational trail or passive recreational park with no permanent on-site staff.
- (h) Necessary public or quasi-public utility building, structure or equipment, unstaffed and less than or equal to 500 square feet in gross floor area (subject to compliance with landscape standards in Chapter 22.62 FMC). Excludes substation. (Ord. 1562 § 13, 2015; Ord. 1246 § 6, 2000).

22.40.003 Accessory uses.

Uses permitted in conjunction with, or accessory to, a principal use permitted in FMC 22.40.002:

- (a) Accessory dwelling unit (subject to compliance with FMC 22.58.012).
- (b) Family day-care facility (subject to compliance with FMC 22.58.010).
- (c) Home occupation – Type I (subject to compliance with FMC 22.58.013).

- (d) Amateur and citizen band transmitter, support structure and antenna array (subject to compliance with FMC 22.58.002(h)).
- (e) Residential accessory use or structure which is subordinate and incidental to a permitted residential dwelling unit (subject to compliance with Chapter 22.58 FMC). Residential accessory uses and structures may include, but are not limited to: garage, carport, storage shed, noncommercial greenhouse, patio, gazebo, pergola, trellis, fence, and similar uses or structures.
- (f) Temporary accessory use or structure (subject to compliance with FMC 22.58.015).
- (g) Other accessory use or structure which is subordinate and incidental to a principally permitted use, as determined by the director.
- (h) Electric vehicle charging station (subject to compliance with FMC 22.58.025). (Ord. 1509 § 5, 2011; Ord. 1246 § 6, 2000).

22.40.004 Conditional uses.

Uses permitted subject to conditional use permit approval in accordance with Chapter 22.68 FMC and administrative design review approval in accordance with Chapter 22.66 FMC:

- (a) Child day-care center.
- (b) Home occupation – Type II (subject to compliance with FMC 22.58.013).
- (c) Necessary public or quasi-public structure or equipment, greater than 500 square feet in gross floor area (subject to compliance with landscape standards in Chapter 22.62 FMC). Excludes substation.
- (d) Personal wireless telecommunications facility (subject to compliance with Chapter 22.24 FMC).
- (e) A use not listed above which: is not listed in another zoning district as a permitted or conditional use; is similar in nature to the above list of permitted and conditional uses; is consistent with the purpose and intent of this zoning district; and is compatible with the uses on adjoining properties. (Ord. 1246 § 6, 2000).

22.40.005 Development standards.

Maximum density	10 dwelling units per gross acre.
Minimum and maximum lot area	To be determined through the PD review process – see Chapter 22.76 FMC.
Maximum height	35 feet. Exceptions may be authorized per FMC 22.58.007 and through the PD review process – see Chapter 22.76 FMC.
Minimum and maximum front yard, interior side yard, side street side yard, and rear yard setback	Setbacks and allowable encroachments to be determined through the PD review process – see Chapter 22.76 FMC. If not specified, FMC 22.58.002 encroachment standards will apply.
Accessory structure standards	To be determined through the PD review process – see Chapter 22.76 FMC. If not specified, FMC 22.58.003 standards will apply.
Maximum lot coverage for structures	To be determined through the PD review process – see Chapter 22.76 FMC.

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Maximum impervious surface coverage	65% of the developable site area for all structures and other impervious surfaces combined.
Exterior wall modulation	Facades greater than 40 feet in length, measured horizontally, shall incorporate wall plane projections or recesses having a depth of at least 4 feet for front and side street side yard elevations of single-family dwellings and duplexes, and 6 feet for all elevations of all other buildings. The projections or recesses shall extend at least 20% of the length of the facade. No uninterrupted length of any facade shall exceed 40 horizontal feet. See FMC 22.64.009 for an illustration of this requirement.
Articulation	Building elevations exceeding 20 feet in length, measured horizontally, shall incorporate a minimum of 2 articulation components, such as a stoop, porch, chimney or other substantial projections, windows, multiple contrasting siding materials, or substantial trim including a belt course, to visually and/or functionally break up flat, blank or undifferentiated elevations. Building elevations greater than 30 feet in length, measured horizontally, and exceeding 12 feet in height, measured from finished grade to top of wall where it connects to roof structure, shall incorporate a minimum of 3 articulation components.
Maximum % of multifamily dwelling units allowed	50% of the total number of units within a development.
Additional specific use and structure regulations	See Chapter 22.58 FMC.
Parking and circulation	See Chapter 22.60 FMC.
Landscaping regulations	See Chapter 22.62 FMC.
Design standards	See Chapter 22.64 FMC. See also multifamily design standards and guidelines adopted by reference in Chapter 22.63 FMC.
Critical areas	See Chapter 22.92 FMC.
<i>Calculations resulting in a fraction shall be rounded to the nearest whole number with .50 being rounded up.</i>	

22.40.006 Administrative uses.

Uses permitted subject to administrative use permit approval in accordance with Chapter 22.70 FMC:

- (a) Permanent support housing.
- (b) Transitional housing.

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COMMUNITY DESIGN DISTRICT (R-10-TCD)
(Ord. 1611 § 9, 2018; Ord. 1311 § 6, 2002; Ord. 1246 § 6, 2000).

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Chapter 22.42

RESIDENTIAL-20 DISTRICT (R-20)

Sections:

- 22.42.001 Purpose.
- 22.42.002 Permitted uses.
- 22.42.003 Accessory uses.
- 22.42.004 Conditional uses.
- 22.42.005 Development standards.
- 22.42.006 Administrative uses.

22.42.001 Purpose.

The R-20 zoning district is intended to implement the comprehensive plan's high density residential land use designation. The district provides for predominantly multifamily housing with the inclusion of duplexes, where appropriate. Development standards encourage neighborhood designs that have a density and configuration that support mass transit service along collector and arterial streets. Generally, developments within this district provide relatively affordable housing near shopping and employment centers. (Ord. 1246 § 7, 2000).

22.42.002 Permitted uses.

Uses permitted subject to site plan approval in accordance with Chapter 22.72 FMC and administrative design review approval in accordance with Chapter 22.66 FMC:

- (a) Family group home, including adult family home.
- (b) Duplex dwelling.
- (c) Multifamily dwelling.
- (d) Assisted living facility, including congregate care facility, convalescent home, hospice care center, residential care facility, and residential treatment facility.
- (e) Manager's office, recreation facilities, laundry facilities, and other structures and facilities intended for use by residents of a residential complex.
- (f) Nonmotorized recreational trail or passive recreational park with no permanent on-site staff.
- (g) Necessary public or quasi-public utility building, structure or equipment, unstaffed and less than or equal to 500 square feet in gross floor area (subject to compliance with landscape standards in Chapter 22.62 FMC). Excludes substation. (Ord. 1562 § 14, 2015; Ord. 1246 § 7, 2000).

22.42.003 Accessory uses.

Uses permitted in conjunction with, or accessory to, a principal use permitted in FMC 22.42.002:

- (a) Family day-care facility (subject to compliance with FMC 22.58.010).
- (b) Home occupation – Type I (subject to compliance with FMC 22.58.013).
- (c) Amateur and citizen band transmitter, support structure and antenna array (subject to compliance with FMC 22.58.002(h)).
- (d) Residential accessory use or structure which is subordinate and incidental to a permitted residential dwelling unit (subject to compliance with Chapter 22.58 FMC). Residential accessory uses and structures may include, but are not limited to: garage, carport, storage shed, noncommercial greenhouse, patio, swimming pool, sport court, gazebo, pergola, trellis, fence, and similar uses or structures.
- (e) Temporary accessory use or structure (subject to compliance with FMC 22.58.015).

(f) Other accessory use or structure which is subordinate and incidental to a principally permitted use, as determined by the director.

(g) Electric vehicle charging station (subject to compliance with FMC 22.58.025). (Ord. 1562 § 15, 2015; Ord. 1509 § 6, 2011; Ord. 1246 § 7, 2000).

22.42.004 Conditional uses.

Uses permitted subject to conditional use permit approval in accordance with Chapter 22.68 FMC and administrative design review approval in accordance with Chapter 22.66 FMC:

- (a) Child day-care center.
- (b) Home occupation – Type II (subject to compliance with FMC 22.58.013).
- (c) Preschool, accredited, public or private.
- (d) Religious institution.
- (e) Necessary public or quasi-public structure or equipment, greater than 500 square feet in gross floor area (subject to compliance with landscape standards in Chapter 22.62 FMC). Excludes substation.
- (f) Personal wireless telecommunications facility (subject to compliance with Chapter 22.24 FMC).
- (g) A use not listed above which: is not listed in another zoning district as a permitted or conditional use; is similar in nature to the above list of permitted and conditional uses; is consistent with the purpose and intent of this zoning district; and is compatible with the uses on adjoining properties. (Ord. 1246 § 7, 2000).

22.42.005 Development standards.

Maximum density	20 dwelling units per gross acre.
Minimum or maximum lot area	To be determined through the conditional use permit or site plan review process – see Chapter 22.68 or 22.72 FMC.
Maximum height	35 feet. A maximum 45-foot height may be authorized if 1 or more levels of structured parking are provided at or below grade level within the building footprint. For other exceptions, see FMC 22.58.007.
Minimum front yard setback	25 feet for first 35 feet of building height. Portions of a building above 35 feet shall be stepped back an additional 10 feet from the underlying story wall plane.
Minimum interior side yard setback	8 feet for first 35 feet of building height. Portions of a building above 35 feet shall be stepped back an additional 10 feet from the underlying story wall plane.
Minimum side street side yard setback	15 feet for first 35 feet of building height. Portions of a building above 35 feet shall be stepped back an additional 10 feet from the underlying story wall plane.
Minimum rear yard setback	20 feet for first 35 feet of building height. Portions of a building above 35 feet shall be stepped back an additional 10 feet from the underlying story wall plane.

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Minimum dwelling structure separation	10 feet for first 35 feet of building height. Portions of a building above 35 feet shall be stepped back an additional 10 feet from the underlying story wall plane.
Exterior wall modulation	Building elevations greater than 40 feet in length, measured horizontally, shall incorporate wall plane projections or recesses having a depth of at least 4 feet for front and side street side yard elevations of duplexes, and 6 feet for all elevations of all other buildings. The projections or recesses shall extend at least 20% of the length of the elevation. No uninterrupted length of any elevation shall exceed 40 horizontal feet. See FMC 22.64.009 for an illustration of this requirement.
Articulation	Building elevations exceeding 20 feet in length, measured horizontally, shall incorporate a minimum of 2 articulation components, such as a stoop, porch, chimney or other substantial projections, windows, multiple contrasting siding materials, or substantial trim including a belt course, to visually and/or functionally break up flat, blank or undifferentiated elevations. Building elevations greater than 30 feet in length, measured horizontally, and exceeding 12 feet in height, measured from finished grade to top of wall where it connects to roof structure, shall incorporate a minimum of 3 articulation components.
Maximum lot coverage for structures	55% for all structures combined. 65% for all structures combined if at least 50% of required parking is provided at or below grade level within the building footprint.
Maximum impervious surface coverage	75% for all structures and other impervious surfaces combined.
Additional specific use and structure regulations.	See Chapter 22.58 FMC.
Parking and circulation	See Chapter 22.60 FMC.
Landscaping regulations	See Chapter 22.62 FMC.
Design standards	See Chapter 22.64 FMC. See also multifamily design standards and guidelines adopted by reference in Chapter 22.63 FMC.
<i>Calculations resulting in a fraction shall be rounded to the nearest whole number with .50 being rounded up.</i>	

22.42.006 Administrative uses.
Uses permitted subject to administrative use permit approval in accordance with Chapter 22.70 FMC:

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(a) Permanent support housing.

(b) Transitional housing.

(Ord. 1611 § 10, 2018; Ord. 1562 § 16, 2015; Ord. 1311 § 7, 2002; Ord. 1272 § 5, 2001; Ord. 1246 § 7, 2000).

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Chapter 22.43

RESIDENTIAL-30 DISTRICT (R-30)

Sections:

- 22.43.001 Purpose.
- 22.43.002 Permitted uses.
- 22.43.003 Accessory uses.
- 22.43.004 Conditional uses.
- 22.43.005 Development standards.
- 22.43.006 Administrative uses.

22.43.001 Purpose.

The R-30 zoning district is intended to implement the comprehensive plan's high density residential land use designation. The district provides for predominantly multifamily housing and supportive uses. Development standards encourage neighborhood designs that have a density and configuration that support mass transit service along collector and arterial streets. Potential impacts associated with higher density housing are ameliorated through high quality design that is consistent with the city's multifamily design standards and guidelines. Generally, developments within this district provide relatively affordable housing near community-serving mixed use office, retail and service uses. (Ord. 1562 § 17, 2015).

22.43.002 Permitted uses.

Uses permitted subject to site plan approval in accordance with Chapter 22.72 FMC and administrative design review approval in accordance with Chapter 22.66 FMC:

- (a) Family group home, including adult family home.
- (b) Multifamily dwelling.
- (c) Assisted living facility, including congregate care facility, convalescent home, hospice care center, residential care facility, and residential treatment facility.
- (d) Manager's office, recreation facilities, laundry facilities, and other structures and facilities intended for use by residents of a residential complex.
- (e) Nonmotorized recreational trail or passive recreational park with no permanent on-site staff.
- (f) Necessary public or quasi-public utility building, structure or equipment, unstaffed and less than or equal to 500 square feet in gross floor area (subject to compliance with landscape standards in Chapter 22.62 FMC). Excludes substation. (Ord. 1562 § 17, 2015).

22.43.003 Accessory uses.

Uses permitted in conjunction with, or accessory to, a principal use permitted in FMC 22.43.002:

- (a) Family day-care facility (subject to compliance with FMC 22.58.010).
- (b) Home occupation – Type I (subject to compliance with FMC 22.58.013).
- (c) Amateur and citizen band transmitter, support structure and antenna array (subject to compliance with FMC 22.58.002(h)).
- (d) Residential accessory use or structure which is subordinate and incidental to a permitted residential dwelling unit (subject to compliance with Chapter 22.58 FMC). Residential accessory uses and structures may include, but are not limited to: garage, carport, storage shed, noncommercial greenhouse, patio, swimming pool, sport court, gazebo, pergola, trellis, fence, and similar uses or structures.

- (e) Temporary accessory use or structure (subject to compliance with FMC 22.58.015).
- (f) Other accessory use or structure which is subordinate and incidental to a principally permitted use, as determined by the director.
- (g) Electric vehicle charging station (subject to compliance with FMC 22.58.025). (Ord. 1562 § 17, 2015).

22.43.004 Conditional uses.

Uses permitted subject to conditional use permit approval in accordance with Chapter 22.68 FMC and administrative design review approval in accordance with Chapter 22.66 FMC:

- (a) Child day-care center.
- (b) Home occupation – Type II (subject to compliance with FMC 22.58.013).
- (c) Preschool, accredited, public or private.
- (d) Religious institution.
- (e) Necessary public or quasi-public structure or equipment, greater than 500 square feet in gross floor area (subject to compliance with landscape standards in Chapter 22.62 FMC). Excludes substation.
- (f) Personal wireless telecommunications facility (subject to compliance with Chapter 22.24 FMC).
- (g) A use not listed above which: is not listed in another zoning district as a permitted or conditional use; is similar in nature to the above list of permitted and conditional uses; is consistent with the purpose and intent of this zoning district; and is compatible with the uses on adjoining properties. (Ord. 1562 § 17, 2015).

22.43.005 Development standards.

Maximum density	30 dwelling units per gross acre.
Minimum or maximum lot area	To be determined through the conditional use permit or site plan review process – see Chapter 22.68 or 22.72 FMC.
Maximum height	40 feet. A maximum 50-foot height may be authorized if 1 or more levels of structured parking are provided at or below grade level within the building footprint. For other exceptions, see FMC 22.58.007.
Minimum front yard setback	25 feet for first 40 feet of building height. Portions of a building above 40 feet shall be stepped back an additional 10 feet from the underlying story wall plane.
Minimum interior side yard setback	8 feet for first 40 feet of building height. Portions of a building above 40 feet shall be stepped back an additional 10 feet from the underlying story wall plane.
Minimum side street side yard setback	15 feet for first 40 feet of building height. Portions of a building above 40 feet shall be stepped back an additional 10 feet from the underlying story wall plane.
Minimum setback abutting an R-6 or R-8 district	30 feet for first 40 feet of building height. Portions of a

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	building above 40 feet shall be stepped back an additional 10 feet from the underlying story wall plane.
Additional setbacks	Per International Building Code.
Minimum dwelling structure separation	10 feet for first 40 feet of building height. Portions of a building above 40 feet shall be stepped back an additional 10 feet from the underlying story wall plane.
Exterior wall modulation	Building elevations greater than 40 feet in length, measured horizontally, shall incorporate wall plane projections or recesses having a depth of at least 6 feet for all building elevations. The projections or recesses shall extend at least 20% of the length of the elevation. No uninterrupted length of any elevation shall exceed 40 horizontal feet. See FMC 22.64.009 for an illustration of this requirement.
Articulation	Building elevations exceeding 20 feet in length, measured horizontally, shall incorporate a minimum of 2 articulation components, such as a stoop, porch, chimney or other substantial projections, windows, multiple contrasting siding materials, or substantial trim including a belt course, to visually and/or functionally break up flat, blank or undifferentiated elevations. Building elevations greater than 30 feet in length, measured horizontally, and exceeding 12 feet in height, measured from finished grade to top of wall where it connects to roof structure, shall incorporate a minimum of 3 articulation components.
Maximum lot coverage for structures	65% for all structures combined. 75% for all structures combined if at least 50% of required parking is provided at or below grade level within the building footprint.
Maximum impervious surface coverage	85% for all structures and other impervious surfaces combined.
Additional specific use and structure regulations.	See Chapter 22.58 FMC.
Parking and circulation	See Chapter 22.60 FMC.
Landscaping regulations	See Chapter 22.62 FMC.
Design standards and guidelines	See Chapter 22.64 FMC. See also multifamily design standards and guidelines adopted

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	by reference in Chapter 22.63 FMC.
<i>Calculations resulting in a fraction shall be rounded to the nearest whole number with .50 being rounded up.</i>	

22.43.006 Administrative uses.

Uses permitted subject to administrative use permit approval in accordance with Chapter 22.70 FMC:

(a) Permanent support housing.

(b) Transitional housing.

(Ord. 1611 § 11, 2018; Ord. 1562 § 17, 2015).

Chapter 22.44

NEIGHBORHOOD OFFICE DISTRICT (NO)

Sections:

- 22.44.001 Purpose.
- 22.44.002 Permitted uses.
- 22.44.003 Accessory uses.
- 22.44.004 Conditional uses.
- 22.44.005 Prohibited uses.
- 22.44.006 Development standards.
- 22.44.007 Administrative uses.

22.44.001 Purpose.

The NO zoning district is intended to implement the comprehensive plan's neighborhood commercial land use designation. This district provides opportunities for small-scale offices that provide personal services primarily for the needs of nearby neighborhoods. Uses that tend to draw traffic into the neighborhood are not allowed. A pedestrian orientation is required for new development and new automobile-oriented uses are prohibited. Neighborhood office sites are limited in size to keep them in scale with the neighborhoods they serve and nearby uses. In addition, landscaping is used to make the area attractive, functional and to minimize negative impacts on nearby uses. Other measures, such as buffering requirements and limits on hours of operation, may be used to reduce impacts to nearby residences. Limited residential uses above the ground floor level of mixed use buildings are encouraged. (Ord. 1246 § 8, 2000).

22.44.002 Permitted uses.

Uses permitted subject to site plan approval in accordance with Chapter 22.72 FMC and administrative design review approval in accordance with Chapter 22.66 FMC:

- (a) Commercial office serving primarily a local clientele, including, but not limited to, medical, dental, optometric, business and professional office.
- (b) Pharmacy solely incidental to a medical office.
- (c) Residential dwelling units, including family group homes and adult family homes, located above the ground floor of a commercial office establishment, not to exceed a maximum density of six units per gross acre of site area.
- (d) Necessary public or quasi-public utility building, structure or equipment, unstaffed and less than or equal to 500 square feet in gross floor area (subject to compliance with landscape standards in Chapter 22.62 FMC). Excludes substation. (Ord. 1562 § 18, 2015; Ord. 1246 § 8, 2000).

22.44.003 Accessory uses.

Uses permitted in conjunction with, or accessory to, a principal use permitted in FMC 22.44.002:

- (a) Temporary accessory use or structure (subject to compliance with FMC 22.58.015).
- (b) Home occupation – Type I (subject to compliance with FMC 22.58.013).
- (c) Family day-care facility (subject to compliance with FMC 22.58.010).
- (d) Other accessory use or structure which is subordinate and incidental to a principally permitted use, as determined by the director.
- (e) Electric vehicle charging station (subject to compliance with FMC 22.58.025). (Ord. 1509 § 7, 2011; Ord. 1246 § 8, 2000).

22.44.004 Conditional uses.

Uses permitted subject to conditional use permit approval in accordance with Chapter 22.68 FMC and administrative design review approval in accordance with Chapter 22.66 FMC:

- (a) Child day-care center.
- (b) Preschool, accredited, public or private.
- (c) Home occupation – Type II (subject to compliance with FMC 22.58.013).
- (d) Necessary public or quasi-public structure or equipment, greater than 500 square feet in gross floor area (subject to compliance with landscape standards in Chapter 22.62 FMC). Excludes substation.
- (e) Personal wireless telecommunications facility (subject to compliance with Chapter 22.24 FMC).
- (f) A use not listed above which: is not listed in another zoning district as a permitted or conditional use; is similar in nature to the above list of permitted and conditional uses; is consistent with the purpose and intent of this zoning district; and is compatible with the uses on adjoining properties. (Ord. 1246 § 8, 2000).

22.44.005 Prohibited uses.

The following uses are prohibited:

- (a) Drive-up or drive-through facility.
- (b) Off-street parking facility which provides greater than 120 percent of the minimum required number of parking stalls specified in FMC 22.60.003.
- (c) Adult entertainment establishment. (Ord. 1246 § 8, 2000).

22.44.006 Development standards.

Maximum height	30 feet. See FMC 22.58.007 for exceptions.
Front yard and side street side yard setback	Zero feet minimum/20 feet maximum.
Minimum interior side yard setback	10 feet when abutting any "R" district; otherwise zero feet.
Minimum rear yard setback	20 feet when abutting any "R" district; otherwise zero feet.
Exterior wall modulation	<p>Facades greater than 60 feet in length, measured horizontally, shall incorporate wall plane projections or recesses having a depth of at least 6 feet. The projections or recesses shall extend at least 20% of the length of the facade. No uninterrupted length of any facade shall exceed 60 horizontal feet. See FMC 22.64.009 for an illustration of this requirement. Alternative designs that: incorporate recessed or projecting balconies; use base, middle and top treatments with different forms; include roof modulation; and/or provide strong articulation of the facade through the use of multiple siding materials and textures, various building forms, awnings and variation in colors – in</p>

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	conjunction with appropriate landscaping, may be approved in lieu of compliance with the wall modulation standard specified above.
Maximum lot coverage for structures	50% for all structures combined. 65% if at least 50% of required parking is provided below grade or at grade level within the building footprint.
Maximum impervious surface coverage	75% for structures and other impervious surfaces combined.
Business hours	6:00 a.m. through 10:00 p.m., unless further restricted through the conditional use permit or site plan review processes – see Chapters 22.68 and 22.72 FMC.
Additional specific use and structure regulations, including performance standards	See Chapter 22.58 FMC.
Parking and circulation	See Chapter 22.60 FMC.
Landscaping regulations	See Chapter 22.62 FMC.
Design standards	See Chapter 22.64 FMC.
Sign regulations	See Chapter 22.26 FMC.
<i>Calculations resulting in a fraction shall be rounded to the nearest whole number with .50 being rounded up.</i>	

22.44.007 Administrative uses.

Uses permitted subject to administrative use permit approval in accordance with Chapter 22.70 FMC:

(a) Permanent support housing.

(b) Transitional housing.

(Ord. 1562 § 19, 2015; Ord. 1311 § 8, 2002; Ord. 1246 § 8, 2000).

Chapter 22.46

NEIGHBORHOOD COMMERCIAL DISTRICT (NC)

Sections:

- 22.46.001 Purpose.
- 22.46.002 Permitted uses.
- 22.46.003 Accessory uses.
- 22.46.004 Conditional uses.
- 22.46.005 Administrative uses.
- 22.46.006 Master plans.
- 22.46.007 Prohibited uses.
- 22.46.008 Development standards.

22.46.001 Purpose.

The NC zoning district is intended to implement the comprehensive plan's neighborhood commercial land use designation. This district provides for small-scale shopping areas that offer retail convenience goods and personal services primarily for the daily needs of nearby neighborhoods. This zoning district is designed to reduce vehicle trips by providing convenient shopping for nearby residents. NC zones are located on transit routes, and site and building design also encourage pedestrian, bicycle and transit use. A pedestrian orientation is required for new development and new automobile-oriented uses are prohibited. Neighborhood commercial sites are limited in size to keep them in scale with the neighborhoods they serve and nearby uses. In addition, high quality landscaping is used to make the area attractive and functional and to minimize negative impacts on nearby uses. Other measures, such as buffering requirements and limits on hours of operation, may be used to reduce impacts to nearby residences. Limited residential uses above the ground floor level of mixed-use buildings are encouraged. Master plans are required for substantial redevelopment or substantial new development within areas designated "special planning areas" on the comprehensive plan's land use designation map. (Ord. 1562 § 20, 2015; Ord. 1246 § 9, 2000).

22.46.002 Permitted uses.

Uses permitted subject to site plan approval in accordance with Chapter 22.72 FMC and administrative design review approval in accordance with Chapter 22.66 FMC:

- (a) Retail sales store including, but not limited to, the sale or rental of the following items: antiques, appliances (small), art and art supplies, bicycles, books, clothing, fabrics, flowers, gifts, groceries, hardware, hobby and craft supplies, home furnishings, lawn and garden equipment and supplies, paint and wallpaper, music, pets, pharmaceuticals, photography supplies and processing, sporting goods, stationery, and videos.
- (b) Commercial service including, but not limited to: beauty and hair care, consulting, copying, fitness/health studios, laundry and cleaning (self-service), locksmithing, office equipment repair, optical, paging, pet grooming, post office or postal substation, studio photography, real estate sales, shoe repair, tailoring, telecommunication sales, and travel agency service.
- (c) Food- or beverage-serving establishment including, but not limited to: bakery, cafeteria, coffee shop, confectionery, delicatessen, espresso stand, ice cream or yogurt shop, restaurant and other sit-down, self-service or take-out establishments. See FMC 22.58.029 for standards regulating establishments licensed by the Washington State Liquor and Cannabis Board to serve liquor for on-premises consumption. See FMC 22.46.005 for establishments serving liquor for on-premises consumption in an outdoor customer seating area.
- (d) Commercial office serving primarily a local clientele including, but not limited to: medical, dental, optometric, business and professional office.
- (e) Culturally enriching use including, but not limited to: art gallery, dance studio, library, museum, live theater venue and senior center.
- (f) Residential dwelling units, including family group homes and adult family homes, located above the ground floor of a commercial establishment, not to exceed a maximum density of six units per gross acre of site area.

(g) Necessary public or quasi-public utility building, structure or equipment, unstaffed and less than or equal to 500 square feet in gross floor area (subject to compliance with landscape standards in Chapter 22.62 FMC). Excludes substation. (Ord. 1568 § 1, 2015; Ord. 1562 § 21, 2015; Ord. 1246 § 9, 2000).

22.46.003 Accessory uses.

Uses permitted in conjunction with, or accessory to, a principal use permitted in FMC 22.46.002:

- (a) Temporary accessory use or structure (subject to compliance with FMC 22.58.015).
- (b) Home occupation – Type I (subject to compliance with FMC 22.58.013).
- (c) Employee recreation facility and play area.
- (d) Family day-care facility (subject to compliance with FMC 22.58.010).
- (e) Other accessory use or structure which is subordinate and incidental to a principally permitted use, as determined by the director.
- (f) Electric vehicle charging station (subject to compliance with FMC 22.58.025).
- (g) Electric vehicle battery exchange station (subject to compliance with FMC 22.58.025).
- (h) Delivery service, when the principal use is located within a neighborhood commercial center abutting a street classified as an arterial in the Fircrest Comprehensive Plan, provided delivery vehicles use an arterial, and do not use an abutting local street, for making deliveries. (Ord. 1575 § 10, 2016; Ord. 1509 § 8, 2011; Ord. 1246 § 9, 2000).

22.46.004 Conditional uses.

Uses permitted subject to conditional use permit approval in accordance with Chapter 22.68 FMC and administrative design review approval in accordance with Chapter 22.66 FMC:

- (a) Child day-care center.
- (b) Preschool, accredited, public or private.
- (c) Home occupation – Type II (subject to compliance with FMC 22.58.013).
- (d) Necessary public or quasi-public structure or equipment greater than 500 square feet in gross floor area (subject to compliance with landscape standards in Chapter 22.62 FMC). Excludes substation.
- (e) Personal wireless telecommunications facility (subject to compliance with Chapter 22.24 FMC).
- (f) A use not listed above which: is not listed in another zoning district as a permitted or conditional use; is similar in nature to the above list of permitted and conditional uses; is consistent with the purpose and intent of this zoning district; and is compatible with the uses on adjoining properties. (Ord. 1246 § 9, 2000).

22.46.005 Administrative uses.

Uses permitted subject to administrative use permit approval in accordance with Chapter 22.70 FMC:

- (a) Outdoor sidewalk cafe or other food- or beverage-serving facility or establishment, when located on a public sidewalk or other public right-of-way area (subject to compliance with FMC 22.58.017).
- (b) Establishment licensed by the Washington State Liquor and Cannabis Board to serve liquor for on-premises consumption in an outdoor customer seating area (subject to compliance with FMC 22.58.029).
- (c) Uses otherwise subject to site plan or conditional use permit approval which have been authorized by the hearing examiner as part of a master plan pursuant to FMC 22.46.006.

(d) Permanents supportive housing.

(c) Transitional housing.

(Ord. 1638 § 20, 2019; Ord. 1568 § 2, 2015; Ord. 1246 § 9, 2000).

22.46.006 Master plans.

Approval of a master plan by the hearing examiner is required for substantial redevelopment or substantial new development within areas designated “special planning areas” on the comprehensive plan’s land use designation map. Each master plan shall contain a pedestrian plaza with landscaping, seating, tables and complementary uses that render the site a pleasant, safe and comfortable resting, socializing and picnicking area for employees and shoppers. The master plan shall be processed as a major site plan in accordance with Chapter 22.72 FMC. Upon approval of a master plan, specific uses that would otherwise be subject to site plan or conditional use permit approval in Chapter 22.68 FMC and determined by the director to be consistent with the approved master plan may be approved in accordance with the administrative use permit review process contained in Chapter 22.70 FMC. No additional hearing examiner approval is required for these previously authorized uses. If a proposed individual use represents a substantial modification to, or departure from, the approved master plan, the proposal shall be processed as a site plan amendment in accordance with FMC 22.72.012. (Ord. 1638 § 21, 2019; Ord. 1246 § 9, 2000).

22.46.007 Prohibited uses.

The following uses are prohibited:

- (a) Drive-up or drive-through facility.
- (b) Off-street parking facility which provides greater than 120 percent of the minimum required number of parking stalls specified in FMC 22.60.003.
- (c) Tavern, night club, sports entertainment facility or lounge as defined by the Washington State Liquor and Cannabis Board.
- (d) Adult entertainment establishment.
- (e) Second-hand store, other than antique store. (Ord. 1575 § 11, 2016; Ord. 1568 § 3, 2015; Ord. 1325 § 1, 2003; Ord. 1246 § 9, 2000).

22.46.008 Development standards.

Maximum height	30 feet. A maximum 40-foot height may be authorized if one or more levels of structured parking is provided at or below grade level within the building footprint. For other exceptions, see FMC 22.58.007.
Front yard and side street side yard setback	Zero feet minimum / 20 feet maximum for first two stories. Additional stories shall be stepped back at least 10 feet from the wall plane of the first two stories. On street blocks where a historic main street development pattern is represented by buildings constructed to or near the front property line, new construction shall be built with a comparable setback that places the storefront abutting the sidewalk or in line with other buildings at or near the property line. On other street blocks where this historic pattern is not well established, new construction shall reinforce or establish a historic main street pattern. The maximum setback

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	in such cases shall be 20 feet, unless the building is separated from a street by another principal building on the same lot. At least 75% of the length of the
	ground floor street-facing facade of a building shall be within the maximum setback.
Minimum interior side yard setback	10 feet when abutting any "R" district; otherwise zero feet.
Minimum rear yard setback	20 feet when abutting any "R" district; otherwise zero feet.
Minimum alley setback	12 feet from an alley lot line; provided, that a structure may project over the required rear yard alley setback if a 14-foot clear vertical distance between the structure and ground level is maintained.
Maximum floor area for a single commercial use	15,000 square feet.
Maximum lot coverage for structures	65% for all structures combined. 75% for all structures combined if at least 50% of required parking is provided at or below grade level within the building footprint.
Maximum impervious surface coverage	85% for structures and other impervious surfaces combined.
Ground floor use of a commercial or mixed use building	See FMC 22.64.016(a).
Continuous storefront requirement for parking structures	See FMC 22.64.016(b).
Minimum floor to ceiling height for ground floor commercial space	See FMC 22.64.016(c).
Minimum storefront window area for ground floor commercial space	See FMC 22.64.020(a).
Exterior wall modulation	Building elevations greater than 60 feet in length, measured horizontally, shall incorporate wall plane projections or recesses having a depth of at least 6 feet. The projections or recesses shall extend at least 20% of the length of the facade. No uninterrupted length of any building elevation shall exceed 60 horizontal feet. See FMC 22.64.009 for an illustration of this requirement. Alternative designs that: incorporate recessed or projecting balconies; use base, middle and top treatments with different forms; include roof modulation; and/or provide strong articulation of the facade through the use of

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	multiple siding materials and textures, various building forms, awnings and variation in colors – in conjunction with appropriate landscaping, may be approved in lieu of compliance with the wall modulation standard specified above.
Pedestrian plaza requirements	See FMC 22.58.016.
Business hours	6:00 a.m. through 12:00 midnight, unless further restricted through the site plan review or conditional use permit review processes – see Chapters 22.68 and 22.72 FMC.
Additional specific use and structure regulations, including performance standards	See Chapter 22.58 FMC.
Parking, circulation, and transit improvements	See Chapter 22.60 FMC.
Landscaping regulations	See Chapter 22.62 FMC.
Design standards	See Chapter 22.64 FMC.
Sign regulations	See Chapter 22.26 FMC.
<i>Calculations resulting in a fraction shall be rounded to the nearest whole number with .50 being rounded up.</i>	

(Ord. 1562 § 22, 2015; Ord. 1311 § 9, 2002; Ord. 1272 § 6, 2001; Ord. 1246 § 9, 2000).

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Chapter 22.48

MIXED-USE NEIGHBORHOOD DISTRICT (MUN)

Sections:

- 22.48.001 Purpose.
- 22.48.002 Permitted uses.
- 22.48.003 Accessory uses.
- 22.48.004 Conditional uses.
- 22.48.005 Administrative uses.
- 22.48.006 Prohibited uses.
- 22.48.007 Development standards.

22.48.001 Purpose.

The MUN zoning district is intended to implement the comprehensive plan's mixed-use land use designation. This district provides opportunities for a broad mix of retail and office uses, personal, professional and business services, institutions, recreational and cultural uses, residential uses, and other facilities that provide services for the needs of nearby residents and businesses and the surrounding community. Development standards support moderate density residential development and moderately intense commercial development. In addition, the MUN district provides limited opportunities for light industrial activities that enhance the city's economic base and provide employment for residents in the area in a manner that is compatible with neighboring commercial and residential uses. Site and building design support pedestrian, bicycle and transit use while accommodating automobiles. Applicable form-based code standards require new development to establish a fine-grained street grid and block pattern as properties redevelop. Community greens, squares, plazas, and other publicly accessible spaces are incorporated into mixed-use developments that include a variety of complementary uses. High quality architecture, landscaping, streetscape, artwork, and other public amenities contribute to making the area inviting, attractive, functional, and vibrant for residents, employees, and visitors alike. (Ord. 1667 § 9, 2020).

22.48.002 Permitted uses.

Uses permitted subject to compliance with form-based standards in accordance with Chapter 22.57 FMC, site plan approval in accordance with Chapter 22.72 FMC and administrative design review approval in accordance with Chapter 22.66 FMC:

- (a) Commercial use, including retail, service, office, financial institution, fitness center, and food-serving establishment.
- (b) Microbeverage production facility, including microbrewery, microdistillery and microwinery.
- (c) Culturally enriching use, including art gallery, dance studio, library, museum, live theater venue, and senior center.
- (d) Laboratory, including medical, dental, and optical.
- (e) Civic, labor, social, and fraternal organization.
- (f) Veterinary clinic, with treatment and storage of animals within an enclosed building.
- (g) Entertainment and recreation facility (indoor only).
- (h) Automobile, recreational vehicle, and boat sales or rental, new or used (indoor showroom only).
- (i) Child day-care center.
- (j) Preschool, accredited, public or private.
- (k) Lodging.

- (l) Religious institution.
- (m) Family group home, including adult family home.
- (n) Cottage housing, live-work unit, and multifamily dwelling.
- (o) Assisted living facility, including congregate care facility, convalescent home, hospice care center, residential care facility, and residential treatment facility.
- (p) Necessary public or quasi-public utility building, structure or equipment, unstaffed and less than or equal to 500 square feet in gross floor area (subject to compliance with landscape standards in Chapter 22.62 FMC). Excludes substation. (Ord. 1667 § 9, 2020).

22.48.003 Accessory uses.

Uses permitted in conjunction with, or accessory to, a principal use permitted in FMC 22.48.002:

- (a) Temporary accessory use or structure (subject to compliance with FMC 22.58.015).
- (b) Home occupation – Type I and Type II (subject to compliance with FMC 22.58.013).
- (c) Family day-care facility (subject to compliance with FMC 22.58.010).
- (d) Electric vehicle charging station (subject to compliance with FMC 22.58.025).
- (e) Electric vehicle battery exchange station (subject to compliance with FMC 22.58.025).
- (f) Other accessory use or structure that is subordinate and incidental to a principally permitted use, as determined by the director. (Ord. 1667 § 9, 2020).

22.48.004 Conditional uses.

Uses permitted subject to conditional use permit approval in accordance with Chapter 22.68 FMC and administrative design review in accordance with Chapter 22.66 FMC:

- (a) Essential public facility, as determined by FMC 22.58.022. Excludes family and general group homes and includes correctional group homes.
- (b) Necessary public or quasi-public structure or equipment greater than 500 square feet in gross floor area (subject to compliance with landscape standards in Chapter 22.62 FMC). Excludes substation.
- (c) Personal wireless service facility for which a variance is required (subject to compliance with Chapter 22.24 FMC).
- (d) A use not listed above which: is not listed in another zoning district as a permitted or conditional use; is similar in nature to the above list of permitted and conditional uses; is consistent with the purpose and intent of this zoning district; and is compatible with the uses on adjoining properties. (Ord. 1667 § 9, 2020).

22.48.005 Administrative uses.

Uses permitted subject to administrative use permit approval in accordance with Chapter 22.70 FMC:

- (a) Outdoor sidewalk cafe or other food- or beverage-serving facility or establishment, when located on a public sidewalk or other public right-of-way area (subject to compliance with FMC 22.58.017).
- (b) Establishment licensed by the Washington State Liquor and Cannabis Board to serve liquor for on-premises consumption in an outdoor customer seating area (subject to compliance with FMC 22.58.029).
- (c) Drive-up or drive-through facility established prior to effective date of the ordinance codified in this section (modifications subject to compliance with FMC 22.60.012 and 22.64.043).

(d) Light industrial uses including: engineering-oriented pursuits such as electronics, robotics, 3-D printing, and the use of computer numerical control (CNC) tools; metalworking, woodworking, and traditional arts and crafts; small-scale assembly and manufacturing of products using processed materials that do not have the potential to create a nuisance for adjoining land uses; wholesale sale of products manufactured on site; and technological and biotechnological uses, including scientific research, testing and experimental development laboratories.

(e) Outdoor seasonal sales, such as Christmas tree or pumpkin patch lots, or other outdoor special event sales.

(f) Personal wireless service facility (subject to compliance with Chapter 22.24 FMC).

(g) Permanent supportive housing.

(h) Transitional housing.

(i) Emergency shelters.

(j) Emergency housing. (Ord. 1667 § 9, 2020).

22.48.006 Prohibited uses.

The following uses are prohibited:

(a) Vehicle wrecking yard.

(b) Impound yard.

(c) Junk or salvage yard.

(d) Mini-storage or mini-warehouse.

(e) Service station or vehicle repair.

(f) New drive-up or drive-through facility. (Ord. 1667 § 9, 2020).

22.48.007 Development standards.

Residential density	Determined through project compliance with development standards.
Building placement	See form-based building standards in Chapter 22.57 FMC.
Minimum height/number of stories	25 feet/2 stories above grade.
Maximum height/number of stories	50 feet/4 stories above grade.
Form-based standards	See Chapter 22.57 FMC.
Additional specific use and structure regulations	See Chapter 22.58 FMC.
Parking and circulation	See Chapter 22.60 FMC.
Landscaping regulations	See Chapter 22.62 FMC.
Design standards and guidelines	See Chapter 22.64 FMC. See also multifamily design standards and guidelines adopted by reference in Chapter 22.63 FMC.
<i>Calculations resulting in a fraction shall be rounded to the nearest whole number with 0.50 being rounded up.</i>	

The Firecrest Municipal Code is current through Ordinance 1738, passed March 25, 2025.

(Ord. 1667 § 9, 2020).

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Chapter 22.50

MIXED-USE URBAN DISTRICT (MUU)

Sections:

- 22.50.001 Purpose.
- 22.50.002 Permitted uses.
- 22.50.003 Accessory uses.
- 22.50.004 Conditional uses.
- 22.50.005 *Repealed.*
- 22.50.006 Administrative uses.
- 22.50.007 Prohibited uses.
- 22.50.008 Development standards.

22.50.001 Purpose.

The MUU zoning district is intended to implement the comprehensive plan's mixed-use land use designation. This district provides opportunities for a broad mix of retail and office uses, personal, professional and business services, institutions, recreational and cultural uses, residential uses, and other facilities that provide services for the needs of nearby residents and businesses and the surrounding community. Development standards support higher density residential development and more intense commercial development compared to the MUN zoning district. In addition, the MUU district provides limited opportunities for light industrial activities that enhance the city's economic base and provide employment for residents in the area in a manner that is compatible with neighboring commercial and residential uses. Site and building design support pedestrian, bicycle and transit use while accommodating automobiles. Applicable form-based code standards require new development to establish a fine-grained street grid and block pattern as properties redevelop. Community greens, squares, plazas, and other publicly accessible spaces are incorporated into mixed-use developments that include a variety of complementary uses. High quality architecture, landscaping, streetscape, artwork, and other public amenities contribute to making the area inviting, attractive, functional, and vibrant for residents, employees, and visitors alike. (Ord. 1667 § 11, 2020; Ord. 1562 § 27, 2015; Ord. 1311 § 11, 2002; Ord. 1246 § 11, 2000).

22.50.002 Permitted uses.

Uses permitted subject to compliance with form-based standards in accordance with Chapter 22.57 FMC, site plan approval in accordance with Chapter 22.72 FMC and administrative design review approval in accordance with Chapter 22.66 FMC:

- (a) Commercial use, including retail, service, office, financial institution, fitness center and food-serving establishment.
- (b) Microbeverage production facility, including microbrewery, microdistillery and microwinery.
- (c) Culturally enriching use, including art gallery, dance studio, library, museum, live theater venue, and senior center.
- (d) Laboratory, including medical, dental, and optical.
- (e) Civic, labor, social, and fraternal organization.
- (f) Veterinary clinic, with treatment and storage of animals within an enclosed building.
- (g) Entertainment and recreation facility (indoor only).
- (h) Automobile, recreational vehicle, and boat sales or rental, new or used (indoor showroom only).
- (i) Child day-care center.
- (j) Preschool, accredited, public or private.

- (k) Lodging.
- (l) Religious institution.
- (m) Family group home, including adult family home.
- (n) Live-work unit and multifamily dwelling.
- (o) Assisted living facility, including congregate care facility, convalescent home, hospice care center, residential care facility, and residential treatment facility.
- (p) Necessary public or quasi-public utility building, structure, or equipment, unstaffed and less than or equal to 500 square feet in gross floor area (subject to compliance with landscape standards in Chapter 22.62 FMC). Excludes substation. (Ord. 1667 § 12, 2020; Ord. 1611 § 12, 2018; Ord. 1562 § 28, 2015; Ord. 1325 § 2, 2003; Ord. 1311 § 12, 2002; Ord. 1246 § 11, 2000).

22.50.003 Accessory uses.

Uses permitted in conjunction with, or accessory to, a principal use permitted in FMC 22.50.002:

- (a) Temporary accessory use or structure (subject to compliance with FMC 22.58.015).
- (b) Home occupation – Type I and Type II (subject to compliance with FMC 22.58.013).
- (c) Family day-care facility (subject to compliance with FMC 22.58.010).
- (d) Electric vehicle charging station (subject to compliance with FMC 22.58.025).
- (e) Electric vehicle battery exchange station (subject to compliance with FMC 22.58.025).
- (f) Other accessory use or structure that is subordinate and incidental to a principally permitted use, as determined by the director. (Ord. 1667 § 13, 2020; Ord. 1562 § 29, 2015; Ord. 1509 § 10, 2011; Ord. 1311 § 13, 2002; Ord. 1246 § 11, 2000).

22.50.004 Conditional uses.

Uses permitted subject to conditional use permit approval in accordance with Chapter 22.68 FMC and administrative design review in accordance with Chapter 22.66 FMC:

- (a) Service station established prior to effective date of the ordinance codified in this section.
- (b) Adult entertainment establishment (subject to compliance with FMC 22.58.014).
- (c) Essential public facility, as determined by FMC 22.58.022. Excludes family and general group homes and includes correctional group homes.
- (d) Necessary public or quasi-public structure or equipment greater than 500 square feet in gross floor area (subject to compliance with landscape standards in Chapter 22.62 FMC). Excludes substation.
- (e) Personal wireless service facility for which a variance is required (subject to compliance with Chapter 22.24 FMC).
- (f) A use not listed above which: is not listed in another zoning district as a permitted or conditional use; is similar in nature to the above list of permitted and conditional uses; is consistent with the purpose and intent of this zoning district; and is compatible with the uses on adjoining properties. (Ord. 1667 § 14, 2020; Ord. 1611 § 13, 2018; Ord. 1562 § 30, 2015; Ord. 1311 § 14, 2002; Ord. 1246 § 11, 2000).

22.50.005 Conditional uses – Light industrial lots.

Repealed by Ord. 1562. (Ord. 1518 § 1, 2011; Ord. 1311 § 15, 2002).

22.50.006 Administrative uses.

Uses permitted subject to administrative use permit approval in accordance with Chapter 22.70 FMC:

- (a) Outdoor sidewalk cafe or other food- or beverage-serving facility or establishment, when located on a public sidewalk or other public right-of-way area (subject to compliance with FMC 22.58.017).
- (b) Establishment licensed by the Washington State Liquor and Cannabis Board to serve liquor for on-premises consumption in an outdoor customer seating area (subject to compliance with FMC 22.58.029).
- (c) Drive-up or drive-through facility established prior to effective date of the ordinance codified in this section (modifications subject to compliance with FMC 22.60.012 and 22.64.043).
- (d) Light industrial uses including: engineering-oriented pursuits such as electronics, robotics, 3-D printing, and the use of computer numerical control (CNC) tools; metalworking, woodworking, and traditional arts and crafts; small-scale assembly and manufacturing of products using processed materials that do not have the potential to create a nuisance for adjoining land uses; wholesale sale of products manufactured on site; and technological and biotechnological uses, including scientific research, testing and experimental development laboratories.
- (e) Outdoor seasonal sales, such as Christmas tree or pumpkin patch lots, or other outdoor special event sales.
- (f) Personal wireless service facility (subject to compliance with Chapter 22.24 FMC).

[\(g\) Permanent supportive housing.](#)

[\(h\) Transitional housing.](#)

[\(i\) Emergency shelters.](#)

[\(j\) Emergency housing.](#) (Ord. 1667 § 15, 2020; Ord. 1611 § 14, 2018; Ord. 1562 § 32, 2015; Ord. 1311 § 16, 2002; Ord. 1246 § 11, 2000. Formerly 22.50.005).

22.50.007 Prohibited uses.

The following uses are prohibited:

- (a) Vehicle wrecking yard.
- (b) Impound yard.
- (c) Junk or salvage yard.
- (d) Mini-storage or mini-warehouse.
- (e) New service station or vehicle repair.
- (f) New drive-up or drive-through facility. (Ord. 1667 § 16, 2020; Ord. 1611 § 15, 2018; Ord. 1562 § 33, 2015; Ord. 1518 § 2, 2011; Ord. 1518 § 2, 2011; Ord. 1311 § 17, 2002).

22.50.008 Development standards.

Residential density	Determined through project compliance with development standards.
Building placement	See form-based building standards in Chapter 22.57 FMC.
Minimum height/number of stories	35 feet/3 stories above grade.

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Maximum height/number of stories	80 feet/7 stories above grade.
Form-based standards	See Chapter 22.57 FMC.
Additional specific use and structure regulations	See Chapter 22.58 FMC.
Parking and circulation	See Chapter 22.60 FMC.
Landscaping regulations	See Chapter 22.62 FMC.
Design standards and guidelines	See Chapter 22.64 FMC. See also multifamily design standards and guidelines adopted by reference in Chapter 22.63 FMC.
<i>Calculations resulting in a fraction shall be rounded to the nearest whole number with 0.50 being rounded up.</i>	

(Ord. 1667 § 17, 2020; Ord. 1611 § 16, 2018; Ord. 1562 § 34, 2015; Ord. 1536 § 1, 2013; Ord. 1311 § 18, 2002; Ord. 1246 § 11, 2000. Formerly 22.50.006).

The Fircrest Municipal Code is current through Ordinance 1738, passed March 25, 2025.

Chapter 22.56

GOLF COURSE DISTRICT (GC)

Sections:

22.56.001	Purpose.
22.56.002	Permitted uses.
22.56.003	Accessory uses.
22.56.004	Conditional uses.
22.56.005	Administrative uses.
22.56.006	Master plans.
22.56.007	Development standards.

22.56.001 Purpose.

The GC zoning district is intended to implement the Comprehensive Plan's Parks, Recreation and Open Space land use designation. The GC district aims to protect and preserve the open space qualities of lands that are currently developed or planned for golf course uses. The district allows for a mix of active golf-related recreational facilities and supporting infrastructure in a manner consistent with the policies of the Comprehensive Plan. Master plans are encouraged for recreational uses and required for residential uses that exceed the size thresholds provided in FMC 22.56.002(b) and (c). (Ord. 1575 § 12, 2016; Ord. 1246 § 14, 2000).

22.56.002 Permitted uses.

Uses permitted subject to site plan approval in accordance with Chapter 22.72 FMC and/or administrative design review approval in accordance with Chapter 22.66 FMC:

- (a) Golf course facilities including, but not limited to: clubhouse, maintenance facility, pro shop, driving range, and other recreational facilities.
- (b) Duplex dwellings, subject to master plan approval if occupying greater than five percent of the total GC district area. Detached single-family dwellings may be included in a duplex development provided they do not exceed 10 percent of the total number of units within the development.
- (c) Small lot and multifamily development subject to compliance with small lot and multifamily design standards and guidelines adopted by reference in Chapter 22.63 FMC, and subject to master plan approval if occupying greater than five percent of the total GC district area.
- (d) Cottage housing subject to compliance with cottage housing standards in FMC 22.58.027.
- (e) Family group home, including adult family home.
- (f) Necessary public or quasi-public utility building, structure or equipment, unstaffed and less than or equal to 500 square feet in gross floor area (subject to compliance with landscape standards in Chapter 22.62 FMC). Excludes substation. (Ord. 1575 § 13, 2016; Ord. 1562 § 35, 2015; Ord. 1246 § 14, 2000).

22.56.003 Accessory uses.

Uses permitted in conjunction with, or accessory to, a principal use permitted in FMC 22.56.002:

- (a) Temporary accessory use or structure (subject to compliance with FMC 22.58.015).
- (b) Other accessory use or structure which is subordinate and incidental to a principally permitted use, as determined by the director.
- (c) Electric vehicle charging station (subject to compliance with FMC 22.58.025). (Ord. 1509 § 12, 2011; Ord. 1246 § 14, 2000).

22.56.004 Conditional uses.

Uses permitted subject to conditional use permit approval in accordance with Chapter 22.68 FMC and administrative design review approval in accordance with Chapter 22.66 FMC:

- (a) Personal wireless telecommunications facility which exceeds one or more standards set forth in Chapter 22.24 FMC.
- (b) Necessary public or quasi-public structure or equipment greater than 500 square feet in gross floor area (subject to compliance with landscape standards in Chapter 22.62 FMC). Includes substations existing on the effective date of the ordinance codified in this section.
- (c) A use not listed above which: is not listed in another zoning district as a permitted or conditional use; is similar in nature to the above list of permitted and conditional uses; is consistent with the purpose and intent of this zoning district; and is compatible with the uses on adjoining properties. (Ord. 1638 § 23, 2019; Ord. 1246 § 14, 2000).

22.56.005 Administrative uses.

Uses permitted subject to administrative use permit approval in accordance with Chapter 22.70 FMC:

- (a) Personal wireless service facility (subject to compliance with Chapter 22.24 FMC).
- (b) Nonresidential uses otherwise subject to site plan or conditional use permit approval which have been authorized by the hearing examiner as part of a master plan pursuant to FMC 22.56.006.
- (c) Permanent supportive housing.
- (d) Transitional housing. (Ord. 1638 § 24, 2019; Ord. 1246 § 14, 2000).

22.56.006 Master plans.

In order to encourage effective long-range planning efforts for facilities intended to be developed over an extended period of time, and to allow for streamlined review of individual improvements, a master plan for the golf club may be submitted for processing as a major site plan in accordance with Chapter 22.72 FMC. Upon approval of a master plan, individual uses that would otherwise be subject to site plan or conditional use permit approval in this chapter, and which are determined by the director to be consistent with the approved master plan, may be approved in accordance with the administrative use permit review process contained in Chapter 22.70 FMC. No additional site plan or conditional use permit approval is required for these previously authorized uses. If a proposed individual use represents a substantial modification to, or departure from, the approved master plan, the proposal shall be processed as a site plan amendment in accordance with FMC 22.72.012. (Ord. 1575 § 14, 2016; Ord. 1246 § 14, 2000).

22.56.007 Development standards.

Maximum height	To be determined through the site plan or master plan review process – see Chapter 22.72 FMC.
Minimum setback for yards abutting the exterior boundary of the golf course property	20 feet.
Minimum setback for other yards	To be determined through the site plan or master plan review process – see Chapter 22.72 FMC.
Maximum impervious surface coverage	To be determined through the site plan or master plan review process – see Chapter 22.72 FMC. See low impact development regulations in FMC 22.58.008(k), Stormwater Management.
Additional specific use and structure regulations	See Chapter 22.58 FMC.
Parking and circulation	See Chapter 22.60 FMC.

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Landscaping regulations	See Chapter 22.62 FMC.
Design standards	See Chapter 22.64 FMC.
Signs	See Chapter 22.26 FMC.
<i>Calculations resulting in a fraction shall be rounded to the nearest whole number with .50 being rounded up.</i>	

(Ord. 1575 § 15, 2016; Ord. 1246 § 14, 2000).

The Fircrest Municipal Code is current through Ordinance 1738, passed March 25, 2025.

Chapter 22.58

SPECIFIC USE AND STRUCTURE REGULATIONS

Sections:

- 22.58.001 Purpose.
- 22.58.002 Setback and yard determination.
- 22.58.003 Accessory buildings.
- 22.58.004 Fences, walls and hedges.
- 22.58.005 Clear vision triangle.
- 22.58.006 Garage placement and width.
- 22.58.007 Height exceptions.
- 22.58.008 Performance standards.
- 22.58.009 Manufactured homes.
- 22.58.010 Family day-care facilities.
- 22.58.011 Short-term rental establishments.
- 22.58.012 Accessory dwelling units (ADUs).
- 22.58.013 Home occupations.
- 22.58.014 Adult entertainment establishments.
- 22.58.015 Temporary accessory structures and uses.
- 22.58.016 *Repealed.*
- 22.58.017 Sidewalk cafes.
- 22.58.018 Outdoor lighting.
- 22.58.019 Social card games.
- 22.58.020 Development agreement.
- 22.58.021 Voluntary agreement.
- 22.58.022 Siting of essential public facilities.
- 22.58.023 Nonconforming lots, uses and structures.
- 22.58.024 Outdoor storage of vehicles.
- 22.58.025 Electric vehicle charging stations.
- 22.58.026 Floor area ratio (FAR) standards.
- 22.58.027 Cottage housing.
- 22.58.028 Lot development standards.
- 22.58.029 Establishments serving liquor for on-premises consumption.
- 22.58.030 Permanent supportive housing, transitional housing, emergency housing, emergency shelters.

22.58.001 Purpose.

The purpose of this chapter is to list those regulations which apply to specific circumstances and those detailed regulations which are applicable to more than one zoning district. The regulations below are to be considered in addition to standards and design guidelines located in specific land use district chapters. (Ord. 1246 § 15, 2000).

22.58.002 Setback and yard determination.

(a) Measurement. All setbacks shall be measured perpendicular to the nearest property line.

(b) Permitted Encroachments into Required Residential Yards.

(1) Belt courses, canopies, cornices, eaves, chimneys, sills, sunshades, and similar architectural features may extend two feet into any yard, provided a minimum three-foot setback is maintained. Overhead projections shall provide at least seven and one-half feet of unobstructed vertical clearance above grade.

(2) Bay windows and similar features that increase floor area or enclosed space may extend two feet into any yard, provided a minimum three-foot setback is maintained from the property line. Overhead projections shall provide at least seven and one-half feet of unobstructed vertical clearance above grade. Encroaching bay windows shall not extend horizontally across more than 50 percent of the linear wall surface to which they are affixed. The maximum length of each bay shall be 10 feet and the minimum horizontal separation between bays

shall be five feet. Bay windows shall not encroach into yards at any other level than the story on which the window openings or glazings are located, except that ornamental brackets or canopies may be approved through administrative design review.

(3) A covered, unenclosed porch of a principal residential structure may encroach up to six feet into a required front yard. An existing legal nonconforming porch and connecting staircase may be reconstructed with an encroachment beyond six feet into a front yard if they generally conform to the original design and footprint.

(4) Uncovered patios, decks, stairs and landings may encroach into required yards based on their height above finished grade or floor level, as follows:

Height Above Finished Grade or Floor Level	Permitted Encroachment
≤ 12 inches above finished grade	May extend to property lines.
> 12 inches and ≤ 30 inches above finished grade	10 feet into required front and rear yards, 6 feet into side street side yards, and 2 feet into interior side yards.
> 30 inches and ≤ floor level of first floor	6 feet into required front and rear yards.
> floor level of first floor	None allowed.
<i>Calculations resulting in a fraction shall be rounded to the nearest whole number with .50 being rounded up.</i>	

(5) Uncovered wheelchair ramps or other structures providing disabled access may encroach into any required yard as long as the access structure provides continuous access from the street or parking area to an entrance of the structure that it is designed to serve. The encroachment shall be the minimum necessary to provide safe and adequate access and shall be subject to administrative design review.

(6) Balconies that are less than or equal to 50 square feet in area, have no exterior access, and are cantilevered or supported from the structure, may extend three feet into a required front, rear or side street side yard. The balcony shall not project more than six feet from the supporting wall to the furthest outward extension. Overhead projections shall provide at least seven and one-half feet of unobstructed vertical clearance above grade. Any balcony that does not meet the above criteria shall be considered an uncovered porch subject to the standards in subsection (b)(4) of this section.

(7) A detached accessory building, including but not limited to a garage, carport or garden shed, may be located in a required side or rear yard, subject to the specific standards specified in FMC 22.58.003.

(8) A fence meeting the standards specified in FMC 22.58.004 may be located in a required yard. Fences exceeding these height limits must be located within the allowable building envelope for the principal residential structure.

(9) Arbors, pergolas, trellises and similar structures, either freestanding or attached to a principal or accessory building, may be constructed in any required yard; provided, that a minimum three-foot setback is maintained. A structural connection between these structures and a fence located at or near a property line is permitted, provided the connecting structure does not exceed the height limit that applies to a fence in the required yard.

(10) Porches, patio covers, gazebos and similar covered, unenclosed structures may be constructed in a required rear yard; provided, that a minimum 10-foot rear setback and a standard side yard setback are maintained.

(11) Swimming pools and spas (above and in ground) and related equipment, fish ponds, stationary barbecues, children's play equipment, and HVAC equipment, may be placed in any required side or rear yard; provided, that a minimum three-foot setback is maintained.

(12) Flagpoles may be placed within any required yard; provided, that a minimum five-foot setback is maintained.

(c) Setback Reduction for Residential Front Yard. A required front yard setback for a principal residential structure may be decreased to a depth that is equal to the average of the setbacks of existing principal residential structures on the adjoining parcels having the same frontage. In computing the average, any adjoining setback greater than the required front yard shall be considered the same as the required front yard setback. In the absence of a principal residential structure on an adjoining parcel, the parcel shall be considered to have a setback equal to the required front yard. In computing the average for corner lots, the adjoining setback on the side street side shall be the same as the required front yard. For each foot of front yard setback reduction, the rear yard setback shall be increased a corresponding distance from the minimum required setback.

(d) Setback from Adjoining Half-Street or Designated Arterial. In addition to providing the standard setback from a property line abutting a street, a lot adjoining a half-street or designated arterial shall provide an additional width of street setback sufficient to accommodate construction of the planned half-street or arterial.

(e) Common Boundary Exception to Setback Requirements. When the common boundary line separating two contiguous lots in any zoning district is covered by a single building or permitted group of buildings, these lots shall constitute a single building site and the setback required by this title shall not apply to the common boundary line.

(f) Special Side Yard Setback Restriction. When the side lot line of a lot in any zoning district adjoins the side lot line of a lot in a more restrictive district, then the adjoining side yard setback for this lot shall not be less than the minimum side yard setback required in the more restrictive district.

(g) Setbacks for Personal Wireless Telecommunication Facilities. See Chapter 22.24 FMC.

(h) Setbacks for Amateur or Citizen Band Transmitters. Support structure setback is equal to overall height of support structure plus height of antenna array. Support structures are prohibited in front yards.

(i) Setback for Flag Lot Front Yards. The front yard setback for a flag lot shall be a minimum of 10 feet measured from the nearest parallel or nearly parallel lot line adjacent to the front facade of the dwelling. See Figure 1.

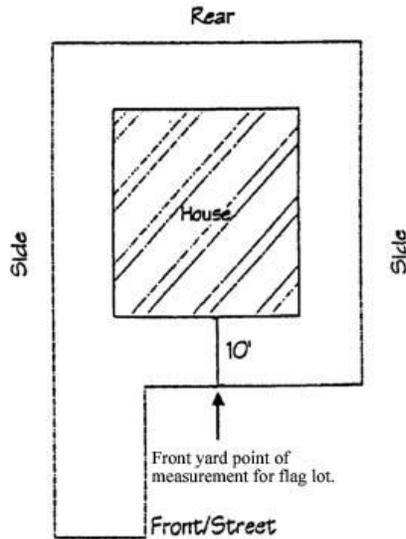


Figure 1

(Ord. 1562 § 36, 2015; Ord. 1246 § 15, 2000).

22.58.003 Accessory buildings.

(a) One or more detached accessory buildings, including, but not limited to, garages, carports, garden sheds, greenhouses and other similar structures, may be constructed on a parcel containing a principal residential structure, subject to the following standards:

Maximum building footprint area	600 sf.
Maximum lot coverage	10% of the lot area or 1,000 sf, whichever is less, for all accessory buildings combined on a single lot.
Maximum building height	18 feet at top of ridge and 10 feet at top of wall.
Minimum front yard setback	Same as specified for principal residential structure.
Minimum interior side yard setback	5 feet.
Minimum side street side yard setback on a corner lot	Same as specified for principal residential structure if building permit required, otherwise 5 feet.
Minimum rear yard setback	5 feet.
Minimum setback from "rear" lot line of a "through lot"	Same as specified for required front yard for principal residential structure if building permit required, otherwise 5 feet.
Minimum setback from alley	5 feet. Vehicle access points from garages, carports or fenced parking areas shall be set back from the alley

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	property line to provide a straight-line separation of at least 22 feet from the access point to the opposite property line of the alley. No portion of the garage or the door in motion may cross the property line abutting the alley.
Minimum separation from principal residential structure	5 feet. Note: the building code may require additional separation based on construction design.
<i>Calculations resulting in a fraction shall be rounded to the nearest whole number with .50 being rounded up.</i>	

(b) Exceptions to Building Footprint Area, Height and Lot Coverage Limits. The director may grant an administrative use permit for a building that exceeds the building footprint, height or lot coverage standards listed in subsection (a) of this section if it finds that:

- (1) The building and its use will not significantly impact adjoining properties;
- (2) The architecture will incorporate exterior finish materials and design elements consistent with, or superior to, that of the principal residential structure on the property;
- (3) The building will fit the character of the neighborhood;
- (4) The architecture complies with the city’s design guidelines;
- (5) The building footprint will not exceed 800 square feet, and the building height will not exceed 21 feet at the top of ridge or 12 feet at the top of wall; and
- (6) The combined building footprints of existing and proposed accessory buildings on the same lot will not exceed 1,000 square feet.

(c) Determination of Attached Versus Detached Status for Garages. A garage that is connected to a principal residential structure by an architecturally integrated, covered breezeway is classified as an attached garage if the separation between the parallel walls of the garage and principal structure does not exceed eight feet. For purposes of determining allowable setbacks, height and lot coverage, an attached garage is treated as if it were part of the principal structure. If the separation between the parallel walls of a garage and principal structure exceeds eight feet, the garage is classified as a detached building subject to the accessory building standards listed in this section. (Ord. 1616 § 1, 2018; Ord. 1562 § 37, 2015; Ord. 1311 § 26, 2002; Ord. 1246 § 15, 2000).

22.58.004 Fences, walls and hedges.

(a) Fences and walls located within a required yard in a residential zoning district shall not exceed the following height limits:

- (1) Front yard: four feet.
- (2) Side street side yard: six feet.
- (3) Interior side and rear yard: six feet plus one foot of lattice or other material with a surface area that is no more than 50 percent opaque. See Figure 2.
- (4) Clear vision triangle: two feet, six inches above centerline grades of intersecting streets when a surface area is more than 50 percent opaque (see FMC 22.58.005).

(b) Fences and walls located in a residential zoning district may exceed the preceding height limits if located outside of required yards or within the allowable building envelope for the principal residential structure. Fences and walls may also exceed the limits specified in subsections (a)(1), (2), and (3) of this section if they are intended to enclose public school grounds, parks, playgrounds, substations, wells or other municipal installations.

(c) Fences and walls located within a commercial or industrial zoning district may exceed the height limits specified in subsection (a) of this section, provided the fence or wall design complies with the city's design guidelines.

(d) Fence height is measured from the ground level where placed or from a retaining wall to the top of the fence, excluding posts. On sloping properties where a fence is constructed of sections which are terraced to match the terrain, fence height shall be the average of the high and low points of each fence section. In such instances, portions of the fence may exceed the maximum allowable height; provided, that the average height of the fence section does not exceed the maximum height.

(e) Solid fences or walls higher than two feet within the front yard are prohibited; this does not include hedges. Front yard fences and walls shall have a surface area that is no more than 50 percent opaque. See Figure 2.

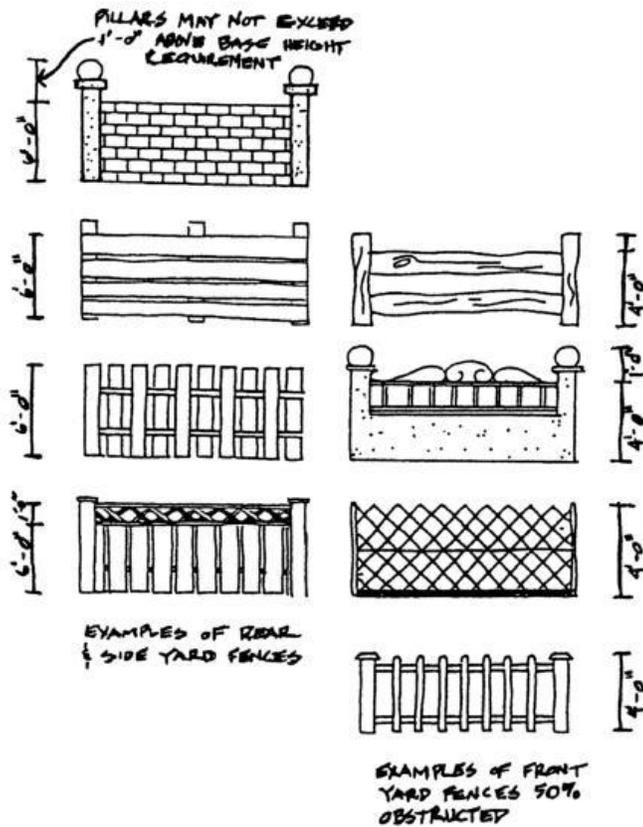


Figure 2

(f) Fence pillars or posts may project a maximum of one foot above maximum fence height.

(g) An administrative exception may be granted to allow the front yard fence height to exceed the four-foot height limit in subsection (a)(1) of this section if the director finds that:

- (1) The principal residential structure existing on the lot at the time of application encroaches into the required front yard.
- (2) The proposed fence will not encroach into the required front yard any further than the existing principal residential structure.
- (3) The fence will not exceed a maximum height of six feet plus one foot of lattice or other material with a surface area that is no more than 50 percent opaque. See Figure 2.
- (4) The fence will not be located within a clear vision triangle.

(h) Fences and walls shall not be located within a public street right-of-way unless a right-of-way encroachment permit is granted by the city. The request shall be processed as a Type 2 permit project application in accordance with Chapter 22.05 FMC. In order to grant a right-of-way encroachment permit, the city shall adopt written findings showing the following criteria are met by the proposal:

- (1) The fence or wall will comply with clear vision triangle standards, if applicable.
- (2) The placement of the fence or wall will not interfere with underground utilities.
- (3) The fence or wall will not compromise public safety by restricting the ability of sidewalk users to avoid conflicts with competing users of the sidewalk.
- (4) The property owner will be able to obtain and maintain insurance coverage in the event that a claim is filed relating to the fence or wall. The coverage will be provided at a level determined to be acceptable by the risk manager and city attorney, and the property owner will provide documentation of coverage annually to the city.
- (5) The property owner shall, by written agreement to be recorded with the Pierce County auditor, indemnify and hold harmless the city for any claim filed against the property owner for any action or cause for damages that may occur as a result of the encroachment.

(i) All private swimming pools, wading pools, spas and hot tubs shall be provided with a fence or wall to prevent unauthorized access. See FMC 12.04.020(a) for specific standards.

(j) A fence permit is required for all fences located in required front yards, side street side yards, yards adjoining through-lot street frontages, and clear vision triangles.

(k) Hedges are allowed in all required yards subject to the following height limits:

- (1) Front yard, interior side yard, side street side yard, and rear yard equals no limit.
- (2) Clear vision triangle equals two feet, six inches above centerline grades of intersecting streets. (Ord. 1562 § 38, 2015; Ord. 1469 § 1, 2009; Ord. 1438 § 1, 2007; Ord. 1417 § 1, 2006; Ord. 1311 § 27, 2002; Ord. 1246 § 15, 2000).

22.58.005 Clear vision triangle.

(a) All corner lots located in zoning districts that require a front and side yard shall maintain a clear vision triangle at the intersection of two streets for the purpose of public safety. A clear vision triangle shall also be maintained at the intersection of a street and alley or driveway. No building, structure, object or growth between a height of two feet, six inches and eight feet above the centerline grades of the intersecting streets shall be allowed within these triangles.

(b) The clear vision triangle at a street intersection shall be determined by measuring 20 feet along both street property lines beginning at their point of intersection. The third side of the triangle shall be a line connecting the endpoints of the first two sides of the triangle. See Figure 3.

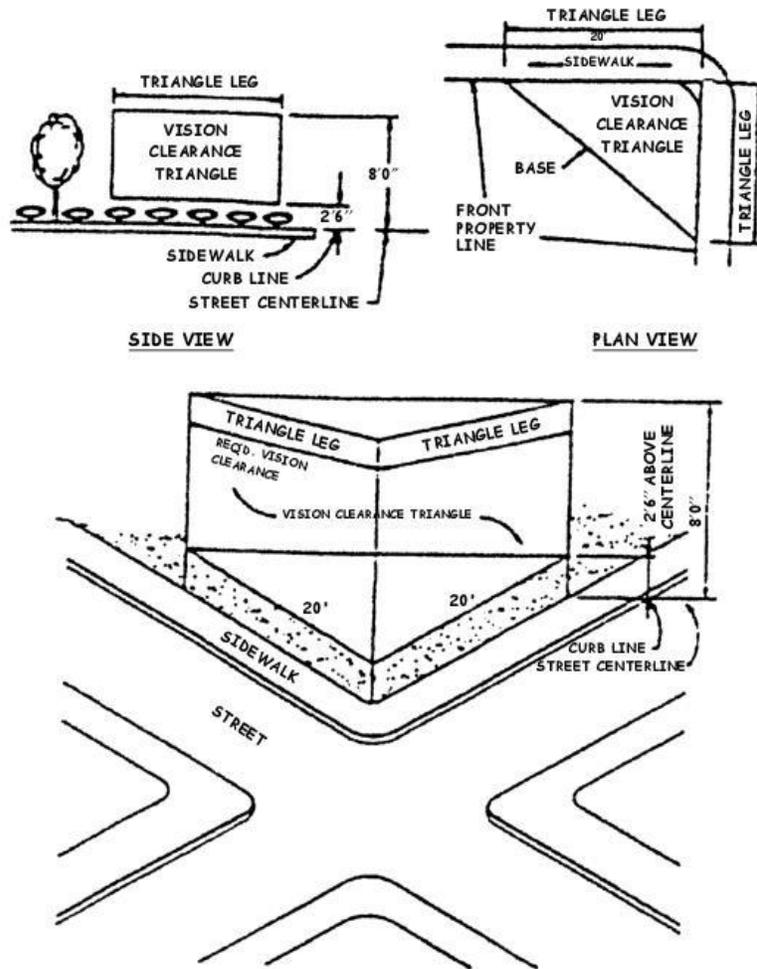


Figure 3

(c) The clear vision triangle at the intersection of a street and alley or driveway shall be determined by measuring 10 feet along the street property line and 10 feet along the edges of the alley or driveway beginning at the respective points of intersection. The third side of the triangle shall be a line connecting the endpoints of the first two sides of the triangle. See Figure 3.

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(d) The city engineer may allow alteration of the clear vision triangle. This alteration is contingent on unusual site topography, proposed site design features, and other unique circumstances pertaining solely to the site and surrounding properties. The city engineer shall make written findings that the alteration does not constitute a traffic or pedestrian safety hazard.

(e) Street lights, power poles, traffic signs, or other similar street fixtures less than one-foot wide or other objects above eight feet in height above the adjacent street elevation shall be allowed in the clear vision triangle unless the city engineer determines that, individually or cumulatively, they would pose a public safety hazard. The city engineer may authorize other objects in the clear vision triangle that do not comply with this standard if he/she determines that they would not pose a risk to public safety. (Ord. 1246 § 15, 2000).

22.58.006 Garage placement and width.

(a) The following standards apply to garages attached to single-family, duplex and multifamily dwelling units:

(1) Projection. A garage with doors which face a front yard shall not project in front of the dwelling unit's facade; provided, that a garage may project in front of the habitable portion of the dwelling unit if a covered porch projects the same or greater distance.

(2) Door Width. Garage doors which face a front yard or a side street side yard shall not exceed 33 percent of the lot width or 18 feet, whichever is less. Individual single bay doors shall not exceed a width of nine feet.

(3) Garage Width. A garage with garage doors that face a front yard or side street side yard shall not exceed 50 percent of the building line or 24 feet, whichever is greater, unless it is designed to appear as habitable space through the use of residential architectural features (see FMC 22.64.023(b)).

(b) Garages attached to dwelling units located on the following types of lots are exempt from the standards listed in subsection (a) of this section:

(1) Flag lots (see FMC 22.98.393, Definitions).

(2) Lots where topography or significant tree retention precludes compliance with the provisions of this section, as determined by the director.

(3) Lots within planned developments granted preliminary development plan approval prior to the effective date of the ordinance codified in this section.

(4) Lots within subdivisions where at least 75 percent of the lots located on the same block face and the block face directly across the street, within 300 feet of the subject property, are occupied by dwelling units with garages which project beyond the facade or which have a garage width or garage door width which exceeds the standards listed in this section.

(5) Undeveloped lots of record existing prior to the effective date of the ordinance codified in this section that are provided vehicular access solely via a substandard private road having one outlet. (Ord. 1417 § 10, 2006; Ord. 1272 § 7, 2001; Ord. 1246 § 15, 2000).

22.58.007 Height exceptions.

(a) Height exceptions to the applicable zoning district limit shall be limited to the minimum necessary for the intended use. Chimneys, steeples, flag poles, skylights, mechanical equipment and associated screening, fire parapet walls, widow's walk or other similar item required for building operation or maintenance, and tanks and towers required for public utility purposes may be erected above the required height limit provided they meet the structural requirements of the city.

(b) A residential amateur or citizen band antenna array and support structure may be erected up to the minimum height necessary for reception purposes. If a resident proposes a height greater than 45 feet, the city shall require the applicant to submit certification from a qualified and licensed engineer that the proposed height is the minimum necessary for reception purposes. For a proposed height greater than 55 feet, the city shall, at the applicant's expense, hire a qualified and licensed engineer to review the applicant's submittal.

(c) A public or quasi-public utility pole or structure may be erected to a height necessary for proper use. For proposed structures above 45 feet, the city shall require the applicant to submit certification from a qualified and licensed engineer that the proposed height is the minimum necessary for utility purposes. For a proposed height greater than 55 feet, the city shall, at the applicant's expense, hire a qualified and licensed engineer to review the applicant's submittal.

(d) A personal wireless service facility may exceed the applicable zoning district height limit provided it is installed in compliance with Chapter 22.24 FMC. (Ord. 1246 § 15, 2000).

22.58.008 Performance standards.

In addition to the specific requirements within the applicable zoning district chapter, the following performance standards shall apply:

(a) **Objectionable Elements.** No land or building shall be used or occupied in any manner to create any dangerous, injurious, noxious, or otherwise objectionable element. An objectionable element may include, but is not limited to, excessive noise, vibration, glare, smoke, dust, or odor.

(b) **Enclosure of Activities.** Unless authorized by the applicable zoning district, all home occupation, commercial and industrial activities shall be conducted within an enclosed structure, except for customary accessory appurtenances, such as refuse collection containers screened from public view, parking and loading areas.

(c) **Outside Storage.** Unless authorized by the applicable zoning district, outside storage of material for commercial and industrial uses is prohibited. An outside storage area shall not exceed 20 percent of lot area and shall be screened from view from any property line. Outside storage shall be restricted to the area at the rear of a principal building. The outside storage area shall be enclosed by a fence greater than or equal to eight feet in height. Outside storage exceeding a height of eight feet shall be set back from the property line a distance of at least twice the height of material being stored. The height of outside storage shall not exceed twice the height of the fence in this subsection. Outside storage of junk or wrecked vehicles is prohibited. Outside storage of inoperable vehicles may be permitted in residential districts subject to compliance with FMC 22.58.024.

(d) **Refuse Collection Containers.** For multifamily, mixed-use, or nonresidential structures and uses, all outdoor refuse collection containers (including recycling containers) shall be completely screened from public or private streets and from adjacent property by an opaque screen. Masonry block wall, decorative metal, or other high-quality durable materials shall be used for the screen. Chain link with slats shall not be used. Where space allows, evergreen shrubs and other landscaping shall be installed to soften the visual impact of the screening enclosure. Refuse storage areas that are visible from the upper stories of adjacent structures shall have an opaque or semi-opaque horizontal cover or screen to mitigate unsightly views. The covering structure shall be compatible with the site's architecture. If required by the sanitary sewer service provider, the trash enclosure floor shall be designed to slope to an interior trapped area floor drain and connected to a grease interceptor before plumbing to the sanitary sewer system. The floor shall be designed to contain all interior runoff and not allow outside storm rain or runoff from entering the trash enclosure. The storage of animal or vegetable waste that may attract insects or rodents or otherwise create a potential health hazard is prohibited. Properties undergoing substantial improvement as defined in FMC 22.98.697, a change in building code classification, or a change in use shall install new screening or upgrade any existing collection container facilities that do not meet the standards of this section to ensure code consistency upon completion of the redevelopment. A change from one tenant to another that neither triggers a change in building code classification nor represents a change in use will not require new screening or an upgrade to an existing enclosure. For multi-tenant structures, the city's determination as to whether improvement to an individual tenant space is considered to be a substantial improvement will be based on the value of the improvements relative to the assessed valuation of the tenant space, or a comparable judgment if an individual tenant space assessment is unavailable.

(e) **Maintenance of Yards and Open Space.** All required structures, yards, parking areas and other open areas on site shall be maintained in a neat and orderly manner at all times appropriate for the zoning district. Yards and open areas shall be maintained, as the responsibility of the property owner, free of any hazards to health or safety. Except for permitted earth-disturbing activity, all ground areas shall be maintained in a manner ensuring that the natural or landscaped vegetation or permitted impervious surfaces provide a durable and dust-free covering at all times. Dumping or storage of junk or debris, including junk vehicles or wrecked vehicles, is prohibited.

(f) Utilities. For new development, or existing development which is being expanded by greater than or equal to 50 percent of its existing gross floor area, all utilities shall be located underground; provided, that electrical lines of 50,000 volts or greater may be placed aboveground. The construction of a new single-family residence on an infill lot located within a subdivision where electric service is typically provided from an overhead location may be exempted from this requirement by the public works director if he/she determines that the undergrounding of electric facilities for this lot would be impractical.

(g) Screening of Mechanical Equipment. All roof-mounted air conditioning or heating equipment, vents or ducts shall not be visible from the ground level of any abutting parcel or any public rights-of-way. This shall be accomplished through the extension of the main structure or roof or screening in a manner that is architecturally integrated with the main structure. The screening may require acoustical treatment to mitigate noise generation.

(h) Barbed or Razor Wire. Barbed, razor or similar security wire may be authorized by the city for municipal facilities, if the fence on which the wire is placed will be effectively screened by landscaping. Barbed or razor wire is prohibited in all other locations and zoning districts.

(i) Erosion and Sedimentation. A temporary erosion and sedimentation control plan detailing measures for controlling erosion and sediment-laden runoff shall be submitted for approval by the director prior to issuance of a clearing and grading permit or other construction permit for a project. Measures shall include provisions to remove depositions of soil and material from streets and to prevent discharge of soil and materials onto adjoining properties or environmentally sensitive areas. The plan shall be implemented by the applicant before and during construction, and the applicant's performance shall be monitored by the city. The plan shall be upgraded as deemed necessary by the director to ensure effective control during construction.

(j) Particulates. During site development activities, construction dust and other particulates shall be controlled through frequent watering and/or other dust control measures approved by the director. Reclaimed water shall be used whenever practicable. Soil that is transported in trucks to and from the construction site shall be covered to the extent practicable to prevent particulates from being released.

(k) Stormwater Management. Stormwater facilities shall be designed in accordance with the standards set forth in Chapter 20.24 FMC. Stormwater site plans demonstrating compliance with stormwater management standards shall be submitted for approval by the director and city engineer prior to issuance of site development permits.

(l) Contaminants. During site development activities, all releases of oils, hydraulic fluids, fuels, other petroleum products, paints, solvents, and other deleterious materials shall be contained and removed in a manner that will prevent their discharge to waters and soils of the state. The cleanup of spills shall take precedence over other work on the site. (Ord. 1667 § 19, 2020; Ord. 1640 § 5, 2019; Ord. 1562 § 39, 2015; Ord. 1311 § 28, 2002; Ord. 1246 § 15, 2000).

22.58.009 Manufactured homes.

A manufactured home is permitted in any zoning district that permits a single-family residence. The placement of a manufactured home is subject to the same zoning regulations and environmental standards that are required for construction of a conventional site-built single-family residence regulated by the International Building Code. A manufactured home shall be permanently set on a foundation, consistent with the foundation requirements for manufactured housing, and shall include a perimeter fascia that looks similar to a foundation for a site-built home, as determined by the director. A manufactured home shall comply with the city's infill housing design guidelines, when applicable. (Ord. 1473 § 4, 2009; Ord. 1246 § 15, 2000).

22.58.010 Family day-care facilities.

A family day-care facility shall:

- (a) Comply with all building, fire, safety, health code and business licensing requirements;
- (b) Conform to lot area, coverage, density, setback and lot coverage standards applicable to the zoning district except if the structure is a legal nonconforming structure;
- (c) Be certified by the office of childcare policy licensor as providing a safe passenger loading area;

(d) Comply with Chapter 22.26 FMC, Sign Regulations;

(e) Prior to state licensing, the proposed provider shall submit proof to the director that the provider notified the immediately adjoining property owners about the intent to locate and maintain a family day-care facility. Adequate proof shall consist of a copy of a detailed letter submitted to the adjoining neighbors, along with a signed certification of delivery and/or a written letter from the adjoining neighbors indicating that they have received proper notification. (Ord. 1246 § 15, 2000).

22.58.011 Short-term rental establishments.

(a) Purpose and Intent. The purpose of this section is to:

- (1) Provide property owners and residents with an opportunity to use their homes to engage in small-scale business activities.
- (2) Protect neighborhood character and stability.
- (3) Establish criteria and standards for the use of residential structures as short-term rentals.

(b) Permit Requirements. A short-term rental establishment may be carried on upon the issuance of a business license pursuant to Chapter 5.04 FMC and the issuance of a short-term rental permit by the director.

(c) Submittal Requirements. Application for a short-term rental permit shall be made upon forms provided by the director, accompanied by a filing fee in accordance with the planning services fee schedule established by council resolution. The application shall be signed by the owner of the property on which the short-term rental activity will occur. The application shall also be signed by the business operator if that person is different from the property owner. The director may require the submittal of a site plan of the premises, floor plans of the residence or accessory building in which the use or activity will take place, and other documentation deemed necessary to process the application. The plans shall clearly indicate the area where the use or activity will take place and any structural alterations intended to accommodate the use or activity.

(d) Short-Term Rental Types Defined. The following definitions apply to the short-term rental types allowed through the provisions of this section:

- (1) "Room rental establishment" means a lodging use, where individual rooms within a single dwelling unit are provided for less than 30 consecutive days for a fee by prearrangement. This shall include bed and breakfast establishments.
- (2) "Dwelling unit rental" means a dwelling unit, typically rented in its entirety, for less than 30 consecutive days for a fee by prearrangement.

(e) Processing Requirements.

- (1) The director shall approve a proposed short-term rental establishment, which complies with all the performance standards set forth in this section, except as provided in subsection (e)(2) of this section. The director may impose conditions of approval to ensure that the activity is conducted in a manner consistent with the standards and purpose and intent of this section.
- (2) A proposed room rental establishment providing more than two bedrooms available for rent is subject to conditional use permit approval in accordance with Chapter 22.68 FMC.

(f) Room Rental Establishment Standards.

- (1) Room rentals shall be an incidental or secondary use to the primary use, which is considered to be the principal residential dwelling unit.
- (2) The owner/lessee of the structure shall operate the establishment and reside on site.

(3) Service shall be limited to the rental of bedrooms. Meal service shall be limited to the provision of breakfast or light snacks for registered guests.

(4) A maximum of four bedrooms or suites may be made available for rent. There shall be no expansion in the number of guest rooms beyond the number approved.

(5) No separate or additional kitchens for guests are permitted. Limited cooking facilities shall be allowed inside guestrooms, or inside other rooms that are used solely by guests, such as small microwaves and refrigerators.

(6) Receptions, private parties or similar activities, for which a fee is paid or which are allowable as a condition of room rental, may be permitted upon a determination by the hearing examiner that such activities will not significantly impact the adjoining neighborhood.

(7) One off-street parking space shall be provided on site for each rental bedroom. The number of required off-street spaces may be reduced by the number of spaces available on the street frontage adjoining the parcel upon which the room rental is to be established, if the decision-maker determines that sufficient on-street parking will exist to satisfy parking demand in the neighborhood once the room rental has been established. Any additional off-street parking provided in conjunction with the room rental shall, to the extent possible, be located to the side or rear of the structure housing the room rental in order to minimize visual impacts on the streetscape. Off-street parking shall be designed to reduce impacts on adjoining properties through the installation of vegetative screening and/or fencing. The parking surface and additional driveway surface required to provide access to the parking area shall be constructed of permeable, porous or pervious pavers to achieve low impact development objectives and a superior appearance when compared with conventional asphalt or concrete pavement. For additional off-street parking standards, see Chapter 22.60 FMC.

(8) Certification by the building official that the residence complies with fire and life safety aspects is required. Inspection fee may apply.

(g) Dwelling Unit Rental.

(1) The number of persons per sleeping area shall comply with the International Building Code.

(2) Two off-street parking spaces shall be provided on site.

(h) Other Regulations.

(1) Proof of ownership or approval of property owner is required.

(2) The room rental shall be exempt from the home occupation requirements of FMC 22.58.013.

(3) The exterior appearance of the structure shall maintain its original character.

(4) Signage shall comply with Chapter 22.26 FMC, Sign Regulations.

(5) Permits shall lapse and become void if the establishment ceases operation for 12 consecutive months, applicant named on the permit moves from or sells the site, or the applicant fails to maintain a valid business license. (Ord. 1638 § 25, 2019; Ord. 1604 § 1, 2017; Ord. 1246 § 15, 2000).

22.58.012 Accessory dwelling units (ADUs).

(a) Purpose. The purpose of allowing ADUs is to:

(1) Provide homeowners with a means of obtaining, through tenants in either the ADU or the principal unit, rental income, companionship, security, and services.

(2) Add affordable units to the existing housing stock.

(3) Make housing units available to people with income levels that might otherwise preclude them from finding homes within the city.

(4) Develop housing units in single-family neighborhoods that are appropriate for people at a variety of stages in the life cycle.

(5) Protect neighborhood stability, property values, and the single-family residential appearance of the property and neighborhood by ensuring that ADUs are installed under the conditions of this section.

(b) Approval. An attached ADU may be approved by the director subject to administrative design review approval in accordance with Chapter 22.66 FMC, provided the standards and criteria in subsection (c) of this section are met by the proposal. A detached ADU shall be processed as a conditional use, pursuant to Chapter 22.68 FMC.

(c) Standards and Criteria. An ADU shall meet the following standards and criteria:

(1) The design and size of the ADU shall conform to all applicable standards in the building, plumbing, electrical, mechanical, fire, health, and any other applicable codes. When there are practical difficulties in carrying out the provisions of this subsection, the building official may grant modifications for individual cases, provided the intent of the applicable code is met.

(2) An ADU may be attached to, or detached from, the principal unit.

(3) Only one ADU may be created per principal unit.

(4) The property owner, which shall include title holders and contract purchasers, must occupy either the principal unit or the ADU as their permanent residence, but not both, and at no time receive rent for the owner-occupied unit.

(5) An ADU may be developed in either an existing or a new single-family residence.

(6) An attached ADU shall not exceed 800 square feet; provided, if the ADU is completely located on a single floor of a multistory building, the director may allow increased size in order to efficiently use all floor area. A detached ADU shall comply with accessory building size limits and related standards listed in FMC 22.58.003.

(7) An attached ADU shall be designed to maintain the architectural design, style, appearance and character of the principal unit as a single-family residence. If an attached ADU extends beyond the current footprint or existing height of the principal unit, or requires modifications to the exterior of the building, the addition or modifications must be consistent with the existing facade, roof pitch, siding, windows, and other exterior design elements and finish materials. A detached ADU shall use the same design vocabulary as the principal unit to the extent feasible.

(8) Only one entrance is permitted to be located on the front facade of the principal unit. If a separate outside entrance is necessary for an attached ADU, it must be located either on the rear or side of the principal unit. This entrance shall be located in such a manner as to be unobtrusive from the same view of the building that encompasses the main entrance to the principal unit.

(9) No additional off-street parking is required for an ADU unless the director determines that insufficient on-street parking will exist to satisfy parking demand in the neighborhood once the ADU has been occupied. Any additional off-street parking provided in conjunction with the ADU shall, to the extent possible, be located to the side or rear of the principal unit to minimize visual impacts on the streetscape. Off-street parking shall be designed to reduce impacts on adjoining properties through the installation of vegetative screening and/or fencing. The parking surface shall be constructed of a permeable surface such as interlocking paving blocks (cement or plastic) or other porous pavement which minimizes impervious surface and provides a superior appearance when compared with asphalt or concrete paving. For additional off-street parking standards, see Chapter 22.60 FMC.

(10) In order to encourage the development of housing units for people with disabilities, the director may allow reasonable deviation from the requirements of this section when necessary to install features that facilitate accessibility. These facilities shall conform to Washington State regulations for barrier-free facilities.

(11) An ADU shall be connected to the utilities of the principal unit and may not have separate water, sewer and electrical services.

(12) The total number of occupants in both the principal unit and ADU combined may not exceed the maximum number established by the definition of "family" in FMC 22.98.267.

(13) A registration form or other forms required by the director shall be filed as a deed restriction with the Pierce County auditor to indicate the presence of the ADU, the requirement of owner-occupancy, and other standards for maintaining the unit as described above.

(d) Legalization of Nonconforming ADUs. Nonconforming ADUs existing prior to the enactment of these requirements may be found to be legal if the property owner applies for an ADU permit prior to one year after enactment of this section and brings the unit up to minimum housing code standards. No penalty fees or fines will be assessed by the city for legalization submittals made prior to this date. After one year after enactment of this section, an owner of an illegal ADU shall be guilty of a misdemeanor and, upon conviction, subject to a fine not exceeding \$1,000, including all statutory costs, assessments, and fees, plus \$75.00 per day after notice of this violation has been met. An owner of an illegal ADU shall also be required to either legalize the unit or remove it. (Ord. 1575 § 16, 2016; Ord. 1512 § 7, 2011; Ord. 1417 § 2, 2006; Ord. 1311 § 29, 2002; Ord. 1246 § 15, 2000).

22.58.013 Home occupations.

(a) Purpose and Intent. It is the purpose and intent of this section to:

- (1) Protect residential areas from potential adverse impact of activities defined as home occupations;
- (2) Allow residents of the community a broad choice in the use of their homes as a place of livelihood and for the production or supplementing of personal and family income; and
- (3) Establish criteria and standards for the use of residential structures for home occupations.

(b) Permit Requirement. A home occupation may be carried on upon the issuance of a business license pursuant to Chapter 5.04 FMC and the issuance of a home occupation permit by the director.

(c) Submittal Requirements. Application for a home occupation permit shall be made upon forms provided by the director, accompanied by a filing fee in accordance with the planning services fee schedule established by council resolution. The application shall be signed by the owner of the property on which the home occupation activity will occur. The application shall also be signed by the business operator if that person is different from the property owner. The director may require the submittal of a site plan of the premises, floor plans of the residence or accessory building in which the use or activity will take place, and other documentation deemed necessary to process the application. The plans shall clearly indicate the area where the use or activity will take place and any structural alterations intended to accommodate the use or activity.

(d) Categories of Home Occupation.

(1) Type I home occupations are those activities, categorized below, which comply with all performance standards set forth in subsection (f) of this section.

(A) Type I-A includes home offices, internet businesses, and similar activities that have no traffic or product pickup or deliveries.

(B) Type I-B includes instruction, counseling, sales, services, and other activities that have customer traffic and/or product pickup or deliveries.

(2) Type II home occupations are those activities which do not comply with one or more of the performance standards governing Type I home occupations as set forth in subsection (f) of this section but which do comply

with the performance standards governing Type II home occupations as set forth in subsection (g) of this section.

(e) Processing Requirements.

(1) The director shall approve a proposed home occupation, which complies with all Type I standards set forth in subsection (f) of this section. The director may impose conditions of approval to ensure that the business activity is conducted in a manner consistent with the standards and purpose and intent of this section.

(2) A proposed home occupation which has been determined by the director to not comply with one or more Type I standards set forth in subsection (f) of this section may be permitted subject to conditional use permit approval by the planning commission in accordance with Chapter 22.68 FMC, if the home occupation complies with the Type II standards set forth in subsection (g) of this section.

(f) Type I Home Occupation Standards.

(1) Only residents of the premises on which the home occupation is located shall carry on the home occupation.

(2) The home occupation shall be carried on entirely within a residence and/or detached accessory building. The home occupation shall occupy not more than 25 percent of the total floor area of the habitable portion of a residence. In no event shall such occupancy exceed 400 square feet.

(3) Any extension of the home occupation to the outdoors, including, but not limited to, paving of yards for parking, outdoor storage or activity, and indoor storage or activity visible from outdoors (e.g., in an open garage) is prohibited, except that vegetables, fruits, flowers and other agricultural products may be grown on the premises if production does not exceed what would normally be consumed on the premises.

(4) The home occupation shall not result in the elimination of required on-site parking.

(5) The home occupation shall be conducted in such a manner as to give no outward appearance nor manifest any characteristics of a business in terms of deliveries, parking, customer trips and other activities, that would infringe upon the right of the neighboring residents to enjoy a peaceful occupancy of their homes.

(6) The home occupation shall not result in structural alteration to the interior or exterior of the structure that changes its residential character.

(7) No equipment shall be used and no activities shall be conducted which would result in noise, vibration, smoke, dust, odors, heat, glare or other conditions exceeding in duration or intensity those normally produced by residential use. Normal residential use shall be construed as including the above impacts only on an occasional weekend or evening basis (e.g., in connection with a hobby or home/yard maintenance), and not on a daily basis.

(8) The home occupation shall not include: (A) automobile, truck or heavy equipment repair; (B) body work or painting; (C) outdoor storage of used parts of vehicles and used machinery in an inoperable condition; or (D) outside storage of building materials such as lumber, plasterboard, pipe, paint or other construction materials.

(9) The home occupation shall not include parking or storage of heavy equipment, including trucks of over one-ton load capacity or commercial vehicles in excess of 10,000 gross vehicle weight (GVW), within a public right-of-way or on private property outside of a fully enclosed building.

(10) Persons in building trades and similar fields using their homes or apartments as offices for business activities conducted off the residential premises may have other employees or independent contractors; provided, that such employees or independent contractors do not perform labor or personal services on the residential premises, park on or near the residential premises, or check in at the residential premises during the course of business.

(11) The home occupation may include limited on-premises sales of products or stock-in-trade, provided the applicant can clearly demonstrate that such sales will not be inconsistent with other Type I standards. Examples

of allowable on-premises sales include cosmetics or similar products associated with a business where most products are delivered to a customer's address, hair care products associated with a barber/beauty shop and instructional materials pertinent to the home occupation, e.g., music books. The display or storage of products or stock-in-trade outside a residence or in a window is prohibited, except that vegetables, fruits, flowers and other agricultural products grown on the premises may be offered for sale out-of-doors during the growing season.

(12) Activities conducted and equipment or material used shall not change the fire safety or occupancy classifications of the premises. Utility consumption shall not exceed normal residential usage.

(13) The home occupation shall not generate significantly greater traffic volume than would normally be expected in the particular residential zone or neighborhood in which the home occupation is conducted. Generally, delivery and pickup of materials to and from the premises by a commercial vehicle should not exceed two trips per week. For the purpose of this section, commercial vehicles shall not exceed a gross vehicle weight of 20,000 pounds. Also, generally, traffic generated by a home occupation should not exceed four round trips per day.

(14) If the home occupation is the type in which classes are held or instruction given, there shall be no more than two students allowed in any one class or instruction period.

(g) Type II Home Occupation Standards.

(1) The home occupation will not harm the character of the surrounding neighborhood.

(2) The home occupation will not include storage, use or operation of building materials, machinery, commercial vehicles or tools, unless:

(A) The activity is wholly enclosed within a structure or building;

(B) The activity would not result in noise, vibration, smoke, dust, odors, heat, glare or other conditions exceeding in duration or intensity those normally produced by residential use. Normal residential use shall be construed as including the above impacts only on an occasional weekend or evening basis (e.g., in connection with a hobby or home/yard maintenance), and not on a daily basis.

(3) The home occupation will not create a condition which injures or endangers the comfort, repose, health and safety of persons on abutting properties or streets.

(4) The home occupation will not generate excessive traffic or necessitate excessive parking beyond that normally associated with residential use in the neighborhood in which the home occupation is located.

(5) The home occupation will include no more than two nonresident employees working on site when nonresident employees are involved. The home occupation may have additional employees or independent contractors; provided, that such employees or independent contractors do not perform labor or personal services on the residential premises, park on or near the residential premises, or physically check in at the residential premises during the course of business.

(6) The home occupation will not include the outdoor display and sale of products or stock in trade, unless the applicant can demonstrate that such on-premises sales will not result in noncompliance with other applicable standards governing Type I and Type II home occupations.

(h) Other Regulations.

(1) Home occupations shall comply with all other local, state or federal regulations pertinent to the activity pursued, and the requirements or permission granted or implied by this section shall not be construed as an exemption from these regulations.

(2) Home occupation permits are issued to an individual applicant and shall not be transferred or otherwise assigned to any other person. The permit will automatically expire when the applicant named on the permit

application moves from the site or moves the business from the site. The home occupation shall also automatically expire if the permittee fails to maintain a valid business license or the business license is suspended or revoked. The home occupation shall not be transferred to any site other than that described on the application form.

(3) Two or more home occupation permits may be issued for the same location if it is determined that the sum of the businesses still meets the requirements of this chapter.

(4) The home occupation will comply with Chapter 22.26 FMC, Sign Regulations.

(i) Exemptions. The following activities shall be exempt from the provisions of this section:

(1) Garage sales, yard sales, bake sales, occasional parties for the sale or distribution of goods or services, and other like uses; provided, that any such garage sales and yard sales involve only the sale of household goods, none of which were purchased for the purpose of resale. If the collective total of all such sales and/or parties exceeds four events or 12 days in any calendar year, then such sales and/or parties shall be considered a home occupation;

(2) Family day-care facilities licensed by the Washington State Department of Social and Health Services; and

(3) Telecommuting, remote work and other alternative work options; provided the resident is an employee of an off-site company, a business license is not required, and the work does not require deliveries or customers visiting the home.

(j) Permit Fee Exemptions. Nonprofit organizations as defined by FMC 5.04.100(c) must apply for a home occupation permit but are exempt from a home occupation permit fee. Nonprofit organizations that are categorized as Type II home occupations are not exempt from the conditional use permit fee. (Ord. 1605 § 1, 2017; Ord. 1512 § 4, 2011; Ord. 1246 § 15, 2000).

22.58.014 Adult entertainment establishments.

(a) Purpose. The purpose of this section is to regulate adult entertainment establishments and to provide certain limitation to the siting of these uses.

Development standards are used to reduce conflicts between these uses and other uses that may not be compatible.

(b) Uses Permitted. Adult entertainment establishments may be permitted by conditional use permit in the MUU zone.

(c) Locational Requirements.

(1) Adult entertainment establishments shall not be located on lots adjacent to (directly touching or across a street from) any residential zone (R-4, R-4-C, R-6, R-8, R-10-TCD, R-20 and R-30) and additional zones (NC, NO, GC and MUN) that allow residential uses (except for dwelling units provided for site security or maintenance personnel).

(2) Adult entertainment establishments shall not be allowed within 500 feet of any other adult entertainment establishment, as measured from property lines.

(3) Adult entertainment establishments shall not be allowed within 100 feet of any "sensitive receptor." Distances provided in this section shall be measured by following a straight line, without regard to intervening buildings, from the nearest point of the property parcel upon which the proposed use is to be located, to the nearest point of the parcel of property or the zone district boundary line from which the proposed land use is to be separated.

(d) Variance to Locational Requirements. A variance to the dispersal provisions may be granted by the hearing examiner if all of the following criteria can be met:

- (1) That free speech rights which are entitled to protection by the First Amendment to the United States Constitution of an applicant for an adult entertainment establishment cannot be adequately protected on parcels allowed for siting because other adult entertainment establishments are in place, or sensitive receptors limit additional uses in the MUU zone.
- (2) That the natural or built environment in the immediate vicinity would result in an effective separation between the proposed adult entertainment establishment and any sensitive zones or uses in terms of visibility and access.
- (3) The proposed use complies with the goals and policies of the comprehensive plan.
- (4) The proposed use is otherwise compatible with adjacent and surrounding land uses.
- (5) The applicant has proposed conditions that would minimize the secondary adverse effects of the proposed use.

(e) Development Standards. The development standards in this section shall apply to all buildings, uses, and property used for adult entertainment purposes. The development standards for adult entertainment establishment uses are the same as the applicable zoning regulations for the zoning districts in which they are located, except as follows:

(1) Visual Impacts.

(A) No owner or operator of an adult entertainment establishment shall allow any merchandise or activity of the establishment to be visible from any point outside the establishment.

(B) No owner or operator of an adult entertainment establishment shall allow the exterior to have flashing lights or any lettering, photographs, silhouettes, drawings, or pictorial representations of any kind other than to the extent permitted by this section or Chapter 22.26 FMC.

(C) The exterior of an adult entertainment establishment, if painted, must be painted (stained or otherwise covered) in a single achromatic color, except if:

- (i) The adult entertainment establishment is part of a commercial multi-unit center; and
- (ii) The exteriors of each individual unit in the commercial multi-unit center, including the adult entertainment establishment, are painted the same color as one another or are painted in such a way as to be a component of the overall architectural style or pattern of the commercial center.

(2) Signage. In addition to the restrictions imposed by Chapter 22.26 FMC, the following restrictions apply to any adult entertainment establishment:

(A) Each display surface of a sign must:

- (i) Be a flat plane, rectangular in shape;
- (ii) Not be flashing or pulsating;
- (iii) Have characters of a solid color;
- (iv) Have all characters of the same print type, size, and color;
- (v) Have the background in one solid color.

(B) Readerboard signs are not allowed.

(f) Nonconforming Adult Entertainment Establishments. An adult entertainment establishment shall be deemed a legal nonconforming use and shall be subject to the requirements of FMC 22.58.023 (Nonconforming lots, uses and

structures) if a zone that allows residential uses is located adjacent to the adult entertainment establishment or if a sensitive receptor identified in subsection (e)(3) of this section locates within 50 feet of the adult entertainment establishment facility after the date the adult entertainment establishment facility has located within the city in accordance with requirements of this section. (Ord. 1667 § 20, 2020; Ord. 1562 § 40, 2015; Ord. 1246 § 15, 2000).

22.58.015 Temporary accessory structures and uses.

The following temporary accessory structures and uses are allowed in any zoning district:

- (a) Temporary structures and storage containers for construction purposes for a period not to exceed the duration of such construction.
- (b) Temporary, portable and self-contained sanitary waste facility serving a construction site.
- (c) Temporary, portable moving containers for a period not to exceed 21 days. (Ord. 1575 § 17, 2016; Ord. 1246 § 15, 2000).

22.58.016 Pedestrian plazas.

Repealed by Ord. 1667. (Ord. 1246 § 15, 2000).

22.58.017 Sidewalk cafes.

(a) Sidewalk cafes or other food or beverage-serving facility or establishment, when located on a public sidewalk or other public right-of-way area, are permitted in specified zoning districts subject to administrative use permit approval in accordance with Chapter 22.70 FMC. At a minimum, the following factors shall be considered when evaluating any proposed outdoor seating area:

- (1) The type, size and location of the proposed facility or establishment;
- (2) The present use of adjoining properties, and the anticipated compatibility of the proposed facility or establishment with such uses;
- (3) The degree to which the proposed facility or establishment is compatible with residential uses in the vicinity; and
- (4) The degree to which the public sidewalk or other public right-of-way area will remain available and safe for general public use.

(b) Prior to approving the proposal, the applicant shall furnish the director with the following:

- (1) An agreement which indemnifies the city from any claims regarding the use of the sidewalk or right-of-way area as approved by the city;
- (2) A certificate from an insurance carrier verifying that the applicant/business operator has general liability insurance in the amount of \$1,000,000 naming the city as additional insured;
- (3) A copy of any required permit from the Tacoma-Pierce County Health Department;
- (4) A copy of any required license from the Washington State Liquor and Cannabis Board. (Ord. 1575 § 18, 2016; Ord. 1246 § 15, 2000).

22.58.018 Outdoor lighting.

(a) Approval Required. The installation or replacement of outdoor lighting fixtures shall require approval of the hearing examiner or director, as appropriate. Approval shall not be granted unless the proposed installation is found by the hearing examiner or director to conform to all applicable provisions of this section. Properties developed with single-family or duplex dwellings are exempt from this section, provided they are not located within a planned development approved subsequent to the effective date of the ordinance codified in this section.

(b) General Requirements.

- (1) When the outdoor lighting installation or replacement is part of a development proposal for which hearing examiner review is required, the hearing examiner shall evaluate the proposed lighting installation as part of its discretionary review. The hearing examiner may grant approval of the installation, or it may approve the installation on a conceptual level and delegate to the director the responsibility to ensure that the final lighting installation design complies with this section.
- (2) When the outdoor lighting installation is not part of a development proposal for which hearing examiner review is required, the director shall evaluate and approve the proposed lighting installation design if it complies with this section.
- (3) The applicant shall submit to the department sufficient information, in the form of an overall exterior lighting plan, to enable the hearing examiner or director to determine that the applicable provisions will be satisfied. The lighting plan shall include at least the following:
 - (A) A site plan, drawn to a scale of one inch equaling no more than 20 feet, showing buildings, landscaping, parking areas, and all proposed exterior lighting fixtures.
 - (B) Specifications for all proposed lighting fixtures including photometric data, designation as IESNA "cut-off" fixtures, Color Rendering Index (CRI) of all lamps (bulbs), and other descriptive information on the fixtures.
 - (C) Proposed mounting height of all exterior lighting fixtures.
 - (D) Analyses and illuminance level diagrams showing that the proposed installation conforms to the lighting level standards in this section.
 - (E) Drawings of all relevant building elevations showing the fixtures, the portions of the walls to be illuminated, the illuminance levels of the walls, and the aiming points for any remote light fixtures.
- (4) Wherever practicable, lighting installations shall include timers, dimmers, and/or sensors to reduce overall energy consumption and eliminate unneeded lighting.
- (5) When an outdoor lighting installation is being modified, extended, expanded, or added to, the entire outdoor lighting installation shall be subject to the requirements of this section.
- (6) Expansions, additions, or replacements to outdoor lighting installations shall be designed to avoid harsh contrasts in color and/or lighting levels.
- (7) Electrical service to outdoor lighting fixtures shall be underground unless the fixtures are mounted directly on utility poles.
- (8) Proposed lighting installations that are not covered by the special provisions in this section may be approved only if the hearing examiner or director finds that they are designed to minimize glare, do not direct light beyond the boundaries of the area being illuminated or onto adjacent properties or streets, and do not result in excessive lighting levels.
- (9) For the purposes of these regulations, the mounting height of a lighting fixture shall be defined as the vertical distance from the grade elevation of the surface being illuminated to the bottom of the lighting fixture (i.e., luminaire).
- (10) Holiday lighting during the months of November, December and January shall be exempt from the provisions of this section; provided, that such lighting does not create dangerous glare on adjacent streets or properties.
- (11) The hearing examiner or director may modify the requirements of this section if it determines that in so doing it will not jeopardize achievement of the intent of these regulations.

(c) Parking Lot Lighting. Parking lot lighting shall be designed to provide the minimum lighting necessary to ensure adequate vision and comfort in parking areas, and to not cause glare or direct illumination onto adjacent properties or streets.

- (1) All lighting fixtures serving parking lots shall be cut-off fixtures as defined by the Illuminating Engineer Society of North America (IESNA).
- (2) Alternatives. The design for an area may suggest the use of parking lot lighting fixtures of a particular “period” or architectural style, as either alternatives or supplements to the lighting described above.
 - (A) If such fixtures are not “cut-off” fixtures as defined by IESNA, the maximum initial lumens generated by each fixture shall not exceed 2,000 (equivalent to a 150-watt incandescent bulb).
 - (B) Mounting heights of such alternative fixtures shall not exceed 15 feet.
- (3) Parking area lighting standards in the various lighting districts are shown in Table 1.
- (4) Parking areas in District 4 shall not be illuminated unless there exist specific hazardous conditions that make illumination necessary. In such cases, the lighting shall meet the standards for District 3.

Table 1: Parking Lot Lighting Standards

	District 1	District 2	District 3	District 4
	MUN and MUU Districts	NO and NC Districts	R-20, R-30, PROS and GC Districts	R-4, R-4-C, R-6, R-8 and R-10-TCD Districts
Mounting Height (Maximum)*	25 ft.	20 ft.	20 ft.	Lighting Discouraged
Minimum Illumination Level (at darkest spot on the parking area)	No less than 0.3 fc No more than 0.5 fc	No less than 0.2 fc No more than 0.3 fc	No less than 0.2 fc No more than 0.3 fc	Lighting Discouraged
Uniformity Ratio **	4:1	4:1	4:1	Lighting Discouraged
Minimum CRI***	20	65	70	Lighting Discouraged

* Mounting height is the vertical distance between the surface being illuminated and the bottom of the lighting fixture.

** Uniformity ratio is the ratio of average illumination to minimum illumination.

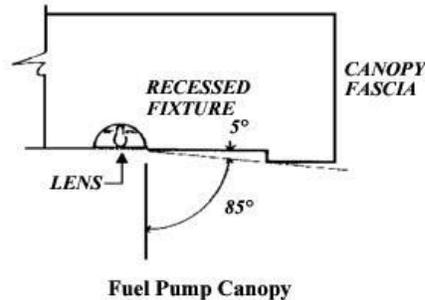
*** CRI is the Color Rendering Index.

(d) Lighting of Service Station/Convenience Store Aprons and Canopies. Lighting levels on service station/convenience store aprons and under canopies shall be adequate to facilitate the activities taking place in such locations. Lighting of such areas shall not be used to attract attention to the businesses. Signs allowed under Chapter 22.26 FMC shall be used for that purpose.

- (1) Areas on the apron away from the fuel pump islands used for parking or vehicle storage shall be illuminated in accordance with the requirements for parking areas in subsection (c) of this section. If no fuel pumps are provided, the entire apron shall be treated as a parking area.
- (2) Areas around the pump islands and under canopies shall be illuminated so that the minimum horizontal illuminance at grade level is at least one foot-candle and no more than five and one-half foot-candles. The uniformity ratio (ratio of average to minimum illuminance) shall be no greater than four to one, which yields an average illumination level of no more than 22 foot-candles.

The Fircrest Municipal Code is current through Ordinance 1738, passed March 25, 2025.

(3) Light fixtures mounted on canopies shall be recessed so that the lens cover is recessed or flush with the bottom surface (ceiling) of the canopy and/or shielded by the fixture or the edge of the canopy so that light is restrained to no more than 85 degrees from vertical, as shown in the figure below.



(4) As an alternative (or supplement) to recessed ceiling lights, indirect lighting may be used where light is beamed upward and then reflected down from the underside of the canopy. In this case light fixtures must be shielded so that direct illumination is focused exclusively on the underside of the canopy.

(5) Lights shall not be mounted on the top or sides (fascias) of the canopy, and the sides (fascias) of the canopy shall not be illuminated.

(e) **Lighting of Exterior Display/Sales Areas.** Lighting levels on exterior display/sales areas shall be adequate to facilitate the activities taking place in such locations. Lighting of such areas shall not be used to attract attention to the businesses. Signs allowed under Chapter 22.26 FMC shall be used for that purpose. The applicant shall designate areas to be considered display/sales areas and areas to be used as parking or passive vehicle storage areas. This designation must be approved by the hearing examiner or director.

(1) Areas designated as parking or passive vehicle storage areas shall be illuminated in accordance with the requirements for parking areas in subsection (e) of this section.

(2) Areas designated as exterior display/sales areas shall be illuminated so that the average horizontal illuminance at grade level is no more than five foot-candles. The uniformity ratio (ratio of average to minimum illuminance) shall be no greater than four to one. The average and minimum shall be computed for only that area designated as exterior display/sales area.

(3) Light fixtures shall meet the IESNA definition of cut-off fixtures, and shall be located, mounted, aimed, and shielded so that direct light is not cast onto adjacent streets or properties.

(4) Fixtures shall be mounted no more than 25 feet above grade, and mounting poles shall be located either inside the illuminated area or no more than 10 feet away from the outside edge of the illuminated area.

(f) **Lighting of Outdoor Performance or Sports.** Outdoor nighttime performance events (concerts, athletic contests, etc.) have unique lighting needs. Illumination levels vary, depending on the nature of the event. The regulations in this section are intended to allow adequate lighting for such events while minimizing sky glow, reducing glare and unwanted illumination of surrounding streets and properties, and reducing energy consumption.

(1) **Design Plan.** A lighting design plan shall be submitted that shows in detail the proposed lighting installation. The design plan shall include a discussion of the lighting requirements of various areas and how those requirements will be met.

(2) Dual System. The main lighting of the event (spotlighting or floodlighting, etc.) shall be turned off no more than 45 minutes after the end of the event. A low-level lighting system shall be installed to facilitate patrons leaving the facility, cleanup, nighttime maintenance, etc. The low-level lighting system shall provide an average horizontal illumination level, at grade level, of no more than three foot-candles with a uniformity ratio (average to minimum) not exceeding four to one.

(3) Primary Playing Areas. Where playing fields or other special activity areas are to be illuminated, lighting fixtures shall be specified, mounted, and aimed so that their beams fall within the primary playing area and immediate surroundings, and so that no direct illumination is directed off the site.

(4) Parking Areas. Lighting for parking areas shall meet the requirements in subsection (c) of this section.

(5) Pedestrian Areas. Areas intended solely for pedestrian circulation shall be provided with a minimum level of illumination of no less than 0.1 foot-candles and no more than 0.2 foot-candles. A uniformity ratio of average illumination to minimum illumination shall not exceed four to one.

(6) Security Lighting. Security lighting shall meet the requirements in subsection (g) of this section.

(g) Security Lighting. The purpose of and need for security lighting (i.e., lighting for safety of persons and property) must be demonstrated as part of an overall security plan that includes at least illumination, surveillance, and response, and that delineates the area to be illuminated for security purposes. To the extent that the designated area is illuminated for other purposes, independent security lighting installations will be discouraged.

(1) In addition to the application materials required in subsection (b) of this section, applications for security lighting installations shall include a written description of the need for and purposes of the security lighting, a site plan showing the area to be secured and the location of all security lighting fixtures, specifications of all fixtures, the horizontal and vertical angles in which light will be directed, and adequate cross-sections showing how light will be directed only onto the area to be secured.

(2) All security lighting fixtures shall be shielded and aimed so that illumination is directed only to the designated area and not cast on other areas. In no case shall lighting be directed above a horizontal plane through the top of the lighting fixture, and the fixture shall include shields that prevent the light source or lens from being visible from adjacent properties and roadways. The use of general floodlighting fixtures shall be discouraged.

(3) Security lighting may illuminate vertical surfaces (e.g., building facade and walls) up to a level eight feet above grade or eight feet above the bottoms of doorways or entries, whichever is greater.

(4) Security lighting fixtures may be mounted on poles located no more than 10 feet from the perimeter of the designated secure area.

(5) Security lights intended to illuminate a perimeter (such as a fence line) shall include motion sensors and be designed to be off unless triggered by an intruder located within five feet of the perimeter.

(6) Security lighting standards in the various lighting districts are as shown in Table 2.

(7) Security lighting shall be allowed in District 4 areas only if unusual hazardous conditions make it necessary. In such cases, indirect and reflected lighting techniques shall be used to provide soft lighting under canopies, entry porches, or soffits. Lighting levels shall not exceed the standards established for District 3.

Table 2: Security Lighting Standards

	District 1	District 2	District 3	District 4
	MUN and MUU Districts	NO and NC Districts	R-20, R-30, PROS and GC Districts	R-4, R-4-C, R-6, R-8 and R-10-TCD Districts
Mounting Height (Maximum)*	25 ft.	20 ft.	20 ft.	Discouraged
Average Horizontal Illumination Level on Ground	No more than 1.5 foot-candles	No more than 1.0 foot-candle	No more than 0.5 foot-candle	Discouraged
Average Illumination Level on Vertical Surface	No more than 1.5 foot-candles	No more than 1.0 foot-candle	No more than 0.5 foot-candle	Discouraged
Minimum CRI**	20	65	70	Discouraged

* Mounting height is the vertical distance between the surface being illuminated and the bottom of the lighting fixture.

** CRI is the Color Rendering Index.

(h) **Lighting of Building Facades and Landscaping.** With the exception of structures having exceptional symbolic (i.e., churches and/or public buildings) or historic significance in the community, exterior building facades shall not be illuminated.

When buildings having symbolic or historic significance are to be illuminated, a design for the illumination shall be approved by the hearing examiner or director and the following provisions shall be met:

- (1) The maximum illumination on any vertical surface or angular roof surface shall not exceed five foot-candles.
- (2) Lighting fixtures shall be carefully located, aimed, and shielded so that light is directed only onto the building facade. Lighting fixtures shall not be directed toward adjacent streets or roads.
- (3) Lighting fixtures mounted on the building and designed to “wash” the facade with light are preferred.
- (4) To the extent practicable, lighting fixtures shall be directed downward (i.e., below the horizontal) rather than upward.
- (5) When landscaping is to be illuminated, the hearing examiner or director shall first approve a landscape lighting plan that presents the purpose and objective of the lighting, shows the location of all lighting fixtures and what landscaping each is to illuminate, and demonstrates that the installation will not generate excessive light levels, cause glare, or direct light beyond the landscaping into the night sky.

(i) **Illuminated Signs.** See lighting standards in FMC 22.26.012.

(j) **Lighting of Walkways/Bikeways and Parks.** Where special lighting is to be provided for walkways, bikeways, or parks, the following requirements shall apply:

- (1) The walkway, pathway, or ground area shall be illuminated to a level of at least 0.3 foot-candles and no more than 0.5 foot-candles.
- (2) The vertical illumination levels at a height of five feet above grade shall be at least 0.3 and no more than 0.5 foot-candles.
- (3) Lighting fixtures shall be designed to direct light downward, and light sources shall have an initial output of no more than 1,000 lumens.

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(4) In general, lighting shall be consistent with the guidelines presented in the IESNA Lighting Handbook, Eighth Edition.

(k) General Street Lighting Standards. (Reserved).

(l) Technological Change. The technology used in outdoor lighting applications is ever evolving in terms of efficiency, effectiveness, and other performance aspects. While the intent, goals, and objectives of this section remain constant, standards may become dated over time as lighting technology advances. Therefore, the hearing examiner or director, as appropriate, may exercise discretion in making determinations that will achieve equivalent lighting performance through the application of updated technology when codified standards become outdated. (Ord. 1667 § 22, 2020; Ord. 1562 § 41, 2015; Ord. 1322 § 3, 2003; Ord. 1311 § 30, 2002; Ord. 1246 § 15, 2000).

22.58.019 Social card games.

The operation or conduct of social card games as defined by RCW 9.46.0282 is prohibited within the city of Fircrest. However, bona fide, charitable, or nonprofit organizations may operate or conduct social card games pursuant to RCW 9.46.0311. (Ord. 1246 § 15, 2000).

22.58.020 Development agreement.

(a) Hearing Examiner and City Council Authority. The hearing examiner is hereby authorized to conduct a public hearing for the consideration of a development agreement subject to RCW 36.70B.170 through 36.70B.200. The hearing examiner shall transmit its recommendations on the proposed agreement to the city council. The city council is hereby authorized to approve, approve with conditions, or deny a proposed development agreement after considering the hearing examiner's recommendations at a closed record hearing.

(b) Application. Development agreement applications must be submitted on forms provided by the director. The director may require any additional information necessary in order for the city to adequately review the proposed agreement.

(c) Required Findings. In addition to any required findings for the underlying action, the city council must be able to find that a development agreement:

- (1) Bears a substantial relationship to the public health, safety, morals and welfare;
- (2) Is consistent with the city's development regulations; and
- (3) Is consistent with the city's comprehensive plan. (Ord. 1638 § 26, 2019; Ord. 1246 § 15, 2000).

22.58.021 Voluntary agreement.

(a) An applicant may enter into a voluntary agreement with the city to allow a payment in lieu of dedication of land or to mitigate a direct impact that has been identified as a consequence of a proposed development, subdivision, or plat. The voluntary agreement shall not be used for open space required to be in buffer yards, stormwater facilities, sensitive area management tracts, wetland buffers, required landscaping or any other open space required to be on-site.

(b) Payment Calculations and Provisions.

(1) Calculation for Payment in Lieu of Land Dedication. The payment in lieu of dedication of land shall be calculated based on the assessed land value of the entire property within the proposed development, subdivision, or plat. The assessed land value shall be the amount on record with the Pierce County assessor's office on the date when a complete project permit application is received by the director or the calendar year of final subdivision or plat approval. The payment shall be calculated by multiplying the percentage of total land that would have been dedicated by the applicant times the above mentioned assessed land value.

(2) Calculation for Payment in Lieu of Mitigation. The payment in lieu of mitigation shall be based on the actual cost of the proposed mitigation. The applicant shall submit a cost estimate for the proposed mitigation to the director for review and approval. The director may rely on other cost estimates or information if the applicant's estimate is not acceptable.

(3) Payment Provisions. The voluntary agreement is subject to the following provisions:

(A) The payment shall be received by the city prior to the issuance of a project permit or approval of a final subdivision or plat.

(B) The payment shall be held in a reserve account and may only be expended to fund a purchase or improvement of open space within 3,000 feet of the perimeter of the project site or expansion or improvement to a citywide park.

(C) The payment shall be expended in all cases within five years of collection.

(D) Any payment not so expended shall be refunded with interest at the rate applied to judgements to the property owners of record at the time of the refund. However, if the payment is not expended within five years due to delay attributable to the developer, the payment shall be refunded without interest. (Ord. 1246 § 15, 2000).

22.58.022 Siting of essential public facilities.

The purpose of this section is to establish and describe the city's process for identifying and siting essential public facilities. Essential public facilities include but are not limited to those facilities that are difficult to site, such as airports, state educational facilities, state and regional transportation facilities, state and local correctional facilities, solid waste handling facilities and in-patient facilities (including substance abuse, mental health and group home facilities). The Growth Management Act mandates that no local development regulation may preclude the siting of essential public facilities.

(a) Identification. The city recognizes the list of essential state public facilities, which is maintained and updated by the State Office of Financial Management. The director is authorized to determine if any additional proposed use within the city is an essential public facility.

(b) Siting. If an essential public facility is listed as either a permitted or conditional use within a zoning district, the use is restricted to those zoning districts. If an essential public facility is not expressly listed as either a permitted or conditional use within a zoning district, then the use shall be restricted to the Community Commercial zoning district. Essential public facilities that are not expressly listed within a zoning district are subject to a conditional use permit. All essential public facilities requiring a conditional use permit shall be subject to the additional requirements below:

(1) The federal, state, regional or local agency (applicant) shall provide a justifiable need for the public facility and for its location within Fircrest.

(2) The applicant shall provide a site selection analysis consisting of at least three proposed sites, one of which must be located outside of the Fircrest city limits. The applicant shall identify the reasons for the proposed site being more desirable than the other two identified sites.

(3) Based on the potential impact to the health, safety, morals and general welfare of the citizens of Fircrest, the planning commission may require a proposed facility to be located a sufficient distance from any residential district, residential use, park, children's school or day-care facility to mitigate the impact.

(4) The applicant shall provide a list and description of other similar facilities within Pierce County. At a minimum, each such description shall include the address, contact person, telephone number, size, scope and resident population (if any) of the other similar facilities. The planning commission may consider the fair distribution of similar essential public capital facilities within Pierce County. Fair distribution shall be based on a per capita analysis of Pierce County jurisdictions. If Fircrest is presently exceeding its fair share of such a facility, the planning commission may deny the request if the rationale for selecting Fircrest over another location is not a compelling one. (Ord. 1311 § 31, 2002; Ord. 1246 § 15, 2000).

22.58.023 Nonconforming lots, uses and structures.

(a) Application. The provisions of this section shall apply to uses and structures which become nonconforming as a result of the application of this title to them, or from classification or reclassification of a property under this title or any subsequent amendments thereto.

(b) Continuation of Nonconforming Uses and Structures. Any lawful use of land and/or building or structure existing, under construction, or for which a building or use permit has been granted and was still in force at the time this title became effective may be continued, even though the use does not conform to the provisions of the district in which it is located, subject to the following conditions:

(1) Enlargement. No building, structure or land that is nonconforming by reason of use shall be enlarged or expanded; provided, that normal upkeep, repairing and maintenance of nonconforming buildings and structures are permitted outright, provided the activities do not increase the nonconformity of the buildings or structures.

(2) Replacement. Any building or structure nonconforming by reason of use which has been damaged or destroyed by fire, earthquake, flood, wind or other disaster may be restored and the occupancy or use of the building, structure or part thereof which existed at the time of damage or destruction may be continued subject to all provisions of this title, but the restoration of the nonconforming building or structure shall not serve to extend or increase the nonconformance of the original building, structure or use. Any reconstruction authorized by this section shall commence within one year of the damage and shall be substantially completed within 18 months of the date the damage occurred.

(3) Vacation. If any nonconforming use of land and/or building or structure is vacated for a period of one year, nonconforming rights shall automatically terminate and any future use of the land and/or building or structure shall conform to the zoning district in which it is located. Notwithstanding this one-year automatic termination, vacation may also be deemed to be an act or failure to act on the part of the property owner which indicates an intention that the property owner does not claim or retain any interest in the right to the nonconforming use.

(4) Structural Alteration – Enlargement of Nonconforming Building or Structure. A building or structure which is nonconforming only by reason of substandard yard or height may be structurally enlarged, provided the enlargement does not increase the nonconformance, and further provided the enlarged building or structure conforms with bulk regulations relating to lot coverage or impervious surface coverage.

(5) Structural Alteration – Replacement of Nonconforming Building or Structure. A building or structure which is nonconforming by reason of substandard yard, height, lot coverage, impervious surface coverage, or other bulk regulation may be restored or rebuilt as it originally existed upon the original foundation and perimeter, if it is damaged or destroyed by fire, earthquake, flood, wind or other natural disaster. Enlargement of the building or structure from the original design may occur in accordance with subsection (b)(4) of this section.

(6) Structural Alteration – Repair of Nonconforming Building or Structure. A building or structure which is nonconforming by reason of substandard yard, height, lot coverage, impervious surface coverage, or other bulk regulation may be repaired or restored to its original or comparable condition and design. Modifications to the original design of the building or structure may occur in accordance with subsection (b)(4) of this section.

(7) Change of Conforming Use. Whenever a nonconforming use has been changed to a conforming use, it shall not revert to the same or different nonconforming use.

(8) Change of Ownership. Change of ownership, tenancy or management of a nonconforming use shall not affect its legal, nonconforming status.

(9) Annexation Resulting in Nonconformity. Any lawfully existing use of land or building or structure located in an unincorporated area which, through annexation, becomes nonconforming shall be deemed a legal, nonconforming use, building or structure. (Ord. 1611 § 17, 2018; Ord. 1246 § 15, 2000).

22.58.024 Outdoor storage of vehicles.

(a) Outdoor Storage of Vehicles. The outdoor storage of vehicles or parts thereof is permitted in a residential district for a period not to exceed six days. Outdoor storage for a period exceeding six days is permitted in a residential zoning district, subject to the following provisions:

- (1) The outdoor storage of no more than three inoperable vehicles and vehicle parts is permitted when they are screened from neighboring properties and the public right-of-way by a solid fence or approved landscaping. Storage of inoperable vehicles is prohibited in required front or side yard setback areas. Open or unscreened storage of inoperable vehicles is permitted for a 14-day period while a vehicle is undergoing or awaiting repairs.
- (2) In no event shall any outdoor storage of commercial vehicles in excess of 10,000 GVW be permitted.
- (3) Approved landscaping is defined as follows:

(A) Vegetative Screen. The approved landscaping must consist of: evergreen shrubs, at a rate of one per five lineal feet of landscape strip; or closely spaced evergreen trees, at a rate of one per eight lineal feet of landscape strip, or a combination of the two in separate sections. The screen may consist of either overlapping clusters or a solid row of material. If overlapping clusters are used, the overlap should be at least one-half plant width. Spacing shall be as follows: evergreen trees for the landscape screen at no greater than eight feet on center, with no more than 10 feet on center between cluster; shrubs for the landscape screen shall be no greater than five feet on center, with no greater than seven feet on center between clusters. Vegetative screening materials shall have a minimum mature height of six feet. Installation of vegetative ground cover is encouraged but not required within the planting area; or

(B) Berm. The approved landscaping must consist of an earthen berm a minimum of four feet high, measured from street curb or the crown of the adjacent paved way for road frontages or existing grade for interior lot lines. Vegetative groundcover shall cover a minimum of 50 percent of the landscape strip area at maturity. Berms less than six feet in height shall be planted with evergreen shrubs, at a rate of one per four lineal feet of landscape strip, to a mature height equal to or greater than six-foot high berm. The screen may consist of either overlapping groupings or a solid row of material. If overlapping groupings are used, the overlap should be at least one-half plant width. Shrub spacing shall be no greater than four feet on center, with no greater than six feet on center between groupings; and

(C) Canopy Vegetation. In addition to the requirements of subsection (a)(3)(A) of this section, Vegetative Screen, and subsection (a)(3)(B) of this section, Berm, trees, at a rate of one per 25 lineal feet of lot line, shall be interspersed throughout the landscape strip in groupings or uniform rows. Spacing shall be no greater than 25 feet on center with uniform spacing or 50 feet on center between groupings. Minimum mature height shall be 20 feet;

(D) Screen Width. All approved landscaping shall be located adjacent to the lot line with no required vegetation located greater than 30 feet from the lot line. No buildings or impervious surfaces, with the exception of pedestrian walks connecting the site to adjacent property, shall be located between the interior edge of the screen width and the lot line.

(b) Outdoor Storage of Boats and Nonmotorized Recreation Vehicles. The outdoor storage of boats or nonmotorized recreation vehicles is permitted in a residential zoning district, subject to the following provisions:

- (1) Nonmotorized recreation vehicles include, but are not limited to, camper trailers, tent trailers, and boat and recreation vehicle trailers. Nonmotorized recreation vehicles do not include bicycles and similar sports equipment.
- (2) The combined limit on the number of boats and nonmotorized recreational vehicles that may be stored on a parcel is two, except as permitted in subsection (b)(3) of this section. A boat on a trailer shall be counted as one boat.

(3) Outdoor storage of additional boats and/or nonmotorized recreation vehicles shall be screened from neighboring properties and the public right-of-way by a solid fence or approved landscaping as defined in subsection (a)(3) of this section. Storage of additional vehicles is prohibited in required front or side yard setbacks. (Ord. 1246 § 15, 2000).

22.58.025 Electric vehicle charging stations.

To ensure an effective installation of electric vehicle charging stations, the regulations in this section provide a framework when a private property owner chooses to provide electric vehicle charging stations.

(a) Allowed Uses per Zoning District. The following table establishes the permitted uses:

	Residential (R-4, R-4-C, R-6, R-8, R-10-TCD, R-20, and R-30)	Recreation (PROS and GC)	Commercial and Mixed-Use (NC, MUN and MUU)	Commercial (NO)
EV Charging Station ¹	P	P	P	P
Rapid Charging Station ²	–	–	P	P
Battery Exchange Station	–	–	P	–

P: Allowed only as an accessory to an outright permitted or conditional use.

Absence of P: Use is not permitted in that district.

1: Level 1 and Level 2 charging only.

2: Level 3 and fast charging are used interchangeably.

(b) For all parking lots or garages located in nonresidential districts:

(1) Number. No minimum number of charging station spaces is required.

(2) Minimum Parking Requirements. An electric vehicle charging station space may be included in the calculation for minimum required parking spaces that are required pursuant to other provisions of code.

(3) Location and Design Criteria. The provision of electric vehicle parking will vary based on the design and use of the primary parking lot. The following required and additional locational and design criteria are provided in recognition of the various parking lot layout options:

(A) Where provided, parking for electric vehicle charging purposes is required to include the following:

(i) Signage. Each charging station space shall be posted with signage indicating the space is only for electric vehicle charging purposes. Days and hours of operations shall be included if time limits or tow-away provisions are to be enforced.

(ii) Maintenance. Charging station equipment shall be maintained in all respects, including the functioning of the charging equipment. A phone number or other contact information shall be provided on the charging station equipment for reporting when the equipment is not functioning or other problems are encountered.

(iii) Accessibility. Where charging station equipment is provided within an adjacent pedestrian circulation area, such as a sidewalk or accessible route to the building entrance, the charging equipment shall be located so as not to interfere with accessibility requirements of WAC 51-50-005.

(iv) Lighting. Where charging station equipment is installed, adequate site lighting shall exist, unless charging is for daytime purposes only.

(B) Parking for electric vehicles should also consider the following:

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(i) Notification. Information on the charging station, identifying voltage and amperage levels and any time of use, fees, or safety information.

(ii) Signage. Installation of directional signs at the parking lot entrance and at appropriate decision points to effectively guide motorists to the charging station space(s).

(c) Where electric vehicle charging stations are provided in parking lots or parking garages, accessible electric vehicle charging stations shall be provided as follows:

(1) Accessible electric vehicle charging stations shall be provided in the ratios shown on the following table:

Number of EV Charging Stations	Minimum Accessible EV Charging Stations
1 – 50	1
51 – 100	2
101 – 150	3

(2) Accessible electric vehicle charging stations should be located in close proximity to the building or facility entrance and shall be connected to a barrier-free accessible route of travel. It is not necessary to designate the accessible electric vehicle charging station exclusively for the use of disabled persons. Below are two options for providing for accessible electric vehicle charging stations:

Figure: Off-Street Accessible Electric Vehicle Charging Station – Option 1

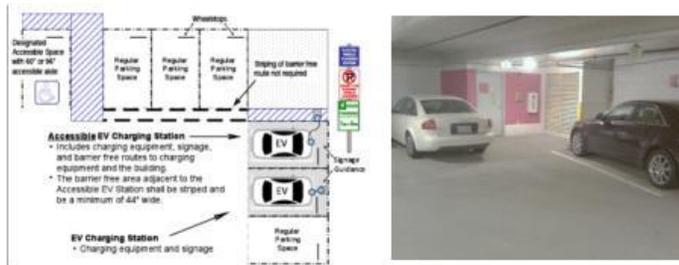
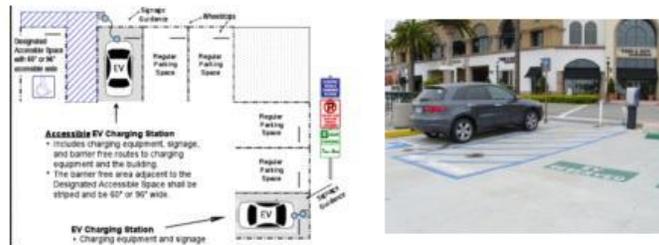


Figure: Off-Street Accessible Electric Vehicle Charging Station – Option 2



(d) Signage, Directional. Off-street parking lot or parking garage:

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12" x 12"



12" x 6"

(e) Off-Street EV Parking – Parking Space with Charging Station Equipment.



12" x 18"



12" x 18"

(Ord. 1667 § 23, 2020; Ord. 1562 § 42, 2015; Ord. 1509 § 13, 2011).

22.58.026 Floor area ratio (FAR) standards.

(a) The intent of FAR standards is to ensure the size of detached single family dwellings will be scaled proportionally to the size of the lots on which they are situated so that new infill development will be generally consistent in scale and proportion with previously constructed homes and neighborhoods in the city. FAR standards

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should be used in conjunction with other bulk requirements and design standards and guidelines to be effective in achieving this intent.

(b) FAR is the ratio of the total floor area of buildings on a site to the size of the land at that location. FAR is the total building square footage divided by the total site area square footage, except as noted below.

(c) Floor area for purposes of calculating FAR and maximum floor area does not include the following:

(1) Attic floor area with less than five feet of ceiling height, as measured between the finished floor and the supporting members for the roof, and attics with structural roof trusses and usable attic space that is completely contained within the roof area (excluding dormers).

(2) Basement floor area with a ceiling height less than four feet above the finished grade, as defined in FMC 22.98.321. Ceiling height will be measured to the top of the structural members of the floor above.

(3) The first 600 square feet of detached accessory building floor area on a lot.

(4) Uncovered and covered decks, porches, and walkways.

(d) Floor area with a ceiling height greater than 16 feet shall be calculated at twice the actual floor area toward allowable FAR.

(e) FAR is calculated using a site's buildable area, excluding critical areas and their required associated buffers. (Ord. 5162 § 43, 2015).

22.58.027 Cottage housing.

(a) Purpose and Intent. The provisions of this section are available as alternatives to the development of typical detached single-family homes. In the event of a conflict between the standards in this section and other standards in this title, the standards in this section shall control. These standards are intended to address the changing composition of households and the need for smaller, more diverse, and, often, more affordable housing choices. Providing for a variety of housing types also encourages innovation and diversity in housing design and site development, while ensuring compatibility with surrounding single-family residential development. These provisions support the growth management goal of more efficient use of urban residential land.

(b) Housing Types Defined. The following definitions apply to the housing types allowed through the provisions in this section:

(1) "Cottage" means a detached, single-family dwelling unit containing 1,500 square feet or less of gross floor area.

(2) "Carriage unit" means a single-family dwelling unit, not to exceed 800 square feet in gross floor area, located above a garage structure in a cottage housing development.

(3) "Two-/three-unit home" means a structure containing two dwelling units or three dwelling units, not exceeding 1,000 square feet per unit on average, designed to look like a detached single-family home.

(c) Applicable Use Zones. Cottages, carriage units and two-/three-unit homes as described in this section may be located in the R-4-C, GC and MUN zones.

(d) Parameters for Cottages, Carriage Units and Two-/Three-Unit Homes.

(1) Cottage.

Unit Size	Maximum: 1,500 square feet, excluding garage. Cottages may not exceed 1,000 square feet on the main floor. Any additions or increases in unit sizes after initial construction shall be subject to compliance
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	with all cottage housing development standards.
Maximum Density	8 units per acre.
Minimum Lot Size	None. Lot sizes shall be determined through administrative design review process.
Maximum Floor Area Ratio (FAR)	0.35. FAR is calculated using a site's buildable area, including private street area and excluding critical areas and their required associated buffers. FAR for individual lots may vary. See FMC 22.58.026 for FAR standards.
Development Size ¹	Minimum: 6 units. Maximum: 24 units. Minimum cluster size: 6 units. Maximum cluster size: 12 units. Cottage clusters may be integrated into small lot developments where the combined number of cottage and small lot units may exceed 24.
Minimum Setback for Yards Abutting the Exterior Boundary of the Development	See underlying zoning district. Required setbacks for yards not abutting an exterior boundary shall be determined through the administrative design review process.
Maximum Impervious Surface Coverage	50%. Coverage is calculated using a cottage housing site's entire buildable area, including private street area and excluding critical areas and their required associated buffers.
Maximum Height for Dwellings	27 feet (where minimum roof slope of 6:12 for all parts of the roof above 18 feet is provided). Otherwise, 18 feet.
Maximum Height for Accessory Structures	One story, not to exceed 18 feet.
Maximum Developable Slope	15%
Open Space	400 square feet common open space required per unit. 300 square feet private open space required per unit. See subsections (e)(2) and (3) of this section.
Community Buildings	At least one community building shall be provided. See subsection (e)(4) of this section.
Attached Covered Porches	Each unit must have a covered porch with a minimum area of 64 square feet and a minimum dimension of 8 feet.
Parking Requirements	Units ≤ 800 square feet: 1 space per unit minimum. Units > 800 square feet: 1.5 spaces per unit minimum. Must be provided on the subject property. Additional shared guest parking may not exceed 0.5 spaces per unit.
Garage Requirements	Private garages: 250-square-foot maximum floor area. Shared garages: 1,200-square-foot maximum floor area. Front loaded garages shall be recessed ≥10 feet from the front facade of the cottage and their visual impact shall be minimized through the use of architectural design elements.
Driveway Requirements	Driveways providing access to front loaded garages shall consist of paved runner strips or pervious surfacing approved by the city.

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Accessory Dwelling Units (ADUs)	Not permitted as part of a cottage housing development.
Development Options	Subdivision, condominium, rental or ownership.
Review Process	Administrative design review. See Chapter 22.66 FMC.

¹ Cluster size is intended to encourage a sense of community among residents. Homes within a cluster generally orient toward each other, community open space, or pathways and are not separated by roads or critical areas. A development site may contain more than one cluster provided there is a clear separation between clusters. Clusters shall be connected via pedestrian pathway(s).

(2) Carriage Unit.

Unit Size	Maximum 800 square feet.
Maximum Density	8 units per acre for all cottages, carriage units, and two-/three-unit homes located within a cottage housing development. The number of carriage units and two-/three-unit homes combined shall not exceed 20% of the total number of units in a cottage housing project. Carriage units are allowed only when included in a cottage housing project.
Minimum Lot Size	None. Determined through administrative design review process.
Maximum Floor Area Ratio (FAR)	0.35. FAR is calculated using a cottage housing site's buildable area, including private street area and excluding critical areas and their required associated buffers. See FMC 22.58.026 for FAR standards.
Minimum Setback for Yards Abutting the Exterior Boundary of the Development	See underlying zoning district. Required setbacks for yards not abutting an exterior boundary shall be determined through the administrative design review process.
Maximum Height	18 feet.
Maximum Developable Slope	15%
Parking Requirements	1 space per unit minimum. Must be provided on the subject property. Additional shared guest parking may not exceed 0.5 spaces per carriage unit.
Garage Requirements	Carriage units allowed only above detached shared garages, which shall not exceed a 1,200-square-foot maximum footprint area.
Review Process	Administrative design review. See Chapter 22.66 FMC.

(3) Two-/Three-Unit Home.

Unit Size	Average unit size: 1,000 square feet, excluding garage. Maximum structure total floor area: two-unit: 2,000 square feet, excluding garages. Three-unit: 3,000 square feet, excluding garages.
Maximum Density	8 units per acre for all cottages, carriage units, and two-/three-unit homes located

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	within a cottage housing development. The number of carriage units and two-/three-unit homes combined shall not exceed 20% of the total number of units in a cottage housing project. Carriage units are allowed only when included in a cottage housing project.
Minimum Lot Size	None. Determined through administrative design review process.
Maximum Floor Area Ratio (FAR)	0.35. FAR is calculated using a cottage housing site's buildable area, including private street area and excluding critical areas and their required associated buffers. See FMC 22.58.026 for FAR standards.
Minimum Setback for Yards Abutting the Exterior Boundary of the Development	See underlying zoning district. Required setbacks for yards not abutting an exterior boundary shall be determined through the administrative design review process.
Maximum Height	27 feet (where minimum roof slope of 6:12 for all parts of the roof above 18 feet is provided). Otherwise, 18 feet.
Parking Requirements	Units ≤ 800 square feet: 1 space per unit minimum. Units > 800 square feet: 1.5 spaces per unit minimum. Must be provided on the subject property. Additional shared guest parking may not exceed 0.5 spaces per unit.
Garage Requirements	A two-unit home may include attached or detached garages, not to exceed an additional 500 square feet combined. A three-unit home may include attached or detached garages, not to exceed an additional 750 square feet combined. Front loaded attached garages shall be recessed ≥10 feet from the front facade of the principal structure and their visual impact shall be minimized through the use of architectural design elements. No more than three single garage doors may be visible on any facade.
Driveway Requirements	Driveways providing access to front loaded garages shall consist of paved runner strips or pervious surfacing approved by the city.
Development Options	Subdivision, condominium, rental or ownership.
Review Process	Administrative design review. See Chapter 22.66 FMC.

(e) Design Standards and Guidelines.

(1) Orientation of Dwelling Units. Dwellings within a cottage housing development should be oriented to promote a sense of community, both within the development and, with respect to the larger community, outside of the cottage project. A cottage housing development should not be designed to “turn its back” on the surrounding neighborhood.

(A) Each dwelling unit shall have a primary entry and/or covered porch oriented to the common open space or pathway connecting to the common open space.

(B) Each dwelling unit abutting a public right-of-way (not including alleys) shall have an inviting facade, such as a primary or secondary entrance or porch, oriented to the public right-of-way. If a dwelling unit

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abuts more than one public right-of-way, the city shall determine to which right-of-way the inviting facade shall be oriented.

(C) Each dwelling unit abutting a public right-of-way (not including alleys) shall incorporate facade modulation, windows, and roofline variations to avoid blank walls that orient to the public right-of-way.

(2) Required Common Open Space. Common open space shall provide a sense of openness, visual relief, and community for cottage developments. The space must be located outside of critical areas and their buffers and developed and maintained to provide for passive and/or active recreational activities for the residents of the development.

(A) Each area of common open space shall be in one contiguous and usable piece with a minimum dimension of 20 feet on all sides.

(B) Land located between dwelling units and an abutting right-of-way or access easement may not serve as required common open space, unless the area is reserved as a separate tract, and does not contain pathways leading to individual units or other elements that detract from its appearance and function as a shared space for all residents.

(C) Required common open space may be divided into no more than two separate areas per cottage cluster.

(D) Common open space shall be located in a centrally located area and be easily accessible, physically and visually, to all dwellings within the cottage cluster.

(E) Sight-obscuring privacy fences that discourage interaction between neighbors may not be located within required open space areas. If fences are used to enclose common open space, they shall have at least 50 percent visually permeable elements, such as pickets, cedar split rails, iron work, or trellis treatment, and shall not exceed two feet in height.

(F) Landscaping located in common open space areas shall be designed to allow for easy access and use of the space by all residents, and to facilitate maintenance needs. Existing mature trees should be retained in accordance with FMC 22.62.009.

(G) Unless the shape or topography of the site precludes the ability to locate units adjacent to the common open space, the following standards must be met:

(i) The open space shall be located so that it will be surrounded by cottages or common buildings on at least three sides when located in a bungalow court configuration, or two sides when located in a rosewalk configuration, per form-based standards adopted pursuant to Chapter 22.57 FMC;

(ii) At least 50 percent of the units in the development shall abut a common open space. A cottage is considered to "abut" an area of open space if there is no structure, road or critical area between the unit and the open space.

(H) Surface water management facilities shall be limited within common open space areas. Low impact development (LID) features are permitted, provided they do not adversely impact access to or use of the common open space for a variety of activities. Conventional stormwater collection and conveyance tools, such as flow control and/or water quality vaults, are permitted if located underground.

(3) Private Open Space.

(A) Each cottage unit shall have a covered porch with a minimum area of 64 square feet per unit and a minimum dimension of eight feet on all sides. Porches shall be associated with primary point of entry.

(B) Each carriage unit shall have a deck or balcony, oriented toward the common open space.

(C) In addition to porches, at least 300 square feet of private, contiguous, usable open space adjacent to each individual dwelling unit shall be provided to contribute positively to the visual appearance of the development, promote diversity in planting materials, and utilize generally accepted good landscape design. The private open space shall be oriented toward the common open space to the extent possible and have no dimension less than 10 feet. The private open space shall define private residences from common areas, trails, and parking areas. If fences are used to enclose private open space, they shall have at least 50 percent visually permeable elements through the use of pickets, cedar split rails, iron work, or trellis treatment, and shall not exceed two feet in height.

(4) Community Buildings. At least one community building is required for each cottage development.

(A) Community buildings shall be at least 500 square feet on the main floor and shall have an architectural character similar to that of the dwelling units.

(B) Building height for community buildings shall not exceed the height standard for cottages.

(C) Outdoor patio space is encouraged to be provided in conjunction with community buildings.

(D) Community buildings must be located on the same site as the cottage housing development and be commonly owned by the residents.

(5) Shared Detached Garages and Surface Parking Design. Parking areas should be located so their visual presence is minimized, and associated noise or other impacts are minimized, both within and outside the development. These areas should also maintain the single-family character along public streets.

(A) Shared detached garage structures may not exceed four single garage doors per building, and a total of 1,200 square feet. Carriage units are preferred above these garage structures.

(B) For shared detached garages, the design of the structure must be similar to and compatible with that of the dwelling units within the development. Garage doors shall be painted to match, or minimize contrast with, the building's body color in order to minimize their visual impact.

(C) Shared detached garage structures and surface parking areas must be screened from streets and adjacent residential uses by landscaping or architectural screening.

(D) Shared detached garage structures shall be reserved through a covenant for the parking of vehicles owned by the residents of the development. Storage of items which preclude the use of the parking spaces for vehicles is prohibited.

(E) Surface parking areas may not be located in clusters of more than four spaces. Clusters must be separated by a distance of at least 20 feet.

(F) Carports are not permitted.

(6) Low Impact Development. The proposed site design shall incorporate the use of low impact development (LID) strategies to meet stormwater management standards. LID is a set of techniques that mimic natural watershed hydrology by slowing, evaporating/transpiring, and filtering water, which allows water to soak into the ground closer to its source. The design should seek to meet the following objectives:

(A) Preservation of natural hydrology.

(B) Reduced impervious surfaces.

(C) Treatment of stormwater in numerous small, decentralized structures.

(D) Use of natural topography for drainageways and storage areas.

(E) Preservation of portions of the site in undisturbed, natural conditions.

(F) Reduction of the use of piped systems. Whenever possible, site design should use multifunctional open drainage systems such as vegetated swales or filter strips which also help to fulfill landscaping and open space requirements.

(7) Two-/Three-Unit Homes and Carriage Units within Cottage Projects. Two-/three-unit homes and carriage units may be included within a cottage housing development. Design of these units should be compatible with that of the cottages included in the project.

(8) Variation in Unit Sizes, Building and Site Design. Cottage projects shall establish building and site design that promote variety and visual interest.

(A) Projects shall include a variety of unit sizes within a single development.

(B) Proposals shall provide a variety of building styles, features, colors, and site design elements within a cottage housing development.

(C) Dwellings with a similar combination of features and treatments may be clustered around a shared common open space. Developments containing two or more clusters of cottages shall use distinctively unique exterior finish materials and architectural design elements for each cottage cluster to avoid repetition.

(9) Pedestrian Flow through Development. Pedestrian connections should link all buildings to the public right-of-way, common open space, parking areas and other cottage clusters in the development.

(10) Storage Space. Storage space may be provided as follows:

(A) Detached sheds designed to be similar in character to the cottage units, using similar building materials and design elements.

(B) Storage space within detached parking structures that does not conflict with parking of vehicles in the garages.

(C) Storage space within a dwelling unit, accessible only through an external door.

(D) Designated storage space attached to a community building that is not counted toward the 500-square-foot minimum area for such buildings.

(E) Other storage space options approved through the administrative site plan review process.

(11) Landscaping. Cottage housing developments shall incorporate a landscape master plan, designed and stamped by a professional landscape architect. The design shall comply with applicable landscape standards and guidelines that address landscape components included in a cottage housing development.

(f) Review Process.

(1) Approval Process. Developments shall be processed under Chapter 22.66 FMC, Administrative Design Review. Public notice for developments proposed through this section shall comply with the provisions of Chapter 22.06 FMC applicable to Type II project permit applications.

(2) Requests for Modifications to Standards. Applicants may request minor modifications to the general parameters and design standards set forth in this section. The director may modify the requirements if all of the following criteria are met:

(A) The site is constrained due to unusual shape, topography, easements, or sensitive areas.

(B) The modification is consistent with the objectives of this section.

(C) The modification will not result in a development that is less compatible with neighboring land uses.

(3) Review Criteria. In addition to the criteria established for review of development proposals in FMC 22.66.006, the applicant must demonstrate that:

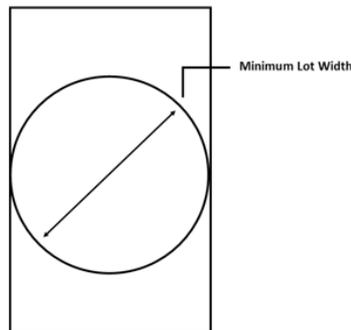
(A) The proposal is compatible with and is not larger in scale than surrounding development with respect to size of units, building heights, roof forms, setbacks between adjacent buildings and between buildings and perimeter property lines, number of parking spaces, parking location and screening, access and lot coverage.

(B) Any proposed modifications to provisions of this section are important to the success of the proposal as an alternative housing project and are necessary to meet the intent of these regulations.

(g) Additional Standards. The city's approval of a cottage housing or two-/three-unit home development does not constitute approval of a subdivision, a short plat, or a binding site plan. A lot that has cottage, carriage or two-/three-unit homes may not be subdivided unless all of the requirements of the Fircrest Municipal Code are met. A lot containing a two-/three-unit home may not be subdivided in a manner that results in the dwelling units being located on separate lots. (Ord. 1667 § 24, 2020; Ord. 1562 § 44, 2015).

22.58.028 Lot development standards.

Newly created lots shall be of such shape that a circle with a diameter equal to the minimum lot width specified for the zone in which the lot is located can fit within the boundary of the lot, as shown below:



(Ord. 1562 § 45, 2015).

22.58.029 Establishments serving liquor for on-premises consumption.

(a) Establishments licensed by the State of Washington Liquor and Cannabis Board to serve beer, beer and wine, or spirits, beer and wine for on-premises consumption are permitted in specified zoning districts. Such establishments providing outdoor customer seating are subject to administrative use permit approval in accordance with Chapter 22.70 FMC.

(b) At a minimum, the following performance standards shall apply to establishments serving beer, beer and wine, or spirits, beer and wine for on-premises consumption within the NC district. Additional requirements may be imposed in accordance with Chapter 22.70 FMC for those establishments providing outdoor customer seating in the NC district. Establishments operating out of compliance with the following provisions are subject to enforcement action under Chapter 22.95 FMC:

(1) Hours of Operation. The sale, service, and consumption of alcohol are prohibited after 10:00 p.m.

(2) Outdoor Customer Seating. Outdoor seating may be provided for customer use no later than 8:00 p.m. on Sundays through Thursdays, and no later than 9:00 p.m. on Fridays and Saturdays. Outdoor seating areas shall

be closed to customers during other times. A 30-minute grace period is allowed for staff to clean the outdoor premises after customer seating hours have ended. The city may limit the amount of outdoor customer seating to minimize potential impacts on residentially zoned properties.

(3) Speakers. Music or other programming emanating from any outdoor speakers on the premises shall only be allowed during approved outdoor customer seating hours.

Sounds coming from speakers on the premises, whether located inside or outside the building, shall not be audible from residentially zoned properties.

(4) Bottle Handling. Bottles and other trash and recyclable materials shall not be deposited in any exterior refuse or recycling totes, dumpsters, or other receptacles during the hours of 9:00 p.m. to 7:00 a.m.

(5) Exterior Appearance. The business establishment shall maintain the exterior of its premises in a neat and clean condition at all times. All refuse collection containers, including recycling containers, shall be screened in accordance with FMC 22.58.008(d). This provision shall apply to new establishments as well as establishments existing on the effective date of the ordinance codified in this section that expand business operations to include the sale of liquor by the drink for on-premises consumption.

(6) Exterior Lighting. Exterior lighting shall comply with the outdoor lighting regulations in FMC 22.58.018 to ensure that it does not impact nearby properties.

(7) Sidewalk Cafes. A business establishment intending to establish outdoor business seating on a public sidewalk or other public right-of-way area shall comply with the sidewalk cafe regulations in FMC 22.58.017.

(c) The performance standards listed in subsection (b) of this section shall apply to establishments in the MUN and MUU districts serving beer, beer and wine, or spirits, beer and wine for on-premises consumption, except that for subsections (b)(1), (2), and (4) of this section, alternative hours of operation, outdoor customer seating hours, and bottle handling hours may be authorized through the administrative use permit approval process in accordance with Chapter 22.70 FMC. Additional requirements may be imposed in accordance with Chapter 22.70 FMC for those establishments providing outdoor customer seating. (Ord. 1667 § 25, 2020; Ord. 1611 § 18, 2018; Ord. 1568 § 4, 2015).

22.58.030 Permanent supportive housing, transitional housing, emergency housing, emergency shelters.

(a) Purpose. The purpose of allowing permanent supportive housing, transitional housing, emergency housing, and emergency shelters is to expand on the types of housing that may be developed in Fircrest, with a particular focus on allowing housing types that are likely more affordable or those that intentionally provide temporary shelter and services to transition a person into stable, permanent housing.

(b) Approval. Permanent supportive housing, transitional housing, emergency housing, and emergency shelters may be approved by the director subject to administrative use permit approval in accordance with Chapter 22.70 FMC, provided the standards and criteria in subsection (c) of this section are met by the proposal.

(c) Standards and Criteria. Permanent supportive housing, transitional housing, emergency housing, and emergency shelters shall meet the following standards and criteria:

(1) There shall be no more than one permanent supportive housing facility, transitional housing facility, emergency housing facility, or emergency shelter allowed on any given lot.

(2) Prior to the start of operation for a permanent supportive housing facility, transitional housing facility, emergency housing facility, or emergency shelter, an Operational Agreement shall be prepared by the facility and submitted to the city meeting the following requirements. The city shall review and determine that the Operational Agreement meets the following requirements before approving an administrative use permit for the facility:

(A) Permanent supportive housing facilities and transitional housing facilities are limited to a maximum of four adult residents at any one time, plus up to two resident staff.

(B) Off-street parking shall be provided as set forth in FMC Chapter 22.60.

(C) Names and 24-hour available contact information for onsite staff. The operator of the facility shall notify the city of any staff changes and changed contact information as an agreed component of the operational agreement.

(D) Description of services to be provided onsite, including ancillary support services.

(E) Rules and/or Code of Conduct describing resident expectations and consequences for failing to comply.

(F) A plan for avoiding potential impacts on nearby residences, including a proposed mitigation approach that addresses items such as parking, security, and refuse collection.

(G) Description of eligibility for residency and resident screening process. Each facility shall conduct a criminal background investigation and shall disallow residency or facility use to any person convicted of felony assault, arson, illegal drug manufacturing, burglary, kidnapping, or other violent offense as defined by RCW 9.94A.030 as existing or hereafter amended or recodified.

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Chapter 22.60

PARKING AND CIRCULATION

Sections:

- 22.60.001 Purpose and intent.
- 22.60.002 Chapter application.
- 22.60.003 Parking space requirements per activity.
- 22.60.004 Parking demand reduction credit.
- 22.60.005 Shared parking facilities.
- 22.60.006 Maximum parking space provisions.
- 22.60.007 Location of off-street spaces.
- 22.60.008 Parking and driveway design standards.
- 22.60.009 Barrier-free parking requirements.
- 22.60.010 Bicycle parking facilities.
- 22.60.011 Loading space requirements.
- 22.60.012 Stacking spaces for drive-through facilities.
- 22.60.013 Pedestrian circulation and access.
- 22.60.014 Transit facilities.
- 22.60.015 Parking reductions for temporary outdoor sales events.
- 22.60.016 Micromobility vehicles and facilities.

22.60.001 Purpose and intent.

(a) Purpose. The purpose of this chapter is to provide for adequate, convenient and safe off-street parking, loading and circulation areas for the permitted land uses described in this title; to protect neighborhoods from the effects of vehicular noise, traffic, and light and glare associated with parking and loading facilities; to reduce the amount of impervious surfaces associated with parking facilities; to reduce demand for parking by encouraging alternative means of transportation including public transit, rideshare and bicycles; and to increase pedestrian mobility within the community.

(b) Intent. The demand for parking responds to changing market forces, technology, and societal preferences. Minimum parking standards have resulted in development patterns dominated by expanses of parking perceived as visual blight, damaging to the environment, and low value in terms of tax base. The amount of parking provided on a site frequently exceeds parking demand – at considerable cost to property and business owners – and the community. In response, municipalities have adopted parking standards that restrict the amount of off-street parking provided for certain uses or locations. These constraints, however, may limit the viability of retail and other uses in some markets. Other municipalities have eliminated minimum parking space requirements and relied on the market to provide an appropriate number.

This chapter supports a transition toward relying on the market to determine parking supply but also reflects community concern that neighborhoods may be impacted by individual market-based decisions that collectively result in an undersupply of off-street parking. The intent of this chapter, therefore, is to balance market considerations with minimum and maximum numerical standards to ensure a sufficient, but not excessive, supply of parking – and authorize the city to approve an increase, or decrease, in the amount of parking being provided relative to a specified standard when a proposal can meet criteria. (Ord. 1667 § 26, 2020; Ord. 1246 § 16, 2000).

22.60.002 Chapter application.

New development, alteration to or an expansion of an existing development, and a change in use of a structure or lot, shall comply with the applicable requirements of this chapter.

(a) New Construction. Parking, loading and circulation shall be provided in accordance with this chapter for all new construction and lot development.

(b) Existing Development or Use. Parking, loading and circulation area requirements for alteration or expansion of existing developments or for a change or increase in intensity of use, shall be in accordance with the following:

(1) If the alteration, expansion or increase in intensity would require the addition of 20 percent or five or more additional off-street parking spaces, then the entire parking, loading and circulation area must be brought into conformance with this chapter.

(2) If the alteration, expansion or increase in intensity would require the addition of less than 20 percent or five parking spaces, then only the additional area devoted to parking, loading and circulation must conform with this chapter. (Ord. 1246 § 16, 2000).

22.60.003 Parking space requirements per activity.

The following tables identify the minimum number of parking spaces required to be provided for each activity unless a reduction is authorized in accordance with this chapter. The director or hearing examiner, as specified in this chapter, shall determine the actual required spaces for a proposed activity based on the tables below, the requirements of this chapter and on actual field experience.

If the formula for determining the number of off-street parking spaces results in a fraction, the number of spaces shall be rounded to the nearest whole number with fractions greater than or equal to one-half rounding up and fractions less than one-half rounding down. In the following tables, “sf” means square feet of gross floor area, and “du” means dwelling unit, unless otherwise noted.

(a) Residential and Lodging Activities.

Use	Required Spaces
Single-family (detached)	2 per du.
Duplex	1.5 per du.
Cottage housing	1 per du ≤ 800 sf; 1.5 per du > 800 sf. Shared guest parking not to exceed 0.5 per du.
Single-family (detached) in small lot development	2 per du + 1 guest stall.
Single-family (attached) in small lot development	1.5 per du + 1 guest stall.
Multifamily	1.00 per du.
Multifamily – Efficiency units (250 – 450 sf in size), student housing, and affordable senior housing*	0.6 per du.
Congregate care facility	0.5 per du.
Group residences, including hospice care center, residential care facility, and residential treatment facility	0.5 per bedroom.
<u>Permanent supportive housing and transitional housing</u>	<u>0.5 per bedroom</u> ± 1 per staff.
<u>Emergency housing and emergency shelters</u>	<u>0.5 per bed + 1 per staff.</u>
Accessory dwelling unit (ADU)	None.
Short-term rentals	See FMC 22.58.011.
Hotel/motel	1 per guest room.

Commented [KM1]: At their January meeting, the Planning Commission asked that a parking reduction be allowed for facilities that exclusively serve those with medical disabilities to drive. I do not recommend this language, for the following reasons:
 1. In general, unenforceable code is not ideal to codify. The City would be challenged in enforcing this kind of provision, both in identifying a violation and in enforcing corrective action.
 2. The persons occupying this type of housing can change regularly, and there may not be the opportunity to add parking should persons able to drive wish to take place of a prior non-driving resident.
 3. Requiring confirmation of medical disabilities to drive could violate protected information.

Commented [JE2R1]: I agree with Kim's assessment here.

Commented [KM3]: Fircrest is not required to comply with recent statutes requiring a reduction in off-street parking for certain uses (HB 1491 & SB 5184). This footnote is being added to address feedback from Planning Commission and borrows on proximal distances and definitions sourced from these recent laws.

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¹ Emergency housing and emergency shelters within 0.25 miles of a major transit stop are required to only provide 0.25 parking spaces per bed.

* “Affordable” means dwelling units priced, rented, or leased only to those households earning 80 percent or less of the median household income for Pierce County, Washington. “Senior” means dwelling units specifically designed for and occupied by elderly persons under a federal, state or local government program or occupied solely by persons who are 62 or older or houses at least one person who is 55 or older in at least 80 percent of the occupied units, and adheres to a policy that demonstrates intent to house persons who are 55 or older.

(b) Commercial Activities.

Use	Required Spaces
Commercial use, including retail, service, office, and financial institution	1 per 400 sf.
Mixed use, including a combination of retail, office, service, recreational and/or residential uses	See subsection (i) of this section, Joint Use.
Laboratory, including medical, dental, and optical	1 per 500 sf.
Food-serving establishment	1 per 200 sf.
Uncovered commercial area, including vehicle lots and plant nursery	1 per 5,000 sf of retail sales + any parking requirements for buildings.
Motor vehicle repair and services	1 per 400 sf (indoor maintenance bays shall not be considered parking spaces).
Child day-care	2 per facility + 1 per 20 children.
Veterinary clinic	1 per 400 sf.
Mortuary or funeral home	1 per 100 sf of floor area used for services.

(c) Educational Activities.

Use	Required Spaces
Elementary, intermediate, middle or junior high school	1 per classroom + 1 per 50 students.
High school	1 per classroom + 1 per 10 students.
Vocational school	1 per classroom + 1 per 5 students.
Preschool	1 per 6 children.

(d) Industrial Activities.

Use	Required Spaces
Manufacturing	1 per 1,000 sf (less office and display space) + 1 per 400 sf of office space + 1 per 500 sf of display space.
Technological or biotechnological laboratory or testing facility	1 per 1,000 sf (less office space) + 1 per 400 sf of office space.

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Use	Required Spaces
Speculative light industrial building with multiple use or tenant potential	1 per 1,500 sf for initial 100,000 sf + 1 per 2,000 sf for remainder of building (less office space). 1 per 400 sf of office space.
NOTE: For each new use or tenant the property owner shall submit a scaled parking plan indicating the assigned parking for the applicable building.	NOTE: This is a minimum requirement valid for construction purposes only. Parking requirements shall be based upon actual occupancy.
Outdoor storage area	1 per 5,000 sf of storage area.

(e) Recreational, Amusement and Assembly Activities.

Use	Required Spaces
Auditorium, theater, place of public assembly, stadium or outdoor sports arena	1 per 4 fixed seats or 1 per 175 sf of main auditorium or of principal place of assembly not containing fixed seats + 1 per 300 sf of office.
Bowling alley	3 per lane.
Skating rink	1 per 200 sf.
Golf course	4 per hole, plus as required for associated uses including clubhouse, pro shop and maintenance facility.
Golf driving range	1 per driving station.
Miniature golf course	1 per hole.
Health club, dance studio	1 per 300 sf.

(f) Public, Institutional, Medical and Religious Activities.

Use	Required Spaces
Government facility	1 per 300 sf of office space; 1 per 1,000 sf of indoor storage or repair area associated with public agency yard. Other use areas shall be calculated based on the above requirements and, if applicable, the shared parking facilities provisions in FMC 22.60.005.
Library, museum, or gallery	1 per 500 sf.
Civic, labor, social or fraternal organization	1 per 300 sf.
Convalescent, nursing or rest home	1 per 3 beds + 0.5 per employee.
Religious institution	1 per 8 seats in the main sanctuary including balconies and choir lofts. Other use areas shall be calculated based on the above requirements and, if applicable, the shared parking

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Use	Required Spaces
	facilities provisions in FMC 22.60.005.

- (g) Other Uses. For uses not specifically identified in this chapter, the amount of parking required shall be based on the requirements for similar uses as determined by the director or hearing examiner, as appropriate.
- (h) Speculative Use. When the city has received an application for a site plan approval or other permits for a building shell without tenant uses being specified, off-street parking requirements shall be based on the possible tenant improvements or uses authorized by the zone designation and compatible with the limitations of the site plan or other permit. When the range of possible uses results in different parking requirements, the director or hearing examiner, as appropriate, will establish the amount of parking based on a likely range of uses.
- (i) Joint Use. In the case of two or more uses in the same building or on the same lot, for example within a mixed-use development that includes retail, residential and other uses, the total requirements for off-street parking facilities shall be the sum of the requirements for the various uses computed separately. Off-street parking facilities for one use shall not be considered as providing required parking facilities for any other use. However, an applicant may request a parking demand reduction credit per FMC 22.60.004 and/or a shared parking facilities credit per FMC 22.60.005 to reduce the overall parking requirement. The director or hearing examiner, as appropriate, shall be responsible for determining the various uses within a building or on a lot and the resulting parking requirements for each use. (Ord. 1667 § 27, 2020; Ord. 1638 § 27, 2019; Ord. 1562 § 46, 2015; Ord. 1506 § 1, 2011; Ord. 1470 § 1, 2009; Ord. 1311 § 32, 2002; Ord. 1246 § 16, 2000).

22.60.004 Parking demand reduction credit.

A property owner may request a reduction from the minimum required off-street parking by substantiating that parking demand will be reduced for the life of the project. This request shall be reviewed in conjunction with a site plan, conditional use permit, or preliminary development plan application. In such cases, the hearing examiner may approve a reduction of up to 50 percent of the minimum required number of spaces if a parking demand study prepared by a professional traffic engineer (see Urban Land Institute – Shared Parking: Second Edition for a recommended parking demand analysis methodology) substantiates that:

- (a) Because of the unique nature of the use, the characteristics of the site and surrounding neighborhood, the availability of alternative means of transportation, proximity to regional transit facilities, the provision of car share, rideshare or micromobility facilities, or other relevant local factors, parking demand can be met with a reduced number of spaces; or
- (b) A shared parking facility designed in accordance with FMC 22.60.005 will effectively reduce parking demand to a level below the minimum required parking; or
- (c) A combined parking facility for two or more complementary uses which have similar hours of operation will reduce parking demand to a level below the minimum required parking. The hearing examiner may authorize a five percent reduction for two complementary uses, a 10 percent reduction for three uses, and a 15 percent reduction for four or more uses; or
- (d) An employee-sponsored commute trip reduction program designed in accordance with state law will effectively reduce parking demand below the minimum required parking; or
- (e) Additional public on-street parking will be provided as part of the project. (Ord. 1667 § 28, 2020; Ord. 1638 § 28, 2019; Ord. 1246 § 16, 2000).

22.60.005 Shared parking facilities.

A property owner may submit a request for a shared parking facility as part of a site plan, conditional use permit, or preliminary development plan application. In such case, the hearing examiner may reduce the number of required off-street parking spaces when shared parking facilities for two or more uses are proposed, provided:

- (a) The total parking area exceeds 5,000 square feet;

(b) The parking facilities are designed and developed as a single on-site common parking facility, or as a system of on-site and off-site facilities, if all parking facilities are connected with improved pedestrian walkways, and no building or use involved is more than 600 feet from the most remote shared facility unless transportation is provided between the parking generator and parking facility;

(c) The amount of the reduction shall not exceed 10 percent for each use, unless:

(1) The normal hours of operation for each use are separated by at least one hour; or

(2) A parking demand study prepared by a professional traffic engineer documents that the hours of actual parking demand for the proposed uses will not conflict and that uses will be served by adequate parking if shared parking reductions are authorized;

(d) The total number of parking spaces in the common parking facility is not less than the minimum required spaces for any single use;

(e) A covenant or other contract for shared parking between the cooperating property owners is approved by the hearing examiner and city attorney. This covenant or other contract must be recorded with the Pierce County auditor as a deed restriction on both properties and cannot be modified or revoked without the consent of the hearing examiner and city attorney; and

(f) If any requirements for shared parking are violated, the affected property owners must provide a remedy satisfactory to the hearing examiner and city attorney or provide the full amount of required off-street parking for each use, in accordance with the requirements of this chapter. (Ord. 1638 § 29, 2019; Ord. 1246 § 16, 2000).

22.60.006 Maximum parking space provisions.

For multifamily residential, commercial and industrial uses, the number of off-street parking spaces provided shall not exceed 120 percent of the minimum required number of spaces specified in FMC 22.60.003. A property owner may submit a request as part of a site plan, conditional use permit, or preliminary development plan application to provide parking spaces in excess of the maximum allowable number. The hearing examiner may approve an increase of up to 50 percent of the minimum required number of spaces if:

(a) A parking demand study prepared by a professional traffic engineer (see Urban Land Institute – Shared Parking: Second Edition for a recommended parking demand analysis methodology) supports the need for increased parking and demonstrates that:

(1) Shared and combined parking opportunities in FMC 22.60.005 have been fully explored and will be utilized to the extent practicable;

(2) On-site park and ride facilities have been fully explored and will be provided to the extent practicable;

(3) Commute trip reduction measures will be implemented, if required by state law, to the extent practicable.

(b) The project has been designed to include the following design elements, facilities, and programs to the satisfaction of the hearing examiner. In those instances where site constraints impede compliance with the design requirements, written findings of fact shall be made identifying site and project constraints and included in the final notice of decision. In its findings, the hearing examiner shall determine if a good faith effort has been made in building and site design to accommodate the following design elements, facilities, and programs:

(1) The excess parking spaces shall be located within an enclosed parking structure or constructed of enhanced paving materials such as permeable interlocking pavers, pervious concrete, or porous asphalt that support stormwater infiltration and/or achieve a superior appearance.

(2) Alternative parking lot designs shall be utilized to reduce impervious surface, e.g., one-way instead of two-way access aisles.

(3) The amount of required landscaping within the area of additional parking shall be doubled. This additional landscape area may be dispersed throughout the parking lot.

(4) A minimum of 75 percent of the parking spaces shall be located behind the building, and the remainder shall not be located within the minimum and maximum yard setback areas adjoining a street. Parking lots located along flanking streets shall have added landscape and a superior design to strengthen pedestrian qualities, e.g., low walls, street furniture, seating areas, public art, etc.

(5) Preferential parking shall be located near primary building entrances for employees who rideshare and for high occupancy vehicles, if applicable.

(6) The developer shall create a transit/rideshare information center and place it in a conspicuous location on the premises.

(7) For sites located adjacent to or within 600 feet of a Pierce Transit bus or van route, the developer shall fund the purchase and installation of a transit shelter package, including seating, trash receptacle and related facilities for each side of the street which has a transit route, consistent with Pierce Transit operational needs in accordance with FMC 22.60.014. (Ord. 1667 § 29, 2020; Ord. 1638 § 30, 2019; Ord. 1562 § 47, 2015; Ord. 1246 § 16, 2000).

22.60.007 Location of off-street spaces.

(a) For single-family and duplex dwellings, the parking spaces shall be located on the same lot as the associated dwelling unit.

(b) For multifamily dwellings, the parking spaces shall be located on the same lot as associated dwelling units. The spaces may also be located on a contiguous lot if within 600 feet of the dwelling units and if the lot is legally encumbered by an easement or other appropriate means approved by the director and city attorney to ensure continuous use of the parking facilities.

(c) For nonresidential uses, the parking spaces shall be located on the same lot as the associated use. The spaces may also be located on a contiguous or noncontiguous lot if within 600 feet of the associated use and authorized as a shared parking facility in accordance with FMC 22.60.005. (Ord. 1246 § 16, 2000).

22.60.008 Parking and driveway design standards.

(a) Parking Space and Driveway/Aisle Dimensions. The parking space and aisle dimensions for the most common parking angles are shown in the accompanying table. For parking angles other than those shown on the table, the parking space and aisle dimensions shall be determined by the director or hearing examiner, as appropriate. Regardless of the parking angle, one-way aisles shall be at least 12 feet wide, and two-way aisles shall be at least 19 feet wide.

Space and Driveway/Aisle Dimensions

	<i>Space Angle (degrees)</i>				
	0° (parallel)	30°	45°	60°	90°
<i>Space Width (ft)</i>					
Regular space	8.5 – 9	8.5 – 9	8.5 – 9	8.5 – 9	8.5 – 9
Compact space	8 – 8.5	8 – 8.5	8 – 8.5	8 – 8.5	8 – 8.5
<i>Space Depth (ft)</i>					
Regular space	22	18	18	18	18
Compact space	19	16	16	16	16
<i>Driveway/ Aisle (ft)</i>					
One-way	12	13	13	17	24

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	<i>Space Angle (degrees)</i>				
Two-way	19	20	20	20	24
* See FMC 22.60.009 for information on the accessible parking space dimensions.					

(b) Compact Car Space Requirements. The installation of compact spaces is required so that impervious surface coverage associated with parking facilities is minimized and the appearance of sites is enhanced by increasing the proportion of landscaping relative to pavement. No less than 40 percent and no more than 50 percent of the total number of spaces provided for a multifamily residential, mixed-use, or nonresidential development shall be sized to accommodate compact cars. Each space shall be clearly identified as a compact car space by painting the word “COMPACT” in capital letters, a minimum of eight inches high, on the pavement at the base of the parking space and centered between the striping. Aisle widths shall conform to the standards set for standard size cars.

(c) Extra Width Adjoining Landscaped Areas. Parking spaces abutting a landscaped area or raised walkway on the drive or passenger side of the vehicle shall provide an additional 18 inches above the minimum space width requirement. This additional space will provide a place to step other than in the landscaped area or allow for easier ingress and egress next to a vehicle. The additional width shall be separated from the adjacent landscaped area by a parking space division stripe.

(d) Parking Space Depth Reduction.

(1) Where parking spaces abut a walkway, parking space depth may be reduced by up to 18 inches and a portion of the walkway utilized for vehicle overhang; provided, that wheelstops or curbs are installed and the remaining walkway provides a minimum of five feet of unimpeded passageway for pedestrians.

(2) To minimize impervious surface and enhance landscaping, parking space pavement depth may be reduced by up to 18 inches when the pavement at the front end of a space is replaced by a landscaped area containing groundcovers which do not exceed a maximum height of six inches above parking space grade. Wheel stops or curbs shall be installed to protect this area from vehicular damage.

(e) Driveway Widths and Locations. Driveways for single-family detached dwellings shall not exceed 20 feet in width unless the director approves an alternative design that uses enhanced paving materials such as permeable interlocking pavers, pervious concrete, or porous asphalt that support stormwater infiltration and/or achieve a superior appearance. In no case shall the driveway exceed 20 feet within the public right-of-way or exceed the minimum width necessary to provide reasonable access to the dwelling. No more than one driveway is permitted to provide access to a single-family detached dwelling. Driveways for all other developments may cross required setbacks or landscaped areas to provide access between the off-street parking areas and the street; provided, that driveway width does not exceed the minimum necessary to provide safe vehicular and pedestrian circulation. Driveways oriented parallel to a street shall not be located within the minimum and maximum yard setback areas adjoining the street unless there is no other practicable alternative to provide access to the interior of a site.

(f) Lighting. Lighting shall be provided in accordance with FMC 22.58.018.

(g) Tandem Parking. Tandem or end-to-end parking is allowed in single-family detached residential developments. Duplex and multifamily developments may have tandem parking areas for each dwelling unit but shall not combine parking for separate dwelling units in tandem parking areas.

(h) Parking Surface. All required vehicle parking and storage must be in a garage, carport or on an approved, dust-free, all-weather surface. Use of enhanced paving materials such as permeable interlocking pavers, pervious concrete, or porous asphalt that support stormwater infiltration and/or achieve a superior appearance are encouraged for spaces which are used infrequently. Any surface used for vehicle parking or storage must have direct and unobstructed driveway access. (Ord. 1667 § 30, 2020; Ord. 1638 § 31, 2019; Ord. 1246 § 16, 2000).

22.60.009 Barrier-free parking requirements.

Off-street parking for physically handicapped persons shall be provided in accordance with Section 7503 of the regulations adopted pursuant to Chapter 19.27 RCW, State Building Code, and Chapter 70.92 RCW, Public Buildings – Provisions for Aged and Handicapped. Any change in the state’s handicapped parking requirements shall preempt the affected requirements of this section.

(a) Accessible Parking Required. Accessible parking spaces shall be provided per the following table:

Number of Accessible Parking Spaces	
Total Parking Spaces in Lot or Garage	Minimum Required Number of Accessible Spaces
1 – 25	1
26 – 50	2
51 – 75	3
76 – 100	4
101 – 150	5
151 – 200	6
201 – 300	7
301 – 400	8
401 – 500	9
501 – 1,000	2% of total spaces
Over 1,000	20 spaces plus 1 space every 100 spaces, or fraction thereof, over 1,000

One of every eight accessible spaces or fraction thereof shall be designed to be accessible to wheelchair side loading vans.

Exceptions:

- (1) Inpatient Medical Facilities. Twenty percent of parking spaces provided shall be accessible.
- (2) Outpatient Medical Care Facilities. Ten percent of parking spaces provided shall be accessible.
- (3) Multifamily Buildings. One accessible parking space for each fully accessible unit shall be provided. When total parking provided on site exceeds one parking space per unit, two percent of the additional parking shall be accessible.

(b) Design and Construction.

(1) Location. Accessible parking spaces shall be located on the shortest possible accessible route of travel to an accessible building entry. In facilities with multiple accessible building entries with adjacent parking, accessible parking spaces shall be dispersed and located near the accessible entrances. Wherever practical, the accessible route of travel shall not cross lanes of vehicular traffic. Where crossing traffic lanes is necessary, the route of travel shall be designated and marked as a crosswalk.

(2) Size. Accessible parking spaces shall be no less than eight feet wide and shall have an adjacent access aisle no less than five feet wide. Where two adjacent accessible spaces are provided, the access aisle may be shared between the two spaces. Access aisles shall be marked so that the aisles will not be used as parking space. Van

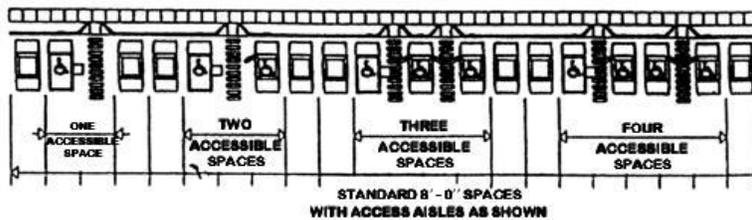
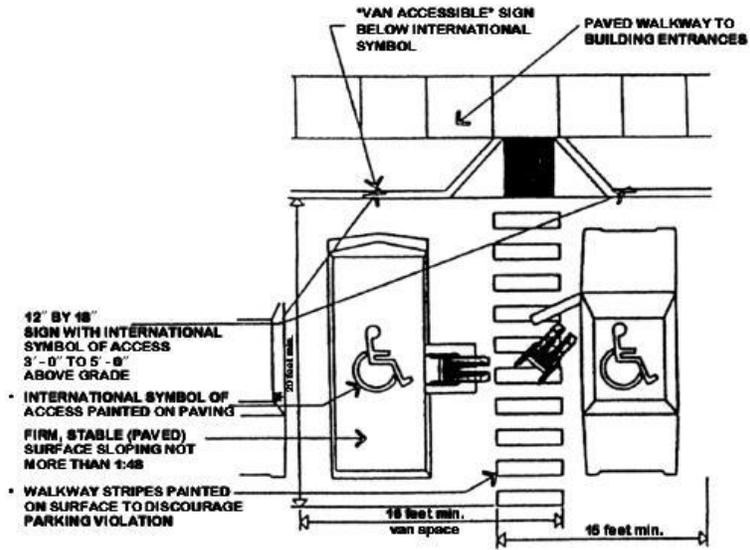
accessible spaces shall have an adjacent access aisle no less than eight feet wide or a total width of 16 feet including the parking space. See Figure 1.

(3) Vertical Clearance. Where accessible parking spaces are required for vans, the vertical clearance shall be no less than nine and one-half feet.

(4) Slope. Accessible parking spaces and access aisles shall be located on a surface with a slope not to exceed one vertical in 48 horizontal.

(5) Surface. Parking spaces and access aisles shall be firm, stable, smooth and slip resistant.

(6) Signs. Accessible spaces must be identified by signs with the international symbol of accessibility (ISA). Signs identifying van spaces must include the term "van accessible." Signs must be at least 60 inches high measured to the bottom edge so that they are visible while vehicles are parked in a space.



(Ord. 1667 § 31, 2020; Ord. 1246 § 16, 2000).

22.60.010 Bicycle parking facilities.

(a) In any development required to provide 12 or more parking spaces, bicycle parking shall be provided. Bicycle parking shall be bike rack or locker-type parking facilities unless otherwise specified.

(b) Off-street parking areas shall contain at least one bicycle parking space for every 12 spaces required for motor vehicles except as follows:

- (1) The hearing examiner may reduce bike rack or locker-type parking facilities for patrons when it is demonstrated that bicycle activity will not occur at that location.
- (2) The hearing examiner may require additional spaces when it is determined that the use or its location will generate a high volume of bicycle activity. Such a determination will include but not be limited to the following uses:

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- (A) Park and playfield;
- (B) Library, museum, and arboretum;
- (C) Elementary or secondary school; or
- (D) Recreational or amusement facility.

(c) Bicycle facilities for patrons shall be located on site, designed to allow either a bicycle frame or wheels to be locked to a structure attached to the pavement, or allow for the entire bicycle to be enclosed within a locker.

(d) All bicycle parking and storage shall be located in safe, visible areas that do not impede pedestrian or vehicle traffic flow, well lighted for nighttime use, and located in covered areas or otherwise be protected from the elements where practicable. (Ord. 1638 § 32, 2019; Ord. 1246 § 16, 2000).

22.60.011 Loading space requirements.

(a) Applicability. For all new development or uses, adequate permanent off-street loading space and associated maneuvering area shall be provided if the use requires deliveries or shipment of people, materials, and/or merchandise. Structures and uses which require loading space and associated maneuvering area include but are not limited to the following: warehouses, supermarkets, department stores, office buildings greater than or equal to 20,000 square feet, industrial or manufacturing uses, mortuary and other commercial and industrial buildings or uses which, in the judgement of the director or the hearing examiner as specified in this chapter, are similar in nature in regard to loading space and maneuvering area requirements.

(b) Quantity. One loading space shall be provided for each 12,000 square feet of floor area or fraction thereof within a building intended to be used for merchandising, manufacturing, warehousing, or processing purposes. If the building contains more than 24,000 square feet of floor area used for these purposes, then one additional space shall be provided for each additional 24,000 square feet of floor area so used. The hearing examiner may authorize a reduction or waiver based on the quantity of pick-up and delivery vehicles associated with the given structure or use.

(c) Dimensions and Location. Each loading space required by this section shall be a minimum of 10 feet wide and 30 feet long, shall have an unobstructed vertical clearance of 14 feet, six inches, and shall be surfaced, improved, and maintained as required by this chapter. Loading spaces shall be located so that trucks will not obstruct pedestrian or vehicle traffic movement or project into any public right-of-way. All loading space and maneuvering areas shall be separated from required parking areas and shall be designated as truck loading spaces. For developments with buffer yards, the loading space and maneuvering area shall be:

- (1) Located at the farthest distance from the buffer yard as practicable; and
- (2) If possible, located in such a manner that the primary building is between the buffer yard and the loading and maneuvering area.

(d) Impact Mitigations. Any loading space located within 100 feet of areas zoned for residential use shall be screened and operated as necessary to reduce noise and visual impacts. Noise mitigation measures may include architectural or structural barriers, berms, walls, or restrictions on the hours of operation.

(e) Self-Service Storage Facilities. Multi-story self-service storage facilities shall provide two loading spaces, and single-story facilities, one loading space, adjacent to each building entrance that provides common access to interior storage units. (Ord. 1638 § 33, 2019; Ord. 1246 § 16, 2000).

22.60.012 Stacking spaces for drive-through facilities.

(a) A stacking space shall be an area measuring eight feet by 20 feet with direct forward access to a service window of a drive-through facility. A stacking space shall be located to prevent any vehicle from extending onto the public right-of-way, or interfering with any pedestrian circulation, traffic maneuvering, or other parking space areas. Stacking spaces for drive-through or drive-in uses may not be counted as required parking spaces.

(b) Uses providing drive-up or drive-through services shall provide vehicle stacking spaces as follows:

(1) For each drive-up window of a bank or financial institution, business service, or other drive-through use not listed, a minimum of five stacking spaces shall be provided; and

(2) For each service window of a drive-through restaurant, a minimum of seven stacking spaces shall be provided.

(c) Generally, to reduce congestion and turning lane conflicts, drive-through facilities shall not take access from a principal arterial street. Drive-through facilities must be provided access from a secondary street or road unless a traffic and circulation study, which includes a vehicle stacking analysis, clearly demonstrates that the proposed use and site design will not result in vehicles encroaching onto the public right-of-way, or interfering with any pedestrian circulation, traffic maneuvering, or other parking space areas. (Ord. 1611 § 19, 2018; Ord. 1246 § 16, 2000).

22.60.013 Pedestrian circulation and access.

The following general pedestrian design standards shall apply to all developments throughout the city in addition to those outlined elsewhere within special planning areas and design overlay districts:

(a) All uses, except detached single-family dwellings, shall provide pedestrian access onto the site. Pedestrian access points shall be provided at all pedestrian arrival points to the development including the property edges, adjacent lots, abutting street intersections, crosswalks, and at transit stops. Pedestrian access shall be located as follows:

(1) Access points at property edges and to adjacent lots shall be coordinated with existing development to provide circulation connections between developments; and

(2) Residential developments shall provide links between cul-de-sacs or groups of buildings and nearby streets to allow pedestrian access from within the development and from adjacent developments to activity centers, parks, common tracts, open spaces, schools, or other public facilities, transit stops, and public streets.

(b) Pedestrian walkways shall form an on-site circulation system that minimizes the conflict between pedestrians and vehicular traffic at all points of pedestrian access to on-site parking and building entrances. Pedestrian walkways shall be provided when the pedestrian access point or any parking space is more than 75 feet from the building entrance or principal on-site destination and as follows:

(1) All developments which contain more than one building shall provide walkways between the principal entrances of the buildings;

(2) All nonresidential buildings set back more than 100 feet from the public right-of-way shall provide for reasonably direct pedestrian access from the building to buildings on adjacent lots; and

(3) Pedestrian walkways across parking areas shall be located as follows:

(A) Walkways running parallel to the parking rows shall be provided at a minimum of every four rows; and

(B) Walkways running perpendicular to the parking rows shall be no further than 20 parking spaces.

(c) Pedestrian access and walkways shall meet the following minimum design standards:

(1) Access and walkways shall be physically separated from driveways and parking spaces by landscaping, berms, barriers, grade separation or other means to protect pedestrians from vehicular traffic;

(2) Access and walkways shall be a minimum of five feet of unobstructed width and meet the city's surfacing standards for walkways or sidewalks;

(3) Access shall be usable by mobility-impaired persons and shall be designed and constructed to be easily located by the sight-impaired pedestrian by either grade change, texture or other equivalent means;

(4) Wherever walkways are provided, raised crosswalks or speed bumps shall be located at all points where a walkway crosses the lane of vehicle travel; and

(5) Lighting shall be provided to an intensity where the access and walkways can be used at night by the employees, residents, and customers. Lighting shall be height appropriate to a pedestrian pathway system.

(d) Blocks in excess of 900 feet in length shall be provided with a crosswalk at the approximate midpoint of the block, or as the hearing examiner determines to be appropriate. (Ord. 1638 § 34, 2019; Ord. 1246 § 16, 2000).

22.60.014 Transit facilities.

For uses which generate a parking demand of greater than or equal to 25 parking spaces per FMC 22.60.003 and which are subject to site plan, conditional use permit or preliminary development plan review, the developer shall fund the purchase and installation of one or more transit shelters and related facilities consistent with Pierce Transit operational needs.

(a) Transit shelters and related facilities shall be provided for transit stops which are located adjacent to or within 600 feet of the development site on each side of the street which has a transit route. This requirement may be waived by Pierce Transit or the city when it has been determined by either agency that there is insufficient space for the installation of a transit shelter at the appropriate location. This requirement may also be waived when Pierce Transit has determined that current and projected transit ridership do not warrant the installation of a shelter within the 600-foot distance.

(b) When a transit shelter is required to be installed, seating, garbage receptacles, and lighting shall be provided. Sidewalks next to transit stops shall be at least 10 feet wide and extend to the curb. A transit shelter may be constructed on up to five feet of the sidewalk.

(c) When a transit shelter is not required to be installed, transit stops shall include design features or changes in materials that demarcate the stop. These features may include pavement changes, lighting fixtures, unique designs for nearby walls, or graphics.

(d) Transit pullouts shall be provided if Pierce Transit and the city determine that a pullout is necessary to provide a safe refuge for transit vehicles or to minimize conflicts with other vehicles. (Ord. 1246 § 16, 2000).

22.60.015 Parking reductions for temporary outdoor sales events.

(a) A property owner or business owner may submit a request for a temporary reduction in the number of off-street parking spaces provided on a commercial site when a proposed outdoor sales event will be located within the off-street parking facility associated with the business and the number of parking spaces will be reduced below the minimum required in FMC 22.60.003.

(b) The request shall be processed in accordance with the administrative use permit procedures in Chapter 22.70 FMC. The director shall consider the potential impacts of the sales event on adjoining uses and may limit the number of sales events or their duration, or impose other restrictions, in order to mitigate these impacts.

(c) The director may authorize a parking reduction for one or more temporary sales events if the following standards are met:

(1) At least 50 percent of the off-street parking spaces required in FMC 22.60.003 for the commercial use is maintained during the sales event.

(2) If less than 50 percent of the off-street parking spaces required in FMC 22.60.003 for the commercial use will remain available for customer or employee use during the sales event, the number of spaces needed to meet the 50 percent threshold will be provided at a nearby off-site parking facility. In such case, the applicant shall provide a written statement from the owner/operator of the off-site parking facility agreeing to make available the necessary number of spaces to the operator of the sales event for the duration of the event.

(3) If off-site parking is required in subsection (c)(2) of this section, directional signs will be installed by the applicant, to the satisfaction of the city, to inform the public of the availability of the off-site parking facility.

(d) Temporary outdoor sales events authorized prior to the effective date of this section shall comply with the 50 percent parking threshold and directional signage requirement to the extent possible. (Ord. 1667 § 32, 2020; Ord. 1638 § 35, 2019; Ord. 1246 § 16, 2000).

22.60.016 Micromobility vehicles and facilities.

(a) Micromobility refers to small, manually or electrically powered vehicles used to travel short distances. Also known as little vehicles, micromobility examples include electric pedal assisted (pedelec) bicycles, scooters, velomobiles, motorized skateboards, and other small, human- or battery-powered low-speed alternatives to the automobile.

(b) Battery-powered electric motors make micromobility a viable mode of transportation for more people, whether this is for fun or utility. These vehicles may be used for the “first mile” and “last mile” of longer trips that include transit; for example, the connection between a person’s home or place of employment and a transit facility.

(c) The provision of micromobility facilities can support increased usage of smaller vehicles that require less space for parking and storage compared to larger motor vehicles. The provision of little vehicle parking and storage corrals and dedicated travel lanes within new development can be used to reduce automobile parking demand, if residents, employees, or visitors to an area are successfully encouraged to rely less on private auto ownership and use.

(d) New development within higher density and intensity neighborhoods, especially within the city’s mixed-use districts, is encouraged to provide facilities that support micromobility. Their provision may justify a reduction in the amount of off-street parking provided for autos and other motor vehicles. (Ord. 1667 § 33, 2020).

Chapter 22.70
ADMINISTRATIVE USE PERMITS

Sections:

- 22.70.001 Purpose.
- 22.70.002 Authority.
- 22.70.003 Criteria for administrative use permit approval.
- 22.70.004 Application procedures.
- 22.70.005 Submittal requirements.
- 22.70.006 Amendment of administrative use permit.
- 22.70.007 Performance bond.
- 22.70.008 Duration of an administrative use permit.

22.70.001 Purpose.

The purpose of this chapter is to establish decision criteria and procedures for uses which, due to their unique qualities, may require additional regulation or other special degrees of control. An administrative review process is required to ensure that the activity, if established, will be in full compliance with applicable regulations and that such uses are compatible with the comprehensive plan, adjacent uses, and the character of the vicinity. (Ord. 1246 § 21, 2000).

22.70.002 Authority.

The director may approve, approve with conditions, modify and approve with conditions, or deny, an administrative use permit. An administrative use permit shall be approved when the director has determined that the criteria listed in FMC 22.70.003 are met by the proposal. The director may impose specific conditions upon the use, including an increase in the standards of this title, which will enable the director to make the required findings in FMC 22.70.003. These conditions may include, but are not limited to restrictions in hours of operations; restrictions on locations of structures and uses; structural requirements which address safety, noise, light and glare, vibration, odor, views, aesthetics and other impacts; production of an operational agreement stipulating limitations on the use of the land or facilities thereon; and increased buffering requirements, including open space, berms, fencing and landscaping. (Ord. 1246 § 21, 2000).

22.70.003 Criteria for administrative use permit approval.

Before any administrative use permit may be granted, the director shall adopt written findings showing that the following criteria are met by the proposal:

- (a) The proposed use will not be detrimental to the public health, safety, and welfare; injurious to property or improvements in the vicinity; or adversely affect the established character of the surrounding vicinity.
- (b) The proposed use will meet or exceed all applicable development, design and performance standards and guidelines required for the specific use, location, or zoning classification.
- (c) The proposed use will be consistent and compatible with the goals, objectives and policies of the comprehensive plan.
- (d) All conditions necessary to lessen any impacts of the proposed use are measurable and can be monitored and enforced. (Ord. 1246 § 21, 2000).

22.70.004 Application procedures.

An administrative use permit is classified as a Type II application. The processing procedures for this application are described in Chapters 22.05, 22.06, 22.07, 22.08, 22.09 and 22.10 FMC. (Ord. 1246 § 21, 2000).

22.70.005 Submittal requirements.

Application for an administrative use permit shall be submitted on forms provided by the department. A minimum of two sets of plans, materials and other applicable information specified in FMC 22.06.002 shall be submitted with the application. Applications for an administrative use permit to develop or operate a facility for permanent

Commented [KM4]: This criteria allows for fluidity in reviewing STEP Housing proposals. If an application is received for Perm. Supportive Housing in an existing residence that is in keeping with the neighborhood context, this criterion will be met and will support an approved administrative decision.

It also leaves room for findings of contextual inconsistency with the surrounding neighborhood or the zoning standards that can prompt a denied decision from the Administrator, which could be appealed to the Hearing Examiner (creating the same effect as a Conditional Use Permit).

supportive housing, transitional housing, emergency shelters, or emergency housing shall submit a draft Operational Agreement as set forth in FMC 22.58.030 with their application. Based on a preliminary review of the proposal, the director may determine that additional information, including the items listed in FMC 22.72.009 (site plan review submittal requirements), is necessary to complete the review and shall be provided by the applicant. (Ord. 1246 § 21, 2000).

22.70.006 Amendment of administrative use permit.

An applicant may request an amendment to an approved administrative use permit by submitting to the department a description of the proposed amendment and accurate plans which clearly identify the proposed changes to the approved design, if applicable. The director may determine that:

- (a) The proposed amendment is exempt from further review because it represents a minor change from the terms of the original approval or the originally approved plans and the criteria listed in FMC 22.70.003 continue to be met; or
- (b) The proposed amendment is subject to additional review because it represents a major change from the terms of the original approval or to the originally approved plans.

A request to amend an approved conditional use permit which has been determined to be subject to additional review shall be processed using the same procedures applicable to the original administrative use permit process. The director may impose conditions on the proposed amendment to ensure that the intent and conditions of the original approval are met. Deviations from an approved administrative use permit are not permitted unless an applicant first obtains approval in accordance with this section. (Ord. 1246 § 21, 2000).

22.70.007 Performance bond.

The director may require as a condition of administrative use permit approval that the applicant furnish the city with a performance bond, or other form of guarantee deemed acceptable by the city attorney, to secure the applicant's obligation to complete the provisions and conditions of the permit as approved. (Ord. 1246 § 21, 2000).

22.70.008 Duration of an administrative use permit.

In the event that an administrative use permit is not exercised within one year from the effective date of approval, it shall automatically become null and void; provided, however, that for good cause, the director may grant a one-time extension of one year if an extension request is filed with the department no less than 15 days prior to the date of expiration for the administrative use permit. A properly filed application for a time extension shall stay the effective date of expiration until action on the request has become final. The process for taking action on the request shall be the same used for the original administrative use permit application. Before taking action to grant an extension, the director shall adopt written findings showing that the following circumstances exist:

- (a) The proposal approved under the terms of the administrative use permit originally granted remains in conformance with current development standards contained in this title. (If the proposal no longer conforms to this title as a result of more restrictive standards being adopted subsequent to the original approval, the director may consider a modified proposal which would comply with the more restrictive standards.)
- (b) The findings adopted in support of the original administrative use permit request remain valid and supportive of the time extension request. (Ord. 1246 § 21, 2000).

Chapter 22.98

DEFINITIONS

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- 22.98.009 Accessory building or structure.
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 - 22.98.648.5 Sign, awning, canopy or marquee.
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 - 22.98.648.9 *Repealed.*
 - 22.98.648.10 Sign, flashing.
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 - 22.98.648.12 *Repealed.*
 - 22.98.648.13 Sign height.
 - 22.98.648.14 *Repealed.*
 - 22.98.648.15 Sign, monument.
 - 22.98.648.16 Sign, neon.
 - 22.98.648.17 Sign, nonconforming.
 - 22.98.648.18 Sign, pan channel.
 - 22.98.648.19 Sign, permanent.
 - 22.98.648.20 Sign, pole-mounted.
 - 22.98.648.21 Sign, portable.
 - 22.98.648.22 *Repealed.*
 - 22.98.648.23 Sign, projecting.
 - 22.98.648.24 *Repealed.*
 - 22.98.648.25 *Repealed.*

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- 22.98.648.26 *Repealed.*
- 22.98.648.27 Sign, revolving.
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- 22.98.648.36 Sign, window.
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- 22.98.652 Site.
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- 22.98.657 Social card game.
- 22.98.658 Soil survey.
- 22.98.658.1 Spandrel.
- 22.98.659 Special flood hazard areas.
- 22.98.660 Special protection areas.
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- 22.98.662 Species, endangered.
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- 22.98.672 Stock-in-trade.
- 22.98.675 Story.
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- 22.98.684 Street furniture.
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- 22.98.690 Streetscape.
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- 22.98.695 Substantial damage.
- 22.98.696 Structural alteration.
- 22.98.697 Substantial improvement.
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- 22.98.723 Use, accessory.
- 22.98.726 Use type.
- 22.98.729 Variance.
- 22.98.730 Variance, de minimis.

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- 22.98.732 Vehicle repair, major.
- 22.98.735 Vehicle repair, minor.
- 22.98.738 Vehicle wash.
- 22.98.741 Vehicle wrecker.
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- 22.98.754 Wetland classes, classes of wetlands, or wetland types.
- 22.98.755 Wetland edge.
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- 22.98.759 Wetlands mitigation bank.
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- 22.98.762 Wrecked vehicle.
- 22.98.765 Yard, automobile wrecking.
- 22.98.768 Yard.
- 22.98.771 Yard, front.
- 22.98.774 Yard, rear.
- 22.98.777 Yard, required.
- 22.98.780 Yard, side.
- 22.98.783 Yard, side street side.
- 22.98.785 Zone of contribution.
- 22.98.786 Zone or zoning district.
- 22.98.789 Zoning map.

22.98.003 Definition of any word not listed.

The definition of any word or phrase not listed in this chapter which is in question when administering this title shall be as defined from one of the following sources which are incorporated herein by reference. These sources shall be utilized by finding the desired definition from source (a), but if it is not available there, then source (b) may be used and so on. Sources are as follows:

- (a) City development regulations;
- (b) Any city resolution, ordinance, code or regulation;
- (c) Any statute or regulation of the state of Washington (i.e., the most applicable);
- (d) Legal definitions from case law or a law dictionary;
- (e) The common dictionary. (Ord. 1246 § 27, 2000).

22.98.006 Abandonment of telecommunications facility.

“Abandonment of telecommunications facility” means: (a) to cease operation for a period of 60 or more consecutive days; (b) to reduce the effective radiated power of an antenna by 75 percent for 60 or more consecutive days; (c) to relocate an antenna at a point less than 80 percent of the height of an antenna support structure; or (d) to reduce the number of transmissions from an antenna by 75 percent for 60 or more consecutive days. (Ord. 1246 § 27, 2000).

22.98.009 Accessory building or structure.

“Accessory building or structure” means a building or structure, attached or detached from a principal building located on the same lot, the use of which is incidental, related and clearly subordinate to the principal use of the land

or building. With the exception of an accessory dwelling unit, an accessory building or structure is used by the occupants of the principal building. (Ord. 1246 § 27, 2000).

22.98.012 Accessory dwelling unit.

“Accessory dwelling unit” means a second dwelling unit added to a single-family detached dwelling or created within and on the same lot as a single-family detached dwelling unit, which is designed as a completely independent unit which provides for living, sleeping, cooking and sanitation. (Ord. 1246 § 27, 2000).

22.98.015 Accessory use.

“Accessory use” means a use incidental, related and clearly subordinate to the principal use of a lot or main building. An accessory use is only located on the same lot as a permitted principal use. (Ord. 1246 § 27, 2000).

22.98.016 Adaptive management.

“Adaptive management” relies on scientific methods to evaluate how well regulatory and nonregulatory actions protect the critical area. An adaptive management program is a formal and deliberate scientific approach to taking action and obtaining information in the face of uncertainty. (Ord. 1375 § 9, 2005).

22.98.017 Adjacent.

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

- (a) On a site immediately adjoining a critical area;
- (b) A distance equal to or less than the required critical area buffer width and building setback;
- (c) A distance equal to or less than 800 feet from a bald eagle nest;
- (d) A distance equal to or less than 300 feet upland from a stream, wetland, or water body;
- (e) Bordering or within the floodway, floodplain, or channel migration zone; or
- (f) A distance equal to or less than 200 feet from a critical aquifer recharge area. (Ord. 1375 § 9, 2005).

22.98.018 Adult bathhouse.

“Adult bathhouse” means a commercial bathhouse which excludes any person by virtue of age from all or any portion of the premises. (Ord. 1246 § 27, 2000).

22.98.021 Adult bookstore.

“Adult bookstore” means a retail establishment in which:

- (a) Thirty percent or more of the stock-in-trade consists of books, magazines, posters, pictures, periodicals, or other printed materials distinguished by an emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas.”
- (b) Any person is excluded by virtue of age from all or part of the premises generally held open to the public where such materials are displayed or sold. (Ord. 1246 § 27, 2000).

22.98.024 Adult cabaret.

“Adult cabaret” means a commercial establishment that presents go-go dancers, strippers, male or female impersonators, or similar types of entertainment and which excludes any person by virtue of age from all or any portion of the premises. (Ord. 1246 § 27, 2000).

22.98.027 Adult entertainment.

“Adult entertainment” means:

- (a) Any exhibition, performance or dance of any type conducted in a premises where such exhibition, performance or dance involves a person who is unclothed or in such costume, attire or clothing as to expose any portion of the

nipple, the areola, or the lower half of the female breast or any portion of the pubic region, anus, buttocks, vulva or genitals, or wearing any device or covering exposed to view which simulates the appearance of any portion of the nipple, the areola, or the lower half of the female breast or any portion of the pubic region, anus, buttocks, vulva or genitals, or human male genitals in a discernibly turgid state, even if completely and opaquely covered; or

(b) Any exhibition, performance or dance of any type conducted in a premises where such exhibition, performance or dance is distinguished or characterized by a predominant emphasis on the depiction, description, simulation or relation to the following specified sexual activities:

- (1) Human genitals in a state of sexual stimulation or arousal;
- (2) Acts of human masturbation, sexual intercourse or sodomy;
- (3) Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast;

(c) Any exhibition, performance or dance intended to sexually stimulate any patron and conducted in a premises where such exhibition, performance or dance is performed for, arranged with or engaged in with fewer than all patrons on the premises at that time, with separate consideration paid, either directly or indirectly, for such performance, exhibition or dance. For purposes of example and not limitation, such exhibitions, performances or dances are commonly referred to as table dancing, couch dancing, taxi dancing, lap dancing, private dancing or straddle dancing. (Ord. 1246 § 27, 2000).

22.98.030 Adult entertainment establishment.

“Adult entertainment establishment” means any commercial premises which is one of the following: adult motion picture theater, adult drive-in theater, adult bookstore, adult cabaret, adult video store, adult retail store, adult massage parlor, adult sauna parlor or adult bathhouse. (Ord. 1246 § 27, 2000).

22.98.033 Adult family home.

“Adult family home” means as defined in Chapter 70.128A RCW, Adult Family Homes, as amended: a regular family abode in which a person or persons provide personal care, special care, room and board to more than one but not more than six adults who are not related by blood or marriage to the person or persons providing the services. An adult family home is considered a family group home as defined in FMC 22.98.273. (Ord. 1246 § 27, 2000).

22.98.036 Adult live entertainment establishment.

“Adult live entertainment establishment” means a commercial premises to which a member of the public is invited or admitted and where an entertainer provides live adult entertainment to a member of the public on a regular basis or as a substantial part of the premises activity. (Ord. 1246 § 27, 2000).

22.98.039 Adult massage parlor.

“Adult massage parlor” means a commercial establishment in which massage or other touching of the human body is provided for a fee and which excludes any person by virtue of age from all or any portion of the premises. (Ord. 1246 § 27, 2000).

22.98.042 Adult motion picture theater.

“Adult motion picture theater” means a building, enclosure, or portion thereof, used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas” for observation by the patrons therein. (Ord. 1246 § 27, 2000).

22.98.045 Adult retail store.

“Adult retail store” means a retail establishment in which 30 percent or more of the stock-in-trade consists of items, products, or equipment distinguished or characterized by an emphasis on or a simulation of “specified sexual activities” or “specified anatomical areas”, and/or any person is excluded by virtue of age from all or part of the premises generally held open to the public where such items, products, or equipment are sold. (Ord. 1246 § 27, 2000).

22.98.048 Adult sauna parlor.

“Adult sauna parlor” means a commercial sauna establishment which excludes any person by virtue of age from all or any portion of the premises. (Ord. 1246 § 27, 2000).

22.98.051 Adult video store.

“Adult video store” means a retail establishment in which 30 percent or more of the stock-in-trade consists of prerecorded video tapes, discs, or similar material distinguished or characterized by an emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas”; and/or any person is excluded by virtue of age from all or part of the premises generally held open to the public where such prerecorded video tapes, disks, or similar material are displayed or sold. (Ord. 1246 § 27, 2000).

22.98.052 Advance mitigation.

“Advance mitigation” means mitigation of an anticipated critical area impact or hazard completed according to an approved critical area report and prior to site development. (Ord 1375 § 9, 2005).

22.98.053 Advertising copy.

“Advertising copy” means any sign graphics, background colors, logos or trademarks that identify or promote the sign user or any product or service; or that provides information about the sign user, the building or the products or services available. (Ord. 1322 § 5, 2003).

22.98.054 Alley.

“Alley” means a public right-of-way or city-approved private way, providing secondary access to adjacent property, which has less than 200 average daily trips and is no more than 30 feet in width. (Ord. 1246 § 27, 2000).

22.98.057 Alteration.

“Alteration” means any human-induced change in an existing condition of a critical area or its buffer. Alterations include, but are not limited to, grading, filling, channelizing, dredging, clearing (vegetation), construction, compaction, excavation, or any other activity that changes the character of the critical area. (Ord. 1375 § 10, 2005; Ord. 1246 § 27, 2000).

22.98.060 Amendment.

“Amendment” means a change in the wording, context or substance of this title or the comprehensive plan; a change in the official zoning map or comprehensive plan map; or a change to a condition of approval or modification of a permit or plans reviewed or approved by the director, hearing examiner, planning commission, or city council. (Ord. 1638 § 65, 2019; Ord. 1246 § 27, 2000).

22.98.062 Anadromous fish.

“Anadromous fish” means fish that spawn and rear in freshwater and mature in the marine environment. While Pacific salmon die after their first spawning, adult char (bull trout) can live for many years, moving in and out of saltwater and spawning each year. The life history of Pacific salmon and char contains critical periods of time when these fish are more susceptible to environmental and physical damage than at other times. The life history of salmon, for example, contains the following stages: upstream migration of adults, spawning, intergravel incubation, rearing, smoltification (the time period needed for juveniles to adjust their body functions to live in the marine environment), downstream migration, and ocean rearing to adults. (Ord 1375 § 9, 2005).

22.98.063 Antenna.

“Antenna” means any exterior apparatus designed for telephonic, radio, data, Internet, or television communication through the sending and/or receiving of electromagnetic waves, and includes equipment attached to a tower or building for the purpose of providing personal wireless services, including unlicensed wireless telecommunications services, wireless telecommunications services utilizing frequencies authorized by the Federal Communications Commission for cellular, enhanced specialized mobile radio and personal communications services, telecommunications services, and its attendant base station. (Ord. 1246 § 27, 2000).

22.98.066 Antenna height.

“Antenna height” means the vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure even if said highest point is an antenna. Measurement of tower height shall include antenna, base pad, and other appurtenances and shall be measured from the finished grade of the parcel. If the

support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height. (Ord. 1246 § 27, 2000).

22.98.069 Antenna support structure.

“Antenna support structure” means any pole, telescoping mast, tower, tripod, or other structure which supports a device used in the transmitting or receiving of radio frequency signals. (Ord. 1246 § 27, 2000).

22.98.072 Applicant.

“Applicant” means the person, party, firm, corporation, or other legal entity that proposes any activity. The applicant is either the owner of the land on which the proposed activity would be located, a contract vendee, a lessee of the land, the person who would actually control and direct the proposed activity, or the authorized agent of such a person. (Ord. 1246 § 27, 2000).

22.98.075 Antique.

“Antique” means a work of art, piece of furniture or decorative object made at least 50 years ago and having a retail value greater than \$75.00. (Ord. 1246 § 27, 2000).

22.98.078 Antique store.

“Antique store” means a second-hand dealer in which at least 25 percent of the total retail value of the items for sale are antiques as defined in FMC 22.98.075. See FMC 22.98.621, Second-hand store. (Ord. 1246 § 27, 2000).

22.98.079 Aquifer.

“Aquifer” means a geologic formation that contains sufficient saturated permeable material to conduct ground water and to yield sufficient quantity of water to serve as a private or public water supply. (Ord. 1375 § 9, 2005).

22.98.080 Aquifer, confined.

“Aquifer, confined” means an aquifer bounded above and below by beds of distinctly lower permeability than that of the aquifer itself and that contains ground water under sufficient pressure for the water to rise above the top of the aquifer. (Ord. 1375 § 9, 2005).

22.98.081 Aquifer recharge areas.

“Aquifer recharge areas” means areas that, due to the presence of certain soils, geology, and surface water, act to recharge ground water by percolation. (Ord. 1375 § 11, 2005; Ord. 1246 § 27, 2000).

22.98.082 Aquifer, sole source.

“Aquifer, sole source” means an area designated by the U.S. Environmental Protection Agency under the Safe Drinking Water Act of 1974, Section 1424(e). The aquifer(s) must supply 50 percent or more of the drinking water for an area without a sufficient replacement available. (Ord. 1375 § 9, 2005).

22.98.083 Aquifer susceptibility.

“Aquifer susceptibility” means the ease with which contaminants can move from the land surface to the aquifer based solely on the types of surface and subsurface materials in the area. Susceptibility usually defines the rate at which a contaminant will reach an aquifer unimpeded by chemical interactions with the vadose zone media. (Ord. 1375 § 9, 2005).

22.98.084 Aquifer, unconfined.

“Aquifer, unconfined” means an aquifer not bounded above by a bed of distinctly lower permeability than that of the aquifer itself and containing ground water under pressure approximately equal to that of the atmosphere. This term is synonymous with the term “water table aquifer.” (Ord. 1375 § 12, 2005; Ord. 1246 § 27, 2000).

22.98.085 Area of shallow flooding.

“Area of shallow flooding” means an area designated AO or AH zone on the flood insurance map(s). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding. (Ord. 1375 § 9, 2005).

22.98.087 Articulation.

“Articulation” means the giving of emphasis to architectural elements such as windows, balconies, entries, etc., that create a complementary pattern of rhythm, dividing large buildings into smaller identifiable pieces. Articulating a building to divide up its mass and reduce its apparent size may be accomplished through facade modulation (see FMC 22.98.456) and other design techniques. (Ord. 1246 § 27, 2000).

22.98.090 Assisted living facility.

“Assisted living facility” means any of the following:

- (a) Congregate Care Facility. A building or complex of dwellings specifically designed for occupancy by senior citizens which provides for shared use of facilities, such as kitchens, dining areas, and recreation areas. Such complexes may also provide kitchens and dining space in individual dwelling units, and practical nursing care.
- (b) Convalescent Home. Any home, place, institution or facility which provides convalescent or chronic care, or both, for a period in excess of 24 consecutive hours for three or more patients not related by blood or marriage to the operator, who by reason of illness or infirmity, are unable to properly care for themselves. A convalescent home shall be licensed as a “nursing home” pursuant to Chapter 18.51 RCW.
- (c) Hospice Care Center. A facility licensed under Chapter 70.41 RCW which provides for the emotional and physical care of terminally ill patients. Such centers provide food, lodging, and palliative care on a 24-hour basis for two or more people, unrelated to the center’s operator, who are in the latter stages of a disease expected to cause death.
- (d) Nursing Home. See convalescent home.
- (e) Residential Care Facility. A facility that cares for at least five, but not more than 15 functionally disabled persons, that is not licensed pursuant to Chapter 70.128 RCW.
- (f) Residential Treatment Facility. A residential building that is licensed by the state to provide residential and domiciliary care to five or more individuals, or to provide rehabilitative treatment or services to individuals. Residential treatment facilities generally provide a limited term living arrangement for their residents in a family-like setting. Such facilities also provide rehabilitative services other than basic living skills training, often intended to provide residents with the future ability to live independently. Such facilities may provide medical treatment as an integral part of a rehabilitative program.
- (g) Rest Home. See congregate care facility. (Ord. 1246 § 27, 2000).

22.98.091 Available capacity.

“Available capacity” means capacity for a public facility that is currently available for use. (Ord. 1275 § 2, 2001).

22.98.091.1 Barbeque.

“Barbeque” means a cooking appliance that may be portable or permanent. (Ord. 1507 § 6, 2011).

22.98.092 Base flood.

“Base flood” means a flood event having a one percent chance of being equaled or exceeded in any given year, also referred to as the 100-year flood. Designations of base flood areas on flood insurance map(s) always include the letters A or V. (Ord. 1375 § 9, 2005).

22.98.093 Basement.

“Basement” means any area of the building having its floor below ground level on all sides, when used in the context of a frequently flooded area. (Ord. 1375 § 13, 2005; Ord. 1246 § 27, 2000).

22.98.094 Battery charging station.

“Battery charging station” means an electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles, which meet or exceed any standards, codes, and regulations set forth by Chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540. (Ord. 1509 § 14, 2011).

22.98.094.1 Battery electric vehicle (BEV).

“Battery electric vehicle (BEV)” means any vehicle that operates exclusively on electrical energy from an off-board source that is stored in the vehicle’s batteries, and produces zero tailpipe emissions or pollution when stationary or operating. (Ord. 1509 § 15, 2011).

22.98.094.2 Battery exchange station.

“Battery exchange station” means a fully automated facility that will enable an electric vehicle with a swappable battery to enter a drive lane and exchange the depleted battery with a fully charged battery through a fully automated process, which meets or exceeds any standards, codes, and regulations set forth by Chapter 19.27 RCW and consistent with rules adopted under RCW 19.27.540. (Ord. 1509 § 16, 2011).

22.98.095 Best available science.

“Best available science” means current scientific information used in the process to designate, protect, or restore critical areas, which is derived from a valid scientific process as defined by WAC 365-195-900 through 365-195-925. Sources of the best available science are included in Citations of Recommended Sources of Best Available Science for Designating and Protecting Critical Areas published by the Washington State Department of Community, Trade and Economic Development. (Ord. 1375 § 9, 2005).

22.98.096 Best management practices (BMPs).

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

- (a) Control soil loss and reduce water quality degradation caused by high concentrations of nutrients, animal waste, toxics, and sediment;
- (b) Minimize adverse impacts to surface water and ground water flow and circulation patterns and to the chemical, physical, and biological characteristics of wetlands;
- (c) Protect trees and vegetation designated to be retained during and following site construction and use native plant species appropriate to the site for revegetation of disturbed areas; and
- (d) Provide standards for proper use of chemical herbicides within critical areas. (Ord. 1375 § 14, 2005; Ord. 1246 § 27, 2000).

22.98.097 Biodiversity.

“Biodiversity” means the variety of animal and plant life and its ecological processes and interconnections – represented by the richness of ecological systems and the life that depends on them, including human life and economies. (Ord. 1375 § 9, 2005).

22.98.099 Block.

“Block” is a group of lots, tracts, or parcels within well defined and fixed boundaries. (Ord. 1246 § 27, 2000).

22.98.100 Breakaway wall.

“Breakaway wall” means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system. (Ord. 1375 § 9, 2005).

22.98.102 Buffer.

“Buffer” means an area contiguous or adjacent to a critical area that provides a naturally vegetated zone surrounding a critical area. A buffer provides for the continued maintenance, function, and structural stability of a critical area. (Ord. 1246 § 27, 2000).

22.98.105 Buildable area.

“Buildable area” means the area of a lot remaining after the minimum yard and open space requirements of this title have been met. (Ord. 1246 § 27, 2000).

22.98.108 Building.

“Building” means any structure having a roof supported by columns, posts, or walls for the shelter, housing, or enclosure of any individual, animal, process, equipment, goods, or materials of any kind. (Ord. 1246 § 27, 2000).

Building, accessory.

See FMC 22.98.009, Accessory building or structure.

22.98.111 Building, detached.

“Building, detached” means a building surrounded by open space on the same lot. (Ord. 1246 § 27, 2000).

22.98.114 Building envelope.

“Building envelope” means the three-dimensional space within which a structure is permitted to be built on a lot and that is defined by maximum height regulations and minimum yard setbacks. (Ord. 1246 § 27, 2000).

22.98.114.1 Building elevation.

“Building elevation” means the visible vertical plane of the side of a building from ground level to the roofline. (Ord. 1598 § 29, 2017).

22.98.114.2 Building facade.

“Facade” means the elevation of a building extending from the ground level up to the bottom of the fascia on a pitched roof building, and up to the top of the wall or parapet on a flat roof building. The area of a building facade for purposes of calculating allowable wall signage includes the area of the windows and doors but excludes openings that do not have solid coverings, such as breezeways, colonnades and gateways that extend through, or to the back side of, the building. (Ord. 1598 § 30, 2017).

22.98.114.3 Building fascia.

“Building fascia” means any flat horizontal member or molding with little projection, or any relatively narrow vertical surface (frieze) or board under a roof edge or which forms the outer surface of a cornice, visible to an observer. (Ord. 1598 § 31, 2017).

22.98.114.4 Building frontage.

“Building frontage” means the ground floor horizontal distance of a building or portion thereof occupied by a tenant. Building frontage shall only be measured along a ground floor wall that has a customer entrance that faces and has access onto a public open space, such as a courtyard or plaza; or is adjacent to a public street, or adjacent to a driveway or parking lot that serves that use. If any building frontage does not consist of one straight line, the frontage of any offset portion shall be projected, for computation purposes, to the extension of the line of the most forward face of the building. (Ord. 1598 § 32, 2017).

22.98.117 Building height.

“Building height” means the average vertical distance between the finished grade on each exterior wall and a horizontal plane level with the highest point of the coping of a flat roof, the deck of a mansard roof, or the highest ridge line of a pitched roof. The height of a stepped or terraced building is measured for each segment of the building. (Ord. 1246 § 27, 2000).

22.98.120 Building line.

“Building line” means a line extending across that part of a building closest to, and fronting, the street. (Ord. 1417 § 12, 2006; Ord. 1246 § 27, 2000).

22.98.123 Building, principal or main.

“Building, principal or main” means a building devoted to the principal use of the lot on which it is situated; where a permissible use involves more than one building or structure designed or used for the principal purpose, each such permissible building on a lot shall be classified as a principal building. (Ord. 1246 § 27, 2000).

22.98.126 Bulk regulations.

“Bulk regulations” means standards and controls that establish the maximum size of buildings and structures on a lot and the buildable area within which the building or structure can be located, including lot coverage, setbacks, height, floor area ratio, and yard requirements. (Ord. 1246 § 27, 2000).

22.98.126.1 Burn barrel.

“Burn barrel” means a barrel or other container used to burn rubbish and other debris. (Ord. 1507 § 6, 2011).

22.98.129 Business or commerce.

“Business or commerce” means the purchase, sale or other transaction involving the handling or disposition of any article, service, substance or commodity for livelihood or profit; or the management of office buildings, offices, recreational or amusement enterprises; or the maintenance and use of buildings, offices, structures and premises by professions and trades rendering services. See FMC 22.98.249, Establishment, business or commercial. (Ord. 1246 § 27, 2000).

22.98.132 Caliper.

“Caliper” means the diameter of tree trunk measured at 12 inches above soil level. This measurement is used when sizing a tree for purchase and installation. (Ord. 1562 § 54, 2015; Ord. 1246 § 27, 2000).

22.98.135 Camouflaged facility.

“Camouflaged facility” means a personal wireless service facility that is disguised, hidden, or integrated with an existing structure that is not a monopole or tower, or a personal wireless service facility that is placed within an existing or proposed structure, or new structure, tower, or mount within trees so as to be significantly screened from view. (Ord. 1246 § 27, 2000).

22.98.138 Carport.

“Carport” means a roofed structure providing space for the parking of motorized and nonmotorized vehicles and enclosed on not more than three sides. (Ord. 1246 § 27, 2000).

22.98.141 Cell site.

“Cell site” means a tract or parcel of land that contains personal wireless service facilities including any antenna, support structure, accessory buildings, and parking, and may include other uses associated with and ancillary to personal wireless services. (Ord. 1246 § 27, 2000).

22.98.142 Certificate of capacity.

“Certificate of capacity” means a document issued by the city of Fircrest indicating the quantity of capacity for each concurrency facility that has been reserved for a specific development project on a specific property. The document may have conditions and an expiration date associated with it. (Ord. 1275 § 2, 2001).

22.98.143 Channel migration zone (CMZ).

“Channel migration zone (CMZ)” means the lateral extent of likely movement along a stream or river during the next 100 years as determined by evidence of active stream channel movement over the past 100 years. Evidence of active movement over the 100-year time frame can be inferred from aerial photos or from specific channel and valley bottom characteristics. The time span typically represents the time it takes to grow mature trees that can provide functional large woody debris to streams. A CMZ is not typically present if the valley width is generally less than two bankfull widths, if the stream or river is confined by terraces, no current or historical aerial photographic evidence exists of significant channel movement, and there is no field evidence of secondary channels with recent scour from stream flow or progressive bank erosion at meander bends. Areas separated from the active channel by legally existing artificial channel constraints that limit bank erosion and channel avulsion without hydraulic connections shall not be considered within the CMZ. (Ord. 1375 § 9, 2005).

22.98.144 Character.

“Character” means the distinctive features or attributes of buildings, uses and site design on adjacent properties and in the vicinity, including but not limited to building facade, building length, building modulation, building height, building location, roof form, building exterior finish materials, tree cover, types of flora, location of landscaping, size and location of signs, setbacks, amount of parking, location of parking, fencing type, fencing height, location of fencing, and intensity of uses. (Ord. 1246 § 27, 2000).

22.98.145 Charging levels.

“Charging levels” means the standardized indicators of electrical force, or voltage, at which an electric vehicle’s battery is recharged. The terms 1, 2, and 3 are the most common EV charging levels, and include the following specifications:

- (a) Level 1 is considered slow charging.
- (b) Level 2 is considered medium charging.
- (c) Level 3 is considered fast or rapid charging. (Ord. 1509 § 17, 2011).

22.98.147 Child day-care center.

“Child day-care center” means a facility licensed by the state providing regularly scheduled care for a group of 13 or more children within one month of age through 12 years of age range exclusively for periods less than 24 hours. (Ord. 1246 § 27, 2000).

22.98.148 City engineer.

“City engineer” means the city engineer of the city of Fircrest or person appointed by the city manager to act in such a role. (Ord. 1575 § 21, 2016).

22.98.150 Clearing.

“Clearing” means the destruction, disturbance or removal of logs, scrub-shrub, stumps, trees or any vegetative material by burning, chemical, mechanical or other means. (Ord. 1246 § 27, 2000).

22.98.153 Compensation.

“Compensation” means replacement by creation, enhancement, or restoration of critical areas or buffers equivalent in size, function and value to the one being altered or lost from development. (Ord. 1246 § 27, 2000).

22.98.154 Compensation project.

“Compensation project” means actions necessary to replace project-induced critical area and buffer losses, including land acquisition, planning, construction plans, monitoring, and contingency actions. (Ord. 1375 § 9, 2005).

22.98.155 Compensatory mitigation.

“Compensatory mitigation” means replacing project-induced losses or impacts to a critical area, and includes, but is not limited to, the following:

Restoration – Actions performed to reestablish wetland functional characteristics and processes that have been lost by alterations, activities, or catastrophic events within an area that no longer meets the definition of a wetland.

Creation – Actions performed to intentionally establish a wetland at a site where it did not formerly exist.

Enhancement – Actions performed to improve the condition of existing degraded wetlands so that the functions they provide are of a higher quality.

Preservation – Actions taken to ensure the permanent protection of existing, high-quality wetlands. (Ord. 1375 § 9, 2005).

22.98.156 Club.

“Club” means an association of persons for some common purpose, including social, civic, charitable, or recreational activities, operated by a private nonprofit institution or organization, but excluding groups organized primarily to render a service which is customarily carried on by a business. (Ord. 1246 § 27, 2000).

22.98.159 Co-location.

“Co-location” means the use of a personal wireless service facility or cell site by more than one personal wireless service provider. (Ord. 1246 § 27, 2000).

22.98.160 Concurrency facilities.

“Concurrency facilities” means facilities for which concurrency is required in accordance with the provisions of Chapter 22.12 FMC. (Ord. 1275 § 2, 2001).

22.98.161 Concurrency test.

“Concurrency test” means the comparison of an applicant’s impact on all public facilities to the capacity including available and planned capacity of the facilities. (Ord. 1275 § 2, 2001).

22.98.162 Conditional use.

“Conditional use” means a use identified within the zoning district regulations of this title, that because of size, location with respect to surroundings, equipment, unique characteristics and effects and/or demands on public facilities, requires a special degree of control in order to ensure compatibility with the vicinity. (Ord. 1246 § 27, 2000).

22.98.165 Conditional use permit.

“Conditional use permit” means the documented evidence of authority granted by the hearing examiner in accordance with Chapter 22.68 FMC to establish a conditional use at a specific location. (Ord. 1638 § 66, 2019; Ord. 1246 § 27, 2000).

22.98.166 Conservation easement.

“Conservation easement” means a legal agreement that the property owner enters into to restrict uses of the land. Such restrictions can include, but are not limited to, passive recreation uses such as trails or scientific uses and fences or other barriers to protect habitat. The easement is recorded on a property deed, runs with the land, and is legally binding on all present and future owners of the property, therefore providing permanent or long-term protection. (Ord. 1375 § 9, 2005).

22.98.168 Correctional group home.

“Correctional group home” means a dwelling structure consisting of more than one adult within a halfway-house, pre-release, training-release, work-release or other similar program under the supervision of a local, state or federal criminal justice system. Additionally, the dwelling structure is operated or contracted by a local, state or federal criminal justice system. A correctional group home includes staff who supervise the residents. A correctional facility which consists solely of individuals below the age of 18 under the supervision of a local, state or federal criminal justice system and correctional staff shall be classified as a family group home and not a correctional group home. (Ord. 1246 § 27, 2000).

22.98.171 Covenant.

“Covenant” means a restriction or condition placed upon the use of property by private instrument recorded by the Pierce County Auditor. (Ord. 1246 § 27, 2000).

22.98.174 COW.

“COW” means an acronym for “cell on wheels,” an antenna as defined in FMC 22.98.063, which is portable. (Ord. 1246 § 27, 2000).

22.98.177 Creation.

“Creation” means bringing a wetland, stream corridor, fish and wildlife habitat, or other critical area, when possible, into existence at a site in which the critical area did not formerly exist. (Ord. 1246 § 27, 2000).

22.98.179 Critical aquifer recharge area.

“Critical aquifer recharge area” means areas designated by WAC 365-190-080(2) that are determined to have a critical recharging effect on aquifers used for potable water as defined by WAC 365-190-030(2). (Ord. 1375 § 9, 2005).

22.98.180 Critical area inventory maps.

“Critical area inventory maps” means those maps and documents housed by the department which contain information on the general location of critical areas. (Ord. 1246 § 27, 2000).

22.98.183 Critical areas.

“Critical areas” includes the following areas and ecosystems:

- (a) Wetlands;
- (b) Aquifer recharge areas;
- (c) Fish and wildlife habitats;

(d) Frequently flooded areas; and

(e) Geologically hazardous areas. (Ord. 1246 § 27, 2000).

22.98.184 Critical area tract.

“Critical area tract” means land held in private ownership and retained in an open condition in perpetuity for the protection of critical areas. Lands within this type of dedication may include, but are not limited to, portions and combinations of forest habitats, grasslands, shrub steppe, on-site watersheds, 100-year floodplains, shorelines or shorelines of statewide significance, riparian areas, and wetlands. (Ord. 1375 § 9, 2005).

22.98.185 Critical facility.

“Critical facility” means a facility for which even a slight chance of flooding, inundation, or impact from a hazard event might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire and emergency response installations, and installations that produce, use, or store hazardous materials or hazardous waste. (Ord. 1375 § 9, 2005).

22.98.185.1 Critical root zone.

“Critical root zone (CRZ)” means an area where a tree’s roots are located. This root zone is generally the area surrounding a tree at a distance that is equal to a one-foot radius for every one inch DBH. The CRZ may extend further from a tree depending on tree species, age, soil type and other factors. (Ord. 1562 § 55, 2015).

22.98.186 Critical species.

“Critical species” means all animal and plant species listed by the state or federal government as threatened or endangered. (Ord. 1375 § 15, 2005; Ord. 1246 § 27, 2000).

22.98.188 Cumulative impacts or effects.

“Cumulative impacts or effects” means the combined, incremental effects of human activity on ecological or critical areas functions and values. Cumulative impacts result when the effects of an action are added to or interact with other effects in a particular place and within a particular time. (Ord. 1375 § 9, 2005).

22.98.189 Curb level.

“Curb level” for any building means the level of the established curb in front of such building measured at the center of such front. Where no curb elevation has been established, the mean elevation of the finished lot grade immediately adjacent to a building shall be considered the curb level. (Ord. 1246 § 27, 2000).

22.98.192 Dedication.

“Dedication” is the transfer of property by the owner to another party for a specific use such as roads, utilities and open space. A dedication is conveyed by written instrument and is completed with an acceptance. (Ord. 1246 § 27, 2000).

22.98.193 Developable area.

“Developable area” means a site or portion of a site that may be utilized as the location of development. (Ord. 1375 § 9, 2005).

22.98.194 Development.

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

(a) Interior building improvements.

(b) Exterior structure maintenance activities, including painting and roofing.

(c) Routine landscape maintenance of established, ornamental landscaping, such as lawn mowing, pruning, and weeding.

(d) Maintenance of the following existing facilities that does not expand the affected area: septic tanks (routine cleaning); wells; individual utility service connections; and individual cemetery plots in established and approved cemeteries. (Ord. 1375 § 16, 2005; Ord. 1275 § 2, 2001).

22.98.195 Development permit.

“Development permit” means a building permit or project permit as classified in FMC 22.05.003. (Ord. 1275 § 3, 2001; Ord. 1246 § 27, 2000).

22.98.196 Development permit, final.

“Development permit, final” means a building permit or any other development permit that results in an immediate and continuing impact on public facilities. (Ord. 1275 § 2, 2001).

22.98.197 Development permit, preliminary.

“Development permit, preliminary” means a preliminary site plan, preliminary development plan, preliminary plat or conditional use permit. (Ord. 1275 § 2, 2001).

22.98.197.1 Diameter at breast height.

“Diameter at breast height (DBH)” means the diameter of a tree trunk in inches at four and one-half feet above the ground. On multistemmed or multitrunked trees, the diameter shall be the diameter equivalent to the sum of trunk areas measured at four and one-half feet above ground. This measurement is used when sizing a mature tree. (Ord. 1562 § 56, 2015).

22.98.198 Director.

“Director” means the planning/building director of the city of Fircrest or person appointed by the city manager to act in such a role. (Ord. 1562 § 57, 2015; Ord. 1246 § 27, 2000).

22.98.201 Drip line.

“Drip line” means an imaginary ground line around the perimeter of a tree that defines the outer limits of the tree canopy, where precipitation falling from the branches of that tree lands on the ground. (Ord. 1246 § 27, 2000).

22.98.204 Drive-thru.

“Drive-thru” means a lane or window which is intended to serve customers who remain in their motor vehicles during the business transactions, or which are designed in such a manner that customers must leave their automobiles temporarily in a driving line located adjacent to the facility. (Ord. 1246 § 27, 2000).

22.98.207 Dwelling.

“Dwelling” means a building or portion thereof designed exclusively for human habitation; including, single-family, duplex, and multifamily dwellings, accessory dwellings, modular homes, designated manufactured homes, but not including hotel or motel units having no kitchens. (Ord. 1246 § 27, 2000).

22.98.210 Dwelling, duplex.

“Dwelling, duplex” means a building designed exclusively for occupancy by two families living separately from each other and containing two dwelling units. A single-family dwelling which includes an accessory dwelling unit is not classified as a duplex dwelling. (Ord. 1246 § 27, 2000).

22.98.213 Dwelling, multifamily.

“Dwelling, multifamily” means a building designed exclusively for occupancy by three or more families living separately from each other and containing three or more dwelling units. (Ord. 1246 § 27, 2000).

22.98.216 Dwelling, single-family.

“Dwelling, single-family” means a detached building designed exclusively for occupancy by one family and containing one dwelling unit. Includes family group homes and manufactured homes, as defined in FMC 22.98.273 and 22.98.438 respectively, but excludes manufactured homes which are not designated. (Ord. 1246 § 27, 2000).

22.98.219 Dwelling unit.

“Dwelling unit” means one or more rooms designed for or occupied by one family for sleeping and living purposes and containing kitchen, sleeping and sanitary facilities for use solely by one family. All rooms comprising a dwelling unit shall have access through an interior door to other parts of the dwelling unit. Includes apartments, hotel rooms available on a month-to-month basis with kitchen facilities, designated manufactured and group homes, but excludes recreational vehicles. (Ord. 1246 § 27, 2000).

22.98.222 Early notice.

“Early notice” means the city’s written response to an applicant stating whether it considers issuance of a SEPA determination of significance likely for the applicant’s proposal. (Ord. 1246 § 27, 2000).

22.98.225 Ecosystem.

“Ecosystem” means the system of interrelationships within and between a biological community and its physical environment. (Ord. 1246 § 27, 2000).

22.98.228 EIA.

“EIA” is an acronym for the Electronics Industry Association. (Ord. 1246 § 27, 2000).

22.98.228.1 Electric scooters and motorcycles.

“Electric scooters and motorcycles” means any two-wheel vehicle that operates exclusively on electrical energy from an off-board source that is stored in the vehicle’s batteries and produces zero emissions or pollution when stationary or operating. (Ord. 1509 § 18, 2011).

22.98.228.2 Electric vehicle.

“Electric vehicle” means any vehicle that operates, either partially or exclusively, on electrical energy from the grid, or an off-board source, that is stored on-board for motive purpose. “Electric vehicle” includes: (a) a battery electric vehicle; (b) a plug-in hybrid electric vehicle; (c) a neighborhood electric vehicle; and (d) a medium-speed electric vehicle. (Ord. 1509 § 19, 2011).

22.98.228.3 Electric vehicle charging stations.

“Electric vehicle charging stations” means a public or private parking space located together with battery charging station equipment that has as its purpose the transfer of electric energy (by conductive or inductive means) to a battery or other storage device in an electric vehicle. (Ord. 1509 § 20, 2011).

22.98.229 Elevated building.

“Elevated building” means a building that has no basement and its lowest elevated floor is raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns. (Ord. 1375 § 9, 2005).

22.98.229.1 Eligible facilities request.

“Eligible facilities request” means any request for facility modification of an existing wireless tower or base station that involves:

- (a) Co-location of new transmission equipment;
- (b) Removal of transmission equipment; or
- (c) Replacement of transmission equipment. (Ord. 1667 § 47, 2020).

22.98.229.2 Emergency housing.

“Emergency housing” means temporary indoor accommodations for individuals or families who are homeless or at imminent risk of becoming homeless that is intended to address the basic health, food, clothing, and personal hygiene needs of individuals or families, as defined in RCW 36.70A.030 as existing or is hereafter amended or recodified.

22.98.229.3 Emergency shelter.

“Emergency shelter” means a facility that provides a temporary shelter for individuals or families who are currently homeless. Emergency shelter may not require occupants to enter into a lease or an occupancy agreement.

[Emergency shelter facilities may include day and warming centers that do not provide overnight accommodations, as defined in RCW 36.70A.030 as existing or is hereafter amended or recodified.](#)

22.98.230 Emergent wetland.

“Emergent wetland” means a wetland with at least 30 percent of the surface area covered by erect, rooted, herbaceous vegetation extending above the water surface as the uppermost vegetative strata. (Ord. 1375 § 9, 2005).

22.98.231 Enhancement.

“Enhancement” means the actions performed to improve the condition of existing wetlands and/or buffers so that the functions they provide are of a higher quality (e.g., increasing plant diversity, increasing wildlife habitat, installing environmentally compatible erosion controls, removing nonindigenous plant or animal species, removing fill material or garbage). (Ord. 1246 § 27, 2000).

22.98.234 Equipment enclosure.

As used in Chapter 22.24 FMC, “equipment enclosure” means a structure, shelter, cabinet, or vault used to house and protect the electronic equipment necessary for processing wireless communication signals. Associated equipment may include air conditioning, backup power supplies and emergency generators. (Ord. 1246 § 27, 2000).

22.98.237 Erosion.

“Erosion” means the wearing away of earth’s surface as a result of movement of wind, water, ice. (Ord. 1246 § 27, 2000).

22.98.240 Erosion hazard areas.

“Erosion hazard areas” means at least those areas identified by the U.S. Department of Agriculture National Resources Conservation Service as having a “severe” rill and inter-rill erosion hazard. (Ord. 1375 § 17, 2005; Ord. 1246 § 27, 2000).

22.98.243 Escort agency.

“Escort agency” means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration. (Ord. 1246 § 27, 2000).

22.98.246 Essential public facilities.

“Essential public facilities” means those facilities that are typically difficult to site, such as airports, state education facilities and state or regional transportation facilities, state and local correctional facilities, solid waste handling facilities and inpatient facilities including substance abuse facilities, mental health facilities and group homes. (Ord. 1246 § 27, 2000).

22.98.249 Establishment, business or commercial.

“Establishment, business or commercial” means a place of business carrying on operations, the ownership and management of which are separate and distinct from those of any other place of business located on the same lot and where direct access to each “business or commercial establishment” is separate and distinct from direct access to any other business or commercial establishment. (Ord. 1246 § 27, 2000).

22.98.252 Excavation.

“Excavation” means the mechanical removal of earth material. (Ord. 1246 § 27, 2000).

22.98.255 Existing and ongoing agricultural activities.

“Existing and ongoing agricultural activities” means those activities conducted on lands defined in RCW 84.34.020(2), and those activities involved in the production of crops and livestock, including but not limited to operation and maintenance of farm and stock ponds or drainage ditches, irrigation systems, changes between agricultural activities, and normal operation, maintenance or repair of existing serviceable structures, facilities or improved areas. Activities which bring an area into agricultural use are not part of an ongoing activity. An operation ceases to be ongoing when the area on which it was conducted has been converted to a nonagricultural use or has lain idle both more than five years and so long that modifications to the hydrological regime are necessary to resume operations, unless the idle land is registered in a federal or state soils conservation program. For the purposes of this definition, if a large lot subdivision or other subdivision of land results in the creation of one or more lots five acres

or larger, any such lot of five or more acres shall not be considered to be converted to a nonagricultural use. Forest practices are not included in this definition. (Ord. 1246 § 27, 2000).

22.98.257 Exotic.

“Exotic” means any species of plants or animals which are foreign to the planning area. (Ord. 1375 § 9, 2005).

22.98.258 Extirpation.

“Extirpation” means the elimination of a species from a portion of its original geographic range. (Ord. 1246 § 27, 2000).

22.98.261 FAA.

“FAA” is an acronym for the Federal Aviation Administration. (Ord. 1246 § 27, 2000).

22.98.264 FCC.

“FCC” is an acronym for the Federal Communications Commission. (Ord. 1246 § 27, 2000).

22.98.265 Facility and service provider.

As used in Chapter 22.12 FMC, “facility and service provider” means the department, district, or agency responsible for providing a specific concurrency facility. Examples include, but are not limited to the city of Fircrest, Pierce Transit, Tacoma School District, and University Place School District. (Ord. 1275 § 2, 2001).

22.98.266 Facility modification.

“Facility modification” means any modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station. (Ord. 1667 § 48, 2020).

~~**22.98.267 Family.**~~

~~“Family” means an individual, individuals related by blood, marriage, or adoption, up to and including six individuals who are not related by blood, marriage, or adoption, residing in a single-family dwelling unit (including family group home), individuals with a handicap as defined in the Federal Fair Housing Amendments Act of 1988 (42 USCS Section 3602) as amended and residing in a group home or children residing in a group home. (Ord. 1246 § 27, 2000). Repealed.~~

22.98.270 Family day-care facility.

“Family day-care facility” means a facility licensed by the state carried on in the family residence of the licensee providing regularly scheduled care for 12 or fewer children, including children who reside at the family residence, within a birth through 11 years of age range exclusively, for periods of less than 24 hours. (Ord. 1246 § 27, 2000).

22.98.273 Family group home.

“Family group home” means a dwelling unit consisting of individuals with a handicap as defined in the Federal Fair Housing Amendments Act of 1988 (42 USCS Section 3602) as amended, or children under the legal custody of an institution or an adult and any necessary staff for the care of individuals mentioned herein. An adult family home as defined in FMC 22.98.033 is a family group home. (Ord. 1246 § 27, 2000).

22.98.276 Fence.

“Fence” means a wall or barrier for the purpose of enclosing space, separating property, reducing noise and/or visual impacts, and composed of bricks, concrete, masonry blocks, or posts connected by boards, rails, panels, or wire. The term fence does not include retaining wall. (Ord. 1246 § 27, 2000).

22.98.279 Fenestration.

“Fenestration” means window treatment in a building or building facade. (Ord. 1246 § 27, 2000).

22.98.282 Fill.

“Fill” means any material dumped or placed, by any means, from, to or on any soil or sediment surface including temporary stockpiling of material. (Ord. 1246 § 27, 2000).

Commented [KM5]: I recommend repealing this definition so as to avoid any attempt at calculating the number of people who may reside in a single-family dwelling or multi-family dwelling, including when those dwelling types are used for STEP housing. HB 5235 prohibits cities from limiting the number of unrelated persons who can reside in a dwelling, other than based on occupancy load (as calculated by the Building Official).

Commented [JE6R5]: I agree. Plus this sort of limitation is wholly unenforceable.

22.98.284 Final plat.

“Final plat” is the final drawing of the subdivision and dedication prepared for filing of record with the Pierce County auditor, and containing all elements and requirements set forth in Chapter 22.21 FMC. (Ord. 1375 § 9, 2005).

22.98.285 Fish and wildlife habitat conservation areas.

“Fish and wildlife habitat conservation areas” means areas necessary for maintaining species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created as designated by WAC 365-190-080(5). These areas include:

- (a) Areas with which state or federally designated endangered, threatened, and sensitive species have a primary association;
- (b) Habitats of local importance, including but not limited to areas designated as priority habitat by the Washington State Department of Fish and Wildlife;
- (c) Naturally occurring ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat, including those artificial ponds intentionally created from dry areas in order to mitigate impacts to ponds;
- (d) Waters of the state, including lakes, rivers, ponds, streams, inland waters, underground waters, salt waters, and all other surface waters and watercourses within the jurisdiction of the state of Washington;
- (e) Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity;
- (f) State natural area preserves and natural resource conservation areas; and
- (g) Land essential for preserving connections between habitat blocks and open spaces. (Ord. 1375 § 18, 2005; Ord. 1246 § 27, 2000).

22.98.286 Fish habitat.

“Fish habitat” means habitat that is used by fish at any life stage at any time of the year, including potential habitat likely to be used by fish that could be recovered by restoration or management and includes off-channel habitat. (Ord. 1375 § 9, 2005).

22.98.286.1 Flag.

“Flag” means a piece of cloth, attached to a staff, with distinctive colors, patterns or symbols, used as a national or state symbol. (Ord. 1598 § 33, 2017).

22.98.286.2 Flag canopy.

“Flag canopy” means a line of flags, or a series of lines of flags, suspended above a site. (Ord. 1598 § 34, 2017).

22.98.287 Flood or flooding.

“Flood” or “flooding” means the general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland waters and/or the unusual and rapid accumulation of runoff of surface waters from any source. (Ord. 1375 § 9, 2005).

22.98.288 Flood insurance map.

“Flood insurance map” means the official map on which the Federal Insurance Administration has delineated the areas of special flood hazards and included the risk premium zones applicable to the community. Also known as “flood insurance rate map” or “FIRM.” (Ord. 1375 § 19, 2005; Ord. 1246 § 27, 2000).

22.98.289 Flood insurance study.

“Flood insurance study” means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood. (Ord. 1375 § 9, 2005).

22.98.290 Floodplain.

“Floodplain” means the total land area adjoining a river, stream, watercourse, or lake subject to inundation by the base flood. (Ord. 1375 § 9, 2005).

22.98.291 Flood protection elevation.

“Flood protection elevation” means the elevation that is two feet above the base flood elevation. (Ord. 1375 § 20, 2005; Ord. 1246 § 27, 2000).

22.98.292 Flood-resistant material.

“Flood-resistant material” means materials designed to be resistant to the impacts associated with flooding and defined and described in detail in the Federal Emergency Management Agency’s Technical Bulletin No. 2-93, 1993, and FEMA publication FEMA-348, Protecting Building Utilities from Flood Damage. (Ord. 1375 § 9, 2005).

22.98.293 Floodway.

“Floodway” means the channel of a river or other watercourse and the adjacent land area that must be reserved in order to discharge the base flood without cumulatively increasing the surface water elevation more than two feet. Also known as the “zero rise floodway.” (Ord. 1375 § 9, 2005).

22.98.294 Floor area, gross.

“Floor area, gross” means the sum of the gross horizontal areas of the floor(s) of a building or portion thereof, measured from the exterior face of exterior walls and from the centerline of walls dividing uses or establishments. Gross floor area includes basement space, elevator shafts and stairwells at each floor, mechanical equipment rooms or attic space with headroom of 7.5 feet or more, penthouse floors, interior balconies and mezzanines, enclosed porches and malls. Gross floor area shall not include accessory water tanks and cooling towers, mechanical equipment or attic spaces with headroom of less than 7.5 feet, exterior steps or stairs, terraces, breeze ways and open space. (Ord. 1375 § 21, 2005; Ord. 1246 § 27, 2000).

22.98.295 Forested wetland.

“Forested wetland” means a wetland with at least 30 percent of the surface area covered by woody vegetation greater than 20 feet in height that is at least partially rooted within the wetland. (Ord. 1375 § 9, 2005).

22.98.296 Formation.

“Formation” means an assemblage of earth materials grouped together into a unit that is convenient for description or mapping. (Ord. 1375 § 9, 2005).

22.98.297 Formation, confining.

“Formation, confining” means the relatively impermeable formation immediately overlying a confined aquifer. (Ord. 1375 § 21(2), 2005; Ord. 1322 § 6, 2003; Ord. 1246 § 27, 2000).

22.98.298 Frequently flooded areas.

“Frequently flooded areas” means lands in the floodplain subject to a one percent or greater chance of flooding in any given year and those lands that provide important flood storage, conveyance, and attenuation functions, as determined by the director in accordance with WAC 365-190-080(3). Frequently flooded areas perform important hydrologic functions and may present a risk to persons and property. Classifications of frequently flooded areas include, at a minimum, the 100-year floodplain designations of the Federal Emergency Management Agency and the National Flood Insurance Program. (Ord. 1375 § 9, 2005).

22.98.299 Frontage.

“Frontage” means the property line of an individual lot, tract or parcel that abuts a public or private street right-of-way, excluding alleys and private driveways. The number of frontages on a lot is the same as the number of public or private street rights-of-way that the lot abuts. (Ord. 1598 § 35, 2017; Ord. 1375 § 9, 2005).

22.98.300 Functions and values.

“Functions and values” means the beneficial roles served by critical areas including, but not limited to, water quality protection and enhancement; fish and wildlife habitat; food chain support; flood storage, conveyance and attenuation; ground water recharge and discharge; erosion control; protection from hazards; historical,

archaeological, and aesthetic value protection; educational opportunities; and recreation. (Ord. 1375 § 22, 2005; Ord. 1246 § 27, 2000).

22.98.303 Garage, private.

“Garage, private” means an accessory building or an accessory portion of the main building, enclosed on not less than three sides and designed and primarily used for the shelter or storage of vehicles, including boats. (Ord. 1246 § 27, 2000).

22.98.306 Garage, side entry.

“Garage, side entry” means a private garage where the sole vehicular garage door or opening is perpendicular to the lot line used for vehicular access. (Ord. 1246 § 27, 2000).

22.98.309 Geologically hazardous areas.

“Geologically hazardous areas” means areas that may not be suited to development consistent with public health, safety, or environmental standards, because of their susceptibility to erosion, sliding, earthquake, or other geological events as designated by WAC 365-190-080(4). Types of geologically hazardous areas include: erosion, landslide and seismic hazards. (Ord. 1375 § 23, 2005; Ord. 1246 § 27, 2000).

22.98.312 Geologist.

“Geologist” means a person who has earned a bachelor’s degree in geology and has at least one year of professional experience as a practicing geologist. (Ord. 1246 § 27, 2000).

22.98.315 Geotechnical engineer.

“Geotechnical engineer” means a practicing, geotechnical civil engineer licensed as a professional civil engineer with the state of Washington with at least four years’ experience in landslide evaluation, soils and soils hydrology. (Ord. 1246 § 27, 2000).

22.98.318 Governing authority.

“Governing authority” means the city council of the city of Fircrest. (Ord. 1246 § 27, 2000).

22.98.321 Grade, finished.

“Grade, finished” means the finished elevation of the ground level after development, measured at a horizontal distance of five feet from a building foundation wall. (Ord. 1246 § 27, 2000).

22.98.322 Grade, natural.

“Grade, natural” means the topographic condition or elevation of a site or portion of a site over the past five years, or the finished grade of an approved site development plan. Changes to grade or elevation resulting from fill, mounding or berming within five years preceding any requested permit other than a site development plan shall not be considered natural grade for permitting purposes. (Ord. 1598 § 36, 2017).

22.98.324 Grading.

“Grading” means clearing of trees, brush, scrubs or grass or excavating, filling or leveling of surface contours. (Ord. 1246 § 27, 2000).

22.98.325 Groundcover.

“Groundcover” means low growing vegetative materials with a mounding or spreading manner of growth that provide solid cover within three years after planting. (Ord. 1375 § 9, 2005).

22.98.326 Ground water.

“Ground water” means water in a saturated zone or stratum beneath the surface of land or a surface water body. (Ord. 1375 § 9, 2005).

22.98.327 Ground water management area.

“Ground water management area” means a specific geographic area or subarea designated pursuant to Chapter 173-100 WAC for which a ground water management program is required. (Ord. 1375 § 24, 2005; Ord. 1246 § 27, 2000).

22.98.328 Ground water management program.

“Ground water management program” means a comprehensive program designed to protect ground water quality, to ensure ground water quantity, and to provide for efficient management of water resources while recognizing existing ground water rights and meeting future needs consistent with local and state objectives, policies, and authorities within a designated ground water management area or subarea and developed pursuant to Chapter 173-100 WAC. (Ord. 1375 § 9, 2005).

22.98.329 Ground water, perched.

“Ground water, perched” means ground water in a saturated zone is separated from the underlying main body of ground water by an unsaturated rock zone. (Ord. 1375 § 9, 2005).

Group home, correctional.

See FMC 22.98.168, Correctional group home.

Group home, family.

See FMC 22.98.273, Family group home.

22.98.330 Habitat.

“Habitat” means the specific area or environment in which a particular type of plant or animal lives. (Ord. 1246 § 27, 2000).

22.98.331 Habitats of local importance.

“Habitats of local importance” means areas that include a seasonal range or habitat element with which a given species has a primary association, and which, if altered may reduce the likelihood that the species will maintain and reproduce over the long-term. These might include areas of high relative density or species richness, breeding habitat, winter range, and movement corridors. These might also include habitats that are of limited availability or high vulnerability to alterations such as cliffs, talus, and wetlands. (WAC 365-190-030) (Ord. 1375 § 9, 2005).

22.98.332 Halo illuminated.

“Halo illuminated” means a light source placed behind totally opaque letter or symbol so that the light reflects off the wall or background to which the letters or symbols are mounted rather than emanating through the letters or symbols, creating a halo effect that leaves the letters or symbols viewable in silhouette form only. (Ord. 1598 § 37, 2017).

22.98.333 Hazardous substance.

“Hazardous substance” means any liquid, solid, gas, or sludge, including any material, substance, product, commodity, or waste, regardless of quantity, that exhibits any of the characteristics or criteria of hazardous waste; and including waste oil and petroleum products. (Ord. 1246 § 27, 2000).

22.98.336 Hazardous waste.

“Hazardous waste” means all dangerous waste and extremely hazardous waste as designated pursuant to Chapter 70.105 RCW and Chapter 173-303 WAC. (Ord. 1246 § 27, 2000).

22.98.338 Hedge.

“Hedge” means a row of small trees, shrubs, or other vegetation planted as a fence or boundary. (Ord. 1375 § 9, 2005).

Height, building.

See FMC 22.98.117, Building height.

22.98.339 High intensity land use.

“High intensity land use” means land uses that are associated with high levels of human disturbance or substantial habitat impacts including, but not limited to, single-family and multifamily residential, commercial and industrial land uses, when used in the context of critical areas regulations. (Ord. 1375 § 25, 2005; Ord. 1246 § 27, 2000).

22.98.340 High quality wetlands.

“High quality wetlands” means those wetlands that meet the following criteria:

- (a) No, or isolated, human alteration of the wetland topography;
- (b) No human-caused alteration of the hydrology or the wetland appears to have recovered from the alteration;
- (c) Low cover and frequency of exotic plant species;
- (d) Relatively little human-related disturbance of the native vegetation, or recovery from past disturbance;
- (e) If the wetland system is degraded, it still contains a viable and high quality example of a native wetland community; and
- (f) No known major water quality problems. (Ord. 1375 § 9, 2005).

22.98.341 Historic condition.

“Historic condition” means a condition of the land, including, flora, fauna, soil, topography, and hydrology, that existed before the area and vicinity were developed or altered by human activity. (Ord. 1375 § 9, 2005).

22.98.342 Home occupation.

“Home occupation” means any activity conducted for financial gain or profit in a dwelling unit, and which activity is clearly incidental or secondary to the residential use of a dwelling unit or an associated accessory building. (Ord. 1246 § 27, 2000).

22.98.345 Hotel.

“Hotel” means a building or group of buildings in which there are five or more guest rooms where lodging with or without meals is provided for compensation, and where no provision is made for cooking in any individual room or suite. Motels and bed-and-breakfasts are considered hotels under this title. Hotels with guest rooms that contain kitchen facilities shall be considered multifamily dwelling units subject to the provisions and requirements of this title governing such units for the zone in which the establishment is located. (Ord. 1246 § 27, 2000).

22.98.346 Hydraulic project approval (HPA).

“Hydraulic project approval (HPA)” means a permit issued by the Washington State Department of Fish and Wildlife for modifications to waters of the state in accordance with Chapter 75.20 RCW. (Ord. 1375 § 9, 2005).

22.98.348 Hydric soil.

“Hydric soil” means soil that is saturated, flooded or ponded long enough during the growing season to develop anaerobic conditions in the upper portion. (Ord. 1246 § 27, 2000).

22.98.350 Hydrologic soil groups.

“Hydrologic soil groups” means soils grouped according to their runoff-producing characteristics under similar storm and cover conditions. Properties that influence runoff potential are depth to seasonally high water table, intake rate and permeability after prolonged wetting, and depth to a low permeable layer. Hydrologic soil groups are normally used in equations that estimate runoff from rainfall, but can be used to estimate a rate of water transmission in soil. There are four hydrologic soil groups:

Low runoff potential and a high rate of infiltration potential;

Moderate infiltration potential and a moderate rate of runoff potential;

Slow infiltration potential and a moderate to high rate of runoff potential; and

High runoff potential and very slow infiltration and water transmission rates. (Ord. 1375 § 9, 2005).

22.98.351 Hydrophyte.

“Hydrophyte” means an aquatic plant growing in water or on a substrate (hydric soil) that is at least periodically deficient in oxygen where the saturated soil is too wet for most plants to survive. Examples of hydrophytes include plants such as cattails, sedges, and bulrush. (Ord. 1246 § 27, 2000).

22.98.352 Hyporheic zone.

“Hyporheic zone” means the saturated zone located beneath and adjacent to streams that contains some portion of surface waters, serves as a filter for nutrients, and maintains water quality. (Ord. 1375 § 9, 2005).

22.98.354 Impervious surface.

“Impervious surface” means a hard surface area that either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development or that causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, rooftops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled macadam or other surfaces which similarly impede the natural infiltration of stormwater. (Ord. 1375 § 26, 2005; Ord. 1246 § 27, 2000).

22.98.357 Impervious surface coverage.

“Impervious surface coverage” means the area of a lot that is covered by impervious surfaces, measured by percentage. (Ord. 1246 § 27, 2000).

22.98.360 Impound.

“Impound” means to take and hold a vehicle in legal custody. (Ord. 1246 § 27, 2000).

22.98.363 Impound yard.

“Impound yard” means any area or enclosure established and used solely and exclusively for the parking and storage of impounded vehicles. (Ord. 1246 § 27, 2000).

22.98.365 Infiltration.

“Infiltration” means the downward entry of water into the immediate surface of soil. (Ord. 1375 § 9, 2005).

22.98.366 In-kind compensation.

“In-kind compensation” means to replace critical areas with substitute areas whose characteristics and functions closely approximate those destroyed or degraded by a regulated activity. It does not mean replacement “in-category.” (Ord. 1375 § 27, 2005; Ord. 1246 § 27, 2000).

22.98.369 Inoperable vehicle.

“Inoperable vehicle” means a motor vehicle which is apparently inoperable or which requires repairs in order to be legally operated on the public roads, such as repair or replacement of a window, windshield, wheel, tire, motor or transmission. (Ord. 1246 § 27, 2000).

22.98.369.1 Inter-rill.

“Inter-rill” means areas subject to sheet wash. (Ord. 1375 § 28, 2005).

22.98.370 Isolated wetlands.

“Isolated wetlands” means those wetlands that are outside of and not contiguous to any 100-year floodplain of a lake, river, or stream and have no contiguous hydric soil or hydrophytic vegetation between the wetland and any surface water. (Ord. 1375 § 9, 2005).

22.98.371 Joint aquatic resource permits application (JARPA).

“Joint aquatic resource permits application (JARPA)” means a single application form that may be used to apply for hydraulic project approvals, shoreline management permits, approvals of exceedance of water quality standards, water quality certifications, Coast Guard bridge permits, Washington State Department of Natural Resources use authorization, and U.S. Army Corps of Engineers permits. (Ord. 1375 § 9, 2005).

22.98.372 Junk or salvage yard.

“Junk or salvage yard” means a lot where nonhazardous waste or scrap materials are bought, sold, exchanged, stored, baled, packaged, disassembled or handled, but excludes recycling and vehicle wrecking activities. (Ord. 1246 § 27, 2000).

22.98.375 Kennel.

“Kennel” means a house, enclosure, or other structure in which five or more dogs, five or more cats, or any combination of eight or more cats and dogs, which individually exceed seven months of age, are kept for breeding, sale, training, boarding, or sporting purposes, or are kept or cared for as pets or for any other purpose. (Ord. 1246 § 27, 2000).

22.98.378 Kitchen.

“Kitchen” means any room or rooms, or portion of a room or rooms, used or intended or designed to be used for cooking or the preparation of food, including any room having a sink and provisions for a gas or electric stove, oven or range. (Ord. 1246 § 27, 2000).

22.98.381 Landslide.

“Landslide” means an episodic downslope movement of a mass of soil, rock, and/or snow. (Ord. 1246 § 27, 2000).

22.98.382 Landslide hazard areas.

“Landslide hazard areas” means areas that are potentially subject to risk of mass movement due to geologic landslide resulting from a combination of geologic, topographic, and hydrologic factors. These areas are typically susceptible to landslides because of a combination of factors including: bedrock, soil, slope gradient, slope aspect, geologic structure, ground water, or other factors. (Ord. 1375 § 29, 2005; Ord. 1311 § 36, 2002; Ord. 1246 § 27, 2000. Formerly 22.98.384).

22.98.384 Large retail establishment.

“Large retail establishment” means a retail establishment, or any combination of retail establishments in a single building, occupying more than 25,000 gross square feet of floor area. (Ord. 1311 § 37, 2002).

22.98.385 Level of service standard.

“Level of service standard” means the level of service standards specified in the comprehensive plan. (Ord. 1275 § 2, 2001).

22.98.386 Logo.

“Logo” means an identifying emblem or insignia containing sign graphics, symbols or colors typically used for identification and/or advertisement. (Ord. 1322 § 7, 2003).

22.98.387 Logo shield.

“Logo shield” means a logo contained within an area no greater than four square feet, incorporated into a larger sign face or designed as an individual sign or a component of a sign containing individually mounted sign graphics. (Ord. 1322 § 8, 2003).

22.98.388 Lot.

“Lot” means a division of land having fixed boundaries, which has been created by a subdivision or short subdivision; or is a parcel of property that was exempt from subdivision requirements or was established prior to the requirement that lots be created by a subdivision or short subdivision. (Ord. 1322 § 9, 2003).

22.98.390 Lot, corner.

“Lot, corner” means a lot abutting upon two or more streets at their intersection, or upon two portions of the same street forming an interior angle of less than 135 degrees within the lot lines. (Ord. 1246 § 27, 2000).

22.98.393 Lot, flag.

“Lot, flag” means a lot that does not meet minimum frontage requirements and where access to the public road is by a narrow, private right-of-way or driveway. (Ord. 1246 § 27, 2000).

22.98.396 Lot, interior.

“Lot, interior” means a lot other than a corner lot. (Ord. 1246 § 27, 2000).

22.98.399 Lot, substandard.

“Lot, substandard” means a parcel of land that has less than the minimum area or minimum dimensions required in the zone in which the lot is located. (Ord. 1246 § 27, 2000).

22.98.402 Lot, through.

“Lot, through” means a lot that fronts upon two parallel streets or that fronts upon two streets that do not intersect at the boundaries of the lot. (Ord. 1246 § 27, 2000).

22.98.405 Lot area, gross.

“Lot area, gross” means the entire horizontal land space, including land covered by water, contained within the fixed boundaries of any described lot or parcel of land. (Ord. 1246 § 27, 2000).

22.98.408 Lot area, net.

“Lot area, net” means the area of a lot, excluding future dedications, critical areas and associated buffers, and other specified land features. (Ord. 1246 § 27, 2000).

22.98.411 Lot coverage.

“Lot coverage” means the area of a lot that is covered by buildings. (Ord. 1246 § 27, 2000).

22.98.414 Lot depth.

“Lot depth” means the mean horizontal distance between the front lot line and the rear lot line of a lot measured within the lot boundaries. (Ord. 1246 § 27, 2000).

22.98.417 Lot frontage.

“Lot frontage” means the length of the front lot line measured at the street right-of-way line. (Ord. 1246 § 27, 2000).

22.98.420 Lot line.

“Lot line” means a line of record bounding a lot that divides one lot from another lot or from a public or private street or any other public space. (Ord. 1246 § 27, 2000).

22.98.423 Lot line, front.

“Lot line, front” means the boundary of a lot which abuts a public street right-of-way or private ingress and/or egress easement. (Ord. 1246 § 27, 2000).

22.98.426 Lot line, rear.

“Lot line, rear” means the lot line opposite and most distant from the front lot line. In the case of triangular or otherwise irregularly shaped lots, a line 10 feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line. (Ord. 1246 § 27, 2000).

22.98.429 Lot line, side.

“Lot line, side” means any lot line other than a front or rear lot line. (Ord. 1246 § 27, 2000).

22.98.432 Lot of record, legal.

“Lot of record, legal” means a lot that has been legally established and recorded or registered pursuant to statute with the Pierce County Auditor. (Ord. 1246 § 27, 2000).

22.98.435 Lot width.

“Lot width” means the horizontal distance between the side line of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the minimum required front yard setback line. (Ord. 1246 § 27, 2000).

22.98.436 Low intensity land use.

“Low intensity land use” means land uses that are associated with low levels of human disturbance or low habitat impacts, including, but not limited to, passive recreation, open space, or forest management land uses, when used in the context of critical areas regulations. (Ord. 1375 § 9, 2005).

22.98.437 Lowest floor.

“Lowest floor” means the lowest floor of the lowest enclosed area, including the basement, when used in the context of a frequently flooded area. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area, which is not considered a building’s lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable requirements of this title. (Ord. 1375 § 9, 2005).

22.98.437.1 Luminance.

“Luminance” means the photometric quality most closely associated with the perception of brightness. Luminance is measured in candelas per square meters or “nits.” (Ord. 1598 § 38, 2017).

22.98.437.2 Mansard.

“Mansard” means a roof with two slopes on each side of the four sides, the lower steeper than the upper. (Ord. 1598 § 39, 2017).

22.98.437.3 Major transit stop.

“Major transit stop” means the same as is has the same meaning as defined in RCW 36.70A.030, as existing or as hereafter amended or recodified.

22.98.438 Manufactured home.

“Manufactured home” means a factory-assembled structure intended solely for human habitation, which has sleeping, eating, and plumbing facilities, which is being used for residential purposes, which was constructed in accordance with the HUD federal manufactured housing construction and safety standards act in effect at the time of construction, and that is constructed in a way suitable for movement along public highways. A manufactured home is limited to those structures assembled after June 15, 1976, in accordance with state and federal requirements for manufactured homes, which are comprised of at least two fully enclosed parallel sections each of not less than 12 feet wide by six feet long; were originally constructed with and now have a composition or wood shake or shingle, coated metal, or similar roof of not less than three to 12 pitch; and have exterior siding similar in appearance to siding materials commonly used on conventional site-built single-family residences regulated by the International Building Code. The term does not include recreational vehicles. (Ord. 1473 § 6, 2009; Ord. 1246 § 27, 2000).

22.98.441 Marquee.

“Marquee” means a permanent structure attached to, supported by, and projecting from a building and providing protection from the elements. (Ord. 1598 § 40, 2017; Ord. 1322 § 10, 2003; Ord. 1246 § 27, 2000).

22.98.441.1 Master sign plan.

“Master sign plan” means a coordinated sign plan that includes the details of all signs (not including exempt or temporary signs) that are or will be placed on a site. (Ord. 1598 § 41, 2017).

22.98.444 Medical or dental clinic.

“Medical or dental clinic” means a building or complex occupied and used by physicians and dentists and other medical practitioners recognized by the state of Washington, for out-patients only; and including accessory uses including but not limited to therapeutic room and x-ray room, medical and dental laboratories, the dispensing of medicine and medical aides to out-patients of the clinic. (Ord. 1246 § 27, 2000).

22.98.445 Microbeverage production facility.

“Microbeverage production facility” means an establishment that manufactures alcoholic and nonalcoholic beverages for distribution on or off site. Examples include microbreweries, microdistilleries and microwineries. Microbeverage production facilities may operate in conjunction with a tasting room, retail outlet, and/or food-serving establishment. (Ord. 1611 § 21, 2018).

22.98.445.1 Microbrewery.

“Microbrewery” means a business known as a craft brewery that produces 5,000 barrels or less of beer per calendar year. A microbrewery may sell beer of its own production directly to a customer for off-premises consumption and by all other legal means. A microbrewery may operate a tasting room or in conjunction with a food-serving establishment. A microbrewery must be licensed by the Washington State Liquor and Cannabis Board and the Federal Alcohol and Tobacco Tax and Trade Bureau. (Ord. 1611 § 22, 2018).

22.98.445.2 Microdistillery.

“Microdistillery” means a business known as a craft distillery that produces 5,000 proof gallons or less of spirits per calendar year. A microdistillery may sell spirits of its own production directly to a customer for off-premises consumption and by all other legal means. A microdistillery may operate a tasting room or in conjunction with a food-serving establishment. A microdistillery must be licensed by the Washington State Liquor and Cannabis Board and the Federal Alcohol and Tobacco Tax and Trade Bureau. (Ord. 1611 § 23, 2018).

22.98.445.3 Microwinery.

“Microwinery” means a business engaged primarily in the production, including crushing, fermentation, aging, bottling, and distribution, of no more than 5,000 cases of wine per year. A microwinery may sell wine of its own production directly to a customer for off-premises consumption and by all other legal means. A microwinery may operate a tasting room or in conjunction with a food-serving establishment. A microwinery must be licensed by the Washington State Liquor and Cannabis Board and the Federal Alcohol and Tobacco Tax and Trade Bureau. (Ord. 1611 § 24, 2018).

22.98.447 Mitigation.

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

- (a) Avoiding the impact altogether by not taking a certain action or parts of an action;
- (b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps, such as project redesign, relocation, or timing, to avoid or reduce impacts;
- (c) Rectifying the impact to wetlands, critical aquifer recharge areas, and habitat conservation areas by repairing, rehabilitating, or restoring the affected environment to the conditions existing at the time of the initiation of the project;
- (d) Minimizing or eliminating the hazard by restoring or stabilizing the hazard area through engineered or other methods;
- (e) Reducing or eliminating the impact or hazard over time by preservation and maintenance operations during the life of the action;
- (f) Compensating for the impact to wetlands, critical aquifer recharge areas, and habitat conservation areas by replacing, enhancing, or providing substitute resources or environments; and
- (g) Monitoring the hazard or other required mitigation and taking remedial action when necessary.

Mitigation for individual actions may include a combination of the above measures. (Ord. 1375 § 30, 2005; Ord. 1246 § 27, 2000).

22.98.450 Mini-storage or mini-warehouse (indoor).

“Mini-storage, indoor” means a facility consisting of separate storage units that are rented to customers having exclusive and independent indoor access through a common building entrance to their respective units for storage of residential or commercial oriented goods. (Ord. 1518 § 3, 2011; Ord. 1246 § 27, 2000).

22.98.451 Mini-storage or mini-warehouse (outdoor).

“Mini-storage, outdoor” means a facility consisting of separate storage units that are rented to customers having exclusive and independent outdoor access to their respective units for storage of residential or commercial oriented goods. (Ord. 1518 § 4, 2011).

22.98.452 Moderate intensity land use.

“Moderate intensity land use” means land uses that are associated with moderate levels of human disturbance or substantial habitat impacts including, but not limited to, active recreation and moderate agricultural land uses, when used in the context of critical areas regulations. (Ord. 1375 § 9, 2005).

22.98.453 Modification.

As used in Chapter 22.24 FMC, “modification” means the changing of any portion of a personal wireless service facility from its description in a previously approved permit. Examples include, but are not limited to, changes in design. (Ord. 1246 § 27, 2000).

22.98.456 Modulation.

“Modulation” means a measured and proportioned inflexion or setback in a building’s face. (Ord. 1246 § 27, 2000).

22.98.459 Monitoring.

“Monitoring” means the process of collecting and evaluating data to assess the biological, hydrological or geological performance of newly created, restored, rehabilitated and/or affected critical ecosystem area. (Ord. 1246 § 27, 2000).

22.98.461 Motion.

“Motion” means the depiction of movement or change of position of text, images or graphics. Motion shall include, but not be limited to, visual effects such as dissolving and fading text and images, running sequential text, graphic bursts, lighting that resembles zooming, twinkling or sparkling, changes in light or color, transitory bursts of light intensity, moving patterns or bands of light, expanding or contracting shapes and similar actions. (Ord. 1598 § 42, 2017).

22.98.462 Mount.

“Mount” means the structure or surface upon which personal wireless service facilities are mounted. There are three types of mounts:

- (a) Building mount, which means a personal wireless service facility mount fixed to the roof or side of a building.
- (b) Ground mount, which means a personal wireless service facility mount fixed to the ground, such as a tower.
- (c) Structure mount, which means a personal wireless service facility fixed to a structure other than a building, such as a light standard, utility pole, or bridge. (Ord. 1246 § 27, 2000).

22.98.463 Multiple building complex.

“Multiple building complex” means a group of commercial or industrial structures. (Ord. 1322 § 11, 2003).

22.98.464 Multiple tenant building.

“Multiple tenant building” means a single structure that houses more than one retail business, office or commercial venture, but that does not include residential apartment buildings sharing the same lot, access and/or parking facilities. (Ord. 1322 § 12, 2003).

22.98.465 Native growth protection area (NGPA).

“Native growth protection area (NGPA)” means an area where native vegetation is preserved for the purpose of preventing harm to property and the environment, including, but not limited to, controlling surface water runoff and erosion, maintaining slope stability, buffering, and protecting plants and animal habitat. (Ord. 1375 § 31, 2005; Ord. 1246 § 27, 2000).

22.98.466 Native vegetation.

“Native vegetation” means vegetation comprised of plant species that are indigenous to an area. (Ord. 1375 § 9, 2005).

22.98.467 Nighttime hours.

“Nighttime hours” means from one-half hour before sunset to one-half hour after sunrise. (Ord. 1598 § 43, 2017).

22.98.467.1 Nits.

“Nits” means a unit of measure of brightness or luminance. One nit is equal to one candela/square meter. (Ord. 1598 § 44, 2017).

22.98.468 Nonconforming lot, use, or structure.

“Nonconforming lot, use, or structure” means any lot, use, or structure which was legally established and in lawful compliance with the applicable zoning prior to the adoption of this title or title amendment, but because of such adoption or amendment, would not be permitted or does not fully comply with the provisions of this title. (Ord. 1246 § 27, 2000).

22.98.469 Nonresidential zone.

“Nonresidential zone” means, in the context of Chapter 22.26 FMC, any zone that does not include residential dwelling units except for mixed use zoning districts where residential units are located above or behind nonresidential uses and the ground floor streetscape is characterized by commercial and other nonresidential uses. (Ord. 1598 § 45, 2017).

22.98.471 Noxious element.

“Noxious element” means material which is capable of causing injury to living organisms by chemical reaction or is capable of causing detrimental effects upon the physical or economic well-being of individuals. (Ord. 1246 § 27, 2000).

22.98.474 Nude or semi-nude.

“Nude or semi-nude” means a state of complete or partial undress in such costume, attire, clothing so as to expose any portion of the nipple, the areola, or the lower half of the female breast or any portion of the pubic region, anus, buttocks, vulva, or genitals, or human male genitals in a discernibly turgid state, even if completely and opaquely covered. (Ord. 1246 § 27, 2000).

22.98.475 Off-site compensation.

“Off-site compensation” means to replace critical areas away from the site on which a critical area has been impacted. (Ord. 1375 § 9, 2005).

22.98.476 On-site compensation.

“On-site compensation” means to replace critical areas at or adjacent to the site on which a critical area has been impacted. (Ord. 1375 § 9, 2005).

22.98.476.05 Opaque.

“Opaque” means a material that does not transmit light from an internal illumination source. (Ord. 1598 § 46, 2017).

22.98.476.1 Open fire.

“Open fire” means any fire upon woodland, lot, subdivision, grassland, field or public right-of-way within the city that is not within a receptacle approved by the city. (Ord. 1507 § 6, 2011).

22.98.477 Open space.

“Open space” means any parcel or area of land or water essentially unimproved and set aside, dedicated, designated, or reserved for public or private use or enjoyment or for the use and enjoyment of owners, occupants and their guests of land adjoining or neighboring such space. As used in Chapter 22.92 FMC, open space means lands which contain distinctive geologic, botanic, zoologic, historic, scenic or other critical area features. These areas are often undeveloped and serve as greenbelts and wildlife habitats. Specific types of open space include gulches, steep slopes and wetlands. (Ord. 1246 § 27, 2000).

22.98.480 Open space, common.

“Open space, common” means land within or related to a development, not individually owned or dedicated for public use, that is designed and intended for the common use or enjoyment of the residents and their guests of the development and may include such complementary structures and improvements as are necessary and appropriate. (Ord. 1246 § 27, 2000).

22.98.483 Open space, private.

“Open space, private” means open space, the use of which is normally limited to the occupants of a single dwelling, building, or property. (Ord. 1246 § 27, 2000).

22.98.486 Open space, public.

“Open space, public” means open space owned by a public agency and maintained by it for the use and enjoyment of the general public. (Ord. 1246 § 27, 2000).

22.98.489 Ordinance.

“Ordinance” means the ordinance, resolution or other procedure used by the city to adopt regulatory requirements. (Ord. 1246 § 27, 2000).

22.98.492 Ordinary high water mark (OHM).

“Ordinary high water mark (OHM)” means the mark that is found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, that the soil has a character distinct from that of the abutting upland in respect to vegetation. (Ord. 1375 § 32, 2005; Ord. 1246 § 27, 2000).

22.98.495 Outdoor storage.

“Outdoor storage” means the keeping, in an unenclosed area, of any goods, junk, material, merchandise, or vehicles in the same place, or substantially the same place, for more than 24 hours. (Ord. 1246 § 27, 2000).

22.98.496 Out-of-kind compensation.

“Out-of-kind compensation” means to replace critical areas with substitute critical areas whose characteristics do not closely approximate those destroyed or degraded. It does not refer to replacement “out-of-category.” (Ord. 1375 § 9, 2005).

22.98.498 Owner-occupied.

“Owner-occupied” means when the property owner’s primary and permanent legal residence is located on-site, as evidenced by voter registration, vehicle registration and/or other similar means. (Ord. 1246 § 27, 2000).

22.98.501 Panorama or peepshow.

“Panorama or peepshow” means any device which, upon insertion of a coin or by any other means of payment, including membership fee or other charge, exhibits or displays a picture or view by film, video or by any other means, including observation of live performances. (Ord. 1246 § 27, 2000).

22.98.504 Panorama premises.

“Panorama premises” means any premises or portion of a premise on which a panorama is located and which is open to the public, including through membership. (Ord. 1246 § 27, 2000).

22.98.506 Parapet.

“Parapet” means a protective wall or barrier projecting above any canopy, balcony or roof. (Ord. 1598 § 47, 2017; Ord. 1322 § 13, 2003).

22.98.507 Parcel.

“Parcel” means a description of land which is on record with the Pierce County assessor’s office. A parcel of land may or may not be a legal lot of record and may be for tax or description purposes only. (Ord. 1246 § 27, 2000).

22.98.510 Parking area.

“Parking area” means an area of a lot accessible to vehicles, which is provided, improved, maintained and used for the primary purpose of accommodating a motor vehicle. (Ord. 1246 § 27, 2000).

22.98.513 Patio, covered.

“Patio, covered” means a raised structure which provides partial or complete shelter over a patio area. (Ord. 1246 § 27, 2000).

22.98.516 Patio, uncovered.

“Patio, uncovered” means any prepared surface outdoor living area. (Ord. 1246 § 27, 2000).

22.98.518 Perimeter.

“Perimeter” means a square or rectangle required to enclose the sign area. (Ord. 1322 § 14, 2003).

22.98.518.1 Permanent supportive housing.

“Permanent supportive housing” means subsidized, leased housing with no limit on length of stay that prioritizes people who need comprehensive support services to retain tenancy and utilizes admissions practices designed to use lower barriers to entry than would be typical for other subsidized or unsubsidized rental housing, especially related to rental history, criminal history, and personal behaviors. Permanent supportive housing is paired with on-site or off-site voluntary services designed to support a person living with a complex and disabling behavioral health or physical health condition who was experiencing homelessness or was at imminent risk of homelessness prior to moving into housing to retain their housing and be a successful tenant in a housing arrangement, improve the resident’s health status, and connect the resident of the housing with community-based health care, treatment, or

[employment services](#), as defined in RCW 36.70A.030 as existing or is hereafter amended or recodified. [Permanent supportive housing is subject to all of the rights and responsibilities defined in chapter 59.18 RCW.](#)

22.98.519 Permeability.

“Permeability” means the capacity of an aquifer or confining bed to transmit water. It is a property of the aquifer or confining bed and is independent of the force causing movement. (Ord. 1375 § 33, 2005; Ord. 1246 § 27, 2000).

22.98.520 Person.

“Person” includes any individual, firm, joint venture, co-partnership, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver or any other group or combination acting as a unit. (Ord. 1375 § 9, 2005).

22.98.522 Personal wireless service, personal wireless service facilities, and facilities.

“Personal wireless service,” “personal wireless service facilities,” and “facilities,” as used in Chapter 22.24 FMC, shall be defined in the same manner as in Title 47, United States Code, Section 332 (c)(7)(C), and includes facilities for the transmission and reception of radio or microwave signals used for communication, cellular phone, personal communications services, enhanced specialized mobile radio, and any other wireless services licensed by the FCC and unlicensed wireless services. (Ord. 1246 § 27, 2000).

22.98.525 Personal wireless service facility design.

“Personal wireless service facility design,” as used in Chapter 22.24 FMC, means the appearance of personal wireless service facilities, including such features as their materials, colors, and shape. (Ord. 1246 § 27, 2000).

22.98.528 Pet shop.

“Pet shop” means a retail establishment which sells fish, domesticated animals, birds and associated supplies, provided no boarding or veterinarian services are rendered, except bathing and clipping of dogs and cats. Pet shop does not include kennels. (Ord. 1246 § 27, 2000).

22.98.531 Pharmaceuticals.

“Pharmaceuticals” includes drugs, toiletries and cosmetics. (Ord. 1246 § 27, 2000).

22.98.533 Planned capacity.

“Planned capacity” means capacity for a public facility that is not yet available, but for which the necessary facility construction, expansion or modification project is contained in the current adopted capital facilities element of the comprehensive plan and scheduled to be completed within six years. (Ord. 1275 § 2, 2001).

22.98.534 Planned development.

“Planned development” means a development built under the provisions of Chapter 22.76 FMC, which permits departures from the conventional requirements of other sections of this title in the interest of achieving superior site development, creating open space and encouraging imaginative design by permitting design flexibility. (Ord. 1246 § 27, 2000).

22.98.537 Planning commission.

“Planning commission” means the duly appointed planning commission of the city of Fircrest. (Ord. 1246 § 27, 2000).

22.98.540 Plat.

“Plat” means a map or representation of a subdivision, showing thereon the division of a tract or parcel of land into lots, blocks, streets and alleys or other divisions and dedications. (Ord. 1246 § 27, 2000).

22.98.543 Porch.

“Porch” means a roofed, open area, which may be screened, attached to or part of and with direct access to or from a building. A porch becomes a room when the enclosed space is heated or air-conditioned and when the percentage of window area to wall area is less than 50 percent. (Ord. 1246 § 27, 2000).

22.98.544 Porous soil types.

“Porous soil types” means soils, as identified by the National Resources Conservation Service, U.S. Department of Agriculture, that contain voids, pores, interstices, or other openings which allow the passing of water. (Ord. 1375 § 9, 2005).

22.98.544.1 Portable fire device.

“Portable fire device” means a commercially produced chamber or screened enclosure, portable in design, for the purpose of containing a fire of three feet or less in diameter and two feet or less in height for pleasure, cooking, warmth, or similar purposes. The products of combustion will either pass through a chimney prior to being emitted into the air or the chamber will be of screened enclosure. (Ord. 1507 § 6, 2011).

22.98.545 Potable water.

“Potable water” means water that is safe and palatable for human use. (Ord. 1375 § 9, 2005).

22.98.546 Practical alternative.

“Practical alternative” means an alternative that is available and capable of being carried out after taking into consideration cost, existing technology, and logistics in light of overall project purposes, and that has less impact to critical areas. (Ord. 1375 § 34, 2005; Ord. 1246 § 27, 2000).

22.98.549 Preliminary plat.

“Preliminary plat” means a neat and approximate drawing of a proposed subdivision showing the general layout of streets and alleys, lots, blocks and other elements of a subdivision consistent with the requirements of this title. The preliminary plat shall be the basis for the approval or disapproval of the general layout of a subdivision. (Ord. 1246 § 27, 2000).

22.98.551 Premises.

“Premises” means the real estate as a unit, upon which is displayed the sign or signs mentioned in this chapter. (Ord. 1322 § 15, 2003).

22.98.552 Preschool.

“Preschool” means educational programs that emphasize readiness skills where children of preschool age are enrolled on a regular basis for four hours per day or less (WAC 180-59-020). (Ord. 1246 § 27, 2000).

22.98.555 Preschool, accredited.

“Preschool, accredited” means a preschool which has been accredited by the State Board of Education in accordance with the standards for accreditation as prescribed in Chapter 180-59 WAC. (Ord. 1246 § 27, 2000).

22.98.557 Primary association area.

“Primary association area” means the area that is used on a regular basis by, is in close association with, or is necessary for the proper functioning of the habitat of a critical species. “Regular basis” means that the habitat area is normally or usually known to contain a critical species, or, based on known habitat requirements of the species, the area is likely to contain the critical species. “Regular basis” is species- and population-dependent. Species that exist in low numbers may be present infrequently yet rely on certain habitat types. (Ord. 1375 § 9, 2005).

22.98.558 Priority habitat.

“Priority habitat” means habitat type or elements with unique or significant value to one or more species as classified by the state Department of Fish and Wildlife. A priority habitat may consist of a unique vegetation type or dominant plant species, a described successional stage, or a specific structural element. (Ord. 1375 § 9, 2005).

Principal use.

See FMC 22.98.720, Use, principal. (Ord. 1246 § 27, 2000).

22.98.561 Printing, large-scale.

“Printing, large-scale” means a printing establishment generally serving account customers and utilizing a sheet-fed or web-fed press rather than a typical one-person off-set press. (Ord. 1246 § 27, 2000).

22.98.564 Printing, small-scale.

“Printing, small-scale” means a printing establishment generally serving both walk-in and account customers, utilizing small-scale printing presses which are set up and operated by an individual and may include a bindery person as an assistant. Products primarily consist of business cards, envelopes, letterheads, reports, manuals and brochures. (Ord. 1246 § 27, 2000).

22.98.565 Private road or driveway.

“Private road or driveway” means every way or place in private ownership and used for travel of vehicles by the owner or those having express or implied permission from the owner, but not by other persons. (Ord. 1322 § 16, 2003).

22.98.567 Processed materials.

“Processed materials” examples include natural or synthetic materials, including but not limited to bristles, canvas, cellophane and similar synthetics, chalk, clay, cloth, cork, feathers, felt, fiber, fur, glass, graphite, hair, horn, leather, metal products (nonprecious), paper, paraffin, plastic and resins, precious or semi-precious metals or stones, putty, pumice, rubber, shell, textiles, tobacco, wire, wood, wool and yarn. (Ord. 1246 § 27, 2000).

22.98.570 Professional office.

“Professional office” means an office maintained and used as a place of business conducted by persons engaged in recognized professions, and others whose business activity consists primarily of services to the person as distinguished from the handling of commodities. (Ord. 1246 § 27, 2000).

22.98.571 Project area.

“Project area” means all areas within 50 feet of the area proposed to be disturbed, altered, or used by the proposed activity or the construction of any proposed structures, when used in the context of critical area regulations. When the action binds the land, such as a subdivision, short subdivision, binding site plan, planned unit development, or rezone, the project area shall include the entire parcel, at a minimum. (Ord. 1375 § 9, 2005).

22.98.573 Provider.

As used in Chapter 22.24 FMC, “provider” means every corporation, company, association, joint stock company, firm, partnership, limited liability company, other entity and individual which provides personal wireless service over personal wireless service facilities. (Ord. 1246 § 27, 2000).

22.98.576 Public or quasi-public utility.

“Public or quasi-public utility” means a private corporation performing a public service and subject to special governmental regulations; or a governmental agency performing a similar public service, the services by either of which are paid for directly by individual recipients. Such services shall include, but are not limited to, water supply, electric power, gas and transportation of persons and freight. (Ord. 1246 § 27, 2000).

22.98.579 Qualified professional.

“Qualified professional” means a person with experience and training in the pertinent scientific discipline, and who is a qualified scientific expert with expertise appropriate for the relevant critical area subject in accordance with WAC 365-195-905(4). A qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, engineering, environmental studies, fisheries, geomorphology, or related field, and two years of related work experience.

(a) A qualified professional for habitats or wetlands must have a degree in biology and professional experience related to the subject species.

(b) A qualified professional for a geological hazard must be a professional engineer or geologist, licensed in the state of Washington.

(c) A qualified professional for critical aquifer recharge areas means a hydrogeologist, geologist, engineer, or other scientist with experience in preparing hydrogeologic assessments. (Ord. 1375 § 35, 2005; Ord. 1246 § 27, 2000).

22.98.581 Raceway.

“Raceway” means a box-type conduit to house electrical wires for signs and used to support and/or affix signage on a wall. (Ord. 1598 § 48, 2017).

22.98.582 Reasonable use alternatives.

“Reasonable use alternatives” means alternatives to the proposed project which will result in minimum feasible alteration or impairment of functional characteristics including contours, vegetation, fish and wildlife resources, ground water and hydrological conditions. (Ord. 1246 § 27, 2000).

22.98.583 Recharge.

“Recharge” means the process involved in the absorption and addition of water to ground water. (Ord. 1375 § 9, 2005).

22.98.584 Reclaimed water.

“Reclaimed water” means municipal wastewater effluent that has been adequately and reliability treated so that it is suitable for beneficial use, consistent with treatment levels and water quality requirements in the water reclamation and reuse standards adopted by the state Departments of Ecology and Health. (Ord. 1375 § 9, 2005).

22.98.585 Recorded.

“Recorded” means filed and recorded with the Pierce County auditor. (Ord. 1246 § 27, 2000).

22.98.588 Recreation, active.

“Recreation, active” means leisure-time activities, usually of a formal nature and often performed with others, requiring equipment and taking place at prescribed places, sites, or fields. (Ord. 1246 § 27, 2000).

22.98.591 Recreation, passive.

“Recreation, passive” means activities that involve relatively inactive or less energetic activities, such as walking, sitting, picnicking, card games and table games such as chess. Passive recreation also includes open space for nature walks and observation. (Ord. 1246 § 27, 2000).

22.98.591.1 Recreational fire.

“Recreational fire” means fires lit in chimineas, contained fire pits, fire bowls, cooking appliances and barbeques, portable fire devices and similar free-standing devices commonly sold at home-improvement stores and mass retailers, and permanent outdoor fireplaces that occur on private property for cooking, pleasure or ceremonial purposes. (Ord. 1507 § 6, 2011).

22.98.594 Recreational vehicle.

“Recreational vehicles” means all vehicles, self-propelled or propelled by another vehicle, designed primarily for touring with living/or sleeping quarters on board. Includes, but is not limited to, campers, travel trailers and motor homes. (Ord. 1246 § 27, 2000).

22.98.597 Recyclable material.

“Recyclable material” shall mean, but not be limited to, those materials such as glass, paper and certain metals which are suitable for break-down and refuse. (Ord. 1246 § 27, 2000).

22.98.600 Recycling collection center.

“Recycling collection center” means an enclosed facility or outdoor area which is used for the collection and shipment of pre-sorted recyclable material. (Ord. 1246 § 27, 2000).

22.98.603 Regulated activities.

“Regulated activities” means any act which would destroy natural vegetation in a critical area or its buffer; result in significant change in water temperature, physical or chemical characteristics; substantially alter existing pattern of tidal flow; obstruct the flow of sediment or alter the natural contours of a site. (Ord. 1246 § 27, 2000).

22.98.604 Religious institution.

“Religious institution” means an establishment, the principal purpose of which is religious worship and for which the principal building or other structure contains the sanctuary or principal place of worship. Accessory uses in the

main building or in separate buildings may include, but are not limited to, religious educational classrooms, assembly rooms, kitchen, library or reading room, recreational hall, and a single-family dwelling unit for use by an institution official. Accessory uses to a religious institution do not include day-care facilities or facilities for residence or for training of religious orders. (Ord. 1375 § 9, 2005).

22.98.605 Repair or maintenance.

“Repair or maintenance” means an activity that restores the character, scope, size, and design of a serviceable area, structure, or land use to its previously authorized and undamaged condition. Activities that change the character, size, or scope of a project beyond the original design and drain, dredge, fill, flood, or otherwise alter critical areas are not included in this definition. (Ord. 1375 § 9, 2005).

22.98.606 Restoration.

“Restoration” means measures taken to restore an altered or damaged natural feature including:

(a) Active steps taken to restore damaged wetlands, streams, protected habitat, or their buffers to the functioning condition that existed prior to an unauthorized alteration; and

(b) Actions performed to reestablish structural and functional characteristics of the critical area that have been lost by alteration, past management activities, or catastrophic events. (Ord. 1375 § 36, 2005; Ord. 1246 § 27, 2000).

22.98.607 Retail establishment.

“Retail establishment” (also known as retail store) means an establishment in which 60 percent or more of the gross floor area is devoted to the sale or rental of goods or merchandise to the general public for personal or household consumption or to services incidental to the sale or rental of such goods or merchandise. (Ord. 1375 § 9, 2005).

22.98.608 Rills.

“Rills” means deep-sided channels resulting from accelerated erosion. A rill is generally a few inches deep and not wide enough to be an obstacle to farm machinery. Rill erosion tends to occur on slopes, particularly steep slopes with poor vegetative cover. (Ord. 1375 § 9, 2005).

22.98.609 Riparian habitat.

“Riparian habitat” means areas adjacent to aquatic systems with flowing water that contain elements of both aquatic and terrestrial ecosystems that mutually influence each other. The width of these areas extends to that portion of the terrestrial landscape that directly influences the aquatic ecosystem by providing shade, fine or large woody material, nutrients, organic and inorganic debris, terrestrial insects, or habitat for riparian-associated wildlife. Widths shall be measured from the ordinary high water mark or from the top of bank if the ordinary high water mark cannot be identified. It includes the entire extent of the floodplain and the extent of vegetation adapted to wet conditions as well as adjacent upland plant communities that directly influence the stream system. Riparian habitat areas include those riparian areas severely altered or damaged due to human development activities. (Ord. 1375 § 37, 2005; Ord. 1246 § 27, 2000).

22.98.610 Roadway.

“Roadway” means that portion of the street improved, designed, or ordinarily used for vehicular travel, exclusive of the sidewalks and shoulder. Where there are curbs, the roadway is the curb to curb width of the street. (Ord. 1598 § 49, 2017; Ord. 1375 § 38, 2005; Ord. 1311 § 38, 2002).

22.98.611 Roofline.

“Roofline” means the uppermost edge of the roof or the top of the parapet, excluding mechanical equipment screens, whichever is highest. Where a building has several roof levels, the roofline shall be the one belonging to that portion of the building on which the sign is located. (Ord. 1598 § 50, 2017; Ord. 1375 § 39, 2005; Ord. 1322 § 17, 2003).

22.98.612 Scientific process.

“Scientific process” means a valid scientific process that produces reliable information useful in understanding the consequences of a decision. The characteristics of a valid scientific process are as follows:

(a) Peer Review. The information has been critically reviewed by other qualified scientific experts in that scientific discipline.

(b) Methods. The methods that were used are standardized in the pertinent scientific discipline or the methods have been appropriately peer-reviewed to ensure their reliability and validity.

(c) Logical Conclusions and Reasonable Inferences. The conclusions presented are based on reasonable assumptions supported by other studies and are logically and reasonably derived from the assumptions and supported by the data presented.

(d) Quantitative Analysis. The data have been analyzed using appropriate statistical or quantitative methods.

(e) Context. The assumptions, analytical techniques, data, and conclusions are appropriately framed with respect to the prevailing body of pertinent scientific knowledge.

(f) References. The assumptions, techniques, and conclusions are well referenced with citations to pertinent existing information. (Ord. 1375 § 40, 2005; Ord. 1322 § 18, 2003; Ord. 1246 § 27, 2000).

22.98.613 Screening.

As used in Chapter 22.24 FMC, “screening” means a personal wireless telecommunication facility such as a tower or mount placed amongst and adjacent to (within 20 feet of) three or more trees at least 75 percent of the height of the facility. (Ord. 1322 § 19, 2003).

22.98.614 Scrub-shrub wetland.

“Scrub-shrub wetland” means a wetland with at least 30 percent of its surface area covered by woody vegetation less than 20 feet in height as the uppermost strata. (Ord. 1375 § 9, 2005).

22.98.615 Secondary use.

As used in Chapter 22.24 FMC, “secondary use” means a use subordinate to the principle use of the property, such as commercial, residential, utilities, etc. (Ord. 1246 § 27, 2000).

22.98.616 Section 404 Permit.

“Section 404 Permit” means a permit issued by the U.S. Army Corps of Engineers for the placement of dredge or fill material or clearing in waters of the United States, including wetlands, in accordance with 33 USC Section 1344. Section 404 Permits may also be for endangered species consultation. They require a consultation under Section 7 of the Federal Endangered Species Act. (Ord. 1375 § 9, 2005).

22.98.618 Security barrier.

As used in Chapter 22.24 FMC, “security barrier” means a wall, fence, or berm that has the purpose of sealing a personal wireless service facility from unauthorized entry or trespass. (Ord. 1246 § 27, 2000).

22.98.621 Second-hand store.

“Second-hand store” means a retail establishment that is involved in the selling of any or all second-hand goods or items of personal property which can be used again for the purpose for which they were originally intended. The establishment may include, but not be limited to, arrangements whereby a building or area is sold, leased, rented, offered or donated to one or more persons where such persons may offer or display second-hand or junk items. This term includes antique stores and consignment shops. (Ord. 1246 § 27, 2000).

22.98.622 Seeps.

“Seeps” means a spot where water oozes from the earth, often forming the source of a small stream. (Ord. 1375 § 9, 2005).

22.98.623 Seismic hazard areas.

“Seismic hazard areas” means areas that are subject to severe risk of damage as a result of earthquake-induced ground shaking, slope failure, settlement, or soil liquefaction. (Ord. 1375 § 9, 2005).

22.98.624 Sense of place.

“Sense of place” means the characteristics of a location that make it readily recognizable as being unique and different from its surroundings. (Ord. 1246 § 27, 2000).

22.98.627 Sensitive receptor.

“Sensitive receptor” means a public park or open space area, or any establishment that provides caretaking, education, or recreation for persons under 18 years of age, including a community college, trade or vocational school that on a regular basis has at least one student under the age of 18 years. (Ord. 1562 § 58, 2015; Ord. 1246 § 27, 2000).

22.98.630 SEPA rules.

“SEPA rules” means rules contained in Chapter 197-11 WAC adopted by the Department of Ecology. (Statutory authority: RCW 43.21C.130, 84-13-036. (Order DE 84-25), § 173-806-030, filed 6/15/84. Formerly WAC 173-805-030.) (Ord. 1246 § 27, 2000).

22.98.632 Serviceable.

“Serviceable” means presently usable. (Ord. 1375 § 9, 2005).

22.98.633 Service station.

“Service station” means a building or lot having storage tanks and pumps for the retail sale of fuel to vehicle drivers and where minor repair service and/or the retail sale of food and vehicle supplies is incidental thereto. (Ord. 1246 § 27, 2000).

22.98.634 Setback.

“Setback” means the minimum required distance between any structure and a specified line such as a property or lot line, easement or buffer line, or public or private right-of-way line, which is required to remain free of structures unless otherwise provided in this title. (Ord. 1375 § 9, 2005).

22.98.635 Shorelines.

“Shorelines” means all of the water areas of the state as defined in RCW 90.58.030, including reservoirs and their associated shorelands, together with the lands underlying them except:

- (a) Shorelines of statewide significance;
- (b) Shorelines on segments of streams upstream of a point where the mean annual flow is 20 cubic feet per second (20 cfps) or less and the wetlands associated with such upstream segments; and
- (c) Shorelines on lakes less than 20 acres in size and wetlands associated with such small lakes. (Ord. 1375 § 9, 2005).

22.98.636 Shorelines of the state.

“Shorelines of the state” means the total of all “shorelines,” as defined in RCW 90.58.030(2)(d), and “shorelines of statewide significance” within the state, as defined in RCW 90.58.030(2)(c). (Ord. 1375 § 41, 2005; Ord. 1246 § 27, 2000).

22.98.637 Shorelines of statewide significance.

“Shorelines of statewide significance” means those areas defined in RCW 90.58.030(2)(e). (Ord. 1375 § 9, 2005).

22.98.638 Shorelands or shoreland areas.

“Shorelands or shoreland areas” means those lands extending landward for 200 feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward 200 feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters which are subject to the provisions of Chapter 90.58 RCW. (Ord. 1375 § 9, 2005).

22.98.639 Short plat.

“Short plat” means the map or representation of a short subdivision. (Ord. 1246 § 27, 2000).

22.98.642 Short subdivision.

“Short subdivision” means the division or redivision of land into four or fewer lots, tracts, parcels, sites or divisions for the purpose of sale, lease, or transfer of ownership into four or fewer lots. (Ord. 1246 § 27, 2000).

22.98.644 Sidewalk.

“Sidewalk” means that property between the curb lines or the lateral lines of a roadway and the adjacent property, set aside and intended for the use of pedestrians or such portion of private property parallel and in proximity to a street and dedicated to use by pedestrians. (Ord. 1322 § 20, 2003).

22.98.645 Sidewalk cafe.

“Sidewalk cafe” means a group of tables and chairs situated and maintained upon the public sidewalk for use in connection with the consumption of food and beverages sold to the public from or in an adjoining restaurant. (Ord. 1246 § 27, 2000).

22.98.648 Sign.

“Sign” means letters, figures, symbols, trademarks, or logos, with or without illumination, intended to identify any place, subject, person, firm, business, product, article, merchandise or point of sale. A sign also includes balloons attached to sign structures, products, streamers, spinners, pennants, flags, inflatables or similar devices intended to attract attention to a site or business, as well as architectural or structural forms, illuminated panels, spandrels, awnings and other structural or architectural features not common to classic vernacular or noncorporate regional architecture and that are intended to convey a brand, message or otherwise advertise a location or product, whether or not such features include text or graphics and whether or not they serve other practical purposes such as lighting, covering or enclosure of persons or products. A sign includes any device which streams, televises or otherwise conveys electronic visual messages, pictures, videos or images, with or without sound or odors. Refer to FMC 22.26.026 for a list of prohibited signs. (Ord. 1598 § 51, 2017; Ord. 1322 § 21, 2003; Ord. 1246 § 27, 2000).

22.98.648.1 Sign, abandoned.

“Sign, abandoned” means a sign, the face of which has been removed or is broken and is not refaced within 180 days thereafter. Abandoned signs shall also include signs with rusted, faded, peeled, cracked or otherwise deteriorated materials or finishes that have not been repaired within 90 days after the city provides notice of the sign’s deteriorated condition under FMC 22.26.009. (Ord. 1598 § 52, 2017; Ord. 1322 § 22, 2003).

22.98.648.2 Sign, accessory.

“Sign, accessory” means a permanent, freestanding or building-mounted sign of limited height and size that provides supplemental opportunity for freestanding or building-mounted signage on a site. (Ord. 1598 § 53, 2017; Ord. 1322 § 23, 2003).

22.98.648.3 Sign alteration.

“Sign alteration” means a change to the copy, color, size, shape, illumination, position, location, construction or supporting structure of a sign, not including ordinary maintenance. (Ord. 1598 § 54, 2017; Ord. 1322 § 24, 2003).

22.98.648.4 Sign area.

“Sign area” means the smallest square, rectangle, parallelogram or circle that will enclose the extreme limits of writing, representation, logo, or any figure of similar character, together with any frame, background area, structural trim, or other materials or color forming an integral part of the display or used to differentiate such sign from the background against which it is placed. The supports or uprights on which any such sign is supported shall not be included in determining the sign area. The area of signs with two faces shall be considered to be the area of the largest face. The area of signs with three or more faces shall be considered to be the area of the largest face or one-half the area of all of the faces, whichever is less. For sign copy that has varying sizes of letters or graphics, the sign area may be calculated by combining two or more geometric shapes. (Ord. 1598 § 55, 2017; Ord. 1322 § 25, 2003).

22.98.648.5 Sign, awning, canopy or marquee.

“Sign, awning, canopy or marquee” means a sign affixed to or imprinted on a temporary shelter or a permanent architectural projection, such as an awning, canopy or marquee, composed of rigid or nonrigid materials on a supporting framework, affixed to the exterior wall of a building, extending over a door, entrance, window or outdoor service area. (Ord. 1598 § 56, 2017; Ord. 1322 § 26, 2003).

22.98.648.6 Sign, changeable copy.

“Sign, changeable copy” means a sign or portion thereof that is designed to have its message or copy readily changed manually or by remote or automatic means without altering or replacing the face or surface. Changeable

copy signs support hard-copy text or graphics and do not use digital or electronic text or images. (Ord. 1598 § 57, 2017; Ord. 1322 § 27, 2003).

22.98.648.7 Sign, digital.

“Sign, digital” means a changeable copy sign with monochrome LED (light emitting diodes) text, graphics or symbols over a black, nonilluminated background. (Ord. 1598 § 58, 2017; Ord. 1322 § 28, 2003).

22.98.648.8 Sign, electrical.

Repealed by Ord. 1598. (Ord. 1322 § 29, 2003).

22.98.648.9 Sign, electronic.

Repealed by Ord. 1598. (Ord. 1322 § 30, 2003).

22.98.648.10 Sign, flashing.

“Sign, flashing” means an electrical sign or portion thereof, except electronic message center signs, that changes light intensity in a sudden transitory burst, or that switches on and off in a constant pattern in which more than one-third of the nonconstant light source is off at any one time, random, or irregular pattern or contains motion or the optical illusion of motion by use of electrical energy. (Ord. 1598 § 61, 2017; Ord. 1322 § 31, 2003).

22.98.648.11 Sign, freestanding.

“Sign, freestanding” means a sign and its support pole or base standing directly on the ground that is independent from any building or other structure. (Ord. 1598 § 62, 2017; Ord. 1322 § 32, 2003).

22.98.648.12 Sign, garage or yard sale.

Repealed by Ord. 1598. (Ord. 1322 § 33, 2003).

22.98.648.13 Sign height.

“Sign height” means the vertical distance measured from the adjacent grade at the base of the sign support to the highest point of the sign or sign structure. (Ord. 1598 § 64, 2017; Ord. 1322 § 34, 2003).

22.98.648.14 Sign, identification.

Repealed by Ord. 1598. (Ord. 1322 § 35, 2003).

22.98.648.15 Sign, monument.

“Sign, monument” means a freestanding low profile sign designed with a solid base and background consistent with FMC 22.26.017(b). (Ord. 1598 § 66, 2017; Ord. 1322 § 36, 2003).

22.98.648.16 Sign, neon.

“Sign, neon” means a sign with illumination affected by a light source consisting of a neon or other gas tube which is bent to form letters, symbols or other shapes. (Ord. 1598 § 67, 2017; Ord. 1322 § 37, 2003).

22.98.648.17 Sign, nonconforming.

“Sign, nonconforming” means any sign which at one time conformed to all applicable requirements and standards of Chapter 22.26 FMC, including all permit requirements, but which subsequently ceased to so conform due to changes in such requirements and standards. (Ord. 1598 § 68, 2017; Ord. 1322 § 38, 2003).

22.98.648.18 Sign, pan channel.

“Sign, pan channel” means a sign graphic that is constructed of a three-sided metal channel, usually having a light source contained within the channel. The open side may face inward, resulting in silhouette lighting, or it may face outward to allow full illumination. The open side of the channel may be enclosed with a translucent material. (Ord. 1598 § 69, 2017; Ord. 1322 § 39, 2003).

22.98.648.19 Sign, permanent.

“Sign, permanent” means a sign constructed of weather resistant material and intended for permanent use and that does not otherwise meet the definition of “temporary sign.” Wall-mounted sign holders designed for insertion of signs and posters shall be considered permanent signage and subject to all standards of this chapter. (Ord. 1598 § 70, 2017; Ord. 1322 § 40, 2003).

22.98.648.20 Sign, pole-mounted.

“Sign, pole-mounted” means a sign mounted on a weighted base, intended to be movable. (Ord. 1598 § 71, 2017; Ord. 1322 § 41, 2003).

22.98.648.21 Sign, portable.

“Sign, portable” means a freestanding sign that is readily moveable and not permanently affixed to the ground, including A-frame or sandwich board signs, pole signs mounted on weighted bases, and similar signs that are used on more than a temporary basis. (Ord. 1598 § 72, 2017; Ord. 1322 § 42, 2003).

22.98.648.22 Sign, principal.

Repealed by Ord. 1598. (Ord. 1322 § 43, 2003).

22.98.648.23 Sign, projecting.

“Sign, projecting” means a sign attached to a building with the face not parallel to the vertical surface of the building. Projecting signs include signs projecting directly from walls, or signs hanging from porch ceilings or other support structures. (Ord. 1598 § 74, 2017; Ord. 1322 § 44, 2003).

22.98.648.24 Sign, reader board.

Repealed by Ord. 1598. (Ord. 1322 § 45, 2003).

22.98.648.25 Sign, reader board portable.

Repealed by Ord. 1598. (Ord. 1322 § 46, 2003).

22.98.648.26 Sign, real estate.

Repealed by Ord. 1598. (Ord. 1322 § 47, 2003).

22.98.648.27 Sign, revolving.

“Sign, revolving” means any sign that rotates or turns in a circular motion. (Ord. 1322 § 48, 2003).

22.98.648.28 Sign, roof-mounted.

“Sign, roof-mounted” means a sign that has a point of attachment to the roof or mansard of a building. Architectural projections, including mechanical equipment screens, above any parapet or roof line whose sole function is a background for signs shall be considered a sign structure. A sign on such an architectural projection shall be considered a roof-mounted sign. (Ord. 1598 § 78, 2017; Ord. 1322 § 49, 2003).

22.98.648.29 Sign, sandwich board.

“Sign, sandwich board” means a portable sign consisting of two sign faces hinged at the top and separated at the bottom to make it self standing. (Ord. 1322 § 50, 2003).

22.98.648.30 Sign, service island.

“Sign, service island” means a permanent sign displayed on the service island canopy, spandrel or island spanner of a service station. (Ord. 1598 § 79, 2017; Ord. 1322 § 51, 2003).

22.98.648.31 Sign, special event.

“Sign, special event” means temporary signs or advertising displays or a combination thereof that advertises or attracts public attention to a special one-time event. (Ord. 1598 § 80, 2017; Ord. 1322 § 52, 2003).

22.98.648.32 Sign, temporary.

“Sign, temporary” means any sign that is used temporarily and is not permanently mounted, painted or otherwise affixed, excluding portable signs as defined by this chapter, including any poster, banner, placard, feather sign, stake sign or sign not placed in the ground with concrete or other means to provide permanent support, stability and rot prevention. Temporary signs may only be made of nondurable materials including, but not limited to, paper, corrugated board, flexible, bendable or foldable plastics, foamcore board, vinyl canvas or vinyl mesh products of less than 20-ounce fabric, vinyl canvas and vinyl mesh products without polymeric plasticizers, and signs painted or drawn with water soluble paints or chalks. Signs made of any other materials shall be considered permanent and are subject to the permanent sign regulations of this chapter. (Ord. 1598 § 81, 2017; Ord. 1322 § 53, 2003).

22.98.648.33 Sign, under-canopy.

“Sign, under-canopy” means a sign that is placed under an awning, marquee or canopy, and is placed perpendicular to the storefront so that it is oriented to pedestrians on a sidewalk or an internal walkway. (Ord. 1598 § 82, 2017; Ord. 1322 § 54, 2003).

22.98.648.34 Sign, wall.

“Sign, wall” means a sign that is attached parallel to or painted on a wall, including parapet or canopy fascia, or a building. (Ord. 1598 § 83, 2017; Ord. 1322 § 55, 2003).

22.98.648.35 Sign width.

“Sign width” means the total horizontal dimension of a sign, including all frames or structures. (Ord. 1598 § 84, 2017).

22.98.648.36 Sign, window.

“Sign, window” means a sign that is attached to or is intended to be seen in, on or through a window of a building and is visible from the exterior of the window. (Ord. 1598 § 85, 2017).

22.98.650 Significant portion of its range.

“Significant portion of its range” means that portion of a species’ range likely to be essential to the long-term survival of the population in Washington. (Ord. 1375 § 9, 2005).

22.98.651 Significant tree.

“Significant tree” means a healthy evergreen tree with a height of 10 feet or more and a healthy deciduous tree with a minimum caliper of six inches measured at four feet above finished planting grade. (Ord. 1246 § 27, 2000).

22.98.652 Site.

“Site” means a unit of land, together with all improvements thereon, determined as follows:

A unit of land that may be conveyed separately from all adjacent land without the requirement of approval of a boundary line adjustment, short plat, or a preliminary plat.

Two or more buildings or business activities that are or will be related to each other physically or architecturally, such as by sharing off-street parking facilities, so as to form an integrated development, such as a shopping center, mixed-use center, or office complex. (Ord. 1667 § 49, 2020; Ord. 1598 § 86, 2017).

22.98.654 Slope.

“Slope,” as determined or agreed upon by the city engineer, means an inclined earth surface, the inclination of which is expressed as the ratio of horizontal distance from the top-of-slope to the toe-of-slope to the vertical distance (height of slope). Slope percent is computed by dividing the vertical distance by the horizontal distance times 100. A change in grade of more than five percent along any slope analyzed, or a vertical elevation variation of two feet off of the base line slope, whichever is less, constitutes a separate slope calculation, beginning at the location of grade breaks. (Ord. 1417 § 13, 2006; Ord. 1246 § 27, 2000).

22.98.657 Social card game.

“Social card game” means a card game that constitutes gambling and is authorized by the Washington State Gambling Commission under RCW 9.46.070. (Ord. 1246 § 27, 2000).

22.98.658 Soil survey.

“Soil survey” means the most recent soil survey for the local area or county by the National Resources Conservation Service, U.S. Department of Agriculture. (Ord. 1375 § 9, 2005).

22.98.658.1 Spandrel.

“Spandrel” means a panel or box-type structure that spans between and/or is connected to the support columns of a porch, colonnade or canopy, usually for architectural embellishment and/or signage purposes. (Ord. 1598 § 87, 2017).

22.98.659 Special flood hazard areas.

“Special flood hazard areas” means the land in the floodplain within an area subject to a one percent or greater chance of flooding in any given year. Designations of special flood hazard areas on flood insurance map(s) always include the letters A or V. (Ord. 1375 § 9, 2005).

22.98.660 Special protection areas.

“Special protection areas” means aquifer recharge areas defined by WAC 173-200-090 that require special consideration or increased protection because of unique characteristics, including, but not limited to:

- (a) Ground waters that support an ecological system requiring more stringent criteria than drinking water standards;
- (b) Ground water recharge areas and wellhead protection areas that are vulnerable to pollution because of hydrogeologic characteristics; and
- (c) Sole source aquifer status. (Ord. 1375 § 42, 2005; Ord. 1246 § 27, 2000).

22.98.661 Species.

“Species” means any group of animals classified as a species or subspecies as commonly accepted by the scientific community. (Ord. 1375 § 9, 2005).

22.98.662 Species, endangered.

“Species, endangered” means any fish or wildlife species that is threatened with extinction throughout all or a significant portion of its range and is listed by the state or federal government as an endangered species. (Ord. 1375 § 9, 2005).

22.98.663 Species of local importance.

“Species of local importance” means those species of local concern due to their population status or their sensitivity to habitat manipulation, or that are game species. (Ord. 1375 § 43, 2005; Ord. 1246 § 27, 2000).

22.98.664 Species, priority.

“Species, priority” means any fish or wildlife species requiring protective measures and/or management guidelines to ensure their persistence as genetically viable population levels as classified by the Washington State Department of Fish and Wildlife, including endangered, threatened, sensitive, candidate and monitor species, and those of recreational, commercial, or tribal importance. (Ord. 1375 § 9, 2005).

22.98.665 Species, threatened.

“Species, threatened” means any fish or wildlife species that is likely to become an endangered species within the foreseeable future throughout a significant portion of its range without cooperative management or removal of threats, and is listed by the state or federal government as a threatened species. (Ord. 1375 § 9, 2005).

22.98.666 Specified sexual activities.

“Specified sexual activities” means an act of sexual intercourse within its ordinary meaning, occurring upon a penetration, however slight; a penetration of the vagina or anus, however slight, by an object; a contact between persons involving the sex organs of one person and the mouth or anus of another; masturbation, manual or instrumental, of oneself or one person by another; touching of the sex organs, anus, or female breasts, whether clothed or unclothed, of oneself or of one person by another. (Ord. 1375 § 9, 2005; Ord. 1246 § 27, 2000).

22.98.667 Specified anatomical areas.

“Specified anatomical areas” means less than completely and/or opaquely covered human genitals, pubic region, buttock, or any portion of the nipple, the areola, or the lower half of the female breast and human male genitals in a discernibly turgid state even if completely or opaquely covered. (Ord. 1375 § 9, 2005).

22.98.669 Stand.

“Stand” means a structure, open on at least one side, for the display and sale of goods. (Ord. 1246 § 27, 2000).

22.98.672 Stock-in-trade.

“Stock-in-trade” means the dollar value of all products, equipment, books, magazines, posters, pictures, periodicals, other printed materials, prerecorded video tapes, discs, or similar material readily available for purchase, rental,

viewing or use by patrons of the establishment, excluding material located in any storeroom or other portion of the premises not regularly open to patrons; the number of titles of all products, equipment, books, magazines, posters, pictures, periodicals, other printed materials, prerecorded video tapes, discs, or similar material readily available for purchase, rental, viewing or use by patrons of the establishment, excluding material located in any storeroom or other portion of the premises not regularly open to patrons. (Ord. 1246 § 27, 2000).

22.98.675 Story.

“Story” means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement or unused underfloor space is more than six feet above grade as defined herein for more than 50 percent of the total perimeter or is more than 12 feet above grade as defined herein at any point, such basement or unused underfloor space shall be considered as a story. (Ord. 1246 § 27, 2000).

22.98.678 Stream corridor.

“Stream corridor” means perennial, intermittent, or ephemeral waters included within a channel of land and its adjacent riparian zones which serves as a buffer between the aquatic and terrestrial upland ecosystems. (Ord. 1246 § 27, 2000).

22.98.681 Street.

“Street” means a public right-of-way or private road which provides a primary means of access to abutting property. (Ord. 1246 § 27, 2000).

22.98.684 Street furniture.

“Street furniture” means constructed, aboveground objects, such as outdoor seating, kiosks, bus shelters, sculpture, tree grids, trash receptacles, fountains, and telephone booths, that have the potential for enlivening and giving variety to streets, sidewalks, plazas, and other outdoor spaces open to, and used by, the public. (Ord. 1246 § 27, 2000).

22.98.687 Street right-of-way.

“Street right-of-way” means the strip of land platted, dedicated, condemned, established by prescription or otherwise legally established for the use of pedestrians, vehicles or utilities. (Ord. 1598 § 88, 2017; Ord. 1246 § 27, 2000).

22.98.690 Streetscape.

“Streetscape” is a design term referring to all the elements that constitute the physical makeup of a street and that, as a group, define its character, including trees and other plantings, awnings and marquees, signs, and lighting. (Ord. 1246 § 27, 2000).

22.98.693 Subdivision.

“Subdivision” means the division or redivision of land into five or more lots, tracts, parcels, sites or divisions for the purpose of sale, lease, or transfer of ownership, except as provided in Chapter 22.16 FMC. (Ord. 1246 § 27, 2000).

22.98.694 Subdrainage basin or subbasin.

“Subdrainage basin or subbasin” means the drainage area of the highest order stream containing the subject property impact area. “Stream order” is the term used to define the position of a stream in the hierarchy of tributaries in the watershed. The smallest streams are the highest order (first order) tributaries. These are the upper watershed streams and have no tributaries of their own. When two first order streams meet, they form a second order stream, and when two second order streams meet they become a third order stream, and so on. (Ord. 1375 § 9, 2005).

22.98.695 Substantial damage.

“Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. (Ord. 1375 § 9, 2005).

22.98.696 Structural alteration.

“Structural alteration” means any change, addition or modification in construction. (Ord. 1375 § 9, 2005; Ord. 1246 § 27, 2000).

22.98.697 Substantial improvement.

“Substantial improvement” means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the assessed value of the structure either: before the improvement or repair is started; or if the structure has been damaged and is being restored, before the damage occurred. (Ord. 1562 § 59, 2015; Ord. 1375 § 44, 2005).

22.98.697.1 Substantially change.

“Substantially change” means to increase the height of an existing wireless tower by more than 10 percent, or by a height exceeding 20 feet, whichever is greater. (Ord. 1667 § 50, 2020).

22.98.698 Tenant space.

“Tenant space” means the entire building which encompasses a building or use on a site; or in buildings designed for multi-tenant occupancy, it is the space between demising walls and which has an independent entrance to common corridors or to the outside. Portions of tenant spaces that are sublet to or otherwise allowed to be used by persons or businesses other than the principal person or business of a tenant space are not considered tenant spaces in the context of this chapter. (Ord. 1598 § 89, 2017).

22.98.699 Toe of slope.

“Toe of slope” means a distinct topographic break in slope at the lower most limit of an area where the ground surface drops 10 feet or more vertically within a horizontal distance of 25 feet. (Ord. 1246 § 27, 2000).

22.98.702 Tot lot.

“Tot lot” means an improved and equipped play area for small children usually up to elementary school age. (Ord. 1246 § 27, 2000).

22.98.705 Tower.

As used in Chapter 22.24 FMC, “tower” means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term encompasses personal wireless service facilities including radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers or personal communications services towers, alternative tower structures, and the like. (Ord. 1246 § 27, 2000).

22.98.706 Transitional housing.

“Transitional housing” means a project that provides housing and supportive services to homeless persons or families for up to two years and that has as its purpose facilitating the movement of homeless persons and families into independent living.

22.98.708 Tree topping.

“Tree topping” means the cutting of a branch or stem back to a stub or lateral branch not sufficiently large enough to assume the terminal role. (Ord. 1246 § 27, 2000).

22.98.711 Unavoidable.

“Unavoidable” means adverse impacts to a critical area that remain after all appropriate and practical avoidance and minimization have been achieved. (Ord. 1375 § 45, 2005; Ord. 1246 § 27, 2000).

22.98.714 Unlicensed wireless services.

“Unlicensed wireless services” means commercial mobile services that operate on public frequencies and do not need an FCC license. (Ord. 1246 § 27, 2000).

22.98.715 Unshielded lighting.

“Unshielded lighting” means an external illumination source which is exposed to view. (Ord. 1598 § 90, 2017).

22.98.717 Use.

“Use” means the nature of the occupancy, the type of activity, or the character and form of improvements to which land is devoted or may be devoted. (Ord. 1246 § 27, 2000).

22.98.720 Use, principal.

“Use, principal” means the primary use of land or improvements as distinguished from a subordinate or accessory use. (Ord. 1246 § 27, 2000).

22.98.723 Use, accessory.

“Use, accessory” means a use customarily incidental and subordinate to a permitted principal use and located on the same lot or in the same building as the principal use. (Ord. 1246 § 27, 2000).

22.98.726 Use type.

Reserved. (Ord. 1246 § 27, 2000).

22.98.729 Variance.

“Variance” means a means, approved by the hearing examiner or director, of altering the requirements of this title in specific instances where the strict application of these regulations would deprive a property of privileges enjoyed by other properties which are similarly situated, due to special features or constraints unique to the property involved. (Ord. 1638 § 67, 2019; Ord. 1246 § 27, 2000).

22.98.730 Variance, de minimis.

“Variance, de minimis” means a minimal or minor deviation from a bulk or dimensional zoning requirement that does not require proof of unnecessary hardship and compliance with other statutory requirements for the granting of a variance. (Ord. 1575 § 22, 2016).

22.98.732 Vehicle repair, major.

“Vehicle repair, major” means the rebuilding or reconditioning of motor vehicles or trailers including trucks over one and one-half tons capacity, including but not limited to engine replacement or rebuilding; collision service, including body, frame or fender straightening or repair; and vehicle painting. (Ord. 1246 § 27, 2000).

22.98.735 Vehicle repair, minor.

“Vehicle repair, minor” means general engine repair and part replacement for automobiles and trucks not exceeding one and one-half ton capacity, but not including any operation specified under FMC 22.98.732, Automobile repair, major. (Ord. 1246 § 27, 2000).

22.98.738 Vehicle wash.

“Vehicle wash” means a facility for washing motor vehicles utilizing any combination of mechanical and/or manual processes. (Ord. 1246 § 27, 2000).

22.98.741 Vehicle wrecker.

“Vehicle wrecker” means every person, firm, partnership, association or corporation engaged in the business of buying, selling or dealing in vehicles of a type required to be licensed under the laws of the this state, for the purpose of wrecking, dismantling, disassembling or substantially changing the form of a vehicle, or who buys or sells integral second-hand parts of component material thereof, in whole or in part, or who deals in second-hand vehicle parts. (Ord. 1246 § 27, 2000).

22.98.744 Veterinary clinic.

“Veterinary clinic” means an establishment in which veterinary services and incidental temporary boarding are rendered, but not including kennels. (Ord. 1246 § 27, 2000).

22.98.745 Vulnerability.

“Vulnerability” means the combined effect of susceptibility to contamination and the presence of potential contaminants. (Ord. 1375 § 9, 2005).

22.98.746 Warehouse/warehousing.

“Warehouse/warehousing” means a facility generally dealing with the active reception and dispersal of goods that are oriented to manufactured products and household goods. (Ord. 1375 § 9, 2005).

22.98.747 Water dependent.

“Water dependent” means a use or portion of a use that cannot exist in a location that is not adjacent to the water, but is dependent on the water by reason of the intrinsic nature of its operations; a use that can be carried out only on, in, or adjacent to water. Examples of water dependent uses include: ship cargo terminal loading areas; fishing; ferry and passenger terminals; barge loading, ship building, and dry docking facilities; marinas, moorage, and boat launching facilities; aquaculture; float plane operations; surface water intake; and sanitary sewer and storm drain outfalls. (Ord. 1375 § 46, 2005; Ord. 1246 § 27, 2000).

22.98.748 Water resource inventory area (WRIA).

“Water resource inventory area (WRIA)” means one of 62 watersheds in the state of Washington, each composed of the drainage areas of a stream or streams, as established in Chapter 173-500 WAC as it existed on January 1, 1997. (Ord. 1375 § 9, 2005).

22.98.749 Water table.

“Water table” means that surface in an unconfined aquifer at which the pressure is atmospheric. It is defined by the levels at which water stands in wells that penetrate the aquifer just far enough to hold standing water. (Ord. 1375 § 9, 2005).

22.98.750 Water typing system.

“Water typing system” means waters classified according to WAC 222-16-031. (Ord. 1375 § 47, 2005; Ord. 1246 § 27, 2000).

22.98.751 Watercourse.

“Watercourse” means any portion of a channel, bed, bank, or bottom waterward of the ordinary high water line of waters of the state including areas in which fish may spawn, reside, or through which they may pass, and tributary waters with defined beds or banks, which influence the quality of fish habitat downstream. This definition includes watercourses that flow on an intermittent basis or which fluctuate in level during the year and applies to the entire bed of such watercourse whether or not the water is at peak level. This definition does not include irrigation ditches, canals, stormwater run-off devices, or other entirely artificial watercourses, except where they exist in a natural watercourse that has been altered by humans. (Ord. 1375 § 9, 2005).

22.98.752 Well.

“Well” means a bored, drilled, or driven shaft, or a dug hole whose depth is greater than the largest surface dimension for the purpose of withdrawing or injecting water or other liquids. (Ord. 1375 § 9, 2005).

22.98.753 Wellhead protection area (WHPA).

“Wellhead protection area (WHPA)” means the portion of a zone of contribution for a well, wellfield, or spring, as defined using criteria established by the Washington State Department of Ecology. (Ord. 1375 § 48, 2005; Ord. 1246 § 27, 2000).

22.98.754 Wetland classes, classes of wetlands, or wetland types.

“Wetland classes,” “classes of wetlands,” or “wetland types” means the descriptive classes of the wetlands taxonomic classification system of the U.S. Fish and Wildlife Service (Cowardin, et al., 1979). (Ord. 1375 § 9, 2005).

22.98.755 Wetland edge.

“Wetland edge” means the boundary of a wetland as delineated based on the definitions contained in this title. “Wetland edge” also means a line dividing uplands from water habitat. The line can be identified through procedures in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands by examining the presence or absence of aquatic plants (hydrophyte), hydric soils and/or water table at or near the surface. (Ord. 1375 § 9, 2005).

22.98.756 Wetlands.

“Wetlands” means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation

and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas to mitigate the conversion of wetlands. (Ord. 1574 § 9, 2016; Ord. 1375 § 49, 2005; Ord. 1246 § 27, 2000).

22.98.759 Wetlands mitigation bank.

“Wetlands mitigation bank” means a site where wetlands are restored, created, enhanced, or in exceptional circumstances, preserved expressly for the purpose of providing compensatory mitigation in advance of authorized impacts to similar resources. (Ord. 1375 § 50, 2005; Ord. 1246 § 27, 2000).

22.98.760 Window.

“Window” means the entire window unit including individual sashes or panes that might otherwise divide the area between the head, jamb and sill; except that in commercial storefront window assemblies, a single “window” is the glass area between each mullion that divides the window assembly, whether installed as a single piece of glass or as multiple pieces of glass divided by muntins. (Ord. 1598 § 91, 2017).

22.98.762 Wrecked vehicle.

“Wrecked vehicle” [as defined by RCW 46.80.010(4), as amended] means a vehicle which is disassembled or dismantled or a vehicle which is acquired with the intent to dismantle or disassemble and never again to operate as a vehicle, or a vehicle which has sustained such damage that its cost to repair exceeds the fair market value of a like vehicle which has not sustained such damage, or a damaged vehicle whose salvage value plus cost to repair equals or exceeds its fair market value, if repaired, or a vehicle which has sustained such damage or deterioration that it may not lawfully operate upon the highways of this state for which the salvage value plus cost to repair exceeds its fair market value, if repaired; further it is presumed that a vehicle is a wreck if it has sustained such damage or deterioration that it may not lawfully operate upon the highways of the state. (Ord. 1246 § 27, 2000).

22.98.765 Yard, automobile wrecking.

“Automobile wrecking yard” means an establishment that cuts up, compresses, or otherwise disposes of motor vehicles. (Ord. 1246 § 27, 2000).

22.98.768 Yard.

“Yard” means a space defined by the required setback on any lot and unoccupied by a structure and unobstructed from the ground upward except as otherwise provided in this title. A yard extends along a lot line and at right angles to such lot line to a depth or width specified in the yard regulations for a specified zoning district or use. (Ord. 1246 § 27, 2000).

22.98.771 Yard, front.

“Yard, front” means a yard lying between the minimum setback line for a principal building and the front property line and extending across the width of the lot. (Ord. 1246 § 27, 2000).

22.98.774 Yard, rear.

“Yard, rear” means a yard lying between the minimum setback line for a principal building and the rear property line and extending across the width of the lot. (Ord. 1246 § 27, 2000).

22.98.777 Yard, required.

“Yard, required” means the open space between a lot line and the minimum building setback line, which is required to remain free of structures unless otherwise provided in this title. (Ord. 1246 § 27, 2000).

22.98.780 Yard, side.

“Yard, side” means a yard lying between the minimum setback line for a principal building and the side property line and extending along the length of the lot between the front yard and the rear yard. (Ord. 1246 § 27, 2000).

22.98.783 Yard, side street side.

“Yard, side street side” means a yard lying between the minimum setback line for a principal building and the side property line adjoining a street right-of-way and extending along the length of the lot between the front yard and the rear yard. (Ord. 1246 § 27, 2000).

22.98.785 Zone of contribution.

“Zone of contribution” means the area surrounding a well or spring that encompasses all areas or features that supply ground water recharge to the well or spring. (Ord. 1375 § 9, 2005).

22.98.786 Zone or zoning district.

“Zone” or “zoning district” means an area accurately defined as to boundaries and location, and classified by this title as available for certain types of uses and within which other types of uses are excluded. Such district includes specific conditions, standards and requirements related to the permitted use of land within such district. (Ord. 1246 § 27, 2000).

22.98.789 Zoning map.

“Zoning map” means the official map, adopted as a part of this title, as amended, which accurately defines boundaries and locations of zoning districts. The official map may contain one or more map sheets and may be produced in multiple copies. (Ord. 1246 § 27, 2000).

Exhibit C
 March 3, 2026
 Fircrest Planning Commission
 2026 Comprehensive Plan & STEP Housing

Topic	Nov 2025				Dec 2025				Jan 2026			
	11/3-11/7	11/10-11/14	11/17-11-21	11/24-11/28	12/1-12/5	12/8-12/12	12/15-12/19	12/22-12/26	1/5-1/9	1/12-1/16	1/19-1/23	1/26-1/30
Comprehensive Plan Amendment												
Housing Adequacy Analysis Supplemental Land Capacity Analysis (LCA)										Council Project Initiation		MP Prep
Zoning Code Text Amendment												
Shelters, Transitional Housing, Emergency Housing, and Permanent Supportive Housing (STEP)	Planning Commission Workshop 1		MP Editing		Planning Commission Workshop 2		MP Editing		Planning Commission Workshop 3		MP Editing	

Topic	Feb 2026				Mar 2026				Apr 2026			
	2/2-2/6	2/9-2/13	2/16-2/20	2/23-2/27	3/2-3/6	3/9-3/13	3/16-3/20	3/23-3/27	4/6-4/10	4/13-4/17	4/20-4/24	4/27-5/1
Comprehensive Plan Amendment												
Housing Adequacy Analysis Supplemental Land Capacity Analysis (LCA)	Planning Commission-Council Joint Discussion	MP Editing	Council Study Session	MP Editing	Planning Commission Workshop 1	MP Editing	Council Study Session (WA legislative session ends)	MP Editing	Planning Commission Workshop 2	MP Editing	Council Study Session	MP Editing
Zoning Code Text Amendment												
Shelters, Transitional Housing, Emergency Housing, and Permanent Supportive Housing (STEP)	Planning Commission-Council Joint Discussion	MP Editing	Council Study Session	MP Editing	Planning Commission Workshop 4 (FINAL)	MP Editing	Council Study Session (WA legislative session ends)	MP Editing	Notice - Commerce & PRSC			

Topic	May 2026				June 2026				July 2026			
	5/4-5/8	5/11-5/15	5/18-5/22	5/25-5/29	6/1-6/5	6/8-6/12	6/15-6/19	6/22-6/26	7/6-7/10	7/13-7/17	7/20-7/24	7/27-7/31
Comprehensive Plan Amendment												
Housing Adequacy Analysis Supplemental Land Capacity Analysis (LCA)	Planning Commission Workshop 3 (FINAL)	MP Editing	Notice - Commerce & PRSC	60-day Comment Period (through 7/25)		Public Engagement (tentative)		60-day Comment Period (through 7/18)		MP Editing		Notice - SEPA and Planning Commission Public Hearing
Zoning Code Text Amendment												
Shelters, Transitional Housing, Emergency Housing, and Permanent Supportive Housing (STEP)	60-day Comment Period (through 6/6)						Public Engagement (tentative)		MP Editing			Notice - SEPA and Planning Commission Public Hearing

Topic	Aug 2026				Sept 2026				Oct 2026				Nov 2026			
	8/3-8/7	8/10-8/14	8/17-8/21	8/24-8/28	9/1-9/4	9/7-9/11	9/14-9/18	9/21-9/25	10/5-10/9	10/12-10/16	10/19-10/23	10/26-10/30	11/2-11/6	11/9-11/13	11/16-11/20	11/23-11/27
Comprehensive Plan Amendment																
Housing Adequacy Analysis Supplemental Land Capacity Analysis (LCA)	14-day Comment Period		Planning Commission Public Hearing	MP Editing	Planning Commission Resolutions	-	Notice - Council Public Hearing	14-day Comment Period	Council Public Hearing	MP Editing	-		Council Ordinances	MP Transmit Ordinance to Commerce	Project Complete!	
Zoning Code Text Amendment																
Shelters, Transitional Housing, Emergency Housing, and Permanent Supportive Housing (STEP)	14-day Comment Period		Planning Commission Public Hearing	MP Editing	Planning Commission Resolutions	-	Notice - Council Public Hearing	14-day Comment Period	Council Public Hearing	MP Editing	-		Council Ordinances	MP Transmit Ordinance to Commerce	Project Complete!	