Chapter 19.15
CRITICAL AREAS

Sections:

19.15.010 Title. This chapter shall be known and may be cited as the "Cowlitz County Critical Areas Protection Ordinance."

19.15.020 Preamble. Cowlitz County is responding to the state mandates contained in the Growth Management Act, RCW 36.70A.060, by developing and adopting the ordinance codified in this chapter which classifies, designates and protects critical areas. Cowlitz County believes it important to strike a balance between critical land protection, private property rights and the need for economic development and diversification. The ordinance codified in this chapter has been designed to encourage landowners to protect critical areas by offering a range of incentives intended to provide equitably for such protection. In addition, it is the intent of Cowlitz County to actively and constructively assist the applicant in the preparation and processing of permits/approvals/plans/requirements or procedures. The ultimate responsibility for providing complete and accurate application material and/or required information falls on the applicant.

A limited amount of scientific data is available to address all critical areas within Cowlitz County. As more information becomes available, it will be incorporated.

19.15.030 Purpose and Intent. The Growth Management Act requires Cowlitz County to designate critical areas and adopt development regulations to assure the conservation of such areas in accordance with the best available science. In compliance with this mandate, the county finds that critical areas characterize certain portions of the county. These critical areas include: wetlands, aquifer recharge areas, geologically hazardous areas, fish and wildlife habitat, and frequently flooded areas. These areas contain valuable natural resources, provide natural scenic qualities important to the character of the community, perform important ecological functions and processes, or present a hazard to life and property. Identification, management and protection of these lands and areas is, therefore, necessary to protect the public health, safety and general welfare of Cowlitz County's citizens.

Cowlitz County further recognizes that the decision of the Washington Supreme Court in *Futurewise v. Western Washington Growth Management Hearings Board,* 164 Wn.2d 242 (2008) put into question the application of critical area protection regulations in those areas within the jurisdiction of the Shoreline Management Act. The Board of County Commissioners of Cowlitz County therefore declares that it has always been the intent of the County that its Critical Areas Protection Ordinance, previously adopted as Ordinance No. 96-104, apply in all of the unincorporated area of Cowlitz County, including within the Shorelines Jurisdiction.

A. With respect to particular critical areas, the County finds as follows:

1. Wetlands provide numerous valuable functions, including but not limited to providing wildlife and fish habitat, water quality enhancement, flood and erosion control, aquifer recharge and discharge, shoreline stabilization, research and education opportunities, and recreation.

2. Geologic hazards pose a risk to public and private property and to the natural systems that make up the county's environment. These lands are susceptible to landslides, erosion, seismic, volcanic and mining hazards. Building and development practices should consider topographical and geological features. Future development should be directed to more geologically stable areas and restricted on unsuitable ground. Regulating these lands, and avoiding or minimizing alteration of geologic hazards, is necessary to protect the health, safety and general welfare.

3. Aquifer recharge areas perform many important biological and physical functions that benefit the county and its residents, including but not limited to: storing and conveying groundwater. Protection of aquifer recharge areas is, therefore, necessary to protect the public health, safety and general welfare.

4. Fish and wildlife habitat conservation areas perform many important physical and biological functions that benefit the county and its residents. These functions include but are not limited to: providing opportunities for food, cover, nesting, breeding and movement for fish and wildlife; maintaining and promoting diversity of species and habitat; helping to maintain air and water quality; controlling erosion, serving as areas for recreation, education and scientific study and aesthetic appreciation; providing neighborhood separation and visual diversity within urban areas, sustaining ESA-listed species, and supporting recreational and commercial fisheries.

5. Frequently flooded areas pose a risk to public and private property and public health. Regulation of these lands will promote efficient use of the land and water resources by allocating frequently flooded areas to the uses for which they are best suited and to discourage obstructions to flood-flows or uses which pollute or deteriorate natural waters and watercourses.

B. It is the intent of this Chapter to:

1. Implement the goals, objectives and policies of the natural resources element of the Cowlitz County Comprehensive Plan;

2. Comply with the requirements of the Growth Management Act, RCW 36.70A, and implementing rules and guidelines;

3. Implement the best available science for protection in critical areas as appropriate to Cowlitz County;

4. Coordinate Cowlitz County's critical area protection activities and programs with those of other jurisdictions;

5. Coordinate environmental review and permitting of proposals to avoid duplication and delay;

6. Assist landowners by providing incentives for critical area protection.

19.15.040 Authority and Administration. The ordinance codified in this chapter is adopted under the authority of RCW 36.70A. All applications under this chapter shall be made to the Department. It shall be the duty of the Director or his/her designee to administer the provisions of this chapter, including preparation of application forms, administrative guidelines, interpretations and other actions as appropriate.

19.15.050 Definitions. For the purposes of this chapter, the following definitions shall apply unless the context clearly requires otherwise.

"Accessory" means a use, building or structure that is subordinate to and the use of which is incidental to that of the main activity, structure, building or use on the same lot or parcel. If an accessory use is attached to the main building by a common wall or roof, such accessory building shall be considered a main part of the main building.

"Active Fault" means a fault that is likely to undergo renewed movement within a period of concern to humans. Faults are commonly considered to be active if the fault has moved one or more times in the

last 10,000 years, but faults may also be considered active in some cases if movement has occurred in the last 500,000 years.

"Adjacent" means adjoining a critical area, and/or within a distance where activities may affect functions and values of a critical area.

"Agricultural Activities (existing and ongoing)" means those activities conducted on lands defined in RCW 84.34.020(2), Open Space, Agricultural, and Timber Lands – Current Use Assessment – Conservation Futures, and those activities involved in the production of crops and livestock, including but not limited to operation and maintenance of existing farm and stock ponds or drainage systems, irrigation systems, changes between agricultural activities, and maintenance or repair of existing serviceable structures and facilities. Activities, which significantly impact a previously undisturbed critical area, are not part of an ongoing activity. An activity ceases to be ongoing when the area on which it was conducted has been converted to a nonagricultural use, or has been unattended for five (5) years. Forest practices are not included in this definition.

"Alluvial Fan" means a low, outspread, relatively flat to gently sloping mass of loose alluvium, shaped like an open fan, deposited by a stream where it issues from a narrow valley, or where a tributary stream issues into the main stream, or wherever a constriction in a valley abruptly ceases or the gradient of the stream suddenly decreases; it is steepest near the mouth of the valley where its apex points upstream, and it slopes gently and convexly outward with gradually decreasing gradient.

"Alteration" means a human-induced action which materially affects a regulated critical area or associated buffer, such as a physical change to the existing condition of land or improvements including but not limited to: construction, clearing, filling and grading.

"Anadromous Fish" means any fish that spawns and rears in freshwater and matures in the marine environment.

"Applicant" means the person, party, firm, corporation, Indian tribe or federal, state or local government, or any other entity that proposes any activity that could affect a critical area.

"Aquifer" means a geological formation, group of formations, or part of a formation that is capable of yielding a significant amount of water to a well, spring or natural watercourse.

1. "Confined" means an aquifer bounded by formations of distinctly lower permeability than that of the aquifer itself and that contains ground water under sufficient pressure for the water to rise above the top of the aquifer.

2. "Unconfined" means an aquifer where ground water is in a formation which is not bound by a formation of lower permeability and in which the ground water surface is at atmospheric pressure.

"Aquifer Recharge Area" means areas where water infiltrates into soil and/or rock and reaches the groundwater.

"Base Flood" means a flood event having a one percent (1%) chance of being equaled or exceeded in any given year, also referred to as the 100-year flood. Designations of base flood areas on flood insurance map(s) always include the letters A or V.

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

"Best Management Practices" means systems of practices and management measures that:

1. Control soil loss and reduce water quality degradation caused by nutrients, animal waste, and toxins;

2. Control the movement of sediment and erosion caused by land alteration activities to protect water quality and slope stability;

3. Minimize adverse impacts to surface and ground water quality, flow and circulation patterns and to the chemical, physical, and biological characteristics of wetlands;

4. Minimize adverse impacts to the chemical, physical and biological characteristics of a critical area; and

5. Protect trees and vegetation designated to be retained during and following site construction and use native plant species appropriate to the site for revegetation of disturbed areas.

6. Monitor mitigation measures to ensure functions and values impacted by a project are provided and maintained.

"Board" means the Cowlitz County Board of Commissioners.

"Buffer" or "buffer area" means an area established to protect the integrity or functions and values of a critical area from potential adverse impacts.

"Channel Migration Zone (CMZ)" means the area along a river within which the channel(s) can be reasonably predicted to migrate over time as a result of natural and normally occurring hydrological and related processes when considered with the characteristics of the river and its surroundings. The "Channel Migration Zone" does not include areas that lie behind an arterial road, a public road serving as a sole access route, as state or federal highway or a railroad and may exclude areas that lie behind a lawfully established flood protection facility that is maintained by existing programs for public maintenance consistent with the designation and classification criteria specified by public rule.

"Clearing" means the removal of trees, brush, grass, groundcover, or other vegetative matter from a site. Clearing activities described in CCC 19.15.070, Exemptions, are not subject to the requirements of this Title. In particular, those clearing activities in conjunction with maintenance of existing and ongoing landscaping (i.e., groundcover or other vegetation) in a critical area or buffer area that was disturbed prior to July 24, 1996 and that create no further disturbance are exempt.

"Conservation Easement" means an interest or right of use over a property, less than fee simple, to protect, preserve, maintain, improve, restore, limit the future use of, or conserve for open space purposes, any land or improvement on the land.

"Compensatory Mitigation" means replacing project-induced losses or impacts to a critical area.

"Critical Area" includes the following areas and ecosystems: (a) wetlands; (b) areas with a critical recharging effect on aquifers used for potable water; (c) fish and wildlife habitat conservation areas; (d) frequently flooded areas; and (e) geologically hazardous areas as defined in RCW 36.70A.030.

"Critical Areas Permit" means a written authorization issued by the Department of Building and Planning declaring that identified development or regulated activity complies with the provisions of this chapter.

"Critical Facility" Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire and emergency response installations, and installations that produce, use, or store hazardous materials or hazardous waste.

"Cumulative Impact" means the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.

"Department" means the Cowlitz County Department of Building and Planning.

"Development" means a regulated project involving property improvement or a change of physical character within the site; the act of using land for building or extractive purposes. Development shall include, but shall not be limited to, the activities identified in CCC 19.15.060.

"Director" means the Director of the Department of Building and Planning, or a designated delegate.

"Excavation" means the removal of earth material either by hand held tools or machinery.

"Exempt" means those activities allowed within the Critical Areas without a Critical Area Assessment.

"Existing and Ongoing Agricultural Activities" – See "Agricultural Activities."

"Exotic" means any species of plants or animals, which are not native to the planning area.

"Filling" means the act of placing fill material including temporary stockpiling of fill material.

"Fill Material" means a deposit of earth or other natural or manmade material placed by artificial means.

"Fish and Wildlife Habitat Conservation Areas" means those areas identified as being of critical importance to maintenance of fish and wildlife as defined in Table 19.15.130-A.

"Fish Habitat" means habitat that is used by fish at any life stage at any time of the year, including potential habitat likely to be used by fish that could be recovered by restoration or management and includes off-channel habitat.

"Flood or Flooding" means a temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland waters and/or the unusual and rapid accumulation of runoff of surface waters from any source.

"Floodplain" means the total land area adjoining a river, stream, watercourse, or lake subject to inundation by the base flood.

"Formation" means an assemblage of earth materials grouped together into a unit that is convenient for description or mapping.

"Functions and Values" means the beneficial roles served by critical areas including, but are not limited to, water quality protection and enhancement; fish and wildlife habitat; food chain support; flood storage, conveyance and attenuation; ground water recharge and discharge; erosion control; wave attenuation; protection from hazards; historical, archaeological, and aesthetic value protection; educational opportunities; and recreation.

"Geologist". See definition under "Qualified Professional."

"Geotechnical Assessment" means an assessment prepared by a qualified professional, which evaluates the site conditions and the effects of a proposal, identifies mitigating measures to ensure that the risks associated with geologic hazards will be substantially reduced, and provides a professional evaluation of the need for additional studies. See CCC 19.15.150 for requirements of Geotechnical Assessments.

"Geotechnical Engineering Report" means a report that is completed and stamped by a qualified professional for a site containing an active landslide hazard area or landslide and/or erosion hazard areas that were identified through a geotechnical assessment for further geotechnical analysis. See CCC 19.15.150 for requirements of Geotechnical Reports.

"Grading" means an excavating and/or filling of the earth's surface.

"Ground Water" means water in a saturated zone or stratum beneath the surface of land or a surface water body (as defined in RCW 90.44.035).

"Growth Management Act" means RCW 36.70A and 36.70B, as amended.

"Habitat Conservation Areas" means areas designated as fish and wildlife habitat conservation areas. See Table 19.15.130-A Fish and Wildlife Habitat Conservation Areas or WAC 365-190-080(5)(a).

"Habitats of Local Importance" means these areas include a seasonal range or habitat element with which a given species has a primary association, and which, if altered may reduce the likelihood that the species will maintain and reproduce over the long-term. These might include areas of high relative density or species richness, breeding habitat, winter range, and movement corridors. These might also include habitats that are of limited availability or high vulnerability to alterations such as cliffs, talus, and wetlands (WAC 365-190-030).

"Hazard Areas" means areas designated as frequently flooded areas or geologically hazardous areas due to potential for erosion, landslide, seismic activity, mine collapse, or other geological hazardous condition.

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

"Historic Condition" means the condition of the land, including flora, fauna, soil, topography, and hydrology that existed before the area and vicinity were developed or altered by human activity.

"Hydraulic Project Approval, (HPA)" means a permit issued by the Washington Department of Fish and Wildlife for modifications to waters of the state in accordance with RCW 75.20.

"Hydrologic Unit" means an area of land above or upstream from a specific point on a stream, which is enclosed by a topographic divide such that direct surface runoff from precipitation normally drains by gravity into the stream or the area above the specified point on a stream.

"Hydric Soil" means a soil that is saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions.

"Hydrophytic Vegetation" means macrophytic plant life growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content.

"Impervious Surface" means a hard surface area that either prevents or severely restricts the entry of water into the soil mantle.

"Indigenous" means any native species of plant or wildlife that occurs naturally on a particular site.

"Infiltration" means the entry (usually downward) of water into the immediate surface of soil.

"Infiltration Rate" means the rate at which water penetrates the soil surface, expressed as velocity. The infiltration rate of a given soil varies under saturated and unsaturated conditions.

"Inter-Rill" means areas subject to sheet wash.

"Joint Aquatic Resource Permits Application" means a single application form that may be used to apply for hydraulic project approvals, shoreline management permits, approvals of exceedance of water quality standards, water quality certifications, coast guard bridge permits, Washington State Department of Natural Resources use authorization, and U.S. Army Corps of Engineers permits.

"Lahars" means mudflows and debris flows originating from the slopes of a volcano.

"Land Use":

1. "High Intensity Land Use" means land uses which are associated with high levels of human disturbance or substantial habitat impacts.

2. "Moderate Intensity Land Use" means land uses which are associated with moderate levels of human disturbance or substantial habitat impacts.

3. "Low Intensity Land Use" means land uses which are associated with low levels of human disturbance or low habitat impacts.

"Lake" means a naturally existing or artificially created body of standing water, including reservoirs, 20 acres or greater in size, which exist on a year-round basis and occurs in a depression of land.

"Landfill" means a disposal facility or part of a facility at which solid waste is placed in or on land.

"Landslide" means uncontrolled abrupt or gradual downslope movement of a mass of soil and/or rock.

"Lateral spreads" are a type of earthquake-induced landslides. Areas subject to lateral spreading are typically gently sloping or flat sites underlain by liquefiable sediments adjacent to an open face, such as river banks. Liquefied soils adjacent to open faces may "flow" in that direction, resulting in lateral displacement and surface cracking.

"Liquefaction" is a process in which the strength and density of a soil is reduced by earthquake shaking or other rapid pressure. It occurs in soils in which the space between individual particles is completely filled with water (e.g., saturated soils). During an earthquake, the water pressure between the particles increases to the point where the soil particles can readily move with respect to each other, and thus the soil loses strength. Liquefaction can induce significant ground settlement, bearing capacity failure, and lateral spreading.

"Management Recommendations" means recommendations developed by the Washington Department of Fish and Wildlife or other state or federal agencies to meet the goal of maintaining or enhancing the

structural and functional integrity of riparian habitat and associated aquatic systems needed to perpetually support fish and wildlife populations on both site and landscape levels.

"Mitigation" means action designed to replace project-induced critical area losses or impacts, including but not limited to restoration, creation or enhancement and can occur off-site or on-site, and be accomplished with in-kind or out-of-kind results. See CCC19.15.170.C for preferred mitigation sequencing.

1. "Restoration" means efforts performed to re-establish functional values and characteristics of a critical area that have been destroyed or degraded by past alterations (e.g., filling or grading).

2. "Wetland Restoration" means the manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former or degraded wetland. For the purposes of tracking net gains in wetland acres, restoration is divided into:

a. "Re-establishment" results in a gain in wetland acres (and functions). Activities could include removing fill material, plugging ditches, or breaking drain tiles.

b. "Rehabilitation" means repairing the natural or historic function of a degraded wetland. Rehabilitation results in a gain in wetland function but does not result in a gain in wetland acres. Activities could involve breaching a dike to reconnect wetlands to a floodplain or return tidal influence to a wetland.

3. "Establishment**"** means the manipulation of the physical, chemical, or biological characteristics present to develop a wetland on an upland or deepwater site, where a wetland did not previously exist.

4. "Creation" – See "Establishment."

5. "Enhancement" means actions performed to improve the condition of existing degraded wetlands so that the functions they provide are of a higher quality.

6. "Preservation" means actions taken to ensure the permanent protection of existing, high-quality wetlands.

7. "On-Site" means to replace critical areas at or adjacent to a site on which a critical area has been impacted.

8. "Off-Site" means to replace critical areas away from the site on which a critical area has been impacted.

9. "In-kind" means replacement of critical areas with substitute areas whose characteristics and functions and values closely approximate those negatively impacted by a regulated activity.

10. "Out-of-kind" means replacement of critical areas with substitute areas whose characteristics do not closely approximate those negatively impacted by a regulated activity.

11. "Wetlands Mitigation Bank" means a site where wetlands are restored, created, enhanced, or in exceptional circumstances, preserved expressly for the purpose of providing compensatory mitigation in advance of authorized impacts to similar resources.

"Mitigation Plan" means a plan that outlines the activities that will be undertaken to alleviate project impacts. Mitigation Plan requirements are found in CCC 19.15.170.

“Monitoring” means evaluating the impacts of development proposals on the biological, hydrological, and geological elements of such systems, and assessing the performance of required mitigation measures.

“Native Vegetation” means plant species that are indigenous to the area.

“Natural Waters” means waters, excluding water conveyance systems that are artificially constructed and actively maintained for irrigation, drainage and/or stormwater management facilities.

“Non-conformity” means a legally established existing use or legally constructed structure that is not in compliance with current regulations.

“Non-indigenous” – See “Exotic.”

“Noxious Weeds” means any non-native plant which, when established, is highly destructive, competitive or difficult to control.

“Open Space” means land satisfying the definition for “open space land” in Cowlitz County Ordinance No. 95-078, Section 3, and eligible for tax assessment at its current use value as authorized by RCW 84.34.

"Ordinary High Water Mark" on all lakes, streams, and tidal water is that mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or the department. In any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining salt water shall be the line of mean higher high tide and the ordinary high water mark adjoining fresh water shall be the line of mean high water.

“Permeability” means the capacity of soil or rock to transmit water.

“Pond” means a naturally existing or artificially created body of standing water under 20 acres, which exists on a year-round basis and occurs in a depression of land or expanded part of a stream.

“Potable Water” means water that is safe for human consumption.

“Practical Alternative” means an alternative that is available and capable of being carried out after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

“Primary Association Area” means the area used on a regular basis by, is in close association with, or is necessary for the proper functioning of the habitat of a critical species.

“Priority Habitat” means habitat type or elements with unique or significant value to one or more species as classified by the state Department of Fish and Wildlife.

“Project Area” means all areas proposed to be disturbed, altered, or used by the proposed activity for temporary construction activities (i.e., materials staging, construction access, soil stockpiling, etc.), permanent development (i.e., residential homes, driveways, detached garages, decks, fences, etc.), or regulatory alteration (i.e., rezoning or Comprehensive Plan designation change). For subdivisions, short subdivisions, binding site plans, planned unit developments, or rezones, the project area shall include the entire parcel.

"Qualified Professional" means a person with experience, education, and/or professional degrees and training pertaining to the critical area in question as described for each critical area below. Qualified Professionals will also possess experience with performing site evaluations, analyzing critical area functions and values, analyzing critical area impacts, and recommending critical area mitigation and restoration. The Director shall require professionals to demonstrate the basis for qualifications and shall make final determination as to qualifications. Demonstration of qualifications may include, but not be limited to, professional certification(s) and/or recognition through publication of technical papers or journals. Qualified professionals for each critical area are as follows:

1. Wetlands:

"Biologist or Wetland Ecologist" who has a bachelor's degree in wetland science from an accredited college or university, at least two (2) years of experience under the supervision of a practicing wetland professional and has experience delineating wetlands, preparing wetland reports, conducting function assessments and developing and implementing mitigation plans.

2. Fish and Wildlife Habitat Areas:

"Biologist/Wildlife Biologist/Stream Ecologist/Habitat Ecologist" who has a bachelor's degree in biological, wildlife and/or stream ecology science from an accredited college or university and has at least two (2) years of experience under the supervision of a practicing professional biologist or ecologist.

3. Geologically Hazardous Areas:

"Geologist" means a person who has a bachelor's degree in geologic sciences from an accredited college or university and at least five (5) years of professional experience as described in WAC 308-15-040 and is licensed as a professional geologist in the State of Washington. The licensed geologist shall have demonstrated experience analyzing geologic hazards and preparing reports for the relevant type of hazard.

"Hydrogeologist" means a licensed geologist in the State of Washington with a specialty license in hydrogeology meeting the requirements of WAC 308-15-057. The licensed hydrogeologist shall have demonstrated experience analyzing hydrogeologic hazards and preparing reports for the relevant type of hazard.

"Engineering Geologist" means a licensed geologist in the State of Washington with a specialty license in engineering geology meeting the requirements of WAC 308-15-055. The licensed engineering geologist shall have demonstrated experience analyzing geologic hazards and preparing reports for the relevant type of hazard.

"Geotechnical Engineer" means a person who has a bachelor's degree in civil engineering from an accredited college or university and at least five (5) years of experience as practicing geotechnical engineering, and is a registered professional engineer in the State of Washington (meeting the requirements of RCW 18.43.040). The licensed engineer shall have demonstrated experience conducting geotechnical investigations, analyzing geologic hazards, and preparing reports for the relevant type of hazard.

4. Critical Aquifer Recharge Areas:

"Hydrogeologist" means a licensed geologist in the State of Washington with a specialty license in hydrogeology meeting the requirements of WAC 308-15-057. The licensed hydrogeologist

shall have demonstrated experience analyzing hydrogeologic hazards and preparing reports for the relevant type of hazard.

5. Frequently Flooded Areas:

"Hydrogeologist" means a licensed geologist in the State of Washington with a specialty license in hydrogeology meeting the requirements of WAC 308-15-057. The licensed hydrogeologist shall have demonstrated experience analyzing hydrogeologic hazards and preparing reports for the relevant type of hazard.

"Fluvial Geomorphologist" means a person who has a bachelor's degree in earth sciences from an accredited college or university with applicable course work in fluvial geomorphology and at least five years of professional experience in fluvial geomorphology.

"Hydraulics Engineer" means a person who has a bachelor's degree in civil engineering from an accredited college or university and at least five (5) years of experience as practicing hydraulics engineer, and is a registered professional engineer in the State of Washington (meeting the requirements of RCW 18.43.040). The licensed engineer shall have demonstrated experience conducting, analyzing and preparing reports for hydraulic investigations.

"Recharge" means the process involved in the absorption and/or addition of water to ground water.

"Reclaimed Water" means municipal wastewater effluent that has been adequately and reliability treated so that it is suitable for beneficial use. Following treatment it is no longer considered wastewater (treatment levels and water quality requirements are given in the water reclamation and reuse standards adopted by the state departments of Ecology and Health) (RCW 90.46).

"Regular Basis" means that the habitat area is normally, or usually known to contain a plant or animal species listed by the state or federal government as threatened or endangered (critical species), or based on known habitat requirements of the species, the area is likely to contain the critical species. Regular basis is species and population dependent. Species that exist in low numbers may be present infrequently yet rely on certain habitat types.

"Repair or Maintenance" means an activity that restores the character, scope, size, and design of a serviceable area, structure, or land use to its previously authorized and undamaged condition.

"Regulated Activity" means activities occurring in a critical area or associated buffer that are subject to the provisions of this chapter. See CCC 19.15.060.A for a full list of regulated activities.

"Rills" means steep-sided channels resulting from accelerated erosion. A rill is generally a few inches deep and not wide enough to be an obstacle to farm machinery. Rill erosion tends to occur on slopes, particularly steep slopes with poor vegetative cover.

"Riparian Habitat" means areas adjacent to aquatic systems that contain elements of both aquatic and terrestrial ecosystems that mutually influence each other. The width of these areas extends to that portion of the terrestrial landscape that directly influences the aquatic ecosystem by providing shade, fine or large woody material, nutrients, organic and inorganic debris, terrestrial insects, or habitat for riparian-associated wildlife. Widths shall be measured horizontally from the ordinary high water mark or from the top of bank if the ordinary high water mark cannot be identified. It includes the entire extent of the floodplain and the extent of vegetation adapted to wet conditions as well as adjacent upland plant communities that directly influence the aquatic ecosystem.

"Riparian Habitat, Isolated" means a riparian habitat area that is outside of any 100-year floodplain and does not provide shade, fine or large woody material, nutrients, organic and inorganic debris, terrestrial insects, or habitat for riparian-associated wildlife.

"River" – See "Watercourse."

"Section 404 Permit" means a permit issued by the U.S. Army Corps of Engineers for the placement of dredge or fill material or clearing in waters of the United States, including wetlands.

"Seeps or Springs" means a location where water emanates from the earth, often forming the source of a small stream. Seeps and springs are hydrologically supported by groundwater and have a relatively constant water temperature and chemistry. Springs differ from seeps in that they tend to have a more persistent water source and have fewer dry periods than seeps.

"Serviceable" means presently usable.

"SEPA" means the Washington State Environmental Policy Act, RCW 43.21C.

"Short Subdivision" means the division or redivision of land into four (4) or fewer lots, tracts, sites, parcels or divisions for the purpose of sale, lease or transfer of ownership, any of which is less than five (5) acres in size.

"Significant Portion of its Range" means that portion of a species range likely to be essential to the long-term survival of the population.

"Site" means any parcel or combination of contiguous parcels, or right-of-way, or combination of contiguous rights-of-way under the applicant's ownership or control where the proposed project occurs.

"Site Class" refers to a classification system for evaluating the potential for soils to amplify ground shaking during an earthquake. The classification is based upon the average shear-wave velocity in the upper 100 feet of the soil-rock column. Shear waves are the earthquake waves that create the strongest horizontal shaking and are the most damaging to buildings and structures.

"Slope" means an inclined earth surface, the inclination of which is expressed as the ratio of horizontal distance to vertical distance. In these regulations, slopes are generally expressed as a percentage; percentage of slope refers to a given rise in elevation over a given run in distance. A 40 percent slope, for example, refers to a 40-foot rise in elevation over a distance of 100 feet. A 100 percent slope equals a 45-degree angle. In most engineering and geologic reports, slopes are described in ratios (horizontal: vertical, H:V) or degrees. The following table shows common slope gradients and various description methods:

Table 19.15-A. Common Slope Gradients			
Engineering Ratio (H:V)	**Rise:Run (V:H)**	**Percent**	**Angle (Degrees)**
1:1	100:100	100%	45 deg.
1.25:1	80:100	80%	39 deg.
2:1	50:100	50%	27 deg.
2.5:1	40:100	40%	22 deg.
3:1	33:100	33%	18 deg.
4:1	25:100	25%	14 deg.
5:1	20:100	20%	11 deg.

For example a slope that rises 40 feet over a horizontal distance (run) of 100 feet can be referred to as being a 2.5:1 (H:V) slope; having an angle of 22 degrees; or being a 40 percent slope.

"Snag" means any dead, partially dead, or defective (cull) tree at least 10 feet tall and 12 inches in diameter at breast height.

"Snag-rich Areas" means areas with 10 or more snags per acre.

"Soil Survey" means the most recent soil survey for the local area or county by the National Resources Conservation Service, U.S. Department of Agriculture.

"Soil with Severe Erosion Hazard" means any soil type indicated as having a degree of hazard or limitation of severe or very severe according to the Soil Survey.

"Special Protection Areas" means aquifer recharge areas defined by WAC 173-200-090 that require special consideration or increased protection because of unique characteristics, including but not limited to:

1. Ground waters that support an ecological system requiring more stringent criteria than drinking water standards;

2. Ground water recharge areas and wellhead protection areas that are vulnerable to pollution because of hydrogeologic characteristics.

"Species, Endangered" means any fish or wildlife species that is threatened with extinction throughout all or a significant portion of its range and is listed by the state or federal government as an endangered species (see Table 19.15.130-A).

"Species of Local Importance" means those species of local concern due to their population status or their sensitivity to habitat manipulation (see Table 19.15.130-A).

"Species, Priority" means any fish or wildlife species requiring protective measures and/or management guidelines to ensure their persistence as genetically viable population levels as classified by the Washington Department of Fish and Wildlife (see Table 19.15.130-A).

"Species, Threatened" means any fish or wildlife species that is likely to become an endangered species within the foreseeable future throughout a significant portion of its range without cooperative

management or removal of threats, and is listed by the state or federal government as a threatened species (see Table 19.15.130-A).

"Species, Sensitive" means species native to Washington that are vulnerable or declining, and are likely to become endangered or threatened in a significant portion of their ranges within the state without cooperative management or the removal of threats (see Table 19.15.130-A).

"Spring" – See "Seeps or Springs."

"Stream" – See "Watercourse."

"Stream Order" is the term used to define the position of a stream in the hierarchy of tributaries in the watershed. The smallest streams are the highest order (first order) tributaries. These are the upper watershed streams and have no tributaries of their own. When two (2) first order streams meet, they form a second order stream, and when two (2) second order streams meet they become a third order stream, and so on.

"Structure" means any piece of work artificially built up or composed of parts joined together in some definite manner, including a house, manufactured home, apartment, factory, garage, or other improvement having walls attached to or affixed upon the land including retaining walls and subgrade building components.

"Subbasin" means the drainage area of the highest order stream containing the subject property impact area.

"Subdivision" means a division of land into five (5) or more lots, tracts, parcels, sites, or divisions for the purpose of sale or lease or transfer of ownership, and shall include all resubdivision of land.

"Talus Slope" means a slope formed by the accumulation of rock debris at the bottom of steep slopes or cliffs.

"Unavoidable" means adverse impacts that remain after all appropriate and practicable avoidance and minimization have been achieved.

"Undisturbed Buffer" means a protective area left in its natural state, except for any access and/or utility crossings approved by the Director.

"Utility Line" means pipe, conduit, cable or other similar facility by which services are conveyed to the public or individual recipients. Such services shall include, but are not limited to water supply, electric power, natural gas, communications, and sanitary sewer.

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

"Vulnerability" means the combined effect of susceptibility to contamination and the presence of potential contaminants.

"Water-Dependent" means a use or portion of a use that cannot exist in a location that is not adjacent to the water, but is dependent on the water by reason of the intrinsic nature of its operations; a use that can be carried out only on, in, or adjacent to the water.

"Water Resource Inventory Area (WRIA)" means one of sixty-two (62) watersheds in the State of Washington, each composed of the drainage areas of a stream or streams, as established in WAC 173-500 as it existed on January 1, 1997.

"Water Table" means that surface in an unconfined aquifer at which the pressure is atmospheric.

"Water Typing System" means waters classified according to the Washington Department of Natural Resources WAC 222-16-031 (See CCC 19.15.130).

"Watercourse" means any portion of a channel, bed, bank, or bottom waterward of the ordinary high water line of waters of the state including areas in which fish may spawn, reside, or through which they may pass, and tributary waters with defined beds or banks, which influence the quality of fish habitat downstream. This definition includes watercourses that flow on an intermittent basis or which fluctuate in level during the year and applies to the entire bed of such watercourse whether or not the water is at peak level. This definition does not include irrigation ditches, canals, stormwater run-off devices, or other entirely artificial watercourses, except where they exist in a natural watercourse that has been altered by humans.

"Well" means any excavation that is constructed when the intended use of the well is for location, diversion, artificial recharge, observation, monitoring, dewatering, or withdrawal of ground water for agricultural, municipal, industrial, domestic, or commercial use.

"Wellhead Protection Area (WHPA)" means the portion of a zone of contribution for a well, wellfield, or spring, as defined using criteria established by the Washington State Department of Ecology WAC 173-160-171(2)(b).

"Wetland" means areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including but not limited to irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street or highway. Wetlands include artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands. Wetlands are delineated using the Department of Ecology *Washington State Wetland Identification and Delineation Manual (1997 or as amended)*. Three general types of wetlands are emergent, forested and scrub-shrub:

1. "Emergent Wetland" means a wetland with at least thirty percent (30%) of the surface area covered by erect, rooted, herbaceous vegetation extending above the water surface as the uppermost vegetative strata.

2. "Forested Wetland" means a wetland with at least thirty percent (30%) of the surface area covered by woody vegetation greater than twenty (20) feet in height that is at least partially rooted within the wetland.

3. "Scrub-Shrub Wetland" means a wetland with at least thirty percent (30%) of its surface area covered by woody vegetation less than twenty (20) feet in height as the uppermost strata.

"Wetlands, Isolated" means those wetlands that are outside of and not contiguous to any 100-year floodplain of a lake, river, or stream and have no contiguous hydric soil or hydrophytic vegetation between the wetland and any surface water.

"Wetland Classes, Classes of Wetlands, or Wetland Types" means the descriptive classes of the wetlands taxonomic classification system of the U.S. Fish and Wildlife Service (Cowardin, et al. 1979).

"Wetland Edge" means the boundary of a wetland as delineated.

"Wetland Evaluation Technique" means the joint Federal Highway Administration and U.S. Army Corps of Engineers' procedure for objectively assessing and quantifying both the development and wetland mitigation site to determine their relative wetland functions and values.

"Wetland Functions" are determined by physical, chemical and biological characteristics and include but are not limited to: fish and wildlife habitat, aquifer recharge and discharge, water quality, shoreline stabilization, and flood and erosion control.

"Wetland Mosaic" means that where there are one or more wetlands in proximity to one another, each patch of wetland is less than 1 acre, each patch is less than 100 feet apart, on average, and the areas delineated as vegetated wetland are more than 50% of the total area of the wetlands and the uplands together, or wetlands, open water, and river bars.

"Zone of Contribution" means the area surrounding a well or spring that encompasses all areas or features that supply ground water recharge to the well or spring.

19.15.060 Applicability/Regulated Activities. All persons proposing development in critical areas or their buffers shall first obtain a critical areas permit pursuant to this chapter, except as exempted pursuant to CCC 19.15.070.

A. Development activities shall include, but are not limited to the following:

1. Removing, clearing, grading, excavating, disturbing or dredging soil, sand, gravel, minerals, organic matter or materials of any kind;

2. Dumping, discharging or filling with any material;

3. Subdivisions, short subdivisions, Planned Unit Developments (PUDs), mobile home parks and RV parks;

4. Construction, reconstruction, demolition or alteration of the size of any structure or infrastructure;

5. Construction of any new public or private road or driveway;

6. Destroying, planting or altering vegetation through clearing, harvesting, cutting, intentional burning, shading, or planting non-native species where these activities would alter the character of a critical area, or its buffer;

7. Draining, flooding or altering the water level or water table;

8. Activities causing significant adverse changes in water temperature, physical or chemical changes of water sources to wetlands or surface water systems;

9. Application of pesticides, fertilizers and/or other chemicals in amounts or at times demonstrated as harmful to wetland habitat, riparian corridors associated with surface water systems, or wildlife or fish life.

19.15.070 Exemptions. The following activities shall be exempt from the provisions of this chapter:

A. The policies, regulations and procedures of this chapter do not apply to those activities and uses conducted pursuant to the Washington State Forest Practices Act and its rules and regulations, RCW 76.09 and WAC Title 222, where state law specifically limits local authority, except with regard to developments and conversions requiring local approval, when the county is the lead agency for environmental review.

B. Existing and ongoing agricultural activities as defined in this chapter.

C. Maintenance, operation, repair, reconstruction, or replacement of the following provided that reconstruction of any such facilities does not extend outside the previously disturbed area and only when replacement of facilities within a water body, wetland, or associated buffer will result in no additional disturbance of any critical area or buffer:

1. Existing structures;

2. Existing public and private roads, streets, driveways; and

3. Existing utility lines, public and private stormwater detention facilities, wastewater treatment facilities, grass-lined swales, in-stream detention facilities, flood control and diking facilities.

D. Any interior remodeling construction in residential and non-residential structures that does not involve alteration to the building footprint, ground disturbance, or increased impervious surfaces.

E. Installation, construction or replacement of utility lines in an improved county right-of-way, not including electric substations.

F. Maintenance of existing and ongoing landscaping (i.e., groundcover or other vegetation) in a critical area or buffer area that was disturbed prior to July 24, 1996, provided that no further disturbance is created.

G. Minimal site investigative work required by a city, county, state, or federal agency, or any other applicant such as surveys, soil explorations, percolation tests, and other related activities provided impacts on environmentally critical areas are minimized and disturbed areas are restored to the pre-existing level of function and value within one year after tests are concluded.

H. Passive recreational uses, sport fishing or hunting, scientific or educational review, or similar minimum impact, nondevelopment activities such as conservation or preservation of soil, water, vegetation, fish, shellfish, and other wildlife.

I. The harvesting of wild crops in a manner that is not injurious to natural reproduction of such crops and provided the harvesting does not require tilling of soil, planting of crops, chemical applications, or alteration of the critical area by changing existing topography, water conditions, or water sources.

J. Maintenance of intentionally created artificial wetlands or surface water systems including irrigation and drainage ditches, grass-lined swales and canals, detention facilities, farm ponds, and landscape or ornamental amenities. Wetlands, streams, lakes or ponds created as mitigation for approved land use

activities or that provide critical habitat are not exempt and shall be regulated according to the mitigation plan.

K. Activities occurring in nonregulated wetlands. Shoreline, state, and federal regulations may apply to wetlands not regulated under this chapter.

L. The removal with hand labor and low-impact equipment of any invasive vegetation designated by the Cowlitz County Weed Control Board and in addition: English Ivy (Hedera helix); Himalayan blackberry (Rubus discolor, R. procerus); evergreen blackberry (Rubus laciniatus); giant knotweed (Polygonum sachalinense); Himalayan knotweed (Polygonum polystachyum); and Japanese knotweed (Polygonum cuspidatum). If removal of invasive vegetation occurs for wetland enhancement, use of chemical herbicides is only exempt when using those approved by the United States Environmental Protection Agency for application in aquatic environments.

M. Activities within isolated Category III wetlands less than two thousand five hundred (2,500) square feet in area and within isolated Category IV wetlands less than four thousand three hundred and fifty (4,350) square feet meeting any of the following criteria:

1. The wetland is not associated with a riparian corridor;

2. The wetland is not part of a wetland mosaic; and/or

3. The wetland does not contain habitat identified as essential for local populations of priority species identified by Washington Department of Fish and Wildlife.

N. Fish enhancement, watershed restoration projects or plans in compliance with WAC 173-27-040 shall be exempt from this chapter.

O. The following activities are exempt within geologically hazardous areas and do not require submission of a critical area assessment:

1. Landslide Hazard Areas. When not within an active landslide:

a. Patios, decks, and wheelchair ramps;

b. Detached "U" occupancy structures up to 1,000 square feet provided no other outbuildings are located within the landslide hazard area or buffer;

c. Non-habitable structures not requiring a building permit and where grading does not exceed 10 cubic yards.

d. Additions to existing residential structures where grading does not exceed 10 cubic yards.

e. Repair or replacement of an on site waste disposal system.

2. Seismic Hazard Areas. All development activities within these hazard areas are exempt provided they meet the performance standards and other development provisions of this chapter.

P. The following activities are exempt within Critical Aquifer Recharge Areas and do not require submission of a critical area assessment:

1. Construction of, additions to, and improvements to single-family residential structures that do not result in a change of use or increase the use of a hazardous substance.

2. Development and improvement of parks, recreation facilities, open space, or conservation areas resulting in less than fifteen percent (15%) total site impervious surface area that do not increase the use of a hazardous substance.

3. On-site domestic septic systems in conjunction with a new single-family residential structure and/or normal residential appurtenances are exempt provided they comply with WAC 246-272.

Q. Any projects currently under review and "vested" as that term is used in RCW 19.27.095 and 58.17.033 by local, state, or federal agencies prior to official adoption of the ordinance codified in this chapter are exempt from this chapter and will be processed under previous critical areas protection measures.

R. Emergency actions which must be undertaken immediately for which there is insufficient time for full compliance with this chapter may be taken only when it is necessary to prevent threat to/of:

1. Public health or safety;

2. Public or private property; or

3. Serious environmental degradation.

4. The person or agency undertaking such action shall notify the Department within one working day following the commencement of the emergency activity. Following such notification the Department shall determine if the action taken was within the scope of the emergency actions allowed in this subsection. If the Department determines that the action taken or part of the action taken is beyond the scope of allowed emergency actions, enforcement action is authorized, as outlined in CCC 19.15.210.

5. The person or agency undertaking such action, upon abatement of the emergency situation, will be required to apply for a Critical Areas permit which would have been required, absent an emergency, pursuant to this Title. The person or agency has 60 days from the abatement of the emergency to apply for a Critical Areas permit.

S. Maintenance and repair of existing public or private docks, launching ramps, floats, and other in-water structures or facilities to prevent a decline, lapse, or cessation from a lawfully established condition, provided the work performed is only to maintain or repair the development to a state comparable to its original condition, including but not limited to its size, shape, configuration, location, and external appearance, within a reasonable period after decay or partial destruction, except where repair causes substantial adverse effects to shoreline resource or environment.

19.15.080 Optional Incentives for Nondevelopment of Critical Areas

A. Introduction. This section describes the alternatives available to property owners and incentives they may pursue in lieu of developing or altering their property under the terms and standards of this

chapter. The incentives and options listed allow property owners to utilize the options that best suit their needs.

B. Open Space. Any person who owns an identified critical area as defined by this chapter may apply for current use assessment pursuant to CCC 18.52, the Cowlitz County Open Space Ordinance, and RCW 84.34, Open Space, Agriculture, and Timber Lands – Current Use Assessment – Conservation Futures. The Open Space Tax Act allows Cowlitz County to designate lands which should be taxed at their current use value. The county has programs for agricultural lands, small forest lands less than 20 acres in size, and other open spaces. Cowlitz County has adopted a Public Benefit Rating System which classifies properties on the basis of their relative importance of natural and cultural resources, the availability of public access, and the presence of a conservation easement. These features are given a point value, and the total point value determines the property tax reduction. The open space program has property tax reductions of 50, 70, or 90 percent. Lands with wetlands, an important habitat or species would commonly qualify for this voluntary program. The Board at a public meeting approves applications.

C. Conservation Easement. Any person who owns an identified critical area as defined by this chapter shall be entitled to place a conservation easement over that portion of the property designated a critical area by naming a qualified third party designee under RCW 64.04.130, Interests in land for purposes of conservation, protection, preservation, etc. – Ownership by certain entities – Conveyances, as beneficiary of the conservation easement. The purpose of the conservation easement shall be to protect, preserve, maintain, restore, limit the future use of, or conserve for open space purposes the land designated as critical area(s), in accordance with RCW 64.04.130.

D. Bonus Density Points (Planned Unit Development – PUDs). The county shall allow transfer of density for residential uses from lands containing critical areas, as defined by this chapter, when developed pursuant to the County Planned Unit Development Ordinance (CCC 18.30). Residential density may only be transferred from a critical area to an area on the same site which is not a critical area.

E. Density Credits. For development proposals (other than Planned Unit Developments [PUDs]) on lands determined to contain critical areas as defined by this chapter, Cowlitz County shall determine allowable dwelling units for residential development proposals based on the formula below.

Percentage of site in critical area	Density credit
1 – 10%	100%
11 – 20%	90%
21 – 30%	80%
31 – 40%	70%
41 – 50%	60%
51 – 60%	50%
61 – 70%	40%
71 – 80%	30%
81 – 90%	20%

1. Two examples of how to calculate the density credit follow:

a. Example 1. Size of development site – 50 acres. The minimum lot size or density in a particular area is two acres, which would permit a maximum of 25 lots to be created out of the 50-acre development site. There are 12 acres of critical areas on the 50-acre site, or

24 percent of the total site area. The density credit according to the table above is 80 percent. The allowable density on the site is 25 lots multiplied by 80 percent. The product is 20 lots, which is the permitted density on the development site. Note that without the density credit the developer would exclude the critical area from development; the site would be 38 acres of developable land and with a two (2)-acre lot minimum, 19 lots would be allowed.

b. Example 2. Size of development site – 50 acres. The minimum lot size or density in a particular area is two (2) acres, which would permit a maximum of 25 lots to be created out of the 50-acre development site. There are 40 acres of critical areas on the 50-acre site, or 80 percent of the total site area. The density credit according to the table above is 30 percent. The allowable density on the site is 25 lots multiplied by 30 percent. The product is 7.5 lots, which is the permitted density on the development site. Note that without the density credit the developer would exclude the critical area from development; the site would be 10 acres of developable land and with a two (2)-acre lot minimum, five (5) lots would be allowed.

2. The density credit can only be applied within the development proposal site. The applicant may reduce lot sizes below the minimum required for that zone (designation) to accommodate the transfer of density but it cannot change the residential uses permitted in the zone.

F. Land Exchange. State agencies or local government may convey, sell, lease or trade existing public lands in order to obtain public ownership of a fee interest, leasehold interest, or conservation easement over all or part of a critical area. Such exchanges may occur only upon agreement between the record owner and state and local agencies authorized to exchange the subject land.

1. There shall be no time limitation on applications for land exchanges. All applications for land exchanges must be filed in accordance with the requirements of this section. For the purposes of this section, any requirements to provide information, appraisals or notice relating to the property or subject property shall apply to all properties involved in the proposed exchange.

2. Contents of Claim. The applicant is responsible for submitting a complete and accurate application. Such application shall include, at minimum:

a. Completed master application and/or any required supplement sheets signed by the record owner of the property;

b. A map, drawn to scale, showing the following information:

i. Name, address and telephone number of the property owner(s),

ii. Name, address and telephone number of the preparer of the application,

iii. Date of submittal,

iv. Property boundary lines,

v. Legal description of the property,

vi. Description of the nature, size and location of the critical area located on the property, as determined by a qualified expert,

vii. All existing public or private roads, sewer and water lines, wells, county utilities, easements, watercourses, lakes, springs, drainage facilities, on-site sewage disposal drainfield areas, on and within 100 feet of the property boundaries,

viii. The boundaries of all lands reserved in the deeds for the common uses of the property owners;

c. A written appraisal from a licensed appraiser of the fair market value of the properties when subject to the critical area regulations in this chapter and a written appraisal by the same appraiser of the fair market value of the property if not subject to the critical area regulations in this chapter;

d. All other information identified by the Director during the preapplication conference.

3. Director's Action. The Director shall determine if the application is complete within 30 days. If additional information is necessary, the application shall be returned to the property owner, together with a list identifying the deficiencies. When the application is complete, the Director shall consult with the County Assessor for a comparison of the fair market value of the property when subject to the critical area regulations in this chapter with the fair market value of the property if not subject to the critical area regulations in this chapter.

4. Board Action. The Board shall hold a public hearing to review all property owner requests, pursuant to this section. Notice of public hearing shall be made at least 30 days prior to the scheduled hearing date. Notice shall consist of the publication of a legal notice in the county's newspaper of record stating the description of the property, and the purpose, date, time and location of the hearing. Such notice shall also be mailed first class to the property owner and all persons owning property, as identified in the Auditor's records, within 300 feet of the subject property boundaries 30 days prior to the hearing. And, two (2) or more notices shall be posted in the vicinity of the subject property 30 days prior to the hearing.

5. Following the public hearing, the Board shall issue its written decision, with findings, within 30 days.

G. Process for Density Incentives

1. Time for Claim. Record owners of real property seeking relief under this section shall file with the Board a claim application for density incentives or density credits. The application may be filed at any time provided, that all applications be filed in accordance with the requirements of this section.

2. Contents of Claim. The applicant is responsible for submitting a complete and accurate application. Such application shall include, at a minimum:

a. Completed master application and/or any required supplement sheets signed by the record owner of the property;

b. A map drawn to scale, showing the following information:

i. Name, address and telephone number of the property owner(s),

ii. Name, address and telephone number of the preparer of the application,

iii. Date of submittal,

iv. Property boundary lines,

v. A legal description of the property,

vi. A description of the nature, size and location of the critical area located on the property, as determined by a qualified specialist,

vii. All existing and/or public and private roads, sewer and water lines, wells, county utilities, easements, water courses, lakes, springs, drainage facilities, on-site sewage disposal drainfield areas, on and within 100 feet of the property boundaries,

viii. The boundaries of all lands reserved in the deeds for the common uses of the property owners,

ix. All other information identified by the Director during the pre-application conference.

3. Director's Action. When the application is complete, the Director shall determine whether all or part of the property is in fact subject to any critical area regulations in this chapter. The Director shall forward his/her findings to the Board.

4. Board Decision. Within 30 days of receipt of the Director's findings, the Board shall make the final determination on whether all or part of the property is subject to this chapter. For density incentive applications, the Board shall approve requested density transfers subject to its final approval of a planned unit development.

19.15.090 Critical Areas Determination and Permitting. All persons proposing development activities in critical areas or associated buffers shall first obtain a critical area determination and, if required a critical area permit pursuant to this chapter, except as exempted in CCC 19.15.070.

A. Coordination with Other Permits. To avoid duplication, the county shall coordinate the information required by this section with the assessments and requirements for other associated permits.

B. Critical Area Determination

1. Submittal. Prior to the county's consideration of any proposed development activity not found to be exempt under CCC 19.15.070, Exemptions, the applicant shall apply to the department for a critical areas determination on forms provided by the county.

2. Determination Review. As part of this review, the county shall:

a. Verify the information submitted by the applicant;

b. Evaluate the project area and adjacent vicinity for critical areas utilizing one or more of the following:

i. In-house mapping as identified in CCC 19.15.110, Critical Area Inventory Maps;

ii. Conduct a site visit to review critical area conditions if staff cannot determine the location of the critical area in relation to the proposed development activity based on in-house mapping;

iii. Information and scientific opinions from appropriate agencies, including but not limited to the Washington State departments of Fish and Wildlife, Natural Resources, and Ecology;

iv. Documentation, from a scientific or other reasonable source, of the possible presence of a critical area; or

v. A finding by a qualified professional or a reasonable belief by the Director that a critical area may exist on or adjacent to the site of the proposed activity.

3. If the proposed project is within, adjacent to, or is likely to impact a critical area, the county shall:

a. Require a critical area assessment and/or report from the applicant that has been prepared by a qualified professional;

b. Review and evaluate the critical area assessment and/or report;

c. Determine whether the development proposal conforms to the purposes and performance standards of this Title;

d. Assess the potential impacts to the critical area and determine if they can be avoided or minimized; and

e. Determine if any mitigation proposed by the applicant is sufficient to protect the functions and values of the critical area and public health, safety, and welfare concerns consistent with the goals, purposes, objectives, and requirements of this Title.

4. Director's Determination Subject to Reconsideration. A determination regarding the apparent absence of one or more critical areas by the Director is not an expert certification regarding the presence of critical areas and the determination is subject to possible reconsideration and reopening if new information is received. If the applicant wants greater assurance of the accuracy of the critical area review determination, the applicant may choose to hire a qualified professional to provide such assurances.

C. Re-evaluation of a Critical Areas Determination

1. A property owner may request a re-evaluation by the Department once in any 12-month period when a change in physical conditions or government institutional actions warrants such re-evaluation.

D. Dispute of a Critical Areas Determination

1. A property owner may appeal the determination made by the Director to the Hearings Examiner per the requirements in CCC 19.15.200, Appeals.

E. Critical Areas Permit. A critical areas permit is required if it is determined that the proposed alteration or development is located within a critical area or associated buffer.

1. Submittal. The applicant shall apply to the department for a critical areas permit on forms provided by the county.

2. Critical Area Assessments. The applicant shall be required to submit assessments as appropriate for the applicable Critical Area(s) found in the Critical Area Determination. The assessment shall be prepared in accordance with the minimum requirements listed below and with the additional assessment requirements listed for each applicable critical area type found in this chapter.

The Critical Area Assessment(s) shall be adequate for the Director to evaluate the development proposal and all potential adverse impacts to critical areas regulated by this chapter, unless the Director finds that such technical assessments are not necessary for the reason that adequate factual information already exists at the disposal of the Director to facilitate such evaluation. The county shall provide or advise the applicant of any existing technical information that may be pertinent to their property. Technical assessments shall be attached to or incorporated into any environmental checklist required for the proposal.

The assessment(s) shall include:

a. A site plan drawn to scale. The site plan should accurately show the following information:
    i. North arrow;
    ii. Property line dimensions;
    iii. Locations and dimensions of all existing and proposed development or alterations, including structures, public and private roads, sewer and water lines, wells, utilities, easements, water sources, lakes and springs, drainage and stormwater facilities, on-site sewage disposal and drainfield areas, within the property boundary;

b. The names of the persons preparing the assessment and conducting any field work and the date of any fieldwork performed on the site;

c. A statement specifying the accuracy of the report, and all assumptions made and relied upon;

d. An assessment of the probable cumulative impacts to critical areas resulting from development of the site and the proposed development;

e. An analysis of site development alternatives including a no development alternative;

f. A Mitigation Plan, as needed, to offset any impacts, in accordance with Mitigation Plan Requirements [CCC 19.15.170];

g. A discussion of the performance standards applicable to the critical area and proposed activity; and

h. Any additional information required for the critical area as specified in the corresponding chapter.

i. In the event that an applicant chooses to submit a second Critical Areas Assessment, the second assessment must address the conclusions and recommendations made by the first assessment. The Director may choose to incorporate conclusions and recommendations from one or both of the assessments.

F. Fees. Fees, in the amount established by the Board of County Commissioners, shall be paid to the Department when an application for a critical areas determination and permit is filed.

G. Professional Qualifications and County Review. All critical area assessments and studies required of the applicant by this chapter shall be prepared by the applicant or a qualified professional as required in the corresponding critical area sections. The Director's decision to require additional studies or third party review will be based on the complexity of the project and/or a site inspection.

H. Comments. The Department shall have the option of soliciting comments and technical assistance on the critical areas permit application from resource agencies; these agencies shall have 30 days to respond.

I. Permit Action. The Director may approve, approve with modifications and/or conditions, or deny a critical areas permit. Any notification of approval shall include the conditions, modifications and restrictions regarding the location, character, and other features of the proposed development the Director finds necessary to make the proposal compatible with the purposes and standards of this chapter. Prior to

notification of approval, approval with conditions/modifications, or denial, the decision maker(s) shall make findings that:

1. Confirm the nature and type of the critical area;

2. Determine if a proposed alteration to a critical area meets the standards contained in this chapter;

3. Determine if the proposal protects the critical area functions and values consistent with the best available science and results in no net loss of critical area functions and values; and

4. Determine if the assurances for the mitigation proposed by the applicant are sufficient to protect the critical area consistent with this chapter.

J. Permit Duration. Permitted development must be complete within five (5) years. Permits may be extended for one (1) year at the discretion of the Director. Permits run with the land.

19.15.100 Relationship to Other Regulations. Areas characterized by a particular critical area may also be subject to other regulations due to the overlap of multiple functions of critical areas. In the event of any conflict between these regulations and any other regulations of the county, such as, but not limited to, CCC 19.20, Shoreline Management, and CCC 19.11, Environmental Policy, and the Federal Clean Water Act, the regulations which provide the greater protection for critical areas shall apply with the exception of incentive options. No permit granted pursuant to this chapter shall remove applicant's obligation to comply in all respects with the applicable provision of any other federal, state or local law or regulation.

19.15.110 Critical Area Inventory Maps. The approximate location and extent of critical areas and lands within the county planning area are shown on the maps adopted as part of this chapter. These maps are based on the best available information and are intended for use as a general guide for the assistance of property owners and as information for the public. Boundaries are generalized; field investigation and analysis by a qualified expert may be required to confirm the existence, location and proper classification of a critical area. The county will update information and resource material as it becomes available. These maps are to be used as a guide for the county, project applicants, and/or property owners, and may be updated as new critical areas are identified. They are a reference and do not provide a final critical area designation. Field investigation of site-specific conditions and definitions in this ordinance will be used to corroborate mapped information.

Table 19.15-B. Summary of Map Sources	
Topic	**Map/Data Source**
Geologically Hazardous Area	1. Department of Natural Resources Landslide Study 2006 – Digital Landslide Inventory, Cowlitz County, WA, as amended. Wegman, 2006 (I-5 corridor study) 2. Geologic Hazard Map of Cowlitz County, Cowlitz-Wahkiakum Council of Governments, 1993 3. Soil Conservation Service, Cowlitz Area Soil Survey, 1974, or as amended 4. Liquefaction Susceptibility and Site Class Maps of Cowlitz County, Open File Report 2004-20, Washington State Department of Natural Resources 5. Cowlitz County Digital Maps of areas with 30% or greater slope 6. Mount St. Helens Flowage-Hazard Zones Map, 1995 USGS, electronic adaptation by Cowlitz County
Frequently Flooded Areas	7. FEMA, National Flood Insurance Program, Flood Insurance Rate Maps
Critical Aquifer Recharge Areas	8. Soil Conservation Service, Cowlitz Area Soil Survey, 1974, or as amended
Wetlands	9. Cowlitz County Wetlands Map, Cowlitz-Wahkiakum Council of Governments, 1993 Source: Hydric Soils, USDA, Soil Conservation Service 10. National Wetlands Inventory Maps, US Department of Interior, Fish and Wildlife Service, as amended
Fish and Wildlife Habitat Conservation Areas	11. Priority Habitat and Species Maps, Washington Department of Wildlife, 2006, or as amended 12. Washington State Department of Natural Resources, Official Water Type Reference maps, or as amended 13. Washington Department of Natural Resources Natural Heritage Program mapping data 14. Anadromous and resident salmonid distribution maps, Priority Habitat and Species Maps, Washington Department of Wildlife, 2006, or as amended 15. Washington State Department of Natural Resources State Natural Area Preserves and Natural Resource Conservation Areas maps