

02/14/05  
02/28/05

ORDINANCE NO. M-\_\_\_\_\_

AN ORDINANCE relating to the protection of fish and wildlife habitat conservation areas, frequently flooded areas, geologic hazard areas, and wetlands; establishing VMC Chapter 20.740, Critical Areas Protection; repealing VMC 20.725, Fish and Wildlife Habitat Protection; repealing VMC 20.730, Flood Hazards; repealing VMC 20.750, Geologic Hazards; repealing VMC 20.775, Wetlands and Water Bodies Protection; repealing VMC 20.780, Wildlife Habitat Protection (placeholder); amending VMC 20.150, Definitions; amending VMC 20.170, Measurements, amending VMC 20.180.060, Planning Fees; amending VMC 20.210.020, Types of Development Applications; amending VMC 20.210.030, Exempt Activities; amending VMC 20.210.040, Type I Applications; amending VMC 20.210.080, Pre-application Conference; amending VMC 20.790.850, Critical Areas; amending VMC 22.02.010, Responsibility for Code Violations; amending VMC 22.02.020, Enforcement Provisions; amending VMC 22.02.040, Notice of Civil Violation and Order – Order to Revoke Permit; providing for severability; and providing for an effective date.

WHEREAS, the State of Washington Growth Management Act of 1990 (36.70A RCW) requires designation and protection of fish and wildlife habitat conservation areas, frequently

flooded areas, geologic hazard areas, and wetlands (critical areas) through development regulations;

WHEREAS, the State of Washington Growth Management Act of 1990 (36.70A RCW) requires the City of Vancouver to include best available science in designating and protecting these critical areas and in developing policies and development regulations to protect their functions and values, and to give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries;

WHEREAS, the federal Clean Water Act requires the City of Vancouver to protect waters of the United States; to protect water quality; and to provide related public education about the importance of clean water and healthy streams;

WHEREAS, the Endangered Species Act requires the City of Vancouver to protect listed species and to prevent harm to any life stage of listed species, including harm to habitat functions;

WHEREAS, the City of Vancouver's Strategic Plan commits to improving the City's ability to plan and manage growth to protect the environment, enhancing the livability and character of our neighborhoods, and providing for a range of retail and employment opportunities;

WHEREAS, the City of Vancouver's Comprehensive Plan provides policy direction for protecting, sustaining, and providing for healthy and diverse ecosystem; promoting and facilitating ecosystem restoration and enhancement; coordinating environmental policies and programs and consolidating environmental regulations; protecting habitat for listed species and facilitating their recovery; protecting other species from becoming listed; enhancing and

protecting water quality; promoting planting using native vegetation; managing development in geologically hazardous areas to protect public health and safety; and promoting sustainable public and private development practices and patterns;

WHEREAS, the new VMC Chapter 20.740, and amendments to VMC 20.150, VMC 20.170, VMC 20.180.060, VMC 20.210.020, VMC 20.210.030, VMC 20.210.040, VMC 20.210.080, VMC 20.790.850, VMC 22.02.010, VMC 22.02.020, and VMC 22.02.040 provide the necessary regulations and standards for achieving the aforementioned goals and directions;

WHEREAS, the provisions of this Ordinance were prepared with early and continuous public involvement as required by the State of Washington Growth Management Act of 1990;

WHEREAS, the proposed text amendments have been subject to proper review through SEPA;

WHEREAS, the Planning Commission held a duly advertised public hearing to consider adoption of the Critical Areas Protection Ordinance on Tuesday, February 8, 2005;

WHEREAS, following the public hearing on Tuesday, February 8, 2005, the Planning Commission recommended adoption of the Critical Areas Ordinance;

WHEREAS, the City Council held a duly advertised first reading on Monday, February 14, 2005, and a second reading and public hearing on Monday, February 28, 2005 to consider adoption of the Critical Areas Protection Ordinance;

NOW THEREFORE,

BE IT ORDAINED BY THE CITY OF VANCOUVER:

**Section 1.**     **Findings.** The City Council makes the following legislative findings:

1. The findings of the Staff Report and Recommendation to Planning Commission in this matter, Critical Areas Protection Ordinance PRJ2003-013012/CPZ2003-00011/SEP2003-00048, dated Wednesday, January 26, 2005 for the public hearing scheduled for Tuesday, February 8, 2005 are hereby adopted and incorporated herein by reference.

2. Best available science has been used to designate and protect fish and wildlife habitat conservation areas, frequently flooded areas, geologic hazard areas, and wetlands.

3. Special consideration has been given to conservation or protection measures necessary to preserve or enhance anadromous fisheries. The provisions of the Critical Areas Protection Ordinance will help to ensure good water quality, a fundamental requirement of anadromous fish.

4. The City provided avenues and opportunities for early and continuous public participation in the process to draft the proposed Critical Areas Protection Ordinance.

5. It is necessary and appropriate to make the proposed amendments to VMC 20.150, VMC 20.170, VMC 20.180.060, VMC 20.210.020, VMC 20.210.030, VMC 20.210.040, VMC 20.210.080, VMC 20.790.850, VMC 22.02.010, VMC 22.02.020, and VMC 22.02.040 to establish consistency with the proposed Critical Areas Protection Ordinance.

6. The proposed Critical Areas Protection Ordinance and the process to draft it implement the City's strategic commitment to "improve our ability to plan and manage growth to protect the environment, enhance the livability and character of our neighborhoods, and provide for a range of retail and employment opportunities."

7. The proposed Critical Areas Protection Ordinance is consistent with the policies of the Comprehensive Plan.

8. The proposed Critical Areas Protection Ordinance is coordinated with federal, state, and local regulations and programs for protecting fish and wildlife habitat conservation areas, frequently flooded areas, geologic hazard areas, and wetlands.

9. The proposed Critical Areas Protection Ordinance is consistent with the US Clean Water Act.

10. The proposed Critical Areas Protection Ordinance furthers the City's implementation of the Endangered Species Act.

**Section 2. New VMC Chapter 20.740, Critical Areas, Established.** VMC

Chapter 20.740, Critical Areas is hereby established to read as follows:

**Chapter 20.740  
Critical Areas Protection**

<b>20.740.010</b>	<b>Purpose</b>
<b>20.740.020</b>	<b>General Provisions</b>
<b>20.740.030</b>	<b>Applicability and Exemptions</b>
<b>20.740.040</b>	<b>Approval Process</b>
<b>20.740.050</b>	<b>Submittal Requirements</b>
<b>20.740.060</b>	<b>Approval Criteria</b>
<b>20.740.070</b>	<b>Minor Exceptions</b>
<b>20.740.080</b>	<b>Reasonable Use Exceptions</b>
<b>20.740.090</b>	<b>Unauthorized Critical Areas Alterations and Enforcement</b>
<b>20.740.100</b>	<b>Habitats of Local Importance</b>
<b>20.740.110</b>	<b>Fish and Wildlife Habitat Conservation Areas</b>
<b>20.740.120</b>	<b>Frequently Flooded Areas</b>
<b>20.740.130</b>	<b>Geologic Hazard Areas</b>
<b>20.740.140</b>	<b>Wetlands</b>

**20.740.010 Purpose**

- A. The purpose of this Chapter is to designate and protect ecologically sensitive and hazardous areas (*critical areas*) and their functions and values, while also allowing for reasonable use of property.
- B. As mandated by the Growth Management Act (GMA) (RCW 36.70A), this Chapter provides protection for the critical areas of wetlands, fish and wildlife habitat conservation areas, geologically hazardous areas, and frequently flooded areas. Critical aquifer recharge areas are covered in VMC 14.26.

- C. This Chapter implements the goals and policies of the *Vancouver Comprehensive Plan, 2003-2023*, under the Washington Growth Management Act and other related state and federal laws.

**20.740.020 General Provisions**

A. No Net Loss of Functions

Activity shall result in no net loss of functions and values in the critical areas. Since values are difficult to measure no net loss of functions and values means no net loss of functions. The beneficial functions provided by critical areas include, but are not limited to water quality protection and enhancement; fish and wildlife habitat; food chain support; flood storage; conveyance and attenuation of flood waters; ground water recharge and discharge; erosion control; and wave attenuation. These beneficial functions are not listed in order of priority. This Chapter is also intended to protect residents from hazards and minimize risk of injury or property damage.

B. Relationship to Other Regulations

1. These critical areas regulations shall apply in addition to zoning and other regulations adopted by the City.
2. Any individual critical area that overlaps another type of critical area shall meet the requirements that provide the most protection to the critical areas involved.
3. When there is a conflict between any provisions of this Chapter or any other regulations, that which provides the most protection to the subject critical area shall apply.
4. Conditions of approval of a project affecting critical areas may be supplemented by a review under the State Environmental Policy Act (SEPA), as locally adopted.
5. Compliance with the provisions of this Chapter does not constitute compliance with other federal, state, and local regulations and permit requirements (for example, Shoreline Substantial Development Permits, Hydraulic Project Approval (HPA) permits, Section 106 of the National Historic Preservation Act, U.S. Army Corps of Engineers Section 404 permits, or National Pollution Discharge Elimination System permits). The applicant is responsible for complying with other state and federal requirements in addition to the requirements of this Chapter. Obtaining all applicable state and federal permits shall be made a condition of a Critical Areas Permit and such permits shall be obtained prior to issuance of permits for construction or site disturbance.

C. Jurisdiction

1. All areas within the city meeting the definition of one or more critical areas, whether mapped or not, are hereby designated critical areas and with their buffers are subject to the provisions of this Chapter.
2. Watersheds (VMC 20.150) are those most recently identified and mapped by Clark County

Public Works. Watershed maps are available from the Planning Official. Burnt Bridge Creek, Columbia Slope, and Vancouver Lake/Lake River are the primary watersheds in Vancouver.

D. Warning and Disclaimer of Liability

The standards established herein are minimum standards. The standards are established for regulatory purposes only. Minimum compliance with these standards may not be sufficient protection from identified or unidentified hazards. City-establishment of these minimum standards is not a representation that these standards are sufficient protection from any hazard. Critical areas development should be based on sound scientific and engineering considerations that may be more stringent than this Chapter. The City assumes no liability if these established standards prove to be insufficient protection.

**20.740.030 Applicability and Exemptions**

A. Applicability

1. Unless exempted (VMC 20.740.030(B)) the provisions of this Chapter shall apply to all lands, all land uses, clearing and development activity, and all structures and facilities in the city located within a critical area or buffer or on a site containing a critical area or buffer.
2. The provisions of this Chapter shall apply whether or not a permit or authorization is required.
3. No person, company, agency, or applicant shall alter a critical area or buffer (including removal of downed woody vegetation from or application of chemicals harmful to fish and wildlife within 25' of wetlands, ponds, lakes, streams or rivers) except as consistent with the requirements of this Chapter.
4. The Critical Areas Permit required pursuant to this Chapter shall be obtained prior to undertaking any activity regulated by this Chapter, unless exempted (VMC 20.740.030(B)).

B. Exemptions

1. Activities for which a Statement of Exemption is required.

Applicants for the exempt activities listed in VMC 20.740.030(B)(1)(a-c) shall first obtain a written Statement of Exemption from securing a Critical Areas Permit, prior to undertaking any development activity. This process verifies that the action is exempt from the permitting process of the Critical Areas Ordinance. However, all exempt activities are still subject to the policies and regulations of this Chapter. The Planning Official shall attach Critical Areas Ordinance conditions to the building permits and other permits and approval as necessary to enforce the policies and regulations of this Chapter.

The request for the Statement of Exemption shall be in writing, on forms required by the Planning Official, and include the information required by the Planning Official.

The Planning Official shall issue a decision on a request for a Statement of Exemption in writing within 10 calendar days of receiving the request.

The following activities shall obtain a Statement of Exemption:

- a. Development or clearing, not within a floodway or floodplain and other than tree removal, as minimally necessary to remodel an existing structure, provided:
    - (1) The activity will increase the footprint of structures including impervious surfaces by less than 500 square feet from the footprint size at the time of the adoption of this Chapter; and
    - (2) If the structure or impervious surface is within a critical area or buffer, the distance from the nearest structure or impervious surface to lakes, streams, rivers, wetlands or geological hazards is not decreased; and
    - (3) All vegetation disturbed as a result of the development shall be replaced one-to-one. Native vegetation shall be used where feasible.
    - (4) Impacts to critical areas and buffers shall be minimized and mitigated.
  - b. Development activity on the portions of sites with existing structures or impervious surfaces which does not increase the impervious surface area within the Riparian Management Area or Riparian Buffer and which is not otherwise exempt under VMC 20.740.030(B), shall be exempt from the provisions of VMC 20.740.110 (Fish and Wildlife Habitat Conservation Areas). The applicant is encouraged to provide enhancement to the extent feasible. Such enhancement activities may include, but are not limited to, landscaping using native plants, additional treatment of stormwater as appropriate, and implementation of best management practices that would enhance habitat functions.
  - c. Development activity covered by and in compliance with all the conditions of an approved subarea plan that contains:
    - (1) Baseline information on existing critical areas and their functions at the level of detail required for an Environmental Impact Statement (EIS) under the State Environmental Policy Act (SEPA);
    - (2) An analysis of the impacts of full development at the level of detail required for an EIS under SEPA and in keeping with the plan; and
    - (3) Mitigation for those impacts consistent with the requirements of this Chapter.
2. The following exempt activities do not require a Statement of Exemption from the permitting requirements of this Chapter. Reasonable methods shall be used to avoid potential impacts to critical areas. Any incidental damage to, or alteration of, a critical area that is not a necessary outcome of the exempt activity shall be corrected at the property owner's expense.

- a. Emergencies. Those activities necessary to prevent an immediate threat to public health, safety, or welfare, or that pose an immediate risk of property damage and that require remedial or preventative action in a timeframe too short to allow for compliance with the requirements of this Chapter, so long as all of the following apply:
  - (1) The emergency action uses reasonable methods to address the emergency.
  - (2) The emergency action must have the minimum possible impact to the critical area or its buffer.
  - (3) The property owner, person or agency undertaking such action shall notify the City within one working day following commencement of the emergency activity.
  - (4) Within 14 days the Planning Official shall determine if the action taken was within the scope of the emergency actions allowed in this section. If the Planning Official determines that the action taken, or any part of the action taken was beyond the scope of an allowed emergency action, then enforcement provisions of VMC 20.740.090 shall apply.
  - (5) After the emergency, the property owner, person or agency undertaking the action shall fully fund and conduct necessary restoration and/or mitigation for any impacts to the critical area and buffers resulting from the emergency action in accordance with an approved Critical Areas Report and mitigation plan. The property owner, person or agency undertaking the action shall apply for review. The alteration, Critical Areas Report, and mitigation plan shall be reviewed by the City in accordance with the review procedures contained in this Chapter.
  - (6) Restoration and/or mitigation activities must be initiated within three months of the date of the emergency or as otherwise determined by the Planning Official, and completed in a timely manner.
- b. Any development proposed on property pursuant to a currently valid Critical Areas Permit, provided all conditions and requirements of the Critical Areas Permit are met and the proposed activity is within the scope of the original permit.
- c. Emergency or hazard tree removal (as defined in VMC 20.770) conducted so that habitat impacts are minimized.
- d. Landscape maintenance (other than tree removal or use of pesticides, herbicides, fungicides or fertilizers applied into or within 25' of water bodies) consistent with accepted horticultural practices, such as those recommended by the Washington State University Extension Service, within the boundaries of an existing lawn, garden or landscaped area and not associated with development.
- e. Clearing of noxious weeds using hand-held, electric or non-motorized equipment. A copy of the Clark County Weed Management Department list of noxious weeds is available from the Planning Official.

- f. Use of pesticides, herbicides, fungicides or fertilizers applied further than 25' from any wetland, pond, lake, stream or river or in a manner specified in a valid permit.
- g. State or federally approved conservation or preservation of soil, water, vegetation, fish, shellfish, and other wildlife that does not entail changing the structure or functions of the existing critical area or buffer.
- h. The harvesting of wild crops in a manner that is not injurious to natural reproduction of such crops or other native vegetation and provided the harvesting does not require tilling of soil, planting of crops, chemical applications, or alteration of the critical area or buffer by changing existing topography, water conditions or water sources.
- i. Passive outdoor activities such as recreation, education, and scientific research activities that do not degrade the critical area or buffer, including fishing, hiking and bird watching.
- j. Work necessary for land use submittals, such as surveys, soil sampling, percolation tests, and other related activities. In every case, impacts to the critical area or buffer shall be minimized and disturbed areas shall be stabilized immediately.
- k. Construction or modification of navigational aids and boundary markers. Impacts to the critical area or buffer shall be minimized and disturbed areas shall be restored within 72 hours.
- l. Existing and ongoing agricultural activities protected under the federal Food Security Act occurring in wetland areas.
- m. Existing and ongoing agriculture within fish and wildlife habitat conservation areas so long as livestock and application of pesticides, herbicides, fungicides and fertilizers are kept 25' from any water body.
- n. Implementation of a City, state or federally approved stand-alone restoration or enhancement project.
- o. Operation, repair and maintenance of existing structures, infrastructure, roads, sidewalks, railroads, trails, dikes, or levees or water, sewer, stormwater, electric, gas, telephone, cable, or fiber optic cable facilities if the activity does not further increase the impact to, or encroach further within, the critical area or buffer and there is no increased risk to life or property as a result of the proposed operation, repair, or maintenance.
- p. In ground shaking or liquefaction areas, repair or construction of roads, sidewalks or trails (except where there are structures), or water, sewer, stormwater, gas, electric, cable, or fiber optic cable facilities shall be exempt from the ground shaking and liquefaction permitting requirements.
- q. Public improvement projects located within impervious surface areas.
- r. Implementation of a City, state or federally approved stand-alone "critical area" creation project that is not mitigation. A "Critical Area" created under these circumstances that

would not otherwise have met the definition of that type of critical area is exempt from the provisions of this Chapter. Also see the definition of "Wetlands" at VMC 20.150.

## **20.740.040 Approval Process**

### **A. Initial Critical Areas Determination Process**

1. Pre-application Conference Required. Unless waived pursuant to VMC 20.210.080(B), prior to the City's consideration of any proposed activity not found to be exempt under *Exemptions* (VMC 20.740.030(B)), the applicant shall submit to the department a Pre-application Request Form and other required information pursuant to VMC 20.210.080. Provided, pre-application conferences shall not be required for proposed activities within only ground shaking or liquefaction areas.

The Planning Official shall review the submitted information, conduct a site inspection, review other information available pertaining to the site and the proposal, and make a determination as to whether a Critical Areas Permit is required.

- a. Decision Indicators. The Planning Official shall use the following indicators whenever available, to assist in determining the need for a Critical Areas Permit:

- (1) Indication by the City's critical area location information of a critical area or buffer that may be impacted by the proposed activity;
- (2) Information and scientific opinions from appropriate agencies, including but not limited to the Washington Departments of Fish and Wildlife, Natural Resources, and Ecology;
- (3) Documentation, from a scientific or other reasonable source, of the possible presence of a critical area or buffer.

- b. Interpretation of Critical Area Boundaries. The Planning Official shall be authorized to interpret the exact location of the critical area boundary. Final designations shall be based on site conditions and other available data or information. A person who disagrees with the interpretation may appeal the interpretation pursuant to Section 20.255.020(D).

2. Pre-application Waiver. In the event that the Planning Official grants a pre-application waiver pursuant to VMC 20.210.080(B) the Planning Official shall either attach a Statement of Exemption, if applicable, or document in the pre-application waiver letter that a Critical Areas Permit is required.
3. Decision on Pre-application. The Planning Official shall make one of the following decisions in the pre-application staff report:
  - a. Critical Areas Permit Not Required. If the Planning Official's analysis indicates that there is no critical area or buffer on the subject property, then the Planning Official shall determine that the initial critical area review is complete and that no further review is

required. The Planning Official shall issue a Statement of Exemption and include with the Pre-application report.

- b. **Critical Areas Permit Required.** If the Planning Official determines that a critical area or its buffer may be located on the subject property, the Planning Official shall determine that a Critical Areas Permit is required, and shall indicate each of the critical area types to be addressed in the critical areas report.
4. **Reconsideration of Planning Official's Initial Critical Area Determination.** A determination may be reconsidered by the Planning Official if new information is received. If the applicant wants greater assurance of the accuracy of the critical area review determination, the applicant may choose to hire a qualified professional to provide such assurances.

**B. Final Critical Areas Determination Process**

1. **Type I Application.** The following activities shall be processed as a Type I permit pursuant to VMC 20.210.040 except a pre-application conference shall be required:
  - a. New single-family and duplex residences, alterations to existing single-family and duplex residences, or new accessory structures located within a critical area or buffer, or on a property containing a critical area or buffer.
  - b. Application of pesticides, herbicides, fungicides or fertilizers within 25' of ponds, lakes, streams, rivers or wetlands.
  - c. Approval of agricultural activities within 25' of ponds, lakes, streams or rivers.
  - d. Critical Area enhancement projects.
  - e. Public improvement projects located entirely within existing right-of-way, not otherwise exempted by VMC 20.740.030(B)(2)(q).
  - f. Clearing vegetation within a critical area or buffer, including grading, uprooting or other activities that impair the soil stabilization function of vegetation in landslide hazard areas (VMC 20.740.130(C)(1)(c)) and including the removal of downed woody vegetation from wetlands, lakes, streams or rivers. Provided, vegetation removal within the floodplain outside of the riparian setback and in seismic hazard areas shall not require a permit.
  - g. Approval of management plans for activities within critical areas or buffers.
2. **Other Application Types.** All other activities proposed within any critical area or buffer shall be reviewed according to the procedures of the underlying land use application.
3. **Review Procedure.** The Planning Official shall make a determination as to whether the proposed activity and mitigation, if any, is consistent with the provisions of this Title. The Planning Official's determination shall be based on the approval criteria of VMC 20.740.060. The Critical Areas Permit shall be valid for as long as the underlying land use permit or as otherwise specified by the Planning Official.

C. Notice on Title

1. In order to inform subsequent purchasers of real property of the existence of critical areas, the owner of any property containing a critical area or buffer on which a development proposal is approved shall file a notice with the county records and elections division according to the direction of the City. The notice shall state the presence of the critical area or buffer on the property, the application of this Chapter to the property, and the fact that limitations on actions in or affecting the critical area or buffer may exist. The notice shall “run with the land.”
2. The applicant shall submit proof that the notice has been filed for public record before the City approves any site development or construction for the property or, in the case of subdivisions, short subdivisions, planned unit developments, and binding site plans, at or before recording.

D. Financial Assurances

1. When mitigation required pursuant to a development proposal is not completed prior to the City final permit approval, such as final plat approval or final building inspection, the City shall require the applicant to provide security in a form and amount deemed acceptable by the City. If the development proposal is subject to mitigation, the applicant shall provide security in a form and amount deemed acceptable by the City to ensure mitigation is fully functional.
2. The security shall be in the amount of 125% of the estimated cost of restoring the functions of the critical area that are at risk.
3. The security authorized by this Section shall remain in effect until the City determines, in writing, that the standards bonded for have been met. Bonds or other security shall be held by the City for a minimum of 5 years to ensure that the required mitigation has been fully implemented and demonstrated to function, and may be held for longer periods when necessary.
4. Depletion, failure, or collection of bond funds shall not discharge the obligation of an applicant or violator to complete required mitigation, maintenance, monitoring, or restoration.
5. Public development proposals shall be relieved from having to comply with the bonding requirements of this Section if public funds have previously been committed in the project budget or capital improvement budget for mitigation, maintenance, monitoring, or restoration.
6. Failure to satisfy any critical area requirements established by law or condition including, but not limited to, the failure to provide a monitoring report within 30 days after it is due or comply with other provisions of an approved mitigation plan shall constitute a default, and the City may demand payment of any financial guarantees or require other action authorized by the City code or any other law.
7. Any funds recovered pursuant to this Section shall be used to complete the required mitigation. Excess funds shall be returned to the applicant.

- E. Critical Area Inspections. Reasonable access to the site shall be provided to the City, state, and federal agency review staff for the purpose of inspections during any proposal review, restoration, emergency action, or monitoring period.
- F. Reconsideration of Planning Official's Determination. If, within 5 days following the date of mailing of a Critical Areas Permit, new information relevant to the decision is made available, any party may request that the decision be reconsidered. If the new information is found to be substantial and relevant to the critical area review, the Planning Official may reopen the critical area review and make a new determination based on the revised report. The Critical Areas Permit shall not be considered final and subject to appeal until the decision on the request for reconsideration, if applied for, has been issued.
- G. Appeals. Any decision to approve, condition, or deny a development proposal or other activity based on the requirements of this Chapter may be appealed according to VMC 20.110.130.

**20.740.050 Submittal Requirements**

- A. Preparation by Qualified Professional. Any required Critical Areas Report shall be prepared by a qualified professional as defined herein.
- B. General Critical Areas Report Contents. At a minimum, the Critical Areas Report shall contain the following:
  - 1. The name and contact information of the applicant, a description of the proposal, and identification of the permit requested;
  - 2. A copy of the site plan for the development proposal including:
    - a. A map to scale depicting critical areas, buffers, the development proposal, and any areas to be cleared; and
    - b. Proposed stormwater management and sediment control plan for the development including a description of any impacts to drainage alterations.
  - 3. The dates, names, and qualifications of the persons preparing the report and documentation of any fieldwork performed on the site;
  - 4. Identification and scientific characterization of all critical areas and buffers;
  - 5. An assessment of the probable impacts to critical areas and buffers and risk of injury or property damage including permanent, temporary, temporal, and indirect impacts resulting from development of the site and the operations of the proposed development;
  - 6. A written response to each of the approval criteria in VMC 20.740.060;
  - 7. Plans for adequate mitigation, as needed, to offset any impacts, in accordance with VMC 20.740.050(F) Mitigation Plan Requirements.

C. Additional Information. Any additional information required for the specific critical areas and buffers as specified in VMC 20.740.110 Fish and Wildlife Habitat Conservation Area, VMC 20.740.120 Frequently Flooded Areas, VMC 20.740.130 Geologic Hazard Areas, and VMC 20.740.140 Wetlands.

D. Other Reports or Studies. Unless otherwise provided, a Critical Areas Report may be supplemented by or composed, in whole or in part, of any reports or studies required by other laws and regulations or previously prepared for and applicable to the development proposal site, as approved by the Planning Official. Provided, the site conditions shall not have changed since the earlier report or study was completed.

E. Critical Areas Report – Modifications to Requirements

Modifications to Required Contents. The applicant may consult with the Planning Official prior to or during preparation of the Critical Areas Report to obtain City approval of modifications to the required contents of the report where, in the judgment of a qualified professional, more or less information is required to adequately address the potential impacts to any critical areas or buffers and the required mitigation. The Planning Official may also initiate a modification to the required report contents by requiring either additional or less information, when determined to be necessary to the review of the proposed activity in accordance with this Chapter.

F. Mitigation Plan Requirements. When mitigation is required, the applicant shall submit a mitigation plan as part of the Critical Areas Report. The mitigation plan shall include:

1. Detailed Construction Plans. The mitigation plan shall include descriptions of the mitigation proposed, such as:
  - a. The proposed construction sequence, timing, and duration;
  - b. Grading and excavation details;
  - c. Erosion and sediment control features;
  - d. A planting plan specifying plant species, quantities, locations, size, spacing, and density; and
  - e. Measures to protect and maintain plants until established.

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

2. Monitoring Program. The mitigation plan shall include a program for monitoring construction of the mitigation project and for assessing a completed project. A protocol shall be included outlining the schedule for site monitoring, and how the monitoring data will be evaluated to determine if the performance standards are being met. A monitoring report shall be submitted as needed to document milestones, successes, problems, and contingency actions of the mitigation project. The mitigation project shall be monitored for a period necessary to establish that

performance standards have been met, but not for a period less than 5 years. For example, 10 years or more of monitoring are typically needed for forested wetlands or scrub-shrub communities.

The City shall notify the responsible party in writing once the conditions of the monitoring plan are met.

3. Adaptive Management. The mitigation plan shall include identification of potential courses of action, and any corrective measures to be taken if monitoring or evaluation indicates project performance standards are not being met.

#### **20.740.060 Approval Criteria**

Any activity subject to this Chapter, unless otherwise provided for in this Chapter, shall be reviewed and approved, approved with conditions, or denied based on the proposal's ability to comply with all of the following criteria. The City may condition the proposed activity as necessary to mitigate impacts to critical areas and their buffers and to conform to the standards required by this Chapter. Activities shall protect the functions of the critical areas and buffers on the site.

- A. Avoid Impacts. The Applicant shall first seek to avoid all impacts that degrade the functions and values of (a) critical area(s). This may necessitate a redesign of the proposal.
- B. Minimize Impacts. Where avoidance is not feasible, the applicant shall minimize the impact of the activity and mitigate to the extent necessary to achieve the activity's purpose and the purpose of this ordinance. The applicant shall seek to minimize the fragmentation of the resource to the greatest extent possible.
- C. Compensatory Mitigation. The applicant shall compensate for the unavoidable impacts by replacing each of the affected functions to the extent feasible. The compensatory mitigation shall be designed to achieve the functions as soon as practicable. Compensatory mitigation shall be in-kind and on-site, when feasible, and sufficient to maintain the functions of the critical area, and to prevent risk from a hazard posed by a critical area to a development or by a development to a critical area.
- D. No Net Loss. The proposal protects the critical area functions and values and results in no net loss of critical area functions and values.
- E. Consistency with General Purposes. The proposal is consistent with the general purposes of this Chapter and does not pose a significant threat to the public health, safety, or welfare on or off the development proposal site;
- F. Performance Standards. The proposal meets the specific performance standards of Fish and Wildlife Habitat Conservation Areas VMC 20.740.110, Frequently Flooded Areas VMC 20.740.120, Geologic Hazard Areas VMC 20.740.130, and Wetlands VMC 20.740.140, as applicable.

## **20.740.070 Minor Exceptions**

- A. Minor Exceptions Authorized. Minor exceptions of no greater than 10% from the standards of this Chapter may be authorized by the City in accordance with the procedures set forth in VMC 20.210.060, Type II Applications. Minor exceptions from the elevation standards of VMC 20.740.120 may exceed the 10% limit. Minor exceptions shall not be combined with buffer averaging (20.740.140(C)(1)(b)(2)) or buffer reduction (20.740.140(C)(1)(b)(3)).
- B. Minor Exception Criteria. A minor exception from the standards of this Chapter may be granted only if the applicant demonstrates that the requested action conforms to all of the following criteria. Additional approval criteria applying to minor exceptions in frequently flooded areas are set forth in VMC 20.740.120(D)(3).
1. Unusual conditions or circumstances exist that are peculiar to the intended use, the land, the lot, or something inherent in the land, and that are not applicable to all other lands in the same vicinity or district;
  2. The unusual conditions or circumstances do not result from the actions of the applicant;
  3. Granting the minor exception requested will not confer on the applicant any special privilege that is denied by this Chapter to other lands, structures, or buildings under similar circumstances;
  4. The minor exception is necessary for the preservation and enjoyment of a substantial property right of the applicant such as is possessed by the owners of other properties in the same vicinity or district;
  5. The minor exception requested is the least necessary and no greater than 10% of the subject standard (except in the case of the elevation standards of VMC 20.740.120 where the least necessary may exceed the 10% limit) to relieve the unusual circumstances or conditions identified in Subsection VMC 20.740.070(B)(1) above;
  6. The granting of the minor exception or the cumulative effect of granting more than one minor exception is consistent with the general purpose and intent of the City of Vancouver Comprehensive Plan, this Title, this Chapter, and the underlying zoning district;
  7. Degradation of the functions (including public health and safety) of the subject critical areas and any other adverse impacts resulting from granting the minor exception will be minimized and mitigated to the extent feasible in accordance with the provision of this Chapter;
  8. Granting the minor exception will not otherwise be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity of the subject property;
  9. The proposed development complies with all other applicable standards.
- C. Conditions May Be Required. In granting any minor exception, the City may attach such conditions and safeguards as are necessary to secure adequate protection of critical areas and developments from adverse impacts, and to ensure conformity with this Chapter.

- D. Time Limit. The City shall prescribe a time limit within which the action for which the minor exception is required shall be begun, completed, or both. Failure to begin or complete such action within the established time limit shall void the minor exception.
- E. Burden of Proof. The burden of proof shall be on the applicant to bring forth evidence in support of the application and upon which any decision has to be made on the application.

#### **20.740.080 Reasonable Use Exceptions**

A. Exception Request and Review Process.

If the application of this Chapter would deny all reasonable economic use of the subject property, the City shall determine if compensation is an appropriate action, or the property owner may apply for an exception pursuant to this Section. Exceptions from the standards of this Chapter may be authorized by the City in accordance with the procedures set forth in VMC 20.210.060, Type III Applications.

An application for a reasonable use exception shall be made to the City and shall include a Critical Areas Report, including mitigation plan, if necessary; and any other related project documents, such as permit applications to other agencies, special studies, and environmental documents prepared pursuant to the State Environmental Policy Act (RCW 43.21C). The Planning Official shall prepare a recommendation to the Hearings Examiner based on review of the submitted information, a site inspection, and the proposal's ability to comply with reasonable use exception criteria in VMC 20.740.080(B).

B. Reasonable Use Review Criteria. The City shall approve applications for reasonable use exceptions when all of the following criteria are met:

1. The application of this Chapter would deny all reasonable economic use of the property;
2. No other reasonable economic use of the property has less impact on the critical area;
3. The proposed impact to the critical area is the minimum necessary to allow for reasonable economic use of the property;
4. The inability of the applicant to derive reasonable economic use of the property is not the result of actions by the applicant after the effective date of this Chapter, or its predecessor;
5. The proposal does not pose a significant threat to the public health, safety, or welfare on or off the development proposal site;
6. The proposal mitigates for the loss of critical area functions to the greatest extent feasible and contributes to the Critical Areas Restoration Fund for any impacts that cannot be mitigated.
7. The proposal is consistent with other applicable regulations and standards.

- C. Burden of Proof. The burden of proof shall be on the applicant to bring forth evidence in support of the application and to provide sufficient information on which any decision has to be made on the application.

**20.740.090 Unauthorized Critical Areas Alterations and Enforcement**

A. Enforcement.

1. It shall be unlawful to violate the provisions of VMC Chapter 20.740. Any violation of this Chapter shall constitute a public nuisance.
2. VMC Title 22 shall provide the enforcement provisions for VMC Chapter 20.740. VMC Title 22 may impose any of the remedies, requirements or corrective actions contained in this Chapter. In lieu of or in addition to the enforcement provisions contained in VMC Title 22, the City may also seek injunctive or other relief from any court of competent jurisdiction.
3. The City shall deposit all monetary penalties collected pursuant to VMC Title 22 into the Critical Areas Restoration Fund. Accrued monies in the Critical Areas Restoration Fund shall be used to protect and restore critical areas within the City of Vancouver.

- B. Requirement for Restoration Plan. In the event the City initiates enforcement action under VMC Title 22 or files a complaint in court, the City may require a restoration plan consistent with the requirements of this Chapter. Such a plan shall be prepared by a qualified professional using the best available science and shall describe how the actions proposed meet the minimum requirements described in VMC 20.740.090(C). The Planning Official shall, at the violator's expense, seek expert advice in determining whether the plan restores the affected area to its pre-existing condition or, where that is not possible, restores the functions of the affected area. Inadequate plans shall be returned to the applicant or violator for revision and re-submittal.

C. Minimum Performance Standards for Restoration

1. For alterations to frequently flooded areas, wetlands, and fish and wildlife habitat conservation areas, the following minimum performance standards shall be met for the restoration of a critical area, provided that if the violator can demonstrate that greater functional and habitat values can be obtained, these standards may be modified:
  - a. The structure and functions of the critical area or buffer prior to violation shall be restored, including water quality and habitat functions;
  - b. The soil types and configuration prior to violation shall be replicated;
  - c. The critical area and buffers shall be replanted with native vegetation; and
  - d. Information demonstrating compliance with the requirements in VMC 20.740.050(F) Mitigation Plan Requirements shall be submitted to the Planning Official.

2. For alterations to frequently flooded and geologic hazard areas, the following minimum performance standards shall be met for the restoration of a critical area or buffer, provided that, if the violator can demonstrate that greater safety can be obtained, these standards may be modified:
    - a. The hazard shall be reduced to a level equal to, or less than, the pre-violation hazard;
    - b. The risk of personal injury resulting from the alteration shall be eliminated or minimized;
    - c. Drainage patterns shall be restored to those existing before the alteration; and
    - d. The hazard area and buffers shall be replanted consistent with pre-violation conditions with native vegetation sufficient to minimize the hazard.
- D. Site Investigations. The Planning Official is authorized to make site inspections and take such actions as are necessary to enforce this Chapter. As a condition of the restoration plan, the applicant shall grant reasonable access to the property.

#### **20.740.100 Habitats of Local Importance**

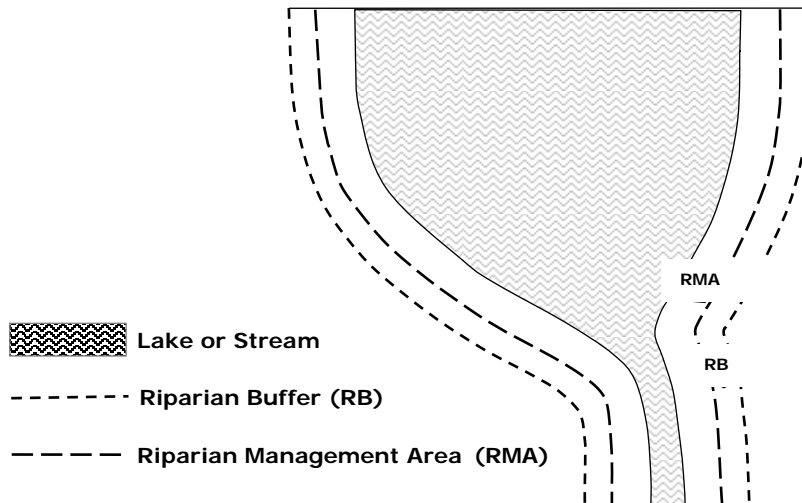
- A. Eligibility and Approval Criteria. Habitats of Local Importance are Fish and Wildlife Habitat Conservation Areas which are not designated as Priority Habitats and Species by the state but are designated as locally significant by the City. Criteria for designation include all of the following:
1. A need for protection exists due to a high diversity of fish or wildlife species, declining populations, scarcity of the habitat type, sensitivity to disturbance from human activity or development, or other unique local habitat functions.
  2. The area is sufficient in size to support the species or habitat functions for which it is designated.
  3. The designation will not compromise the ability of the City to achieve the goals of the Comprehensive Plan.
  4. There is a proposed management strategy describing how the functions of the habitat will be protected after designation.
- B. Designation Process. Habitats of Local Importance may be proposed by the property owner or the City and shall be designated according to a Type IV legislative procedure (VMC 20.210.070).

**20.740.110 Fish and Wildlife Habitat Conservation Areas**

A. Designation.

1. Final designations shall be based on site conditions and other available data or information (See VMC 20.740.020(C)(1)). There are established in the City the following identified Fish and Wildlife Habitat Conservation Areas:
  - a. Habitat for any life stage of state or federally designated endangered, threatened, and sensitive fish or wildlife species. A current list of federally and state identified species is available from the Planning Official.
  - b. Priority Habitats and areas associated with Priority Species. Current lists of Priority Habitats and Species and applicable Management Recommendations promulgated by the Washington Department of Fish and Wildlife are available from the Planning Official.
  - c. Water bodies including lakes, streams, rivers and naturally occurring ponds.
  - d. Habitats of Local Importance. Fish and Wildlife Habitat Conservation Areas which are not designated as Priority Habitats and Species by the state but are designated as locally significant by the City in accordance with VMC 20.740.100.
  - e. Riparian Management Areas and Riparian Buffers. The regulated areas that include the land from the ordinary high water mark to a specified distance as measured horizontally in each direction. The Riparian Management Area is adjacent to the lake, stream or river, and the Riparian Buffer is adjacent to the Riparian Management Area.

**Figure 20.740.110-1  
Riparian Management Area and Riparian Buffer**



The Riparian Management Areas and Riparian Buffers are as follows:

- (1) The Riparian Management Area is 100' from the ordinary high water mark and the Riparian Buffer extends an additional 75' landward from the Riparian Management Area for the following:
  - (a) Lakes, streams and rivers which are shorelines of the state or that contain fish habitat.
  - (b) Streams and rivers wider than 5', measured as the distance between the ordinary high water mark on each bank, and with gradient less than 20%.

These water bodies include, but are not limited to, Vancouver Lake, the Columbia River and Burnt Bridge Creek.

- (2) The Riparian Management Area is 100' from the ordinary high water mark and the Riparian Buffer extends an additional 50' landward from the Riparian Management Area for lakes, streams or rivers that do not meet the criteria , but flow into lakes, streams or rivers that do meet the criteria of VMC 20.740.110(A)(1)(e)(1).
- (3) The Riparian Management Area is 25' and there is no Riparian Buffer for streams that do not meet the criteria of VMC 20.740.110(A)(1)(e)(1) or (2).
- (4) If impervious surfaces from previous development completely functionally isolate the Riparian Management Area or the Riparian Buffer from the lake, stream or river, the

regulated riparian area shall extend from the ordinary high water mark to the impervious surfaces. An example would be an existing industrial paved area and warehouses in the Riparian Management Area and Buffer.

2. Habitat Location Information. Information on the approximate location and extent of Habitat Conservation Areas is available from the Planning Official.

The habitat location information is based on:

- a. Washington Department of Fish and Wildlife Priority Habitat and Species Maps;
- b. Washington Department of Fish and Wildlife Anadromous and Resident Salmonid Distribution Maps in the Salmon and Steelhead Habitat Inventory Assessment Program (SSHIAP);
- c. Washington Department of Natural Resources Official Water Type Reference Maps;
- d. City-designated Habitats of Local Importance;
- e. Other information acquired by the City.

**B. Additional Critical Areas Report Requirements**

1. A Critical Areas Report for a Riparian Management Area or Riparian Buffer shall include evaluation of the habitat functions using the Clark County Habitat Conservation Ordinance Riparian Habitat Field Rating Form or another habitat evaluation tool approved by the Washington Department of Fish and Wildlife.
2. If the clearing or development activity is in the Riparian Management Area, the Critical Areas Report shall contain the following information, if applicable, in addition to the general Critical Areas Report requirements of VMC 20.740.050:
  - a. How the clearing or development activity constitutes a water-dependent, water-related or water-enjoyment use; or
  - b. How the clearing or development activity cannot feasibly be located on the site outside of the Riparian Management Area; and
  - c. How the proposal meets the Riparian Management Area width averaging standard (VMC 20.740.110(C)(2)(c)); and
  - d. How the proposal will not adversely affect the connectivity of habitat functions.

**C. Performance Standards**

1. General.

- a. Development or clearing activities shall protect the functions of the Habitat Conservation Areas on the site. The activity shall result in no net loss of functions. Protection can be provided by avoiding (the preferred protection) or minimizing and mitigating as described in the general critical areas performance standards (VMC 20.740.060). Functions include:
  - (1) Providing habitat for breeding, rearing, foraging, protection and escape, migration, and over-wintering; and
  - (2) Providing complexity of physical structure, supporting biological diversity, regulating stormwater runoff and infiltration, removing pollutants from water, and maintaining appropriate temperatures.
- b. An applicant shall replace any lost functions by enhancement to other functions, so long as the applicant demonstrates that enhancement of the other functions provides no net loss in overall functions and maintains habitat connectivity. An example of unavoidable loss of function would be interruption of a travel corridor in a Riparian Management Area or Buffer. To the maximum extent feasible, enhancement shall be undertaken on-site.
- c. If development or clearing activity is within a Priority Habitat and Species area the applicant shall follow Washington Department of Fish and Wildlife Management Guidelines or other standards approved by the Washington Department of Fish and Wildlife.
- d. Signs for Fish and Wildlife Conservation Areas
  - (1) Temporary markers. The location of the outer perimeter of the fish and wildlife habitat conservation area shall be marked in the field, and such marking shall be approved by the Planning Official prior to the commencement of permitted activities. Such field markings shall be maintained throughout the duration of the permit.
  - (2) Permanent signs. Wood or metal signs shall be posted at an interval of one per lot for single family residential uses or at a maximum interval of 200' or as otherwise determined by the Planning Official, and must be perpetually maintained by the property owner. The sign shall be worded as follows or with alternative language approved by the Planning Official: "The area beyond this sign is a fish and wildlife habitat conservation area. Alteration or disturbance is prohibited by law. Please call the City of Vancouver for more information."

2. Riparian Management Areas and Riparian Buffers.

In addition to the standards in VMC 20.740.060 and VMC 20.740.110(C)(1) the standards in this section shall apply in Riparian Management Areas and Buffers.

- a. Riparian Buffer. Development or clearing activity may occur in the Riparian Buffer, providing that:
  - (1) The planned mitigation results in no net loss of riparian habitat functions on the site, and

- (2) Functionally significant habitat, defined as habitat that cannot be replaced or restored within 20 years, shall be preserved unless the activity meets the conditions of VMC 20.740.110(C)(2)(b). An example of habitat that cannot be replaced within 20 years would be a stand of mature trees or a peat bog.
- b. Riparian Management Area. No development or clearing activity is allowed within the Riparian Management Area unless such activity is:
    - (1) A water-dependent, water-related or water-enjoyment activity where there are no feasible alternatives that would have a less adverse impact on the Riparian Management Area or Riparian Buffer. The applicant shall minimize the impact and mitigate for any unavoidable impact to functions; or
    - (2) A road, railroad, trail, dike, or levee or a water, sewer, stormwater conveyance, gas, electric, cable, fiber optic cable, or telephone facility that cannot feasibly be located outside of the Riparian Management Area, that minimizes impacts, and that mitigates for any unavoidable impact to functions; or
    - (3) Mitigation for activities allowed by this Chapter, providing the activity provides no net loss of riparian habitat functions on the site.
  - c. Modification of the Riparian Management Area Width. The width of the Riparian Management Area may be modified (See VMC 20.170.080(B)(1)) if all the following are met:
    - (1) The square footage of the area meeting the performance standards of the Riparian Management Area (VMC 20.740.110(C)(2)(b)) is not reduced; and
    - (2) There is no net loss of functions as a result of the averaging; and
    - (3) Notwithstanding any other provision, the reduction of the Riparian Management Area width at any location may be no greater than 25%.
  - d. Owners of developed properties within the Riparian Management Area or Riparian Buffer are encouraged to enhance the area by planting native plants and to apply integrated pest management.
  - e. Agricultural activities in the Riparian Management Area or Riparian Buffer are encouraged to develop farm conservation plans.

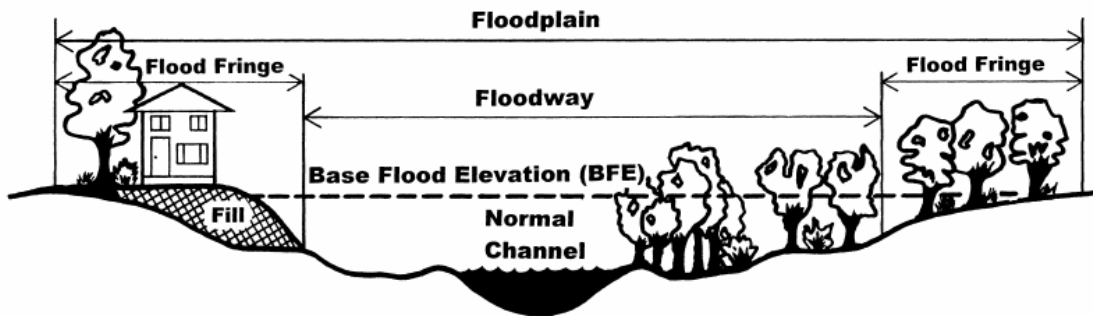
## **20.740.120 Frequently Flooded Areas**

### **A. Designation**

Frequently flooded areas are the areas of special flood hazards identified by the Federal Insurance Administration and the Federal Emergency Management Agency (FEMA), respectively, in

scientific and engineering reports entitled, *The Flood Insurance Study for the City of Vancouver, Washington, Clark County, 1981*, and *The Flood Insurance Study for Clark County, Washington, 1991* and any revisions thereto, with accompanying Flood Insurance Rate Maps (FIRM) and Flood Boundary-Floodway Maps (FBFM) and any revisions thereto. The Flood Insurance Study (FIS) is available from the Planning Official. Frequently flooded areas (areas of special flood hazards or floodplain) include lands within the floodway and the flood fringe.

**Figure 20.740.120-1  
Frequently Flooded Areas**



Reprinted from *Floodplain Management: A Local Administrator's Guide to the National Flood Insurance Program*, FEMA Region

Final designations shall be based on site conditions and other available data or information (See VMC 20.740.020(C)(1)).

**B. Additional Critical Areas Report Requirements**

In addition to the Critical Areas Report requirements in VMC 20.740.050, the following information shall be submitted:

1. Base (100-year) flood elevation in relation to mean sea level. When base flood elevation has not been provided or is not available from an authoritative source, it shall be generated by the applicant.
2. Elevation in relation to mean sea level, of the lowest floor (including basement) of all existing and proposed structures.
3. Elevation in relation to mean sea level to which any structure's lowest floor (including basement) is raised to be at least 1' above the base flood elevation.
4. Description of strategies taken to avoid, minimize, and mitigate unavoidable impacts to public safety.
5. Certification, documentation, and demonstration by a qualified professional of how the applicable standards of VMC 20.740.120(C) will be met. To support the "no rise" analyses required in VMC 20.740.120(C)(1), the documentation required in the most recently updated

or amended FEMA Region 10 publication, *Floodplain Management: A Local Floodplain Administrator's Guide to the National Flood Insurance Program* shall be submitted.

C. Performance Standards.

Except as noted, the following standards apply to all structures and development (including substantial improvement, roads, railroads, trails, dikes, levees, or water, sewer, stormwater conveyance, gas, electric, cable, fiber optic cable or telephone facilities) in all areas of special flood hazards.

1. **Maintaining Equilibrium.** Encroachments, including fill, new construction, replacement structures, substantial improvements and other development shall be prohibited unless certification by a qualified professional is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in a net increase in base flood elevation (calculated to the nearest 0.1') or flood velocity during the occurrence of the base flood discharge. At a minimum, such "no rise" analyses shall include a step-backwater analysis and a conveyance compensation analysis as required in the most recently updated or amended FEMA Region 10 publication, *Floodplain Management: A Local Floodplain Administrator's Guide to the National Flood Insurance Program*.
2. **Elevation.** The lowest floor (including basement) of all new structures (including reconstruction) shall be elevated at least 1' above base flood elevation. Structures shall be elevated using means other than fill (such as extended foundation or other enclosure walls, piles, or columns) whenever feasible.
3. **Enclosed Areas Below the Base Flood Elevation.** When non-fill means of elevation results in enclosed areas below the base flood elevation, or where existing structures contain enclosed areas below the base flood elevation:
  - a. Enclosed areas below the base flood elevation shall be used only for vehicle parking, building access, or storage.
  - b. New or substantially improved enclosed areas below the base flood elevation shall be constructed in accordance with VMC 20.740.120(C)(5)(e).
  - c. Enclosed areas below the base flood elevation shall not be considered to be the lowest floor when they are not part of a basement and are newly constructed or substantially improved in accordance with VMC 20.740.120(C)(5)(e) or were previously constructed in accordance with the following criteria:
    - (1) Contain a minimum of 2 openings having a total net area of not less than 1 square inch for every 1 square foot of enclosed area subject to flooding;
    - (2) The bottom of all openings are no higher than 1' above grade; and
    - (3) Openings permit the automatic entry and exit of floodwaters even when equipped with screens, louvers, or other coverings or devices.

4. Property Damage. Development shall not result in adverse impacts to other properties either upstream or downstream.
5. Construction Materials and Methods.
  - a. Construction methods and practices shall minimize flood damage.
  - b. Construction materials and utility equipment shall be resistant to flood damage.
  - c. All structures and development shall be securely anchored on a permanent foundation to prevent flotation, collapse, or lateral movement and shall be installed or placed using methods and practices that minimize flood damage. Anchoring methods include, but are not limited to, use of over-the-top and frame ties to ground anchors.
  - d. 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 a base flood event.
  - e. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited unless designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must be certified by a qualified professional.
6. Drainage. Drainage paths around structures and on slopes shall be adequate to guide floodwaters around and away from proposed structures and adjacent properties.
7. Water.
  - a. Water wells are prohibited in the floodway. In the flood fringe, water wells shall be constructed to withstand a 100-year flood without adversely impacting groundwater quality (WAC 173-160-171).
  - b. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
8. Waste.
  - a. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.
  - b. On-site waste disposal systems are prohibited in the floodway. In the flood fringe they shall be located to avoid flood damage to them or release of contaminants from them during a base flood event.

9. Subdivisions.

- a. All subdivisions shall be designed:
  - (1) To ensure that no structures for human habitation are located in the floodway even though lots may extend into the floodway;
  - (2) To avoid placement of any structures in the flood fringe;
  - (3) Where it is not possible to design a subdivision in a manner to avoid placement of any structures in the flood fringe, the subdivision shall be designed to minimize potential flood damage.
- b. All subdivisions shall have facilities such as sewer, gas, electric, cable, fiber optic cable, telephone, stormwater and water systems located and constructed to minimize flood damage.
- c. All subdivisions shall have adequate drainage provided to reduce exposure to flood damage.

10. Residential Development.

- a. In the Floodway.
  - (1) New construction or reconstruction of residential structures including placement of mobile, modular, and manufactured homes and other structures for human habitation is prohibited.
  - (2) Existing residential structures are non-conforming (see VMC 20.740.120(C)(14)), but may be repaired or improved, provided:
    - (a) The repair or improvement does not increase the ground floor area of the structure; and
    - (b) The repair or improvement does not result in adverse impacts to other properties either upstream or downstream; and
    - (b) The cost of the repair or improvement does not exceed 50% of the market value of the structure either:
      - (i) Before the start of repair or improvement where there is no damage to the structure; or
      - (ii) Before flood or other damage to the structure occurred.
- b. In the Flood Fringe. New construction, reconstruction, repair, or improvement of residential structures may be allowed in the flood fringe.

- (1) New Construction and Reconstruction. New residential construction and reconstruction shall meet all the provisions of this Chapter, including the elevation standards of VMC 20.740.120(C)(2) and (3).
  - (2) Repair or Improvement. All provisions of this Chapter (including the elevation standards of VMC 20.740.120(C)(2) and (3)), all state and local health, sanitary, safety codes, and where applicable, historic preservation codes shall be met when the cost of repair or improvement of an existing residential structure exceeds 50% of the market value of the structure either:
    - (a) Before the start of repair or improvement where there is no damage to the structure; or
    - (b) Before flood or other damage to the structure occurred.
11. Recreational Vehicles. Recreational vehicles shall be located outside the floodway and shall either:
- a. Be on the site for fewer than 180 consecutive days;
  - b. Be fully licensed and ready for highway use, on its wheels or jacking system, attached to the site only by quick disconnect-type water, sewer, stormwater, gas, electric, cable, fiber optic cable, telephone, and security devices, and have no permanently attached additions; or
  - c. Meet the requirements of VMC 20.740.120(C)(2) and (3) and (C)(5)(c).
12. Critical Facilities. Critical facilities housing vulnerable populations and emergency services shall be prohibited in the floodway. In the flood fringe, construction of new critical facilities shall be prohibited unless the applicant demonstrates that no feasible alternative site is available; and either:
- a. The lowest floor, entrances, egresses, and to the extent feasible access routes are elevated to 3' above the base flood elevation or to the elevation of the 500-year flood, whichever is ~~higher~~ lower; or
  - b. The applicant demonstrates that other measures would ensure that in the event of a flood, the facility would remain safe and fully operational and that hazardous materials would not be displaced by or released into floodwaters. Such measures shall be conditions of approval of the Critical Areas Permit.
13. Alteration of Watercourse.
- a. The Planning Official shall notify adjacent communities and the state coordinating agency, Washington State Department of Ecology, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
  - b. Alteration or relocation of a watercourse shall be allowed only after:

- (1) Certification by a qualified professional that the alteration or relocation:
  - (a) Is the only feasible alternative or is part of a restoration project approved by the appropriate state or federal agencies;
  - (b) Will not diminish the flood-carrying capacity of the watercourse;
  - (c) Will not block side channels;
  - (d) Will be accomplished using soft armoring techniques wherever possible;
  - (e) Will avoid to the extent possible and then minimize and mitigate removal of vegetation including downed woody vegetation; and
- (2) The applicant provides assurance acceptable to the Planning Official of maintenance of the relocated channel such that the flood carrying capacity of the watercourse is not diminished.

#### 14. Floodway Development.

- a. Structures for Human Habitation. Structures for human habitation are prohibited in the floodway. Such structures include but are not limited to residential development (See VMC 20.740.120(C)(-10)), development sites within subdivisions, recreational vehicles, and critical facilities housing vulnerable populations or emergency services.
- b. On-Site Waste Disposal Facilities. New on-site waste disposal facilities are prohibited in the floodway.
- c. Other Development in the Floodway. Where other development is allowed in the floodway under VMC 20.740.120(C)(1), the standards of VMC 20.740.120(C)(-2)-(-13) shall also apply.

#### D. Minor Exceptions.

The applicant may seek a minor exception from the standards required for development in frequently flooded areas. Minor exceptions as interpreted in the National Flood Insurance Program are based on the principle that they pertain to a physical piece of property. Such minor exceptions apply to the land and are not personal in nature, do not pertain to the structure, its inhabitants, or economic or financial circumstances.

In addition to the standards contained herein, minor exceptions for development in frequently flooded areas shall be processed as Type II decisions in accordance with the provisions of VMC 20.740.070(A), except that minor exceptions to the elevation standards may exceed the 10% limit.

1. Minor Exception Allowed for Historic Structures. Minor exceptions may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without complying with the provisions

of VMC 20.740.120(D)(2) and (D)(3). Any such minor exception shall be documented in accordance with the provisions of VMC 20.740.120(D)(4) and 20.740.120(E)(2).

2. Factors to Consider. The following factors shall be considered in determining whether to grant a minor exception:
  - 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 community;
  - e. The necessity to the facility of a waterfront location, where 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;
  - i. The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - j. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
  - k. The costs of providing governmental services during and after flood conditions, including maintenance and repair of facilities such as sewer, gas, electrical, stormwater, and water systems, and streets and bridges.
3. Minor Exception Approval Criteria. A minor exception for development in frequently flooded areas may be granted only if the applicant demonstrates that the requested action conforms to all of the general minor exception approval criteria set forth in VMC 20.740.070(B) and the following additional criteria:
  - a. Demonstration that the factors set forth in VMC 20.740.120(D)(2) have been considered.
  - b. Granting the minor exception will not result in increased flood heights or velocities, additional threats to public safety, significantly increased property damage potential, extraordinary public expense, or conflict with existing local laws or ordinances.
4. Notices Required when Minor Exception Approved.
  - a. Minor Exception to the Elevation Standard. The Planning Official shall issue a written notice to any applicant to whom a minor exception to the elevation standard is granted that

the structure will be permitted to be built with a lowest floor elevation below that normally required with respect to 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.

- b. Minor Exception for Historic Structures. The Planning Official shall issue a written notice to any applicant to whom a minor exception is granted under VMC 20.740.120(D)(1) that the minor exception was granted and the reasons for which it was granted.

E. Information to be Obtained and Maintained.

1. For all structures and development, the Planning Official shall:
  - a. Obtain and record the actual elevation in relation to mean sea level of the lowest floor (including basement), and
  - b. Record whether or not the structure contains a basement.
  - c. Maintain all records pertaining to development in frequently flooded areas subject to the provisions of this Chapter, VMC 20.740, for public inspection.
2. Records of Minor Exception Actions. The Planning Official shall keep records of all minor exception actions and report any approved minor exceptions to the Federal Insurance Administration upon request.
3. Records of Appeal Actions. The Planning Official shall keep records of all appeal actions.

**20.740.130 Geologic Hazard Areas**

A. Designation. Designated or potential Geologic Hazard Areas include Landslide, Seismic, and Erosion Hazard Areas. With the exception of bank erosion hazard areas and fault rupture hazard areas, their potential locations are shown on maps available from the Planning Official. Final designations shall be based on site conditions and other available data or information (See VMC 20.740.020(C)(1)).

1. Landslide Hazard Areas. Potential landslide hazard areas are identified from the sources listed below.
  - a. Slopes greater than 25% on the property and adjacent areas within 100', except engineered slopes such as cut and fill slopes along transportation routes (including trails), railroad and other berms, or dikes.
  - b. Areas of historic or active landslides, potential instability, or older landslide debris identified on the 1975 map by Allen Fiksdal of the Washington State Department of Natural Resources entitled, *Slope Stability: Clark County Washington* as revised or superseded, or identified from other available data or in the field by a qualified professional and adjacent areas within 100'.

2. Seismic Hazard Areas. Seismic Hazard Areas include Liquefaction or Dynamic Settlement, Ground Shaking Amplification, and Fault Rupture Hazard Areas.
  - a. Liquefaction or Dynamic Settlement. The following are designated Liquefaction or Dynamic Settlement Hazard Areas:
    - (1) Areas with Low to Moderate, Moderate, Moderate to High, or High liquefaction susceptibility or Peat Deposits as indicated on the *Alternative Liquefaction Susceptibility Map of Clark County, Washington based on Swanson's Groundwater Model* by Stephen P. Palmer, Sammantha L. Magsino, James L. Poelstra, and Rebecca A. Niggemann, September, 2004, as revised or superseded.
    - (2) Areas of fill (Fn) identified by the 1972 USDA Soil Conservation Service *Soil Survey of Clark County Washington* and by the Planning Official, based on other reliable evidence.
  - b. Ground Shaking Amplification. The following are designated Ground Shaking Amplification Hazard Areas:

Site Classes C to D, D, D to E, E and F as indicated on the *Site Class Map of Clark County, Washington* by Stephen P. Palmer, Sammantha L. Magsino, James L. Poelstra, and Rebecca A. Niggemann, September, 2004 as revised or superceded.
  - c. Fault Rupture Hazard Areas. Potential Fault Rupture Hazard Areas are faults identified on geological maps prepared and maintained by the Washington Department of Natural Resources (DNR), U.S. Geological Survey (USGS), Oregon Department of Geology and Mineral Industries (DOGAMI), Clark County, Washington, or identified from other available data or in the field by a qualified professional and adjacent areas within 100'.
3. Erosion Hazard Areas. Erosion Hazard Areas include Soil Erosion and Bank Erosion Hazard Areas.
  - a. Soil Erosion Hazard Areas. The following are designated Soil Erosion Hazard Areas:

Areas with soils identified as having a severe erosion hazard by the 1972 USDA Soil Conservation Service *Soil Survey of Clark County Washington*.
  - b. Bank Erosion Hazard Areas. Bank Erosion Hazard Areas are areas along lakes, streams, and rivers that are subject to regression or retreat due to lacustrine or fluvial processes and adjacent land within 100'.

B. Additional Critical Areas Report Requirements.

In addition to the requirements of VMC 20.740.050, the following are Critical Areas Report requirements for development proposals in geologic hazard areas. These requirements may be adjusted as appropriate by the Planning Official.

A Critical Areas Report is not required for placement or replacement of roads, sidewalks, and trails where there are no structures, gas, electric, cable, fiber optic cable, stormwater, sewer, or water facilities in areas with only ground shaking or liquefaction hazards.

1. Identification of the site and project area (defined at VMC 20.150), topography in 1' contours (or other increment at the discretion of the Planning Official), gas, electric, cable, fiber optic cable, telephone, sewer, water, and stormwater management facilities, wells, on-site septic systems, dikes, levees, and existing structures on the site plan required by VMC 20.740.050; and
2. Detailed review of field investigations, published data and references, data and conclusions from past geologic studies or investigations, site-specific measurements, tests, investigations, or studies, and the methods of data analysis and calculations that support the results, conclusions, and recommendations; and
3. Field investigation and evaluation of the areas on site for liquefaction or dynamic settlement, ground shaking amplification, fault rupture, and soil erosion hazards; and on or within 100' of the site for landslide and bank erosion hazards; and
4. A description of the surface and subsurface geology, hydrology, drainage patterns, soils, and vegetation on site for liquefaction or dynamic settlement, ground shaking amplification, fault rupture, and soil erosion hazards; and on or within 100' of the site for landslide and bank erosion hazards; and
5. Identification of the hazard area indicators that were found (if any) on site for liquefaction or dynamic settlement, ground shaking amplification, fault rupture, and soil erosion hazards; and on or within 100' of the site for landslide and bank erosion hazards; and
6. Conclusion as to whether there is a geologic hazard area on site or for landslide and bank erosion hazards on or within 100' of the site; and
7. If a liquefaction, dynamic settlement, ground shaking amplification, fault rupture, or soil erosion hazard is found to exist on site or if a landslide or bank erosion hazard is found to exist on or within 100' of the site:
  - a. Label and show on the site plan required by VMC 20.740.050:
    - (1) The location(s), extent, and type(s) of geologic hazard area(s) identified; and
    - (2) The location(s) and extent of any area(s) that must be left undisturbed to protect the proposed development from damage or destruction and to protect the hazard area(s) from the impacts of the proposed development; and
    - (3) The boundaries of the area that may be disturbed.
    - (4) The dimension of the closest distance(s) between the geologic hazard area(s) and the project area.

- (5) The dimension of the closest distance(s) (See VMC 20.170.030(C) between any non-disturbance area (VMC 20.740.130(B)(7)(a)(2)) and the project area.

For bank erosion hazard areas, show these areas, boundaries, and dimensions based upon natural processes and, if applicable, proposed bank stabilization measures.

- b. Analysis of the erosion processes on site for soil erosion hazard areas and on or within 100' of the site for bank erosion hazard areas.
- c. Evaluation of the impact of the geologic hazard area(s) on the proposed development, other properties, and other critical areas.
  - (1) Landslide hazard areas. The impact of the run-out hazard of landslide debris from both upslope and downslope shall be included in the evaluation.
  - (2) Bank erosion hazard areas. Evaluation of impacts on other properties shall include properties both upstream and downstream of the subject property.
- d. Evaluation of the impact of the proposed development on the geologic hazard area(s).
- e. Assessments and conclusions regarding geologic hazard(s) for both existing and proposed (post-development) site conditions. The ultimate build-out scenarios must be considered and addressed in cases such as land division and master planning where build-out is not scheduled to occur as a direct or immediate result of project approval.
- f. Written discussion of:
  - (1) The risk of damage or destruction from the geologic hazard(s) with respect to human health and safety; infrastructure; the proposed development; other properties (both upstream and downstream for bank erosion hazard areas); and other critical areas; and
  - (2) Whether and to what degree the proposed development would increase the risk from the geologic hazard(s), such as the occurrence of a landslide or the rate of regression.
- g. Recommendations for mitigation of impacts to protect:
  - (1) Human health and safety;
  - (2) Infrastructure;
  - (3) The proposed development;
  - (4) Other properties (both upstream and downstream for bank erosion hazard areas);
  - (5) Other critical areas; and
  - (6) The hazard area during construction and for the anticipated life of the proposed development. The ultimate build-out scenarios must be considered and addressed in cases

such as land division and master planning where build-out is not scheduled to occur as a direct or immediate result of project approval.

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

C. Performance Standards.

1. Landslide, Soil Erosion, and Bank Erosion Hazard Areas. Development in non-disturbance areas (VMC 20.740.130(B)(7)(a)(2)) shall be prohibited. Where such areas have not been identified, development, including elimination of a landslide hazard area through grading, in landslide, soil erosion, and bank erosion hazard areas and their buffers (VMC20.740.130(C)(1)(j)) shall be prohibited except where the applicant has demonstrated compliance with or satisfaction of the following standards or requirements.
  - a. The applicant has demonstrated that the use, activity, and structure(s) cannot feasibly be located outside the geologic hazard area or buffer given the physical limitations of the site; and during construction and for the anticipated life of the proposed development:
    - (1) Will not increase the threat of the geological hazard beyond pre-development conditions; and
    - (2) Will not adversely impact other critical areas wherever feasible given the type of critical areas involved and the characteristics of the site; and
    - (3) Are designed so that the hazard to the proposed project is eliminated or mitigated to a level equal to or less than pre-development conditions; and
    - (4) The life safety risk is minimal or eliminated; and
    - (5) Are certified by a qualified professional as safe as designed and under anticipated conditions.
  - b. A plan for revegetation and landscape maintenance to ensure soil stabilization shall be developed and implemented in accordance with the mitigation plan requirements of VMC 20.740.050(F).
  - c. Clearing, grading, uprooting, or otherwise impairing the soil stabilizing function of vegetation shall be prohibited during the wet season (November 1<sup>st</sup> to May 1<sup>st</sup>), except as authorized under a valid state or federal permit or a City Type I permit (VMC 20.740.040(B)(1)(f)).
  - d. Drainage patterns shall not be altered such that potential for damage or risk to the proposed project, the geologic hazard area, or other critical areas or buffers is increased.
  - e. The requirements of VMC 14.24, Erosion Control shall be met.

- f. Trails shall be for pedestrian and non-motorized vehicular use only and shall be the minimum width necessary to meet applicable regulations.
- g. Roads in Landslide and Bank Erosion Hazard Areas. A road through or across a landslide or bank erosion hazard area shall meet the standards of VMC 20.740.130(C)(1)(a)-(f) and shall not be:
  - (1) The sole access for a proposed subdivision (not including short subdivision) or critical facility;
  - (2) Longer than 200’;
  - (3) Steeper than a 15% grade.
- h. Markers and Signs in Landslide Hazard Areas.
  - (1) The boundary at the outer edge of landslide area tracts and easements shall be delineated with permanent survey stakes, using iron or concrete markers as established by local survey standards.
  - (2) The boundary at the outer edge of the farthest of the landslide hazard area, non-disturbance area (VMC 20.740.130(B)(7)(a)(2)), or buffer shall be identified with temporary signs prior to any site alteration. Such temporary signs shall be replaced with permanent signs prior to occupancy or use of the site.
  - (3) These provisions may be modified by the Planning Official as necessary to ensure protection of sensitive features or wildlife needs.
- i. Bank Stabilization for Existing Development in Bank Erosion Hazard Areas.
  - (1) Bank stabilization measures may be employed to protect an existing structure when a Critical Areas Report conclusively demonstrates all of the following:
    - (a) Bank erosion threatens an established use or existing structure(s); and
    - (b) The threatened structure(s) cannot be relocated landward of any non-disturbance area (VMC 20.740.130(B)(7)(a)(2)) ; and
    - (c) Where applicable, bank stabilization measures are necessary to the operation and location of water-dependent, water-related, or water enjoyment activities consistent with the City of Vancouver Shoreline Management Master Program; and
    - (d) Bank stabilization measures will not cause a significant adverse impact on upstream or downstream properties or an impact that cannot be mitigated without developing bank stabilization measures for those properties; and

- (e) Bank stabilization measures will not cause a significant adverse impact on fish, wildlife, or their habitats protected by this Chapter.
  - (2) When bank stabilization is allowed, it shall be accomplished using beach nourishment, bioengineering (soft armoring) techniques, or a combination of the two. Other techniques may be used when an approved Critical Areas Report demonstrates conclusively that beach nourishment, bioengineering (soft armoring) techniques, or a combination of the two will not provide sufficient protection for the remaining useful life of the structure(s) to be protected.
  - (3) When bank stabilization is allowed, the pertinent policies and regulations of the City of Vancouver Shoreline Management Master Program shall apply in addition to the requirements of this section. The terms and conditions of any other required state or federal permit or approval shall also apply.
- j. Buffer. The following regulations apply to landslide and bank erosion hazard area buffers. No buffer is required for soil erosion hazard areas. Buffers may be included in non-disturbance areas (VMC 20.740.130(B)(7)(a)(2)) and required planting and maintenance activities may be undertaken within them.
- (1) Buffer width shall be measured on a horizontal plane from a perpendicular line established at all edges of the geologic hazard area (See VMC 20.170.030(B) and (K).
  - (2) A vegetated buffer shall be maintained around all landslide and bank erosion hazard areas. No alteration to the buffer shall be undertaken without an erosion control plan approved pursuant to the provisions of VMC 14.24, Erosion Control and this Chapter. New plantings shall consist of native vegetation. Maintenance shall be the responsibility of the property owner.
  - (3) The minimum buffer width for bank erosion hazard areas shall be the distance recommended in an approved Critical Areas Report.
  - (4) The minimum buffer width for landslide hazard areas shall be the greatest of the following distances:
    - (a) 50' from all edges of the landslide hazard area; or
    - (b) A distance of 1/3 the height of the slope at the top of the slope and a distance of 1/2 the height of the slope at the bottom of the slope (See VMC 20.170.030(J), ; or
    - (c) The minimum distance(s) recommended in an approved Critical Areas Report.
  - (5) A larger buffer width may be required for landslide and bank erosion hazard areas at the discretion of the Planning Official when:
    - (a) The adjacent land is susceptible to severe erosion and erosion control measures will not effectively prevent adverse impacts; or

- (b) The area has a severe risk of slope failure or downslope stormwater drainage impacts; or
  - (c) The area is directly adjacent to a riparian management area or wetland; or
  - (d) Recommended in an approved Critical Areas Report.
- (6) The buffer width for landslide hazard areas may be reduced to as little as the smallest of the distances identified in VMC 20.740.130(C)(1)(j)(4) at the discretion of the Planning Official when the dimensions of the landslide hazard area are smaller than those distances.

## 2. Seismic Hazard Areas

- a. Liquefaction or Dynamic Settlement Hazard Areas. All building structures in liquefaction or dynamic settlement hazard areas shall comply with the requirements of VMC Title 17, Building and Construction. No buffer is required for liquefaction or dynamic settlement hazard areas.
- b. Ground Shaking Amplification Hazard Areas. All building structures in ground shaking amplification hazard areas shall comply with the requirements of VMC Title 17, Building and Construction applicable to the NEHRP soil classification of the subject property. No buffer is required for ground shaking amplification hazard areas.
- c. Fault Rupture Hazard Areas.
  - (1) A road through or across a fault rupture hazard area shall not be:
    - (a) The sole access for a proposed subdivision (not including short subdivision) or critical facility;
    - (b) Longer than 200’;
    - (c) Steeper than a 15% grade.
  - (2) Structures for human habitation and critical facilities shall be prohibited within fault rupture hazard areas and buffers.
  - (3) Buffer.
    - (a) Buffer width shall be measured on a horizontal plane from a perpendicular line established at all edges of the geologic hazard area (See VMC 20.170.030(B)).
    - (b) The buffer width shall be the greater of the following distances:

- (i) 50' from all edges of a fault rupture hazard area, except where critical facilities are involved, the minimum buffer distance shall be 100' (See VMC 20.170.030(L)); or
- (ii) The minimum distance recommended in an approved Critical Areas Report.
- (c) A larger buffer width may be required when the Planning Official determines that the buffer is not adequate to protect the proposed development.

## **20.740.140 Wetlands**

### **A. Designating and Rating Wetlands**

#### **1. Designating Wetlands**

Wetlands are those areas, designated in accordance with the *Washington State Wetland Identification and Delineation Manual* (1997, or as revised by Ecology), that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created (but not as mitigation for impacts to wetlands) from non-wetland sites, including, but not limited to irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds and landscape amenities or those wetlands created after July 1990 that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands shall include those artificial wetlands intentionally created from non-wetland areas to mitigate conversion of wetlands.

Final designations shall be based on site conditions and other available data or information (See VMC 20.740.020(C)(1)).

#### **2. Wetland ratings**

Wetlands shall be rated according to the Washington State Department of Ecology (Ecology) wetland rating system found in Hruby, 2004, *Washington State Wetlands Rating System for Western Washington*, Ecology publication #04-06-025, or as revised by Ecology. The rating system document contains the definitions and methods for determining if the criteria below are met.

##### **a. Wetland Rating Categories**

(1) Category I. Category I wetlands are those that meet one or more of the following criteria:

- (a) Wetlands that are identified by scientists of the Washington Department of Natural Resources Washington Natural Heritage Program as high quality, relatively undisturbed wetlands or wetlands that support state-listed threatened or

endangered plants;

- (b) Bogs larger than ½ acre;
  - (c) Mature and old growth forested wetlands larger than 1 acre;
  - (d) Wetlands that perform many functions well, as indicated by scoring 70 points (out of 100) in the rating system.
- (2) Category II. Category II wetlands are those that meet one or more of the following criteria:
- (a) Bogs between ¼ and ½ acre in size;
  - (b) Wetlands with a moderately high level of functions, as indicated by scoring 51-69 in the Ecology rating system.
- (3) Category III. Category III wetlands are those with a moderate level of functions, as indicated by scoring 30-50 in the Ecology rating system.
- (4) Category IV. Category IV wetlands are those with a low level of functions, as indicated by scoring less than 30 in the Ecology rating system.

**B. Additional Critical Areas Report Requirements**

A critical area report for wetlands shall be prepared according to the *Washington State Wetland Identification and Delineation Manual* (1997, or as revised by Ecology) and the Hruby, 2004, *Washington State Wetlands Rating System for Western Washington*, Ecology publication #04-06-025 (or as revised by Ecology). The critical area report shall contain an analysis of the wetlands including the following site- and proposal-related information:

1. A written assessment, data sheets and accompanying maps of any wetlands or buffers on the site including the following information:
  - a. Hydrogeomorphic (HGM) classification;
  - b. Wetland category;
  - c. Wetland delineation and required buffers;
  - d. Existing wetland acreage;
  - e. Vegetative, faunal, and hydrologic characteristics;
  - f. Soil types and substrate conditions;
  - g. Topographic elevations, at 1' contours; and



- (2) In Category II Wetlands only the following activities may be allowed:
  - (a) Activities allowed in Category I wetlands pursuant to VMC 20.740.140(C)(1)(a)(1).
  - (b) Enhancement and restoration activities aimed at protecting the soil, water, vegetation or wildlife.
  - (c) Within shoreline jurisdiction (VMC 20.760.020), water-dependent, water-related or water-enjoyment activities where there are no feasible alternatives that would have a less adverse impact on the wetland, its buffers and other critical areas.
  - (d) Where non-water dependent, related or enjoyment activities are proposed, it shall be presumed that alternative locations are available, and activities and uses shall be prohibited unless the applicant demonstrates that the basic project purpose cannot reasonably be accomplished and successfully avoid, or result in less adverse impacts on a wetland on another site or sites in the City of Vancouver or Vancouver Urban Growth Area.
- (3) In Category III Wetlands only the following activities may be allowed:
  - (a) Activities allowed in Category II wetlands pursuant to VMC 20.740.140(C)(1)(a)(2).
  - (b) Other activities may be allowed if the applicant demonstrates that the basic project purpose cannot reasonably be accomplished and avoid or result in less adverse impacts on a wetland or its buffer than alternative uses or designs (including reduction in the size, scope, configuration or density of the project).
- (4) In Category IV Wetlands activities and uses that result in impacts may be permitted in accordance with an approved critical area report and mitigation plan if the proposed activity is the only reasonable alternative that will accomplish the applicant's objectives. Full mitigation for the loss of acreage and functions shall be provided under the terms established pursuant to VMC 20.740.140(C)(2).

b. Wetland Buffers

- (1) Standard buffer widths. Standard buffer widths are those determined by Ecology and described in *Freshwater Wetlands in Washington State, Volume 2: Managing and Protecting Wetlands* or as revised by Ecology. Buffer widths are based on wetland category, wetland characteristics and land use intensity.

(a) Land use intensities are as follows:

**TABLE 20.740.140-1  
LAND USE INTENSITIES**

<i>Land Use Intensity</i>	<i>VMC Title 20 Zoning Districts</i>
High	All Residential, Commercial or Industrial Zones
Moderate	Open Space Park or Open Space Greenway: General
Low	Open Space Greenway: Lettuce Fields or Vancouver Lowlands; or Open Space Natural

(b) Level of function for habitat, based on the Washington State Wetland Rating System is as follows:

**TABLE 20.740.140-2  
RATING SYSTEM**

<i>Level Of Function</i>	<i>Habitat Score In Rating System</i>
High	29-36
Moderate	20-28
Low	<20

(c) Buffer widths are measured horizontally from the edge of the wetland (See VMC 20.170.030(B) and (H)) and are as follows:

(i) Category I Wetlands

**TABLE 20.740.140-3  
CATEGORY I WETLAND BUFFER WIDTHS**

<i>Wetland Characteristics</i>	<i>Land Use Intensity</i>	<i>Buffer Width</i>
Natural Heritage Wetlands or Bogs	High	250'
	Moderate	190'
	Low	125'
Forested wetlands High habitat function	High	300'
	Moderate	225'
	Low	150'
Moderate habitat function	High	150'
	Moderate	110'
	Low	75'

<i>Wetland Characteristics</i>	<i>Land Use Intensity</i>	<i>Buffer Width</i>
Low habitat function	High Moderate Low	100' 75' 50'
Other Category I Wetlands High habitat function	High Moderate Low	300' 225' 150'
Moderate habitat function	High Moderate Low	150' 110' 75'
Low habitat function	High Moderate Low	100' 75' 50'

(ii) Category II wetlands

**TABLE 20.740.140-4  
CATEGORY II WETLAND BUFFER WIDTHS**

<i>Wetland Characteristics</i>	<i>Land Use Intensity</i>	<i>Buffer Width</i>
High habitat function	High Moderate Low	300' 225' 150'
Moderate habitat function	High Moderate Low	150' 110' 75'
Low habitat function	High Moderate Low	100' 75' 50'

(iii) Category III wetlands

**TABLE 20.740.140-5  
CATEGORY III WETLAND BUFFER WIDTHS**

<i>Wetland Characteristics</i>	<i>Land Use Intensity</i>	<i>Buffer Width</i>
Moderate habitat function	High Moderate	150' 110'

<i>Wetland Characteristics</i>	<i>Land Use Intensity</i>	<i>Buffer Width</i>
	Low	75'
Low habitat function	High	80'
	Moderate	60'
	Low	40'

(iv) Category IV wetlands

**TABLE 20.740.140-6  
CATEGORY IV WETLAND BUFFER WIDTHS**

<i>Wetland Characteristics</i>	<i>Land Use Intensity</i>	<i>Buffer Width</i>
All Category IV wetlands	High	50'
	Moderate	40'
	Low	25'

(d) All buffers shall be measured from the wetland boundary as surveyed in the field.

(e) Areas which are completely functionally separated from a wetland and do not protect the wetland from adverse impacts may be excluded from buffers otherwise required.

(2) Wetland buffer width averaging. The Planning Official may allow modification of the standard wetland buffer width in accordance with an approved critical area report on a case-by-case basis by averaging buffer widths. Buffer width averaging shall not be used in combination with buffer width reduction or a minor exception. Averaging of buffer widths (See VMC 20.170.080(B)(2)) may only be allowed where a qualified professional wetland scientist demonstrates that:

(a) Such averaging will not reduce wetland functions or functional performance; and

(b) The wetland varies in sensitivity due to existing physical characteristics or the character of the buffer varies in slope, soils, or vegetation, and the wetland would benefit from a wider buffer in places and would not be adversely impacted by a narrower buffer in other places; and

(c) The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer; and

(d) The buffer width is reduced by no more than 25% of the standard width and at no point to less than 25'.

(3) Buffer width reduction based on reducing the intensity of impacts from land uses. Buffer widths required for high intensity land uses may be reduced to those required

for moderate land use intensity under the following conditions:

- (a) For wetlands with moderate or high habitat function:
  - (i) A relatively undisturbed vegetated corridor at least 100' wide is protected between the wetland and any other Priority Habitats and areas associated with Priority Species (VMC 20.740.110(A)(1)(b)); and
  - (ii) Measures to minimize the impacts of different land uses on wetlands are applied, as approved by the Planning Official. Such measures include, but are not limited to, the examples summarized below.

**TABLE 20.740.140-7  
EXAMPLES OF MEASURES TO MINIMIZE LAND USE IMPACTS**

<i>Examples of Disturbance</i>	<i>Uses and Activities that Cause the Disturbance</i>	<i>Examples of Measures to Minimize Impacts</i>
Lights	Parking lots, warehouses, manufacturing, residential	Direct lights away from wetland.
Noise	Manufacturing, residential, commercial	Locate activity that generates noise away from wetland.
Toxic runoff	Parking lots, roads, manufacturing, residential, application of agricultural or landscaping chemicals	Route only treated runoff to a wetland.  Establish covenants limiting use of toxic chemicals within 150' of wetland.  Apply integrated pest management.
Change in water regime	Impervious surfaces, lawns, tilling	Infiltrate or treat, detain, and disperse new runoff into buffer.
Pets	Residential	Plant dense vegetation around buffer, such as rose or hawthorn.
Human disturbance	Residential, commercial, industrial	Plant dense vegetation around buffer, such as rose or hawthorn.
Dust	Tilled fields	Utilize best management practices to control dust.

- (b) For wetlands with low habitat function measures to minimize the impacts of different land uses on wetlands (VMC 20.740.140(C)(1)(b)(3)(a)(ii) are applied.
- (c) Buffer width reduction shall not be used in combination with buffer width

averaging (VMC 20.740.140(C)(1)(b)(2)) or a minor exception (20.740.070).

- (4) Buffer maintenance. Except as otherwise specified or allowed in accordance with this Chapter, wetland buffers shall be maintained according to the approved critical area permit.
- (5) Buffer uses. The following uses may be permitted within a wetland buffer in accordance with the review procedures of this Chapter; provided, they are not prohibited by any other applicable law or regulation and they are conducted in a manner so as to minimize impacts to the buffer and the wetland:
  - (a) Activities allowed under the same terms and conditions as in the associated wetlands pursuant to VMC 740.140(C)(1)(a).
  - (b) Enhancement and restoration activities aimed at protecting the soil, water, vegetation or wildlife.
  - (c) Passive recreation facilities including trails and wildlife viewing structures, provided that the trails and structures are constructed with a surface that does not interfere with wetland hydrology.
  - (d) Stormwater management facilities are not allowed in buffers of Category I or II wetlands. Stormwater management facilities, limited to detention facilities, constructed wetlands, stormwater dispersion outfalls and bioswales, may be constructed in accordance with an approved critical area report within the buffers of Category III or IV wetlands, provided that:
    - (i) No other location is feasible; and
    - (ii) The location of such facilities will not degrade the functions of the wetland or buffer.

c. Signs and Fencing of Wetlands

- (1) The location of the outer perimeter of the wetland and buffer shall be marked in the field, and such marking shall be approved by the Planning Official prior to the commencement of permitted activities. Such field markings shall be maintained throughout the duration of the permit.
- (2) A permanent physical demarcation along the upland boundary of the wetland buffer shall be installed and thereafter maintained. Such demarcation may consist of fencing, hedging or other prominent physical marking that allows wildlife passage, blends with the wetland environment, and is approved by the Planning Official.
- (3) Permanent fencing of the wetland buffer on the outer perimeter shall be erected and thereafter maintained when there is a substantial likelihood of the presence of domestic grazing animals within the property unless the Planning Official determines

that the animals would not degrade the functions of the wetland or buffer.

- (4) Wood or metal signs shall be posted at an interval of one per lot for single family residential uses or at a maximum interval of 200', or as otherwise determined by the Planning Official, and must be perpetually maintained by the property owner. The sign shall be worded as follows or with alternative language approved by the Planning Official: "The area beyond this sign is a wetland or wetland buffer. Alteration or disturbance is prohibited by law. Please call the City of Vancouver for more information."
2. Compensatory Mitigation. Compensatory mitigation for impacts to wetlands shall be provided pursuant to VMC 20.740.060 and shall be consistent with the Department of Ecology *Guidance on Wetland Mitigation in Washington State, Part 1: Laws, Rules, Policies, and Guidance Related to Wetland Mitigation*, Ecology publication # 04-06-013a, or as revised by Ecology. Watersheds are defined in VMC 20.740.020(C)(2) and 20.150.
    - a. Mitigation for lost or affected functions. Compensatory mitigation actions shall address functions affected by the alteration to achieve functional equivalency or improvement and shall provide similar wetland or buffer functions as those lost, except when:
      - (1) The lost wetland or buffer provides minimal functions as determined by a site-specific function assessment, and the proposed compensatory mitigation action(s) will provide equal or greater functions or will provide functions shown to be limited within a watershed through a formal Washington state watershed assessment plan or protocol; or
      - (2) Out-of-kind replacement will best meet formally identified watershed goals, such as replacement of historically diminished wetland types.
    - b. Mitigation actions
      - (1) Creation. The manipulation of the physical, chemical or biological characteristics present to develop a wetland on an upland or deepwater site where a biological wetland did not previously exist. Activities typically involve excavation of upland soils to elevations that will produce a wetland hydroperiod, hydric soils, and support the growth of hydrophytic plant species. Creation results in a gain in wetland acres and functions.
      - (2) Re-establishment. 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. Activities could include removing fill material, plugging ditches or breaking drain tiles. Re-establishment results in a gain in wetland acres and functions.
      - (3) Rehabilitation. The manipulation of the physical, chemical or biological characteristics of a site with the goal of repairing natural or historic functions and processes of a degraded wetland. Activities could involve breaching a dike to reconnect wetlands to a floodplain, restoring tidal influence to a wetland, or breaking

drain tiles and plugging drainage ditches. Rehabilitation results in a gain in wetland functions but not in wetland acres.

- (4) Enhancement. The manipulation of the physical, chemical or biological characteristics of a biological wetland to increase or improve specific functions or to change the growth stage or composition of the vegetation present. Enhancement is undertaken for specified purposes such as water quality improvement, flood water retention or wildlife habitat. Activities typically consist of planting vegetation, controlling non-native or invasive species, modifying site elevations to result in open water ponds, or some combination of these. Enhancement results in a change in certain wetland functions and can lead to a decline in other wetland functions. It does not result in a gain in wetland acres.
- c. Type and location of mitigation. Unless it is demonstrated that a higher level of ecological functioning would result from an alternate approach, compensatory mitigation for ecological functions shall be either in-kind and on-site, or in-kind and within the same stream reach or watershed. Mitigation actions shall be conducted within the same watershed as the project site and on the same site as the alteration except when all of the following apply:
- (1) Based on a determination of the natural capacity of the site to mitigate for the impacts, there are no reasonable on-site or in-watershed opportunities or on-site and in-watershed opportunities do not have a high likelihood of success. Consideration shall include: anticipated wetland mitigation replacement ratios, buffer conditions and proposed widths, hydrogeomorphic classes of on-site wetlands when restored, proposed flood storage capacity, and potential to impact riparian fish and wildlife habitat including connectivity; and
  - (2) Off-site mitigation has a greater likelihood of providing equal or improved wetland functions than the impacted wetland; and
  - (3) Off-site locations shall be in the same watershed unless:
    - (a) Watershed goals for water quality, flood or conveyance, habitat or other wetland functions have been established and strongly justify location of mitigation at another site; or
    - (b) Credits from a certified wetland mitigation bank are used as mitigation and the use of credits is consistent with the terms of the bank's certification.
- d. Mitigation ratios
- (1) Acreage replacement ratios.
    - (a) The replacement ratios shall apply to wetland mitigation that is for the same hydrogeomorphic class (depressional, riverine, lacustrine or slope wetlands), on-site, the same category, and timed prior to or concurrent with alteration and that

has a high probability of success.

- (b) The ratios are based on replacing a Category I or II wetland with a Category II wetland and replacing a Category III or IV wetland with a Category III wetland.
- (c) The ratios do not apply to the use of credits from a state certified wetland mitigation bank. When credits from a certified bank are used, replacement ratios should be consistent with the requirements of the bank’s certification.
- (d) If the wetland area impacted is replaced at a 1:1 ratio through re-establishment, creation or rehabilitation, the remainder of the area needed for mitigation can be replaced by enhancement (Table 20.740-8).
- (e) Mitigation ratios. Ratios determined “case-by-case” shall be approved by the Planning Official. Mitigation ratios are as follows (see VMC 20.740.140(C)(2)(b) for definitions of mitigation actions):

**TABLE 20.740-8  
MITIGATION RATIOS**

<i>Wetland Category and Type</i>	<i>Re-establishment or Creation</i>	<i>Rehabilitation</i>	<i>1:1 Re-establishment or Creation (R-C) plus Enhancement (E)</i>	<i>Enhancement Only</i>
Category I bog	Not considered possible	6:1 rehabilitation of a bog	Case-by-case	Case-by-case
Category I Natural Heritage site	Not considered possible	6:1 rehabilitation of a Natural Heritage site	Case-by-case	Case-by-case
Category I forested	6:1	12:1	1:1 R-C and 10:1 E	24:1
Category I based on score for functions	4:1	8:1	1:1 R-C and 6:1 E	16:1
Category II	3:1	8:1	1:1 R-C and 4:1 E	12:1
Category III	2:1	4:1	1:1 R-C and 2:1 E	8:1
Category IV	1.5:1	3:1	1:1 R-C and 2:1 E	6:1

- (2) Increased replacement ratio. The Planning Official may increase the ratios under the following circumstances:
  - (a) Unusual uncertainty exists as to the probable success of the proposed restoration or creation;

- (b) A significant period of time will elapse between impact and replication of wetland functions; or
  - (c) Proposed mitigation will result in a lower category wetland or reduced functions relative to the wetland being impacted.
- e. Mitigation timing. The mitigation shall be prior to or concurrent with alteration or as soon as feasible.
- f. Buffers for mitigation wetlands. Buffers for mitigation wetlands shall be 300' for Category II and 150' for Category III wetlands or determined case-by-case following guidelines in *Guidance on Wetland Mitigation in Washington State, Part 1: Laws, Rules, Policies, and Guidance Related to Wetland Mitigation*, Ecology publication # 04-06-013a, or as revised by Ecology.
- g. Wetland mitigation banks.
- (1) Credits from a wetland mitigation bank may be approved for use as mitigation for unavoidable impacts to wetlands when:
    - (a) The bank is certified under Chapter 173-700 WAC;
    - (b) The Planning Official determines that the wetland mitigation bank provides appropriate mitigation for the authorized impacts; and
    - (c) The proposed use of credits is consistent with the terms and conditions of the bank's certification.
  - (2) Replacement ratios for projects using bank credits shall be consistent with replacement ratios specified in the bank's certification.
  - (3) Credits from a certified wetland mitigation bank may be used to compensate for impacts located within the service area specified in the bank's certification. In some cases, bank service areas may include portions of more than one adjacent drainage basin for specific wetland functions.

**Section 3.     VMC 20.725, Fish and Wildlife Habitat Protection Repealed.** VMC

20.725, Fish and Wildlife Habitat Protection is hereby repealed in its entirety.

**Section 4.     VMC 20.730, Flood Hazards Repealed.** VMC 20.730, Flood Hazards is

hereby repealed in its entirety.

**Section 5.** **VMC 20.750, Geologic Hazards Repealed.** VMC 20.750, Geologic Hazards is hereby repealed in its entirety.

**Section 6.** **VMC 20.775, Wetlands and Water Bodies Protection Repealed.** VMC 20.775, Wetlands and Water Bodies Protection is hereby repealed in its entirety.

**Section 7.** **VMC 20.780, Wildlife Habitat Protection (placeholder) Repealed.** VMC 20.780, Wildlife Habitat Protection (placeholder) is hereby repealed in its entirety.

**Section 8.** **VMC 20.150, Definitions Amended.** VMC 20.150, Definitions is hereby amended to read as shown in Attachment A.

**Section 9.** **VMC 20.170, Measurements Amended.** VMC 20.170, Measurements is hereby amended to read as shown in Attachment B.

**Section 10.** **VMC 20.180.060, Planning Fees Amended.** VMC 20.180.060, Planning Fees is hereby amended to read as follows:

**20.180.060 Planning Fees**

Required planning fees. Fees for planning related applications, permits, and services are set forth in Table 20.180.060.

<b>Table 20.180.060</b>		
<b>Section</b>	<b>Activity</b>	<b>Fee</b>
<b>1.</b>	<b>Address Changes</b>	\$250
<b>2.</b>	<b>Airport height combining district</b>	\$355
<b>3.</b>	<b>Appeals (to Hearing Examiner, Planning Commission, or City Council)</b>	
A.	Filed by a recognized city neighborhood association	\$75
B.	Involving an individual single-family residence or duplex lot	\$350
C.	All other (see SEPA fees for SEPA procedural appeal fee)	\$1,000
<b>4.</b>	<b>Archaeological Review</b>	
A.	Pre-Determinations	
1.	Base Fee	\$325
2.	Plus fee per acre for each acre more than 5	\$55

<b>Table 20.180.060</b>		
<b>Section</b>	<b>Activity</b>	<b>Fee</b>
B.	Surveys and other special studies	Cost Recovery <sup>1</sup>
<b>5.</b>	<b>Binding site plan</b>	
A.	Conceptual – Requiring subsequent site plan review	
1.	Same as comparable short subdivision or subdivision	See short subdivision or subdivision
B.	Detailed – Not requiring subsequent site plan review	
1.	Same as comparable short subdivision or subdivision	See short subdivision or subdivision
2.	Plus one half (1/2) comparable site plan review	See site plan review <u>review</u>
<b>6.</b>	<b>Boundary Line Adjustments</b>	
	Base fee	\$525
	Plus fee per lot for each additional lot more than two	\$170
<b>7.</b>	<b>Comprehensive Plan Amendments (includes rezone in conjunction with plan amendment)</b>	\$6,900
<b>8.</b>	<b>Conditional Use Permit</b>	\$4,225
<b>9.</b>	<b>Continuance of Public Hearing</b>	
A.	Initiated by applicant after public notice is mailed	\$1,000
B.	Resulting from inadequate information provided by the applicant. Does not apply in cases where new information is presented at the hearing by staff or other parties.	\$1,000
C.	Hearing Examiner Reconsideration <u>Request</u>	\$1,000
<b>10.</b>	<b>Covenant Release - Full and Partial</b>	\$4,450
<b>11.</b>	<b>Critical Areas Permit</b>	
<b>A.</b>	<b>Single-family and duplex lots (Fee per Applicable Critical Area)</b>	
1.	<u>Fish and Wildlife Habitat Areas</u>	<u>\$750</u>
2.	<u>Frequently Flooded Areas</u>	<u>\$150</u>
3.	<u>Geologic Hazard Areas</u>	<u>\$150</u>
4.	<u>Wetland Areas</u>	<u>\$750</u>
<b>B.</b>	<b>All Others (Fee per Applicable Critical Area)</b>	
1.	<u>Fish and Wildlife Habitat Areas</u>	<u>\$1,500</u>
2.	<u>Frequently Flooded Areas</u>	<u>\$300</u>
3.	<u>Geologic Hazard Areas</u>	<u>\$300</u>
4.	<u>Wetland Areas</u>	<u>\$1,500</u>
<b>C.</b>	<b>Minor Exception Request</b>	
1.	<u>Single-family and duplex lots</u>	<u>\$345</u>

Table 20.180.060		
Section	Activity	Fee
	<u>2.</u> All others	\$360
<u>D.</u>	Reasonable Use Request	
	<u>1.</u> Single-family and duplex lots	\$1,965
	<u>2.</u> All others	\$4,376
<del>11.</del> <u>12.</u>	<b>Design Review (Downtown)</b>	
A.	Exterior reviews only	\$300
B.	All others	\$1,000
<del>12.</del> <u>13.</u>	<b>Development Agreement</b>	Cost Recovery <sup>1</sup>
<del>13.</del> <u>14.</u>	<b>Extension of Preliminary Approval</b>	\$350
<u>14.</u>	<b>Floodplain Permit</b>	
<u>A.</u>	Floodplain inquiry	\$105
<u>B.</u>	Floodplain permit—General	
	<u>1.</u> Base fee	\$275
	<u>2.</u> Plus per acre fee	\$8
<del>15.</del> <u>13.</u>	<b>Geologic Hazard Review</b>	
<u>A.</u>	Base Fee	\$270
<u>B.</u>	Plus fee per acre for each acre more than 5	\$46
<u>C.</u>	Surveys and other special studies	Cost Recovery <sup>1</sup>
<del>16.</del> <u>15.</u>	<b>Grading and Erosion Control Permit (includes plan check and inspection)</b>	
A.	50 e.y. cubic yards or less and less than 1 foot in depth	No fee
B.	51 to 100 c.y. or greater than 1 foot in depth	\$362
C.	101 to 1,000 c.y.	
	1. Base fee	\$680
	2. Plus fee per 100 c.y. (or fraction thereof)	\$15
D.	1,001 to 10,000 c.y.	
	1. Base fee	\$830
	2. Plus per 1,000 c.y. (or fraction thereof)	\$42-\$22
E.	10,0001 to 100,000 c.y.	
	1. Base fee for first 10,000 c.y.	\$1,250
	2. Plus per 10,000 c.y. (or fraction thereof)	\$22-\$42
F.	100,001 to 200,000 c.y.	
	1. Base fee for first 100,000 c.y.	\$1,470
	2. Plus per 10,000 c.y. (or fraction thereof)	\$65
G.	200,001 c.y. or more	

<b>Table 20.180.060</b>		
<b>Section</b>	<b>Activity</b>	<b>Fee</b>
1.	Base fee for first 200,000 c.y.	\$2,212 <del>0</del>
2.	Plus per 10,000 c.y. (or fraction thereof)	\$65
H.	Fees resulting from work in progress without a permit	2 x regular fee
<b><u>17. 16.</u></b>	<b>Home Occupation</b>	
A.	General	\$100
B.	Penalty – When application is received after code enforcement action has been initiated.	2 x regular fee
<b><u>17.</u></b>	<b><u>Human Service Facility Siting Request</u></b>	<u>\$350</u>
<b>18.</b>	<b>Joint Use Parking Agreement</b>	\$562
<b>19.</b>	<b>Land Use Permit</b> (Single family residential; sheds; decks; <u>driveways</u> , fences, etc.)	\$25
<b>20.</b>	<b>Lot Determination</b>	
A.	Base fee (1-2 lots)	\$1,095
B.	Plus per lot fee over 2	\$350
<b>21.</b>	<b>Master Plan<sup>2</sup></b>	\$3,888
A.	Conceptual (requiring subsequent site plan review)	\$3,888
B.	Detailed (not requiring subsequent site plan review)	\$3,888 plus ½ applicable site plan review fee
<b>22.</b>	<b>Planned Development</b>	
A.	Residential	
1.	Base fee	\$1,215
2.	Plus fee per unit	\$55
3.	Minimum: \$1,855; maximum: \$8,055. Subdivision fee reduced by ½ when filed simultaneously.	
B.	Non-Residential	
1.	Base fee	\$1,200
2.	Plus fee per sq. ft. – ground floor	\$0.30
3.	Plus fee per sq. ft. – upper floors	\$0.15
4.	Minimum: \$1,830; maximum: \$12,040	
C.	Mixed	
1.	Base fee	\$1,200
2.	Plus fee per sq. ft. – ground floor	\$0.30
3.	Plus fee per sq. ft. – upper floors	\$0.15
4.	Minimum: \$1,830; max: \$12,040. No rezone fee. Subdivision reduced by ½ when filed simultaneously.	
<b>23.</b>	<b>Planning Official Review</b>	
A.	Temporary Use	

<b>Table 20.180.060</b>		
<b>Section</b>	<b>Activity</b>	<b>Fee</b>
1.	Seasonal or special event	\$48
2.	Temporary sales office, model home, or unforeseen emergency	\$147
3.	Temporary Use in a Commercial or Industrial District	\$689
B.	Similar Use Determination or Other	\$689
<b>24.</b>	<b>Plat Alterations</b>	<b>\$3,230</b>
<b>25.</b>	<b>Post-Decision Review</b>	
A.	Post-decision review – Type I	\$170
B.	Post-decision review – Type II	\$480
C.	Post-decision review – Type III	\$750
<b>26.</b>	<b>Pre-Application Conference Process</b>	
<b>A.</b>	<b>Pre-application conference request – Single-family and duplex lots</b>	<b>\$150</b>
B.	Pre-application conference request – all others	\$500
<u>C.</u>	Pre-application waiver request	\$75
<b>27.</b>	<b>Reconstruct Letter (authorizes replacement of destroyed structure)</b>	<b>\$115</b>
<b>28.</b>	<b>Reporting (misc. application and permit information)</b>	Cost Recovery <sup>1</sup>
<b>29.</b>	<b>SEPA Checklist (Environmental Review)</b>	
A.	Single-family residential	\$122
B.	Short plat – fee per lot	\$75
<b>A.</b>	<b>Critical Areas Permit</b>	
<b>1.</b>	<b>Single-family and duplex lots</b>	<b>\$122</b>
<b>2.</b>	<b>All other</b>	
	<b>a. Base fee</b>	<b>\$543</b>
	<b>b. Plus fee per acre of land disturbed by the project</b>	<b>\$24</b>
<del>E.</del> <b>B.</b>	<b>Grading Permit</b>	
1.	Single-family residential and appurtenances and duplex lots	\$66
2.	All other	
	a. Base fee	\$490
	b. Plus fee per acre of land disturbed by the project	\$8
<del>E.</del> <b>C.</b>	<b>Subdivision or Planned Unit Development</b>	
	a. Base fee	\$400
	b. Plus fee per acre of land disturbed by the project	\$5
<b>F.</b>	<b>Conditional Use</b>	
	a. Base fee	\$1,100
	b. Plus fee per acre of land disturbed by the project	\$25

<b>Table 20.180.060</b>		
<b>Section</b>	<b>Activity</b>	<b>Fee</b>
<u>G. D.</u>	Site Plan Review – Residential	
	a. <u>Base fee</u> per unit up to 5 units	\$100
	b. Plus fee per unit more than 5	\$10
<u>H. E.</u>	Non-Projects (including <u>rezone and</u> annual review applications)	\$1,100
<u>I. F.</u>	All other reviews	
	a. Base fee	\$800
	b. Plus fee per acre of land disturbed by the project	\$26
<u>J. G.</u>	<u>SEPA Procedural Appeal (See “Appeals – All others” for substantive SEPA appeal fee)</u>	\$65
<del>30.</del> <u>H.</u>	<del>SEPA—</del> <u>Environmental Impact Statement (EIS) Review</u>	Cost Recovery <sup>1</sup>
<del>31.</del> <u>30.</u>	<b>Sewer Connection Waiver Request</b>	\$192
<del>32.</del> <u>31.</u>	<b>Shoreline Permits</b>	
	A. Shoreline <u>Substantial Development</u> Permit	\$3,500
	B. Shoreline Conditional Use Permit	\$3,850
	C. Shoreline Variance Request	\$3,850
<del>33.</del> <u>32.</u>	<b>Short Subdivisions</b>	
	<u>A.</u> Preliminary (9 lots or fewer) Plats	\$3,400
<del>34.</del> <u>B.</u>	<del>Short Subdivisions—</del> Final Plat Check	\$1,155
<del>35.</del> <u>33.</u>	<b>Signs – all except sandwich board signs</b>	<u>\$330</u>
	<u>A.</u> All signs	\$330
<del>36.</del> <u>34.</u>	<b>Site Plan Review (Type I)</b>	
	A. Residential	\$147
	B. Non Residential	\$689
<del>37.</del> <u>35.</u>	<b>Site Plan Review (Type II) - Residential</b>	
	A. Base fee	\$865
	B. Plus fee per unit	\$60
	C. Maximum fee	\$12,193
<del>38.</del> <u>36.</u>	<b>Site Plan Review (Type II) - Non Residential</b>	
	A. General Case	
	1. Base fee	\$2,350
	2. Plus fee per sq. ft. – ground floor	\$0.10
	3. Plus fee per sq. ft. – upper floors	\$0.05
	B. Commercial pad within a previously approved site plan that was not originally reviewed for the proposed specific use or structure	\$1,605
	C. Land-extensive uses such as a golf course	\$1,935

<b>Table 20.180.060</b>		
<b>Section</b>	<b>Activity</b>	<b>Fee</b>
D.	Unoccupied commercial and utility structures	\$890
<del>39.</del> <b>37.</b>	<b>Special Valuation – Historic Preservation</b>	\$253
<del>40.</del> <b>38.</b>	<b>Subdivisions - Preliminary</b>	
A.	2-9 Lots (not qualifying as a short subdivision)	\$3,596
B.	10-22 Lots	\$5,200
C.	23 + Lots	
1.	Base fee (for <u>first</u> 23 lots)	\$5,200
2.	Plus fee per lot (each lot more than 23)	\$130
D.	In conjunction with a planned development	1/2 regular fee
<del>41.</del> <b>39.</b>	<b>Subdivisions – Final Plat Check</b>	\$2,750
<del>42.</del> <b>40.</b>	<b>Tenant Improvement (if exempt from site plan review)</b>	\$48
<del>43.</del> <b>41.</b>	<b>Tree Plan Review</b>	
A.	Levels 1, 2, 4, 5	\$165
B.	Levels 3, 6, 7	\$55
<del>44.</del> <b>42.</b>	<b>Variance (full fee for 1<sup>st</sup> variance; 1/2 cost for 2nd; \$0 for 3rd or more)</b>	
A.	<del>Minor A and B</del> <u>Type I and Type II</u>	
1.	Single-family and duplex <u>lots</u>	\$345
2.	All other	\$360
B.	<del>Major</del> <u>Type III</u>	
1.	Single-family and duplex <u>lots</u>	\$1,965
2.	All other	\$4,376
<del>45.</del> <b>41.</b>	<b>Wetland Permits<sup>3</sup></b>	
<del>A.</del>	<del>Pre-determination</del>	<del>\$355</del>
<del>B.</del>	<del>Preliminary wetland permit</del>	<del>\$830</del>
<del>C.</del>	<del>Final wetland permit</del>	<del>\$635</del>
<del>D.</del>	<del>Wetland protection ordinance variance</del>	<del>\$1,110</del>
<del>46.</del> <b>43.</b>	<b>Zoning Certificates</b>	\$375
<del>47.</del> <b>44.</b>	<b>Zoning <u>Map or Text</u> Change (not involving comprehensive plan amendment)</b>	\$4,508

<sup>1</sup> Cost Recovery. Applicants or persons requesting reports will be required to sign an agreement that they will pay the actual cost of the work being performed. Actual costs will be calculated based on the salary and benefits of the employees performing work plus overhead at a rate of 30%.

<sup>2</sup> Projects with approved master plans, which include preliminary stormwater and transportation plans, shall be entitled to a 30% reduction in the fee for stormwater and transportation plan review.

<sup>3</sup> The Planning Official may waive a part or all of the wetland permit fees for wetland and buffer enhancements, provided (1) the project is not intended to mitigate for wetland buffer impacts; and (2) the project is not the result of an enforcement action.

**Section 11. VMC 20.210.020, Types of Development Applications Amended.**

VMC 20.210.020, Types of Development Applications is hereby amended to read as follows:

**20.210.020 Types of Development Applications**

- A. General. All development applications shall be decided by using one of the following procedure types. The procedure type assigned to each action governs the decision-making procedure for that application, except to the extent otherwise required by applicable state or federal law.
- B. Types defined. There are four types of decision-making procedures, as follows:
1. Type I procedure. Type I procedures apply to ministerial permits. Type I applications are decided by the Planning Official without public notice prior to the decision and without a public hearing. If any party with standing appeals a Planning Official's Type I decision, the appeal of such decision will be heard by the Hearings Examiner, with further appeal to the Superior Court pursuant to applicable law.
  2. Type II procedure. Type II procedures apply to quasi-judicial permits and actions that contain some discretionary criteria. Type II applications are decided by the Planning Official with public notice and an opportunity for comment. If any party with standing appeals a Planning Official's Type II decision, the appeal of such decision will be heard by the Hearings Examiner, with further appeal to the Superior Court pursuant to Section 20.210.130 VMC.
  3. Type III procedure. Type III procedures apply to quasi-judicial permits and actions that predominantly contain discretionary approval criteria. Type III applications are decided by the Hearings Examiner or Planning Commission, depending on the permit. If any party with standing appeals a Hearings Examiner's or Planning Commission's Type III decision, the appeal of such decision will be heard by City Council pursuant to Section 20.210.130 VMC, with further appeal to Superior Court.
  4. Type IV procedure. Type IV procedures apply to legislative matters, planned unit developments and rezones. Legislative matters involve the creation, revision or large-scale implementation of public policy. Type IV applications are considered initially by the Planning Commission or Hearings Examiner with final decisions made by the City Council, automatically or on appeal.
- C. Summary of permits by type of decision-making procedure. Table 20.210-1 VMC summarizes the various development applications by the type of decision-making procedure.

**Table 20.210-1  
Summary of Development Applications  
By Type of Decision-Making Procedure**

<b>Type</b>	<b>Development Application</b>	<b>Cross Reference</b>	<b>Review Body</b>
<b>I</b>	Accessory Dwelling Units	20.810	Planning Official

Type	Development Application	Cross Reference	Review Body
	Boundary Adjustments	20.310	Planning Official
	<u>Critical Areas Permit (Type I)</u>	<u>20.740.040B</u>	<u>Planning Official</u>
	Conditional Use—Minor Modification	20.245	Planning Official
	Design Review (without Site Plan Review)	20.255	Planning Official
	<u>Geologic Hazard Development</u>	<u>20.750</u>	<u>Planning Official</u>
	Interpretations – Quasi-Judicial	20.255	Planning Official
	Parking/Loading – Reduction of Minimum Ratios, Joint Parking	20.945	Planning Official
	Planned Developments – 1 Year Extension	20.260	Planning Official
	Site Plan Review – Minor Projects Below Type II Site Plan Review Thresholds	20.270	Planning Official
	Site Plan Review – Extension/Phasing	20.270	Planning Official
	Shoreline Permit Exemption	20.760	Planning Official
	Subdivision/Short Subdivision – Phasing, 1 <sup>st</sup> Extension	20.320	Planning Official
	Temporary Use	20.885	Planning Official
	Tree Plan/Removal – without Site Plan Review	20.770	Planning Official
	Type I Variance	20.290	Planning Official
<b>II</b>	Adult Entertainment Uses	20.820	Planning Official
	Binding Site Plans	20.330	Planning Official
	<u>Critical Areas Permit (Type II)</u>	<u>20.740</u>	<u>Planning Official</u>
	<u>Critical Areas Permit – Minor Exception</u>	<u>20.740.070</u>	<u>Planning Official</u>
	<u>Flood Plain Development</u>	<u>20.730</u>	<u>Planning Official</u>
	Human Services Facilities – Colocation	20.870	Planning Official
	Planned Developments – Detailed Plan, 2-Year Extension	20.260	Planning Official
	Public Facility Master Plans – Concept Plan Subsequent Phases & extensions	20.268	Planning Official
	Shoreline Substantial Development Permit – Minor	20.760	Planning Official
	Short Subdivision – Preliminary Plat	20.320	Planning Official
	Site Plan Review	20.270	Planning Official
	Subdivision – 2 <sup>nd</sup> Extension	20.320	Planning Official
	Type II Variance	20.290	Planning Official
	Wetland Permit	20.775	Planning Official
<b>III</b>	Conditional Uses – Initial, Major Modifications	20.245	Hearings Examiner
	<u>Critical Areas Permit – Reasonable Use Exception</u>	<u>20.740.080</u>	<u>Hearings Examiner</u>
	Human Service Facilities – Initial, Spacing Modification	20.870	Hearings Examiner
	Public Facility Master Plans – Initial Approval	20.268	Hearings Examiner
	Shoreline Conditional Use Permit (recommendation to State Department of Ecology)	20.760	Hearings Examiner
	Shoreline Substantial Development Permit - Major	20.760	Hearings Examiner
	Shoreline Variance (recommendation to State Department of Ecology)	20.760	Hearings Examiner
	Subdivisions – Preliminary Plat	20.320	Hearings Examiner
	Type III Variance	20.290	Hearings Examiner

<b>Type</b>	<b>Development Application</b>	<b>Cross Reference</b>	<b>Review Body</b>
	Zoning Map Amendments 25 acres or less – Quasi-Judicial	20.285	Hearings Examiner/ City Council
<b>IV</b>	Annexations	20.230	Planning Commission/ City Council
	Development Agreements	20.250	Planning Commission/ City Council
	<b>Habitats of Local Importance</b>	<b>20.740</b>	<b>Planning Commission/ City Council</b>
	Interpretations – Codification	20.255	Planning Commission/ City Council
	Planned Developments	20.260	Planning Commission/ City Council
	Text/Map Amendments – Legislative	20.285	Planning Commission/ City Council
	Zoning/Map Amendments greater than 25 acres – Legislative	20.285	City Council

D. Concurrent review. When the City must approve more than one application for a given development, all applications required for the development pursuant to this Chapter may be submitted for review at one time. When more than one application is submitted for a given development, and those applications are subject to different types of procedure, then all of the applications are subject to the highest type of procedure that applies to any of the applications; provided, however that each development application shall only be subject to the relevant criteria applicable to that particular development application. For example, a development proposal that includes a Type II application and a Type III application shall be wholly subject to the procedures applicable to a Type III application, but the Type II portion of the development proposal shall be decided according to the relevant approval criteria applicable to the Type II application.

E. Assignment of procedure type. Applications shall be processed according to the assigned review type in the above table. If the Vancouver Municipal Code does not expressly provide for review using one of the four types of decision-making procedure, and another specific procedure is not required by law, the Planning Official shall classify the application in question as one of the four types of decision-making procedure using the following criteria:

1. The act of classifying an application shall be a Type I decision;
2. Questions about what procedure is appropriate shall be resolved in favor of the decision-making procedure providing the greatest opportunity for public notice; and
3. The Planning Official shall classify the application by determining whether the application is similar in nature and degree to another type of application that has been classified by type as listed in Table 20.210–1 VMC and under the same approval criteria applicable to the type of application most similar in nature and degree to the application.

**Section 12. VMC 20.210.030, Exempt Activities Amended.** VMC 20.210.030,

Exempt Activities is hereby amended to read as follows:

**20.210.030 Exempt Activities**

A. Exemptions. **Unless specified elsewhere in this Title, t**he following development activities are exempt from the procedural requirements of this Chapter:

1. Landscaping or landscape alterations, unless such landscaping or alterations would require a permit or approval pursuant to this Title, or modify or violate an approved plan, plat or a condition of approval of a prior permit. In such instance of modification, the permit shall be processed as a modification of the prior permit under Section 20.210.140 VMC, a plat alteration or other applicable procedure.
2. Normal or emergency repair or maintenance of public or private buildings, structures, landscaping or utilities.
3. A change of any legally established use except if the change of use requires an increase in the number of parking spaces provided, requires a conditional use permit under Chapter 20.245, requires Type I or Type II site plan approval under Chapter 20.270 VMC Site Plan Review, or is otherwise classified in this Title as a Type I, II, III or IV action.
4. Building permits required pursuant to the City Adopted Building Code for construction not requiring a development application under Title 20.
5. On-site utility permits not obtained in conjunction with a specific development application, including but not limited to sewer hook-ups, water hook-ups, right-of-way permits, grading permits and fire department permits.
6. Home occupation permits.
7. Sign permits.
8. Approval of escrow agreements/accounts.
9. All developments and buildings that are engaged in agriculture as defined in Chapter 20.160 VMC Use Classifications.
10. Interior remodeling and tenant improvements unless site plan review is triggered under Section 20.270.020(C) or (D).
11. Independent archaeological predeterminations or surveys not associated with a development application.

- B. Other regulations apply. Exemptions in (A) above are subject to all other applicable standards and requirements of the Vancouver Municipal Code.

**Section 13. VMC 20.210.040, Type I Applications Amended.** VMC 20.210.040, Type I Applications is hereby amended to read as follows:

**20.210.040 Type I Applications**

- A. Pre-application conference. A pre-application conference is ~~not~~ required for any Type I application, involving land which contains a Critical Area or Buffer, as defined by 20.740 VMC, unless waived pursuant to Section 20.210.080(B) VMC prior to submittal of an application. A pre-application conference is not required for any other Type I application.
- B. Application requirements
1. Application forms. Type I applications shall be made on forms provided by the Planning Official.
  2. Submittal information. Type I applications shall:
    - a. Include the information set forth in the Chapter of this Title governing the permit requested; and
    - b. Address the relevant criteria applicable to the permit requested in sufficient detail for review and action; and
    - c. Be accompanied by the required fees.
- C. Counter-complete determination. At the time of application submittal, the City shall make a determination of counter-complete status pursuant to Section 20.210.090 VMC.
- D. Fully complete determination. No later than 21 calendar days after receipt of a counter-complete Type I application, the Planning Official shall notify the applicant as to the completeness of the application. The City shall make a determination of fully complete status pursuant to Section 20.210.100 VMC. An application shall not be deemed fully complete until all information required by the Code applicable to the permit sought is submitted.
- E. Review by Planning Official. Unless accompanied with a SEPA checklist review the Planning Official shall approve, approve with conditions, or deny a Type I application within 28 calendar days after the date the application was accepted as fully complete; provided, that an applicant may agree in writing to extend the time in which the Planning Official shall issue a decision. Time spent by the applicant to revise plans or provide additional studies or materials requested by the City shall not be included in the 28-day period. The Planning Official may consider new evidence the applicant introduces with or after such a written request for extension. The Planning Official's decision shall address all of the relevant approval criteria applicable to the development application.

F. Final Decision. The Final Decision on a Type I application shall be mailed to the applicant, the property owner and the applicant's representative by regular mail. The Final Decision on a Type I application shall contain the following information:

1. A statement of the applicable criteria and standards pursuant to the Vancouver Municipal Code and other applicable law;
2. A statement of the facts demonstrating how the application does or does not comply with applicable approval criteria;
3. The reasons for a conclusion to approve, approve with conditions or deny the application;
4. The decision to approve or deny the application and, if approved, conditions of approval necessary to ensure the proposed development will comply with applicable law; and
5. The date the Final Decision is signed and the date the appeal period expires.

G. Appeal of Final Decision. A Type I decision becomes effective on the day after the appeal period expires unless an appeal is filed, in which case the procedures of Section 20.210.130 VMC shall apply. The applicant and owner have the right to waive their appeal rights, and in such cases where a waiver is submitted in writing to the Planning Official, the Type I decision is considered final on the day it is signed by the Planning Official or on the day the waiver is approved, whichever is later.

**Section 14. VMC 20.210.080, Pre-application Conference Amended.** VMC 20.210.080, Type I Applications is hereby amended to read as follows:

**20.210.080 Pre-application Conference**

A. Purpose

1. To acquaint City and other agency staff with a sufficient level of detail about the proposed development to enable staff to advise the applicant of applicable approvals and requirements; and
2. To acquaint the applicant with the applicable requirements of the Vancouver Municipal Code and other laws and to identify issues and concerns in advance of a formal application to save the applicant time and expense through the process. However, the conference is not intended to provide an exhaustive review of all the potential issues. The pre-application conference does not prevent the City from applying all relevant laws to the application.
3. To inform applicable City recognized neighborhood associations of potential development activity within their neighborhoods.

B. Pre-application waivers

1. A pre-application conference is required for all Type II, Type III and applicant-initiated Type IV applications, and certain Type I applications, unless waived by the Planning Official. Generally, the Planning Official may waive the pre-application conference only if he determines that the proposal is relatively simple (e.g., has few, if any, development-related issues), or it involves subsequent phases of an approved development where requirements are known, or an application is substantially similar to a prior proposal affecting substantially the same property, as determined by the Planning Official. Planning Official shall notify affected Neighborhood Associations of proposed development application and copy of pre-application waiver letter. Pre-application conferences shall not be waived for infill developments, pursuant to Chapter 20.920 VMC.
2. To request a waiver of a pre-application conference, the applicant shall submit:
  - a. A completed pre-app waiver request form provided by the Planning Official;
  - b. A written narrative justifying the request for pre-application waiver; and
  - c. Required fee.

C. Information required for contingent vesting. To qualify for contingent vesting under Section 20.210.110 VMC, the applicant shall submit at a minimum the pre-application items listed in Sections 20.210.080(D)(1)-(6) VMC; provided, that an applicant shall not contingently vest unless the applicant submits all of the information required for the actual application within the timeframe set forth in Section 20.210.110 VMC. The Planning Official may modify requirements for pre-application materials and may conduct a pre-application conference with less than all of the required information. However, failure to provide all of the required information may prevent the Planning Official from identifying all applicable issues or providing the most effective pre-application conference and may preclude contingent vesting under Section 20.210.110 VMC. Review for completeness of the pre-application submittal will not be conducted by staff at the time of submittal and completeness is the responsibility of the applicant.

D. Application for a pre-application conference. To request a pre-application conference, an applicant shall submit the required fee, and 12 sets of the following information. The Planning Official may waive submittal requirements upon request if found to be inapplicable to the proposed development:

1. Completed and signed Pre-application Conference Request form provided by the Planning Official.
2. Folded and collated plans of the proposed development drawn to-scale, no larger than 24" x 36" and clearly marked with the following: project name; vicinity map; scale; north arrow; date; applicant's name, phone and fax numbers; contact person's name, phone and fax numbers.
3. A GIS packet obtained from Clark County's Department of Assessment and GIS department for all properties covered by the application.

4. A narrative description of the following:
  - a. Uses proposed for the site.
  - b. Hours of operation.
  - c. Estimated vehicular traffic to and from the site.
  
5. Preliminary architectural information. A brief narrative description of the following:
  - a. Gross square footage of each structure and outdoor activity center proposed to be built or retained on site.
  - b. Proposed and potential uses and occupancy group of each structure proposed to be built or retained on site.
  - c. Number of floors, building height and construction type of each structure and outdoor activity area proposed to be built on site.
  - d. Conceptual plans showing at least the gross square footage of each structure proposed to be built or retained on site.
  - e. Conceptual elevation drawing of each structure proposed to be built or retained on site.
  - f. Show the dimensions and area of the project site.
  
6. Existing and Proposed on-site Structures and Improvements:
  - a. Identify use(s) of all existing and proposed structures.
  - b. Location, dimensions and height of all existing and proposed buildings and structures.
  - c. Location and dimensions of existing and proposed recreation areas and open space.
  - d. Location of existing and proposed driveways, off-street parking and loading areas, bicycle parking, and pedestrian and bicycle pathways.
  - e. Location, dimensions and screening of proposed solid waste/recyclables storage areas.
  - f. Existing or conceptual plan showing lighting and landscaping. Landscape plan should include location of driveways and buffering off-street parking and loading areas.
  - g. Location and dimensions of existing and proposed streets, rights-of-way and public and private access easements on and adjoining the site.
  - h. Location and dimensions of all existing and proposed above ground and below ground utilities.

7. Preliminary engineering information. Provide a conceptual drawing or sketch showing the following:
  - a. Approximate location of existing fire hydrants within a one-hundred foot (100') radius of the site.
  - b. Proposed method of providing storm-water drainage on the site.
  - c. Strategy narrative for proposed erosion control measures.
  - d. Proposed grading activity for the site, indicating areas of proposed cuts and fills.
- E. Notice. Within 14 calendar days after receipt of an application for a pre-application conference, the Planning Official shall mail written notice to the applicant and to other interested agencies and parties, including the neighborhood association in whose area the property in question is situated. The notice shall state the date, time, location and purpose of the pre-application conference.
- F. Planning Official's role. The Planning Official shall coordinate the involvement of agency staff responsible for planning, development review, roads, drainage, parks and other subjects, as appropriate, in the pre-application conference process. Relevant staff shall attend the pre-application conference or shall take other steps to fulfill the purposes of the pre-application conference.
- G. Scheduling. The pre-application conference shall be conducted at least five calendar days after the notice is mailed but not more than 28 calendar days after the Planning Official accepts the application for pre-application conference. The Planning Official shall reschedule the conference and give new notice if the applicant or applicant's representative cannot or does not attend the conference when scheduled.
- H. Pre-application conference summary. The Planning Official shall provide to the applicant, other attending parties, and those who request a copy of the pre-application summary report in writing. The written summary generally shall do the following to the extent possible given the information provided by the applicant:
  1. Summarize the proposed application(s);
  2. Identify the relevant approval criteria and development standards in the Vancouver Municipal Code or other applicable law and exceptions, adjustments or other variations from applicable criteria or standards that may be necessary;
  3. Evaluate submitted information the applicant offered to comply with the relevant criteria and standards, and identify specific additional information that is needed to respond to the relevant criteria and standards or is recommended to respond to other issues;
  4. Identify applicable application fees in effect at the time, with a disclaimer that fees may change;

5. Identify information relevant to the application that may be in the possession of the City or other agencies of which the City is aware, such as:
  - a. Comprehensive plan map designation and zoning on and in the vicinity of the property subject to the application;
  - b. Physical development limitations, such as steep or unable slopes, wetlands, well-head protection areas or water bodies, that may exist on and in the vicinity of the property subject to the application;
  - c. Those public facilities that will serve the property subject to the application, including fire services, roads, storm drainage, and, if residential, parks and schools, and relevant service considerations, such as minimum access and fire-flow requirements or other minimum service levels and impact fees; and
  - d. Confirm the application submittal requirements and what submittal information is waived.
  - e. Where applicable, indicate whether the pre-application submittal was complete so as to trigger contingent vesting under Section 20.210.110 VMC.
  
- I. Request for second conference. An applicant may submit a written request for a second pre-application conference within one calendar year after an initial pre-application conference. There is no additional fee for a second conference if the proposed development is substantially similar to the one reviewed in the first pre-application conference or if it reflects changes based on information received at the first pre-application conference. A request for a second pre-application conference shall be subject to the same procedure as the request for the initial pre-application conference.
  
- J. Expiration. The pre-application comments from the City shall expire one year from the date the pre-application conference is held. A counter-complete application that the Planning Official finds is substantially similar to the subject of a pre-application conference must be submitted within one calendar year after the last pre-application conference or after approval of waiver of pre-application conference. Once the pre-application comments have expired the applicant must file a new request for a pre-application conference or receive approval of a pre-application waiver request in order to submit a development application.

**Section 15. VMC 20.790.850, Critical Areas Amended.** VMC 20.790.850, Critical

Areas is hereby amended to read as follows:

**20.790.850 Critical Areas**

A. Designation of critical areas. The City designates the following as critical areas, in which the exemptions as specified in Section 20.790.800 VMC shall not apply:

- ~~1. Wetlands subject to the provisions of Section 20.775 VMC.~~

~~2. Floodplains subject to the provisions of Section 20.730 VMC.~~

~~3. Areas of geologic hazards subject to the provisions of Section 20.750 VMC.~~

~~4. Fish and wildlife habitat areas subject to the provisions of Section 20.725 VMC.~~

5.1. Wellhead protection areas, to include property within one thousand feet of a parcel on which at least one publicly-owned wellhead used for municipal water supply is located as shown on the wellhead protection areas maps incorporated by reference and on file in the office of the City Clerk.

B. Those categorical exemptions contained in 197-11-800(1), (2)(a), (2)(c) through (h), (3), (5)(b), (5)(c), (6)(a), (14)(c), (24)(a) through (g) and (25)(d), (f), (h), (i) WAC shall be inapplicable within wellhead protection areas as defined in Subsection (A)(5).

C. Limitations. The scope of environmental review of actions within the critical areas listed in this Section shall be limited to:

1. Documenting whether the proposal is consistent with the requirements of the applicable critical areas ordinance; and
2. Evaluating potentially significant impacts on the critical area resources not adequately addressed by the City's comprehensive growth management plan and implementing ordinances, including any additional mitigation measures needed to protect the critical areas to achieve consistency with SEPA and other applicable environmental review laws.

D. Threshold determinations. The City shall treat proposals located wholly or partially within a critical area no differently than other proposals under this Chapter, making a threshold determination for all such proposals. The City shall not automatically require an EIS for a proposal merely because it is proposed for location in a critical area.

**Section 16. VMC 22.02.010, Responsibility for Code Violations.** That portion of section 32 of Ordinance M-3638, codified as VMC 22.02.010, is hereby amended to read as follows:

**VMC 22.02.010 Responsibility for code violations.**

~~Unless otherwise defined in the code~~ In addition to the individual(s) who violate the code, there is a rebuttable presumption that the owner of a vehicle, building, structure, premises, personal property or land upon or within which a violation has occurred or is occurring is also responsible for the violation.

**Section 17. VMC 22.02.020, Enforcement Provisions.** That portion of section 32 of Ordinance M-3638, as codified in VMC 22.02.020, as last amended by section 29 of Ordinance M-3663 is hereby amended to read as follows:

**VMC 22.02.020 Enforcement provisions.**

It shall be unlawful to violate the code. Whenever the city official determines that a violation has occurred or is occurring, the city official, in response to the seriousness and severity of the violation, may utilize one or a combination of the enforcement mechanisms in this section. The following enforcement mechanisms may be used instead of, or in addition to, the summary abatement procedures provided in VMC 22.02.050 and any other remedies available under law:

a. Correction notice. The city official may issue a correction notice to the person responsible for a violation. The correction notice shall conform to the requirements in VMC 22.02.030. The correction notice shall not impose civil or criminal penalties, and the correction notice is not subject to appeal.

b. Notice of civil violation and order. The city official may issue a notice of civil violation and order to the person responsible for a violation. The notice of civil violation and order may require corrective action or actions and impose monetary penalties according to VMC 22.02.040(c).

1. Required corrective action may include an order to vacate a building, structure or premises when vacation is necessary in the interest of health, safety and welfare.

2. The city may abate a violation in accordance with applicable law, if required corrective action is not commenced or stopped within the time specified in the notice of civil violation and order.

3. Non-compliance with the corrective action noted in the notice of civil violation and order constitutes a second or subsequent violation and may result in the issuance of an additional notice of civil violation and order.

4. The notice of civil violation and order shall conform to the requirements in VMC 22.02.040.

c. Order to revoke permit. The city official may issue an order to revoke a permit. An order to revoke a permit may be appropriate if the permittee is not complying with the terms of the permit or approved plans; or if the permit is issued in error; or if a permit is issued based upon incorrect information; or if the work is, in the city official's judgment, adversely effecting or about to adversely effect adjacent property or rights-of-way, a drainageway, watercourse, critical area or stormwater facility, city water system; or if the issuance of the permit is a hazard to the public health, safety, or welfare; or if a permit is contrary to law. An order to revoke a permit shall conform to the requirements in VMC 22.02.040.

d. Criminal prosecution. The city official may refer a violation to the city prosecutor for criminal prosecution.

1. As specified in this subsection, a violation of the code may be classified as a misdemeanor or gross misdemeanor:

<b>VMC CHAPTER</b>	<b>CRIMINAL CLASSIFICATION</b>
VMC chapter 5.62, Commercial recycling	Gross misdemeanor
VMC chapter 6.12, Garbage disposal	Gross misdemeanor
VMC chapter 8.20, Nuisances	Misdemeanor
VMC chapter 11.12, Sidewalk construction	Misdemeanor
VMC chapter 11.20, Driveways	Misdemeanor
VMC chapter 11.28, Excavations	Misdemeanor
VMC chapter 11.36, Protection of pavement	Misdemeanor
VMC chapter 11.40, Snow and ice removal	Misdemeanor
VMC chapter 11.44, Sidewalk openings	Misdemeanor
VMC chapter 11.48, Street oiling permit	Misdemeanor

VMC chapter 11.52, Curb, sidewalk and driveway construction	Misdemeanor
VMC chapter 11.80, Street standards – general	Misdemeanor
VMC chapter 11.90, Street standards – development regulations	Misdemeanor
VMC chapter 14.24, Erosion control	Misdemeanor
VMC chapter 14.25, Stormwater control	Misdemeanor
VMC chapter 16.04, Firecode	Misdemeanor
VMC chapter 16.20, Fireworks	Misdemeanor
All chapters in title 17 of the VMC, but not including VMC Chapters 17.32 and 17.39	Misdemeanor
VMC title 20, except that title 22 shall not apply to VMC chapter 20.770, Tree conservation; <del>VMC chapter 20.775, Wetlands and water bodies protection.</del>	Misdemeanor
<del>Violation of a stop work order issued pursuant to VMC Title 22</del>	<del>Misdemeanor</del>

2. It shall be a separate offense for each and every day or portion thereof during which any violation is committed.

3. The city official may refer a violation to the city attorney’s office for criminal prosecution without first attempting to achieve compliance through a notice of civil violation and order or order to revoke permit, so long as the city official issues at least one correction notice, under the following circumstances:

- A. When a repeat violation occurs; or
- B. When the person acted with malicious intent, reckless indifference to the law or knew or reasonably should have known that the condition, act, failure to act or omission that prompted enforcement is in violation of the code; or
- C. When in the opinion of the city official and city attorney a notice of civil violation and order or order to revoke permit will not be effective or timely.

**Section 18. VMC 22.02.040, Notice of Civil Vioation and Order – Order to Revoke Permit.** That portion of section 32 of Ordinance M-3638, codified as VMC 22.02.040, as last amended by Section 30 of Ordinance M-3663, is hereby amended to read as follows:

**VMC 22.02.040 Notice of civil violation and order – Order to revoke permit.**

a. Content. A notice of civil violation and order or order to revoke permit under this section shall be in writing, and shall include the following information:

1. The first date of the violation. If the notice of civil violation and order or order to revoke permit concerns a continuing violation that has not resulted in compliance with a first notice of civil violation and order or order to revoke permit, the date of the second or subsequent violation shall correspond to the issuance date of the second or subsequent order; and

2. The name and address of the person responsible for the violation. If the person cannot be found or ascertained after consulting the county assessor’s records, the notice of civil violation and order or order to revoke permit may be conspicuously affixed or posted on the building, structure, premises, personal property or land upon or within which the violation has occurred or is occurring; and

3. The street address or description sufficient for identification of the building, structure, premises, personal property or land upon or within which the violation has occurred or is occurring; and
4. A description of the violation and a reference to the violated substantive code section or sections; and
5. The required actions to be taken to obtain compliance with the code and a date by which the actions must be completed; and
6. A statement whether the violation is a first or repeat violation, and if a repeat violation, whether it is a second or subsequent violation; and
7. The initial monetary penalty according to the monetary penalty schedule in VMC 22.02.040(c)(3); and
8. A statement that the person responsible for a violation shall automatically incur a daily monetary penalty, pursuant to whether the violation is a first, second or subsequent violation and according to the monetary penalty schedule in VMC 22.02.040(c)(3), if the person responsible for a violation fails to comply with the corrective action or actions in a notice of civil violation and order or order to revoke permit by the corrective date specified in the order; and
9. A statement that non-compliance with the corrective action noted in the notice of civil violation and order or order to revoke permit constitutes a second or subsequent violation and may result in the issuance of an additional notice of civil violation and order or order to revoke permit; and
10. A statement advising that the city may abate the violation in accordance with applicable law, if required corrective action is not commenced or stopped within the time specified in the notice of civil violation and order or order to revoke permit; and
11. If abatement by the city is necessary, a statement that the city may use all legal means to recover necessary and reasonable costs of abatement from the responsible person; and
12. A notice that the notice of civil violation and order or order to revoke permit may be appealed only as provided in VMC 22.03.020. The notice shall summarize the requirements of VMC 22.03.020 and state that failure to appeal constitutes a waiver of all right to an administrative hearing and determination of the matter and that the non-prevailing party may be responsible for the hearings examiner's costs; and
13. A statement that payment of any monetary penalties associated with the violation does not relieve the person to whom the notice of civil violation and order or order to revoke a permit is directed of the duty to correct the violation; and
14. A statement that monetary penalties under VMC 22.02.040(c)(2) shall accrue during the appeal period unless the appellant prevails on appeal; and that accrued monetary penalties shall not exceed three (3) times the amount of the daily monetary penalty set by VMC 22.02.040(c)(3) for any single violation from the first date of the violation through the date the hearings examiner renders a final decision.
  - b. Service of notice of civil violation and order or order to revoke permit.
    1. Service. The city official shall cause the notice of civil violation and order or order to revoke permit to be served upon the person to whom it is directed, either personally or by mailing a copy of it to the person's last known address. The city official may also cause the notice of civil violation and order or order to revoke permit to be conspicuously affixed or posted on the building, structure, premises, personal property or land upon or within which the violation has occurred or is occurring.
    2. Persons to be served. If known or disclosed from the county assessor's office, one copy of the notice of civil violation and order or order to revoke permit shall be served on the holder of any mortgage or deed of trust or other lien or encumbrance of record or any lease of record or the

holder of any other estate or legal interest of record in any building, structure, land, personal property or premises on which a violation has occurred or is occurring.

3. Failure to effect service. The failure of the city official to effect service on any person required to be served according to VMC 22.02.040(b)(2) shall not invalidate any proceeding under this title as to any other person duly served or relieve any such person from any duty or obligation imposed by this title.

4. Service requirements for nuisance vehicles. A notice of civil violation and order concerning a nuisance vehicle must be served upon:

A. The nuisance vehicle’s last registered and legal owner of record, unless the nuisance vehicle is in such a condition that identification numbers are not available to determine ownership; and

B. The property owner of record upon which the nuisance vehicle is located.

5. Service by posting. If the person to whom the notice of civil violation and order or order to revoke permit is directed cannot be personally served within Clark County and if an address for mailed service cannot be ascertained by reference to public records, the notice of civil violation and order or order to revoke permit may be conspicuously affixed or posted on the vehicle, building, structure, premises, personal property or land upon or within which the violation has occurred or is occurring.

6. Proof of service. Proof of service shall be made by a written declaration under penalty of perjury executed by the person effecting service, declaring the time and date of service, the manner by which service was made, and, if by posting, the facts showing the efforts used in attempting to serve the person personally or by mail.

c. Monetary penalties.

1. The person responsible for a violation shall incur an initial monetary penalty, pursuant to whether the violation is a first, second or subsequent violation and according to the monetary penalty schedule in VMC 22.02.040(c)(3).

2. In addition to the monetary penalty in VMC 22.02.040(c)(1), the person responsible for a violation shall automatically incur a daily monetary penalty, pursuant to whether the violation is a first, second or subsequent violation and according to the monetary penalty schedule in VMC 22.02.040(c)(3), if the person responsible for a violation fails to comply with the corrective action or actions in a notice of civil violation and order or order to revoke permit by the corrective date specified in the order. The daily penalty shall begin to accrue after the corrective date specified in the notice of civil violation and order or order to revoke permit.

3. The monetary penalties for first, second and subsequent violations of the code enforced through this title, within any two (2) year period, shall be as follows:

<b>VMC TITLE</b>	<b>FIRST VIOLATION</b>	<b>SECOND VIOLATION</b>	<b>SUBSEQUENT VIOLATIONS</b>
VMC chapter 5.62, Commercial Recycling	\$250	\$500	\$1000
VMC chapter 6.12, Garbage disposal	\$250	\$500	\$1000
VMC chapter 8.20, Nuisances	\$250	\$500	\$500
VMC chapter 11.12, Sidewalk construction	\$100	\$200	\$200
VMC chapter 11.20, Driveways	\$100	\$200	\$200
VMC chapter 11.28, Excavations	\$100	\$200	\$200
VMC chapter 11.36, Protection of pavement	\$100	\$200	\$200
VMC chapter 11.40, Snow and ice removal	\$100	\$200	\$200
VMC chapter 11.44, Sidewalk openings	\$100	\$200	\$200
VMC chapter 11.48, Street oiling permit	\$100	\$200	\$200

VMC chapter 11.52, Curb, sidewalk, and driveway construction	\$100	\$200	\$200
VMC chapter 11.80, Street standards – general	\$100	\$200	\$200
VMC chapter 11.90, Street standards – development regulations	\$100	\$200	\$200
VMC chapter 14.24, Erosion control	\$250	\$500	\$1000
VMC chapter 14.25, Stormwater control	\$250	\$500	\$1000
VMC Chapter 16.04, Firecode, excluding false alarms under VMC 16.04.140	\$500	\$500	\$1000
VMC chapter 16.20, Fireworks	\$500	\$1,000	\$1,000
International Fire Code Section 503.4	\$100	\$100	\$100
All chapters in title 17 of the VMC, but not including VMC Chapters 17.32 and 17.39	\$250	\$500	\$1000
Violation of a stop work order	\$250	\$500	\$1000
VMC title 20, except that title 22 shall not apply to VMC chapter 20.770, Tree conservation; <del>VMC chapter 20.775, Wetlands and water bodies protection.</del>	\$250	\$500	\$1000
<u>VMC chapter 20.740, Critical Areas Ordinance</u>	<u>\$500</u>	<u>\$1000</u>	<u>\$1500</u>

4. In the event of an appeal, monetary penalties under VMC 22.02.040(c)(2) shall accrue during the appeal period unless the appellant prevails on appeal. Accrued monetary penalties shall not exceed three (3) times the amount of the daily monetary penalty set by VMC 22.02.040(c)(3) for any single violation from the first date of the violation through the date the hearings examiner renders a final decision.

5. Payment of any monetary penalties associated with the violation does not relieve the person to whom the notice of civil violation and order or order to revoke a permit is directed of the duty to correct the violation.

d. Collection of monetary penalties and necessary and reasonable costs.

1. Payment. Monetary penalties and necessary and reasonable costs are due and payable to the applicable city department or service area ten (10) calendar days after the city personally serves the cited person with a written demand for payment, itemizing the costs the city incurred. If not served personally, monetary penalties and necessary and reasonable costs are due fifteen (15) calendar days after the city deposits in the U.S. mail such a demand and itemized costs. If a violation is appealed as provided herein, monetary penalties and necessary and reasonable costs are due fifteen (15) calendar days after the date the city deposits in the U.S. mail a copy of the hearings examiner’s final order. The provisions of VMC 3.08.060 for dishonored checks and VMC 3.08.080 for late fees and interest shall apply to payments due under this title.

2. Approved collection methods. The city attorney or the city attorney’s designee is authorized to take any appropriate legal action to collect monetary penalties and necessary and reasonable costs, including liens, personal obligations, assignment of claims to collection agencies, and other collection methods authorized by law.

3. Authority to negotiate settlement. The city official and the city attorney or the city attorney’s designee may negotiate a settlement, compromise or otherwise dispose of an action when to do so would be in the best interest of the city.

**Section 19.** **Savings Clause.** Those portions of Titles 20 and 22 which are repealed or amended by this ordinance shall remain in force and effect until the effective date of this ordinance.

**Section 20.** **Severability.** If any clause, sentence, paragraph, section, or part of this ordinance or the application thereof to any person or circumstances shall be adjudged by any court of competent jurisdiction to be invalid, such order or judgment shall be confined in its operation to the controversy in which it was rendered and shall not affect or invalidate the remainder of any parts thereof to any other person or circumstances and to this end the provisions of each clause, sentence, paragraph, section or part of this law are hereby declared to be severable.

**Section 21.** **Effective Date.** This ordinance shall become effective on April 29, 2005.

Read the first time:

PASSED BY THE FOLLOWING VOTE:

Ayes: Councilmembers

Nays: Councilmembers

Absent: Councilmembers

Read the second time:

PASSED BY THE FOLLOWING VOTE:

Ayes: Councilmembers

Nays: Councilmembers

Absent: Councilmembers

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2005

\_\_\_\_\_  
Royce E. Pollard, Mayor

Attest:

\_\_\_\_\_  
Carrie Lewellen, Interim City Clerk

Approved as to Form:

\_\_\_\_\_  
Ted H. Gathe, City Attorney

## SUMMARY

ORDINANCE NO. M-\_\_\_\_\_

AN ORDINANCE relating to the protection of fish and wildlife habitat conservation areas, frequently flooded areas, geologic hazard areas, and wetlands; establishing VMC Chapter 20.740, Critical Areas Protection; repealing VMC 20.725, Fish and Wildlife Habitat Protection; repealing VMC 20.730, Flood Hazards; repealing VMC 20.750, Geologic Hazards; repealing VMC 20.775, Wetlands and Water Bodies Protection; repealing VMC 20.780, Wildlife Habitat Protection (placeholder); amending VMC 20.150, Definitions; amending VMC 20.170, Measurements, amending VMC 20.180.060, Planning Fees; amending VMC 20.210.020, Types of Development Applications; amending VMC 20.210.030, Exempt Activities; amending VMC 20.210.040, Type I Applications; amending VMC 20.210.080, Pre-application Conference; amending VMC 20.790.850, Critical Areas; amending VMC 22.02.010, Responsibility for Code Violations; amending VMC 22.02.020, Enforcement Provisions; amending VMC 22.02.040, Notice of Civil Violation and Order – Order to Revoke Permit; providing for severability; and providing for an effective date OF April 29, 2005.