



**CITY OF FIRCREST
PLANNING COMMISSION
MEETING AGENDA**

**TUESDAY, AUGUST 18, 2026
6:00 P.M.**

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

- 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. [July 07, 2026, Regular Meeting](#) 2
- 6. CITIZEN COMMENTS (FOR ITEMS NOT ON THE AGENDA)**
- 7. PUBLIC HEARING**
 - A. [To receive comments on the proposed Critical Areas Ordinance Update](#) 5
- 8. UNFINISHED BUSINESS**
 - A. [2026 Comprehensive Plan Amendment | Supplemental Land Capacity Analysis and Implementing Development Regulations \(“STEP Housing”\)](#) 175
 - B. [2026 Planning Legislative Priorities \(Groups 1 and 2\) | HBs 1377, 1757, 1096 and SBs 5509, 5571, 5290, 6015, 5559](#) 279
 - C. [Resolution No. 26-01: Recommending Adoption of Critical Areas Ordinance Update](#) 345
- 9. NEW BUSINESS**
- 10. COMMISSIONER COMMENTS/ROUNDTABLE UPDATES/STAFF UPDATES**
- 11. FUTURE BUSINESS**
- 12. ADJOURNMENT**



**CITY OF FIRCREST
PLANNING COMMISSION
MEETING AGENDA**

**TUESDAY, JULY 07, 2026
6:00 P.M.**

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

1. CALL TO ORDER

Vice Chair Lane called the Fircrest Planning Commission regular meeting to order at 6:00 PM.

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

Planning Commissioners Present: Commissioner Shirley Schultz, Vice Chair Eric Lane, Commissioner Andreas Schonger, and Commissioner Ben Furguson.

City Staff Present: Permit Coordinator Danielle O’Galleher and Planning Consultant Kimberly Gunderson with Mahoney Planning.

Motion to excuse Chair Kathy McVay.

**Motion: Commissioner Furguson
Second: Commissioner Shultz**

**Vote: Unanimous
Abstaining: None**

The Motion Carried (4-0).

4. APPROVAL OF THE AGENDA

Motion to approve the agenda for the July 07, 2026, Regular Planning Commission Meeting.

**Motion: Commissioner Shultz
Second: Commissioner Furguson**

**Vote: Unanimous
Abstaining: None**

The Motion Carried (4-0).

5. APPROVAL OF THE MINUTES

A. June 02, 2026, Regular Meeting

Motion to approve the minutes for June 02, 2026, Regular Planning Commission Meeting.

**Motion: Commissioner Furguson
Second: Commissioner Schonger**

**Vote: 3 – 0
Abstaining: Commissioner Schultz**

The Motion Carried (3-0).

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

There was no comment provided. It was noted that there were no citizens in chambers.

7. PUBLIC HEARING

There was no public hearing scheduled.

8. UNFINISHED BUSINESS

A. 2026 Comprehensive Plan Amendment | Supplemental Land Capacity Analysis and Implementing Development Regulations (“STEP Housing”)

Kim Gunderson of Mahoney Planning LLC, presented to the Planning Commission her recently drafted FMC amendments to confirm accuracy from the June Planning Commission’s discussion. With that confirmation, Kim will continue to advance the next stages of the project, which will include a Supplemental Land Capacity Analysis (LCA) in the Fircrest Comprehensive Plan. Key outstanding components of the Supplemental LCA include an Adequate Provisions analysis and an Emergency Housing specific LCA. Discussion of these project components is expected to continue with Planning Commission through October 2026.

B. 2026 Planning Legislative Priorities (Group 2 of 2) | SBs 5509, 5571, 5290

Kim Gunderson of Mahoney Planning LLC, presented to the Planning Commission Exhibit D, which is a redlined copy of the Fircrest Municipal Code (FMC) and discussed how the “Group 2” SBs have been incorporated into the FMC. Mrs. Gunderson went into detail about SB 5290 how it reduces permit review times, site plan review cannot include interior remodels, refines requirements for Determination of Completeness, obligates NOA within 14 days of Determination of Completeness, financially penalizes cities for failing to meet review timelines, unless at least 3 specified procedures are in place (Fircrest meets this requirement), and requires annual reporting on permitting timelines (applies to cities 20,000 or more. Fircrest does not qualify.) One noteworthy edit that will need to be made is that Type IA and IB do require 100 days to issue a decision. Commissioner Shultz asked questions regarding a Site Development permit, and Mrs. Gunderson informed the commission that she will investigate this and return with more details.

C. Critical Areas Ordinance Update, RCW 36.70A.070

Kim Gunderson of Mahoney Planning LLC, presented to the Planning Commission the feedback the City received from WDFW and DOH in response to the City’s 60-day Notice of Intent to Adopt (Exhibits A and B, respectively). Edits drafted to the City’s CAO and its adopted definitions code (Exhibits C and D, respectively) were also presented, incorporating agreeable feedback from state agencies into Fircrest’s CAO.

9. NEW BUSINESS

A. Motion: Setting a Public Hearing on August 18, 2026, at 6:00 P.M. or shortly thereafter to receive comments on the proposed Critical Areas Ordinance Update

There was discussion on including SPTH, and if that would need to be excluded, Planning Consultant Gunderson notated that we did not include that in the code.

Motion: Commissioner Schultz
Second: Commissioner Ferguson

Vote: Unanimous
Abstaining: None

The Motion Carried (4-0).

10. COMMISSIONER COMMENTS/ROUNDTABLE UPDATES/STAFF UPDATES

Commissioner Schonger announced that he was planning to resign from the Planning Commission. Clerk O’Galleher notated that the position has been posted and advertised to look for a replacement and that Commissioner Schonger is willing to stay on board until a replacement.

Commissioner Ferguson asked about the Planner position and if this was a full-time position, and if the consultant will still be a part of the city team. Planning Consultant Kim Gunderson mentioned that she will still be with the city.

11. FUTURE BUSINESS

There was none.

12. ADJOURNMENT

Motion to adjourn the July 7, 2026, Planning Commission regular meeting at 6:45 PM.

**Motion: Commissioner Ferguson
Second: Commissioner Schultz**

**Vote: Unanimous
Abstaining: None**

The Motion Carried (4-0).

August 13, 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.

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 by 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.

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 each critical area and local examples are included below to offer a brief introduction of the features that are subject to this project.

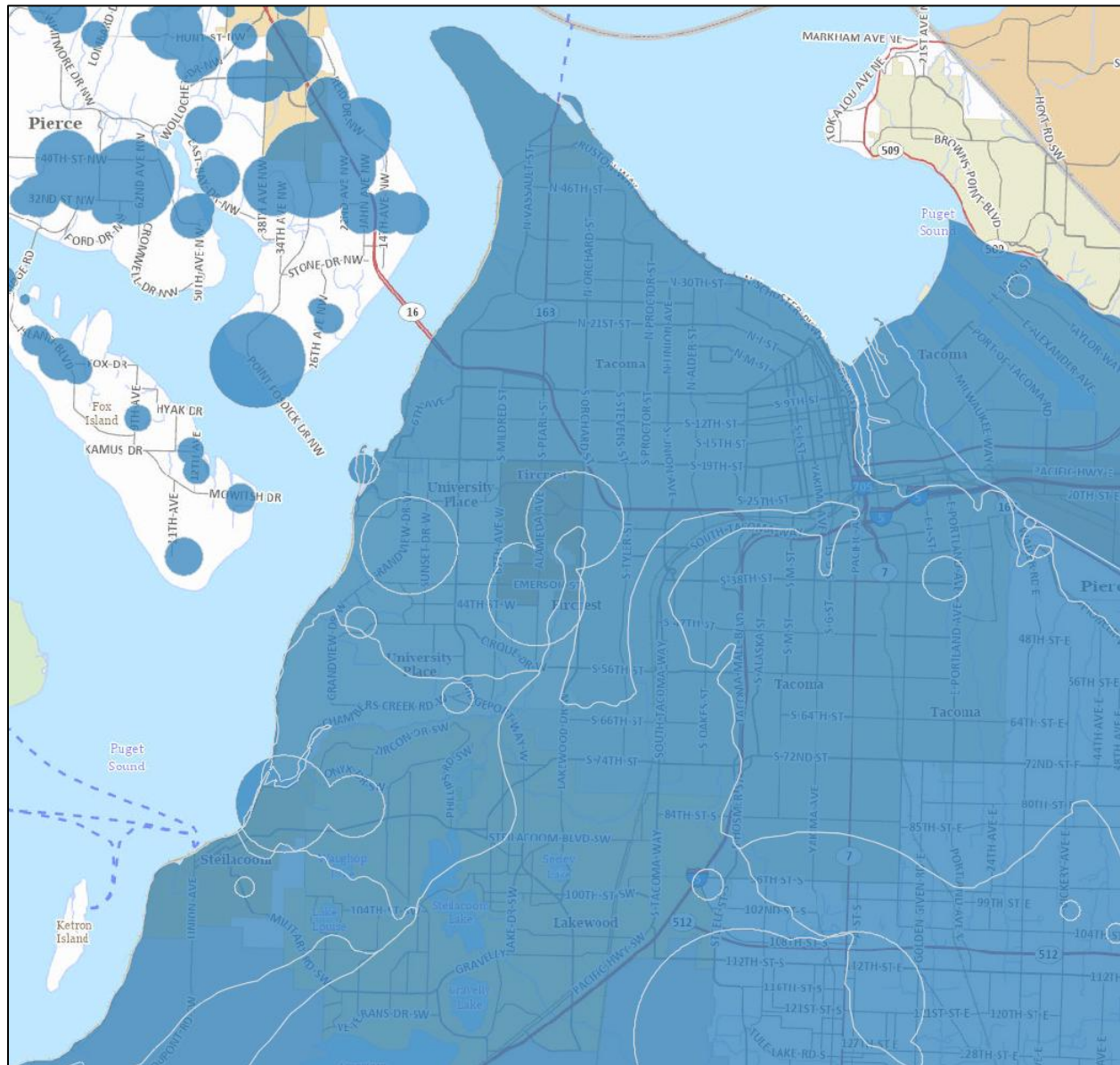
Wetlands

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.

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 1, 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 1
CARAs in Fircrest



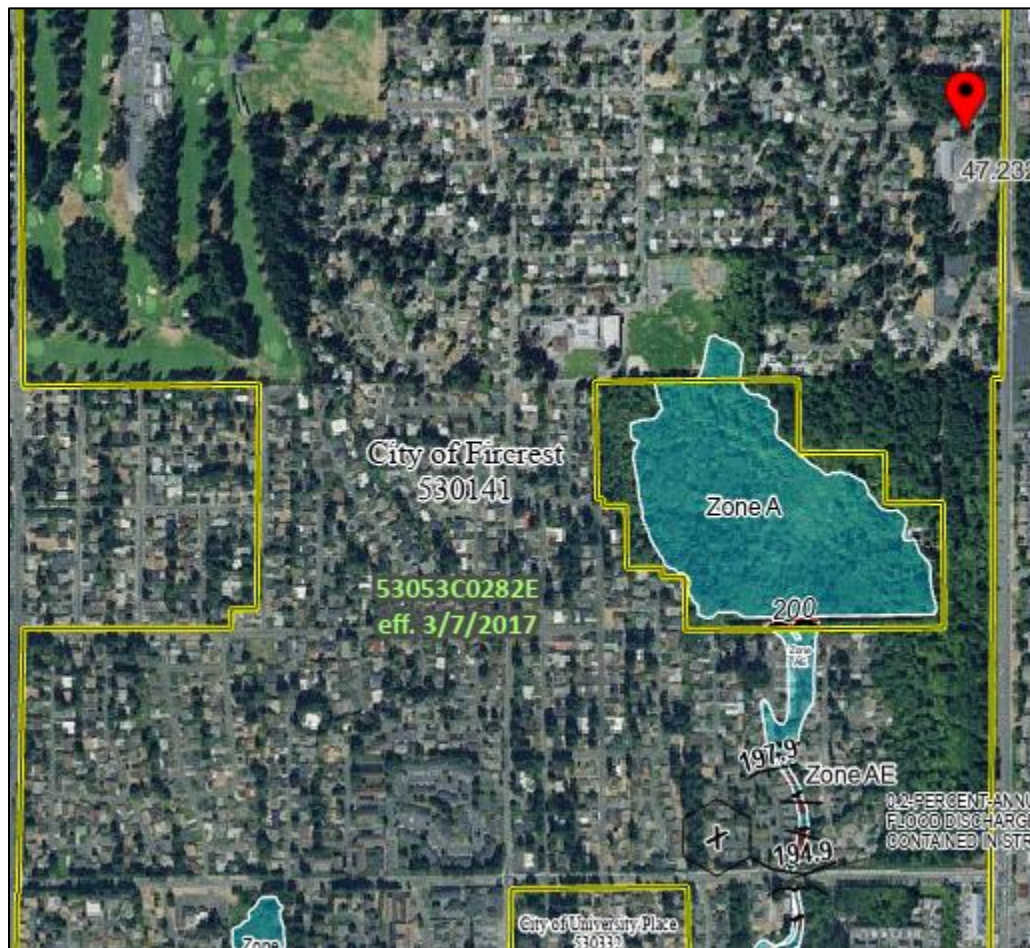
Pierce County CARA mapping, showing CARAs as blue polygons.

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 2.

Figure 2
Frequently Flooded Areas in Fircrest



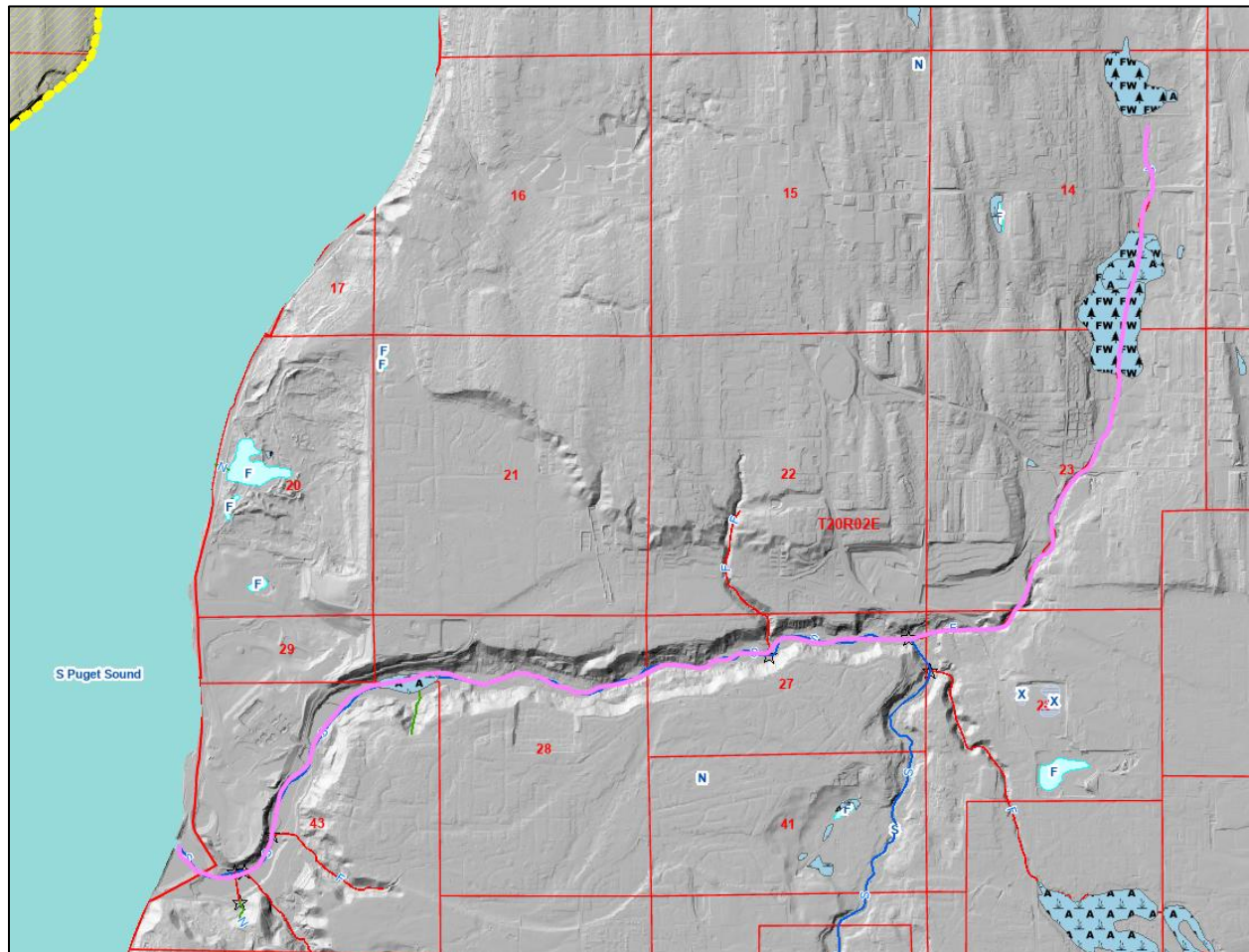
FEMA flood map of Fircrest. Zones A and AE represent special flood hazard areas that are regulated in Fircrest as frequently flooded areas.

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 3.

Figure 3
Leach Creek FWHCA



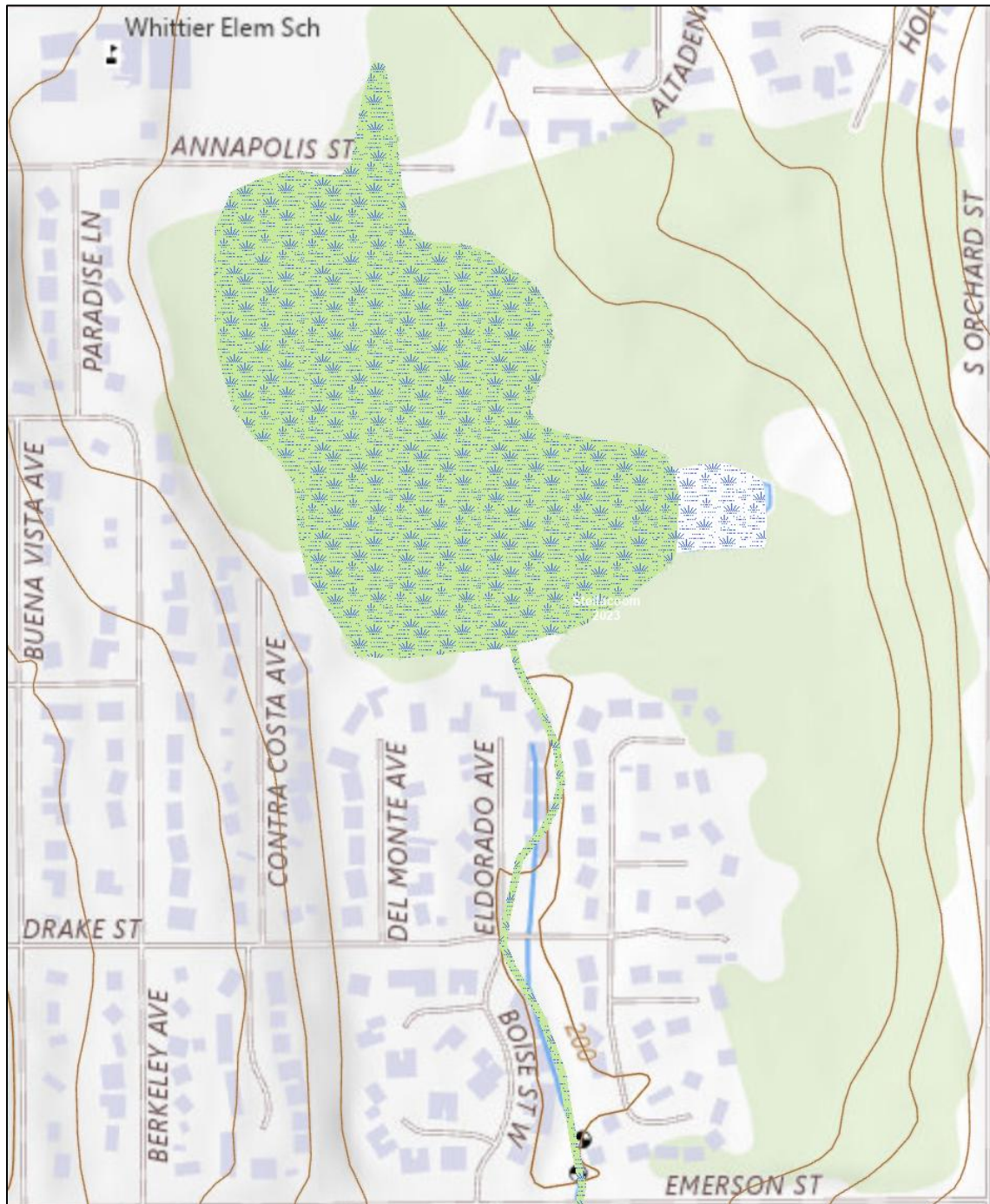
Washington Department of Natural Resources Forest Practices Application Mapping Tool, Leach Creek connection to Chambers Creek drawn in pink

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 4.

Figure 4
Fircrest Erosion Hazard



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

At their core, critical area regulations established in a CAO aim to protect ecological function and reinforce safety to human life and infrastructure. Critical area regulations set a basis for

determining the presence and characterization of critical areas on best available science to ensure that the scientific community's developing understanding of natural features informs regulatory exposure and guides adequate protective measures.

Project Progress

Since December 2025, Planning Commission and Mahoney Planning have collaborated on amendments needed to bring Fircrest's CAO into alignment with current provisions of the RCW and WAC governing the relationship between development and critical areas; the resulting product is a statutorily compliant CAO, included as **Exhibits A and B** to this memo. Early efforts in the project employed the use of the Department of Commerce (Commerce) Critical Areas Checklist to inform what provisions of the Fircrest CAO were due for update to incorporate newer state guidance. Additional efforts included general edits for legibility and readability of the code, and administrative edits so that the CAO reflects true practices used by Fircrest. Draft work products were distributed to the state via the Commerce, and agreeable feedback from state agencies were incorporated into the draft Fircrest CAO Update. Exhibits A and B represent the cumulative result from this collaborative project.

Public Engagement

The City has invited the public to participate in the CAO Update. The draft CAO Update was submitted to Commerce via a Notice of Intent to Adopt on April 8, 2026 (**Exhibit D**). Commerce distributed the draft CAO to other state agencies and underwent a 60-day review process, during which any public state agency could offer comments to the City. Comments were received by the Department of Fish and Wildlife, the Department of Health, the Department of Ecology, and the Department of Natural Resources for the City's consideration (**Exhibit D**). Recommendations from these agencies were reviewed by the City and contemplated with Planning Commission. Those agreeable recommendations have been incorporated into the City's final draft CAO Update (**Exhibits A and B**).

The City's SEPA Responsible Official has also reviewed the project's SEPA Checklist and other germane information associated with the project and issued a Determination of Nonsignificance (DNS) threshold determination on May 1, 2026 (**Exhibit E**). The threshold determination was noticed to the public, who were offered a 14-day comment period. No comments in response to the noticed DNS were received by the City.

The Planning Commission public hearing was noticed to the public on July 27, 2026 (**Exhibit F**). No comments have been received by the City in response to the Notice of Public Hearing.

Staff Recommendation

At the August 18, 2026 public hearing, Planning Commission will be asked to make a recommendation by Resolution (**Exhibit C**) to City Council on adoption of the CAO Update. The draft CAO Update (**Exhibits A and B**) achieves statutory compliance with the Washington GMA

and reflects the Planning Commission's feedback and the agreeable feedback offered by other agencies. With the adoption of a revised CAO, the City will resume its eligibility for state monies issued under RCW Chapter 43.155 (Public Works Projects) and RCW Chapter 70A.135 (Water Pollution Control Facilities Financing).

As such, staff urge Planning Commission to recommend by Resolution City Council's adoption of the CAO Update as it is presented in **Exhibits A and B**.

Recommended motion: At its August 18, 2026 public hearing, staff recommends Planning Commission make the following motion:

- I move to recommend to the City Council approval of the proposed amendments to Title 22 of the Fircrest Municipal Code, as set forth in Exhibits A and B, which implement the Growth Management Act's requirements for Fircrest's update to its Critical Areas Ordinance.

I look forward to discussing this project with Planning Commission at the August 18 public hearing!



Kimberly A. Gunderson
Mahoney Planning, LLC

Exhibits:

- A. FMC Chapters 22.92, 22.93, 22.94, 22.97, and 22.100, in redline to reflect CAO Updates
- B. FMC Chapter 22.98, Definitions, in redline to reflect CAO Updates
- C. Resolution No. 26-01
- D. Commerce Notice of Intent to Adopt & Agency Responses
- E. SEPA Threshold Determination, Checklist, and Notice
- F. Notice of Planning Commission Public Hearing

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~~Repealed.
- 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.

(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).

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).

(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 § 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~~ the outer 25 percent of wetland or fish and wildlife habitat conservation area 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 mature 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:

- (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~~ may 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, if available; 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 ~~Repealed. 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.~~

~~(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.~~

(~~eb~~) 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)~~this chapter, 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.

(d) Mitigation proposed for impacts to critical aquifer recharge areas shall refer to FMC Chapter 22.94, and not this chapter. (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 [fish and wildlife](#) habitat conservation areas by repairing, rehabilitating, or restoring the affected environment to the historical conditions or the conditions existing at the time of the initiation of the project;
- (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 [fish and wildlife](#) 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.

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.

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).

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, [and as provided on the permit applications regarding the same](#). 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, [and are inapplicable to critical aquifer recharge areas](#). (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 (except critical aquifer recharge 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 regulated~~Regulated 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;

(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).

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;

- (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.
- (e) 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 or instrument such as a conservation easement or tract held by an appropriate natural land resource manager/land trust. Such permanent preservation done in this manner shall be recorded in property records with the Pierce County Recorder as appropriate.

(e) The Administrator may approve another legal and administrative mechanism or instrument 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 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 ~~24~~ :1 E	8:1
All Category II	3:1	~~68~~ :1	1:1 R/C and ~~82~~ :1 E	12:1
Category I Forested	6:1	12:1	1:1 R/C and ~~4020~~ :1 E	24:1
Category I based on score for functions	4:1	8:1	1:1 R/C and ~~612~~ :1 E	16:1
Category I Natural Heritage site <u>or Bog</u>	Not considered possible*	~~6:1 rehabilitation of a Natural Heritage site~~ <u>Case-by-case</u>	~~Not considered possible*~~ <u>Case-by-case</u>	Case-by-case
<u>Category I Bog</u>	~~Not considered possible*~~	~~6:1 rehabilitation of a bog~~	<u>Case-by-case</u>	<u>Case-by-case</u>

* 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).~~

Table 22.93.B Wetland Buffer Requirements for Western Washington

<u>Wetland Buffer Requirements</u>				
<u>Overall Wetland Rating</u>	<u>Wetland Characteristics</u>	<u>Intensity Land Use on the Upland Side of the Buffer</u>		
		<u>High¹</u>	<u>Medium²</u>	<u>Low³</u>
<u>Category I</u>	<u>Habitat score of 8-9 points</u>	<u>300'</u>	<u>225'</u>	<u>150'</u>
<u>Category I</u>	<u>Habitat score of 6-7 points</u>	<u>150'</u>	<u>110'</u>	<u>75'</u>
<u>Category I</u>	<u>Water quality score of 8-9 points and a habitat score of less than 6 points</u>	<u>100'</u>	<u>75'</u>	<u>50'</u>
<u>Category I</u>	<u>Wetlands that do not meet the characteristics described above for category I wetlands</u>	<u>100'</u>	<u>75'</u>	<u>50'</u>
<u>Category II</u>	<u>Habitat score of 8-9 points</u>	<u>300'</u>	<u>225'</u>	<u>150'</u>
<u>Category II</u>	<u>Habitat score of 6-7 points</u>	<u>150'</u>	<u>110'</u>	<u>75'</u>
<u>Category II</u>	<u>Water quality score of 8-9 points and a habitat score of less than 6 points</u>	<u>100'</u>	<u>75'</u>	<u>50'</u>
<u>Category II</u>	<u>Wetlands that do not meet the characteristics described above for category II wetlands</u>	<u>100'</u>	<u>75'</u>	<u>50'</u>
<u>Category III</u>	<u>Habitat score of 8-9 points</u>	<u>300'</u>	<u>225'</u>	<u>150'</u>
<u>Category III</u>	<u>Habitat score of 6-7 points</u>	<u>150'</u>	<u>110'</u>	<u>75'</u>
<u>Category III</u>	<u>Habitat score of 3-5 points</u>	<u>80'</u>	<u>60'</u>	<u>40'</u>
<u>Category IV</u>	<u>Scores for all 3 basic functions are less than 16 points</u>	<u>50'</u>	<u>40'</u>	<u>25'</u>

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.

Disturbance	Required Measures to Minimize Impacts
	establish an additional 10-foot, heavily vegetated buffer strip immediately adjacent to the outer wetland buffer
Toxic runoff	• 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	• 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	• Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns
Pets and human disturbance	• 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	• Use best management practices to control dust
Disruption of corridors or connections	• 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(23). 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~~ are as defined in FMC 22.98.753.
- (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 and are separately regulated as special protection districts subject to WAC 173-200-090.
- (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-described~~ 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~~ Central Pierce County Aquifer Area SSA (previously referred to as the Clover Chambers Creek Aquifer). The EPA Region X has designated the ~~Clover Chambers Creek Aquifer~~ Central Pierce County Aquifer Area 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 (other than those activities set forth in FMC 22.94.040), 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).

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, unless the well is an otherwise allowed stormwater device permitted by the City's adopted stormwater regulations or its governing Ecology municipal stormwater general permit;

(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, except for medical equipment or materials that are used within a medical facility, and medical waste as defined in RCW 70A.390.020 that is generated within a medical facility and held for proper disposal; 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's [Priority Habitats and Species program and maps](#).

(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)~~ [defined in RCW 90.48.020, as amended \(or as revised\)](#).

(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 fish and wildlife 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 fish and wildlife habitat conservation areas.

In addition to the general critical area report requirements of FMC 22.92.160, critical area reports for fish and wildlife 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 [232-12-292220-610-100](#)). 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

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:

- (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~~2013 Water Crossing Design Guidelines (as amended), 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:

- (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, prioritizing avoidance or minimization of impacts to fish life, including appropriate control, energy dissipation, and fish passage considerations where applicable;
- (C) Stormwater conveyance facilities shall incorporate fish habitat features (as consistent with guidance from Washington Department of Fish and Wildlife and Hydraulic Project Approval provisions to protect aquatic habitat functions); 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; and
- (E) Any required Hydraulic Project Approval as determined by the Washington Department of Fish and Wildlife be obtained prior to the project's construction.

(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.

(c) Seismic 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.

(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, including its Geologic Information Portal;

(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

(a) Erosion, ~~and~~ Landslide, or Seismic 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, or seismic 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.

(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).

~~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.~~

22.98.179 Critical aquifer recharge area.

“Critical aquifer recharge area” means areas ~~designated by WAC 365-190-080(2)~~ described by WAC 365-190-100 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).

~~22.98.180—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.~~

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).

~~22.98.350 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.~~

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.

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.~~

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 holding a current specialty license in hydrogeology, 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 and training in wetland science that meets the following criteria:

(i) A ~~minimum of 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, ~~programs with similar curricula, or a series of individual workshops on topics such as~~ including wetland delineation, function assessment, mitigation design, hydrophytic plant or hydric soil identification.

(iv) A person certified as a Professional Wetland Scientist through the Society of Wetland Scientists professional certification program meets the ~~above~~-criteria for “qualified wetland specialist”.

As used in this section, a “wetland professional” serves a technical role in the review, judgment, identification, documentation, and findings associated with wetland features akin to that of a certified Professional Wetland Scientist.

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).

~~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.~~

22.98.753 Wellhead protection area (WHPA).

“Wellhead protection area (WHPA)” means protective areas associated with public drinking water sources established by water systems and approved or assigned by the state department of health~~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.~~

~~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.~~

**CITY OF FIRCREST PLANNING COMMISSION
RESOLUTION NO. 26-01**

**A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF FIRCREST RECOMMENDING
THE PERIODIC UPDATE TO THE CRITICAL
AREAS REGULATIONS CONTAINING
AMENDMENTS TO FMC CHAPTERS 22.92, 22.93,
22.94, 22.97, 22.98, AND 22.100 TO THE CITY
COUNCIL FOR FINAL CONSIDERATION AND
APPROVAL.**

WHEREAS, the Critical Areas Ordinance (“CAO”) is a collection of locally determined development regulations intended to conserve the functions of environmentally sensitive areas and protect the public from hazards that may be associated with developing in areas with certain environmental characteristics such as areas prone to flooding and posing geological hazards; and

WHEREAS, Chapter 365-190 of the Washington Administrative Code (“WAC”) requires the protection of critical areas through buffer standards, mitigation requirements, and habitat conservation provisions

WHEREAS, Section 36.70A.130(5) of the Revised Code of Washington (“RCW”) requires cities to incorporate development regulations involving wetlands, fish and wildlife habitat conservation areas, critical aquifer recharge areas, geologically hazardous areas, and flood hazard areas, and to evaluate and revise their Critical Areas Ordinance and associated development regulations every ten years; and

WHEREAS, the City of Fircrest (“City”) is updating its critical areas regulations under Chapter 36.70A RCW and Chapter 365-190 WAC of the Washington Administrative Code (“WAC”); and

WHEREAS, the City last updated its CAO in 2019; and

WHEREAS, the Planning Commission reviewed the amendments contained in Exhibit A to this resolution, including holding briefings on December 2, 2025, January 6, 2026, March 3, 2026, April 7, 2026, and July 7, 2026; and

WHEREAS, the Planning Commission held a public hearing regarding the same on August 18, 2026; and

WHEREAS, the Planning Commission considered the factors in FMC 22.92.040 in reviewing the proposed development regulation amendments in Exhibit A to this resolution; and

WHEREAS, the Planning Commission finds that the amendments accompanying this resolution in Exhibit A are consistent with and supportive of goals, policies, and implementation strategies in the Fircrest Comprehensive Plan, bear a substantial relation

to public health, safety, and welfare, and promote the best long-term interests of the City; Now, Therefore,

BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF FIRCREST:

Section 1. The Planning Commission of the City of Fircrest hereby recommends and approves transmitting the proposed code amendments to the Critical Areas Ordinance in chapters 22.92, 22.93, 22.94, 22.97, 22.98, and 22.100 FMC attached hereto as Exhibit A to the City Council for final review and adoption.

APPROVED AND ADOPTED BY THE PLANNING COMMISSION OF THE CITY OF FIRCREST, WASHINGTON, at a regular meeting thereof this 18th day of August, 2026.

APPROVED:

Kathy McVay, Chair

ATTEST:

Danielle O’Galleher, Permit Coordinator



Notice of Intent to Adopt Amendment / Notice of Adoption (Cover Sheet)

Pursuant to RCW 36.70A.106, the following jurisdiction provides the following required state agency notice.

Jurisdiction Name:	City of Fircrest
Amendment Type: Select Type of Amendment listed. (Select One Only)	☐ Comprehensive Plan Amendment ☐ Development Regulation Amendment ☐ Combined Comprehensive and Development Regulation Amendments ☐ Countywide Planning Policy ☒ Critical Areas Ordinance Amendment ☐ Shoreline Master Program
Select Submittal Type: Select the Type of Submittal listed. (Select One Only)	☒ 60-Day Notice of Intent to Adopt Amendment ☐ Request of Expedited Review / Notice of Intent to Adopt Amendment (Only for use with Development Regulation Amendments) ☐ Supplemental Submittal for existing Notice of Intent to Adopt Amendment ☐ Notice of Final Adoption of Amendment

Add Association <i>If this amendment is related to additional submittals, please let us know here. IDs are included in your acknowledgment letter.</i> <i>Example 2022-S-....</i>	N/A
Description Enter a brief description of the amendment. Begin your description with Proposed or Adopted, based on the type of Amendment you are submitting. Examples: <i>“Proposed</i> comprehensive plan amendment for the GMA periodic update.” or <i>“Adopted</i> Ordinance 123, adoption amendment to the sign code.” (Maximum 400 characters)	The City of Fircrest (City) intends to adopt an ordinance updating its Critical Areas Ordinance (CAO) implemented via Fircrest Municipal Code (FMC) Chapters 22.92, 22.93, 22.94, 22.97, 22.99, and 22.100 with related amendments to definitions in FMC Chapter 22.98 to support the implementation of its CAO. The City’s CAO Update intends to satisfy the required schedule for development regulation updates that protect critical areas established by the Growth Management Act, RCW 36.70A.130(7)(a)(ii). The City’s CAO Update also intends to adopt best available science in a manner which is protective of the City’s important natural features while minding the goals and priorities of the Fircrest community and its elected Council. The City’s draft CAO Update has been preliminarily reviewed by the Department of Ecology and Department of Natural Resources, whose helpful feedback is reflected in the draft CAO.
Is this action part of your 10-year periodic update required under RCW 36.70A.130 of the Growth Management Act (GMA)?	☒ Yes ☐ No
For Shoreline Master Programs (SMP): Is this action part of your 10-year periodic review required under RCW 90.58.080, a Comprehensive SMP, or a Locally Initiated amendment?	☐ Periodic Review ☐ Comprehensive SMP ☐ Locally Initiated Amendment ☒ N/A (Not an SMP)
Does your submittal include changes to Urban Growth Areas	☐ Yes ☒ No

Proposed Dates: Enter the anticipated public hearing date(s) for your Planning Commission/Planning Board or for your Council/Commission.	Planning Commission: July 7, 2026 City Council: September 14, 2026 Proposed / Date of Adoption: October 2026 (anticipated)
Categorize your Submittal	See Last Page for Category List
Contact Information:	
Prefix/Salutation: (Examples: "Mr.", "Ms.", or "The Honorable" (elected official))	Ms.
Name:	Kimberly Gunderson
Title:	Planning Consultant, City of Fircrest
Email:	Kmahoney.planning@gmail.com
Work Phone:	253-389-1864
Cell/Mobile Phone: (optional)	253-389-1864
Consultant Information:	
Is this person a consultant?	☒ Yes
Consulting Firm name?	Mahoney Planning, LLC
Would you like Commerce to contact you for Technical Assistance regarding this submitted amendment?	☐ Yes

REQUIRED: Attach a copy of the proposed amendment text or document(s). We do not accept a website hyperlink requiring us to retrieve external documents. Commerce no longer accepts paper copies by mail. If you experience difficulty, please email the reviewteam@commerce.wa.gov

~~~~ **ONLINE TRACKING SYSTEM AVAILABLE** ~~~~

Log in to our PlanView system where you can keep up with this submittal status, reprint communications and update your contact information.

Don't have a user account? Reply to this email to request one and attach the PlanView System Access Request Form.

**To set up your Commerce PlanView Account:**

Register for a [SAW](#) account and add the PlanView Service.

Please send completed [PlanView System Access Request Form](#) to [reviewteam@commerce.wa.gov](mailto:reviewteam@commerce.wa.gov)

Questions? Call the review team at (360) 725-3066.



- ☐ Airport Safety Zone
- ☐ Capital Facilities
- ☐ Climate
- ☐ Comprehensive Plan
- ☐ Conservation Element
- ☒ Critical Areas Ordinance
- ☐ Design Standards/Design Review
- ☐ Development Regulations
- ☐ Economic Development
- ☐ Emergency
- ☐ Environment
- ☐ Essential Public Facilities
- ☐ Historic Preservation
- ☐ Housing
- ☐ Impact Fee
- ☐ Land Use
- ☐ Military
- ☐ Open Space
- ☐ Parks and Recreation Element
- ☐ Periodic Review (SMP)
- ☐ Periodic Update
- ☐ Port Element
- ☐ Public Participation
- ☐ Recreation
- ☐ Resource Lands
- ☐ Rural Lands
- ☐ Schools
- ☐ Shoreline Master Program
- ☐ Solar Energy Element
- ☐ Subarea Plans
- ☐ Transfer of Development Rights
- ☐ Transportation
- ☐ Urban Growth Areas
- ☐ Utilities

**Kimberly Mahoney**

---

**From:** Kim Gunderson <kmahoney.planning@gmail.com>  
**Sent:** Thursday, July 2, 2026 10:52 AM  
**To:** Kimberly Mahoney  
**Subject:** Fw: Fircrest's critical areas ordinance (2026-S-12684): WGS comments

**Follow Up Flag:** Flag for follow up  
**Flag Status:** Flagged



**Kim Gunderson**  
Mahoney Planning, LLC  
253-389-1864  
[kmahoney.planning@gmail.com](mailto:kmahoney.planning@gmail.com)  
[www.mahoneyplanning.org](http://www.mahoneyplanning.org)

---

**From:** Sears, Tricia (DNR) <Tricia.Sears@dnr.wa.gov>  
**Sent:** Tuesday, April 14, 2026 1:01 PM  
**To:** kmahoney.planning@gmail.com <kmahoney.planning@gmail.com>  
**Cc:** Sears, Tricia (DNR) <Tricia.Sears@dnr.wa.gov>; Guida, Eric (COM) <eric.guida@commerce.wa.gov>  
**Subject:** Fircrest's critical areas ordinance (2026-S-12684): WGS comments

Hello Kim,

In keeping with the interagency correspondence principles, I am providing you with comments on Fircrest's critical areas ordinance (2026-S-12684).

For this proposal submitted via Planview, I looked at the proposal and focused on areas related to WGS work. Of note, but not limited to, I look for language around the geologically hazardous areas, mineral resource lands, mining, climate change, and natural hazards mitigation plan.

Specifically in this proposal, for critical areas I reviewed the FMC Critical Areas Chapters DRAFT CAO Update 2026-0408.pdf. Note that in February 2026, I reviewed an earlier draft of the CAO. Kimberly and I had dialogue. It appears that many of the comments I made previously have been addressed, but some remain. Below are my comments for this current draft.

Kudos to you for making changes to the CAO.

22.92.190. Is this for all critical areas or specifically for geologically hazardous areas or, "d) Minimizing or eliminating the hazard by restoring or stabilizing the hazard area through engineered or other methods;"?

22.92.200. "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." 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?

22.100.020. For the seismic hazards, consider referring to map resources and or the building code, to be in keeping with the erosion and landslide hazards that are designated. There are map references included for both of those hazards. It would be useful to include map resources (like the Washington Geological Information Portal, USGS, etc) and building code as a source for seismic hazards.

22.100.040. The map resources the code includes look appropriate. They should be in keeping with the info in 22.100.020.

22.100.050. The code mentions landslide and erosion hazard areas. Suggest mention seismic hazards too since they are also identified and designated.

22.100.060. 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. Clarity would help.

22.100.070. 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.

22.100.080 must be addressed by the licensed in WA geologist or engineer, yes?

Below, I include our usual language for this and future endeavors.

Recognizing the limitations of the current proposals, I want to mention that it would be great for you to consider these in current or future work, be it in your comprehensive plan, development code, and SMP updates, and in your work in general:

- Consider adding a reference to the definition of geologically hazardous areas, WAC 365-190-120, in other areas besides the CAO. In addition, consider adding a reference to WAC 365-196-480 for natural resource lands.
- Consider adding in other areas besides the CAO. If you have not checked our interactive database, the Washington Geologic Information Portal, lately, you may wish to do so. [Geologic Information Portal | WA - DNR](#)
- If you have not checked out our Geologic Planning page, you may wish to do so. [Geologic Planning | WA - DNR](#)

Thank you for considering our comments. If you have any questions or need additional information, please contact me. For your convenience, if there are no concerns or follow-up discussion, you may consider these comments to be final as of the 60-day comment deadline of 6/7/26.

Have a great day!

Tricia

Tricia R. Sears (she/her/hers)

**Geologic Planning Liaison**

Washington Geological Survey (WGS)

Washington Department of Natural Resources (DNR)

Cell: 360-628-2867 | Email: [tricia.sears@dnr.wa.gov](mailto:tricia.sears@dnr.wa.gov)

**DNR & Ecology  
Comments  
(preliminary)**

Fircrest Municipal Code  
Chapter 22.92 CRITICAL AREAS

Page 9/68

(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.

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

(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 Fircrest'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 3<sup>rd</sup> 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) | <u>Wetland Preservation or Enhancement Only</u> |
|------------------------------|-----------------------------|------------------|-----------------------------------------------------------|-------------------------------------------------|
| 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).

(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 § 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;**

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

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

(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;

**Commented [TS16]:** Good!

- (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).

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

#### **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 [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) Hillsides 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!

Note: DOH reviews only general clauses & critical aquifer recharge areas portions. For commenting purposes, other types of critical areas have been removed from this draft.

Please ignore any formatting vagaries that may have resulted from document conversion from .pdf to .doc.

| Chapter 22.92<br>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.                        |

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- 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~~Repealed.
- 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.

(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.

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(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

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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).

**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

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(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

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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

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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

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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).

(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 § 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 ~~the 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 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

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areas shall be immediately restored; and

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(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~~ may 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, if available; 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 ~~Repealed. 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;~~  
~~(D) 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;~~

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~~(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.~~

**Commented [KM1]:** In collaboration with the City Manager, we are recommending this section be repealed. The City has no such form, and the process of identifying critical areas is accomplished via the Critical Area Report, which is already codified in this chapter and required to be submitted by applicants.

**Commented [KM2]:** This change is being made because, with the repeal of FMC 22.92.140, waivers from critical area reporting are not a component of the CAO. Waivers from critical area reports are atypical critical area planning practice - current Best Available Science and Mitigation Sequencing standards would require an applicant to demonstrate that their avoidance of a critical area is mitigation, akin to a "waiver" from critical area standards.

(eb) 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) this chapter,~~ 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.

**Commented [DJ1]:** Many jurisdictions include a separate clause allowing them to retain 3<sup>rd</sup> party review at the applicant's expense if they do not have qualified professional(s) of their own. Otherwise, merely turning in the report (no matter its content, quality or adequacy of work, etc.) will meet the requirement.

**Commented [DJ2]:** We did not notice any accompanying amendments to the definitions chapter. Was it also reviewed as part of this update? We are offering some suggested changes (appended at the end of this document) including "qualified professional."

(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.

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.

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

**Commented [DJ3]:** The compensatory mitigation provisions of [WAC 365-196-830](#) do *not* extend to CARAs (not included in [WAC 365-190-100](#)). When placed in general standards, these provisions imply that some degree of degradation to an aquifer is acceptable, while allowing even a limited degree of harm to an aquifer could result in lost potability.

(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.

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).

**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

**Commented [DJ4]:** Similar to compensatory mitigation, this proviso, although common in CAOs, could potentially allow a level of contamination that affects a drinking water source's potability.

**Commented [DJ5]:** Depending on the manner & extent of "alteration," restoration of a CARA might not be possible; instead, it may turn into a cleanup action.

**Commented [DJ6]:** Local jurisdictions sometimes include a standard permission to enter clause in the signature portion of development applications. If this might be useful, please consult with your legal counsel.

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).

**Commented [DJ7]:** This is not viable for most critical aquifer recharge areas, especially given that nearly the entire city is overlain by wellhead protection areas.

**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.

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

**Commented [DJ8]:** This is not realistic as applied to CARAs.

- (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).

**Commented [DJ9]:** This seems to duplicate (or at least be on same topic) as site inspections under FMC 22.92.290. Combine?

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:

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

**Commented [DJ10]:** This is a frequently encountered “artifact.” Ss. (2) is now the definition of “city.”

**Commented [DJ11]:** Please see suggested amendments to definitions appended at the end- a definition of WHPA is now included in the WAC.

**Commented [DJ12]:** SSAs are listed individually as one of the examples of CARAs in WAC 365-190-100(4)(b)(iii). But they are also a type of special protection district under WAC 173-200-090, & within the special protection definition. To avoid confusion we suggest listing SSA as an individual feature rather than a subset of special protection districts, even though it appears within that WAC.

**Commented [DJ13]:** This WAC describes features (including SSAs) as “characteristics to guide designation of a special protection district” & states they “shall include, but not be limited to” the listed features. So this isn’t a definition but more a description.

**Commented [DJ14]:** While this section states that EPA has designated the SSA, it does not state that the City has designated it, in turn, as a CARA. In *Walla Walla*, seminal case law for CARAs, the GMHB pointed out a 3-prong test for CARAs responsibilities: classify, designate, & protect (per descriptions in WAC 365-190-100). The City should actually say the SSA is its designated CARA (or, because one tiny corner of the city appears to be outside of the SSA, instead say the entire city is designated).

**Commented [DJ15]:** The official name is not Clover-Chambers Creek Aquifer but Central Pierce County Aquifer Area SSA. See [https://experience.arcgis.com/experience/1bfab371d71e4b868fc9ae7df62a16fe#data\\_s=id%3AdataSource\\_5-Sole\\_Source\\_Aquifers\\_August\\_2019\\_7337%3A75](https://experience.arcgis.com/experience/1bfab371d71e4b868fc9ae7df62a16fe#data_s=id%3AdataSource_5-Sole_Source_Aquifers_August_2019_7337%3A75)

(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:

**Commented [DJ16]:** Would the City allow new OSS (septic) systems? Are there still "legacy" septic systems? From FMC 20.04.010 it looks like sewer has been required since perhaps 1988?

**Commented [DJ17]:** See suggested amendment in definitions.

**Commented [DJ18]:** This appears to conflict with .040 above, which calls out exceptions.

**Commented [DJ19]:** Same comment as septic above.

**Commented [DJ20]:** What is the significance of the 1,300' measure?

- (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

**Commented [DJ21]:** Suggest removing. Source water protection is not a performance measure for land uses, it is a planning requirement applicable to public water purveyors. The SWP provisions of the federal Safe Drinking Water Act are embodied in [WAC 246-290-135](#); but this would apply only to the City in its role as a water purveyor, for managing its wells' sanitary control areas & developing/implementing a wellhead protection program. It does not, however, apply directly to land-use actions within the WHPA.



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                                                                                                               |

**Commented [DJ22]:** This table is generally from the old Ecology guidance doc. It is included in many local codes to indicate best practices. Even though the guidance has been replaced, it's fine to leave it in here; but the City might want to look at whether many of these things would be activities that would ever occur in there given its small size & limited zoning.

(Ord. 1375 § 3, 2005).

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**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).

**Commented [DJ23]:** Some of the EPA UIC classifications have changed over time. Please review these, particularly the Type 5 subclasses, against WAC 173-218-040 & [EPA information](#) to be certain it's still accurate & that it doesn't conflict with stormwater handling devices allowed under the Ecology manual.

**Commented [DJ24]:** Does the City have existing medical/dental offices, or would any of its commercial zones allow them? They do involve low-level radioactive waste from x-rays. Leavenworth has worked up this exception language (updated to correct citation): "Storage, processing, or disposal of radioactive substances, except for medical equipment or materials that are used within a medical facility, and medical waste as defined in [RCW 70A.390.020](#) that is generated within a medical facility and held for proper disposal."

**Commented [DJ25]:** This rounds back to the septic question, since this would basically render nonconforming any existing "legacy" systems in the city.

As noted in comment above, we are also including suggested modifications to selected definitions in Chapter 22.98. The following definitions were reviewed, even where no changes are suggested.

**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).

**22.98.095 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;

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

**Commented [DJ26]:** This term doesn’t appear to be used within the code.

**Commented [DJ27]:** This document dates to 2002. Please ask your Commerce planner whether it has been updated or is still in effect as is.

- (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).

22.98.102 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).

22.98.154 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).

22.98.166 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).

22.98.179 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:

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Commented [DJ28]: The WAC does not designate critical areas; the City does.

Commented [DJ29]: This refers to the BAS rule. Consider changing this to read “...areas designated by the City under the guidelines in WAC 365-190-100” or “...areas described in WAC 365-190-100(b).”

Commented [DJ30]: As noted above, this citation is now the “city” definition. The CARAs definition is in ss. (3). The wording here doesn’t quite align with the CARAs definition as it sounds like it defines potable water.

Commented [DJ31]: We don’t see this term used elsewhere in the code. Typically, a local jurisdiction would include a list of resource maps in the general standards (delimited by a statement they are an indication/resource & not a formal determination of location of individual critical areas). We often request that our SWAP map be included. We didn’t see that this is included in Fircrest’s code.

- (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).

**22.98.312 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).

**2.98.326 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).

**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:

**Commented [DJ32]:** This is an aspect of NRCS mapping that we sometimes point local jurisdictions to for CARAs information & as a potential basis for designation where BAS is lacking. That doesn’t apply to Fircrest, & it doesn’t appear this term is used elsewhere in the code.

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).

#### 22.98.447 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).

#### 22.98.544 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).

#### 22.98.545 Potable water.

"Potable water" means water that is safe and palatable for human use. (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,

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**Commented [DJ33]:** See comment above relating to mitigation applicability to CARAs.

**Commented [DJ34]:** This term doesn't appear to be used within the code.

or other scientist with experience in preparing hydrogeologic assessments. (Ord. 1375 § 35, 2005; Ord. 1246 § 27, 2000).

**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).

**22.98.612 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).

**22.98.660 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).

**22.98.749 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).

**22.98.752 Well.**

“Well” means a bored, drilled, or driven shaft, or a dug hole whose depth is greater than the largest surface

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**Commented [DJ35]:** We suggest that, as applied to CARAs, a qualified professional be someone who is a currently licensed Washington State geologist holding a current specialty license in hydrogeology. A general practice geologist or PE, or one whose specialty lies in another area, may or may not have appropriate background to perform this work. (See Ch. 18.220 RCW & Ch. 308-15 WAC, generally, & specifically WAC 308-15-053 & -055.)

**Commented [DJ36]:** See comment above re standalone SSA status.

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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).

22.98.785 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).

**Commented [DJ37]:** This definition is problematic. For purposes of drinking water regulation, neither “well” or “wellhead” is defined in state law or the federal Safe Drinking Water Act. We’ve encountered this language in local codes before, which looks like it was probably drawn from the definition of “water well” in RCW 18.104.020 & WAC 173-162-030 (perhaps also the definition of “constructing/ construct a well” in those same sections). That particular definition relates to licensure of well drillers & construction regulations for numerous well types & purposes that exceed drinking water extraction. By including “injecting,” the definition’s scope is considerably changed from a drinking water well to include such things as underground injection wells. These are quite different from drinking water wells & are not regulated equally. Rather than using this definition, we typically suggest relying on plain meaning for this term (as DOH does) & remove this definition entirely. In your case, this is already covered in the “common dictionary” clause in FMC 22.98.003(e).

**Commented [DJ38]:** This is inaccurate; Ecology does not determine WHPA criteria. Please substitute the definition that was added to WAC 365-100-030 in 2023: “Protective areas associated with public drinking water sources established by water systems and approved or assigned by the state department of health.”

**Commented [DJ39]:** This is a legitimate term in relation to wellhead protection areas, but we don’t see it used elsewhere in the code.





**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.



State of Washington  
**DEPARTMENT OF FISH AND WILDLIFE**

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June 5th, 2026

City of Fircrest  
ATTN: Kim Gunderson, Planning Consultant  
115 Ramsdell Street  
Fircrest, WA 98466

**Subject: WDFW Comments on the City of Fircrest's 2026 Draft Critical Areas Ordinance Update,  
Planview Submittal 2026-S-12684**

Dear Kim Gunderson,

The Washington Department of Fish and Wildlife (WDFW) is dedicated to preserving, protecting, and perpetuating the state's fish, wildlife, and ecosystems while providing sustainable fish and wildlife recreational and commercial opportunities. In recognition of our responsibilities, we submit the following comments on the 2026 draft critical areas ordinance update for the City of Fircrest as part of the current periodic update under the Growth Management Act (GMA), acknowledging that other comments may be offered in the future. We strive to maintain contact throughout this update process and look forward to future engagement opportunities.

**City of Fircrest – Title 22 Land Development**

**Table 1.** WDFW recommended changes to the proposed CAO language. Policy language suggestions and their legal implications should be vetted by the jurisdiction receiving them. The policy language included in the second column is pulled from the draft amendments for the critical area code provided by the county, including new code language suggestions that are struck through and underlined in black.

| Policy Number                                         | Policy Language<br>(with WDFW suggestions in red)                                                                                                                                                                                                                                                                                                                                                                                                   | WDFW comment                                                                                                                                                                                                                                                                                                                                                                 |
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| <b>Chapter 22.92 – Critical Areas</b>                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                              |
| 22.92.110 (c) (5)<br>(D)<br><br>Allowed<br>Activities | Trails proposed to be located in <del>wetlands,</del><br><del>fish and wildlife habitat conservation</del><br><del>areas, or</del> <u>the outer 25 percent of</u><br><u>wetland</u> <u>or fish and wildlife habitat</u><br><u>conservation areas</u> <u>buffers which are,</u><br><del>should be limited to permeable surfaces</del><br><del>no more than five feet wide, located only</del><br><del>in the outer 25 percent of a buffer, and</del> | As currently written, this provision could be interpreted to allow trail placement within fish and wildlife habitat conservation areas. WDFW recommends clarifying that trail development be limited to the outer 25 percent of the associated critical area buffer.<br><br>WDFW encourages careful siting and design of trails to avoid impacts to highly sensitive habitat |

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|                                         | located to avoid removal of significant trees, <u>old growth trees, or mature trees.</u> ;                                                                                                                                                                                                                                                                                                                                                                             | <p>features. This includes, but is not limited to, minimizing removal of mature or old-growth vegetation and avoiding stream crossings wherever practicable unless appropriately sized using the <a href="#">Water Crossing Design Guidelines</a>, as amended.</p> <p>In addition, WDFW recommends the City include a definition of "significant tree" that recognizes ecological function and tree size. WDFW defines <b>significant trees</b> within its <a href="#">Priority Habitats and Species (PHS)</a> framework as vital structural features (both living and dead standing "snags") that provide necessary food, cover, and nesting/roosting cavities for priority wildlife species.</p> <p>Trees provide critical habitat elements including nesting, foraging, cover, thermal regulation, water quality protection, and habitat connectivity. A definition based solely on diameter or species may overlook trees that provide substantial fish and wildlife benefits. WDFW encourages adoption of a definition that incorporates trees size as well as habitat value, structural complexity, and ecosystem function when evaluating tree retention and protection measures.</p> |
| 22.92.110 (c) (7)<br>Allowed Activities | 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 <del>State Department of Fish and Wildlife management recommendations and</del> the regulations of the State Department of Agriculture, the State Department of Ecology, and the U.S. Environmental Protection Agency; | WDFW does not maintain a comprehensive guidance document specific to chemical application in critical areas. For chemical applications in Fish and Wildlife Habitat Conservation Areas (FWHCAs) specifically, please refer to WDFW's <a href="#">Riparian Ecosystems, Volume 2: Management Recommendations</a> and <a href="#">PHS management recommendations</a> . WDFW generally recommends that chemical use be limited, appropriately managed, and consistent with applicable local, state, and federal regulations and permitting requirements.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 22.92.190<br>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                                                                                                                                                                                                                                                                                                                   | WDFW requests that the full title of "fish and wildlife habitat conservation areas" be specified within this code to align with <a href="#">WAC 365-190-130</a> .                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |

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| <p>alteration to a critical area is proposed, such alteration shall be avoided, minimized, or compensated for in the following sequential order of preference:</p> <p>(a) Avoiding the impact altogether by not taking a certain action or parts of an action;</p> <p>(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;</p> <p>(c) Rectifying the impact to wetlands, critical aquifer recharge areas, <u>geologically hazardous areas</u>, frequently flooded areas, and <b>fish and wildlife</b> 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;</p> <p>(d) Minimizing or eliminating the hazard by restoring or stabilizing the hazard area through engineered or other methods;</p> <p>(e) Reducing or eliminating the impact or hazard over time by preservation and maintenance operations during the life of the action;</p> <p>(f) Compensating for the impact to wetlands, critical aquifer recharge areas, frequently flooded areas, and <b>fish and wildlife</b> habitat conservation areas by replacing, enhancing, or providing substitute resources or environments; and</p> <p>(g) Monitoring the hazard or other required mitigation and taking remedial action when necessary. <u>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</u></p> | <p>WDFW recommends applying this clarification wherever the term “habitat conservation areas” appears in Chapter 22.92 – Critical Areas Fircrest municipal code (FMC). This recommendation would also apply to proposed code updates in sections <b>FMC 22.92.290 (c)(1)</b>, <b>FMC 22.92.320 (a)(3)</b> and <b>FMC 22.92.330 (a)(3)</b>.</p> |
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|  | performance standards established in the mitigation plan accepted by the City. |  |
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| Policy Number                                                                        | Policy Language<br>(with WDFW suggestions in red)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | WDFW comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
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| <b>Chapter 22.97 – Fish and Wildlife Habitat Conservation Areas</b>                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 22.97.010 (a)(2)<br><br>Designation of fish and wildlife habitat conservation areas. | 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's <b>Priority Habitats and Species program and maps.</b> | WDFW requests a direct reference to our agency's <a href="#">Priority Habitats and Species (PHS) program</a> . The PHS program is the Agency's primary means of transferring fish and wildlife information from our resource experts to local governments, landowners and others to protect habitat. Including a direct reference helps align the City with <a href="#">WAC 365-190-130 (4)(a)</a> as a source of current information.                                                                                                                                                                                                                                                             |
| 22.97.010 (a)(5)<br><br>Designation of fish and wildlife habitat conservation areas. | 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).                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | WDFW recommends the City have a clearly documented and transparent water typing process. Having an established process available helps WDFW align and participate in a way that is most meaningful to the City of Fircrest and our shared natural resources goals.<br><br>WDFW further notes that, because areas within the City's jurisdiction are designated as non-forested lands, any change to a water body's classification would require a formal water type modification through DNR pursuant to <a href="#">WAC 222-16-030</a> . The City should be aware that DNR provides water type modification forms applicable to both forested and non-forested lands found <a href="#">here</a> . |

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|  |  | <p>The City's CAO utilizes the State Interim Forest Practice Water Typing in WAC 222-16-031 and <a href="#">WAC 222-16-030</a> to define stream types. <a href="#">WAC 222</a> is for forest practices intended to be used for water typing in forested areas of the state. The maps developed for these water types may be unreliable within urban areas due to different land uses and how other applicable local or state code requirements are defined or applied. <a href="#">WAC 365-190-130</a> (4)(f)(i) states that jurisdictions should not rely solely on WAC 222-16-030 or -031 for the mapping of stream types for the purpose of regulating land uses. Please note that WAC 222-16's recent updates became effective March 1, 2026.</p> <p>Although there is currently not a single best statewide hydrography data set that WDFW can recommend at this time, we do highly encourage local jurisdictions to begin discussing a more reliable alternative. WDFW encourages the City to follow the updates from Ecology's Washington State Hydrography Dataset Program (WASHD). More information about this effort to create and sustain a consistent and complete statewide hydrography data set can be found <a href="#">here</a>. This WASHD effort aims to update the National Hydrography Dataset (NHD) for watercourse mapping to help ensure all state streams and associated riparian management zone (RMZ) natural resources are accurately identified.</p> <p>One effective approach is to adopt WDFW's Site Potential Tree Height (SPTH200) <a href="#">GIS mapping tool</a>, which is based on NHD data. The SPTH200 tool reflects the best available science and aligns with WDFW's <a href="#">Volume 2: Management Recommendations</a>, supporting the protection of the full range of functions and values for all streams provided by RMZs. Additional SPTH200 resources can be found on WDFW's <a href="#">PHS publications</a> page.</p> |
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|                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | WDFW recommends that, if the City elects to continue using the Washington Department of Natural Resources (DNR) Forest Practices water typing system, it review recent updates to <a href="#">WAC 222-16-030</a> , the adoption of <a href="#">WAC 222-16-0301</a> , and the repeal of WAC 222-16-031. These changes revise the definitions of Type S and Type F waters and their associated RMZs, resulting in more precise classifications and strengthened ecological protections within the context of forest practices.                                  |
| 22.97.010 (c)<br><br>Designation of fish and wildlife habitat conservation areas. | Mapping. The approximate location and extent of <b>fish and wildlife</b> 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:<br><br>(1) Washington State Department of Fish and Wildlife Priority Habitat and Species maps;<br>(2) Washington State Department of Natural Resources, Official Water Type Reference maps, as amended;<br>(3) Washington State Department of Natural Resources Natural Heritage Program mapping data;<br>(4) Anadromous and resident salmonid distribution maps contained in the Habitat Limiting Factors reports published by the Washington Conservation Commission; and<br>(5) Washington State Department of Natural Resources State Natural Area Preserves and Natural Resource Conservation Area maps. | As mentioned in <b>FMC 22.97.010 (b)</b> , WDFW is supportive of the inclusion of the PHS program within this code.<br><br>Similar to WDFW's above, WDFW cautions when using the State Forest Practice Water Typing in WAC 222-16 for determining water typing, since <a href="#">WAC 222</a> is for forest practices intended to be used for water typing in forested areas of the state. Please see the comments in section <b>FMC 22.97.010 (a) (5)</b> in reference to Water type modification processes and suggested resources for the City to utilize. |
| 22.97.020<br><br>Critical area report – Additional                                | Critical area report – Additional requirements for <b>fish and wildlife</b> habitat conservation areas.<br>In addition to the general critical area report requirements of <b>FMC 22.92.160</b> ,                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | As discussed in FMC 22.92.190 comments above, WDFW requests that the full title of “fish and wildlife habitat conservation areas” be specified within this code to align with <a href="#">WAC 365-190-130</a> .                                                                                                                                                                                                                                                                                                                                               |



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| requirements for <b>fish and wildlife</b> habitat conservation areas.                                                           | critical area reports for <b>fish and wildlife</b> 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.                                                                                                                                               | WDFW recommends applying this clarification wherever the term “habitat conservation areas” appears in Chapter 22.97 – Fish and wildlife habitat conservation areas code.                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 22.97.020 (c)(3)<br><br>Critical area report – Additional requirements for <b>fish and wildlife</b> habitat conservation areas. | 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;                                                                                                                                     | WDFW appreciates the inclusion of our agency’s management recommendations in the habitat assessment.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 22.97.030 (c)<br><br>Performance standards – General requirements.                                                              | 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.         | WDFW supports this code. This aligns with our agency's mission and <a href="#">land use priorities</a> .                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 22.97.030 (g)(3)<br><br>Performance standards – General requirements.                                                           | 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:<br><br>(A) It will not reduce stream or habitat functions;<br><br>(B) It will not adversely affect salmonid habitat; | WDFW does not generally recommend buffer width averaging for riparian management zones (RMZ) or riparian habitat areas. Buffer averaging does not align with WDFW’s scientific recommendations ( <a href="#">Vol. 2</a> ), because the specified RMZ represents the minimum width required to ensure no net loss of all ecological values and functions of that area, including water quality, wildlife habitat, and flood mitigation. Reducing the buffer in any area below the RMZ may result in a loss of these critical functions. RMZ widths are provided in WDFW’s <a href="#">mapping resource</a> . |

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|                                                                                    | <p>(C) It will provide additional natural resource protection, such as buffer enhancement;</p> <p>(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</p> <p>(E) The buffer area width is not reduced by more than 25 percent in any location.</p>                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                            |
| <p>22.97.030 (h) (3)<br/>(C)<br/>Performance standards – General requirements.</p> | <p>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.</p>                                                                                                                                                                                                                                                                                                                                                                                                                | <p>WDFW supports this code. This aligns with our agency's mission and <a href="#">land use priorities</a>. To support this, please see resources provided on WDFW's <a href="#">habitat connectivity website</a>.</p>                                                                                                                      |
| <p>22.97.030 (i) (1)<br/>Performance standards – General requirements.</p>         | <p>Land that is located wholly within a habitat conservation area or its buffer may not be subdivided.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | <p>WDFW supports this code. This aligns with our agency's mission and <a href="#">land use priorities</a>.</p>                                                                                                                                                                                                                             |
| <p>22.97.040 (a) (3)<br/>Performance standards – Specific habitats.</p>            | <p>Bald eagle habitat shall be protected pursuant to the Washington State Bald Eagle Protection Rules (<del>WAC 232-12-292</del> <b>WAC 220-610-100</b>). 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. <del>Approval of the activity shall not occur prior to approval of the habitat management plan by the Washington State Department of Fish and Wildlife.</del></p> | <p>Bald eagles are no longer a State listed threatened species by WDFW. Our Agency recommends that the City work with the U.S. Fish and Wildlife Service to develop a management plan based on the federal <a href="#">Bald Eagle and Golden Eagle Protection Act</a> and associated <a href="#">eagle management</a> recommendations.</p> |

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| 22.97.040 (d) (1)<br><br>Performance standards – Specific habitats.                                       | Establishment of Riparian Habitat Areas.<br>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.                                                                                                                                                                                                                                                                                                                                                                                                                                        | WDFW supports this code. This aligns with our agency's mission and <a href="#">land use priorities</a> .                                                                                                                                                                                                                                                          |  |                        |  |             |                        |                                                                                   |          |                                                                      |          |                                                                   |          |                                                                                  |          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 22.97.040 (d) (2)<br><br>Performance standards – Specific habitats.                                       | <table><tr><td colspan="2">Riparian Habitat Area Widths.<br/>Recommended riparian habitat area widths are shown in the table below...</td></tr><tr><td colspan="2">Riparian Habitat Areas</td></tr><tr><td>Stream type</td><td>Recommended RHA widths</td></tr><tr><td>Type 1 and 2; or shorelines of the state, or shorelines of statewide significance</td><td>250 feet</td></tr><tr><td>Type 3; or other perennial or fish-bearing streams, 5 – 20 feet wide</td><td>200 feet</td></tr><tr><td>Type 3; or other perennial or fish-bearing streams, &lt; 5 feet wide</td><td>150 feet</td></tr><tr><td>Type 4 and 5; or intermittent streams and washes with low mass wasting potential</td><td>150 feet</td></tr></table> | Riparian Habitat Area Widths.<br>Recommended riparian habitat area widths are shown in the table below...                                                                                                                                                                                                                                                         |  | 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 | 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 | Based on local, site-specific conditions for the City of Fircrest, WDFW commends and supports the riparian habitat area widths presented in the <b>Riparian Habitat Areas</b> table. These widths exceed all site potential tree height measurements and WDFW's minimum recommendation of 100 feet for effective pollution removal. WDFW fully supports this table as it aligns with and surpasses WDFW's preferred Riparian Management Zone (RMZ) widths using the Site Potential Tree Height (SPTH <sub>200</sub> ) mapping. For further updates, please see the <a href="#">SPTH<sub>200</sub> GIS mapping tool</a> that can be used for delineating where RMZs are located. |
| Riparian Habitat Area Widths.<br>Recommended riparian habitat area widths are shown in the table below... |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                   |  |                        |  |             |                        |                                                                                   |          |                                                                      |          |                                                                   |          |                                                                                  |          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 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                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                   |  |                        |  |             |                        |                                                                                   |          |                                                                      |          |                                                                   |          |                                                                                  |          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 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                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                   |  |                        |  |             |                        |                                                                                   |          |                                                                      |          |                                                                   |          |                                                                                  |          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 22.97.040 (d) (3)<br><br>Performance standards – Specific habitats.                                       | Increased Riparian Habitat Area Widths.<br>The recommended riparian habitat area widths shall be increased, as follows:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | When increasing stream buffers is an option, WDFW recommends reviewing the <a href="#">SPTH<sub>200</sub> GIS mapping tool</a> to delineate the width of the RMZs within a stream reach. This tool outlines the width needed to protect the full riparian functions and values of a stream and should be used as guidance when a buffer width could be increased. |  |                        |  |             |                        |                                                                                   |          |                                                                      |          |                                                                   |          |                                                                                  |          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 22.97.040 (e) (4)<br>(G)                                                                                  | Road bridges are designed according to the Washington State Department of Fish and Wildlife <a href="#">Fish Passage Design at Road</a>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | The agency’s water crossing designs have been updated, and we request that the City cite WDFW <a href="#">2013 Water Crossing Design Guidelines</a> .                                                                                                                                                                                                             |  |                        |  |             |                        |                                                                                   |          |                                                                      |          |                                                                   |          |                                                                                  |          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |

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| Performance standards – Specific habitats.                          | <del>Culverts, 1999-2013 Water Crossing Design Guidelines, as amended</del> , and the National Marine Fisheries Service Guidelines for Salmonid Passage at Stream Crossings, 2000; and                                                                                                                                                                                                                                                                                                                                                                              | WDFW also recommends that jurisdictions review the <a href="#">WDFW's climate-change-resilient culvert</a> webpage and <a href="#">Incorporating Climate Change into the Design of Water Crossing Structures: Final Project Report</a> for resources on how to incorporate climate-resiliency into water crossing designs. These resources should be used during the development of future water crossing designs.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 22.97.040 (e) (8)<br><br>Performance standards – Specific habitats. | <p>Stormwater Conveyance Facilities. Conveyance structures may be permitted in accordance with an approved critical area report subject to the following standards:</p> <p>(A) No other feasible alternatives with less impact exist;</p> <p>(B) Mitigation for impacts is provided;</p> <p>(C) Stormwater conveyance facilities shall incorporate fish habitat features; and</p> <p>(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.</p> | <p>WDFW recommends clarifying that stormwater conveyance facilities that connect to or discharge into surface waters or waters of the state may be subject to a Hydraulic Project Approval (HPA) pursuant to <a href="#">WAC 220-660-260</a>. Any construction, installation, or modification of a structure (e.g., outfalls, culverts, energy dissipators, or grade control features) that uses, diverts, obstructs, or changes the natural flow or bed of state waters requires review and approval by WDFW prior to work occurring.</p> <p>WDFW further recommends adding language to ensure early coordination with WDFW during project planning where stormwater facilities may interface with regulated waters. This coordination can help identify permit triggers, incorporate appropriate fish protection measures if needed, and align project design with HPA standard provisions.</p> <p>To strengthen the existing standards, WDFW suggests:</p> <ul style="list-style-type: none"> <li>• Explicitly noting that compliance with an HPA, when required, in addition to local critical area review.</li> <li>• Requiring that outfalls and conveyance features be designed to avoid or minimize impacts to fish life, including appropriate control, energy dissipation, and fish passage considerations where applicable.</li> <li>• Clarifying that “fish habitat features” (Subsection (8) (C)) should be consistent with WDFW guidance and HPA</li> </ul> |



|  |  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|--|--|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|  |  | <p>provisions to protect aquatic habitat functions.</p> <p>These additions will help ensure that stormwater infrastructure that may impact waters of the state are designed and permitted in a manner that protects fish life and complies with state regulatory requirements.</p> <p>In addition, WDFW recommends utilizing the Department of Ecology's <a href="#">2024 Stormwater Management Manual for Western Washington</a> guidance document to assist in stormwater planning and pollution prevention.</p> |
|--|--|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Thank you for taking the time to consider our recommendations for your critical areas ordinance update to better reflect the best available science for fish and wildlife habitat and ecosystem functions and values.

We value the relationship we have with your jurisdiction and the opportunity to work collaboratively with you throughout this periodic update cycle. For additional resources in support of WDFW's land use planning conservation priorities, [please see this website](#). If you have any questions, need our technical assistance or resources at any time during this process, please don't hesitate to contact me at 360-819-6451 or at [Megan.Tuttle@dfw.wa.gov](mailto:Megan.Tuttle@dfw.wa.gov), or Region 6's Regional Land Use Lead, Jessica Bryant, [Jessica.Bryant@dfw.wa.gov](mailto:Jessica.Bryant@dfw.wa.gov).

Sincerely,



Megan Tuttle  
Assistant Regional Habitat Program Manager  
1111 Washington St. SE  
Olympia, WA 98501

Cc: Jessica Bryant, Regional Land Use Lead ([Jessica.Bryant@dfw.wa.gov](mailto:Jessica.Bryant@dfw.wa.gov))  
Miles Penk, Area Habitat Biologist ([Miles.Penk@dfw.wa.gov](mailto:Miles.Penk@dfw.wa.gov))  
Jennifer Eberly, Habitat Biologist ([Jennifer.Eberly@dfw.wa.gov](mailto:Jennifer.Eberly@dfw.wa.gov))  
Gwen Lentes, Regional Habitat Program Manager ([Gwendolen.Lentes@dfw.wa.gov](mailto:Gwendolen.Lentes@dfw.wa.gov))  
Kara Whittaker, LUCP Section Manager ([Kara.Whittaker@dfw.wa.gov](mailto:Kara.Whittaker@dfw.wa.gov))

Marian Berejikian, Environmental Planner ([Marian.Berejikian@dfw.wa.gov](mailto:Marian.Berejikian@dfw.wa.gov))

**Exhibit E**  
August 18, 2026  
Fircrest Planning Commission  
CAO Update Public Hearing



DETERMINATION OF NONSIGNIFICANCE AND PUBLIC COMMENT PERIOD

**Date of Issuance:** May 1, 2026

**Description of Proposal:** Fircrest Critical Areas Ordinance (CAO) Update

**Agency Contact:** Kimberly Gunderson, City of Fircrest Planning Consultant  
Mahoney Planning, LLC  
(253) 238-4125  
[kmahoney.planning@gmail.com](mailto:kmahoney.planning@gmail.com)

**Project Location:** City of Fircrest, Nonproject Action

**Lead Agency:** City of Fircrest

The lead agency for this proposal has determined that it does not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under [RCW 43.21C.030\(2\)\(c\)](#). This decision was made after review of a completed SEPA environmental checklist and other information on file with the lead agency and linked below. Hardcopy files to view at City Hall are available to the public upon request.

**View Files:** <https://www.cityoffircrest.net/blog/>

**Comment Period:** This DNS is issued under [WAC 197-11-340\(2\)](#); the lead agency will not act on this proposal for 14 days from the date of issuance. Comments must be submitted by 5:00 PM on May 15, 2026.

**Appeal Period:** Any person wishing to appeal this determination may file such an appeal within fourteen (14) days from the issued date of this threshold determination to the City of Fircrest City Clerk, pursuant to [FMC 22.86.030](#). All appeals of the above determination must be filed by 5:00 PM on May 15, 2026. There is a \$100 fee to appeal this determination.

**SEPA Responsible Official:**

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Kimberly Gunderson, Fircrest SEPA Responsible Official  
115 Ramsdell Street  
Fircrest, WA 98466

# SEPA<sup>1</sup> Environmental Checklist

## Purpose of checklist

Governmental agencies use this checklist to help determine whether the environmental impacts of your proposal are significant. This information is also helpful to determine if available avoidance, minimization, or compensatory mitigation measures will address the probable significant impacts or if an environmental impact statement will be prepared to further analyze the proposal.

## Instructions for applicants

This environmental checklist asks you to describe some basic information about your proposal. Please answer each question accurately and carefully, to the best of your knowledge. You may need to consult with an agency specialist or private consultant for some questions. **You may use “not applicable” or “does not apply” only when you can explain why it does not apply and not when the answer is unknown.** You may also attach or incorporate by reference additional studies reports. Complete and accurate answers to these questions often avoid delays with the SEPA process as well as later in the decision-making process.

The checklist questions apply to **all parts of your proposal**, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. The agency to which you submit this checklist may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impact.

## Instructions for lead agencies

Please adjust the format of this template as needed. Additional information may be necessary to evaluate the existing environment, all interrelated aspects of the proposal and an analysis of adverse impacts. The checklist is considered the first but not necessarily the only source of information needed to make an adequate threshold determination. Once a threshold determination is made, the lead agency is responsible for the completeness and accuracy of the checklist and other supporting documents.

## Use of checklist for nonproject proposals

For nonproject proposals (such as ordinances, regulations, plans and programs), complete the applicable parts of sections A and B, plus the Supplemental Sheet for Nonproject Actions (Part D). Please completely answer all questions that apply and note that the words "project," "applicant," and "property or site" should be read as "proposal," "proponent," and "affected geographic area," respectively. The lead agency may exclude (for non-projects) questions in “Part B: Environmental Elements” that do not contribute meaningfully to the analysis of the proposal.

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<sup>1</sup> <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/Checklist-guidance>

## A. Background

[Find help answering background questions](#)<sup>2</sup>

**1. Name of proposed project, if applicable:**

City of Fircrest (City) Critical Areas Ordinance (CAO) Update

**2. Name of applicant:**

City of Fircrest

**3. Address and phone number of applicant and contact person:**

Applicant

Dawn Masko, Fircrest City Manager  
115 Ramsdell Street, Fircrest, WA 98466  
dmasko@cityoffircrest.net

Contact Person

Kimberly A. Gunderson, Fircrest Planning Consultant  
Mahoney Planning, LLC  
kmahoney.planning@gmail.com  
(253) 389-1864

**4. Date checklist prepared:**

April 16, 2026

**5. Agency requesting checklist:**

City of Fircrest (Lead Agency)

**6. Proposed timing of schedule (including phasing, if applicable):**

Adoption of the proposed CAO Update is expected to occur by November 2026.

**7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain.**

No.

**8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.**

N/A; this is a non-project action to revise provisions of the Fircrest Municipal Code (FMC) that implements the required schedule for development regulation updates protecting critical areas established by the Growth Management Act, Revised Code of Washington (RCW) 36.70A.130(7)(a)(ii). Environmental best available science (BAS) has been sourced from Washington state agencies and has influenced this CAO Update, but no environmental information has been, or is required to be, prepared particularly for this non-project action.

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<sup>2</sup> <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-A-Background>

**9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain.**

This non-project action is an amendment to the FMC, affecting any property in the City. The City is currently processing many applications for local government approval on properties covered by the proposed non-project action. The proposed non-project action creates compliance with revised or new RCWs governing critical areas, adopts industry-standard best practice, and adds clarity and specificity to the City's CAO. These changes are expected to result in improved protection of environmental features in Fircrest without creating unreasonable burdens on pending applications for government approvals in the City.

**10. List any government approvals or permits that will be needed for your proposal, if known.**

The proposed non-project action is a Text Code Amendment subject to FMC Chapter 22.78. Accordingly, the project will require a recommendation by the Fircrest Planning Commission and a final decision by the Fircrest City Council. The process involves public noticing and two public hearings before the City's appointed and elected officials. The City will issue a Notice of SEPA Threshold Determination following the Lead Agency SEPA Responsible Official's review of this SEPA Checklist, soliciting additional feedback from interested parties, other agencies, and the public at large. The City has also submitted a Notice of Intent to Adopt its proposed CAO Update to the Department of Commerce for dissemination to all state agencies.

**11. Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page. (Lead agencies may modify this form to include additional specific information on project description.)**

The City intends to adopt an ordinance updating its CAO implemented via FMC Chapters 22.92, 22.93, 22.94, 22.97, 22.99, and 22.100. The City is also proposing amendments to FMC Chapter 22.98, Definitions, which support the implementation of its CAO. The City's CAO Update intends to satisfy the required schedule for development regulation updates that protect critical areas established by the Growth Management Act, RCW 36.70A.130(7)(a)(ii). The City's CAO Update also intends to adopt BAS in a manner which is protective of the City's important natural features while minding the goals and priorities of the Fircrest community and its elected Council.

**12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.**

This is a non-project action proposing edits to the FMC. The FMC is widely applicable throughout the entirety of the City of Fircrest. The City Boundary to which this CAO Update

applies is depicted in the City's Zoning Map, included as Attachment 1 to this SEPA Checklist.

## B.Environmental Elements

As per WAC 197-11-315(1)(e) and WAC 197-11-960, the Lead Agency has determined that the questions in Part B of this Checklist do not contribute meaningfully to the analysis of the proposed non-project action and, therefore, are not completed. Parts A, C, and D are otherwise completed, as required. For brevity, the questions in Part B of the SEPA Checklist have been deleted.

## C.Signature

[Find help about who should sign](#)<sup>3</sup>

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

X 

**Type name of signee:** Kimberly A. Gunderson

**Position and agency/organization:** Fircrest SEPA Responsible Official | Mahoney Planning, LLC

**Date submitted:** April 27, 2026

## D.Supplemental sheet for nonproject actions

[Find help for the nonproject actions worksheet](#)<sup>4</sup>

**Do not** use this section for project actions.

Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment.

When answering these questions, be aware of the extent the proposal, or the types of activities likely to result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.

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<sup>3</sup> <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-C-Signature>

<sup>4</sup> <https://ecology.wa.gov/regulations-permits/sepa/environmental-review/sepa-guidance/sepa-checklist-guidance/sepa-checklist-section-d-non-project-actions>

**1. How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise?**

The proposed non-project action revises locally adopted CAO regulations and, therefore, is not expected to increase discharge to water, emissions to air, production, storage, or release of toxic or hazardous substances, or production of noise.

- **Proposed measures to avoid or reduce such increases are:** None; as no increases to water discharge, air emissions, hazardous substance production, storage, or release, or noise production are expected from this non-project action, no measures to avoid or reduce such impacts are needed or proposed. In fact, the interaction between the built and natural environments is expected to improve with the application of revisions to Fircrest's CAO. Project actions that are carried out under these revised CAO regulations are distinct from this proposed non-project action and will be separately assessed for potential environmental impacts at the time of application.

**2. How would the proposal be likely to affect plants, animals, fish, or marine life?**

The proposed non-project action is not expected to affect plants, animals, fish, or marine life. Through project actions subject to the amended CAO, it is expected that plants, animals, fish, and marine life connected to Fircrest's regulated critical areas will be better protected or contribute more to the ecologic health of Fircrest's natural environment with the adoption of the proposed non-project action.

- **Proposed measures to protect or conserve plants, animals, fish, or marine life are:** None; as no detrimental effect to plants, animals, fish, or marine life is expected from this non-project action, no measures to avoid or reduce such impacts are needed or proposed. In fact, the interaction between the built and natural environments is expected to improve with the application of revisions to Fircrest's CAO. Project actions that are carried out under these revised CAO regulations are distinct from this proposed non-project action and will be separately assessed for potential environmental impacts at the time of application.

**3. How would the proposal be likely to deplete energy or natural resources?**

The proposed non-project action is not expected to deplete energy or natural resources.

- **Proposed measures to protect or conserve energy and natural resources are:** None; as no depletion of energy or natural resources is expected from this non-project action, no measures to avoid or reduce such impacts are needed or proposed. In fact, the interaction between the built and natural environments is expected to improve with the application of revisions to Fircrest's CAO. Project actions that are carried out under these revised CAO regulations are distinct from this proposed non-project action and will be separately assessed for potential environmental impacts at the time of application.

**4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection, such as**



**parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands?**

The proposed non-project action is not expected to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection, including parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmland.

- **Proposed measures to protect such resources or to avoid or reduce impacts are:** None; as no environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection are expected to be used or affected by this non-project action, no measures to avoid or reduce such impacts are needed or proposed. In fact, the interaction between the built and natural environments is expected to improve with the application of revisions to Fircrest's CAO. Project actions that are carried out under these revised CAO regulations are distinct project actions proposed non-project action and will be separately assessed for potential environmental impacts at the time of application.

**5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?**

The proposed non-project action is not expected to detrimentally affect land and shoreline use, and would not allow or encourage land or shoreline use incompatible with existing plans. Proposed revisions to Fircrest's CAO enhance the protection of Fircrest's regulated critical areas and would not be a mechanism for allowing or encouraging incompatible land uses. Where Fircrest proposes changes to wetland buffer sizes which could affect the developable area of land within the City, the changes are made to implement amended BAS as informed by state partnering agencies and importantly marries the City's priorities for both urban land uses and protected critical area spaces. Clarity is added throughout Fircrest's CAO to ease the public's understanding of its opportunities for reasonable critical area exceptions and expanded opportunities for critical area mitigation, where needed. In totality, these changes are not expected to yield adverse impacts to land use in Fircrest and remain in keeping with the adopted Comprehensive Plan and zoning codes in Fircrest. There are no regulated shorelines in the City's boundary.

- **Proposed measures to avoid or reduce shoreline and land use impacts are:** None; as no use of land or shoreline is expected to be detrimentally affected by this non-project action, no measures to avoid or reduce such impacts are needed or proposed. In fact, the interaction between the built and natural environments is expected to improve with the application of revisions to Fircrest's CAO. Project actions that are carried out under these revised CAO regulations are distinct from this proposed non-project action and will be separately assessed for potential environmental impacts at the time of application.

**6. How would the proposal be likely to increase demands on transportation or public services and utilities?**

The proposed non-project action is not expected to increase demands on transportation or public services and utilities.

- **Proposed measures to reduce or respond to such demand(s) are:** None; as no increased demand on transportation, public services, or utilities is expected from this non-project action, no measures to avoid or reduce such impacts are needed or proposed.

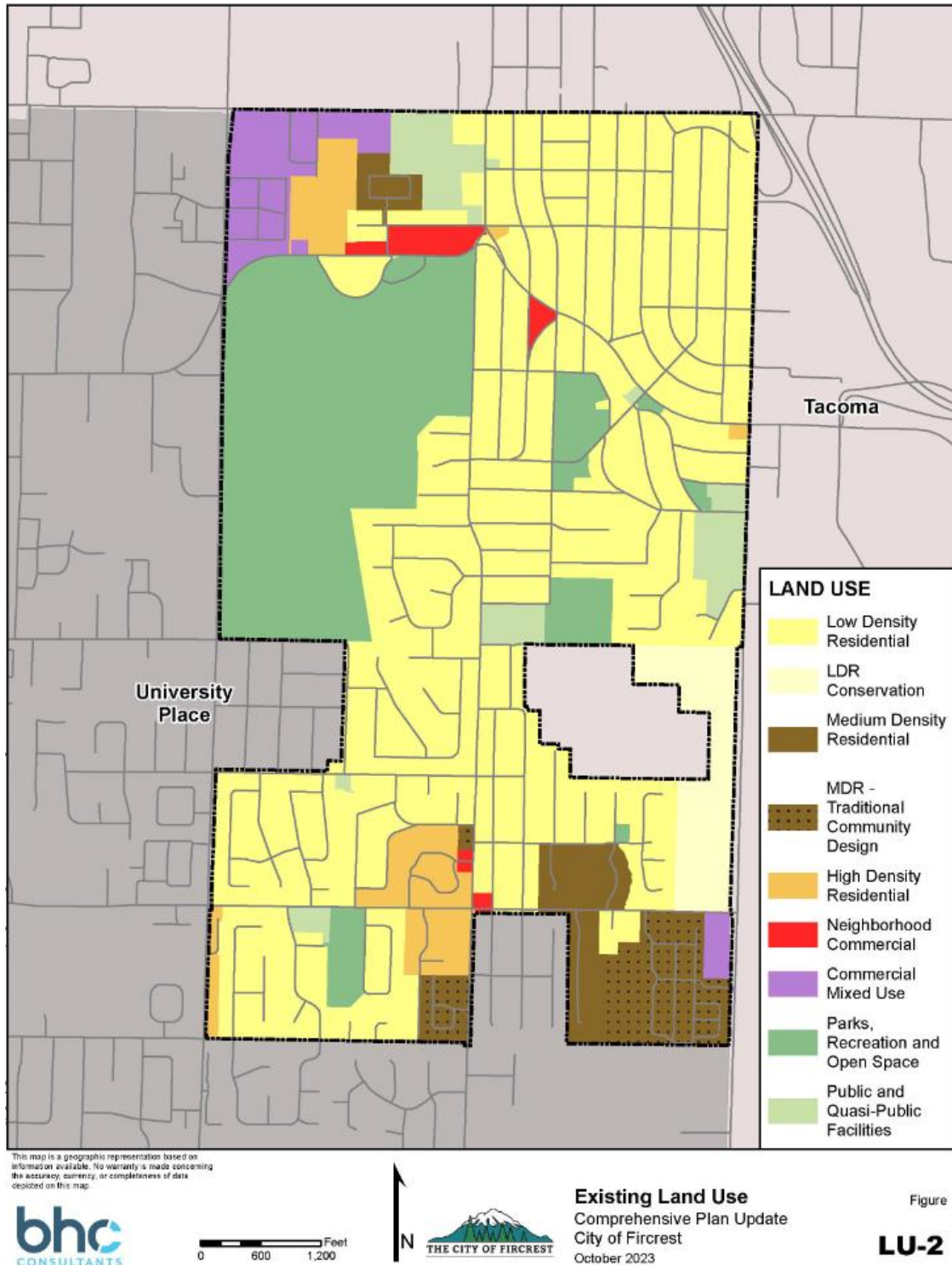
**7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.**

The proposed non-project action will not conflict with local, state, or federal laws or requirements for the protection of the environment and, in fact, will bring the FMC into compliance with RCW 36.70A.130, RCW 36.70A.060, and RCW 36.70A.172, and their related statutes and Washington Administrative Code guidelines. Project actions that are carried out under this CAO Update are distinct project actions that would be separately assessed for any potential conflict with local, state, or federal laws or requirements for the protection of the environment at the time of application. In addition to its proposed CAO Update, Fircrest maintains active stormwater permitting with the Department of Ecology to effectively manage and regulate protection of environmental features in manners compliant with relevant statute and federal law, and actively engages with other agencies with jurisdiction via SEPA, when applicable; these ordinances, permits, and processes would work in tandem with the proposed CAO Update to ensure protection of the environment within the confines of the law.

Attachments

Attachment 1 – Map of Fircrest Boundary

## Attachment 1 – Map of Fircrest Boundary



Source: Fircrest Comprehensive Plan Land Use Element

April 27, 2026

Tacoma Daily Index

Attention: Legal Classified

Please publish the following on **Friday, May 1, 2026** and provide an affidavit of publication with your invoice.

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CITY OF FIRCREST  
NOTICE OF SEPA THRESHOLD DETERMINATION

NOTICE IS HEREBY GIVEN that the City of Fircrest has issued a SEPA Determination of Nonsignificance for proposed Critical Areas Ordinance (CAO) Update required by the Growth Management Act, RCW 36.70A.130(7)(a)(ii). The City has determined that the proposal does not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required for the proposal under RCW 43.21C.030(2)(c). These decisions were made based on other information on file with the lead agency. This information is available to the public on the City website at <https://www.cityoffircrest.net/blog>. The deadline for submitting written comments on, or an appeal of, the SEPA determination is Friday, May 15, 2026, at 5:00 PM. Written comments may be sent to: City of Fircrest SEPA Official, 115 Ramsdell Street, Fircrest, WA 98466, or emailed to [kmahoney@cityoffircrest.net](mailto:kmahoney@cityoffircrest.net).



## THE CITY OF FIRCREST

115 RAMSDELL STREET • FIRCREST, WA 98466-6999 • (253) 564-8901 • [www.cityoffircrest.net](http://www.cityoffircrest.net)

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### **CITY OF FIRCREST PLANNING COMMISSION**

#### **PUBLIC HEARING TO RECEIVE COMMENTS ON CRITICAL AREAS ORDINANCE UPDATE**

*NOTICE IS HEREBY GIVEN* that the Fircrest Planning Commission will conduct a public hearing on August 18, 2026, commencing at 6:00 P.M. or soon thereafter, to accept public comments on the Critical Areas Ordinance (CAO) Update required by the Washington Growth Management Act.

Individuals who desire special accommodations should contact the Fircrest City Clerk at least 48 business hours prior to this meeting. Citizens attending the public hearing have the right to provide written and oral comments. Written comment may be sent in advance of the hearing to: City Clerk, 115 Ramsdell Street, Fircrest, WA 98466; phone: 253.564.8901; fax: 253.566.0762. Please visit [www.cityoffircrest.net](http://www.cityoffircrest.net) or contact Fircrest City Hall at 253.564.8901 for more information.

July 30, 2026

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

**Re: 2026-27 Comprehensive Plan Amendment | Supplemental Land Capacity Analysis and Implementing Development Regulations (“STEP” Housing)**

Dear Planning Commission,

This memorandum has been prepared to reintroduce Planning Commission on the City’s STEP Housing and Supplemental Land Capacity Analysis (LCA) of the 2026-27 Fircrest Comprehensive Plan Update and present the **Emergency Housing LCA** required for this project. This project will consist of a completed analysis of Fircrest’s land capacity to accommodate its projected 20-year growth 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)<sup>1</sup>. 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, 2024<sup>2</sup>, 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 housing<sup>3</sup> (“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

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<sup>1</sup> RCW 36.70A.040

<sup>2</sup> RCW 36.70A.130(5)(a)

<sup>3</sup> 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<br>(% of Area Median<br>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                  |
| <b>Total</b>                                 |          | <b>2,927</b>          | <b>769</b>           |
| Temporary Emergency<br>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 accessory dwelling units (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<br>(Pierce County median income, rounded to nearest 1k) | Surplus/ (Deficit)<br>(Estimated Unit Capacity - Housing Need) |            |             |            |
|---------------------------------------------------------------|----------------------------------------------------------------------------------|----------------------------------------------------------------|------------|-------------|------------|
|                                                               |                                                                                  | 1. Baseline<br>(No Change)                                     | 2. ADUs    | 3. Duplexes | Total      |
| Extremely low income<br>(0-30% AMI)                           | \$0 - \$25,000                                                                   | (20)                                                           | (10)       | (20)        | (10)       |
| Very Low income<br>(30-50% AMI)                               | \$25,000 - \$41,000                                                              | 70                                                             | 80         | 70          | 80         |
| Low income<br>(50-80% AMI)                                    | \$41,000 - \$66,000                                                              | 100                                                            | 120        | 100         | 120        |
| Moderate income<br>(80-120% AMI)                              | \$66,000 - \$99,000                                                              | 134                                                            | 134        | 153         | 153        |
| <b>Total Net Capacity</b><br>(includes >120% AMI for overall) |                                                                                  | <b>139</b>                                                     | <b>179</b> | <b>146</b>  | <b>186</b> |

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, one 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, cities are required 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 reasonable<sup>4</sup> occupancy, spacing, and intensity of use requirements for STEP housing.

<sup>4</sup> “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. Notably, the 2026 legislative session passed into law amendments to RCW 35.21.683 which no longer allow cities to apply these “reasonable” occupancy, spacing, and intensity requirements for STEP Housing and allow only for very limited instances of limitations that may be placed on emergency housing. Though Fircrest is not required to adopt STEP Housing regulations which comply with this change until mid-2028, Fircrest is opting for early compliance to demonstrate its commitment to legislative intentions.



Each STEP Housing type is defined in the RCW as follows:

**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. Final draft amendments to the FMC governing STEP housing are discussed below.

## Implementing STEP Housing Development Regulations

To implement STEP housing and 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** and expects to pass by ordinance amendments to the FMC which govern STEP housing in these districts as is set forth in **Table 2**:

**Table 1**  
**STEP Housing Allowed Zones**

| PSH and Transitional Housing Zones                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Emergency Housing and Shelter Zones                                                                            |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"><li>• Residential-4 (R-4)</li><li>• Residential-4-Conservation (R-4-C)</li><li>• Residential-6 (R-6)</li><li>• Residential-8 (R-8)</li><li>• Residential-10-Transitional Community Design (R-10-TCD)</li><li>• Residential-20 (R-20)</li><li>• Residential-30 (R-30)</li><li>• Neighborhood Office (NO)</li><li>• Neighborhood Commercial (NC)</li><li>• Mixed-Use Neighborhood (MUN)</li><li>• Mixed-Use Urban (MUU)</li><li>• Golf Course (GC)</li></ul> | <ul style="list-style-type: none"><li>• Mixed-Use Neighborhood (MUN)</li><li>• Mixed-Use Urban (MUU)</li></ul> |

**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<br>Project Permit Application Framework                  | <b>Type II-C: Administrative Use Permit (see Table A)</b><br><b>Type II-C: Procedures (see Table B)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Establish increased public engagement and noticing.             | 22.05.007<br>Exemptions from Project Permit Application Processing | Pursuant to RCW 36.70B.140(2), building permits, boundary line adjustments, short plats, administrative design review, minor site plan review, minor variances, <del>administrative use permits</del> , 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> :<br><br>(1) Determination of completeness (FMC 22.06.004(a));<br><br>(2) Notice of application (FMC 22.06.005);<br><br>(3) Except as provided in RCW 36.70B.140, optional consolidated project permit review processing (FMC 22.05.002(b));<br><br>(4) Joint public hearings (FMC 22.05.004);<br><br>(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));<br><br>(6) Notice of decision (FMC 22.09.008);<br><br>(7) Completion of project review within any applicable time periods (including the 120-day permit processing time) |
|                                                                 | 22.06.004(a)<br>Determination of Completeness                      | Within 28 days after receiving a <del>Type II-C</del> , 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)<br>Notice of Application                              | A notice of application shall be issued on all <del>Type II-C</del> , 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. | <a href="#">22.32.006</a><br>R-4 Admin Use      | <a href="#">Uses permitted subject to administrative use permit approval in accordance with Chapter 22.70 FMC:</a><br><a href="#">Permanent supportive housing.</a><br><a href="#">Transitional housing.</a><br><a href="#">Family group home, including adult family home.</a> |
|                                                                                                               | <a href="#">22.34.006</a><br>R-4-C Admin Use    |                                                                                                                                                                                                                                                                                 |
|                                                                                                               | <a href="#">22.36.006</a><br>R-6 Admin Use      |                                                                                                                                                                                                                                                                                 |
|                                                                                                               | <a href="#">22.38.006</a><br>R-8 Admin Use      |                                                                                                                                                                                                                                                                                 |
|                                                                                                               | <a href="#">22.40.006</a><br>R-10-TCD Admin Use |                                                                                                                                                                                                                                                                                 |
| Establish that STEP Housing is reviewed via Administrative Use Permit, in addition to Family Group Homes.     | <a href="#">22.42.006</a><br>R-20 Admin Use     |                                                                                                                                                                                                                                                                                 |
|                                                                                                               | <a href="#">22.43.006</a><br>R-30 Admin Use     |                                                                                                                                                                                                                                                                                 |
|                                                                                                               | <a href="#">22.48.005</a><br>MUN Admin Use      |                                                                                                                                                                                                                                                                                 |
|                                                                                                               | <a href="#">22.50.006</a><br>MUU Admin Use      |                                                                                                                                                                                                                                                                                 |
|                                                                                                               | <a href="#">22.56.005</a><br>GC Admin Use       |                                                                                                                                                                                                                                                                                 |

| Topic                                                                                                             | FMC Section                                | FMC Edits (Draft)                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|-------------------------------------------------------------------------------------------------------------------|--------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Allow Permanent Supportive Housing and Transitional Housing in all zones that permit residential development.     | <a href="#">22.44.007</a><br>NO Admin Use  | Uses permitted subject to administrative use permit approval in accordance with Chapter 22.70 FMC:<br><u><a href="#">Permanent supportive housing.</a></u><br><u><a href="#">Transitional housing.</a></u><br><u><a href="#">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.</a></u> |
| Establish that STEP Housing is reviewed via Administrative Use Permit, in addition to Family Group Homes.         | 22.46.005<br>NC Admin Use                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| Allow Emergency Housing and Emergency Shelters in all zones that permit residential or lodging/hotel development. | <a href="#">22.48.005</a><br>MUN Admin Use | Uses permitted subject to administrative use permit approval in accordance with Chapter 22.70 FMC:<br><u><a href="#">Emergency shelters, subject to compliance with FMC 22.58.030.</a></u><br><u><a href="#">Emergency housing, subject to compliance with FMC 22.58.030.</a></u>                                                                                                                                                                                    |
| Establish that STEP Housing is reviewed via Administrative Use Permit, in addition to Family Group Homes.         | <a href="#">22.50.006</a><br>MUU Admin Use |                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |

| Topic                                                 | FMC Section                                                           | FMC Edits (Draft)                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|-------------------------------------------------------|-----------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Create STEP Housing review and approval framework.    | <a href="#">22.58.030</a><br>Emergency housing and emergency shelters | <i>See Exhibit B, pages 54-55<sup>5</sup>.</i>                                                                                                                                                                                                                                                                                                                                                                                                             |
|                                                       | 22.70.005<br>Administrative Use Permit – Submittal Requirements       | <u>Applications for an administrative use permit to develop or operate a facility for emergency shelters or emergency housing may be required to submit a proposal establishing reasonable and additional requirements pertaining to health and safety protocols as set forth in FMC 22.58.030 with their application.</u>                                                                                                                                 |
| Add off-street parking requirements for STEP Housing. | 22.60.003<br>Parking Space Requirements per Activity                  | <u>Permanent supportive housing and transitional housing: 0.5 per bedroom + 1 per staff</u><br><br><u>Emergency housing and emergency shelters: 0.5 per bed + 1 per staff<sup>1</sup></u><br><br><sup>1</sup> <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>                                                                                          |
| Add germane definitions.                              | <a href="#">22.98.229.2</a><br><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.                             | <a href="#">22.98.229.3</a><br><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>                                                                                                          |
|                                                       | <a href="#">22.98.267</a><br><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> |
|                                                       | <a href="#">22.98.437.3</a><br><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>                                                                                                                                                                                                                                                                                                                                                   |

<sup>5</sup> FMC 22.58.030 is a 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)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|-------|-----------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|       | <a href="#">22.98.518.1</a><br><a href="#">Permanent Supportive Housing</a> | <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> |
|       | <a href="#">22.98.706</a><br><a href="#">Transitional Housing</a>           | <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 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<br>(% AMI) | Income Bracket         | Projected<br>Housing Need <sup>6</sup> | Zones Serving<br>Income Levels              | Baseline<br>Capacity<br>Assignment | Surplus/<br>(Deficit) |
|-------------------------|------------------------|----------------------------------------|---------------------------------------------|------------------------------------|-----------------------|
| 0-30% AMI               | \$0 - \$25,000         | 99 (Non-PSH)                           | R-30, MUN, MUU                              | 398 (Non-PSH) <sup>7</sup>         | 299                   |
|                         |                        | 134 (PSH)                              |                                             | 0 (PSH) <sup>8</sup>               | (134) (PSH)           |
| >30-50%                 | \$25,000 -<br>\$41,000 | 143                                    | R-20, R-30, MUN,<br>MUU                     | 197 <sup>9</sup>                   | 54                    |
| >50-80%                 | \$41,000 -<br>\$66,000 | 113                                    | R-8, R-20, R-30,<br>MUN, MUU                | 197 <sup>9</sup>                   | 84                    |
| >80-100%                | \$66,000 -<br>\$82,000 | 49                                     | R-8, R-10-TCD, R-<br>20, R-30, MUN,<br>MUU  | 60 <sup>10</sup>                   | 11                    |
| >100-120%               | \$82,000 -<br>\$99,000 | 44                                     | R-4, R-4-C, R-6,<br>R-8, R-10-TCD, R-<br>20 | 58 <sup>11</sup>                   | 14                    |
| <b>Total</b>            |                        | <b>582</b>                             |                                             | <b>910</b>                         | <b>328</b>            |

<sup>6</sup> 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 Supplemental LCA.

<sup>7</sup> 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.

<sup>8</sup> 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.

<sup>9</sup> 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.

<sup>10</sup> 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.

<sup>11</sup> 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.



## 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.21.683. 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 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**.

**Table 4**  
**Housing Need Surplus/Deficit: STEP Housing, Duplex, and ADU Landscape**

| Income Level<br>(% AMI)                                | Income<br>Bracket      | Projected<br>Housing Need | Zones Serving<br>Income Levels             | Baseline<br>Capacity<br>Assignment | Capacity<br>Adjustment<br>with STEP,<br>Duplex, and<br>ADU | Surplus/<br>(Deficit) |
|--------------------------------------------------------|------------------------|---------------------------|--------------------------------------------|------------------------------------|------------------------------------------------------------|-----------------------|
| 0-30% AMI                                              | \$0 -<br>\$25,000      | 99 (Non-PSH)              | R-30, MUN,<br>MUU                          | 398 (Non-PSH)                      | -199 (Non-PSH)                                             | <b>100</b>            |
|                                                        |                        | 134 (PSH)                 |                                            | 0 (PSH)                            | +199 (PSH) <sup>12</sup>                                   | <b>65</b>             |
| >30-50%                                                | \$25,000 -<br>\$41,000 | 143                       | R-20, R-30,<br>MUN, MUU                    | 197                                | -                                                          | <b>54</b>             |
| >50-80%                                                | \$41,000 -<br>\$66,000 | 113                       | R-8, R-20, R-30,<br>MUN, MUU               | 197                                | -                                                          | <b>84</b>             |
| >80-100%                                               | \$66,000 -<br>\$82,000 | 49                        | R-8, R-10-TCD,<br>R-20, R-30,<br>MUN, MUU  | 60                                 | +20 (ADUs) <sup>13</sup><br>+10 (Duplex)                   | <b>41</b>             |
| >100-120%                                              | \$82,000 -<br>\$99,000 | 44                        | R-4, R-4-C, R-6,<br>R-8, R-10-TCD,<br>R-20 | 58                                 | +20 (ADUs) <sup>14</sup><br>+9 (Duplex)                    | <b>43</b>             |
| <b>Total (less<br/>Emergency<br/>Housing<br/>beds)</b> |                        | <b>582</b>                |                                            | <b>910</b>                         | <b>+59</b>                                                 | <b>387</b>            |

## 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 in 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 changes to their zoning

<sup>12</sup> Fircrest expects to pass by ordinance in Q1 2027 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.

<sup>13</sup> 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 necessary in removing these barriers as a part of its Comprehensive Plan update<sup>14</sup>. The City's efforts to adopt STEP Housing provisions is an important component of its Adequate Provisions analysis, and it is expected that these will be fully analyzed and presented to the Planning Commission at its September or October regular meeting.

## Emergency Housing LCA

As a fully-planning City under the GMA, Fircrest is required to quantify its capacity for emergency housing<sup>15</sup>.

The city has also taken action to address zoning provisions which behaved as unintended barriers to the siting of emergency housing and emergency shelters in Fircrest. As was demonstrated in Table 1 of the City of Fircrest Comprehensive Plan, Appendix B: Housing (see below), Fircrest is estimated to have 0 emergency housing supply as of 2020 and is projected to need 47 emergency housing units (beds) in 2044.

**Table 1 Housing Need Allocations by Income Bracket**

**(Pierce County Ordinance No. 2023-22s)**

| Income Level<br>(% of Area Median<br>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                  |
| <b>Total</b>                                        |          | <b>2,927</b>          | <b>769</b>           |
| <i>Temporary Emergency<br/>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.

The City has begun its Adequate Provisions analysis, and in doing so has learned that Title 22 of the Fircrest Municipal Code (FMC) governing Land Development had not yet been amended to implement House Bill (HB) 1220, a 2021 law requiring cities to allow for emergency housing and emergency shelters in all zones that allow for hotels. In reviewing FMC Title 22, Fircrest discovered that emergency housing was not expressly prohibited in any of its zones, but that the

<sup>14</sup> RCW 36.70A.130(1)(a). See Commerce's *Guidance for Updating Your Housing Element (January 2026)*, p. 55

<sup>15</sup> RCW 36.70A.070(2)(c)

housing type was absent from any discussion in its development code. Reasoning that the absence of emergency housing governance may be an unintended barrier to accommodating its forecast emergency housing needs, Fircrest has acted to amend Title 22 and make provisions for the siting of emergency housing and emergency shelters.

As a component of this Supplemental LCA and in the interest of adhering to the City's expectations for land use and housing analysis set forth in the GMA, the Fircrest City Council plans to adopt by ordinance amendments to Title 22 FMC that would allow emergency housing and emergency shelters in its Mixed Use Urban (MUU) and Mixed Use Neighborhood (MUN) zoning districts. The MUU and MUN zones are the City's only zoning districts that allow for lodging; the City's action to adopt allowances for emergency housing and emergency shelters in these zones not only creates statutory compliance, but also creates potential for the siting of an important housing type needed to support Fircrest's projected growth.

To even further remove potential barriers to the siting of emergency housing and shelters, the City has opted for early compliance with a new law passed in 2026 which also governs emergency housing: HB 2266. Although the City has until June 2028 to comply with HB 2266, Fircrest is choosing to advance its development code into early compliance with the new law as a demonstration of its commitment to plan for and accommodate housing needed for its projected growth. To that end, Fircrest's ordinance governing emergency housing and shelters contains no occupancy, spacing, or intensity of use requirements that could limit the potential for adequate emergency housing supply.

The amended development regulations that will accommodate Fircrest's projected emergency housing need of 47 beds are expected to be adopted by ordinance with the City's Comprehensive Plan Amendment, which will incorporate this Supplemental LCA. With the passing of Fircrest's emergency housing and emergency shelter ordinance, adequate capacity will be created to accommodate the City's forecast growth. The adequate capacity is demonstrated below in **Table 5**, which studies how the net developable area of an underutilized parcel in Fircrest's MUU zone could amply provide for more than three times the projected emergency housing bed supply needed for Fircrest's 2044 expected population.

**Table 5<sup>16</sup>**  
**Emergency Housing Capacity Results Summary Table**

| Site Grouping                                             | Housing Type      | Developable Area (net square feet) | Assumed Density (bed/square feet) <sup>17</sup> | Bed Capacity | Beds Needed in 2044 | Surplus/ (Deficit) |
|-----------------------------------------------------------|-------------------|------------------------------------|-------------------------------------------------|--------------|---------------------|--------------------|
| Existing underutilized land (vacant warehouse) conversion | Emergency Shelter | 30,500                             | 1 bed/200 square feet                           | 152          | 47                  | 105                |

With Fircrest's allowance for emergency housing and emergency shelters in the MUU and MUN zones without restriction on their occupancy, spacing, or intensity of use, Fircrest will have taken action with the passing of its emergency housing ordinance to plan for and accommodate the housing needs of each income band within its 2044 projected population, satisfying the requirements of the GMA and creating sufficient capacity for its forecast need of 47 beds.

## 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. An abbreviated version of the project schedule highlighting project milestones is included below. It is expected that this project will conclude by March 2027.

<sup>16</sup> Table 5 has been developed using Exhibits 21 and 22 of the Department of Commerce *Guidance for Updating Your Housing Element (Book 2)* as a template.

<sup>17</sup> An assumption of 1 bed per 200 square feet was applied as a reasonable density assumption, given its relation to other state and federal standards for emergency shelter spacing requirements. Whereas the Federal Emergency Management Agency (FEMA) cites an average density of up to 60 square feet per bed, and whereas Chapter 388-61A Washington Administrative Code (WAC) establishes a standard minimum of 50 square feet per bed, Fircrest has amply afforded a more spacious standard to reasonably account for sanitation, kitchen, and intake space within an emergency shelter facility. See FEMA standard: [FEMA Shelter Spacing Standard](#). See WAC standard: [Chapter 388-61A WAC](#).



I look forward to updating Planning Commission on our advances toward this important project at its August 18 meeting!



Kimberly A. Gunderson  
Mahoney Planning, LLC

Exhibits:

- A. 2024 Fircrest Comprehensive Plan Housing Element Tables
- B. Amendments to FMC Implementing STEP Housing

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<br>(% of Area Median<br>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                  |
| <b>Total</b>                                        |                 | <b>2,927</b>          | <b>769</b>           |
| <i>Temporary Emergency<br/>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<br>(Pierce County median income, rounded to nearest 1k) | Surplus/ (Deficit)<br>(Estimated Unit Capacity - Housing Need) |             |             |             |
|-------------------------------------------------------------------------|----------------------------------------------------------------------------------|----------------------------------------------------------------|-------------|-------------|-------------|
|                                                                         |                                                                                  | 1. Baseline<br>(No Change)                                     | 2. ADUs     | 3. Duplexes | Total       |
| Extremely low income<br>(0-30% AMI)                                     | \$0 - \$25,000                                                                   | <b>(20)</b>                                                    | <b>(10)</b> | <b>(20)</b> | <b>(10)</b> |
| Very Low income<br>(30-50% AMI)                                         | \$25,000 - \$41,000                                                              | 70                                                             | 80          | 70          | 80          |
| Low income<br>(50-80% AMI)                                              | \$41,000 - \$66,000                                                              | 100                                                            | 120         | 100         | 120         |
| Moderate income<br>(80-120% AMI)                                        | \$66,000 - \$99,000                                                              | 134                                                            | 134         | 153         | 153         |
| <b>Total Net Capacity</b><br><i>(includes &gt;120% AMI for overall)</i> |                                                                                  | <b>139</b>                                                     | <b>179</b>  | <b>146</b>  | <b>186</b>  |

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**  
**August 18, 2026**  
**Fircrest Planning Commission**  
**Comprehensive Plan | Housing Adequacy Analysis**

Fircrest Municipal Code  
Chapter 22.05 TYPES OF PROJECT PERMIT  
APPLICATIONS

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**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 | <a href="#">Administrative use permit</a> | 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           | <a href="#">Administrative use permit</a> | 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.

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Chapter 22.05 TYPES OF PROJECT PERMIT  
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| Type I                                      | Type II-A | Type II-B                     | <a href="#">Type II-C</a> | 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                                                                                 | <a href="#">Type II-C</a>                                                                                 | Type III-A                               | Type III-B                                                                                | Type IV                                                                                         | Type V                                                       |
|------------------------------------------------|--------------|---------------------------------|-------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------|------------------------------------------|-------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------|--------------------------------------------------------------|
| Recommendation made by:                        | N/A          | N/A                             | N/A                                                                                       | <a href="#">N/A</a>                                                                                       | N/A                                      | Hearing examiner                                                                          | Hearing examiner                                                                                | Planning commission                                          |
| Final decision made by:                        | Director     | Director                        | Director                                                                                  | <a href="#">Director</a>                                                                                  | 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                                                                              | <a href="#">Required</a>                                                                                  | 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 | <a href="#">Hearing required only if director decision appealed, then hearing before hearing examiner</a> | 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                                                                              | <a href="#">Not required</a>                                                                              | 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                                                                                       | <a href="#">Yes</a>                                                                                       | 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.~~

(eb) Nonmotorized recreational trail or passive recreational park with no permanent on-site staff.

(cd) 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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|                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
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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 supportive housing.

(b) Transitional housing.

(c) Family group home, including adult family home.

(Ord. 1611 § 5, 2018; Ord. 1562 § 6, 2015; Ord. 1311 § 2, 2002; Ord. 1272 § 1, 2001; Ord. 1246 § 2, 2000).

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**Commented [KG1]:** Per June 2026 PC feedback, staff is suggesting an infrequent housing type be processed as was designed for STEP to ensure that STEP Housing still has the designed review process without conflicting with HB 2266:

*"Except as provided in subsections (5) through (7) of this section, a county or city may not require through development regulations, ordinances, or legal agreements any standards, conditions, or requirements for transitional housing, permanent supportive housing, indoor emergency housing, and indoor emergency shelters that are more restrictive than those required for other types of lodging or residential development within the same zone, but may apply any objective development regulations, including form-based codes, that are required for lodging or residential development including, but not limited to, density limits, dimensional standards, height restrictions, floor area ratio, setback, lot coverage, stormwater, clearing, and tree canopy and retention requirements."*

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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.~~

(be) Cottage housing (subject to compliance with cottage housing standards in FMC 22.58.027).

(cd) Nonmotorized recreational trail or passive recreational park with no permanent on-site staff.

(de) 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.<br>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:<br>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.<br>b. A 10% increase in density if a pedestrian trail system is provided within the common open space area, consistent with a trails plan.<br>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:<br>i. Clearly defined athletic fields and/or activity courts.<br>ii. Recreation centers or community facilities.<br>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.<br>Cottage housing: See FMC 22.58.027.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| Maximum height               | Other uses: 35 feet.<br>Small lot development: See Chapter 22.63 FMC.<br>Cottage housing: See FMC 22.58.027.<br>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.<br>Cottage housing: See FMC 22.58.027.<br>Other uses: To be determined through the administrative design review process.<br>If not specified, FMC 22.58.002 encroachment standards will apply.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| Exterior wall modulation                                                                         | Small lot development: See Chapter 22.63 FMC.<br>Cottage housing: See FMC 22.58.027.<br>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.<br>Cottage housing: See FMC 22.58.027.<br>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.<br>Cottage housing: See FMC 22.58.027.<br>If not specified, FMC 22.58.003 standards will apply.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| Maximum impervious surface coverage                                                              | Small lot development: See Chapter 22.63 FMC.<br>Cottage housing: See FMC 22.58.027.<br>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.<br>Cottage housing: See FMC 22.58.027.<br>For other uses, see Chapter 22.60 FMC.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| Landscape regulations                                                                            | Small lot development: See Chapter 22.63 FMC.<br>Cottage housing: See FMC 22.58.027.<br>For other uses: See Chapter 22.62 FMC.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |

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|                                                                                                               |                                                                                                                                |
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| Design standards                                                                                              | Small lot development: See Chapter 22.63 FMC.<br>Cottage housing: See FMC 22.58.027.<br>For other uses: See Chapter 22.64 FMC. |
| Critical areas                                                                                                | See Chapter 22.92 FMC.                                                                                                         |
| Calculations resulting in a fraction shall be rounded to the nearest whole number, with .50 being rounded up. |                                                                                                                                |

- 22.34.006 Administrative uses.  
Uses permitted subject to administrative use permit approval in accordance with Chapter 22.70 FMC:
- (a) Permanent supportive housing.
  - (b) Transitional housing.
  - (c) Family group home, including adult family home.

(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).

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## 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.~~

~~(eb)~~ Nonmotorized recreational trail or passive recreational park with no permanent on-site staff.

~~(ed)~~ 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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|                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
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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:

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

(a) Permanent supportive housing.

(b) Transitional housing.

(c) Family group home, including adult family home.

(Ord. 1611 § 7, 2018; Ord. 1562 § 10, 2015; Ord. 1311 § 4, 2002; Ord. 1272 § 3, 2001; Ord. 1246 § 4, 2000).

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## 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.~~

~~(ba)~~ Duplex dwelling.

~~(be)~~ Multifamily dwelling within a structure containing no more than four dwelling units, when clustered to avoid critical areas or to retain significant open space.

~~(ce)~~ Manager's office, recreation facilities, laundry facilities, and other structures and facilities intended for use by residents of a residential complex.

~~(de)~~ Nonmotorized recreational trail or passive recreational park with no permanent on-site staff.

~~(ef)~~ 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.**

|                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                           |
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| 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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|                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
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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> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |

**22.38.006 Administrative uses.**

Uses permitted subject to administrative use permit approval in accordance with Chapter 22.70 FMC:

(a) Permanent supportive housing.

(b) Transitional housing.

(c) Family group home, including adult family home.

(Ord. 1611 § 8, 2018; Ord. 1562 § 12, 2015; Ord. 1311 § 5, 2002; Ord. 1272 § 4, 2001; Ord. 1246 § 5, 2000).

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## 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.~~

~~(eb)~~ Duplex dwelling.

~~(cd)~~ Multifamily dwelling within a structure containing no more than eight dwelling units, when clustered to avoid critical areas or to retain significant open space.

~~(de)~~ Assisted living facility, including congregate care facility, convalescent home, hospice care center, residential care facility, and residential treatment facility.

~~(ef)~~ Manager's office, recreation facilities, laundry facilities, and other structures and facilities intended for use by residents of a residential complex.

~~(fg)~~ Nonmotorized recreational trail or passive recreational park with no permanent on-site staff.

~~(gh)~~ 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 supportive housing.

(b) Transitional housing.

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COMMUNITY DESIGN DISTRICT (R-10-TCD)

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[\(c\) Family group home, including adult family home.](#)

(Ord. 1611 § 9, 2018; Ord. 1311 § 6, 2002; Ord. 1246 § 6, 2000).

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

## 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.~~

~~(ab)~~ Duplex dwelling.

~~(be)~~ Multifamily dwelling.

~~(cd)~~ Assisted living facility, including congregate care facility, convalescent home, hospice care center, residential care facility, and residential treatment facility.

~~(de)~~ Manager's office, recreation facilities, laundry facilities, and other structures and facilities intended for use by residents of a residential complex.

~~(ef)~~ Nonmotorized recreational trail or passive recreational park with no permanent on-site staff.

~~(fe)~~ 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.**

|                                       |                                                                                                                                                                                                            |
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| 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.                                       |

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

|                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
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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:

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

(a) Permanent supportive housing.

(b) Transitional housing.

(c) Family group home, including adult family home.

(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.~~

~~(ab)~~ Multifamily dwelling.

~~(be)~~ Assisted living facility, including congregate care facility, convalescent home, hospice care center, residential care facility, and residential treatment facility.

~~(cd)~~ Manager's office, recreation facilities, laundry facilities, and other structures and facilities intended for use by residents of a residential complex.

~~(de)~~ Nonmotorized recreational trail or passive recreational park with no permanent on-site staff.

~~(ef)~~ 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                                                                                                                                                |

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

|                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|----------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                    | 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 supportive housing.
  - (b) Transitional housing.
  - (c) Family group home, including adult family home.

(Ord. 1611 § 11, 2018; Ord. 1562 § 17, 2015).

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## 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.~~

~~(cd)~~ 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                     | 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 |

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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 supportive housing.

(b) Transitional housing.

(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.

(Ord. 1562 § 19, 2015; Ord. 1311 § 8, 2002; Ord. 1246 § 8, 2000).

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## 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.](#)

(e) Transitional housing.

(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.

(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 |

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|                                                                   | pattern is not well established, new construction shall reinforce or establish a historic main street pattern. The maximum setback 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 |

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|                                                                                                                     | 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 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).

## 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.~~

~~(ma)~~ Cottage housing, live-work unit, and multifamily dwelling.

~~(ne)~~ Assisted living facility, including congregate care facility, convalescent home, hospice care center, residential care facility, and residential treatment facility.

~~(op)~~ 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, subject to compliance with FMC 22.58.030.](#)

[\(j\) Emergency housing, subject to compliance with FMC 22.58.030.](#)

[\(k\) Family group home, including adult family home.](#) (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. |

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

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(MUN)

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*Calculations resulting in a fraction shall be rounded to the nearest whole number with 0.50 being rounded up.*

(Ord. 1667 § 9, 2020).

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



## 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.~~

~~(mm)~~ Live-work unit and multifamily dwelling.

~~(ne)~~ Assisted living facility, including congregate care facility, convalescent home, hospice care center, residential care facility, and residential treatment facility.

~~(op)~~ 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, subject to compliance with FMC 22.58.030.](#)

[\(j\) Emergency housing, subject to compliance with FMC 22.58.030.](#)

[\(k\) Family group home, including adult family home.](#) (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.                                                                                         |
| 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).

## 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.~~

~~(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. 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.](#)
- (e) [Family group home, including adult family home.](#) (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. |
| 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, e~~Emergency housing and emergency shelters.

#### 22.58.030 ~~Permanent supportive housing, transitional housing, e~~Emergency housing and 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~~Good Faith Negotiations. Upon receipt of an application for Administrative Use Permit to allow an emergency shelter or emergency housing in the MUU or MUN zones when the emergency shelter or emergency housing would be located within 500 feet of walking distance from another emergency shelter or emergency housing, or within 500 feet of walking distance from the physical grounds of a public school as defined in RCW 28A.150.010 or a private school approved by the board of education under RCW Chapter 28A.195, the City may enter into good faith negotiations with the sponsor of the emergency shelter or emergency housing to establish additional and reasonable requirements pertaining to health and safety protocols. If the parties are unable to come to an agreement on such good faith negotiations within 90 days of the permit application's submission to the City, the City may deny the permit. The provisions in this subsection are inapplicable to emergency shelters or emergency housing particularly designated for individuals under the age of 18, families, or victims of domestic 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.~~

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

## 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.<br>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.                                                                          |
| <a href="#">Permanent supportive housing and transitional housing</a>                                          | <a href="#">0.5 per bedroom</a> <sup>1</sup> <a href="#">+ 1 per staff</a> .              |
| <a href="#">Emergency housing and emergency shelters</a>                                                       | <a href="#">0.5 per bed + 1 per staff</a> .                                               |
| Accessory dwelling unit (ADU)                                                                                  | None.                                                                                     |
| Short-term rentals                                                                                             | See FMC 22.58.011.                                                                        |
| Hotel/motel                                                                                                    | 1 per guest room.                                                                         |

<sup>1</sup> [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.](#)

**Commented [KM2]:** 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 [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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\* “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.                                             |

| 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                                                                                  |

| 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°<br>(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/<br/>Aisle (ft)</i> |                              |         |         |         |         |
| One-way                         | 12                           | 13      | 13      | 17      | 24      |

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

|                                                                                 | <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

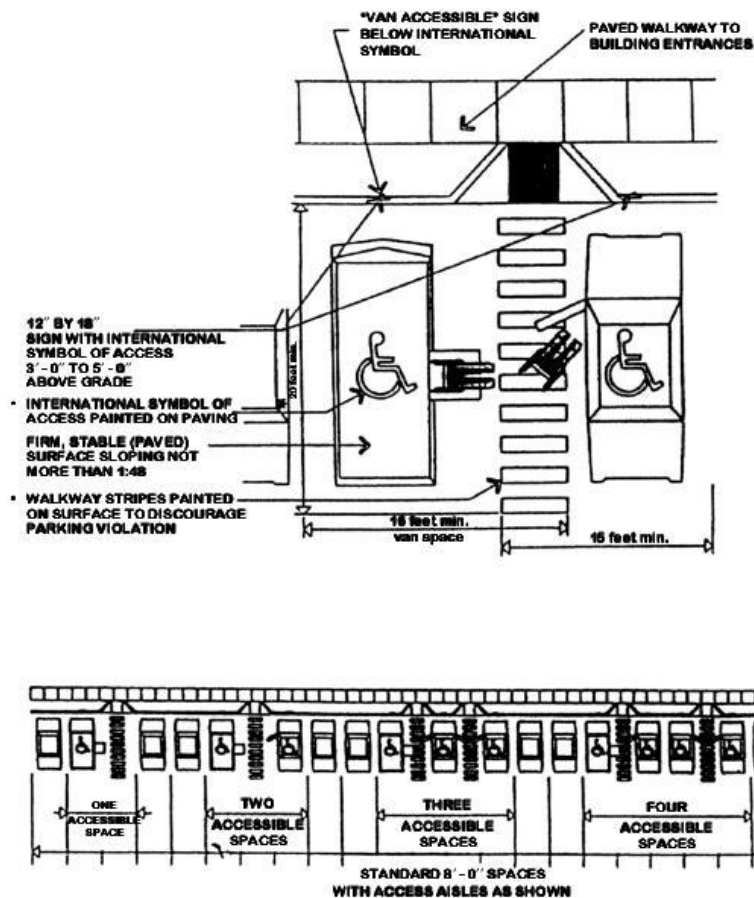
accessible spaces shall have an adjacent access aisle no less than eight feet wide or a total width of 16 feet including the parking space. See Figure 1.

(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:

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

- (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; 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-supportive housing, transitional housing, emergency shelters, or emergency housing shall may be required to submit

**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).

[a proposal establishing reasonable and additional requirements pertaining to health and safety protocols 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

#### Sections:

|             |                                             |
|-------------|---------------------------------------------|
| 22.98.003   | Definition of any word not listed.          |
| 22.98.006   | Abandonment of telecommunications facility. |
| 22.98.009   | Accessory building or structure.            |
| 22.98.012   | Accessory dwelling unit.                    |
| 22.98.015   | Accessory use.                              |
| 22.98.016   | Adaptive management.                        |
| 22.98.017   | Adjacent.                                   |
| 22.98.018   | Adult bathhouse.                            |
| 22.98.021   | Adult bookstore.                            |
| 22.98.024   | Adult cabaret.                              |
| 22.98.027   | Adult entertainment.                        |
| 22.98.030   | Adult entertainment establishment.          |
| 22.98.033   | Adult family home.                          |
| 22.98.036   | Adult live entertainment establishment.     |
| 22.98.039   | Adult massage parlor.                       |
| 22.98.042   | Adult motion picture theater.               |
| 22.98.045   | Adult retail store.                         |
| 22.98.048   | Adult sauna parlor.                         |
| 22.98.051   | Adult video store.                          |
| 22.98.052   | Advance mitigation.                         |
| 22.98.053   | Advertising copy.                           |
| 22.98.054   | Alley.                                      |
| 22.98.057   | Alteration.                                 |
| 22.98.060   | Amendment.                                  |
| 22.98.062   | Anadromous fish.                            |
| 22.98.063   | Antenna.                                    |
| 22.98.066   | Antenna height.                             |
| 22.98.069   | Antenna support structure.                  |
| 22.98.072   | Applicant.                                  |
| 22.98.075   | Antique.                                    |
| 22.98.078   | Antique store.                              |
| 22.98.079   | Aquifer.                                    |
| 22.98.080   | Aquifer, confined.                          |
| 22.98.081   | Aquifer recharge areas.                     |
| 22.98.082   | Aquifer, sole source.                       |
| 22.98.083   | Aquifer susceptibility.                     |
| 22.98.084   | Aquifer, unconfined.                        |
| 22.98.085   | Area of shallow flooding.                   |
| 22.98.087   | Articulation.                               |
| 22.98.090   | Assisted living facility.                   |
| 22.98.091   | Available capacity.                         |
| 22.98.091.1 | Barbeque.                                   |
| 22.98.092   | Base flood.                                 |
| 22.98.093   | Basement.                                   |
| 22.98.094   | Battery charging station.                   |
| 22.98.094.1 | Battery electric vehicle (BEV).             |
| 22.98.094.2 | Battery exchange station.                   |
| 22.98.095   | Best available science.                     |
| 22.98.096   | Best management practices (BMPs).           |
| 22.98.097   | Biodiversity.                               |

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|             |                                 |
|-------------|---------------------------------|
| 22.98.099   | Block.                          |
| 22.98.100   | Breakaway wall.                 |
| 22.98.102   | Buffer.                         |
| 22.98.105   | Buildable area.                 |
| 22.98.108   | Building.                       |
| 22.98.111   | Building, detached.             |
| 22.98.114   | Building envelope.              |
| 22.98.114.1 | Building elevation.             |
| 22.98.114.2 | Building facade.                |
| 22.98.114.3 | Building fascia.                |
| 22.98.114.4 | Building frontage.              |
| 22.98.117   | Building height.                |
| 22.98.120   | Building line.                  |
| 22.98.123   | Building, principal or main.    |
| 22.98.126   | Bulk regulations.               |
| 22.98.126.1 | Burn barrel.                    |
| 22.98.129   | Business or commerce.           |
| 22.98.132   | Caliper.                        |
| 22.98.135   | Camouflaged facility.           |
| 22.98.138   | Carport.                        |
| 22.98.141   | Cell site.                      |
| 22.98.142   | Certificate of capacity.        |
| 22.98.143   | Channel migration zone (CMZ).   |
| 22.98.144   | Character.                      |
| 22.98.145   | Charging levels.                |
| 22.98.147   | Child day-care center.          |
| 22.98.148   | City engineer.                  |
| 22.98.150   | Clearing.                       |
| 22.98.153   | Compensation.                   |
| 22.98.154   | Compensation project.           |
| 22.98.155   | Compensatory mitigation.        |
| 22.98.156   | Club.                           |
| 22.98.159   | Co-location.                    |
| 22.98.160   | Concurrency facilities.         |
| 22.98.161   | Concurrency test.               |
| 22.98.162   | Conditional use.                |
| 22.98.165   | Conditional use permit.         |
| 22.98.166   | Conservation easement.          |
| 22.98.168   | Correctional group home.        |
| 22.98.171   | Covenant.                       |
| 22.98.174   | COW.                            |
| 22.98.177   | Creation.                       |
| 22.98.179   | Critical aquifer recharge area. |
| 22.98.180   | Critical area inventory maps.   |
| 22.98.183   | Critical areas.                 |
| 22.98.184   | Critical area tract.            |
| 22.98.185   | Critical facility.              |
| 22.98.185.1 | Critical root zone.             |
| 22.98.186   | Critical species.               |
| 22.98.188   | Cumulative impacts or effects.  |
| 22.98.189   | Curb level.                     |
| 22.98.192   | Dedication.                     |
| 22.98.193   | Developable area.               |
| 22.98.194   | Development.                    |
| 22.98.195   | Development permit.             |
| 22.98.196   | Development permit, final.      |

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- 22.98.197 Development permit, preliminary.
- 22.98.197.1 Diameter at breast height.
- 22.98.198 Director.
- 22.98.201 Drip line.
- 22.98.204 Drive-thru.
- 22.98.207 Dwelling.
- 22.98.210 Dwelling, duplex.
- 22.98.213 Dwelling, multifamily.
- 22.98.216 Dwelling, single-family.
- 22.98.219 Dwelling unit.
- 22.98.222 Early notice.
- 22.98.225 Ecosystem.
- 22.98.228 EIA.
- 22.98.228.1 Electric scooters and motorcycles.
- 22.98.228.2 Electric vehicle.
- 22.98.228.3 Electric vehicle charging stations.
- 22.98.229 Elevated building.
- 22.98.229.1 Eligible facilities request.
- [22.98.229.2 Emergency housing.](#)
- [22.98.229.3 Emergency shelter.](#)
- 22.98.230 Emergent wetland.
- 22.98.231 Enhancement.
- 22.98.234 Equipment enclosure.
- 22.98.237 Erosion.
- 22.98.240 Erosion hazard areas.
- 22.98.243 Escort agency.
- 22.98.246 Essential public facilities.
- 22.98.249 Establishment, business or commercial.
- 22.98.252 Excavation.
- 22.98.255 Existing and ongoing agricultural activities.
- 22.98.257 Exotic.
- 22.98.258 Extirpation.
- 22.98.261 FAA.
- 22.98.264 FCC.
- 22.98.265 Facility and service provider.
- 22.98.266 Facility modification.
- 22.98.267 ~~Repealed Family.~~
- 22.98.270 Family day-care facility.
- 22.98.273 Family group home.
- 22.98.276 Fence.
- 22.98.279 Fenestration.
- 22.98.282 Fill.
- 22.98.284 Final plat.
- 22.98.285 Fish and wildlife habitat conservation areas.
- 22.98.286 Fish habitat.
- 22.98.286.1 Flag.
- 22.98.286.2 Flag canopy.
- 22.98.287 Flood or flooding.
- 22.98.288 Flood insurance map.
- 22.98.289 Flood insurance study.
- 22.98.290 Floodplain.
- 22.98.291 Flood protection elevation.
- 22.98.292 Flood-resistant material.
- 22.98.293 Floodway.
- 22.98.294 Floor area, gross.
- 22.98.295 Forested wetland.

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- 22.98.296 Formation.
- 22.98.297 Formation, confining.
- 22.98.298 Frequently flooded areas.
- 22.98.299 Frontage.
- 22.98.300 Functions and values.
- 22.98.303 Garage, private.
- 22.98.306 Garage, side entry.
- 22.98.309 Geologically hazardous areas.
- 22.98.312 Geologist.
- 22.98.315 Geotechnical engineer.
- 22.98.318 Governing authority.
- 22.98.321 Grade, finished.
- 22.98.322 Grade, natural.
- 22.98.324 Grading.
- 22.98.325 Groundcover.
- 22.98.326 Ground water.
- 22.98.327 Ground water management area.
- 22.98.328 Ground water management program.
- 22.98.329 Ground water, perched.
- 22.98.330 Habitat.
- 22.98.331 Habitats of local importance.
- 22.98.332 Halo illuminated.
- 22.98.333 Hazardous substance.
- 22.98.336 Hazardous waste.
- 22.98.338 Hedge.
- 22.98.339 High intensity land use.
- 22.98.340 High quality wetlands.
- 22.98.341 Historic condition.
- 22.98.342 Home occupation.
- 22.98.345 Hotel.
- 22.98.346 Hydraulic project approval (HPA).
- 22.98.348 Hydric soil.
- 22.98.350 Hydrologic soil groups.
- 22.98.351 Hydrophyte.
- 22.98.352 Hyporheic zone.
- 22.98.354 Impervious surface.
- 22.98.357 Impervious surface coverage.
- 22.98.360 Impound.
- 22.98.363 Impound yard.
- 22.98.365 Infiltration.
- 22.98.366 In-kind compensation.
- 22.98.369 Inoperable vehicle.
- 22.98.369.1 Inter-rill.
- 22.98.370 Isolated wetlands.
- 22.98.371 Joint aquatic resource permits application (JARPA).
- 22.98.372 Junk or salvage yard.
- 22.98.375 Kennel.
- 22.98.378 Kitchen.
- 22.98.381 Landslide.
- 22.98.382 Landslide hazard areas.
- 22.98.384 Large retail establishment.
- 22.98.385 Level of service standard.
- 22.98.386 Logo.
- 22.98.387 Logo shield.
- 22.98.388 Lot.
- 22.98.390 Lot, corner.

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| 22.98.393    | Lot, flag.                                |
| 22.98.396    | Lot, interior.                            |
| 22.98.399    | Lot, substandard.                         |
| 22.98.402    | Lot, through.                             |
| 22.98.405    | Lot area, gross.                          |
| 22.98.408    | Lot area, net.                            |
| 22.98.411    | Lot coverage.                             |
| 22.98.414    | Lot depth.                                |
| 22.98.417    | Lot frontage.                             |
| 22.98.420    | Lot line.                                 |
| 22.98.423    | Lot line, front.                          |
| 22.98.426    | Lot line, rear.                           |
| 22.98.429    | Lot line, side.                           |
| 22.98.432    | Lot of record, legal.                     |
| 22.98.435    | Lot width.                                |
| 22.98.436    | Low intensity land use.                   |
| 22.98.437    | Lowest floor.                             |
| 22.98.437.1  | Luminance.                                |
| 22.98.437.2  | Mansard.                                  |
| 22.98.437.3  | <u>Major transit stop.</u>                |
| 22.98.438    | Manufactured home.                        |
| 22.98.441    | Marquee.                                  |
| 22.98.441.1  | Master sign plan.                         |
| 22.98.444    | Medical or dental clinic.                 |
| 22.98.445    | Microbeverage production facility.        |
| 22.98.445.1  | Microbrewery.                             |
| 22.98.445.2  | Microdistillery.                          |
| 22.98.445.3  | Microwinery.                              |
| 22.98.447    | Mitigation.                               |
| 22.98.450    | Mini-storage or mini-warehouse (indoor).  |
| 22.98.451    | Mini-storage or mini-warehouse (outdoor). |
| 22.98.452    | Moderate intensity land use.              |
| 22.98.453    | Modification.                             |
| 22.98.456    | Modulation.                               |
| 22.98.459    | Monitoring.                               |
| 22.98.461    | Motion.                                   |
| 22.98.462    | Mount.                                    |
| 22.98.463    | Multiple building complex.                |
| 22.98.464    | Multiple tenant building.                 |
| 22.98.465    | Native growth protection area (NGPA).     |
| 22.98.466    | Native vegetation.                        |
| 22.98.467    | Nighttime hours.                          |
| 22.98.467.1  | Nits.                                     |
| 22.98.468    | Nonconforming lot, use, or structure.     |
| 22.98.469    | Nonresidential zone.                      |
| 22.98.471    | Noxious element.                          |
| 22.98.474    | Nude or semi-nude.                        |
| 22.98.475    | Off-site compensation.                    |
| 22.98.476    | On-site compensation.                     |
| 22.98.476.05 | Opaque.                                   |
| 22.98.476.1  | Open fire.                                |
| 22.98.477    | Open space.                               |
| 22.98.480    | Open space, common.                       |
| 22.98.483    | Open space, private.                      |
| 22.98.486    | Open space, public.                       |
| 22.98.489    | Ordinance.                                |

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| 22.98.492   | Ordinary high water mark (OHM).                                                  |
| 22.98.495   | Outdoor storage.                                                                 |
| 22.98.496   | Out-of-kind compensation.                                                        |
| 22.98.498   | Owner-occupied.                                                                  |
| 22.98.501   | Panorama or peepshow.                                                            |
| 22.98.504   | Panorama premises.                                                               |
| 22.98.506   | Parapet.                                                                         |
| 22.98.507   | Parcel.                                                                          |
| 22.98.510   | Parking area.                                                                    |
| 22.98.513   | Patio, covered.                                                                  |
| 22.98.516   | Patio, uncovered.                                                                |
| 22.98.518   | Perimeter.                                                                       |
| 22.98.518.1 | <a href="#">Permanent Supportive Housing</a>                                     |
| 22.98.519   | Permeability.                                                                    |
| 22.98.520   | Person.                                                                          |
| 22.98.522   | Personal wireless service, personal wireless service facilities, and facilities. |
| 22.98.525   | Personal wireless service facility design.                                       |
| 22.98.528   | Pet shop.                                                                        |
| 22.98.531   | Pharmaceuticals.                                                                 |
| 22.98.533   | Planned capacity.                                                                |
| 22.98.534   | Planned development.                                                             |
| 22.98.537   | Planning commission.                                                             |
| 22.98.540   | Plat.                                                                            |
| 22.98.543   | Porch.                                                                           |
| 22.98.544   | Porous soil types.                                                               |
| 22.98.544.1 | Portable fire device.                                                            |
| 22.98.545   | Potable water.                                                                   |
| 22.98.546   | Practical alternative.                                                           |
| 22.98.549   | Preliminary plat.                                                                |
| 22.98.551   | Premises.                                                                        |
| 22.98.552   | Preschool.                                                                       |
| 22.98.555   | Preschool, accredited.                                                           |
| 22.98.557   | Primary association area.                                                        |
| 22.98.558   | Priority habitat.                                                                |
| 22.98.561   | Printing, large-scale.                                                           |
| 22.98.564   | Printing, small-scale.                                                           |
| 22.98.565   | Private road or driveway.                                                        |
| 22.98.567   | Processed materials.                                                             |
| 22.98.570   | Professional office.                                                             |
| 22.98.571   | Project area.                                                                    |
| 22.98.573   | Provider.                                                                        |
| 22.98.576   | Public or quasi-public utility.                                                  |
| 22.98.579   | Qualified professional.                                                          |
| 22.98.581   | Raceway.                                                                         |
| 22.98.582   | Reasonable use alternatives.                                                     |
| 22.98.583   | Recharge.                                                                        |
| 22.98.584   | Reclaimed water.                                                                 |
| 22.98.585   | Recorded.                                                                        |
| 22.98.588   | Recreation, active.                                                              |
| 22.98.591   | Recreation, passive.                                                             |
| 22.98.591.1 | Recreational fire.                                                               |
| 22.98.594   | Recreational vehicle.                                                            |
| 22.98.597   | Recyclable material.                                                             |
| 22.98.600   | Recycling collection center.                                                     |
| 22.98.603   | Regulated activities.                                                            |
| 22.98.604   | Religious institution.                                                           |

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- 22.98.605 Repair or maintenance.
- 22.98.606 Restoration.
- 22.98.607 Retail establishment.
- 22.98.608 Rills.
- 22.98.609 Riparian habitat.
- 22.98.610 Roadway.
- 22.98.611 Roofline.
- 22.98.612 Scientific process.
- 22.98.613 Screening.
- 22.98.614 Scrub-shrub wetland.
- 22.98.615 Secondary use.
- 22.98.616 Section 404 Permit.
- 22.98.618 Security barrier.
- 22.98.621 Second-hand store.
- 22.98.622 Seeps.
- 22.98.623 Seismic hazard areas.
- 22.98.624 Sense of place.
- 22.98.627 Sensitive receptor.
- 22.98.630 SEPA rules.
- 22.98.632 Serviceable.
- 22.98.633 Service station.
- 22.98.634 Setback.
- 22.98.635 Shorelines.
- 22.98.636 Shorelines of the state.
- 22.98.637 Shorelines of statewide significance.
- 22.98.638 Shorelands or shoreland areas.
- 22.98.639 Short plat.
- 22.98.642 Short subdivision.
- 22.98.644 Sidewalk.
- 22.98.645 Sidewalk cafe.
- 22.98.648 Sign.
- 22.98.648.1 Sign, abandoned.
- 22.98.648.2 Sign, accessory.
- 22.98.648.3 Sign alteration.
- 22.98.648.4 Sign area.
- 22.98.648.5 Sign, awning, canopy or marquee.
- 22.98.648.6 Sign, changeable copy.
- 22.98.648.7 Sign, digital.
- 22.98.648.8 *Repealed.*
- 22.98.648.9 *Repealed.*
- 22.98.648.10 Sign, flashing.
- 22.98.648.11 Sign, freestanding.
- 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.*

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

|              |                                   |
|--------------|-----------------------------------|
| 22.98.648.26 | <i>Repealed.</i>                  |
| 22.98.648.27 | Sign, revolving.                  |
| 22.98.648.28 | Sign, roof-mounted.               |
| 22.98.648.29 | Sign, sandwich board.             |
| 22.98.648.30 | Sign, service island.             |
| 22.98.648.31 | Sign, special event.              |
| 22.98.648.32 | Sign, temporary.                  |
| 22.98.648.33 | Sign, under-canopy.               |
| 22.98.648.34 | Sign, wall.                       |
| 22.98.648.35 | Sign width.                       |
| 22.98.648.36 | Sign, window.                     |
| 22.98.650    | Significant portion of its range. |
| 22.98.651    | Significant tree.                 |
| 22.98.652    | Site.                             |
| 22.98.654    | Slope.                            |
| 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.         |
| 22.98.661    | Species.                          |
| 22.98.662    | Species, endangered.              |
| 22.98.663    | Species of local importance.      |
| 22.98.664    | Species, priority.                |
| 22.98.665    | Species, threatened.              |
| 22.98.666    | Specified sexual activities.      |
| 22.98.667    | Specified anatomical areas.       |
| 22.98.669    | Stand.                            |
| 22.98.672    | Stock-in-trade.                   |
| 22.98.675    | Story.                            |
| 22.98.678    | Stream corridor.                  |
| 22.98.681    | Street.                           |
| 22.98.684    | Street furniture.                 |
| 22.98.687    | Street right-of-way.              |
| 22.98.690    | Streetscape.                      |
| 22.98.693    | Subdivision.                      |
| 22.98.694    | Subdrainage basin or subbasin.    |
| 22.98.695    | Substantial damage.               |
| 22.98.696    | Structural alteration.            |
| 22.98.697    | Substantial improvement.          |
| 22.98.697.1  | Substantially change.             |
| 22.98.698    | Tenant space.                     |
| 22.98.699    | Toe of slope.                     |
| 22.98.702    | Tot lot.                          |
| 22.98.705    | Tower.                            |
| 22.98.706    | <u>Transitional housing.</u>      |
| 22.98.708    | Tree topping.                     |
| 22.98.711    | Unavoidable.                      |
| 22.98.714    | Unlicensed wireless services.     |
| 22.98.715    | Unshielded lighting.              |
| 22.98.717    | Use.                              |
| 22.98.720    | Use, principal.                   |
| 22.98.723    | Use, accessory.                   |
| 22.98.726    | Use type.                         |
| 22.98.729    | Variance.                         |
| 22.98.730    | Variance, de minimis.             |

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

|           |                                                         |
|-----------|---------------------------------------------------------|
| 22.98.732 | Vehicle repair, major.                                  |
| 22.98.735 | Vehicle repair, minor.                                  |
| 22.98.738 | Vehicle wash.                                           |
| 22.98.741 | Vehicle wrecker.                                        |
| 22.98.744 | Veterinary clinic.                                      |
| 22.98.745 | Vulnerability.                                          |
| 22.98.746 | Warehouse/warehousing.                                  |
| 22.98.747 | Water dependent.                                        |
| 22.98.748 | Water resource inventory area (WRIA).                   |
| 22.98.749 | Water table.                                            |
| 22.98.750 | Water typing system.                                    |
| 22.98.751 | Watercourse.                                            |
| 22.98.752 | Well.                                                   |
| 22.98.753 | Wellhead protection area (WHPA).                        |
| 22.98.754 | Wetland classes, classes of wetlands, or wetland types. |
| 22.98.755 | Wetland edge.                                           |
| 22.98.756 | Wetlands.                                               |
| 22.98.759 | Wetlands mitigation bank.                               |
| 22.98.760 | Window.                                                 |
| 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).

**22.98.229.2 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.

**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.

**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.

**22.98.437.3 Major transit stop.**

“Major transit stop” means the same as is defined in RCW 36.70A.030, or as amended or recodified.

**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. Permanent supportive housing is subject to all of the rights and responsibilities defined in chapter 59.18 RCW.

**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.

**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).

August 6, 2026

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

**Re: 2026 Planning Legislative Priorities (Groups 1 and 2) | HBs 1377, 1757, 1096 & SBs 5509, 5571, 5290, 6015, 5559**

Dear Planning Commission,

This memorandum has been prepared to finalize the conversation captured on each of Fircrest's 2026 Planning Legislative Priorities, Groups 1 and 2. As a reminder, these 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
- SB 5509 | Siting of childcare centers
- SB 5571 | Exterior cladding materials
- SB 5290 | Local project review (and HB 2418 | Local Project Review)

Groups 1 and 2 were discussed with Planning Commission at their June and July regular meetings. The feedback offered by Planning Commission at those meetings is captured below, along with any resulting edits that have been reflected in FMC amendments; see **Table 1**.

**Table 1**  
**Fircrest Legislative Priorities, Groups 1 and 2 | Planning Commission June & July Feedback**

| Feedback                                           | FMC Section(s)                                                                          | Response                                                             |
|----------------------------------------------------|-----------------------------------------------------------------------------------------|----------------------------------------------------------------------|
| The density bonus driven by HB 1377 should be 50%. | 22.32.005<br>22.34.005<br>22.36.005<br>22.38.005<br>22.40.005<br>22.42.005<br>22.43.005 | This change has been implemented in all germane sections of the FMC. |

| Feedback                                                                                                                                                                                                                                                                                             | FMC Section(s)         | Response                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| In considering which areas are appropriate to consider a “major pedestrian corridor” related to HB 1757, Kim should offer a recommendation to Planning Commission. The definition should, at minimum, include the land bound by Bowes Drive, Contra Costa Avenue, Regents Blvd, and Berkeley Avenue. | 22.58.031              | The definition of “major pedestrian corridor” has been prepared to include areas in the Mixed Use Urban (MUU) and Mixed Use Neighborhood (MUN) zones, as well as the land bound by Bowes Drive, Contra Costa Avenue, Regents Blvd, and Berkeley Avenue.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| Kim should advise on whether “site development permits” should be included in the definition of “development permit.”                                                                                                                                                                                | 22.98.195              | <p>I recommend that site development permits be excluded from the definition of “project permit application.” Project permit applications are held against the 65-day, 100-day, or 170-day review timelines imposed by SB 5290. Those timelines apply based on a Determination of Completeness, which we require for Type II permits and above.</p> <p>Site Development Permits are not a “type” of permit in the FMC, and therefore do not include a completeness determination, noticing, etc. Much like a building permit, they require review from City hired professionals to ensure structural engineered stability. It is in the City’s interest to afford reasonable time to its engineering consultants to ensure safe development is proposed in a Site Development Permit rather than rushing their review against SB 5290 deadlines.</p> |
| Parking stall widths should be limited to 8-feet for 20-foot long stalls to comply with SB 6015. Further specificity should be added to FMC Chapter 22.60 to indicate that parking lot alteration limitations apply only to residential parking.                                                     | 22.60.002<br>22.60.008 | <p>Amendments have been made to the maximum parking width required for 20-foot long parking stalls when associated with residential parking.</p> <p>Amendments have also been made in the “Chapter Application” subsection to add specificity for residential parking lot amendments, and how those limitations differ from commercial lot amendments.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |

## Focus of August 18 Meeting

At the regular Planning Commission meeting on August 18, I will present **Exhibit A** to discuss how the “Groups 1 and 2” HBs and SBs have been incorporated into the FMC and to ensure the amendments made since last discussing this project with Planning Commission accurately reflect their most recent feedback.

With this confirmation, I will advance the project through its Department of Commerce noticing, City Attorney review, and SEPA checklist preparation and threshold determination processes. It is expected that I will return to Planning Commission’s regular meeting in December to report on any changes to the draft FMC that are recommended to reflect agency and public feedback received during the Commerce and SEPA noticing periods. This meeting would soon be followed by a scheduled public hearing where Planning Commission will be asked to issue its recommendation to Council on this project by Resolution.

I look forward to discussing this project with Planning Commission at its August 18 meeting!

A handwritten signature in blue ink, appearing to read 'Kimberly A. Gunderson'.

Kimberly A. Gunderson  
Mahoney Planning, LLC

### Exhibits:

- A. FMC Amendments (draft) Implementing “Groups 1 and 2” Planning Legislative Priorities



**Exhibit A**  
**August 18, 2026**  
**Fircrest Planning Commission**  
**Legislative Priorities, Groups 1 and 2**

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Chapter 22.05 TYPES OF PROJECT PERMIT  
APPLICATIONS

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**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.
- 22.05.008 Permit responsible official designation.

**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 III-A                                             | Type III-B           | Type IV    | Type V                           |
|--------------------------------------------------------|---------------------------|--------------------------------------------------------------------------------------------|--------------------------------------------------------|----------------------|------------|----------------------------------|
| Permitted use not requiring site plan or design review | Minor variance            | Short plat, <u>unit lot</u> , <u>short subdivision</u> , short plat vacation or alteration | 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, <u>unit lot</u> , <u>preliminary</u> |                      |            | Area-wide rezone                 |

The Fircrest Municipal Code is current through Ordinance 1753, passed December 9, 2025.

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| Type I                                                                    | Type II-A | Type II-B                                             | Type III-A                                                                                  | Type III-B | Type IV | Type V     |
|---------------------------------------------------------------------------|-----------|-------------------------------------------------------|---------------------------------------------------------------------------------------------|------------|---------|------------|
|                                                                           |           |                                                       | <u>subdivision</u> , plat<br>vacation or<br>alteration                                      |            |         |            |
| Temporary accessory<br>structure and use                                  |           | Design review                                         | Preliminary site<br>plan (major)                                                            |            |         | Annexation |
| Home occupation<br>permit, not requiring<br>CUP                           |           | Land<br>clearing/grading<br>permit                    | Preliminary<br>development plan                                                             |            |         |            |
| Short-term rental<br>permit, not requiring<br>CUP                         |           | Administrative<br>interpretation                      | Major amendment<br>to Type III-A<br>project permit                                          |            |         |            |
| De minimis variance                                                       |           | Critical areas<br>determination                       | Critical areas<br>reasonable use<br>exception and<br>public agency and<br>utility exception |            |         |            |
| <u>Residential Lot Split</u>                                              |           | Binding site plan                                     | Development<br>agreement<br>associated with<br>project permit                               |            |         |            |
| <u>Minor revision,<br/>preliminary plat or<br/>preliminary short plat</u> |           | <u>Major revision,<br/>preliminary short<br/>plat</u> | <u>Major revision,<br/>preliminary plat</u>                                                 |            |         |            |

**Commented [KG1]: HB 1096**

Residential lot splits have to be decided on administratively and cannot be subject to administrative appeal. I recommend a Type 1 process for these applications.

Table B – Procedures

| Action                                                                        | Type I       | Type II-A                                              | Type II-B                                                                                 | Type III-A                               | Type III-B                                                                                | Type IV                                                                                         | Type V                                                       |
|-------------------------------------------------------------------------------|--------------|--------------------------------------------------------|-------------------------------------------------------------------------------------------|------------------------------------------|-------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------|--------------------------------------------------------------|
| Recommendation made by:                                                       | N/A          | N/A                                                    | N/A                                                                                       | N/A                                      | Hearing examiner                                                                          | Hearing examiner                                                                                | Planning commission                                          |
| Final decision made by:                                                       | Director     | Director                                               | Director                                                                                  | Hearing examiner                         | City council                                                                              | City council                                                                                    | City council                                                 |
| Notice of complete application/ <u>Notice of Application</u> /comment period: | Not required | <u>Not required; see FMC-22.07.004</u> <u>Required</u> | <u>Not required</u>                                                                       | 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 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                             | 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                                                                                       | No                                                                                              | Yes                                                          |

**Commented [KM2]: SB 5559**

Comment periods are required for Unit Lot Subdivisions. Also, in coordination with the City Manager, it is recommended that the City require a Completeness Determination and NOA for all Type II applications and above.

(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 1753, passed December 9, 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:

- (1) Determination of completeness (FMC 22.06.004(a));
- (2) Notice of application, except that Type II-A permits are required to undergo Notice of Application and subsequent 14-day comment period as provided in FMC 22.07.004 (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, except that Type II-A permits are required to undergo Notice of Decision as provided in FMC 22.07.004 (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).

**22.05.008 Permit responsible official designation.**

(a) The permit responsible official, required pursuant to RCW 36.70B.060(2), is designated as the Director or his/her designee. The permit responsible official shall carry all duties assigned under RCW 36.70B.060(2).

**Commented [KM3]:** These edits are recommended to create internal code consistency.

**Commented [KM4]: SB 5290**  
These edits are recommended to direct the reader toward the city's codification of the new permit timeframes established under the SB.

**Commented [KG5]: HB 2418**  
This is a required designation under RCW 36.70B.060. The FMC defines "Director" as "the planning/building director of the city of Fircrest or person appointed by the city manager to act in such a role." Presently, this would be the City Manager or a planning consultant she assigns.

**22.06.005 Notice of application.**

(a) Issuance/Timeframe. A notice of application shall be issued on all Type II-A, 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).

\*\*\*\*

**Commented [KM6]:** This edit is recommended to align with FMC 22.07.004, creating internal consistency among the code.

**22.09.008 Decision and notice of decision.**

(a) Following the hearing procedure described in FMC 22.09.007, the hearing body shall approve, conditionally approve, or deny the application. If the hearing is an appeal, the hearing body shall affirm, reverse or remand the decision that is on appeal.

(b) The hearing body's written decision shall issue within 10 days after the hearing on the project permit application. The notice of decision shall issue within ~~120 days~~ the timeframes established under FMC 22.09.009(c) after the city notifies the applicant that the application is complete. ~~The time frames set forth in this section and FMC 22.09.009 shall apply to project permit applications filed on or after April 1, 1996.~~

(c) The city shall provide a notice of decision that also includes a statement of any threshold determination made under SEPA (Chapter 43.21C RCW) and the procedures for appeal, if any. For Type II, III-A, III-B, and IV project permits, the notice of decision on the issued permit shall contain the requirements set forth in FMC 22.08.002(a).

(d) The notice of decision shall be provided to the applicant and to any person who, prior to the rendering of the decision, requested notice of the decision or submitted substantive comments on the application.

(e) The notice of decision shall be provided to the public as set forth in FMC 22.07.003(b).

(f) If the city is unable to issue the notice of decision on a project permit application within the time limits provided for in this section, the city shall provide written notice of this fact to the project applicant. The notice shall include a statement of reasons why the time limits have not been met and an estimated date for issuance of the notice of decision (RCW 36.70B.090). (Ord. 1120 § 1, 1996).

**22.09.009 Calculation of time period for issuance of notice of decision.**

(a) In determining the number of days that have elapsed after the local government has notified the applicant that the application is complete for purposes of calculating the time for issuance of the notice of decision, the following periods shall be excluded:

(1) ~~Any period between the day that the city has notified the applicant, in writing, that additional information is required to further process the application, that an applicable fee must be paid, or that a required notice must be posted, and the day when responsive information is resubmitted by the applicant, or the fee is paid, or the notice is posted. Any period during which the applicant has been requested by the city to correct plans, perform required studies, or provide additional required information. The period shall be calculated from the date the city notifies the applicant of the need for additional information until the earlier of the date the local government determines whether the additional information satisfies the request for information or 14 days after the date the information has been provided to the city;~~

(2) If the city determines that the information submitted by the applicant under subsection (a)(1) of this section is insufficient, the city shall notify the applicant of the deficiencies and the procedures under subsection (a)(1) of this section shall apply as if a new request for studies had been made;

(3) Any period during which an environmental impact statement is being prepared following a determination of significance pursuant to Chapter 43.21C RCW, if the city by ordinance has established time periods for completion of environmental impact statements, or if the city and the applicant in writing agree to a time period for completion of an environmental impact statement;

(4) Any period for administrative appeals of project permits, if an open record appeal hearing or a closed record appeal, or both, are allowed. The time period for consideration and decision on appeals shall not exceed:

(A) Ninety days for an open record appeal hearing; and

(B) Sixty days for a closed record appeal.

The parties may agree to extend these time periods; ~~and~~

(5) ~~Any period after an applicant informs the local government, in writing, that they would like to temporarily suspend review of the project permit application until the time that the applicant notifies the local government,~~

**Commented [KM7]: SB 5290**

These edits are recommended to direct the reader toward the city's codification of the new permit timeframes established under the SB.

in writing, that they would like to resume the application. A local government may set conditions for the temporary suspension of a permit application; and

(6) Any period that the local government has completed all possible work on the application but must wait for necessary action by a government entity subject to RCW 36.70B.080(2), or as revised, or RCW 36.70B.080(3), or as revised; and

(675) Any extension of time mutually agreed upon by the applicant and the city.

(b) The time limits established in this title do not apply if a project permit application:

- (1) Requires an amendment to the comprehensive plan or a development regulation;
- (2) Requires approval of the siting of an essential public facility as provided in RCW 36.70A.200;
- (3) Is an application for a permit or approval described in FMC 22.05.007; or
- (4) Is substantially revised by the applicant, in which case the time period shall start from the date at which the revised project application is determined to be complete under FMC 22.06.004 (RCW 36.70B.090).

(c) Time limits for issuance of notice of decision are as follows:

(1) Type I: n/a. See FMC 22.05.007(b).

(2) Type II-A or Type II-B: 100 days

(3) Type III-A, Type III-B, or Type IV: 170 days

(Ord. 1120 § 1, 1996).

**Commented [KG8]: SB 5290 and HB 2418**  
These exemptions are allowed under RCW 36.70B.080 and should be codified.

**Commented [KG9]: SB 5290**  
The new time limit replaces the previous blanket 120-day review periods under RCW 36.70B.080.





**Chapter 22.14**

**RESIDENTIAL LOT SPLIT**

Sections:

22.14.001 Requirements for a complete application.

22.14.002 Type of application.

22.14.003 Criteria for approval.

22.14.004 Findings and conclusions.

22.14.005 Dedications.

22.14.006 Construction of improvements.

22.14.007 Prohibition on further division.

22.14.008 Submittal of copies of recorded residential lot split.

**22.14.001 Requirements for a complete application.**

In addition to the requirements for a completed application as set forth in FMC 22.06.002, an applicant for a residential lot split shall submit the following:

(a) A map or sketch prepared by a Professional Land Surveyor licensed in the state of Washington using a scale of 100 feet to one inch or larger of the entire contiguous tract owned by the applicant which shall show:

(1) The owners of adjacent land and the names of any adjacent subdivisions;

(2) Lines marking the boundaries of the proposed lots;

(3) Approximate locations of existing streets and ways or easements for such streets and ways within and adjacent to the tract;

(4) Legal description of the original lot and legal descriptions for the created lots;

(5) Name and address of the owner(s) of the tract;

(6) All covenants, easements, encumbrances, restrictions, or other title notes applicable to the lot split.

(b) A certificate giving full and complete description of the lands divided as they appear on the lot split, including a statement that the lot split has been made with free consent and in accordance with the desires of the owner(s). If the lot split includes a dedication, the certificate shall also contain the dedication of all streets and other areas to the public, and individual(s), religious society or societies or to any corporation, public or private, as shown on the lot split, and a waiver of all claims for damages against any governmental authority which may be occasioned to the adjacent land by the established construction, drainage, and maintenance of the road. The certificate shall be signed and acknowledged before a notary public by all parties having any interest in the lands subdivided;

(c) For all lot splits containing a dedication, a title report confirming that the title of the lands as described and shown on the lot split is in the name of the owner signing the certificate. Roads not dedicated to the public must be clearly marked on the face of the lot split. Any dedication, donation, or grant as shown on the face of the lot split shall be considered for all intents and purposes as a quit claim deed to the donee or donees, grantee or grantees, for his, her or their use for the purpose intended by the donors or grantors as aforesaid;

(d) Pertinent survey data compiled as a result of a survey made by or under the supervision of a land surveyor registered in the state and engaged in land surveying, and;

(e) Demonstration by the applicant that the parent lot or created lot comply with germane development regulations, including but not limited to critical area regulations, stormwater provisions, setbacks, impervious surface coverages,

and structural coverage standards. Lots are ineligible for lot split under this chapter if they cannot be developed consistent with germane development regulations.

**22.14.002 Type of application.**

A residential lot split is a Type 1 application and the director shall make the final decision. The application shall not be subject to administrative appeal. The application shall be processed as set forth in Chapter 22.06 FMC.

**22.14.003 Criteria for approval.**

The director shall approve a residential lot split if it has been determined that:

(a) The application complies with Chapter 22.21 FMC, General Requirements for Subdivision Approval;

(b) Appropriate provisions are made for, but not limited to, the public health, safety and general welfare, for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, power, parks and recreation, playgrounds, schools and school grounds, and for sidewalks and other planning features that assure safe walking conditions for students who walk to and from school;

(c) The public interest will be served by the lot split and any dedication;

(d) No more than one newly created lot is created through the residential lot split;

(e) Both the parent lot and the newly created lot meet the minimum lot size allowed under the applicable development regulations;

(f) The parent lot was not created through the lot splitting of a residential lot authorized by this chapter;

(g) The parent lot is located in a residential zone and not in an exclusively nonresidential zone;

(h) If the lot split would require demolition or alteration of any existing housing that would displace a renter, the applicant must recommend a displacement mitigation strategy that may include, but is not limited to, relocation assistance;

(i) The City's Public Works Department has issued certificates of availability for water and sewer service for the newly created lot;

(j) Access and utility rights are granted or conveyed as necessary on or before recording of the lot split survey to provide access for the maximum number of dwelling units that could be developed on the newly created lot, provided such access rights may be reduced consistent with a city's adopted codes, regulations, or design standards as applicable through review of a subsequent application for a building permit, short subdivision, unit lot subdivision, subdivision application, or short subdivision if less than the maximum number of dwelling units are built on the newly created lot;

(k) The lot split does not result in a lot of a size that would allow for further land division;

(l) The planning director or other designee determines that the application follow all applicable development regulations, and;

(m) The lot split survey has been approved by the planning director or other designee and includes a condition on the face of the survey that further lot splits of the parent lot and newly created lot are not authorized by this chapter.

**22.14.004 Findings and conclusions.**

The director shall not approve a residential lot split unless written findings are made that each criteria listed in FMC 22.14.003 has been satisfied and the city engineer has certified in writing that the short plat, legal descriptions and related documentation comply with the general requirements for subdivision approval set forth in Chapter 22.21 FMC.

**22.14.005 Dedications.**

If public dedications are required for a lot split, the director's approval of the lot split shall be conditioned on city council acceptance of the required dedications. The short plat and offer of dedication, along with any certificate and related documentation required by the city engineer, shall be forwarded to the city council for acceptance at a public meeting. An approved short plat shall not be filed for record until the applicant has obtained city council acceptance of all public dedications required for approval.

**22.14.006 Construction of improvements.**

An approved lot split shall not be filed for record until the applicant has constructed or bonded for all improvements required by the director in the final decision on the lot split pursuant to FMC 22.14.003, if required. A certificate of completion of one of the following alternatives shall be accepted by the director prior to recording of the lot split:

(a) All improvements have been installed in accord with the requirements of these regulations and accepted by the city upon the recommendation of the city engineer as certified by the city clerk, or;

(b) Approved plans are on file with the city engineer for all required utilities and street improvements and a cash or surety bond as provided in Chapter 22.21 FMC has been posted with the city clerk and deposited with the city finance director.

**22.14.007 Prohibition on further division.**

Property divided via a residential lot split may not undergo any future application for additional lot split. Any future division of property divided via residential lot split shall undergo a short plat, subdivision, or other land division set forth in chapter 58.17 RCW

**22.14.008 Submittal of copies of recorded residential lot split.**

Within 15 days of recording the lot split with the Pierce County auditor, the applicant shall provide an electronic file of the recorded lot split in WA state-plane coordinate system to the planning/building department.

**Commented [KM10]:** A question was asked at the May 5 PC meeting about whether improvements would be required before recording or at the building permit application. In further contemplating this question and in reviewing HB 1096, the City would want to see any improvements required under this section be required before recording.

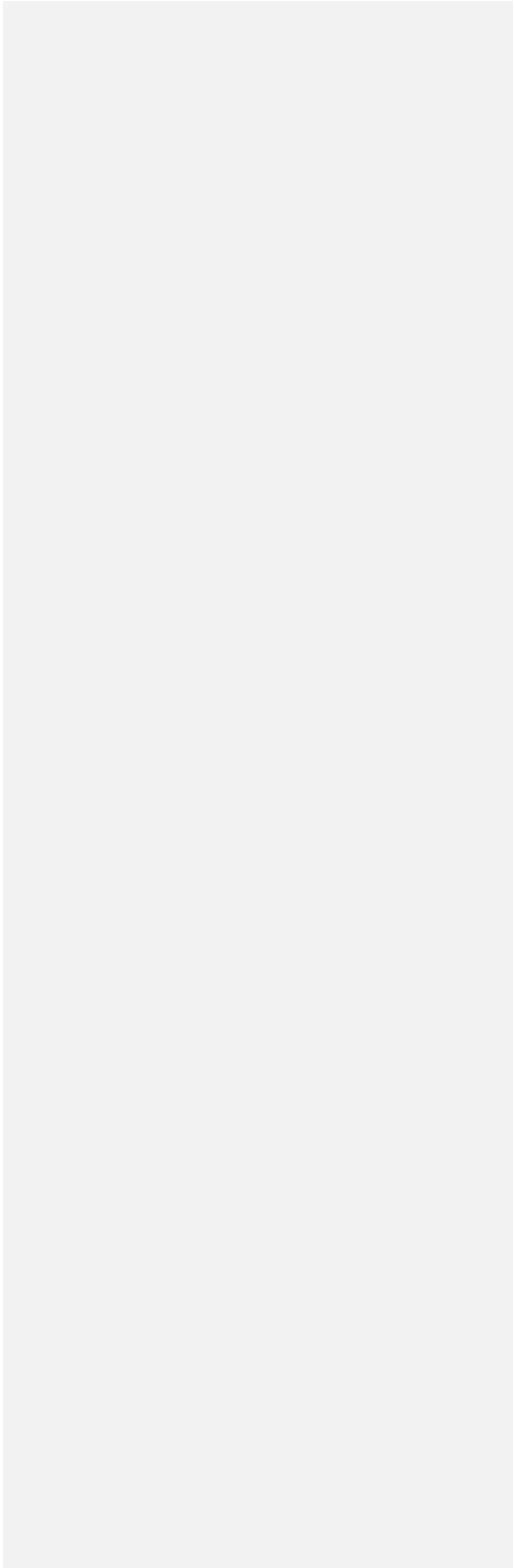
This aligns with HB 1096, which provides that "a proposed lot split may be conditioned upon dedication of right-of-way on the parent lot to the extent such dedication is required under applicable codes..."

It should be noted that required ROW dedication associated with a 2-lot short plat or lot split would be rare, but should be a retained specificity in code for the City to exercise in the limited instances it may need to.

This provision does allow for improvements to be bonded for, which would allow their construction to be deferred to the building permit application stage.



The Fircrest Municipal Code is current through Ordinance 1753, passed December 9, 2025.



## Chapter 22.17

### SHORT PLATS

#### Sections:

- 22.17.001 Requirements for a complete application.
- 22.17.002 Type of application.
- 22.17.003 Optional pre-application conference.
- 22.17.004 Criteria for approval.
- 22.17.005 Findings and conclusions.
- 22.17.006 Dedications.
- 22.17.007 Construction of improvements.
- 22.17.008 Prohibition on further division.
- 22.17.009 Time frame for approval.
- 22.17.010 Submittal of copies of recorded short plat.
- [22.17.011 Minor revisions to preliminary short plat.](#)
- [22.17.012 Major revisions to preliminary short plat.](#)

#### **22.17.001 Requirements for a complete application.**

(a) Number of copies: five. The number of copies required may be modified by the director.

(b) Application Contents. In addition to the requirements for a completed application as set forth in FMC 22.06.002, an applicant for a short plat [or unit lot short plat](#) shall submit the following:

(1) A map or sketch using a scale of 100 feet to one inch or larger of the entire contiguous tract owned by the applicant which shall show:

(A) The owners of adjacent land and the names of any adjacent subdivisions;

(B) Lines marking the boundaries of the proposed lots;

(C) Approximate locations of existing streets and ways or easements for such streets and ways within and adjacent to the tract;

(D) Legal description of the parent tract with alpha or numerical designations for all proposed lots or remainders;

(E) Name and address of the owner(s) of the tract;

(2) A certificate giving full and complete description of the lands divided as they appear on the short plat [or unit lot short plat](#), including a statement that the short subdivision has been made with free consent and in accordance with the desires of the owner(s). If the short plat [or unit lot short plat](#) includes a dedication, the certificate shall also contain the dedication of all streets and other areas to the public, and individual(s), religious society or societies or to any corporation, public or private, as shown on the short plat [or unit lot short plat](#), and a waiver of all claims for damages against any governmental authority which may be occasioned to the adjacent land by the established construction, drainage, and maintenance of the road. The certificate shall be signed and acknowledged before a notary public by all parties having any interest in the lands subdivided;

(3) For all short plats [or unit lot short plats](#) containing a dedication, a title report confirming that the title of the lands as described and shown on the plat is in the name of the owner signing the certificate. Roads not dedicated to the public must be clearly marked on the face of the plat. Any dedication, donation, or grant as shown on the face of the plat shall be considered for all intents and purposes as a quit claim deed to the donee or donees, grantee or grantees, for his, her or their use for the purpose intended by the donors or grantors as aforesaid; and

(4) Pertinent survey data compiled as a result of a survey made by or under the supervision of a land surveyor registered in the state and engaged in land surveying.

(5) For all unit lot short subdivisions or unit lot short plats, notes are required on the plat to be recorded, acknowledging each of the following:

(A) Approval of the design and layout of the unit lot's housing development project was granted based on detailed review of that specified project, as a whole, on the parent lot, including specific reference to the applicable permit or file number for that specified project;

(B) Subsequent subdivision actions, additions, or modifications to the unit lot housing development project's structures may not create or increase any nonconformity of the parent lot as a whole, and shall conform to the approved unit lot housing development project or to the land use and development standards in effect at the time of the proposed actions, additions, or modifications;

(C) If a structure or portion of a structure within the unit lot housing development project has been damaged or destroyed, any repair, reconstruction, or replacement of any structure shall conform to the approved unit lot housing development project or to the land use and development standards in effect at the time the proposed repair, reconstruction, or replacement project's permit application becomes vested; and

(D) Additional development or redevelopment of the individual unit lots may be limited as a result of the application of development standards to the parent lot.

(Ord. 1122 § 2, 1996).

#### **22.17.002 Type of application.**

A short plat [or unit lot short plat](#) is a Type II-B application and the director shall make the final decision. The application shall be processed as set forth in Chapter 22.06 FMC. (Ord. 1122 § 2, 1996).

#### **22.17.003 Optional pre-application conference.**

Prior to submittal of an application for a short plat [or unit lot short plat](#), an applicant may request a pre-application conference in accordance with FMC 22.06.001. The pre-application conference is intended to enable the applicant and city staff to review a conceptual plan prior to a formal survey being conducted and documentation being submitted for the short plat [or unit lot short plat](#). (Ord. 1122 § 2, 1996).

#### **22.17.004 Criteria for approval.**

The director shall approve the short subdivision and short plat [or unit lot short plat](#) if it has been determined that:

(a) The application complies with Chapter 22.21 FMC, General Requirements for Subdivision Approval;

(b) Appropriate provisions are made for, but not limited to, the public health, safety and general welfare, for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, power, parks and recreation, playgrounds, schools and school grounds, and for sidewalks and other planning features that assure safe walking conditions for students who walk to and from school [based only on clear and objective design and development standards](#); and

(c) The public interest will be served by the subdivision and dedication. (Ord. 1122 § 2, 1996).

#### **22.17.005 Findings and conclusions.**

The director shall not approve a short plat and short subdivision [or unit lot short plat](#) unless written findings are made that each of the criteria listed in FMC 22.17.004 has been satisfied and the city engineer [\(or designee\)](#) has certified in writing that the short plat [or unit lot short plat](#), legal descriptions and related documentation comply with the general requirements for subdivision approval set forth in Chapter 22.21 FMC. (Ord. 1244 § 5, 2000; Ord. 1122 § 2, 1996).

#### **22.17.006 Dedications.**

If public dedications are required for a short plat [or unit lot short plat](#), the director's approval of the short plat shall be conditioned on city council acceptance of the required dedications. The short plat [or unit lot short plat](#) and offer

**Commented [KM11]:** This is required per **SB 5559** (unit lot subdivision)

of dedication, along with any certificate and related documentation required by the city engineer, shall be forwarded to the city council for acceptance at a public meeting. An approved short plat [or unit lot short plat](#) shall not be filed for record until the applicant has obtained city council acceptance of all public dedications required for approval. (Ord. 1122 § 2, 1996).

#### 22.17.007 Construction of improvements.

An approved short plat [or unit lot short plat](#) shall not be filed for record until the applicant has constructed or bonded for all improvements required by the director in the final decision on the short plat [or unit lot short plat](#) pursuant to FMC 22.17.004. A certificate of completion of one of the following alternatives shall be accepted by the director prior to recording of the short plat [or unit lot short plat](#):

- (a) All improvements have been installed in accord with the requirements of these regulations and accepted by the city upon the recommendation of the city engineer ([or designee](#)) as certified by the city clerk;
- (b) Approved plans are on file with the city engineer ([or designee](#)) for all required utilities and street improvements and a cash or surety bond as provided in Chapter 22.21 FMC has been posted with the city clerk and deposited with the city finance director. (Ord. 1244 § 6, 2000; Ord. 1122 § 2, 1996).

#### 22.17.008 Prohibition on further division.

Property in short subdivisions [or unit lot short plats](#) may not be further divided in any manner within a period of five years without the filing of a final plat, except that when the short plat [or unit lot short plat](#) contains less than four parcels, nothing in this section shall prevent the owner who filed the short plat [or unit lot short plat](#) from filing an alteration within the five-year period to create up to a total of four lots within the original short plat [or unit lot short plat](#) boundaries. (Ord. 1122 § 2, 1996).

#### 22.17.009 Time frame for approval.

Short plats [and unit lot short plats](#) shall be approved, disapproved or returned to the applicant within ~~30-65~~ days after the date of [filing of a complete application](#) unless the applicant agrees to an extension of time or approval of a higher numbered type of application is required for short plat approval and the optional consolidated permit process is used pursuant to FMC 22.05.002. (Ord. 1122 § 2, 1996).

#### 22.17.010 Submittal of copies of recorded short plat.

Within 15 days of recording the short plat [or unit lot short plat](#) with the Pierce County auditor, the applicant shall provide two paper copies of the recorded short plat [or unit lot short plat](#) and an electronic file in WA state-plane HARN Nad 83 South Fips 4602 US Feet coordinate system to the planning/building department.

#### 22.17.011 Minor revisions to preliminary short plat.

[Minor revisions to an approved short plat, which do not change the plat boundaries, do not change the conditions of preliminary short plat approval, do not substantially alter road alignments or connections, and do not increase the number of lots by more than five percent or five lots, whichever is less, shall be processed as a Type I project permit application. The director shall approve an application for minor preliminary short plat revision only if all of the following criteria are met:](#)

- [\(a\) The revision will not be inconsistent or cause the short subdivision to be inconsistent with the findings, conclusions, or decision of the director, and;](#)
- [\(b\) The revision will not cause the subdivision to violate any applicable city policy or regulation.](#)

#### 22.17.012 Major revisions to preliminary short plat.

[Major revisions which are not classified as minor revisions in section 22.17.011 of this chapter shall be processed as new preliminary short plat applications.](#)

(Ord. 1575 § 4, 2016; Ord. 1244 § 7, 2000; Ord. 1122 § 2, 1996).

**Commented [KM12]:** This section indicates that recording of a short plat may occur with the Director's approval of the short plat and construction or bonding of improvements. We should make clear in our code what the intended subdivision process is and who the intended decision making authority is. It seems that the code in its entirety reads to mean that short plats **with dedications** are to be decided by Council, and without dedications are decided on by the Director and can be thereafter recorded once improvements are constructed or bonded.

**Commented [KM13]:** This statement reinforces Fircrest's intention that a Completeness Determination should be made for Type II-B applications. FMC 22.05 has been amended to reflect this.





## Chapter 22.18

### PRELIMINARY PLATS

#### Sections:

- 22.18.001 Requirements for a complete application.
- 22.18.002 Type of application.
- 22.18.003 Criteria for approval.
- 22.18.004 Findings and conclusions.
- 22.18.005 Time frame for approval.
- [22.18.006 Minor revisions to preliminary plats.](#)
- [22.18.007 Major revisions to preliminary plats.](#)

#### **22.18.001 Requirements for a complete application.**

(a) Number of copies: 20. The number of copies required may be modified by the director.

(b) Application Contents. In addition to the requirements for a completed application as set forth in FMC 22.06.002, an applicant for a preliminary plat [or unit lot preliminary subdivision](#) shall submit the following:

(1) A map or sketch using a scale of 100 feet to one inch or larger, showing:

(A) Topographical and other data depicting:

(i) Boundary lines of the parent tract and proposed blocks and lots, including bearing and distance;

(ii) Easements, including location, width and purpose;

(iii) Existing and proposed streets and pedestrian ways on and adjacent to the tract, including name and right-of-way width and location; type, width and elevation of surfacing, walks, curbs, gutters, culverts, etc.;

(iv) Ground elevations on the tract, based on NGVD29; for land that slopes less than approximately two percent, show spot elevations at all breaks in grade, along all drainage channels or swales, and all selected points not more than 100 feet apart in all directions; for land that slopes more than approximately two percent, either show contours with an interval of not more than five feet if ground slope is regular and such information is sufficient for planning purposes, or show contours with an interval of not more than two feet if necessary because of irregular land or need for more detailed data for preparing plans and construction drawings;

(v) Other conditions on adjacent land, including approximate direction and gradient of ground slope, including any embankments or retaining walls; character and location of buildings, railroads, power lines, towers, and other nonresidential land uses or platted land within 300 feet of the subject property. Refer to subdivision plat by name, recording date, volume and page number, and show lot size and dwelling units;

(B) Utilities on and adjacent to the tract, including location, size and invert elevation of sanitary, storm and combined sewers; location and size of water mains; location of gas lines, fire hydrants, electric and telephone poles, and street lights. If water mains and sewers are not on or adjacent to the tract, indicate the direction and distance to, and size of nearest ones, showing invert elevation of sewers;

(C) Other conditions on the tract including watercourses, marshes, rock outcrop;

(D) Zoning district designations, on and adjacent to the tract;

(E) Proposed public improvements, including highways or other major improvements planned for the development including preliminary plan and profile designs by a civil engineer. The relationship to, and integration with, other planned or existing public improvements shall be established and shown;

(F) Vicinity showing location of the tract;

(G) Sites, if any, to be reserved or dedicated for parks, playgrounds, or other public uses;

(H) Sites, if any, for multifamily dwellings, shopping centers, churches, industry or other nonpublic uses exclusive of single-family dwellings;

(I) Minimum building setback lines;

(J) Site data, including number of residential lots, typical lot size, and acres in parks, etc.;

(K) Plat name, scale, north arrow and date;

(L) Typical cross-sections of the proposed grading, roadway and sidewalk;

(M) Proposed sanitary, stormwater, electrical, and water systems preliminary plan with points of connection, grades and sizes indicated, prepared by a properly registered engineer.

(N) For all unit lot subdivisions or unit lot plats, notes are required on the plat to be recorded, acknowledging each of the following:

(1) Approval of the design and layout of the unit lot's housing development project was granted based on detailed review of that specified project, as a whole, on the parent lot, including specific reference to the applicable permit or file number for that specified project;

(2) Subsequent subdivision actions, additions, or modifications to the unit lot housing development project's structures may not create or increase any nonconformity of the parent lot as a whole, and shall conform to the approved unit lot housing development project or to the land use and development standards in effect at the time of the proposed actions, additions, or modifications;

(3) If a structure or portion of a structure within the unit lot housing development project has been damaged or destroyed, any repair, reconstruction, or replacement of any structure shall conform to the approved unit lot housing development project or to the land use and development standards in effect at the time the proposed repair, reconstruction, or replacement project's permit application becomes vested; and

(4) Additional development or redevelopment of the individual unit lots may be limited as a result of the application of development standards to the parent lot.

(2) Title and certificates, including a legal description according to official records in the office of the county auditor; pertinent survey data compiled as a result of a survey made by or under the supervision of a land surveyor registered in the state and engaged in land surveying which contains notation stating acreage, scale, north arrow, datum, and bench marks, provided in an electronic file in state plane coordinates if available; certification of registered civil engineer and land surveyor; date of survey.

(3) Draft of proposed covenants, if any. (Ord. 1122 § 2, 1996).

#### **22.18.002 Type of application.**

A preliminary plat [or unit lot preliminary subdivision](#) is a Type III-A application. The hearing examiner shall make the final decision on all preliminary plats. (Ord. 1638 § 10, 2019; Ord. 1122 § 2, 1996).

#### **22.18.003 Criteria for approval.**

The hearing examiner shall make inquiries into the public use and interest proposed to be served by the establishment of the subdivision and/or dedication, and shall consider:

(a) Whether the preliminary plat [or unit lot preliminary subdivision](#) conforms to Chapter 22.21 FMC, General Requirements for Subdivision Approval;

(b) If appropriate provisions are made for, but not limited to, the public health, safety and general welfare, for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, power, parks and recreation, playgrounds, schools and school grounds, and for sidewalks and other planning features that assure safe walking conditions for students who walk to and from school, [based only on clear and objective design and development standards](#); and

(c) Whether the public interest will be served by the subdivision and dedication. (Ord. 1638 § 11, 2019; Ord. 1122 § 2, 1996).

#### **22.18.004 Findings and conclusions.**

The hearing examiner shall not approve the preliminary plat [or unit lot preliminary subdivision](#) unless written findings are made that each of the criteria listed in FMC 22.18.003 has been satisfied. (Ord. 1638 § 12, 2019; Ord. 1244 § 8, 2000; Ord. 1122 § 2, 1996).

#### **22.18.005 Time frame for approval.**

Preliminary plats of any proposed subdivision [or unit lot preliminary subdivision](#) and dedication shall be approved, disapproved, or returned to the applicant for modification or correction within ~~90-170~~ days from the date of filing of a complete application, unless the applicant agrees to an extension of such time period: ~~provided, that if an environmental impact statement is required as provided in RCW 43.21C.030, the 90-day period shall not include the time spent preparing and circulating the environmental impact statement by the city.~~

#### **22.18.006 Minor revisions to preliminary plat.**

Minor revisions to an approved plat, which do not change the plat boundaries, do not change the conditions of preliminary plat approval, do not substantially alter road alignments or connections, and do not increase the number of lots by more than five percent or five lots, whichever is less, shall be processed as a Type I project permit application. The director shall approve an application for minor preliminary plat revision only if all of the following criteria are met:

(a) The revision will not be inconsistent or cause the subdivision to be inconsistent with the findings, conclusions, or decision of the hearing examiner, and;

(b) The revision will not cause the subdivision to violate any applicable city policy or regulation.

#### **22.18.007 Major revisions to preliminary plat.**

Major revisions which are not classified as minor revisions in section 22.18.006 of this chapter shall be processed as new preliminary plat applications.

(Ord. 1122 § 2, 1996).

**Commented [KM14]:** I recommend this language be deleted. There are many instances allowed by SB 5290 (Planning Legislative Priorities 2 of 2) when the "shot clock" stops beyond just a SEPA EIS. We should allow administrative edits that will be made to implement 5290 speak to review times.

**22.19.007 Time frame for approval.**

Final plats shall be approved, disapproved or returned to the applicant within 90-170 days after the filing of a complete application, unless the applicant consents to an extension of such time period. (Ord. 1244 § 10, 2000; Ord. 1122 § 2, 1996).

**Commented [KM15]:** Per RCW 36.70B.080(d)(iii)

The Fircrest Municipal Code is current through Ordinance 1753, passed December 9, 2025.

## 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.

#### 22.32.001 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.

(e) Child day-care center. (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.

#### Commented [KM16]: SB 5509

This edit is recommended to apply in all Fircrest zones (except Open Space and Industrial zones), a requirement of the SB.

(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 <sup>1</sup> .                                                                                                                                                                                                                                                                                                              |
| 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 |

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|                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
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|                                                                                                                                                                                                                                                                                                                                                                                                              | 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                                                                                                                                                                                                                                                                                                                                                                                                 | 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.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <p><i>Calculations resulting in a fraction shall be rounded to the nearest whole number with .50 being rounded up.</i></p> <p><u><sup>1</sup>A 50% density bonus may be applied to affordable housing development of any single-family residence located on real property owned or controlled by a religious organization, provided that such development complies with RCW 35.63.280 or as amended.</u></p> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |

(Ord. 1611 § 5, 2018; Ord. 1562 § 6, 2015; Ord. 1311 § 2, 2002; Ord. 1272 § 1, 2001; Ord. 1246 § 2, 2000).



## 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.

#### **22.34.001 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.

[\(f\) Child day-care center.](#) (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.**

|                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
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| Maximum density              | 4 dwelling units per gross acre for small lot development <sup>1</sup> .<br>8 dwelling units per gross acre for cottage housing <sup>1</sup> .                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| Density bonus                | The following density bonuses, not to exceed 30% combined, may be permitted for small lot development:<br>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.<br>b. A 10% increase in density if a pedestrian trail system is provided within the common open space area, consistent with a trails plan.<br>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:<br>i. Clearly defined athletic fields and/or activity courts.<br>ii. Recreation centers or community facilities.<br>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.<br>Cottage housing: See FMC 22.58.027.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| Maximum height               | Other uses: 35 feet.<br>Small lot development: See Chapter 22.63 FMC.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |

The Fircrest Municipal Code is current through Ordinance 1753, passed December 9, 2025.

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|                                                                                                  | Cottage housing: See FMC 22.58.027.<br>Exceptions may be authorized per FMC 22.58.007.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| Minimum and maximum front yard, interior side yard, side street side yard, and rear yard setback | Small lot development: See Chapter 22.63 FMC.<br>Cottage housing: See FMC 22.58.027.<br>Other uses: To be determined through the administrative design review process.<br>If not specified, FMC 22.58.002 encroachment standards will apply.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| Exterior wall modulation                                                                         | Small lot development: See Chapter 22.63 FMC.<br>Cottage housing: See FMC 22.58.027.<br>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.<br>Cottage housing: See FMC 22.58.027.<br>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.<br>Cottage housing: See FMC 22.58.027.<br>If not specified, FMC 22.58.003 standards will apply.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| Maximum impervious surface coverage                                                              | Small lot development: See Chapter 22.63 FMC.<br>Cottage housing: See FMC 22.58.027.<br>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.<br>Cottage housing: See FMC 22.58.027.<br>For other uses, see Chapter 22.60 FMC.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |

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| Landscape regulations                                                                                                                                                                                                                                                                                                                                                                                  | Small lot development: See Chapter 22.63 FMC.<br>Cottage housing: See FMC 22.58.027.<br>For other uses: See Chapter 22.62 FMC. |
| Design standards                                                                                                                                                                                                                                                                                                                                                                                       | Small lot development: See Chapter 22.63 FMC.<br>Cottage housing: See FMC 22.58.027.<br>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><br><br><u><sup>1</sup>A 50% density bonus may be applied to affordable housing development of any single-family residence located on real property owned or controlled by a religious organization, provided that such development complies with RCW 35.63.280 or as amended.</u> |                                                                                                                                |

(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.

#### **22.36.001 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.

(e) Child day-care center. (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 <sup>1</sup> .                                                                                                                                                                                                                                                     |
| 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.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <p><i>Calculations resulting in a fraction shall be rounded to the nearest whole number with .50 being rounded up.</i></p> <p><u><sup>1</sup>A 50% density bonus may be applied to affordable housing development of any single-family residence located on real property owned or controlled by a religious organization, provided that such development complies with RCW 35.63.280 or as amended.</u></p> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |

The Fircrest Municipal Code is current through Ordinance 1753, passed December 9, 2025.

(Ord. 1611 § 7, 2018; Ord. 1562 § 10, 2015; Ord. 1311 § 4, 2002; Ord. 1272 § 3, 2001; Ord. 1246 § 4, 2000).

The Fircrest Municipal Code is current through Ordinance 1753, passed December 9, 2025.



## 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.

#### **22.38.001 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.
- (g) [Child day-care center](#). (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 <sup>1</sup> .                                                                                                                                                                                                                                                                                                                                                            |
| 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.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| Calculations resulting in a fraction shall be rounded to the nearest whole number with .50 being rounded up.                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <u><sup>1</sup>A 50% density bonus may be applied to affordable housing development of any single-family or multifamily residence located</u> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |

on real property owned or controlled by a religious organization,  
provided that such development complies with RCW 35.63.280 or  
as amended.

(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.

#### **22.40.001 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.
- (i) [Child day-care center](#). (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 <sup>1</sup> .                                                                                                                                 |
| 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.                                                                                                         |
| Maximum impervious surface coverage                                                              | 65% of the developable site area for all structures and other                                                                                                                   |

The Fircrest Municipal Code is current through Ordinance 1753, passed December 9, 2025.

|                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                                                                                                                                                                                                                                                                                                                                                         | impervious surfaces combined.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| Exterior wall modulation                                                                                                                                                                                                                                                                                                                                                                                                | <p>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.</p>                                                                                                                     |
| Articulation                                                                                                                                                                                                                                                                                                                                                                                                            | <p>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.</p> |
| 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.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <p><i>Calculations resulting in a fraction shall be rounded to the nearest whole number with .50 being rounded up.</i></p> <p><u><i>!A 50% density bonus may be applied to affordable housing development of any single-family or multifamily residence located on real property owned or controlled by a religious organization, provided that such development complies with RCW 35.63.280 or as amended.</i></u></p> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |

(Ord. 1611 § 9, 2018; Ord. 1311 § 6, 2002; Ord. 1246 § 6, 2000).

The Fircrest Municipal Code is current through Ordinance 1753, passed December 9, 2025.

## 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.

#### 22.42.001 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.
- (h) [Child day-care center.](#) (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 <sup>1</sup> .                                                                                                                                                            |
| 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                                                                                                                                       |

The Fircrest Municipal Code is current through Ordinance 1753, passed December 9, 2025.

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|                                                                                                                     | above 35 feet shall be stepped back an additional 10 feet from the underlying story wall plane.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 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> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |

~~A 50% density bonus may be applied to affordable housing development of any single-family or multifamily residence located on real property owned or controlled by a religious organization, provided that such development complies with RCW 35.63.280 or as amended.~~

(Ord. 1611 § 10, 2018; Ord. 1562 § 16, 2015; Ord. 1311 § 7, 2002; Ord. 1272 § 5, 2001; Ord. 1246 § 7, 2000).



## 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.

#### **22.43.001 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.
- (g) [Child day-care center.](#) (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 <sup>2</sup> .                                                                                                                                                            |
| 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-        | 30 feet for first 40 feet of                                                                                                                                                                               |

The Fircrest Municipal Code is current through Ordinance 1753, passed December 9, 2025.

|                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|----------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 6 or R-8 district                                  | building height. Portions of a 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                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |

The Fircrest Municipal Code is current through Ordinance 1753, passed December 9, 2025.

|                                                                                                                                                                                                                                                                                                  |                                                                     |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------|
|                                                                                                                                                                                                                                                                                                  | 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>                                                                                                                                                                              |                                                                     |
| <i><u><sup>1</sup>A 50% density bonus may be applied to affordable housing development of any single-family or multifamily residence located on real property owned or controlled by a religious organization, provided that such development complies with RCW 35.63.280 or as amended.</u></i> |                                                                     |

(Ord. 1611 § 11, 2018; Ord. 1562 § 17, 2015).



**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.

(e) [Child day-care center](#). (Ord. 1562 § 18, 2015; Ord. 1246 § 8, 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.
- (h) [Child day-care center](#). (Ord. 1568 § 1, 2015; Ord. 1562 § 21, 2015; Ord. 1246 § 9, 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.

[\(g\) Child day-care center.](#) (Ord. 1575 § 13, 2016; Ord. 1562 § 35, 2015; Ord. 1246 § 14, 2000).



## 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.
- 22.58.031 Conversion of existing buildings to residential development.

#### **22.58.031 Conversion of existing buildings to residential development.**

When reviewing applications that propose to convert all or part of an existing building to be used for residential development, the City shall not:

(a) Impose a restriction on housing unit density that prevents the addition of housing units at a density up to 50 percent more than what is allowed in the underlying zone if constructed entirely within an existing building envelope in a building located within a zone that permits multifamily housing, provided that generally applicable health and safety standards, including but not limited to building code standards and fire and life safety standards, can be met within the building;

(b) Impose parking requirements on the addition of dwelling units or living units added within an existing building, however, the City may require the retention of existing parking that is required to satisfy existing residential parking requirements under local laws and for nonresidential uses that remain after the new units are added;

(c) With the exception of emergency housing and transitional housing uses that may be allowed under this title, impose permitting requirements on the use of an existing building for residential purposes beyond those requirements generally applicable to all residential development within the building's zone, including requiring a change of use permit;

Commented [KG17]: HB 1757

(d) Impose design standard requirements, including setbacks, lot coverage, and floor area ratio requirements, on the use of an existing building for residential purposes beyond those requirements generally applicable to all residential development within the building's zone, except as provided in RCW 36.70A.810 and 36.70A.812;

(e) Impose exterior design or architectural requirements on the residential use of an existing building beyond those necessary for health and safety of the use of the interior of the building or to preserve character-defining streetscapes, unless the building is a designated landmark or is within a historic district established through a local preservation ordinance;

(f) Prohibit the addition of housing units in any specific part of a building except ground floor commercial or retail that is along a major pedestrian corridor as defined by the code city, unless the addition of the units would violate applicable building codes or health and safety standards;

(g) Require unchanged portions of an existing building that have been used for residential or previously permit-approved conditioned space purposes to meet the current energy code solely because of the addition of new dwelling units within the building. When any other existing building is converted to new dwelling units, changed portions of each of those new units must meet the requirements of the current energy code, except if:

(1) The square footage of new dwelling units does not exceed 2,500 square feet or 50 percent of the total building square footage, whichever is greater;

(2) The building owner submits documentation, in a form acceptable to the code city, showing the building's residential units' projected energy use intensity is less than or equal to the energy use intensity target in accordance with the clean buildings performance standard in RCW 19.27A.210; or

(3) In all areas zoned for residential housing, an additional housing unit is created within an existing home.

(h) Deny a building permit application for the addition of housing units within an existing building due to nonconformity regarding parking, height, setbacks, elevator size for gurney transport, or modulation, unless the code city official with decision-making authority makes written findings that the nonconformity is causing a significant detriment to the surrounding area; or

(i) Require a transportation concurrency study under RCW 36.70A.070 or an environmental study under chapter 43.21C RCW based on the addition of residential units within an existing building.

Nothing in this chapter requires the City to approve a building permit application for the addition of housing units constructed entirely within an existing building envelope in a building located within a zone that permits multifamily housing in cases in which the building cannot satisfy life safety standards.

**Commented [KG18]: HB 1757**

The City should define "major pedestrian corridor" in areas where it wishes to maintain the ability to require ground floor space is limited to commercial development. I have suggested a definition for this term to include the MUN & MUU zones, or the Form Based Code area of the City. In the MUU, some areas are particularly zoned with a "Shopfront Overlay," reinforcing the intention for an urban area, particularly at the ground floor. While the City does not prohibit ground-floor residential in these zones, and while the definition of "major pedestrian corridor" including these zones does not require the City to deny applications for residential conversions, it leaves the opportunity available to the City should it observe a need for expanded commercial opportunities in the future.



## 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.

#### 22.60.002 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, ~~except in instances of residential development where compliance with tree retention standards set forth in FMC Chapter 22.62 would make the proposed development or redevelopment infeasible.~~

(b) Existing Development or Use, Non-Residential. Parking, loading and circulation area requirements for alteration or expansion of existing non-residential 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 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.

(c) Existing Development of Use, Residential. ~~Except as provided for in subsection (1) to this section, p~~Parking, loading and circulation area requirements for alteration or expansion of existing residential developments or for a change or increase in intensity of use, ~~are not required to be modified or resized, except for compliance with the Americans with Disabilities Act. Existing paved parking lots are not required to change the size of existing parking spaces if doing so will be more costly or require significant reconfiguration of the parking space location. Existing legally nonconforming gravel surfacing in designated parking areas may not be a reason for prohibiting utilization of existing space in the parking area to meet local parking standards, up to a maximum of 6 parking spaces.~~ 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 only the additional area devoted to parking, loading and circulation must conform with this chapter.~~ the entire parking, loading and circulation area must be brought into conformance with this chapter.

Commented [KG19]: SB 6015



~~(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).

**22.60.008 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, but shall be no larger than 8-feet by 20-feet unless required otherwise by the Americans with Disabilities Act. 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**

|                                                                                          | Space Angle (degrees) |         |         |         |         |
|------------------------------------------------------------------------------------------|-----------------------|---------|---------|---------|---------|
|                                                                                          | 0°<br>(parallel)      | 30°     | 45°     | 60°     | 90°     |
| <i>Space Width (ft)</i>                                                                  |                       |         |         |         |         |
| Regular space                                                                            | 8.5 – 9 <sup>1</sup>  | 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                                                                            | <del>22</del> 20      | 18      | 18      | 18      | 18      |
| Compact space                                                                            | 19                    | 16      | 16      | 16      | 16      |
| <i>Driveway/<br/>Aisle (ft)</i>                                                          |                       |         |         |         |         |
| One-way                                                                                  | 12                    | 13      | 13      | 17      | 24      |
| Two-way                                                                                  | 19                    | 20      | 20      | 20      | 24      |
| * See FMC 22.60.009 for information on the accessible parking space dimensions.          |                       |         |         |         |         |
| <sup>1</sup> Parking stall width is limited to 8-feet when intended for residential use. |                       |         |         |         |         |

(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, grass block 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).

**22.64.012 Building materials.**

Intent – Use construction materials and methods that are durable, maintained, visually attractive, and functional to the region. [Exterior cladding materials are allowed where they comply with locally adopted building codes and are encouraged to comply with the provisions established in this section, except that specific allowances or prohibitions of exterior cladding may apply as allowed under RCW 35A.21.443\(3\), or as revised.](#)

- (a) Building exteriors should be constructed of durable, easily maintainable materials. Materials should be composed of texture, patterns or quality of detailing that is attractive at close distances.
- (b) In general, siding textures and colors should reflect regional building patterns using wood siding, shingles, brick, stone, terra-cotta tile, and other features.
- (c) Metal siding should have visible corner moldings and trim, matte finishes, and neutral or earth tone colors.
- (d) Non-durable siding materials like plywood; corrugated metal or fiberglass are discouraged, as is mirrored glass in residential or pedestrian-oriented areas. Such non-durable materials may be used to match existing materials on the same building or lot and for small areas that accent or highlight a unique design element, but should not be used for large expanses of wall surface.
- (e) Concrete walls should be enhanced with texturing, coloring, and/or by incorporating embossed or sculptured surfaces, mosaics or artworks.
- (f) Concrete block walls should be enhanced with textured block surfaces, colored mortar, decorative bond patterns, and/or by incorporating other masonry materials.
- (g) Stucco and similar trowel surfaces should be trimmed in wood or masonry and sheltered from extreme weather by roof overhangs. (Ord. 1272 § 8, 2001).

**22.72.005 Development exempt from site plan review.**

The following public and private development proposals are exempt from site plan review:

(a) Uses which are subject to conditional use permit review, administrative use permit review, and preliminary development plan review; and

(b) Uses which are permitted outright, whether or not administrative design review is required.

(c) Interior alterations, provided the interior alterations do not result in the following:

(i) Additional sleeping quarters or bedrooms;

(ii) Nonconformity with federal emergency management agency substantial improvement thresholds, or;

(iii) Increase the total square footage or valuation of the structure thereby requiring upgraded fire access or fire suppression systems.

**Commented [KM20]: SB 5290**

This edit is recommended to clearly delineate that, in most cases, interior remodels are not subject to site plan review. It creates alignment with RCW 36.70B.

|

The Fircrest Municipal Code is current through Ordinance 1753, passed December 9, 2025.

## Chapter 22.98 DEFINITIONS

### Sections:

[22.98.149 Clear and objective design and development standards.](#)  
[22.98.257.1 Exterior cladding.](#)  
[22.98.430 Lot split.](#)  
[22.98.431 Lot split survey.](#)  
[22.98.437.1.1 Major pedestrian corridor.](#)  
[22.98.466.1 Newly created lot.](#)  
[22.98.508 Parent lot.](#)  
[22.98.712 Unit lot.](#)  
[22.97.713 Unit lot subdivision.](#)

### 22.98.147 Child day-care center.

“Child day-care center” ~~or “child care center”~~ means [an agency that regularly provides early childhood education and early learning services for a group of children for periods of less than 24 hours 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).

### 22.98.149 Clear and objective design and development standards.

“Clear and objective design and development standards” means [locally adopted development regulations that involve no personal or subjective judgment by a public official, and are ascertainable by reference to measurable written or graphic criteria available and knowable to the permit applicant, the public, and public officials prior to submittal.](#)

### 22.98.195 Development permit.

“Development permit” means [a building permit or project permit as classified in FMC 22.05.003 or “project permit” or “project permit application” means any land use or environmental permit or license required from a local government for a project action, including but not limited to subdivisions, binding site plans, planned unit developments, conditional uses, shoreline substantial development permits, site plan review, permits or approvals required by critical area ordinances, site-specific rezones which do not require a comprehensive plan amendment, but excluding building permits, site development permits, the adoption or amendment of a comprehensive plan, subarea plan, or development regulations except as otherwise specifically included in Title 22 FMC.](#) (Ord. 1275 § 3, 2001; Ord. 1246 § 27, 2000).

### 22.98.257.1 Exterior cladding.

“Exterior cladding” means [a nonload-bearing material attached to the exterior of a building.](#)

### 22.98.430 Lot split.

“Lot split” means [the administrative process of dividing an existing lot into two lots for the purpose of sale, lease, or transfer of ownership pursuant to FMC Chapter 22.14.](#)

### 22.98.431 Lot split survey.

“Lot split survey” means [the final survey prepared for filing for record with the county auditor and containing all elements and requirements for a lot split under FMC Chapter 22.14.](#)

### 22.98.437.1.1 Major pedestrian corridor.

“Major pedestrian corridor” means [those areas which front the Mixed Use Urban \(MUU\) zone and the Mixed Use Neighborhood \(MUN\) zone, comprising those areas which are subject to the City’s Form Based Code.](#) “Major pedestrian corridor” also means [the land bound by Bowes Drive, Contra Costa Avenue, Regents Blvd, and Berkeley Avenue.](#)

### 22.98.466.1 Newly created lot.

#### Commented [KM21]: SB 5509

This edit is recommended to create consistency with the term’s definition in RCW 43.216.010.

**Commented [KG22]:** As follow-up to a question asked at the July PC meeting, I recommend that site development permits be excluded from the definition of “project permit application.” Project permit applications are held against the 65-day, 100-day, or 170-day review timelines imposed by SB 5290. Those timelines apply based on a Determination of Completeness, which we require for Type II permits and above.

Site Development Permits are not a “type” of permit in the FMC, and therefore do not include a completeness review/determination, noticing, etc. Much like a building permit, they require review from City hired professionals to ensure structural/engineered stability. It is in the City’s interest to afford reasonable time to its engineering consultants to ensure safe development is proposed in a Site Development Permit rather than rushing their review against 5290 deadlines.

If agreeable to PC at their August meeting, I will delete this language from the definition.

#### Commented [KM23]: SB 5571

This edit is recommended to add definition to a term’s use that is added in the FMC under SB 5571.

**Commented [KG24]:** This addition has been made to reflect feedback from Planning Commission at their June meeting.

“Newly created lot” means a lot that was created by a lot split under FMC Chapter 22.14.

**22.98.508 Parent lot.**

“Parent lot,” as the term is used with regard to lot splits, means a lot that was created by a lot split under FMC Chapter 22.14. “Parent lot,” as the term is used with regard to unit lot subdivisions or unit lot short subdivisions, means a residential lot that is subdivided into unit lots through the unit lot subdivision process.

**22.98.712 Unit lot.**

“Unit lot” means a subdivided lot within a residential development as created from a parent lot and approved through the unit lot subdivision process.

**22.98.713 Unit lot subdivision.**

“Unit lot subdivision” means a subdivision or short subdivision proposed as part of a residential development project that meets the development standards applicable to the parent lot at the time the application is vested, but which may result in development on one or more individual unit lots becoming nonconforming as to specified land use and development standards based on the analysis of the individual unit lot. By June 30, 2026, all unit lot subdivisions shall require notification to purchasers of their legal status as further described in RCW 58.17.060.

August 13, 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)<sup>1</sup>. 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.

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 by 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.

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<sup>1</sup> 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 (FWHCAs), and geological hazards including erosion and landslide hazard areas. Descriptions of each critical area and local examples are included below to offer a brief introduction of the features that are subject to this project.

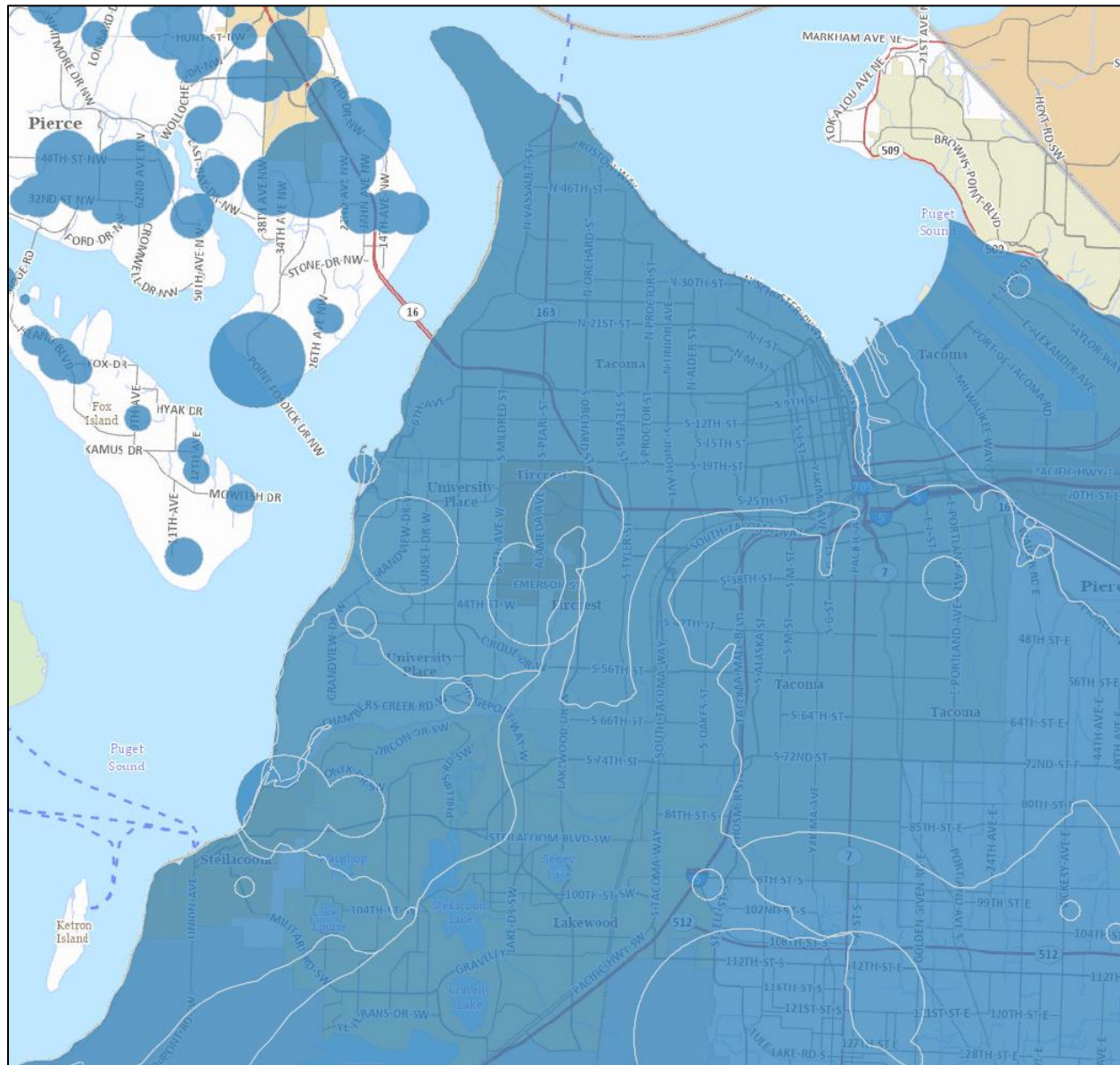
## Wetlands

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.

## 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 1, 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 1**  
**CARAs in Fircrest**



Pierce County CARA mapping, showing CARAs as blue polygons.

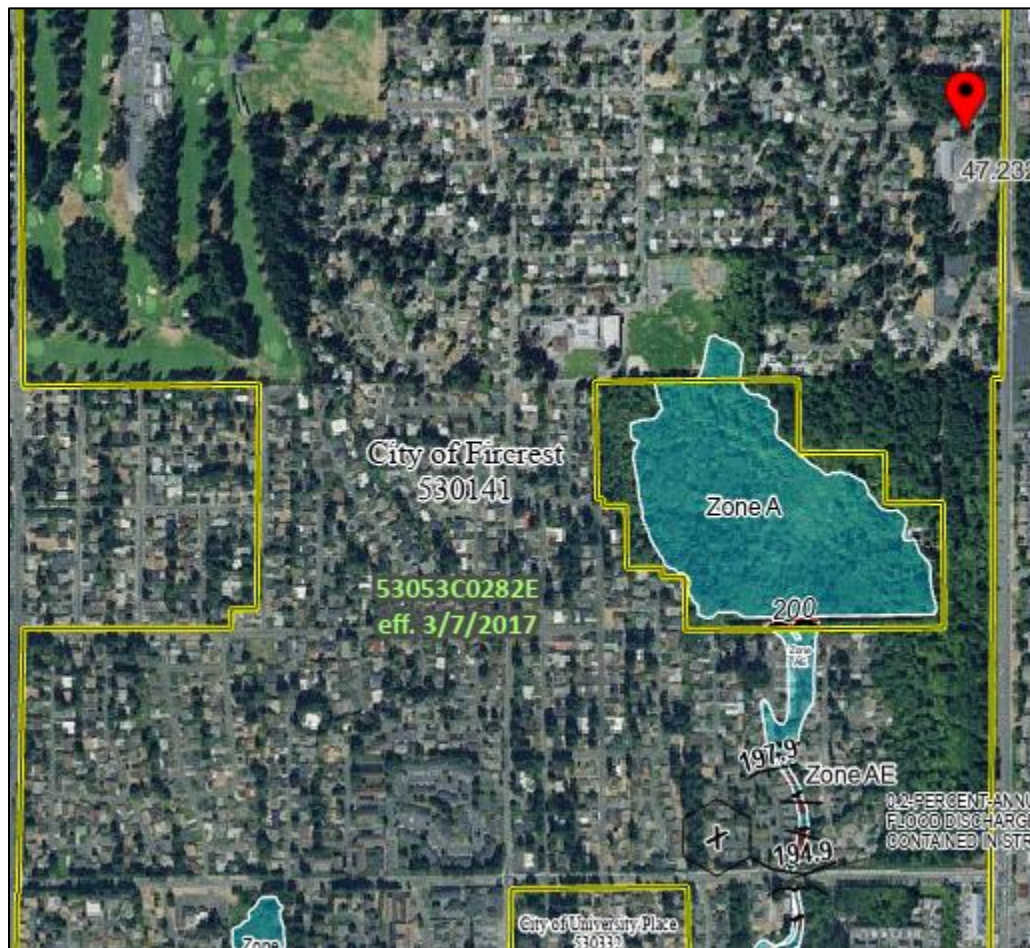
## Frequently Flooded Areas

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 2.

**Figure 2**  
**Frequently Flooded Areas in Fircrest**



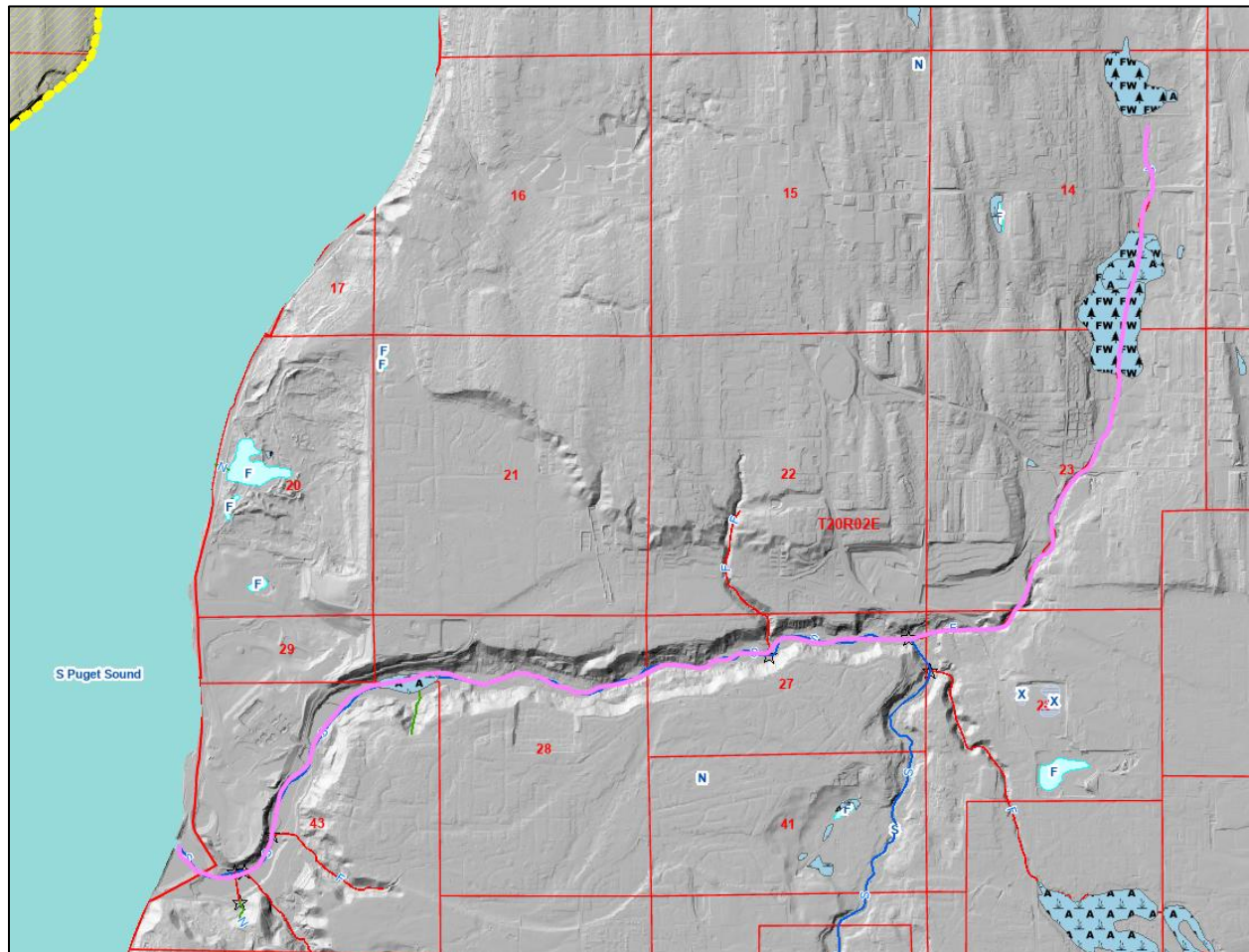
FEMA flood map of Fircrest. Zones A and AE represent special flood hazard areas that are regulated in Fircrest as frequently flooded areas.

### 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 3.

**Figure 3**  
**Leach Creek FWHCA**



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

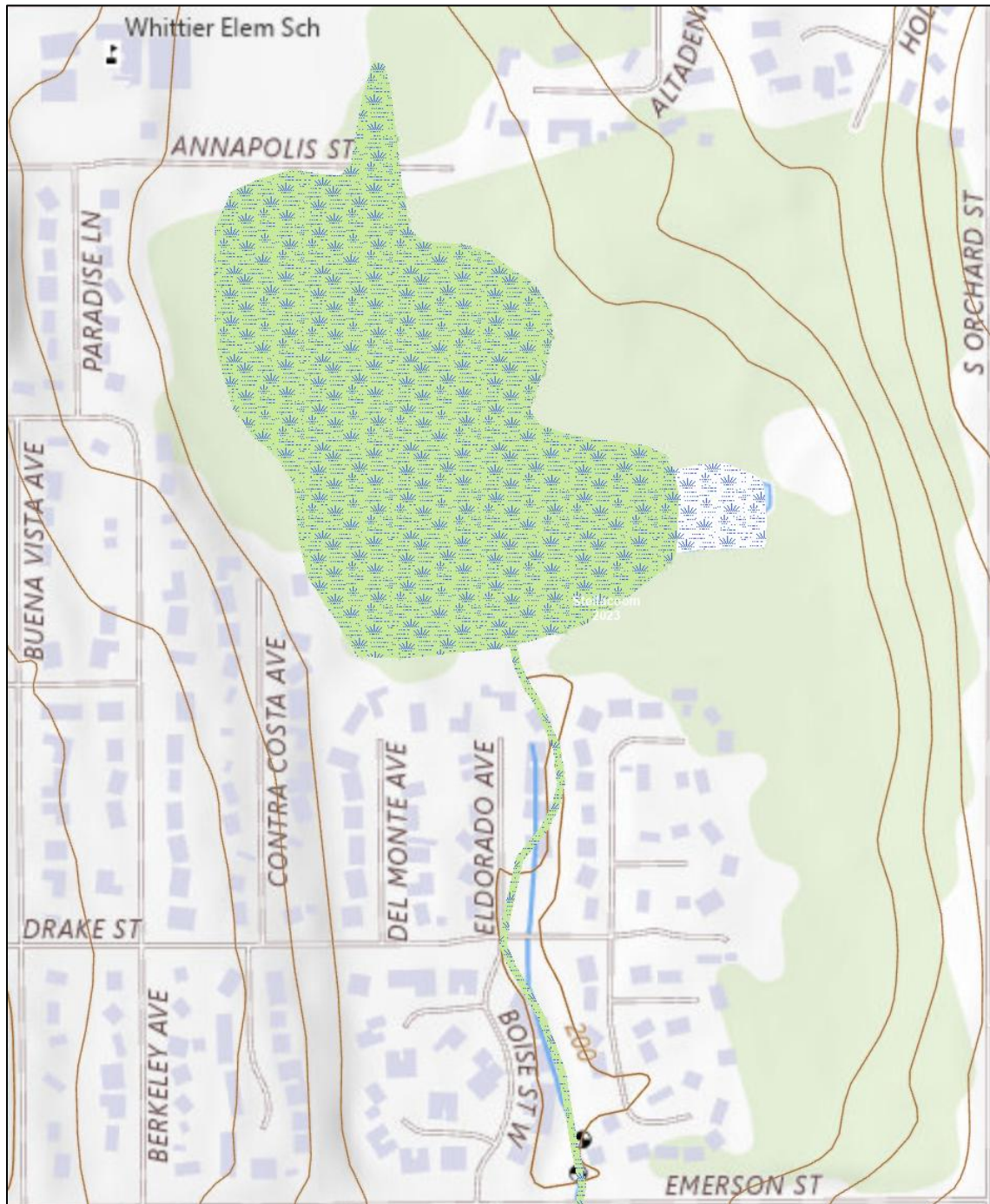
## Geological Hazards

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 4.



**Figure 4**  
**Fircrest Erosion Hazard**



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

At their core, critical area regulations established in a CAO aim to protect ecological function and reinforce safety to human life and infrastructure. Critical area regulations set a basis for

determining the presence and characterization of critical areas on best available science to ensure that the scientific community's developing understanding of natural features informs regulatory exposure and guides adequate protective measures.

## Project Progress

Since December 2025, Planning Commission and Mahoney Planning have collaborated on amendments needed to bring Fircrest's CAO into alignment with current provisions of the RCW and WAC governing the relationship between development and critical areas; the resulting product is a statutorily compliant CAO, included as **Exhibits A and B** to this memo. Early efforts in the project employed the use of the Department of Commerce (Commerce) Critical Areas Checklist to inform what provisions of the Fircrest CAO were due for update to incorporate newer state guidance. Additional efforts included general edits for legibility and readability of the code, and administrative edits so that the CAO reflects true practices used by Fircrest. Draft work products were distributed to the state via the Commerce, and agreeable feedback from state agencies were incorporated into the draft Fircrest CAO Update. Exhibits A and B represent the cumulative result from this collaborative project.

## Public Engagement

The City has invited the public to participate in the CAO Update. The draft CAO Update was submitted to Commerce via a Notice of Intent to Adopt on April 8, 2026 (**Exhibit D**). Commerce distributed the draft CAO to other state agencies and underwent a 60-day review process, during which any public state agency could offer comments to the City. Comments were received by the Department of Fish and Wildlife, the Department of Health, the Department of Ecology, and the Department of Natural Resources for the City's consideration (**Exhibit D**). Recommendations from these agencies were reviewed by the City and contemplated with Planning Commission. Those agreeable recommendations have been incorporated into the City's final draft CAO Update (**Exhibits A and B**).

The City's SEPA Responsible Official has also reviewed the project's SEPA Checklist and other germane information associated with the project and issued a Determination of Nonsignificance (DNS) threshold determination on May 1, 2026 (**Exhibit E**). The threshold determination was noticed to the public, who were offered a 14-day comment period. No comments in response to the noticed DNS were received by the City.

The Planning Commission public hearing was noticed to the public on July 27, 2026 (**Exhibit F**). No comments have been received by the City in response to the Notice of Public Hearing.

## Staff Recommendation

At the August 18, 2026 public hearing, Planning Commission will be asked to make a recommendation by Resolution (**Exhibit C**) to City Council on adoption of the CAO Update. The draft CAO Update (**Exhibits A and B**) achieves statutory compliance with the Washington GMA

and reflects the Planning Commission's feedback and the agreeable feedback offered by other agencies. With the adoption of a revised CAO, the City will resume its eligibility for state monies issued under RCW Chapter 43.155 (Public Works Projects) and RCW Chapter 70A.135 (Water Pollution Control Facilities Financing).

As such, staff urge Planning Commission to recommend by Resolution City Council's adoption of the CAO Update as it is presented in **Exhibits A and B**.

**Recommended motion:** At its August 18, 2026 public hearing, staff recommends Planning Commission make the following motion:

- I move to recommend to the City Council approval of the proposed amendments to Title 22 of the Fircrest Municipal Code, as set forth in Exhibits A and B, which implement the Growth Management Act's requirements for Fircrest's update to its Critical Areas Ordinance.

I look forward to discussing this project with Planning Commission at the August 18 public hearing!



Kimberly A. Gunderson  
Mahoney Planning, LLC

Exhibits:

- A. FMC Chapters 22.92, 22.93, 22.94, 22.97, and 22.100, in redline to reflect CAO Updates
- B. FMC Chapter 22.98, Definitions, in redline to reflect CAO Updates
- C. Resolution No. 26-01
- D. Commerce Notice of Intent to Adopt & Agency Responses
- E. SEPA Threshold Determination, Checklist, and Notice
- F. Notice of Planning Commission Public Hearing



**CITY OF FIRCREST PLANNING COMMISSION  
RESOLUTION NO. 26-01**

**A RESOLUTION OF THE PLANNING COMMISSION  
OF THE CITY OF FIRCREST RECOMMENDING  
THE PERIODIC UPDATE TO THE CRITICAL  
AREAS REGULATIONS CONTAINING  
AMENDMENTS TO FMC CHAPTERS 22.92, 22.93,  
22.94, 22.97, 22.98, AND 22.100 TO THE CITY  
COUNCIL FOR FINAL CONSIDERATION AND  
APPROVAL.**

**WHEREAS**, the Critical Areas Ordinance (“CAO”) is a collection of locally determined development regulations intended to conserve the functions of environmentally sensitive areas and protect the public from hazards that may be associated with developing in areas with certain environmental characteristics such as areas prone to flooding and posing geological hazards; and

**WHEREAS**, Chapter 365-190 of the Washington Administrative Code (“WAC”) requires the protection of critical areas through buffer standards, mitigation requirements, and habitat conservation provisions

**WHEREAS**, Section 36.70A.130(5) of the Revised Code of Washington (“RCW”) requires cities to incorporate development regulations involving wetlands, fish and wildlife habitat conservation areas, critical aquifer recharge areas, geologically hazardous areas, and flood hazard areas, and to evaluate and revise their Critical Areas Ordinance and associated development regulations every ten years; and

**WHEREAS**, the City of Fircrest (“City”) is updating its critical areas regulations under Chapter 36.70A RCW and Chapter 365-190 WAC of the Washington Administrative Code (“WAC”); and

**WHEREAS**, the City last updated its CAO in 2019; and

**WHEREAS**, the Planning Commission reviewed the amendments contained in Exhibit A to this resolution, including holding briefings on December 2, 2025, January 6, 2026, March 3, 2026, April 7, 2026, and July 7, 2026; and

**WHEREAS**, the Planning Commission held a public hearing regarding the same on August 18, 2026; and

**WHEREAS**, the Planning Commission considered the factors in FMC 22.92.040 in reviewing the proposed development regulation amendments in Exhibit A to this resolution; and

**WHEREAS**, the Planning Commission finds that the amendments accompanying this resolution in Exhibit A are consistent with and supportive of goals, policies, and implementation strategies in the Fircrest Comprehensive Plan, bear a substantial relation

to public health, safety, and welfare, and promote the best long-term interests of the City; Now, Therefore,

**BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF FIRCREST:**

**Section 1.** The Planning Commission of the City of Fircrest hereby recommends and approves transmitting the proposed code amendments to the Critical Areas Ordinance in chapters 22.92, 22.93, 22.94, 22.97, 22.98, and 22.100 FMC attached hereto as Exhibit A to the City Council for final review and adoption.

**APPROVED AND ADOPTED BY THE PLANNING COMMISSION OF THE CITY OF FIRCREST, WASHINGTON,** at a regular meeting thereof this 18<sup>th</sup> day of August, 2026.

**APPROVED:**

\_\_\_\_\_  
Kathy McVay, Chair

**ATTEST:**

\_\_\_\_\_  
Danielle O’Galleher, Permit Coordinator