

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE: Adoption of Ordinance No. 324, amending the Procedures and Administration for the Critical Areas
DEPARTMENT: Planning and Development Services
PRESENTED BY: Anna Kolousek, Assistant Director

PROBLEM/ISSUE STATEMENT:

The Planning Commission held public hearings to review changes to the critical areas administration and procedures on March 6, March 20, April 3 and April 17, 2003 and recommend adoption of the proposed changes.

On May 5, 2003 Council reviewed the recommended changes and on May 12, 2003 will hold a public hearing on draft Ordinance No. 324.

FINANCIAL IMPACT:

The Washington State Department of Community, Trade and Economic Development awarded the City of Shoreline a grant of \$42,000 to update the Development Code environmental procedures and regulations. The review of remaining regulations is budgeted as part of the coordinated strategy for the compliance with state mandates.

RECOMMENDATION

Adopt Ordinance 324 with Exhibit A.

ATTACHMENT: Ordinance 324 with Exhibit A

Approved By:

City Manager

City Attorney

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ORDINANCE NO. 324

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON AMENDING THE DEVELOPMENT CODE TO FURTHER CLARIFY AND ADD ADMINISTRATION AND PROCEDURES FOR CRITICAL AREAS INCLUDING AMENDING SHORELINE MUNICIPAL CODE CHAPTERS 20.10, 20.20, 20.30, AND 20.80.

WHEREAS, the City adopted Shoreline Municipal Code Title 20, the Development Code, on June 12, 2000; and

WHEREAS, the City has completed a review of its development regulations in accordance with the Washington State Growth Management Act (GMA), RCW36.70A.130, which states "Each comprehensive land use plan and development regulations shall be subject to continuing review and evaluation by the county or city that adopted them"; and

WHEREAS, the Planning Commission developed a recommendation on the amendments; and

WHEREAS, a public participation process was conducted to develop and review amendments to the Development Code, Critical Areas procedures including:

- A public comment period was advertised from February 19, 2003 to March 5, 2003.
- The proposed amendments were available for review and comment at the Planning and Development Services Department, Shoreline and Richmond Beach Libraries and the East and West Side Neighborhood Police Centers.
- The Planning Commission held a Public Hearings on the proposed amendments on March 6, March 20, April 3, and April 17, 2003 and formulated its recommendation to Council on the proposed amendments on April 17, 2003; and

WHEREAS, the City Council conducted a Public Hearing on May 12, 2003 to review the Planning Commission recommendation on the proposed amendments; and

WHEREAS, the proposed amendments were submitted to the State Department of Community Development for comment pursuant WAC 365-195-820; and

WHEREAS, the Council finds that the amendments adopted by this ordinance are consistent with and implement the Shoreline Comprehensive Plan and comply with the adoption requirements of the Growth Management Act, Chapter 36.70A. RCW; and

WHEREAS, the Council finds that the amendments adopted by this ordinance meet the criteria in Title 20 for adoption of amendments to the Development Code;

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SHORELINE,
WASHINGTON DO ORDAIN AS FOLLOWS:**

Section 1. Amendment. Shoreline Municipal Code Chapters 20.10, 20.20, 20.30, and 20.80 are amended as set forth in Exhibit A, which is attached hereto and incorporated herein.

Section 2. Severability. Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be preempted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 3. Effective Date and Publication. A summary of this ordinance consisting of the title shall be published in the official newspaper and the ordinance shall take effect five days after publication.

PASSED BY THE CITY COUNCIL ON MAY 12, 2003.

Mayor Scott Jepsen

ATTEST:

APPROVED AS TO FORM:

Sharon Mattioli, CMC
City Clerk

Ian Sievers
City Attorney

Date of Publication: May 15, 2003
Effective Date: May 20, 2003

Chapter 20.10

General Provisions

20.10.020 Purpose.

It is the purpose of this Code to:

- Promote the public health, safety, and general welfare;
- Guide the development of the City consistent with the Comprehensive Plan;
- Carry out the goals and policies of the Comprehensive Plan by the provisions specified in the Code;
- Provide regulations and standards that lessen congestion on the streets;
- Encourage high standards of development;
- Prevent the overcrowding of land;
- Provide adequate light and air;
- Avoid excessive concentration of population;
- Facilitate adequate provisions for transportation, utilities, schools, parks, and other public needs.
- Encourage productive and enjoyable harmony between man and his environment;
- Promote efforts which will prevent or eliminate damage to the environment and biosphere;
- ~~Enrich the understanding of~~ Protect the functions and values of ecological systems and natural resources important to the ~~public~~ State and nation; and
- Encourage attractive, quality construction to enhance City beautification.

(Ord. 238 Ch. I § 2, 2000).

20.10.040 Scope.

- A. Hereafter, ~~no development, no building or structure shall be erected, demolished, remodeled, reconstructed, altered, enlarged, or relocated~~ shall occur except in compliance with the provisions of this Code and then only after securing all required permits and licenses.
- B. Any building, structure, or use lawfully existing at the time of passage of this title, although not in compliance therewith, may be maintained as provided in Chapter 20.30 SMC, Subchapter 5, Nonconforming Uses and Structures. (Ord. 238 Ch. I § 4, 2000).
- C. Nonproject development and land use actions, including but not limited to rezones, annexations, and the adoption of plans and programs, shall comply with the provisions of this Code.

20.10.050 Roles and responsibilities.

The elected officials, appointed commissions, Hearing Examiner, and City staff share the roles and responsibilities for carrying out the provisions of the Code.

The City Council is responsible for establishing policy and legislation affecting land use within the City. The City Council acts on recommendations of the Planning Commission or Hearing Examiner in legislative and quasi-judicial matters.

The Planning Commission is the designated planning agency for the City as specified by State law. The Planning Commission is responsible for a variety of discretionary recommendations to the City Council on land use legislation, Comprehensive Plan amendments and quasi-judicial matters. The Planning Commission duties and responsibilities are specified in the bylaws duly adopted by the Planning Commission.

The Hearing Examiner is responsible for quasi-judicial decisions designated by this Title and the review of administrative appeals.

The Director shall have the authority to administer the provisions of this Code, to make determinations with regard to the applicability of the regulations, to interpret unclear provisions, to require additional information to determine the level of detail and appropriate methodologies for required analysis, to prepare application and informational materials as required, to promulgate procedures and rules for unique circumstances not anticipated within the standards and procedures contained within this Code, and to enforce requirements.

The rules and procedures for proceedings before the Hearing Examiner, Planning Commission, and City Council are adopted by resolution and available from the City Clerk's office and the Department. (Ord. 238 Ch. I § 5, 2000).

Chapter 20.20

Definitions

| | |
|------------------------|--|
| Development | The division of a parcel of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any mining, clearing, or grading; excavation, landfill, or land disturbance; <u>changes to surface or ground waters;</u> or and any use, change of use or extension of the use of land. |
| Building Footprint | The horizontal area of the ground encompassed by the exterior outline of a building. |
| Qualified Professional | A person with experience and training in the pertinent discipline. A qualified professional must have obtained a B.S. or B.A. or equivalent degree in a related field, and must be licensed to practice in the state of Washington in the related professional field, if such field is licensed. |
| Utility | Persons or p Private or municipal corporations owning or operating, or proposing to own or operate facilities, that comprise a system or systems for public service. <u>Private utilities include those gas, electric, telecommunications, or water companies that are subject to the jurisdiction of the state Utilities and Transportation Commission and that have not been classified as competitive by the commission.</u> |

Chapter 20.30

Procedures and Administration

20.30.040 Ministerial decisions – Type A.

These decisions are based on compliance with specific, nondiscretionary and/or technical standards that are clearly enumerated. These decisions are made by the Director and are exempt from notice requirements.

However, permit applications, including certain categories of building permits, and permits for projects which may impact critical areas that require a SEPA threshold determination, are subject to public notice requirements specified in Table 20.30.050 for SEPA threshold determination.

All permit review procedures and all applicable regulations and standards apply to all Type A actions. The decisions made by the Director under Type A actions shall be final. The Director's decision shall be based upon findings that the application conforms (or does not conform) to all applicable regulations and standards.

Table 20.30.040 – Summary of Type A Actions and Target Time Limits for Decision, and Appeal Authority

| Action Type | Target Time Limits for Decision | Section |
|---|---------------------------------|--|
| Type A: | | |
| 1. Accessory Dwelling Unit | 30 days | 20.40.120, 20.40.210 |
| 2. Lot Line Adjustment including Lot Merger | 30 days | 20.30.400 |
| 3. Building Permit | 120 days | All applicable standards |
| 4. Final Short Plat | 30 days | 20.30.450 |
| 5. Home Occupation, Bed and Breakfast, Boarding House | 120 days | 20.40.120, 20.40.250, 20.40.260, 20.40.400 |
| 6. Interpretation of Development Code | 15 days | 20.10.050, 20.10.060, 20.30.020 |
| 7. Right-of-Way Use | 30 days | 20.70.240 – 20.70.330 |
| 8. Shoreline Exemption Permit | 15 days | Shoreline Master Program |
| 9. Sign Permit | 30 days | 20.50.530 – 20.50.610 |

| | | |
|--|---------|-----------------------|
| 10. Site Development Permit | 30 days | 20.30.430 |
| 11. Variances from Engineering Standards | 30 days | 20.30.290 |
| 12. Temporary Use Permit | 15 days | 20.40.100, 20.40.540 |
| 13. Clearing and Grading Permit | 60 days | 20.50.290 – 20.50.370 |

An administrative appeal authority is not provided for Type A actions, except that any Type A action which is subject to a SEPA threshold determination not categorically exempt from environmental review under Chapter 43.21 RCW or for which environmental review has not been completed in connection with other project permits shall be appealable together with the SEPA threshold determination, as specified in Table 20.30.050.

20.30.050 Administrative decisions – Type B.

The Director makes these decisions based on standards and clearly identified criteria. A neighborhood meeting, conducted by the applicant, shall be required, prior to formal submittal of an application (as specified in SMC 20.30.090). The purpose of such meeting is to receive neighborhood input and suggestions prior to application submittal.

Type B decisions require that the Director issues a written report that sets forth a decision to approve, approve with modifications, or deny the application. The Director's report will also include the City's decision under any required SEPA review.

All Director's decisions made under Type B actions are appealable in an open record appeal hearing. Such hearing shall consolidate with any appeals of SEPA negative threshold determinations. SEPA determinations of significance are appealable in an open record appeal prior to the project decision.

All appeals shall be heard by the Hearing Examiner except appeals of shoreline substantial development permits, shoreline conditional use permits, and shoreline variances that shall be appealable to the State Shorelines Hearings Board.

Table 20.30.050 – Summary of Type B Actions, Notice Requirements, Target Time Limits for Decision, and Appeal Authority

| Action | Notice Requirements: Application and Decision (1), (2), (3) | Target Time Limits for Decision | Appeal Authority | Section |
|----------------------|--|---------------------------------|------------------|-----------|
| Type B: | | | | |
| 1. Binding Site Plan | Mail | 90 days | HE | 20.30.480 |

| | | | | |
|---|---------------------------------------|---------------------|---------------------------------|--------------------------|
| 2. Conditional Use Permit (CUP) | Mail, Post Site, Newspaper | 90 days | HE | 20.30.300 |
| 3. Preliminary Short Subdivision | Mail, Post Site, Newspaper | 90 days | HE | 20.30.410 |
| 4. SEPA Threshold Determination | Mail, Post Site, Newspaper | 60 days | HE | 20.30.490 – 20.30.710 |
| 5. Critical Areas Reasonable Use Permit | Mail, Post Site, Newspaper | 120 days | HE | 20.30.350 |
| 565. Shoreline Substantial Development Permit, Shoreline Variance and Shoreline CUP | Mail, Post Site, Newspaper | 120 days | State Shorelines Hearings Board | Shoreline Master Program |
| 676. Zoning Variances | Mail, Post Site, Newspaper | 90 days | HE | 20.30.310 |

Key: HE = Hearing Examiner

(1) Public hearing notification requirements are specified in SMC 20.30.120.

(2) Notice of application requirements are specified in SMC 20.30.120.

(3) Notice of decision requirements are specified in SMC 20.30.150.

(Ord. 299 § 1, 2002; Ord. 238 Ch. III § 3(b), 2000).

20.30.060 Quasi-judicial decisions – Type C.

These decisions are made by the City Council or the Hearing Examiner, as shown in Table 20.30.060, and involve the use of discretionary judgment in the review of each specific application.

Prior to submittal of an application for any Type C permit, the applicant shall conduct a neighborhood meeting to discuss the proposal and to receive neighborhood input as specified in SMC 20.30.090.

Type C decisions require findings, conclusions, an open record public hearing and recommendations prepared by the review authority for the final decision made by the City Council or Hearing Examiner. Any administrative appeal of a SEPA threshold determination shall be consolidated with the open record public hearing on the project permit, except a determination of significance, which is appealable under SMC 20.30.050.

There is no administrative appeal of Type C actions.

Table 20.30.060 – Summary of Type C Actions, Notice Requirements, Review Authority, Decision Making Authority, and Target Time Limits for Decisions

| Action | Notice Requirements for Application and Decision (5), (6) | Review Authority, Open Record Public Hearing (1) | Decision Making Authority (Public Meeting) | Target Time Limits for Decisions | Section |
|--|---|--|--|----------------------------------|-----------------------------------|
| Type C: | | | | | |
| 1. Preliminary Formal Subdivision | Mail, Post Site, Newspaper | PC (3) | City Council | 120 days | 20.30.410 |
| 2. Rezone of Property(2) and Zoning Map Change | Mail, Post Site, Newspaper | PC (3) | City Council | 120 days | 20.30.320 |
| 3. Special Use Permit (SUP) | Mail, Post Site, Newspaper | PC (3) | City Council | 120 days | 20.30.330 |
| 4. Critical Areas Special Use Permit | Mail, Post Site, Newspaper | HE (4) | HE (4) City Council | 120 days | 20.80.30.090 20.30.333 |
| 5. Critical Areas Reasonable Use Permit Approval | Mail, Post Site, Newspaper | HE (4) | HE (4) | 120 days | 20.80.120 20.30.336 |
| 6. Final Formal Plat | None | Review by the Director – no hearing | City Council | 30 days | 20.30.450 |

(1) Including consolidated SEPA threshold determination appeal.

(2) The rezone must be consistent with the adopted Comprehensive Plan.

(3) PC = Planning Commission

(4) HE = Hearing Examiner

(5) Notice of application requirements are specified in SMC 20.30.120.

(6) Notice of decision requirements are specified in SMC 20.30.150.

(Ord. 299 1, 2002; Ord. 238 Ch. III 3(c), 2000).

Table 20.30.060 – Summary of Type C Actions, Notice Requirements, Review Authority, Decision Making Authority, and Target Time Limits for Decisions

| Action | Notice Requirements for Application and Decision (5), (6) | Review Authority, Open Record Public Hearing (1) | Decision Making Authority (Public Meeting) | Target Time Limits for Decisions | Section |
|--|---|--|--|----------------------------------|-----------------------------------|
| Type C: | | | | | |
| 1. Preliminary Formal Subdivision | Mail, Post Site, Newspaper | PC (3) | City Council | 120 days | 20.30.410 |
| 2. Rezone of Property(2) and Zoning Map Change | Mail, Post Site, Newspaper | PC (3) | City Council | 120 days | 20.30.320 |
| 3. Special Use Permit (SUP) | Mail, Post Site, Newspaper | PC (3) | City Council | 120 days | 20.30.330 |
| 4. Critical Areas Special Use Permit | Mail, Post Site, Newspaper | HE (4) | HE (4) City Council | 120 days | 20.80.30.090 20.30.333 |
| 5. Critical Areas Reasonable Use Permit Approval | Mail, Post Site, Newspaper | HE (4) | HE (4) | 120 days | 20.80.120 20.30.336 |
| 6. Final Formal Plat | None | Review by the Director – no hearing | City Council | 30 days | 20.30.450 |

(1) Including consolidated SEPA threshold determination appeal.

(2) The rezone must be consistent with the adopted Comprehensive Plan.

(3) PC = Planning Commission

(4) HE = Hearing Examiner

(5) Notice of application requirements are specified in SMC 20.30.120.

(6) Notice of decision requirements are specified in SMC 20.30.150.

(Ord. 299 1, 2002; Ord. 238 Ch. III 3(c), 2000).

20.30.080 Preapplication meeting.

A preapplication meeting is required prior to submitting an application for any Type B or Type C action and/or for an application for a project located within a critical area or its buffer.

Applicants for development permits under Type A actions are encouraged to participate in preapplication meetings with the City. Preapplication meetings with staff provide an opportunity to discuss the proposal in general terms, identify the applicable City requirements and the project review process.

Preapplication meetings are required prior to the neighborhood meeting.

The Director shall specify submittal requirements for preapplication meetings. Plans presented at the preapplication meeting are nonbinding and do not "vest" an application. (Ord. 238 Ch. III § 4(a), 2000).

20.30.110 Determination of completeness.

A. An application shall be determined complete when:

1. It meets the procedural requirements of the City of Shoreline;
2. All information required in specified submittal requirements for the application has been provided, and is sufficient for processing the application, even though additional information may be required. The City may, at its discretion and at the applicant's expense, retain a qualified professional to review and confirm the applicant's reports, studies and plans.

B. Within 28 days of receiving a permit application for Type A, B and/or C applications, the City shall mail a written determination to the applicant stating whether the application is complete, or incomplete and specifying what is necessary to make the application complete. If the Department fails to provide a determination of completeness, the application shall be deemed complete on the twenty-ninth day after submittal.

C. If the applicant fails to provide the required information within 90 days of the date of the written notice that the application is incomplete, or a request for additional information is made, the application shall be deemed null and void. The applicant may request a refund of the application fee minus the City's cost of processing.

D. The determination of completeness shall not preclude the City from requesting additional information or studies if new information is required or substantial changes are made to the proposed action. (Ord. 238 Ch. III § 4(d), 2000).

20.30.310 Zoning variance (Type B action).

A. Purpose. A zoning variance is a mechanism by which the City may grant relief from the zoning provisions and standards of the Code, where practical difficulty renders compliance with the Code an unnecessary hardship.

B. Decision Criteria. A variance shall be granted by the City, only if the applicant demonstrates all of the following:

1. The variance is necessary because of the unique size, shape, topography, or location of the subject property;
2. The strict enforcement of the provisions of this title creates an unnecessary hardship to the property owner;
3. The subject property is deprived, by provisions of this title, of rights and privileges enjoyed by other properties in the vicinity and under an identical zone;
4. The need for the variance is not the result of deliberate actions of the applicant or property owner, including any past owner of the same property;
5. The variance is compatible with the Comprehensive Plan;
6. The variance does not create a health or safety hazard;
7. The granting of the variance will not be materially detrimental to the public welfare or injurious to:
 - a. The property or improvements in the vicinity, or
 - b. The zone in which the subject property is located;
8. The variance does not relieve an applicant from:
 - a. Any of the procedural or administrative provisions of this title, or
 - b. Any standard or provision that specifically states that no variance from such standard or provision is permitted, or
 - c. Use or building restrictions, or
 - d. Any provisions of the critical areas development standard overlay district requirements, except for the required buffer widths;
9. The variance from setback or height requirements does not infringe upon or interfere with easement or covenant rights or responsibilities;
10. The variance does not allow the establishment of a use that is not otherwise permitted in the zone in which the proposal is located; or
11. The variance is the minimum necessary to grant relief to the applicant. (Ord. 238 Ch. III § 7(c), 2000).

20.80.090-20.30.333 Critical areas special use permit (Type C action).

A. Purpose. The purpose of the critical areas special use permit is to allow development by a public agency or utility when ~~if the strict application of the critical areas standards is chapter would otherwise unreasonably prohibit the provisiona development of public services.~~ proposal by a private applicant, public agency or public utility, the applicant, agency or utility may apply for a special use permit pursuant to this section. Applications for a critical area special use permit shall be considered a Type C application.

A. The applicant, public agency or utility shall apply to the Department and shall make available to the Department all related project documents such as permit applications to other agencies, special studies and SEPA documents. The Department shall prepare a recommendation to the Hearing Examiner.

B. Decision Criteria. A critical areas special use permit shall be granted by the City only if the applicant demonstrates that: ~~The Hearing Examiner shall review the application and conduct a public hearing. The Hearing Examiner shall make a recommendation to the City Council based on the following criteria:~~

1. That tThe application of the critical areas development standards, Chapter 20.80 SMC, would unreasonably restrict the ability of the public agency or utility to provide services to the public; and proposed special use is in the public benefit;

2. There are is no other practical alternatives to the proposed development which proposal by the public agency or utility that would cause less impact on the critical area; and

3. The proposal minimizes the impact on identified critical areas based on the implementation of adaptive management plans.

3. The proposed development does not create a health or safety hazard on or off the development site, will not be materially detrimental to the property or improvements in the vicinity; and

4. This special use permit process shall not allow the use of the following critical areas for regional retention/detention facilities except where the Hearing Examiner makes a finding that the facility is necessary to protect public health and safety or repair damaged natural resources:

a. Type I streams or buffers;

b. Type I wetlands or buffers with plant associations of infrequent occurrence; or

c. Type I or II wetlands or buffers which provide critical or outstanding habitat for herons, raptors or State or Federal designated endangered or threatened species unless clearly demonstrated by the applicant, using best available science, that there will be no impact on such habitat. (Ord. 238 Ch. VIII 1(I), 2000).

20.8030.120-336 Critical areas reasonable use -permit provision (Type C action).

- A. Purpose. The purpose of the critical areas reasonable use permit is to allow ~~The standards and requirements of these regulations are not intended, and shall not be construed or applied in a manner to deny all reasonable economic use development and use of private property when the strict application of the critical area standards would otherwise.~~ If an applicant demonstrates to the satisfaction of the Hearing Examiner that strict application of these standards would deny all reasonable economic use of a property, development may be permitted subject to appropriate conditions. Applications for reasonable use exemption shall be considered a Type C application.
- B. Decision Criteria. A reasonable use permit shall be granted by the City only if the applicant demonstrates that ~~To obtain relief from the strict application of these standards, an applicant shall demonstrate all of the following:~~
1. The application of the development standards would deny all reasonable use of the property; and
 2. There is ~~Nno~~ other reasonable use of the property with less impact on the critical area and the buffer is feasible or possible; and
 3. There are no feasible and reasonable on-site alternatives to the activities proposed, such as possible changes in site layout, reductions in density and similar factors; and
 3. Any alterations to the critical area would be the minimum necessary to allow for reasonable use of the property. ~~The proposed activities, as conditioned, will minimize to the greatest extent possible potential impacts to the affected critical areas; and~~
 4. The proposed development does not create a health or safety hazard on or off the development site, will not be materially detrimental to the property or improvements in the vicinity, is consistent with the general purposes of this Title and the public interest, and ~~A~~all reasonable mitigation measures have been implemented or assured; and
 5. ~~The inability to derive reasonable economic use is not the result of the applicant's actions. The purchase price of the property or other investment derived expectations shall not be construed to be an applicant's action.~~
 6. ~~The applicant must demonstrate that the use would not cause a hazard to life, health, or property. (Ord. 238 Ch. VIII 1(L), 2000).~~

C. Development standards. To allow for reasonable use of property and to minimize impacts on critical areas the -decision making authority may reduce setbacks by up to 50 percent, parking requirements by up to 50 percent, and may eliminate landscaping requirements. Such reductions shall be the minimum amount necessary to allow for reasonable use of the property, considering the character and scale of neighboring development.

D. Priority. When multiple critical areas may be impacted, the decision making authority should consider exceptions to critical areas standards that occur in the following order of priority and that result in the least overall impact:

1. Aquifer recharge areas;
2. Flood hazard areas;
3. Geologic hazard area buffers;
4. Wetland buffers;
5. Stream buffers;
6. Fish and wildlife habitat conservation area buffers; and
7. Geological hazard area, wetland, stream, and habitat area protection standards in the order listed above in items 3 through 6.

20.30.410 Preliminary subdivision review procedures and criteria.

The preliminary short subdivision may be referred to as a short plat – Type B action.

The preliminary formal subdivision may be referred to as long plat – Type C action.

Review criteria: The following criteria shall be used to review proposed subdivisions:

A. Environmental.

1. Where environmental resources exist, such as trees, streams, ravines or wildlife habitats, the proposal shall be designed to fully implement the goals, policies, procedures and standards of the critical areas overlay-district chapter, Chapter 20.80 SMC, Critical Areas Special Districts, and the tree conservation, land clearing and site grading standards sections.
2. The proposal shall be designed to minimize grading by using shared driveways and by relating street, house site and lot placement to the existing topography.
3. Where conditions exist which could be hazardous to the future residents of the land to be divided, or to nearby residents or property, such as, flood plains, steep slopes or unstable soil or geologic conditions, a subdivision of the hazardous land shall be

denied unless the condition can be permanently corrected, consistent with subsections (A)(1) and (2) of this section.

4. The proposal shall be designed to minimize off-site impacts, especially upon drainage and views.

B. Lot and Street Layout.

1. Lots shall be designed to contain a usable building area. If the building area would be difficult to develop, the lot shall be redesigned or eliminated, unless special conditions can be imposed that will ensure the lot is developed consistent with the standards of this Code and does not create nonconforming structures, uses or lots.
2. Lots shall not front on primary or secondary highways unless there is no other feasible access. Special access provisions, such as, shared driveways, turnarounds or frontage streets may be required to minimize traffic hazards.
3. Each lot shall meet the applicable dimensional requirements of the Code.
4. Pedestrian walks or bicycle paths shall be provided to serve schools, parks, public facilities, shorelines and streams where street access is not adequate.

C. Dedications.

1. The City Council may require dedication of land in the proposed subdivision for public use.
2. Only the City Council may approve a dedication of park land. The council may request a review and written recommendation from the Planning Commission.
3. Any approval of a subdivision shall be conditioned on appropriate dedication of land for streets, including those on the official street map and the preliminary plat.
4. Dedications to the City of Shoreline for the required right-of-way, stormwater facilities, open space, and easements and tracts may be required as a condition of approval.

D. Improvements.

1. Improvements which may be required, but are not limited to, streets, curbs, pedestrian walks and bicycle paths, critical area enhancements, sidewalks, street landscaping, water lines, sewage systems, drainage systems and underground utilities.
2. Improvements shall comply with the development standards of Chapter 20.60 SMC, Adequacy of Public Facilities.

Time limit: Approval of a preliminary formal subdivision or preliminary short subdivision shall expire and have no further validity at the end of three years of preliminary approval. (Ord. 299 § 1, 2002; Ord. 238 Ch. III § 8(f), 2000).

20.30.560 Categorical exemptions – Minor new construction.

The following types of construction shall be exempt, except when undertaken wholly or partly on lands covered by water, the proposal would alter the existing conditions within an ~~environmentally sensitive area~~ critical area or buffer, or a rezone or any license governing emissions to the air or discharges to water is required.

- A. The construction or location of any residential structures of four dwelling units.
- B. The construction of an office, school, commercial, recreational, service or storage building with 4,000 square feet of gross floor area, and with associated parking facilities designed for 20 automobiles.
- C. The construction of a parking lot designed for 20 automobiles.
- D. Any landfill or excavation of 500 cubic yards throughout the total lifetime of the fill or excavation; any fill or excavation classified as a Class I, II, or III forest practice under RCW 76.09.050 or regulations thereunder.

~~Chapter 20.850~~ ~~Special Districts~~

~~20.805.005 Purpose.~~

~~The purpose of this chapter is to establish specific standards, consistent with the Comprehensive Plan, for:~~

~~A. Critical areas;~~

~~B. Sub-area plans;~~

~~CB. Master plans for public facilities and institutions;~~

~~DC. Unique historical, cultural, and/or environmental resources;~~

~~The special districts shall be established by the legislative decision process, subject to the review and/or decisions criteria specified in SMC 20.30.350.~~

~~The special district shall establish regulations that in some way modify or supplement the zoning and use provisions (Chapter 20.40 SMC), the development standards (Chapter 20.50 SMC), and engineering/utility development standards (Chapter 20.70 SMC). (Ord. 238 Ch. VIII, 2000).~~

Chapter 20.80 Special Districts Critical Areas

Subchapter 1. Critical Areas — Administration General Provisions

20.80.010 Purpose.

- A. The purpose of this subchapter is to establish special supplemental standards for the protection of critical areas in compliance with the provisions of the Washington Growth Management Act of 1990 (Chapter 36.70A RCW) and consistent with the goals and policies of the Shoreline Comprehensive Plan in accordance with the procedures of Chapter 20.30 SMC and to supplement other requirements contained in the City of Shoreline Development Code for the purpose of regulating development of lands located within the critical area overlay district, based on the existence of critical areas as defined in this chapter.
- B. By identifying and regulating development and alterations to critical areas and their buffers it is the intent of this chapter to:
1. Protect the public from injury, loss of life, property damage or financial losses due to flooding, erosion, landslide, seismic events, soils subsidence or steep slope failure;
 2. Protect unique, fragile and valuable elements of the environment, ~~including streams, wetlands, fish and wildlife and fish and wildlife habitat;~~

3. Reduce cumulative adverse environmental impacts to water quality, wetlands, streams and other aquatic resources, fish and wildlife habitat, steep slopes and geologically unstable features;
4. Meet the requirements of the National Flood Insurance Program and maintain the City of Shoreline as an eligible community for Federal flood insurance benefits;
5. Ensure the long-term protection of ground and surface water quality;
6. Alert members of the public, including: appraisers, assessors, owners, potential buyers, or lessees, to the development limitations of critical areas and their required buffers;
7. ~~Provide standards, guidelines, and criteria to guide application of these critical areas overlay goals when considered with other goals and policies of the City of Shoreline Municipal Code and City of Shoreline Comprehensive Plan, including those pertaining to natural features and environmental protection;~~
87. Serve as a basis for exercise of the City's substantive authority under the State Environmental Policy Act (SEPA) and the City's Environmental Procedures (Chapter 20.30 SMC, Subchapter 8); and comply with the requirements of the Growth Management Act (Chapter 36.70A RCW) and its implementing rules; ~~and coordinate environmental review and permitting of proposals to avoid duplication and delay consistent with Chapter 36.70B RCW;~~
98. Establish standards and procedures that are intended to protect environmentally critical areas while accommodating the rights of property owners to use their property in a reasonable manner; and
109. Provide for the management of critical areas to maintain their functions and values and to restore degraded ecosystems. (Ord. 238 Ch. VIII 1(A), 2000).

~~20.80.020 Description.~~

~~The City of Shoreline hereby establishes a generalized critical areas overlay district which includes those lands, mapped and unmapped, as described in the following subchapters. Properties which contain one or more of the following established critical areas and their buffers shall be included within the critical areas overlay district for the City of Shoreline, and shall be subject to the requirements of the underlying zone classification and to the additional requirements imposed for the overlay district. In the case where the provisions for the overlay district conflict with the provisions of the underlying zone, the provision which provides the most protection for the natural environment shall apply. (Ord. 238 Ch. VIII 1(B), 2000).~~

~~20.80.030 Authority.~~

~~The Planning Director shall have the authority to administer the provisions of this chapter, to make determinations with regard to the applicability of the regulations, to interpret unclear provisions, to require additional information to determine the level of detail and appropriate methodologies for resource analysis, to prepare application and informational materials as required, to promulgate procedures and rules for unique circumstances not anticipated within the standards and procedures contained within this chapter, and to enforce requirements. (Ord. 238 Ch. VIII 1(C), 2000).~~

20.80.040-020 Critical areas maps.

- A. The approximate location and extent of identified critical areas within the City's planning area are shown on the critical areas maps adopted as part of this chapter (~~Comprehensive Plan Maps~~). These maps shall be used for informational purposes only to assist property owners and other interested parties. Boundaries and locations indicated on the maps are generalized. Critical areas and their buffers may occur within the City which have not previously been mapped.
- B. The actual presence or absence, type, extent, boundaries, and classification of critical areas shall be identified in the field by a qualified consultant, and determined by the City, according to the procedures, definitions and criteria established by this chapter. In the event of any conflict between the critical area location or designation shown on the City's maps and the criteria or standards of this chapter, the criteria and standards shall prevail.
- C. The critical areas maps shall be periodically updated by the City and shall reflect any permit activity, results of special studies and reports reviewed and approved by the City, amendments to the Comprehensive Plan Environmental Element and Department identified errors and corrections. (Ord. 238 Ch. VIII 1(D), 2000).

20.80.050 Applicability.

- ~~A. Unless explicitly exempted, the provisions of this chapter shall apply to all land uses and within all zoning designation in the City of Shoreline. All persons within the City shall comply with the requirements of this chapter.~~
- ~~B. The City shall not approve any permit or otherwise issue any authorization to alter the condition of any land, water or vegetation or to construct or alter any structure or improvement without first assuring compliance with the requirements of this chapter.~~
- ~~C. Approval of a development proposal pursuant to the provisions of this chapter does not discharge the obligation of the applicant to comply with the provisions of this chapter.~~
- ~~D. When any provisions of any other section of the City Code conflicts with this chapter or when the provisions of this chapter are in conflict, that provision which provides more protection to critical areas shall apply unless specifically provided otherwise in this chapter or unless such provision conflicts with Federal or State laws or regulations.~~
- ~~E. The provisions of this chapter shall apply to any forest practices over which the City has jurisdiction pursuant to Chapter 76.09 RCW and WAC Title 222. (Ord. 238 Ch. VIII 1(E), 2000).~~

20.80.060 Regulated activities.

- ~~A. The provisions of this chapter shall apply to any nonexempt activity that has a potential to impact a critical area or its established buffer. Such activities include but are not limited to:~~
 - ~~1. Removing, excavating, disturbing or dredging soil, sand, gravel, minerals, organic matter or materials of any kind;~~
 - ~~2. Dumping, discharging or filling with any material;~~

3. ~~Draining, flooding or disturbing the water level or water table;~~
 4. ~~Driving pilings or placing obstructions;~~
 5. ~~Constructing, reconstructing, demolishing or altering the size of any structure or infrastructure or the addition of any impervious surface coverage to a site located within a critical area or it's buffer, unless otherwise exempted;~~
 6. ~~Destroying or altering vegetation through clearing, grading, harvesting, shading or planting vegetation that would alter the character of a critical area, including tree cutting, brush clearing, pruning, and other methods of vegetation alteration;~~
 7. ~~Activities that result in significant changes in water temperature, and/or the physical or chemical characteristics of water sources, including water quantity and water quality; and~~
 8. ~~Any other activity that has a potential to impact a critical area or established buffer not otherwise exempt from the provisions of this chapter.~~
- B. ~~To avoid duplication, the following permit application, review and approvals shall be subject to, and coordinated with, the requirements of this chapter: clearing and grading; subdivision or short subdivision; building; conditional use; shoreline substantial development; variance; special use; binding site plan, and any other permits leading to the development or alteration of land.~~
- C. ~~Applications for nonproject action, including but not limited to rezones, annexations, and the adoption of plans and programs, may be required to, at the City's direction, perform studies or evaluations required by this chapter using methodologies and at a level of detail appropriate to the action proposed. (Ord. 238 Ch. VIII 1(F), 2000).~~

20.80.070-030 Exemptions.

The following activities shall be exempt from the provisions of this subchapter:

- A. Alterations in response to emergencies which threaten the public health, safety and welfare or which pose an imminent risk of damage to private property as long as any alteration undertaken pursuant to this subsection is reported to the City as soon as possible. Only the minimum intervention necessary to reduce the risk to public health, safety, or welfare and/or the imminent risk of damage to private property shall be authorized by this exemption. The City shall confirm that an emergency exists and determine what, if any, additional applications and/or measures shall be required to protect the environment consistent with the provisions of this chapter, and to repair any damage to a preexisting resource;
- B. Public water, electric and natural gas distribution, public sewer collection, cable communications, telephone, utility and related activities undertaken pursuant to City-approved best management practices, and best available science with regard to protection of threatened and endangered species, as follows:
 1. Normal and routine maintenance or repair of existing utility structures or rights-of-way;

2. Relocation of electric facilities, lines, equipment or appurtenances, not including substations, with an associated voltage of 55,000 volts or less, only when required by the City of Shoreline, which approves the new location of the facilities;
 3. Replacement, operation, repair, modification or installation or construction in an improved City road right-of-way or City authorized private roadway of all electric facilities, lines, equipment or appurtenances, not including substations, with an associated voltage of 55,000 volts or less;
 4. Relocation of public sewer local collection, public water local distribution, natural gas, cable communication or telephone facilities, lines, pipes, mains, equipment or appurtenances, only when required by the City of Shoreline, which approves the new location of the facilities; and
 5. Replacement, operation, repair, modification, relocations, installation or construction of public sewer local collection, public water local distribution, natural gas, cable communication or telephone facilities, lines, pipes, mains, equipment or appurtenances when such facilities are located within an improved public right-of-way or City authorized private roadway.
- C. Maintenance, operation, repair, modification or replacement of publicly improved roadways and associated stormwater drainage systems as long as any such alteration does not involve the expansion of roadways or related improvements into previously unimproved rights-of-way or portions of rights-of-way;
 - D. Maintenance, operation or repair of publicly improved recreation areas as long as any such activity does not involve the expansion of uses and/or facilities into a previously unimproved portion of a preexisting area. Maintenance, operation and repair of publicly improved recreation areas within designated fish and wildlife habitat areas shall be permitted if all activities are performed consistent with the development standards of this chapter, best available science or adaptive management plans as recognized by the City;
 - E. Activities involving artificially created wetlands or streams intentionally created from nonwetland sites, including but not limited to grass-lined swales, irrigation and drainage ditches, detention facilities and landscape features, except wetlands, streams or swales created as mitigation or that provide or contribute to critical habitat for salmonid fishes;
 - F. Activities affecting Type IV wetlands which are individually smaller than 1,000 square feet and/or cumulatively smaller than 2,500 square feet in size;
 - G. Activities occurring in areas which may be considered small steep slopes (areas of 40 percent slope or greater with a vertical elevation change of up to, but not greater than 20 feet), such as berms, retaining walls, excavations and small natural slopes, and activities on steep slopes created through prior legal grading activity may be exempted based upon City review of a soils report prepared by a qualified geologist or geotechnical engineer which demonstrates that no adverse impact will result from the exemption;
 - H. Site investigative work and studies necessary for preparing land use applications, including soils tests, water quality studies, wildlife studies and similar tests and

investigations; provided, that any disturbance of the critical area shall be the minimum necessary to carry out the work or studies;

- I. Educational activities, scientific research, and outdoor recreational activities, including but not limited to interpretive field trips, bird watching, and use of existing trails for horseback riding, bicycling and hiking, that will not have an adverse effect on the critical area;
- J. Normal and routine maintenance and operation of existing landscaping and gardens provided they comply with all other regulations in this chapter;
- K. Minor activities not mentioned above and determined by the City to have minimal impacts to a critical area;
- L. Notwithstanding the exemptions provided by this section, any otherwise exempt activities occurring in or near a critical area should meet the purpose and intent of SMC 20.80.010 and should consider on-site alternatives that avoid or minimize impacts. (Ord. 238 Ch. VIII 1(G), 2000).

20.80.080-040 Partial exemptions.

- A. The following are exempt from the provisions of this chapter except for the notice to title provisions and the flood hazard area provisions, if applicable.
 - 1. Structural modification of, addition to, or replacement of structures, except single detached residences, in existence before November 27, 1990, which do not meet the building setback or buffer requirements for wetlands, streams or steep slope hazard areas if the modification, addition, replacement or related activity does not increase the existing building footprint of the structure lying within the above-described building setback area, sensitive area or buffer;
 - 2. Structural modification of, addition to, or replacement of single detached residences in existence before November 27, 1990, which do not meet the building setback or buffer requirements for wetlands, streams or steep slope hazard areas if the modification, addition, replacement or related activity does not increase the existing footprint of the residence lying within the above-described buffer or building setback area by more than 750 square feet over that existing before November 27, 1990, and no portion of the modification, addition or replacement is located closer to the critical area or, if the existing residence is within the critical area, extend farther into the critical area; and
 - 3. Maintenance or repair of structures which do not meet the development standards of this chapter for landslide or seismic areas if the maintenance or repair does not increase the footprint of the structure and there is no increased risk to life or property as a result of the proposed maintenance or repair.
- B. A permit or approval sought as part of a development proposal for which multiple permits are required is exempt from the provisions of this chapter, except for the notice to title provisions, as applicable if:
 - 1. The City of Shoreline has previously reviewed all critical areas on the site; and

2. There is no material change in the development proposal since the prior review; and
3. There is no new information available which may alter previous critical area review of the site or a particular critical area; and
4. The permit or approval under which the prior review was conducted has not expired or, if no expiration date, no more than five years have lapsed since the issuance of that permit or approval; and
5. The site is not located within a critical fish and wildlife habitat area; and
6. The prior permit or approval, including any conditions, has been complied with. (Ord. 238 Ch. VIII 1(H), 2000).

~~20.80.090 Critical area special use permit.~~

~~If the application of this chapter would prohibit a development proposal by a private applicant, public agency or public utility, the applicant, agency or utility may apply for a special use permit pursuant to this section. Applications for a critical area special use permit shall be considered a Type C application.~~

- ~~A. The applicant, public agency or utility shall apply to the Department and shall make available to the Department all related project documents such as permit applications to other agencies, special studies and SEPA documents. The Department shall prepare a recommendation to the Hearing Examiner.~~
- ~~B. The Hearing Examiner shall review the application and conduct a public hearing. The Hearing Examiner shall make a recommendation to the City Council based on the following criteria:~~
 - ~~1. That the proposed special use is in the public benefit;~~
 - ~~2. There are no other practical alternatives to the proposed development which would cause less impact on the critical area; and~~
 - ~~3. The proposal minimizes the impact on identified critical areas based on the implementation of adaptive management plans.~~
 - ~~4. This special use permit process shall not allow the use of the following critical areas for regional retention/detention facilities except where the Hearing Examiner makes a finding that the facility is necessary to protect public health and safety or repair damaged natural resources:~~
 - ~~a. Type I streams or buffers;~~
 - ~~b. Type I wetlands or buffers with plant associations of infrequent occurrence; or~~
 - ~~c. Type I or II wetlands or buffers which provide critical or outstanding habitat for herons, raptors or State or Federal designated endangered or threatened species unless clearly demonstrated by the applicant, using best available science, that there will be no impact on such habitat. (Ord. 238 Ch. VIII 1(I), 2000).~~

20.80.100 Permit process and application requirements.

A. ~~Preapplication Conference.~~ All applicants are encouraged to meet with the City prior to submitting an application subject to this chapter. The purpose of this meeting shall be to discuss the City's critical area requirements, processes and procedures; to review any conceptual site plans prepared by the applicant; to identify potential impacts to critical areas and appropriate mitigation measures; and to generally inform the applicant of any Federal or State regulations applicable to the subject site. Such conference shall be for the convenience of the applicant and any recommendations shall not be binding on the applicant or the City.

B. ~~Critical Areas Checklist Required.~~ All applications for land use permits or approvals within the City of Shoreline shall include a completed, signed critical area checklist. The purpose of the critical areas checklist is to allow the Department to review applications to determine if critical area review is warranted or required. Applicants shall complete the critical areas checklist prior to any preapplication conference with the Department.

C. ~~Application Requirements:~~

1. ~~Timing of Submittals.~~ A critical area report must be submitted to the City for review, if applicable. The purpose of the report is to determine the extent, characteristics and functions of any critical areas located on or in close proximity to a site where regulated activities are proposed. The report will also be used by the City to assist in the determination of the appropriate critical area rating and establishment of appropriate buffer requirements in accordance with the appropriate critical area district overlay.

2. ~~Critical Areas Report Contents.~~ Reports and studies required by this chapter shall include all applicable information for each critical area as identified in submittal requirements see SMC 20.30.100.

D. ~~Consultant Qualifications and City Review.~~ All reports and studies required of the applicant by this chapter shall be prepared by a qualified consultant acceptable to the City as that term is defined in these regulations. The City may, at its discretion and at the applicant's expense, retain a qualified consultant to review and confirm the applicant's reports, studies and plans.

E. ~~Permit Process.~~ This chapter is not intended to create a separate critical areas permit process for development proposals. The City shall consolidate and integrate the review and processing of critical areas aspects of proposals with other land use and environmental considerations and approvals. (Ord. 238 Ch. VIII 1(J), 2000).

20.80.110 Relationship to other regulations.

A. ~~These critical area regulations shall apply as an overlay and in addition to zoning, land use and other regulations established by the City of Shoreline. In the event of any conflict between these regulations and any other regulations of the City, the regulations which provide greater protection to the environmentally critical areas shall apply.~~

- ~~B. Areas characterized by particular critical areas may also be subject to other regulations established by this chapter due to the overlap or multiple functions of some critical areas. Wetlands, for example, may be defined and regulated according to the provisions for fish and wildlife habitat conservation areas contained in this chapter, as well as provisions regulating wetlands. In the event of any conflict between regulations for particular critical areas in this chapter, the regulations which provide greater protection to environmentally critical areas shall apply. (Ord. 238 Ch. VIII 1(K), 2000).~~

~~20.80.120 Reasonable use provision.~~

- ~~A. The standards and requirements of these regulations are not intended, and shall not be construed or applied in a manner to deny all reasonable economic use of private property. If an applicant demonstrates to the satisfaction of the Hearing Examiner that strict application of these standards would deny all reasonable economic use of a property, development may be permitted subject to appropriate conditions. Applications for reasonable use exemption shall be considered a Type C application.~~
- ~~B. To obtain relief from the strict application of these standards, an applicant shall demonstrate all of the following:~~
- ~~1. No reasonable use with less impact on the critical area and the buffer is feasible or possible; and~~
 - ~~2. There are no feasible and reasonable on-site alternatives to the activities proposed, such as possible changes in site layout, reductions in density and similar factors; and~~
 - ~~3. The proposed activities, as conditioned, will minimize to the greatest extent possible potential impacts to the affected critical areas; and~~
 - ~~4. All reasonable mitigation measures have been implemented or assured; and~~
 - ~~5. The inability to derive reasonable economic use is not the result of the applicant's actions. The purchase price of the property or other investment derived expectations shall not be construed to be an applicant's action.~~
 - ~~6. The applicant must demonstrate that the use would not cause a hazard to life, health, or property. (Ord. 238 Ch. VIII 1(L), 2000).~~

~~20.80.130-050 Notice to title.~~

- ~~A. When development is permitted in an identified critical area which is comprised of a regulated critical area and its associated buffer, the area shall be placed either in a separate tract on which development is prohibited, protected by execution of an easement, dedicated to a conservation organization or land trust, or similarly preserved through a permanent protective mechanism acceptable to the City. The location and limitations associated with the critical area shall be shown on the face of the deed or plat applicable to the property and shall be recorded with the King County Department of Records.~~
- ~~B. Subdivisions, development agreements, and binding site plans which include critical areas or their buffers shall establish a separate tract (a critical areas tract) as a permanent protective measure. The plat or binding site plan for the project shall clearly depict the~~

critical areas tract, and shall include all of the subject critical area and any required buffer, as well as additional lands, as determined by the developer. Restrictions to development within the critical area tract shall be clearly noted on the plat or plan. Restrictions shall be consistent with this chapter for the entire critical area tract, including any additional areas included voluntarily by the Developer. Should the critical area tract include several types of critical areas the developer may wish to establish separate critical areas tracts. (Ord. 238 Ch. VIII 1(M), 2000).

20.80.140-060 Permanent field marking.

- A. All critical areas tracts, easements or dedications shall be clearly marked on the site using permanent markings, placed every 300 feet which include the following text:

This area has been identified as a <<INSERT TYPE OF CRITICAL AREA>> by the City of Shoreline. Activities, including clearing and grading, removal of vegetation, pruning, cutting of trees or shrubs, planting of nonnative species, and other alterations may be prohibited. Please contact the City of Shoreline Department of Development (206) 546-1811 for further information.

- B. It is the responsibility of the landowner to maintain and replace if necessary all permanent field markings. (Ord. 238 Ch. VIII 1(N), 2000).

20.80.150 Severability.

If any provision of these regulations or its application to any person or circumstance is held invalid by a court of competent jurisdiction, the remainder of these regulations or the application to other persons or circumstances shall not be affected. (Ord. 238 Ch. VIII 1(O), 2000).

Subchapter 2. Critical Areas Overlay District – General Development Standards

20.80.160-070 Alteration of critical areas.

Alteration of critical areas, including their established buffers, may only be permitted subject to the criteria in this chapter, and compliance with any Federal and/or State permits required. (Ord. 238 Ch. VIII 2(A), 2000).

20.80.170-080 Alteration or development of critical areas – Standards and criteria.

All impacts to critical areas functions and values shall be mitigated. Mitigation actions by an applicant or property owner shall occur in the following sequence:

- A. Avoiding the impact altogether by not taking a certain action or parts of actions;
- B. Minimizing impacts by limiting the degree or magnitude of the action and its implementation;
- C. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;

- D. Reducing or eliminating the impact over time through preservation and maintenance operations during the life of the action; and/or
- E. Compensating for the impact by replacing or providing substitute resources or environments. (Ord. 238 Ch. VIII 2(B), 2000).

20.80.180-090 Buffer areas.

The establishment of buffer areas shall be required for all development proposals and activities in or adjacent to critical areas. The purpose of the buffer shall be to protect the integrity, function, value and resource of the subject critical area, and/or to protect life, property and resources from risks associated with development on unstable or critical lands. Buffers shall consist of an undisturbed area of native vegetation established to achieve the purpose of the buffer. If the buffer area has previously been disturbed, it shall be revegetated pursuant to an approved planting plan. Buffers shall be protected during construction by placement of a temporary barricade if determined necessary by the City, on-site notice for construction crews of the presence of the critical area, and implementation of appropriate erosion and sedimentation controls. Restrictive covenants or conservation easements may be required to preserve and protect buffer areas. (Ord. 238 Ch. VIII 2(C), 2000).

~~20.80.190 Buffer width performance standards criteria.~~

~~Required buffers shall not deny all reasonable use of subject property. Modification of the buffer width requirements and use of the performance standards contained in this chapter may be allowed by the City upon the applicant conclusively demonstrating that:~~

- ~~A. There are special circumstances applicable to the subject property or to the intended use such as shape, topography, location or surroundings that does not apply generally to other properties which support the granting of a variance from the buffer width requirements; and~~
- ~~B. Such buffer width variance is necessary for the preservation and enjoyment of a substantial property right or use possessed by other similarly situated property but which because of special circumstances is denied to the property in question; and~~
- ~~C. The granting of a buffer width variance will not be materially detrimental to the public welfare or injurious to the property or improvement; and~~
- ~~D. The granting of a buffer width variance will not significantly impact the subject critical area.~~
- ~~E. The mitigation performance standards of the chapter have been met or exceeded. This may include enhancement, restoration or replacement of critical areas or buffers. (Ord. 238 Ch. VIII 2(D), 2000).~~

20.80.200-100 Classification and rating of critical areas.

To promote consistent application of the standards and requirements of this chapter, critical areas within the City of Shoreline shall be rated or classified according to their characteristics, function and value, and/or their sensitivity to disturbance. Classification of critical areas shall be determined by the City using the following tools:

- A. Application of the criteria contained in these regulations;
- B. Consideration of the technical reports submitted by qualified consultants in connection with applications subject to these regulations; and
- C. Review of maps adopted pursuant to this chapter. (Ord. 238 Ch. VIII 2(E), 2000).

Subchapter 32. Geologic Hazardous Areas

20.80.240 Alteration.

- A. The City shall approve, condition or deny proposals in a geologic hazard area as appropriate based upon the effective mitigation of risks posed to property, health and safety. The objective of mitigation measures shall be to render a site containing a critical geologic hazard as safe as one not containing such hazard. Conditions may include limitations of proposed uses, modification of density, alteration of site layout and other appropriate changes to the proposal. Where potential impacts cannot be effectively mitigated, or where the risk to public health, safety and welfare, public or private property, or important natural resources is significant notwithstanding mitigation, the proposal shall be denied.
- B. Class IV Landslide Hazard Areas. Development shall be prohibited in Class IV (very high) landslide hazards areas, except as for the installation and construction of streets and/or utilities, that have been granted by a critical areas special use permit or a critical areas reasonable use permit, consistent with the following criteria:
 - 1. ~~The proposed street and/or utility is identified in an adopted plan effective as of the date of adoption, such as the Comprehensive Plan, Capital Facility Plan, Capital Improvement Plan, Transportation Improvement Plan or other Utility Facility Plan. As new or amended plans are prepared and adopted, streets and utilities shall be located to avoid impact to Class IV landslide hazard areas. Where no reasonable alternative exists to locating the subject street or utility in a Class IV landslide hazard areas, review and approval of the plan shall include a discussion of other alternatives considered and the rationale for establishing streets and utilities in the subject Class IV landslide hazard areas.~~
 - 2. ~~Alternative locations, which avoid impact to Class IV landslide hazard areas have been evaluated and are determined to be economically or functionally infeasible.~~
 - 3. ~~A geotechnical evaluation to identify the risks of damage from the proposal, both on-site and off-site has been conducted, to ensure that the proposal will not increase the risk of occurrence of the potential geologic hazard; and to identify measures to eliminate or reduce preexisting risks.~~

~~4. When no alternative exists, the impact shall be minimized by limiting the magnitude of the proposed construction to the greatest extent possible. Any impacts shall be rectified by repairing, rehabilitating, restoring, replacing or providing substitute resources consistent with the mitigation and performance standards contained in this subchapter.~~

C. Type II, III, IV Landslide Hazards. Alterations proposed to Type II, III, and IV Landslide Hazards shall be evaluated by a qualified ~~consultant~~professional through the preparation of the geotechnical report. However, for proposals that include no development, construction, or impervious surfaces, the City, in its sole discretion, may waive the requirement for a geotechnical report. The recommendations contained within the geotechnical report shall be incorporated into the alteration of the landslide hazard area.

D. Critical Seismic Hazard Areas.

1. For one-story and two-story residential structures, a qualified ~~consultant~~professional shall conduct an evaluation of site response and liquefaction potential based on the performance of similar structures with similar foundation conditions; or
2. For all other proposals, the applicant shall conduct an evaluation of site response and liquefaction potential including sufficient subsurface exploration to determine the site coefficient for use in the static lateral force procedure described in the Uniform Building Code.

E. Erosion Hazard Areas.

1. Up to 1,500 square feet may be cleared on any lot in an erosion hazard area without a permit, unless the site also contains another type of critical area or any other threshold contained in SMC 20.50.320 would be exceeded.
2. All development proposals on sites containing erosion hazard areas shall include a temporary erosion and sediment control plan consistent with the requirements of the adopted surface water design manual and a revegetation plan to ensure permanent stabilization of the site. Specific requirements for revegetation plans shall be determined on a case-by-case basis during permit review and administrative guidelines shall be developed by the Department. Critical area revegetation plans may be combined with required landscape, tree retention, and/or other critical area mitigation plans as appropriate.
3. All subdivisions, short subdivisions or binding site plans on sites with erosion hazard areas shall comply with the following additional requirements:
 - a. Except as provided in this section, existing vegetation shall be retained on all lots until building permits are approved for development on individual lots;
 - b. If any vegetation on the lots is damaged or removed during construction of the subdivision infrastructure, the applicant shall be required to implement the revegetation plan in those areas that have been impacted prior to final inspection

of the site development permit or the issuance of any building permit for the subject property;

- c. Clearing of vegetation on individual lots may be allowed prior to building permit approval if the City of Shoreline determines that:
 - i. Such clearing is a necessary part of a large scale grading plan,
 - ii. It is not feasible to perform such grading on an individual lot basis, and
 - iii. Drainage from the graded area will meet water quality standards to be established by administrative rules.
4. Where the City of Shoreline determines that erosion from a development site poses a significant risk of damage to downstream receiving water, the applicant shall be required to provide regular monitoring of surface water discharge from the site. If the project does not meet water quality standards established by law or administrative rules, the City may suspend further development work on the site until such standards are met.
5. The City may require additional mitigation measures in erosion hazard areas, including, but not limited to, the restriction of major soil disturbing activities associated with site development between October 15th and April 15th to meet the stated purpose contained in SMC 20.80.010 and SMC 20.80.210.
6. The use of hazardous substances, pesticides and fertilizers in erosion hazard areas may be prohibited by the City of Shoreline.
- F. When development is permitted in geologic hazard areas by these regulations, an applicant and/or its qualified consultant professional shall provide assurances which include the following:
 1. A report from the geotechnical engineer and/or geologist who prepared the studies required by these regulations that the risk of damage from the proposal, both on-site and off-site, are minimal subject to the conditions set forth in the report, that the proposal will not increase the risk of occurrence of the potential geologic hazard, and that measures to eliminate or reduce risks have been incorporated into the report's recommendations; and
 2. A legal statement which shall be recorded and noted on the face of the deed or plat, executed in a form satisfactory to the City, that characterizes the site as being located within a geologic hazard area, and states that there may or may not be risks associated with the development of the site. In addition the provisions for permanent field marking (SMC 20.80.140) may apply; and

3. Posting of a bond, guarantee or other assurance device approved by the City to cover the cost of monitoring, maintenance and any necessary corrective actions. (Ord. 299 1, 2002; Ord. 238 Ch. VIII 3(D), 2000).

Subchapter 43. Fish and Wildlife Habitat Conservation Areas

20.80.290 Alteration.

- A. Alterations of fish and wildlife habitat conservation areas shall be avoided, ~~subject to the reasonable use provision section (SMC 20.80.120) or special use permit section (SMC 20.80.090).~~
- B. ~~Any proposed alterations permitted, consistent with special use or reasonable use review,~~ to fish and wildlife habitat conservation areas in accordance with SMC 20.30.333 or 20.30.336 shall require the preparation of a habitat management plan, consistent with the requirements of the Washington State Department of Fish and Wildlife Priority Habitat Program. The habitat management plan shall be prepared by a qualified ~~consultant~~ professional and reviewed and approved by the City. (Ord. 238 Ch. VIII 4(D), 2000).

Subchapter 54. Wetlands

20.80.340 Alteration.

- A. Type I Wetlands. Alterations of Type I wetlands shall be prohibited subject to the critical areas ~~reasonable use provisions permit and the critical areas special use permit provisions~~ of this ~~Title~~ chapter.
- B. Type II, III and IV Wetlands.
 1. Any proposed alteration and mitigation shall comply with the mitigation performance standards and requirements of these regulations; and
 2. No net loss of wetland function and value may occur; and
 3. Where enhancement or replacement is proposed, ratios shall comply with the requirements of this subchapter. (Ord. 238 Ch. VIII 5(D), 2000).