ORDINANCE NO. 06-2017

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COVINGTON, KING COUNTY, WASHINGTON, RELATING TO ZONING, PLANNING, AND LAND USE, AND REPEALING CHAPTER 13.37 OF THE COVINGTON MUNICIPAL CODE REGARDING CRITICAL AREA RECHARGE AREAS; REPEALING AND REPLACING CHAPTER 18.65 OF THE COVINGTON ZONING CODE REGARDING CRITICAL AREAS; ALONG WITH ASSOCIATED AMENDMENTS TO CHAPTER 16.05 SHORELINE MANAGEMENT PLAN OF THE COVINGTON MUNICIPAL CODE, AND CHAPTER 16.15 FLOOD DAMAGE PREVENTION OF THE COVINGTON MUNICIPAL CODE, AND MINOR AMENDMENTS TO SELECT SECTIONS OF CHAPTERS 13.25, 14.60, 14.65, 17.15, 17.25, 17.40, 18.20, 18.25,18.35, 18.45, 18.110. AND 18.125 OF THE COVINGTON MUNICIPAL CODE, TO IMPLEMENT CHAPTER 18.65 AND TO ENSURE CONTINUED COMPLIANCE WITH THE GROWTH MANAGEMENT.

WHEREAS, the Growth Management Act (GMA), specifically RCW 36.70A.130, mandates that the City of Covington take legislative action to review, and if needed, revise its Comprehensive Plan and development regulations to ensure continued compliance with GMA (also known as "periodic review"); and

WHEREAS, on January 12, 2016, the City Council approved Ordinance 02-2016 adopting the new 2015-2035 Covington Comprehensive Plan in compliance with GMA; and

WHEREAS, Ordinance 02-2016, identified that the City intended to adopt future amendments to its critical area regulations to include Best Available Science and better reflect local conditions and opportunities in accordance with the GMA; and

WHEREAS, the GMA, specifically RCW 36.70A.030(5) defines "critical areas" to include: wetlands, areas with a critical recharging effect on aquifers used for potable water, fish and wildlife habitat conservation areas, frequently flooded areas, and geologically hazardous areas; and

WHEREAS, in performing this periodic review under RCW 36.70A.172 the City is required to include Best Available Science in reviewing its critical area regulations to ensure that the regulations protect the functions and values of critical areas and give special consideration to conservation and protection measures necessary to preserve or enhance anadromous fisheries; and

WHEREAS, in performing this periodic review the city used consultants who did extensive research on the standards and requirements for regulating critical areas, considered guidance available from state agencies including Departments of Commerce, Department of

Ecology, and Department of Fish and Wildlife, consulted with experts in the disciplines covered by these regulations, and verified consistency with the Review of Best Available Science (November 2015) prepared for the 2015-2035 Comprehensive Plan update in developing these amendments, giving special consideration to anadromous fisheries; and

WHEREAS, the City of Covington, in reviewing and revising these amendments to the Covington Municipal Code conducted a public meeting before the Planning Commission on May 18, 2017, and a public hearing before the Planning Commission on June 1, 2017. The Planning Commission public hearing was noticed in the Covington Reporter, published on the city's website, and posted at city hall; and

WHEREAS, on June 1, 2017, the Planning Commission voted to recommended to the City Council approval of the repeal of Chapter 13.37 of the Covington Municipal Code, amendments to Chapter 16.05 and Chapter 16.15 of the Covington Municipal Code as set forth in Exhibit A, repeal and replacement of Chapter 18.65 of the Covington Municipal Code as set forth in Exhibit B, and related amendments throughout the Covington Municipal Code as set forth in Exhibit C; and

WHEREAS, these amendments to the Covington Municipal Code as adopted by this ordinance are consistent with the GMA, Best Available Science, Washington State Department of Ecology's guidance, Washington State Department of Fish and Wildlife guidance and the Federal Emergency Management Agency's Biological Opinion; and

WHEREAS, the City of Covington, in reviewing and revising these amendments to the Covington Municipal Code conducted a public meeting before the Planning Commission on May 18, 2017, and a public hearing before the Planning Commission on June 1, 2017. The Planning Commission public hearing was noticed in the Covington Reporter, published on the city's website, and posted at city hall; and

WHEREAS, the City Council conducted a public hearing on June 27, 2017. The City Council public hearing was noticed in the Covington Reporter, published on the city's website, and posted at city hall; and

WHEREAS, draft amendments to the Covington Municipal Code as adopted by this ordinance were transmitted to the Washington State Department of Commerce on December 1, 2016, at least 60 days prior to adoption as required; and

WHEREAS, pursuant to the State Environmental Policy Act, a Determination of Nonsignificance was issued by the responsible official pursuant to WAC 197-11-340 on May 12, 2017; and

WHEREAS, the City Council of the City of Covington, upon review of the facts, findings, and recommendations of the Covington Planning Commission, and after reviewing information provided by City staff, find that all applicable and substantive requirements of the law have been met, that the adoption of this ordinance promotes the public health, safety, and

general welfare of the community, and that the adoption of this ordinance serves the public interest; and

WHEREAS, by adoption of this ordinance the City has met its periodic review and update requirements under the GMA, RCW 36.70A.130.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COVINGTON, KING COUNTY, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Findings of Fact. The "Whereas" provisions above shall constitute Findings of Fact and are incorporated by reference as if fully set forth herein.

Section 2. Repeal Chapter 13.37. Chapter 13.37 of the Covington Municipal Code is hereby repealed in its entirety.

Section 3. Amendments to Chapter 16.05 & 16.15. Chapter 16.05 and Chapter 16.15 of the Covington Municipal Code are amended as set forth in Exhibit A attached hereto.

Section 4. Repeal & Replace Chapter 18.65. Chapter 18.65 of the Covington Municipal Code is hereby repealed and replaced in its entirety as set forth in Exhibit B attached hereto.

Section 5. Associated Amendments. The following list of chapters of the Covington Municipal Code are amended as set forth in Exhibit C: CMC 13.25, 14.60, 14.65, 17.15, 17.25,17.40,18.20, 18.25,18.35, 18.45, 18.110, and 18.125, and are incorporated herein by reference.

Section 6. Map. Map of Potential Aquifer Recharge Areas is hereby adopted in substantial form as attached Exhibit D and is incorporated herein by reference.

Section 6. Savings. The enactment of this ordinance shall not affect any application, case, proceeding, appeal, or other matter currently pending administratively or judicially in any court or in any way modify any right or liability, civil or criminal, which may be in existence on the effective date of this ordinance.

Section 7. Severability. Should any section, paragraph, sentence, clause, or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 8. Corrections. Upon approval of the city attorney, the city clerk and/or code codifier is authorized to make necessary corrections to this ordinance, including, but not limited to, the correction of clerical errors; references to other local, state, or federal laws, codes, rules, or regulations; or section/subsection numbering.

Section 9. Effective Date. This ordinance shall be in full force and effect five (5) days after publication in the city's newspaper of record. A summary of this ordinance may be published in lieu of publishing the ordinance in its entirety.

PASSED BY THE CITY COUNCIL OF THE CITY OF COVINGTON, WASHINGTON, at a regular meeting thereof on the 27th day of June, 2017, and signed in authentication of its passage.

For MPT

Mayor Jeff Wagner

PUBLISHED: June 30, 2017
EFFECTIVE: July 5, 2017

ATTESTED:

Sharon Scott, City Clerk

APPROVED AS TO FORM ONLY:

Kathy Hardy, City Attorney

EXHIBIT A

Chapter 16.05

SHORELINE ~~MANAGEMENT PLAN~~MASTER PROGRAM

Sections:

16.05.010 ~~Authority to adopt interim shoreline management plan.~~
~~16.05.020 Adoption of administrative rules.~~
~~16.05.030 Adoption of certain other laws.~~
~~16.05.040 Reference to hearing bodies.~~
~~16.05.050~~ Covington Shoreline ~~management permit fees.~~Master Program adopted

16.05.010 ~~Authority to adopt interim shoreline management plan.~~Covington Shoreline Master Program adopted.

~~Pursuant to RCW 35.21.180, 35A.11.020, 35A.21.160 and 90.58.280, the City adopts by reference Title 25 of the King County Code (Exhibit A*), as presently constituted or hereinafter amended, as the interim shoreline management code. Exhibit A* is hereby incorporated by reference as if fully set forth herein~~(1) Covington Shoreline Master Program, dated April 26, 2011, is adopted by Ordinance No. 05-11 (Exhibit A) as the City's Shoreline Master Program, pursuant to the Washington State Shoreline Management Act of 1971 (RCW 90.58), and as hereafter amended. The Shoreline Master Program is adopted under the authority granted by the Act and WAC 173-26.

(2) All shoreline applications shall be subject to all the applicable procedural requirements of CMC Chapter 14.30 (Permit Decision Types) and Chapter 14.35 (Permit Application Procedures). ~~. (Ord. 32-97 § 1)~~

~~*Code reviser's note: Exhibit A, attached to Ordinance No. 32-97, may~~ be ~~found on file in the City Clerk's Office.~~

~~16.05.020 Adoption of administrative rules.~~

~~Pursuant to Chapter 25.32 KCC of the shoreline management plan, there are hereby adopted by reference any and all implementing administrative rules now in effect regarding shoreline management that have been adopted either pursuant to Chapter 2.98 KCC, Rules of County Agencies, or KCC Title 23, Enforcement, or elsewhere in the King County Code except that, unless the context requires otherwise, any reference to the "County" or to "King County" shall refer to the City of Covington, and any reference to County staff shall refer to the City Manager or designee. (Ord. 10-07 § 8; Ord. 32-97 § 2)~~

~~16.05.030 Adoption of certain other laws.~~

~~To the extent that any provision of the King County Code, or any other law, rule or regulation referenced in the shoreline management code, is necessary or convenient to establish the validity, enforceability or interpretation of the shoreline management code, then such provision of the King County Code, or other law, rule or regulation, is hereby adopted by reference. (Ord. 32-97 § 3)~~

~~16.05.040 Reference to hearing bodies.~~

~~To the extent that the shoreline management code refers to Planning Commissions, Board of Appeals, Hearing Examiner, or any other similar body, the City Council shall serve in all such roles, but retains the right to establish any one or more of such bodies, at any time and without regard to whether any quasi-judicial or other matter is then pending. (Ord. 32-97 § 4)~~

~~16.05.050 Shoreline management permit fees.~~

~~Fees shall be collected to compensate the Department for the review of shoreline management permits and approvals. Application fees shall compensate for intake and screening, field investigation, drainage review, development of administrative decision and conditions of approval, and administrative costs for file set-up and maintenance. Supplemental fees shall be collected to compensate for the additional review and file administration necessary for permit extensions, permit revisions and applications requiring public hearings. Supplemental~~

~~inspection fees shall also be collected for permit compliance inspections for approvals not subject to future building or grading permit issuance and inspection. All fees shall be as set forth in the current fee resolution.~~Procedures).
~~(1) Shoreline Permit Fees. Substantial development permits, shoreline variances, shoreline conditional use permits, and shoreline exemptions shall either be a fixed fee or a variable fee based on the dollar value of proposed improvements. For joint use dock proposals, the substantial development and/or variance fees shall be limited to an amount equal to fees for two individual docks of combined equivalent area. Supplemental review fees for revisions, extensions and public hearings shall be based on a percentage of the original permit fee.~~

~~Shoreline redesignation fees shall consist of a fixed base fee, together with a variable fee based on the lineal footage of shoreline proposed for redesignation. (Ord. 20-07 § 69; Ord. 43-02 § 2 (27.20.010). Formerly 14.65.010)~~

Chapter 16.15

FLOOD DAMAGE PREVENTION

Sections:

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16.15.020 Methods for reducing flood loss.
16.15.030 Definitions.
16.15.040 Lands to which this chapter applies.
16.15.045 Flood Hazard Area components
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16.15.057 Stormwater management.
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Article IV. Flood Hazard Reduction – Specific Standards

16.15.250 Flood hazard reduction – Residential construction.
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16.15.270 Flood hazard reduction – Manufactured homes.
16.15.280 Flood hazard reduction – Recreational vehicles.
~~16.15.290 Flood hazard reduction – Floodways.~~

~~16.15.300 Flood hazard reduction – Encroachments.~~
16.15.285 AE and A1-30 zones with base flood elevations but no floodways.

16.15.310 Critical facility.

Article V. Floodplain Protection – Specific Standards

16.15.320 Floodplain and floodway fringe development standards and alterations.
16.15.330 Riparian Buffer Zone development standards and alterations.
16.15.340 Zero-rise and FEMA floodway development standards and alterations.
16.15.350 FEMA floodway development standards and alterations.
16.15.360 Channel migration zones – Development standards and alterations.

Article I. General Provisions

16.15.010 Purpose.

(1) The flood hazard areas of the City are subject to periodic inundation resulting in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(2) These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and, when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to the flood loss. It is the purpose of this chapter to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

(a) To protect human life and health;

(b) To minimize the expenditure of public money and costly flood control projects;

(c) To minimize the need for rescue and relief efforts associated with flooding and typically undertaken at the expense of the general public;

(d) To minimize prolonged business interruptions;

(e) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines and streets and bridges located in areas of special flood hazard;

(f) To help maintain a stable tax base by providing for the sound use and development of special flood hazard areas so as to minimize future flood blight areas;

(g) To ensure that potential buyers are notified that property is in an area of special flood hazard; ~~and~~

(h) To ensure that those who occupy special flood hazard areas assume responsibility for their actions. (Ord. 100-98 § 1)

(i) To qualify the City of Covington for participation in the National Flood Insurance Program (NFIP);

(j) To maintain the quality of surface waters and protect the natural channel and floodplain processes and functions that provide habitat for threatened and endangered species; and

(k) To minimize loss of hydraulic, geomorphic, and ecological functions of natural watercourses and floodplains.

16.15.020 Methods for reducing flood loss.

In order to accomplish its purposes, this chapter sets forth methods and provisions for:

(1) Restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion hazards or which result in damaging increases in erosion, flood heights or velocities;

(2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(3) Controlling the alteration of natural floodplains, stream channels and natural protective barriers which help accommodate or channel flood water;

(4) Controlling filling, grading, dredging and other development which may increase flood damage; and

(5) Preventing or regulating the construction of flood barriers which unnaturally divert flood water or increase flood hazards in other areas. (Ord. 100-98 § 1)

16.15.030 Definitions.
~~Unless specifically defined below,~~Certain words ~~or~~and phrases used in this chapter~~ shall be interpreted so~~, unless otherwise clearly indicated by their context, mean as ~~to give them the meaning they have~~ follows. Unless otherwise defined in ~~common usage and to give~~ this chapter ~~its most reasonable application~~the definitions provided in Chapter 18.20 CMC shall be applicable. If there is a conflict, the definitions in this section shall govern.

(1) "Appeal" means a request for review of the interpretation of any provision of this chapter or a request for a variance therefrom.

(2) "Area of special flood hazard" means the land in the floodplain within the City which is subject to a one percent or greater chance of flooding in any given year. This area's designation on flood insurance rate maps always includes the letters A or V.

(3) "Base flood" means ~~the~~ flood having a one percent chance of being equaled or exceeded in any given year ~~and is~~ (also referred to as the "100-year flood~~.~~"). The base ~~flood's designation~~ flood is the Special Flood Hazard Area designated on ~~maps always includes the letters~~ Flood Insurance Rate Maps as Zones "A" or "V~~.~~" including AE, AO, AH, A1-00, and VE.

~~(4) "Basement" means any area of a building having its floor subgrade (below ground level) on all sides.~~

(4) "Channel migration zone" or "CMZ" means those areas within the lateral extent of likely stream channel movement that are subject to risk due to stream bank destabilization, rapid stream incision, stream bank erosion, and shifts in the location of stream channels. "Channel migration zone" does not include areas that lie behind an arterial road, a public road serving as a sole access route, a State or Federal highway or a railroad. "Channel migration zone" may exclude areas that lie behind a lawfully established flood protection facility that is likely to be maintained by existing programs for public maintenance consistent with designation and classification criteria specified by public rule. When a natural geologic feature affects channel migration, the channel migration zone width will consider such natural constraints. The regulated channel migration zone includes the channel migration zone boundary and extends 50 feet landward in each direction from the stream.

(5) "Critical facility" means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire and emergency response installations, and installations which produce, use or store hazardous materials or hazardous waste.

(6) "Development" or "Development activity" means any manmade change to improved or unimproved real property, including but not limited to buildings or other structures or mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials, or removal of more than five percent of the natural vegetation located within the area of special flood hazard. This includes construction, repair, or replacement of culverts, pipes, bridges, levees, bank stabilization, docks, revetments, walls, bulkheads, driveways, or roads.

(7) "Elevated building," for insurance purposes, means a nonbasement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings or columns.

(8) "Existing manufactured home park or subdivision" means a manufactured home park subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the adopted floodplain management regulations.

(9) "Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed, including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads.

(10) "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from (a) the overflow of inland or tidal waters; and/or (b) the unusual and rapid accumulation of surface water runoff from any source.

~~(11) "Flood insurance rate map" or "FIRM" means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the City.~~

~~(12) "Flood insurance study" means the official report provided by the Federal Insurance Administration which includes flood profiles, the flood boundary-floodway map, and the water surface elevation of the base flood.~~

~~(13) "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.~~

~~(14~~(11) "Lowest floor" means the lowest floor of the lowest enclosed area, including any basement. An unfinished or flood resistant enclosure which is usable solely for parking of vehicles, building access or storage, located in an area other than a basement area, is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of CMC 16.15.250(2).

~~(15) "Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a recreational vehicle.~~

~~(16~~(12) "Manufactured home park or subdivision" means a parcel or contiguous parcels of land divided into two or more manufactured home lots for rent or sale.

(~~17~~13) "New construction" means any structure for which the start of construction commenced on or after the effective date of the ordinance codified in this chapter.

(~~18~~14) "New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed, including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads, is completed on or after the effective date of adopted floodplain management regulations.

~~(19) "Recreational vehicle" means a vehicle which is:~~

~~(a) Built on a single chassis;~~

~~(b) Four hundred square feet or less when measured at the largest horizontal projection;~~

~~(c) Designed to be self-propelled or permanently towable by a light duty truck; and~~

~~(d) Designed primarily as temporary living quarters for recreational, camping, travel or seasonal use and not for use as a permanent dwelling.~~

~~(20~~(15) "Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement is within 180 days of the permit date. The "actual start" means either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns or any other work beyond the stage of excavation, or the placement of a manufactured home on a foundation.

"Permanent construction" does not include land preparation, such as clearing, grading and filling or the installation of streets and/or walkways or excavation for a basement, footings, piers, or foundations or the erection of temporary forms or the installation of the property or accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure. With respect to a substantial improvement, the "actual start" of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

(~~21~~16) "Structure" means a walled and roofed building permanently constructed in or on the ground or over water, excluding fences six feet or less, and including a gas or liquid storage tank that is principally above ground.

(~~22~~17) "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its predamaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

(~~23~~18) "Substantial improvement" means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure: (a) before the improvement or repair is started; or (b) if the structure has been damaged and is being restored, before the damage occurred. For purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include: (a) any project to improve a structure to correct precited existing violations of State or local health, sanitary, or safety code specifications which have been identified by the local enforcement official and which are the minimum necessary to assure safe living conditions; or (b) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

(~~24~~19) "Variance" means a grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.

(~~25~~20) "Water dependent" means a structure for commerce or industry which is dependent on the water by reason of the intrinsic nature of its operations and cannot exist in any other location. (Ord. 30-05 § 1; Ord. 23-00 § 1; Ord. 100-98 § 1)

~~16~~(21) "Water typing" means a system for classifying water bodies according to their size and fish habitat characteristics. The Washington Department of Natural Resources' Forest Practices Water Typing classification system is hereby adopted by reference. The system defines four water types:

(a) Type "S" = Shoreline: Streams that are designated "shorelines of the State," including marine shorelines
(b) Type "F" = Fish: Streams that are known to be used by fish or meet the physical criteria to be potentially used by fish.
(c) Type "Np" = Non-Fish Perennial streams
(d) Type "Ns" = Non-Fish Seasonal streams

6.15.040 Lands to which this chapter applies.
This chapter shall apply to all areas of special flood hazard located within the City limits. (Ord. 100-98 § 1)

16.15.045 Flood Hazard Area components
(1) A flood hazard area consists of the following components:

(a) Floodplain;

(b) Floodway fringe;

(c) Riparian buffer zone (RBZ);

(d) Zero-rise floodway;

(e) FEMA floodway; and

(f) Channel migration zone (CMZ).

These areas at times overlap. For the purpose of this chapter, the most restrictive development requirements shall apply. In addition, exceptions, if any, must apply to all the overlapping zones to be allowable and applicable.

16.15.050 Adoption of report and ~~FIRM~~Flood Insurance Rate Map.
(1) The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for King County, Washington and incorporated areas," dated March 30, 1998, as amended, with the accompanying Flood Insurance Rate Map (FIRM~~,~~), as amended, are hereby adopted by reference as though fully set forth herein. The flood insurance study is on file at Covington City Hall. The best available information for flood hazard area identification as outlined in CMC 16.15.140 shall be the basis for regulation until a new FIRM is issued which incorporates the data utilized under said section. (Ord. 100-98 § 1)

(2) The Director shall use the following for floodplain boundaries, regulatory floodway boundaries, and base flood elevations when determining a special flood hazard area:

(a) Flood insurance rate maps;

(b) Preliminary flood insurance rate maps;

(g) Letters of map amendment;

(h) Letters of map revision;

(3) When regulating development in special food hazard areas mapped on the FIRM, the Director shall determine the base flood elevation for existing conditions using the following sources:

(a) Flood insurance rate maps;

(b) Flood insurance studies;

(c) Preliminary flood insurance rate maps;

(d) Preliminary flood insurance studies;

(e) Letters of map amendment;

(f) Letters of map revision;

(g) Historical flood hazard information;

(h) Flood studies prepared and approved by a recognized governmental agency, such as FEMA, the US Army Corp of Engineers, Washington State, or King County; or

(i) Best available data, as determined by the Director.

16.15.055 Determining other protected areas.
(1) Channel Migration Zones (CMZ) are specified by public rule adopted by the Director. When channel migration zones have not been determined, they shall be the same as the Federal Emergency Management Agency (FEMA) floodway. Waters with no defined floodway or CMZ will be considered exempt from this protected area requirement. An Applicant for a development proposal may submit a critical area report to the Department to determine channel migration zone boundaries on a specific property if there is an apparent discrepancy between the site-specific conditions and the adopted channel migration zone. The regulated CMZ includes the channel migration zone boundary and extends 50 feet landward in each direction from the stream.

(2) The Riparian Buffer Zone (RBZ) is the area in the floodplain measured perpendicularly from the OHW line l on each side of the watercourse landward. The stream type determines the distance. The RBZ does not extend past the

floodplain boundary. The following water typing designations and distances shall be used to determine the applicable Riparian Buffer Zone:

(a) Type S streams that are designated "shorelines of the State:" 250 feet from the OHW line
(b) Type F streams (fish bearing) streams greater than 5 feet wide and marine shorelines: 200 feet from the OHW line
(c) Type F streams less than 5 feet wide and lakes: 150 feet from the OHW line
(d) Type N (nonsalmonid-bearing) perennial and seasonal streams with unstable slopes: 225 feet from the OHW line
(e) All other Type N (nonsalmonid-bearing) perennial and seasonal streams: 150 feet from the OHW line

16.15.057 Stormwater management.
(1) Stormwater management shall be provided for projects located within lands to which this chapter applies. Stormwater management facilities shall not be located within floodways or the CMZ. Stormwater management facilities may be located within special flood hazard areas ~~of encroachment~~or the RBZ, subject to approval by the City Engineer; provided, that the increase in the water surface elevation of the base flood does not exceed the limits of CMC 16.15.~~300.~~320 (2).

(2) Stormwater management facilities shall be designed in accordance with CMC Title 13. (Ord. 13-09 § 21)

16.15.060 Penalty for noncompliance.
Unless a variance is properly granted, no structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this chapter and any other applicable regulations. Any violation of the provisions of this chapter by failure to comply with any of its requirements, including but not limited to, violations of conditions and safeguards established in connection with conditions, shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall be guilty of a misdemeanor upon conviction thereof be fined not more than $1,000 or imprisoned for not more than 90 days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case.

Nothing herein contained shall prevent the City from taking such other lawful action as deemed necessary to prevent or remedy any violation. (Ord. 100-98 § 1)

16.15.070 Abrogation and greater restrictions.
This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants or deed restrictions. However, where this chapter and any other ordinance, easement, covenant or deed restriction conflict or overlap, the one which imposes the more stringent restrictions shall prevail. (Ord. 100-98 § 1)

16.15.080 Interpretation.
In the interpretation and application of this chapter all provisions shall be:

(1) Considered as minimum requirements;

(2) Liberally construed in favor of the governing body; and

(3) Deemed neither to limit nor repeal any other powers granted under State statutes. (Ord. 100-98 § 1)

16.15.090 Warning and disclaimer.
The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. More extensive floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damage. This chapter shall not create liability on the part of the City, any officer or employee thereof or the Federal Insurance Administration for any flood damage that results from reliance on this chapter or any administrative decision lawfully made hereunder. (Ord. 100-98 § 1)

Article II. Administration

16.15.100 Development permit required.
A development permit shall be obtained before construction or development begins within any area of special flood hazard established in CMC 16.15.050. The permit shall be for all structures, including manufactured homes, and for all development. (Ord. 100-98 § 1)

16.15.110 Application for development permit.
An application for a development permit shall be made on forms furnished by the City administrator and will include such information as is required by the local administrator, including but not limited to plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question, existing or proposed structures, fill, storage of materials, drainage facilities and the location of the foregoing. In addition, the following information shall be required from all Applicants:

(1) In relation to mean sea level, the elevation of the lowest floor of all structures, including the basement;

(2) In relation to mean sea level, the elevation to which any structure has been floodproofed;

(3) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria set forth in CMC 16.15.260; and

(4) A description of the extent to which a watercourse will be altered or relocated as a result of the proposed development. (Ord. 100-98 § 1)

16.15.120 Local administrator.
The City Manager or his designee is hereby appointed to act as the local administrator of this chapter and, to that end, shall administer and implement this chapter by granting or denying development permit applications in accordance with its provisions. (Ord. 100-98 § 1)

16.15.130 Local administrator – Duties.
The duties of the local administrator shall include, but are not limited to:

(1) Reviewing all development permits to determine whether the permit requirements of this chapter have been satisfied;

(2) Reviewing all development permits to determine whether all necessary permits have been obtained from those Federal, State, or local governmental agencies from which prior approval is required; and

(3) Reviewing all development permits to determine whether the proposed development is located in the floodway and, if so, ensuring that the encroachment provisions of CMC 16.15.290(1) are satisfied. (Ord. 100-98 § 1)

16.15.140 Local administrator – Use of other base flood data.
In order to administer CMC 16.15.250 through 16.15.290 when base flood elevation data has not been provided in accordance with CMC 16.15.050, the local administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from any Federal, State or other source. (Ord. 100-98 § 1)

16.15.150 Local administrator – Information to be obtained.
(1) Where base flood elevation data is provided through the flood insurance study or as set forth in CMC 16.15.140, the local administrator shall obtain and record the actual elevation, in relation to mean sea level, of the lowest floor (including basement) of all new or substantially improved structures, and, in addition, shall record whether or not said structures contain basements.

(2) For all new or substantially improved floodproofed structures where base flood elevation is provided through the flood insurance study or is set forth in CMC 16.15.140, the local administrator shall:

(a) Verify and record the actual elevation, in relation to mean sea level to which the structure was floodproofed; and

(b) Maintain the floodproofing certifications required in CMC 16.15.110(3).

(3) The local administrator shall maintain for public inspection all records pertaining to and required by the provisions of this chapter. (Ord. 23-00 § 2; Ord. 100-98 § 1)

16.15.160 Local administrator – Alteration of watercourses.
Whenever any watercourse is to be altered or relocated, the local administrator shall:

(1) Notify adjacent communities and the Department of Ecology prior to any such alteration or relocation and submit evidence of such notification to the Federal Insurance Administration; and

(2) Require that maintenance be provided for within the altered or relocated portion of said watercourse so that its flood carrying capacity is not diminished. (Ord. 100-98 § 1)

16.15.170 Local administrator – Interpretation of FIRM boundaries.
The local administrator shall make all necessary interpretations as to the exact location of the boundaries of any areas of special flood hazard~~, for example, where there appears to be a conflict between a mapped boundary and actual field conditions. Any person contesting the location of said boundary shall be given a reasonable opportunity to appeal the interpretation as provided in CMC 16.15.180. (Ord. 23-00 § 3; Ord. 100-98 § 1)~~. The FIRM boundary shall be the sole determinant for jurisdiction and application of this ordinance.

16.15.180 Variances and appeals.

(1) The Hearing Examiner shall hear and decide any appeal or request for a variance from the requirements of this chapter. Appeals and requests for variances shall be accompanied by a fee as set forth in the current fee resolution.

(2) The Hearing Examiner shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the local administrator in the enforcement or administration of this chapter. Appeals shall be heard in accordance with Chapter 14.45 CMC.

(3) Anyone aggrieved by the decision of the Hearing Examiner, or any taxpayer, may appeal such decision to the King County Superior Court, as provided in the Land Use Petition Act.

(4) In passing upon such appeals and variance requests, the Hearing Examiner shall consider all technical evaluations, all relevant factors and standards specified in other sections of this chapter, and, in addition:

(a) The danger that materials may be swept onto other lands to the injury of others;

(b) The danger to life and property due to flooding or erosion damage;

(c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(d) The importance of the services provided by the proposed facility to the City;

(e) The necessity of a waterfront location for the facility, if applicable;

(f) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

(g) The compatibility of the proposed use with existing and anticipated development;

(h) The relationship of the proposed use to the comprehensive plan and the floodplain management program for that area;

(i) The safety of access to the property for ordinary and emergency vehicles in times of flood;

(j) The expected height, velocity, duration, rate of rise and sediment transport of the flood water and the effects of wave action, if applicable, expected at the site; and

(k) The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, streets and bridges.

(5) Upon due consideration of the factors set forth in subsection (4) of this section as well as the purposes of this chapter, the Hearing Examiner may, in his discretion, attach such conditions to the granting of any variance as he deems necessary to further the purposes of this chapter.

(6) The local administrator shall maintain the records of all appeals and report any variances to the Federal Insurance Administration upon request. (Ord. 01-09 § 16; Ord. 20-07 § 92; Ord. 100-98 § 1)

16.15.190 Variances – Permissible conditions.

(1) As interpreted in the National Flood Insurance Program, a variance is based on the general zoning law principle~~,~~ that the variance pertains to a physical piece of property, is not personal in nature and does not pertain to the structure, its inhabitants or any economic or financial circumstances. A variance primarily pertains to small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.

~~(2) Providing the factors set forth in CMC 16.15.180(4) have been fully considered, in general, the only condition for which a variance from the elevation standard may be granted is new construction and substantial improvements which are to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures which are constructed below the base flood level. As the lot size increases, the technical justification required for issuing the variance will also increase.~~

~~(3~~(2) A variance may be issued for the reconstruction, rehabilitation or restoration of any structure listed on the National Register of Historic Places or the State Inventory of Historic Places without regard to the procedures set forth in this section, upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure.

(~~4~~3) A variance shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would thereby result.

(~~5~~4) A variance shall only be issued upon:

(a) A showing of good and sufficient cause;

(b) A determination that denial of the variance application would result in exceptional hardship to the ~~applicant~~ Applicant;

(c) A determination that granting the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create a nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances; and

(d) A determination that, considering the flood hazard, the variance is the minimum necessary to afford relief.

(~~6~~5) In very limited circumstances, a variance to allow a lesser degree of floodproofing than watertight or dry-floodproofing may be issued for a nonresidential building where it can be demonstrated that such action will have low damage potential, complies with all other variance criteria ~~except subsection (2)~~ of this section, and otherwise complies with CMC 16.15.200 and 16.15.210.

(~~7~~6) Any Applicant to whom a variance is granted shall be afforded written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. (Ord. 100-98 § 1)

16.15.195 Exemptions

The following activities and developments are exempt from the provisions of this chapter. All exempted activities shall use reasonable methods to avoid potential impacts to special flood hazard areas. An exemption from this chapter is not an endorsement to degrade a special flood hazard area, ignore risk from natural hazards, or otherwise limit the ability of the Director to identify and abate such actions that may cause degradation.

(1) Activities and development in response to emergencies that, in the opinion of the Director, threaten public health, safety or welfare; or that pose an immediate risk of damage to property and that require remedial or preventative action in a timeframe too short to allow for compliance with the requirements of this chapter. In the event a person determines that the need to take emergency action is so urgent that there is insufficient time for review by the department, such emergency action may be taken immediately. The person undertaking such action shall notify the department within one working day of the commencement of the emergency activity. The Director will determine what, if any, mitigation shall be required to protect health, safety, welfare, and environment and to repair any resource damage. In such cases, permits shall be obtained retroactively.

(2) Operation, maintenance, or repair of existing public improvements, utilities, public roads, parks, trails, or drainage systems if the activity does not further alter or increase impact to, or encroach further within, the special flood hazard area and there is no increased risk to life or property as a result of the proposed operation, maintenance, or repair, and no new clearing of native vegetation beyond routine pruning.

(3) Normal maintenance and repair.

(4) Recreation, education, and scientific research activities that do not require grading, native vegetation clearing, or placement of structures.

(5) Site reconnaissance necessary for preparing land use or building permit applications. Any disturbance of the special flood hazard area shall be the minimum necessary to conduct the site reconnaissance and the area shall be restored to its previous condition immediately.

(6) Removal by hand of invasive and noxious vegetation. Removal by hand does not include using mechanical equipment or the use of herbicides.

(7) Normal maintenance and continuation of existing landscaping and gardens that were legally established prior to City incorporation. This exemption shall be documented by photographs, statements, and/or other evidence provided by the Applicant. The use of herbicide is not permitted under this exemption in wetlands and streams or their buffers for the control of invasive vegetation.

(8) Excavation of cemetery graves in an established cemetery where the approval of the plots predates the City's participation in the NFIP or has an approved flood permit. Maintenance, operation, or repair of the cemetery graves as long as any such alteration does not involve the expansion of improvements.

16.15.197 Partial exemptions

The following activities are partial exemptions to the provisions of this chapter and require written approval from the Director. The Director may require supporting documentation, prepared by a qualified professional, to demonstrate compliance with partial exemptions:

(1) Demolition of structures and impervious surfaces for restoration to pervious or landscaped areas, provided they are not a precursor to development. The Applicant shall submit a temporary erosion and sedimentation control plan and apply for applicable demolition permit(s).

(2) Vegetation maintenance such as hazard tree removal, removal of nuisance vegetation, and limited pruning for view preservation. The Applicant shall submit a vegetation maintenance plan prepared by a certified arborist or registered landscape architect that includes the following:

(a) A site plan at appropriate scale denoting the extent of the proposed vegetation maintenance activity;

(b) Tree and vegetation location, type, and caliper of each tree within the area subject to the proposed vegetation maintenance activity;

(c) Identification of methods of vegetation maintenance (limited to hand tools and hand powered tools);

(d) Location of private septic systems if applicable; and

(e) Proposed tree and/or vegetation replacement shown on the site plan.

Article III. Flood Hazard Reduction – General Standards

16.15.200 Flood hazard reduction – Anchoring.
In all areas of special flood hazard, the following standards for anchoring shall be complied with:

(1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

(2) All manufactured homes must likewise be anchored to prevent flotation, collapse, or lateral movement and, in addition, shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, over-the-top or frame ties to ground anchors and additional techniques referred to in the Federal Emergency Management Agency's "Manufactured Home Installation in Flood Hazard Areas" guidebook. (Ord. 100-98 § 1)

16.15.210 Flood hazard reduction – Construction materials and methods.
In all areas of special flood hazard, the following standards for construction materials and methods shall be complied with:

(1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

(2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage; and

(3) Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding. (Ord. 100-98 § 1)

16.15.220 Flood hazard reduction – Utilities.
In all areas of special flood hazard, the following standards pertaining to utilities shall be complied with:

(1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood water into the system;

(2) All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood water into the systems and, in addition, discharge from the systems into flood water; and

(3) All on-site waste disposal systems shall be located so as to avoid impairment to them or contamination from them during flooding. (Ord. 100-98 § 1)

(4) Water wells for potable water shall not be located in the floodway or channel migration zone.

16.15.230 Flood hazard reduction – Subdivision proposals.
In all areas of special flood hazard, the following standards pertaining to subdivision proposals shall be complied with:

(1) All subdivision proposals shall be consistent with the need to minimize flood damage;

(2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed so as to minimize or eliminate flood damage;

(3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and

(4) Where base flood elevation data has not been provided or is not available from another authoritative source, such data shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or five acres, whichever is less. (Ord. 23-00 § 4; Ord. 100-98 § 1)

16.15.240 Flood hazard reduction – Review of building permits.
In all areas of special flood hazard, where elevation data is not available through the flood insurance study or from some other authoritative source pursuant to CMC 16.15.140, an application for a building permit shall be reviewed to assure that the proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and may include, but is not limited to, the use of historical data, high water marks, and photographs of past flooding, where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates. (Ord. 100-98 § 1)

16.15.245 Flood hazard areas certification by surveyor.
(1) For all new structures or substantial improvements in a flood hazard area, the Applicant shall provide a FEMA elevation certificate completed by a professional land surveyor licensed by the State of Washington documenting:

(a) The actual as-built elevation of the lowest floor, including basement; and

(b) The actual as-built elevation to which the structure is dry flood-proofed, if applicable.

(2) The Applicant shall submit a FEMA elevation certificate before the issuance of a certificate of occupancy or temporary certificate of occupancy, whichever occurs first. For unoccupied structures, the Applicant shall submit the FEMA elevation certificate before the issuance of the final letter of completion or temporary letter of completion, whichever occurs first.

(3) The land surveyor shall indicate if the structure has a basement.

(4) The Department shall maintain the certifications required by this section for public inspection and for certification under the National Flood Insurance Program. (Ord. 14-05 § 5)

Article IV. Flood Hazard Reduction – Specific Standards

16.15.250 Flood hazard reduction – Residential construction.
In all areas of special flood hazard where base flood elevation data has been provided pursuant to CMC 16.15.050 or 16.15.140, the following provisions pertaining to residential construction shall be complied with:

(1) New construction and substantial improvement of any residential structure shall have the lowest floor, including any basement, elevated one foot above the base flood elevation; and

(2) Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

(a) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;

(b) The bottom of all openings shall be no higher than one foot above grade; and

(c) Openings may be equipped with screens, louvers or other coverings, or devices; provided, that they permit the automatic entry and exit of floodwater. (Ord. 100-98 § 1)

16.15.260 Flood hazard reduction – Nonresidential construction.
In all areas of special flood hazard where base flood elevation data has been provided pursuant to CMC 16.15.050 or 16.15.140, the following provisions pertaining to nonresidential construction shall be complied with:

(1) New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall have the lowest floor, including basement, elevated one foot above the base flood elevation, or, alternatively, together with attendant utility and sanitary facilities, shall:

(a) Be floodproofed so that below one foot above the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

(b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

(c) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection based on his/her development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the local administrator as set forth in CMC 16.15.150(2).

(2) Nonresidential structures that are elevated and not floodproofed must meet the standards for space below the lowest floor set forth in CMC 16.15.250(2).

(3) Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level, that is, a building floodproofed to the base flood level will be rated as one foot below. (Ord. 100-98 § 1)

16.15.270 Flood hazard reduction – Manufactured homes.
In all areas of special flood hazard where base flood elevation data has been provided pursuant to CMC 16.15.050 or 16.15.140, the following provisions pertaining to manufactured homes shall be complied with:

(1) Any manufactured home which is to be placed or substantially improved within Zones A1-30, AH or AE on the City's FIRM on sites which are: (a) outside of a manufactured home park or subdivision; (b) in a new manufactured home park or subdivision; (c) in an expansion to an existing manufactured home park or subdivision; or (d) in an existing manufactured home park or subdivision in which a manufactured home has incurred substantial damage as the result of a flood, shall be elevated on a permanent foundation so that the lowest floor of the manufactured home is elevated one foot above the base flood elevation and, in addition, securely anchored to an adequately anchored foundation system so as to resist flotation, collapse and lateral movement.

(2) Any manufactured home which is to be placed or substantially improved in an existing manufactured home park or subdivision located within Zones A1-30, AH or AE on the City's FIRM and which is not subject to the provisions of subsection (1) of this section shall be elevated so that: (a) the lowest floor of the manufactured home is elevated one foot above the base flood elevation; or (b) the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and, in addition, securely anchored to an adequately anchored foundation system so as to resist flotation, collapse, and lateral movement. (Ord. 30-05 § 2; Ord. 100-98 § 1)

16.15.280 Flood hazard reduction – Recreational vehicles.
In all areas of special flood hazard~~ where base flood elevation data has been provided pursuant to CMC 16.15.050 or 16.15.140~~, the following provisions pertaining to recreational vehicles shall ~~be complied with: any recreational vehicle placed on a site within Zones A1-30, AH or AE on~~apply:

(1) Meet the ~~City's FIRM shall:~~requirements of CMC 18.50.190;

~~(1) Be on the site for fewer than 180 consecutive days;~~

(2) Be fully licensed and ready for highway use, on its wheels or jacking system and attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached addition(s); or

(3) Meet the requirements of CMC 16.15.270 and the elevation and anchoring requirements for manufactured homes. (Ord. 100-98 § 1)

16.15.285 AE AND A1-30 ZONES WITH BASE FLOOD ELEVATIONS BUT NO FLOODWAYS

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

16.15.310 Critical facility.
To the extent possible, the construction of any new critical facility shall be located outside the limits of the special flood hazard area (100-year floodplain). Construction of any new critical facility shall be permissible within the special flood hazard area if no feasible alternative site is available. Any critical facility constructed within said area shall have the lowest floor elevated three feet or more above the level of the base flood elevation at the site. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into flood waters. To the extent possible, access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities. (Ord. 100-98 § 1)~~290~~

Article V. Floodplain Protection – Specific Standards

16.15.315 Allowable development activities in all Flood Hazard Area zones

(1) The development activities identified below are allowed within all zones, subject to review under this Code:

(a) Maintenance, repair, or replacement of a dock or pier;

(b) Construction of new slope stabilization or maintenance of existing slope stabilization provided fill, native vegetation clearing, and encroachment limits are addressed;

(c) Clearing of non-native, exotic or invasive vegetation by hand or other non-mechanical means;

(d) Maintenance or repair of an existing bridge or culvert;

(e) Replacement of a bridge or culvert, for public roads, subject to compliance with this section and for the purpose of betterment for flood control, stream habitat improvement, or fish passage;

(f) Maintenance, repair, or replacement of an existing flood protection facility, provided there is no increase or betterment. Improved facilities would be evaluated as new;

(g) Maintenance or repair of an outdoor public park facility or trail;

(h) Habitat enhancement or restoration; and

(i) Construction or expansion of stormwater or drainage conveyance systems

16.15.320 Floodplain and floodway fringe development standards and alterations.
In addition to other requirements of this chapter, the following standards apply to development proposals and alterations on sites within the floodplain and floodway fringe:

(1) Development proposals and alterations shall not reduce the effective base flood storage volume of the floodplain. A development proposal shall provide compensatory storage if grading or other activity displaces any effective flood storage volume. Compensatory storage shall:

(a) Provide equivalent volume at equivalent elevations to that being displaced;

(b) Hydraulically connect to the source of flooding;

(c) Provide compensatory storage in the same construction season as when the displacement of flood storage volume occurs and before the flood season begins on September 30th for that year; and

(d) Occur on the site. The Director may approve equivalent compensatory storage off the site if legal arrangements, acceptable to the Department, are made to assure that the effective compensatory storage volume will be preserved over time;

(2) In all areas of special flood hazard, the cumulative effect of any proposed development, combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.

(3) A registered professional engineer shall design and certify all elevated construction and submit the design to the City prior to construction;

(4) Subdivisions, short subdivisions, and commercial development proposal binding site plans shall meet the following requirements:

(a) New building lots shall include 5,000 square feet or more of buildable land outside the floodplain. Structures and other development shall be located in this area;

(b) All utilities and facilities such as sewer, gas, electrical and water systems are consistent with this Section;

(c) A professional engineer shall identify base flood elevations in accordance with FEMA guidelines for all new lots;

(d) A development proposal shall provide adequate drainage in accordance with the stormwater manuals adopted in CMC Title 13; and

(e) The face of the recorded subdivision, short subdivision, or binding site plan shall include the following for all lots:

(i) Building setback areas restricting structures to designated buildable areas;

(ii) Base flood data and sources and flood hazard notes including, but not limited to, base flood elevations, required flood protection elevations, the boundaries of the floodplain and the zero-rise floodway, if determined; and channel migration zone boundaries, if determined; and

(iii) Include the following notice:

> Lots and structures located within flood hazard areas may be inaccessible by emergency vehicles during flood events. Residents and property owners should take appropriate advance precautions.

(4) If an existing lot does not have sufficient buildable area outside of the floodplain (5,000 square feet), the following shall apply:

(a) Structures must be located to the non-floodplain area to the extent practicable;

(b) If the lot has no buildable area outside of the floodplain, all structures and development must be sited to have the least impact on the floodplain and riparian habitat;

(c) All structures must be set back at least 15 feet from the RBZ and shall be sited as close to the 100-year floodplain boundary as possible;

(d) Creation of new impervious surfaces shall not exceed 10 percent of the surface area of the portion of the lot in the floodplain unless mitigation is provided to make the impervious area ineffective;

(f) Roads and access driveways to the site are not permitted in the floodplain, except if it is the sole and least impactful access to the site;

(g) No new stream crossings over Type S, F, or Np streams are allowed to provide access to floodprone sites.

(5) New development or improvements to the following publicly-owned infrastructure in the floodplain shall meet the following standards:

(a) Public trails and non-motorized travel ways shall be allowed in floodplains subject to the following:

(i) Trails are not allowed in CMZ or floodways;

(ii) Floodplain storage compensation requirements of section 16.15.320 (1) are met;

(iii) The facility is elevated above the base flood elevation, floodproofed, or signed for closure to protect public safety during flood events;

(iv) Low impact design measures are applied to the extent practicable to make the impervious surface ineffective;

(v) Removal of native vegetation is minimized and compliant with other City standards.

(b) Public road improvements at stream crossings or in floodplains shall be allowed in all floodplain zones subject to the following:

(i) Encroachment into the Floodway does not exceed existing conditions;

(ii) Fill and encroachment into the floodplain are minimized to the extent practicable;

(ii) Floodplain storage compensation requirements of section 16.15.320 (1) are met.

(c) Stormwater management facilities shall be allowed in all floodplain zones subject to the following:

(i) Facilities are not allowed in the floodway or CMZ;

(ii) Fill and encroachment into the floodplain are minimized to the extent practicable;

(iii) Floodplain storage compensation requirements of section 16.15.320 (1) are met;

(iv) Removal of native vegetation is minimized and compliant with other City standards

(6) Public and private utilities shall meet the following standards:

(a) Dry-proof new and replacement utilities including, but not limited to, sewage treatment and storage facilities, to, or elevate above, the flood protection elevation;

(b) Locate new on-site sewage disposal systems outside the floodplain. When there is insufficient soil or area outside the floodplain, new on-site sewage disposal systems are allowed only in the floodway fringe. Locate on-site sewage disposal systems in the floodway fringe to avoid:

(i) Impairment to the system during flooding;

(ii) Contamination from the system during flooding;

(iii) Design all new and replacement water supply systems to minimize or eliminate infiltration of floodwaters into the system;

(iv) Above-ground utility transmission lines, except for electric transmission lines, are allowed only for the transport of nonhazardous substances; and

(v) Bury underground utility transmission lines transporting hazardous substances at a minimum depth of four feet below the maximum depth of scour for the base flood, as predicted by a civil engineer, and achieve sufficient negative buoyancy so that any potential for flotation or upward migration is eliminated.

(7) Critical facilities are only allowed within the floodway fringe, when a feasible alternative site is not available and the following standards are met:

(a) Elevate the lowest floor to the 500-year floodplain elevation or three or more feet above the base flood elevation, whichever is higher.

(b) Dry flood-proof and seal structures to ensure that hazardous substances are not displaced by or released into flood waters.

(c) Elevate access routes to or above the base flood elevation from the critical facility to the nearest maintained public street or roadway;

16.15.330 Riparian Buffer Zone development standards and alterations.
The following standards apply to development proposals and alterations on sites within the RBZ, subject to the exceptions provided in Section 16.15.315 and 16.15.320 (5) and (6).

(1) The following development is not permitted in the RBZ:

(a) new structures, including accessory buildings and non-residential structures;

(b) new impervious surfaces;

(c) removal of native vegetation;

(d) grading, clearing, filling, or other related land disturbing activity, other than for approved restoration work.

(2) If an existing lot does not have sufficient buildable area outside of the RBZ (5,000 square feet), the following shall apply:

(a) structures must be located to the non-RBZ area to the extent practicable;

(b) if the lot has no buildable area outside of the RBZ, all structures and development must be sited to have the least impact on the floodplain and riparian habitat;

(c) other site development and non-residential structures are not permitted in the RBZ,

(d) roads and access driveways to the site are not permitted in the RBZ, except if it is the sole and least impactful access to the site. No new stream crossings are allowed to provide access to floodprone sites.

16.15.340 Zero-rise and FEMA floodway development standards and alterations.
The following standards apply to development proposals and alterations on sites within the zero-rise and FEMA floodways:

(1) The standards that apply to the zero-rise flood fringe also apply to the zero-rise floodway. The more restrictive standards apply where there is a conflict;

(2) A development proposal shall not increase the base flood elevation except as follows:

(a) Revisions to the flood insurance rate map are approved by FEMA, in accordance with 44 CFR 70, to incorporate the increase in the base flood elevation; and

(b) Appropriate legal documents are prepared and recorded in which all property owners affected by the increased flood elevations consent to the impacts on their property.

(3) If post and piling construction techniques are used, the following are presumed to produce no increase in base flood elevation and a critical areas report is not required to establish this fact:

(a) New residential structures outside the FEMA floodway on lots in existence before November 27, 1990, that contain less than 5,000 square feet of buildable land outside the zero-rise or FEMA floodway if the total building footprint of all existing and proposed structures on the lot does not exceed 2,000 square feet;

(b) Substantial improvements of existing residential structures in the zero-rise floodway, but outside the FEMA floodway, if the footprint is not increased; or

(c) Substantial improvements of existing residential structures that meet the standards for new residential structures in Article III of CMC 16.15;

(4) When post or piling construction are not used, a critical areas report is required in accordance with CMC 16.15.110 demonstrating that the proposal will not increase the base flood elevation;

(5) During the flood season from September 30th to May 1st the following are not allowed to be located in the zero-rise or FEMA floodway:

(a) All temporary seasonal shelters, such as tents and recreational vehicles; and

(b) Staging or stockpiling of equipment, materials or substances that the Director determines may be hazardous to the public health, safety, or welfare;

(6) New residential structures and substantial improvements to existing residential structures or any structure accessory to a residential use shall meet the following standards:

(a) Locate the structures outside the zero-rise and FEMA floodway;

(b) Locate the structures only on lots in existence before November 27, 1990, that contain less than 5,000 square feet of buildable land outside the zero-rise or FEMA floodway; and

(c) To the maximum extent practical, locate the structures the farthest distance from the channel, unless the Applicant can demonstrate that an alternative location is less subject to risk;

(7) Public and private utilities are only allowed if:

(a) The Director determines that a feasible alternative site is not available;

(b) A waiver is granted by the Department of Public Health of Seattle-King County for new on-site sewage disposal facilities;

(c) The utilities are dry flood-proofed to or elevated above the flood protection elevation;

(d) Above-ground utility transmission lines, except for electrical transmission lines, are only allowed for the transport of nonhazardous substances; and

(e) Underground utility transmission lines transporting hazardous substances are buried at a minimum depth of four feet below the maximum depth of scour for the base flood, as predicted by a civil engineer, and achieve sufficient negative buoyancy so that any potential for flotation or upward migration is eliminated;

(8) Critical facilities, except for those listed in subsection (9) of this section are not allowed within the zero-rise or FEMA floodway; and

(9) Structures and installations that are dependent upon the zero-rise floodway are allowed in the zero-rise floodway if the development proposal is approved by all agencies with jurisdiction and meet the development standards for the zero-rise floodway. These structures and installations may include, but are not limited to:

(a) Dams or diversions for water supply, flood control, irrigation or fisheries enhancement;

(b) Flood damage reduction ~~**Floodways.**~~facilities, such as levees, revetments and pumping stations, provided:

(i) that the new structural flood hazard reduction measures are only allowed where demonstrated to be necessary;

(ii) nonstructural methods are infeasible and mitigation is provided to achieved no net loss, such facilities must be located landward of associated wetlands and buffer areas except where no alternative exists.

(c) Stream bank stabilization structures only if a feasible alternative does not exist for protecting structures, public roadways, flood protection facilities or sole access routes. Bank stabilization projects must meet the standards of the stormwater manuals adopted in CMC Title 13 and use bioengineering techniques to the maximum extent practical. An Applicant may use alternative methods to the guidelines if the Applicant demonstrates that the alternative methods provide equivalent or better structural stabilization, ecological and hydrological functions and salmonid habitat;

(d) Surface water conveyance facilities;

(e) Boat launches and related recreation structures;

(f) Bridge piers and bridge widening structures, provided that the new abutments and piers are aligned with existing piers and abutments;

(g) Culvert replacements that upgraded to current fish passage standards; and

(h) Approved stream or wetland restoration projects including, but not limited to, fisheries enhancement projects. (Ord. 13-09 § 34; Ord. 14-05 § 5)

16.15. 350 FEMA floodway development standards and alterations.

Located within areas of special flood hazard are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwater which carries debris, potential projectiles, and erosion potential, the following provisions shall apply to ~~areas designated as floodways:~~development proposals and alterations on sites within the FEMA floodway areas:

~~(1)~~(1) The standards that apply to the zero-rise floodway also apply to the FEMA floodway. The more restrictive standards apply where there is a conflict;

(2) A development proposal shall not increase the base flood elevation. Encroachments, including but not limited to, fill, new construction, substantial improvements and other development are prohibited unless certification by a registered professional engineer is provided demonstrating through hydrologic and hydraulic analyses performed with standard engineering practice that said encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge;

~~(2) Construction or~~3) New residential or nonresidential structures are prohibited within the FEMA floodway;

(4) Reconstruction of residential structures is prohibited within FEMA designated floodways, except for: (a) repairs, reconstruction or improvements to a structure which do not increase the ground floor area; and (b) repairs, reconstruction of residential structures or improvements to a structure, the cost of which does not exceed 50 percent of the market value of the structure either: (i) before the repair or reconstruction is started; or (ii) if the structure has been damaged and is being restored, before the damage occurred. Any project for improvement for a structure to

correct existing violations of State or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimums necessary to assure safe living conditions or to be structures identified as historic places may be excluded in the 50 percent.

(~~3~~5) If subsection (~~1~~4) of this section is satisfied, all new construction and substantial improvements in an area designated as a floodway shall comply with all the applicable flood hazard reduction provisions of CMC 16.15.200 through 16.15.310. (Ord. 30-05 § 3; Ord. 23-00 § 5; Ord. 100-98 § 1)

~~**16.15.300 Flood hazard reduction – Encroachments.**~~
~~In all areas of special flood hazard,~~ (6) If the ~~cumulative effect of any proposed development, combined with all other~~ footprint of the existing ~~and anticipated development, shall~~residential structure is not increased, substantial improvements of existing residential structures in the FEMA floodway, meeting the requirements this Section are presumed to not increase the ~~water surface elevation of the~~ base flood elevation and do not require a critical areas report to establish this fact.

16.15.360 Channel migration zones – Development standards and alterations.
The following standards apply to development proposal and alterations on sites within CMZ that have been mapped and adopted by public rule:

(1) The following standards apply to development proposals and alterations within the regulated channel migration zone:

(a) Maintenance, repair or expansion of any use or structure is allowed if the existing structure's footprint is not expanded towards any source of channel migration hazard, unless the Applicant can demonstrate that the location is the least subject to risk;

(b) New primary dwelling units, accessory dwelling units or accessory living quarters, and required infrastructure, are allowed if:

(i) The structure is located on a separate lot in existence on or before February 16, 1995;

(ii) A feasible alternative location outside of the regulated CMZ is not available on-site; and

(iii) To the maximum extent practical, the structure and supporting infrastructure is located the farthest distance from any source of channel migration hazard, unless the Applicant can demonstrate that an alternative location is the least subject to risk.

(c) The subdivision of property is allowed within the portion of a regulated channel migration zone if:

(i) All lots contain 5,000 square feet or more ~~than one foot at any point. (Ord. 100-98 § 1)~~of buildable land outside of the regulated CMZ;

~~**16.15.310 Critical facility.**~~
~~To the extent possible, the construction of any new critical facility shall be located outside the limits of the special flood hazard area (100-year floodplain). Construction of any new critical facility shall be permissible within the special flood hazard area if no feasible alternative site is available. Any critical facility constructed within said area shall have the lowest floor elevated three feet or more above the level of the base flood elevation at the site. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into flood waters. To the extent possible, access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities. (Ord. 100-98 § 1)~~(ii) Access to any lots does not cross the regulated CMZ; and

(iii) All infrastructure is located outside the regulated CMZ.

EXHIBIT B

Repeal and Replace
Chapter 18.65
CRITICAL AREAS

Sections:

Article I. General Provisions & Administration
18.65.010 Purpose.
18.65.020 Applicability.
18.65.030 Appeals.
18.65.040 Critical areas rules.
18.65.045 Relationship to other regulations.
18.65.046 Fees.
18.65.047 Exemptions.
18.65.048 Partial exemptions.
18.65.049 Unauthorized Alterations and enforcement.
18.65.050 Allowed Alterations of critical areas.
18.65.060 Agricultural activities development standards.
18.65.062 Shoreline variances required.
18.65.070 Public agency/utility exception.
18.65.075 Reasonable Use Exception
18.65.090 Disclosure by applicant.
18.65.100 Critical area review.
18.65.110 Critical area report requirement.
18.65.120 Sequential steps for mitigation, including avoiding impacts.
18.65.130 Mitigation and monitoring.
18.65.135 Off-site mitigation.
18.65.140 Financial guarantees.
18.65.160 Critical area markers, signs, fencing and installation.
18.65.170 Recording notice on title of critical areas.
18.65.180 Critical area tracts and designations on site plans.
18.65.200 Building setbacks from critical area buffer.

Article II. Frequently Flooded Areas
18.65.230 Frequently flooded areas

Article III Geologically Hazardous Areas
18.65 250 Applicability and designation- geologically hazardous areas
18.65.260 Erosion hazard areas – development standards and permitted alterations.
18.65.270 Erosion and seismic hazard areas – protection measures and specific mitigation.
18.65.280 Landslide hazard areas – development standards and alterations.
18.65.290 Steep slope hazard areas – development standards and alterations.
18.65.300 Additional critical area report requirements- geologically hazardous areas.

Article IV. Critical Aquifer Recharge Areas
18.65.311 Critical aquifer recharge areas – designation
18.65.312 Critical aquifer recharge areas – reclassification or declassification.
18.65.313 Critical aquifer recharge areas – categories.
18.65.314 Critical aquifer recharge areas – protection.
18.65.315 Critical aquifer recharge areas – development regulations.
18.65.316 Critical aquifer recharge areas – evaluation and implementation.

Article V. Wetlands
18.65.318 Wetlands – identification and evaluation.
18.65.319 Wetlands – classes and categories.
18.65.320 Wetlands – buffers.
18.65.340 Wetlands – specific mitigation requirements.

Article VI. Fish and Wildlife Habitat Conservation Areas (Including Streams)

18.65.350 Fish and wildlife habitat conservation areas – applicability
18.65.355 Fish and wildlife habitat conservation areas – designation and purpose.
18.65.360 Fish and wildlife habitat conservation areas – classification.
18.65.360 Streams – standard buffers
18.65.365 Streams and associated buffers – development standards and alterations
18.65.370 Streams – permitted alterations.
18.65.375 Streams – removal from culverts and pipes
18.65.380 Streams – specific mitigation requirements.
18.65.385 Naturally – occurring ponds, less than 20 acres in area.
18.65.390 Other fish and wildlife habitat conservation areas – development standards.
18.65.395 Fish and wildlife habitat corridors and networks.
18.65.400 Fish and wildlife habitat conservation areas – modification.
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18.65.410 Wildlife habitat conservation areas – additional provisions for critical areas report
18.65.420 Process to identify additional species of local importance
18.65.430 Fish protection measures.
18.65.440 Endangered, threatened, and sensitive species protection measures.

Article I. General Provisions & Administration

18.65.010 Purpose.
The purpose of this chapter is to implement the goals and policies of the Growth Management Act, Chapter 36.70A RCW, Washington State Environmental Policy Act, Chapter 43.21C RCW, and the Covington Comprehensive Plan, which call for protection of the natural environment and the public health and safety by:

(1) Establishing development and alteration standards to protect functions and values of critical areas;

(2) Protecting members of the general public and public resources and facilities from injury, loss of life, property damage or financial loss due to flooding, erosion, landslides, seismic and volcanic events, soil subsidence or steep slope failures;

(3) Protecting unique, fragile and valuable elements of the environment including but not limited to fish and wildlife and their habitats and maintaining and promoting City-wide native biodiversity;

(4) Requiring mitigation of unavoidable impacts to critical areas by regulating alterations in or near critical areas;

(5) Preventing cumulative adverse environmental impacts on water availability, water quality, ground water, wetlands and streams;

(6) Measuring the quantity and quality of wetland and stream resources and preventing overall net loss of wetland and stream functions;

(7) Protecting the public trust as to navigable waters, aquatic resources, and fish and wildlife and their habitat;

(8) Meeting the requirements of the National Flood Insurance Program;

(9) Alerting members of the public including but not limited to appraisers, owners, potential buyers or lessees to the development limitations of critical areas; and

(10) Providing City officials with sufficient information to protect critical areas.

18.65.020 Applicability.
(1) This chapter applies to all land uses, activity, and development in the City of Covington, and all persons within the City shall comply with this chapter.

(2) 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 without first ensuring compliance with this chapter.

(3) Approval of a development proposal in accordance with this chapter does not discharge the obligation of the applicant to comply with this chapter.

(4) This chapter applies to all forest practices over which the City has jurisdiction under Chapter 76.09 RCW and WAC Title 222.

(5) Unless exempted in CMC 18.65.047 or 18.65.048, these critical area regulations shall apply to all developments within one or more of the following critical areas or their associated buffers, regardless of whether the site has been previously identified as a critical area. Critical areas include any of the following areas or ecosystems as defined in RCW 36.70A.030 and WAC 365-190.030 and the corresponding buffers and setbacks.

(a) Frequently flooded areas;

(b) Geologically hazardous areas;

(c) Critical aquifer recharge areas;

(d) Wetlands; and

(e) Fish and wildlife habitat conservation areas (includes streams).

18.65.030 Appeals.
An applicant may appeal a decision under this chapter to approve, condition or deny a development proposal according to and as part of the appeal procedure for the underlying permit or approval involved.

18.65.040 Critical areas rules.
The City of Covington is authorized to adopt, in accordance with Chapter 2.75 CMC, such public rules and regulations as are necessary and appropriate to implement this chapter and to prepare and require the use of such forms as are necessary to its administration.

18.65.045 Relationship to other regulations.

(1) Nothing in this chapter in any way limits, or may be construed to limit, the authority of the City under any other applicable law, nor in any way decreases the responsibility of the applicant to comply with all applicable local, state and federal laws and regulations.

(2) These critical areas regulations shall apply in addition to zoning and other regulations adopted by the City.

(3) When any other chapter of the Covington Municipal Code conflicts with this chapter or when the provisions of this chapter are in conflict, the provision that provides more protection to environmentally critical areas shall apply unless specifically provided in this chapter or unless the provision conflicts with federal or state laws or regulations.

(4) Compliance with the provisions of this chapter does not constitute compliance with other federal, state, and local regulations and permit requirements that may be required. The applicant is responsible for complying with these requirements, in addition to the process established in this chapter.

(5) If any provisions of this chapter are in conflict with any part of the City's Shoreline Master Program, herein referenced as the City's SMP, adopted under Ordinance No. 05-11, the regulations in RCW 90.58.020 shall apply, as determined by the City.

(6) Provisions of this chapter that are not consistent with the state Shoreline Management Act, Chapter 90.58 and supporting Washington Administrative Code chapters, shall not apply to the City's shoreline jurisdiction,

(7) Critical areas within shoreline jurisdiction are regulated by the City of Covington Critical Areas Regulations for Shoreline Jurisdiction, as contained in and herein referenced as SMP Appendix A. Although these regulations are similar to the Critical Areas Regulations codified in Chapter 18.65 of the Covington Municipal Code, pursuant to the requirements of the Shoreline Management Act, these regulations are distinct. Certain key critical area provisions, including the Reasonable Use Exception, do not apply in shoreline jurisdiction. Deviations from the Critical Areas Regulations as set forth in SMP Appendix A are processed as a shoreline variance process provided in the City's SMP Chapter 8: Administration for discussion of shoreline permits. If there are conflicts between the regulations contained in the SMP, those that are the most protective of shoreline ecological functions will apply.

18.65.046 Fees.

(1) Fees shall be collected for the permit administration, plan review and other services provided by the City for critical areas review consistent with the critical area review fees set forth in the current fee resolution. Fees shall include but not be limited to cost recovery for engineering and planning review time, site inspection time, administration, third-party peer review, and any other special costs attributable to the critical areas review process.

(2) The applicant shall be responsible for the initiation, preparation, submission, and expense of all required reports, assessments, studies, plans, reconnaissance, or other work prepared in support of or necessary to review the application, unless otherwise provided in this title.

(3) In addition to critical area review fees, as set forth in this section, other fees required by the Covington Municipal Code may be applicable to the critical area review and associated application, including but not limited to Shoreline Management Act, SEPA, tree preservation, and clearing and grading review fees.

18.65.47 Exemptions.

The following activities and developments are exempt from the provisions of this chapter. All exempted activities shall use reasonable methods to avoid potential impacts to critical areas. An exemption from this chapter is not an endorsement to degrade a critical area, ignore risk from natural hazards, or otherwise limit the ability of the Director to identify and abate such actions that may cause degradation to a critical area.

(1) Activities and development in response to emergencies that threaten public health, safety or welfare, or that pose an immediate risk of damage to property and that require remedial or preventive action in a timeframe too short to allow for compliance with the requirements of this chapter. In the event a person determines that the need to take emergency action is so urgent that there is insufficient time for review by the Department, such emergency action may be taken immediately. Such action shall be reported to the Department within one working day of the commencement of the emergency activity on a form provided by the City. The Director will determine if the action was in response to an emergency and if any mitigation shall be required to protect health, safety, welfare, or environment or to repair any resource damage.

(2) Operation, maintenance, or repair of existing public improvements, utilities, public roads, parks, trails, or drainage systems if the activity does not further alter or increase 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, and no new clearing of native vegetation beyond routine pruning.

(3) Normal maintenance and repair, internal reconstruction or remodeling or improvements to existing structures that do not increase the previously approved building footprint, provided the improvements or repairs are not the result of or required due to a flood or floodplain hazard.

(4) Recreation, education, and scientific research activities that do not require grading, native vegetation clearing, or placement of structures.

(5) Site reconnaissance necessary for preparing land use or building permit applications. Any disturbance of the critical area shall be the minimum necessary to conduct the site reconnaissance and the area shall immediately be restored to its previous condition.

(6) Removal by hand of invasive and noxious vegetation. Removal by hand does not include using mechanical equipment or the use of herbicides.

(7) Excavation of cemetery graves in established and approved cemetery. Maintenance, operation, or repair of the cemetery graves as long as any such alteration does not involve the expansion of improvements.

18.65.048 Partial exemptions.

The following activities are partial exemptions to the provisions of this chapter and will require land use approval from the Director. The Director may require supporting application materials, such as documentation, prepared by a qualified professional to demonstrate compliance with partial exemptions:

(1) Landscaping. Normal maintenance and continuation of existing landscaping and gardens, within an identified critical area, that were legally established prior to City incorporation, provided the area is not expanded. This partial exemption shall be documented by photographs, statements, and/or other evidence provided by the applicant. The use of herbicide is permitted in wetlands and streams and their buffers only for the control of invasive vegetation. A state and federally approved registered aquatic formulation shall be applied by a licensed aquatic herbicide applicator in wetlands and streams.

(2) Agricultural. Expansion or creation of agricultural uses within an identified critical area is not allowed subject to the provisions of this chapter. Agricultural activities in existence before the date of incorporation, in continuous operation, and for which the activity is supporting agricultural activity, are partially exempted from this chapter as follows:

(a) Mowing of hay, grass or grain crops;

(b) Tilling, dicing, planting, seeding, harvesting and related activities for pasture, food crops, grass seed or sod if such activities do not take place on steep slopes;

(c) Normal and routine maintenance of existing irrigation and drainage ditches not used by salmonids; and

(d) Normal and routine maintenance of farm ponds, fish ponds, manure lagoons and livestock watering ponds;

(3) Demolition of Structures. The applicant shall submit demolition permit(s) and associated temporary erosion and sedimentation control plan, as applicable.

(4) Normal and Routine Maintenance. Clearing, pruning, removal of nuisance vegetation, and normal and routine maintenance of trees and vegetation shall be subject to permitting requirements in Chapters 18.45 and 14.60 CMC.

18.65.049 Unauthorized alterations and enforcement.

(1) When a critical area or its buffer has been altered in violation of this chapter, all ongoing development work shall stop and the critical area shall immediately and completely be restored prior to resuming development work. 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 violator's expense to compensate for violation of provisions of this chapter.

(2) Restoration plan. All development work shall remain stopped until a restoration plan is prepared at the expense of the owner or violator and approved by the City. The 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 subsections (2)(a) and 2(b) of this section. The Director may, at the owner or violator's expense, seek expert advice in determining the adequacy of the plan. Inadequate plans shall be returned to the owner or violator for revision and resubmittal.

(a) For Alterations to critical aquifer recharge areas, frequently flooded areas, wetlands, and fish and wildlife habitat conservation areas, the following minimum performance standards shall be met for the restoration of a critical area:

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

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

(iii) 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

(iv) Information demonstrating compliance with CMC 18.65.130 (Mitigation and monitoring) shall be submitted to the Director.

(b) For Alterations to flood hazard areas and geologically hazardous areas, the following minimum performance standards shall be met for the restoration of critical area:

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

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

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

(3) Minimum performance standards identified in subsections (2)(a) and (2)(b) of this section may be modified if the owner or violator can demonstrate that greater functional and habitat values can be obtained.

(4) Site investigations. Site investigations necessary to enforce this chapter are authorized pursuant to CMC 1.30.

(5) Penalties. Any development carried out contrary to the provisions of this chapter shall constitute a public nuisance and be subject to provisions of CMC Chapter 1.30.

18.65.050 Allowed alterations of critical areas.

(1) Within the following critical areas and their buffers Alterations are allowed if the Alteration complies with the sequential steps for mitigation, including avoiding impacts, applicable development standards, mitigation requirements, and other applicable requirements established in this chapter:

(a) Critical aquifer recharge area;

(b) Geologically Hazardous Areas:

(i) Landslide hazard area under 40 percent slope;

(ii) Erosion hazard area.

(2) Within the following four critical areas and their buffers only the Alterations on the table in subsection (6) are allowed if the Alteration complies with conditions in subsection (7) of this section and the development standards, mitigation requirements and other applicable requirements established in this chapter:

(a) Channel migration zone (CMZ) and riparian buffer zone (RBZ);

(b) Geologically Hazardous Areas:

(i) Landslide hazard area with a 40 percent or greater slope;

(ii) Steep slope hazard area;

(c) Wetland; and

(d) Wildlife habitat conservation areas (including streams and natural ponds).

(3) The City may require other construction techniques, conditions, and restrictions on development in order to minimize adverse impacts on critical areas.

(4) The applicant is responsible for obtaining permits from the City for the allowed Alterations pursuant to CMC 18.65.100. The request for an Alteration may be submitted sequentially with other identified City permits or development review. The City may collect fees for the review of the Alteration in accordance with CMC 18.65.046. The applicant is responsible for obtaining associated state and federal permits as applicable and conditioned in this chapter.

(5) Activities and allowed Alterations within a shoreline jurisdiction as identified in the City's SMP shall only comply with the shoreline modification regulations in Chapter 7 of the SMP.

(6) In the following table where an Alteration is included in more than one activity category, the numbered conditions applicable to the most specific description of the Alteration governs. Where more than one numbered condition appears for a listed Alteration, each of the relevant conditions specified for that Alteration within the given critical area applies. For Alterations involving more than one critical area, compliance with the conditions applicable to each critical area is required.

Alteration*	Landslide Hazard Over 40% and Buffer	Steep Slope Hazard and Buffer	Wetland and Buffer	Stream and Buffer	Fish & Wildlife Conservation Area/ Corridor Area
KEY: Letter "A" in a cell means Alteration is allowed consistent with the requirements of this Chapter. If it is blank it is not allowed. *Activities within a shoreline jurisdiction must also comply with Table 4 of the City Shoreline Master Program (Ord. 05-11)					
Construction of single detached dwelling unit			A 1, 2		
Construction of nonresidential structure			A 1 ,2	A 1, 2	A 1, 2, 3
Construction of new dock or pier			A 4	A 4, 5	
Maintenance, repair or replacement of dock or pier			A 6	A 6	A 3
Clearing & Grading					
Grading (Chapter 14.60 CMC)		A 7		A 8	
Construction of new slope stabilization	A 9	A 9	A 9	A 9	
Maintenance of existing slope stabilization	A 10	A 7, 10	A 10	A 10	A 3, 10
Clearing (Chapters 14.60 & 18.65 CMC). Includes removal of brush, trees, noxious weeds or invasive vegetation and general maintenance not exempt in CMC 18.65.47 and 18.65.048	A 11,	A 11, 12	A 11, 13	A 8, 11, 13	A 11
Forest practices					
Nonconversion Class IV-G forest practice	A 14	A 14	A 14	A 14	A 14, 15
Roads					
Construction of new public road right-of-way	A 16	A 16	A 16	A 5, 16	A 16
Expansion of public right-of-way structure/facility, beyond established right-of-way for the purpose of maintenance, operation, repair, modification installation, or construction	A 9, 16	A 16	A 16	A 16	A 16
Construction of new driveway or private access road			A 2	A 2	A 2
Bridges or culverts					
Maintenance or repair of bridge or culvert	A 10	A 10	A 10	A 10	A 10
Replacement of bridge or culvert	A 10	A 10	A 10	A 10, 17	A 10
Expansion of bridge or culvert	A 10	A 10	A 18	A 18	A 3
Utilities and other infrastructure					

Expansion or construction of new utility corridor or minor utility facility located beyond the established right-of-way or easement.	A 19	A 19	A 29	A 29	A 3
Construction of a new well or onsite sewage disposal			A 30	A 30	
Maintenance, repair, expansion of a new well or onsite sewage disposal	A 2, 21, 20	A 2, 21, 20	A 2, 21, 20	A 2, 21, 20	A 3, 21, 20
Construction, maintenance, or expansion of surface water run off system, designed in accordance with Chapter 13.25 CMC, to provide surface water quality treatment	A 19	A 19	A 22		A 3
Maintenance, repair, or replacement of flood protection facility	A 23	A 23	A 23	A 23	A 23
Construction of new instream structure or instream work or maintenance or repair of instream structure	A 10	A 10	A 10	A 10, 24,	A 3
Recreation areas					
Construction of a new publicly accessible non-motorized trail	A 25	A 25	A 25	A 5, 25	A 3, 25
Maintenance of outdoor public park facility, trail, or improved recreation area	A 26	A 26	A 26	A 26	A 3, 26
Habitat and science projects					
Habitat restoration or enhancement project	A 27	A 27	A 27	A 27	A 3, 27
Scientific sampling for salmonids			A 28	A 28	A 3, 28

(7) The following Alteration conditions apply to the table in subsection (6) of this section:

1. May be permitted pursuant to the Reasonable Use Exception Permit Process in CMC 18.65.075.

2. Pursuant to sequential avoidance measures and specific mitigation requirements for the impacted critical area in CMC 18.65.120-.130.

3. Allowed if no clearing, external construction or other disturbance in a wildlife habitat conservation area occurs during active breeding seasons of any species with a habitat that is identified as requiring protection pursuant to CMC 18.65.390.

4. Limited to seasonal floating docks or piers in a Category II, III or IV wetland or stream and associated buffers. Docks and piers proposed along a shoreline, designated as a Shoreline of the State, are subject to the regulations in the SMP Appendix A.

a. The existing and zoned density of all properties abutting the entire lake shoreline averages three dwelling units per acre or more;

b. At least 75 percent of the lots abutting the shoreline or 75 percent of the lake frontage, whichever constitutes the most lake frontage, has been developed with dwelling units;

c. There is not any significant vegetation where the Alteration is proposed and the loss of vegetation was not the result of any violation of law; and

d. The wetland or lake shoreline is not a salmonid spawning area.

5. Not allowed within a severe channel migration hazard area portion of a stream buffer.

6. Allowed in Category II, III or IV wetland or streams and associated buffers subject to the following conditions. Maintenance, repair or replacement of a dock or pier along a shoreline, designated as a Shoreline of the State, are subject to the regulations in SMP Appendix A:

a. There is not an increase in the number of pilings or the overall width and length of the dock or pier;

b. Hazardous substances or toxic materials are not used;

c. All piers and docks shall result in no net loss of ecological functions. Docks and piers, including those accessory to single family residences, shall minimize and mitigate adverse impacts to the stream shoreline and its buffers; and

d. There is not an increase in shade for predator species.

7. Limited to regrading and stabilizing of a slope formed as a result of a legal grading activity consistent with Chapter 14.60 CMC.

8. The following are allowed if conducted more than 115 feet from the ordinary high water line:

a. Grading of up to 50 cubic yards on lot less than five acres, with an approved clearing and grading permit consistent with Chapter 14.60 CMC; and

b. Clearing of up to 1,000 square feet or up to a cumulative 35 percent of the lot, with an approved clearing and grading permit consistent with Chapter 14.60 CMC.

9. Only permitted where erosion or land sliding threatens a structure, utility facility, roadway, driveway, public trails, stream or wetland if, to the maximum extent practical, stabilization work does not disturb the slope and its vegetative cover and any associated critical areas as evaluated in a critical area report prepared by a geotechnical engineer or engineering geologist licensed in the state.

a. Within a shoreline jurisdiction area new stabilization structures for existing primary residential structures are allowed only where no alternatives (including relocation or reconstruction of existing structures) are feasible and less expensive than the proposed stabilization measures, and then only if no net loss of ecological functions will result.

10. Allowed when performed by or at the direction of a government agency as follows:

a. Construction methods will reduce or not adversely affect geologic hazards;

b. Use of retaining walls that allow maintenance of existing natural slope areas are preferred over graded artificial slopes, unless an alternative design provides equivalent or greater long-term slope stability;

c. The maintenance does not involve the use of herbicides, hazardous substances, sealants, or other liquid oily substances in streams, wetlands or their buffers; and

d. When maintenance involves work over and within water:

i. The maintenance is compliant with Washington State Department of Ecology and other applicable state and federal agencies; and

ii. The maintenance of culverts is limited to removal of sediment and debris from the culvert and its inlet, invert and outlet and the stabilization of the disturbed or damaged bank or channel immediately adjacent to the culvert and shall not involve the excavation of a new sediment trap adjacent to the inlet.

11. Allowed for the removal of hazard trees and vegetation as necessary pursuant to the following:

a. Vegetation removal allowed only in buffers for the purpose of enhancing tree growth within the tree canopy area, as determined by a certified biologist in a critical area report subject to mitigation measures as applicable.

b. Removal of noxious and invasive weeds shall be undertaken with hand labor unless otherwise authorized by the King County Noxious Weed Control Board to use riding mowers or light mechanical cultivating equipment and herbicides or biological control methods:

i. The area is stabilized to avoid re-growth or regeneration of noxious weeds, and

ii. The cleared area is revegetated with native or noninvasive vegetation and stabilized against erosion.

c. Clearing, pruning, removing, and normal and routine maintenance of trees shall be subject to the regulation, mitigation and permit requirements set forth in Chapters 14.60 and 18.45 CMC.

12. The limited trimming and pruning of vegetation if the soils are not disturbed and the activity will not adversely affect the long-term stability of the slope, erosion or water quality.

13. Harvesting of plants and plant materials, such as plugs, stakes, seeds or fruits, for restoration and enhancement projects is allowed.

14. Only if in accordance with Chapter 76.09 RCW and Title 222 WAC and:

a. A long-term management plan is approved for the site by the City; and

b. The property owner provides a notice of intent in accordance with RCW 76.09.060 that the site will not be converted to nonforestry uses within six years.

15. Only if in compliance with published Washington State Department of Fish and Wildlife and Washington State Department of Natural Resources management standards for the species. If there are no published Washington State standards, only if in compliance with management standards determined by the Director to be consistent with best available science.

16. Allowed only if:

a. There is not another feasible location with less adverse impact on the critical area and its buffer, consistent with CMC 18.65.120;

b. The roadway is not located over habitat used for salmonid rearing or spawning or by a species listed as endangered or threatened by the state or federal government unless the Department determines there is no other feasible crossing site;

c. The roadway width is minimized to extent practical;

d. The construction occurs during approved periods for instream and wetland work; and

e. The roadway will not change or diminish the overall stream flow peaks, duration or volume, flood storage capacity and wetland function.

17. Allowed only if:

a. The replacement is made fish passable in accordance with Washington State Department of Fish and Wildlife Habitat and Lands Environmental Engineering Division's Fish Passage Design Manual or with the National Marine and Fisheries Services Guidelines for Salmonid Passage at Stream Crossings for federally listed salmonid species; and

b. The site is restored with appropriate native vegetation.

18. Allowed if necessary to bring the bridge or culvert up to current standards and if:

a. There is not another feasible alternative available with less impact on the stream and wetlands and their buffer; and

b. To the maximum extent practical, the bridge or culvert is located to minimize impacts to the stream and wetland and their buffers.

19. Limited to transmission pipelines, underground power lines, transmission powerlines, cables, wires, stormwater and support structures of utility facilities if:

a. There is no other feasible alternative available with less impact on the critical area;

b. The Alterations will not subject the critical area to an increased risk of landslide or erosion;

c. Significant risk of personal injury is eliminated or minimized in the landslide hazard area;

d. Vegetation removal is the minimum necessary to locate the utility or construct the corridor;

e. Any crossing over a stream or wetland shall be generally perpendicular to the critical area and shall be accomplished by bridging or other technique designed to minimize critical area disturbance. It shall also be the minimum width necessary to accommodate the intended function or objective;

f. New utility corridors meet all of the following to the maximum extent practical:

i. Are not located over habitat used for salmonid rearing or spawning or by a species listed as endangered or threatened by the state or federal government unless the Department determines that there is no other feasible crossing site;

ii. The mean annual flow rate is less than 20 cubic feet per second; and

iii. Paralleling the channel or following a down-valley route near the channel is avoided;

g. To the maximum extent practical utility corridors are located so that:

i. The width is minimized;

ii. The removal of trees shall be minimized to the extent feasible and is in accordance with Chapter 18.45 CMC; and

iii. An additional, contiguous and undisturbed critical area buffer, equal in area to the disturbed critical area buffer area including any allowed maintenance roads, is provided to protect the critical area;

h. To the maximum extent practical, access for maintenance is at limited access points into the critical area buffer rather than by a parallel maintenance road. If a parallel maintenance road is necessary the following standards are met:

i. To the maximum extent practical the width of the maintenance road is minimized and in no event greater than 15 feet; and

ii. The location of the maintenance road is contiguous to the utility corridor on the side of the utility corridor farthest from the critical area;

i. The utility corridor or utility facility will not change or diminish the overall critical area hydrology or flood storage capacity;

j. The construction occurs during approved periods for instream work;

k. The utility corridor serves multiple purposes and properties to the maximum extent practical;

l. Bridges or other construction techniques that do not disturb the critical areas are used to the maximum extent practical;

m. Bored crossing meet the following criteria:

i. Are laterally drilled and located at a depth of four feet below the maximum depth of scour for the base flood; and

ii. The channel is crossed close to perpendicular and never more than 30 degrees from perpendicular;

n. Open trenching is only used during low flow periods and only within streams when they are dry. The Department may approve open trenching of Type S or F streams only if there is not a feasible alternative and equivalent or greater environmental protection can be achieved; and

o. Minor communication facilities may collocate on existing utility facilities if: no new transmission support structure is required; and equipment cabinets are located on the transmission support structure.

20. Allowed for private individual utility service connections on site or to public utilities or utilities regulated by the Washington Utilities and Transportation Commission if the disturbed area is not expanded and no hazardous substances, pesticides or fertilizers are applied.

21. Allowed if the disturbed area is not expanded, clearing is limited to the maximum extent practical and no hazardous substances, pesticides or fertilizers are applied.

22. New surface water discharges in the form of dispersion trenches, outfalls and bioretention cells are allowed within the outer twenty-five percent (25%) of a wetland buffer provided that the discharge meets the requirements of the Surface Water Management Regulations in Chapter 13.25 CMC, if no other location is feasible and it will not degrade the functions or values of the wetland or stream. Where differences exist between these regulations and Chapter 13.25 CMC, these regulations will take precedence.

23. Applies to lawfully established existing structures if:

a. Maintained by a public agency;

b. The height of the facility is not increased;

c. The linear length of the affected edge of the facility is not increased;

d. The footprint of the facility is not expanded waterward;

e. Consistent with King County's Guidelines for Bank Stabilization Projects (King County Surface Water Management) and bioengineering techniques are used to the maximum extent practical; and

f. The site is restored with appropriate native vegetation.

24. Allowed in Type S, F, Np and Ns streams if:

a. Work is completed in the least impactful way during the least impactful time of year;

b. In conformance with applicable best management practices;

c. All affected instream and buffer features are restored;

d. Proposed instream work will restore or improve habitat; and

e. Work is compliant with other applicable state and federal agencies and permitting requirements.

25. Non-motorized publicly accessible trails are allowed with an approved critical area report. Trail planning, design, construction, and maintenance shall adhere to the following criteria:

a. The trail shall be located and designed using best management practices in accordance with an approved critical area report and the following standards:

i. Trail location and design shall result in the least impacts on the critical area or required buffers. Critical Areas buffers shall be expanded, where possible, equal to the width of the trail corridor including disturbed areas;

ii. Trails should be generally located within the outer twenty-five percent (25%) of the standard critical area buffer when applicable;

iii. Trails located within a stream or wetland critical area shall be designed to limit minor crossings and having no adverse impact on water quality. The trail should be generally parallel to the perimeter of the wetland or stream. Trails should not be constructed of impervious surfaces that will contribute to surface water run-off, unless the construction is necessary for soil stabilization or soil erosion prevention or unless the trail system is specifically designed and intended to be accessible to handicapped persons. Except that publicly accessible non-motorized trails connecting to the City's trail network may use impervious materials if they meet all other City requirements;

iv. Raised boardwalks utilizing non-treated pilings may be acceptable;

v. Trails shall be the minimum width necessary to accommodate the intended function or objective; however, in no event shall the trail be more than 8 feet in width, except that publicly accessible non-motorized trails may be made wider and use impervious materials if they meet all other requirements including water quality, as identified CMC 13.25 or the construction using impervious materials is necessary for soil stabilization or soil erosion prevention; and

vi. Trails shall avoid the removal of mature trees and limit disturbance of native understory vegetation;

b. Trails shall be designed and maintained using best management practices to complement and enhance the environmental, educational, and social functions and values of the critical area with trail design and construction focused on managing and controlling public access and limiting uncontrolled access;

c. When salmonids are present, the construction of the trail shall be in compliance with applicable state and federal agencies and permitting requirements; and

d. The trail surface shall meet all other City standards and requirements, including water quality standards set forth in the Chapter 13.25 CMC.

26. Only if the maintenance:

a. Does not involve the use of herbicides or other hazardous substances except for the removal of noxious weeds or invasive vegetation; and

b. When salmonids are present, the maintenance of the trail shall be in compliance with applicable state and federal agencies and permitting requirements.

c. Does not involve any expansion of the roadway, lawn, landscaping, ditch, culvert, engineered slope or other improved area being maintained.

27. Limited to:

a. Projects sponsored by a public agency that has natural resource management as a primary function or by a federally recognized tribe; or

b. Restoration and enhancement plans prepared by a qualified biologist or a landscape architect in conformance with Chapter 18.96 RCW and subject to City review and approval.

28. Allowed in accordance with a scientific sampling permit issued by Washington State Department of Fish and Wildlife or an incidental take permit issued under Section 10 of the Endangered Species Act.

29. Limited to the transmission pipelines, cables, wires and support structures of utility facilities within utility corridors if:

a. There is not another feasible location with less adverse impact on the critical area and its buffer, consistent with CMC 18.65.120;

b. New utility corridors meet all of the following to the maximum extent practical:

i. Are not located over habitat used for salmonid rearing or spawning or by a species listed as endangered or threatened by the state or federal government unless the Department determines that there is no other feasible crossing site;

ii. The mean annual flow rate is less than 20 cubic feet per second; and

iii. Paralleling the channel or following a down-valley route near the channel is avoided;

c. To the maximum extent practical utility corridors are located so that:

i. The width is minimized;

ii. The removal of trees shall be minimized and in accordance with Chapter 18.45 CMC;

iii. An additional, contiguous and undisturbed critical area buffer, equal in area to the disturbed critical area buffer area including any allowed maintenance roads, is provided to protect the critical area; and

iv. Mitigation and monitoring shall be in accordance with CMC 18.65.130;

d. To the maximum extent practical, access for maintenance is at limited access points into the critical area buffer rather than by a parallel maintenance road. If a parallel maintenance road is necessary the following standards are met:

i. To the maximum extent practical the width of the maintenance road is minimized and in no event greater than 15 feet; and

ii. The location of the maintenance road is contiguous to the utility corridor on the side of the utility corridor farthest from the critical area;

e. The utility corridor or utility facility will not change or diminish the overall critical area hydrology or flood storage capacity;

f. The construction occurs during approved periods for instream work;

g. The utility corridor serves multiple purposes and properties to the maximum extent practical;

h. Bridges or other construction techniques that do not disturb the critical areas are used to the maximum extent practical;

i. Bored crossing meet the following criteria:

i. Are laterally drilled and located at a depth of four feet below the maximum depth of scour for the base flood; and

ii. The channel is crossed close to perpendicular and never more than 30 degrees from perpendicular;

j. Bridge piers or abutments for bridge crossing are not placed within the FEMA floodway or the ordinary high water line;

k. Open trenching is only used during low flow periods and only within aquatic areas when they are dry. The Department may approve open trenching of Type S or F aquatic areas only if there is not a feasible alternative and equivalent or greater environmental protection can be achieved; and

l. Minor communication facilities may collocate on existing utility facilities if: no new transmission support structure is required; and equipment cabinets are located on the transmission support structure.

30. Permitted if:

a. There is not another feasible location with less adverse impact on the critical area and its buffer, consistent with CMC 18.65.120; and

b. Consistent with public utility connection requirements in CMC Title 13 and Title 17.

18.65.060 Agricultural and keeping of livestock activities development standards.

(1) Agricultural activities are allowed to continue within identified critical areas if the agricultural activity and the Alteration is in compliance with an approved farm conservation plan in accordance with this Chapter and Chapter 18.80 CMC.

(2) This section does not waive the requirement that the property owner obtain permits for activities covered by an approved farm conservation plan.

(3) A farm conservation plan prepared and approved by the King Conservation District shall be submitted to the City for any livestock facilities, structures housing fowl, confinement areas, grazing areas, and construction of any access drive to service the keeping of livestock or agriculture activities located on properties with critical areas and critical area buffers. The farm conservation plan shall include the following information, but not limited to:

(a) A site inventory identifying critical areas, structures, cleared and forested areas, and other significant features on the site;

(b) Site-specific performance standards and best management practices to protect and enhance critical areas and their buffers and maintain and enhance native vegetation on the site including the best management practices for the installation and maintenance of farm field access drives and agricultural drainages;

(c) A plan for future changes to any existing structures or for any changes to the landscape that involve clearing or grading;

(d) A plan for implementation of performance standards and best management practices;

(e) A plan for monitoring the effectiveness of measures taken to protect critical areas and their buffers and to modify the farm conservation plan if adverse impacts occur; and

(f) Documentation of compliance with flood compensatory storage and flood conveyance in accordance with CMC 16.15.

(4) The farm conservation plan shall address the following goals, which are listed in order of priority:

(a) To maintain the productive agricultural land base and economic viability of agriculture on the site;

(b) To restore and enhance critical areas to the maximum extent practical in accordance with the site-specific goals of the landowner;

(c) To the maximum extent practical in accordance with the site-specific goals of the landowner, maintain and enhance natural hydrologic systems on the site;

(d) To use federal, state and local best management practices and best available science to achieve the goals of the farm conservation plan; and

(e) To monitor the effectiveness of best management practices and implement additional practices through adaptive management to achieve the goals of the farm conservation plan.

(5) Any in-water or wetland impacts will need to be reviewed and approved by state and federal agencies.

(6) Prior to approving a farm conservation plan, the City shall conduct a site inspection, to verify that the conditions identified in the plan are in place and that the plan is reasonably likely to accomplish the goals outlined in this section.

18.65.062 Shoreline variance required.

Any Alteration of critical areas, critical area setbacks, critical area buffers, or other specific bulk, dimensional, or performance standards located within the shoreline jurisdiction as set forth in the SMP Appendix A (Ord No. 05-11), other than those allowed explicitly in the SMP standards, shall require a Shoreline Variance based on the variance criteria listed in Chapter 6 of the SMP and WAC 173-27-170.

18.65.070 Public agency/utility Exceptions.

This section applies only to critical areas outside of the shoreline jurisdiction and is not applicable to critical areas within a shoreline jurisdiction. The City's approved SMP governs the permitted alternations within a shoreline jurisdiction.

Unless otherwise specified as an Alteration in CMC 18.65.050, the Public Agency/Utility Exception is a mechanism by which the City may approve limited use and disturbance of a critical area and critical area buffer when no other use of the property constitutes a reasonable alternative.

(1) If the application of this chapter prohibits a development proposal by a public agency or public utility, the agency or utility may apply for an exception pursuant to this subsection along with the required fees as set forth in CMC 18.65.046. An exception shall not be granted for properties wholly or partially located within a Shoreline of the State as regulated in CMC 16.05 or floodplain as regulated in CMC 16.15.

(a) The agency or utility shall apply to the Department and provide related project documents such as permit approvals from other agencies, special studies, and SEPA documents. The Department shall prepare a recommendation to the Director for review and approval subject to the following criteria:

(i) There is no other practical alternative to the proposed development with less impact on the critical area;

(ii) The proposal minimizes the impact on critical areas and buffers, including modifying the non-critical area setbacks to the maximum extent allowed in this chapter;

(iii) Associated development, including access driveways, and utility infrastructure, shall be located outside of the critical area or critical area buffer to the maximum extent technically feasible;

(iv) Areas of disturbance for associated development, including access and utility infrastructure, shall be consolidated to the maximum extent technically feasible;

(v) All areas of temporary disturbance associated with utility installation, construction staging, and other development shall be determined by the Director and delineated in the field prior to construction and temporary disturbance shall be restored consistent with a restoration plan approved by the City;

(vi) Areas of permanent disturbance shall be mitigated to the maximum extent feasible onsite pursuant to a mitigation plan meeting the requirements of this chapter; and

(vii) Fencing, signage, and/or additional buffer planting should be incorporated into the site development in order to prevent long-term disturbance within the critical area or buffer.

18.65.075 Reasonable use exception

(1) If the application of this chapter would deny all reasonable use of the property, the applicant may apply for an exception pursuant to this section upon payment of the fee as set forth in CMC 18.65.046. The exception shall not be granted for properties wholly or partially located within a Shoreline of the State as regulated in Covington's SMP or floodplain as regulated in CMC 16.15.

(2) Reasonable Use Exceptions do not apply in the City's shoreline jurisdictions. Exceptions within the City's shoreline jurisdictions are processed as a shoreline permit or variance pursuant to CMC 18.65.062.

(3) A Reasonable Use Exception is a Type 3 permit process. The Director shall prepare a staff report to the hearing examiner for a decision.

(4) A Reasonable Use Exception request shall be on a form as determined by the City and shall include a critical area report in accordance with CMC 18.65.110. The critical area report shall address the following additional criteria:

(a) An analysis of whether any other reasonable use with less impact on the critical area and critical area buffer is possible;

(b) Site design and construction staging of the proposal shall have the least impact to the critical area and critical area buffer;

(c) The footprint of all proposed structures and improvements including;

(i) Buildings;

(ii) Garages and parking areas;

(iii) Driveways;

(iv) Paved surfaces, such as walking paths;

(v) Patios, decks, and similar structures;

(vi) Location of utility and storm water improvements and easements;

(vii) Yard landscaping; and

(viii) Retaining walls and rockeries;

(d) A description of protective measures that will be undertaken to avoid interference with wildlife and fisheries rearing, nesting, or spawning activities;

(e) An analysis of the impact that the proposed development would have on the critical area and the critical area buffer;

(f) How the proposal mitigates for impacts to the critical areas and buffers;

(g) How the proposal minimizes to the greatest extent possible net loss of critical area functions;

(h) Whether the improvement is located away from the critical area and the critical area buffer to the greatest extent possible; and

(i) City may request additional information or studies necessary to make a recommendation.

(5) The hearing examiner shall review the application and staff report and hold public hearing pursuant Chapter 2.25 and CMC Title 14. The hearing examiner shall base the decision on the following criteria:

(a) The application of this chapter would deny all reasonable use of the property; and

(b) There is no other feasible or reasonable use or onsite alternatives with less impact on the critical area, such as changes to site layout and/or reduction of impervious improvements; and

(c) It is solely the implementation of this chapter, and not other factors, that preclude all reasonable use of the subject property; and

(d) The applicant has in no way created or exacerbated the condition that forms the limitation on the use of the subject property, nor in any way contributed to such limitation; and

(e) The proposed development does not pose an unreasonable threat to the public health, safety or welfare on or off the development proposal site and is consistent with the general purposes of this chapter and the public interest; and

(f) Any Alterations permitted to the critical area shall be the minimum necessary to allow for reasonable use of the property; and

(g) The granting of the exception will not grant the applicant any special privilege that is denied by this chapter to other lands, buildings, or structures under similar circumstances.

(6) If the City grants a request under this section, it shall grant the minimum necessary to provide the applicant with some reasonable use of the subject property, considering the factors described in subsections (5)(a) through (g) of this section. Any approval or waiver of requirements shall result in the minimum possible impacts to the function and values and/or risks associated with proposed improvements on affected critical areas. The City may impose limitations, mitigation under an approved mitigation plan, conditions and/or restrictions it considers appropriate to reduce or eliminate any undesirable effects or adverse impacts of granting a request under this section.

(7) The reasonable use exception approval expires and is void if the applicant fails to file a complete building permit application within five (5) years of the final decision granting or approving the exception.

(8) The City may approve a subsequent modification to a specific use and site plan that has been approved through the reasonable use exception, provided the change meets the standards of this chapter. Otherwise, the applicant is required to apply for and obtain approval through a Type 2 land use process pursuant to Chapter 14.35 CMC for a new reasonable use exception.

18.65.090 Disclosure by applicant.
If a development proposal site contains or is within a critical area, the applicant shall submit an affidavit that declares whether the applicant has knowledge of any illegal Alteration to any or all critical areas on the development proposal site and whether the applicant previously has been found in violation of this chapter, pursuant to Chapter 1.30 CMC. If the applicant previously has been found in violation, the applicant shall declare whether the violation has been corrected to the satisfaction of the City of Covington.

18.65.100 Critical area review.
(1) The applicant shall submit a critical area report consistent with 18.65.110. The Department shall review for any development proposal application, permit or other request to alter a site which includes a critical area or is within a critical area buffer. The applicant shall pay a critical area review fee as set forth in CMC 18.65.046.

(2) As part of the critical area review, the City shall determine whether:

(a) A critical area exists on the property and confirm the nature and type, and applicable buffer;

(b) An Alteration will occur to a critical area or a critical area buffer;

(c) A critical area report is required, and if so evaluate the critical area report to ensure:

(i) The development proposal is consistent with this chapter;

(ii) The sequence outlined in CMC 18.65.120 has been followed to avoid impacts to critical areas and critical area buffers; and

(iii) Mitigation to compensate for adverse impacts to critical areas is required, enhancements to degraded critical areas (including buffers) and whether the mitigation and monitoring plans and bonding measures proposed by the applicant are sufficient to protect the general public health, safety, and welfare, consistent with the goals, purposes, objectives, and requirements of this chapter.

18.65.110 Critical area report requirement.

(1) Unless waived or modified by the Director, an applicant proposing activities which include impacts or Alteration of a critical area or its associated buffer shall submit a critical areas report that adequately evaluates the proposal and probable impacts, and proposed mitigation.

(2) The critical area report shall be prepared by a qualified professional, incorporate best available science, and include, at the minimum, the following items:

(a) The name and contact information of the applicant, the name and a description of the proposal;

(b) Vicinity map;

(c) The dates, names, and qualifications of the persons preparing the report;

(d) A scaled site plan depicting critical areas, buffers, setbacks, and proposed improvements;

(e) Photographs of the site and critical areas;

(f) Identification and classification of all critical areas and critical area buffers on the site;

(g) Identification and characterization of all critical areas on those properties immediately adjacent to the proposed improvements;

(h) Identification of each regulation or standard of this chapter proposed to be modified;

(i) A habitat assessment consistent with the requirements of 18.65.350;

(j) A comparison of the level of protection of critical area functions and values provided by the regulations or stands of this Chapter, compared with the level of protection provided by the proposal. The analysis shall include:

(i) A discussion of the functions and values currently provided by the critical area and critical area buffer on the site and their relative importance to the ecosystem in which they exist;

(ii) A discussion of the functions and values likely to be provided by the critical area and critical area buffer on the site as a result of the proposal over the anticipated life of the proposed development.

(k) A description of the proposed impacts to critical areas and/or their associated buffers;

(l) A description of efforts made to apply mitigation sequencing pursuant to CMC 18.65.120 to avoid, minimize, and mitigate impacts to critical areas;

(m) A discussion of the mitigation requirements applicable to the proposal pursuant to this Chapter and a recommendation for additional or modified mitigation or enhancement, if any;

(n) Additional information required for the individual critical area;

(o) Any additional information determined by the Director to adequately review the proposed activity; and

(p) A detailed mitigation plan, including required elements in 18.65.130, may be requested by the Director.

(3) Critical area reports may be reviewed by the City's third party consultant at the applicant's expense, at the City's discretion.

18.65.120 Sequential steps for mitigation, including avoiding impacts.
(1) An applicant for a development proposal or Alteration shall sequentially adhere to the following measures, which appear in order of priority, to avoid and provide compensation for impacts to critical areas and critical area buffers:

(a) Avoiding the impact altogether by not taking a certain action or parts of an action;

(b) Minimizing the 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 critical areas by repairing, rehabilitating or restoring the affected critical area and/or its buffer;

(d) Minimizing or eliminating a hazard by restoring or stabilizing the critical area through engineered or other methods;

(e) Reducing or eliminating the impact over time by preservation and/or maintenance operations during the life of the development proposal;

(f) Compensating for the adverse impact by enhancing critical areas and their buffers or creating replacement critical areas and their buffers; and

(g) Monitoring the hazard and/or success of required mitigation and taking remedial action as necessary.

(2) The specific mitigation requirements of this chapter for each critical area apply when compensation for adverse impacts is required by the sequence in subsection (1) of this section.

18.65.130 Mitigation and monitoring.
(1) If mitigation is allowed under this chapter to compensate for adverse impact and Alterations to the critical area and associated buffer, unless otherwise provided, an applicant shall:

(a) Mitigate adverse impacts to critical areas and their buffers;

(b) Provide enhancements to degraded critical areas and their buffers;

(b) Monitor the performance of any required mitigation and enhancements; and

(c) Take remedial action, as necessary.

(2) The Department shall not approve a development proposal until mitigation and monitoring plans have been reviewed and approved to mitigate for Alterations to critical areas and buffers.

(3) Whenever mitigation is required, an applicant shall submit a mitigation plan that includes:

(a) Existing conditions and proposed impacts. A description of existing critical areas and/or buffer conditions, functions and values and a description of the anticipated impacts;

(b) Proposed mitigation. A description of the proposed mitigation for each impacted critical area including at a minimum type, site selection criteria, method of construction, conceptual design, and landscape plans;

(c) Environmental goals and objectives. A description of the goals and objectives of proposed mitigation. The goals and objectives shall be related to the function and values of the impacted critical area and provide an analysis of the likelihood of success of the compensation project;

(d) Best available science. 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;

(e) Performance standards. A description of specific measurable criteria for evaluating whether the goals and objectives of the mitigation project have been successfully attained and whether the requirements of this chapter have been met;

(f) Timing. Mitigation shall be completed concurrently with project construction, unless a phased schedule that assures completion has been approved by the Director;

(g) Detailed construction plans. Detailed site diagrams, scaled cross-sectional drawings, topographic maps with slope percentage and final grade elevations, and any other drawing appropriate to show construction techniques or anticipated final outcome. The plans shall include specifications and descriptions of the following:

(i) Proposed construction sequence, timing, and duration;

(ii) Grading and excavation details;

(iii) Erosion and sediment control features;

(iv) Planting plan specifying plant species, quantities, locations, size, spacing, and density; and

(v) Measures to protect and maintain plants until established

(h) Monitoring Plan. A monitoring plan that includes:

(i) A demonstration of compliance with this Chapter; and

(ii) Monitoring program. The mitigation plan shall include a program for monitoring construction of the compensation project and for assessing a completed project. A record drawing of the completed mitigation will be submitted to the City upon completion. A protocol shall also be included outlining the schedule for annual site monitoring and how the monitoring data will be evaluated to determine if the performance standards are being met. A monitoring report shall be submitted annually to document milestones, success, problems, and contingency actions of the compensation project. The monitoring period shall be not less than five years.

(i) Contingency Plan. A contingency plan in the event of a failure of mitigation or of unforeseen impacts if:

(i) The Department determines that failure of the mitigation would result in a significant impact on the critical area or buffer; or

(ii) The mitigation involves the creation of a wetland; and

(iii) A monitoring schedule that may extend throughout the impact of the activity or for hazard areas, for as long as the hazard exists.

(j) Financial guarantees. The mitigation plan shall include financial guarantees, if necessary, to ensure that the mitigation plan is fully implemented, in accordance with CMC 18.65.140.

(4) Mitigation shall not be implemented until after the City approves the mitigation and monitoring plan. The applicant shall notify the City when mitigation is installed and monitoring is commenced and shall provide City with reasonable access to the mitigation for the purpose of inspection during any monitoring period.

(5) If monitoring reveals a significant deviation from predicted impact or a failure of mitigation, the applicant shall implement an approved contingency plan. The contingency plan constitutes new mitigation and is subject to all mitigation including a monitoring plan and financial guarantee requirements.

18.65.135 Off-site mitigation.
(1) To the maximum extent practical, an applicant shall mitigate adverse impacts to a wetland, stream, wildlife habitat conservation area or wildlife habitat network on or contiguous to the development site. The Director may approve mitigation that is off the development site, at the Director's sole discretion, if an applicant demonstrates that:

(a) It is not practical to mitigate on or contiguous to the development proposal site; and

(b) The off-site mitigation will achieve equivalent or greater hydrological, water quality and wetland or stream habitat functions.

(2) When off-site mitigation is authorized, the Director shall give priority to locations identified through a watershed assessment, preferably within the same drainage sub-basin as the development proposal site that meet the following:

(a) Approved mitigation banks whose service areas include the City of Covington;

(b) King County Mitigation Reserves in-lieu-fee Program mitigation sites; or

(c) Other public or non-profit mitigation sites approved by the Interagency Review Team (IRT) as part of an in-lieu fee program that have been ranked in a process that has been supported by ecological assessments, including wetland and streams established as priorities for mitigation in City of Covington sub-basin plans or other WRIA No. 9 watershed plans.

(3) The Director may require documentation that the mitigation site has been permanently preserved from future development or Alteration that would be inconsistent with the function of the mitigation. The documentation may include, but need not be limited to, a conservation easement or other agreement between the applicant and owner of the mitigation site. The City of Covington may enter into agreements or become a party to any easement or other agreement necessary to ensure that the site continues to exist in its mitigated condition.

(4) The City of Covington may develop a program to allow the payment of a fee in lieu of providing mitigation on a development site. Once approved by the IRT, the program should address:

(a) When the payment of a fee is allowed considering the availability of a site in geographic proximity with comparable hydrologic and biological functions and potential for future habitat fragmentation and degradation; and

(b) The use of the fees for mitigation on public or private sites that have been ranked according to ecological criteria.

18.65.140 Financial guarantees.
Financial guarantees shall be required consistent with the provisions of Chapter 14.105 CMC and this chapter.

(1) Financial guarantees for mitigation required pursuant to this chapter shall be sufficient to guarantee that all required mitigation measures will be completed no later than the time established by the City.

(2) Financial guarantees shall also be required for restoration of a critical area or buffer not performed as part of a mitigation or maintenance plan except that no financial guarantee shall be required for minor stream restoration.

(3) If the development proposal is subject to mitigation, maintenance, or monitoring plans, the applicant shall post a financial guarantee in the amount deemed acceptable by the City. The financial guarantee shall be sufficient to guarantee satisfactory workmanship on, materials in and performance of or related to structures and improvements allowed or required by this chapter for a period of five years. The duration of maintenance/monitoring obligations shall be established by the City, based upon the nature of the proposed mitigation, maintenance, or monitoring and the likelihood and expense of correcting mitigation or maintenance failures.

(4) When mitigation is required pursuant to a development proposal and is not completed prior to the City finally approving the proposal, the City may delay final approval until mitigation is completed or may require the applicant to post a financial guarantee in an amount deemed acceptable to the City. The financial guarantee shall be sufficient to guarantee that all required mitigation measures will be completed no later than the time established by the City in accordance with this chapter.

(5) For financial guarantees associated with mitigation, corrective work, restoration, or enhancement, the financial guarantee shall be sufficient to cover the time and cost to guarantee satisfactory workmanship, materials and performance of structures and improvements required by this chapter and any monitoring of those structures and improvements required by approved plans and conditions.

(6) Depletion, failure or collection of the financial guarantee shall not relieve an applicant or violator from completing the required mitigation, maintenance, monitoring, or restoration as required under this chapter.

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

18.65.160 Critical area markers, signs, fencing and installation.
(1) Markers. Development proposals shall include permanent survey stakes delineating the boundary between adjoining property and critical area tracts, using markers capable of being magnetically located and as established by current survey standards.

(2) Signs. The applicant shall identify the boundary between a critical area tract and contiguous land with permanent signs. Permanent signs shall be City-approved type designed for high durability.

(a) Signs must be posted at an interval of one per lot or every 100 feet, whichever is less, and must be maintained by the property owner or homeowner's association in perpetuity.

(b) City of Covington may require signs and fences to delineate and protect critical areas and critical area buffers that are not in critical area tracts.

(c) The applicant is responsible for obtaining the signs at their sole expense.

(d) The wording, number and placement of the signs may be modified by the Director based on specific site conditions.

(3) Fencing. Permanent fencing shall be required at the outer edge of the critical area buffer under the following circumstances:

(a) As part of any development proposal for:

(i) Plats;

(ii) Short plats;

(iii) Parks;

(iv) Other development proposals, including but not limited to multifamily, mixed use, and commercial development where the Director determines that such fencing is necessary to protect the functions of the critical area;

(b) When buffer reductions are employed as part of a development proposal;

(c) When buffer averaging is employed as part of a development proposal; and

(d) At the Director's discretion to protect the values and functions of a critical area.

18.65.170 Recording notice on title of critical areas.
(1) The owner of any property containing critical areas or buffers on which a development proposal is submitted or any property on which mitigation is established as a result of a development proposal, except a public right-of-way or the site of a permanent public facility, shall file a notice approved by the Director with the King County Division of Records and Elections. The property owner receiving approval of a use or development with critical areas pursuant to this chapter shall record a site plan or other instrument clearly delineating the critical area, critical area buffer, and critical area structure setback with the King County Division of Records and Elections. The site plans must include a statement that the provisions of CMC 18.65 as now, or hereafter amended, control the use and development of the subject property.

The notice shall inform the public of the presence of critical areas or buffers or mitigation sites on the property, the application of this chapter to the property and the possible existence of limitations on actions in or affecting the critical areas or buffers or the fact that mitigation sites may exist.

(2) The applicant shall submit proof that the notice on title has been filed for public record before City of Covington approves any development proposal for the property or, in the case of subdivisions, short subdivisions, commercial site development and binding site plans, at or before recording of the subdivision, short subdivision, commercial site development or binding site plan.

18.65.180 Critical area tracts and designations on site plans.
(1) The applicant shall use critical area tracts to delineate and protect those critical areas and buffers listed below in development proposals and shall record on all documents of title of record for all affected lots:

(a) All landslide hazard areas and buffers;

(b) All steep slope hazard areas and buffers;

(c) All wetlands and buffers; and

(d) All fish and wildlife habitat conservation areas and buffers.

(2) Critical area tracts shall be designated on the plat. A plat note shall include the following restriction:

> Critical area tracts shall 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. Removal or disturbance of vegetation and landscaping within the tract is prohibited, except as necessary for maintenance or replacement with approval by the City of Covington.

(3) The City may require that any required critical area tract be dedicated to the City, be held in an undivided interest by each owner of a building lot within the development with this ownership interest passing with the ownership of the lot, or be held by an incorporated homeowners' association or other legal entity that ensures the ownership, maintenance, and protection of the tract.

(4) Site plans submitted as part of building permits, clearing and grading permits, or other development permits shall include all critical areas, buffers, and building setbacks and delineate all flood hazard areas as determined by the City in accordance with CMC 18.65.230, landslide and steep slope hazard areas in accordance with CMC 18.65.250-

300, fish and wildlife habitat conservation areas in accordance with CMC 18.65.350-440, and wetlands in accordance with CMC 18.65.318-340. If only a part of the development site has been mapped pursuant to CMC 18.65.110, the part of the site that has not been mapped shall be clearly identified and labeled on the site plans. Site plans shall be attached to the notice on title required by CMC 18.65.170.

18.65.200 Building setbacks from critical area buffer.
Buildings and other structures shall be setback a distance of fifteen (15) feet from the edges of all critical area buffers or from the edges of all critical areas, if no buffers are required. Except the following is allowed in this building setback:

(1) Landscaping;
(2) Uncovered decks lower than 30 inches in height above existing grade;
(3) Building overhangs if the overhangs do not extend more than 18 inches into the setback area;
(4) Impervious surface areas, such as driveways and patios; but these improvements are required to meet any special drainage provisions specified in public rules adopted for the various critical areas; and
(5) Utility service connections as long as he excavation for installation avoids impacts to the buffer.

Article II. Frequently Flooded Areas

18.65.230 Frequently flooded areas.
Frequently Flooded Areas are defined as a critical area under RCW 36.70A.030. Criteria for identification and classification of frequently flooded areas and for protection standards for frequently flooded areas are included under CMC Chapter 16.15.

Article III. Geologically Hazardous Areas

18.65.250 Applicability and designation – geologically hazardous areas

(1) This article regulates development activities on or within 50 feet of a geologically hazardous area.

(2) Geologically hazardous areas include areas susceptible to erosion, land sliding, seismic, or other geological events. Areas susceptible to one or more of the following types of hazards shall be designated as geologically hazardous areas:

(a) Erosion Hazard Area;
(b) Landslide Hazard Area;
(c) Steep Slope Area; and
(d) Seismic Hazard Area.

(3) Alterations within geological hazard areas are allowed pursuant to CMC 18.65.050.

(4) The critical area report shall include a geotechnical evaluation prepared by a geotechnical engineer or engineering geologist licensed in the state of Washington.

(4) The Director may approve a permit for development activities within 50 feet, but not less than 15 feet of a steep slope area or a landslide hazard area, based on the findings of critical area report that the development will not be at risk of damage due to the geologic hazard and will not lead to nor create any increased slide, seismic or erosion hazard.

(5) Allowed Alteration with in a steep slope, erosion, landslide hazard areas shall minimize Alterations to the natural contour of the slope and foundations shall be tiered where possible to conform to existing topography in accordance with CMC Chapter 14.60. Freestanding retaining devices are only permitted when they cannot be designed as

structural elements of the building foundation. Structures and improvement shall be located to preserve the most critical portions of the site and its natural landforms and vegetation.

18.65.260 Erosion hazard areas – development standards and permitted alterations.
Development proposals and other Alterations to sites containing erosion hazard areas shall be allowed, pursuant to applicable permits and approvals, only if they or any other Alteration complies with applicable requirements as set forth in this chapter, including but not limited to mitigation requirements and the following standards:

(1) Clearing on an erosion hazard area is allowed only from April 1st to September 1st, unless otherwise determined by the Director and based on an approved erosion and sediment control plan. Timber harvesting may be allowed pursuant to an approved Forest Practice permit issued by the Washington Department of Natural Resources or pursuant to an approved tree removal permit as required by CMC Chapter 18.45.

(2) All development proposals, including but not limited to subdivision, short subdivisions, or commercial site development or binding site plans, shall retain existing vegetation on all lots, in accordance with CMC Chapter 14.60, until the City has approved engineering plans and issued the development proposal construction permits.

(3) Limited clearing of vegetation on lots may only be allowed for the installation of erosion and sediment control in accordance with a submitted grading permit or engineering plans.

CMC 18.65.270 Erosion and seismic hazard areas- protection measures and specific mitigation
(1) All proposed improvements within an erosion hazard area or seismic hazard area shall follow the recommendations within the critical area report, and supplemental geotechnical evaluation required in CMC 18.65.250(4), to ensure the improvements will not adversely affect geologic hazards and the improvements are at minimal risk by the geologic hazard as designed under anticipated conditions.

(2) For any development proposal on a site containing an erosion hazard or seismic hazard area, an erosion and sediment control plan shall be required and included as part of the mitigation plan. The erosion and sediment control plan shall be prepared in compliance with the adopted City standards and stormwater manual.

(3) Proposed improvements within an erosion hazard area shall also demonstrate all the following via the critical area report:

(a) The improvement will not increase surface water discharge or sedimentation to adjacent properties and/or stormwater systems beyond predevelopment conditions;

(b) The improvement will not decrease slope stability on adjacent properties; and

(c) The improvement will not adversely impact other critical areas.

(4) If vegetation is removed beyond the scope of the approved clearing and grading permit and erosion and sediment control plan associated with the construction of development infrastructure, the City may stop work and the applicant shall be required to submit a restoration plan to the City for review and approval prior to further construction activity allowed onsite. Following approval, the applicant shall be required to implement the plan. The City may require a financial guarantee to ensure implementation of the restoration plan.

(5) Where the City determines that erosion from a development site poses a significant risk of damage to downstream receiving waters, based either on the size of the project, the proximity to the receiving water or the sensitivity of the receiving water, the applicant shall be required to provide continuous monitoring of surface water discharge, turbidity, and suspended sediment concentrations from the site. If the project does not meet water quality standards established by law or administrative rules, the City may suspend further development work on the site until such standards can be met.

(6) Unless otherwise provided in CMC 18.65.050 or part of an allowed exemption, the use of hazardous substances, pesticides and fertilizers in erosion hazard areas may be prohibited by the City.

18.65.280 Landslide hazard areas – development standards and alterations.
The following standards apply to development proposals and Alterations on sites containing landslide hazard areas:

(1) Only the Alterations identified in CMC 18.65.050 are allowed within a landslide hazard area with a slope of 40 percent or greater;

(2) The critical area report shall include an engineer's evaluation prepared by an engineer or geologist licensed in the state of Washington;

(3) A buffer is required from all edges of the landslide hazard area. The width of the buffer is based upon a critical area report that shall reflect the sensitivity of the landslide hazard area in question and the types and density of uses proposed on or adjacent to the geologic hazard. The Director may allow buffers to be a reduced, no less than 15 feet, if the supplemental engineer evaluation identifies that the reduction will adequately protect the proposed and surrounding development from the critical landslide hazard. To eliminate or minimize the risk of property damage or injury resulting from landslides caused in whole or part by the development, the Director shall determine the size of the buffer based upon the findings and recommendations of a critical area report and supplemental engineer evaluation required in CMC 18.65.280(2). If a critical area report is not submitted to the City, the minimum buffer shall be 50 feet. If the landslide hazard area has a vertical rise of more than 200 feet, the Department may increase the minimum buffer to 100 feet;

(4) Unless otherwise provided in CMC 18.65.050 or part of an allowed exemption, removal of any vegetation from a landslide hazard area or buffer is prohibited. The buffer shall be extended beyond these limits if they are deemed necessary to mitigate steep slope and erosion hazards, or as otherwise necessary to protect the public health, welfare or safety;

(5) All Alterations shall minimize disturbance to the landslide hazard area, slope, and vegetation unless necessary for slope stabilization; and

(6) Alterations in a landslide hazard area located on a slope less than 40 percent are allowed if:

(a) The proposed Alteration will not decrease slope stability on contiguous properties; and

(b) The risk of property damage or injury resulting from landsliding is eliminated or minimized; based on criteria including altering of drainage patterns and subsurface flow, and the development proposal on that site is certified as safe by a licensed engineering geologist or geotechnical engineer.

18.65.290 Steep slope hazard areas – development standards and alterations.
Steep Slope Hazard Areas and associated buffers shall not be altered except as expressly authorized below. The following standards apply to development proposals and Alterations on sites containing Steep Slope Hazard Areas:

(1) Only the Alterations identified in CMC 18.65.050 are allowed within a Steep Slope Hazard Area;

(2) A buffer or setback of 50 feet is required from all edges of the Steep Slope Hazard Area. To eliminate or minimize the risk of property damage or injury resulting from slope instability, landsliding, or erosion caused in whole or part by the development, the City shall determine the size of the buffer or setback, which may increase or decrease the buffer, based upon a critical area report prepared by a geotechnical engineer or geologist. If a critical area report is not submitted to the City, the minimum buffer is 50 feet. In no case shall the buffer be less than 15 feet, and the buffer may only be reduced pursuant to the findings of the critical area report that demonstrates that the reduction will not reduce the level of protection to the proposed development and the critical area as provided by the 50 foot buffer. An occupied building shall not be closer than 25 feet (including buffer from the top or the toe of a steep slope (or altered steep slope); and

(3) Unless otherwise provided in CMC 18.65.050 or part of an allowed exemption, removal of any vegetation from a Steep Slope Hazard Area or buffer is prohibited.

18.65.300 Additional critical area report requirements – geologically hazardous areas

(1) Before approving any Alteration or development under this article, the City may require the applicant to submit the following information in addition to or as part of the critical areas report:

(a) A geotechnical report prepared by a geotechnical engineer or engineering geologist licensed in the state of Washington that describes how the proposed development will impact or be impacted by each of the following on the subject property and nearby properties:

(i) Slope stability, landslide hazard, and sloughing;

(ii) Erosion hazards;

(ii) Seismic hazards;

(iii) Groundwater;

(iv) Seeps, springs, streams and other surface waters;

(v) Existing vegetation, including size and type of significant trees;

(vi) Identification of existing fill areas;

(vii) Soil description in accordance with United Soil Classification System; and

(viii) Depth to ground water and estimates of potential seasonal fluctuations;

(b) A topographic survey, in two-foot contours, that identifies the type and extent of geologically hazardous areas on site and off site that are likely to impact or be impacted by the proposal;

(c) Delineation of areas containing slopes 15 percent or greater and 40 percent or greater;

(e) The location of storm drainage facilities on the subject property;

(f) Recommended foundation and retaining wall design criteria and optimal location for buildings, roadways and other improvements. Including bearing layers(s), allowable capacities, minimum width, minimum depth, estimated settlements (total and differential, lateral loads, and other pertinent recommendations;

(g) Grading and earthwork, including compaction and fill material requirements, use of site solids as fill or backfill, imported fill or backfill requirements, height and inclination of both cut and fill slopes and erosion control and wet weather construction considerations and/or limitations;

(h) Surface and subsurface drainage requirements and drainage material requirements;

(i) Recommended methods for mitigating identified impacts and a description of how these mitigating measures may impact adjacent properties;

(j)Assessment of seismic ground motion amplification and liquefaction potential; and

(k) Any other information the City determines is reasonably necessary to evaluate the proposal.

(2) A decision by the Director to reduce the buffer shall be based on a critical area report that includes the following assessment criteria:

(a) Steep slope and landslide hazard development areas shall be subject to site-specific geotechnical studies.

(b) Steep slope and landslide hazard development areas shall be subject to engineering design considerations that ensure the stability of steep slope areas. Engineering design considerations shall include but are not limited to the following:

(i) Soil cuts require slope stability analysis to evaluate the change in relative stability. Based on the results of the stability analysis, retaining structures will be required to replace any lateral soil support lost. In no case shall the factor of safety be less than one and one-half (1.5);

(ii) Soil fills require slope stability analysis and engineering design measures, including keying the fill, compaction, drainage measures, reinforced earth, and structural retaining walls;

(iii)Foundations must be extended to firm, undisturbed native soil, and embedded deep enough to resist lateral loads caused by soil creep (surficial slope movement inherent to all steep slope areas) and other lateral loads which the foundation may be subject to (i.e., seismic and deep seated slope failures);

(iv) Provide subgrade (i.e., reinforced compacted subgrade) or retaining wall design that replaces the support of cuts; designed with a factor of safety of at least one and one-half (1.5). Compacted subgrade without reinforcement or retaining structures will not be considered for the support of cuts;

(v) Provide effective, positive drainage for all underground elements of structures or facilities; and

(vi) All utility connections within steep slope and landslide hazards shall have sufficient flexible connections to avoid utility failure;

(c) The City may employ an outside geotechnical engineer at the applicant's expense for third-party review of any geotechnical analyses.

(3) The decision by the Director to reduce the buffer shall include the following conditions:

(a) The applicant shall establish a mechanism that is acceptable to the Director that notifies all future buyers of the lot that the steep slope buffer was reduced and that development has occurred within fifty (50) feet of the steep slope or the steep slope has been eliminated (e.g., notice on title); and

(b) The applicant shall execute an agreement on a form approved by the City Attorney, which indemnifies and holds the City harmless for development within fifty (50) feet of the steep slope.

Both conditions shall be met prior to the issuance of a building permit. The Director may attach additional conditions as necessary to achieve the purpose and intent of this section.

(4) If the City approves any development under this section, it may, among other appropriate conditions, impose the following conditions of approval:

(a) The recommendations of the geotechnical report are followed;

(b) A geotechnical engineer or engineering geologist shall be present on site during all development activities. As an alternative, the City may require a minimum site visits by the geotechnical engineer or engineering geologist, as required by the City engineer, to establish proper methods, techniques and adherence to plan drawings;

(c) Trees, shrubs and groundcover are retained except where necessary for approved development activities on the subject property;

(d) Additional vegetation is planted in disturbed areas; and

(e) Submit a letter by the geotechnical engineer or engineering geologist stating that they have reviewed the project plan drawings and in their opinion the plans and specifications meet the intent of the geotechnical report.

Article IV. Critical Aquifer Recharge Areas

18.65.311 Critical aquifer recharge areas –designation
The Director may upon consultation with affected jurisdictions, and the affected local water purveyor, determine the location of aquifer recharge areas based on additional information about areas with susceptibility to ground water contamination or on changes to sole source aquifers or wellhead protection areas as identified in wellhead protection programs. See Exhibit D of Ordinance 06-2017 for a map of potential aquifer recharge areas within the City of Covington.

18.65.312 Critical aquifer recharge areas – reclassification or declassification.
Upon application supported by a critical areas report that includes a hydrogeologic site evaluation, the Director may upon consultation with the affected local water purveyor determine that an area that is classified as a critical aquifer recharge area on the map adopted and amended by public rule as follows:

(1) Does not meet the criteria for a critical aquifer recharge area and declassify that area; or

(2) Has the wrong critical aquifer recharge area classification and determine the correct classification.

18.65.313 Critical aquifer recharge areas – categories.
Critical aquifer recharge areas are categorized pursuant to King County Critical Aquifer Recharge Areas as follows:

(1) Category I critical aquifer recharge areas include those mapped areas that Covington has determined are highly susceptible to ground water contamination and that are located within a sole source aquifer or a wellhead protection area;

(2) Category II critical aquifer recharge areas include those mapped areas that Covington has determined:

(a) Have a medium susceptibility to ground water contamination and are located in a sole source aquifer or a wellhead protection area; or

(b) Are highly susceptible to ground water contamination and are not located in a sole source aquifer or wellhead protection area; and

(3) Category III critical aquifer recharge areas include those mapped areas that Covington has determined have low susceptibility to ground water contamination.

18.65.314 Critical aquifer recharge areas - protection.
To protect critical aquifer recharge areas, in accordance with Chapter 36.70A RCW, in addition to the terms of this chapter the following code provisions are established to further protect critical aquifer recharge areas: Chapters 13.25, 13.30 14.60 and 16.15 CMC and this chapter.

(1) Development that will not cause contaminants to enter the aquifer may be permitted in critical aquifer recharge areas.

(2) The City shall impose development conditions to prevent degradation of critical aquifer recharge areas. Development conditions shall be based on all known, available, and reasonable methods of prevention, control and treatment ("AKART").

(3) The proposed activity must comply with the water source protection requirements and recommendations of the Federal Environmental Protection Agency, State Department of Ecology, State Department of Health, and Public Health – Seattle and King County.

(4) The proposed activity must be designed and constructed in accordance the City's stormwater manuals adopted in CMC Chapter 13.25.

18.65.315 Critical aquifer recharge areas – development regulations.

(1) Any proposed development located in critical aquifer recharge areas shall submit a hazardous materials inventory statement with a permit, land use, or business license application. Ongoing operation and maintenance activities of public wells by public water providers are exempt from these requirements.

(2) The City will review the hazardous materials inventory statement along with the permit, land use, or business license application to determine whether hazardous materials will be used, stored, transported or disposed of in connection with the proposed activity. The City shall make the following determinations and apply the appropriate capture zone protection measures:

(a) No hazardous materials are involved;

(b) Hazardous materials are involved; however, existing laws or regulations adequately mitigate any potential impact, and documentation is provided to demonstrate compliance; or

(c) Hazardous materials are involved and the proposal has the potential to significantly impact critical aquifer recharge areas. The City may require a hydrogeologic assessment with a critical areas report to be prepared by a qualified professional in order to determine the potential impacts of contamination on the aquifer. The report shall include the following site and proposal-related information:

(i) Information regarding geologic and hydrogeologic characteristics of the site, including the surface location of the capture zone in which it is located and the type of infiltration of the site;

(ii) Groundwater depth, flow direction, and gradient;

(iii) Location of other critical areas, including surface waters, within 200 feet of the site;

(iv) Best management practices and integrated pest management proposed to be used, including:

(A) Predictive evaluation of groundwater withdrawal effects on nearby wells and surface water features;

(B) Predictive evaluation of contaminant transport based on potential releases to groundwater; and

(C) Predictive evaluation of changes in the infiltration/recharge rate.

(3) A spill containment and response plan may be required to identify equipment and/or structures that could fail, and shall include provisions for inspection as required by the applicable state regulations.

(4) A groundwater monitoring plan may be required to monitor quality and quantity of groundwater, surface water runoff, and/or site soils. The City may require the owner of a facility to install one or more groundwater monitoring wells to accommodate the required groundwater monitoring. Criteria used to determine the need for site monitoring shall include, but not be limited to, the proximity of the facility to production or monitoring wells, the type and quantity of hazardous materials on site, and whether or not the hazardous materials are stored in underground vessels.

(5) The City may employ an outside consultant at the applicant's expense for third-party review of the critical areas report, hydrogeologic assessment, the spill containment and response plan, and the groundwater monitoring plan.

(6) The following new development proposals and Alterations are not allowed on a site if any portion of the site is located in a Category I critical aquifer recharge area:

(a) Transmission pipelines carrying petroleum or petroleum products;

(b) Sand and gravel, and hard rock mining on land that is not zoned for mining;

(c) Mining of any type below the upper surface of the saturated ground water that could be used for potable water supply;

(d) Processing, storage, and disposal of radioactive wastes, as defined in Chapter 43.200 RCW;

(e) Hydrocarbon extraction;

(f) Commercial wood treatment facilities on permeable surfaces;

(g) Underground storage tanks with hazardous substances, as defined in Chapter 70.105 RCW;

(h) Above-ground storage tanks for hazardous substances, as defined in Chapter 70.105 RCW, unless protected with primary and secondary containment areas and a spill protection plan;

(i) Golf courses;

(j) Cemeteries;

(k) Wrecking yards;

(l) Landfills for hazardous waste, municipal solid waste, or special waste; and

(m) On lots smaller than one acre, onsite septic systems that are not approved by the Washington State Department of Health and either:

(i) Do not use an up flow media filter system or a proprietary packed-bed filter system; or

(ii) Are not designed to achieve approximately 80 percent total nitrogen removal for typical domestic wastewater.

(7) The following new development proposals and Alterations are not allowed on a site if any portion of the site is located in a Category II critical aquifer recharge area:

(a) Mining of any type below the upper surface of the saturated ground water that could be used for potable water supply;

(b) Processing, storage, and disposal of radioactive wastes, as defined in Chapter 43.200 RCW;

(c) Hydrocarbon extraction;

(d) Commercial wood treatment facilities located on permeable surfaces;

(e) Underground storage tanks with hazardous substances, as defined in Chapter 70.105 RCW, that do not meet the requirements of Chapter 173-360 WAC and the International Fire Code;

(f) Above-ground storage tanks for hazardous substances, as defined in Chapter 70.105 RCW, unless protected with primary and secondary containment areas and a spill protection plan;

(g) Wrecking yards;

(h) Landfills for hazardous waste, municipal solid waste, or special waste; and

(i) On lots smaller than one acre, onsite septic systems that are not approved by the Washington State Department of Health and either:

(i) Do not use an up-flow media filter system or a proprietary packed-bed filter system; or

(ii) Are not designed to achieve approximately 80 percent total nitrogen removal for typical domestic wastewater.

(8) The following new development proposals and Alterations are not allowed on a site if any portion of the site is located in a Category III critical aquifer recharge area:

(a) Processing, storage, and disposal of radioactive wastes, as defined in Chapter 43.200 RCW;

(b) Hydrocarbon extraction;

(c) Commercial wood treatment facilities located on permeable surfaces;

(d) Underground storage tanks with hazardous substances, as defined in Chapter 70.105 RCW, that do not meet the requirements of Chapter 173-360 WAC and the International Fire Code;

(e) Above-ground storage tanks for hazardous substances, as defined in Chapter 70.105 RCW, unless protected with primary and secondary containment areas and a spill protection plan;

(f) Wrecking yards; and

(g) Landfills for hazardous waste, municipal solid waste, or special waste.

(9) The following standards apply to development proposals and Alterations that are substantial improvements on a site if any portion of the site is located in a critical aquifer recharge area:

(a) The owner of an underground storage tank in a Category I critical aquifer recharge area shall properly decommission or remove the tank; and

(b) The owner of an underground storage tank in a Category II or III critical aquifer recharge area shall meet the requirements of Chapter 173-360 WAC and the International Fire Code or shall properly decommission or remove the tank.

(10) In any critical aquifer recharge area, the property owner shall properly decommission an abandoned well.

(11) On sites located in a critical aquifer recharge area, development proposals and Alterations for new development, including, but not limited to, a subdivision, short subdivision, commercial site development, binding site plan, or dwelling unit, shall incorporate best management practices pursuant to the stormwater manuals adopted in Chapter 13.25 CMC into the site design in order to manage stormwater runoff.

(12) The City may approve a development proposal otherwise prohibited by subsections (6), (7) or (8) of this section if the applicant demonstrates through a critical areas report that the development proposal is located outside of the critical aquifer recharge area and that the development proposal will not cause an unmitigated significant adverse environmental impact to the critical aquifer recharge area.

18.65.316 Critical aquifer recharge areas – evaluation and implementation.
The City may evaluate and implement, as appropriate, ground water management plans and wellhead protection programs to further protect ground water resources as the critical aquifer protection program. In order to protect groundwater quality, the City may require a groundwater monitoring plan and/or a hydrogeologic critical area assessment report for new development projects.

Article V. Wetlands

18.65.318 Wetland - identification and evaluation.

(1) Generally. Identification of wetlands and delineation of their boundaries pursuant to this chapter shall be done using the U.S. Army Corps of Engineers Wetlands Delineation Manual (Environmental Laboratory 1987) and the

Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Cost Region (Version 2.0) (U.S. Army Corps of Engineers 2010), or as amended. All areas within the City meeting the wetland criteria are hereby designated critical areas and are subject to the provisions of this chapter. Wetland delineations are valid for five years, after such date the City shall determine whether a revision or additional assessment is necessary.

(2) Evaluation. The developer shall determine if a wetland exists on or within 225 feet of the subject property, and shall submit a wetland report prepared by a qualified professional. The City will verify the findings in the report based on current studies and field verification. The wetland report and the accompanying plan sheets shall contain the following information:

(a) Critical area report information identified in 18.65.110;

(b) Identification of all local, state, and/or federal wetland related permit(s) required for the proposal;

(c) Documentation of fieldwork, including field data sheets, rating forms, and baseline hydrologic data;

(d) Description of the methodologies used to conduct the wetland delineations, rating forms, or impact analyses, including references;

(e) Identification and characterization of all wetlands and buffers on and within 225 feet of the subject property. For off-site areas with limited or no access, estimate conditions using best available information;

(f) Provide the following for each wetland identified on and/or within 225 feet of the subject property. Acreage estimates, classifications, and ratings shall be based on entire wetland complexes, not only the portion present on the subject property:

(i) Wetland rating and score for each function;

(ii) Required buffers;

(iii) Hydrogeomorphic classification;

(iv) Wetland acreage;

(v) US Fish and Wildlife Service (Cowardin) classification of vegetation communities;

(vi) Habitat elements;

(vii) Soil conditions based on site assessment and/or soil survey information; and

(viii) Hydrologic information such as location and condition of inlet/ outlets, estimated water depths within the wetland, and estimated hydroperiod patterns based on visual cues (e.g., algal mats, drift lines, and flood debris);

(g) An evaluation of the functions of the wetland and adjacent buffer. Include reference for the method used and supporting documentation.

(3) No development or improvements may be located within a wetland except as provided in this chapter.

18.65.319 Wetlands – classes and categories.

(1) Different types of wetlands are separated from one another on the basis of wetland class and wetland category. Wetland class is determined by using a scientific system based upon dominant plant communities, substrate conditions, hydrologic regime, and location in the watershed. Wetland category is determined by using a rating system based on specific attributes such as rarity, sensitivity to disturbance, and the functions they provide.

(2) Wetland Class. Two classification systems are commonly used to describe wetlands. The first is a science-based classification system used by the U.S. Fish and Wildlife Service as described in Classification of Wetlands and Deepwater Habitats of the United States, Second Edition (Federal Geographic Data Committee. 2013. FGDC-STD-004-2013.)

The second is the Hydrogeomorphic Method (HGM) classification (Brinson 1993), a system WDOE incorporated for use in the Washington State Wetland Rating System for Western Washington (WDOE Publication No. 14-06-029, or as hereafter amended).

(3) Wetland Category. Wetland category is used to regulate activities in a wetland and in determining the standard width of the required wetland buffer. The wetland category is determined after a wetland has been identified and delineated in accordance with the approved wetland delineation manual.

WDOE Publication No. 14-06-029 or as amended, contains the definitions and scoring methods used for determining wetlands functions and rating. The wetland category of an individual wetland is determined by the total score for the functions which is recorded on the first page of the wetland rating form included in WDOE Publication No.14-06-029, or as amended. Wetlands are also rated for "special characteristics," when applicable, the value of which are included in the final category rating.

(a) **Category I.** Category I wetlands are: (1) wetlands of high conservation value as identified by scientists of the Washington Natural Heritage Program/DNR; (2) bogs; (3) mature and old-growth forested wetlands larger than one acre; (4) wetlands that perform functions at high levels (scoring 23 points or more). These wetlands: (1) represent unique or rare wetland types; (2) are more sensitive to disturbance than most wetlands; (3) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or (4) provide a high level of functions.

(b) **Category II.** Category II wetlands are wetlands that perform functions well (scoring between 20 and 22 points).

(c) **Category III.** Category III wetlands are: (1) wetlands with a moderate level of functions (scoring between 16 and 19 points); and (2) can often be adequately replaced with a well-planned mitigation project. 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.

(d) **Category IV**. Category IV wetlands have the lowest levels of functions (scores less than 16 points) and are often heavily disturbed.

18.65.320 Wetlands – buffers.

(1) Wetland – Buffers. Except as otherwise provided in this section, buffers shall be provided from the wetland edge in accordance with the following standards:

(a) The standard buffer widths of the following table shall apply if impact minimization measures are included in accordance with subsection (2), (3), or (4) of this section:

WETLAND CATEGORY AND CHARACTERISTICS	BUFFER
Category I	
Bog	225 feet
Habitat score from 8 to 9 points	225 feet
Habitat score from 6 to 7 points	165 feet
Category I wetlands not meeting any of the criteria above	125 feet

WETLAND CATEGORY AND CHARACTERISTICS	BUFFER
Category II	
Habitat score from 8 to 9 points	225 feet
Habitat score from 6 to 7 points	165 feet
Category II wetlands not meeting any of the criteria above	100 feet
Category III	
Habitat score from 6 to 7 points	165feet
Category III wetlands not meeting any of the criteria above	75 feet
Category IV	50 feet

(2) Buffer Impact Minimization Measures. The following measures shall be implemented in order to utilize the standard buffer widths as noted above in 18.65.320 (1).

(a) The following measures shall be used by an applicant to obtain a standard buffer width under subsection (1) of this section:

Disturbance	Required Measures to minimize impacts
Lights	• Direct lights away from wetland
Noise	• Locate activity that generates • If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source • For activities that generate relatively continuous, potentially disruptive noise, such as heavy industry, establish an additional 10" 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 ft. of wetland • Apply integrated pest management
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 of wildlife by humans and pets 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
Degraded buffer condition	• Nonnative plants to be removed and replaced with native vegetation per an approved landscaping plan to be bonded and monitored for not less than a five-year period after completion to assure at least 80% survival of plantings

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
Disruption of corridors or potential or existing wildlife habitat connections	• Maintain connections to offsite areas that are undisturbed • Restore corridors or connections to offsite habitats by replanting

(3) If a Category I or II wetland with habitat score seven points or greater is located within 300 feet of a priority habitat area as defined by the Washington State Department of Fish and Wildlife, the buffer established by subsection (1) of this section shall be increased by 50 feet unless:

(a) The applicant provides a relatively undisturbed vegetated corridor at least 100 feet wide between the wetland and all priority habitat areas located within 300 feet of the wetland. The corridor shall be protected for the entire distance between the wetland and the priority habitat through dedication to the City of a conservation easement, native or the equivalent; and

(b) The applicable mitigation measures in subsections (3) and (4)(b) of this section shall be applied.

(4) Buffer Averaging. The Director may approve a modification of the standard buffer widths required on a case-by-case basis by averaging buffer widths, based on review of a critical area report prepared by a qualified professional describing the current functions of the wetland and its buffer and the measures that will be taken to ensure that there is no loss of wetland function due to buffer averaging, if:

(a) The Director determines that the ecological structure and function of the buffer after averaging is equivalent to or greater than the structure and function before averaging;

(b) The resulting buffer meets the following standards:

(i) The total area of the buffer after averaging is equivalent to or greater than the area of the buffer before averaging;

(ii) The additional buffer is contiguous with the standard buffer; and

(iii) Averaging does not occur into the buffer of another wetland or stream except as otherwise allowed.

(c) Additional buffer reductions as allowed in subsection (4) may be applied to a request for buffer averaging as provided in this section;

(d) In no case, shall a standard averaged buffer width be reduced to less than 75 percent of the standard buffer at any location;

(e) Averaging does not result in any impact to other critical areas; and

(f) Averaging does not result in a significant adverse impact to habitat associated with species of local importance.

(5) Where a legally established street transects a wetland buffer, the Director may approve a modification of the minimum required buffer width to the edge of the roadway if part of the buffer is on the other side of the roadway:

(a) Does not provide additional protection of the proposed development or the wetland;

(b) Does not perform any biological, geological or hydrological buffer functions relating to the undisturbed portions of the wetland buffer;

(c) The Alterations allowed in CMC 18.65.050 are not allowed in buffers established in accordance with this subsection; and

(d) The buffer widths established in accordance with this subsection are not further modified as provided for in subsection (3) and (4) of this section.

(6) The City may establish minimum buffer widths for wetlands that are created as a result of enhancement or restoration projects that are not mitigation for a development proposal or Alteration.

18.65.340 Wetlands – specific mitigation requirements.
In addition to the requirements in CMC 18.65.130 and 18.65.135, the following applies to mitigation to compensate for the adverse impacts associated with an Alteration to a wetland:

(1) Mitigation measures must achieve equivalent or greater wetland functions, including, but not limited to:

(a) Habitat complexity, connectivity and other biological functions; and

(b) Seasonal hydrological dynamics, water storage capacity and water quality.

(2) The following ratios of area of mitigation to area of Alteration apply to determine mitigation area required for permanent Alterations:

Category	Creation or Reestablishment	Rehabilitation	Creation (/C) and Rehabilitation (R) or Enhancement (E)	Enhancement Only
IV	1.5:1	3:1	1:1 C and 1:1 R or 2:1 E	6:1
III	2:1	4:1	1:1 C and 2:1 R or 4:1 E	8:1
II	3:1	6:1	1:1 C and 4:1 R or 8:1 E	12:1
I – forested	6:1	12:1	1:1 C and 10:1 R or 20:1 E	Case-by-case24:1
I – based on score for functions	4:1	8:1	1:1 C and 6:1 R or 12:1 E	16:1
I – bog	Not allowed	Case by case	Not possible	Case-by-case

(3) As an alternative to mitigation ratios provided in table 18.65.340(2) above, the City of Covington may approve mitigation using the WDOE Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Western Washington (Publication No. 10-06-011) (Hruby 2012) or as revised. This tool can be used to determine mitigation needs by estimating the functions and values lost when a wetland is altered, and estimating the gain in functions and values that result from the mitigation. This method must be applied by individuals trained and approved by Ecology in the use of this method;

(4) The City may consider two or more contiguous sites under common ownership as one site for the purpose of mitigation ratios when:

(a) All applicable sites are in the same drainage sub-basin;

(b) Equivalent or greater wetland functions will be achieved; and

(c) A notice on title, identifying the location, interconnectivity, and requirement for mitigation are recorded against each site pursuant to CMC 18.65.170;

(5) For temporary Alterations to a wetland or its buffer that are predominately woody vegetation, the City may require mitigation in addition to restoration of the altered wetland or buffer;

(6) For rectifying an illegal Alteration to any category wetland or its buffer, the ratio of area of mitigation to area of Alteration for repair, rehabilitation or restoration is one and one-half to one and the mitigation measures shall replicate the natural pre-Alteration wetland configuration at its natural pre-Alteration location to the maximum extent practical, including:

(a) The wetland edge and buffer configuration;

(b) The depth, width, length and gradient;

(c) The soil type, conditions and physical features;

(d) Similar species diversity and density; and

(e) The hydrologic, water quality, and biologic functions;

(7) Mitigation for an Alteration to a buffer of a wetland that occurs along an aquatic area lake shoreline in accordance with an Alteration identified in CMC 18.60.050 shall include, but not be limited to, onsite revegetation, maintenance and other restoration of the buffer or setback area to the maximum extent practical and shall be evaluated against the requirements of the City's SMP if applicable; and

(8) The City may allow mitigation for adverse impacts to buffers off the development proposal site at a ratio higher than that required for mitigation onsite if the applicant demonstrates that it is not feasible to mitigate on the development proposal site, in the same wetland or wetland complex, pursuant to off-site mitigation requirements in CMC 18.65.135.

Article VI. Fish and Wildlife Habitat Conservation Areas

18.65.350 Fish and wildlife habitat conservation areas - applicability

(1) This article regulates development in fish and wildlife habitat conservation areas ("FWHCA") and their associated buffers. FWHCAs in the City include subsections (2) through (6) of this section. 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 this chapter and shall be managed consistent with best available science, such as

the current edition of the Washington Department of Fish and Wildlife's Management Recommendations for Priority Habitats and Species.

(2) Streams. Streams shall be classified in accordance with the Washington Department of Natural Resources permanent water typing system (WAC 222-16-030), or as amended, which is hereby adopted in its entirety by reference and summarized as follows:

(a) Type S: streams and waterbodies inventoried as "shorelines of the state" under Chapter 90.58 RCW and the rules promulgated pursuant to Chapter 90.58 RCW;

(b) Type F: streams that contain fish habitat;

(c) Type Np: perennial non-fish habitat streams; and

(d) Type Ns: seasonal non-fish habitat streams.

(3) Naturally occurring ponds. Those ponds that are less than 20 acres in size and not regulated as "shorelines of the state." 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.

(4) Areas with state or federally designated endangered, threatened, and sensitive species having 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 NOAA Fisheries 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 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.

(5) 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.

(6) Habitats and species of local importance. Habitats and species of local importance are those identified by the City of Covington, including but not limited to those habitats and species that, due to the population status or sensitivity to habitat manipulation, warrant protection. Habitats may include a seasonal range or habitat element where a species has a primary association, and if altered, may reduce the likelihood that the species will maintain and reproduce over the long term. The City of Covington has determined habitats and species in sub-section (5)

above are habitats and species of local importance. Additional habitats and species of local importance are those identified by the City including:

(a) Land essential for preserving connections between habitat blocks and critical areas, such as wildlife habitat networks or corridors; and
(b) Areas of Rare Plant Species and High Quality Ecosystems.

18.65.355 Fish and wildlife habitat conservation areas - designation and purpose.

(1) Fish and wildlife habitat conservation areas include nesting and breeding grounds for state and federal threatened, endangered, sensitive or priority species listed by the Washington State Department of Fish and Wildlife, including corridors or networks which connect priority habitat, and those areas which provide habitat for species of local importance which have been or may be identified by the City of Covington.

(2) The purpose of fish and wildlife habitat conservation areas shall be to provide opportunities for food, cover, nesting, breeding and movement for fish and wildlife within the City; maintain and promote diversity of species and habitat within the City; coordinate habitat protection with elements of the City's established or planned wildlife corridors wherever possible; help to maintain air and water quality; control erosion; provide areas for recreation, education and scientific study and aesthetic appreciation; and contribute to the established character of the City.

(3) The City of Covington has given special consideration to the identification and regulation of fish and wildlife habitat conservation areas that support anadromous fisheries in order to preserve and enhance species which are or may be listed as endangered, threatened or priority species by state and federal agencies

18.65.360 Fish and wildlife habitat conservation areas - classification
(1) Fish and wildlife habitat conservation areas are those areas designated by the City based on review of the best available science; input from Washington Department of Fish and Wildlife, Washington Department of Ecology, and other agencies; and any of the following criteria:

(a) The presence of species proposed or listed by the federal government or the State of Washington as endangered, threatened, sensitive, or priority; or
(b) Streams and wetlands and their associated buffers that provide significant habitat for fish and wildlife.

(2) The City designates the following fish and wildlife habitat conservation areas that meet the above criteria, and this designation does not preclude designation of additional areas as provided in subsection (1) of this section:

(a) All regulated streams and wetlands and their associated buffers as determined by a qualified specialist, and as approved by the Director;
(b)Naturally occurring ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat; and
(c) Habitat associated with species of local importance as provided in CMC 18.65.350.

18.65.360 Streams – standard buffers.
(1) Stream – Buffers. No development may take place within a stream or within the following standard buffer areas except as allowed within this chapter. Buffer widths shall be measured outward on a horizontal plan from the ordinary high water line or top of bank if ordinary high water line cannot be identified:
(a) If the stream buffer does not include a steep slope hazard area or landslide hazard area:

(i) A Type S is 115 feet or as required in the adopted Shoreline Master Program(SMP);

(ii) A Type F aquatic buffer area is 115 feet;

(iii) A Type Np stream buffer is 60 feet; and

(iv) A Type Ns stream buffer is 30 feet;

(b) If the stream buffer does include a steep slope hazard area or landslide hazard area, the stream buffer width is the greater of either the stream buffer in this section or 25 feet beyond the top of the hazard area; and

(c) The stream buffer includes the entire mapped severe channel migration hazard area plus the appropriate stream buffer required by this section measured from the outer edge of the severe channel migration hazard area.

(2) Buffer Averaging. The Director may approve a modification of the minimum required standard buffer widths, on a case-by-case basis by averaging buffer widths, based on review of a critical area report prepared by a qualified professional describing the current function of the stream and the stream buffer and the measures that will be taken to ensure that there is no loss of stream function due to buffer averaging if:

(a) The Director determines that the ecological structure and function of the buffer after averaging is equivalent to or greater than the structure and function before averaging;

(b) The resulting buffer meets the following standards:

(i) The total area of the buffer after averaging is equivalent to or greater than the area of the buffer before averaging;

(ii) The additional buffer is contiguous with the standard buffer;

(iii) Averaging does not occur waterward of the top of the associated steep slopes or into a channel migration zone; and

(iv) Averaging does not occur into the buffer of a wetland except as otherwise allowed;

(c) In no case, shall as standard average stream buffer be reduced to less than 60 percent of the standard buffer in any location;

(d) Averaging does not result in any impact to another critical area;

(e) Averaging does not result in a significant adverse impact to habitat associate with species of local importance; and

(f) Buffer averaging within a shoreline jurisdiction shall be subject to the City's SMP and Appendix A.

(3) Buffer Reduction. The Director may approve a modification of the minimum required buffer width for a development proposal if the applicant demonstrates that the buffer cannot provide certain functions because of soils, geology or topography subject to the following:

(a) The Director shall establish the buffer width based on the ecological functions that the buffer can provide based on soils, geology and topography;

(b) The buffer widths established in accordance with this subsection are not further modified as provided for in subsection (2) of this section; and

(c) Within the shoreline jurisdiction, stream buffer mitigation is implemented pursuant to CMC 18.65.380.

(4) Where a legally established street transects a stream buffer, the Director may approve a modification of the minimum required buffer width to the edge of the roadway if the part of the buffer on the other side of the roadway:

(a) Does not provide additional protection of the proposed development or the stream;

(b) Does not perform any biological, geological or hydrological buffer functions relating to the undisturbed portions of the stream buffer;

(c) The Alterations allowed in CMC 18.65.050 are not allowed in buffers established in accordance with this subsection; and

(d) The buffer widths established in accordance with this subsection are not further modified as provided for in subsection (2) and (3) of this section.

(5) The Director may establish minimum buffer widths for streams that are created as a result of enhancement or restoration projects that are not mitigation for a development proposal or Alteration.

(6) The buffer areas established by this section do not apply to any segment of a stream that is presently within a culvert, unless that stream will be taken out of the culvert as part of development of the subject property.

(7) Permanently altered buffer. The Director may provide written approval for a buffer reduction when existing conditions are such that portions of the required buffer exist in a permanently altered state (e.g., roadways, paved parking lots, and permanent structures) and do not provide any buffer function, based on review of a critical area report prepared by a qualified professional. The buffer may be reduced up to the area where the altered conditions exist.

(8) Increased buffer widths. The Director may require increased buffer widths that are necessary to protect habitat, health, safety, and welfare on site specific areas as follows:

(a) When the Director determines that the buffer width is insufficient to prevent habitat degradation;

(b) When a channel migration zone is present. The stream buffer width shall be measured from the outer edge of the channel migration zone; or

(c) When the stream buffer area is within an erosion or landslide hazard area.

18.65.365 Streams and associated buffers – development standards and alterations.
The following standards apply to development proposals and Alterations on sites containing stream buffers:

(1) Only the Alterations identified in CMC 18.65.050 are allowed in streams and stream buffers, unless specifically allowed under another provision of the City's SMP;

(2) Grading for allowed Alterations in stream buffers is only allowed from May 1st to October 1st;

(3) The soil duff layer should not be disturbed to the maximum extent practical. The disturbed duff layer should be redistributed to other areas of the project site where feasible;

(4) The moisture-holding capacity of the topsoil layer should be maintained by minimizing soil compacting or reestablishing natural soil structure and the capacity to infiltrate on all areas of the site that impervious surfaces do not cover;

(5) The maximum extent practical, vegetation outside the stream buffer is spatially connected to the vegetation in the buffer to prevent creation of windthrow hazards in the buffer;

(6) New structures within a stream buffer, permitted in accordance with this chapter, shall be sited to avoid the creation of future hazard trees and to minimize the impact on ground water movement from the structure;

(7) To the maximum extent practical, hazard trees are retained in stream buffers and are topped to reduce the hazard or pushed over toward the stream; and

(8) Alterations may only be permitted if also approved by state and/or federal permits, if applicable.

18.65.370 Streams – permitted alterations.
Alterations to streams and their buffers may be allowed pursuant to CMC 18.65.050 as follows:

(1) The City's SMP shall be consulted for any activities within the shoreline jurisdiction. In Covington, three areas have been designated as areas within a shoreline jurisdiction: Pipe Lake; the lower reaches of Jenkins Creek, and the lower reaches of Big Soos Creek. This information is listed here for informational purposes only. Critical area

regulations for activities within the shoreline jurisdiction are location in Appendix A of the SMP, or as provided in the City's SMP;

(2) Alterations may only be permitted if based upon a critical area report prepared in accordance with CMC 18.65.110;

(3) Upon application for critical area review or associated development proposal, the City will notify affected agencies and native tribes of the proposed Alterations prior to any Alteration if a stream is in a frequently flooded area. The applicant will be required to provide a response or additional documentation based on requests by affected agencies and native tribes;

(4) There shall be no introduction of any plant or wildlife which is not indigenous to City into any stream or buffer unless authorized by a state or federal permit or approval;

(5) Surface water discharge to a stream buffer from a stormwater management facility may be allowed if there are no significant adverse impacts to the stream or required buffer and the discharge is in compliance with the stormwater manuals adopted in CMC Title 13.25; and in accordance with CMC 18.65.050;

(6) New Stream Crossings. New stream crossings will be reviewed and decided upon using the Type 2 decision process in CMC Title 14. Responses to decisional critical and design requirements in this section shall be included in the critical areas report. Stream crossings may be allowed and may encroach on the otherwise required stream buffer if:

(a) Any new crossing over a stream shall be generally perpendicular to the critical area and shall be accomplished by bridging or other technique designed to minimize critical area disturbance. It shall also be the minimum width necessary to accommodate the intended function or objective ;

(b) Culverts and bridges are designed and installed consistent with an approved permit from the applicable state and federal agencies with review authority;

(c) All crossings are constructed during the summer low flow and are timed to avoid stream disturbance during periods when use is critical to salmonids;

(d) Crossings do not occur over salmonid spawning areas unless City determines that no other possible crossing site exists;

(e) Bridge piers or abutments are not placed within the FEMA floodway or the ordinary high water line;

(f) Crossings do not diminish the flood-carrying capacity of the stream;

(g) Utility lines and facilities may be permitted to cross streams if they are laterally drilled and located at a depth beneath the scour depth for the water body predicted by a civil engineer licensed by the State of Washington, or as directed by state or federal permitting agencies. Temporary bore pits to perform such crossings may be permitted within the stream buffer established in CMC 18.65.360;

(h) Crossings are minimized and serve multiple purposes and properties whenever possible;

(i) Disturbances to the stream buffer are adequately compensated by a stream buffer enhancement plan; and

(j) No reasonable alternative exists to access the subject property;

(8) Stream Relocations. Stream relocations may be allowed only for:

(a) As part of a public road project for which a public agency and utility exception is granted pursuant to CMC 18.65.070; and

(b) The purpose of enhancing and restoring resources in the stream if:

(i) Appropriate floodplain protection measures are used; and

(ii) The relocation occurs on the site, except that relocation off the site may be allowed if the applicant demonstrates that any onsite relocation is impracticable, the applicant provides all necessary easements and waivers from affected property owners and the off-site location is in the same drainage sub-basin as the original stream;

(c) As part of any request under this section, the applicant must submit a stream relocation plan, that has been reviewed and approved by Washington Department of Fish and Wildlife with the critical areas report that shows the following:

(i) The creation of a natural meander pattern;

(ii) The formation of gentle side slopes, at least two feet horizontally to one foot vertically, and the installation of erosion control features for stream side slopes;

(iii) The creation of a narrow sub-channel, where feasible, against the south or west bank;

(iv) The utilization of natural materials, wherever possible;

(v) The use of vegetation normally associated with streams, including primarily native riparian vegetation;

(vi) The creation of spawning and nesting areas, wherever appropriate;

(vii) The re-establishment of the fish population, wherever feasible;

(vii) The restoration of water flow characteristics compatible with fish habitat areas, wherever feasible;

(ix) The filling and revegetation of the prior channel; and

(x) A proposed phasing plan specifying time of year for all project phases;

(d) For any relocation allowed by this section, the applicant shall demonstrate, based on information provided by a civil engineer and a qualified biologist, and included in the critical area report that:

(i) The equivalent base flood storage volume and function will be maintained;

(ii) There will be no adverse impact to local ground water;

(iii) There will be no increase in velocity;

(iv) There will be no interbasin transfer of water;

(v) There will be no increase in sediment load;

(vi) Requirements set out in the mitigation plan are met;

(vii) The relocation conforms to other applicable laws; and

(viii) All work will be carried out under the direct supervision of a qualified biologist;

(e) The City will allow a stream to be relocated only if water quality, habitat and stormwater retention capability of the streams will be the equivalent or improved by the relocation. Convenience to the applicant in order to facilitate general site design shall not be considered;

(f) Prior to diverting water into the new channel, a qualified professional shall inspect the new channel following its completion and issue a written report to the Director stating that the channel complies with the requirements of this section;

(9) A stream channel may be stabilized if:

(a) Movement of the stream channel threatens existing residential or commercial structures, public facilities or improvements, unique natural resources or the only existing access to property; and

(b) The stabilization is done in compliance with the requirements of CMC 16.15 and administrative rules promulgated pursuant to this chapter;

(10) Stream enhancement not associated with any other development proposal may be allowed if accomplished according to a plan for its design, implementation, maintenance and monitoring prepared by a civil engineer, a landscape architect or a qualified biologist and carried out under the direction of a qualified biologist or landscape architect;

(11) A minor stream restoration project for fish habitat enhancement may be allowed if:

(a) The restoration is sponsored by a public agency with a mandate to do such work;

(b) The restoration is unassociated with mitigation of a specific development proposal;

(c) The restoration is limited to placement of rock weirs, log controls, spawning gravel and other specific salmonid habitat improvements;

(d) The restoration only involves the use of hand labor and light equipment; or the use of helicopters and cranes which deliver supplies to the project site; provided, that they have no contact with sensitive areas or their buffers; and

(e) The restoration is performed under the direction of a qualified biologist or landscape architect; and

(12) Roadside drainage ditches which carry streams with salmonids may be maintained through the use of best management practices developed in consultation with relevant City, county, state and federal agencies.

18.65.375 Streams - removal from culverts and pipes.

If development of the subject property requires City approval, the City may require the stream to be taken out of the culvert and pipes, and restored to a natural-like configuration as part of the City's approval of development of the subject property.

18.65.380 Streams – specific mitigation requirements.
In addition, the requirements in CMC 18.65.130, the following applies to mitigation to compensate for the adverse impacts associated with an Alteration to a stream or stream buffer not located in the shoreline jurisdiction[1]:

(1) Mitigation measures shall be addressed in the critical area report and must achieve equivalent or greater stream functions including, but not limited to:

(a) Habitat complexity, connectivity and other biological functions;

(b) Seasonal hydrological dynamics, water storage capacity and water quality; and

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[1] Covington's SMP (Ord. No. 05-11) should be consulted for any activities within the shoreline jurisdiction. In Covington, three areas have been designated as areas within a shoreline jurisdiction: Pipe Lake; the lower reaches of Jenkins Creek, and the lower reaches of Big Soos Creek. Critical area regulations for activities within the shoreline jurisdiction are location in Appendix A of the SMP.

(c) Geomorphic and habitat processes and functions;

(2) To the maximum extent practical, permanent Alterations that require restoration or enhancement of the altered stream, stream buffer or another stream or stream buffer must consider the following design factors, as applicable to the function being mitigated:

(a) The natural channel or shoreline reach dimensions including its depth, width, length and gradient;

(b) The horizontal alignment and sinuosity;

(c) The channel bed or lake bottom with identical or similar substrate and similar erosion and sediment transport dynamics;

(d) Bank and buffer configuration and erosion and sedimentation rates;

(e) Similar vegetation species, diversity, size and densities in the channel or lake bottom and on the riparian bank or buffer; and

(f) Include all conditions in state and federal permits or approvals.

(3) Mitigation to compensate for adverse impacts shall meet the following standards:

(a) Not upstream of a barrier to fish passage;

(b) Is equal or greater in biological function; and

(c) To the maximum extent practical is located on the site of the Alteration or within one-half mile of the site and in the same stream reach at a 1:1 ratio for the length of mitigation to area of Alteration; or

(d) Is located in the same stream drainage sub-basin and attains the following ratios of area of functional mitigation to area of Alteration;

(i) A 3:1 ratio for a Type S stream;

(ii) A 3:1 ratio for a Type F stream; and

(ii) A 2:1 ratio for a Type Np or Ns stream;

(4) For purposes of subsection (3) of this section, a mitigation measure is in the same stream reach if the length of stream bank meets the following criteria:

(a) Similar geomorphic conditions including slope, soil, aspect and substrate;

(b) Similar processes including erosion and transport of sediment and woody debris;

(c) Equivalent or better biological conditions including invertebrates, fish, wildlife and vegetation; and

(d) Equivalent or better biological functions including mating, reproduction, rearing, migration and refuge; or

(e) For tributary streams, a distance of no more than one-half mile;

(5) The City may reduce the mitigation ratios in subsection (3) of this section to 2:1 ratio for Type S or F streams, and 1.5:1 ratio for a Type Np or Ns streams if the applicant provides a scientifically rigorous mitigation monitoring program that includes the following elements:

(a) Monitoring methods that ensure the mitigation meets the approved performance standards identified by the Director;

(b) Financial guarantees for the duration of the monitoring program; and

(c) Experienced, qualified staff to perform the monitoring;

(6) For rectifying an illegal Alteration to any type of stream or its buffer, mitigation measures must meet the following standards:

(a) Located on the site of the illegal Alteration at a 1:1 ratio of area of mitigation to area of Alteration; and

(b) To the maximum extent practical, replicates the natural pre-Alteration configuration at its natural pre-Alteration location including the factors in subsection (2) of this section.

(7) The City may modify the requirements in this section if the applicant demonstrates that, with respect to each stream function, greater functions can be obtained in the affected hydrologic unit that the Director may determine to be the drainage sub-basin through alternative mitigation measures.

18.65.385 Naturally occurring ponds, less than 20 acres in area and their submerged aquatic beds that provide fish or wildlife habitat.
(1) No development may take place within naturally occurring ponds or within buffer areas from the naturally occurring ponds except as allowed in this chapter.

(2) Naturally occurring ponds may also be considered wetlands based on CMC 18.65.319. If the naturally occurring pond is deemed a wetland then the applicable wetland buffer, based on the wetland category shall apply. A determination by the City does not preclude the applicant from meeting state and federal agency determinations and permitting requirements.

18.65.390 Other fish and wildlife habitat conservation areas – development standards.
The following standards apply to development proposals and Alterations on sites containing fish and wildlife habitat conservation areas, in accordance with the wildlife management plan developed by the Washington State Department of Fish & Wildlife for such species. Where the habitat does not include any other critical area or critical area buffer, compliance with the wildlife management plan shall constitute compliance with this chapter.

The Director shall require protection of an active breeding site of any species with habitat that is identified as requiring protection; provided, that the Washington State Department of Fish and Wildlife has adopted management recommendations. The City shall follow those adopted management recommendations that are published in Priority Habitats and Species Program Management Recommendations for Region IV, current edition. If management recommendations have not been adopted, the City shall base protection administrative rules and any decisions on best available science as presented in a qualified professional's report prepared by applicant, at applicant expense.

(1) General Requirements. Habitat conservation areas that are associated with a shoreline shall be governed by the requirements of the City's SMP. Other habitat conservation areas are subject to the following provisions:

(a)The Department shall require the establishment of buffer areas for development activities in, or 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 and functions of the habitat. Required buffer widths shall consider the management recommendations identified in subsection (2) of this section and reflect the sensitivity of the habitat and the type and intensity of human activity proposed to be conducted nearby. When a species is more susceptible to adverse impacts during specific periods of the year, seasonal restrictions may apply. Development activities may be further restricted and buffers may be increased during the specified season;

(b) Where applicable, a fish and wildlife habitat corridor shall be established as required in CMC 18.65. 350;

(c) A habitat conservation area may be altered only if the proposed Alteration of the habitat or the mitigation proposed does not reduce the quantitative and qualitative functions and values of the habitat, except in accordance with this chapter;

(d) Removal of any native vegetation or woody debris from the habitat conservation area may be allowed only as part of an approved habitat management plan, critical areas report, and/or Alteration plan;

(e) Low impact uses and development activities which are consistent with the purpose and function of the habitat conservation area and do not detract from its integrity may be permitted within the conservation area depending on the sensitivity of the habitat area. Examples of uses and development activities which may be permitted in appropriate cases include trails that are pervious, viewing platforms, stormwater management facilities such as grass-lined swales, utility easements and other similar uses and development activities; provided, that any impacts to the habitat resulting from such permitted facilities shall be fully mitigated;

(f)Whenever development activities are proposed in or adjacent to a habitat conservation area with which state or federally endangered or threatened species have a primary association, such area shall be protected through the application of measures in accordance with a critical areas report prepared by a qualified professional with guidance provided by the appropriate state and/or federal agencies;

(g) Plant, wildlife, or fish species not indigenous to the coastal region of the Pacific Northwest shall not be introduced into habitat conservation areas unless authorized by this chapter and by any required state or federal permit or approval;

(h) Mitigation sites shall be located to achieve contiguous wildlife habitat corridors in accordance with a mitigation plan that is part of an approved critical areas 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;

(i)The Director shall condition approvals of development activities allowed within or adjacent to a habitat conservation area or its buffers, as necessary, to minimize or mitigate any potential adverse impacts. Conditions may include, but are not limited to, the following:

(i) Establishment of buffer zones;

(ii) Preservation of critically important vegetation;

(iii) Limitation of public access to the habitat area, including fencing to deter unauthorized access;

(iv) Seasonal restriction of development activities;

(v) Establishment of a duration and timetable for periodic review of mitigation activities; and

(vi) Requirement of a performance bond, when necessary, to ensure completion and success of proposed mitigation; and

(j) Mitigation of Alterations to habitat conservation areas shall achieve equivalent or greater biologic functions, and shall include mitigation for adverse impacts from the proposed development as appropriate. Mitigation shall address each function affected by the Alteration to achieve functional equivalency or improvement on a per-function basis.

18.65.395 Fish and wildlife habitat corridors and networks.

On development proposal sites that contain Type F or Np streams and/or wetlands with a high habitat score greater than or equal to 7, that are also located within 200 feet of an onsite or off-site Type F or Np stream and/or wetland with a high habitat score greater than or equal to 7, a fish and wildlife habitat corridor shall be set aside and protected as follows:

(1) New development proposals, subdivisions, short subdivisions, commercial site plans, and binding site plans shall place the corridor in a contiguous permanent critical area tract with all developable lots sited on the remaining portion of the project site;

(2) The fish and wildlife habitat corridor shall be sited on the development in order to meet the following conditions, where feasible:

(a) Forms one contiguous tract that connects onsite high value habitat areas to other onsite or off-site high value habitat areas;

(b) New development proposals shall provide a minimum fish and wildlife habitat corridor width of 300 feet or a corridor width that is consistent with an approved habitat management plan. The corridor width should not be less than 150 feet wide at any point;

(c) New development proposals on sites constrained by a fish and wildlife habitat corridor and where development already exists shall maintain a minimum fish and wildlife habitat corridor width of 300 feet unless, through an approved habitat management plan, it can be shown that a lesser habitat corridor width supports and maintains the corridor's function and value;

(d) Be contiguous with and include and/or connect critical areas, buffers, wildlife habitat corridors, native growth protection easements, and open space tracts or wooded areas on site or on adjacent properties, if present; and

(e) The Director may modify corridor widths based on supporting documentation from an approved habitat management plan.

(3) Fish and wildlife habitat corridors do not parallel Type Np streams, except as required to provide a connection between two features as described above.

(4) A management plan for the wildlife corridor contained within a tract or tracts shall be prepared that specifies the permissible extent of recreation, forestry or other uses compatible with preserving and enhancing the wildlife habitat value of the tract or tracts. The management plan shall be reviewed and approved by the Department. The approved management plan for a development proposal shall be contained within and recorded on title or with the covenants, conditions and restrictions (CCRs). If the wildlife corridor is contained in a conservation easement, a management plan is not required, but may be submitted to the Department for review and approval, and recorded with the conservation easement.

(5) Clearing within the wildlife corridor contained in a tract or tracts shall be limited to that allowed by the management plan or as otherwise allowed by this chapter. No clearing, including the removal of woody debris, shall be allowed within a wildlife corridor contained within a conservation easement on individual lots, unless the property owner has an approved management plan.

(6) Where feasible, a homeowners' association or other entity capable of long-term maintenance and operation shall be established to monitor and assure compliance with the management plan. The association shall provide homeowners with information on the Washington Department of Fish and Wildlife's backyard wildlife sanctuary program.

(7) Low impact uses and activities which are consistent with the purpose and function of the habitat corridor and do not detract from its integrity may be permitted within the corridor depending on the sensitivity of the habitat area. Examples of uses and activities which may be permitted in appropriate cases include trails that are pervious, viewing platforms, stormwater management facilities such as grass-lined swales, utility easements and other similar uses, or activities otherwise described and approved by the Washington Department of Fish and Wildlife; provided, that any impacts to the corridor resulting from such permitted facilities shall be fully mitigated.

(8) At the discretion of the Director, these standards may be waived or reduced for public facilities such as public schools, fire stations, public parks, and public road projects.

(9) The wildlife corridor tract or easement shall be permanently marked and fenced consistent with the methods contained in the CMC 18.65.160 and the City's Design and Construction Standards in effect at the time of application.

18.65.400 Fish and wildlife habitat conservation Areas – modification.
Upon request of the applicant and based upon a site-specific critical areas report that includes, but is not limited to, an evaluation of the tolerance of the animals occupying the nest or rookery to the existing level of development in the vicinity of the nest or rookery, the Director may approve a reduction of the wildlife habitat conservation area or corridor for any species listed on the current version of the Washington Department of Fish and Wildlife Priority Habitat and Species List for Region IV, as amended.

18.65.405 Fish and wildlife habitat conservation Areas - mitigation standards

(1) Relevant standards for other critical areas (such as wetlands and streams) that may be located within the fish and wildlife habitat conservation area, as determined by the City, shall be incorporated into mitigation plans.

(2) The following additional mitigation measures shall be reflected in fish and wildlife habitat conservation area mitigation planning:

(a) The maintenance and protection of habitat values shall be considered a priority in site planning and design;

(b) Buildings and structures shall be located in a manner that preserves and minimizes adverse impacts to important habitat areas. This may include clustering buildings and locating fences outside of habitat areas;

(c) Retained habitat shall be integrated into open space and landscaping;

(d) Where possible, habitat and vegetated open space shall be consolidated in contiguous blocks;

(e) Habitat shall be located contiguous to other habitat areas, open space or landscaped areas both on and off site to contribute to a continuous system or corridor that provides connections to adjacent habitat areas;

(f) Native species shall be used in any landscaping of disturbed or undeveloped areas and in any enhancement of habitat or buffers;

(g) The heterogeneity and structural diversity of vegetation shall be emphasized in landscaping; and

(h) Significant trees, preferably in groups, shall be preserved, consistent with the requirements of CMC 18.45.

18.65.410 Fish and wildlife habitat conservation areas –additional provisions for critical areas report

In addition to the general critical areas report requirements of CMC 18.65.110, proposals to modify the performance standards for habitat for species of local importance must meet the requirements of this section.

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

(a) Identification of any species of local importance including but not limited to endangered, threatened, sensitive or candidate species that has a primary association with habitat on or adjacent to the project area, and an assessment of potential project impacts to the species;

(b) Detailed description of vegetation on and adjacent to the site;

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

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

(e) A discussion of measures, including avoidance, minimization, and mitigation, proposed to preserve existing habitats and coordination and efforts to restore any habitat that was degraded prior to the current proposed use or activity and to be conducted in accordance with the mitigation sequent set for in CMC 18.65.120;

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

(g) When appropriate due to the type of habitat or species present or the site conditions, the Director may also require the habitat management plan to include an evaluation by the Washington Department of Fish and Wildlife, local Native American Indian Tribe, or other qualified professional regarding the applicant's analysis and the effectiveness of any proposed mitigating measures or programs, to include any recommendations as appropriate; and

(h) When appropriate, information from the Washington Department of Fish and Wildlife's backyard wildlife sanctuary program shall be included.

18.65.420 Process to identify additional species and habitat of local importance

(1) Designation Process. Any person may nominate for designation, or propose de-designation, of a species or habitat of local importance in accordance with a Type IV permit process pursuant to CMC Title 14. Additional species and habitat of local importance may be designated pursuant to CMC 18.65.420.

(2) Decision Criteria. A species may be designated a species of local importance only if it demonstrates the following characteristics:

(a) Local populations of native species are in danger of extirpation based on existing trends;
(i) Local populations of native species that are likely to become endangered; or

(ii) Local populations of native species that are vulnerable or declining;

(b) The species or habitat has recreational, commercial, cultural, tribal, or other special value;

(c) Long-term persistence of a species in dependent on the protection of the species or habitat through the provisions of this Chapter;

(d) Protection by other county, state, or federal polices, laws, regulations, or non-regulatory tools is not adequate to prevent degradation of the species or habitat in the City; and

(e) Without protection, there is a likelihood that the species or habitat will be diminished over the long term.

(3) Nominations for habitats or species of local importance shall include the following:

(a) Identification of the habitat or species being nominated. Identification shall include, at a minimum, the following information:

i. A legible map or maps of species and/or habitat location(s);

ii. Specific features to be protected (for example, nest sites, breeding areas, nurseries, vegetation communities) or, if a habitat is being nominated in its entirety, a description of the habitat, its structure, function, species, and geographic boundaries of the habitat(s) encompassed, and any other relevant attributes; and

iii. An analysis of the habitat and hydrological functions and location of the area relative to already designated critical areas and the nearest similar habitat if known.

iv. The Director has the authority to alter these requirements if he/she determines that alternative methods of identification or characterization are more accurate or reliable.

(b) Proposed management strategies for the species or habitats. Management strategies must be supported by best available science;

(c) Identification of effects on property ownership and use; and

(d) The Director may, on a case-by-case basis require additional information needed to evaluate the resource being nominated.

(4) Effect of Designation. Designation of a species and habitat of local importance under this section shall not impact projects or proposals with a vested application or approved permit.

18.65.430 Fish protection measures.

(1) All activities, uses, and Alterations proposed to be located in water bodies used by 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, the following standards:

(a) Activities shall be timed to occur only during the allowable work window as designated by the Washington Department of Fish and Wildlife;

(b) The activity is designed so that it will not degrade the functions or values of the fish habitat or other critical areas; and

(c) 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 fish shall not be allowed in the portion of water bodies currently or historically used by 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.

18.65.440 Endangered, threatened, and sensitive species protection measures.

(1) No development shall be allowed within a habitat conservation area or buffer where state or federally endangered, threatened, or sensitive species have a primary association, except that which is provided for by a management plan established by Washington Department of Fish and Wildlife or applicable state or federal agency.

(2) Whenever activities are proposed adjacent to a habitat conservation area where 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 Department of Fish and Wildlife and other appropriate federal or state agencies.

EXHIBIT C

Associated Updates to CMC Title 13, 14, 17 & 18

13.25.025 Definitions.

Certain words and phrases used in this chapter, unless otherwise clearly indicated by their context, mean as follows. Terms applicable to this chapter are defined in Chapter 18.20 CMC, adopted stormwater manuals and the Design and Construction Standards. If there is conflict, the definitions in the Design and Construction Standards shall govern.

~~(1) "AKART" means all known, available, and reasonable methods of prevention, control and treatment. AKART represents the most current methodology that can be reasonably required for preventing, controlling, or abating the pollutants associated with a discharge.~~

14.60.170 Rock and retaining walls.

Walls shall be designed and constructed with due regard for drainage, access, maintenance, impacts to adjacent property, and aesthetics. All walls shall be constructed in accordance with all applicable codes and standards and the following criteria:

....

(16) Walls shall not be used to break up a slope or to circumvent the definition of or the restrictions for steep slope hazard areas as described in CMC 18.65~~. 310~~.

~~**Chapter 14.65**~~

~~**SHORELINE MANAGEMENT PERMITS**~~

~~Sections:~~

~~**14.65.010** *Recodified.*~~

~~**14.65.020** *Repealed.*~~

~~**14.65.010 Shoreline management permit fees.**~~

~~***Recodified as CMC 16.05.050 by Ord. 20-07. (Ord. 43-02 § 2 (27.20.010))***~~

17.15.060 Review for conformity with other codes, plans and policies.

Applications for approvals pursuant to this title shall be reviewed in accordance with the applicable procedures of any combination of this title and Chapters 2.25, 14.30, 14.35, 14.40, and 14.45 CMC. Furthermore, applications for subdivisions, short subdivisions and binding site plans may be approved, approved with conditions or denied in accordance with the following adopted City and State rules, regulations, plans and policies including, but not limited to:

...

(12) Chapter 16.05 CMC (Shoreline ~~Management Plan~~Master Program);

17.25.050 Contents of final plat and final short plat.

The following information shall be shown on a final plat or final short plat:

....

(13) A traverse line established along the shore not more than 20 feet landward of the ordinary high water ~~mark~~ line when a subdivision or short subdivision borders on a body of water. This line shall be labeled "plat traverse line" or "short plat traverse line," as applicable, on the final plat or short plat documents;

17.40.020 Procedures and limitations of the boundary line adjustment process.

Adjustment of boundary lines between adjacent lots shall be consistent with the following review procedures, limitations and requirements of CMC Title 12 and the Design and Construction Standards adopted in Chapter 12.60 CMC:

(1) Applications for boundary line adjustments shall be reviewed as a Type 1 permit as provided in Chapter 14.30 CMC. The review shall include examination for consistency with CMC Title 18, ~~shoreline management plan,~~ Chapter 16.05 CMC(Shoreline Master Program), applicable Board of Health regulations (if applicable), and, for lots which have already been developed, all adopted International Codes;

18.20.053 AKART

"AKART" means all known, available, and reasonable methods of prevention, control and treatment. AKART represents the most current methodology that can be reasonably required for preventing, controlling, or abating the pollutants associated with a discharge.

18.20.110 Biologist, qualified.

"Qualified biologist" means a person with training and experience in the scientific discipline, and who is a qualified scientific expert with expertise in streams, wetlands or lakes subject matter in accordance with WAC 365-195-905(4). A qualified professional must have obtained a bachelor of science degree in the biological sciences from an accredited college or university or who has equivalent educational training and professional experience related to the subject of habitat or species. A qualified professional for wetlands must be a professional wetland scientist with at least two years of full-time work experience as a wetlands professional, including delineating wetlands using the federal manual and supplements, preparing wetlands reports, conducting function assessments, and developing and implementing mitigation plans.

18.20.112 Bog.

"Bog" means a low-nutrient, acidic wetland with organic soils and characteristic bog plants, as described in Washington State Wetland Rating System for Western Washington: 2014 Update (Washington State Department of Ecology Publication #14-06-29, Olympia, WA, October 2014 or as subsequently amended).~~wetland that has no significant inflows or outflows and supports acidophilic mosses, particularly sphagnum.~~

~~**18.20.183 Channel migration hazard area, moderate.**~~
~~"Channel migration hazard area, moderate" means a portion of the channel migration zone, as shown on King County's channel migration zone maps, that lies between the severe channel migration hazard area and the outer boundaries of the channel migration zone. (Ord. 14-05 § 3)~~

~~**18.20.184 Channel migration hazard area, severe.**~~
~~"Channel migration hazard area, severe" means a portion of the channel migration zone, as shown on Covington's channel migration zone maps when adopted, that includes the present channel. The total width of the severe channel migration hazard area equals 100 years times the average annual channel migration rate, plus the present channel width. The average annual channel migration rate as determined in the technical report is the basis for each channel migration zone map.~~

18.20.253 Critical aquifer recharge area.

"Critical aquifer recharge area" means an area ~~designated~~ with a critical recharging effect on aquifers used for potable water where an aquifer that is a source of drinking water that is vulnerable or susceptible to contamination that would affect the potablity of water. This includes:

(1) Category I ~~the~~ critical aquifer recharge area ~~map adopted by CMC 13.37.020~~ which are mapped areas that Covington ~~that~~determined are ~~has a~~ highly susceptible~~ility~~ to ground water contamination and that are located within a sole source aquifer or wellhead protection area; or

(2) Category II critical aquifer recharge areas which are areas determined to have ~~an area of~~ medium susceptibility to ground water contamination that is located within a sole source aquifer or within an area approved in accordance with Chapter 246-290 WAC as a wellhead protection area for a municipal or district drinking water system, or an area over a sole source aquifer for a private potable water well in compliance with Department of Ecology and Public Health standards, or are highly susceptible to ground water contamination and are not located in a sole source aquifer or well head protection area. or

(3) Category III critical aquifer recharge areas include those mapped areas that Covington has determined have low susceptibility to ground water contamination. ~~s.~~

Susceptibility to ground water contamination occurs where there is a combination of permeable soils, permeable subsurface geology, decreasing hydraulic head with depth,

18.20.254 Critical area.

"Critical area" means any area that is ~~subject to natural hazards or a land feature that supports unique, fragile or valuable natural resources including fish, wildlife or other organisms or their habitats or such resources that carry, hold or purify water in their natural~~

~~state~~required to be protected under the Growth Management Act, Chapter 36.70A RCW. The ciyt's ~~.~~ "c~~C~~ritical areas" includes the following areas and their required buffers pursuant to CMC 18.65:
(1) ~~Aquatic~~ Frequently flooded areas areas;
(2) Critical aquifer recharge area;
(3) ~~Erosion~~ Geologic hazard areas;
~~(4) Flood hazard areas;~~
~~(5) Landslide hazard areas;~~
~~(6) Steep slope hazard areas;~~
(7) Wetlands; and
(8) Wildlife habitat conservation areas, including streams.
~~and ground water close to the ground surface.~~

~~**18.20.331 Draft flood boundary work map.**~~
~~"Draft flood boundary work map" means a floodplain map prepared by a mapping partner, reflecting the results of a flood study or other floodplain mapping analysis. The draft flood boundary work map depicts floodplain boundaries, regulatory floodway boundaries, base flood elevations and flood cross sections, and provides the basis for the presentation of this information on a preliminary flood insurance rate map or flood insurance rate map.~~

~~**18.20.331.5 Drainage.**[3]~~
~~"Drainage" means the collection, conveyance, containment or discharge, or any combination thereof, of surface and stormwater runoff.~~

18.20.333 Drainage facility.
~~Drainage Facility. See definition for "stormwater management facility."~~ "Drainage facility" means a feature, constructed or engineered for the primary purpose of providing drainage, that collects, conveys, stores or treats surface water. A drainage facility may include, but is not limited to, a stream, pipeline, channel, ditch, gutter, lake, wetland, closed depression, flow control or water quality treatment facility and erosion and sediment control facility.

18.20.400 Enhancement.
"Enhancement" means for the purposes of critical area regulation, an action that improves the ~~processes,~~ structure and functions of ecosystems and habitats associated with critical areas or their buffers. Enhancement results in a gain in some critical area function(s) but may also lead to a decline in other functions, but does not result in a gain in critical area extent.

18.20.415 Erosion hazard area.
"Erosion hazard area" means an area underlain by soils that is subject to severe erosion when disturbed~~. These soils~~ including areas likely to become unstable, such as bluffs, steep slopes, and areas with unconsolidated soils. These soils subject to severe erosion include,~~e,~~ but are not limited to, those classified as having a severe to very severe erosion hazard according to the United States Department of Agriculture Soil Conservation Service, the 1973 King County Soils Survey or any subsequent revisions or addition by or to these sources such as any occurrence of river wash ("Rh") and any of the following when the soils occur on slopes inclined at 15 percent or more:
(1) The Alderwood gravelly sandy loam ("AgD");
(2) The Alderwood and Kitsap soils ("AkF");
(3) The Beausite gravelly sandy loam ("BeD" and "BeF");
(4) The Kitsap silt loam ("KpD");
(5) The Ovall gravelly loam ("OvD" and "OvF");
(6) The Ragnar fine sandy loam ("RaD"); and
(7) The Ragnar-Indianola Association ("RdE").

18.20.469 Fish and Wildlife Habitat Conservation Areas
"Fish and Wildlife Habitat Conservation Areas" are areas that have been identified as critically important to maintaining specific types of fish, wildlife, and plant species in Covington. Areas necessary for maintaining species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created as designated by WAC 365-190-130 (2) or defined as habitats and species of local importance in Chapter 18.65 CMC Article V.

~~**18.20.515 Forest land.**~~
~~"Forest land" means land devoted primarily to growing and harvesting forest and timber products and designated as a forest production district by the City of Covington comprehensive plan.~~

18.20.545 Geologist.
"Geologist" means a person who holds a current license as a geologist or engineering geologist from the Washington State Geologist Licensing Board.

~~**18.20.575.5 Groundwater.**~~
~~"Groundwater" means water in a saturated zone or stratum beneath the surface of the land or below a surface water body.~~

18.20.578 Habitat, fish.
"Habitat, fish" means habitat that is used by fish at any life stage at any time of the year including potential habitat likely to be used by fish. "Fish habitat" includes habitat that is upstream of, or landward of, human-made barriers that are currently used by fish or could be accessible to, and could be used by, fish upon removal of the barriers. This includes off-channel habitat, flood refuges, channels, streams and wetlands.

~~**18.20.632 Improvement.**~~
~~"Improvement" means a permanent, manmade, physical change to land or real property including, but not limited to, buildings, streets, driveways, sidewalks, crosswalks, parking lots, water mains, sanitary and storm sewers, drainage facilities, and landscaping.~~

18.20.637.1 In-Lieu Fee Program.
"In -Lieu Fee Program " as defined in the Federal Rule published in April 2008, The U.S. Army Corps of Engineers (the Corps) and the U.S. Environmental Protection Agency (EPA) is a:
"A program involving the restoration, establishment, enhancement, and/or preservation of aquatic resources through funds paid to a governmental or non-profit natural resources management entity to satisfy compensatory mitigation requirements. Similar to a mitigation bank, an 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."

18.20.638 Instream structure.
"Instream structure" means anything placed or constructed below the ordinary high water ~~mark~~line, including, but not limited to, weirs, culverts, fill and natural materials and excluding dikes, levees, revetments and other bank stabilization facilities.

18.20.680 Landslide hazard area.
"Landslide hazard area" means an area subject to severe risk of landslide, based on a combination of geologic, topographic, and hydrologic factors. They include any areas susceptible to landslide because of any combination of bedrock, soil, slope (gradient), slope aspect, structure hydrology, or other factors, and include, at a minimum the following~~such as~~:
(1) An area with a combination of:
(a) Slopes steeper than 15 percent of inclination;
(b) Impermeable soils, such as silt and clay, ~~frequently~~ interbedded with granular soils, such as sand and gravel; and
(c) Springs or seasonal ground water seepage;
(2) Areas of historic failures such as:
(a) An area that has shown movement during the Holocene epoch, which is from 10,000 years ago to the present, or that is underlain by mass wastage debris from that epoch;

(b) Those areas delineated by the United States Department of Agriculture Natural Resources Conservation Service as having a significant limitation for building site development;
(c) Areas designated as quaternary slumps, earthflows, mudflows, lahars, or landslides on maps published by the United States Geological Survey or Washington department of natural resources.
(3) An area potentially unstable as a result of rapid stream incision, stream bank erosion or undercutting by wave action including stream channel migration zones;
(4) An area that shows evidence of or is at risk from snow avalanches; or
(5) An area located in a canyon or on an active alluvial fan, presently or potentially subject to inundation by debris flows, or catastrophic flooding, or deposition of stream-transported sediments.

(6) Any area with a slope of forty percent or steeper and with a vertical relief of ten or more feet except areas composed of bedrock. See also CMC 18.20.1230 Steep slope hazard areas.

(7) Slopes having gradients steeper than eighty percent subject to rockfall during seismic shaking. See also CMC 18.20.1230 Steep slope hazard areas.

(8) Slopes that are parallel or subparallel to planes of weakness (such as bedding planes, joint systems, and fault planes) in subsurface materials.

18.20.752 Mitigation.

"Mitigation" means ~~an action~~sequentially avoiding impacts, minimizing impacts and action taken to compensate for unavoidable adverse impacts to the environment resulting from a development activity or alteration. Mitigation in the following sequential order of preference, is:

(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, such as project redesign, relocation, or timing, to avoid or reduce impacts;

(3) 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;

(5) Reducing or eliminating the impact or hazard over time by preservation and maintenance operations during the life of the action;

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

(7) 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.

~~**18.20.785 Municipal water production.**~~
~~"Municipal water production" means the collection and processing of surface water through means of dams or other methods of impoundment for municipal water systems.~~

~~**18.20.795 Naturalized species.**~~
~~"Naturalized species" means nonnative species of vegetation that are adaptable to the climatic conditions of the coastal region of the Pacific Northwest.~~

18.20.825 Ordinary high water ~~mark~~line.

"Ordinary high water ~~mark~~line (OHWL)" is defined by WAC 77.55.011(16) and means the mark ~~found~~on the shores of all water (e.g. lakes and streams) that will be found by examining the bed and banks ~~of a stream, lake, pond water~~ and ascertaining where the presence and action of waters are so common and usual, and so long continued ~~maintained~~ in ordinary years as to mark upon the soil or vegetation a ~~vegetative~~ character distinct from ~~that of~~ the abutting upland. ~~In an~~ Provided, that in any area where the ordinary high water ~~mark~~ line cannot be found, the ~~line of mean high water in areas adjoining freshwater is the "~~ordinary high water ~~mark~~line.~~"~~ adjoining saltwater is the line of mean higher high water and "ordinary high water line" adjoining freshwater is the elevation of the mean annual flood. ~~In an area where neither can be found, the top of the channel bank is the "ordinary high water mark." In braided channels and alluvial fans, the ordinary high water mark or line of mean high water includes the entire water or stream feature.~~

~~**18.20.895 Plant associations of infrequent occurrence.**~~
~~"Plant associations of infrequent occurrence" means one or more plant species of a landform type which does not often occur in City of Covington because of the rarity of the habitat and/or the species involved or for other botanical or environmental reasons.~~

~~**18.20.897 Plant factor.**~~
~~"Plant factor" means a factor which when multiplied by reference evapotranspiration, estimates the amount of water used by plants.~~

~~**18.20.905 Private storm water management facility.**~~
~~"Private storm water management facility" means a surface water control structure installed by a project proponent to retain, detain or otherwise limit runoff from an individual or group of developed sites specifically served by such structure.~~

~~**18.20.972 Reference evapotranspiration (Eto).**~~

~~"Reference evapotranspiration (Eto)" means a standard measurement of environmental parameters which affect the water use of plants.~~

18.20.1045 Seismic hazard areas.

"Seismic hazard areas" means those areas in City of Covington subject to severe risk of earthquake damage as a result of ground movement, ground displacement, or soil liquefaction in areas underlain by cohesionless soils of low density and usually in association with a shallow ground water table or of other seismically induced settlement.

18.20.1331 Tree, hazard.

"Tree, hazard" means any tree, as determined by a certified arborist, with a structural defect, combination of defects or disease resulting in structural defect that, under the normal range of environmental conditions at the site, will result in the loss of a major structural component of that tree in a manner that will:

(1) Damage a residential structure or accessory structure, place of employment or public assembly or approved parking for a residential structure or accessory structure or place of employment or public assembly;

(2) Damage an approved road or utility facility; or

(3) Prevent emergency access in the case of medical hardship.

~~**18.20.1332 Trough subsidence.**~~

~~"Trough subsidence" means a readily predictable or historically observed surface depression phenomena caused by coal extraction which is generally characterized by a gentle and continuous dish shape which may extend beyond the subsurface area in which coal mining has occurred.~~

~~**18.20.1340 Undeveloped parcel.**~~

~~"Undeveloped parcel" means any parcel which has not been altered from its natural state by the construction, creation or addition of impervious surface.~~

~~**18.20.1390 Wet meadow, grazed or tilled.**~~

~~"Wet meadow, grazed or tilled" means an emergent wetland that has grasses, sedges, rushes or other herbaceous vegetation as its predominant vegetation and has been previously converted to agricultural activities.~~

~~**18.20.1393 Wetland complex.**~~

~~"Wetland complex" means a grouping of two or more wetlands, not including grazed wet meadows, which meet the following criteria:~~

~~(1) Each wetland included in the complex is within 500 feet of the delineated edge of at least one other wetland in the complex;~~

~~(2) The complex includes at least:~~

~~(a) One wetland classified Category I or II;~~

~~(b) Three wetlands classified Category III; or~~

~~(c) Four wetlands classified Category IV;~~

~~(3) The area between each wetland and at least one other wetland in the complex is predominately vegetated with shrubs and trees; and~~

~~(4) There are not any barriers to migration or dispersal of amphibian, reptile or mammal species that are commonly recognized to exclusively or partially use wetlands and wetland buffers during a critical life cycle stage, such as breeding, rearing or feeding.~~

18.20.1394 Wetland creation.

"Wetland creation" means, for purposes of wetland mitigation, the manipulation of the physical, chemical, or biological characteristics present to develop a wetland on an upland or deepwater site, where a wetland did not previously exist. Wetland creation results in a gain in wetland acres. Activities to create a wetland typically involve excavation of upland soils to elevations that will produce a wetland hydroperiod, create hydric soils and support the growth of hydrophytic plant species. ~~Wetland creation results in a gain in wetland acres.~~

18.20.1395 Wetland ~~edge~~ delineation.

"Wetland delineation~~edge~~" means identifying the line delineating the outer edge of a wetland, ~~consistent~~ in accordance with the approved federal wetland delineation manual and applicable regional supplement. ~~required by RCW 36.70A.175.~~

18.20.1397 Wetland enhancement.

"Wetland enhancement" means the manipulation of the physical, chemical, or biological characteristics of a wetland site to heighten, intensify or improve specific functions or to change the growth state or composition of the vegetation present. Wetland enhancement results in a change in some wetland functions and may lead to a decline in other wetland functions, but does not result in a gain in wetland acres. Enhancement is undertaken for specified purposes such as water quality improvement, flood water retention or wildlife habitat. Wetland enhancement activities typically consist of planting vegetation, controlling nonnative or invasive species, modifying site elevations or the proportion of open water to influence hydroperiods or some combination of these. ~~Wetland enhancement results in a change in some wetland functions and can lead to a decline in other wetland functions, but does not result in a gain in wetland acres.~~

18.20.1410 Wetland, isolated.

"Wetland, isolated" means a wetland ~~which has a total size less than 2,500 square feet excluding buffers or, if within the urban area is less than 5,000 square feet excluding buffers,~~ which is hydrologically isolated from other aquatic resources, as determined by the United States Army Corps of Engineers (USACE). Isolated wetlands may perform important functions and are protected by state law (RCW 90.48) whether or not they are protected by federal law. ~~or streams does not have permanent open water, and is determined to be of low function.~~

18.20.1415 Wetland.

"Wetland" means ~~an~~ areas that ~~is not an aquatic area and that is~~ are inundated or saturated by ~~ground or~~ surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support~~s~~, a prevalence of vegetation typically adapted for life in saturated soil conditions ~~or purposes of this definition:~~

~~(1) Where the vegetation has been removed or substantially altered, "wetland" is determined by the presence or evidence of hydric soil, by other documentation such as aerial photographs of the previous existence of wetland vegetation or by any other manner authorized in the wetland delineation manual required by RCW 36.70A.175; and~~

~~(2) Except for~~Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial ~~features~~ wetlands intentionally ~~made for the purpose of mitigation, "wetland" does not include an artificial feature made~~ created from ~~a~~ nonwetland ~~area, which may include,~~ sites, including but ~~is~~ not limited to,~~:~~

~~(a) A surface water conveyance for~~ irrigation and drainage ditches, ~~or irrigation;~~

~~(b) A~~ grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those ~~;~~

~~(c) A canal;~~

~~(d) A flow control facility;~~

~~(e) A wastewater treatment facility;~~

~~(f) A farm pond;~~

~~(g) A wetpond;~~

~~(h) Landscape amenities; or~~

~~(i) A~~ wetlands created after July 1, 1990, that were~~as~~ unintentionally created~~made~~ as a result of construction of a road, street or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversions of wetlands.

18.20.1415.1 Wetland of High Conservation Value.

"Wetland of High Conservation Value" means a wetland that has been identified by scientists from the Washington Natural Heritage Program (WHNHP) as an important ecosystem for maintaining plant diversity in Washington State.

18.20.1416 Wetland reestablishment.

"Wetland reestablishment" means, for purposes of wetland mitigation, the manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former wetland. Re-establishment results in rebuilding a former wetland and results in a gain in wetland acres [and functions]. Activities ~~to reestablish a wetland~~could include removing fill ~~material~~, plugging ditches, or breaking drain tiles. ~~Wetland reestablishment results in a gain in wetland acres.~~

18.20.1417 Wetland rehabilitation.

"Wetland rehabilitation" means, for purposes of wetland mitigation, the manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural or historic functions (and processes) of a degraded wetland. ~~of a degraded wetland. Activities to rehabilitate a wetland include breaching a dike to reconnect wetlands to a floodplain or return tidal influence to a wetland.~~ Wetland rehabilitation results in a gain in wetland function but does not result in a gain in wetland acres. Activities to rehabilitate a wetland could include breaching a dike to reconnect wetlands to a floodplain or return tidal influence to a wetland.

18.20.1423 Wildlife habitat conservation area.

"Wildlife habitat conservation area" means an area designated by ~~for a species whose habitat~~ the City of ~~Covington or King County Comprehensive Plan requires the City or County~~ to protect habitat of wildlife species proposed or listed by the Federal government or the State of Washington as endangered, threatened, sensitive, or a priority. ~~that includes an active breeding site and the area surrounding the breeding site that is necessary to protect breeding activity.~~

18.20.1424 Wildlife habitat network.

"Wildlife habitat network" means ~~the official~~ a designated wildlife habitat network defined and mapped ~~in the~~ by King County ~~Comprehensive Plan~~ or as designated by the City that links wildlife habitat with critical areas, critical area buffers, priority habitats, trails, parks, open space and other areas to provide for wildlife movement and alleviate habitat fragmentation.

~~**18.20.1425 Wildlife shelter.**~~

~~"Wildlife shelter" means a facility for the temporary housing of sick, wounded or displaced wildlife.~~

18.25.090 Resource land uses.

...

B. Development Conditions.

(1) May be further subject to Chapter 16.05 CMC, Shoreline ~~Management Plan~~Master Program.

~~**18.35.260 Wildlife habitat corridors – Applicability.**~~

~~Habitat corridors shall be set aside and protected along any designated wildlife habitat network adopted by the comprehensive plan as follows:~~

~~(1) Wildlife habitat corridors shall apply to the following development activities on parcels which include a portion of a designated wildlife habitat corridor:~~

~~(a) All urban planned developments, fully contained communities, subdivisions, short subdivisions and binding site plans;~~

~~(b) All building permits on individual lots created prior to adoption of this code.~~

~~(2) Habitat corridors shall be identified and protected in one of the following ways:~~

~~(a) Urban planned developments, binding site plans, subdivisions and short subdivisions shall either place the corridor in a contiguous permanent open space tract with all developable lots sited on the remaining portion of the project site, or shall design the lots so that conservation easements on individual lots can form a contiguous easement covering the corridor;~~

~~(b) Individual lots shall place the corridor in a conservation easement.~~

~~(3) All tracts or conservation easements shall be configured to meet the design standards in CMC 18.35.270.~~

~~**18.35.270 Wildlife habitat corridors – Design standards.**~~

~~Corridor design shall be reviewed by the Department for consistency with the following standards:~~

~~(1) The wildlife habitat corridor shall be sited on the property in order to meet the following conditions:~~

~~(a) Forms one contiguous tract that enters and exits the property at the points the designated wildlife habitat network crosses the property boundary;~~

~~(b) Maintains a width, wherever possible, of 300 feet. The network width shall not be less than 150 feet wide at any point; and~~

~~(c) Be contiguous with and may include sensitive area tracts and their buffers.~~

~~(2) When feasible, the wildlife habitat corridor shall be sited on the property in order to meet the following conditions:~~

~~(a) Connect isolated sensitive areas or habitat; and~~

~~(b) Connect with wildlife habitat corridors, open space tracts or wooded areas on adjacent properties, if present.~~

~~(3) The wildlife corridor tract shall be permanently marked consistent with the methods contained in CMC 18.65.160. Conservation easements are exempt from the permanent marking requirement.~~

~~(4) A management plan for the wildlife corridor contained within a tract or tracts shall be prepared which specifies the permissible extent of recreation, forestry or other uses compatible with preserving and enhancing the wildlife habitat value of the tract or tracts. The management plan shall be reviewed and approved by the Department. The approved management plan for an urban planned development or subdivision shall be contained within and recorded with the covenants, conditions and restrictions (CCRs). If the wildlife corridor is contained in a conservation easement, a management plan is not required, but may be submitted to the Department for review and approval, and recorded with the conservation easement.~~

~~(5) Clearing within the wildlife corridor contained in a tract or tracts shall be limited to that allowed by the management plan. No clearing shall be allowed within a wildlife corridor contained within a conservation easement on individual lots, unless the property owner has an approved management plan.~~

~~(6) A homeowners' association or other entity capable of long-term maintenance and operation shall be established to monitor and assure compliance with the management plan.~~

~~(7) Wildlife corridors set aside in tracts or conservation easements shall meet the provisions of this code.~~

~~(8) The permanent open space tract containing the wildlife corridor may be credited toward the recreation space requirement of CMC 18.35.150, provided the proposed uses within the tract are compatible with preserving and enhancing the wildlife habitat value. Restrictions on other uses within the wildlife corridor tract shall be clearly identified in the management plan.~~

~~(9) At the discretion of the Director, these standards may be waived or reduced for public facilities such as schools, fire stations, parks, and public road projects.~~

18.45.060 Permits and permit requirements.

Unless exempted under CMC 18.45.050, any person engaged in removal of trees or tree clearing in the City shall first obtain either a minor tree removal permit or major tree clearing permit as outlined below and shall meet the prescribed tree preservation or tree enhancement requirements. If any future development or construction is anticipated, such permits shall be reviewed and issued in conjunction with any required land use permit, engineering design permit, site development permit, binding site plan, subdivision, or building permit. A separate permit shall be required for each individual site on which the tree removal or land clearing is proposed. Individual tree removal or tree clearing permits may be applied for, reviewed, and issued according to this section as a separate, freestanding permit, if no development or construction is currently anticipated.

....

(8) Additional Permit Restrictions or Requirements.

(a) Bald Eagle and Other Federal and State Requirements. All entities must comply with all applicable federal and state laws, rules and regulations, including, without limitation, the Endangered Species Act, the Bald Eagle Protection Act, and the Migratory Bird Treaty Act, as now existing or hereinafter adopted or amended.

(b) Reporting Requirements for Removal of Hazard Tree(s). Emergency removal of hazard tree(s), as defined, without a permit, and as allowed in this title, shall be reported to the City within 10 days of removal on a form provided by the Director.

(c) Permits and Written Reports for Public Utilities Pruning or Removal of Trees. Pruning for above ground utility facilities and lines are allowed, but such utilities and/or its contractors shall submit a written statement to the City, in lieu of a permit, prior to tree pruning, indicating that no trees will be removed during pruning, and that any tree pruning will not cause significant structural defect to the trees. If trees are to be removed, the minor tree removal permit procedures shall apply, but replanting with appropriate trees for ROW or utility easement locations shall be required of the public utility, unless the Director determines in writing such replanting is inappropriate.

(d) Critical Areas and Shoreline Jurisdiction Exceptions and Limitations. Provisions of this chapter shall not apply to any critical area or critical area buffers, or any shoreline jurisdiction. Any removal or clearing of trees, ground cover, or other vegetation for these areas shall be governed by Chapters 16.05 and 18.65 CMC, and must comply with all limitations and restrictions for alterations of critical areas and critical area buffers in CMC 18.65~~.050~~ ~~through 18.65.070~~ and shoreline jurisdiction areas in Chapter 16.05 CMC, as now existing or hereinafter adopted or amended.

(e) Permits Required for Removal of Trees in Tree Tracts, Tree Conservation Easements or as Part of Tree Enhancement Plans. Any trees required as part of any tree tract, tree conservation easement or tree enhancement plan under provisions of this chapter shall remain permanently unless a minor tree removal permit or major tree clearing permit under this section is obtained and replacement trees are planted in accordance with standards of this chapter.

Chapter 18.110
COMMERCIAL SITE DEVELOPMENT PERMITS

18.110.050 Application of development standards.

(1) An application for site development permit shall be reviewed pursuant, but not limited, to this section, Chapter 43.21C RCW, SEPA, as implemented by Chapter 197-11 WAC; Chapter 13.25 CMC, Surface and Stormwater; Chapter 12.60 CMC, City of Covington Street Standards; design and construction standards; Chapter 14.60 CMC, clearing and grading; Chapter 15.20 CMC, Fire Code; Chapter 16.10 CMC, State Environmental Policy Act; CMC Title 18, Zoning; Chapter 16.05 CMC, Shoreline ~~Management Plan~~Master Program; administrative rules; City tree ordinance; City approved utility plans; and compliance with Chapter 18.31 CMC.

18.125.030 Variance.

(1) Variance Authority. The Hearing Examiner shall have the authority to grant a variance from the terms of this title. The Hearing Examiner may impose conditions or restrictions on an existing or proposed use or structure in order to ensure that a requested variance will conform to the required findings below.

(2) Required Findings. The Hearing Examiner shall not grant a variance from the development standards of this title unless the Hearing Examiner finds that the variance request meets all of the following criteria and the Hearing Examiner makes written findings to that effect:

(a) The strict enforcement of the provisions of this title creates an unnecessary hardship to the property owner;

(b) The variance is necessary because of the unique size, shape, topography, or location of the subject property;

(c) The subject property is deprived, by provisions of this title, of rights and privileges enjoyed by other properties in the vicinity and under an identical zone;

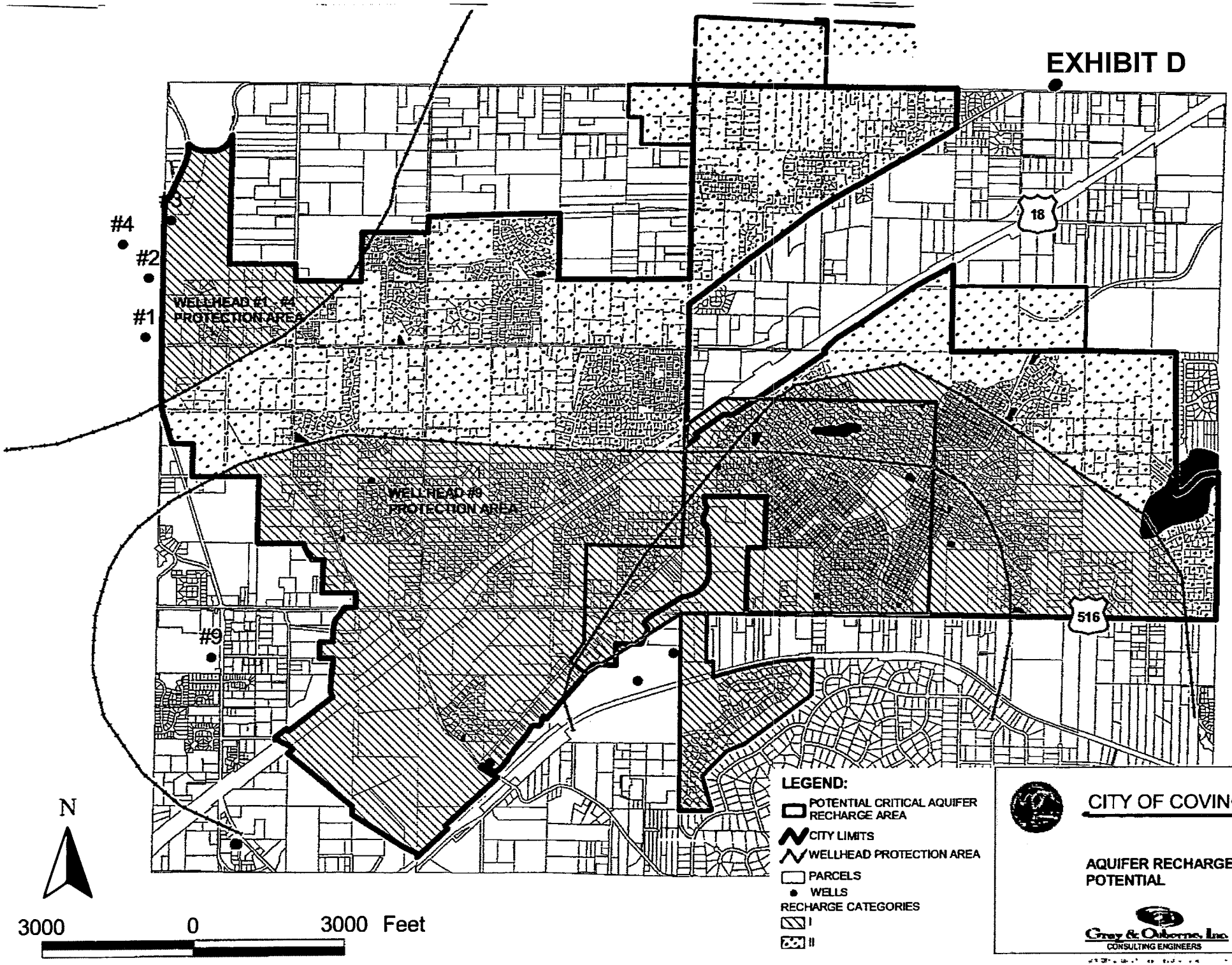
(d) The variance does not create health and safety hazards, is not materially detrimental to the public welfare or is not unduly injurious to property or improvements in the vicinity;

(e) The variance does not relieve an applicant from any of the procedural provisions of this title;
(f) The variance does not relieve an applicant from any standard or provision that specifically states that no variance from such standard or provision is permitted;
(g) The variance does not relieve an applicant from conditions established during prior permit review or from provisions enacted pursuant to Chapter 18.100 CMC, Property-Specific Development Standards/Special District Overlays;
(h) The variance does not allow establishment of a use that is not otherwise permitted in the zone in which the proposal is located;
(i) The variance does not allow the creation of lots or densities that exceed the base residential density for the zone by more than 10 percent;
(j) The variance is the minimum necessary to grant relief to the applicant;
(k) The variance from setback or height requirements does not infringe upon or interfere with easement or covenant rights or responsibilities;
(l) The variance does not relieve an applicant from any provisions of Chapter 18.65 CMC, Critical Areas, except for the required critical area buffer widths and building setbacks set forth in CMC 18.65~~.200, 18.65.280, 18.65.310, 18.65.320, or 18.65.360~~; and
(m) The variance is not eligible for wireless communication facilities that are governed under Chapter 18.70 CMC, Wireless Communication Facilities.

(3) Granting of a Use Variance Is Not Authorized. The Hearing Examiner shall not grant a variance which establishes a use otherwise prohibited within a zoning district.

(4) Applications for variances under this section shall require payment of an application fee to cover the costs of review. Such fees shall be set forth in the current fee resolution.

EXHIBIT D



Ordinance 06- 2017 Exhibit D