

EXHIBIT A
Chapter 18.10 Critical Areas

Sections:

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18.10.010 Introduction. The purpose of this Chapter is to identify critical areas to help preserve the natural environment, maintain fish and wildlife habitat, and protect drinking water, and to supplement the City's development regulations governing land use.

- A. All development activities including new uses of land and buildings, changes of use, as well as new construction and the modification of existing buildings, structures, and infrastructure must comply with all provisions of this Chapter, Title, and City of Castle Rock Critical Areas Ordinance Manual Standard Specifications & Drawings, as well as all other applicable provisions of local, state, and federal law, unless specifically exempted.
- B. Critical areas subject to the provisions of this Chapter include:
 - 1. Critical aquifer recharge areas.
 - 2. Special flood hazard (frequently flooded) areas.
 - 3. Geologic hazard areas.
 - 4. Wetlands.
 - 5. Fish and wildlife habitat conservation areas.
- C. The following activities may be determined by the City to be exempt from the provisions of this Chapter:
 - 1. Emergency actions necessary to prevent an immediate threat to life, or to public health, safety, or welfare, or that pose an immediate risk of damage to private structures or improvements and that require remedial or preventative action in a time frame too short to allow for compliance with the procedural requirements of this Chapter.

- a. Emergency actions that create an impact on a critical area or its buffer shall be limited to those actions that are required to address the emergency and generally are limited to the actions necessary to remove the immediate threat. Additional actions to permanently address a deficiency generally do not qualify as emergency actions and require full compliance with the procedural requirements of this chapter. Emergency actions should be carried out in a manner that has the least feasible impact on the critical area or its buffer.
 - b. The person or agency undertaking emergency action shall notify the City within five working days following commencement of the emergency activity. Within 30 days, the City shall determine if the action taken was within the scope of the emergency actions allowed in this subsection. If the City determines that the action taken, or any part of the action taken, was beyond the scope of an allowed emergency action, then enforcement actions may be initiated.
 - c. After the emergency, the person or agency undertaking the action shall submit a critical area report assessing effects on critical areas and conduct necessary restoration and/or mitigation for any impacts to the critical area and buffers resulting from the emergency action in accordance with an approved critical area report and mitigation plan. The person or agency undertaking the action shall apply for all approvals required by this Chapter. Restoration and/or mitigation activities must be initiated within 180 days of the date of the emergency, unless an extension is approved by the City, and completed in a timely manner.
2. Maintenance, operation and/or repair of rights-of-way, trails, roads, utilities, buildings and other facilities within critical areas and buffers. provided, that the activity does not further alter, impact, or encroach upon the sensitive area or buffer or further affect the functions of sensitive areas, and there is no increased risk to life, property, or the environment, as a result of the proposed operation, maintenance, or repair.
 3. Maintenance of existing, lawfully established landscaping and gardens within a regulated critical area or its buffer, including but not limited to mowing lawns, weeding, removal of noxious and invasive species, harvesting and replanting of garden crops, pruning and planting of ornamental vegetation or indigenous native species to maintain the condition and appearance of such areas as they existed prior to adoption of this code. provided, that native growth protection areas, mitigation sites, or other areas protected via conservation easements or similar restrictive covenants are not covered by this exception.
 4. Maintenance, repair or replacement of an existing legal, nonconforming structure that does not immediately, or is not likely in the future to further alter or increase the impact to the sensitive area or buffer and results in no increased risk to life, property, or the environment, as a result of the proposed modification or replacement, or reconstruction of unintentionally damaged nonconforming structures provided structures are not expanded or reconstructed for a new use.

5. Replacement, modification, installation, or construction of utility facilities, lines, pipes, mains, equipment, or appurtenances, not including substations, when such facilities are located within the existing improved portion of the public right-of-way (road surface, shoulder, sidewalks, and slopes) or the improved portion of City-authorized private roadway. provided, that no fill or discharge occurs outside the existing improved area and with appropriate best management practices to control erosion, sedimentation and other potential impacts. Excluded is work within a water body or wetland, including but not limited to culverts or bridge replacement or construction.
6. Utility projects that have minor or short-duration impacts to critical areas and buffers, as determined by the City in accordance with the criteria below, and which do not significantly impact the functions or values of a sensitive area(s). provided, that such projects are constructed with best management practices and appropriate restoration measures are provided. These activities shall not result in the transport of sediment or increased stormwater, or adversely affect health, property, or the environment. Such allowed minor utility projects shall meet the following criteria:
 - a. There is no practical or feasible alternative to the proposed activity with less impact on sensitive areas.
 - b. The activity involves the placement of a utility pole, street signs, anchor, or vault or other small component of a utility facility. and
 - c. The activity involves disturbance of less than 200 square feet of the sensitive area and/or buffer, exclusive of any equipment and/or vehicles needed to perform the activity.
7. Low impact activities such as hiking, canoeing, nature study, photography, fishing, education or scientific research.
8. Public and private pedestrian trails, provided that:
 - a. The trail surface does not exceed six feet in width.
 - b. The trail surface consists of uncompacted gravel or pervious materials, including boardwalks.
 - c. The trail meets all other City, state, and federal requirements, including state water quality standards. and
 - d. Sensitive area and/or buffer widths may be increased, where possible, equal to the width of the trail corridor, including disturbed areas.
9. The following non-aquatic vegetation removal activities:

- a. The removal of the noxious weed species designated by Washington State or the local weed control authority with hand labor and light equipment, or other invasive species.
 - b. The removal of hazard trees from sensitive areas and buffers that are posing a threat to public safety, or an imminent risk of damage to a permanent structure.
10. Minor site investigative work necessary for land use submittals, such as surveys, soil logs, percolation tests, and other related activities, where such activities do not require construction of new roads, removal of native trees or shrubs, or displacement of more than five cubic yards of material. Investigations involving displacement of more than five cubic yards of material, including geotechnical soil borings, groundwater monitoring wells, percolation tests, and similar activities shall require submittal of specific plans and restoration plans to the City prior to commencement of any activity. In every case, impacts to the sensitive area shall be minimized and disturbed areas shall be immediately restored. No activity shall commence or occur without City written approval.
11. The application of herbicides, pesticides, fungicides, organic or mineral-derived fertilizers, or other hazardous or potentially hazardous substances, if necessary, provided that their use shall be conducted in accordance with applicable local, state and federal law.
12. Activities undertaken to comply with a United States Environmental Protection Agency superfund related order, or a Washington Department of Ecology order pursuant to the Model Toxics Control Act that specifically preempts local regulations in the findings of the order.
13. Project and facilities for restoration and enhancement of ecological functions of critical areas and related resources may be allowed within critical areas and buffers, upon City approval of a restoration and mitigation plan in accordance with the provisions of this Chapter, or for restoration or enhancement programs in an adopted shoreline restoration plan pursuant to Chapter 173-26 WAC, a watershed planning document prepared and adopted pursuant to Chapter 90.82 RCW, a watershed restoration project pursuant to RCW 89.08.460, a salmonid recovery plan, the salmon recovery board habitat project list, or identified by the Washington Department of Fish and Wildlife as essential for fish and wildlife habitat enhancement pursuant to RCW 77.55.290.
14. The repair and maintenance of drainage ditches.
15. The installation of individual service lines for agricultural purposes and to existing uses.
16. Reasonably necessary activities conducted by a public agency to control mosquitoes, pests, rodents, weeds, invasive species and the like.

17. Agricultural activities including farming, horticulture, normal maintenance and repair of irrigation delivery systems and drainage systems, ranching and grazing of animals and pest and weed control. This includes land lying idle under a government program, agricultural set-aside land and changes between agricultural activities.
18. Normal and routine maintenance of agricultural ponds, livestock watering ponds, and fishponds.
19. Intentional construction of artificial structures from upland areas for purposes of stormwater drainage or water quality control, grassy swales or ornamental landscape ponds, which are not a part of a critical mitigation plan and are consistent with the Stormwater Management Manual for Western Washington, as adopted and implemented by the City.
20. Normal dredging required to maintain flows and minimize flooding, provided that other applicable local, state, and federal permits are obtained.
21. Cases where a federal agency has jurisdictional control over a wetland and the City determines that those permit conditions would satisfy the requirements of this Chapter.

18.10.020 General Provisions.

- A. It shall be the responsibility of Property Owners and Project Sponsors to know and/or to identify the location of critical areas on and near their property and to comply with the provisions of this Chapter at all times.
 1. Property Owners and Project Sponsors that may be proposing development activities in proximity of critical areas are strongly encouraged to schedule and attend a conference with City staff to discuss the applicability of these regulations prior to preparing and submitting land use applications to the City.
 2. The City maintains public maps that may assist in the identification of critical areas.
 - a. It is the responsibility of the Property Owner/Project Sponsor to identify and map all critical areas on their property.
 - b. The presence of a critical area and/or its associated buffer on a parcel triggers the requirements of these regulations, regardless of whether a critical area or buffer is depicted on an official map.
 3. Reasonable access to the project site shall be provided to the City, state, and federal agency staff for the purpose of inspections and compliance review during any proposal review, restoration, emergency action, new construction, or monitoring period.
- B. These regulations shall apply in addition to the other applicable provisions of this Title, as well as applicable local, state, and federal regulations.

1. Compliance with the provisions of this Chapter does not necessarily constitute compliance with other federal, state, and local regulations and permit requirements that may be required (for example, Hydraulic Project Approvals permits, Army Corps of Engineers Section 404 permits, National Pollutant Discharge Elimination System permits).
 2. The Project Sponsor shall be responsible for obtaining all required permits and approvals before initiating any action.
- C. The City, when regulating uses, activities, and developments within or adjacent to, and likely to affect one or more critical areas, shall do so consistent with the best available science and the provisions of this Chapter.
1. The best available science is that scientific information applicable to the critical area prepared by local, state, or federal natural resource agencies, a qualified professional, or team of qualified professionals that is consistent with criteria established in WAC 365-195-900 through WAC 365-195-925.
 2. Nonscientific information may supplement scientific information, but it is not an adequate substitute for valid and available scientific information. Common sources of nonscientific information include anecdotal information, non-expert opinion and hearsay.
 3. Where there is an absence of valid scientific information or incomplete scientific information relating to a critical area leading to uncertainty about the risk to critical area function of permitting an alteration of or impact to the critical area, the City may:
 1. Take a "precautionary or a no-risk approach," that strictly limits development and land use activities until the uncertainty is sufficiently resolved. and/or
 2. Require application of an effective adaptive management program that relies on scientific methods to evaluate how well regulatory and nonregulatory actions protect the critical area. An adaptive management program is a formal and deliberate scientific approach to taking action and obtaining information in the face of uncertainty. An adaptive management program shall:
 - a. Address funding for the research component of the adaptive management program.
 - b. Change course based on the results and interpretation of new information that resolves uncertainties. and
 - c. Commit to the appropriate timeframe and scale necessary to reliably evaluate regulatory and nonregulatory actions affecting protection of critical areas. and anadromous fisheries.

D. Property Owners and Project Sponsors shall, when designing development activities that may affect geologic hazard areas, wetlands, and fish and wildlife habitat conservation areas, use the following measures, listed in priority order:

1. Avoid the adverse impact altogether by not taking a certain action or parts of an action or moving the proposed action.
2. Minimize adverse impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology and engineering, or by taking affirmative steps to avoid or reduce adverse impacts.
3. Rectify the adverse impact by repairing, rehabilitating or restoring the affected environment to the conditions existing at the time of the initiation of the project.
4. Reduce or eliminate the adverse impact over time by preservation and maintenance activities during the life of the action.
5. Compensate for the adverse impact by replacing, enhancing, or providing similar substitute resources or environments.
6. Monitor the impact for a reasonable period of time and taking appropriate corrective measures. and
7. Mitigate the adverse impact through a combination of measures.

E. Reasonable Use Exception

1. Project review: If the application of this title would deny all reasonable use of the subject property, the property owner may apply for an exception pursuant to this section. To qualify for an exception the applicant must demonstrate all of the following:
 - a. That no other reasonable use can be made of the property that will have a lesser adverse impact on the critical area and adjoining and neighboring lands;
 - b. That the proposed use does not pose a threat to the public health, safety or welfare;
 - c. Any alteration is the minimum necessary to allow reasonable use of the property; and,
 - d. The inability of the proponent to derive reasonable use of the property is not the result of actions by the applicant after the effective date of this chapter.
 - e. A request for a reasonable use exception shall be submitted to the City with the application materials for the particular development proposal. The application shall be supplemented with an explanation as to how the reasonable use exception criteria are satisfied. The City may require additional information or studies to supplement the reasonable use exception request.

- f. Where a request for a reasonable use exception is granted, impacts to critical areas and buffers shall be mitigated consistent with the purpose and standards of this Chapter to the greatest extent feasible.
 - g. A reasonable use exception shall be processed by the administrator.
- F. A Critical Area Authorization or Permit is required before any construction or development activity may be initiated on a site with an area that meets the criteria for designation as a Special Flood Hazard Area, Geologic Hazard Area, Wetland, or Fish and Wildlife Habitat Conservation Area(s) or their associated buffers.
 - 1. A Critical Area Authorization must be based on a written finding by the City that:
 - a. The proposed activity is exempt. or
 - b. The proposed activity only occurs outside of the critical area and the associated buffer. or
 - c. The City has adequate information to determine that the proposal will not have an adverse impact on the Critical Area. or
 - d. The proposed activity will not have an adverse impact on the critical area and otherwise complies with the provisions of this Section.
 - 2. A Critical Area Permit shall be based on the findings and recommendations contained in a Critical Area Report(s).
- G. In order to receive a required Critical Area Permit, Project Sponsors must prepare and submit for City review and approval a critical area report(s) in a format prescribed by the City
 - 1. The City shall determine the scope, content, and format for a Critical Area Report based on pre-application consultation with the Project Sponsor and his/her consultants, resource agencies, and qualified professionals.
 - a. Please contact the City Community Development Department or go to the City's website to get the most recent copy of the City of Castle Rock Critical Areas Ordinance Manual Standard Specifications & Drawings, August 18, 2021, or as subsequently amended, which includes the *Guidelines for preparing a Critical Area Report*.
 - b. Individual critical areas reports may be combined into a single comprehensive report, in a format approved by the City.
 - 2. Critical Area Reports shall be prepared by a qualified professional, as determined by the City.

- a. The cost of preparing required critical areas report(s) shall be borne by the Applicant/Project Sponsor.
 - b. The cost of a professional peer review of any required critical areas report, if required by the City, shall be borne by the Applicant/Project Sponsor.
 3. Critical Area Reports shall be submitted to the City in draft form for City review and comment. Following this review, the City shall notify the Applicant in writing:
 - a. That the report complies with City guidelines and that it may be submitted in final form.
 - b. That additional information is necessary and/or revisions must be made before the report can be accepted for processing, and that identifies the corrective actions that must be taken. or
 - c. That the report does not comply with City guidelines and that identifies the corrective actions that must be taken.
 4. Upon acceptance of the Critical Area Report(s), the City shall utilize the report to evaluate the proposed development activity and to establish conditions of approval. In addition, the City may require the Project Sponsor to:
 - a. Submit detailed construction plans and drawings prepared by a qualified professional necessary to implement mitigating measures and other conditions of approval.
 - b. Conduct or permit to be conducted on-going monitoring and evaluation.
 - c. Install protective fencing and signage.
 - d. Provide the City with financial guarantees. and
 - e. Comply with other such measures as may be necessary to comply with the provisions of the applicable local, state, and federal laws.
- G. Fencing and Signs of Critical Areas and Required Buffers. The City may require, as a condition of approval, that temporary or permanent fencing and signage may be installed to protect critical areas and their buffers from inappropriate uses, unauthorized development activities, intrusion, or accidental encroachment.
1. The outer perimeter of the critical area or buffer and the limits of those areas to be disturbed pursuant to an approved permit or authorization shall be marked in the field in such a way as to ensure that no unauthorized intrusion will occur and is subject to inspection by the City prior to the commencement of permitted activities. This

- temporary marking shall be maintained throughout construction and shall not be removed until permanent signs, if required, are in place.
2. Fencing installed as part of a proposed activity or as required in this Section shall be designed so as to not interfere with native species migration, including fish runs, and shall be constructed in a manner that minimizes impacts to critical areas and buffers.
- H. In order to inform subsequent purchasers of real property of the existence of critical areas, the owner of private property containing a critical area or buffer on which a development proposal has been approved, shall file a notice with the County Records and Elections Division, as directed by the City. The notice shall state the presence of the critical area or buffer on the property, the application of this Chapter to the property, and the fact that limitations on actions in or affecting the critical area or buffer may exist. The notice shall "run with the land."
- I. Any changes to the City of Castle Rock Critical Areas Ordinance Manual: Standard Specifications & Drawings, including changes to this chapter, CRMC 18.10 *Critical Areas*, requires a minimum of one (1) public comment period to ensure public participation and understanding of the changes suggested for the Ordinance and associated Manual.

18.10.030 Definitions.

For the purposes of this chapter, the following definitions shall apply unless the context clearly requires otherwise. It is further acknowledged that several of the following terms appear in other codes and those may be slightly different than those contained in this code.

“Agricultural activities (existing and ongoing)” means those activities conducted on lands defined in RCW 84.34.020(2), Open space, agricultural, timber lands – Current use – 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 bring an area into agricultural use 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, with the exception of forest practices, has been unattended for five years.

“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.

“Alluvium” means sand, clay, etc., gradually deposited by moving water, as along a riverbed, stream or shore of a lake.

“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.

“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 recharge area” means areas where water infiltrates the soil and percolates through it and surface rocks to the groundwater.

“Best available science” means scientific methodology that is the product of a valid scientific process. Such a process will have undergone peer review (see Appendix 18.10A), be replicable, contain logical conclusions and reasonable inferences, and be based on scientific research, inventories, surveys, assessments and/or statistical analysis conducted by a qualified scientific expert.

“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; (3) avoid adverse impacts to surface and groundwater quality, flow, and circulation patterns; and (4) avoid adverse impacts to the chemical, physical, and biological characteristics of a critical area.

"Critical areas" include 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. "Fish and wildlife habitat conservation areas" does not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of and are maintained by a port district or an irrigation district or company.

“Conservation easement” means an interest or right of use over a property, less than fee simple (means that the easement has been conveyed to the public by deed or other document, but the actual land stays with the original landowner), to protect, preserve, maintain, improve, restore, limit the future use of, or conserve for open space purposes any land or improvement on the land.

“Construction” means any act or process that requires a building or fill and grading permit, and/or that adds an addition onto an existing building or erects a new principal or accessory structure on a lot which is subject to the design standards for the district in which the property is located.

“Development” means a construction 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 CRMC 18.10.060.

“Enhancement” means actions performed to improve the condition or functions and values of an existing viable wetland or buffer, or fish and wildlife habitat area or buffer. Enhancement actions include but are not limited to increasing plant diversity, increasing fish and wildlife habitat, installing environmentally compatible erosion controls, and removing invasive plant species such as milfoil and loosestrife.

“ESA” means the Endangered Species Act, specifically Section (4)(d), Protective Regulations.

“Excavation” means the mechanical removal of earth material.

Existing and Ongoing Agricultural Activities. See “agricultural activities.”

“Filling” means the act of placing fill material (on any critical area) including temporary stockpiling of fill material.

“Fill material” means a deposit of earth or other natural or manmade material placed by artificial means.

“Fish,” as used in this chapter, refers to resident game fish; anadromous fish and specified salmonoids listed as endangered or threatened under the Federal Endangered Species Act, Section (4)(d), or the Washington State List of Threatened and Endangered Species.

"Fish and wildlife habitat conservation areas" are areas that serve a critical role in sustaining needed habitats and species for the functional integrity of the ecosystem, and which, if altered, may reduce the likelihood that the species will persist over the long term. These areas may include, but are not limited to, rare or vulnerable ecological systems, communities, and habitat or habitat elements including seasonal ranges, breeding habitat, winter range, and movement corridors; and areas with high relative population density or species richness. Counties and cities may also designate locally important habitats and species.

"Geologically hazardous areas" means areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns.

“Geologist” means a person who is licensed as a professional geologist in Washington State in accordance with Chapter 18.220 RCW.

“Geotechnical assessment” means an assessment prepared by a geotechnical engineer licensed by the state of Washington, which evaluates the site conditions and the effects of a proposal, and identifies mitigating measures to ensure that the risks associated with geologic hazards will be substantially reduced. See Appendix 18.10A.

“Geotechnical engineer (engineering geologist)” means a practicing geotechnical/civil engineer licensed as a professional civil engineer with the state of Washington, who is also licensed as a professional geologist in Washington State in accordance with Chapter 18.220 RCW.

“Geotechnical report” means a report prepared by a geotechnical engineer including a description of the site geology, conclusions, and recommendations regarding the effect of geologic conditions on the proposed development, opinions and recommendations of the adequacy of the site to be developed, the effects of groundwater interception and infiltration, seepage, potential slip planes, and changes in soil bearing strength, and the impacts of the proposed development and appropriate mitigating measures. See Appendix 18.10B.

“Grading” means an excavating and/or filling of the earth’s surface or combination thereof.

"Habitats of local importance" designated as fish and wildlife habitat conservation areas include those areas found to be locally important by counties and cities.

“Hydric soils” means soils which are wet long enough to periodically produce anaerobic (reduced oxygen) conditions, thereby influencing plant growth.

“Hydrogeologist” means a person who is licensed as a professional hydrogeologist in Washington State in accordance with Chapter 18.220 RCW.

“Hydrologic unit (watershed)” means an area of land above or upstream from a specific point on a stream, which is enclosed by a topographic divide (i.e., hillsides, mountains, cliffs, etc.) such that direct surface runoff from precipitation normally drains by gravity into the stream or the area above the specified point on a stream.

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

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

“Landslide” means abrupt downslope movement of a mass of soil or rock.

Landslide Hazard Area. See CRMC 18.10.150(C).

“Liquefaction” means a process in which soil loses strength, and behaves like a liquid.

“Mitigation” means compensating action designed to replace project-induced critical area losses or impacts, including, but not limited to, avoiding, minimizing, or compensating for adverse wetland impacts.

1. In-Kind Mitigation. Replacement of wetlands or surface water systems with substitute wetlands or surface water systems whose characteristics and functions and values closely approximate those destroyed or degraded by a regulated activity.

2. Out-of-Kind Mitigation. Replacement of surface water systems or wetlands with substitute surface water systems or wetlands whose characteristics do not closely approximate those destroyed or degraded by a regulated activity.

“Mitigation plan” means a plan that outlines the activities that will be undertaken to alleviate project impacts. The plan generally contains: a site and project description; an environmental assessment of the functions and values of the site that will be impacted; a description of the proposed mitigation; the goals and objectives of the proposed mitigation; the performance standards against which success will be measured; monitoring of and reporting on the success of the mitigation; and a contingency plan in case of failure.

“Noxious weeds” means any plant which, when established, is highly destructive, competitive, or difficult to control. The county maintains a noxious weed list.

“Open space” means land eligible for tax assessment at its current use value as authorized by Chapter 84.34 RCW.

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

“Priority habitat” means those habitat types or elements with a unique or significant value to a diverse assemblage of species. A priority habitat may consist of a unique vegetation type or dominant plant species, a described successional stage, or a specific structural element.

“Priority species” means fish and wildlife species requiring protective measures and/or management guidelines to ensure their perpetuation as determined by the Washington State

Department of Fish and Wildlife's Priority Habitats and Species List, as now exists or is hereafter amended.

“Qualified expert,” for the purposes of these regulations, means a person who has received a degree from an accredited college or university in a field necessary to identify and evaluate a particular critical area, and/or a person who is professionally trained, licensed and certified in such field(s). Areas of technical expertise shall generally be as follows: wetlands biology or ecology (for wetlands); stream and/or fisheries biology or ecology (for streams); wildlife biology or ecology (for critical habitat); or a licensed geologist, hydrogeologist or engineering geologist (most frequently referred to as a geotechnical engineer) for geologic hazard areas in accordance with Chapter 18.220 RCW. When a landscape or planting plan is required by these regulations, a qualified expert is one who has demonstrated expertise in the use of indigenous plant species, slope stabilization, and arboricultural practices. Professionals shall be required to demonstrate the basis for their qualifications, and submit copies of past reports that have been accepted by other jurisdictions on critical area permit applications. A demonstration of qualifications may include, but shall not be limited to, submission of a copy of professional certification, such as either a graduate certificate or state license.

In understanding wetland regulation it is important to distinguish between “biological,” “jurisdictional,” and “regulated” wetlands. (1) Biological wetland: A biological wetland is one that is determined (by a qualified expert) to have the physical, biological and chemical characteristics to be called a “wetland” [see definition of “wetland” in this section]; (2) Jurisdictional wetland: A jurisdictional wetland is one that a particular law has determined should be regulated by the provisions of the law. It may be the same as a biological wetland or it may represent a subset of biological wetlands. For example, the Shoreline Management Act has defined wetlands under its jurisdiction as being all wetlands associated with tidal waters and certain lakes and streams. Most freshwater wetlands in the state are not within the shorelines jurisdiction. The SMA definition further restricts jurisdictional wetlands by specifically excluding artificial wetlands intentionally created from nonwetland sites such as canals, farm ponds and landscape amenities. Thus, even though some of these areas may meet the above biological definition, the SMA would not regulate them; (3) Regulated wetland: While most jurisdictional wetlands are going to be regulated to some extent, there are always certain activities that are exempt from a given law. This results in some jurisdictional wetlands not being regulated. For example, a wetland may fall under SMA jurisdiction because it meets the specific criteria contained in the SMA wetland definition. However, if the wetland occurred in an area that had been historically farmed, a landowner could plow the wetland to plant a crop without having to get a shoreline permit because the activity is exempt. Thus, some people have been confused by the notion that an area may meet the above jurisdictional definition of a wetland, are delineated as such, and still be exempt from any regulation because of the particular activity proposed.

Resident Game Fish. “Game fish,” as described in the Washington Game Code, spend their life cycle in freshwater. Steelhead, Sea-Run Cutthroat and Dolly Varden trout are anadromous game fish and should not be confused with resident game fish.

“Restoration” means efforts performed to reestablish functional values and characteristics of a critical area that have been destroyed or degraded by past alterations (e.g., filling or grading).

“Riparian habitat area (RHA)” means an area adjacent to aquatic streams with flowing water (e.g., rivers, perennial or intermittent streams, seeps, springs) that contains elements of both aquatic and terrestrial ecosystems which mutually influence each other.

“Riparian zone” means the upland area immediately adjacent to and paralleling a body of water and is usually composed of trees, shrubs and other plants. Riparian functions include bank and channel stability, sustaining water supply, providing flood storage, retainment of woody debris, leaf litter, nutrients, sediment and pollutant filtering, while providing shade, shelter and other functions that are important to the survival of both fish and wildlife.

“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. Slopes 15 to 30 percent constitute areas of geologic concern. Slopes greater than 30 percent constitute potential areas of geological hazard.

“Soil with severe erosion hazard” means any soil type having a degree of hazard or limitation of severe or very severe according to Table 3 of the Soil Survey of Cowlitz County Area, Washington, issued February 1974 by the U.S. Department of Agriculture, Soil Conservation Service.

“Undisturbed buffer” means a protective area left in its natural state, except for any access and/or utility crossings approved by the city planner, between land development and a critical area.

“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.

"Wetland" or "wetlands" 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 may include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands.

“Wetland evaluation technique” means a technique for evaluating wetlands as described in the Washington State Department of Ecology Publication Nos. 99-115 and 99-116 titled Methods of Assessing Wetland Functions (see www.ecy.wa.gov).

“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.

14.70.040 Critical Aquifer Recharge Areas. Critical aquifer recharge areas (CARAs) are lands with prevailing geologic conditions associated with infiltration rates that create a high

potential for contamination of ground water resources or contribute significantly to the replenishment of ground water.

- A. The entire City of Castle Rock is hereby designated as a critical aquifer recharge area and the provisions of this Chapter shall apply to all proposed development activities unless specifically exempted, or otherwise provided.
 - 1. All uses and development activities shall comply with local, state, and federal laws and regulations to protect groundwater including, but not limited to the Washington Administrative Code Chapters 173-216, 173-218, 173-240, 173-303, 173-304, 173-360 and the US Clean Water Act.
 - 2. The City may require a critical area report prepared by a qualified professional and supported by best available science, to identify design features and best management practices necessary to protect the quality and quantity of groundwater.
 - 3. Uses and activities may only be permitted if the Project Sponsor can show that the proposed use or activity will not cause contaminants to enter local aquifers, adversely affect the recharging of the aquifer, or adversely affect the quantity or quality of groundwater.

18.10.050 Special Flood Hazard Areas.

- A. All Special Flood Hazard Areas in the City of Castle Rock, as determined by utilizing data obtained from the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps (FIRM) are subject to the provisions of this Section. Special Flood Hazard Areas are subject to inundation by 1-percent-annual chance flood, and shall include Zones A, AE, A1-30, AH, AO, AR, and A99.
- B. No development activities or new uses may be permitted on sites with designated Special Flood Hazard Areas without a Critical Areas Authorization or Permit in accordance with the provisions of this Chapter, including but not limited to, Chapter 18.10.020. For information on how to prepare a required special flood hazard report please refer to the Guidelines for Preparing Special Flood Hazard Area Reports section of the City of Castle Rock Critical Areas Ordinance Manual Standard Specifications & Drawings, August 18, 2021, or as subsequently amended.
- C. All proposed development activities and new uses on sites with designated Special Flood Hazard Areas must comply with FEMA regulations and standards. Please note that federal flood insurance purchase requirements apply in these zones.

18.10.060 Geologic Hazard Areas. The purpose of these regulations is to maintain the integrity of designated geologic hazard areas and their buffers in order to protect adjacent lands from the impacts of landslides, mudslides, subsidence, excessive erosion and seismic events, and to safeguard the public from these threats to life or property.

- A. Geologic hazard areas in the City of Castle Rock shall include those areas that are susceptible to one or more of the following types of hazards:
 - 1. Erosion hazard.
 - 2. Landslide hazard.
 - 3. Seismic hazard. or
 - 4. Other geological events including, mass wasting, debris flows, rock falls, and differential settlement.

- B. No development activities or new uses may be permitted on sites with areas that meet the criteria for designation as a Geologic Hazard Area or an associated buffer without a Critical Areas Authorization or Permit in accordance with the provisions of this Chapter, including but not limited to, Chapter 18.10.020.
 - 1. The City may waive or reduce engineering study and design requirements in geologic hazard areas for:
 - a. Additions or alterations to existing structures that do not increase occupancy or significantly affect the risk of structural damage or injury. or
 - b. New buildings that are not dwelling units or used as places of employment or public assembly and do not pose a significant threat to a dwelling unit(s) or places of employment or public assembly.
 - 2. For more information on how to identify geologic hazard areas and the standards to protect them, please refer to the Standards for Identifying and Protecting Geologic Hazard Areas section of the City of Castle Rock Critical Areas Ordinance Manual Standard Specifications & Drawings, August 18, 2021, or as subsequently amended.
 - 3. For information on how to prepare the required Geologic Hazard Area Report please refer to the Guidelines for Preparing Geologic Hazard Area Reports section of the City of Castle Rock Critical Areas Ordinance Manual Standard Specifications & Drawings, August 18, 2021, or as subsequently amended.

18.10.070 Wetlands. Wetlands are 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 non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway.

Wetlands may include those artificial wetlands intentionally created from non-wetland areas created to mitigate conversion of wetlands.

- A. All areas within the City of Castle Rock meeting the wetland designation criteria in the approved federal wetland delineation manual and applicable regional supplements, as amended, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this Chapter.
 1. Wetlands shall be rated according to the Washington Department of Ecology Wetland Rating System, as set forth in the Washington State Wetland Rating System for Western Washington: 2014 Update (Ecology Publication #14-06007), or as revised. Wetland delineations are valid for five (5) years after such date the City shall determine whether a revision or additional assessment is necessary.
 2. A buffer area shall be established for all designated wetlands to protect the function and values of the wetland.
- B. No development activities or new uses may be permitted on sites that meet the criteria for designation as a wetland or an associated buffer without a Critical Areas Authorization or Critical Areas Permit in accordance with the provisions of this Chapter, including but not limited to, Chapter 18.10.020.
 1. The following uses and activities may be permitted by the City in wetlands through a Critical Areas Authorization:
 - a. Conservation or preservation of soil, water, vegetation, fish, and other wildlife that does not entail changing the structure, or functions of the existing wetland.
 - b. 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, or alteration of the wetland by changing existing topography, water conditions or water sources.
 - c. Recreational and educational activities.
 - d. Research.
 - e. Drilling for utilities under a wetland provided that the drilling does not interrupt the ground water connection to the wetland or percolation of surface water down through the soil column. The City may require the Project Sponsor to submit a special study prepared by a qualified professional to determine whether the ground water connection to the wetland or percolation of surface water down through the soil column is disturbed prior to any drilling or drilling associated activities.
 - f. Enhancement of a wetland through the removal of non-native invasive species. Weeding shall be restricted to hand removal and weed material shall be removed

from the site. Bare areas that remain after weed removal shall be re-vegetated with native shrubs and trees at natural densities. Some hand seeding may also be done over the bare areas with native plants.

2. For more information on the rating of wetlands as well as the criteria and standards for classifications and establishing buffer areas, please refer to the Standards for Classifying and Protecting Wetlands section of the City of Castle Rock Critical Areas Ordinance Manual Standard Specifications & Drawings, August 18, 2021, or as subsequently amended.
3. For more information on how to prepare a required Wetlands Report please refer to the Guidelines for Preparing a Wetlands Report section of the City of Castle Rock Critical Areas Ordinance Manual Standard Specifications & Drawings, August 18, 2021, or as subsequently amended.

18.10.080 Fish and Wildlife Habitat Conservation Areas.

- A. All areas within the city meeting one or more of the following criteria, regardless of any formal designation, are hereby designated Fish and wildlife habitat conservation areas and are subject to the critical area provisions of this Chapter:
 1. Areas where state or federal designated endangered, threatened, and sensitive species have a primary association.
 - a. Federal designated endangered and threatened species are those fish, wildlife, and plant species identified by the U.S. Fish and Wildlife Service and the National Marine Fisheries Service that are in danger of extinction or threatened to become endangered.
 - b. State designated endangered, threatened, and sensitive species are those fish, wildlife and plant species native to the State of Washington identified by the state Department of Fish and Wildlife, that are in danger of extinction, threatened to become endangered, vulnerable, or declining and are likely to become endangered or threatened in a significant portion of their range within the state without cooperative management or removal of threats. State designated endangered, threatened, and sensitive species are periodically recorded in WAC 232-12-014 (state endangered species), and WAC 232-12-011 (state threatened and sensitive species).
 2. Priority habitats and species identified by the state Department of Fish and Wildlife. Priority species require protective measures for their perpetuation due to their population status, sensitivity to habitat alteration, and/or recreational, commercial, or tribal importance. Priority habitats are those habitat types or elements with unique or significant value to a diverse assemblage of species. A priority habitat may consist of a unique vegetation type or dominant plant species, a described successional stage, or a specific structural element.

3. Habitats and species of local importance as identified by the City, including those that possess unusual or unique habitat warranting protection because of qualitative species diversity or habitat system health indicators.
 4. Naturally occurring ponds are those ponds under 20 acres and their submerged aquatic beds that provide native fish or wildlife habitat, including those artificial ponds intentionally created from dry areas in order to mitigate impacts to ponds. Naturally occurring ponds do not include ponds deliberately designed and created from dry sites, such as canals, detention facilities, wastewater treatment facilities, farm ponds, temporary construction ponds, and landscape amenities, unless such artificial ponds were intentionally created for mitigation.
 5. Waters of the state includes lakes, rivers, ponds, streams, inland waters, underground waters, and all other surface waters and watercourses within the jurisdiction of the State of Washington, as classified in WAC 222-16-031.
 6. Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity.
 7. Natural area preserves, and natural resource conservation areas are defined, established, and managed by the Washington State Department of Natural Resources.
 8. Streams shall be designated in accordance with the Washington State Department of Natural Resources (DNR) stream type as provided in WAC 222-16-030. Streams are further categorized according to Ecosystem Diagnosis and Treatment (EDT)/Snake River Salmon Recovery Plan priority protection reaches.
 9. Areas of rare plant species and high-quality ecosystems that are identified by the Washington State Department of Natural Resources through the Natural Heritage Program.
- B. No development activities or new or modified uses may be permitted on sites that meet the criteria for designation as a Fish and wildlife habitat conservation area or an associated buffer without a Critical Areas Authorization or Permit in accordance with the provisions of this Chapter, including but not limited to, Chapter 18.10.020.
1. For information on the standards for identifying and protecting Fish and wildlife habitat conservation areas please refer to the Standards for Classifying and Protecting Fish and wildlife habitat conservation areas section of the City of Castle Rock Critical Areas Ordinance Manual Standard Specifications & Drawings, August 18, 2021, or as subsequently amended.
 2. For information on how to prepare the required critical areas report for development activities on sites meeting the criteria of designation as a Fish and Wildlife Habitat Area, please refer to the Guidelines for Classifying and Protecting Fish and wildlife

habitat conservation areas section of the City of Castle Rock Critical Areas Ordinance Manual Standard Specifications & Drawings, August 18, 2021, or as subsequently amended.

18.10.090 Enforcement.

- A. When a critical area or its buffer has been altered in violation of this Chapter, the City shall have the authority to issue a stop work order to cease all development activities, and order restoration, rehabilitation, replacement, or where determined appropriate, mitigation measures at the owner's or other responsible party's expense to compensate for violation of provisions of this Chapter and other applicable City codes.
1. All development work shall remain stopped until a restoration and/or mitigation plan is prepared at the Project Sponsor's expense and approved by the City. The plan must be prepared by a qualified professional and shall describe how the actions proposed meet the minimum requirements of this Section.
 2. The City may, at the violator's expense, seek expert advice in determining the adequacy of the plan.
 3. Inadequate plans shall be returned to the violator for revision and resubmittal, with a written explanation regarding any deficiencies and/or additional information that may need to be submitted.
 4. Any work recommenced shall be done in accordance with the approved restoration/mitigation plan.
 5. For alterations to frequently flooded areas, wetlands, and habitat conservation areas the following minimum performance standards shall be met for the restoration of a critical area to the condition and state pre-existing the violation provided that if the violator can demonstrate in a restoration/mitigation plan that greater functional and habitat values can be obtained, these standards may be modified by the City:
 - a. The function and values of the affected area shall be restored, including water volumes, quality and wildlife habitat.
 - b. The soil types and configuration shall be replicated.
 - c. The critical area and buffers shall be replanted with native vegetation that replicates the vegetation typically found on the site in species types, sizes, and densities.
 6. For alterations to flood and geological hazards, the following minimum performance standards shall be met for the restoration of a critical area, provided that, if the violator can demonstrate that greater safety can be obtained, these standards may be modified:

- a. The hazard shall be reduced to a level equal to, or less than, the pre-development hazard.
 - b. Any risk of personal injury resulting from the alteration shall be eliminated or minimized. and
 - c. The hazard area and any buffers shall be replanted with native vegetation sufficient to minimize the hazard.
- B. Representatives of the City are authorized to make site inspections and take such actions as are necessary to enforce this Chapter. The authorized representatives shall present proper credentials and make a reasonable effort to contact any property owner before entering onto private property.

Any violation of this Chapter shall be enforced in accordance with the provisions of the Castle Rock Municipal Code. Any person, party, firm, corporation, or other legal entity convicted of violating any of the provisions of this Chapter shall be subject to civil or criminal penalties. Each day or portion of a day during which a violation of this Chapter is committed or continued shall constitute a separate offense. Any development carried out contrary to the provisions of this Chapter shall constitute a public nuisance in accordance with the provisions of CPMC 8.24 and may be enjoined as provided by the statutes of the State of Washington.