Appendix A. Covington Critical Area Regulations for the Shoreline Area

Sections:

- XX.65.010 Purpose.
- XX.65.020 Applicability.
- XX.65.030 Appeals.
- XX.65.040 Critical areas rules.
- XX.65.050 Allowed alterations of critical areas.
- XX.65.060 Agricultural activities development standards.
- XX.65.090 Disclosure by applicant.
- XX.65.100 Critical area review.
- XX.65.110 Critical area report requirement.
- XX.65.120 Avoiding impacts to critical areas.
- XX.65.130 Mitigation and monitoring.
- XX.65.135 Off-site mitigation.
- XX.65.136 Resource mitigation reserve.
- XX.65.140 Financial guarantees.
- XX.65.150 Vegetation management plan.
- XX.65.160 Critical area markers and signs.
- XX.65.170 Notice on critical areas.
- XX.65.180 Critical area tracts and designations on site plans.
- XX.65.190 Alteration.
- XX.65.200 Building setbacks.
- XX.65.230 Flood hazard areas – Components.
- XX.65.240 Flood fringe development standards and alterations.
- XX.65.250 Zero-rise floodway development standards and alterations.
- XX.65.260 FEMA floodway development standards and alterations.
- XX.65.270 Flood hazard areas certification by engineer or surveyor.
- XX.65.275 Channel migration zones – Development standards and alterations.
- XX.65.280 Landslide hazard areas – Development standards and alterations.
- XX.65.310 Steep slope hazard areas – Development standards and alterations.
- XX.65.311 Critical aquifer recharge areas – Maps adopted.
- XX.65.312 Critical aquifer recharge areas – Reclassification or declassification.
- XX.65.313 Critical aquifer recharge areas – Categories.
- XX.65.314 Critical aquifer recharge areas.
- XX.65.315 Critical aquifer recharge areas – Development regulations.
- XX.65.319 Wetlands – Categories.
- XX.65.320 Wetlands – Buffers.
XX.65.340 Wetlands – Specific mitigation requirements.
XX.65.345 Wetlands – Specific mitigation requirements – Wetland mitigation banking.
XX.65.350 Wetlands – Limited exemption.
XX.65.355 Aquatic areas – Water types.
XX.65.356 Aquatic areas – Buffers.
XX.65.360 Aquatic areas – Development standards and alterations.
XX.65.370 Streams – Permitted alterations.
XX.65.380 Aquatic areas – Specific mitigation requirements.
XX.65.381 Wildlife habitat conservation areas – Development standards.
XX.65.382 Wildlife habitat conservation areas – Modification.
XX.65.383 Wildlife habitat network – Applicability.
XX.65.384 Wildlife habitat network – Development standards and alterations.
XX.65.385 Wildlife habitat conservation area and wildlife network – Specific mitigation requirements.
XX.65.390 Critical areas mitigation fee – Creation of fund.
XX.65.400 Critical areas mitigation fee – Source of funds.
XX.65.410 Critical areas mitigation fee – Use of funds.
XX.65.420 Critical areas mitigation fee – Investment of funds.
XX.65.430 Critical area designation.
XX.65.440 Conversion of designated critical areas.

18.65.010 Purpose.

The purpose of this chapter is to implement the goals and policies of the Growth Management Act, Chapter 36.70A RCW, Washington State Environmental Policy Act, Chapter 43.21C RCW, and the King County comprehensive plan which call for protection of the natural environment and the public health and safety by:

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

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

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

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

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

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

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

(8) Meeting the requirements of the National Flood Insurance Program and maintaining the City of Covington as an eligible community for Federal flood insurance benefits;
18.65.020 Applicability.

1. This chapter applies to all land uses in the City of Covington, and all persons within the City shall comply with this chapter.
2. City shall not approve any permit or otherwise issue any authorization to alter the condition of any land, water or vegetation or to construct or alter any structure or improvement without first ensuring compliance with this chapter.
3. Approval of a development proposal in accordance with this chapter does not discharge the obligation of the applicant to comply with this chapter.
4. When any other chapter of the Covington Municipal Code conflicts with this chapter or when the provisions of this chapter are in conflict, the provision that provides more protection to environmentally critical areas shall apply unless specifically provided otherwise in this chapter or unless the provision conflicts with Federal or State laws or regulations.
5. This chapter applies to all forest practices over which the City has jurisdiction under Chapter 76.09 RCW and WAC Title 222. (Ord. 14-05 § 5)
6. If provisions of the Critical Areas Regulations and other parts of the master program conflict, the provisions most representative of the policies found in RCW 90.58.020 shall apply, as determined by the City.
7. Provisions of the Critical Areas Regulations that are not consistent with the Shoreline Management Act Chapter, 90.85 RCW, and supporting Washington Administrative Code chapters shall not apply in Shoreline jurisdiction.
8. The provisions of Covington Critical Areas Regulations do not extend Shoreline Jurisdiction beyond the limits specified in this SMP. For regulations addressing critical area buffer areas that are outside Shoreline Jurisdiction, see Covington Critical Areas Regulations.

18.65.030 Appeals.

An applicant may appeal a decision to approve, condition or deny a development proposal based on this chapter according to and as part of the appeal procedure for the permit or approval involved. (Ord. 14-05 § 5)

18.65.040 Critical areas rules.

The City of Covington is authorized to adopt, in accordance with Chapter 2.75 CMC, such public rules and regulations as are necessary and appropriate to implement this chapter and to prepare and require the use of such forms as are necessary to its administration. (Ord. 14-05 § 5)
18.65.050 Allowed alterations of critical areas.

(1) Within the following four critical areas and their buffers all alterations are allowed if the alteration complies with the development standards, mitigation requirements and other applicable requirements established in this chapter:
   (a) Critical aquifer recharge area,
   (b) Erosion hazard area;
   (c) Flood hazard area except in the severe channel migration hazard area; and
   (d) Landslide hazard area under 40 percent slope;

(2) Within the following seven critical areas and their buffers only the alterations on the table in subsection (3) of this section are allowed if the alteration complies with conditions in subsection (4) of this section and the development standards, mitigation requirements and other applicable requirements established in this chapter:
   (a) Severe channel migration hazard area;
   (b) Landslide hazard area over 40 percent slope;
   (c) Steep slope hazard area;
   (d) Wetland;
   (e) Aquatic area;
   (f) Wildlife habitat conservation area; and
   (g) Wildlife habitat network.

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

<table>
<thead>
<tr>
<th>Activity</th>
<th>Landslide Hazard Over 40% and Buffer</th>
<th>Steep Slope Hazard and Buffer</th>
<th>Wetland and Buffer</th>
<th>Aquatic Area and Buffer and Severe Channel Migration</th>
<th>Wildlife Area and Network</th>
</tr>
</thead>
<tbody>
<tr>
<td>Construction of single detached dwelling unit</td>
<td>A 1</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Construction of nonresidential structure</td>
<td>A 2</td>
<td>A 2</td>
<td>A 2, 3</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Maintenance or repair of existing structure</td>
<td>A 4</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>A3</td>
</tr>
<tr>
<td>Expansion or replacement of existing structure</td>
<td>A 4, 6</td>
<td>A 4, 6</td>
<td>A 1, 6, 7</td>
<td>A 5, 6, 7</td>
<td>A 3, 6</td>
</tr>
</tbody>
</table>

KEY: Letter “A” in a cell means alteration is allowed. “Wildlife area and network” column applies to both wildlife habitat conservation area and wildlife habitat network.
<table>
<thead>
<tr>
<th>Interior remodeling</th>
<th>A</th>
<th>A</th>
<th>A</th>
<th>A</th>
<th>A</th>
</tr>
</thead>
<tbody>
<tr>
<td>Construction of new dock or pier</td>
<td>A 8</td>
<td>A 8, 9</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Maintenance, repair or replacement of dock or pier</td>
<td>A 10, 11, 12</td>
<td>A 10, 11, 12</td>
<td>A 3</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Grading</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Grading</td>
<td>A 13</td>
<td>A 14</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Construction of new slope stabilization</td>
<td>A 15</td>
<td>A 15</td>
<td>A 15</td>
<td>A 15</td>
<td></td>
</tr>
<tr>
<td>Maintenance of existing slope stabilization</td>
<td>A 16</td>
<td>A 13</td>
<td>A 17</td>
<td>A 16, 17</td>
<td>A 3</td>
</tr>
<tr>
<td>Mineral extraction</td>
<td>A</td>
<td>A</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Clearing</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Clearing</td>
<td>A 18</td>
<td>A 18, 19</td>
<td>A 18, 20</td>
<td>A 14, 18, 20</td>
<td></td>
</tr>
<tr>
<td>Cutting firewood</td>
<td>A 21</td>
<td>A 21</td>
<td>A 21</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Removal of brush</td>
<td>A 22</td>
<td>A 22</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Removal of noxious weeds or invasive vegetation</td>
<td>A 23</td>
<td>A 23</td>
<td>A 23</td>
<td>A 23</td>
<td>A 3, 23</td>
</tr>
<tr>
<td>Use of herbicide</td>
<td>A</td>
<td>A</td>
<td>A 23</td>
<td>A 24</td>
<td>A</td>
</tr>
<tr>
<td>Forest practices</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nonconversion Class IV-G forest practice</td>
<td>A 25</td>
<td>A 25</td>
<td>A 25</td>
<td>A 25</td>
<td>A 25, 26</td>
</tr>
<tr>
<td>Class I, II, III, IV-S forest practice</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>A</td>
</tr>
<tr>
<td>Roads</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Construction of new public road right-of-way structure on unimproved right-of-way</td>
<td>A 27</td>
<td>A 9, 27</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Maintenance of public road right-of-way structure</td>
<td>A 16</td>
<td>A 16</td>
<td>A 16</td>
<td>A 16</td>
<td>A 16, 28</td>
</tr>
<tr>
<td>Expansion beyond public road right-of-way structure</td>
<td>A</td>
<td>A</td>
<td>A 27</td>
<td>A 27</td>
<td></td>
</tr>
<tr>
<td>Repair, replacement or modification within the roadway</td>
<td>A 16</td>
<td>A 16</td>
<td>A 16</td>
<td>A 16</td>
<td>A 16, 28</td>
</tr>
<tr>
<td>Construction of driveway or private access road</td>
<td>A 59</td>
<td>A 59</td>
<td>A 59</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Construction of farm field access drive</td>
<td>A 29</td>
<td>A 29</td>
<td>A 29</td>
<td>A 29</td>
<td>A 29</td>
</tr>
<tr>
<td>Maintenance of driveway, private access road or farm field access drive</td>
<td>A</td>
<td>A</td>
<td>A 17</td>
<td>A 17</td>
<td>A 17, 28</td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td>---</td>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>Bridges or culverts</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Maintenance or repair of bridge or culvert</td>
<td>A 16, 17</td>
<td>A 16, 17</td>
<td>A 16, 17</td>
<td>A 16, 17</td>
<td>A 16, 17, 28</td>
</tr>
<tr>
<td>Replacement of bridge or culvert</td>
<td>A 16</td>
<td>A 16</td>
<td>A 16</td>
<td>A 16, 30</td>
<td>A 16, 28</td>
</tr>
<tr>
<td>Expansion of bridge or culvert</td>
<td>A</td>
<td>A</td>
<td>A 31</td>
<td>A 31</td>
<td>A 3</td>
</tr>
<tr>
<td>Utilities and other infrastructure</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Construction of new utility corridor or utility facility</td>
<td>A 32, 33</td>
<td>A 32, 33</td>
<td>A 32, 34</td>
<td>A 32, 34</td>
<td>A 28, 35</td>
</tr>
<tr>
<td>Maintenance, repair or replacement of utility corridor or utility facility</td>
<td>A 32, 33</td>
<td>A 37</td>
<td>A 37</td>
<td>A 37</td>
<td>A 37</td>
</tr>
<tr>
<td>Maintenance or repair of existing well</td>
<td>A 37</td>
<td>A 37</td>
<td>A 37</td>
<td>A 37</td>
<td>A 3, 37</td>
</tr>
<tr>
<td>Maintenance or repair of on-site sewage disposal system</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>A 37</td>
<td>A 3</td>
</tr>
<tr>
<td>Construction of new surface water conveyance system</td>
<td>A 33</td>
<td>A 33</td>
<td>A 38</td>
<td>A 32, 39</td>
<td>A 3</td>
</tr>
<tr>
<td>Maintenance, repair or replacement of existing surface water conveyance system</td>
<td>A 33</td>
<td>A 33</td>
<td>A 18, 32, 39</td>
<td>A 16, 40, 41</td>
<td>A 3, 37</td>
</tr>
<tr>
<td>Construction of new surface water flow control or surface water quality treatment facility</td>
<td></td>
<td></td>
<td>A 32</td>
<td>A 32</td>
<td>A 3, 32</td>
</tr>
<tr>
<td>Maintenance or repair of existing surface water flow control or surface water quality treatment facility</td>
<td>A 16</td>
<td>A 16</td>
<td>A 16</td>
<td>A 16</td>
<td>A 3</td>
</tr>
<tr>
<td>Construction of new flood protection facility</td>
<td></td>
<td></td>
<td>A 42</td>
<td>A 42</td>
<td>A 28, 42</td>
</tr>
<tr>
<td>Maintenance, repair or replacement of flood protection facility</td>
<td>A 33, 43</td>
<td>A 33, 43</td>
<td>A 33, 43</td>
<td>A 43</td>
<td>A 28, 43</td>
</tr>
<tr>
<td>Construction of new instream structure or instream work</td>
<td>A 16</td>
<td>A 16</td>
<td>A 16</td>
<td>A 16, 44, 45</td>
<td></td>
</tr>
<tr>
<td>Maintenance or repair of existing instream structure</td>
<td>A 16</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>A 3</td>
</tr>
<tr>
<td>Recreation areas</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Construction of new trail</td>
<td>A 46</td>
<td>A 46</td>
<td>A 47</td>
<td>A 9, 47</td>
<td></td>
</tr>
<tr>
<td>Maintenance of outdoor public park</td>
<td>A 48</td>
<td>A 48</td>
<td>A 48</td>
<td>A 48</td>
<td>A 3, 48</td>
</tr>
<tr>
<td>Facility, trail or publicly improved recreation area</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Habitat and science projects</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Habitat restoration or enhancement project</td>
<td>A 49</td>
<td>A 49</td>
<td>A 49</td>
<td>A 49</td>
<td>A 3, 49</td>
</tr>
<tr>
<td>Scientific sampling for salmonids</td>
<td></td>
<td>A 50</td>
<td>A 50</td>
<td>A 10</td>
<td></td>
</tr>
<tr>
<td>Drilling and testing for critical areas report</td>
<td>A 51</td>
<td>A 51</td>
<td>A 51, 52</td>
<td>A 51, 52</td>
<td>A 3</td>
</tr>
<tr>
<td>Agriculture</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Horticulture activity including tilling, discing, planting, seeding, harvesting, preparing soil, rotating crops and related activity</td>
<td>A 53</td>
<td>A 53</td>
<td>A 53, 54</td>
<td>A 53, 54</td>
<td>A 53, 54</td>
</tr>
<tr>
<td>Grazing livestock</td>
<td>A 53</td>
<td>A 53</td>
<td>A 53, 54</td>
<td>A 53, 54</td>
<td>A 53, 54</td>
</tr>
<tr>
<td>Construction or maintenance of livestock manure storage facility</td>
<td>A 53, 54</td>
<td>A 55</td>
<td>A 53, 54</td>
<td>A 55</td>
<td>A 53, 54</td>
</tr>
<tr>
<td>Construction or maintenance of livestock flood sanctuary</td>
<td>A</td>
<td>A 56</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Construction of agricultural drainage</td>
<td></td>
<td></td>
<td>A 57</td>
<td>A 57</td>
<td>A 57</td>
</tr>
<tr>
<td>Maintenance of agricultural drainage</td>
<td>A 58</td>
<td>A 58</td>
<td>A 53, 54</td>
<td>A 58</td>
<td>A 53, 54, 58</td>
</tr>
<tr>
<td>Construction or maintenance of farm pond, fish pond or livestock watering pond</td>
<td>A 53</td>
<td>A 53</td>
<td>A 53, 54</td>
<td>A 53, 54</td>
<td>A 53, 54</td>
</tr>
<tr>
<td>Other</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Excavation of cemetery graves in established and approved cemetery</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>A</td>
</tr>
<tr>
<td>Maintenance of cemetery graves</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>A</td>
</tr>
<tr>
<td>Maintenance of lawn, landscaping or gardening for personal consumption</td>
<td>A 59</td>
<td>A 59</td>
<td>A 59</td>
<td>A 59</td>
<td>A 59</td>
</tr>
<tr>
<td>Maintenance of golf course</td>
<td>A 17</td>
<td>A 17</td>
<td>A 17</td>
<td>A 17</td>
<td>A 17</td>
</tr>
</tbody>
</table>

(4) The following alteration conditions apply to the table in subsection (3) of this section:

1. Limited to farm residences in grazed or tilled wet meadows and subject to the limitations of CMC 18.65.060.
2. Limited to nonresidential farm structures in grazed or tilled wet meadows or buffers of wetlands or aquatic areas where:
   a. The site is predominantly used for the practice of agriculture;
   b. The structure is in compliance with an approved farm management plan in accordance with Chapter 18.80 CMC;
c. The structure is either:
   i. On or adjacent to existing nonresidential impervious surface areas, additional impervious surface area is not created waterward of any existing impervious surface areas, and the area was not used for crop production;
   ii. Higher in elevation and no closer to the critical area than its existing position; or
   iii. At a location away from existing impervious surface areas that is determined to be the optimum site in the farm management plan;

d. All best management practices associated with the structure specified in the farm management plan are installed and maintained;

e. Installation of fencing in accordance with Chapter 18.80 CMC does not require the development of a farm management plan if required best management practices are followed and the installation does not require clearing of critical areas or their buffers; and

f. In a severe channel migration hazard area portion of an aquatic buffer only if:
   i. There is no feasible alternative location on-site;
   ii. The structure is located where it is least subject to risk from channel migration;
   iii. The structure is not used to house animals or store hazardous substances; and
   iv. The total footprint of all accessory structures within the severe channel migration hazard area will not exceed the greater of 1,000 square feet or two percent of the severe channel migration hazard area on the site.

3. Allowed if no clearing, external construction or other disturbance in a wildlife habitat conservation area occurs during breeding seasons established under CMC 18.65.381.

4. Allowed for structures when:
   a. The landslide hazard poses little or no risk of injury;
   b. The risk of landsliding is low; and
   c. There is not an expansion of the structure.

5. Within a severe channel migration hazard area allowed for:
   a. Existing primary structures if:
      i. There is not an increase of the footprint of any existing structure; and
      ii. There is not a substantial improvement as defined in CMC 18.20.1266; and

   b. Existing accessory structures if:
      i. Additions to the footprint will not make the total footprint of all existing structures more than 1,000 square feet; and
      ii. There is not an expansion of the footprint towards any source of channel migration hazard, unless the applicant demonstrates that the location is less subject to risk and has less impact on the critical area.

6. Allowed only in the buffer or building setback outside a severe channel migration hazard area if:
   a. The expansion or replacement does not increase the footprint of a nonresidential structure;
b. The expansion or replacement does not increase the footprint of a dwelling unit by more than 1,000 square feet and the location of the expanded area has the least adverse impact on the critical area;

c. The structure was not established as the result of a variance, buffer averaging or reasonable use exception; and

d. To the maximum extent practical, the expansion or replacement is not located closer to the critical area or within relic of a channel that can be connected to an aquatic area.

7. Allowed upon another portion of an existing impervious surface outside a severe channel migration hazard area if:
   a. The structure is not located closer to the critical area; and
   b. The existing impervious surface within the critical area or buffer is not expanded.

8. Limited to seasonal floating docks or piers in a Category II, III or IV wetland or its buffer or along a lake shoreline or its buffer where:
   a. The existing and zoned density of all properties abutting the entire lake shoreline averages three dwelling units per acre or more;
   b. At least 75 percent of the lots abutting the shoreline or 75 percent of the lake frontage, whichever constitutes the most lake frontage, has been developed with dwelling units;
   c. There is not any significant vegetation where the alteration is proposed and the loss of vegetation was not the result of any violation of law; and
   d. The wetland or lake shoreline is not a salmonid spawning area.

9. Not allowed within a severe channel migration hazard area portion of an aquatic area buffer.

10. Allowed on Type N or O aquatic areas if:
    a. Neither the width nor the length of the existing dock or pier is increased; and
    b. Hazardous substances or toxic materials are not used.

11. Allowed, excluding submerged components, on Type S or F aquatic areas if:
    a. There is not an expansion of width and length of the existing dock or pier;
    b. Hazardous substances or toxic materials are not used; and
    c. There is not an increase in shade for predator species.

12. Allowed on Type S or F aquatic areas if:
    a. Hazardous substances or toxic materials are not used;
    b. There is not an increase in shade for predator species; and
    c. There is not an increase in the number of pilings or the overall width and length of the dock or pier and the existing deck surface area is reduced to the maximum extent practical in waters between three feet and 13 feet deep.

13. Limited to regrading and stabilizing of a slope formed as a result of a legal grading activity.

14. The following are allowed if conducted more than 165 feet from the ordinary high water mark in the rural area and 115 feet from the ordinary high water mark in the urban area:
    a. Grading of up to 50 cubic yards on lot less than five acres; and
b. Clearing of up to 1,000 square feet or up to a cumulative 35 percent of the lot.

15. Only where erosion or landsliding threatens a structure, utility facility, roadway, driveway, public trails, aquatic area or wetland if, to the maximum extent practical, stabilization work does not disturb the slope and its vegetative cover and any associated critical areas. New stabilization structures for existing primary residential structures is allowed only where no alternatives, including relocation or reconstruction of existing structures), are feasible, and less expensive that the proposed stabilization measure, and then only if no net loss of ecological functions will result.

16. Allowed when performed by or at the direction of a government agency in accordance with regional road maintenance guidelines.

17. Allowed when not performed under the direction of a government agency only if:
   a. The maintenance does not involve the use of herbicides, hazardous substances, sealants or other liquid oily substances in aquatic areas, wetlands or their buffers; and
   b. When maintenance involves water used by salmonids:
      i. The maintenance is in compliance with ditch standards in public rule; and
      ii. The maintenance of culverts is limited to removal of sediment and debris from the culvert and its inlet, invert and outlet and the stabilization of the disturbed or damaged bank or channel immediately adjacent to the culvert and shall not involve the excavation of a new sediment trap adjacent to the inlet.

18. Allowed for the removal of hazard trees and vegetation as necessary for surveying or testing purposes.

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

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

21. Cutting of up to one cord of firewood in any year is allowed if the buffer is five acres or larger and no trees are removed from within 150 feet of the wetland or channel edge, including side channels.

22. Allowed only in buffers for the purpose of enhancing tree growth in the area of removal if limited to the diameter of the tree canopy.

23. Allowed only if:
   a. Removal is undertaken with hand labor unless otherwise prescribed by the King County Noxious Weed Control Board requires or authorizes the use of riding mowers or light mechanical cultivating equipment and herbicides or biological control methods;
   b. The area is stabilized to avoid re-growth or regeneration of noxious weeds; and
   c. The cleared area is revegetated with native or noninvasive vegetation and stabilized against erosion.

24. Allowed for the control of invasive vegetation if:
   a. Part of a restoration project;
b. The herbicide is a State and Federally approved registered aquatic formulation; and
c. For infestations over 10,000 square feet, the herbicide is applied by a licensed aquatic herbicide applicator.

25. Only if in accordance with Chapter 76.09 RCW and Title 222 WAC and:
   a. A long-term management plan is approved for the site by the City; and
   b. The property owner provides a notice of intent in accordance with RCW 76.09.060 that the site will not be converted to nonforestry uses within six years.

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

27. Allowed only if:
   a. There is not another feasible location with less adverse impact on the critical area and its buffer;
   b. The corridor is not located over habitat used for salmonid rearing or spawning or by a species listed as endangered or threatened by the State or Federal government unless the Department determines that there is no other feasible crossing site.
   c. The corridor width is minimized to the maximum extent practical;
   d. The construction occurs during approved periods for instream work; and
   e. The corridor will not change or diminish the overall aquatic area flow peaks, duration or volume or the flood storage capacity.

28. To the maximum extent practical, during breeding season established under CMC 18.65.381, land clearing machinery such as bulldozers, graders or other heavy equipment are not operated within a wildlife habitat conservation area.

29. Only if in compliance with a farm management plan in accordance with Chapter 18.80 CMC.

30. Allowed only if:
   a. The replacement is made fish passable in accordance with Washington State Department of Fish and Wildlife Habitat and Lands Environmental Engineering Division’s Fish Passage Design Manual or with the National Marine and Fisheries Services Guidelines for Salmonid Passage at Stream Crossings for Federally listed salmonid species; and
   b. The site is restored with appropriate native vegetation.

31. Allowed if necessary to bring the bridge or culvert up to current standards and if:
   a. There is not another feasible alternative available with less impact on the aquatic area and its buffer; and
   b. To the maximum extent practical, the bridge or culvert is located to minimize impacts to the aquatic area and its buffers.

32. Allowed in an existing roadway if conducted consistent with the adopted street maintenance guidelines.

33. Allowed outside the roadway if:
a. The alterations will not subject the critical area to an increased risk of landslide or erosion;
b. Vegetation removal is the minimum necessary to locate the utility or construct the corridor; and
c. Significant risk of personal injury is eliminated or minimized in the landslide hazard area.

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

a. There is no alternative location with less adverse impact on the critical area and its buffer;
b. New utility corridors meet all of the following to the maximum extent practical:
   i. Are not located over habitat used for salmonid rearing or spawning or by a species listed as endangered or threatened by the State or Federal government unless the Department determines that there is no other feasible crossing site;
   ii. The mean annual flow rate is less than 20 cubic feet per second;
   and
   iii. Paralleling the channel or following a down-valley route near the channel is avoided;
c. To the maximum extent practical utility corridors are located so that:
   i. The width is the minimized;
   ii. The removal of trees greater than 12 inches diameter at breast height is minimized;
   iii. An additional, contiguous and undisturbed critical area buffer, equal in area to the disturbed critical area buffer area including any allowed maintenance roads, is provided to protect the critical area;
d. To the maximum extent practical, access for maintenance is at limited access points into the critical area buffer rather than by a parallel maintenance road. If a parallel maintenance road is necessary the following standards are met:
   i. To the maximum extent practical the width of the maintenance road is minimized and in no event greater than 15 feet; and
   ii. The location of the maintenance road is contiguous to the utility corridor on the side of the utility corridor farthest from the critical area;
   e. The utility corridor or utility facility will not change or diminish the overall critical area hydrology or flood storage capacity;
   f. The construction occurs during approved periods for instream work;
   g. The utility corridor serves multiple purposes and properties to the maximum extent practical;
   h. Bridges or other construction techniques that do not disturb the critical areas are used to the maximum extent practical;
   i. Bored crossing meet the following criteria:
      i. Are laterally drilled and located at a depth of four feet below the maximum depth of scour for the base flood; and
      ii. The channel is crossed close to perpendicular and never more than 30 degrees from perpendicular;
j. Bridge piers or abutments for bridge crossing are not placed within the FEMA floodway or the ordinary high water mark;
k. Open trenching is only used during low flow periods and only within aquatic areas when they are dry. The Department may approve open trenching of Type S or F aquatic areas only if there is not a feasible alternative and equivalent or greater environmental protection can be achieved; and

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

35. Allowed only for new utility facilities in existing utility corridors.

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

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

38. Allowed if conveying the surface water into the wetland buffer and discharging into the wetland buffer or at the wetland edge has less adverse impact upon the wetland or wetland buffer than if the surface water were discharged at the buffer’s edge and allowed to naturally drain through the buffer.

39. Allowed if constructed only with vegetation.

40. Allowed for an open, vegetated storm water management conveyance system and outfall structure that simulates natural conditions if:
   a. Fish habitat features necessary for feeding, cover and reproduction are included when appropriate;
   b. Vegetation is maintained and added adjacent to all open channels and ponds, if necessary to prevent erosion, filter out sediments or shade the water; and
   c. Bioengineering techniques are used to the maximum extent practical.

41. Allowed for a closed, tightlined conveyance system and outfall structure if:
   a. Necessary to avoid erosion of slopes; and
   b. Bioengineering techniques are used to the maximum extent practical.

42. Allowed in a severe channel migration hazard area portion of an aquatic area buffer where demonstrated necessary to address or prevent bank erosion only:
   a. If consistent with King County’s Guidelines for Bank Stabilization Projects (King County Surface Water Management), and any updates, and if bioengineering techniques are used to the maximum extent practical and structural methods are only used when non-structural methods are infeasible and mitigation is accomplished; and
   b. To prevent bank erosion for the protection of:
      i. Public roadways;
      ii. Sole access routes in existence before February 16, 1995; or
      iii. New primary dwelling units, accessory dwelling units or accessory living quarters and residential accessory structures located outside the severe channel migration hazard area if:
A. The site is adjacent to or abutted by properties on both sides containing buildings or sole access routes protected by legal bank stabilization in existence before February 16, 1995. The buildings, sole access routes or bank stabilization must be located no more than 600 feet apart as measured parallel to the migrating channel; and

B. The new primary dwelling units, accessory dwelling units, accessory living quarters or residential accessory structures are located no closer to the aquatic area than existing primary dwelling units, accessory dwelling units, accessory living quarters or residential accessory structures on abutting or adjacent properties.

43. Applies to lawfully established existing structures if:
   a. Maintained by a public agency;
   b. The height of the facility is not increased;
   c. The linear length of the affected edge of the facility is not increased;
   d. The footprint of the facility is not expanded waterward;
   e. Consistent with King County’s Guidelines for Bank Stabilization Projects (King County Surface Water Management) and bioengineering techniques are used to the maximum extent practical; and
   f. The site is restored with appropriate native vegetation.

44. Allowed in Type N and O aquatic areas if done in least impacting way at least impacting time of year, in conformance with applicable best management practices, and all affected instream and buffer features are restored.

45. Allowed in a Type S or F water when such work is:
   a. Included as part of a project to evaluate, restore or improve habitat; and
   b. Sponsored by a public agency that has natural resource management as a function or by a Federally recognized tribe.

46. Allowed as long as the trail is not constructed of impervious surfaces that will contribute to surface water run-off, unless the construction is necessary for soil stabilization or soil erosion prevention or unless the trail system is specifically designed and intended to be accessible to handicapped persons.

47. Allowed as far landward as feasible in the buffer if:
   a. The trail surface is not made of impervious materials, except that public multi-purpose trails may be made of impervious materials if the trail surface materials meet the storm water requirements; and
   b. To the maximum extent practical, buffers are expanded equal to the width of the trail corridor including disturbed areas.

48. Only if the maintenance:
   a. Does not involve the use of herbicides or other hazardous substances except for the removal of noxious weeds or invasive vegetation;
   b. When salmonids are present, the maintenance is in compliance with ditch standards in public rule; and
   c. Does not involve any expansion of the roadway, lawn, landscaping, ditch, culvert, engineered slope or other improved area being maintained.

49. Limited to:
   a. Projects sponsored by a public agency that has natural resource management as a primary function or by a Federally recognized tribe; or
b. Restoration and enhancement plans prepared by a qualified biologist or a landscape architect in conformance with Chapter 18.96 RCW.

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

51. Allowed for the limited clearing and grading needed to prepare critical area reports.

52. The following are allowed if associated spoils are contained:
   a. Data collection and research if carried out to the maximum extent practical by non-mechanical or hand-held equipment;
   b. Survey monument placement;
   c. Site exploration and gauge installation if performed in accordance with State-approved sampling protocols and accomplished to the maximum extent practical by hand-held equipment and; or similar work associated with an incidental take permit issued under Section 10 or consultation under Section 7 of the Endangered Species Act.

53. Limited to activities in continuous existence since December 1, 2005, with no expansion within the critical area or critical area buffer. “Continuous existence” includes cyclical operations and managed periods of soil restoration, enhancement or other fallow states associated with these horticultural and agricultural activities.

54. Allowed for expansion of existing or new agricultural activities where:
   a. The site is predominantly involved in the practice of agriculture;
   b. There is no expansion into an area that:
      i. Has been cleared under a Class I, II, III or IV-S forest practice permit; or
      ii. Is more than 10,000 square feet with tree cover at a uniform density more than 90 trees per acre and with the predominant mainstream diameter of the trees at least four inches diameter at breast height, not including areas that are actively managed as agricultural crops for pulpwood, Christmas trees or ornamental nursery stock;
   c. The activities are in compliance with an approved farm management plan in accordance with Chapter 18.80 CMC; and
   d. All best management practices associated with the activities specified in the farm management plan are installed and maintained.

55. Only allowed in grazed or tilled wet meadows or their buffers if:
   a. The facilities are designed to the standards of an approved farm management plan in accordance with Chapter 18.80 CMC or an approved livestock management plan in accordance with Chapter 18.80 CMC;
   b. There is not a feasible alternative location available on the site; and
   c. The facilities are located close to the outside edge of the buffer to the maximum extent practical.

56. Allowed in a severe channel migration hazard area portion of an aquatic area buffer if:
   a. The facilities are designed to the standards in an approved farm management plan in accordance with Chapter 18.80 CMC;
   b. There is not a feasible alternative location available on the site; and
c. The structure is located where it is least subject to risk from channel migration.

57. Allowed for new agricultural drainage in compliance with an approved farm management plan in accordance with Chapter 18.80 CMC and all best management practices associated with the activities specified in the farm management plan are installed and maintained.

58. If the agricultural drainage is used by salmonids, maintenance shall be in compliance with an approved farm management plan in accordance with Chapter 18.80 CMC.

59. Allowed within existing landscaped areas or other previously disturbed areas. (Ord. 14-05 § 5)

18.65.060 Agricultural activities development standards.

(1) The alterations identified in Chapter 18.80 CMC for agricultural activities are allowed to expand within the buffers of wetlands, aquatic areas and wildlife habitat conservation areas when the site is currently engaged in an agricultural activity and the alteration is in compliance with an approved farm management plan in accordance with this section or, for livestock activities, a farm management plan in accordance with Chapter 18.80 CMC.

(2) This section does not modify any requirement that the property owner obtain permits for activities covered by the farm management plan.

(3) The Director or his designee shall serve as the single point of contact for City in providing information on farm management plans for purposes of this title. The Director shall adopt a public rule governing the development of farm management plans. The rule may provide for different types of farms management plans related to different kinds of agricultural activities, including, but not limited to, the best management practices for dairy nutrient management, livestock management, horticulture management, site development and agricultural drainage.

(4) A property owner or applicant seeking to use the process to allow alterations in critical area buffers shall develop a farm management plan based on the following goals, which are listed in order of priority:

(a) To maintain the productive agricultural land base and economic viability of agriculture on the site;
(b) To restore and enhance critical areas to the maximum extent practical in accordance with the site-specific goals of the landowner;
(c) To the maximum extent practical in accordance with the site-specific goals of the landowner, maintain and enhance natural hydrologic systems on the site;
(d) To use Federal, State and local best management practices and best available science to achieve the goals of the farm management plan; and
(e) To monitor the effectiveness of best management practices and implement additional practices through adaptive management to achieve the goals of the farm management plan.

(5) The property owner or applicant may develop the farm management plan as part of a program offered or approved by the City. The plan shall include, but is not limited to, the following elements:
(a) A site inventory identifying critical areas, structures, cleared and forested areas, and other significant features on the site;

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

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

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

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

(f) Documentation of compliance with flood compensatory storage and flood conveyance in accordance with CMC 18.65.240.

(6) A farm management plan is not effective until approved by the Director. Before approval, the City of Covington shall conduct a site inspection, to verify that the conditions identified in the plan are in place and that the plan is reasonably likely to accomplish the goals in this section. (Ord. 14-05 § 5)

18.65.070 Shoreline Variance Required

Any alteration of critical areas, critical area setbacks, critical area buffers, or other specific bulk, dimensional, or performance standards set forth in the Master Program, other than those allowed explicitly in the standards themselves, shall require a Shoreline Variance as described in Chapter 6 of the SMP based on the variance criteria listed therein and in WAC 173-27-170.

18.65.090 Disclosure by applicant.

If a development proposal site contains or is within a critical area, the applicant shall submit an affidavit which declares whether the applicant has knowledge of any illegal alteration to any or all critical areas on the development proposal site and whether the applicant previously has been found in violation of this chapter, pursuant to Chapter 1.30 CMC. If the applicant previously has been found in violation, the applicant shall declare whether the violation has been corrected to the satisfaction of the City of Covington. (Ord. 10-07 § 11; Ord. 14-05 § 5)

18.65.100 Critical area review.

(1) Before any clearing, grading or site preparation, the Department shall perform a critical area review for any City development proposal permit application or other request for permission to alter a site. The applicant shall pay a critical area review fee as set forth in the current fee resolution. The Department shall determine whether there is:

(a) A critical area on the development proposal site;
(b) An active breeding site of a protected species on the development proposal site; or
(c) A critical area or active breeding site of a protected species that has been mapped, identified within 300 feet of the applicant’s property or that is visible from the boundaries of the site.

(2) As part of the critical area review, the City shall review the critical area reports and determine whether:
   (a) There has been an accurate identification of all critical areas;
   (b) An alteration will occur to a critical area or a critical area buffer;
   (c) The development proposal is consistent with this chapter;
   (d) The sequence outlined in this chapter has been followed to avoid impacts to critical areas and critical area buffers; and
   (e) Mitigation to compensate for adverse impacts to critical areas is required and whether the mitigation and monitoring plans and bonding measures proposed by the applicant are sufficient to protect the general public health, safety and welfare, consistent with the goals, purposes, objectives and requirements of this chapter.

(3) If a development proposal does not involve any site disturbance, clearing, or grading and only requires a permit or approval under Chapter 18.45 CMC, critical area review is not required, unless the development proposal is located within a:
   (a) Flood hazard area;
   (b) Critical aquifer recharge area; or
   (c) Landslide hazard area, and the proposed development will cause additional loads on the foundation, such as by expanding the habitable square footage of the structure or by adding or changing structural features that change the land bearing characteristics of the structure. (Ord. 20-07 § 126; Ord. 14-05 § 5)

18.65.110 Critical area report requirement.

(1) An applicant for a development proposal that requires critical area review under CMC 18.65.100 shall submit a critical area report at a level determined by the Department to adequately evaluate the proposal and all probable impacts.

(2) A level one critical area report is required for development proposals requiring a critical area review and includes the following:
   (a) A valid critical area designation listed in CMC 18.65.050;
   (b) A critical area delineation performed by an expert;
   (c) A critical area review performed for the same site or portion of the site or another permit approval process within the prior five years;
   (d) An approved farm management plan in accordance with Chapter 18.80 CMC, or for wetlands and aquatic areas that are streams, a farm plan approved after January 1, 1993, in accordance with KCC Title 21A.30;
   (e) An approved rural stewardship site plan in accordance with King County Code; or
   (f) A forest stewardship site plan approved after the effective date of this section; and
   (g) A basic site checklist for each critical area in a form specified by the Department that includes;
(i) A site plan indicating the location of each critical area on or adjacent to the site and the approximate buffer, if any;
(ii) Topographical features if relevant;
(iii) General vegetation types and potential habitat or breeding sites; and
(iv) Any information related to the classification, type or category of the critical area.

(3) City of Covington may require a level two critical area report in a form specified by the Department when:
   (a) A description, delineation or explanation of the attributes of the critical area beyond the information provided by a level one checklist is necessary to determine potential impacts or risks and appropriate mitigation; or
   (b) The functions of all or portions of a critical area or critical area buffer are degraded and appropriate mitigation can be determined without intensive analysis.

(4) The Department may require a level three critical area report in a form specified by the Department when:
   (a) The functions of all or portions of a critical area or critical area buffer are intact and an analysis of the potential impacts of the proposed development or alteration is necessary to determine appropriate mitigation measures and to decide if the alteration should occur as proposed; or
   (b) There is a potential risk to life or property from the development proposal or alteration or to the development proposal or alteration because of the hazards posed by cumulative effects to the critical area.

(5) The Department may require a level four critical area report in a form specified by the Department when:
   (a) A quantitative analysis is needed to determine potential impacts and mitigation measures;
   (b) An alteration exception is proposed in accordance with CMC 18.65.070; or
   (c) An analysis of cumulative effects is required under the Washington State Environmental Policy Act or other State or Federal law.

(6) The applicant may combine a critical area report with any critical area studies required by other laws and regulations.

(7) If the development proposal will affect only a part of the development site, the Department may limit the scope of the required critical area report to include only that part of the site that is affected by the development proposal. (Ord. 14-05 § 5)

18.65.120 Avoiding impacts to critical areas.

(1) An applicant for a development proposal or alteration shall consider the following sequential measures, which appear in order of priority, to avoid impacts to critical areas and critical area buffers:
   (a) Avoiding the impact or hazard by not taking a certain action;
   (b) Minimizing the impact or hazard by:
      (i) Limiting the degree or magnitude of the action with appropriate technology; or
      (ii) Taking affirmative steps, such as project redesign, relocation or timing;
   (c) Rectifying the impact to critical areas by repairing, rehabilitating or restoring the affected critical area or its buffer;
(d) Minimizing or eliminating the hazard by restoring or stabilizing the hazard area through engineered or other methods;

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

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

(g) Monitoring the impact, hazard or success of required mitigation and taking remedial action.

(2) The specific mitigation requirements of this chapter for each critical area apply when compensation for adverse impacts is required by the sequence in subsection (1) of this section. (Ord. 14-05 § 5)

18.65.130 Mitigation and monitoring.

(1) If mitigation is required under this chapter to compensate for adverse impact, unless otherwise provided, an applicant shall:

(a) Mitigate adverse impacts to:

(i) Critical areas and their buffers; and

(ii) The development proposal as a result of the proposed alterations on or near the critical areas; and

(b) Monitor the performance of any required mitigation.

(2) The Department shall not approve a development proposal until mitigation and monitoring plans are in place to mitigate for alterations to critical areas and buffers.

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

(a) An analysis of potential impacts;

(b) A mitigation plan that meets the specific mitigation requirements in this chapter for each critical area impacted; and

(c) A monitoring plan that includes:

(i) A demonstration of compliance with this title;

(ii) A contingency plan in the event of a failure of mitigation or of unforeseen impacts if:

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

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

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

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

(5) If monitoring reveals a significant deviation from predicted impact or a failure of mitigation, the applicant shall implement an approved contingency plan. The contingency plan constitutes new mitigation and is subject to all mitigation including a monitoring plan and financial guarantee requirements. (Ord. 14-05 § 5)
18.65.135 Off-site mitigation.

(1) To the maximum extent practical, an applicant shall mitigate adverse impacts to a wetland, aquatic area, wildlife habitat conservation area or wildlife habitat network on or contiguous to the development site. The Director may approve mitigation that is off the development site if an applicant demonstrates that:
   (a) It is not practical to mitigate on or contiguous to the development proposal site; and
   (b) The off-site mitigation will achieve equivalent or greater hydrological, water quality and wetland or aquatic area habitat functions.

(2) When off-site mitigation is authorized, the Director shall give priority to location within the same drainage sub-basin as the development proposal site that meet the following:
   (a) Mitigation banking sites and resource mitigation reserves as authorized by this chapter;
   (b) Private mitigation sites that are established in compliance with the requirements of this chapter and approved by the Department; and
   (c) Public mitigation sites that have been ranked in a process that has been supported by ecological assessments, including wetland and aquatic areas established as priorities for mitigation in City of Covington sub-basin plans or other WRIA No. 9 watershed plans.

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

(4) The Director shall maintain a list of sites available for use for off-site mitigation projects.

(5) The City of Covington may develop a program to allow the payment of a fee in lieu of providing mitigation on a development site. The program should address:
   (a) When the payment of a fee is allowed considering the availability of a site in geographic proximity with comparable hydrologic and biological functions and potential for future habitat fragmentation and degradation; and
   (b) The use of the fees for mitigation on public or private sites that have been ranked according to ecological criteria through one or more programs that have included a public process. (Ord. 14-05 § 5)

18.65.136 Resource mitigation reserve.

The Director may approve mitigation to compensate for the adverse impacts of a development proposal in advance of unavoidable adverse impacts to critical areas through the creation and approval of a resource mitigation reserve. The use of a resource mitigation reserve to compensate for unavoidable impacts to a critical area is not allowed in the agricultural production districts if the purpose is to compensate for development outside of the agricultural production districts. (Ord. 14-05 § 5)
18.65.140 Financial guarantees.

Financial guarantees shall be required consistent with the provisions of CMC Title 14 and this title.

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

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

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

(4) Public development proposals shall be relieved from having to comply with the provisions of this section if public funds have previously been committed for mitigation, maintenance, monitoring or restoration. (Ord. 20-07 §§ 86, 127; Ord. 14-05 § 5; Ord. 43-02 § 2. Partially from former 14.110.080)

18.65.150 Vegetation management plan.

(1) For all development proposals where preservation of existing vegetation is required by this chapter, a vegetation management plan shall be submitted and approved prior to issuance of the permit or other request for permission to proceed with an alteration.

(2) The vegetation management plan shall identify the proposed clearing limits for the project and any areas where vegetation in a sensitive area or its buffer is proposed to be disturbed.

(3) Where clearing includes cutting any merchantable stand of timber, as defined in WAC 222-16-010(28), the vegetation management plan shall include a description of proposed logging practices which demonstrates how all sensitive areas will be protected in accordance with the provisions of this chapter.

(4) Clearing limits as shown on the plan shall be marked in the field in a prominent and durable manner. Proposed methods of field marking shall be reviewed and approved by King County prior to any site alteration. Field marking shall remain in place until the certificate of occupancy or final project approval is granted.

(5) The vegetation management plan may be incorporated into a temporary erosion and sediment control plan or landscaping plan where either of these plans is required by other laws or regulations.

(6) Submittal requirements for vegetation management plans shall be set forth in administrative rules. (Ord. 14-05 § 5)

18.65.160 Critical area markers and signs.

(1) Development proposals shall include permanent survey stakes delineating the boundary between adjoining property and critical area tracts, using iron or concrete markers as established by current survey standards.
(2) The applicant shall identify the boundary between a critical area tract and contiguous land with permanent signs. City of Covington may require signs and fences to delineate and protect critical areas and critical area buffers that are not in critical area tracts. (Ord. 14-05 § 5)

18.65.170 Notice on critical areas.

(1) The owner of any property containing critical areas or buffers on which a development proposal is submitted or any property on which mitigation is established as a result of development, except a public right-of-way or the site of a permanent public facility, shall file a notice approved by King County with the Records and Elections Division and licensing services division.

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

(2) The applicant shall submit proof that the notice has been filed for public record before City of Covington approves any development proposal for the property or, in the case of subdivisions, short subdivisions and binding site plans, at or before recording of the subdivision, short subdivision or binding site plan. (Ord. 14-05 § 5)

18.65.180 Critical area tracts and designations on site plans.

(1) The applicant shall use critical area tracts to delineate and protect those critical areas and buffers listed below in development proposals for subdivisions, short subdivisions or binding site plans and shall record on all documents of title of record for all affected lots:

   (a) All landslide hazard areas and buffers that are one acre or more in size;
   (b) All steep slope hazard areas and buffers that are one acre or more in size;
   (c) All wetlands and buffers; and
   (d) All aquatic areas and buffers.

(2) Any required critical area tract shall be held in an undivided interest by each owner of a building lot within the development with this ownership interest passing with the ownership of the lot or shall be held by an incorporated homeowners’ association or other legal entity that ensures the ownership, maintenance and protection of the tract.

(3) Site plans submitted as part of building permits, clearing and grading permits or other development permits shall include and delineate all flood hazard areas as determined by City in accordance with CMC 18.65.230, landslide and steep slope hazard areas, aquatic areas and wetlands, buffers and building setbacks. If only a part of the development site has been mapped pursuant to CMC 18.65.110, the part of the site that has not been mapped shall be clearly identified and labeled on the site plans. The site plans shall be attached to the notice on title required by CMC 18.65.170. (Ord. 14-05 § 5)

18.65.190 Alteration.

Any human activity which results or is likely to result in an impact upon the existing condition of a sensitive area is an alteration which is subject to specific limitations as
specified for each sensitive area. Alterations include, but are not limited to, grading, filling, dredging, draining, channelizing, applying herbicides or pesticides or any hazardous substance, discharging pollutants except storm water, grazing domestic animals, paving, constructing, applying gravel, modifying for surface water management purposes, cutting, pruning, topping, trimming, relocating or removing vegetation or any other human activity which results or is likely to result in an impact to existent vegetation, hydrology, wildlife or wildlife habitat. Alterations do not include walking, fishing or any other passive recreation or other similar activities. (Ord. 14-05 § 5)

18.65.200 Building setbacks.

Unless otherwise provided, an applicant shall set buildings and other structures back a distance of 15 feet from the edges of all critical area buffers or from the edges of all critical areas, if no buffers are required. The following are allowed in the building setback area:

(1) Landscaping;
(2) Uncovered decks lower than 30 inches height above existing grade;
(3) Building overhangs if the overhangs do not extend more than 18 inches into the setback area;
(4) Impervious ground surfaces, such as driveways and patios; but the improvements are required to meet any special drainage provisions specified in public rules adopted for the various critical areas; and
(5) Utility service connections as long as the excavation for installation avoids impacts to the buffer. (Ord. 14-05 § 5)

18.65.220 Erosion hazard areas – Development standards and permitted alterations.

(1) Clearing on an erosion hazard area is allowed only from April 1st to September 1st, except that:
   (a) Up to 15,000 square feet may be cleared on any lot, subject to any other requirement for vegetation retention and subject to any clearing and grading permit required by Chapter 18.45 CMC; and
   (b) Timber harvest may be allowed pursuant to an approved forest practice permit issued by the Washington Department of Natural Resources, or clearing of noxious weeds at any time.

(2) All development proposals on sites containing erosion hazard areas shall include a temporary erosion control plan consistent with this section and other laws and regulations prior to receiving approval. Specific requirements for such plans shall be set forth in administrative rules.

(3) All subdivisions, short subdivisions or binding site plans on sites with erosion hazard areas shall comply with the following additional requirements:
   (a) Except as provided in this section, existing vegetation shall be retained on all lots until building permits are approved for development on individual lots;
   (b) If any vegetation on the lots is damaged or removed during construction of the subdivision infrastructure, the applicant shall be required to submit a restoration plan.
to City of Covington for review and approval. Following approval, the applicant shall be required to implement the plan;

(c) Clearing of vegetation on lots may be allowed without a separate clearing and grading permit if City of Covington determines that:

(i) Such clearing is a necessary part of a large-scale grading plan;
(ii) It is not feasible to perform such grading on an individual lot basis; and
(iii) Drainage from the graded area will meet water quality standards to be established by administrative rules.

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

(5) The use of hazardous substances, pesticides and fertilizers in erosion hazard areas may be prohibited by the City of Covington. (Ord. 14-05 § 5)

18.65.230 Flood hazard areas — Components.

(1) A flood hazard area consists of the following components:

(a) Floodplain;
(b) Zero-rise flood fringe;
(c) Zero-rise floodway;
(d) FEMA floodway; and
(e) Channel migration zones.

(2) The City of Covington shall delineate a flood hazard area after reviewing base flood elevations and flood hazard data for a flood having a one percent chance of being equaled or exceeded in any given year, often referred to as the “100-year flood.” The Director shall determine the base flood for existing conditions. If a basin plan or hydrologic study including projected flows under future developed conditions has been completed and approved by King County, the City of Covington shall use these future flow projections. Many flood hazard areas are mapped by FEMA in a scientific and engineering report entitled “The Flood Insurance Study for King County and Incorporated Areas.” When there are multiple sources of flood hazard data for floodplain boundaries, regulatory floodway boundaries, base flood elevations, or flood cross-sections, the Director may determine which data most accurately classifies and delineates the flood hazard area. The Director may utilize the following sources of flood hazard data for floodplain boundaries, regulatory floodway boundaries, base flood elevations or cross sections when determining a flood hazard area:

(a) Flood insurance rate maps;
(b) Flood insurance studies;
(c) Preliminary flood insurance rate maps;
(d) Preliminary flood insurance studies;
(e) Draft flood boundary work maps and associated technical reports;
(f) Critical area reports prepared in accordance with FEMA standards contained in 44 CFR Part 65 and consistent with the King County surface water design manual provisions for floodplain analysis;
(g) Letters of map amendments;
(h) Letters of map revisions;
(i) Channel migration zone maps and studies;
(j) Historical flood hazard information; and
(k) Wind and wave data provided by the United States Army Corps of Engineers.

(3) A number of channel migration zones are mapped by the County for portions of river systems. These channel migration zones and the criteria and process used to designate and classify channel migration zones are specified by public rule adopted by the Director. An applicant for a development proposal may submit a critical area report to the Department to determine channel migration zone boundaries or classify channel migration hazard areas on a specific property if there is an apparent discrepancy between the site-specific conditions or data and the adopted channel migration zone maps. (Ord. 14-05 § 5)

18.65.240 Flood fringe development standards and alterations.

The following standards apply to development proposals and alterations on sites within the zero-rise flood fringe:

1. Development proposals and alterations shall not reduce the effective base flood storage volume of the floodplain. A development proposal shall provide compensatory storage if grading or other activity displaces any effective flood storage volume. Compensatory storage shall:
   (a) Provide equivalent volume at equivalent elevations to that being displaced;
   (b) Hydraulically connect to the source of flooding;
   (c) Provide compensatory storage in the same construction season as when the displacement of flood storage volume occurs and before the flood season begins on September 30th for that year; and
   (d) Occur on the site. The Director may approve equivalent compensatory storage off the site if legal arrangements, acceptable to the Department, are made to assure that the effective compensatory storage volume will be preserved over time;

2. A structural engineer shall design and certify all elevated construction and submit the design to the City prior to construction;

3. A civil engineer shall prepare a base flood depth and base flood velocity analysis and submit the analysis to the Department. Development proposals and alterations are not allowed if the base flood depth exceeds three feet or the base flood velocity exceeds three feet per second;

4. Subdivisions, short subdivisions, and binding site plans shall meet the following requirements:
   (a) New building lots shall include 5,000 square feet or more of buildable land outside the zero-rise floodway;
   (b) All utilities and facilities such as sewer, gas, electrical and water systems are consistent with subsections (5), (6) and (9) of this section;
   (c) A professional engineer shall prepare detailed base flood elevations in accordance with FEMA guidelines for all new lots;
(d) A development proposal shall provide adequate drainage in accordance with the King County surface water design manual to reduce exposure to flood damage; and

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

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

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

(iii) Include the following notice:

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

(5) New residential structures and substantial improvements of existing residential structures shall meet the following standards:

(a) Elevate the lowest floor, including basement, to the flood protection elevation;

(b) Do not fully enclose portions of the structure that are below the lowest floor area. Design and construct the areas and rooms below the lowest floor to automatically equalize hydrostatic and hydrodynamic flood forces on exterior walls by allowing for the entry and exit of floodwaters as follows:

(i) Provide a minimum of two openings on each of two opposite side walls in the direction of flow, with each of those walls having a total open area of not less than one square inch for every square foot of enclosed area subject to flooding;

(ii) Design and construct the bottom of all openings so they are no higher than one foot above grade; and

(iii) Screens, louvers or other coverings or devices are allowed over the opening if they allow the unrestricted entry and exit of floodwaters;

(c) Use materials and methods that are resistant to and minimize flood damage; and

(d) Elevate above or dry-proof all electrical, heating, ventilation, plumbing, air conditioning equipment and other utilities that service the structure, such as duct-work to the flood protection elevation;

(6) New nonresidential structures and substantial improvements of existing nonresidential structures shall meet the following standards:

(a) Elevate the lowest floor to the flood protection elevation; or

(b) Dry flood-proof the structure to the flood protection elevation meet the following standards:

(i) The applicant shall provide certification by a professional engineer that the dry flood-proofing methods are adequate to withstand the flood depths, pressures, velocities, impacts, uplift forces and other factors associated with the base flood. After construction, the engineer shall certify that the permitted work conforms to the approved plans and specifications; and
(ii) Approved building permits for dry flood-proofed nonresidential structures shall contain a statement notifying applicants that flood insurance premiums are based upon rates for structures that are one foot below the base flood elevation;

(c) Use materials and methods that are resistant to and minimize flood damage;

(d) Design and construct the areas and rooms below the lowest floor to automatically equalize hydrostatic and hydrodynamic flood forces on exterior walls by allowing for the entry and exit of floodwaters as follows:

(i) Provide a minimum of two openings on each of two opposite side walls in the direction of flow, with each of those walls having a total open area of not less than one square inch for every square foot of enclosed area subject to flooding;

(ii) Design the bottom of all openings is no higher than one foot above grade; and

(iii) Screens, louvers or other coverings or devices are allowed if they do not restrict entry and exit of floodwaters; and

(e) Dry flood-proof all electrical, heating, ventilation, plumbing, air conditioning equipment and other utility and service facilities to or elevated above the flood protection elevation;

(7) Anchor all new construction and substantially improved structures to prevent flotation, collapse or lateral movement of the structure. The Director shall approve the method used to anchor the new construction;

(8) Newly sited manufactured homes and substantial improvements of existing manufactured homes shall meet the following standards:

(a) Manufactured homes shall meet all the standards in this section for residential structures, and the following standards;

(i) Anchor all manufactured homes; and

(ii) Install manufactured homes using methods and practices that minimize flood damage; and

(b) All mobile homes within a new mobile home park or expansion of an existing mobile home park must meet the requirements for flood hazard protection for residential structures; and

(c) Only manufactured homes are allowed in a new or existing mobile home park located in a flood hazard area;

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

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

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

(i) Impairment to the system during flooding;

(ii) Contamination from the system during flooding;

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

(iv) Above-ground utility transmission lines, except for electric transmission lines, are allowed only for the transport of nonhazardous substances; and
(v) Bury underground utility transmission lines transporting hazardous substances at a minimum depth of four feet below the maximum depth of scour for the base flood, as predicted by a civil engineer, and achieve sufficient negative buoyancy so that any potential for flotation or upward migration is eliminated;

(10) Critical facilities are only allowed within the flood fringe of the zero-rise flood fringe, when a feasible alternative site is not available and the following standards are met:

(a) Elevate the lowest floor to the 500-year floodplain elevation or three or more feet above the base flood elevation, whichever is higher.
(b) Dry flood-proof and seal structures to ensure that hazardous substances are not displaced by or released into flood waters.
(c) Elevate access routes to or above the base flood elevation from the critical facility to the nearest maintained public street or roadway.

(11) New construction or expansion of existing livestock flood sanctuaries is only allowed as follows:

(a) A livestock flood sanctuary is only allowed if there is no other suitable holding area on the site outside the floodplain to which the livestock have access;
(b) Siting and sizing that do not increase base flood elevations consistent with CMC 18.65.250(2) and 18.65.260(4); and
(c) Siting that is located in the area least subject to risk from floodwaters; and

(12) New construction or expansion of existing livestock manure storage facilities is only allowed as follows:

(a) The livestock manure storage facility is only allowed if there is not a feasible alternative area on the site outside the floodplain;
(b) Construct the livestock manure storage facility to the standards in an approved farm management plan prepared in accordance with Chapter 18.80 CMC provisions. The farm management plan shall demonstrate compliance with the following:

(i) Flood storage compensation consistent with subsection (1) of this section;
(ii) Siting and sizing that do not increase base flood elevations consistent with CMC 18.65.250(2) and 18.65.260(4);
(iii) Dry flood-proofing to the flood protection elevation; and
(iv) Siting that is located in the area least subject to risk from floodwaters.

(Ord. 14-05 § 5)

18.65.250 Zero-rise floodway development standards and alterations.

The following standards apply to development proposals and alterations on sites within the zero-rise floodway:

(1) The standards that apply to the zero-rise flood fringe also apply to the zero-rise floodway. The more restrictive standards apply where there is a conflict;
(2) A development proposal shall not increase the base flood elevation except as follows:

(a) Revisions to the flood insurance rate map are approved by FEMA, in accordance with 44 CFR 70, to incorporate the increase in the base flood elevation; and
(b) Appropriate legal documents are prepared and recorded in which all property owners affected by the increased flood elevations consent to the impacts on their property;

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

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

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

(c) Substantial improvements of existing residential structures that meet the standards for new residential structures in CMC 18.65.240;

(4) When post or piling construction are not used, a critical areas report is required in accordance with CMC 18.65.110 demonstrating that the proposal will not increase the base flood elevation;

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

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

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

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

(a) Locate the structures outside the FEMA floodway;

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

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

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

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

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

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

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

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

(8) Critical facilities, except for those listed in subsection (9) of this section are not allowed within the zero-rise floodway; and
(9) Structures and installations that are dependent upon the zero-rise floodway are allowed in the zero-rise floodway if the development proposal is approved by all agencies with jurisdiction and meet the development standards for the zero-rise floodway. These structures and installations may include, but are not limited to:
   (a) Dams or diversions for water supply, flood control, irrigation or fisheries enhancement;
   (b) Flood damage reduction facilities, such as levees, revetments and pumping stations, provided that new structural flood hazard reduction measures are only allowed where demonstrated to be necessary and when nonstructural methods are infeasible and mitigation is provided to achieve no net loss; such facilities must be located landward of associated wetlands and buffer areas except where no alternative exists as documented in a geotechnical analysis;
   (c) Stream bank stabilization structures only if a feasible alternative does not exist for protecting structures, public roadways, flood protection facilities or sole access routes. Bank stabilization projects must meet the standards of King County’s Guidelines for Bank Stabilization projects (King County Surface Water Management 1998) and use bioengineering techniques to the maximum extent practical. An applicant may use alternative methods to the guidelines if the applicant demonstrates that the alternative methods provide equivalent or better structural stabilization, ecological and hydrological functions and salmonid habitat;
   (d) Surface water conveyance facilities;
   (e) Boat launches and related recreation structures;
   (f) Bridge piers and abutments; and
   (g) Approved aquatic area or wetland restoration projects including, but not limited to, fisheries enhancement projects. (Ord. 14-05 § 5)

(10) New structural public flood hazard reduction measures, such as dikes or levees, shall dedicate and improve public access pathways unless public access improvements would cause unavoidable health or safety hazards to the public, inherent and unavoidable security problems, unacceptable and unmitigable significant ecological impacts, unavoidable conflict with proposed use, or a cost that is disproportionate and unreasonable to the total long-term cost of the development.

18.65.260 FEMA floodway development standards and alterations.

The following standards apply to development proposals and alterations on sites within the FEMA floodway:

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

(2) A development proposal shall not increase the base flood elevation. A civil engineer shall certify, through hydrologic and hydraulic analyses performed in accordance with standard engineering practice, that any proposed encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge;

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

(4) Livestock flood sanctuaries and manure storage facilities are prohibited in the FEMA floodway;
(5) If the footprint of the existing residential structure is not increased, substantial improvements of existing residential structures in the FEMA floodway, meeting the requirements of WAC 173-158-070, as amended, are presumed to not increase the base flood elevation and do not require a critical areas report to establish this fact;

(6) Maintenance, repair, replacement or improvement of an existing residential structure located within the agricultural production district on property that is zoned Urban Separator or R-4 is allowed in the FEMA floodway if the structure meets the standards for residential structures and utilities in CMC 18.65.240 and also meets the following requirements:

(a) The existing residential structure was legally established;

(b) The viability of the farm is dependent upon a residential structure within close proximity to other agricultural structures; and

(c) Replacing an existing residential structure within the FEMA floodway is only allowed if:

(i) There is not sufficient buildable area on the site outside the FEMA floodway for the replacement;

(ii) The replacement residential structure is not located in an area that increases the flood hazard in water depth, velocity or erosion;

(iii) The building footprint of the existing residential structure is not increased; and

(iv) The existing structure, including the foundation, is completely removed within 90 days of receiving a certificate of occupancy, or temporary certificate of occupancy, whichever occurs first, for the replacement structure;

(7) Maintenance, repair or replacement of a substantially damaged existing residential structure other than a residential structure located within the agricultural production district on property that is zoned Urban Separator or R-4, is allowed in the FEMA floodway if the structure meets the standards for existing residential structures and utilities in CMC 18.65.240 and also meets the following requirements:

(a) The Washington State Department of Ecology has assessed the flood characteristics of the site and determined:

(i) Base flood depths will not exceed three feet;

(ii) Base flood velocities will not exceed three feet per second;

(iii) There is no evidence of flood-related erosion, as determined by location of the project site in relationship to mapped channel migration zones or, if the site is not mapped, evidence of overflow channels and bank erosion; and

(iv) A flood warning system or emergency plan is in operation;

(b) The Washington State Department of Ecology has prepared a report of findings and recommendations to the City that determines the repair or replacement will not result in an increased risk of harm to life based on the characteristics of the site;

(c) The Director has reviewed the Washington State Department of Ecology report and concurs that the development proposal is consistent with the findings and recommendations in the report;

(d) The development proposal is consistent with the findings and recommendations of the Washington State Department of Ecology report;

(e) The existing residential structure was legally established;
(f) Replacing an existing residential structure within the FEMA floodway is only allowed if:
   (i) There is not sufficient buildable area on the site outside the FEMA floodway;
   (ii) The replacement structure is a residential structure built as a substitute for a previously existing residential structure of equivalent use and size; and
   (iii) The existing residential structure, including the foundation, is removed within 90 days of receiving a certificate of occupancy, or temporary certificate of occupancy, whichever occurs first, for the replacement structure; and
   (8) Maintenance or repair of a structure, as defined in WAC 173-158-030, that is identified as an historic resource, as defined in CMC 18.20.597, is allowed in the FEMA floodway if the structure and utilities meet the standards of CMC 18.65.240 for residential structures or nonresidential structures, as appropriate. (Ord. 14-05 § 5)

18.65.270 Flood hazard areas certification by engineer or surveyor.

(1) For all new structures or substantial improvements in a flood hazard area, the applicant shall provide a FEMA elevation certificate completed by a professional engineer or professional land surveyor licensed by the State of Washington documenting:
   (a) The actual as-built elevation of the lowest floor, including basement; and
   (b) The actual as-built elevation to which the structure is dry flood-proofed, if applicable.
   (2) The applicant shall submit a FEMA elevation certificate before the issuance of a certificate of occupancy or temporary certificate of occupancy, whichever occurs first. For unoccupied structures, the applicant shall submit the FEMA elevation certificate before the issuance of the final letter of completion or temporary letter of completion, whichever occurs first.
   (3) The engineer or land surveyor shall indicate if the structure has a basement.
   (4) The Department shall maintain the certifications required by this section for public inspection and for certification under the National Flood Insurance Program. (Ord. 14-05 § 5)

18.65.275 Channel migration zones – Development standards and alterations.

The following standards apply to development proposal and alterations on sites within channel migration zones that have been mapped and adopted by public rule:
   (1) The standards that apply to the aquatic area buffers in CMC 18.65.356 also apply to the severe channel migration zone and the portion of the moderate channel migration zone that is within the aquatic area buffer. The more-restrictive standards apply where there is a conflict;
   (2) Only the alterations identified in CMC 18.65.050 are allowed within a severe channel migration hazard area;
   (3) The following standards apply to development proposals and alterations within the moderate channel migration hazard area:
      (a) Maintenance, repair or expansion of any use or structure is allowed if the existing structure’s footprint is not expanded towards any source of channel migration
hazard, unless the applicant can demonstrate that the location is the least subject to risk;

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

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

(ii) A feasible alternative location outside of the channel migration hazard area is not available on-site; and

(iii) To the maximum extent practical, the structure and supporting infrastructure is located the farthest distance from any source of channel migration hazard, unless the applicant can demonstrate that an alternative location is:

(A) The least subject to risk; or

(B) Within the outer third of the moderate channel migration hazard area as measured perpendicular to the channel;

(c) New accessory structures are allowed if:

(i) A feasible alternative location is not available on-site; and

(ii) To the maximum extent practical, the structure is located the farthest distance from the migrating channel;

(d) The subdivision of property is allowed within the portion of a moderate channel migration hazard area located outside an aquatic area buffer if:

(i) All lots contain 5,000 square feet or more of buildable land outside of the moderate channel migration hazard area;

(ii) Access to all lots does not cross the moderate channel migration hazard area; and

(iii) All infrastructure is located outside the moderate channel migration hazard area except that an on-site septic system is allowed in the moderate channel migration hazard area if:

(A) A feasible alternative location is not available on-site; and

(B) To the maximum extent practical, the septic system is located the farthest distance from the migrating channel. (Ord. 14-05 § 5)

18.65.280 Landslide hazard areas – Development standards and alterations.

The following standards apply to development proposals and alterations on sites containing landslide hazard areas:

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

(2) A buffer is required from all edges of the landslide hazard area. To eliminate or minimize the risk of property damage or injury resulting from landslides caused in whole or part by the development, the Director shall determine the size of the buffer based upon a critical area report prepared by a geotechnical engineer or geologist. If a critical area report is not submitted to the City, the minimum buffer is 50 feet. If the landslide hazard area has a vertical rise of more than 200 feet, the Department may increase the minimum building setback in CMC 18.65.280 to 100 feet;

(3) Unless otherwise provided in CMC 18.65.050 or as a necessary part of an allowed alteration, removal of any vegetation from a landslide hazard area or buffer is prohibited;
(4) All alterations shall minimize disturbance to the landslide hazard area, slope and vegetation unless necessary for slope stabilization; and
(5) Alterations in a landslide hazard area located on a slope less than 40 percent are allowed if:
   (a) The proposed alteration will not decrease slope stability on contiguous properties; and
   (b) The risk of property damage or injury resulting from landsliding is eliminated or minimized. (Ord. 14-05 § 5)

18.65.310 Steep slope hazard areas — Development standards and alterations.

The following standards apply to development proposals and alterations on sites containing steep slope hazard areas:
(1) Only the alterations identified in CMC 18.65.050 are allowed within a steep slope hazard area;
(2) A buffer or setback is required from all edges of the steep slope hazard. To eliminate or minimize the risk of property damage or injury resulting from slope instability, landsliding or erosion caused in whole or part by the development, the City shall determine the size of the buffer or setback based upon a critical area report prepared by a geotechnical engineer or geologist. If a critical area report is not submitted to the City, the minimum buffer is 50 feet. For building permits for single detached dwelling units only, the City may waive the special study requirement and authorize buffer reductions, if the City determines that the reduction will adequately protect the proposed development and the critical area; and
(3) Unless otherwise provided in CMC 18.65.050 or as a necessary part of an allowed alteration, removal of any vegetation from a steep slope hazard area or buffer is prohibited. (Ord. 14-05 § 5)

18.65.311 Critical aquifer recharge areas — Maps adopted.

The map entitled Covington Critical Aquifer Recharge Areas, included in Attachment B to the ordinance codified in this chapter, is hereby adopted as the designation of critical aquifer recharge areas in Covington in accordance with RCW 36.70A.170. The Director may upon consultation with the affected local water purveyor adopt public rules to add or remove critical aquifer recharge areas based on additional information about areas with susceptibility to ground water contamination or on changes to sole source aquifers or wellhead protection areas as identified in wellhead protection programs. (Ord. 14-05 § 5)

18.65.312 Critical aquifer recharge areas — Reclassification or declassification.

Upon application supported by a critical areas report that includes a hydrogeologic site evaluation, the Director may upon consultation with the affected local water purveyor determine that an area that is classified as a critical aquifer recharge area on the map adopted and amended by public rule as follows:
(1) Does not meet the criteria for a critical aquifer recharge area and declassify that area; or
(2) Has the wrong critical aquifer recharge area classification and determine the correct classification. (Ord. 14-05 § 5)

18.65.313 Critical aquifer recharge areas — Categories.

Critical aquifer recharge areas are categorized as follows:
(1) Category I critical aquifer recharge areas include those mapped areas that Covington has determined are highly susceptible to ground water contamination and that are located within a sole source aquifer or a wellhead protection area;
(2) Category II critical aquifer recharge areas include those mapped areas that Covington has determined:
   (a) Have a medium susceptibility to ground water contamination and are located in a sole source aquifer or a wellhead protection area; or
   (b) Are highly susceptible to ground water contamination and are not located in a sole source aquifer or wellhead protection area; and
(3) Category III critical aquifer recharge areas include those mapped areas that Covington has determined have low susceptibility to ground water contamination. (Ord. 14-05 § 5)

18.65.314 Critical aquifer recharge areas.

To protect critical aquifer recharge areas, in accordance with Chapter 36.70A RCW, the following code provisions are established to protect critical aquifer recharge areas: CMC Titles 13, 14, 16, and this title. (Ord. 14-05 § 5)

18.65.315 Critical aquifer recharge areas — Development regulations.

(1) The following new development proposals and alterations are not allowed on a site if any portion of the site is located in a Category I critical aquifer recharge area:
   (a) Transmission pipelines carrying petroleum or petroleum products;
   (b) Sand and gravel, and hard rock mining on land that is not zoned for mining as of the effective date of this section;
   (c) Mining of any type below the upper surface of the saturated ground water that could be used for potable water supply;
   (d) Processing, storage, and disposal of radioactive wastes, as defined in Chapter 43.200 RCW;
   (e) Hydrocarbon extraction;
   (f) Commercial wood treatment facilities on permeable surfaces;
   (g) Underground storage tanks with hazardous substances, as defined in Chapter 70.105 RCW;
   (h) Above-ground storage tanks for hazardous substances, as defined in Chapter 70.105 RCW, unless protected with primary and secondary containment areas and a spill protection plan;
   (i) Golf courses;
   (j) Cemeteries;
   (k) Wrecking yards;
   (l) Landfills for hazardous waste, municipal solid waste, or special waste; and
(m) On lots smaller than one acre, on-site septic systems that are not approved by the Washington State Department of Health and either:
   (i) Do not use an up flow media filter system or a proprietary packed-bed filter system; or
   (ii) Are not designed to achieve approximately 80 percent total nitrogen removal for typical domestic wastewater.

(2) The following new development proposals and alterations are not allowed on a site if any portion of the site is located in a Category II critical aquifer recharge area:
   (a) Mining of any type below the upper surface of the saturated ground water that could be used for potable water supply;
   (b) Processing, storage, and disposal of radioactive wastes, as defined in Chapter 43.200 RCW;
   (c) Hydrocarbon extraction;
   (d) Commercial wood treatment facilities located on permeable surfaces;
   (e) Underground storage tanks with hazardous substances, as defined in Chapter 70.105 RCW, that do not meet the requirements of Chapter 173-360 WAC and the International Fire Code;
   (f) Above-ground storage tanks for hazardous substances, as defined in Chapter 70.105 RCW, unless protected with primary and secondary containment areas and a spill protection plan;
   (g) Wrecking yards;
   (h) Landfills for hazardous waste, municipal solid waste, or special waste; and
   (i) On lots smaller than one acre, on-site septic systems that are not approved by the Washington State Department of Health and either:
      (i) Do not use an up-flow media filter system or a proprietary packed-bed filter system; or
      (ii) Are not designed to achieve approximately 80 percent total nitrogen removal for typical domestic wastewater.

(3) The following new development proposals and alterations are not allowed on a site if any portion of the site is located in a Category III critical aquifer recharge area:
   (a) Processing, storage, and disposal of radioactive wastes, as defined in Chapter 43.200 RCW;
   (b) Hydrocarbon extraction;
   (c) Commercial wood treatment facilities located on permeable surfaces;
   (d) Underground storage tanks with hazardous substances, as defined in Chapter 70.105 RCW, that do not meet the requirements of Chapter 173-360 WAC and the International Fire Code;
   (e) Above-ground storage tanks for hazardous substances, as defined in Chapter 70.105 RCW, unless protected with primary and secondary containment areas and a spill protection plan;
   (f) Wrecking yards; and
   (g) Landfills for hazardous waste, municipal solid waste, or special waste, as defined in Chapter 10.04 KCC.

(4) The following standards apply to development proposals and alterations that are substantial improvements on a site if any portion of the site is located in a critical aquifer recharge area:
(a) The owner of an underground storage tank in a Category I critical aquifer recharge area shall properly decommission or remove the tank; and

(b) The owner of an underground storage tank in a Category II or III critical aquifer recharge area shall meet the requirements of Chapter 173-360 WAC and the International Fire Code or shall properly decommission or remove the tank.

(5) In any critical aquifer recharge area, the property owner shall properly decommission an abandoned well.

(6) On sites located in a critical aquifer recharge area within the urban growth area, development proposals and alterations for new residential development, including, but not limited to, a subdivision, short subdivision, or dwelling unit, shall incorporate best management practices included in the King County Surface Water Design Manual into the site design in order to infiltrate storm water runoff to the maximum extent practical.

(7) On sites greater than 20 acres, the City may approve a development proposal otherwise prohibited by subsections (1), (2) or (3) of this section if the applicant demonstrates through a critical areas report that the development proposal is located outside of the critical aquifer recharge area and that the development proposal will not cause an unmitigated significant adverse environmental impact to the critical aquifer recharge area. (Ord. 14-05 § 5)

18.65.316 Critical aquifer recharge areas – Evaluation and implementation.

The City may evaluate and implement, as appropriate, ground water management plans and wellhead protection programs to further protect ground water resources as the critical aquifer protection program. (Ord. 14-05 § 5)

18.65.319 Wetlands – Categories.

(1) Different types of wetlands are separated from one another on the basis of wetland class and wetland category. Wetland class is a scientific system based upon dominant plant communities, substrate conditions, hydrologic regime, and location in the watershed. Wetland classification is a categorization system used to regulate land uses adjacent to wetlands.

(2) Wetland Class. Wetland class is science-based classification system based on a U.S. Fish and Wildlife Service publication titled Classification of Wetlands and Deepwater Habitats of the United States that was edited by Lewis M. Cowardin, et al, and published in December 1979. Cowardin divides wetlands into five systems (Marine, Estuarine, Riverine, Lacustrine, and Palustrine), eight subsystems (Subtidal, Intertidal, Tidal, Lower Perennial, Upper Perennial, Intermittent, Limnetic, and Littoral), 10 classes, and numerous modifiers. A combination of the system name, subsystem, name, class, and a modifier forms a code that identifies the wetland class.

WDOE expanded the term wetland class by incorporating use of the Hydrogeomorphic Method (HGM) classification into the Washington State Wetland Rating System for Western Washington (WDOE Publication No. 04-06-025). The HGM is based on the “landscape” location of a wetland or portion of a wetland. The HGM classes are Depressional, Riverine, Lake-fringe, Slope, Flats, and Freshwater Tidal.

(3) Wetland Category. Wetland category is used to regulate activities in a wetland and in determining the standard width of the required wetland buffer. The wetland category
is determined after a wetland has been identified and delineated as determined using the Washington State Wetland Rating System for Western Washington (WDOE Publication No. 04-06-025). Wetlands are evaluated and scored based on water quality functions, hydrologic functions, and habitat functions criteria.

WDOE Publication No. 04-06-025 contains the definitions and scoring methods used for determining if the wetland rating criteria of this chapter are met. The total score for the three functional areas determines the wetland category.

(4) Wetland Rating Categories. The wetland category of an individual wetland is determined by the total score for the functions which is recorded on the first page of the wetland rating form included in WAC 365-190-080(1)(a) and WDOE Publication No. 04-06-025. Category I and Category II wetlands are also rated for “special characteristics,” the value of which are included in the final category rating.

(a) Category I. Category I wetlands are: (1) relatively undisturbed estuarine wetlands larger than one acre; (2) wetlands that are identified by scientists of the Washington Natural Heritage Program/DNR as high-quality wetlands; (3) bogs larger than 12 acres; (4) mature and old-growth forested wetlands larger than one acre; (5) wetlands in coastal lagoons; and (6) wetlands that perform many functions well (scoring 70 points or more). These wetlands: (1) represent unique or rare wetland types; (2) are more sensitive to disturbance than most wetlands; (3) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or (4) provide a high level of functions.

(b) Category II. Category II wetlands are: (1) estuarine wetlands smaller than one acre, or disturbed estuarine wetlands larger than one acre; (2) wetlands identified by the Washington State Department of Natural Resources as containing “sensitive” plant species; (3) bogs between one-quarter and one-half acre; (4) interdunal wetlands larger than one acre; or (5) wetlands with a moderately high level of functions.

(c) Category III. Category III wetlands are: (1) wetlands with a moderate level of functions (scoring between 30 and 50 points); and (2) interdunal wetlands between one-tenth and one acre. Wetlands scoring between 30 and 50 points generally have been disturbed in some ways and are often less diverse or more isolated from other natural resources in the landscape than Category II wetlands.

(d) Category IV. Category IV wetlands have the lowest levels of functions (scoring less than 30 points) and are often heavily disturbed. These are wetlands that we should be able to replace, or in some cases to improve. However, experience may provide some important functions, and should be protected to some degree. (Ord. 14-05 § 5)

18.65.320 Wetlands – Buffers.

(1) Wetland – Buffers. Except as otherwise provided in this section, buffers shall be provided from the wetland edge in accordance with the following standards:

(a) The standard buffer widths of the following table shall apply unless modified in accordance with subsection (2), (3), or (4) of this section:

<table>
<thead>
<tr>
<th>WETLAND CATEGORY AND CHARACTERISTICS</th>
<th>BUFFER</th>
</tr>
</thead>
<tbody>
<tr>
<td>Category I</td>
<td></td>
</tr>
<tr>
<td>Bog</td>
<td>215 feet</td>
</tr>
</tbody>
</table>
(2) If a Category I or II wetland with habitat score greater than 20 points is located within 300 feet of a priority habitat area as defined by the Washington State Department of Fish and Wildlife, the buffer established by subsection (1) of this section shall be increased by 50 feet unless:

(a) The applicant provides a relatively undisturbed vegetated corridor at least 100 feet wide between the wetland and all priority habitat areas located within 300 feet of the wetland. The corridor shall be protected for the entire distance between the wetland and the priority habitat through a conservation easement, native growth protection easement or the equivalent; and

(b) The applicable mitigation measures in subsections (3)(b) of this section are provided; and

(3) Buffers calculated in accordance with subsections (1) and (2) of this section shall be reduced as follows:

(a) Buffers for all categories of wetlands shall be reduced by 25 feet if the applicant implements all applicable mitigation measures identified in subsection (3)(b) of this section, or if the applicant proposes alternate mitigation to reduce the impacts of the development and the Department determines the alternative provides equivalent mitigation.

(b) The following mitigation measures may be used by an applicant to obtain a reduced buffer width under subsection (1) of this section:

<table>
<thead>
<tr>
<th>Disturbance</th>
<th>Measures to minimize impacts</th>
<th>Activities that may cause the disturbance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lights</td>
<td>Direct lights away from wetland</td>
<td>Parking lots, warehouses, manufacturing, high density residential</td>
</tr>
<tr>
<td>Noise</td>
<td>Place activity that generates noise away from the wetland</td>
<td>Manufacturing, high density residential</td>
</tr>
<tr>
<td>Toxic runoff</td>
<td>Route all new untreated runoff away from wetland, or</td>
<td>Parking lots, roads, manufacturing, residential areas, application of</td>
</tr>
<tr>
<td></td>
<td>Covenants limiting use of pesticides within 150</td>
<td></td>
</tr>
<tr>
<td></td>
<td>ft. of wetland, or Implement integrated pest management program</td>
<td>agricultural pesticides, landscaping</td>
</tr>
<tr>
<td>------------------------</td>
<td>---------------------------------------------------------------</td>
<td>-------------------------------------</td>
</tr>
<tr>
<td>Change in water regime</td>
<td>Infiltrate or treat, detain and disperse into buffer new runoff from impervious surfaces</td>
<td>Any impermeable surface, lawns, tilling</td>
</tr>
<tr>
<td>Pets and human disturbance</td>
<td>Privacy fencing or landscaping to delineate buffer edge and to discourage disturbance of wildlife by humans and pets</td>
<td>Residential areas</td>
</tr>
<tr>
<td>Dust</td>
<td>BMPs for dust</td>
<td>Tilled fields</td>
</tr>
<tr>
<td>Degraded buffer condition</td>
<td>Nonnative plants to be removed and replaced with native vegetation per an approved landscaping plan to be bonded and monitored for a three-year period after completion to assure at least 80% survival of plantings</td>
<td>All activities potentially requiring buffers</td>
</tr>
</tbody>
</table>

(4) Where a legally established roadway transects a wetland buffer, the Director may approve a modification of the minimum required buffer width to the edge of the roadway if the part of the buffer on the other side of the roadway sought to be reduced:

(a) Does not provide additional protection of the proposed development or the wetland;
(b) Does not perform any biological, geological or hydrological buffer functions relating to the undisturbed portions of the wetland buffer;
(c) The alterations allowed in CMC 18.65.050 are not allowed in buffers established in accordance with this subsection; and
(d) The buffer widths established in accordance with this subsection are not further modified as provided for in subsection (3)(b) of this section.

(5) The City may establish minimum buffer widths for wetlands that are created as a result of enhancement or restoration projects that are not mitigation for a development proposal or alteration. (Ord. 14-05 § 5)

**18.65.340 Wetlands – Specific mitigation requirements.**

In addition to the requirements in CMC 18.65.320, the following applies to mitigation to compensate for the adverse impacts associated with an alteration to a wetland or wetland buffer:

1. Mitigation measures must achieve equivalent or greater wetland functions, including, but not limited to:
   (a) Habitat complexity, connectivity and other biological functions; and
   (b) Seasonal hydrological dynamics, water storage capacity and water quality.

2. The following ratios of area of mitigation to area of alteration apply to mitigation measures for permanent alterations:

<table>
<thead>
<tr>
<th>Category</th>
<th>Reestablishment</th>
<th>Rehabilitation</th>
<th>1:1 Replacement or recreation (R/C) and</th>
<th>Enhancements Only</th>
</tr>
</thead>
</table>

City of Covington SMP 41
### Mitigation Ratios

<table>
<thead>
<tr>
<th>Category</th>
<th>Wetland Function</th>
<th>Enhancement (E)</th>
</tr>
</thead>
<tbody>
<tr>
<td>IV</td>
<td>1.5:1</td>
<td>3:1</td>
</tr>
<tr>
<td>III</td>
<td>2:1</td>
<td>4:1</td>
</tr>
<tr>
<td>II</td>
<td>3:1</td>
<td>8:1</td>
</tr>
<tr>
<td>I – forested</td>
<td>6:1</td>
<td>12:1</td>
</tr>
<tr>
<td>I – based on score for functions</td>
<td>4:1</td>
<td>8:1</td>
</tr>
<tr>
<td>I – bog</td>
<td>Not allowed</td>
<td>6:1</td>
</tr>
</tbody>
</table>

(3) The City may consider two or more contiguous sites under common ownership as one site for the purpose of mitigation ratios when:
   (a) All applicable sites are in the same drainage sub-basin; and
   (b) Equivalent or greater wetland functions will be achieved;

(4) For temporary alterations to a wetland or its buffer that are predominately woody vegetation, the City may require mitigation in addition to restoration of the altered wetland or buffer;

(5) For rectifying an illegal alteration to any category wetland or its buffer, the ratio of area of mitigation to area of alteration for repair, rehabilitation or restoration is one and one-half to one and the mitigation measures shall replicate the natural pre-alteration wetland configuration at its natural pre-alteration location to the maximum extent practical, including:
   (a) The wetland edge and buffer configuration;
   (b) The depth, width, length and gradient;
   (c) The soil type, conditions and physical features;
   (d) Similar species diversity and density; and
   (e) The hydrologic and biologic functions.

(6) Mitigation of an alteration to a buffer of a wetland that occurs along an aquatic area lake shoreline in accordance with an alteration exception under this chapter shall include, but not be limited to, on-site revegetation, maintenance and other restoration of the buffer or setback area to the maximum extent practical;

(7) The City may allow mitigation for adverse impacts to buffers off the development proposal site at a ratio higher than that required for mitigation on-site if the applicant demonstrates that it is not feasible to mitigate on the development proposal site, in the same wetland or wetland complex; and

(8) The City may modify the requirements in this section if the applicant demonstrates that, with respect to each wetland function, greater functions can be obtained in the
affected hydrologic unit which the Director may determine to be the drainage sub-basin through alternative mitigation measures based on a qualified professional recommendation, prepared at the applicant’s expense. (Ord. 14-05 § 5)

18.65.345 Wetlands — Specific mitigation requirements — Wetland mitigation banking.

City of Covington may approve mitigation in advance of unavoidable adverse impacts to wetlands caused by the development activities through an approved wetland mitigation bank. Wetland mitigation banking is not allowed in the agricultural production districts if the purpose is to compensate for filling wetlands for development outside of the agricultural production districts. (Ord. 14-05 § 5)

18.65.350 Wetlands — Limited exemption.

Isolated wetlands less than 2,500 square feet may be exempted from the provisions of CMC 18.65.320 through 18.65.340 and may be altered by filling or dredging if City of Covington determines that the cumulative impacts do not unduly counteract the purposes of this chapter and are mitigated pursuant to an approved mitigation plan. (Ord. 14-05 § 5)

18.65.355 Aquatic areas — Water types.

(1) Aquatic areas are categorized or “typed” as follows:
   (a) Type S waters include all aquatic areas inventoried as “shorelines of the State” under King County’s Shoreline Master Program, KCC Title 25, adopted by reference for City of Covington, in accordance with Chapter 90.58 RCW, including segments of streams where the mean annual flow is more than 20 cubic feet per second, marine shorelines and lakes 20 acres in size or greater;
   (b) Type F waters include all segments of aquatic areas that are not Type S waters and that contain fish or fish habitat, including waters diverted for use by a Federal, State or tribal fish hatchery from the point of diversion for 1,500 feet or the entire tributary if the tributary is highly significant for protection of downstream water quality;
   (c) Type N waters include all segments of aquatic areas that are not Type S or F waters and that are physically connected to Type S or F waters by an above-ground channel system, stream or wetland; and
   (d) Type O waters include all segments of aquatic areas that are not Type S, F or N waters and that are not physically connected to Type S, F or N waters by an above-ground channel system, stream or wetland.

(2) For the purposes of the water types in subsections (1)(a) and (b) of this section, an above-ground channel system is considered to be present if the 100-year floodplains of both the contributing and receiving waters are connected.

(3) The Director may determine that an area upstream of a human-made barrier is not fish habitat considering the following factors:
   (a) The human-made barrier is located beneath public infrastructure that is unlikely to be replaced and it is not feasible to remove the barrier without removing the public infrastructure;
(b) The human-made barrier is in the City of Covington and is located beneath one or more dwelling units and it is not feasible to remove the barrier without removing the dwelling unit;

(c) The human-made barrier is located in a sub-basin that is not designated “high” on the King County Basin Condition map adopted by King County Council in October, 2004; or

(d) The human-made barrier is not identified for removal by a public agency or in an adopted watershed plan. (Ord. 14-05 § 5)

18.65.356 Aquatic areas — Buffers.

(1) The following minimum buffers are established from the ordinary high water mark or from the top of bank if the ordinary high water mark cannot be identified:

   (a) If the aquatic area buffer does not include a steep slope hazard area or landslide hazard area:
       (i) A Type S or F aquatic area buffer is 115 feet or as required in the Shoreline Master Program;
       (ii) A Type N aquatic area buffer is 60 feet; and
       (iii) A Type O aquatic area buffer is 25 feet;

   (b) If the aquatic area buffer does include a steep slope hazard area or landslide hazard area, the aquatic area buffer width is the greater of either the aquatic area buffer in this section or 25 feet beyond the top of the hazard area; and

   (c) The aquatic area buffer includes the entire mapped severe channel migration hazard area plus the appropriate aquatic area buffer required by this section measured from the outer edge of the severe channel migration hazard area.

(2) The Director may approve a modification of the minimum required buffer widths on a case-by-case basis by averaging buffer widths if:

   (a) The Director determines that the ecological structure and function of the buffer after averaging is equivalent to or greater than the structure and function before averaging;

   (b) The resulting buffer meets the following standards:
       (i) The total area of the buffer after averaging is equivalent to or greater than the area of the buffer before averaging;
       (ii) The additional buffer is contiguous with the standard buffer;
       (iii) Averaging does not occur waterward of the top of the associated steep slopes or into a channel migration zone; and
       (iv) Averaging does not occur into the buffer of a wetland except as otherwise allowed.

(3) The Director may approve a modification of the minimum required buffer width for a development proposal if the applicant demonstrates that the buffer cannot provide certain functions because of soils, geology or topography subject to the following:

   (a) The Director shall establish the buffer width based on the ecological functions that the buffer can provide based on soils, geology and topography; and

   (b) The buffer widths established in accordance with this subsection are not further modified as provided for in subsection (2) of this section.

   (c) In no case shall a buffer be reduced to less than 50 feet at any location, unless a shoreline variance is approved.
(d) Buffer mitigation is implemented pursuant to CMC xx.65.380.

(4) The Director may approve a modification of the minimum buffers established from the ordinary high water mark or from the top of bank if the ordinary high water mark cannot be identified for a development proposal that is located on a site with rural or agricultural use and zoned residential if the site is in compliance with CMC 18.65.050.

(5) Where a legally established roadway transects an aquatic area buffer, the Director may approve a modification of the minimum required buffer width to the edge of the roadway if the part of the buffer on the other side of the roadway sought to be reduced:
   (a) Does not provide additional protection of the proposed development or the wetland;
   (b) Does not perform any biological, geological or hydrological buffer functions relating to the undisturbed portions of the wetland buffer;
   (c) The alterations allowed in CMC 18.65.050 are not allowed in buffers established in accordance with this subsection; and
   (d) The buffer widths established in accordance with this subsection are not further modified as provided for in subsection (2) of this section.

(6) The Director may establish minimum buffer widths for aquatic areas that are created as a result of enhancement or restoration projects that are not mitigation for a development proposal or alteration. (Ord. 14-05 § 5)

18.65.360 Aquatic areas – Development standards and alterations.

The following standards apply to development proposals and alterations on sites containing aquatic areas or aquatic area buffers:

(1) Only the alterations identified in CMC 18.65.050 are allowed in aquatic areas and aquatic area buffers, unless specifically allowed under another provision of the City’s adopted Shoreline Master Program;

(2) Grading for allowed alterations in aquatic area buffers is only allowed from May 1st to October 1st;

(3) The soil duff layer should not be disturbed to the maximum extent practical. The disturbed duff layer should be redistributed to other areas of the project site where feasible;

(4) The moisture-holding capacity of the topsoil layer should be maintained by minimizing soil compacting or reestablishing natural soil structure and the capacity to infiltrate on all areas of the site that impervious surfaces do not cover;

(5) The maximum extent practical, vegetation outside the aquatic area buffer is spatially connected to the vegetation in the buffer to prevent creation of windthrow hazards in the buffer;

(6) New structures within an aquatic area buffer should be sited to avoid the creation of future hazard trees and to minimize the impact on ground water movement from the structure; and

(7) To the maximum extent practical, hazard trees are retained in aquatic area buffers and are topped to reduce the hazard or pushed over toward the aquatic area. (Ord. 14-05 § 5)
18.65.370 Streams – Permitted alterations.

Alterations to streams and buffers may be allowed pursuant to CMC 18.65.075, as provided in the City’s Shoreline Master Program or as follows:

1) Alterations may only be permitted if based upon a special study;
2) The applicant shall notify affected communities and native tribes of proposed alterations prior to any alteration if a stream is in a flood hazard area and shall submit evidence of such notification to the Federal Insurance Administration;
3) There shall be no introduction of any plant or wildlife which is not indigenous to City into any stream or buffer unless authorized by a State or Federal permit or approval;
4) The following surface water management activities and facilitates may be allowed in stream buffers as follows:
   (a) Surface water discharge to a stream from a flow control or water quality treatment facility, sediment pond or other surface water management activity or facility may be allowed if the discharge is in compliance with the surface water design manual;
   (b) A Type S or F stream or buffer may be used for a regional storm water management facility if:
       (i) All requirements of the surface water design manual are met;
       (ii) The use will not alter the rating or the factors used in rating the stream;
       (iii) There are no significant adverse impacts to the stream; and
   (c) A Type N stream or buffer may be used as a regional storm water management facility if the alteration will have no lasting adverse impact on any stream and all requirements of the surface water design manual are met;
5) Except as provided in subsection (7) of this section, public and private trails may be allowed in stream buffers only upon adoption of administrative rules consistent with the following:
   (a) The trail surface shall not be made of impervious materials, except that public multi-purpose trails may be made of impervious materials if they meet all other requirements including water quality; and
   (b) Buffers shall be expanded, where possible, equal to the width of the trail corridor including disturbed areas;
6) Stream crossings may be allowed and may encroach on the otherwise required stream buffer if:
   (a) All crossings use bridges or other construction techniques which do not disturb the stream bed or bank, except that bottomless culverts or other appropriate methods demonstrated to provide fisheries protection may be used for Type N, S, and F streams if the applicant demonstrates that such methods and their implementation will pose no harm to the stream or inhibit migration of fish;
   (b) All crossings are constructed during the summer low flow and are timed to avoid stream disturbance during periods when use is critical to salmonids;
   (c) Crossings do not occur over salmonid spawning areas unless City determines that no other possible crossing site exists;
   (d) Bridge piers or abutments are not placed within the FEMA floodway or the ordinary high water mark;
   (e) Crossings do not diminish the flood-carrying capacity of the stream;
(f) Underground utility crossings are laterally drilled and located at a depth of four feet below the maximum depth of scour for the base flood predicted by a civil engineer licensed by the State of Washington. Temporary bore pits to perform such crossings may be permitted within the stream buffer established in CMC 18.65.360. Crossing of Type N or O streams when dry may be made with open cuts; and

(g) Crossings are minimized and serve multiple purposes and properties whenever possible;

(7) Stream relocations may be allowed only for:
   (a) Type S or F streams as part of a public road project for which a public agency and utility exception is granted pursuant to CMC 18.65.050; and
   (b) Type N streams for the purpose of enhancing resources in the stream if:
      (i) Appropriate floodplain protection measures are used; and
      (ii) The relocation occurs on the site, except that relocation off the site may be allowed if the applicant demonstrates that any on-site relocation is impracticable, the applicant provides all necessary easements and waivers from affected property owners and the off-site location is in the same drainage sub-basin as the original stream;

(8) For any relocation allowed by this section, the applicant shall demonstrate, based on information provided by a civil engineer and a qualified biologist, that:
   (a) The equivalent base flood storage volume and function will be maintained;
   (b) There will be no adverse impact to local ground water;
   (c) There will be no increase in velocity;
   (d) There will be no interbasin transfer of water;
   (e) There will be no increase in sediment load;
   (f) Requirements set out in the mitigation plan are met;
   (g) The relocation conforms to other applicable laws; and
   (h) All work will be carried out under the direct supervision of a qualified biologist;

(9) A stream channel may be stabilized if:
   (a) Movement of the stream channel threatens existing residential or commercial structures, public facilities or improvements, unique natural resources or the only existing access to property; and
   (b) The stabilization is done in compliance with the requirements of CMC 18.65.230 through 18.65.270 and administrative rules promulgated pursuant to this chapter;

(10) Stream enhancement not associated with any other development proposal may be allowed if accomplished according to a plan for its design, implementation, maintenance and monitoring prepared by a civil engineer, a landscape architect or a qualified biologist and carried out under the direction of a qualified biologist or landscape architect;

(11) A minor stream restoration project for fish habitat enhancement may be allowed if:
   (a) The restoration is sponsored by a public agency with a mandate to do such work;
   (b) The restoration is unassociated with mitigation of a specific development proposal;
   (c) The restoration is limited to placement of rock weirs, log controls, spawning gravel and other specific salmonid habitat improvements;
(d) The restoration only involves the use of hand labor and light equipment; or the use of helicopters and cranes which deliver supplies to the project site; provided, that they have no contact with sensitive areas or their buffers; and 

(e) The restoration is performed under the direction of a qualified biologist or landscape architect;

(12) Roadside and agricultural drainage ditches which carry streams with salmonids may be maintained through the use of best management practices developed in consultation with relevant City, County, State and Federal agencies. These practices shall be adopted as administrative rules;

(13) Subject to a clearing and grading permit issued pursuant to Chapter 18.45 CMC, the cutting of up to one cord of firewood may be permitted in buffers of five acres or larger in any year if the overall function of the buffer is not adversely affected. Removal of brush may also be permitted for the purpose of enhancing tree growth if the area of removal is limited to the diameter of the tree canopy at the time of planting;

(14) Reconstruction, Remodeling, or Replacement of Existing Structures. Reconstruction, remodeling, or replacement of an existing structure upon another portion of an existing impervious surface which was established pursuant to City of Covington regulations may be allowed; provided:

(a) If within the buffer, the structure is located no closer to the stream than the existing structure;

(b) The existing impervious surface within the buffer or stream is not expanded as a result of the reconstruction or replacement. (Ord. 14-05 § 5)

18.65.380 Aquatic areas – Specific mitigation requirements.

In addition the requirements in CMC 18.65.130, the following applies to mitigation to compensate for the adverse impacts associated with an alteration to an aquatic area or aquatic area buffer:

(1) Mitigation measures must achieve equivalent or greater aquatic area functions including, but not limited to:

(a) Habitat complexity, connectivity and other biological functions;

(b) Seasonal hydrological dynamics, water storage capacity and water quality;

and

(c) Geomorphic and habitat processes and functions;

(2) To the maximum extent practical, permanent alterations that require restoration or enhancement of the altered aquatic area, aquatic area buffer or another aquatic area or aquatic area buffer must consider the following design factors, as applicable to the function being mitigated:

(a) The natural channel or shoreline reach dimensions including its depth, width, length and gradient;

(b) The horizontal alignment and sinuosity;

(c) The channel bed or lake bottom with identical or similar substrate and similar erosion and sediment transport dynamics;

(d) Bank and buffer configuration and erosion and sedimentation rates; and

(e) Similar vegetation species diversity, size and densities in the channel or lake bottom and on the riparian bank or buffer;

(3) Mitigation to compensate for adverse impacts shall meet the following standards:
(a) Not upstream of a barrier to fish passage;
(b) Is equal or greater in biological function; and
(c) To the maximum extent practical is located on the site of the alteration or within one-half mile of the site and in the same aquatic area reach at a 1:1 ratio of area of mitigation to area of alteration; or
(d) Is located in the same aquatic area drainage sub-basin and attains the following ratios of area of functional mitigation to area of alteration;
   (i) A 3:1 ratio for a Type S or F aquatic area; and
   (ii) A 2:1 ratio for a Type N or O aquatic area;
(4) For purposes of subsection (3) of this section, a mitigation measure is in the same aquatic area reach if the length of aquatic area shoreline meets the following criteria:
   (a) Similar geomorphic conditions including slope, soil, aspect and substrate;
   (b) Similar processes including erosion and transport of sediment and woody debris;
   (c) Equivalent or better biological conditions including invertebrates, fish, wildlife and vegetation; and
   (d) Equivalent or better biological functions including mating, reproduction, rearing, migration and refuge; or
   (e) For tributary streams, a distance of no more than one-half mile.
(5) The City may reduce the mitigation ratios in subsection (3) of this section to 2:1 ratio for Type S or F aquatic area and 1.5:1 ratio for a Type N or O aquatic area if the applicant provides a scientifically rigorous mitigation monitoring program that includes the following elements:
   (a) Monitoring methods that ensure that the mitigation meets the approved performance standards identified by the Director;
   (b) Financial guarantees for the duration of the monitoring program; and
   (c) Experienced, qualified staff to perform the monitoring;
(6) For rectifying an illegal alteration to any type of aquatic area or is buffer, mitigation measures must meet the following standards:
   (a) Located on the site of the illegal alteration at a 1:1 ratio of area of mitigation to area of alteration; and
   (b) To the maximum extent practical, replicates the natural pre-alteration configuration at its natural pre-alteration location including the factors in subsection (2) of this section; and
(7) The City may modify the requirements in this section if the applicant demonstrates that, with respect to each aquatic area function, greater functions can be obtained in the affected hydrologic unit that the Director may determine to be the drainage sub-basin through alternative mitigation measures. (Ord. 14-05 § 5)

18.65.381 Wildlife habitat conservation areas – Development standards.

The following standards apply to development proposals and alterations on sites containing wildlife habitat conservation areas, in accordance with guidelines adopted as administrative rules under Chapter 2.98 KCC.

The Director shall require protection of an active breeding site of any species with a habitat that is identified as requiring protection; provided, that the Washington State Department of Fish and Wildlife has adopted management recommendations. The City
shall follow those adopted management recommendations that are published in Priority Habitats and Species Program Management Recommendations for Region IV, current edition. If management recommendations have not been adopted, the City shall base protection administrative rules and any decisions on best available science as presented in a qualified professional’s report prepared by applicant, at applicant expense. (Ord. 14-05 § 5)

18.65.382 Wildlife habitat conservation areas – Modification.

Upon request of the applicant and based upon a site-specific critical areas report that includes, but is not limited to, an evaluation of the tolerance of the animals occupying the nest or rookery to the existing level of development in the vicinity of the nest or rookery, the Director may approve a reduction of the wildlife habitat conservation area for any species listed on the current version of the Washington Department of Fish and Wildlife Priority Habitat and Species List for Region IV, as amended. (Ord. 14-05 § 5)

18.65.383 Wildlife habitat network – Applicability.

The City shall make certain that segments of the wildlife habitat network are set aside and protected along any designated wildlife habitat network adopted by the comprehensive plan that generally coincide with stream corridors and wetlands areas, as follows:

1. This section applies to the following development proposals on parcels that include a segment of the designated wildlife habitat network:
   a. All binding site plans, subdivisions and short subdivisions; and
   b. All development proposals on individual lots unless a segment of the wildlife habitat network in full compliance with CMC 18.65.270, already exists in a tract, easement or setback area, and a notice of the existence of the segment has been recorded;

2. Segments of the wildlife habitat network must be identified and protected in one of the following ways:
   a. In binding site plans, subdivisions and short subdivisions, native vegetation is placed in a contiguous permanent open space tract with all developable lots sited on the remaining portion of the project site, or the lots are designed so that required setback areas can form a contiguous setback covering the network segments; or
   b. For individual lots, the network is placed in a City-approved setback area. To the maximum extent practical, existing native vegetation is included in the network. The notice required by CMC 18.65.170 is required;

3. All wildlife habitat network tracts or setback areas must meet the design standards in CMC 18.35.270. (Ord. 14-05 § 5)

18.65.384 Wildlife habitat network – Development standards and alterations.

The following standards apply to development proposals and alterations on sites containing wildlife habitat network:

1. Only the alterations identified in CMC 18.65.050 are allowed in the wildlife habitat network.

2. The wildlife habitat network is sited to meet the following conditions:
(a) The network forms one contiguous tract or setback area that enters and exits the property where the network crosses the property boundary;
(b) To the maximum extent practical, the network maintains a width of 300 feet. The network width shall not be less than 150 feet at any point;
(c) The network is contiguous with and includes critical areas and their buffers;
(d) To the maximum extent practical, the network connects isolated critical areas or habitat; and
(e) To the maximum extent practical, the network connects wildlife habitat network segments, open space tracts or wooded areas on adjacent properties, if present.
(3) The wildlife habitat network tract must be permanently marked in accordance with this chapter.
(4) An applicant proposing recreation, forestry or any other use compatible with preserving and enhancing the habitat value of the wildlife habitat network located within the site must have an approved management plan. The applicant shall include and record the approved management plan for a binding site plan or subdivision with the covenants, conditions and restrictions (CCRs), if any. Clearing within the wildlife habitat network in a tract or tracts is limited to that allowed by an approved management plan.
(5) If the wildlife habitat network is contained in a setback area, a management plan is not required, though, clearing is not allowed within a wildlife habitat network within a setback area on individual lots, unless the property owner has an approved management plan.
(6) In binding site plans, subdivisions and short subdivisions a homeowners’ association or other entity capable of long-term maintenance and operation shall monitor and assure compliance with any approved management plan.
(7) Segments of the wildlife habitat network set aside in tracts, conservation easements or setback area must comply with this code.
(8) The City may credit a permanent open space tract, wetland buffer or stream buffer containing the wildlife habitat network toward the other applicable requirements such as surface water management and the recreation space requirement of CMC 18.35.150, if the proposed uses within the tract are compatible with preserving and enhancing the wildlife habitat value. Restrictions on other uses within the wildlife habitat network tract shall be clearly identified in the management plan.
(9) The Director may waive or reduce these standards for public facilities such as schools, fire stations, parks and road projects, based on a qualified professional recommendation, prepared at the applicant’s expense. (Ord. 14-05 § 5)

18.65.385 Wildlife habitat conservation area and wildlife network – Specific mitigation requirements.

In addition to the requirements in CMC 18.65.140, the following applies to mitigation to compensate for the adverse impacts associated with wildlife habitat conservation areas and wildlife habitat networks:
(1) Mitigation to compensate for the adverse impacts to a wildlife habitat conservation area must prevent disturbance of each protected species. On-site mitigation may include management practices, such as timing of the disturbance. Off-site mitigation is limited to sites that will enhance the wildlife habitat conservation area;
(2) Mitigation to compensate for the adverse impacts to the wildlife habitat network must achieve equivalent or greater biologic functions including, but not limited to, habitat complexity and connectivity functions. Specific mitigation requirements for impacts to the wildlife habitat network shall:

(a) Expand or enhance the wildlife network as close to the location of impact as feasible; and

(b) Attain the following ratios of area of mitigation to area of alteration:

(i) For mitigation on-site:
   (A) One to one ratio for rectifying an illegal alteration to a wildlife habitat network; and
   (B) One and one-half to one ratio for enhancement or restoration;

(ii) For mitigation off-site:
   (A) Two to one ratio for rectifying an illegal alteration to a wildlife habitat network; and
   (B) Three to one ratio for enhancement or restoration;

(3) For temporary alterations, the Department may require rectification, restoration or enhancement of the altered wildlife habitat network;

(4) The Director may increase the width of the wildlife habitat network to mitigate for risks to habitat functions based on a qualified professional recommendation, prepared at the applicant’s expense;

(5) To the maximum extent practical, mitigation projects involving wildlife habitat network restoration should provide replication of the site’s pre-alteration natural environment including:

(a) Soil type, conditions and physical features;
(b) Vegetation diversity and density; and
(c) Biologic and habitat functions; and

(6) The Director may modify the requirements in this section if the applicant demonstrates based on a qualified professional recommendation, prepared at the applicant’s expense, that greater wildlife habitat functions will be obtained in the same wildlife habitat conservation area or wildlife habitat network through alternative mitigation measures. (Ord. 14-05 § 5)

18.65.390 Critical areas mitigation fee – Creation of fund.

There is hereby created a critical areas mitigation fund. The City of Covington shall administer this fund. The fund shall include establishment of subaccounts for streams, wetlands and wildlife habitat, as appropriate. (Ord. 14-05 § 5)

18.65.400 Critical areas mitigation fee – Source of funds.

The City of Covington shall deposit all moneys received from penalties resulting from the violation of rules and laws regulating development and activities within critical areas into the fund. (Ord. 14-05 § 5)

18.65.410 Critical areas mitigation fee – Use of funds.

Moneys from the fund, including any interest earned, shall only be used for paying the cost of enforcing and implementing critical area laws and rules. (Ord. 14-05 § 5)
18.65.420 Critical areas mitigation fee – Investment of funds.

The City of Covington shall deposit moneys in the fund not needed for immediate expenditure in a separate investment fund in accordance with RCW 36.29.020. The Director is designated as the Investment Fund Director. (Ord. 14-05 § 5)

18.65.430 Critical area designation.

(1) A property owner or the property owner’s agent may request a critical area designation for part or all of a site, without seeking a permit for a development proposal, by filing with the Director a written application for a critical area designation on a form provided by the Department. If the request is for review of a portion of a site, the application shall include a map identifying the portion of the site for which the designation is sought. Applications for critical area designations shall be accompanied by the fee for a Type 1 decision letter as set forth in the current fee resolution. The Department may elect to have the request reviewed by a City-approved and hired consultant. For reviews completed by a consultant, the Department is authorized to charge the applicant the actual costs charged by the consultant, in addition to the fee for a Type 1 decision letter.

(a) The designation is limited to the following determinations:

(i) The existence, location, and boundaries of any aquatic area, wetland, critical aquifer recharge area, landslide hazard area or steep slope on the site; and

(ii) The classification of any aquatic area or wetland.

(b) The designation may include any evaluation or interpretation of the applicability of critical area buffers to a future development proposal.

(2) In preparing the critical area designation, the Department shall perform a critical area review to:

(a) Determine whether any critical area that is subject to this designation process exists on the site and confirm its type, location, boundaries and classification;

(b) Determine whether a critical area report is required to identify and characterize the location, boundaries and classification of the critical area;

(c) Evaluate the critical area report, if required; and

(d) Document the existence, location and classification of any critical area that is subject to this designation process.

(3) If required by the Department, the applicant for a critical area designation shall prepare and submit to the Department the critical area report required by subsection (2)(b) of this section. For sites zoned for single detached dwelling units involving wetlands or aquatic areas, the applicant may elect to have the Department conduct the special study in accordance with the provisions for reimbursement from applicant contained in this code and City’s fee resolution.

(4) The City shall make the determination of a critical area designation in writing within 120 days after the application for a critical area designation is complete, as provided in Chapter 14.30 CMC. The periods in CMC 14.30.100 are excluded from the 120-day period. The written determination made under this section as to the existence, location, classification of a critical area and critical area buffers is effective for five years from the date the determination is issued if there has been no change in site conditions. The Director shall rely on the determination of the existence, location and classification
of the critical area and the critical area buffer in its review of a complete application for a
permit or approval filed within five years after the determination is issued. If the
determination applies to less than an entire site, the determination shall clearly identify
the portion of the site to which the determination applies.

(5) If the Director designates critical areas on a site under this section, the applicant
for a development proposal on that site shall submit proof that a critical area notice has
been filed as required by City code. Except as provided in this subsection, the
Department’s determination under this section is final. If the Department relies on a
critical area designation made under this section during its review of an application for a
permit or other approval of a development proposal and the permit or other approval is
subject to an administrative appeal, any appeal of the designation shall be consolidated
with and is subject to the same appeal process as the underlying development
proposal.

(6) If the Covington Hearing Examiner makes the City’s final decision with regard to
the permit or other approval type for the underlying development proposal, the Hearing
Examiner’s decision constitutes the City’s final decision on the designation.

(7) If the City of Covington City Council makes the City’s final decision with regard to
the permit or other approval type for the underlying development proposal, City of
Covington City Council’s decision constitutes the City’s final decision on the
designation. (Ord. 20-07 § 128; Ord. 14-05 § 5)

18.65.440 Conversion of designated critical areas.

(1) For purposes of determining the minimum buffer widths for a wetland or aquatic
area that was designated under CMC 18.65.320 or 18.65.360 before December 1, 2005, for
a development proposal deemed complete after the effective date of this section, the
Director shall apply the following conversions to determine the appropriate wetland or
aquatic area classification provided in CMC 18.65.430:

(a) Aquatic area classifications:

<table>
<thead>
<tr>
<th>Stream Type (prior CMC 18.65.360)</th>
<th>Aquatic Area Classification (CMC 18.65.355)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Class 1</td>
<td>Type S – Class 1</td>
</tr>
<tr>
<td>Class 2</td>
<td>Type F – Class 2</td>
</tr>
<tr>
<td>Class 2S</td>
<td>Type F – Class 2</td>
</tr>
<tr>
<td>Class 3</td>
<td>Type N – Class 3</td>
</tr>
<tr>
<td>Class 4</td>
<td>Type O – Class 4</td>
</tr>
</tbody>
</table>

(b) Wetland Classifications:

<table>
<thead>
<tr>
<th>Wetland Class (prior CMC 18.65.320)</th>
<th>Wetland Classification (CMC 18.65.319)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Class 1</td>
<td>Category I</td>
</tr>
<tr>
<td>Class 2</td>
<td>Category II</td>
</tr>
</tbody>
</table>
(2) As an alternative to the reclassification prescribed in subsection (1)(a) or (b) of this section, an applicant may request a reclassification of the wetland or aquatic area using the criteria set forth in CMC 18.65.430.

(3) This section expires two years after the effective date of this section (December 1, 2005). (Ord. 14-05