Chapter 20.93

CRITICAL AREA ORDINANCE

Sections:

Part I – Purpose and Intent

20.93.100 – Purpose and Intent

(a) The purpose of this chapter is to designate critical areas and to establish standards for the protection of their functions and values, in compliance with the provisions of the Washington State Growth Management Act of 1990 (Chapter 36.70A RCW), and consistent with the goals and policies of the Arlington Comprehensive Plan.

(b) By identifying and regulating development and alterations to critical areas and their buffers, this chapter seeks to accomplish the following goals:
   (1) Protect members of the public and public resources and facilities from injury, loss of life, or property damage due to landslides and steep slope failures, erosion, seismic events, or flooding.
   (2) Protect, maintain and restore healthy, functioning ecosystems through the protection of unique, fragile, and valuable elements of the environment, including, but not limited to, ground and surface waters, wetlands, and fish and wildlife and their habitats, and to conserve the biodiversity of plant and animal species.
   (3) Direct activities not dependent on critical area resources to less environmentally sensitive sites and mitigate unavoidable impacts to critical areas by regulating alterations in and adjacent to critical areas.
   (4) Prevent cumulative adverse environmental impacts to water quality, wetlands, and fish and wildlife habitat, and the overall net loss of wetlands, frequently flooded areas, and habitat conservation areas.
   (5) Alert owners, potential purchasers, real estate agents, appraisers, lenders, builders, developers and other members of the public to natural conditions that pose a hazard or may otherwise limit development.
   (6) Serve as a basis for exercise of the city's substantive authority under the State Environmental Policy Act (SEPA).

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

(d) This chapter is intended to be administered with limited flexibility and attention to site-specific characteristics. It is not the intent of this chapter to make a parcel of property unusable by denying its owner reasonable economic use of the property, or to prevent the provision of public facilities and services necessary to support existing development and that planned for by the community without decreasing current service levels below minimum standards.

(e) The city's enactment or enforcement of this chapter must not be construed for the benefit of any individual person or group of persons other than the general public.

Part II – Definitions

20.93.200 Definitions.

For the purposes of this chapter, the following definitions shall apply:

"Agricultural Activities, Existing and Ongoing – Those activities conducted on lands defined in RCW 84.34.020(2), and those activities involved in the production of crops and livestock, including but not limited to operation, maintenance and conservation measures of farm and stock ponds or drainage ditches, irrigation systems, changes between agricultural activities, and normal operation, maintenance or repair of existing serviceable structures, facilities, or improved areas. Activities which bring an area into agricultural use are not part of an ongoing activity. An operation ceases to be ongoing when the area in which it was conducted is proposed for conversion to nonagricultural use or has lain idle for a period of longer than five years unless the idle land is registered in a federal or state soils conservation program.

“Alkali Wetlands”. See Wetlands with Special Characteristics.

"Alteration(s)". Any human-induced change in an existing condition of a critical area or its buffer. Alterations include, but are not limited to, grading, filling, channelizing, dredging, clearing of vegetation, construction, compaction, excavation, or any other activity that changes the character of the critical area.

"AMC". The Arlington Municipal Code.

"Applicant". A person who applies for any permit or approval to do anything governed by this code and who is either the owner of the subject property, the authorized agent of the owner, or the city.

“Atypical Wetland”. A wetland whose “design” does not match the type of wetland that would be found in a geomorphic setting of the proposed site (i.e., the water source and hydroperiod proposed for the mitigation site are not typical for the geomorphic setting). Designs that provide exaggerated morphology or require a berm or other engineered structures to hold back water would also be considered atypical. Note: An atypical wetland resulting from an inappropriate hydrogeomorphic class is different from the “atypical situation” defined in the Corps 1987 wetland delineation manual

"Best Available Science”. Current scientific information used in the process to designate, protect, or restore critical areas; that is, derived from a valid scientific process as defined WAC 365-195-900 through 925.

“Best Management Practices (BMPs)”. Conservation practices or systems of practices and management measures that:

(a) Control soil loss and reduce water quality degradation caused by high concentrations of nutrients, animal waste, toxics, or sediment;
(b) Minimize adverse impacts to surface water and ground water flow and circulation patterns and to the chemical, physical, and biological characteristics of wetlands;
(c) Protect trees, vegetation, and soils designated to be retained during and following site construction and use native plant species appropriate to the site for re-vegetation of disturbed areas; and
(d) Provide standards for proper use of chemical herbicides within critical areas.

“Bog”. See Wetlands with Special Characteristics.

"Buffer or Buffer Zone”. Vegetated areas adjacent to wetland or other aquatic resources that can reduce impacts from adjacent land uses through various physical, chemical, and/or biological processes.

“Calcareous Fens”. See Wetlands with Special Characteristics.

“Carbon Sequestration”. The process of capturing and storing atmospheric carbon dioxide through biologic, chemical, geologic, or physical processes (RCW 70A-45-010).

“Channel Migration Zone” (CMZ) means the area within which a river channel is likely to migrate and occupy over a specified time period (e.g., 100 years).

"Classes". Taxonomic classification system of the United States Fish and Wildlife Service (Cowardin, et al 1978).

“Clean Water Act (CWA)”. The federal law that establishes the basic structure for regulating discharges of pollutants into the waters of the United States and regulating quality standards for surface waters. Under the CWA, the U.S. Environmental Protection Agency (EPA) has implemented pollution control programs such as setting wastewater standards for industry. The EPA has also developed national water quality criteria recommendations for pollutants in surface waters.

"Coastal Lagoon”. See Wetlands with Special Characteristics.

"Commercial". Activity with goods, merchandise, or services for sale or rent.

“Compensatory Mitigation”. The restoration (re-establishment or rehabilitation), establishment (creation), enhancement, and/or in certain circumstances preservation of wetlands for the purposes of offsetting unavoidable adverse impacts that remain after all appropriate and practicable avoidance and minimization has been achieved.

"Constructed stormwater wetland". A stormwater management system that is designed and built to function similar to the naturally occurring wetland including native trees and shrubs allowed to grow to maturity.

“Cowardin Classification”. A commonly used classification system for wetlands. It was first developed in 1979 by the U.S. Fish and Wildlife Service and updated in 2013 (Federal Geographic Data Committee, 2013). The Cowardin system classifies wetlands based on water flow, substrate types, vegetation types, and dominant plant species. It is used for wetland classification in the National Wetland Inventory.

“Credit-Debit Method”. A tool to provide applicants and regulators a way to determine whether actions taken to mitigate an impact to wetlands will adequately replace the functions and values lost. It is based on the Washington State Wetland Rating System.

"Critical areas". Any of the following areas or ecosystems: (a) wetlands; (b) areas with a critical recharging effect on aquifers used for potable water; (c) fish and wildlife habitat conservation areas; (d) frequently flooded areas; and (e) geologically hazardous areas.

“Critical Habitat”. A term defined and used in the Endangered Species Act. It is specific geographic areas that contain features essential to the conservation of an endangered or threatened species and may require special management and protection. Critical habitat may also include areas that are not currently occupied by the species but are needed for its recovery.

“Creation”. The manipulation of the physical, chemical, or biological characteristics present to develop a wetland that did not previously exist at an upland site. Creation results in a gain in wetland area and function. A typical action is the excavation of upland soils to elevations that will produce a wetland *hydroperiod* and hydric soils and support the growth of hydrophytic plant species.

“Cumulative Impacts or Effects”. The combined, incremental effects of human activity on ecological or critical area functions and values. Cumulative impacts result when the effects of an action are added to or interact with the effects of other actions in a particular place and within a particular time. It is the combination of these effects, and any resulting environmental degradation, that should be the focus of cumulative impact analysis and changes to policies and permitting decisions.

"Dedication". Deliberate appropriation of land by an owner for public use or purpose, reserving no other rights than those that are compatible with the full exercise and enjoyment of the public use or purpose to which the property has been devoted.

"Degraded wetland". A wetland in which the vegetation, soils, and/or hydrology have been adversely altered, resulting in lost or reduced functions and values.

"Developable area". Land outside of critical areas and environmentally critical area setbacks and buffers.

"Development" A land use consisting of the construction or exterior alteration of structures; grading, dredging, drilling, or dumping; filling; removal of sand, gravel, or minerals; bulk heading; driving of pilings; or any project of a temporary or permanent nature which modifies structures, land, wetlands, or shorelines and which does not fall within the allowable exemptions contained in the City Code.

"Development permit". Any permit or approval under this code or the AMC that must be issued before initiating a use or development activity.

"Ditch". A long narrow excavation dug in the earth for drainage with its top width less than ten feet at design flow and that does not meet the definition of a stream. A ditch may be regulated if it conveys stream flow.

"Easement". Land which has specific air, surface or subsurface rights conveyed for us by an entity other than the owner of the subject property or to benefit some property other than the subject property.

“Ecosystem Functions” are the products, physical and biological conditions, and environmental qualities of an ecosystem that result from interactions among ecosystem processes and ecosystem structures. Ecosystem functions include but are not limited to, sequestered carbon, attenuated peak streamflow, aquifer water level, reduced pollutant concentrations in surface and ground waters, cool summer in-stream water temperatures, and fish and wildlife habitat functions.

“Ecosystem Values” are the cultural, social, economic, and ecological benefits attributed to ecosystem functions.

"Edge". The boundary of a wetland as delineated based on the criteria contained in this chapter.

“Emergencies”. Those activities necessary to prevent an immediate threat to public health, safety, or welfare, or that pose an immediate risk of damage to private property and that require remedial or preventive action in a timeframe too short to allow for compliance with the requirements of the critical areas regulations.

"Emergent wetland". See Wetlands with Special Characteristics.

"Enhancement". The manipulation of the physical, chemical, or biological characteristics of a wetland to heighten, intensify, or improve specific function(s), but may also lead to a decline in other function(s). Enhancement does not result in a gain in wetland area.

"Erosion hazard area". A landform or soil type subject to being worn away by the action of water, wind, freeze-thaw, or ice.

“Establishment”. See Creation.

"Estuarine Wetland”. See Wetlands with Special Characteristics.

"Exotic species". Plants or animals that are not native to the Puget Sound Lowlands region.

"Extraordinary hardship". Prevention of all reasonable economic use of the parcel due to strict application of this chapter and/or programs adopted to implement this chapter.

"Fish and wildlife habitats (of local importance)". A seasonal range or habitat element with which a given species has a primary association, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long-term. These might include areas of relative density
or species richness, breeding habitat, seasonal range, and movement corridors. These also include habitats of limited availability or high vulnerability to alteration, such as cliffs and wetlands.

"Forested wetland". See Wetlands with Special Characteristics.

"Forest land". Land used for growing trees, not including Christmas trees, for commercial purposes (as shown by record of any income) that has long-term (six years or more) commercial significance.

"Functions and Values”. The ecosystem services provided by critical areas to society, including, but not limited to, improving, and maintaining water quality, providing fish and wildlife habitat, supporting terrestrial and aquatic food chains, reducing flooding and erosive flows, wave attenuation, carbon sequestration, thermal refugia, historical or archaeological importance, cultural uses and significance, educational opportunities, and recreation.

"Geologically hazardous areas". Includes areas susceptible to erosion, sliding, seismic activity, or other geological events. They pose a threat to the health and safety of citizens when used as sites for incompatible commercial, residential, or industrial development.

"Grading". The physical manipulation of the earth's surface and/or drainage pattern in preparation of an intended use or activity.

“Growth Management Act”. Chapters 36-70A and 36-70B RCW, as amended.

“Hazard Tree” is defined as a threat to life, property, or public safety. Require that the method of hazard tree removal not adversely affect riparian ecosystem functions to the extent practicable, encourage the creation of snags (priority habitat features) rather than complete tree removal, involve avoidance and

minimization of damage to remaining trees and vegetation within the RMZ and require a qualified arborist to evaluate requests for hazard tree removal.

"Hazardous Substances". Any liquid, solid, gas, or sludge, including any material, substance, product, commodity, or waste, regardless of quantity, that exhibits any of the physical, chemical, or biological properties described in WAC 173-303-090 or 173-303-100.

"High quality native wetlands" will be classified by the state wetland rating system for Western Washington. However, the following elements may be considered when identifying locally important functions of a wetland:

(a) No, or isolated, human alteration of the wetland topography;
(b) No human-caused alteration of the hydrology or else the wetland appears to have recovered from the alteration;
(c) Low cover and frequency of exotic plant species;
(d) Relatively little human-related disturbance of the native vegetation, or recovery from past disturbance;
(e) If the wetland system is degraded, it still contains a viable and high-quality example of a native wetland community; and
(f) No known major water quality problems.

"Hydric soil". Soil that is saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part. The presence of hydric soil shall be determined following the methods as defined by the National Technical Committee for Hydric Soils. The presence of hydric soil shall be determined following the methods described in the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region.

"Hydrophyte or hydrophytic vegetation". Plant life growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content. The presence of hydrophytic vegetation shall be determined following the methods described in the Washington State Wetland Delineation Manual adopted pursuant to RCW 90.58.380.

"Impervious Surface". A surface area that either prevents or retards the entry of water into the soil or other substrate that would occur under natural conditions prior to development. A non-vegetated surface area that causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under pre-development or pre-developed conditions. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots, storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam, or other surfaces which similarly impede the natural infiltration of stormwater.

"In-Lieu Fee (ILF) Program". An agreement between a regulatory agency (state, federal, or local) and a single sponsor, generally a public natural resource agency or non-profit organization. Under an in-lieu-fee agreement, the sponsor collects funds from individuals and/or entities required to conduct compensatory mitigation under a wetland regulatory program. The sponsor uses the funds pooled from multiple permittees to create one or more mitigation sites under the authority of the agreement to satisfy the permittee's required mitigations.

"Infiltration". The downward entry of water into the soil.

"Improvement". Any structure or manmade feature.

"In-Kind Compensation". To replace critical areas with substitute areas whose characteristics and functions closely approximate those destroyed or degraded by a regulated activity.

"Interdunal Wetland". See Wetlands with Special Characteristics.

"Isolated wetlands" A wetland that is hydrologically isolated from other aquatic resources, as determined by the United States Army Corps of Engineers (USACE). Isolated wetlands may perform important functions and are protected by state law (RCW 90.48) whether they are protected by federal law or not.

"Landslide hazard areas". Areas potentially subject to risk of mass movement due to a combination of factors, including historic failures.

“Low Impact Development (LID) Methodology”. A stormwater and land-use management strategy that tries to mimic natural hydrologic conditions by emphasizing the following techniques: conservation, use of on-site natural features, site planning, and distributed stormwater best management practices (BMPs) integrated into project design.

"Mineral resource lands". Lands primarily devoted to the extraction of gravel, sand, other construction materials, or valuable metallic or mineral substances.

"Mitigation Sequence”. A prescribed order of steps taken to reduce the impacts of activities on wetlands. As defined in WAC 197-11-768, mitigation means:

(a) Avoiding the impact altogether by not taking a certain action or parts of an action;
(b) Minimizing impacts by limiting the degree of magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce the impacts;
(c) Rectifying the impact to wetlands, critical aquifer recharge areas, and habitat conservation areas by repairing, rehabilitating, or restoring the affected environment;
(d) Reducing or eliminating the impact or hazard over time by preservation and maintenance operations during the life of the action;
(e) Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and/or
(f) Monitoring the impact and taking remedial action when necessary.

"Monitoring”. Evaluating the impacts of development proposals on the biological, hydrological, and geological elements of such systems, and assessing the performance of required mitigation measures through the collection and analysis of data by various methods for the purpose of understanding and documenting changes in natural ecosystems and features. Monitoring includes gathering baseline data.

“National Wetland Inventory (NWI)”. A publicly available resource provided by the U.S. Fish and Wildlife Service that provides detailed information and maps showing the abundance, characteristics, and distribution of wetlands in the U.S.

"Native vegetation". Plant species that occur naturally in a particular region or environment and were present before European colonization.

"Natural condition". Lands that retain native vegetation, forest duff and naturally occurring contours and drainage patterns not modified by human activity.

"Natural resource lands". Agriculture, forest, and mineral resource lands as defined in this section.

"Nonconforming". Any use, structure, lot, condition, activity, or any other feature or element of private property or the use or utilization of private property that does not conform to any of the provisions of this code or that was not approved by the city through the appropriate decision-making process required under this code.

“Non-Federally Regulated Wetland”. A wetland that is not jurisdictional under the federal Clean Water Act. Sometimes referred to as “isolated wetlands,” these wetlands remain regulated under state and local laws and rules, whether or not they are protected by federal law.

“Off-Site Compensatory Mitigation”. Replacement of critical areas away from the site on which a critical area has been impacted.

“On-Site Compensatory Mitigation”. Replacement of critical areas at or adjacent to the site on which a critical area has been impacted.

"Open space". Land not covered by buildings, roadways, parking areas, or other surfaces through which water cannot percolate into the underlying soils.

"Ordinary high-water mark". Under the Shoreline Management Act, that mark which is found by examining the bed and banks of water bodies and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, that the soil has a character distinct from that of the abutting upland in respect to vegetation.

"Palustrine wetland". See Wetlands with Special Characteristics.

"Pond". Any inland body of water, either naturally or artificially formed or increased, that has a surface area of one thousand square feet or more, except: These do not include ponds deliberately designed and

created from dry sites such as canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities.

"Practicable alternative". An alternative that is available and capable of being carried out after taking into consideration cost, existing technology, and logistics in light of overall project purposes, and having less impacts to environmentally critical areas. It may include an area not owned by the applicant that can reasonably be obtained, utilized, expanded, or managed in order to fulfill the basic purpose of the proposed activity.

“Preservation”. The removal of a threat to, or preventing the decline of, wetland conditions by an action in or near a wetland. This term includes activities commonly associated with the protection and maintenance of wetlands through the implementation of appropriate legal and physical mechanisms (such as recording and providing structural protection like fences and signs). Preservation does not result in a gain of wetland area and functions (but may result in a gain of functions over the long term).

“Priority Area”. Known limiting habitats (e.g., breeding areas) or areas that support a relatively high number of individuals (e.g., regular concentrations) identified in WDFW’s Priority Habitats and Species List.

"Priority Habitats". As defined by WDFW, habitat types or elements with unique or significant value to a diverse assemblage of species. A priority habitat may consist of a unique vegetation type (e.g., shrub-steppe) or dominant plant species (e.g., juniper savannah), a described successional stage (e.g., old-growth forest), or a specific habitat feature (e.g., cliffs).

"Priority Species". As defined by WDFW, State Endangered, Threatened, Sensitive, and Candidate species; animal aggregations (e.g., heron colonies, bat colonies) considered vulnerable; and species of recreational, commercial, or tribal importance that are vulnerable.

"Project Area”. All areas, including those within fifty (50) feet of the area, proposed to be disturbed, altered, or used by the proposed activity or the construction of any proposed structures. When the action binds the land, such as a subdivision, short subdivision, binding site plan, planned unit development, or rezone, the project area shall include the entire parcel, at a minimum.

“Qualified Wetland Professional”. A person with professional wetland experience that meets the following criteria:

(a) A Bachelor of Science or Bachelor of Arts or equivalent degree in hydrology, soil science, botany, ecology, resource management, or related field, or four years of full-time work experience as a wetland professional may substitute for a degree, and
(b) At least two additional years of full-time work experience as a wetland professional; including delineating wetlands, preparing wetland reports, conducting function assessments, and developing and implementing mitigation plans, and
(c) Completion of additional wetland-specific training programs. This could include a more comprehensive program such as the University of Washington Wetland Science and Management Certificate Program or individual workshops on topics such as wetland delineation, function assessment, mitigation design, hydrophytic plant or hydric soil identification.

A person certified as a Professional Wetland Scientist through the Society of Wetland Scientists professional certification program meets the above criteria.

"Re-establishment”. The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historical functions and environmental processes to a former wetland. Re-establishment results in rebuilding a former wetland and results in a gain in wetland area and functions.

“Rehabilitation”. The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural/historic functions and environmental processes to a degraded wetland. Rehabilitation results in a gain in wetland function but does not result in a gain in wetland acres.

“Repair or Maintenance”. An activity that restores the character, scope, size, and design of a serviceable area, structure, or land use to its previously authorized and undamaged condition. Activities that change the character, size, or scope of a project beyond the original design and drain, dredge, fill, flood, or otherwise alter critical areas are not included in this definition.

“Restoration”. Measures taken to restore an altered or damaged natural feature, including:

(a) Active steps taken to restore damaged wetlands, streams, protected habitat, or their buffers to the functioning condition that existed prior to an unauthorized alteration; and

(b) Actions performed to re-establish structural and functional characteristics of a critical area that have been lost by alteration, past management activities, or catastrophic events.

"Riparian habitat". An ecosystem that occurs in the transition zone between aquatic and upland environments.

“Riparian Management Zone” (RMZ) means the area that has the potential to provide full riparian functions. In many forested regions of the state, this area occurs within one 200-year site-potential tree heigh measured from the edge of the stream channel. In situations where a CMZ is present, this occurs within one site potential tree height measured from the edges of the CMZ. In non-forested zones, the RMZ is defined by the greater of the outermost point of the riparian vegetative community or the pollution removal function, at 100 feet.

"Revised Code of Washington (RCW)”. A compilation of all permanent Washington state laws currently in force.

"Scrub-shrub wetlands". See Wetlands with Special Characteristics.

"Seismic hazard areas". Areas subject to the risk of damage as a result of earthquake induced ground shaking, slope failure, settlement, soil liquefaction or surface faulting. Ground shaking is a primary risk, followed by some unstable slopes causing damage below them.

“SEPA”. Washington State Environmental Policy Act, Chapter 43-21C RCW.

"Service Area”. The geographic area within which impacts can be mitigated at a specific mitigation bank or an in-lieu-fee program, as designated in its instrument.

“Shoreline Management Act (SMA)”. Chapter 90-58 RCW, which is the law that requires all counties, towns, and cities with shorelines to develop and implement shoreline master programs.

“Slope”. See Section 20.93.600 (Geological Hazardous Areas – Classification).

“Soil Survey”. The most recent Natural Resources Conservation Service soil maps for the local area or county by the National Resources Conservation Service, U.S. Department of Agriculture.

“Species”. Any group of animals or plants classified as a species or subspecies as commonly accepted by the scientific community.

“Species, Listed”. Any species listed under the federal Endangered Species Act or state endangered, threatened, and sensitive, or priority lists (see WAC 220-610-110 or current “Priority Habitat and Species List,” Washington Department of Fish and Wildlife)

"Sphagnum". Any of a large genus of mosses that grows only in wet acidic soils and whose remains become compacted with other plant debris to form peat.

"Stream". An area where open surface water produces a defined channel or bed, not including irrigation ditches, canals, storm or surface water runoff devices, or other entirely artificial watercourses, unless they are used by salmonids or are used to convey a watercourse that was
naturally occurring prior to construction. A channel or bed need not contain water year-round, provided there is evidence of at least intermittent flow during years of normal rainfall.

"Steep slope". See Section 20.93.600 (Geological Hazardous Areas—Classification).

"Structure". Anything which is built or constructed; an edifice or building of any kind, or any piece of work artificially built-up or composed of parts joined together in some definite manner. Not included are fences less than six feet in height, retaining wall, rockeries, and similar improvements of a minor character less than three feet in height.

“Temporal Loss”. The time lag between the loss of wetland functions caused by the permitted or unpermitted impacts and the replacement of wetland functions at the compensatory mitigation site.

“Thermal Refugia”. Sites within a landscape that are relatively protected from temperature extremes and warming trends.

"Unavoidable Impacts”. Adverse impacts that remain after all appropriate and practicable avoidance and minimization has been achieved.

"Use." "Development" as that term is defined in Chapter 90.58 RCW. Also means the nature of the activities taking place on private property or within structures thereon.

“Voluntary Stewardship Program (VSP)”. The local program under the supervision of the Washington State Conservation Commission where counties and agricultural landowners can implement an incentive-based program to provide farm-friendly options for protecting and enhancing critical areas in places where agricultural activity is conducted.

“Washington Administration Code (WAC)”. Administrative rules implementing state laws.

"Water-dependent". A use for which the use of surface water would be essential in fulfilling the purpose of the proposed project.

“Watershed Approach”. A watershed approach means an analytical process for making compensatory mitigation decisions that support the sustainability or improvement of wetlands in a watershed. It involves consideration of watershed needs, and how locations and types of compensatory mitigation projects address those needs. A landscape perspective is used to identify the types and locations of compensatory mitigation projects that will benefit the watershed and offset losses of wetland functions and services caused by authorized activities. The watershed approach may involve consideration of landscape scale, historic and potential wetland conditions, past and projected wetland impacts in the watershed, and terrestrial connections between wetlands when determining compensatory mitigation requirements.

“Watershed Plan”. A plan developed by federal, tribal, state, and/or local government agencies and/or appropriate non-governmental organizations, in consultation with relevant stakeholders, for the specific goal of aquatic resource restoration, establishment, enhancement, and preservation. A watershed plan addresses aquatic resource conditions in the watershed, multiple stakeholder interests, and land uses. Watershed plans may also identify priority sites for aquatic resource restoration and protection. Examples of watershed plans include special area management plans, advance identification programs, and wetland management plans.

"Wetlands". Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from 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 1, 1990, that were unintentionally created as a result of the
construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from non-wetland areas to mitigate the conversion of wetlands.

“Wetland Delineation”. The method used to establish the existence (location) and physical limits (size) of a wetland for purposes of federal, state, and local regulations.

“Wetland of High Conservation Value”. . See Wetlands with Special Characteristics.

“Wetland Mitigation Bank”. A site or suite of sites where resources are restored, created, enhanced, and/or preserved, for the purpose of providing compensatory mitigation for impacts. In general, a mitigation bank sells compensatory mitigation credits to permittees whose obligation to provide compensatory mitigation is then transferred to the mitigation bank sponsor. The operation and use of a mitigation bank are governed by a mitigation banking instrument.

“Wetland Mosaic”. An area with a concentration of multiple small wetlands, in which each patch of wetland is less than one acre; patches are less than 100 feet from each other; and areas delineated as wetland are more than 50% of the total area of the entire mosaic, including uplands and open water.

“Wetlands in Coastal Lagoons”. See Wetlands with Special Characteristics.

“Wetlands with Special Characteristics for Western Washington”. Bogs, estuarine wetlands, forested wetlands, interdunal wetlands, wetlands in coastal lagoons, and Wetlands of High Conservation Value. Detailed information about these individual wetland types is found in the Washington State Wetlands Rating System for Western Washington: 2014 Update (Ecology Publication #14-06-029), or as revised.

Part III – General Provisions

20.93.300 Applicability.

(a) Unless explicitly exempted, the provisions of this chapter apply to all land uses, development activity, an all structures and facilities within the city of Arlington that are within the critical area, within the maximum buffer distance of, likely to affect the functions and values of, one or more critical areas.

(b) Relationship to other regulations.

(1) Shorelines of the state and shorelands as defined in RCW 90.58.030, and critical areas occurring within the jurisdiction of shorelines of the state and shorelands ("shoreline jurisdiction"), are regulated and protected through the Arlington Shoreline Master Program, as amended. Activities occurring within shoreline jurisdiction are reviewed through the shoreline permit review and issuance process. Shoreline Master Program incorporates by reference portions of this chapter, however, certain provisions of this chapter that are not consistent with the Shoreline Management Act, Chapter 90.85 RCW, and supporting Washington Administrative Code chapters do not apply in shoreline jurisdiction.

(2) These critical areas regulations apply in addition to zoning and other regulations adopted by the city. In the event of any conflict between these regulations and any other regulations of the city, the regulations apply that provide greater protection to the critical areas' functions and values, as determined by the Director.

(3) When any provision of this chapter or any existing easement, covenant, or deed restriction conflicts with this chapter, that which provides more protection to the critical areas applies.

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

20.93.310 Identification, Classification, and Rating of Critical Areas.

(a) Critical Area Maps.

(b) Actual Site Conditions. Regardless of whether a critical area is shown on the critical areas map, the actual presence or absence of the features defined in this code as critical areas will govern. Prior to acting on any development permit the city may require an applicant to submit technical information to indicate whether critical areas actually exist on or adjacent to the applicant's site based on the definitions of critical areas in this code. This will be administered as a critical area evaluation form (AMC 20.93.400) included with appropriate permit forms.

(c) Classification and Rating. To promote consistent application of the standards and requirements of this chapter, critical areas within the city will be rated or classified using best available science according to their characteristics, function and value, and/or sensitivity to disturbance.

(1) Classification of critical areas will be determined by the city using the following tools:

(A) Application of the criteria contained in these regulations;

(B) Consideration of the critical area reports submitted by qualified professionals in connection with applications subject to these regulations; and

(C) Review of maps and other resources adopted pursuant to this chapter.

(2) Rating categories will not change due to illegal modifications. If the development proposal site contains or is within a critical area suspected of illegal modifications the rating will be based on premodification conditions of the critical area. Abatement of the unauthorized modification will be required prior to authorization of the current development proposal being processed for the subject site.

20.93.320 Protection of Critical Areas.

(a) Critical areas and their required buffers may not be altered except as allowed by this chapter.

(b) Any action taken pursuant to this chapter must result in equivalent or greater functions and values of the critical areas associated with the proposed action, as determined by the best available science.

(c) All actions and development must be designed and constructed in accordance with mitigation sequencing per AMC 20.93.430 to achieve no net loss of critical area functions and values.

(d) Applicants must first demonstrate an actual inability to avoid or reduce impacts before restoration and compensation of impacts will be allowed.

(e) No activity or use may be allowed that results in net loss of the functions or value of the critical areas.

(f) Any individual critical area adjoined by another type of critical area must have the buffer and meet the requirements that provide the most protection to the critical area involved.

(g) Violations of this chapter are subject to AMC Chapter 20.28, Enforcement and Review and AMC Title 11, Violations and Abatement. Where a violation occurs within a suspected protected critical area or as depicted on city adopted mapping, the property owner must provide an appropriate critical area report to determine impacts. The report may be subject to third party review at the property owner's expense.

20.93.330 Project Evaluation

(a) As part of the review, the city will:
  (1) Verify the information submitted by the applicant;
  (2) Evaluate the project area and vicinity for critical areas;
  (3) Determine whether the proposed project is likely to impact the functions or values of critical areas; and
  (4) Determine if the proposed project adequately addresses the impacts and avoids impacts to the critical area associated with the project.

(b) If the proposed project is within, adjacent to, or is likely to impact a critical area, the city will:
  (1) Require a critical area report from the applicant that has been prepared by a qualified professional, to be reviewed and evaluated;
  (2) Determine whether the development proposal conforms to the purposes and performance standards of this chapter, including the criteria in AMC 20.93.340, Critical Areas Review;
  (3) Assess the potential impacts to the critical area and determine if they can be avoided or minimized; and
  (4) Determine if any mitigation proposed by the applicant is sufficient to protect the functions and values of the critical area and public health, safety, and welfare concerns consistent with the goals, purposes, objectives, and requirements of this chapter.
  (5) The city may require third party review of any critical area report at the expense of the applicant.

20.93.340 Critical Areas Review

(a) When Required. A proposal to modify any critical area and/or required buffer including, but not limited to, clearing, grading, draining, removal or alteration of vegetation, construction of structures, utilities and related infrastructure, must require a critical area evaluation unless it qualifies as an exemption, as provided in AMC 20.93.350. Except that, for within shoreline jurisdiction, administration of this chapter shall be through the Shoreline Master Program and appropriate shoreline permit administration process.

(b) Best Management Practices. All activities, including those allowed without critical areas review, must be conducted using the best management practices appropriate for that activity that result in the least amount of impact to the critical areas. Best management practices must be used for tree and vegetation protection, construction management, erosion and sedimentation control, water quality protection, and regulation of chemical applications. The use of best management practices is required to ensure that the activity does not result in degradation to the critical area. Appropriate BMP sources include Ecology's Construction Stormwater General Permit and NRCS Conservation Practices. Any incidental damage to, or alteration

of, a critical area and/or buffer must be restored, rehabilitated, or replaced at the responsible party's expense.

(c) Modifications to Existing Nonconforming Structures and Uses. In these provisions the burden of proof is on the applicant to bring evidence in support of their position. Existing structures, activities, and uses that were established legally but do not meet the current critical area, buffer, or buffer setback requirements may continue in accordance with AMC 20.32, Nonconforming Situations, and may be modified as follows:
  (1) Routine maintenance and repairs;
  (2) Structural modifications or additions that do not intensify the nonconformity of the structure or increase the area of hardscape lying within the critical area or buffer. The Director may require an updated critical area report to confirm location of buffers and that the addition is located entirely outside the critical area or buffer;
  (3) Vertical additions above the ground floor that do not encroach further into the critical area or buffer beyond the existing exterior walls, except that critical areas review is required for additions in landslide hazard areas or buffers;
  (4) Restoration or replacement of a structure that is damaged by fire, natural disaster or other calamity when:
    (A) A complete application for reconstruction or replacement is submitted within one yar of the damage; and
    (B) The restoration or replacement is made to conform to the current critical areas regulations, or if such regulations cannot be physically met without reducing the size of the building, the restoration or replacement may not intensify any nonconformity that existed prior to the damage;
    (C) Except that critical area review is required for restoration and replacement in landslide hazards areas or buffers;

(d) Demolition. Demolition of structures located within critical areas or their buffers is permitted, excluding demolition of structures necessary to support or stabilize landslide hazard areas, and will be subject to approval of a stormwater pollution prevention plan consistent with the adopted stormwater management manual and clearing limits that will adequately protect the critical area.

20.93.350 Exempt Activities.

(a) General Requirements for All Exempt Activities. Activities listed in this section are exempt from the rest of the provisions of this chapter only if they meet the specific terms of this section.

(b) To be exempt from this chapter does not give permission to degrade a critical area or buffer or to ignore risk from natural hazards. All exempt activities must use reasonable methods to avoid potential impacts to critical areas and buffers. In every case, disturbance to the critical area must be minimized through best management practices and the use of low-impact equipment.

(c) Any incidental damage to, or alteration of, a critical area or buffer that is not a necessary outcome of the exempted activity must be restored, rehabilitated, or replaced at the responsible party's expense.

(d) This chapter may not exempt an activity from the provisions of other city permits such as clearing and grading for vegetation removal and ground disturbing activities, or agency permit requirements such as Washington Department of Fish and Wildlife hydraulic permit, or Army Corps of Engineers regulatory requirements.

(e) Burden of Proof. The burden of proof is on the applicant to bring forth evidence that the activity meets the precise description of the exemption.

(f) Table 20.93.350-1 describes activities that must meet the precise description to be allowed without following a critical area process. Activities are divided into categories of permitted in the critical area and permitted in the buffer, marked by a yes or no in the appropriate column.

Table 20.93.350-1 – Exempt Activities

EXEMPT ACTIVITIES: No review required, must strictly meet standards	**Critical Area**	**Buffer**
Emergencies. Alterations in response to emergencies which threaten the public health, safety, and welfare or which pose an imminent risk of damage to private property, and that require remedial or preventative action in a timeframe too short to allow for compliance with the requirements of this chapter, if the following requirements are met: (a) Only the minimum intervention necessary to reduce the risk to public health, safety, or welfare and/or the imminent risk of damage to private property may be authorized by this exemption. (b) The alteration undertaken must be reported to the Director no later than 30 days after the alteration has occurred. Once notified, the Director must confirm that an emergency existed and determine what, if any, additional applications and/or measures are required of the property owner to protect the critical area(s) consistent with the provisions of this chapter, and to repair any damage to a pre-existing resource. (c) After the emergency, the person or agency undertaking the action must fully fund and conduct necessary site evaluations and critical area reports, mitigation plans, and restoration for any impacts to the critical area and buffers resulting from the emergency action. The person or agency undertaking the action must meet the review procedures contained herein. Mitigation activities must be initiated within one year of the date of the emergency or as directed by the Department. (d) If the Director determines that the action taken, or any part of the action taken, was beyond the scope of an allowed emergency action, or any required mitigation, the Director may take action to enforce this chapter consistent with AMC Chapter 20.28, Enforcement and Review and AMC Title 11, Violations and Abatement.	Yes	Yes
Yard and garden activities. Maintenance or repair activities including, but not limited to, cutting, mowing, weeding, hand removal of noxious and invasive species, harvesting and replanting of garden crops, pruning and planting of noninvasive ornamental vegetation or indigenous native species to maintain the general condition and extent of such areas; provided, that such maintenance or repair activities are limited to legally existing landscaping improvements and do not further expand into critical areas or associated buffers, do not alter topography, do not destroy or clear native vegetation, do not remove non-hazard trees in the buffer or critical area, and do not diminish water quality or quantity. (a) Native growth protection areas, mitigation sites, or other areas protected via permit conditions, conservation easements or similar restrictive covenants (as defined in AMC 20.93.440) are not covered by this exemption. (b) If an activity has ceased for one year or more any future use of such land, building or structure must thereafter be in conformity with this chapter and the zone in which it is located.	No	Yes
Site Investigation. Minimal site investigative work and studies necessary for preparing land use applications, including, but not limited to, surveys, soil logs and borings, percolation tests, water quality studies, scientific research, wildlife studies, and similar tests and investigations; provided, that such activities do not require clearing, fill, construction of new roads, or heavy equipment, and only minimal amounts of excavation and disturbed areas must be immediately restored.	Yes	Yes
Outdoor Recreation Activities. Outdoor recreation activities that do not involve modifying the land or vegetation, and that will not adversely affect the functions and values of critical areas.	Yes	Yes

EXEMPTIONS: That require a letter of exemption to be obtained from the Community and Economic Development Director prior to construction or initiation of activities. Subject to conditions by the Director to ensure compliance with this chapter.	**Critical Area**	**Buffer**
Utility Operation, Maintenance, Repair, or Replacement. Public water, electric, and natural gas distribution, public stormwater and sewer collection, cable communications, telephone, utility and related activities undertaken pursuant to city-approved best management practices, and best available science with regard to protection of threatened and endangered species, as follows: (a) Normal and routine maintenance or repair of existing utility structures or rights-of-way; when the activity does not involve the expansion of facilities or improvements into a previously unimproved portion of critical areas or required buffers; (b) Replacement, operation, repair, modification, installation or construction in an improved city road right-of-way or city-authorized private roadway of all electric facilities, lines, equipment or appurtenances, not including substations, with an associated voltage of 55,000 volts or less; to include relocation only when required by the city of Arlington, which approves the new location of the facilities; (c) Relocation of public sewer or stormwater local collection, public water local distribution, natural gas, cable communication or telephone facilities, lines, pipes, mains, equipment or appurtenances, only when required by the city of Arlington, which approves the new location of the facilities; (d) Replacement, operation, repair, modification, relocation, installation or construction of public sewer or stormwater local collection, public water local distribution, natural gas, cable communication, or telephone facilities, lines, pipes, mains, equipment or appurtenances when such facilities are located within an improved public right-of-way or city-authorized private roadway; (e) Repair and maintenance of existing private connections to public utilities and private stormwater management facilities; (f) Regular maintenance of stormwater facilities that are within a segment of a regulated stream, such as conveyance ditches/swales within the right-of-way or within public drainage easements.	Yes	Yes
Transportation Infrastructure Operation, Maintenance, Repair, or Replacement. Maintenance, operation, repair, modification, or replacement of publicly improved roadways or city-authorized private roadways, including the road prism and associated stormwater management systems; as long as any such alteration does not involve expansion of roadways or related improvements into previously unimproved rights-of-way or portions of rights-of-way and does not alter a critical area or required buffer, or watercourse, such as culverts or bridges, or result in the transport of sediment or increased stormwater. Retention and replanting of native vegetation must occur whenever possible along the right-of-way improvement and resulting disturbance.	Yes	Yes
Recreation Areas Operation, Maintenance, Repair, or Replacement. Maintenance, operation, repair, modification, or replacement of existing trails, and existing facilities within publicly improved recreation areas, and public parks, may be performed subject to the following: (a) The activity does not involve the expansion of facilities and disturbance to adjacent areas is minimized and disturbed areas must be immediately restored; (b) Work is conducted using best management practices; (c) Flow and circulation patterns and biological characteristics are not impaired and adverse impacts are minimized; (d) Where trail relocation is the least impactful method of repair, trail relocation further away from the critical area is not to be considered a new trail but is included in the exemption for operation, maintenance, repair, or replacement.	Yes	Yes

EXEMPTIONS: That require a letter of exemption to be obtained from the Community and Economic Development Director prior to construction or initiation of activities. Subject to conditions by the Director to ensure compliance with this chapter.	**Critical Area**	**Buffer**
Vegetation Management, including: (1) Removal of noxious weeds or invasive vegetation, as identified by the Washington State or Snohomish County Noxious Weed Control Board, in a wetland buffer, stream buffer, other fish and wildlife habitat conservation areas and buffers, is allowed when: (a) Undertaken with hand labor, including handheld mechanical tools, and integrated pest management; (b) Plants that appear on the Washington State or Snohomish County Noxious Weed Control Board lists must be handled and disposed of in accordance with the best management practices appropriate to that species and approved by the city when permit review is applicable; (c) Areas cleared by removal of noxious and/or invasive plant species must be revegetated with site-appropriate native species at natural densities and the site must be stabilized against erosion in accordance with the stormwater manual adopted by the city; (d) All work performed is above the ordinary high water mark and above the top of a stream bank; and (e) The following limits may not be exceeded: Within city-owned property, no more than 3,000 square feet of soil may be exposed at any one time; and within private property, not more than 500 square feet of area may be cleared, as calculated cumulatively, over one year, without a permit and critical area report prepared by a qualified professional. (2) Vegetation management consistent with a previously approved critical area mitigation, restoration, remediation, or enhancement plan that requires ongoing maintenance and vegetation management beyond final inspection and the required monitoring period for the permitted project. (3) Hazard Trees. (a) The felling of hazard trees may be permitted when necessary to: (i) Control fire; or (ii) Halt the spread of disease or damaging insects consistent with Chapter 76.09 RCW; (iii) Avoid a threat to existing structures, above-ground utility lines or other facilities; or (iv) Remove an actual threat to life or property from slope instability that would be caused by toppling. (b) Unless there is an emergency pursuant to emergency exemptions above, the landowner must first obtain prior written approval from the Department. A tree risk assessment prepared by an ISA certified arborist must be submitted by the applicant to the Department that includes the following information: (i) Identification of the tree(s) proposed to be removed; (ii) A conclusion that the condition constitutes an actual threat to life or property; (iii) An assessment of whether a portion of the tree suitable for a snag for wildlife habitat may be safely retained; (iv) If a tree to be removed provides priority habitat, such as an eagle perch or occupied nest, a description of timing and methods of removal that will minimize and mitigate impacts; (v) If a tree to be removed is located within a landslide hazard area or buffer, an evaluation of potential impacts on slope stability must be completed by a qualified professional, including recommendations for replanting and other measures to avoid adverse impacts to slope stability. (c) All work must be done using handheld implements only, unless the property owner requests and the Director approves otherwise in writing. (d) Any removed tree or vegetation must be replaced in-kind, with similar or appropriate native species, within one year in accordance with an approved restoration plan including species, size, and maintenance plan.	Yes	Yes
Clearing, grading, and the construction of fences and arbors are allowed within the required 10-foot stream setback for a piped stream segment if no other critical area or buffer is present.	No	Yes

20.93.360 Permitted Alterations

(a) Applicability. An applicant may seek an alteration of a critical area and/or critical area buffer through a permitted alteration when application of the standards in this chapter would result in the denial of all reasonable and economically viable use of the property and the proposed development meets the specific terms of this section.

(b) General Requirements. The actions in the permitted alteration table below must be considered permitted alterations, unless as otherwise specified under AMC 20.93.540 Specific Wetland Category Development Standards, and provided they are consistent with the general standards for mitigation sequencing and other applicable requirements established in this chapter.

(c) Review Process.

(1) A zoning permit with public notice must be required for all permitted alterations. Requests for such permits must be reviewed using the procedures outlined in AMC Chapter 20.16. No permit shall be issued unless it can be shown that the proposed development is fully consistent with the requirements of this chapter.

(2) In addition to other project-related documents, all permitted alterations must require a critical area assessment report per AMC 19.93.410, Critical Area Report, to evaluate the permitted alteration. The report must include:

(A) A description of the function and condition of the critical area and/or buffer that would be altered;

(B) An analysis of the effect of the development proposal on the critical area and/or buffer;

(C) A description of actions that can be taken to modify the development proposal to avoid or reduce the alteration of the critical area and/or buffer and a discussion of whether these modifications are practical and reasonable;

(D) A mitigation plan as required by this chapter.

(3) Burden of Proof. The burden of proof is on the applicant to bring forth evidence in support of the application and upon which any decision has to be made on the application.

(4) Public Comment. Consistent with AMC Chapter 20.16.220, the city must ensure the opportunity for public comment, including that form appropriate federal, state, and tribal natural resource agencies, to ensure the use of best available science before deciding an approval.

(d) Decision Criteria. A permit for alterations of a critical area and/or buffer width requires of this chapter may only be issued if the applicant demonstrates that all of the following criteria are met:

(1) Special circumstances applicable to the subject property, including size, shape, or topography, and the strict application of this chapter is found to deprive the subject property of rights and privileges enjoyed by other properties in the vicinity; provided, however, that the fact that those surrounding properties have been developed under regulations in force prior to the adoption of this chapter may not be the sole basis for granting approval;

(2) The issuance of a variance to zoning requirements (setback, heigh, coverage, etc.) by itself will not provide sufficient relief to avoid the need for a permitted alteration to the critical area and/or buffer and other requirements for the critical areas regulated by this chapter;

(3) Mitigation sequencing per AMC 20.93.430(a), Mitigation Sequencing, has been applied;

(4) The proposed alteration is supported by best available science; and

(5) The proposed alteration allows for development of the subject parcel with the least impact on critical areas while providing a reasonable use of the property.

(e) Conditions may be required. In granting any approval, conditions and safeguards may be prescribed as are necessary to secure adequate protection of critical areas from adverse impacts, protect adjacent property, and ensure conformity with this chapter.

(f) Table 20.93.360-1 describes activities that must meet the precise description to be allowed following the prescribed critical area process. Activities are divided into the categories of permitted in the critical area and permitted in the buffer, marked by a yes or no in the appropriate column.

Table 20.93.360-1 Permitted Alterations

Permitted Alterations: Zoning Permit Required Administrative Decision with Public Notice	**Critical Area**	**Buffer**
Buffer Modifications, including: increased buffer width, buffer averaging, and buffer alterations as described specifically in this chapter.	No	Yes
Public Services. To protect wetlands streams, wildlife habitat and other sensitive critical areas while allowing services when the strict application of the standards in this chapter would otherwise unreasonably prohibit the provision of public services and amenities. (a) "Public Services" include, but are not limited to, water supply, sewer and stormwater management facility; electric power, telecommunication and natural gas lines; and public road and multimodal transportation corridors. (b) Public services may be allowed to alter critical areas and buffers when: (1) Mitigation sequencing per AMC 20.93.430(a) has been applied; (2) The application of the critical areas regulations would unreasonably restrict the ability to provide public services; (3) There is no other practical alternative to the proposed development with less impact on the critical area; (4) The proposed development does not create a health or safety hazard on or off the development site, and must not be detrimental to the properties or improvements in the vicinity; (5) Where feasible, development is located on existing road grades, utility corridors, or previously disturbed areas; (6) Designs for crossings, boardwalks, bridges, and culverts are consistent with Washington Department of Fish and Wildlife and National Marine Fisheries Service best available science for the protection of fish and wildlife habitat. These structures shall not interfere with fish passage, the flow and circulation of water, or other wetland or stream processes, and shall be located at a 90-degree angle, or as close as possible thereto, to the stream, wetland, or buffer. In streams with salmonid habitat, bridges, bottomless culverts, or other alternatives that will allow for fish passage are required. Bridge piers or abutments may not be placed within wetlands, streams, or stream banks unless there is no feasible alternative; (7) Construction of crossings will occur during work windows and time limits established by state and federal agencies with jurisdiction to decrease impacts to protected species; (8) Any alterations permitted to the critical area and buffer are mitigated in accordance with AMC 20.93.430, Mitigation Requirements, and relevant mitigation standards for the impacted critical area(s) type; (9) The proposal is consistent with the Arlington comprehensive plan and other applicable regulations. (c) Conditions Authorized. Conditions may be established as necessary to mitigate impacts to critical areas and to conform to the standards required in this chapter. (d) It will be a condition of any alteration granted a public agency and services exception that only the portion of the alteration that must be located in a critical area may be so located.	Yes	Yes
Conservation, Restoration, and Fish Habitat Enhancement Projects. Conservation or restoration activities aimed at protecting or enhancing the soil, water, vegetation, or wildlife; including voluntary fish, wildlife, and wetland restoration or enhancement activities not required as project mitigation that have been approved by the U.S. Fish and Wildlife Service, the Washington State Department of Ecology, Washington State Department of Fish and Wildlife, or other appropriate local, state, federal, or tribal jurisdiction and/or that mee the criteria of RCW 77.55.181(1) and that are reviewed and approved according to the provisions of RCW 77.55.181. A biological evaluation report is required to determine whether the proposal would conserve, preserve, or enhance critical area functions in the long term to minimize temporary environmental impacts.	Yes	Yes
Chemical Application. The application of herbicides, pesticides, organic or mineral-derived fertilizers, or other hazardous substances, if necessary for the control of nuisance weeds and algae; except that their use will be restricted in accordance with the State Department of Ecology and State Department of Fish and Wildlife Management recommendations, and regulations of the State Department of Agriculture and the U.S. Environmental Protection Agency.	Yes	Yes

Permitted Alterations: Zoning Permit Required Administrative Decision with Public Notice	**Critical Area**	**Buffer**
Recreational Areas/Facilities. Low impact activities which are consistent with the purpose and function of the critical area buffer and do not detract from its integrity may be permitted within the buffer depending on the sensitivity of the critical area. (a) Limited public park or public recreational access including trails, viewing platforms, fishing access (no wider than six feet), and foot bridges; provided, that all of the following are satisfied: (1) The area/facility is part of a public park that is dependent on its location for recreational function; and (2) The areas/facility is limited to the minimum necessary to accomplish the recreational function; and (3) The removal of trees and native vegetation is minimized; and (4) The balance of the development is consistent with other requirements of this chapter; and (5) The project is identified in the Arlington comprehensive plan or parks and recreation master plan. (b) Private pedestrian walkways and public trails must meet the following standards: (1) The trail is generally parallel to the perimeter of the critical area; (2) The trail is located in the outer 25 percent of the buffer area and is designed to avoid removal of trees and native vegetation; (3) The trail does not exceed six feet in width and is limited to native soils or pervious surfaces. Raised boardwalks utilizing nontreated pilings may be acceptable; and (4) The trail may be subject to closure during critical spawning, migration or breeding time periods of sensitive species that are present. (c) Informational Signs. Construction and placement of informational signs or educational demonstration facilities no more than nine square feet surface area and four feet high, as long as there is no permanent infringement on hydrology or stream flow and nontreated wood is used; (d) Limited excavation and filling necessary for the repair and maintenance of piers, walkways, observation decks, wildlife management shelters, boathouses, and other similar water related structures, provided they are built on pilings to allow unobstructed flow of water and preserve the natural contour of the critical area.	No	Yes
Single-Family Residences and Normal Appurtenances. New single-family dwellings on existing legal lots may intrude into critical areas or their buffers when all of the following conditions are met: (a) It is demonstrated that it is not feasible to avoid the critical area or buffer through avoidance or buffer averaging, or reconfiguration of lots in the same ownership at the date of adoption of this chapter, and the development is the minimum necessary to achieve reasonable use of the lot as determined by the decision-maker; and (b) Alteration of critical areas and their buffers including all clearing, grading, structures, and appurtenances, has not and will not exceed cumulatively 2,800 square feet of disturbance; and (c) This action does not allow critical areas or their buffers to be converted to lawn or residential landscaping beyond a minimal area needed to maintain an approved structure; and (d) Mitigation sequencing provided in this chapter under AMC 20.93.430 is applied and the proposal includes on-site mitigation to the extent feasible as determined by the critical area report. (e) Normal appurtenances included in this provision including garages, decks, and walkways incidental to residential living and that do not constitute a special privilege.	Yes	Yes
Critical Area Aquifer Recharge Areas. All regulated activities listed under AMC 20.93.810, Applicability and Hazard Materials Questionnaire.	Yes	Yes

20.93.370 Reasonable Use Exception and Critical Area Variance.

(a) Applicability. If the application of this chapter would result in denial of all reasonable and economically viable use of a property, and if such reasonable and economically viable use of the property cannot be obtained by consideration of a permitted alteration pursuant to AMC 20.93.360, then a landowner may seek a reasonable use exception from the standards of this chapter. Reasonable use exceptions are considered a critical area variance and are intended as a last resort and only when a variance can meet the requirements of this chapter.

(b) General Requirements. Reasonable use is a legal concept articulated by federal and state courts in regulatory takings cases. Within the context of these cases and for the purposes of this title, reasonable use means uses allowed by the underlying zoning designation and subdivision of property is not allowed. When no possible alternative exists, a reasonable use exception must be considered a critical area variance, provided they are consistent with the general standards for variances under AMC 20.20.030 and other applicable requirements established in this chapter.

(c) Procedures for Review.

(1) A variance permit must be required for all reasonable use exceptions. Requests for such permits must be reviewed using the procedures application to an Administrative Variance as outlined in AMC 20.20.030. A permit shall not be issued unless it can be shown that the proposed development is fully consistent with the variance approval criteria enumerated in AMC 20.20.030 (variance criteria) as well as all of the requirements of this chapter.

(2) In addition to other project related documents, all critical area variances must require a critical area report per AMC 20.93.410 to evaluate the proposed disturbance. The report must include:

(A) A description of the function and condition of the critical area and/or buffer that would be altered;

(B) An analysis of the effect of the development proposal on the critical area and/or buffer;

(C) A description of actions that can be taken to modify the development proposal to avoid or reduce the alteration of the critical area and/or buffer and a discussion of whether these modifications are practical and reasonable;

(D) A mitigation plan as required by this chapter.

(3) Burden of Proof. The burden of proof is on the applicant to bring forth evidence in support of the application and upon which any decision has to be made on the application.

(4) Public Comment. Consistent with AMC 20.16.220(d) the city must ensure the opportunity for public comment, including that from appropriate federal, state, and tribal natural resource agencies, to ensure the use of best available science before a decision is made.

(d) Variance Criteria.

(1) The application of this chapter would deny all reasonable economic use of the property and that there is no reasonable economically viable use with a lesser impact on the critical area than that proposed; and

(2) Special conditions and circumstances exist that are peculiar to the land, the lot, or something inherent in the land, and that are not applicable to other lands subject of the provisions of this chapter; and

(3) The inability of the applicant to derive reasonable use of the property is not the result of actions by the current or previous owner in subdividing the property or adjusting a boundary line, thereby creating the undevelopable condition, after the effective date of the ordinance codified in this chapter; and

(4) Any proposed modification to a critical area will be evaluated through consideration of a critical area report and mitigation plan prepared by a qualified professional pursuant to the requirements of this chapter and will be the minimum necessary to allow reasonable and economically viable use of the property. The critical area report and mitigation plan must be prepared utilizing best available science; and

(5) Mitigation sequencing per AMC 20.93.430 had been applied, and the proposal mitigation impacts on the critical area to the maximum extent possible, while still allowing reasonable use of the lot, and

(6) The proposed development does not pose a threat to adjacent property or to the public health and safety; and
(7) The applicant has demonstrated that the criteria in AMC 20.20.030, Variance Criteria are met; and
(8) Granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter or other lands, structures, or building under similar circumstances; and
(9) The granting of the variance is consistent with the general purpose and intent of the Arlington comprehensive plan, and planning policies.

(e) Conditions. Conditions of approval may be included as part of the decision, including modifications to the size and placement of structures and facilities to minimize impacts to critical areas and associated buffers and mitigation requirements that ensure that all impacts are mitigated to the maximum extent feasible utilizing best available science.

(f) Variances – Geologically Hazardous Areas. A variance must not authorize development within a geologically hazardous area or required setback or buffer from a geologically hazardous area unless a qualified professional has determined the development will not pose a threat to public safety or property.

Part IV - Critical Areas Review Procedures

20.93.400 Critical Area Evaluation Form

Prior to the city's consideration of any proposed activity found not to be exempt under AMC 20.93.350, the applicant must submit to the Department a completed form identifying suspected critical areas on, and within 300 feet, of the site.

20.93.410 Critical Area Report.

(a) Report Required. When the Director determines a proposed development is within, abutting, or is likely to adversely affect a critical area or buffer pursuant to the provisions of this chapter, the Director may require a critical areas assessment report that is prepared by a qualified professional. The assessment of critical areas and analysis of impacts must be commensurate with the value or sensitivity of a particular critical area and relative to the scale and potential impacts of the proposed activity. This provision is not intended to expand or limit an applicant's other obligations under WAC 197-11-100.

(b) Third Party Review of Critical Area Reports. The Director may require, at the applicant's expense, a third party review of a critical area report by a qualified professional under contract with or employed by the city in any of the following circumstances:
(1) The project requires a critical area permit, or critical area variance; or
(2) Third party review is specifically required by the provisions of this chapter for the critical area(s) or critical area buffer(s) potentially being impacted; or
(3) When the Director determines that such services are necessary to demonstrate compliance with the standards and guidelines of this chapter or other appropriate regulations.

(c) Critical Area Report Types or Sections. Critical area report requirements may be met in stages through multiple reports or combined in one report. A critical area report must include one or more of the following sections or report types unless exempted by the Director based on the extent of the potential critical area impacts. The scope and location of the proposed project will determine which report(s) alone or combined are sufficient to meet the critical area report requirements for potentially impacted critical area type(s). The typical sequence of required sections or reports that will fulfill the requirements of this section include:
(1) Reconnaissance. The existence, general location, and type of critical areas on, adjacent to, or likely to be impacted by activities on a project site. Determination of whether the project will adversely impact

or be at risk from the potential critical areas based on maximum potential buffers for the particular critical area type. Possible application of exemptions should also be addressed;

(2) Delineation. The extent, boundaries, rating or classification, and applicable standard buffers of critical areas where the project area could potentially impact the critical area or its buffer including an assessment of the characteristics of or functions and values of the critical area and buffers identified;

(3) Analysis. The proposal and impact assessment report documenting the potential project impacts to the critical area and buffers including a discussion of the efforts taken to avoid, minimize, and reduce potential impacts to those areas per AMC 20.93.430(a);

(4) Mitigation. The measures that prevent or compensate for the potential impacts of the project designed to meet the requirements of this chapter, AMC 20.93.430, Mitigation Plan Requirements, and the standards for the specific critical areas impacted. Mitigation includes, but is not limited to, adjustments to required buffer sizes, best practices to minimize impacts, and critical area or buffer enhancement, restoration, or preservation plans. Mitigation plans include but are not limited to habitat management plans, revegetation or replanting plans, and restoration plans;

(5) Maintenance and Monitoring. The goals of the mitigation proposed, performance standards for success, monitoring methods and reporting schedule, and contingency actions. Maintenance and monitoring plans must be consistent with the mitigation performance standards and requirements of this chapter, including the specific mitigation plan requirements outlined in each critical area type section.

(d) Minimum Report Requirements. At a minimum, critical area reports must contain the following information:

(1) The names and qualifications of the persons preparing the report and documentation of any fieldwork performed on the site;

(2) A description of the proposal, proposal location including address and parcel number(s), and a vicinity map for the project;

(3) Identification and characterization of all critical areas, water bodies, shorelines, and buffers on or within 300 feet of the proposed project area. The Director may require critical area and buffer dimensions be accurately surveyed, depending on the scope of the project;

(4) Documentation of any fieldwork performed on the site, including field data sheets, for delineations, rating system forms, baseline hydrologic data, site photos, etc.;

(5) A statement specifying the accuracy of the report and all assumptions made and relied upon;

(6) A description of methodologies used to conduct the critical areas investigation, including references;

(7) A scaled drawing of critical areas and buffers identified in the report including buffers for off-site critical areas that extend onto the project site.

(e) Existing Reports. Critical areas assessment reports shall generally be valid for a period of five years. Unless otherwise provided, a critical area report may incorporate, be supplemented by , or composed of any reports or studies required by other laws and regulations or previously prepared for and applicable to the development proposal site, as approved by the Director. At the discretion of the Director, reports previously compiled or submitted as part of a proposal for a development may be used as a critical area report to the extent that the requirements of this section and the requirements for each specific critical area type are met. Supplemental critical area report(s) may be required to provide information or analysis to address changes to the project scope, potential impacts to or changes to applicable regulations that have been made subsequent to existing, valid critical area reports, or other circumstances.

(f) Modifications to Report Requirements. The applicant may consult with the Director, prior to or during preparation of the critical area report, to obtain approval of modifications to the required contents of the report where, in the judgement of a qualified professional, more or less information is required to adequately address the potential critical area impacts and required mitigation.

(1) In some cases, such as when it is determined that no specific critical area is present, a full report may not be necessary to determine compliance with the critical area regulations, and in those cases a letter or reconnaissance-only report may be required.

(2) Limitations to Study Area. The Director may limit the required geographic area of the critical area report as appropriate if:
  (A) The applicant, with assistance from the city of Arlington, cannot obtain permission to access properties adjacent to the project area; or
  (B) The proposed activity will affect only a limited part of the project site.

20.93.420 Application Requirements.

(a) A complete application for a permitted alteration permit or reasonable use exception/variance permit must include the following information and materials on a form provided by the Director. For the purpose of this section, a complete application includes:
  (1) The name and contact information of the applicant;
  (2) Adequate information to determine compliance with the requirements of the critical area regulations, including a critical area report, impact and hazard assessment, and mitigation requirements specific to each critical area type, as indicated in the corresponding sections of this chapter;
  (3) Identification of the development permit(s) requested and all other local, state, and/or federal critical area-related permits required for the project;
  (4) Site plan, a scaled drawing of the development proposal including:
    (A) Property and project site boundaries;
    (B) An accurate depiction of all critical areas, including off-site critical areas and buffers that extend onto the project site; a desk survey is acceptable when access to the adjacent property has been denied;
    (C) The development proposal, including grading and clearing limits and areas of proposed impacts to critical areas and/or buffers (include square footage estimates);
    (D) A scaled depiction and description of the proposed stormwater pollution prevention plan consistent with the adopted stormwater manual, for the development and consideration of impacts to critical areas due to drainage alterations;
    (E) An assessment of probable impacts to the critical areas resulting from the proposed development of the site based upon identified findings;
    (F) A description of reasonable efforts made to apply mitigation sequencing pursuant to AMC 20.93.430, Mitigation Requirements, to avoid, minimize, and mitigate impacts to critical areas; and
    (G) Plans for mitigation required to offset any critical areas impacts, in accordance with AMC 20.93.430, Mitigation Plan Requirements, and the corresponding mitigation performance standards sections of this chapter, including a discussion of the applicable development standards and cost estimates for determination of financial guaranteed requirements.

(b) Additional Requirements. The Director may require additional information to be included in the critical areas permit submittal when determined to be necessary to the review of the proposed activity in accordance with this chapter. Additional information that may be required includes, but is not limited to:
  (1) Historical data, including original and subsequent mapping, historical aerial photographs, data compilations and summaries, and available reports and records relating to the site or past operations at the site;
  (2) Grading and stormwater management plans; and
  (3) Information specific to the type, location, and nature of the critical area.

20.93.430 Mitigation and Mitigation Plan Requirements.

(a) Mitigation must be sufficient to restore impacted functions and values, or compensate for the impacted functions and values, of the critical area and to prevent risk from a hazard posed to a critical area by the proposed activity. Mitigation must not be implemented until after the decision-maker has provided approval of a critical area report that includes a mitigation plan.

(1) Mitigation Sequencing. This section applies to mitigation required with all critical areas reviews, approvals, and enforcement pursuant to this chapter. This section is supplemented with specific measures under parts for particular critical area types. Mitigation for specific development proposals may include a combination of the measures below and must be designed and constructed in accordance with the provisions of this section. Before impacting any critical areas, an applicant must demonstrate that the following actions have been taken in the following sequential order:
   (A) Avoiding the impact altogether by not taking a certain action or parts of actions;
   (B) Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology, or by taking affirmative steps, such as project redesign, relocation, or timing, to avoid or reduce impacts;
   (C) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment or by restoring or stabilizing the critical area through natural, engineering, or other methods;
   (D) Reducing or eliminating the impacts or hazard over time by preservation and maintenance operations during the life of the action;
   (E) Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and/or
   (F) Monitoring, measuring and reporting the impact to the decision-maker and taking appropriate corrective measures.

(2) Applicants must first demonstrate an inability to avoid or reduce impacts before the use of actions to mitigate potential impacts will be allowed. No activity or use may be allowed that results in a net loss of the functions or values of a critical area.
   (A) Type, Location and Timing of Mitigation. Unless it is demonstrated that higher levels of ecological functioning or greater reduction of hazard risk would result from an alternative approach or as otherwise allowed in this chapter, mitigation for adverse impacts must be based on best available science and must be in-kind, on site, and prior to the activities that will disturb the critical area. Mitigation measures that cannot be implemented prior to the critical area impacts must be completed immediately following disturbance and prior to use or occupancy of the action or development. Construction of mitigation projects must be timed to reduce impacts to existing fisheries, wildlife, and flora.
      (i) The decision-maker may authorize a one-time temporary delay in completing construction or installation of the mitigation when the applicant provides a written explanation from a qualified professional as to the rationale for the delay and satisfactory financial guarantee that the installation will occur. An appropriate rationale would include identification of the environmental conditions that could produce a high probability of failure or significant construction difficulties (e.g., project delay lapses past a fisheries window, or installing plants should be delayed until the dormant season to ensure greater survival of installed materials). The delay must not create or perpetuate hazardous conditions or environmental damage or degradation, and the delay must not be injurious to the health, safety, or general welfare of the public.

(b) When mitigation is required, the applicant must submit for approval by the city a mitigation plan as part of the critical area report. The mitigation plan must include:
   (1) Environmental Goals and Objectives. The mitigation plan must identify environmental goals and objectives of the mitigation proposed and including:
      (A) A description of the anticipated impacts to the critical areas, the mitigation actions proposed, and the purposes of the compensation measures, including the site selection criteria; identification of compensation goas; identification of resource functions; and dates for beginning and completion of site compensation construction activities. The goals and objectives must be related to the functions and values of the impacted critical area; and
      (B) A review of the best available science supporting the proposed mitigation and description of the report author's experience to date in restoring or creating the type of critical area proposed.

(2) Performance Standards. The mitigation plan must include measurable specific criteria for evaluating whether or not the goals and objectives of the mitigation project have been successfully attained at the end of the required monitoring period and whether or not the requirements of this chapter have been met.

(3) Detailed Construction Plans. In order to convey proposed construction techniques and anticipated final outcome, the mitigation plan must include written specifications, descriptions, and drawings of the mitigation proposed, including:

(A) The proposed construction sequence, timing, and duration;

(B) Best management practices including erosion and sediment control features to be implemented;

(C) Site plans showing grading and excavation details, slope gradient, and final grade elevations with minimum two-foot contour intervals.

(D) Cross-sectional drawings;

(E) A planting plan specifying plant species, quantities, locations, size, spacing, and density; and

(F) Measures to protect and maintain plants until established.

(4) Monitoring Program and Contingency Plan. A monitoring and contingency plan is required for all project requiring mitigation.

(A) The mitigation plan must include a monitoring program to be implemented by the applicant to determine the success of the mitigation project and any necessary corrective actions. This program must determine if the original goals and objectives of the mitigation plan are being met.

(5) Monitoring Reports.

(A) The as-built report, required prior to final inspection, must, at a minimum, include documentation of the following:

(i) Departures from the original approved plans;

(ii) Construction supervision provided by the qualified professional;

(iii) Approved project goals and performance standards;

(iv) Baseline data for monitoring per the approved monitoring methods;

(v) Photos from established photo points; and

(vi) A site plan showing final mitigation as constructed or installed, monitoring points, and photo points.

(B) Subsequent monitoring reports must, at a minimum, include:

(i) Monitoring visit observations, documentation, and analysis of monitoring data collected;

(ii) Photos from established photo points;

(iii) Determination whether performance standards are being met; and

(iv) Maintenance and/or contingency action recommendations to ensure success of the project at the end of the monitoring period.

(C) The applicant is responsible for reimbursement of the cost of review of monitoring reports and site inspections during the monitoring period which are completed by the city or a qualified professional under contract with or employed by the city.

(6) Cost Estimates. The mitigation plan must include cost estimates that will be used by the city to calculate the amounts of financial guarantees, if necessary, to ensure that the mitigation plan is fully implemented. Financial guarantees ensuring fulfillment of the compensation project, monitoring program, and any contingency measures must be posted in accordance with AMC 20.93.470, Financial guarantee requirements.

(7) Approved Mitigation Projects – Signature. On completion of construction, an as-built report for any approved mitigation project must be prepared and signed off by the applicant's qualified professional and approved by the city. Signature of the qualified professional on the required as-built report and approval by the Director indicates that the construction has been completed as planned.

20.93.440 Title Notification.

(a) Generally. A critical area notice on title is required, as a condition of permit issuance or project approval, when a permit or development application is submitted for development on any property containing a critical area or buffer. The purpose is to inform subsequent purchasers of real property of the existence of critical areas.
  (1) The title notice requirement can be met through recording of a title notice on forms prepared by the city, establishment of a critical area tract, or recording of a native growth protection area easement, consistent with subsections (b) through (d) of this section, as applicable.
  (2) The following must be noted on all critical area title notice documents:
    (A) Identification of ownership and long-term maintenance responsibility of critical areas, buffers, and permanent field markings (e.g., fencing, signage);
    (B) Restrictions on development, vegetation removal, and application of hazardous substances (pesticides, herbicides, fertilizers) within the critical areas and buffers;
    (C) The right of the city to enforce the terms of the restrictions.

(b) Title Notice. The title notice applicable to the property must be approved by the decision-maker and City Attorney for compliance with this provision and be filed by the property owner, at their expense, with the Snohomish County Auditor's Office. The title holder will have the right to challenge this notice and to have it extinguished if the critical area designation no longer applies. However, the titleholder is responsible for completing a critical area report, subject to approval by the decision-maker, before the notice on title can be extinguished. The title notice runs with the land.

(c) Critical Area Tract. Subdivisions, short subdivisions, and binding site plans must establish a separate critical area tract as a permanent protective measure for wetlands, fish and wildlife habitat conservation areas, and geological hazard areas and their buffers. The plat or binding site plan for the project must note the long-term ownership/maintenance responsibility as well as clearly depict the critical area tract, including all of the subject critical area, any required buffer, and any additional lands included voluntarily as part of the project. Should the critical area tract include several types of critical areas, separate critical area tracts must be identified.

(d) Native Growth Protection Easements (NGPE). NGPE easements are required on a property where no subdivision, short subdivision, or binding site plan is proposed or required. Unless otherwise required in this chapter, NGPE easements must be recorded on title for all affected parcels prior to approval of a development application or building permit, when two or more dwelling units and/or nonresidential developments are proposed on one parcel, to delineate and protect critical areas and their buffers. The easement to be recorded must clearly depict the critical area(s), required buffer(s) and the limits of the NGPE easement.

20.93.450 Field Marking.

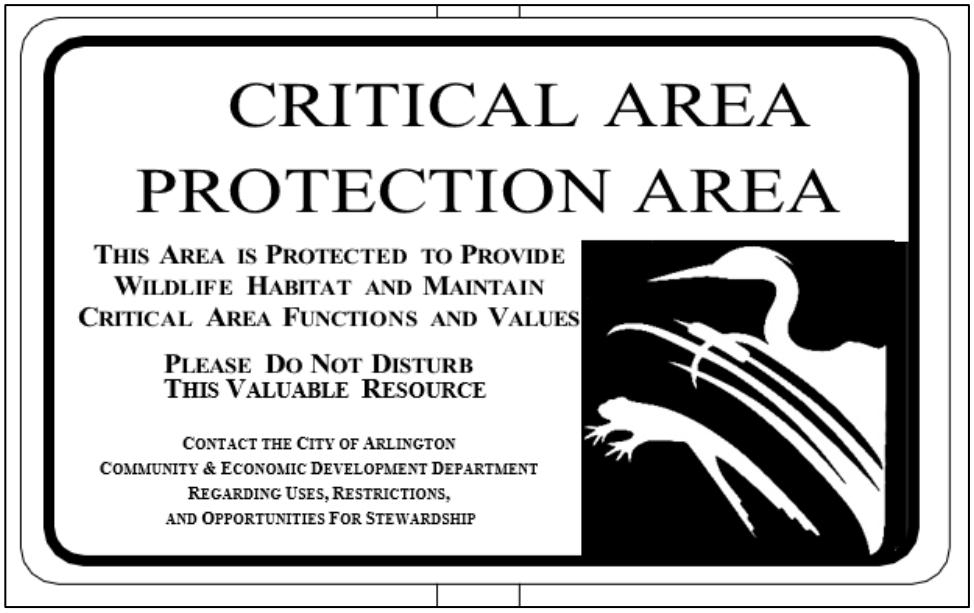
(a) Temporary Field Marking During Construction. The outer perimeter of the critical area buffer and the clearing limits identified by an approved permit or authorization must be marked in the field with temporary "clearing limits" fencing in such a way as to ensure that no unauthorized intrusion will occur. The marking is subject to inspection by the Director prior to the commencement of permitted activities. This temporary marking and fencing must be maintained throughout construction and may not be removed until permanent fencing and/or signs, if required, are in place.

(b) Permanent Field Marking. The decision-maker may require installation of permanent signs, markers, and fencing along the outer perimeter of a critical area or its buffer when it is determined necessary to protect the critical areas' functions and values. Permanent markings must be installed prior to final project approval or occupancy, as determined by the decision-maker.
  (1) Signs. As a condition of any permit or authorization issued pursuant to this Chapter, the Community and Economic Development Director shall require the applicant to install permanent signs along the

boundary of the critical area. All critical areas, tracts, easements, and dedications should be clearly marked on the site using permanent markings, as follows:

(A) Permanent 12" x 18" signs shall be made of an enamel-coated metal face attached to a metal post or another non-treated material of equal durability. Signs shall be posted at an interval of one (1) every fifty (50) feet, or one (1) per lot if property owner in perpetuity. The signs shall be worded as follows or with alternative language approved by the Community and Economic Development Director:

Figure 1: Critical Area Protection Area Sign



(B) The provisions of Subsection (A) may be modified as necessary to assure protection of sensitive features or wildlife.

(2) Fencing.

(A) The applicant shall be required to install a permanent fence along the boundary of the wetland buffer when adjacent activities could degrade the wetland or its buffer (e.g., domestic animal grazing, unauthorized access by humans or pets, etc.).

(B) Fencing installed as part of a proposed activity or as required in this subsection shall be designed so as to not interfere with species migration or wildlife movement, including fish runs, and shall be constructed in a manner that minimizes impacts to the wetland and associated habitat. Proposed fencing types and materials will be determined on a case-by-case basis; however, the typical is split rail fencing. All fencing shall be approved by the decision-maker prior to installation.

(3) Maintenance and Replacement. It is the responsibility of the landowner, successors, or as otherwise assigned to maintain in perpetuity and replace, if necessary, all permanent fencing and field markings.

20.93.460 Construction Plan Review, Monitoring, and Inspection.

(a) The Director may require project building and construction plans be reviewed by a qualified professional for confirmation of consistency with the critical area report and recommendations prior to approval of construction plans.

(b) The Director may require monitoring by a qualified professional during site alteration activities within, or adjacent to, critical areas or buffers, and/or a final inspection report by the qualified professional stating

that construction has or has not implemented the design recommendations provided in the project critical area report, and evaluation of any deviation from the recommendations.

(c) When the Director determines that such services are necessary to demonstrate compliance with the standards and guidelines of this chapter, they will be at the applicant's expense.

20.93.470 Financial Guarantee Requirements.

When determined necessary by the Director, bonds, and other financial guarantees, and associated performance agreements or maintenance/defect/monitoring agreements are required for projects with required mitigation or restoration of impacts to critical areas or critical area buffers consistent with the following:

(a) A performance agreement and bond, or other acceptable financial guarantees, are required from the applicant when mitigation required pursuant to a development proposal is not completed prior to final permit approval, such as final plat approval or final building inspection. The amount of the performance bond(s) must equal 150 percent of the cost of the mitigation project.

(b) A performance agreement and bond, or other acceptable financial guarantees, are required from the applicant when restoration is required for remediation of a critical area violation. The amount of the performance bond(s) must equal 150 percent of the cost of the mitigation project.

(c) A maintenance/defect/monitoring agreement and bond, or other acceptable financial guarantees, are required to ensure the applicant's compliance with the conditions of the approved mitigation plan pursuant to a development proposal or restoration plan for remediation of a violation. The amount of the maintenance bond(s) must equal 150 percent of the cost of the mitigation project in addition to the cost for monitoring for a minimum of five years. The monitoring portion of the financial guarantee may be reduced in proportion to work successfully completed over the period of the bond. The bonding period must coincide with the monitoring period.

20.93.480 Unauthorized Critical Area Alterations.

(a) When a critical area or its buffer has been altered in violation of this chapter, all work must stop and the critical area and buffer must be restored. The Director may issue a stop work order to cease all work, and order restoration measures at the owner's or other responsible party's expense to remediate the impacts of the violation of the provisions of this chapter. The city may take formal enforcement action under AMC Title 11, Violations and Abatement, to ensure the violation is abated.

(b) Requirement for Restoration Plan.

(1) All work must remain stopped until a restoration plan is provided by the responsible party and approved by the city. Such a plan must be prepared by a qualified professional using the best available science and must describe how the actions proposed meet the minimum requirements described in subsection (c) of this section.

(2) The Director may, at the responsible party's expense, seek expert advice, including but not limited to third party review by a qualified professional under contract with or employed by the city, in determining if the plan meets the minimum performance standards for restoration.

(3) Submittal, review, and approval of required restoration plans for remediation of violations of this chapter must be completed through a site development permit application process, either after the fact for regulated activities, or as a restoration permit for activities not allowed under these provisions.

(c) Minimum Performance Standards for Restoration.

(1) For alterations to critical aquifer recharge areas, wetlands, and fish and wildlife habitat conservation areas, the following minimum performance standards must be met for the restoration:

(A) The pre-violation function and values of the affected critical areas and buffers must be restored, including but not limited to hydrologic, water quality and habitat functions;

(B) The pre-violation soil types and configuration must be replicated;

(C) The critical area and buffers must be replanted with a native vegetation community that reproduces the structure, species content and condition of the pre-violation vegetation community. Based on the historical or pre-violation vegetation community, native plant species

must be replaced at minimum of a five-to-one ratio or installed at a density of five-feet-on-center unless approved by the decision-maker. The pre-violation functions and values should be replicated at the location of the alteration; and

(D) Information demonstrating compliance with the requirements in AMC 20.93.430, Mitigation Plan Requirements, and the applicable mitigation sections for the affected type(s) of critical area(s) and their buffer(s) must be submitted to the decision-maker with a complete site development permit application.

(E) These standards may be modified by the decision-maker when it can be demonstrated that greater functional and habitat values can be obtained.

(2) For alterations to special flood hazard and geologically hazardous areas, the following minimum performance standards must be met for the restoration of a critical area:

(A) The hazard must be reduced to a level equal to, or less than, the pre-violation hazard;

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

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

(D) These standards may be modified by the decision-maker if the violator can demonstrate that greater safety can be obtained.

(d) Site Investigation. The Director is authorized to take such actions as are necessary to enforce this chapter. The Director (or Director's authorized representative) must present proper credentials and obtain permission before entering onto private property.

(e) Penalties. Any responsible party violating the provisions of this chapter may be subject to applicable penalties per AMC Title 11, Violations and Abatement.

20.93.490 Final Decision and Appeals.

(a) Completion of the Critical Area Review. The city's determination regarding critical areas pursuant to this chapter is final concurrent with the final decision to approve, condition, or deny the underlying permit for the development proposal or other activity involved.

(b) Appeals. Any decision to approve, condition, or deny a development activity proposal or other activity based on the requirements of this chapter may be appealed according to, and as part of, the appeal procedure for the underlying permit or approval involved.

Part V - Wetlands

20.93.500 Description and Purpose.

(a) Recognize and protect the beneficial functions performed by many wetlands, which include, but are not limited to, providing food, breeding, nesting and/or rearing habitat for fish and wildlife; recharging and discharging ground water; contributing to stream flow during low flow periods; stabilizing stream banks and shorelines; storing storm and flood waters to reduce flooding and erosion; carbon sequestration; thermal refugia, and improving water quality through biofiltration, adsorption, retention, and transformation of sediments, nutrients, and toxicants.

(b) Regulate land use to avoid adverse effects on wetlands and maintain the functions and values of wetlands through the City of Arlington.

(c) Establish review procedures for development proposals in and adjacent to wetlands.

(1) Compliance with the provisions of this Chapter does not necessarily constitute compliance with other federal, state, and local regulations and permit requirements that may be required (for example, Shoreline permits, Hydraulic Project Approval permits, Clean Water Act Section 404 permits and 401 certifications, Ecology Administrative Orders, or NPDES permits). The applicant is responsible for complying with these requirements, apart from the processes established in this Chapter.

20.93.510 Identification, Delineation, Designation, and Rating.

(a) Identification and Delineation. Identification of wetlands and delineation of their boundaries pursuant to this Chapter shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplement. All areas within the city meeting the wetland definition and designation criteria in that procedure are hereby designated critical areas and are subject to the provisions of this Chapter. Wetland delineations are valid for five years; after such date the city shall determine whether a revision or additional assessment is necessary. Wetland delineations will be documented on a ground-verified map using either professional surveying methods or an equivalent professional method using GPS with sub-meter accuracy.

(b) Designation. All areas meeting the definition of a wetland and the wetland identification criteria pursuant to this chapter, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this chapter.

(c) Rating. Wetlands shall be rated according to the Washington state Wetland Rating System for Western Washington: 2014 Update (Ecology Publication 14-06-029 or as revised). Wetland ratings are valid for five years; after such date the city shall determine whether a revision or additional rating is necessary.

(1) Category I. Category I wetlands are those that represent unique or rare wetland types, are more sensitive to disturbance than most wetlands, are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime or provide a high level of functions. The following types of wetlands are Category I:

(A) Relatively undisturbed estuarine wetlands larger than 1 acre;

(B) Wetlands of high conservation value identified by scientists of the Washington Natural Heritage Program/Department of Natural Resources (DNR);

(C) Bogs;

(D) Mature forested wetlands larger than 1 acre;

(E) Wetlands in coastal lagoons; and

(F) Wetland that perform many functions well and have a total score of 23 points or more in the wetland rating.

(2) Category II. Category II wetlands are those wetlands that are difficult, though not impossible, to replace, and provide high levels of some functions. The following types of wetlands are Category II:

(A) Estuarine wetlands smaller than one acre or disturbed estuarine wetlands larger than one acre;

(B) Wetlands with a moderately high level of functions and a total score of 20 to 22 points in the wetland rating;

(C) Wetlands in coastal lagoons that are relatively undisturbed and equal to or smaller than one-tenth acre (4,350 square feet).

(3) Category III. Category III wetlands are those with a moderate level of functions, generally have been disturbed in some ways, can often be adequately replaced with a well-planned mitigation project, and are often less diverse or more isolated from other natural resources in the landscape than Category II wetlands. The following types of wetlands are Category III:

(A) Wetlands with a moderate level of functions with a total score of 16 to 19 points in the wetland rating.

(4) Category IV. Category IV wetlands have the lowest levels of functions and are often heavily disturbed, with a total score of 15 points or less in the wetland rating. The functions provided by Category IV wetlands are generally easier to replace, and in some cases can be improved. However, experience has shown that replacement of functions cannot be guaranteed in any specific case. These wetlands may provide some important functions that need to be protected.

(d) Illegal Modifications. Wetland rating categories shall not change due to illegal modification made to the wetland.

20.93.520 Mapping and Delineation

(a) Mapping. The approximate location and extent of potential wetlands are shown in the wetland data layer maintained in the city of Arlington geographic information system (GIS). In addition, the following maps and inventories, that depict areas of hydric soils and potential wetland areas, are hereby adopted by reference as amended:
  (1) Soil maps produced by the U.S. Department of Agriculture, National Resources Conservation Service; and
  (2) The National Wetlands Inventory, produced by the U.S. Fish and Wildlife Service.

(b) Reference Only. The maps and resources cited above are to be used as a guide for the Department, project applicants, and/or property owners and may be continuously updated as new critical areas are identified. They are a reference and do not provide a final critical area designation.

(c) Identification and Delineation. Identification of wetlands and delineation of their boundaries pursuant to this chapter must be done in accordance with the adopted federal wetland delineation manual and applicable regional supplements per WAC 173-22-035. The exact location of a wetland's boundary must be determined through the performance of a field investigation by a qualified professional. Evidence documenting the results of the boundary survey, including evidence of a lack of wetland indicators if no wetlands are identified, must be submitted to the city.

20.93.530 General Development Standards

(a) All development activities and uses are prohibited in wetlands and wetland buffers, unless administered through the permit procedures above, and the performance standards described herein, and only when it is demonstrated that the activity will not result in a loss of function and values of the wetland through the application of mitigation sequencing in AMC 20.93.430(a), Mitigation Requirements.

(b) Exemptions. Exemptions to this chapter are listed in the provisions established in AMC 20.93.350, Exempt Activities.

(c) Subdivisions. The subdivision and/or short subdivision of land in wetlands and associated buffers are subject to the following:
  (1) Land that is located wholly within a wetland and/or its buffer may not be subdivided; and
  (2) Land that is located partially within a wetland and/or its buffer may be subdivided; provided, each lot will meet all zoning standards in AMC Chapter 20.48, Density and Dimensional Standards without encroaching into the wetland or buffer.

20.93.540 Specific Wetland Category Development Standards

(a) Category I Wetlands. Development activities and uses that result in alteration of Category I wetlands and their associated buffers are prohibited, unless the denial will prevent all reasonable economic use of the property. The development may be permitted through a critical area variance if it is determined to be the minimum impact possible and a reasonable use as prescribed in AMC 20.93.370, Reasonable Use Exception and Critical Area Variance.

(b) Category II, III, and IV Wetlands. Development activities that result in alteration of Category II, III, or IV wetlands may be permitted upon demonstration, through a critical area report meeting the requirements of this chapter, that:
  (1) Mitigation sequencing has been applied per AMC 20.93.430(a);
  (2) The proposed alteration will not degrade the quantitative and qualitative functioning of the wetland, or that nay degradation can be adequately mitigated to protect or compensate for the wetland functions that are lost;
  (3) Small, Hydrologically Isolated Category IV Wetlands (Less than 1,000 Square Feet). The decision-maker may allow small, hydrologically isolated Category IV wetlands to be exempt from the requirement to avoid impacts (AMC 20.93.430(a)(1)), and allow alteration of such wetlands if all of the following conditions are met:

(A) The remaining mitigation sequencing actions of AMC 20.93.430(a)(2) through AMC 20.93.430(a)(6) are followed;
(B) The wetland is less than 1,000 square feet in area;
(C) The wetland does not have unique characteristics that would be difficult to replace through standard compensatory mitigation practices;
(D) The wetland is a low-quality Category IV wetland with a habitat score of less than five points in the adopted rating system;
(E) The wetland does not provide significant suitable breeding habitat for native amphibian species. Suitable breeding habitat may be indicated by adequate stable and seasonal inundation that is persistent from February to at least through April and presence of thin-stemmed emergent vegetation and/or clean water;
(F) The wetland does not contain habitat identified as essential for local populations of priority species identified by the Washington Department of Fish and Wildlife or species of local importance which are regulated as fish and wildlife habitat conservation area in Part 3 FWHCA;
(G) The wetland is not associated with shorelines of the state or their associated buffers;
(H) The wetland is not associated with riparian areas or buffers;
(I) The wetland is not part of a wetland mosaic; and
(J) A mitigation plan to replace lost wetland functions and values is developed, approved, and implemented consistent with AMC 20.93.430, Mitigation Plan Requirements.
(K) In order to verify that the wetland meets these exemption conditions, a critical area report for wetlands meeting the requirements in this chapter must be submitted.

(4) Small, Hydrologically Isolated Category IV Wetlands (Less than 1,000 Square Feet). Wetlands less than 1,000 square feet that meet the criteria in subsection (b)(3) of this section and that do not contain federally listed species or their critical habitat are exempt from the buffer provisions contained in this chapter. In order to verify that the wetland meets this exemption, a critical area report for wetlands meeting the requirements in this chapter must be submitted.

20.93.550 Required Buffer Areas.

(a) Buffer Requirements. Wetland buffers must be established to protect the integrity, functions and values of the wetland. The below buffer tables have been established in accordance with the best available science. They are based on the category of wetland and the habitat score (for options 1 and 2) as determined by a qualified wetland professional using the Washington State Wetland Rating System for Western Washington: 2014 Update (Ecology Publication #14-06-029, or as revised).
(b) Measurement of Wetland Buffers. All buffers must be measured horizontally from the edge of the wetland boundary as surveyed in the field. The width of the buffer must be determined according to the buffer options chosen below.
(c) Buffer Standards. The buffer standards required by this chapter presume the existence of a dense vegetation community in the buffer adequate to protect the wetland functions and values. When a buffer lacks adequate vegetation, the decision-maker may increase the standard buffer, require buffer planting or other enhancements, and/or deny a proposal for buffer reduction or buffer averaging.
(1) Buffer Width Tables.

(A) Option 1

(i) Table 20.93.550-1: Wetland Buffer Width Requirements, in Feet, if Table 20.93.550-2 is Implemented and a Habitat Corridor is Provided.

Category of Wetland	Habitat Score 3-5 Points	Habitat Score 6-7 Points	Habitat Score 8-9 Points	Buffer Width Based on Special Characteristics
Category I or II: Based on Rating of Wetland Functions (and not listed below)	75	110	225	NA
Category I: Bogs and Wetlands of High Conservation Value	NA	NA	225	190
Category I: Interdunal	NA	NA	225	NA
Category I: Forested	75	110	225	NA
Category I: Estuarine and Wetlands in Coastal Lagoons	NA	NA	NA	150
Category II: Interdunal	NA	NA	NA	110
Category II: Estuarine and Wetlands in Coastal Lagoons	NA	NA	NA	110
Category III: All Types Except Interdunal	60	110	225	NA
Category III: Interdunal	NA	NA	NA	60
Category IV: All Types	40	40	40	NA

(ii) Table 20.93.550-2: Developments that Produce the Listed Disturbances and are Requesting a Buffer Reduction are Required to Address the Disturbance Through the Use of Applicable Minimization Measures.

This is not a complete list of measures, nor is every example measure required. Though not every measure is required for all situations, all effort should be made to implement as many measures as possible when the activities or uses are present on the site. Regulatory staff should determine, in coordination with the applicant, which measures are applicable and practicable.

Examples of Disturbance	Activities and Uses that Cause Disturbances	Examples of Measures to Minimize Impacts
Lights	• Parking lots • Commercial/Industrial • Residential • Recreation (e.g., athletic fields) • Agricultural Buildings	• Direct lights away from wetland • Only use lighting where necessary for public safety and keep lights off when not needed • Use motion-activated lights • Use full cut-off filters to cover light bulbs and direct light only were needed • Limit use of blue-white colored lights in favor of red-amber hues • Use lower-intensity LED lighting • Dim light to the lowest acceptable intensity
Noise	• Commercial • Industrial • Recreation (athletic fields, bleachers, etc.) • Residential • Agriculture	• Locate activity that generates noise away from wetlands • Construct a fence to reduce noise impacts on adjacent wetland and buffer • Plant a strip of dense shrub vegetation adjacent to wetland buffer
Toxic runoff	• Parking lots • Roads • Commercial/Industrial • Residential areas • Application of pesticides • Landscaping • Agriculture	• Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered • Establish covenants limiting use of pesticides within 150 ft of wetland • Apply integrated pest management • These examples are not necessarily adequate for minimizing toxic runoff if threatened or endangered species are present at the site
Stormwater runoff	• Parking lots • Roads • Residential areas • Commercial/Industrial • Recreation • Landscaping/lawns • Other impermeable surfaces, compacted soil, etc.	• Retrofit stormwater detention and treatment for roads and existing adjacent development • Prevent channelized or sheet flow from lawns that directly enters the buffer • Infiltrate or treat, detain, and disperse new runoff from impervious surfaces and lawns
Pets and human disturbance	• Residential areas • Recreation	• Use privacy fencing • Plant dense native vegetation to delineate buffer edge and to discourage disturbance. • Place wetland and its buffer in a separate tract • Place signs around the wetland buffer every 50 - 200 feet and for subdivisions place signs at the back of each residential lot • When platting new subdivisions, locate greenbelts, stormwater facilities, and other lower-intensity uses adjacent to wetland buffers
Dust	• Tilled fields • Roads	• Use best management practices to control dust

(iii) Table 20.93.550-3: Wetland Buffer Width Requirements, in Feet, for Applications **Not** Providing Habitat Corridor or Implementing Measures in Table 20.93.550-2.

Category of Wetland	Habitat Score 3-5 Points	Habitat Score 6-7 Points	Habitat Score 8-9 Points	Buffer Width Based on Special Characteristics
Category I & II: Based on Rating of Wetland Functions (and not listed below)	100	150	300	NA
Category I: Bogs and Wetlands of High Conservation Value	NA	NA	300	250
Category I: Interdunal	NA	NA	300	NA
Category I: Forested	100	150	300	NA
Category I: Estuarine and Wetland in Coastal Lagoons	NA	NA	NA	200
Category II: Interdunal	NA	NA	NA	150
Category II: Estuarine and Wetlands in Coastal Lagoons	NA	NA	NA	150
Category III: All Types Except Interdunal	80	150	300	NA
Category III: Interdunal	NA	NA	NA	80
Category IV: All	50	50	50	50

(iv) Conditions for Implementing Tables 20.93.550-1, 20.93.550-2, and 20.93.550-3

(a) Wetlands that score 6 points or more for habitat function: the buffers in Table 20.93.550-1 can be used only if all of the following criteria are met:

(1) A relatively undisturbed, vegetated corridor at least 100 feet wide is protected between the wetland and:

(A) A legally protected, relatively undisturbed and vegetated area (e.g., Priority Habitats, compensatory mitigation sites, wildlife areas/refuges, national, county, and state parks where they have management plans with identified areas designated as Natural, Natural Forest, or Natural Area Preserve, or

(B) An area that is the site of a Watershed Project identified within, and fully consistent with, a Watershed Plan is defined by RCW 89-08-460, or

(C) An area where development is prohibited according to the provisions of the local shoreline master program, or

(D) An area with equivalent habitat quality that has conservation status in perpetuity, in consultation with WDFW.

(2) The corridor is permanently protected for the entire distance between the wetland and the shoreline or legally protected area by a conservation easement, deed restriction, or other legal site protection mechanisms.

(3) Presence or absence of the shoreline or Priority Habitat must be confirmed by a qualified biologist or shoreline Administrator.

(4) The measures in Table 20.933.550-2 are implemented, as applicable, to minimize the impacts of the adjacent land uses.

(b) For wetlands that score 5 or fewer habitat points, only the measures in Table 20.93.550-2 are required for the use of the buffers in Table 20.93.550-1.

(c) If an applicant does not apply the mitigation measures in Table 20.93.550-2 or is unable to provide a protected corridor, then the buffers in Table 20.93-.550-3 shall be used.

(d) The buffer widths in Tables 20.93.550-1 and 20.93.550-3 assume that the buffer is vegetated with a native plant community appropriate for the ecoregion. If the existing buffer is unvegetated, sparsely vegetated, or vegetated with invasive species that do not perform needed functions, the buffer must either be planted to create the appropriate native plant community or be widened to ensure that the buffer provides adequate functions to protect the wetland.

(B) Option 2

(i) Table 20.93.550-4: Width of Buffers, in Feet, Needed to Protect Wetlands from Impacts of Proposed Land Use (used with Table 20.93.550-5).

Category of Wetland	Land Use with Low Impact*	Land Use with Moderate Impact*	Land Use with High Impact*
I	150	225	300
II	150	225	300
III	75	110	150
IV	25	40	50

*See Table 20.93.550-5 below for types of land uses that can result in low, moderate, and high levels of impacts to wetlands.

(ii) Table 20.93.550-5: Levels of Impacts from Proposed Land Use Types.

Level of Impact from Proposed Land Use	Types of Land Uses
High	• Commercial • Urban • Industrial • Institutional • Mixed-Use Developments • Residential (more than 1 unit/acre) • Roads: federal and state highways, including on-ramps and exits, state routes, and other roads associated with high-impact land uses • Railroads • Agriculture with high-intensity activities (dairies, nurseries, greenhouses, growing and harvesting crops requiring annual tilling, raising and maintaining animals, etc.) • Open/Recreational space with high-intensity uses (golf courses, ball fields, etc.) • Solar farms (utility scale)
Moderate	• Residential (1 unit/acre or less) • Roads: Forest Service roads and roads associated with moderate impact land uses • Open/Recreational space with moderate-intensity uses (parks with paved trails or playgrounds, biking, jogging, etc.) • Agriculture with moderate-intensity uses (orchards, hay fields, light or rotational grazing, etc.) • Utility corridor or right-of-way used by one or more utilities and including access/maintenance road • Wind farm
Low	• Natural resource lands (forestry/silviculture – cutting of trees only, not land clearing and removing stumps) • Open/Recreational space with low-intensity uses (unpaved trails, hiking, birdwatching, etc.) • Utility corridor without a maintenance road and little to no vegetation management • Cell tower

(C) Option 3

(i) Table 20.93.550-6: Wetland Buffer Width Requirements, in Feet, Based Solely on Wetland Category

Category of Wetland	Buffer Width
I	300
II	300
III	150
IV	50

(2) Increased Wetland Buffer Width. Buffer widths shall be increased on a case-by-case basis as determined by the decision-maker when a wider buffer is necessary to protect wetland functions and values. This determination shall be supported by appropriate documentation showing that it is reasonably related to protection of the functions and values of the wetland. The documentation shall include but not be limited to the following criteria:

(A) The wetland is used by a plant or animal species listed by the federal government or the state as endangered, threatened, candidate, sensitive, monitored, or documented priority species or habitats, or the wetland is essential or outstanding habitat for those species or has unusual nesting or resting sites such as heron rookeries or raptor nesting trees; or

(B) The adjacent land has slopes greater than 15 percent and is susceptible to severe erosion, and erosion-control measures will not effectively prevent adverse wetland impacts; or

(C) The adjacent land has minimal vegetative cover on slopes greater than 30 percent. In lieu of increasing the buffer width where existing buffer vegetation is inadequate to protect the wetland functions and values, development and implementation of a wetland buffer restoration/enhancement plan in accordance with AMC 20.93.570, Compensatory Mitigation Performance Standards and Requirements, may be substituted.

(3) Averaging Buffer Widths. The decision-maker may allow averaging of wetland buffers on a case-to-case basis when the critical area report demonstrates that the following criteria are met:

(A) There is not a feasible alternative to the site design that could be accomplished without buffer averaging;

(B) The buffer averaging improves the functions or values of the wetland, either through preservation of total buffer area or enhancement of buffer areas including the creation of connectivity or corridors;

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

(D) The wetland contains variation 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 narrow buffer in other places;

(E) The buffer at its narrowest point is not reduced to less than 75 percent of the standard width.

(4) Measurement of Wetland Buffers. All buffers must be measured perpendicular from the wetland boundary as surveyed in the field. The buffer for a wetland created, restored, or enhanced as a compensation for approved wetland alteration must be the same as the buffer required for the category of the created, restored, or enhanced wetland.

(5) Buffers on Mitigation Sites. Buffer widths must be applied to mitigation sites consistent with the wetland rating and buffer requirements of this chapter for subsequent development proposals based on expected category of the wetland once the mitigation actions are taken. Only fully vegetated buffers with predominantly native plants will be included in the new buffer area. Lawns, walkways, driveways, and other mowed or paved areas will not count towards the required buffer calculations.

(6) Buffer Maintenance. Except as otherwise specified or allowed in accordance with this chapter, wetland buffers must be retained in an undisturbed or enhanced condition. In the case of compensatory mitigation sites, removal of invasive nonnative weeds is require for the duration of the mitigation bond.

(7) Buffer Impacts. When buffer impacts occur, compensatory mitigation must be provided at a minimum ratio of one-to-one for the area impacted. The mitigation must occur on the same site when feasible or within the same wetland system preferably. The mitigation must ensure that the wetland functions and values are not diminished due to the buffer impacts.

(8) Stormwater Management Facilities. Stormwater management facilities may be allowed in Category III and IV wetland buffers if they meet all of the criteria identified below:

(A) The wetland is classified as a Category III or a Category IV wetland with a habitat score of three to five points or less; and

(B) There will be "no net loss" of functions and values of the wetlands; and

(C) The wetland does not contain a breeding population of any native amphibian species; and

(D) The hydrologic functions of the wetland can be improved as outlined in questions 3, 4, and 5 of Chart 4 and questions 2, 3, and 4 of Chart 5 in the Department of Ecology, "Guide for Selecting Mitigation Sites Using a Watershed Approach", or the wetland is part of a priority restoration plan that achieves restoration goals identified in a Shoreline Master Program or other local or regional watershed plan; and

(E) The wetland lies in the natural routing of the runoff, and the discharge follows the natural routing; and

(F) All regulations regarding stormwater and wetland management are followed, including but not limited to local and state wetland and stormwater codes, manual, and permits; and

(G) Modifications will require permits. Existing functions and values that are lost would have to be compensated/replaced through an approved mitigation plan.

(9) Setbacks From Buffers. Buildings and structures must be set back a minimum distance of 15 feet, while paving and other hard surfacing must be set back a minimum distance of 10 feet from the edge of the wetland buffer, or edge of the wetland if no buffer is required, unless otherwise determined by the decision-maker that a smaller distance would meet the intent of this subsection. This setback is to avoid conflicts with tree branches and/or critical root zones of trees that are in the buffer or will be planted in the buffer. The following may be allowed in the building setback from the buffer if they do not cause damage to the critical root zone of the trees in the buffer:

(A) Landscaping;

(B) Uncovered decks, roof eaves and overhangs, unroofed stairways and steps;

(C) Pervious ground surfaces, such as driveways, patios, and parking may be allowed; provided, that it is engineered as a permeable pavement system as defined in this chapter. Such improvements may be subject to the requirements in AMC Title 13.

(10) Functionally Separated and Isolated Buffers. Consistent with the definition of "buffer" in this chapter, areas that are functionally isolated and physically separated from a wetland due to existing, legally established roadways, railroads or other legally established structures or paved areas eight feet or more in width that occur between the area in question and the wetland must be considered physically isolated and functionally separated buffer. One determined by the Director, based on a submitted critical area report; to be a physically separated and functionally isolated wetland buffer, development proposals are allowed in these areas.

20.93.560 Critical Area Report Additional Requirements.

(a) Additional Report Contents for Wetlands. In addition to the minimum report contents required per AMC Critical area reports, wetland reports must also include:
  (1) For each wetland identified on site and off site within 300 feet of the project site provide: the wetland rating, including a description of and score for each function, per wetland ratings (AMC 20.93.510); required buffers (AMC 20.93.550); hydrogeomorphic classification; wetland acreage based on a professional survey from the field delineation (acreages for on-site portion and entire wetland area including off-site portions); Cowardin classification of vegetation communities; habitat elements; soil conditions based on site assessment and/or soil survey information; and to the extent possible, hydrologic information such as location and condition of inlets/outlets (if they can be legally accessed), estimated water depths within the wetland, and estimated hydroperiod patterns based on visual cues (e.g., algal mats, drift lines, flood debris, etc.). Provide acreage estimates, classifications, and ratings based on entire wetland complexes, not only the portion present on the proposed project site;
  (2) A discussion of the potential impacts to the wetland(s) associated with anticipated hydroperiod alterations from the project;
  (3) A description of the proposed actions, including an estimation of acreages of impacts to wetlands and buffers based on the field delineation and survey and an analysis of site development alternatives, including a no-development alternative;
  (4) An assessment of the probable cumulative impacts to the wetlands and buffers resulting from the proposed development;
  (5) A description of reasonable efforts made to apply mitigation sequencing pursuant to AMC 20.93.430(a)(1) Mitigation Requirements, to avoid, minimize, and mitigate impacts to critical areas and a discussion of measures, including avoidance, minimization, and compensation, proposed to preserve existing wetlands and restore any wetlands that were degraded prior to the current proposed land-use activity;
  (6) A conservation strategy for habitat and native vegetation that addresses methods to protect and enhance on-site habitat and wetland functions; and
  (7) An evaluation of the functions of the wetland and adjacent buffer. Include reference for the method used and data sheets.

(b) Additional Information. When appropriate due to the proposed impacts or the project area conditions, the Director may also require the critical area report to include:
  (1) A request for consultation with the Washington Department of Fish and Wildlife (WDFW), Washington State Department of Ecology (Ecology), local Native American tribes, and/or other appropriate agency;
  (2) Copies of the Joint Aquatic Resource Permit Application (JARPA) and related approvals, such as a Hydraulic Project Approval (HPA) from the Washington Department of Fish and Wildlife (WDFW), when applicable to the project; and
  (3) Detailed surface and subsurface hydrologic features both on and adjacent to the site.

20.93.570 Compensatory Mitigation Performance Standards and Requirements

(a) Compensatory Mitigation Plan. When a project involves wetland and/or buffer impacts, a compensatory mitigation plan must be included as part of the required critical area report. Compensatory wetland mitigation plans must meet the minimum requirements of AMC 20.93.430(a), Mitigation Requirements, and demonstrate compliance with AMC 20.93.430(b), Mitigation plan requirements. Full guidance can be found in Wetland Mitigation in Washington State: Part 2 - Developing Mitigation Plans (Version 1) (Ecology Publication No. 06-06-011 b, March 2006, or as revised). The mitigation plan must meet the following additional standards:
  (1) Description of the existing wetland and buffer areas proposed to be impacted. Include acreage (or square footage), water regime, vegetation, soils, landscape position, surrounding land uses,

and functions. Also describe impacts in terms of acreage by Cowardin classification, hydrogeomorphic classification, and wetland rating, based on wetland ratings (AMC 20.93.510);

(2) Description of the compensatory mitigation site, including location and rationale for selection. Include an assessment of existing conditions: acreage (or square footage) of wetlands and uplands, water regime, sources of water, vegetation, soils, landscape position, surrounding land uses, and functions. Estimate future conditions in this location if the compensation actions are not undertaken (i.e., how would this site progress through natural succession);

(3) A description of the proposed actions for compensation of wetland and upland areas affected by the project. Include overall goals of the proposed mitigation, including a description of the targeted functions, hydrogeomorphic classification, categories of wetlands, and mitigation ratios applied (if ratio approach used);

(4) A description of the proposed mitigation construction activities, construction/installation notes, and timing of activities;

(5) A discussion of ongoing management practices that will protect wetlands after the project site has been developed, including proposed monitoring and maintenance programs (for remaining wetlands and compensatory mitigation wetlands);

(6) Proof of establishment of notice on title for the wetlands and buffers on the project site, including the compensatory mitigation areas; and

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

(A) An accurate depiction of the existing wetland and buffers, proposed areas of wetland and/or buffer impacts, location of proposed wetland and/or buffer compensation actions;

(B) Existing topography, ground-proofed, at two-foot contour intervals in the zone of the proposed compensation actions if any grading activity is proposed to create the compensation area(s). Also, existing cross-sections of on-site wetland areas that are proposed to be impacted and cross-section(s) (estimated one-foot intervals) for the proposed areas of wetland or buffer compensation;

(C) Surface and subsurface hydrologic conditions, including an analysis of existing and proposed hydrologic regimes for enhanced, created, or restored compensatory mitigation areas. Also, illustrations of how data for existing hydrologic conditions were used to determine the estimates of future hydrologic conditions;

(D) Conditions expected from the proposed actions on site, including future hydrogeomorphic types, vegetation community types by dominant species (wetland and upland), and future water regimes;

(E) Required wetland buffers for existing wetlands and proposed compensation areas. Also, identify any zones where buffers are proposed to be reduced or enlarged outside of the standards identified in this chapter;

(F) A plant schedule for the compensation area, including all species by proposed community type and water regime, size and type of plant material to be installed, spacing of plants, typical clustering patterns, typical plant installation details and notes, total number of each species by community type, timing of installation; and

(G) Performance standards (measurable standards reflective of years post-installation) for upland and wetland communities, monitoring plan, contingency plan, and maintenance schedule, and actions. Standards for success must be established based on the performance standards identified and the functions and values being mitigated based on the guidance in Wetland Mitigation in Washington State: Part 2 - Developing Mitigation Plans (Version 1) (Ecology Publication No. 06-06-011 b, March 2006, or as revised).

(b) Requirements for Compensatory Mitigation.

(1) Compensatory mitigation for alterations to wetlands may be used only for impacts that cannot be avoided or minimized, except as otherwise exempted in AMC 19.70.230, Specific wetland category development standards, and must achieve equivalent or greater biologic functions.

Compensatory mitigation plans must be consistent with Wetland Mitigation in Washington State: Part 2 - Developing Mitigation Plans (Version 1) (Ecology Publication No. 06-06-011b, March 2006, or as revised).

(2) Mitigation ratios must be consistent with subsection (j) of this section.

(3) Mitigation requirements may also be determined using the credit/debit tool described in "Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Western Washington: Final Report, March 2012" (Ecology Publication No. 10-06-011, March 2012, or as revised) consistent with subsection (h) of this section.

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

(1) The lost wetland provides minimal functions and values, and the proposed compensatory mitigation action(s) will provide equal or greater functions and values or will provide functions and values shown to be limited within a watershed through a formal Washington State watershed assessment plan or protocol; or

(2) Out-of-kind replacement of wetland type or functions and values will best meet watershed goals formally identified by the city, such as replacement of historically diminished wetland types.

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

(1) Restoration. The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former or degraded wetland. Restoration of wetlands includes reestablishment and rehabilitation.

(A) Reestablishment. Returning natural or historic functions to a former wetland. Reestablishment results in a gain in wetland acres (and functions). Activities could include removing fill material, plugging ditches, or breaking drain tiles.

(B) Rehabilitation. Repairing natural or historic functions of a degraded wetland. Rehabilitation results in a gain in wetland function but does not result in a gain in wetland acres. Activities could involve breaching a dike to reconnect wetlands to a floodplain or return tidal influence on a wetland.

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

(3) Enhancement. Enhancement of significantly degraded wetlands in combination with restoration or creation. Enhancement alone will result in a loss of wetland acreage and is less effective at replacing the functions and values lost. Enhancement should be part of a mitigation package that includes replacing the impacted area and meeting appropriate ratio requirements.

(4) Preservation. Preservation of high-quality, at-risk wetlands as compensation is generally acceptable when done in combination with restoration, creation, or enhancement; provided, that a minimum of one-to-one acreage replacement is provided by reestablishment or creation. Preservation of high-quality, at-risk wetlands and habitat may be considered as the sole means of compensation for wetland impacts when the following criteria are met

(A) Proposed wetland impacts will not have a significant adverse impact on habitat for listed fish, or other ESA-listed species;

(B) There is no net loss of habitat functions within the watershed or basin;

(C) Mitigation ratios for preservation as the sole means of mitigation must generally start at 20-to-one. Specific ratios should depend upon the significance of the preservation project and the quality of the wetland resources lost;

(D) The impact area is small (generally less than one-half acre) and/or impacts are occurring to a low- functioning system (Category Ill or IV wetland); and

(E) All preservation sites must include buffer areas adequate to protect the habitat and its functions from encroachment and degradation.

(5) Wetland Bank or Advanced Wetland Mitigation. For future use since no current banks have a service area in Arlington.

(e) Type and Location of Compensatory Mitigation. Unless it is demonstrated that a higher level of ecological functioning would result from an alternative mitigation approach, compensatory mitigation for ecological functions should be either in-kind and on site, or in-kind and within the same stream reach, sub-basin, or drift cell (if estuarine wetlands are impacted). Compensatory mitigation actions must be conducted within the same sub- basin or on the site of the alteration, except when the following apply:

(1) The conditions in subsection (b) of this section are met.

(2) There are no reasonable opportunities on site or within the sub-basin (e.g., on-site options would require elimination of high-functioning upland habitat), or opportunities on site or within the sub-basin do not have a high likelihood of success based on a determination of the capacity of the site to compensate for the impacts. Considerations should include:

(A) Anticipated replacement ratios for wetland mitigation;

(B) Buffer conditions and proposed widths;

(C) Available water to maintain anticipated hydrogeomorphic classes of wetlands when restored;

(D) Proposed flood storage capacity, and potential to mitigate riparian fish and wildlife impacts (such as connectivity);

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

(F) Off-site locations must be in the same sub-basin, unless watershed goals for water quality, flood storage or conveyance, habitat, or other wetland functions have been established by the city and strongly justify location of mitigation at another site; and

(G) The design for the compensatory mitigation project needs to be appropriate for its location (i.e., position in the landscape). Therefore, compensatory mitigation should not result in the creation, restoration, or enhancement of an atypical wetland. An atypical wetland refers to a compensation wetland (e.g., created or enhanced) that does not match the type of existing wetland that would be found in the geomorphic setting of the site (i.e., the water source(s) and hydroperiod proposed for the mitigation site are not typical for the geomorphic setting). Likewise, it should not provide exaggerated morphology or require a berm or other engineered structures to hold back water. For example, excavating a permanently inundated pond in an existing, seasonally saturated or inundated wetland is one example of an enhancement project that could result in an atypical wetland. Another example would be excavating depressions in an existing wetland on a slope, which would require the construction of berms to hold the water.

(f) Wetland Mitigation Banks. Credits from a wetland mitigation bank certified under Chapter 173-700 WAC may be used to compensate for impacts located within the service area specified in the mitigation bank instrument, if:

(1) The proposal would provide appropriate compensation for the proposed impacts;

(2) The impact site is located in the service area of the bank;

(3) The proposed use of credits is consistent with the terms and conditions of the certified mitigation bank instrument; and

(4) Replacement ratios using bank credits are consistent with replacement ratios specified in the certified mitigation bank instrument.

(g) *In-Lieu Fee Mitigation.* Credits from an approved in-lieu fee (ILF) program may be used when all of the following apply:
  (1) The decision-maker determines that it would provide environmentally appropriate compensation for the proposed impacts.
  (2) The proposed use of credits is consistent with the terms and conditions of the approved ILF program instrument.
  (3) Projects using ILF credits must have debits associated with the proposed impacts calculated by the applicant's qualified wetland professional using the credit assessment method specified in the approved instrument for the ILF program.
  (4) The impacts are located within the service area specified in the approved ILF instrument.

(h) Permittee-Responsible Mitigation. This type of mitigation is defined in 33 CFR 332 as "an aquatic resource restoration, establishment, enhancement and/or preservation activity undertaken by the permittee (or an authorized agent or contractor) to provide compensatory mitigation for which the permittee retains full responsibility." The permittee performs the mitigation either before the project impact occurs and before any project impact permit is issued (advance permittee-responsible mitigation) or at the same time as the project impact is occurring after the project impact permit is issued (concurrent permittee-responsible mitigation). The permittee is ultimately responsible for implementation and success of the mitigation. For advance mitigation, the permittee generates mitigation credits that may be used to compensate for future wetland or buffer impacts. Only the permittee may use the advance mitigation credits. Permittee-responsible mitigation may occur at the site of the permitted impacts or at an off-site location within the same watershed. Permittee-responsible mitigation must be used only if the applicant's qualified wetland professional demonstrates to the decision-maker's satisfaction that the proposed approach is ecologically preferable to use of a bank or ILF program, consistent with the criteria in this section.

(i) Alternative Mitigation Plan. The decision-maker may approve an alternative wetland mitigation plan that is based on best available science. Proposed alternative mitigation plans must provide an equivalent or better level of protection of wetland functions and values than would be provided by the strict application of this chapter.
  (1) The following will be considered in the approval of an alternative mitigation plan:
    (A) The plan uses a watershed approach consistent with "Selecting Wetland Mitigation Sites Using a Watershed Approach (Western Washington)" (Ecology Publication No. 09-06-032, Olympia, WA, December 2009).
    (B) Creation or enhancement of a larger system of natural areas and open space is preferable to the preservation of many individual small habitat areas.
    (C) Mitigation according to subsection (d) of this section is not feasible due to site constraints including but not limited to parcel size, stream type, wetland category, or geologically hazardous areas.
    (D) There is a clear potential for success of the proposed compensation at the identified site.
    (E) The plan must contain clear and measurable standards for achieving compliance with the specific provisions of the plan, consistent with AMC 20.93.430, Mitigation Plan Requirements.
    (F) The plan must be reviewed and approved as part of the overall approval of the proposed use.
    (G) A wetland of a different type may be justified based on regional needs or functions and values; the replacement ratios may not be reduced or eliminated unless the reduction results in a preferred environmental alternative.
    (H) Mitigation guarantees must meet the minimum requirements as outlined in AMC 20.93.470, Financial Guarantee Requirements.
    (I) Qualified professionals in each of the critical areas addressed must prepare the plan.

(J) The city may consult with agencies with expertise and jurisdiction over the critical areas during the review to assist with analysis and identification of appropriate performance measures that adequately safeguard critical areas.

(j) Wetland Mitigation Ratios. The ratios below are based on the assumption that the rehabilitation or enhancement actions implemented represent the average degree of improvement possible for the site. Proposals to implement more effective rehabilitation or enhancement actions may result in a lower ratio, while less effective actions may result in a higher ratio. The distinction between rehabilitation and enhancement is not clear-cut. Instead, rehabilitation and enhancement actions span a continuum. Proposals that fall within the gray area between rehabilitation and enhancement will result in a ratio that lies between the ratios for rehabilitation and the ratios for enhancement.

Table 20.93.550-7: Wetland Mitigation Ratios

Category of Impacted Wetland	Reestablishment or Creation	Rehabilitation	Preservation	Enhancement
Category I: Forested	6:1	12:1	24:1	24:1
Bogs	NA	NA	24:1	NA
Wetlands of High Conservation Value	Consult with DNR	Consult with DNR	24:1	Consult with DNR
Category I: Estuarine Wetlands	4:1 (re-establishment only)	8:1	16:1	Limited Circumstances (case by case)
Category II: Estuarine Wetlands	3:1 (re-establishment only)	6:1	12:1	Limited Circumstances (case by case)
Category I: Interdunal Wetlands	4:1	8:1 (limited circumstances)	16:1	Not Considered an Option
Category II: Interdunal Wetlands	2:1	4:1 (limited circumstances)	8:1	Not Considered an Option
Category III and IV Interdunal Wetlands	1.5:1	3:1 (limited circumstances)	6:1	Not Considered an Option
Category I Wetlands in Coastal Lagoons	4:1 (re-establishment only)	8:1	16:1	Not Considered an Option
Category II: Wetlands in Coastal Lagoons	3:1 (re-establishment only)	6:1	12:1	Not Considered an Option

(k) Buffer Mitigation Ratios. Impacts to buffers must be mitigated at a one-to-one ratio. Compensatory buffer mitigation must replace those buffer functions lost from development.

(l) Mitigation Performance Standards. Wetland mitigation plans must be consistent with AMC 19.70.125, Mitigation requirements, and AMC 19.70.130, Mitigation plan requirements, and "Wetland Mitigation in Washington State: Part 1 - Agency Policies and Guidance" (Version 1, Ecology Publication No. 06-06-011 a), or as amended, and best available science.

(m) Minimum Standards. The design standards in this section must be incorporated into mitigation plans submitted to the city for impacts to wetlands and/or wetland buffers. The following standards apply to any mitigation proposed within Category I, 11, Ill and IV wetlands and their buffers. Modifications to these design standards consistent with the guidance in "Wetland Mitigation in Washington State: Part 2 - Developing Mitigation Plans (Version 1)" (Ecology Publication No. 06-06-011 b, March 2006, or as revised) may be considered for approval by the decision-maker as alternatives to the following standards:

(1) Plants native to the region (not introduced, nonnative or exotic species) must be used.

(2) Plant species selection must be consistent with the existing or projected hydrologic regime, including base water levels and stormwater event fluctuations.

(3) Plant species selection must be consistent with the site environmental conditions such as slope, aspect, soils and exposure to sun, wind and rain.

(4) Plants should be commercially available or available from local sources.

(5) Native plant species high in food and cover value for fish and wildlife should be prioritized, as appropriate for the site.

(6) Plant selection must be approved by a qualified professional.

(7) The following standards apply to wetland design and construction:

(A) For wetland creation sites, preliminary investigations of existing hydrology at the site must be completed to confirm that the site has adequate source hydrology (e.g., high groundwater, precipitation or riverine flooding) to support wetland conditions.

(B) Water depth in areas of seasonal or occasional inundation must not exceed three feet (0.914 meters), unless the proposed mitigation is compensating for impacts to unvegetated/open water areas.

(C) If creating or rehabilitating a slope wetland, the grade or slope within the wetland must not exceed six percent, unless otherwise approved by the decision-maker.

(D) Slopes within the wetland contributing basin and the buffer zone must not be steeper than three-to-one (horizontal to vertical).

(E) The wetland (excluding the buffer area) should not contain more than 20 percent unvegetated/open water areas as measured at the seasonal high water mark, unless the mitigation is compensating for vegetated.

(F) Site soils must be free of contamination and/or hazardous materials and must have adequate organic content and porosity to support the proposed native plant community.

(G) Planting densities and placement of plants should be determined by a qualified professional and shown on the design plans.

(8) The planting plan must be approved by the city.

(9) Stockpiling soil and construction materials should be confined to upland areas and contract specifications should limit stockpiling of earthen materials to durations in accordance with city clearing and grading standards, unless otherwise approved by the city.

(10) Planting instructions must be submitted which describe placement, diversity, and spacing of seeds, tubers, bulbs, rhizomes, sprigs, plugs, and transplanted stock.

(11) Controlled release fertilizer (if required) must be used in upland areas only (buffers and other non-wetland areas) and must be installed into the planting hole only at the time of planting. No fertilizer must be applied to the ground surface.

(12) An irrigation system must be installed or watering afforded by trucks or hoses to provide water for installed plants and seeded areas to supplement rainfall to ensure that plants receive approximately one-half inch of water per week during the dry season of the first two years after plant installation.
(13) All construction specifications and methods must be approved by a qualified professional and the city.
(14) Construction management provided must be provided by a qualified professional. Ongoing work on site must be inspected by the city.

Part VI. – Fish and Wildlife Conservation Areas (FWHCAs), including Streams, Creeks, Rivers, Lakes, Other Surface Water

20.93.600 Description and Purpose.

(a) Fish and wildlife habitat conservation areas are lands managed for maintaining populations of species in suitable habitats within their natural geographic distribution so that the habitat available is sufficient to support viable populations over the long term and isolated subpopulations are not created. In addition to their intrinsic value, certain species of fish and wildlife represent important historic, cultural, recreational and economic resources.
(b) It is the purpose of this chapter to protect fish and wildlife populations and their associated habitats and provide special consideration to conservation or protection measures necessary to preserve or enhance anadromous species.

20.93.610 Designation.

(a) FWHCAs are designated as follows:
  (1) Naturally occurring ponds under 20 acres with submerged aquatic beds that provide fish or wildlife habitat as further defined in WAC 365-190-130(4)(e);
  (2) Riparian management zones as defined in AMC 20.93.640 and waters of the state, including but not limited to the Stillaguamish River, South Fork Stillaguamish River, South Slough, Portage Creek, Prairie Creek, Krueger Creek, Eagle Creek, Edgecomb Creek, Hayho Creek, and March Creek;
  (3) Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity;
  (4) Areas with which anadromous fish species have a primary association;
  (5) State natural area preserves, natural resource conservation areas, and state wildlife areas as established by Washington State Department of Natural Resources;
  (6) Areas of rare plant species and high-quality ecosystems as identified by the Washington State Department of Natural Resources through the Natural Heritage Program in Chapter 79.70 RCW;
  (7) State priority habitats and areas associated with state priority species defined and listed by the Washington Department of Fish and Wildlife in the Priority Habitats and Species List, most recently updated edition. Priority habitats and species known to be identified and mapped by WDFW (https://geodataservices.wdfw.wa.gov/hp/phs) in Arlington include, but may not be limited to, the following:
    (A) Biodiversity areas;
    (B) Aquatic Habitat areas;
    (C) Swan Species/Swan Winter Feeding Sites;
    (D) Bald eagle habitat protected pursuant to the Federal Bald Eagle Protection Act;
    (E) Steelhead Trout;
    (F) Chum Salmon;
    (G) Pink Salmon;

(H) Chinook Salmon;
(I) Rainbow Trout;
(J) Sockeye Salmon;
(K) Coho Salmon;
(L) Cutthroat Trout;
(M) Dolly Varden / Bull Trout.

20.93.620 Mapping.

(a) Mapping. The following maps and inventories are hereby adopted by reference, as amended:
  (1) Washington Department of Fish and Wildlife Priority Habitat and Species Map;
  (2) Washington Department of Natural Resources, Official Water Type Reference Maps;
  (3) Washington Department of Natural Resources Natural Heritage Program Mapping Data;
  (4) Anadromous and resident fish distribution maps contained in the habitat limiting factors reports published by the Washington Conservation Commission and others;
  (5) Washington Department of Natural Resources Natural Area Preserves and Natural Resource Conservation Area Maps; and
  (6) NOAA Northwest Region Critical Habitat Mapper.
(b) Reference Only. The maps and resources cited above are to be used as a guide for the city of Arlington Community and Economic Development Department, project applicants, and/or property owners and may be continuously updated as new critical areas are identified. They are a reference and do not provide a final critical area designation.

20.93.630 General Development Standards for all FWHCAs.

(a) All new development activities and uses are prohibited from fish and wildlife habitat conservation areas and their buffers except in accordance with this chapter unless within shoreline jurisdiction and hereby regulated by the city of Arlington Shoreline Master Program. Alteration of FWHCAs or their buffers is prohibited except as otherwise allowed by this chapter and may occur only if the proposed alteration of the habitat and any associated mitigation proposed does not degrade the functions and values of the habitat.
(b) Exemptions. Exemptions to this chapter are listed in the provisions established in AMC 20.93.350, Exempt Activities.
(c) Approvals and the Best Available Science. Any approval of alterations or impacts to an FWHCA area must be supported by the best available science as described in the required critical area report.
(d) Approvals of Activities May Be Conditioned. The decision-maker may condition approvals of activities allowed within or adjacent to a fish and wildlife habitat conservation area as necessary to minimize or mitigate any potential adverse impacts. Conditions will be based on the best available science and may include, but are not limited to, the following:
  (1) Establishment of buffers;
  (2) Preservation of important vegetation and/or habitat features such as snags and downed wood specific to the priority wildlife species in the fish and wildlife habitat conservation area;
  (3) Limitation of access to the habitat area, including fencing to deter unauthorized access;
  (4) Seasonal restriction of construction activities;
  (5) Establishment of a duration and timetable for periodic review of mitigation activities; and
  (6) Requirement of a performance bond, when necessary, to ensure completion and success of proposed mitigation.
(e) Seasonal Restrictions. When a species is more susceptible to adverse impacts during specific periods of the year, seasonal restrictions may apply. Larger buffers may be required and activities may be further restricted during the specified season.

(f) Subdivisions. The subdivision and short subdivision of land in FWHCAs and associated buffers is subject to the following:
  (1) Land that is located wholly within an FWHCA or its buffer may not be subdivided;
  (2) Land that is located partially within an FWHCA may be subdivided only if an accessible and contiguous portion of each new lot that meets the minimum lot size requirements for the zone is located outside of the FWHCA and its buffer;
  (3) Access roads and utilities serving a proposed subdivision may be permitted within the FWHCA and associated buffers only if the applicant's qualified professional(s) demonstrate, and the decision-maker determines, that no other feasible alternative exists, all unavoidable impacts are fully mitigated, and the use is consistent with this chapter;
  (4) This subsection does not authorize new access roads and utilities in FWHCAs and associated buffers for existing subdivisions.

20.93.640 Specific Standards for Riparian Management Zones.

(a) A riparian management zone (RMZ) is a critical area; specifically, it is a type of fish and wildlife habitat conservation area. A project site's RMZ is associated with each aquatic species upstream and downstream from the project site.
  (1) The RMZ consists of a watercourse and the area adjacent to the watercourse that has the potential to provide full riparian ecosystem functions for bank stability, shade, pollution removal, contributions of detrital nutrients, recruitment of large woody debris, and wildlife habitat. The width of the RMZ is the height of the tallest 200-year-old site-potential tree ($SPTH_{200}$) or 100 feet, whichever is greater, measured horizontally. The RMZ is measured from whichever of the following features is furthest from the center of the watercourse: (a) the ordinary high-water mark, (b) the top of bank, or (c) the outer edge of the channel migration zone (if one exists). In watercourses with braided channels or alluvial fans, the ordinary high-water mark will include the entire stream feature. The RMZ may exceed the 200-year-old site-potential tree height based on subsection (a)(3) of this section.
  (2) When a pipe or culvert that has known or potential fish habitat downstream and upstream from the pipe or culvert is daylighted, the watercourse formerly in the pipe or culvert will be regulated as a riparian watercourse, and the area adjacent to that watercourse will be regulated as a riparian management zone, as defined in subsection (a)(1) of this section. This section does not apply when the pipe or culvert is removed to provide a publicly owned facility designed primarily for water quality treatment, flow control, or stormwater conveyance.
  (3) Activities that may impact an RMZ must provide a critical areas report prepared by a qualified professional describing the functions and values of the RMZ. The report must include the 200-year-old site- potential tree height ($SPTH_{200}$) as determined by WDFW at: https://gispublic.dfw.wa.gov/arcgis/rest/services/SPTH/SitePotentialTreeHeightPublic/MapServer.
  If $SPTH_{200}$ was also calculated using site-scale data, that information must also be included. The report must describe the inner measurement point (e.g., ordinary high-water mark) and the extent of the RMZ with sufficient detail to allow field delineation. The report must demonstrate that the project will result in no net loss of the ecosystem functions for the RMZ and associated species.

(b) Development Standards for Parcels Containing an RMZ.
  (1) Application of Standards and Regulatory Intent.
    (A) The provisions of this section apply to all development on parcels containing an RMZ as defined in subsection (a)(1) of this section.
    (B) It is the long-term goal of the city to restore the city's RMZs and to protect fish passage where scientifically justified. The city has determined that best available science supports protecting these RMZs as described in this section.

(2) Watercourse. Development is prohibited within or over the riparian watercourse, except as provided in this subsection. The Director may approve access over the riparian watercourse, if the applicant demonstrates all of the following:
  (A) No other access is available.
  (B) The access is provided by a freestanding structure that maintains the natural channel and floodway of the watercourse.
  (C) The coverage of the watercourse and disturbance of the RMZ and any other adjacent environmentally critical area or buffer are kept to a minimum.
  (D) The material used to construct the access is durable and nontoxic to the maximum extent feasible. If using untreated wood is infeasible, wood treated with pentachlorophenol, creosote, chromate copper arsenate, or comparably toxic compounds is prohibited. Treated wood and other material shall be the least toxic and shall be applied and used according to National Oceanic and Atmospheric Administration Fisheries guidelines for using treated wood in or over aquatic environments.
  (E) In the watercourse, any action detrimental to habitat or actions affecting trees and vegetation, including but not limited to clearing or removal, is prohibited, except as provided in this subsection (b)(2).

(3) Riparian Management Zone. The RMZ is defined in subsection (a)(1) of this section. Existing improved areas of public or private streets/driveways are excluded from the regulations for the RMZ. Development is prohibited in the RMZ, except as follows:
  (A) To provide the minimum necessary access if no other access is available to development approved under subsection (b)(2)(B) of this section.
  (B) On existing developed lots and platted lots existing prior to adoption of this Ordinance that satisfies one or more of the provisions within Table 20.93.350-1, Exempt Activities, or Table 20.93.360-1, Permitted Alterations, if the applicant demonstrates that:
    (i) None of the development occurs within or over the watercourse except as provided in subsection (b)(2) of this section.
    (ii) The development complies with stormwater flow control and water quality requirements, regardless of whether the project would trigger the requirements based on the thresholds for area of land disturbing activity, size of the addition, or replacement of impervious surfaces provided in the DOE Stormwater Management Manual adopted in AMC Title 13.
    (iii) Any development, including but not limited to coverage by impervious surface, does not exceed 35 percent of the total lot area, and provided further, that the maximum lot coverage does not exceed that allowed under AMC Chapter 20.48 Density and Dimensional Standards.
    (iv) When compliance with stormwater flow control and water quality requirements is required solely based on subsection (b)(3)(B)(ii) of this section, the Director may approve a restoration plan in lieu of compliance with subsection (b)(3)(B)(ii) if the applicant demonstrates that the plan meets the following criteria:
      (a) The watercourse and/or RMZ ecological function will be restored so that it prevents harmful erosion, protects water quality, and provides diverse habitat; and
      (b) The restoration results in greater protection of the watercourse and RMZ than compliance with subsection (b)(3)(B)(ii) of this section.
  (C) In the RMZ any action detrimental to habitat and any action affecting trees and vegetation, including but not limited to clearing or removal, are prohibited, except as provided in subsection (b)(3)(A) or (B) of this section.
  (D) If the RMZ is degraded due to the lack of trees and vegetation, the presence of invasive or nonnative species, and/or the presence of impervious surface or other development, the

applicant shall prepare and carry out a restoration plan that restores the ecological function of the RMZ to the extent commensurate with the impact of the development on the RMZ and according to mitigation standards pursuant to AMC 20.93.430, Mitigation and Mitigation Plan Requirements.

(E) If the development is authorized per AMC 20.32, Nonconforming Situations. or Table 20.93.350-1, Exemptions, or Table 20.93.360-1, Permitted Alterations, the Director must require that the degraded portion of the RMZ be restored by removing existing nonnative and invasive plant species, and replanting with native trees and vegetation, and providing a five-year monitoring and maintenance plan consistent with the requirements of AMC based on a critical area restoration plan.

(F) Small Project Waiver. The Director may approve fences, rockeries, or similar features or temporary disturbance for installation of utility lines in a RMZ if no construction occurs over, in, or within 15 feet of a watercourse or water body, and if the applicant demonstrates that the proposal meets the following criteria:

(i) The feature is constructed on a lot that has been in existence as a legal building site consistent with AMC 20.33, Nonconforming Situations.

(ii) The feature:

(a) Does not contain floor area;

(b) Does not remove trees or native vegetation;

(c) Does not block wildlife movement through the riparian management zone; and

(d) Mitigates impacts to ecological functions.

(iii) The Director's decision must require:

(a) The use of fencing with a highly durable protective barrier during the construction to protect the RMZ.

(b) Mitigation pursuant to AMC 20.93.430 to offset the area of both temporary and permanent development.

(c) Additional measures, as appropriate, to protect the remainder of the RMZ.

(c) Functionally Separated and Isolated Riparian Management Zones. Consistent with the definition of "riparian management zone" in this chapter, RMZs are places that potentially provide riparian ecosystem functions. Portions of the RMZ that are functionally isolated and physically separated from a watercourse due to existing, legally established public roadways, railroads or other legally established structures or paved areas eight feet or more in width that occur between the area in question and the watercourse may be excluded from the RMZ. If such an area provides any of the five primary RMZ functions (bank stability, shade, pollution removal, contributions of detrital nutrients, or recruitment of large woody debris) it will be retained within the RMZ; if it provides none of these functions it may be excluded. After an RMZ is determined by the decision-maker, based on a submitted critical area report, to be physically separated and functionally isolated, the area is no longer considered an RMZ critical area.

(d) Piped Watercourses and Roadside Ditches. It is recognized that within the urban environment many historical streams have been substantially modified to accommodate development. Many of the regulated and mapped watercourses within the city of Arlington pass through natural reaches, modified reaches, piped reaches, and sometimes along manmade roadside ditches.

(1) Development along piped watercourses and ditches that do not meet the definition of a watercourse are subject to a 10-foot setback from the centerline of the piped watercourse or ditch and are subject to the recording of a utility easement granted to the city for access and maintenance of the watercourse infrastructure.

(2) The voluntary opening and restoration or rehabilitation of a previously channelized, culverted, or piped watercourse is highly encouraged and may be approved by the decision-maker, when the following is demonstrated within a critical area report

(A) The restoration will result in a net gain in FWHCA functions, including an improvement in water quality and ecological functioning;
(B) Opened channels must be designed to support fish and wildlife habitat and uninhibited fish access, unless demonstrated to be infeasible;
(C) A reduction to the standard riparian management zone is allowed to a minimum of 25 feet, or as recommended by a qualified professional in the critical area report. Measured from the ordinary high water mark (OHWM) and which includes habitat improvements, and measures to prevent erosion, landslide and water quality impacts;
(D) The proposal will not significantly increase the threat of erosion, flooding, slope stability or other hazards on the site or on adjacent properties;
(E) The proposal must demonstrate that the conveyance will maintain the flow capacity and not create flooding elsewhere in the drainage basin.

(e) Riparian Management Zone Enhancement Measures. Only those enhancement measures deemed most applicable and/or appropriate for RMZ enhancement projects will be considered in a RMZ modification proposal and must be supported by best available science and a critical area report. These include, but are not limited to:
(1) Removal of fish barriers to restore accessibility to fish;
(2) Enhancement of fish habitat using log structures incorporated as part of a fish habitat enhancement plan;
(3) Enhancement of fish and wildlife habitat structures that are likely to be used by wildlife, including wood duck houses, bat boxes, nesting platforms, snags, rootwads/stumps, birdhouses, and heron nesting areas;
(4) Planting native vegetation within the buffer area, especially vegetation that would increase value for fish and wildlife, increase stream bank or slope stability, improve water quality, or provide aesthetic/recreational value; or
(5) Creation of a surface channel where a watercourse was previously underground, in a culvert or pipe. Surface channels which are "daylighted" must be located within a riparian management zone and must be designed with energy dissipating functions or channel roughness features such as meanders and rootwads to reduce future bank failures or nearby flooding;
(6) Removal or modification of existing stream culverts (such as road crossings) to improve fish passage, stream habitat, and flow capacities; or
(7) Upgrading of retention/detention facilities or other stormwater management facilities beyond required levels.

20.93.650 Specific Standards for Other FWHCAs.

(a) Endangered, Threatened, and Sensitive Species. Fish and wildlife habitat conservation areas or buffers with which state or federally endangered, threatened, or sensitive species or anadromous fish species have a primary association are subject to the following:
(1) No development is allowed within a fish and wildlife habitat conservation area or buffer with which state or federally endangered, threatened, or sensitive species have a primary association, except that which is provided for by a management plan established by the Washington Department of Fish and Wildlife or applicable state or federal agency.
(2) Whenever activities are proposed adjacent to a fish and wildlife habitat conservation area with which state or federally endangered, threatened, or sensitive species have a primary association, such area must be protected through the application of protection measures in accordance with a critical area report prepared by a qualified professional and approved by the city. Approval for alteration of the fish and wildlife habitat conservation area or its buffer may not occur prior to consultation with the Washington Department of Fish and Wildlife for animal species, the Washington State Department of Natural Resources for plant species, and other appropriate federal or state agencies.

(b) Other Priority Habitats and Species. Fish and wildlife habitat conservation areas or buffers with species that are not state or federally listed as endangered, threatened, or sensitive species, and are not anadromous fish species are subject to the following:
  (1) Development activities and uses that result in unavoidable impacts are prohibited except as otherwise allowed by this chapter and may occur in priority species habitat areas and associated buffers only if the proposed alteration of the habitat does not degrade the functions and values of the habitat in accordance with an approved critical area report with habitat assessment/management plan, and only if the proposed activity is the only reasonable alternative that will accomplish the
  applicant's objectives. **Full** compensation for the loss of acreage and functions of habitat and buffer areas must be provided in compliance with the mitigation performance standards and requirements of these regulations.

(c) Required Buffer for Non-RMZ FWHCAs.
  (1) Non-RMZ FWHCA Buffers. Buffers from fish and wildlife habitat conservation areas must be established to protect the functions and values of the critical area from the impacts of proposed adjacent activities.
    (A) Buffer widths for fish and wildlife habitat areas must be based on consideration of the following factors: species-specific recommendations of the Washington Department of Fish and Wildlife; recommendations contained in a habitat management plan submitted by a qualified professional; and the nature and intensity of land uses and activities occurring on the land adjacent to the site. Buffers must:
      (i) Consist of an undisturbed area of native vegetation, or areas identified for restoration, sufficient to protect the integrity, functions, and values of the affected habitat;
      (ii) Reflect the sensitivity of the habitat and the type and intensity of human activity proposed to be conducted nearby;
      (iii) Be consistent with the applicable species-specific management recommendations issued by the Washington Department of Fish and Wildlife.
    (B) Nesting bald eagles and bald eagle habitats must be protected consistent with the U.S. Fish and Wildlife Service (USFWS) national bald eagle management guidelines, or the state or federal regulations in place at the time of application. Whenever activities are proposed adjacent to a confirmed nest territory or communal roost, a bald eagle habitat management plan must be developed by a qualified professional. Activities are adjacent to managed bald eagle sites when they are within 660 feet of a nest or within one-half mile (2,640 feet) of a shoreline foraging area. Approval of the activity must not occur prior to consultation with the state or federal agency with authority on bald eagle pairs and their nest.
    (C) Swan Winter Feeding Sites. Swan winter feeding sites must be protected consistent with Washington Department of Fish and Wildlife regulations and/or guidance.

20.93.660 Stormwater Management Facilities.

Establishment of low-impact stormwater management facilities, such as stormwater dispersion outfalls and bioswales, may be allowed within fish and wildlife habitat conservation area buffers consistent with the adopted stormwater manual; provided, that:

(a) No other location is feasible; and
(b) There will be "no net loss" of functions and values of the fish and wildlife habitat conservation area; and
(c) The critical area lies in the natural routing of the runoff, and discharge follows the natural routing; and
(d) Stormwater dispersion outfalls, bioswales, bioretention facilities, and other low-impact facilities consistent with the adopted stormwater manual may be allowed within the outer 25 percent of the

riparian management zone when determined by a qualified professional that the location of the facilities will enhance the riparian management zone and protect the watercourse; and

(e) Such facilities are designed consistent with the requirements of AMC Title 13.

20.93.670 Critical Area Report Additional Requirements.

(a) Additional Report Contents for FWHCAs. In addition to the minimum report contents required per AMC 19.70.115, Critical area report, FWHCA reports must also include:
  (1) Documentation of any fieldwork performed on the site, including field data sheets for delineations, water typing and other habitat conservation area classification, baseline hydrologic data, site photos, etc.;
  (2) A description of the methodologies used to conduct the delineations, classifications, or impact analyses, including references;
  (3) A discussion of the potential impacts to the critical area or buffer associated with the proposed development including an assessment of cumulative impacts.

(b) Habitat Assessment/Management Plan. A habitat assessment/management plan is an investigation of the project area to evaluate the potential presence or absence of designated critical fish or wildlife species or habitat. A critical area report for a fish and wildlife habitat conservation area must contain an assessment of habitats including the following site- and proposal-related information at a minimum:
  (1) Detailed description of vegetation on and adjacent to the project area and its associated buffer;
  (2) Identification of any species of local importance, priority species, or endangered, threatened, sensitive, or candidate species that have a primary association with habitat on or adjacent to the project area, and assessment of potential project impacts to the use of the site by the species;
  (3) A discussion of any federal, state, or local special management recommendations, including Washington Department of Fish and Wildlife habitat management recommendations, that have been developed for species or habitats located on or adjacent to the project area;
  (4) A detailed discussion of the direct and indirect potential impacts on habitat by the project, including potential impacts to water quality;
  (5) A discussion of measures, including avoidance, minimization, and mitigation, proposed to preserve existing habitats and restore any habitat that was degraded prior to the current proposed land use activity and to be conducted in accordance with AMC 20.93.430, Mitigation and Mitigation Plan Requirements;
  (6) A discussion of ongoing management practices that will protect habitat after the project site has been developed, including proposed monitoring and maintenance programs.

(c) Additional Technical Information Requirements for RMZs. If no project impacts are anticipated and standard riparian management zone widths are retained, a RMZ delineation report, general critical area report or other reports, alone or in combination, may be submitted as consistent with the specific requirements of this section. In addition to the general critical area report requirements for fish and wildlife habitat conservation areas provided in subsections (a) through (d) of this section, technical information on RMZs must include the following information at a minimum:
  (1) A written assessment and accompanying maps of the stream and associated hydrologic features on and *off* site within 300 feet of the project area, including the following information at a minimum:
    (A) RMZ survey showing the field delineated ordinary high water mark(s);
    (B) Standard RMZ boundary as determined by AMC 20.93.640, Specific Standards for Riparian Management Zones;
    (C) Vegetative, faunal, and hydrologic characteristics;
    (D) Soil and substrate conditions; and
    (E) Topographic elevations at two-foot contours.

(2) A detailed description and functional assessment of the watercourse channel and riparian management zone under existing conditions pertaining to the protection of the RMZ functions, fish habitat and, in particular, potential anadromous fisheries;
(3) A habitat and native vegetation conservation strategy that addresses methods to protect and enhance on-site habitat and RMZ functions;
(4) Proposed RMZ enhancement, if needed, including a written assessment and accompanying maps and planting plans for RMZ areas to be enhanced, including the following information at a minimum:
(A) A description of existing RMZ conditions;
(B) A description of proposed RMZ conditions and how proposed conditions will increase RMZ functions in terms of RMZ and fish habitat protection;
(C) Performance standards for measuring enhancement success through a monitoring period of at least five years;
(D) Provisions for monitoring and submission of monitoring reports documenting RMZ conditions, as compared to performance standards, for enhancement success; and
(E) A discussion of ongoing management practices that will protect RMZ functions and habitat value through maintenance of vegetation density within the RMZ.

(d) Additional FWHCA Information. When appropriate, due to the type of habitat or species present, or the project area conditions, the decision-maker may also require the critical area report to include:
(1) A request for consultation with the Washington Department of Fish and Wildlife (WDFW), Washington Department of Ecology (Ecology), local Native American tribes or other appropriate agency;
(2) Copies of the joint aquatic resource permit application (JARPA) and related approvals, such as a hydraulic project approval (HPA) from the WDFW, when applicable to the project; and
(3) Detailed surface and subsurface hydrologic features both on and adjacent to the site.

20.93.680 Mitigation Performance Standards and Requirements.

Compensatory mitigation for FWHCAs must follow the plan requirements described under AMC 20.93.430 Mitigation and Mitigation Plan Requirements.

Part VII. Geologically Hazardous Areas

20.93.700 Description and Purpose.

(a) Geologically hazardous areas include areas susceptible to erosion, sliding, earthquakes, liquefaction, or other geological events. They pose a threat to health and safety of citizens when incompatible development is sited in areas of significant hazard.
(b) The primary purpose of these regulations is to avoid and minimize potential impacts to life and property from geologically hazards, conserve soil resources, and minimize structural damage relating to these hazards. The purpose is accomplished through appropriate levels of study and analysis, application of sound engineering principles, and regulation or limitation of land uses, including maintenance of existing vegetation, regulation of clearing and grading activities, and control of stormwater.

20.93.710 Designation.

(a) Areas susceptible to one or more of the following types of hazards are designated as geologically hazardous area:

(1) Erosion Hazard Areas. Erosion hazard areas include areas likely to become unstable, such as bluffs, steep slopes, and areas with unconsolidated soils. The following are considered known or suspected erosion hazards:
  (A) Areas located within the following soil maps: Areas as defined by the USDA Soil Conservation Service Soil Survey of Snohomish County Area (1983) and USGS National Geologic Map Database. or DNR Washington Geologic Information.
  (B) Areas susceptible to rapid stream incision and stream bank erosion.

(2) Landslide hazard areas shall include areas subject to severe risk of landslide based on a combination of geologic, topographic, and hydrologic factors. They include areas susceptible because of any combination of bedrock, soil, slope, structure, hydrology, or other factors. The following are known or suspected landslide hazards:
  (A) Areas designated in the U.S. Landslide Inventory and Susceptibility (1-8 point system) and DNR Washington Geologic Information Portal.
  (B) Areas of previous failure such as earth slumps, earthflows, mudflows, lahars, debris flows, rockslides, landslides or other failures as observed in the field or as indicated on maps or in technical reports published by the U.S. Geological Survey, the Geology and Earth Resources Division of the Washington Department of Natural Resources, or other documents authorized by government agencies.
  (C) Any shoreline designation or mapped as U (unstable), UB (unstable bluff), UOS (unstable old slide) , or URS (unstable recent slide) by the Department of Ecology Coastal Zone Atlas.
  (D) Slopes having gradients of 15 percent or greater;
    (i) That intersect geologic contacts with permeable sediments overlying low-permeability sediment or bedrock and springs or groundwater seepage are present; or
    (ii) That are parallel or subparallel to planes of weakness (such as bedding planes, joint systems, and fault planes) in subsurface materials.
  (E) Areas with a slop of 33 percent or greater and with a vertical relief of ten or more feet except areas composed of consolidated rock.
  (F) Areas that have shown movement during the Holocene Epoch (from 10,000 years ago to the present) or that are underlain or covered by mass wastage debris of that epoch.
  (G) Slopes having gradients steeper than 80 percent subject to rock fall during seismic shaking.
  (H) Potentially unstable areas resulting from rapid stream incision, stream bank erosion, or undercutting by wave action.

(3) Seismic Hazard Areas. Seismic hazard areas are lands that, due to a combination of soil and groundwater conditions, are subject to risk of damage as a result of earthquake-induced ground shaking, slope failure, settlement or subsidence, soil liquefaction, or surface faulting. The following are known suspected seismic hazards;
  (A) Areas having “high” or “moderate to high” risk of liquefaction as mapped on the Liquefaction Susceptibility and Site Class Maps of Western Washington State by County published by the Washington State Department of Natural Resources. These are typically underlain by cohesionless soils of low density typically and must have a low groundwater table.
  (B) Areas located within one-quarter mile of an active fault as indicated on investigative maps or described in studies by the U.S. Geologic Survey, Geology, and Earth Resource Division of the Washington Department of Natural Resources, or other documents authorized by government agencies, or identified during site inspection.
  (C) Those known or suspected landslide hazards referenced in subsection (a)(2) of this section.
    (i) Areas characterized by slopes greater than fifteen percent and impermeable soils
    (ii) Atlas

(4) Volcanic Hazards Areas. Volcanic hazard areas are areas subject to pyroclastic flows, lava flows, debris avalanche, and inundation by debris flows, lahars, mudflows, or related flooding resulting from

volcanic activity. Though there are no significant risks identified for the city and immediate surrounding area, other than airborne particulate impacts from an eruption.

(b) Other Hazard Areas. Geologically hazardous areas may also include areas determined by the Director to be susceptible to other geological events including mass wasting, debris flows, rock falls, and differential settlement. All areas within the city meeting one or more of these criteria, regardless of any formal identification, are hereby designated critical areas and are subject to the provision of this chapter.

20.93.720 Mapping.

(a) The following maps and resources providing information on the location and extent of geologically hazardous areas are hereby adopted by reference as amended:
  (1) Snohomish County, Planning & Development Services Critical Areas Map;
  (2) U.S. Geological Survey Geologic Maps, Landslide Hazard Maps and Seismic Hazard Map;
  (3) Washington State Department of Natural Resources Seismic Hazard Maps for Western Washington, including but not limited to, the Liquefaction Susceptibility and Site Class Maps of Western Washington State by County;
  (4) Washington State Department of Natural Resources Slope Stability Maps;
  (5) U.S. Department of Agriculture, National Resources Conservation Service Soil Maps;
  (6) U.S. Landslide Inventory and Susceptibility (1-8 point system) and DNR Washington Geologic Information Portal.

(b) Reference Only. The maps and resources cited above are to be used as a guide for the city of Arlington Community and Economic Development Department, project applicants, and/or property owners and may be continuously updated as new critical areas are identified. They are a reference and do not provide a final critical area designation.

20.93.730 General Development Standards.

(a) All development activities and uses are prohibited in geologically hazardous areas and their buffers, except as provided for in this chapter, and only when it is demonstrated that the activity will not create undue risk of life, health, and safety.

(b) Exemptions and Allowed Activities. Exemptions are listed in the provisions established in AMC 20.93.350, Exempt Activities.

(c) Approvals. Alterations of geologically hazardous areas or associated buffers may only occur pursuant to this chapter, and as determined by a qualified professional with concurrence by a third party review, for activities that:
  (1) Will not increase the threat of the geological hazard to adjacent properties beyond pre-development conditions;
  (2) Will not adversely impact other critical areas;
  (3) Are designed so that the hazard to the project is eliminated or mitigated to a level equal to or less than pre-development conditions; and
  (4) Are determined to be safe as designed and under anticipated conditions by a qualified professional, licensed in the state of Washington.

(d) Mitigation. Proposed mitigation techniques are considered to provide long-term hazard reduction only if they do not require regular maintenance or other actions to maintain their function. Mitigation may be required to avoid any increase in risk above the preexisting conditions, including following abandonment of the activity.

(e) Critical Facilities Prohibited. Critical facilities may not be sited within geologically hazardous areas unless there is no other practical alternative.

(f) International Building Code. All development must conform to the provisions of the currently adopted International Building Code as amended by the city of Arlington, including submittal of a critical area report.

20.93.740 Specific Development Standards.

(a) Erosion or Landslide Hazard Areas. Except as otherwise provided in this chapter, only those activities approved and permitted consistent with an approved critical area report in accordance with this chapter are allowed in erosion or landslide hazard areas. Activities must meet the standards of AMC 20.93.730, General Development Standards, in addition to the specific requirements contained in this section.

(1) Standard Buffer. A standard buffer of 50 feet is required from the closest edge of a landslide hazard area. The buffer must be maintained as undisturbed native vegetation, except when alteration of vegetation is approved by the decision-maker as part of the project.

(2) Buffer Reduction. The decision-maker may reduce the standard buffer by a maximum of 25 percent when the critical area report demonstrates that all of the following criteria are met:

(A) No reasonable alternative to the buffer reduction exists;

(B) Modified or reduced buffers, through design and engineering solutions, will provide protection to the proposed development and adjacent properties equal to that of the standard buffer;

(C) The development will not increase surface water discharge or sedimentation to adjacent properties beyond pre-development conditions;

(D) The development will not decrease slope stability on adjacent properties;

(E) The proposed reduction will not adversely impact other critical areas;

(F) The critical area report makes recommendations regarding planting of vegetation or other measures to minimize impacts and resist erosion.

(G) When a buffer reduction is requested the decision-maker may require, at the applicant's expense, a third party review of a critical area report by a qualified professional under contract with or employed by the city.

(3) Increased Buffer. The standard buffer may be increased by the decision-maker based on a critical area report prepared by a qualified professional that indicates a greater buffer is necessary to protect the proposed development and/or adjacent properties.

(4) Alterations.

(A) Alterations of a marine bluff or its buffer are prohibited except that minor development to provide public access (e.g., public trails, stairs or viewpoints) may be permitted as regulated in the shoreline master program; provided, that impacts are mitigated and the development can be shown to be safe.

(B) Alterations of an erosion or landslide hazard area and/or buffers may only occur for activities for which a critical area report that contains a hazards analysis is submitted which determines that:

(i) The activity will not increase surface water discharge or sedimentation to adjacent properties beyond pre-development conditions;

(ii) The activity will not decrease slope stability on adjacent properties;

(iii) Such alteration will not adversely impact other critical areas or pose a potential threat risk to life, health, and safety.

(C) Alterations must be designed to meet the following basic requirements:

(i) The proposed alteration must not decrease the slope stability. The factor of safety against landslide occurrences for residential and commercial developments must be one and one-half for static conditions and one and two-tenths for dynamic conditions, unless approved by the decision- maker. Analysis of dynamic conditions must be based on a minimum horizontal acceleration as established by the current version of the International Building Code;

(ii) Structures and improvements must be clustered to avoid geologically hazardous areas and other critical areas;

(iii) Structures and improvements must minimize alterations to the natural contour of the slope, and foundations must be tiered where possible to conform to existing topography;

(iv) Structures and improvements must be located to preserve the most critical portion of the site and its natural landforms and vegetation;

(v) The proposed development must not result in greater risk or a need for increased buffers on neighboring properties;

(vi) Development must be designed to minimize impervious lot coverage;

(vii) The decision-maker may accept an alternative design that deviates from one or more of these standards if a report by a qualified professional demonstrates that greater long-term slope stability can be achieved while meeting all other provisions of this title. The requirement for long-term slope stability must exclude designs that require regular and periodic maintenance to maintain their level of function.

(D) Addition Requirements for Alteration of Landslide Hazard Areas and Buffers. Prior to permit issuance, the property owner must sign and record a notice on title, at the owner's sole expense, a covenant in a form acceptable to the city, which:

(i) Acknowledges and accepts the risks of development in the landslide hazard area;

(ii) Waives any rights to claims against the city;

(iii) Indemnifies and holds harmless the city against claims, losses, and damages; and

(iv) Informs subsequent owners of the property of the risks and the covenant.

(5) Vegetation Retention and Maintenance. Removal of vegetation from a landslide hazard area or related buffer is prohibited, except when allowed as follows:

(A) As part of an approved alteration, that follows the criteria and process outlined in subsection (a)(4) of this section.

(B) Normal nondestructive pruning and trimming of vegetation for maintenance purposes or thinning of limbs of individual trees to provide a view corridor when a plan prepared by an !SA-certified arborist is provided and approved by the decision-maker and there are no other critical areas present.

(C) All activity proposed on marine bluffs must be regulated and reviewed under the SMP and required shoreline permitting.

(6) Seasonal Restriction. Clearing within an erosion or landslide hazard area or buffer may be allowed only from May 1st to October 1st of each year; provided, that the decision-maker may extend or shorten the dry season on a case-by-case basis depending on actual weather conditions and other factors deemed relevant.

(7) Utility Lines and Pipes. Utility lines and pipes may be permitted in landslide hazard areas and buffers only when the applicant demonstrates that no other practical alternative is available. The line or pipe must be located above ground and properly anchored and/or designed with the intent to function in the event of an underlying slide.

(8) Stormwater Management. Prior to any development activity, a plan for the collection, transport, treatment, and discharge of stormwater in accordance with the requirements of AMC Title 13 or as amended, and in accordance with the adopted DOE Stormwater Management Manual for Western Washington, must be submitted meeting the following requirements:

(A) All infiltration systems, such as stormwater detention and retention facilities, and curtain drains utilizing buried pipe or French drains, are prohibited in landslide hazard areas and their buffers unless the critical area report determines such facilities or systems will not adversely affect slope stability.

(B) Stormwater may not be directed across the face of a landslide hazard or related buffer (including marine bluffs or ravines) except as follows:

(i) Stormwater may be discharged at flow durations matching predeveloped conditions, with adequate energy dissipation, into existing channels that previously conveyed stormwater runoff in the predeveloped state;

(ii) Stormwater may be dispersed upslope of the landslide hazard area onto a low-gradient undisturbed buffer demonstrated to be adequate to infiltrate all surface and stormwater

runoff, if the critical area report determines such facilities or systems will not adversely affect slope stability;

(iii) If demonstrated that no other practical alternative is available, stormwater may be discharged from the hazard area into adjacent waters, provided it is collected above the hazard and directed to the water by a tight line drain (constructed of high-density polyethylene pipe with fuse-welded joints, or similar product that is technically equal or superior) and provided with an energy dissipating device at the point of discharge.

(9) Prohibited Development. On-site sewage disposal systems, including drain fields, are prohibited within erosion and landslide hazard areas and related buffers.

(10) Subdivisions.

(A) The division of land in landslide hazard areas and associated buffers is subject to the following:

(i) Land that is located wholly within a landslide hazard area or its buffer may not be subdivided. Land that is located partially within a landslide hazard area or its buffer may be divided; provided, that each resulting lot has sufficient buildable area outside of, and will not affect, the landslide hazard or its buffer;

(ii) Access roads and utilities may be permitted within the landslide hazard area and associated buffers if the decision-maker determines that no other feasible alternative exists, and if the critical area report determines such development will not adversely affect slope stability.

(B) Division of land within erosion hazard areas must comply with the following additional requirements:

(i) Except as otherwise provided in this section, existing vegetation must be retained on all lots until building permits are approved for development on individual lots;

(ii) If any vegetation on the lots is damaged or removed during construction of the subdivision infrastructure, the applicant must implement a revegetation plan in those areas that have been impacted prior to final inspection of the site development permit or the issuance of any building permit for the subject property;

(iii) Clearing of vegetation on individual lots may be allowed prior to building permit approval if the decision-maker determines that:

(a) Such clearing is a necessary part of a large-scale grading plan,

(b) It is not feasible to perform such grading on an individual lot basis, and

(c) Stormwater output from the graded area will meet established water quality standards.

(b) Seismic Hazard Areas.

(1) Activities proposed to be located in seismic hazard areas must meet the standards of AMC 20.93.730(b) and 20.93.730(e).

20.93.750 Critical Area Report Additional Requirements.

(a) Additional Report Contents for Geologically Hazardous Areas. In addition to the minimum report contents required per AMC 20.93.410, Critical Areas Report, reports must also include applicable information outlined in this section.

(b) Third Party Review Required. Critical areas reports on geologically hazardous areas are subject to third party review at the owner's sole expense as provided in AMC 20.93.410(b) and in any of the following circumstances:

(1) A buffer reduction or alteration of a landslide hazard area is proposed.

(c) Minimum Report Contents for Geologically Hazardous Areas. The written critical area report(s) must contain the following information, at minimum:

(1) The report must generally follow the Washington State Department of Licensing Guidelines for Preparing Engineering Geology Reports in Washington (2006) and at a minimum report contents required per AMC 20.93.410, Critical Area Report;

(2) A detailed overview of the field investigations, exploration locations, site photos, published data and references; data and conclusions from past assessments of the site; investigations or studies that support the identification of geologically hazardous areas;
(3) A description of the methodologies used to conduct the geologically hazardous areas evaluations, classification, hazards assessments, and/or analyses of the proposal impacts, including references.
(4) Assessment of Geological Characteristics. The assessment must include the following:
  (A) Classification of the type of geologic hazard(s) present in accordance with AMC 20.93.710, Designation;
  (B) An assessment of the geologic characteristics of the soils, sediments, and/or rock of the project area and potentially affected adjacent properties, and a review of the site history regarding landslides, erosion, and prior grading. Soils analysis must be accomplished in accordance with accepted classification systems in use in the region;
  (C) A description of load intensity, surface and groundwater conditions, public and private sewage disposal systems, fills, excavations, and all structural development;
  (D) A description of the extent and type of vegetative cover; and
  (E) An analysis of proposed surface and subsurface drainage, and the vulnerability of the site to erosion.
(5) Analysis of Proposal. The report must include a detailed description of the project, its relationship to the geologic hazard(s), and its potential impact upon the hazard area, the project, the subject property, and affected adjacent properties.
(6) Minimum Buffer and Building Setback. The report must make a recommendation for the minimum no- disturbance buffer and minimum building setback from any geologic hazard based upon the geotechnical analysis.
(7) Additional Technical Information Requirements for Specific Hazards.
  (A) Erosion and Landslide Hazard Areas. The technical information required in a critical area report for a project within an erosion or landslide hazard area must also include the following:
    (i) An estimate of the present stability of the subject property, the stability of the subject property during construction, the stability of the subject property after all development activities are completed, and a discussion of the relative risks and slide potential relating to adjacent properties during each stage of development, including the effect of construction and placement of structures, clearing, grading, and removal of vegetation will have on the slope over the estimated life of the structures. Quantitative analysis of static and seismic slope stability, modeling, and/or seismic displacement analysis may be required by the decision-maker;
    (ii) A trend analysis of prior rates of erosion, if available;
    (iii) Consideration of the run-out hazard of landslide debris and/or the impacts of landslide run-out on downslope properties;
    (iv) Recommendations for stormwater improvements, locations and methods of erosion control, vegetation management, and/or other means for maintaining long-term soil stability;
    (v) Parameters for design of site improvements including appropriate foundations and retaining structures. These should include allowable load and resistance capacities for bearing and lateral loads, installation considerations, and estimates of settlement performance;
    (vi) Earthwork recommendations including clearing and site preparation criteria, fill placement and compaction criteria, temporary and permanent slope inclinations and protection, and temporary excavation support, if necessary; and
    (vii) Recommendations for mitigation measures to be implemented in order to minimize the risk to the site and adjacent properties, including slope stabilization measures, if appropriate.

(B) Seismic Hazard Areas. The technical information required in a critical area report for a project within a seismic hazard area must also include the following:
  (i) A complete discussion of the potential impacts of seismic activity on the site (for example, liquefaction, lateral spreading, fault rupture);
  (ii) An evaluation of the subsurface soil and groundwater profile, physical properties of the subsurface profiles, and the liquefaction potential of the site;
  (iii) Recommendations for mitigation measures to be implemented in order to minimize the risk to the project, and adjacent properties if appropriate.

(C) Marine Bluffs. A geotechnical engineering report will be required when development is proposed within 50 feet (in all directions) of or to the crest of a marine bluff, or a distance equal to the height of the slope up to a distance of 100 feet from the crest (measured from the top}, whichever is greater.
  (i) The report must be based on best available science, existing and proposed uses, risks of slope failure, and coastal erosion rates over the last 75 years, if applicable.
  (ii) All proposed development on a marine bluff or in the required buffer must be prohibited, except as may be allowed per the city of Arlington Shoreline Master Program, and applicable shoreline master program development regulations for marine bluffs, or minor development to provide public access (e.g., public trails, stairs or viewpoints); provided, that impacts are mitigated and the development can be shown to be safe.

(d) All Geologically Hazardous Areas. The Director may require additional information deemed necessary to adequately review the proposal.

(1) Site and Construction Plans. The critical area submittal for geologically hazardous areas must include a copy of the site plans for the proposal, drawn at an engineering scale, showing:
  (A) The type and extent of geological hazard areas, any other critical areas, and recommended and required buffers on, adjacent to, off site within 200 feet of, or that are likely to impact or be affected by the proposal;
  (B) Proposed development, including the location of existing and proposed structures, fill, clearing limits, significant trees to be removed, vegetation to be removed, proposed material stockpile locations, and stormwater management facilities;
  (C) The topography, in two-foot contours of the project area and all hazard areas addressed in the report;
  (D) Height of slope, slope gradient, and cross-section of the project area indicating the stratigraphy of the site;
  (E) The location of springs, seeps, or other surface expressions of groundwater on or off site within 200 feet of the project area or that have the potential to affect or be affected by the proposal;
  (F) The location and description of surface water on or off site within 200 feet of the project area or that has the potential to be affected by the proposal.

Part VIII. - Aquifer Recharge Areas

20.93.800 Description and Purpose.

(a) Critical aquifer recharge areas provide the public with clean, safe, and available drinking water and contribute base flows to protect aquatic resources. Once groundwater is contaminated or depleted, it is difficult, costly, and sometimes impossible to clean up or to recharge.

(b) The purpose of this article is to protect critical aquifer recharge areas from degradation or depletion resulting from new and redeveloping land use activities. Due to the potential vulnerability of groundwater underlying certain aquifer recharge areas to contamination and the importance of such groundwater as sources of public water supply, it is the intent of this article to safeguard groundwater resources by mitigating or precluding future discharges of contaminants from new development activities and redevelopment activities.

20.93.810 Applicability and Hazardous Materials Questionnaire.

(a) Applicability. The provisions of this article apply to regulated facilities that are within or adjacent to those portions of the city of Arlington designated as critical aquifer recharge areas of the city of Arlington critical areas map. Regulated activities/facilities are defined as those commercial, industrial and home occupation uses that:
  (1) Process or handle hazardous materials in regulated quantities; and
  (2) Treat or store regulated quantities of hazardous materials.

(b) Hazardous Materials Questionnaire Required. Applications for development or redevelopment of regulated facilities within the boundaries of critical aquifer recharge areas must be accompanied by a completed hazardous materials questionnaire to determine the regulatory status of the applicant facility. The decision-maker must review the questionnaire to determine whether the facility is regulated under this chapter. It if is determined that the proposal includes a regulated facility that processes, handles, treats, and/or stores hazardous substances as defined by this chapter, the applicant must submit a critical area report pursuant to this chapter.

20.93.820 Designation.

(a) Critical aquifer recharge areas include:
  (1) Areas served by groundwater which have been designated as a “sole source aquifer area” under the Federal Safe Drinking Water Act;
    (A) Areas within a “closed” or “low-flow” stream watershed designated by the Department of Ecology pursuant to RCW Chapter 22.
    (B) Areas designated as “wellhead protection areas” pursuant to Chapter 246-290 WAC and the groundwater contribution area pursuant to WAC 246-291-125(3)(d)(iii) or otherwise recognized by the Director as needing wellhead protection. Wellhead protection areas include, for the purpose of this regulation, the identified recharge areas associated with:
      (i) The 10 year groundwater time-of-travel for all Group A public water supply wells; or
      (ii) The five year groundwater time-of-travel for all Group B public water supply wells with a wellhead protection plan files with the Snohomish County Health Department; or
      (iii) Plats serviced by five or more individual wells where the average lot size is equal to or less than two acres for which a wellhead protection plan has been completed and filed with the Snohomish County Health Department; or
      (iv) The 1,000 foot radius for individual private drinking water supply wells, as identified by map criterion in AMC 20.93.830.

20.93.830 Mapping.

(a) The approximate location and extent of critical aquifer recharge areas are shown on the city of Arlington critical aquifer recharge areas and city wells map, part of the 2024 Comprehensive Plan, Book 1: Environment, Figure E-02. In addition, the following maps and resources providing information on the location and extent of critical aquifer recharge areas are hereby adopted by reference as amended:
  (1) Areas with soils that have moderate to rapid permeability (greater than two inches per hour) as listed in the Soil Survey of Snohomish County.
  (2) Source for identifying drinking water supply wells identified by agencies such as Washington Department of Ecology and Snohomish County Health Department
(b) Reference Only. The maps and resources cited above are to be used as a guide for the city of Arlington Community and Economic Development Department, project applicants, and/or property owners and may be continuously updated as new critical areas are identified. They are a reference and do not provide a final critical area designation.

20.93.840 General Development Standards.

(a) Regulated activities/facilities may be permitted in a critical aquifer recharge area only if the applicant can demonstrate that the proposed activity will not cause contaminants to enter the aquifer and that the proposed activity will not adversely affect the recharging of the aquifer.
(b) The proposed regulated activity must comply with the water source protection requirements and recommendations of the Federal Environmental Protection Agency, State Department of Health, and the Snohomish County Health Department.
(c) Storage Tank Permits. The city of Arlington specifically regulates and authorizes permits for underground storage tanks pursuant to the International Fire Code and this chapter. The Washington Department of Ecology also regulates and authorizes permits for underground storage tanks (Chapter 173-360 WAC). The Building Official and North County Regional Fire Authority regulate and authorize permits for the removal of underground storage tanks.
(d) Owners and operators of facilities with existing underground storage tanks that are located within a critical aquifer recharge area must comply with all release detection requirements as specified in Chapter 173-360 WAC.
(e) Spreading or Injection of Reclaimed Water. Water reuse projects for reclaimed water must be in accordance with the adopted water or sewer comprehensive plans that have been approved by the Washington Department of Ecology and Snohomish County Health Department.
  (1) Surface spreading must meet the groundwater recharge criteria given in RCW 90.46.010(10) and 90.46.080.
  (2) Direct injection must be in accordance with the standards developed by authority of RCW 90.46.042.
(f) Prohibited Activities and Land Uses. The following land uses and activities for new development or redevelopment are prohibited within or adjacent to critical aquifer recharge areas:
  (1) Landfill activities as defined in Chapters 173-304 and 173-351 WAC;
  (2) All underground injection wells as defined in Chapter 173-218 WAC;
  (3) Disposal of hazardous or dangerous wastes;
  (4) Mining, including:
    (A) Metals and hard rock mining;
    (B) Sand and gravel mining are prohibited in critical aquifer recharge areas determined to be highly susceptible or vulnerable unless a stormwater quality management plan is approved and followed by the applicant;
  (5) Wood Treatment Facilities. Wood treatment facilities that allow any portion of the treatment process to occur over permeable surfaces (both natural and manmade);
  (6) Storage, processing, or disposal of radioactive substances;
  (7) Dry cleaning establishments using the solvent perchloroethylene; and

(8) Other:
(A) Activities that would significantly reduce the recharge to aquifers currently or potentially used as a potable water source;
(B) Activities that would significantly reduce the recharge to aquifers that are a source of significant baseflow to a regulated stream;
(C) Activities that are not connected to an available sanitary sewer system are prohibited from critical aquifer recharge areas associated with sole source aquifers

20.93.850 Specific Development Standards for Regulated Facilities.

(a) The following mitigation measures, as applicable, are required for development of regulated facilities within a critical aquifer recharge area:
(1) Floor drains must not be allowed to drain to the stormwater system and must be designed and installed to meet the Uniform Plumbing Code (UPC) Section 303.
(2) If any roof venting carries contaminants, then the portion of the roof draining this area must go through pretreatment pursuant to UPC Section 304(b).
(3) All nonresidential vehicle washing must be self-contained or be discharged to a sanitary sewer system, if approved by the sewer utility, and is subject to UPC Sections 708 and 711.
(4) Utilize integrated pest management (1PM) practices for pest control and best management practices (BMPs) for the use of fertilizers as described by the Skagit County Local Hazardous Waste Management Program.
(5) Facilities Installing New Underground Tanks. All new underground storage facilities used or to be used for the underground storage of hazardous substances or hazardous wastes must meet the requirements of Chapter 173-360 WAC and be designed and constructed so as to:
(A) Prevent releases due to corrosion or structural failure for the operational life of the tank;
(B) Be protected against corrosion, constructed of noncorrosive material, steel clad with a noncorrosive material, or designed to include a secondary containment system to prevent the release or threatened release of any stored substance; and
(C) Use material in the construction or lining of the tank which is compatible with the substance to be stored.
(6) Above-Ground Tanks. All new above-ground storage facilities/tanks containing hazardous substances within a critical aquifer recharge area must be constructed, installed, used and maintained to:
(A) Prevent the release of a hazardous substance to the ground, or groundwater;
(B) Include an impervious containment area enclosing or underlying the tank or part thereof;
(C) Include a secondary containment system either built into the tank structure or a dike system built outside the tank. The secondary containment system or dike system must have a capacity of at least 110 percent of the primary tank and conform to the requirements of UFC Chapter 7902.2.
(7) Vehicle Repair and Servicing.
(A) Commercial vehicle repair and servicing must be conducted over impermeable pads and within a covered structure capable of withstanding normally expected weather conditions. Chemicals used in the process of vehicle repair and servicing must be stored in a manner that protects them from weather and provides containment should leaks occur.
(B) Dry wells are not allowed on sites used for vehicle repair and servicing. Dry wells existing on the site prior to facility establishment must be abandoned using techniques approved by the state Department of Ecology prior to commencement of the proposed activity.
(8) Additional protective measures may be required if deemed necessary by the city of Arlington.

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

Table 20.93.850 – 1: Statutes, Regulations and Guidance Pertaining to Groundwater Impacting Activities

Activity	Statute – Regulation - Guidance
Above-Ground Storage Tanks	WAC 173-303-640
Animal Feedlots	Chapter 173-216 WAC, Chapter 173-220 WAC
Automobile Washers	Chapter 173-216 WAC, Best Management Practices for Vehicle and Equipment Discharges
Below-Ground Storage Tanks	Chapter 173-360 WAC
Chemical Treatment Storage and Disposal Facilities	Chapter 173-303 WAC
Hazardous Waste Generator (Boat Repair Shops, Biological Research Facility, Dry Cleaners, Furniture Stripping, Motor Vehicle Service Garages, Photographic Processing, Printing and Publishing Shops, etc.)	Chapter 173-303 WAC
Injection Wells	Federal 40 CFR Part 144 and Chapter 173-218 WAC
Junk Yards and Salvage Yards	Chapter 173-304 WAC, Best Management Practices to Prevent Stormwater Pollution at Vehicle Recycler Facilities.
Oil and Gas Drilling	WAC 332-12-450, Chapter 173-218 WAC
Wastewater Facilities	Chapter 173-240 WAC
On-Site Sewage Systems (< 3,500 gallons/day)	Chapter 246-272A WAC, Local Health Ordinances
Large On-Site Sewage Systems (3,500 to 1,000,000 gallons/day)	Chapter 246-272B WAC, State Health Ordinances
Pesticide Storage and Uses	Chapter 17.21 RCW
Sawmills	Chapter 173-303 WAC, Chapter 173-304 WAC, Best Management Practices to Prevent Stormwater Pollution at Log Yards
Solid Waste Handling and Recycling Facilities	Chapter 173-304 WAC
Surface Mining	Chapter 332-18 WAC
Wastewater Application to Land Surface	Chapter 173.200 WAC, Chapter 173-216 WAC, DOE Land Application Guideline, Best Management Practices for Irrigated Agriculture.

20.93.860 Critical Area Report Additional Requirements.

(a) Additional Report Contents for CARAs. In addition to the minimum report contents required per AMC 20.93.410, Critical Area Report, CARA reports must also include the applicable information outlined in this section.
(b) Minimum Report Contents. A critical area report must include a hydrogeologic assessment including, but not limited to, the following:
    (1) Information sources;
    (2) Geologic and hydrologic setting including available recharge, permeability/transmissivity information;
    (3) Available well logs, borings, seeps/springs within 1,000 feet of the project areas;
    (4) Available water quality information;
    (5) Groundwater depth, flow direction and gradient based on available information;
    (6) Surface water location and recharge potential;
    (7) Water source supply to the site;
    (8) Any sampling scheduled necessary;
    (9) Discussion of the effects of the proposed project on the groundwater resources;
    (10) Description of potential mitigation measures, should it be determined that the proposed project may have an adverse impact on groundwater resources, and
    (11) Other information as required by the city.
(c) If the hydrogeologic assessment determines that the facility will have no effect on groundwater resources, the facility is exempt from the development standards requirements in AMC 20.93.850.
(d) If the hydrogeologic assessment determines that the facility could have an effect on groundwater resources, the decision-maker will require implementation of applicable development standards in AMC 20.93.850.

Part IX. Frequently Flooded Areas

20.93.900 Description and Purpose.

(a) Frequently flooded areas perform important functions and may present a risk to persons and property.
(b) It is the purpose of this chapter to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas caused by flooding, while protecting the functions and values of floodplains, including special consideration for anadromous fish habitat in combination with the provisions for fish and wildlife habitat conservation areas in this chapter.

20.93.910 Designation.

(a) Frequently flooded areas include those areas established as special flood hazard areas under AMC Chapter 20.64, Floodplain Development Regulations, including those areas of special flood hazard identified by the most current Federal Insurance Rate Map (FIRM), as prepared by FEMA.
(b) Climate change and sea level rise are affecting many coastal communities and some within Puget Sound. Applicants are urged to become familiar with potential impacts of climate change and sea level rise if development is proposed near shorelines or associated low-lying areas.

20.93.920 Mapping.

(a) Reference Only. The maps and resources cited above are to be used as a guide for the city of Arlington Community and Economic Development Department, project applicants, and/or property owners and may be continuously updated as new critical areas are identified. They are a reference and do not provide a final critical area designation.

20.93.930 General Development Standards.

(a) All development proposals must comply with AMC Chapter 20.64, Floodplain Development Regulations, for general and specific flood hazard protection.
(b) Development may not reduce the base flood water storage ability. Construction, grading or other regulated activities that would reduce the flood water storage ability must be mitigated by creating compensatory storage on or off the site.
(c) Alteration of Watercourses.
    (1) Projects that will relocated a watercourse must also submit a request for conditional letter of map revision, where required by FEMA. The project may not be approved unless FEMA issues the CLOMR (which requires ESA consultation) and the provisions of the letter are made part of the permit requirements.
    (2) The decision-maker must notify adjacent communities (if applicable) and the Department of Ecology prior to any alteration or relocation of a watercourse and submit evidence of such notification to FEMA.
    (3) Maintenance must be provided within the altered or relocated portion of said watercourse so that flood carrying capacity is not diminished. It the maintenance program does not call for cutting of native vegetation, the system must be oversized at the time of construction to compensate for said vegetation growth or any other natural factor that may need future maintenance.
(d) Base flood data and flood hazard notes must be shown on the face of any recorded plat or binding site plan, including but not limited to, base flood elevations, flood protection elevation, boundary of floodplain, and zero rise floodway.
(e) All development must conform to the provisions of the currently adopted International Building Code, including submittal of a critical area report.

20.93.940 Critical Area Report Additional Requirements.

(a) Additional Report Contents for FFAs. In addition to the minimum report contents required per AMC 20.93.410, Critical Area Report, FFA reports must also include the applicable information outlined in this section.
(b) Minimum Report Contents. A critical area report must include a habitat assessment prepared in accordance with Regional Guidance for Floodplain Habitat Assessment and Mitigation (FEMA Region X, 2013, or as hereafter amended. The assessment must determine if the project would adversely affect:
    (1) The primary constituent elements identified with a species is listed as threatened or endangered;
    (2) Essential fish habitat designated by the National Marine Fisheries Service;
    (3) Fish and wildlife habitat conservation areas;
    (4) Vegetation communities and habitat structures;
    (5) Water quality;
    (6) Water quality, including flood and low flow depths, volumes and velocities;
    (7) The channel’s natural planform pattern and migration processes;
    (8) Spawning substrate, if applicable; and/or
    (9) Floodplain refugia, if applicable.
(c) If the assessment concludes that the activity is expected to have an adverse effect on water quality and/or aquatic or riparian habitat or habitat functions, the project must be designed in a way to offset those impacts. Project mitigation will not be permitted in accordance with Regional Guidance for Flood plain Habitat Assessment and Mitigation, FEMA Region X, 2013
(d) The following activities do not require completion of a habitat assessment:
    (1) Repair of existing building in its existing footprint, including damage by fire or other casualties unless the repair constitutes substantial improvement or is necessitated by substantial damage;
    (2) Removal of noxious weeds;

(3) Replacement of nonnative vegetation with native vegetation;
(4) Ongoing activities such as lawn and garden maintenance;
(5) Removal of hazard trees;
(6) Normal maintenance of public utilities and facilities;
(7) Restoration or enhancement of floodplains, riparian areas and streams that meet federal and state standards.