

**FIRCREST CITY COUNCIL
REGULAR MEETING
AGENDA**

**TUESDAY, SEPTEMBER 22, 2026
7:00 P.M.**

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

	Pg.#
1. CALL TO ORDER	
2. PLEDGE OF ALLEGIANCE	
3. ROLL CALL	
4. PRESIDING OFFICER'S REPORT	
A. Introduction and Pinning of New Police Officer Bounds	
B. Proclamation: Domestic Violence Awareness Month	2
5. CITY MANAGER COMMENTS	
6. DEPARTMENT HEAD COMMENTS	
7. COUNCILMEMBER COMMENTS	
8. PUBLIC COMMENTS FOR ITEMS NOT ON THE AGENDA (If you would like to make a public comment, you may speak at the appropriate time using the raise your hand feature or by pressing *9 on your phone.)	
9. COMMITTEE, COMMISSION & LIAISON REPORTS	
A. Parks, Recreation, and Sustainability	
B. Police/Public Safety and Court	
C. Public Works and Facilities	
D. Pierce County Regional Council	
E. Other Liaison Reports	
10. CONSENT CALENDAR	
A. Approval of vouchers /payroll checks	3
B. OMG Food Mart Liquor License Application	12
<i>There were no objections registered for the approval of this liquor license application.</i>	
C. Approval of Minutes: August 25, 2026, Regular Meeting	13
September 08, 2026, Regular Meeting	18
11. PUBLIC HEARING	
12. UNFINISHED BUSINESS	
13. NEW BUSINESS	
A. Ordinance: Critical Areas Update	21
B. Resolution: Amending Resolution No. 2025	94
C. Resolution: Ethos PNW Contract Amendment #3	97
D. Resolution: AWC Workers' Compensation Retro Program	101
E. 2027 Preliminary Budget Presentation	
14. CALL FOR FINAL COMMENTS	
15. EXECUTIVE SESSION	
A. To Discuss Labor Negotiations, pursuant to RCW 42.30.140(4)(b)	
B. To Review the Performance of a Public Employee, pursuant to RCW 42.30.110(1)(g)	
16. ADJOURNMENT	



PROCLAMATION OF THE CITY COUNCIL

WHEREAS, domestic violence is a serious and pervasive crime that affects all races, ages, genders, and socioeconomic backgrounds, with lasting impacts on survivors, families, and communities; and

WHEREAS, domestic violence includes physical, emotional, sexual, financial, and psychological abuse, disrupting the safety, health, and well-being of survivors and their loved ones; and

WHEREAS, Domestic Violence Awareness Month provides an opportunity to honor the strength and resilience of survivors, remember those whose lives have been lost to domestic violence, and reaffirm our collective commitment to preventing abuse and supporting those affected by it; and

WHEREAS, the 2026 Domestic Violence Awareness Month campaign, "With Survivors, Always," calls upon communities to move from awareness to action and to stand with survivors by listening to and uplifting their voices, ensuring access to resources and services, promoting healthy and respectful relationships, holding offenders accountable, and working together to remove barriers to safety and healing through support, solidarity, and meaningful action; and

WHEREAS, advocates, shelter staff, law enforcement officers, healthcare professionals, legal service providers, and community members work throughout the year to provide critical services, including trauma-informed care, safety planning, shelter, advocacy, and other resources for survivors and their families; and

WHEREAS, ending domestic violence requires collective action to challenge attitudes and behaviors that perpetuate abuse, support survivors without judgment, and foster a community where everyone can live free from violence and fear; and

WHEREAS, October 2026 marks Domestic Violence Awareness Month, offering our community an opportunity to stand in solidarity with survivors, promote prevention and healthy relationships, and raise awareness of life-saving resources, including the National Domestic Violence Hotline.

NOW, THEREFORE, WE, MAYOR AND COUNCILMEMBERS of the City of Fircrest, do hereby proclaim October 2026 as

DOMESTIC VIOLENCE AWARENESS MONTH

in the City of Fircrest and encourage all residents to learn the signs of abuse, support survivors and local prevention efforts, and join together in moving from awareness to action. We stand with survivors – always – and reaffirm our commitment to a community where everyone deserves safety, support, and respect.

Proclaimed this 22nd day of September 2026.

Nikki Bufford, Mayor

ACCOUNTS PAYABLE

City Of Fircrest

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Accts Pay #	Received	Date Due	Vendor	Amount	Memo
38889	09/11/2026	09/22/2026	4298 AWC Employee Benefit Trust	1,057.10	10/2026 Retired Medical
	521 22 20 01	LEOFF I Medical Premiums	001 000 521 General Fund	1,057.10	10/2026 Retired Medical
38855	09/11/2026	09/22/2026	9279 Akins, Sterling	347.54	06-02580.1 - 1026 PINEHURST ST
	343 40 00 00	Sale Of Water	425 000 340 Water Fund (de	-123.92	
	343 50 00 00	Sewer Revenues	430 000 340 Sewer Fund (de	-223.62	
38844	09/09/2026	09/22/2026	10562 Amazon Capital Services	36.31	Logitech Silent Wireless Keyboard
	514 23 35 00	Small Tools & Equip - Financ	001 000 514 General Fund	36.31	Logitech Silent Wireless Keyboard
38866	09/11/2026	09/22/2026	10562 Amazon Capital Services	42.75	Duty Belt with Hook
	521 22 49 01	Uniforms/Clothing/Laundry	001 000 521 General Fund	42.75	Duty Belt with Hook
38875	09/11/2026	09/22/2026	10562 Amazon Capital Services	118.78	Toner Cartridge Set (4 Color)
	513 10 31 00	Office & Oper Sup - Admin	001 000 513 General Fund	118.78	Toner Cartridge Set (4 Color)
38886	09/11/2026	09/22/2026	10562 Amazon Capital Services	66.11	Flah Drives (Qty 10)
	531 50 31 01	Office & Oper Sup - Storm	415 000 531 Storm Drain	16.53	Flah Drives (Qty 10)
	534 10 31 00	Office & Oper Sup - Water A	425 000 534 Water Fund (de	16.52	Flah Drives (Qty 10)
	535 10 31 00	Office & Oper Sup - Swr Adr	430 000 535 Sewer Fund (de	16.53	Flah Drives (Qty 10)
	542 30 31 01	Office & Oper Sup - Street R	101 000 542 City Street Fund	16.53	Flah Drives (Qty 10)
38887	09/11/2026	09/22/2026	10562 Amazon Capital Services	14.87	Baseball Stress Balls - Employee Benefits Fair
	517 90 31 01	Oper Supplies - Wellness Pro	001 000 517 General Fund	14.87	Baseball Stress Balls - Employee Benefits Fair
38888	09/11/2026	09/22/2026	10562 Amazon Capital Services	39.42	Bags & Flashlights - Employee Benefits Fair
	517 90 31 01	Oper Supplies - Wellness Pro	001 000 517 General Fund	39.42	Bags & Flashlights - Employee Benefits Fair
			Total Amazon Capital Services	318.24	
38869	09/11/2026	09/22/2026	7553 Atwood, Nancy	78.00	Library Reimbursement - 1 Year
	572 21 49 00	Library Services	001 000 572 General Fund	78.00	Library Reimbursement - 1 Year
38856	09/11/2026	09/22/2026	7690 Bergeron, Emily	142.72	04-01010.1 - 1013 GREENWAY AVE
	343 10 00 00	Storm Drain Revenues	415 000 340 Storm Drain	-30.82	
	343 40 00 00	Sale Of Water	425 000 340 Water Fund (de	-37.38	
	343 50 00 00	Sewer Revenues	430 000 340 Sewer Fund (de	-74.52	
38882	09/11/2026	09/22/2026	4278 Budget Batteries Inc	157.41	Batteries for Speed Trailer

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	518 30 31 02 Oper Supplies - PSB Bldg		001 000 518 General Fund	157.41	Batteries for Speed Trailer
38906	09/16/2026	09/22/2026	5805 CenturyLink (Lumen LD)	9.36	Long Distance Access & Usage 09/2026
	518 10 42 00 Communication - Non Dept		001 000 518 General Fund	9.36	Long Distance Access & Usage 09/2026
38897	09/15/2026	09/22/2026	3994 CenturyLink	491.06	Telecommunications - 09/2026
	518 10 42 00 Communication - Non Dept		001 000 518 General Fund	150.83	City Hall Alarm & Fax (2) - 09/2026
	521 22 42 00 Communication - Police		001 000 521 General Fund	289.96	Police BA/Modem & Fax - 09/2026
	531 50 42 00 Communication - Storm		415 000 531 Storm Drain	12.57	PW Alarm - 09/2026
	534 10 42 00 Communication - Water Adr		425 000 534 Water Fund (dep	12.57	PW Alarm - 09/2026
	535 10 42 01 Communication - Sewer Adr		430 000 535 Sewer Fund (dep	12.57	PW Alarm - 09/2026
	542 30 42 00 Communication - Street Reg		101 000 542 City Street Fund	12.56	PW Alarm - 09/2026
38903	09/15/2026	09/22/2026	11315 Choi, Yoonkyoung	78.00	Library Reimbursement - 1 Year (Yoonkyoung)
	572 21 49 00 Library Services		001 000 572 General Fund	78.00	Library Reimbursement - 1 Year (Yoonkyoung)
38854	09/10/2026	09/22/2026	4324 City Treasurer-Tacoma	71,713.47	Fire/EMS - 10/2026
	522 20 40 00 Tacoma Contract - Fire		001 000 522 General Fund	22,674.67	Fire - 10/2026
	522 20 41 00 Tacoma Contract - EMS		001 000 522 General Fund	49,038.80	EMS - 10/2026
38848	09/10/2026	09/22/2026	10941 CivicPlus, LLC	8,324.87	Acquia Web Governance Standard Package - Website Accessibility - 11/15/26-11/14/27
	518 81 41 02 Web Design & Maintenance		001 000 518 General Fund	8,324.87	Acquia Web Governance Standard Package - Website Accessibility - 11/15/26-11/14/27
38864	09/11/2026	09/22/2026	2795 Clagg, Jana	78.00	Library Reimbursement - 1 Year
	572 21 49 00 Library Services		001 000 572 General Fund	78.00	Library Reimbursement - 1 Year
38863	09/11/2026	09/22/2026	11545 Cline, Cassie	78.00	Library Reimbursement - 1 Year (Cassie)
	572 21 49 00 Library Services		001 000 572 General Fund	78.00	Library Reimbursement - 1 Year (Cassie)
38868	09/11/2026	09/22/2026	3573 Copiers Northwest Inc	52.57	Copier Usage 07/28/26-08/27/26
	521 22 45 00 Oper Rentals - Copier - Polic		001 000 521 General Fund	52.57	Copier Usage 07/28/26-08/27/26
38871	09/11/2026	09/22/2026	10913 David Evans and Associates, Inc.	1,111.68	P#74 Regents West Grind & Overlay - Professional Services 08/02/26-08/29/26
	595 10 63 11 Regents Grind & Overlay #7		101 000 594 City Street Fund	1,111.68	P#74 Regents West Grind & Overlay - Professional Services 08/02/26-08/29/26

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38911	09/16/2026	09/22/2026	4310 Dept Of Revenue-EXCISE TAX	28,087.86	August 2026 Excise Taxes
	518 20 43 01	Excise Tax - Time/Temp Ren	001 000 518 General Fund	3.85	August 2026 Excise Taxes
	531 50 31 02	Oper Supplies - Storm	415 000 531 Storm Drain	10.43	August 2026 Excise Taxes
	531 50 44 00	Excise Tax - Storm	415 000 531 Storm Drain	1,508.66	August 2026 Excise Taxes
	534 10 44 00	Excise Tax - Water	425 000 534 Water Fund (de	80.53	August 2026 Excise Taxes
	534 10 44 00	Excise Tax - Water	425 000 534 Water Fund (de	14,174.74	August 2026 Excise Taxes
	534 50 31 01	Oper Supplies - Water Main	425 000 534 Water Fund (de	10.43	August 2026 Excise Taxes
	535 10 44 00	Excise Tax - Sewer	430 000 535 Sewer Fund (de	1.62	August 2026 Excise Taxes
	535 10 44 00	Excise Tax - Sewer	430 000 535 Sewer Fund (de	7,033.55	August 2026 Excise Taxes
	535 50 31 01	Oper Supplies - Sewer Main	430 000 535 Sewer Fund (de	10.43	August 2026 Excise Taxes
	542 80 31 01	Oper Supplies - St Beaut	101 000 542 City Street Fund	10.43	August 2026 Excise Taxes
	571 20 43 00	Excise Tax - Participation Fee	001 000 571 General Fund	262.09	August 2026 Excise Taxes
	576 20 43 00	Excise Tax - Pool Revenue	001 000 576 General Fund	4,975.54	August 2026 Excise Taxes
	589 30 00 00	Retail Sales Tax	655 000 580 Agency Fund/Bd	5.56	August 2026 Excise Taxes
38879	09/11/2026	09/22/2026	3612 DrainTech Northwest, L.L.C.	1,219.91	Clear Sewer Main at 4623 62nd Ave W - Root Buildup
	535 50 48 00	Rep & Maint - Sewer Maint	430 000 535 Sewer Fund (de	1,219.91	Clear Sewer Main at 4623 62nd Ave W - Root Buildup
38853	09/10/2026	09/22/2026	10618 First Responder Outfitters, Inc.	21.08	Uniform Alterations - M Bounds
	521 22 49 01	Uniforms/Clothing/Laundry	001 000 521 General Fund	21.08	Uniform Alterations - M Bounds
38904	09/15/2026	09/22/2026	10479 Fraser, Duncan	78.00	Library Reimbursement - 1 Year
	572 21 49 00	Library Services	001 000 572 General Fund	78.00	Library Reimbursement - 1 Year
38878	09/11/2026	09/22/2026	3651 H D Fowler Co Inc	11,137.62	Kamstrup Water Meter Program - 5/8 x 3/4 Kamstrup Water Meters (Qty 12); 1" Water Meters (Qty 9); 1 1/2" Water Meters (Qty 2)
	594 34 63 01	Other Improvements - Wate	426 000 594 Water Improver	11,137.62	Kamstrup Water Meter Program - 5/8 x 3/4 Kamstrup Water Meters (Qty 12); 1" Water Meters (Qty 9); 1 1/2" Water Meters (Qty 2)
38874	09/11/2026	09/22/2026	6215 Hernandez, Adrian	78.00	Library Reimbursement - 1 Year (Nova)
	572 21 49 00	Library Services	001 000 572 General Fund	78.00	Library Reimbursement - 1 Year (Nova)
38845	09/09/2026	09/22/2026	3692 Home Depot Credit Services	21.96	Battery for Door Alarms
	576 20 31 04	Repair Supplies - Pool	001 000 576 General Fund	21.96	Battery for Door Alarms
38852	09/10/2026	09/22/2026	1379 Keister, Jerry	78.00	Library Reimbursement - 1 Year (Jeni)

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	572 21 49 00 Library Services		001 000 572 General Fund	78.00	Library Reimbursement - 1 Year (Jeni)
38849	09/10/2026	09/22/2026	9817 Kenyon Disend	3,710.00	Attorney Services - August 2026
	515 41 41 01 City Attorney		001 000 515 General Fund	3,472.50	Attorney Services - August 2026
	515 41 41 02 Special Legal Counsel		001 000 515 General Fund	237.50	Attorney Services - August 2026
38850	09/10/2026	09/22/2026	9817 Kenyon Disend	716.00	Attorney Services - August 2026
	515 41 41 02 Special Legal Counsel		001 000 515 General Fund	716.00	Attorney Services - August 2026
			Total Kenyon Disend	4,426.00	
38851	09/10/2026	09/22/2026	11294 Kullman, Martha M.	160.00	Spanish Interpreting (2 hrs) - 26CR132227, 26IN132228, 26CR132969 & 26CR132970
	512 51 41 03 Prof Svcs - Interpreter - FMC		001 000 512 General Fund	160.00	Spanish Interpreting (2 hrs) - 26CR132227, 26IN132228, 26CR132969 & 26CR132970
38907	09/16/2026	09/22/2026	11433 Language Line Services, Inc.	18.62	Spanish Interpreting (19 Min Over-the-Phone) INT#505827, 504000, 437233, 431423
	512 51 41 03 Prof Svcs - Interpreter - FMC		001 000 512 General Fund	18.62	Spanish Interpreting (19 Min Over-the-Phone) INT#505827, 504000, 437233, 431423
38912	09/16/2026	09/22/2026	157 LeCompte, Thomas	78.00	Library Reimbursement - 1 Year
	572 21 49 00 Library Services		001 000 572 General Fund	78.00	Library Reimbursement - 1 Year
38895	09/15/2026	09/22/2026	3791 Lowe's Company-#338954	12.35	Supplies for Wells
	534 80 31 03 Oper Supplies - Chlorine		425 000 534 Water Fund (dep	12.35	Supplies for Wells
38883	09/11/2026	09/22/2026	6639 McClain's Soil Supply	359.13	Top Soil (10 Yds) For ROW Repairs for Water Breaks
	534 50 31 01 Oper Supplies - Water Main		425 000 534 Water Fund (dep	359.13	Top Soil (10 Yds) For ROW Repairs for Water Breaks
38902	09/15/2026	09/22/2026	6632 McClain, Steven	78.00	Library Reimbursement - 1 Year (Guida)
	572 21 49 00 Library Services		001 000 572 General Fund	78.00	Library Reimbursement - 1 Year (Guida)
38865	09/11/2026	09/22/2026	11533 Meme, Briana	78.00	Library Reimbursement - 1 Year
	572 21 49 00 Library Services		001 000 572 General Fund	78.00	Library Reimbursement - 1 Year
38860	09/11/2026	09/22/2026	11472 Merrival, Steven O	140.00	Conflict Counsel (26CR39085) - 08/12/26

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515 41 41 05	Conflict Counsel		001 000 515 General Fund	140.00	Conflict Counsel (26CR39085) - 08/12/26
38861	09/11/2026	09/22/2026	11472 Merrival, Steven O	910.00	Conflict Counsel (26CR10186) - 06/01/26-09/02/26
515 41 41 05	Conflict Counsel		001 000 515 General Fund	910.00	Conflict Counsel (26CR10186) - 06/01/26-09/02/26
Total Merrival, Steven O				1,050.00	
38891	09/14/2026	09/22/2026	10109 Mitchell, Elisabeth	78.00	Library Reimbursement - 1 Year (Elisabeth)
572 21 49 00	Library Services		001 000 572 General Fund	78.00	Library Reimbursement - 1 Year (Elisabeth)
38896	09/15/2026	09/22/2026	2285 Murray, Lawrence	78.00	Library Reimbursement - 1 Year (Marion)
572 21 49 00	Library Services		001 000 572 General Fund	78.00	Library Reimbursement - 1 Year (Marion)
38858	09/11/2026	09/22/2026	11532 Neiditz, Andrew E.	4,999.88	Council Strategic Planning & Goal-Setting Retreat
511 60 41 00	Prof Svcs - Legisl		001 000 511 General Fund	4,999.88	Council Strategic Planning & Goal-Setting Retreat
38894	09/15/2026	09/22/2026	3923 Orca Pacific Inc	1,013.87	Chlorine for All Wells - Hypochlorite Solution Sodium Hypochlorite 8 (197 Gallons)
534 80 31 03	Oper Supplies - Chlorine		425 000 534 Water Fund (dep	1,013.87	Chlorine for All Wells - Hypochlorite Solution Sodium Hypochlorite 8 (197 Gallons)
38914	09/16/2026	09/22/2026	3923 Orca Pacific Inc	483.67	Muriatic Acid-Hydrochloric Acid (45 Gal)
576 20 31 01	Oper Supplies - Pool Chemi		001 000 576 General Fund	483.67	Muriatic Acid-Hydrochloric Acid (45 Gal)
Total Orca Pacific Inc				1,497.54	
38905	09/15/2026	09/22/2026	3958 PC Budget & Finance - Jail	3,772.12	Jail Services - August 2026
523 60 40 01	Jail		001 000 523 General Fund	3,772.12	Jail Services - August 2026
38913	09/16/2026	09/22/2026	11492 Pro Lawn Care Etc Inc	3,234.60	Poison Hemlock Abatement - Public Works Yard
518 30 48 03	Rep & Maint - PW		001 000 518 General Fund	3,234.60	Poison Hemlock Abatement - Public Works Yard
38876	09/11/2026	09/22/2026	3986 Puget Sound Energy, BOT-01H	83.05	Natural Gas - PW - August 2026
531 50 47 02	Public Utility Services - Bldg		415 000 531 Storm Drain	20.77	Natural Gas - PW - August 2026
534 10 47 00	Utility Services/Building - Wi		425 000 534 Water Fund (dep	20.76	Natural Gas - PW - August 2026
535 10 47 00	Utility Services/Building - Se		430 000 535 Sewer Fund (dep	20.76	Natural Gas - PW - August 2026
542 30 47 02	Electricity & Gas/Bldg - Stret		101 000 542 City Street Fund	20.76	Natural Gas - PW - August 2026

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38877	09/11/2026	09/22/2026	3986 Puget Sound Energy, BOT-01H	70.12	Natural Gas - City Hall - August 2026
	518 30 47 00	Public Utility Services - City I	001 000 518 General Fund	70.12	Natural Gas - City Hall - August 2026
Total Puget Sound Energy, BOT-01H				153.17	
38901	09/15/2026	09/22/2026	3989 Puget Sound Regional Council	2,556.00	FY27 Membership Dues 7/1/26-6/30/27
	511 60 49 02	Dues/Member/Subscriptions	001 000 511 General Fund	2,556.00	FY27 Membership Dues 7/1/26-6/30/27
38862	09/11/2026	09/22/2026	10434 Romero, Stacey F	150.00	Spanish Interpreting (2 hrs) 26CR73028/26IN73030 - 09/03/2026
	512 52 41 03	Prof Svcs - Interpreter - RMC	001 000 512 General Fund	150.00	Spanish Interpreting (2 hrs) 26CR73028/26IN73030 - 09/03/2026
38926	09/17/2026	09/22/2026	10434 Romero, Stacey F	150.00	Spanish Interpreting (2 hrs) 26CR66364 - 09/16/2026
	512 51 41 03	Prof Svcs - Interpreter - FMC	001 000 512 General Fund	150.00	Spanish Interpreting (2 hrs) 26CR66364 - 09/16/2026
Total Romero, Stacey F				300.00	
38908	09/16/2026	09/22/2026	5591 Ruzyla, Tonia	32.40	07-00032.1 - 1423 CHERRY AVE
	343 10 00 00	Storm Drain Revenues	415 000 340 Storm Drain	-7.00	
	343 40 00 00	Sale Of Water	425 000 340 Water Fund (de	-8.48	
	343 50 00 00	Sewer Revenues	430 000 340 Sewer Fund (de	-16.92	
38915	09/16/2026	09/22/2026	4035 Sarco Supply	627.53	Janitorial Supplies - Rec Bldg
	571 10 31 04	Janitorial Supplies - Rec Bldg	001 000 571 General Fund	627.53	Janitorial Supplies - Rec Bldg
38916	09/16/2026	09/22/2026	4035 Sarco Supply	422.59	Janitorial Supplies - Pool
	576 20 31 02	Janitorial Supplies - Pool	001 000 576 General Fund	422.59	Janitorial Supplies - Pool
38917	09/16/2026	09/22/2026	4035 Sarco Supply	302.79	Janitorial Supplies - PW Facilities
	518 30 31 03	Oper Supplies - PWF	001 000 518 General Fund	302.79	Janitorial Supplies - PW Facilities
Total Sarco Supply				1,352.91	
38899	09/15/2026	09/22/2026	11164 Sehmel, AICP, Lindsey	6,600.00	Contracted Services from 08/21/26-09/10/26
	558 60 41 00	Prof Svcs - Planning	001 000 558 General Fund	6,600.00	Contracted Services from 08/21/26-09/10/26

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38909	09/16/2026	09/22/2026	2068 Sheppard*, Joe	10.73	04-01290.2 - 972 ALTADENA DR
	343 10 00 00	Storm Drain Revenues	415 000 340 Storm Drain	-49.94	
	343 40 00 00	Sale Of Water	425 000 340 Water Fund (de	113.83	
	343 50 00 00	Sewer Revenues	430 000 340 Sewer Fund (de	-74.62	
38910	09/16/2026	09/22/2026	10081 Smith, Elizabeth	63.52	07-00124.5 - 141 MAPLE ST
	343 10 00 00	Storm Drain Revenues	415 000 340 Storm Drain	-13.72	
	343 40 00 00	Sale Of Water	425 000 340 Water Fund (de	-16.63	
	343 50 00 00	Sewer Revenues	430 000 340 Sewer Fund (de	-33.17	
38884	09/11/2026	09/22/2026	4084 Staples Business Advantage	17.07	Office Supplies - Central
	518 10 34 01	Office & Oper Sup - Central	001 000 518 General Fund	17.07	Office Supplies - Central
38885	09/11/2026	09/22/2026	4084 Staples Business Advantage	49.03	Office Supplies - Planning, Building & Central
	518 10 34 01	Office & Oper Sup - Central	001 000 518 General Fund	28.56	Office Supplies - Central
	524 20 31 00	Office & Oper Sup - Building	001 000 524 General Fund	10.23	Office Supplies - Building
	558 60 31 00	Office & Oper Sup - Plannin	001 000 558 General Fund	10.24	Office Suplies - Planning
Total Staples Business Advantage				66.10	
38847	09/09/2026	09/22/2026	4087 Star Rentals	1,185.01	Lift Rental for Removing Lights on Tree at Alice Peers Park
	542 80 45 00	Equipment Rentals - St Beau	101 000 542 City Street Fund	1,185.01	Lift Rental for Removing Lights on Tree at Alice Peers Park
38867	09/11/2026	09/22/2026	4097 Streun, Gregor	78.00	Library Reimbursement - 1 Year
	572 21 49 00	Library Services	001 000 572 General Fund	78.00	Library Reimbursement - 1 Year
38893	09/14/2026	09/22/2026	4322 Tacoma, City of - POWER	15,318.94	Power - Various Locations - 08/2026
	518 30 47 00	Public Utility Services - City I	001 000 518 General Fund	770.50	City Hall Power - 08/2026
	531 50 47 02	Public Utility Services - Bldg	415 000 531 Storm Drain	70.68	PW Power - 08/2026
	534 10 47 00	Utility Services/Building - Wi	425 000 534 Water Fund (de	70.67	PW Power - 08/2026
	534 80 47 01	Utility Services/Pumping	425 000 534 Water Fund (de	7,518.89	PW, Well #4, #6, #7, #9, Golf Course Tank - 08/2026
	535 10 47 00	Utility Services/Building - Se	430 000 535 Sewer Fund (de	70.67	PW Power - 08/2026
	535 80 47 01	Utility Services/Pumping	430 000 535 Sewer Fund (de	1,035.22	Pumps/LS Power - 08/2026
	542 30 47 02	Electricity & Gas/Bldg - Stre	101 000 542 City Street Fund	70.68	PW Power - 08/2026
	542 30 47 03	Electricity/Traffic Lights	101 000 542 City Street Fund	67.74	Traffic Control - 08/2026
	542 63 47 00	Electricity/Street Lights	101 000 542 City Street Fund	1,583.51	Street Lights - 08/2026
	548 65 47 00	Utility Services/Building - Sh	501 000 548 Equipment Rent	47.62	F&E Garage Power - 08/2026

ACCOUNTS PAYABLE

City Of Fircrest

Time: 08:31:46 Date: 09/18/2026

As Of: 09/22/2026

Page: 8

Accts Pay #	Received	Date Due	Vendor	Amount	Memo
571 10 47 00	Public Utility Services - Rec	001 000 571	General Fund	1,337.72	Rec Center Power - 08/2026
576 20 47 00	Public Utility Services - Pool	001 000 576	General Fund	1,830.02	Pool Power - 08/2026
576 80 47 00	Public Utility Services - Parks	001 000 576	General Fund	845.02	Parks Power - 08/2026
38892	09/14/2026	09/22/2026	8638 Tai, Renee	78.00	Library Reimbursement - 1 Year
572 21 49 00	Library Services	001 000 572	General Fund	78.00	Library Reimbursement - 1 Year
38890	09/14/2026	09/22/2026	10692 Taylor, Colin	190.17	02-01080.4 - 337 CONTRA COSTA AVE
343 10 00 00	Storm Drain Revenues	415 000 340	Storm Drain	-41.07	
343 40 00 00	Sale Of Water	425 000 340	Water Fund (de	-49.81	
343 50 00 00	Sewer Revenues	430 000 340	Sewer Fund (de	-99.29	
38859	09/11/2026	09/22/2026	5098 Terex USA LLC, Dba Terex Utilities	31,727.15	#59094D Repair Crane Truck & Replace Crane
594 48 64 14	ERR Capital - Water/Sewer	501 000 548	Equipment Rent	31,727.15	#59094D Repair Crane Truck & Replace Crane
38870	09/11/2026	09/22/2026	11534 Thomas, Kennith	39.00	Library Reimbursement - 1/2 Year
572 21 49 00	Library Services	001 000 572	General Fund	39.00	Library Reimbursement - 1/2 Year
38857	09/11/2026	09/22/2026	10494 Traynor, Aaron	134.02	07-00050.2 - 125 BIRCH ST
343 10 00 00	Storm Drain Revenues	415 000 340	Storm Drain	-28.95	
343 40 00 00	Sale Of Water	425 000 340	Water Fund (de	-35.09	
343 50 00 00	Sewer Revenues	430 000 340	Sewer Fund (de	-69.98	
38900	09/15/2026	09/22/2026	5934 US Bank, City Hall Account	158.69	P-Card Charges thru 08/31/26
513 10 49 02	Dues/Member/Subscriptions	001 000 513	General Fund	158.69	Grammarly Annual Subscription - D Masko
38873	09/11/2026	09/22/2026	8482 US Bank, Police Department Account	307.25	P-Card Charges thru 09/08/26
521 22 35 00	Small Tools & Equip - Police	001 000 521	General Fund	307.25	Cable Attachments & Bumper Plate Tree with Storage, Battle Arms Safety Selector - Remaining Portion of Payment
38872	09/11/2026	09/22/2026	8483 US Bank, Public Works Dept Account	34.21	P-Card Charges thru 08/28/26
534 10 35 00	Small Tools & Equip - Water	425 000 534	Water Fund (de	17.11	Tools for Crane Truck
535 80 35 00	Small Tools & Equip - Sewer	430 000 535	Sewer Fund (de	17.10	Tools for Crane Truck
38898	09/15/2026	09/22/2026	8484 US Bank, Recreation Dept Account	526.81	P-Card Charges thru 09/09/26
571 10 31 00	Office & Oper Sup - Rec	001 000 571	General Fund	42.83	Earth Magnets (Qty 300), Baseball T-Shirt
571 10 31 02	Senior Program Supplies	001 000 571	General Fund	359.02	Senior Morning Supplies
573 90 49 01	Community Events	001 000 573	General Fund	124.96	Haunted Trails Banner

ACCOUNTS PAYABLE

City Of Fircrest

Time: 08:31:46 Date: 09/18/2026
Page: 9

As Of: 09/22/2026

Accts Pay #	Received	Date Due	Vendor	Amount	Memo
38846	09/09/2026	09/22/2026	9884 United Lamp Supply	302.49	LED Lights for Garage
	518 30 31 02 Oper Supplies - PSB Bldg		001 000 518 General Fund	302.49	LED Lights for Garage
38881	09/11/2026	09/22/2026	9884 United Lamp Supply	302.49	Lights for Downstairs Offices
	518 30 31 02 Oper Supplies - PSB Bldg		001 000 518 General Fund	302.49	Lights for Downstairs Offices
Total United Lamp Supply				604.98	
38880	09/11/2026	09/22/2026	11108 West Coast Mechanical Solutions	2,928.57	Labor and Materials for Gym Alarm - Replace Thermostat & Sensors
	518 30 48 01 Rep & Maint - Rec Bldg		001 000 518 General Fund	2,928.57	Labor and Materials for Gym Alarm - Replace Thermostat & Sensors
Report Total:				209,126.32	
Fund					
001 General Fund				126,822.80	
101 City Street Fund				4,078.90	
415 Storm Drain				1,811.14	
425 Water Fund (department)				23,465.05	
426 Water Improvement Fund				11,137.62	
430 Sewer Fund (department)				10,030.48	
501 Equipment Rental Fund				31,774.77	
655 Agency Fund/Bdg Permit				5.56	

This report has been reviewed by:

REMARKS: _____ Signature & Title _____ Date



LIQUOR LICENSE RENEWAL

Applicant Information

Licensee Name: Orchard Market Group LLC
Establishment Name: OMG Food Mart
Address: 4040 Orchard St W STE 118, Fircrest, WA 98466
License Number: 421187
Request Received: 09/10/2026
Expiration Date: 11/30/2026

Department Comments

Finance

No concerns.

Planning and Building

No concerns.

Police

No concerns.

Allison Deskins

Director Signature

09/15/26

Date

Dawn Masko

Director Signature

09/15/26

Date

Victor Celis

Director Signature

09/15/26

Date

AUGUST 25, 2026

FIRCREST CITY COUNCIL MEETING MINUTES – REGULAR 1

CALL TO ORDER, PLEDGE OF ALLEGIANCE, AND ROLL CALL

Mayor Nikki Bufford called the regular meeting to order at 7:00 P.M. and led the Pledge of Allegiance. Councilmembers Shannon Reynolds, Brett L. Wittner, and Hunter T. George were present.

Councilmember Reynolds attended the meeting virtually.

Councilmember David M. Viafore was absent at roll call. Mayor Bufford stated that Councilmember Viafore would be joining later. There was no objection from the Council.

Councilmembers Karen Mauer-Smith and Joe Barrentine were absent and excused.

PRESIDING OFFICER'S REPORT

Mayor Bufford requested an amendment to the Consent Calendar to include setting a public hearing for September 8, 2026, for the Critical Areas Ordinance Update. There were no objections from the Council.

A. Introduction and Pinning of New Police Officer Sood

Police Chief Celis introduced Police Officer Paramvir Sood and provided an overview of his law enforcement background. Police Chief Celis pinned Officer Sood.

B. Proclamation of Appreciation: Planning Commissioner Ben Ferguson

Councilmember George read the proclamation titled “Proclamation of Appreciation: Planning Commissioner Ben Ferguson” into the record. **Councilmember Wittner MOVED to authorize the Mayor’s signature on the proclamation proclaiming their recognition and gratitude to Planning Commissioner Ben Ferguson; seconded by Councilmember George.** Mayor Bufford invited Councilmember comment. Councilmember George thanked Commissioner Ferguson for his service and commitment to the community. Mayor Bufford invited public comment; none were provided.

The Motion Carried (4-0).

C. Proclamation of Appreciation: Planning Commissioner Andreas Schonger

Councilmember Wittner read the proclamation titled “Proclamation of Appreciation: Planning Commissioner Andreas Schonger” into the record. **Councilmember George MOVED to authorize the Mayor’s signature on the proclamation proclaiming their recognition and gratitude to Planning Commissioner Andreas Schonger; seconded by Councilmember Wittner.** Mayor Bufford invited Councilmember comment; none were provided. Mayor Bufford invited public comment; none were provided.

The Motion Carried (4-0).

D. Planning Commissioner Appointments

Mayor Bufford reported on the recommended appointments of Matthew Green and Anthony Chelf to the Planning Commission.

Councilmember George MOVED to confirm the Mayor’s appointments of Matthew Green to Planning Commission Position No. 3, effective August 25, 2026, through June 15, 2030, and Anthony Chelf to Planning Commission Position No. 4, effective August 25, 2026 through June 15, 2027; seconded by Councilmember Wittner. Mayor Bufford invited Councilmember comment. Council discussions included the missing agenda summary, thanking community members who applied, and the interview process. Mayor Bufford invited public comment; none were provided.

The Motion Carried (4-0).

E. Pierce Transit Service Expansion Package Presentation

Pierce County Councilmember Rosie Ayala, Pierce Transit Board Vice Chair, introduced Pierce Transit representatives Chief Financial Officer Christopher Schuler, Chief Administrative Officer Amy Cleveland, and Senior Planner Brittany Carbullido, who provided an overview of Proposition 1.

Representatives stated that, if approved by voters, the measure would fund an approximately 47 percent increase in transit service, including new routes, increased frequency and service hours, and improvements affecting Fircrest.

Councilmember discussions included the proposed service improvements, Pierce Transit’s financial outlook, and potential impacts if the measure is not approved. Pierce Transit representatives stated that existing reserves would allow current service levels to continue for several years; however, future service adjustments may eventually be necessary without additional revenue.

CITY MANAGER COMMENTS

A. Presentation: Ezee Fiber

Director of Government Affairs Austin Christoffersen and Senior Vice President of Operations Eddie Abreu provided an overview of Ezee Fiber’s planned high-speed fiber network in Fircrest. Representatives discussed the permitting and construction process, resident notifications, right-of-way work, restoration standards, and the construction timeline.

Councilmember Viafore joined the meeting at 7:41 P.M.

Councilmember discussions included construction methods, restoration, potential impacts to sprinkler systems, contractor licensing, and residential connections. Representatives stated that Ezee Fiber would coordinate with Public Works throughout construction and restore impacted areas following completion of the work.

City Manager Masko reported that Allison Schiefer had accepted the Associate Planner position. She also provided an update on the City’s website migration project, the Civil Service Commission vacancy, and the Whittier Elementary School’s student pick-up and drop-off concerns. Council discussions included the timing of the concerns, the City’s authority under the conditional use permit, and the importance of student safety. Lastly, City Manager Masko reported that she would be on vacation and Parks and Recreation Director Grover would serve as Acting City Manager during her absence.

DEPARTMENT HEAD COMMENTS

- Police Chief Celis provided a departmental update to include calls for service, Officer Bounds' field training, and upcoming annual firearms qualification training. Chief Celis recognized Officer Lease and read a letter of commendation regarding Officer Lease's actions during a 2024 shots-fired investigation. Councilmember Reynolds congratulated Officer Lease and requested information about an incident regarding a recent credit-card fraud case.

COUNCILMEMBER COMMENTS

- Councilmember George; no comment.
- Councilmember Wittner; no comment.
- Councilmember Viafore commented on the Whittier Elementary School Replacement Project and expressed concerns regarding the choice of roofing material.
- Councilmember Reynolds congratulated Officer Lease and welcomed Officer Sood to the Fircrest Police Department.
- Mayor Bufford reported on interest in holding a future joint meeting between the Fircrest and University Place City Councils. Mayor Bufford requested Council consensus to postpone the scheduled Executive Session until a future meeting when all Councilmembers could attend. There were no objections from the Council.

PUBLIC COMMENTS FOR ITEMS NOT ON THE AGENDA

Mayor Bufford invited public comment.

- Jack Fallat, 909 Forrest Park Drive, expressed concerns regarding traffic and speeding on Forrest Park Drive. He stated that he previously submitted a neighborhood petition and requested if he could personally purchase and install a 25-mph speed limit sign on his private property. The Council requested that City Manager Masko research and follow up.
- Deborah Alyea, 112 Regents Boulevard #3, commented on the possibility of establishing a designated off-leash dog park in Fircrest.
- Ayanna Tapp, no address provided, commented on a recent experience in Fircrest and spoke about the importance of kindness, compassion, accountability, and community.

COMMITTEE, COMMISSION, AND LIAISON REPORTS**A. Parks, Recreation, and Sustainability**

Councilmember Viafore provided a positive comment on the Community Center's current operations and activities.

B. Police/Public Safety and Court

Councilmember George reported on the law enforcement simulator and commented on the realistic scenarios. He expressed appreciation for the opportunity to practice decision-making in a controlled environment.

C. Public Works and Facilities

There was no report.

D. Pierce County Regional Council

Councilmember Reynolds reported the Pierce County Regional Council did not meet in August.

AUGUST 25, 2026

FIRCREST CITY COUNCIL MEETING MINUTES – REGULAR 4

E. Other Liaison Reports

There were none.

CONSENT CALENDAR

Mayor Bufford requested the City Clerk read the Consent Calendar:

- A. Approval of Check No. 224972 through No. 225040 in the amount of \$198,622.46
Approval of Check No. 14643 through No. 14643 in the amount of \$372.83
Approval of payroll electronic funds transfer in the amount of \$213,168.85
- B. Setting a Public Hearing on September 8, 2026, at 7:00 P.M. or shortly thereafter on the Critical Areas Ordinance Update
- C. Setting a Public Hearing on October 27, 2026, at 7:00 P.M. or shortly thereafter on the 2027 Revenue Sources
- D. Setting a Public Hearing on October 27, 2026, at 7:00 P.M. or shortly thereafter on the 2027 Preliminary Budget
- E. Setting a Public Hearing on November 10, 2026, at 7:00 P.M. or shortly thereafter on the 2027 Preliminary Budget
- F. Approval of the August 11, 2026, Regular Meeting minutes

Councilmember George MOVED to approve the Consent Calendar as amended; seconded by Councilmember Wittner.

The Motion Carried (5-0).

PUBLIC HEARING

There was no public hearing scheduled.

UNFINISHED BUSINESS

There was no unfinished business.

NEW BUSINESS

A. Resolution No. 2036: Rescinding Resolution No. 2021

City Manager Masko briefed the Council on the proposed resolution and stated that Resolution No. 2036 would rescind Resolution No. 2021, which authorized placing the Emergency Medical Services levy renewal on the November General Election ballot if the levy failed at the August Primary Election. City Manager Masko reported that voters approved the EMS levy at the August Primary Election. **Councilmember George MOVED to adopt Resolution No. 2036, rescinding Resolution No. 2021; seconded by Councilmember Wittner.** Mayor Bufford invited Councilmember comment; none were provided. Mayor Bufford invited public comment; none were provided.

The Motion Carried (5-0).

AUGUST 25, 2026

FIRCREST CITY COUNCIL MEETING MINUTES – REGULAR 5

B. Resolution No. 2037: Greenleaf Landscaping Amendment No. 8

City Manager Masko briefed the Council on the proposed resolution and highlighted that the amendment would provide for restoration of landscaping damaged during a vehicle collision on Emerson Street. Damage included the City entrance sign, irrigation, landscaping, decorative lighting, and two crimson maple trees. She reported that the City was seeking restitution through Municipal Court. **Councilmember George MOVED to adopt Resolution No. 2037, authorizing the City Manager to execute Amendment No. 8 to the Professional Services Agreement with Greenleaf Landscaping, Inc. to repair damage to the landscaping on Emerson Street; seconded by Councilmember Wittner.** Mayor Bufford invited Councilmember comment. There was a brief discussion on the timeline for the restoration. Mayor Bufford invited public comment; none were provided.

The Motion Carried (5-0).

CALL FOR FINAL COMMENTS

There was a brief discussion on the recent Council goals workshop and appreciation for the opportunity to discuss priorities and goals.

Mayor Bufford thanked meeting attendees for their participation.

EXECUTIVE SESSION

The Executive Session was removed from the agenda and postponed to a future meeting.

ADJOURNMENT

Councilmember Wittner MOVED to adjourn the meeting at 8:54 P.M., seconded by Councilmember George.

The Motion Carried (5-0).

Nikki Bufford, Mayor

Arlette Burkhart, City Clerk

CALL TO ORDER, PLEDGE OF ALLEGIANCE, AND ROLL CALL

Mayor Bufford called the regular meeting to order at 7:00 P.M. and led the Pledge of Allegiance. Councilmembers David M. Viafore, Shannon Reynolds, Brett L. Wittner, Karen Mauer-Smith, Hunter T. George, and Joe Barrentine were present.

Councilmember Reynolds attended the meeting virtually.

PRESIDING OFFICER’S REPORT**A. Proclamation: Patriot Day**

Councilmember George read the proclamation titled “Patriot Day” into the record. **Councilmember Wittner MOVED to authorize the Mayor’s signature on the proclamation recognizing September 11, 2026, as Patriot Day and National Day of Service and Remembrance in recognition of the 25th anniversary of the September 11, 2001 terrorist attacks; seconded by Councilmember Mauer-Smith.** Mayor Bufford invited Councilmember comment. Mayor Bufford reported that the City of University Place will hold its annual event commemorating September 11th. Mayor Bufford invited public comment; none were provided.

The Motion Carried (7-0).**CITY MANAGER COMMENTS**

There were no comments.

DEPARTMENT HEAD COMMENTS

- Police Chief Celis provided a report on calls for service, field training for the new Police Officers, fitness equipment purchased through a wellness grant, preparations for the start of schools and traffic impacts, and provided an update on a previously reported wallet theft.

COUNCILMEMBER COMMENTS

- Councilmember Viafore; no comment
- Councilmember Wittner; no comment
- Councilmember George; no comment.
- Councilmember Mauer-Smith; no comment.
- Councilmember Barrentine; no comment.
- Councilmember Reynolds; no comment.
- Mayor Bufford; no comment.

PUBLIC COMMENTS FOR ITEMS NOT ON THE AGENDA

Mayor Bufford invited public comment.

- Justin and Maddie Goh, 1108 Panorama Drive, expressed concerns regarding the length, communication, and costs associated with the building permit process for their residential remodel.
- Michelle Kokic, no address provided, expressed concerns and encouraged the City to review the permitting process.

The Council requested that additional information regarding the matter be brought back for review.

- Cameron Johnson, San Juan Avenue, thanked the Council, Parks and Recreation Director Bemis, and the Public Works Department for the bicycle lane on Regents Boulevard.

COMMITTEE, COMMISSION, AND LIAISON REPORTS**A. Administration**

Councilmember Mauer-Smith reported that staff is preparing materials for discussion on the public safety sales tax at the upcoming Study Session. City Manager Masko is working on the website project, automated traffic enforcement program, and follow-up materials from the Council Goals Workshop.

B. Built Environment, Planning, and Building

Councilmember Wittner encouraged Councilmembers to meet the City's new Associate Planner.

C. Finance and Information Technology

Councilmember Barrentine reported that Finance Director Deskins continues to work on the budget.

D. Pierce Transit

Councilmember Reynolds reported that the Pierce Transit Board is working on the upcoming ballot measure.

E. South Sound Housing Affordability Partners

Councilmember George reported that the South Sound Housing Affordability Partners adopted its legislative agenda, which included affordable housing funding and tax incentives, local implementation flexibility, and a pause on new housing mandates. He stated that he would provide Council with a summary of the legislative agenda.

F. Other Liaison Reports

There were no other reports.

CONSENT CALENDAR

Mayor Bufford requested the City Clerk read the Consent Calendar.

- A.** Approval of Check No. 225041 through 225120 in the amount of \$568,219.49
Approval of Check No. 14644 through 14645 in the amount of \$9,303.44
Approval of Check No. 14646 through 14655 in the amount of \$90,833.04
Approval of payroll electronic funds transfer in the amount of \$207,567.56

- B.** Approval of August 17, 2026, Special Meeting Minutes

Councilmember George MOVED to approve the Consent Calendar as read; seconded by Councilmember Mauer-Smith.

The Motion Carried (7-0).

SEPTEMBER 08, 2026

FIRCREST CITY COUNCIL MEETING MINUTES – REGULAR 3

PUBLIC HEARING

At 7:26 P.M., Mayor Bufford opened the public hearing, stating that the public hearing was to receive comments on the Critical Areas Ordinance Update. Planning Consultant Kim Gunderson reviewed the proposed Critical Areas Ordinance Update, including amendments required under the Growth Management Act and state agency guidance. Mayor Bufford invited Councilmember comments.

Councilmember Viafore left the meeting at 7:41 P.M. and returned at 7:43 P.M.

Council discussions included wetlands, buffers, and pedestrian trails.

Mayor Bufford invited public testimony.

- Nancy Atwood, Farallone Avenue, asked for clarification on the FEMA flood zone map.

At 8:03 P.M., Mayor Bufford closed the public hearing.

UNFINISHED BUSINESS

There was no unfinished business.

NEW BUSINESS

There was no new business.

CALL FOR FINAL COMMENTS

Councilmember Viafore provided information regarding flooding near Leach Creek and improvements associated with the City of Tacoma's maintenance of the holding basin

EXECUTIVE SESSION

At 8:06 P.M., Mayor Bufford reported that the Council would take a four-minute recess and convene into Executive Session, not to exceed twenty (20) minutes, to review the performance of a public employee, pursuant to RCW 42.30.110(1)(g).

Councilmember Reynolds left the meeting at 8:30 P.M.

The Council reconvened at 8:31 P.M., and no action was taken.

ADJOURNMENT

Councilmember Wittner MOVED to adjourn the meeting at 8:31 P.M., seconded by Councilmember Barrentine.

The Motion Carried (6-0).

Nikki Bufford, Mayor

Arlette Burkhart, City Clerk

FIRCREST CITY COUNCIL AGENDA SUMMARY

AGENDA TOPIC: Fircrest Critical Areas Ordinance (CAO) Update

ITEM: 12A

DATE: September 22, 2026

FROM: Kim Gunderson, Mahoney Planning
Joanna Eide, City Attorney

RECOMMENDED MOTION: I move to adopt Ordinance No. _____, relating to critical area regulations updates in Title 22 of the Fircrest Municipal Code as presented.

PROPOSAL: The City Council is being asked to adopt an ordinance amending various sections of the Fircrest Municipal Code (FMC) Title 22 relating to critical area regulations required under [RCW 36.70A.070](#), Growth Management Act (GMA).

FISCAL IMPACT: None identified.

ADVANTAGE: These amendments will ensure compliance with the GMA and restore the City's eligibility for monies sourced from [Chapter 43.155 RCW](#) (Public Works Projects) and [Chapter 70A.135 RCW](#) (Water Pollution Control Facilities Financing).

DISADVANTAGES: None identified.

ALTERNATIVES: None.

BACKGROUND: As a fully planning city subject to the GMA, Fircrest is required to update its CAO in alignment with the schedule set forth in [RCW 36.70A.130](#)(7)(a)(ii). 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 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 Chapter 43.155 RCW and Chapter 70A.135 RCW.

The Planning Commission has been working with the City's contracted planning consultant, Mahoney Planning, to update the Fircrest CAO to comply with the GMA, adopt evolving best available science, and reflect the City's adopted goals and policies through its implementing critical area regulations. This effort began in winter 2025 and has undergone all required state noticing and SEPA review, receiving comments from numerous state agencies and no comments from the general public or Fircrest citizenry. All agreeable comments from agencies have been incorporated into the proposed ordinance.

The Planning Commission discussed the CAO Update draft ordinance at regular meetings on December 2, 2025, January 6, 2026, March 3, 2026, April 7, 2026, and July 7, 2026, and held a public hearing and passed Resolution No. 26-01 on August 18, 2026, recommending approval of the proposed CAO Update reflected in amendments to FMC Title 22. The City Council held a public hearing on this project on September 8, 2026.

ATTACHMENTS: [Ordinance](#)
[Exhibit A: Exhibits A-F to Ordinance](#)
[Exhibit B: Planning Commission Resolution 26-01](#)

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**CITY OF FIRCREST
ORDINANCE NO. _____**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
FIRCREST, WASHINGTON, RELATING TO UPDATES TO CRITICAL
AREAS REGULATIONS; AMENDING FIRCREST MUNICIPAL CODE
(FMC) SECTIONS 22.92.040, .090, .100, .110, .130, .150, .160, .180, .190,
.290, .300, AND .340; AMENDING FMC SECTIONS 22.93.020, .040, .070,
and .100; AMENDING FMC SECTIONS 22.94..010, .030, .050, AND .080;
AMENDING FMC SECTIONS 22.97.010, .020, .030, AND .040;
AMENDING FMC SECTIONS 22.98.179, .285, .298, .447, .579, .623, AND
.753; AMENDING FMC SECTIONS 22.100.010, .020, .040, AND .050;
REPEALING FMC SECTIONS 22.98.080, 22.98.180, 22.98.350, 22.98.544,
22.98.752, AND 22.98.785; PROVIDING FOR SEVERABILITY; AND
ESTABLISHING AN EFFECTIVE DATE.**

WHEREAS, the City of Fircrest’s (“City”) 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; and

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 purpose of the City’s critical areas regulations 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, and to implement the goals, policies, guidelines, and requirements of the City’s Comprehensive Plan and the Growth Management Act (Chapter 36.70A RCW); and

WHEREAS, the Planning Commission reviewed the amendments contained in Exhibit A, including holding briefings on December 2, 2025, January 6, 2026, March 3, 2026, April 7, 2026, and July 7, 2026, and a public hearing regarding the same on August 18, 2026; and

WHEREAS, the Planning Commission adopted Resolution No. 26-01 on August 18, 2026, recommending the City Council approve the proposed amendments as they appear in Exhibit A; and

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WHEREAS, the City Council of the City of Fircrest has reviewed and approves of the findings of the Planning Commission as described in Planning Commission Resolution No. 26-01, attached hereto as Exhibit B and incorporated by this reference; and

WHEREAS, the City Council has reviewed the proposed amendments in light of the factors in FMC 22.92.040 and finds that such factors have been considered in reviewing the proposed development regulation amendments in Exhibit A; and

WHEREAS, after providing legally required public notice, the City Council held a public hearing on September 8, 2026, to accept public testimony and comment on the proposed code amendments; and

WHEREAS, the City Council finds that the amendments to critical areas regulations as proposed in Exhibits A-G attached hereto are consistent with and supportive of goals, policies, and implementation strategies in the Fircrest Comprehensive Plan and Fircrest Municipal Code (“FMC”), bear a substantial relation to public health, safety, and welfare, and promote the best long-term interests of the community of the City of Fircrest;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF FIRCREST DO ORDAIN AS FOLLOWS:

Section 1. FMC Chapter 22.92 (Critical Areas) Amendments. The following Sections of Fircrest Municipal Code Chapter 22.92 (Critical Areas) are amended as set forth in Exhibit A attached hereto and by this reference fully incorporated herein:

- FMC 22.92.040 Jurisdiction – Critical Areas,
- FMC 22.92.090 Exception – Public agency and utility,
- FMC 22.92.100 Exception – Reasonable use,
- FMC 22.92.110 Allowed activities,
- FMC 22.92.130 Critical area preapplication consultation,
- FMC 22.92.150 Public notice of initial determination,
- FMC 22.92.160 Critical area report – Requirements,
- FMC 22.92.180 Mitigation requirements,
- FMC 22.92.190 Mitigation sequencing,
- FMC 22.92.290 Unauthorized critical area alterations and enforcement,
- FMC 22.92.300 Critical area markers and signs, and
- FMC 22.92.340 Building setbacks.

Section 2. FMC Chapter 22.93 (Wetlands) Amendments. The following sections of Fircrest Municipal Code Chapter 22.93 (Wetlands) are amended as set forth in Exhibit B attached hereto and by this reference fully incorporated herein:

- FMC 22.93.020 Regulated activities,
- FMC 22.93.040 Wetland ratings,
- FMC 22.93.070 Compensatory mitigation requirements, and
- FMC 22.93.100 Wetland buffers.

Section 3. FMC Chapter 22.94 (Critical Aquifer Recharge Areas) Amendments.

The following sections of Fircrest Municipal Code Chapter 22.94 (Critical Aquifer Recharge Areas) are amended as set forth in Exhibit C attached hereto and by this reference fully incorporated herein:

- FMC 22.94.010 Critical aquifer recharge areas designation,
- FMC 22.94.030 Location and designation of critical aquifer recharge areas,
- FMC 22.94.050 Critical area report – Additional requirements for critical aquifer recharge areas, and
- FMC 22.94.080 Uses prohibited from critical aquifer recharge areas.

Section 4. FMC Chapter 22.97 (Fish and Wildlife Habitat Conservation Areas) Amendments.

The following sections of Fircrest Municipal Code Chapter 22.97 (Fish and Wildlife Habitat Conservation Areas) are amended as set forth in Exhibit D attached hereto and by this reference fully incorporated herein:

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

Section 5. FMC Chapter 22.98 (Definitions) Amendments.

The following sections of Fircrest Municipal Code Chapter 22.98 (Definitions) are amended as set forth in Exhibit E attached hereto and by this reference fully incorporated herein:

- FMC 22.98.179 Critical aquifer recharge area,
- FMC 22.98.285 Fish and wildlife habitat conservation areas,
- FMC 22.98.298 Frequently flooded areas,
- FMC 22.98.447 Mitigation,
- FMC 22.98.579 Qualified professional,
- FMC 22.98.623 Seismic hazard areas, and
- FMC 22.98.753 Wellhead protection area (WHPA).

Section 6. FMC Chapter 22.100 (Geologically Hazardous Areas) Amendments.

The following sections of Fircrest Municipal Code Chapter 22.100 Geologically Hazardous Areas) are amended as set forth in Exhibit F attached hereto and by this reference fully incorporated herein:

- FMC 22.100.010 Designation of geologically hazardous areas,
- FMC 22.100.020 Designation of specific hazard areas,
- FMC 22.100.040 Mapping of geologically hazardous areas, and
- FMC 22.100.050 Activities allowed in geologically hazardous areas.

Section 7. FMC Section 22.98.080, Repealed.

Fircrest Municipal Code Section 22.98.080 (Aquifer, confined) is hereby repealed in its entirety.

Section 8. FMC Section 22.98.180, Repealed.

Fircrest Municipal Code Section 22.98.180 (Critical area inventory maps) is hereby repealed in its entirety.

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Section 9. FMC Section 22.98.350, Repealed. Fircrest Municipal Code Section 22.98.350 (Hyporheic zone) is hereby repealed in its entirety.

Section 10. FMC Section 22.98.544, Repealed. Fircrest Municipal Code Section 22.98.544 (Porous soil types) is hereby repealed in its entirety.

Section 11. FMC Section 22.98.752, Repealed. Fircrest Municipal Code Section 22.98.752 (Well) is hereby repealed in its entirety.

Section 12. FMC Section 22.98.785, Repealed. Fircrest Municipal Code Section 22.98.785 (Zone of contribution) is hereby repealed in its entirety.

Section 13. Severability. If any section, sentence, clause, or phrase of this title shall be held invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this title.

Section 14. Publication and Effective Date. A summary of this ordinance consisting of its title shall be published in the official newspaper of the City. This ordinance shall be effective five (5) days after such publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF FIRCREST, WASHINGTON, at a regular meeting thereof this 22nd day of September, 2026.

APPROVED:

Nikki Bufford, Mayor

ATTEST:

Arlette Burkhardt, City Clerk

APPROVED AS TO FORM:

Joanna Eide, City Attorney

Publication Date:
Effective Date:

EXHIBIT A
AMENDMENTS TO SECTIONS IN CHAPTER 22.92 FMC

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.~~

~~(e)~~ (b) 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).

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EXHIBIT B

AMENDMENTS TO SECTIONS IN CHAPTER 22.93 FMC

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)	<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 24 :1 E	8:1
All Category II	3:1	6 :1	1:1 R/C and 8 :1 E	12:1
Category I Forested	6:1	12:1	1:1 R/C and 10 20 :1 E	24:1
Category I based on score for functions	4:1	8:1	1:1 R/C and 6 12 :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
Category I Bog	Not considered possible*	6:1-rehabilitation-of-a-bog	Case-by-case	Case-by-case

* 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>
Category I	Habitat score of 8-9 points	300'	225'	150'
Category I	Habitat score of 6-7 points	150'	110'	75'
Category I	Water quality score of 8-9 points and a habitat score of less than 6 points	100'	75'	50'
Category I	Wetlands that do not meet the characteristics described above for category I wetlands	100'	75'	50'
Category II	Habitat score of 8-9 points	300'	225'	150'
Category II	Habitat score of 6-7 points	150'	110'	75'
Category II	Water quality score of 8-9 points and a habitat score of less than 6 points	100'	75'	50'
Category II	Wetlands that do not meet the characteristics described above for category II wetlands	100'	75'	50'
Category III	Habitat score of 8-9 points	300'	225'	150'
Category III	Habitat score of 6-7 points	150'	110'	75'
Category III	Habitat score of 3-5 points	80'	60'	40'
Category IV	Scores for all 3 basic functions are less than 16 points	50'	40'	25'

Table 22.93.C Required Measures to Minimize Impacts to Wetlands

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

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

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

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

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).

EXHIBIT C

AMENDMENTS TO SECTIONS IN CHAPTER 22.94 FMC

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).

EXHIBIT D

AMENDMENTS TO SECTIONS IN CHAPTER 22.97 FMC

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 ~~232-12-292~~[220-610-100](#)). 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
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).

EXHIBIT E

AMENDMENTS TO SECTIONS IN CHAPTER 22.98 FMC

~~**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.~~

EXHIBIT F AMENDMENTS TO SECTIONS IN CHAPTER 22.100 FMC

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 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.

(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).

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**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

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

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

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

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

12 **APPROVED:**

13 
Kathy McVay, Chair

14 **ATTEST:**

15 
16 Danielle O'Galleher, Permit Coordinator

FIRCREST CITY COUNCIL AGENDA SUMMARY

AGENDA TOPIC: Amending Resolution No. 2025

ITEM: 13B

DATE: September 22, 2026

FROM: Joanna Eide, City Attorney
Tyler Bemis, Public Works Director

RECOMMENDED MOTION: I move to adopt Resolution No. _____, correcting the title of Resolution No. 2025 to match the substance of said Resolution.

PROPOSAL: The City Council is being asked to adopt a Resolution amending the title of Resolution No. 2025, which was adopted by the City Council on May 12, 2026.

FISCAL IMPACT: None.

ADVANTAGE: The Resolution title will correctly reference the project name authorized by the Resolution, ensuring no potential issues or questions about the validity of the City's actions.

DISADVANTAGES: None identified.

ALTERNATIVES: None.

BACKGROUND: On May 12, 2026, the City Council adopted Resolution No. 2025 authorizing the City Manager to execute a Public Works Contract with Marv's Backhoe Service for \$32,369.40 for the Regents Water Service Turnaround Project. The City subsequently executed the contract, and the project has been completed.

During a later review of City records, staff identified that the title of Resolution No. 2025 inadvertently referenced a different contract and did not accurately represent the subject and intent of the Resolution. The body of the Resolution correctly authorized the contract with Marv's Backhoe Service for the Regents Water Service Turnaround Project.

The proposed Resolution amends Resolution No. 2025 solely to correct its title so it accurately reflects the substance of the Resolution and maintains clear and consistent City records. No changes are being made to the contract authorization or other provisions of Resolution No. 2025.

ATTACHMENTS: [Resolution](#)

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**CITY OF FIRCREST
RESOLUTION NO. ____**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
FIRCREST, WASHINGTON, AMENDING RESOLUTION NO. 2025
RELATING TO THE AUTHORIZATION GRANTED TO THE CITY
MANAGER TO EXECUTE A PUBLIC WORKS CONTRACT WITH
MARV’S BACKHOE SERVICE FOR THE REGENTS WATER
SERVICE TURNAROUND PROJECT TO MAKE CORRECTIONS
TO THE TITLE OF SAID RESOLUTION.**

WHEREAS, the City of Fircrest (“City”) owns and operates a municipal water system; and

WHEREAS, portions of the water system included aging backyard service connections supplied by obsolete concrete transite mains; and

WHEREAS, a failure of such infrastructure occurred in November 2025, resulting in the abandonment of a section of water main and transition to a higher pressure system; and

WHEREAS, the City identified the need to convert nine (9) backyard water services to front yard connections to improve system reliability, accessibility, and safety; and

WHEREAS, funding for the project was identified in the 2026 Water Capital Fund; and

WHEREAS, the City Council approved Resolution No. 2025 at its regular meeting on May 12, 2026, authorizing and directing the City Manager to execute a Public Works Contract with Marv’s Backhoe Service in the amount of \$32,369.40 for the Regents Water Service Turnaround Project; and

WHEREAS, subsequent to the passage of Resolution No. 2025, the City Manager entered into said contract with Marv’s Backhoe Service as authorized by Council, and the Regents Water Turnaround Project has since been completed; and

WHEREAS, upon a later review of records, the City Clerk and Public Works Director identified that the title of Resolution No. 2025 referred to a different contract than the subject and intent of the Resolution; and

WHEREAS, while RCW 35A.21.010 provides that the validity of an ordinance or resolution is not impacted due to deficiencies in form when certain conditions are met, which are likely present in this instance, the titles of resolutions should match the substance thereof to avoid potential issues or questions regarding the validity of City actions, and such errors, when identified, should be corrected to ensure continuity and accuracy of City records;

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NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FIRCREST:

Section 1. The Fircrest City Council hereby amends Resolution No. 2025, making corrections to the title to match the substance of said Resolution as follows:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FIRCREST, WASHINGTON, AUTHORIZING THE CITY MANAGER TO EXECUTE A PUBLIC WORKS CONTRACT WITH MARV’S BACKHOE SERVICE FOR THE REGENTS WATER SERVICE TURNAROUND PROJECT.

APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF FIRCREST, WASHINGTON, at a regular meeting thereof this 22nd day of September 2026.

APPROVED:

Nikki Bufford, Mayor

ATTEST:

Arlette Burkhart, City Clerk

APPROVED AS TO FORM:

Joanna Eide, City Attorney

FIRCREST CITY COUNCIL AGENDA SUMMARY

AGENDA TOPIC: Ethos PNW Professional Services Agreement Amendment #3

ITEM: 13C

DATE: September 22, 2026

FROM: Dawn Masko, City Manager

RECOMMENDED MOTION: I move to adopt Resolution No. _____, authorizing the City Manager to execute Amendment #3 to the Professional Services Agreement with Ethos PNW for on-call planning consulting services.

PROPOSAL: The City Council is being asked to authorize the City Manager to execute Amendment #3 to the Professional Services Agreement with Ethos PNW for on-call planning consulting services.

FISCAL IMPACT: The total cost of services is being increased by \$20,000 to a not-to-exceed amount of \$112,000. Current hourly rates are \$200 per hour for virtual services and \$225 per hour for in-person services. The consultant's fees are being passed through to the applicant for the Whittier Elementary School replacement project.

ADVANTAGE: This amendment will enable Ethos PNW to continue providing planning services for the Whittier Elementary School replacement project.

DISADVANTAGES: None identified.

ALTERNATIVES: None. The City does not have the technical expertise in-house to provide these services.

BACKGROUND: The City has experienced significant transitions in the Planning & Building Department and has been short-staffed for technical support. To address the need for professional planning support, the City entered into a professional services agreement with Ethos PNW.

Ethos PNW provides a comprehensive range of on-call permitting, land use, and development services, with its primary focus on the Whittier Elementary School replacement project.

ATTACHMENTS: [Resolution](#)
[Professional Services Agreement Amendment #3](#)

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**CITY OF FIRCREST
RESOLUTION NO. ____**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
FIRCREST, WASHINGTON, AUTHORIZING THE CITY
MANAGER TO EXECUTE AMENDMENT #3 TO THE
PROFESSIONAL SERVICES AGREEMENT WITH ETHOS PNW
FOR PLANNING CONSULTING SERVICES.**

WHEREAS, the City of Fircrest has contracted with Ethos PNW to provide planning consulting services; and

WHEREAS, the City of Fircrest has identified funds for these services in the annual budget; and

WHEREAS, the payment amount for said Agreement needs to be adjusted to allow for the level of services needed; and

WHEREAS, the City of Fircrest wishes to continue utilizing Ethos PNW for these services;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE
CITY OF FIRCREST:**

Section 1. The City Manager is hereby authorized and directed to execute Amendment #3 to the professional services agreement with Ethos PNW for planning consulting services.

**APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF
FIRCREST, WASHINGTON,** at a regular meeting thereof this 22nd day of September 2026.

APPROVED:

Nikki Bufford, Mayor

ATTEST:

Arlette Burkhart, City Clerk

APPROVED AS TO FORM:

Joanna M. Eide, City Attorney

**AMENDMENT #3
TO THE CITY OF FIRCREST
PROFESSIONAL SERVICES AGREEMENT
WITH ETHOS PNW**

This Third Amendment is hereby made and entered into this 22nd day of September 2026 by and between the City of Fircrest, a political subdivision of the State of Washington, hereinafter referred to as the “City,” and Ethos PNW, hereinafter referred to as “Consultant”.

WITNESSETH:

1. **Purpose:** The purpose of this Third Amendment is to amend the March 25, 2025, agreement. This amendment is limited to the amendments set forth herein. All remaining terms and conditions of the original agreement dated March 25, 2025, Amendment #1, dated October 14, 2025, and Amendment #2, dated July 14, 2026 shall remain in full force and effect. The amendment is as follows:

2. Section 4 is hereby amended to read as follows:

PAYMENT. The Consultant shall provide the City with monthly invoices that itemize the work performed by task, the time spent, and the related charges. The City shall pay the invoice amount within thirty (30) days. Consultant shall be paid a total amount not to exceed One Hundred and Twelve Thousand Dollars and 0/100 (\$112,000) without written modification of this Agreement signed by the City.

IN WITNESS WHEREOF, the parties to these presents have executed this contract in three counterparts, each of which shall be deemed as originals, in the year and day first mentioned above.

CITY OF FIRCREST

ETHOS PNW

By: _____
Dawn Masko, City Manager

By: _____
Lindsey Sehmel, Owner

Approved as to Form:

By: _____
Joanna M. Eide, City Attorney

FIRCREST CITY COUNCIL AGENDA SUMMARY

AGENDA TOPIC: AWC Workers' Compensation Retro Program

ITEM: 13D

DATE: September 22, 2026

FROM: Dawn Masko, City Manager

RECOMMENDED MOTION: I move to adopt Resolution No. _____, authorizing the City Manager to execute a Participation Agreement with the Association of Washington Cities (AWC) for participation in the Workers' Compensation Retro Program Retro Pool.

PROPOSAL: The City Council is being asked to authorize the City Manager to execute a Participation Agreement with the Association of Washington Cities (AWC) for the City's participation in the Workers' Compensation Retro Program Retro Pool.

If the Council chooses to participate in the Retro Program Retro Pool, it would become effective January 1, 2027, following review and approval by the Retro Program Board of Directors.

BACKGROUND: The Association of Washington Cities (AWC) Workers' Compensation Retro Program provides participating jurisdictions with workers' compensation claims management, workplace safety and risk management services, training, and assistance with the Washington State Department of Labor & Industries (L&I) Stay at Work Program. The program helps participating employers reduce workplace injuries, manage claims more effectively, control workers' compensation costs, and return injured employees to work safely and efficiently.

The Retro Program offers two participation options: the Retro Pool and the Safety Alliance. The Retro Pool is a risk-sharing program with membership criteria based on annual workers' compensation premiums and loss ratios. Unlike the Safety Alliance, Retro Pool members participate in the financial risk and reward associated with the Pool's performance.

AWC initially reviewed the City's workers' compensation experience and determined that the City did not qualify for participation in the Retro Pool due to the impact of prior claims on the City's loss experience. During the most current review, AWC assisted the City in addressing an ongoing issue with L&I regarding an assigned percentage of liability associated with an ongoing claim that was adversely impacting the City's experience rating and would have negatively impacted future L&I premium rates. After resolving that issue, AWC reevaluated the City's claims experience and determined that Fircrest now qualifies for participation in the Retro Pool.

Based on the City's current staffing and workers' compensation classifications, AWC projects the City's 2026 total L&I premium at approximately \$127,115. The annual service fee for participation in the AWC Retro Program is 6.5% of the City's total premium, resulting in a projected annual program fee of approximately \$8,262.

The AWC Retro Pool currently includes numerous Washington cities and public agencies, including nearby jurisdictions such as Gig Harbor, Lakewood, DuPont, Milton, Steilacoom, Sumner, and Parks Tacoma.

FISCAL IMPACT: Based on AWC's 2026 projection, the City's annual Retro Program service fee is approximately \$8,262, calculated at 6.5% of the City's projected \$127,115 total workers' compensation premium. Actual future costs will vary based on the City's L&I premiums.

The City does not currently incur costs for contracted workers' compensation claims management services; therefore, the program fee represents a new operating expense. However, participation is expected to reduce the staff time devoted to managing claims and may reduce the need for legal assistance in certain contested claim matters. The Retro Pool also provides the potential for future refunds based on the Pool's overall performance and the City's claims experience.

ADVANTAGES: Participation in the Retro Pool would provide the City with specialized workers' compensation claims management expertise that is not currently available internally. AWC provides proactive review of claims to identify cost drivers and opportunities for early resolution, as well as assistance with protests, appeals, mediation, and L&I incident and investigation reviews.

While AWC would not replace the City Attorney or outside counsel when legal representation is necessary, earlier involvement by workers' compensation specialists may reduce the amount of staff time required to manage complex claims and help resolve issues before they escalate into more costly proceedings.

AWC also assists members with L&I's Stay at Work program, including facilitating available wage reimbursements and helping injured employees return to work safely and productively. Membership also includes safety program guidance, on-site safety inspections, risk management consultation, customized and online training, OSHA tracking, and other loss-prevention resources.

DISADVANTAGES: The annual program fee represents a new operating expense and is incurred regardless of the number or complexity of workers' compensation claims in a particular year.

ALTERNATIVES: The City could continue to manage workers' compensation claims internally and not join the Retro Pool. This would avoid the annual program fee but would require City staff to continue managing claims without the specialized claims management, safety, risk management, and return-to-work resources provided through the Retro Program.

ATTACHMENTS: [Resolution](#)
[AWC Retro Pool Participation Agreement](#)
[AWC Retro Pool Proposal](#)

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**CITY OF FIRCREST
RESOLUTION NO. ____**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
FIRCREST, WASHINGTON, AUTHORIZING THE CITY
MANAGER TO EXECUTE A PARTICIPATION AGREEMENT
WITH THE ASSOCIATION OF WASHINGTON CITIES (AWC)
FOR THE WORKERS’ COMPENSATION RETRO PROGRAM
RETRO POOL.**

WHEREAS, Chapter 39.34 RCW authorizes units of government within the State of Washington to enter into cooperative agreements for the provision of goods and services; and

WHEREAS, the Association of Washington Cities (“AWC”) administers a Workers’ Compensation Retro Program that provides participating public employers with workers’ compensation claims management, loss prevention, workplace safety and risk management services, training, and assistance with the Washington State Department of Labor & Industries (“L&I”) Stay at Work Program; and

WHEREAS, through the Retro Program, AWC provides proactive claims review and assistance intended to identify cost drivers, facilitate early resolution of claims, assist with protests, appeals, mediation, and L&I investigations, and help participating employers safely return injured employees to work; and

WHEREAS, AWC has reviewed the City of Fircrest’s workers’ compensation experience and determined that the City qualifies for participation in the Workers’ Compensation Retro Pool; and

WHEREAS, participation in the Retro Pool will provide the City with access to specialized workers’ compensation claims management, and safety, loss prevention, risk management, training, and return-to-work resources, while providing the opportunity for financial returns based upon the performance of the Pool; and

WHEREAS, the City Council has determined that participation in the AWC Workers’ Compensation Retro Program Retro Pool is in the best interests of the City;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FIRCREST:

Section 1. The City Manager is hereby authorized and directed to execute a Participation Agreement with the Association of Washington Cities Workers’ Compensation Retro Program Retro Pool and to take such administrative actions as may be reasonably necessary to implement the City’s participation in the AWC Retro Pool.

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**APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF
FIRCREST, WASHINGTON**, at a regular meeting thereof this 22nd day of September
2026.

APPROVED:

Nikki Bufford, Mayor

ATTEST:

Arlette Burkhart, City Clerk

APPROVED AS TO FORM:

Joanna M. Eide, City Attorney

Association of Washington Cities
Workers' Compensation Retro Program
Retro Pool

Participation Agreement

Government, utilities, and related services

City of Fircrest

Member name

055,112-00

L&I account number

As a member in good standing with the Association of Washington Cities, this Participation Agreement is made and entered into between the Association of Washington Cities Retro Program, a member service of the Association of Washington Cities ("AWC") and [insert member name] ("Member") for participation in the Retro Program for Retro Pool ("AWC Retro Pool") services.

Program services are provided pursuant to the agreement between the Association of Washington Cities ("AWC") and the Washington State Department of Labor and Industries ("L&I"). Membership is subject to approval by L&I after submittal of the required "Application for Group Membership and Authorization for Release of Insurance Data" (L&I retro application form).

AWC Retro Program:

The AWC Retro Program's Retro Pool is an approved retrospective rating pool under RCW 51.18 and L&I retrospective rating program rules WAC 296-17B.

Terms of participation are set forward in the AWC Retro Program Policies approved by the AWC Retro Board with the recommendations of the Retro Advisory Committee. The program policies set forth two classes of membership with separate eligibility requirements and conditions for participation:

- 1. Retro Pool members
- 2. Safety Alliance members

The Retro Program Policies may be updated from time to time by the AWC Retro Board with or without notice to members.

1. Mission and goals

Mission

- A. Professional management of all L&I claims;
- B. Proactive risk management; and
- C. A forum for innovative techniques in risk reduction.

Goals of the program

- A. Be the premier workers' compensation program in the State of Washington;
- B. Achieve and maintain the highest standards for comprehensive employee safety programs; and
- C. Provide financial stability and exceptional stewardship of public resources.

2. Administration and management of the program:

AWC is responsible for the day-to-day operation of the Retro Program, which include:

- A. Assisting Retro Pool members in reducing the frequency and severity of industrial injuries;
- B. Educating Retro Pool members in the most appropriate ways to control costs;
- C. Providing claims management services, including access to online claims management system;
- D. Providing program information and training materials;
- E. Providing loss prevention and risk management services;
- F. Reviewing each Retro Pool participant annually for qualification for membership in the AWC Retro Pool;
- G. Representation at the Board of Industrial Insurance Appeals (BIIA) through mediation;
- H. Providing assistance with abatement and appeals of DOSH citations;
- I. Gathering required information and submitting Stay at Work (SAW) reimbursement applications with L&I;
- J. Maintaining the OSHA Injury and Illness log for all members.

3. Member agrees to:

- A. Remain a member of the AWC Retro Pool through the annual coverage year;
- B. Abide by all AWC Retro Program Policies as adopted by the AWC Retro Board;
- C. During the contract term, maintain an individual account for workers' compensation insurance in good standing with the Department of Labor & Industries;
- D. Comply with all applicable laws, rules and regulations set forth by L&I;
- E. Participate in safety and loss prevention programs available as an AWC Retro Pool member, including participating in programmed safety consultations with AWC staff;
- F. Demonstrate a commitment to maintaining a safe workplace and utilizing return-to-work strategies to reduce claims costs;
- G. Maintain membership in the Association of Washington Cities through the final retro year adjustment;
- H. Pay a service fee for each plan year of participation;
- I. Provide notification 12 months in advance of the effective date of termination (December 31) if the Retro Pool member wishes to terminate the automatic renewal of the Participation Agreement;
- J. Consent that non-payment of service fees as agreed by this Participation Agreement will result in forfeiture of any refund that may otherwise be due.
- K. In the event of an assessment of pool members for a previous plan year, until such time as the third and final adjustment order of any Retro year is final and binding as provided for by WAC 296-17-90453, agree to cooperate with claims data and to pay assessments for pool liability beyond premiums for each coverage year of participation.

4. Retro Program Service Fee:

Each year the agreement is in effect, member shall pay the AWC Retro Program six- and one-half percent (6.5%) of its annual L&I premium for the previous twelve (12) month calculation prior to each year of service.

Annual payments invoiced to Member will be based on a January to December calendar year. Except for agreements effective after January 1, for the first year the Agreement is in effect, the AWC Retro Program will invoice a prorated amount through the end of calendar year.

Member will remit payment within 30 days from the date of invoice.

5. Refunds/Assessments:

- A. A refund distribution and retention policy guide the determination of the amount of refunds returned to members and the amount held in reserves, for each plan year in which L&I refunds are received. The allocation of refunds is described in the AWC Retro Program Policies. Retro Pool members also acknowledge that refunds are based on a number of factors, such as premium size, claim costs, and related factors and are not guaranteed.
- B. If a group assessment develops for any plan year, those members that caused the assessment will be assessed first, up to the maximum liability of the participating member's standard premium. If necessary to cover the assessment, the remaining members shall pay the balance on the basis of their individual percentage of the total group premium. Penalties become due and payable within 30 days of notification of the amount. If a member does NOT re-enroll in the program, any refund will be held until the final adjustment of that Retro year.
- C. Because the potential for refunds and assessments extends over several years as claims mature, members agree to cooperate with the AWC Retro Pool, its vendor partners and other agents until such time as the third and final adjustment order of any Retro year is final and binding as provided for by WAC 296-17-90453. Cooperation will include, at a minimum, access to claims data and assistance in managing claims. All claim-related communication between the Retro Pool member and L&I, the Board of Industrial Insurance Appeals, and/or the Washington State Department of Retirement Systems must include AWC. At no time may a member represent itself in an appeal, protest, or hearing without the notification to the AWC Retro Pool.

6. Annual plan choice and re-enrollment:

Prior to the beginning of any coverage year, the AWC Retro Pool will submit plan choices to L&I as adopted by the AWC Retro Board. These choices set single loss limits for each claim, whether insurance charges are a multiplier of premium or claim costs, a maximum assessment limit, and a maximum limit for refund. Prior to the beginning of each subsequent plan year, members will be notified of the plan type, minimum and maximum loss ratios, and single loss limit chosen for the following year.

7. Insurance:

The AWC Retro Program will maintain professional liability and general liability insurance through AWC of at least \$1,000,000 for each category during the performance of services. At Member's request, AWC agrees to provide certificates of insurance to evidence such coverage.

8. Indemnification/Liability:

Each party shall indemnify and hold harmless the other and its directors, officers, employees, agents, parents, subsidiaries, successors and assigns from and against any and all liabilities, claims, suits, actions, demands,

settlements, losses, judgments, costs, damages, and expenses (including reasonable attorney’s fees) arising out of or resulting from, in whole or part, the acts or omissions of the indemnifying party, its employees, agents or contractors and the indemnifying party’s affiliated companies and their employees, agents or contractors.

9. Public records:

Each party acknowledges that the other party is subject to the Washington State Public Records Act, Chapter 42.56 RCW. Any specific information that is claimed by the member to be confidential or proprietary must be clearly identified as such by the member. If a request is made to view the member’s information and AWC determines that release of the information is required by the Act or otherwise appropriate, AWC will notify the member of the request and the date that such records will be released to the requester unless member obtains a court order enjoining that disclosure. If the member fails to obtain the court order enjoining disclosure, AWC will release the requested information on the date specified.

10. Terms of agreement:

The term of this agreement shall be from the enrollment date of the Retro Program member until December 31 of that same year and renew automatically each subsequent year for additional one-year terms, in accordance with program policies and eligibility criteria. State law requires Retro Pool members to notify L&I and AWC in writing if they do not intend to participate in the Retro Pool for the next plan year. That notification to AWC must be received twelve (12) months prior to the beginning of the next plan year, and by L&I 30 days prior to the beginning of the next plan year. If a member decides not to continue AWC Retro Pool participation for the upcoming year, they must maintain AWC membership until the final adjustment for their last year of participation (to maintain eligibility for refunds and to be subject to potential assessments for Retro Pool liability beyond premiums).

Authorized by AWC Retro Program Retro Pool Member

Dawn Masko
Printed name

City Manager
Title

Signature

Date

City of Fircrest
Member city or jurisdiction

115 Ramsdell Street, Fircrest, WA 98466
Address/Street

Authorized by AWC Retro Program


Deanna Dawson, AWC CEO

Date

Proposal to Provide Workers' Comp Services to the

City of Fircrest Pool

August 27, 2026

AWC Retro



wacities.org/retro

Vision statement

Every Employee | Home Safe | Every Night

Mission statement

Through the power of pooling, we are the premier public entity workers' compensation program in the State of Washington. We achieve the highest standards for comprehensive employee safety programs. Together, we provide financial stability and exceptional stewardship of public resources.

Strategic goals

Technology – Utilize technology for optimal internal operations and provide innovative solutions, tools and resources to members

Financial Stability – Maintain the Retro Program's fiscal health and sustainability

Workplace Culture – Educate members at all levels – elected, executive, supervisory, and workers – on the value of a safe and healthy workplace and how to successfully achieve that environment

Member Services – Promote the value of Retro Program membership to current and potential members by providing meaningful and relevant services, tools and resources

City of Fircrest

2026 Premium Projection

2026 Experience Modification Factor of:
0.9316

RISK CLASS	HOURS*	NUMBER OF FULL TIME EMPLOYEES	COMBINED MANUAL RATE	MANUAL PREMIUM
0803 Public Works	39,207	19	1.3596	\$53,305.84
5305 Office & Admin	35,068	17	0.1184	\$4,152.05
6904 Fire	0	0	4.4020	\$0.00
6905 Police	17,677	8	3.3948	\$60,009.88
6906 Volunteer Police	115	0	0.7328	\$84.27

92,067
44
TOTAL
\$117,552

EXPERIENCE MODIFICATION IMPACT
(\$8,041)

**Standard Premium:
\$109,511

SUPPLEMENTAL PENSION PREMIUM (AT 2026 RATE OF 0.1912)
\$17,603

Total Premium:
\$127,115

**Service Fee to AWC Retro
\$8,262



* Hours are based on the most recent four quarters as reported to L&I.
** Standard Premium is the portion of total premium during a Retro Coverage Period.
*** Total Premium times 6.5%

Every employee | Home safe | Every night

AWC's Workers' Comp Retro Program provides training and tools that empower employers to reduce risks for on-the-job injuries. Our focus on injury prevention and safety can reduce your organization's overall workers' compensation expenses. We facilitate employers' utilization of L&I's Stay at Work program to ensure your organization receives wage reimbursements and employees are productively returning to the workplace. The AWC Retro team provides safety resources, risk management guidance, claims management support, and is a trusted resource to work with.

Our services include:

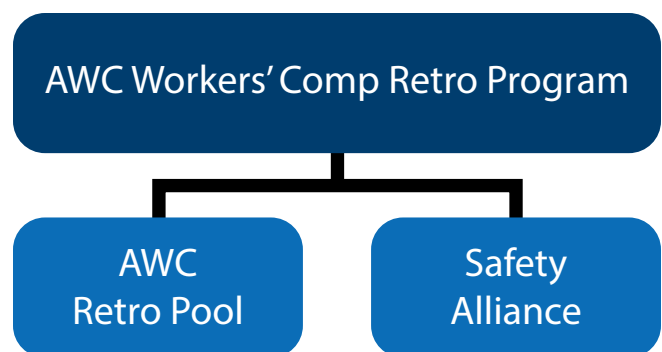
- Safety program development guidance
- Proactive review of claims to identify cost drivers, gaps, and opportunities for early resolution
- Strategic guidance through protests, appeals, and mediation to avoid costly litigation
- L&I incident and investigation review
- Facilitation of L&I's Stay at Work member reimbursement
- On-site safety inspections and safety program consultation
- Audiometric testing reimbursement
- Safety grants for members attending the Annual Meeting
- OSHA tracking for annual reporting

Governed by members

AWC's Retro Program is governed by our members. Ten member representatives make up the Retro Advisory Committee, providing input on the operations of the program to the AWC Retro Board of Directors, the final decision-making body for the Retro Program.

Member training

To ensure our workplaces are as safe as possible, AWC's Retro Program provides members the training necessary to build a culture of workplace safety. On-site and online customized trainings are available. Retro-U provides employers with online employee training resources 24/7.



Plan choices to best meet your needs.

AWC Retro Pool

The AWC Retro pool is a risk-sharing pool with membership criteria based on annual premium and loss ratios. The employers average annual standard premium must be at least \$60,000.

Safety Alliance

Safety Alliance members are not exposed to the risk/reward system of the AWC Retro Pool. AWC provides the same services provided to the Retro Pool members, including claims management services, risk management and safety services, and training.

A trusted resource

Whether enrolled in the Retro Pool or Safety Alliance, AWC's Retro staff work with members to reduce the frequency and severity of workplace injuries, and we help employers get injured workers back to work safely and quickly.



AWC Retro Program Membership

Retro Pool members

Anacortes	Mukilteo
Battle Ground	Oak Harbor
Camas	Ocean Shores
Chelan	Okanogan County
Clarkston	Othello
Clallam Transit System	Parks Tacoma
College Place	Port Angeles
Columbia County	Port Orchard
Colville	Port Townsend
Covington	Prosser
DuPont	Quincy
Duvall	Raymond
Enumclaw	Sammamish
Friday Harbor	Sequim
Garfield County	Shelton
Gig Harbor	Shoreline
Grandview	Skamania County
Issaquah	Snohomish
Jefferson County	Snoqualmie
Klickitat County	Steilacoom
Lacey	Sumner
Lakewood	Toppenish
Lincoln County	Tukwila
Mercer Island	Tumwater
Mill Creek	Valley Regional Fire
Milton	Washougal
Moses Lake	Wenatchee
Mount Vernon	West Richland
Mountlake Terrace	Whitman County

Safety Alliance members

Airway Heights	Kitsap Transit
Arlington	Lake Forest Park
Asotin County	Latah
Bainbridge Island	Leavenworth
Blaine	Long Beach
Bonney Lake	Marysville
Brewster	Medina
Brier	Monroe
Buckley	Morton
Burlington	Napavine
Carnation	North Bend
Cashmere	Odessa
Clyde Hill	Okanogan
Colfax	Olympia
Columbia Co. Public Transportation	Omak
Concrete	Pasco
Coulee City	Pacific County
Coulee Dam	Pullman
Coupeville	Ridgefield
Creston	Roslyn
Dayton	South Bend
Des Moines	Stanwood
Douglas County	Sultan
Eatonville	Sumas
Edmonds	Tacoma-Pierce Health Dept.
Federal Way	Toledo
Fife	University Place
Forks	Wahkiakum County
Franklin County	Warden
Goldendale	Westport
Grand Coulee	Whatcom Transit Authority
Granger	White Salmon
Grays Harbor Transit	Wilbur
Housing Kitsap	Winlock
Kalama	Woodland
Kenmore	Woodway
Kennewick	Yelm
Kirkland	Zillah