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## Article I. Definitions

### **14.20.005 Adjacent.**

“Adjacent” means any development proposal which includes a critical area or its buffer or any development proposal within 100 feet of a critical area. (Ord. 342 § 100.1, 1992)

### **14.20.010 Administrator.**

“Administrator” means the Forks planning director or other designee of the Forks city council. (Ord. 342 § 100.2, 1992)

**14.20.015 Agriculture.**

“Agriculture” means land primarily devoted to the commercial production of horticultural, viticultural, floricultural, dairy, vegetable or animal products or of berries, grain, hay, straw, turf, seed, Christmas trees not subject to the excise tax imposed by RCW [84.33.100](#) through [84.33.140](#), or livestock.

Agriculture shall also include the raising, harvesting and processing of fish and shellfish, which is also known as aquaculture. (Ord. 342 § 100.3, 1992)

**14.20.020 Alteration.**

“Alteration” means a human-induced action which changes the existing condition of a critical area. Alterations include but are not limited to grading; dredging; channelizing; cutting, clearing, relocating or removing vegetation; applying herbicides or pesticides or any hazardous or toxic substance; discharging pollutants; grazing domestic animals; modifying for surface water management purposes; or any other human activity that changes the existing vegetation, hydrology, wildlife or wildlife habitat. (Ord. 342 § 100.4, 1992)

**14.20.025 Applicant.**

“Applicant” means any person or business entity such as a corporation or a partnership which applies for a development proposal, permit or approval subject to review under this chapter. Applicant shall also mean any predecessor or any successor in interest involving the same or fundamentally the same individuals or entities. (Ord. 342 § 100.5, 1992)

**14.20.030 Aquifer.**

“Aquifer” means a saturated body of rock, sand, gravel or other geologic material that is capable of storing, transmitting, and yielding a sufficient quantity of water to a well. (Ord. 342 § 100.6, 1992)

**14.20.035 Aquifer recharge or aquifer recharge area.**

“Aquifer recharge” or “aquifer recharge area” means the process by which water is added to an aquifer. It may occur naturally by the percolation (infiltration) of surface water, precipitation, or snowmelt from the ground surface to a depth where the earth materials are saturated with water. Aquifer recharge can be augmented by “artificial” means through the addition of surface water (e.g., land application of wastewater or stormwater) or by the injection of water into the underground environment (e.g., drainfields and drywells). Aquifer recharge areas are those areas overlying the aquifer(s) where natural or artificial sources of water can move downward to an aquifer(s). Most areas are aquifer recharge areas. (Ord. 342 §

100.7, 1992)

**14.20.040 Aquifer susceptibility.**

“Aquifer susceptibility” means the ability of the natural system to transmit contaminants to and through the ground water system. (Ord. 342 § 100.8, 1992)

**14.20.045 Bank stabilization.**

“Bank stabilization” means a shoreline modification used for the purpose of retarding erosion, protecting channels or shorelines, and retaining uplands. (Ord. 342 § 100.9, 1992)

**14.20.046 Best available science (BAS)**

“Best available science” means current scientific information used in the process to designate, protect, or restore critical areas that is derived from a valid scientific process as defined by WAC 365-195-900 through 365-195-925. Sources of best available science are included in “Citations of Recommended Sources of Best Available Science for Designating and Protecting Critical Areas” published by the Washington State Department of Commerce.

**14.20.050 Best management practices.**

“Best management practices” means conservation practices or systems of practices and management measures that:

(1) Control soil loss and reduce water quality degradation caused by nutrients, bacteria, toxic substances, pesticides, oil and grease, and sediment; and

(2) Minimize adverse impacts to surface water and ground water flow, circulation patterns, and to the chemical, physical, and biological characteristics of critical areas. (Ord. 342 § 100.10, 1992)

**14.20.055 Biologist.**

“Biologist” means a person who has a minimum of a Bachelor of Science degree in biological sciences or related field from an accredited college or university and/or has four or more years’ experience as a practicing biologist. (Ord. 342 § 100.11, 1992)

**14.20.060 Buffer.**

“Buffer” means an area which provides the margin of safety through protection of bank and slope stability, attenuation of surface water flows and landslide hazards reasonably necessary to minimize risk to the public from loss of life or well-being or property damage resulting from natural disasters, or an area which is an integral part of a stream or wetland ecosystem and which provides shading, input of organic

debris and sediments, room for variation in stream or wetland boundaries, habitat for wildlife and protection from harmful intrusion necessary to protect the public from losses suffered when the functions and values of aquatic resources are degraded. (Ord. 342 § 100.12, 1992)

**14.20.065 Certificate of compliance.**

“Certificate of compliance” means a written determination by the review authority that a development proposal is in compliance with this chapter. A certificate of compliance may include project conditions or denials specifically to implement this chapter. (Ord. 342 § 100.13, 1992)

**14.20.070 Clearing.**

“Clearing” means the destruction, disturbance or removal of vegetation by physical, mechanical, chemical or any other means. (Ord. 342 § 100.14, 1992)

**14.20.075 Compensation.**

“Compensation” means replacement of project-induced critical area (e.g., wetland) losses of acreage or functions and includes, but is not limited to, restoration, creation, or enhancement. (Ord. 342 § 100.15, 1992)

**14.20.080 Creation.**

“Creation” means actions performed to intentionally establish a critical area at a site where it did not formerly exist. (Ord. 342 § 100.16, 1992)

**14.20.085 Critical aquifer recharge areas.**

“Critical aquifer recharge areas” means those land areas which contain hydrogeologic conditions which facilitate aquifer recharge and/or transmitting contaminants to an underlying aquifer. (Ord. 342 § 100.17, 1992)

**14.20.090 Critical areas.**

“Critical areas” include the following areas and ecosystems:

- (1) Wetlands;
- (2) Areas with a critical recharging effect on aquifers used for potable water;
- (3) Fish and wildlife habitat conservation areas;
- (4) Frequently flooded areas; and
- (5) Geologically hazardous areas. (Ord. 342 § 100.18, 1992)

**14.20.095 Critical facilities.**

“Critical facilities” means a facility for which even a slight chance of flooding or

destruction caused by a geologic hazard would be too great. They include but are not limited to schools, hospitals, police, fire, emergency response installation, nursing homes, installations which produce, use or store hazardous materials or hazardous waste, pipelines which transmit oil and gas, municipal water and sewer facilities, and regional transportation facilities, such as airports, ports, railroads and major highways. (Ord. 342 § 100.19, 1992)

**14.20.100 Critical habitat.**

“Critical habitat” means a term used by the federal government which refers to habitat necessary for the survival of endangered, threatened, and sensitive species. (Ord. 342 § 100.20, 1992)

**14.20.105 Development or development proposal.**

“Development” or “development proposal” means any of the activities relating to the use and/or development of land, including but not limited to: building permit, industrial, commercial or residential; binding site plan; franchise right-of-way construction permit; master plan development; planned unit development or planned recreational community; right-of-way access permit; shoreline permit; conditional use permit; special use permit; subdivision; short subdivision; utility or on-site sewage permit; the removal, excavation, grading, clearing, or dredging of soil, sand, gravel, minerals, organic matter, or material of any kind; the dumping, discharging, or filling with any material; the draining, flooding, or disturbing of the water table; the driving of pilings or the placing of obstructions; planting of vegetation (e.g., introduction of nonnative species) that would alter the character of the critical area; activities that result in adverse changes in water temperature or physical or chemical characteristics of critical area water sources; or any subsequently adopted permit or required approval not expressly exempted by this chapter. (Ord. 342 § 100.21, 1992)

**14.20.110 Development proposal site.**

“Development proposal site” means, for purposes of this chapter, the legal boundaries of the parcel or parcels of land on which an applicant has applied for authority from the city of Forks to carry out a development proposal. (Ord. 342 § 100.22, 1992)

**14.20.115 Easement or critical area protection easement.**

“Easement” or “critical area protection easement” means a limited protective easement granted to the city of Forks, or other organizations devoted to protection and management of the protected critical area, to enable the city of Forks to protect a critical area from use and development that is inconsistent with the purposes of this chapter. The easement must be duly recorded on appropriate

documents and filed with the Clallam County auditor. (Ord. 342 § 100.23, 1992)

**14.20.120 Education and scientific research.**

“Education and scientific research” means any education or scientific research activity unassociated

with a development proposal regulated under this chapter; provided, that the removal of plant and soil samples through nonmechanical means is allowed for education or scientific study unrelated to any future development proposal of the affected area; provided further, that such removal is not prohibited by any federal, state or local regulations. (Ord. 342 § 100.24, 1992)

**14.20.125 Enhancement.**

“Enhancement” means actions performed to improve the condition of existing degraded critical area (e.g., wetlands or streams) so that the functions they provide are of a higher quality. (Ord. 342 § 100.25, 1992)

**14.20.130 Erosion.**

“Erosion” means the process whereby the land surface is worn away by the action of water, wind, ice or other geologic agents and by processes such as gravitational creep or events such as landslides. Natural or geologic erosion occurs as an ongoing process that acts on all land surfaces to some degree. Human activities such as removing vegetation, increasing stormwater runoff or decreasing slope stability often accelerate or aggravate natural erosion processes. (Ord. 342 § 100.26, 1992)

**14.20.135 Excavation.**

“Excavation” means the removal of earth material. (Ord. 342 § 100.27, 1992)

**14.20.140 Existing and ongoing agriculture.**

“Existing and ongoing agriculture” includes those activities conducted on lands defined in RCW [84.34.020](#)(2) or defined as agriculture in this chapter (see FMC [14.20.015](#)), for example, the operation and maintenance of farm and stock ponds or drainage ditches, operation and maintenance of ditches, irrigation systems including irrigation laterals, canals, or irrigation drainage ditches, changes between agricultural activities, and normal maintenance, repair, or operation of existing serviceable structures, facilities, or improved areas.

Activities which bring an area into agricultural use are not part of an ongoing operation. An operation ceases to be ongoing when the area on which it is conducted is proposed for conversion to a nonagricultural use or has lain idle for more than five years, unless the idle land is registered in a federal or state soil

conservation program, or unless the activity is maintenance of irrigation ditches, laterals, canals, or drainage ditches related to an existing and ongoing agricultural activity. (Ord. 342 § 100.28, 1992)

**14.20.145 Extraordinary hardship.**

“Extraordinary hardship” means that strict application of this chapter and/or programs adopted to implement this chapter by the regulatory authority would prevent all reasonable economic use of the parcel. (Ord. 342 § 100.29, 1992)

**14.20.150 Filling or fill.**

“Filling or fill” means a deposit of earth material placed by artificial means. (Ord. 342 § 100.30, 1992)

**14.20.155 Floodplain.**

“Floodplain” means the floodway and the special flood hazard area. (Ord. 342 § 100.31, 1992)

**14.20.160 Floodway.**

“Floodway” means the channel of a stream, plus any adjacent floodplain areas, that must be kept free of encroachment in order that the base flood be carried without substantial increases in flood heights. (Ord. 342 § 100.32, 1992)

**14.20.165 Forest or forest land.**

“Forest” or “forest land” means land primarily used for growing trees, including Christmas trees subject to the excise tax imposed by RCW [84.33.100](#) through [84.33.140](#). (Ord. 342 § 100.33, 1992)

**14.20.170 Forest practices.**

“Forest practices” as defined in WAC [222-16-010](#)(21), as amended, means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, including but not limited to:

- (1) Road and trail construction;
- (2) Harvesting, final and intermediate;
- (3) Precommercial thinning;
- (4) Reforestation;
- (5) Fertilization;
- (6) Prevention and suppression of diseases and insects;
- (7) Salvage of trees; and

(8) Brush control.

Forest practices shall not include preparatory work such as tree marking, surveying and road flagging, or removal or harvest of incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe, herbs, mushrooms, and other products which cannot normally be expected to result in damage to forest soils, timber or public resources. (Ord. 342 § 100.34, 1992)

**14.20.175 Frequently flooded areas.**

“Frequently flooded areas” means all city of Forks lands, shorelands and waters which are identified as within the 100-year floodplain (floodway and special flood hazard area) in the Federal Management Agency report titled “The Flood Insurance Study for Clallam County” dated December 5, 1989, with accompanying flood insurance rate and boundary maps. (Ord. 342 § 100.35, 1992)

**14.20.180 Geologic hazardous areas.**

“Geologic hazardous areas” means areas susceptible to erosion, sliding, earthquake, or other geological events. (Ord. 342 § 100.36, 1992)

**14.20.185 Geotechnical engineer.**

“Geotechnical engineer” means a practicing, geotechnical/civil engineer licensed and bonded as a professional civil engineer with the state of Washington or a soil scientist certified by the American Society of Soil Science with experience in landslide evaluation. (Ord. 342 § 100.37, 1992)

**14.20.190 Grading.**

“Grading” means any excavating, filling or removing of the surface layer or any combination thereof.

(Ord. 342 § 100.38, 1992)

**14.20.195 Grazed wet meadows.**

“Grazed wet meadows” means palustrine emergent wetlands, typically having standing water during the wet season and dominated under normal conditions by meadow emergents such as reed canary grass, spike rushes, soft rushes, bulrushes, sedges, and rushes. During the growing season, the soil is often saturated or covered with water. Grazed wet meadows frequently have been or are being used for livestock grazing or cut for hay. (Ord. 342 § 100.39, 1992)

**14.20.200 Ground water.**

“Ground water” means a saturated body of rock, sand, gravel or other geologic material. (Ord. 342

§ 100.40, 1992)

**14.20.205 High intensity land use.**

“High intensity land use” means those land uses which are associated with moderate or high levels of human disturbance or substantial habitat impacts including, but not limited to, residential densities greater than one unit per acre (gross density), active recreation, and commercial and industrial land uses. (Ord. 342 § 100.41, 1992)

**14.20.210 Lake.**

“Lake” means a naturally existing or artificially created body of standing water greater than or equal to 20 acres in size. Lakes include reservoirs which exist on a year-round basis and occur in a depression of land or expanded part of a stream. A lake is bounded by the ordinary high water mark or the extension of the elevation of the lake’s ordinary high water mark within the stream, where the stream enters the lake. All lakes meet the criteria of Chapter [90.58](#) RCW (Shoreline Management Act) and have been inventoried as “shorelines of the state” under the shoreline master program for Clallam County. (Ord. 342 § 100.42, 1992)

**14.20.215 Land divisions.**

“Land divisions” means any division of land, including short plats, subdivisions, mobile home and RV parks, and binding site plans regulated under the city of Forks short subdivision ordinance or state statute. (Ord. 342 § 100.43, 1992)

**14.20.220 Landslide.**

“Landslide” is the general term used to describe the downslope movement of a mass of slope materials including rock, soils, artificial fills, and vegetation. The speed and distance of movement, as well as the amount and type of slope material, vary greatly. (Ord. 342 § 100.44, 1992)

**14.20.225 Low income housing.**

“Low income housing” means the selling price or rental price of a dwelling unit at an amount affordable to families earning no greater than 100 percent of the current median family income of the city of Forks at time of sale or rental. The current median family income means the standard set by the U.S. Department of Housing and Urban Development (HUD). (Ord. 342 § 100.45, 1992)

**14.20.230 Low intensity land use.**

“Low intensity land use” means those land uses which are associated with low levels of human disturbance or low habitat impacts, including, but not limited to, passive recreation, open space, or agricultural or forest management land uses. For residential use, low intensity land use means densities less than one unit per acre. (Ord. 342 §

100.46, 1992)

**14.20.235 Major new development.**

“Major new development” means any new development of which the total cost or fair market value exceeds \$5,000 except that the following shall not be considered major new development for the purpose of this chapter:

- (1) Normal maintenance or repair of existing structures or developments, including damage by accident, fire, or elements;
- (2) Emergency construction necessary to protect property from damage by the elements;
- (3) Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities, and the construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities and irrigation channels; provided, that a feedlot of any size, all processing plants, other activities of a commercial nature, alteration of the contour of wetlands or streams by leveling or filling other than that which results from normal cultivation, shall not be considered normal or necessary farming or ranching activities;
- (4) Construction of a single-family residence;
- (5) The marking of property lines or corners; and
- (6) Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing prior to the date of adoption of the ordinance codified in this chapter, which were created, developed, or utilized primarily as a part of an agricultural drainage or diking system. (Ord. 342 § 100.47, 1992)

**14.20.240 Mineral extraction.**

“Mineral extraction” includes activities involved in the extraction of minerals from the earth for industrial, commercial, or construction uses, excluding water. For the purposes of this chapter, removal of solid materials from the earth is not deemed mineral extraction until the activity meets one of the following criteria:

- (1) The extraction of peat shall be considered mineral extraction when extracted from regulated wetlands, regardless of size of the activity or wetland;
- (2) Other mineral extraction activities shall collectively result in more than three acres of land being disturbed or that result in pit walls more than 30 feet high and steeper than one horizontal to one vertical. Farming, road construction, mineral

exploration testing and site preparation for construction shall not be deemed mineral extraction activities. (Ord. 342 § 100.48, 1992)

**14.20.245 Minimum lot size.**

“Minimum lot size” means the smallest parcel size upon which a structure may be placed as required by the city of Forks Municipal Code. (Ord. 342 § 100.49, 1992)

**14.20.250 Minor new development.**

“Minor new development” means any new development not defined as “major new development.” (Ord. 342 § 100.50, 1992)

**14.20.255 Mitigation.**

“Mitigation” includes avoiding, minimizing or compensating for adverse critical area (e.g., wetland) impacts. Mitigation, in the following order of preference, is:

- (1) Avoiding the impact altogether by not taking a certain action or parts of an action;
- (2) Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;
- (3) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
- (4) Compensating for the impact by replacing, enhancing, or providing substitute resources or environments. (Ord. 342 § 100.51, 1992)

**14.20.260 Monitoring.**

“Monitoring” means the collection and analysis of data by various methods for the purposes of understanding and documenting changes in natural ecosystems and features, and includes gathering baseline data, evaluating the impacts of development proposals on the biological, hydrologic and geologic elements of such systems and assessing the performance of required mitigation measures. (Ord. 342 § 100.52, 1992)

**14.20.265 Native vegetation.**

“Native vegetation” means vegetation which is indigenous to the North Olympic Peninsula, or if the site has been cleared, species of a size and type that were on the site on the effective date of this chapter or reasonably could have been expected to have been found on the site at that time. (Ord. 342 § 100.53, 1992)

**14.20.270 Nonconforming development.**

“Nonconforming development” means a use or structure which was lawfully constructed or established prior to the effective date of this chapter

but which does not conform to present regulations or standards of this chapter. (Ord. 342 § 100.54, 1992)

**14.20.275 Normal maintenance.**

“Normal maintenance” includes those usual acts to prevent a decline, lapse or cessation from a lawfully established condition. (Ord. 342 § 100.55, 1992)

**14.20.280 Normal repair.**

“Normal repair” means to restore a development to a state comparable to its original conditions within a reasonable period after decay or partial destruction except where repair involves total replacement which is not common practice or causes substantial adverse effects to the critical area. (Ord. 342 § 100.56, 1992)

**14.20.285 Open space.**

“Open space” means lands which are in a natural or undeveloped character because they have not been developed with structures, paving or other appurtenances. Open space lands can refer to parks; recreation areas; conservation easements; critical area buffers, tracts or commons; and agriculture, forestry or open space parcels which are enrolled in the Clallam County open space program under Chapter [84.34](#) RCW. (Ord. 342 § 100.57, 1992)

**14.20.290 Ordinary high water mark.**

“Ordinary high water mark” means the mark on all lakes, streams and tidal waters which will be found by examining the beds and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that conditions exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or the department; provided, that in any area where the ordinary high water mark cannot be found the ordinary high water mark adjoining salt water shall be the line of mean higher high tide and the ordinary high water mark adjoining fresh water shall be the line of mean high water. (Ord. 342 § 100.58, 1992)

**14.20.295 Over water.**

“Over water” means the location of a structure or development above the surface of the water, including placement of buildings on piling or floats. (Ord. 342 § 100.59, 1992)

**14.20.300 Passive recreation.**

“Passive recreation” means low intensity recreation activities such as hiking, canoeing, viewing, nature study, photography and fishing. (Ord. 342 § 100.60,

1992)

**14.20.305 Performance standard or protection standard.**

“Performance standard” or “protection standard” means a measure, control, procedure, or process to ensure that critical areas are protected. For the purposes of this chapter, these terms have the same meaning as regulation. (Ord. 342 § 100.61, 1992)

**14.20.310 Person.**

“Person” means any individual or public or private entity (e.g., corporations). (Ord. 342 § 100.62, 1992)

**14.20.315 Pond.**

“Pond” means a naturally existing or artificially created body of standing water less than 20 acres in size and not defined as “shorelines of the state” by Chapter [90.58](#) RCW (Shoreline Management Act). Ponds can include reservoirs which exist on a year- round basis and occur in a depression of land or expanded part of a stream. A pond is bounded by the ordinary high water mark or the extension of the elevation of the pond’s ordinary high water mark within the stream, where the stream enters the pond. (Ord. 342 § 100.63, 1992)

**14.20.320 Practicable alternative.**

“Practicable alternative” means an alternative that is available and capable of being carried out after taking into consideration cost, existing technology, and logistics in light of overall project purposes, and having less impacts to critical areas. It may include an area not owned by the applicant which could reasonably have been or be obtained, utilized, expanded, or managed in order to fulfill the basic purpose of the proposed activity. (Ord. 342 § 100.64, 1992)

**14.20.325 Presettlement pond.**

“Presettlement pond” means any artificially constructed facility with the primary purpose to treat stormwater runoff for the purpose of removing sediments and/or other potential pollutants including, but not limited to, sediment ponds, wetponds, and detention/retention facilities. (Ord. 342 § 100.65, 1992)

**14.20.330 Primary association.**

“Primary association,” for the purposes of this chapter, means those habitats recognized by the federal government as being critical habitat for federal endangered, threatened, or sensitive species, or habitat for Washington State Species of Concern or Washington Department of Wildlife Priority Species recognized by the Washington Department of Wildlife or Washington Department of Fisheries. (Ord. 342 § 100.66, 1992)

**14.20.335 Priority habitat.**

“Priority habitat” means a seasonal range or habitat element with which a given species has a primary association, and which, if altered may reduce the likelihood that the species will maintain and reproduce over the long term. These might include areas of high relative density or species richness, breeding habitat, winter range, movement corridors, and/or habitats that are of limited availability or high vulnerability to alteration. Priority habitats are established by the Washington Department of Wildlife within their priority habitats and species data base. (Ord. 342 § 100.67, 1992)

**14.20.340 Priority species.**

“Priority species” means those wildlife species that are of concern to the Washington Department of Wildlife due to their population status and their sensitivity to habitat alteration. Priority species include those which are state-listed endangered, threatened, sensitive, candidate and monitor species as well as priority game species. Priority species are established by the Washington Department of Wildlife within their Priority Habitats and Species Data Base. (Ord. 342 § 100.68, 1992)

**14.20.345 Public agency.**

“Public” means any agency, political subdivision, or unit of local government of this state including but not limited to municipal corporations, special purpose districts, and local service districts, any agency of the state of Washington, the United States or any state thereof, or any Indian tribe recognized as such by the federal government. (Ord. 342 § 100.69, 1992)

**14.20.350 Public facilities.**

“Public facilities” means buildings or uses of land, whether owned or leased, operated by a public agency for such purposes as providing places for public assembly and recreation, operating services of benefit to the public, or for the administration of public affairs. (Ord. 342 § 100.70, 1992)

**14.20.355 Public project of significant importance.**

“Public project of significant importance” means a project funded by a public agency, department or jurisdiction which is found to be in the best interests of the citizens of the city of Forks and is so declared by the city of Forks city council in a resolution. (Ord. 342 § 100.71, 1992)

**14.20.360 Public use.**

“Public use” means any area, building or structure held, used, or controlled exclusively for public purposes by any department or branch of any government, without reference to the ownership of the building or structure or of the land upon which it is situated. (Ord. 342 § 100.72, 1992)

**14.20.365 Public utility.**

“Public utility” means a business or service, either governmental or having appropriate approval from the state, which is engaged in regularly supplying the public with sane commodity or service which is of public consequence and need such as electricity, gas, water, transportation or communications.

(Ord. 342 § 100.73, 1992)

**14.20.370 Ravine.**

“Ravine” means a V- or U-shaped landform (e.g., gorge or gully) generally having little to no floodplain and normally containing steep slopes and deeper than 10 vertical feet as measured from the centerline of the ravine to the top of the slope. Ravines are created by the wearing action of streams. (Ord. 342 § 100.74, 1992)

**14.20.375 Reasonable alternative.**

“Reasonable alternative” means an activity that could feasibly attain or approximate a proposal’s objectives, but at a lower environmental cost or decreased level of environmental degradation. Reasonable alternatives may be those over which the regulatory authority has authority to control impacts. (Ord. 342 § 100.75, 1992)

**14.20.380 Regulated use or activity.**

“Regulated use or activity” means any development proposal which includes or directly affects a critical area or its buffer or is adjacent to a critical area. (See definitions of adjacent, FMC [14.20.005](#), and development, FMC [14.20.105](#).) (Ord. 342 § 100.76, 1992)

**14.20.385 Restoration.**

“Restoration” means the return of a critical area (e.g., stream or wetland) to a state in which its functions and values approach its unaltered state as closely as possible. (Ord. 342 § 100.77, 1992)

**14.20.390 Review authority.**

“Review authority” means the city of Forks city council. (Ord. 342 § 100.78, 1992)

**14.20.395 Road or street.**

“Road or street” means any vehicular right-of-way which (1) is an existing state, county or municipal roadway; or (2) is a publicly owned easement; or (3) is shown upon a plat or short plat approved pursuant to applicable land division laws; or (4) is a private access greater than 50 feet in length serving more than one property through right of use or easement. The road or street shall include all land within the boundaries of the road right-of-way which is improved. (Ord. 342 § 100.79, 1992)

**14.20.400 Salmonid.**

“Salmonid” means a member of the fish family salmonidae. In the city of Forks these include chinook, coho, chum, sockeye and pink salmon; rainbow, steelhead, cutthroat trout; brown trout; Brook and Dolly Varden char, kokanee, and whitefish. (Ord. 342 § 100.80, 1992)

**14.20.405 Single-family dwelling.**

“Single-family dwelling” means a building or structure which is intended or designed to be used, rented, leased, let or hired out to be occupied for living purposes by one family and including accessory structures and improvements. (Ord. 342 § 100.81, 1992)

**14.20.410 Site investigation.**

“Site investigation” means work necessary for land use application submittals such as surveys, soil logs, percolation tests or other related activities. (Ord. 342 § 100.82, 1992)

**14.20.415 Special flood hazard areas.**

“Special flood hazard areas” means the area adjoining the floodway which is subject to a one percent or greater chance of flooding in any year, as determined by engineering studies acceptable to the city of Forks city council. The coastal high hazard areas are included within special flood hazard areas. (Ord. 342 § 100.83, 1992)

**14.20.420 Special reports.**

“Special reports” means those reports required as a part of regulated use or development review required by this chapter. Special reports shall include but not be limited to the following:

- (1) Administrative wetland boundary and ranking evaluation;
- (2) Building site application;
- (3) Drainage and erosion control plan;
- (4) Geotechnical report;
- (5) Grading plan;
- (6) Habitat management plan;
- (7) Mitigation plan;
- (8) Wetland boundary survey;
- (9) Wetland mitigation plan; and

(10) Wetland ranking evaluation. (Ord. 342 § 100.84, 1992)

**14.20.425 Species of concern.**

“Species of concern” means species classified as endangered, threatened, sensitive, candidate, or monitor by the Washington Department of Wildlife. (Ord. 342 § 100.85, 1992)

**14.20.430 State Environmental Policy Act or SEPA.**

“State Environmental Policy Act” or “SEPA” means the state law (the State Environmental Policy Act of 1971, Chapter [43.21C](#) RCW) and the state rules (Chapter [197-11](#) WAC) to implement this legislation. (Ord. 342 § 100.86, 1992)

**14.20.435 Steep slope.**

“Steep slope” means an area which is equal to or in excess of 40 percent slope, or where the ground surface rises 10 feet or more vertically within a horizontal distance of 25 feet. (Ord. 342 § 100.87, 1992)

**14.20.440 Stormwater private retention/detention facility.**

“Stormwater private retention/detention facility” means a type of drainage facility designed either to hold water for a considerable length of time and then release it by evaporation, plant transpiration and/or infiltration into the ground, or to hold runoff for a short period of time and then release it to the surface and stormwater management system. (Ord. 342 § 100.88, 1992)

**14.20.445 Stormwater regional retention/detention facility.**

“Stormwater regional retention/detention facility” means a surface water control structure constructed by a public agency to correct the existing excess surface water runoff problems of a basin or sub-basin. (Ord. 342 § 100.89, 1992)

**14.20.450 Streams.**

“Streams” means those areas in the city of Forks where the surface water flow is sufficient to produce a defined channel or bed. A defined channel or bed is an area which demonstrates clear evidence of the passage of water and includes but is not limited to bedrock channels, gravel beds, sand and silt beds and defined-channel swales. The channel or bed need not contain water year- round. This definition is not meant to include irrigation ditches, canals, storm or surface water runoff devices or other artificial watercourses unless they are used by salmon or used to convey streams naturally occurring prior to construction. (Ord. 342 § 100.90, 1992)

**14.20.455 Structure.**

“Structure” means a permanent or temporary edifice or building, or any piece of work artificially built or composed of parts joined together in some definite manner,

whether installed, on, above, or below the surface of the ground or water. (Ord. 342 § 100.91, 1992)

**14.20.460 Toe of slope.**

“Toe of slope” means a distinct topographic break in slope. Where no distinct break exists, this point shall be the lower most limit of the landslide hazard area as defined and classified in Article VI of this chapter. (Ord. 342 § 100.92, 1992)

**14.20.465 Top of slope.**

“Top of slope” means a distinct topographic break in slope. Where no distinct break in slope exists, this point shall be the uppermost limit of the landslide hazard area as defined and classified in Article VI of this chapter. (Ord. 342 § 100.93, 1992)

**14.20.470 Unavoidable and necessary impacts.**

“Unavoidable and necessary impacts” means those impacts to critical areas that remain after a person proposing to alter such an area has demonstrated that no practicable alternative exists for the proposed project. (Ord. 342 § 100.94, 1992)

**14.20.475 Unclassified uses.**

“Unclassified use” means any regulated use or activity (see definition at FMC [14.20.380](#)) that is not specifically listed in FMC [14.20.690](#). (Ord. 342 § 100.95, 1992)

**14.20.480 Utility.**

“Utility” means a fixed improvement which conveys power, gas, water, sewage, surface drainage, and communication signals. (Ord. 342 § 100.96, 1992)

**14.20.485 Vegetation.**

“Vegetation” means any and all living plant species growing at, below, or above the soil surface. (Ord. 342 § 100.97, 1992)

**14.20.486 Watercourse**

“Watercourse” (or “river” or “stream”) means any portion of a stream or river channel, bed, bank, or bottom waterward of the ordinary high water line of waters of the state. “Watercourse” also means areas in which fish may spawn, reside, or pass, and tributary waters with defined bed or banks that influence the quality of habitat downstream. “Watercourse” also means waters that flow intermittently or that fluctuate in level during the year, and the term applies to the entire bed of such waters whether or not the water is at peak level. A watercourse includes all surface-water-connected wetlands that provide or maintain habitat that supports fish life. This definition does not include irrigation ditches, canals, stormwater treatment and conveyance systems, or other entirely artificial watercourses, except where they exist in a natural watercourse that has been altered by humans.

#### 14.20.487 Wetland

“Wetland” or “wetlands” means those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. “Wetlands” generally include swamps, marshes, bogs, and similar areas. “Wetlands” do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. “Wetlands” include those artificial wetlands intentionally created from nonwetland areas to mitigate conversion of wetlands.

#### 14.20.488 Wetland mitigation bank

“Wetland mitigation bank” means a site where wetlands are restored, created, enhanced, or, in exceptional circumstances, preserved, expressly for the purpose of providing compensatory mitigation in advance of unavoidable impacts to wetlands or other aquatic resources that typically are unknown at the time of certification to compensate for future, permitted impacts to similar resources.

#### 14.20.489 Wetland mosaic

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

4025 § 2 (Att. A), 2022)

#### **14.20.490 Wildlife nesting structure.**

“Wildlife nesting structure” means a structure erected for the sole purpose of providing a wildlife nesting site. (Ord. 342 § 100.98, 1992)

### **Article II. Purpose**

#### **14.20.500 Statement of purpose/authority.**

The purpose of this chapter is to identify and protect critical areas as required by the Growth Management Act of 1990 (Chapter 17, Laws of 1990). This chapter is adopted under the authority of Chapters 36.70 and 36.70A RCW. (Ord. 342 § 210, 1992)

#### **14.20.510 Statement of policy.**

It is the policy of the city of Forks that the beneficial functions of critical areas be preserved, and potential dangers or public costs associated with the inappropriate

use of such areas be minimized by reasonable regulation of uses within, adjacent or directly affecting such areas. (Ord. 342 § 220, 1992)

**14.20.520 Policy goals.**

To implement the purpose and policy stated above, it is the intent of this chapter to accomplish the following:

- (1) To conserve and protect the environmental attributes of the city of Forks that characterize the quality of life for residents of both the city of Forks and the state of Washington.
- (2) To identify and portray critical areas and the environmental functions these areas perform.
- (3) To protect critical areas and their functions by regulating use and management within these areas and on adjacent lands.
- (4) To maintain both acreage and ecological functions of regulated wetlands in the city of Forks and to restore or create wetlands to increase acreage, quality, and diversity of city of Forks wetlands.
- (5) To guide development proposals to the most environmentally suitable and naturally stable portion of a development site.
- (6) To avoid potential damage due to landslide, subsidence, erosion, or flooding.
- (7) To protect water quality by controlling erosion and carefully siting uses and activities which can release chemical or bacterial pollutants and maintaining stream flows and habitat quality for fish and marine shellfish.
- (8) To preserve natural flood control and stormwater storage from alterations to drainage or stream flow patterns.
- (9) To maintain ground water recharge and prevent the contamination of ground water resources to ensure water quality and quantity for domestic and commercial/industrial uses.
- (10) To protect areas with potential for marine aquaculture activities from degradation by other types of uses.
- (11) To protect the general public against avoidable losses from maintenance and replacement of public facilities, property damage, subsidy cost of public mitigation of avoidable impacts, and costs for public emergency rescue and relief operations.

(12) To protect unique, fragile and valuable elements of the natural environment for the enjoyment of present and future generations.

(13) To prevent cumulative adverse environmental impacts to water availability, water quality, wetlands, fish and wildlife habitat conservation areas, frequently flooded areas and geologically hazardous areas.

(14) To implement the policies of the Growth Management Act, Chapter [36.70A](#) RCW. (Ord. 342 § 230, 1992)

**14.20.530 Severability.**

If any provision of this chapter or its application to any person or circumstances is held invalid, the remainder of this chapter and the application of such provision to other persons or circumstances shall not be affected. (Ord. 342 § 240, 1992)

**Article III. General Provisions**

**14.20.540 Applicability.**

This chapter classifies and designates critical areas in the city of Forks and establishes regulations for the protection of critical areas. The city of Forks shall not grant any permit, license or other development approval to alter the condition of any land, water or vegetation, or to construct or alter any structure or improvement, nor shall any person alter the condition of any land, water or vegetation, or construct or alter any structure or improvement, for any development proposal regulated by this chapter, except in compliance with the provisions of this chapter. Failure to comply with the provisions of this chapter shall be considered a violation and subject to enforcement procedures as provided for in this chapter. (Ord. 342 § 305, 1992)

**14.20.550 Certificate of compliance required.**

No development activity regulated by this chapter shall proceed without first obtaining a written certificate of compliance or critical area permit (special or conditional use) by the review authority (see definition at FMC [14.20.390](#)). For development proposals requiring a permit or approval from the city of Forks under other provisions of the Forks Municipal Code, a finding of fact or conclusion of law demonstrating consistency with this chapter may satisfy this provision. A certificate of compliance may include conditions to ensure consistency with this chapter or denial of some or all parts of a development proposal to ensure consistency. Authorization to undertake regulated activities pursuant to this chapter shall normally be valid for a period of three years from the date of issue unless a longer or shorter period is specified by the review authority upon issuance of a permit. A one-time extension of the authorization may be granted by the administrator for a

period not exceeding one year. (Ord. 342 § 310, 1992)

**14.20.560 Exemption from review authority review.**

Notwithstanding any other contrary provisions in this chapter, development activities categorically exempt from State Environmental Policy Act threshold determinations under the terms of Chapter

14.10 FMC shall not involve review authority review. The administrator shall substitute for the review authority for all matters requiring review under this chapter, except that the review section, FMC 14.20.650, shall remain unchanged. (Ord. 355 § 1, 1993; Ord. 342 § 315, 1992)

**14.20.570 Relationship to other city regulations.**

When any provision of any other chapter of the Forks Municipal Code conflicts with this chapter, that which provides the most protection to the critical area shall apply. (Ord. 342 § 320, 1992)

**14.20.580 General exemptions.**

The following developments are exempt from the filing of special reports or permits required by this chapter. Exempted developments authorized by the city of Forks shall otherwise be consistent with the policies and provisions of this chapter and shall require prior written approval from the city of Forks.

- (1) Emergencies that threaten the public health, safety and welfare. An “emergency” is an unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full compliance with this chapter.
- (2) Agricultural activities in existence on the date this chapter becomes effective; provided, that such activities shall not involve the conversion of any Class I or II aquatic habitat conservation areas not currently under agricultural use.
- (3) Normal and routine maintenance and operation of existing irrigation and drainage ditches, farm ponds, fish ponds, manure lagoons, and livestock water ponds.
- (4) Normal and routine maintenance or repair of existing utility structures or right-of-way.
- (5) Installation or construction in improved public road right-of-way, and replacement, operation or alteration of all electric facilities, lines, equipment or appurtenances, not including substations, and all natural gas, cable communications and telephone facilities, lines, pipes, mains, equipment or appurtenances.
- (6) Public agency development proposals only to the extent of any construction

contract awarded before the effective date of this chapter; provided, that any regulation in effect at the time of such award shall apply to such proposal. (Ord. 342 § 330, 1992)

**14.20.590 Reasonable use exception.**

If the application of this chapter would deny all reasonable use of the property, development may be allowed which is consistent with the general purposes of this chapter and the public interest.

(1) An application for a critical area reasonable use exception shall be filed with the administrator and shall be considered by the city of Forks city council which shall seek legal advice from and consult with the Forks city attorney and shall issue a decision.

(2) The city of Forks city council, in approval of a reasonable use exception, must determine that:

(a) Application of this chapter would deny all reasonable use of the property;

(b) There is no other reasonable use with less impact on the critical area;

(c) The proposed development does not pose an unreasonable threat to the public health, safety or welfare on or off the development proposal site; and

(d) Any alterations permitted to these critical areas shall be the minimum necessary to allow for reasonable use of the property.

(3) Any authorized alteration of a critical area under this section may be subject to conditions established by the city of Forks city council and shall require mitigation under an approved mitigation plan.

(4) Except when application of this chapter would deny all reasonable use of the property, an applicant who seeks an exception from the standards and requirements of this chapter shall pursue relief by means of a variance as provided for in this chapter. (Ord. 342 § 335, 1992)

**14.20.600 Nonconforming development standards.**

“Nonconforming development” means a development which was lawfully constructed, approved or established prior to the effective date of this chapter but which does not conform to present regulations or standards of this chapter.

(1) This chapter incorporates by reference the nonconforming development standards applicable to development on shorelines of the state (WAC [173-14-](#)

055), as now or hereafter amended; and/or

(2) Structures in existence on the date this chapter becomes effective and that do not meet the setback or buffer requirements of this chapter for streams, or landslide hazard areas may be remodelled or reconstructed; provided, that the new construction or related activity does not further intrude into a stream, wetland, landslide, or associated buffers and is subject to the restrictions of the frequently flooded areas for reconstruction; provided further, that structures in existence on the date this chapter becomes effective and that do not meet the setback or buffer requirements of this chapter for wetlands, streams, or landslide hazard areas may be replaced; provided, that no reasonable alternative location for the structure on the development proposal site exists and the new construction or related activity does not further intrude into a stream, wetland, landslide hazard, or associated buffers and is subject to the restrictions of the frequently flooded areas for reconstruction; provided further, that new construction or related activity connected with an existing single-family dwelling shall not be considered further intruding into an associated buffer so long as the footprint of the structure lying within the critical area is not increased by more than 1,000 square feet and no portion of the structure is located closer to the stream, wetland or landslide hazard than the existing structure. (Ord. 342 § 340, 1992)

**14.20.610 Review authority requirements.**

In evaluating a request for a development proposal regulated by this chapter, the review authority shall provide the following:

- (1) Confirm the nature and type of the critical area and evaluate any special reports;
- (2) Determine whether the development proposal is consistent with this chapter, by granting, denying or conditioning projects;
- (3) Determine whether proposed alterations to critical areas are appropriate under the standards contained in this chapter or are necessary to allow reasonable use of the property; and
- (4) Determine if the protection mechanisms and the mitigation and monitoring plans and bonding measures proposed by the applicant are sufficient to protect the public health, safety and welfare consistent with the goals of this chapter, and if so, condition the permit or approval accordingly. (Ord. 342 § 345, 1992)

**14.20.620 Notice to title.**

The owner of any property on which a development proposal is submitted shall file for record with the Clallam County auditor a notice in the public record of the presence of a

critical area or buffer, the application of this chapter to the property, and that limitations on actions in or affecting such areas or buffers may exist. The applicant shall submit proof that the notice has been filed for record before the city of Forks shall approve any development proposal for such site. (See Exhibit 1.)\* (Ord. 342 § 350, 1992)

\*Code reviser's note: Exhibit 1 is attached to Ordinance No. 342 and on file in the office of the city clerk/treasurer.

#### **14.20.630 Application requirements – General.**

(1) Application for development proposals, reasonable use exception or variances regulated by this chapter or for review of special reports shall be made with the administrator by the property owner, lessee, contract purchaser, other person entitled to possession of the property, or by an authorized agent.

(2) A filing fee in an amount of \$30.00 shall be paid to the city of Forks at the time an application for a critical area permit is filed. An additional \$30.00 shall be charged for each special report required by the terms of this chapter.

(3) Applications for any development proposal subject to this chapter shall be reviewed by the administrator for completeness, consistency or inconsistency with this chapter.

(4) No application shall be considered substantially complete until all special reports required by this chapter are submitted to the city of Forks as part of the development proposal application.

(5) At every stage of the application process, the burden of demonstrating that any proposed development is consistent with this chapter is upon the applicant.

(6) All applications for development proposals subject to this chapter shall include a site plan drawn to scale identifying known locations of critical areas, location of proposed structures and activities, including clearing and grading and general topographic information. If the review authority determines that additional critical areas are found on the development proposal site, the applicant shall be required to amend the application site plan to identify the location of the critical area. (Ord. 355 § 2, 1993; Ord. 342 § 355, 1992)

#### **14.20.640 Variances.**

A variance in the application of the regulations or standards of this chapter to a particular piece of property or a variance to the use prohibitions of this chapter may be granted by the city of Forks city council when it can be shown that the application meets all of the following criteria:

- (1) The granting of the variance will not be materially detrimental to the critical area, public welfare or injurious to the property or improvements in the vicinity and area in which the property is situated or contrary to the goals, policies and purpose of this chapter.
- (2) The granting of the variance is the minimum necessary to accommodate the permitted use.
- (3) No other practicable or reasonable alternative exists. (See definitions at FMC [14.20.320](#) and [14.20.375](#).)
- (4) A mitigation plan has been submitted and is approved for the proposed use of the critical area. (Ord. 342 § 360, 1992)

#### **14.20.650 Appeals.**

Any decision made by the Forks planning director may be appealed to the city of Forks city council. (Ord. 342 § 370, 1992)

#### **14.20.660 Enforcement.**

- (1) Any person found to have wilfully engaged in activities within or adjacent to critical areas or critical area buffers of the city of Forks in violation of this chapter shall be punished by a fine of not less than \$100.00 nor more than \$1,000, or by imprisonment in the city of Forks jail for not more than 90 days, or by both such fine and imprisonment; provided, that the fine for the third and all subsequent violations in any five-year period shall not be less than \$500.00 nor more than \$10,000. The severity of any penalty shall be based on the nature of the violation, the damage or risk to the public resources, and/or the existence or degree of repeat violations of the person(s) subject to the enforcement action.
- (2) Any person who fails to conform to the terms of a permit or approval issued pursuant to this chapter, or who unknowingly engaged in activities within critical areas or critical area buffers without compliance with this chapter, or who fails to comply with a cease and desist order, may be subject to civil penalties not to exceed \$1,000. The severity of any penalty shall be based on the nature of the violation, the damage or risk to the public or to public resources, and/or the existence or degree of repeat violations of the person(s) subject to the enforcement action.
- (3) The administrator shall serve in writing by personal service or by certified mail with return receipt requested upon a person a cease and desist order if an activity being undertaken is in violation of this chapter. The order shall set forth a description of the specific nature, extent, and time of violation and the damage or potential damage, and a notice that the violation or the potential violation shall cease and desist. The order may also include provisions for immediate stabilization of the site

in such circumstances where the critical area is being impacted from continued violation of this chapter. The cease and desist order shall become effective immediately. Failure to comply with the terms of a cease and desist order shall be considered further violation of this chapter.

(4) Any civil penalty imposed shall be provided to the person who violated the provisions of this chapter. Such penalty shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service. The notice shall describe the violation, approximate the date(s) of violation, and shall order the acts constituting the violation to cease and desist, and in appropriate cases, require necessary corrective action within a specific time. Any person incurring a penalty may apply in writing within 30 days of receipt of penalty to the city of Forks city council for remission or mitigation of such penalty. The city of Forks city council may remit or mitigate the penalty only upon a demonstration of extraordinary circumstances, such as the presence of information or factors not considered in setting the original penalty. Any penalties imposed under this section shall become due and payable 30 days after receipt of notice imposing the same unless application for remission or mitigation is made. Whenever an application for remission or mitigation is made, penalties shall become due and payable 30 days after the city of Forks city council decision regarding the remission or mitigation.

(5) All penalties assessed by this chapter shall be payable to the city of Forks and shall be placed in a special account for the enhancement of shorelines and critical areas.

(6) The administrator shall determine whether violations exist and issue such civil penalty as deemed necessary to ensure compliance with the provisions of this chapter. The Forks city attorney shall bring such injunctive, declaratory, or other actions as are necessary to insure that no uses are made within critical areas or adjacent to critical areas in conflict with the provisions of this chapter.

(7) Any person subject to this chapter who violates any provision of this chapter or the provisions of a permit or approval issued pursuant to this chapter shall be liable for all damage to public or private property arising from such violation, including the cost of restoring the affected area to its condition prior to such violation. (Ord. 342 § 380, 1992)

## **Article IV. Wetlands**

### **14.20.700 Description and purpose**

It is the purpose of this chapter to protect the functions and values of wetlands, which

serve many important ecological and environmental functions and help to protect public health, safety, and welfare by providing flood storage and conveyance, and erosion control, while also providing fish and wildlife habitat, recreation, water quality protection, water storage, education, scientific research opportunities and other public benefits.

#### **14.20.710 Designation and rating**

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

(2) *Rating.* Wetlands must be rated by a qualified professional according to the Washington State Department of Ecology Wetland Rating System for Western Washington – 2014 Update (Ecology Publication No. 14-06-029, October 2014), or as revised. Wetland rating categories will be applied as the wetland exists on the date of adoption of the rating system by the city, as the wetland naturally changes in accordance with permitted activities.

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

- ~~(i) Relatively undisturbed estuarine wetlands larger than one acre;~~
- (ii) Wetlands of high conservation value identified by scientists of the Washington Natural Heritage Program/Department of Natural Resources (DNR);
- (iii) Bogs;
- ~~(iv) Mature forested wetlands larger than one acre;~~
- ~~(v) Wetlands in coastal lagoons; and~~
- (vi) Wetlands that perform many functions well and have a total score of 23 points or more in the wetland rating.

(b) *Category II.* Category II wetlands are those wetlands that are difficult, though not impossible, to replace, and provide high levels of some functions. The following types of wetlands are Category II **within the Forks UGA**:

- ~~(i) Estuarine wetlands smaller than one acre or disturbed estuarine wetlands;~~

~~larger than one acre;~~

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

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

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

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

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

(3) *Illegal Modifications.* When a violation occurs wetland rating categories do not change due to illegal modifications or alterations. A wetland's category must be based on the pre-violation condition of the wetland.

#### **14.20.720 Mapping and designation**

(1) *Mapping.* The approximate location and extent of potential wetlands are shown in the wetland data layer maintained in the city of Forks geographic information system (GIS). In addition, the following maps and inventories, that depict areas of hydric soils and potential wetland areas, are hereby adopted by reference as amended:

(a) Soils maps produced by the U.S. Department of Agriculture, National Resources Conservation Service; and

(b) The National Wetlands Inventory, produced by the U.S. Fish and Wildlife Service.

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

final critical area designation.

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

#### **14.20.730 General development standards**

(1) All development activities and uses are prohibited in wetlands and wetland buffers, unless administered through the permit procedures above, and the performance standards described herein, and only when it is demonstrated that the activity will not result in a loss of the functions and values of the wetland through the application of mitigation sequencing in FMC 14.20..., Mitigation requirements.

(2) *Exemptions.* Exemptions to this chapter are listed in the provisions established in FMC 14.20..., Exempt activities.

(3) *Subdivisions.* The subdivision and/or short subdivision of land in wetlands and associated buffers are subject to the following:

(a) Land that is located wholly within a wetland and/or its buffer may not be subdivided; and

(b) Land that is located partially within a wetland and/or its buffer may be subdivided; provided, each lot will meet all zoning standards in FMC Chapter 14.20... without encroaching into the wetland or buffer.

#### **14.20.470 Specific wetland category development standards**

(1) *Category I Wetlands.* Development activities and uses that result in alteration of Category I wetlands and their associated buffers are prohibited, unless the denial will prevent all reasonable economic use of the property. The development may be permitted through a critical area variance if it is determined to be the minimum impact possible and a reasonable use as prescribed in FMC 14.20.050, Reasonable use exception and critical area variance.

(2) *Category II, III and IV Wetlands.* Development activities that result in alteration of Category II, III or IV wetlands may be permitted upon demonstration, through a critical area report meeting the requirements of this chapter, that:

(a) Mitigation sequencing has been applied per FMC 14.20.125(A);

(b) The proposed alteration will not degrade the quantitative and qualitative functioning of the wetland, or that any degradation can be adequately mitigated to protect or compensate for the wetland functions that are lost;

(c) *Small, Hydrologically Isolated Category IV Wetlands (Less than 1,000 Square Feet)*. The decision-maker may allow small, hydrologically isolated Category IV wetlands to be exempt from the requirement to avoid impacts (FMC 14.20.125(A)(1)), and allow alteration of such wetlands if all of the following conditions are met:

(i) The remaining mitigation sequencing actions of FMC 14.20...(A)(2) through 14.20.000(A)(6) are followed

(ii) The wetland is less than 1,000 square feet in area;

(iii) The wetland does not have unique characteristics that would be difficult to replace through standard compensatory mitigation practices;

(iv) The wetland is a low-quality Category IV wetland with a habitat score of less than five points in the adopted rating system;

(v) The wetland does not provide significant suitable breeding habitat for native amphibian species. Suitable breeding habitat may be indicated by adequate stable and seasonal inundation that is persistent from February to at least through April and presence of thin-stemmed emergent vegetation and/or clean water;

(vi) The wetland does not contain habitat identified as essential for local populations of priority species identified by the Washington Department of Fish and Wildlife or species of local importance which are regulated as fish and wildlife habitat conservation areas in Part 3 FWHCA;

(vii) The wetland is not associated with shorelines of the state or their associated buffers;

(viii) The wetland is not associated with riparian areas or buffers;

(ix) The wetland is not part of a wetland mosaic; and

(x) A mitigation plan to replace lost wetland functions and values is developed, approved, and implemented consistent with FMC 14.20..., Mitigation plan requirements.

(xi) In order to verify that the wetland meets these exemption conditions, a critical area report for wetlands meeting the requirements in this chapter must be submitted;

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

**14.20.750 Required buffer areas**

(1) *Buffer Requirements.* Wetland buffers must be established to protect the integrity, functions and values of the wetland. The standard buffer widths in Tables 14.20.750(B), 14.20.750(C) and 14.20.750(D) have been established in accordance with the best available science. The buffer widths must be determined based on the category of wetland, surrounding land use intensity, and the habitat score as assigned by a qualified wetland professional using the most up-to-date version of the Washington State Wetland Rating System for Western Washington.

(a) *Measurement of Wetland Buffers.* All buffers must be measured horizontally from the edge of the wetland boundary as surveyed in the field. The width of the wetland buffer must be determined according to Tables 14.20.750(B), 14.20.750(C) and 14.20.750(D).

(b) *Buffer Standards.* The buffer standards required by this chapter presume the existence of a dense vegetation community in the buffer adequate to protect the wetland functions and values. When a buffer lacks adequate vegetation, the decision-maker may increase the standard buffer, require buffer planting or other enhancements, and/or deny a proposal for buffer reduction or buffer averaging.

(2) For the purposes of buffer determination below, land use intensity rating is as follows:

**Table 14.20.750(A)**

|                         |                                                                                                                                                                                                                                                                                         |
|-------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| High Land Use Intensity | Land use that includes the following uses or activities: commercial, industrial, institutional, <u>retail sales</u> , nonresidential use in zones where the primary intent is residential, residential, high-intensity recreation (such as golf courses, ball fields), and hobby farms. |
|-------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|                             |                                                                                                                                                                                                                               |
|-----------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Moderate Land Use Intensity | Land use that includes the following uses or activities: moderate-intensity <u>open space</u> (parks, paved trails, and logging roads).                                                                                       |
| Low Land Use Intensity      | Land use that includes the following uses or activities: forestry (cutting of <u>trees</u> only), low-intensity <u>open space</u> (such as outdoor recreation activities and natural resources preservation), unpaved trails. |

(3) There are three sets of buffer standards, based on these parameters:

(a) Buffer widths for wetlands that have a high level of function for wildlife habitat as indicated by a habitat function score of eight or nine points on the wetland rating form:

**Table 14.20.750(B)**  
**Buffer width(feet)**

| Wetland      | High intensity | Moderate intensity | Low intensity |
|--------------|----------------|--------------------|---------------|
| Category I   | 300            | 225                | 150           |
| Category ii  | 300            | 225                | 150           |
| Category III | 300            | 225                | 150           |
| Category IV  | 50             | 40                 | 25            |

(b) Buffer widths for wetlands that have a moderate level of function for wildlife habitat as indicated by a habitat function score of six or seven points on the wetland rating form:

**Table 14.20.750(C)**

| <u>Wetland Category</u> | <u>Buffer Width (feet)</u> |                           |                      |
|-------------------------|----------------------------|---------------------------|----------------------|
|                         | <b>High Intensity</b>      | <b>Moderate Intensity</b> | <b>Low Intensity</b> |
| Category I              | 150                        | 110                       | 75                   |
| Category II             | 150                        | 110                       | 75                   |
| Category III            | 150                        | 110                       | 75                   |

|             |    |    |    |
|-------------|----|----|----|
| Category IV | 50 | 40 | 25 |
|-------------|----|----|----|

(c) Buffer widths for wetlands that have a low level of function for wildlife habitat as indicated by a habitat function score of three to five points on the wetland rating form:

**Table 14.20.750(D)**

| Wetland Category | Buffer Width (feet) |                    |               |
|------------------|---------------------|--------------------|---------------|
|                  | High Intensity      | Moderate Intensity | Low Intensity |
| Category I       | 100                 | 75                 | 50            |
| Category II      | 100                 | 75                 | 50            |
| Category III     | 80                  | 60                 | 40            |
| Category IV      | 50                  | 40                 | 25            |

**(4) Reducing Buffer Widths.**

(a) For wetlands that score six points or more for habitat function, buffer widths for high intensity may be reduced to moderate intensity if both of the following criteria are met:

(i) A relatively undisturbed, vegetated corridor at least 100 feet wide is protected between the wetland and any other relatively undisturbed area, as defined in the 2014 Wetland Rating System, or any other priority habitat as defined by the Washington State Department of Fish and Wildlife. The latest definitions of priority habitats and their locations are available on the WDFW web site at: <https://wdfw.wa.gov/species-habitats/at-risk/phs/list>.

(ii) The corridor must be protected for the entire distance between the wetland and the relatively undisturbed area or priority habitat by some type of legal protection such as a conservation easement. Presence or absence of a nearby habitat must be confirmed by a qualified biologist.

(b) The measures in Table 14.20.235(E) are implemented, where applicable, to minimize the impacts of the adjacent land uses.

(c) For wetlands that score three to five habitat points, only the measures in Table 14.20.750(E) are required for the use of moderate intensity buffer widths.

(d) If an applicant chooses not to apply the mitigation measures in Table 14.20.750(E), or is unable to provide a protected corridor where available, then high

intensity buffer widths must be used.

**Table 14.20.750(E)**

| <b>Disturbance</b>                                                                                                                           | <b>Required Measures to Minimize Impacts</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|----------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Lights                                                                                                                                       | <ul style="list-style-type: none"> <li>▪ Direct lights away from <u>wetland</u></li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| Noise                                                                                                                                        | <ul style="list-style-type: none"> <li>▪ Locate activity that generates noise away from <u>wetland</u></li> <li>▪ If warranted, enhance existing <u>buffer</u> with <u>native vegetation</u> plantings <u>adjacent</u> to noise source</li> <li>▪ For activities that generate relatively continuous, potentially disruptive noise, such as certain <u>heavy industry</u> or mining, establish an additional 10-foot heavily vegetated <u>buffer strip</u> immediately <u>adjacent</u> to the outer <u>wetland buffer</u></li> </ul> |
| Toxic runoff                                                                                                                                 | <ul style="list-style-type: none"> <li>▪ Route all new, untreated runoff away from <u>wetland</u> while ensuring <u>wetland</u> is not dewatered</li> <li>▪ Establish covenants limiting use of pesticides within 150 feet of <u>wetland</u></li> <li>▪ Apply integrated pest management</li> </ul>                                                                                                                                                                                                                                  |
| <u>Stormwater runoff</u>                                                                                                                     | <ul style="list-style-type: none"> <li>▪ Retrofit stormwater detention and treatment for roads and existing <u>adjacent development</u></li> <li>▪ Prevent channelized flow from lawns that directly enters the <u>buffer</u></li> <li>▪ Use low intensity <u>development techniques</u> (for more information refer to the <u>stormwater manual</u>)</li> </ul>                                                                                                                                                                     |
| Change in water regime (increase or decrease in the frequency, duration, timing, extent, depth or variability of water in a <u>wetland</u> ) | <ul style="list-style-type: none"> <li>▪ Infiltrate or treat, detain, and disperse into <u>buffer</u> new runoff from <u>impervious surfaces</u> and new lawns</li> </ul>                                                                                                                                                                                                                                                                                                                                                            |
| Pets and human disturbance                                                                                                                   | <ul style="list-style-type: none"> <li>▪ Use privacy <u>fencing</u> OR plant dense vegetation to delineate <u>buffer edge</u> and to discourage disturbance using vegetation appropriate for the ecoregion</li> <li>▪ Place <u>wetland</u> and its <u>buffer</u> in a separate <u>tract</u> or protect with a <u>conservation easement</u></li> </ul>                                                                                                                                                                                |
| Dust                                                                                                                                         | <ul style="list-style-type: none"> <li>▪ Use <u>best management practices</u> to control dust</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                             |

(5) *Increasing Buffer Widths.* Buffer widths may be increased, on a case-by-case basis, as determined by the decision-maker. This determination must be supported by appropriate documentation showing that it is necessary to protect wetland functions and values. Documentation must include, but is not limited to, any of the following:

(a) The wetland is used by a plant or animal species listed by the federal

government or the state as endangered, threatened, candidate, sensitive, monitored, or documented priority species or habitats, or the wetland is essential or outstanding habitat for those species or has unusual nesting or resting sites such as heron rookeries or raptor nesting trees; or

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

(c) The adjacent land has minimal vegetative cover on slopes greater than 30 percent. In lieu of increasing the buffer width where existing buffer vegetation is inadequate to protect the wetland functions and values, development and implementation of a wetland buffer restoration/enhancement plan in accordance with FMC 14.20.245, Compensatory mitigation performance standards and requirements, may be substituted.

(6) *Averaging Buffer Widths.* The decision-maker may allow averaging of wetland buffer widths on a case-by-case basis when the critical area report demonstrates that the following criteria are met:

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

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

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

(d) The wetland contains variation in sensitivity due to existing physical characteristics or the character of the buffer varies in slope, soils, or vegetation, and the wetland would benefit from a wider buffer in places and would not be adversely impacted by a narrow buffer in other places;

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

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

- (8) *Buffers on Mitigation Sites.* Buffer widths must be applied to mitigation sites consistent with the wetland ratings and buffer requirements of this chapter for subsequent development proposals based on expected category of the wetland once the mitigation actions are taken. Only fully vegetated buffers with predominantly native plants will be included in the new buffer area. Lawns, walkways, driveways, and other mowed or paved areas will not count towards the required buffer calculations.
- (9) *Buffer Maintenance.* Except as otherwise specified or allowed in accordance with this chapter, wetland buffers must be retained in an undisturbed or enhanced condition. In the case of compensatory mitigation sites, removal of invasive nonnative weeds is required for the duration of the mitigation bond.
- (10) *Buffer Impacts.* When buffer impacts occur, compensatory mitigation must be provided at a minimum ratio of one-to-one for the area impacted. The mitigation must occur on the same site when feasible or within the same wetland system preferably. The mitigation must ensure that the wetland functions and values are not diminished due to the buffer impacts.
- (11) *Stormwater Management Facilities.* Stormwater management facilities may be allowed in Category III and IV wetland buffers if they meet all of the criteria identified below:
- (a) The wetland is classified as a Category III or a Category IV wetland with a habitat score of three to five points or less; and
  - (b) There will be “no net loss” of functions and values of the wetlands; and
  - (c) The wetland does not contain a breeding population of any native amphibian species; and
  - (d) The hydrologic functions of the wetland can be improved as outlined in questions 3, 4, and 5 of Chart 4 and questions 2, 3, and 4 of Chart 5 in the “Guide for Selecting Mitigation Sites Using a Watershed Approach” (available here: <https://apps.ecology.wa.gov/publications/documents/0906032.pdf>); or the wetland is part of a priority restoration plan that achieves restoration goals identified in a Shoreline Master Program or other local or regional watershed plan; and
  - (e) The wetland lies in the natural routing of the runoff, and the discharge follows the natural routing; and
  - (f) All regulations regarding stormwater and wetland management are followed, including but not limited to local and state wetland and stormwater codes, manuals, and permits; and

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

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

(a) Landscaping;

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

(c) Pervious ground surfaces, such as driveways, patios, and parking may be allowed; provided, that it is engineered as a permeable pavement system as defined in this chapter. Such improvements may be subject to the requirements in FMC Chapter 14.20, Stormwater.

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

#### **14.20.760 Critical area report additional requirements**

(1) *Additional Report Contents for Wetlands.* In addition to the minimum report contents required per FMC 14.20.115, Critical area reports, wetland reports must also include:

(a) For each wetland identified on site and off site within 300 feet of the project site provide: the wetland rating, including a description of and score for each function, per wetland ratings (FMC 14.20.215); required buffers (FMC 14.20.235); hydrogeomorphic classification; wetland acreage based on a professional survey from the field delineation (acres for on-site portion and entire wetland area including off-site portions); Cowardin classification of vegetation communities; habitat elements; soil conditions based on site assessment and/or soil survey

information; and to the extent possible, hydrologic information such as location and condition of inlets/outlets (if they can be legally accessed), estimated water depths within the wetland, and estimated hydroperiod patterns based on visual cues (e.g., algal mats, drift lines, flood debris, etc.). Provide acreage estimates, classifications, and ratings based on entire wetland complexes, not only the portion present on the proposed project site;

(b) A discussion of the potential impacts to the wetland(s) associated with anticipated hydroperiod alterations from the project;

(c) A description of the proposed actions, including an estimation of acreages of impacts to wetlands and buffers based on the field delineation and survey and an analysis of site development alternatives, including a no-development alternative;

(d) An assessment of the probable cumulative impacts to the wetlands and buffers resulting from the proposed development;

(e) A description of reasonable efforts made to apply mitigation sequencing pursuant to FMC 14.20.125, Mitigation requirements, to avoid, minimize, and mitigate impacts to critical areas and a discussion of measures, including avoidance, minimization, and compensation, proposed to preserve existing wetlands and restore any wetlands that were degraded prior to the current proposed land-use activity;

(f) A conservation strategy for habitat and native vegetation that addresses methods to protect and enhance on-site habitat and wetland functions; and

(g) An evaluation of the functions of the wetland and adjacent buffer. Include reference for the method used and data sheets.

(2) *Additional Information.* When appropriate due to the proposed impacts or the project area conditions, the Planning Director may also require the critical area report to include:

(a) A request for consultation with the Washington Department of Fish and Wildlife (WDFW), Washington State Department of Ecology (Ecology), local Native American tribes, and/or other appropriate agency;

(b) Copies of the Joint Aquatic Resource Permit Application (JARPA) and related approvals, such as a Hydraulic Project Approval (HPA) from the Washington Department of Fish and Wildlife (WDFW), when applicable to the project; and

(c) Detailed surface and subsurface hydrologic features both on and adjacent to the site.

#### **14.20.770 Compensatory mitigation performance standards and requirements**

(1) *Compensatory Mitigation Plan.* When a project involves wetland and/or buffer impacts, a compensatory mitigation plan must be included as part of the required critical area report. Compensatory wetland mitigation plans must meet the minimum requirements of FMC 14.20., Mitigation requirements, and demonstrate compliance with FMC 14.20., Mitigation plan requirements. Full guidance can be found in Wetland Mitigation in Washington State: Part 2 – Developing Mitigation Plans (Version 1) (Ecology Publication No. 06-06-011b, March 2006, or as revised). The mitigation plan must meet the following additional standards:

- (a) Description of the existing wetland and buffer areas proposed to be impacted. Include acreage (or square footage), water regime, vegetation, soils, landscape position, surrounding land uses, and functions. Also describe impacts in terms of acreage by Cowardin classification, hydrogeomorphic classification, and wetland rating, based on wetland ratings (FMC 14.20.770(B));
- (b) Description of the compensatory mitigation site, including location and rationale for selection. Include an assessment of existing conditions: acreage (or square footage) of wetlands and uplands, water regime, sources of water, vegetation, soils, landscape position, surrounding land uses, and functions. Estimate future conditions in this location if the compensation actions are not undertaken (i.e., how would this site progress through natural succession);
- (c) A description of the proposed actions for compensation of wetland and upland areas affected by the project. Include overall goals of the proposed mitigation, including a description of the targeted functions, hydrogeomorphic classification, categories of wetlands, and mitigation ratios applied (if ratio approach used);
- (d) A description of the proposed mitigation construction activities, construction/installation notes, and timing of activities;
- (e) A discussion of ongoing management practices that will protect wetlands after the project site has been developed, including proposed monitoring and maintenance programs (for remaining wetlands and compensatory mitigation wetlands);
- (f) Proof of establishment of notice on title for the wetlands and buffers on the project site, including the compensatory mitigation areas; and
- (g) The scaled plan sheets for the compensatory mitigation must contain, at a minimum:
  - (i) An accurate depiction of the existing wetland and buffers, proposed areas of

wetland and/or buffer impacts, location of proposed wetland and/or buffer compensation actions;

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

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

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

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

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

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

(2) *Requirements for Compensatory Mitigation.*

(a) Compensatory mitigation for alterations to wetlands may be used only for impacts that cannot be avoided or minimized, except as otherwise exempted in FMC 14.20.230, Specific wetland category development standards, and must achieve equivalent or greater biologic functions. Compensatory mitigation plans

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

(b) Mitigation ratios must be consistent with subsection (J) of this section.

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

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

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

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

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

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

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

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

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

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

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

- (i) Proposed wetland impacts will not have a significant adverse impact on habitat for listed fish, or other ESA- listed species;
- (ii) There is no net loss of habitat functions within the watershed or basin;
- (iii) Mitigation ratios for preservation as the sole means of mitigation must generally start at 20-to-one. Specific ratios should depend upon the significance of the preservation project and the quality of the wetland resources lost;
- (iv) The impact area is small (generally less than one-half acre) and/or impacts are occurring to a low-functioning system (Category III or IV wetland); and
- (v) All preservation sites must include buffer areas adequate to protect the habitat and its functions from encroachment and degradation.

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

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

(a) The conditions in subsection (B) of this section are met.

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

- (i) Anticipated replacement ratios for wetland mitigation;
- (ii) Buffer conditions and proposed widths;
- (iii) Available water to maintain anticipated hydrogeomorphic classes of wetlands when restored;
- (iv) Proposed flood storage capacity, and potential to mitigate riparian fish and wildlife impacts (such as connectivity);
- (v) Off-site mitigation has a greater likelihood of providing equal or improved wetland functions than the impacted wetland;
- (vi) Off-site locations must be in the same sub-basin, unless watershed goals for water quality, flood storage or conveyance, habitat, or other wetland functions have been established by the city and strongly justify location of mitigation at another site; and
- (vii) The design for the compensatory mitigation project needs to be appropriate for its location (i.e., position in the landscape). Therefore, compensatory mitigation should not result in the creation, restoration, or enhancement of an atypical wetland. An atypical wetland refers to a compensation wetland (e.g., created or enhanced) that does not match the type of existing wetland that would be found in the geomorphic setting of the site (i.e., the water source(s) and hydroperiod proposed for the mitigation site are not typical for the geomorphic setting). Likewise, it should not provide exaggerated morphology or require a berm or other engineered structures to hold back water. For example, excavating a permanently inundated pond in an existing, seasonally saturated or inundated wetland is one example of an enhancement project that could result in an atypical wetland. Another example would be excavating depressions in an existing wetland on a slope, which would require the construction of berms to hold the water.

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

- (a) The proposal would provide appropriate compensation for the proposed impacts;
  - (b) The impact site is located in the service area of the bank;
  - (c) The proposed use of credits is consistent with the terms and conditions of the certified mitigation bank instrument; and
  - (d) Replacement ratios using bank credits are consistent with replacement ratios specified in the certified mitigation bank instrument.
- (7) *In-Lieu Fee Mitigation*. Credits from an approved in-lieu fee (ILF) program may be used when all of the following apply:
- (a) The decision-maker determines that it would provide environmentally appropriate compensation for the proposed impacts.
  - (b) The proposed use of credits is consistent with the terms and conditions of the approved ILF program instrument.
  - (c) Projects using ILF credits must have debits associated with the proposed impacts calculated by the applicant's qualified wetland professional using the credit assessment method specified in the approved instrument for the ILF program.
  - (d) The impacts are located within the service area specified in the approved ILF instrument.
- (8) *Permittee-Responsible Mitigation*. This type of mitigation is defined in 33 CFR 332 as “an aquatic resource restoration, establishment, enhancement and/or preservation activity undertaken by the permittee (or an authorized agent or contractor) to provide compensatory mitigation for which the permittee retains full responsibility.” The permittee performs the mitigation either before the project impact occurs and before any project impact permit is issued (advance permittee-responsible mitigation) or at the same time as the project impact is occurring after the project impact permit is issued (concurrent permittee-responsible mitigation). The permittee is ultimately responsible for implementation and success of the mitigation. For advance mitigation, the permittee generates mitigation credits that may be used to compensate for future wetland or buffer impacts. Only the permittee may use the advance mitigation credits. Permittee-responsible mitigation may occur at the site of the permitted impacts or at an off-site location within the same watershed. Permittee-responsible mitigation must be used only if the applicant's qualified wetland professional demonstrates to the decision-maker's satisfaction that the proposed approach is ecologically preferable to use of a bank or ILF program, consistent with the criteria in this section.
- (9) *Alternative Mitigation Plan*. The decision-maker may approve an alternative wetland

mitigation plan that is based on best available science. Proposed alternative mitigation plans must provide an equivalent or better level of protection of wetland functions and values than would be provided by the strict application of this chapter.

(a) The following will be considered in the approval of an alternative mitigation plan:

(i) The plan uses a watershed approach consistent with “Selecting Wetland Mitigation Sites Using a Watershed Approach (Western Washington)” (Ecology Publication No. 09-06-032, Olympia, WA, December 2009).

(ii) Creation or enhancement of a larger system of natural areas and open space is preferable to the preservation of many individual small habitat areas.

(iii) Mitigation according to subsection (D) of this section is not feasible due to site constraints including but not limited to parcel size, stream type, wetland category, or geologically hazardous areas.

(iv) There is a clear potential for success of the proposed compensation at the identified site.

(v) The plan must contain clear and measurable standards for achieving compliance with the specific provisions of the plan, consistent with FMC 14.20.130, Mitigation plan requirements.

(vi) The plan must be reviewed and approved as part of the overall approval of the proposed use.

(vii) A wetland of a different type may be justified based on regional needs or functions and values; the replacement ratios may not be reduced or eliminated unless the reduction results in a preferred environmental alternative.

(viii) Mitigation guarantees must meet the minimum requirements as outlined in FMC 14.20.150, Financial guarantee requirements.

(ix) Qualified professionals in each of the critical areas addressed must prepare the plan.

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

(10) *Wetland Mitigation Ratios.* The ratios below are based on the assumption that the rehabilitation or enhancement actions implemented represent the average degree of improvement possible for the site. Proposals to implement more effective rehabilitation or enhancement actions may result in a lower ratio, while less effective

actions may result in a higher ratio. The distinction between rehabilitation and enhancement is not clear-cut. Instead, rehabilitation and enhancement actions span a continuum. Proposals that fall within the gray area between rehabilitation and enhancement will result in a ratio that lies between the ratios for rehabilitation and the ratios for enhancement.

**Table 14.20.770 Wetland Mitigation Ratios**

| <b>Category and Type of Wetland</b>       | <b>Creation or Reestablishment</b> | <b>Rehabilitation Only</b>                    | <b>Reestablishment or Creation (R/C) and Rehab (RH)</b> | <b>Reestablishment or Creation (R/C) and Enhancement (E)</b> | <b>Enhancement Only</b> |
|-------------------------------------------|------------------------------------|-----------------------------------------------|---------------------------------------------------------|--------------------------------------------------------------|-------------------------|
| Category I Mature Forested                | 6:1                                | 12:1                                          | 1:1 R/C & 10:1 RH                                       | 1:1 R/C & 20:1 E                                             | 24:1                    |
| Category I – based on score for functions | 4:1                                | 8:1                                           | 1:1 R/C & 6:1 RH                                        | 1:1 R/C & 12:1 E                                             | 16:1                    |
| Category I Natural Heritage Site          | Not allowed                        | 6:1 Rehabilitation of a Natural Heritage Site | Not allowed                                             | Not allowed                                                  | Case-by-case            |
| Category I Bog                            | Not allowed                        | 6:1 Rehabilitation of a bog                   | Not allowed                                             | Not allowed                                                  | Case-by-case            |
| Category I Estuarine                      | Case-by-case                       | 6:1 Rehabilitation of an estuarine wetland    | Case-by-case                                            | Case-by-case                                                 | Case-by-case            |
| Category II                               | 3:1                                | 6:1                                           | 1:1 R/C & 4:1 RH                                        | 1:1 R/C & 8:1 E                                              | 12:1                    |
| Category III                              | 2:1                                | 4:1                                           | 1:1 R/C & 2:1 RH                                        | 1:1 R/C & 4:1 E                                              | 8:1                     |
| Category IV                               | 1.5:1                              | 3:1                                           | 1:1 R/C & 1:1 RH                                        | 1:1 R/C & 2:1 E                                              | 6:1                     |

- (11) *Buffer Mitigation Ratios.* Impacts to buffers must be mitigated at a one-to-one ratio. Compensatory buffer mitigation must replace those buffer functions lost from development.
- (12) *Mitigation Performance Standards.* Wetland mitigation plans must be consistent with FMC 14.20.125, Mitigation requirements, and FMC 14.20.130, Mitigation plan requirements, and “Wetland Mitigation in Washington State: Part 1 – Agency Policies and Guidance” (Version 1, Ecology Publication No. 06-06-011a), or as amended, and best available science.
- (13) *Minimum Standards.* The design standards in this section must be incorporated into mitigation plans submitted to the city for impacts to wetlands and/or wetland buffers. The following standards apply to any mitigation proposed within Category I, II, III and IV wetlands and their buffers. Modifications to these design standards consistent with the guidance in “Wetland Mitigation in Washington State: Part 2 – Developing Mitigation Plans (Version 1)” (Ecology Publication No. 06-06- 011b, March 2006, or as revised) may be considered for approval by the decision-maker as alternatives to the following standards:
- (a) Plants native to the region (not introduced, nonnative or exotic species) must be used.
  - (b) Plant species selection must be consistent with the existing or projected hydrologic regime, including base water levels and stormwater event fluctuations.
  - (c) Plant species selection must be consistent with the site environmental conditions such as slope, aspect, soils and exposure to sun, wind, and rain.
  - (d) Plants should be commercially available or available from local sources.
  - (e) Native plant species high in food and cover value for fish and wildlife should be prioritized, as appropriate for the site.
  - (f) Plant selection must be approved by a qualified professional.
  - (g) The following standards apply to wetland design and construction:
    - (i) For wetland creation sites, preliminary investigations of existing hydrology at the site must be completed to confirm that the site has adequate source hydrology (e.g., high groundwater, precipitation or riverine flooding) to support wetland conditions.
    - (ii) Water depth in areas of seasonal or occasional inundation must not exceed three feet (0.914 meters) unless the proposed mitigation is compensating for

impacts to unvegetated/open water areas.

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

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

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

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

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

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

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

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

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

(xii) An irrigation system must be installed, or watering afforded by trucks or hoses to provide water for installed plants and seeded areas to supplement rainfall to ensure that plants receive approximately one-half inch of water per week during the dry season of the first two years after plant installation.

(xiii) All construction specifications and methods must be approved by a qualified professional and the city.

(h) Construction management provided must be provided by a qualified

professional. Ongoing work on site must be inspected by the city.

#### **Article IV. Fish and Wildlife Habitat Conservation Areas**

##### **14.20.670 Applicability.**

This section applies to all regulated uses within or adjacent to areas designated as fish and wildlife habitat conservation areas. (Ord. 342 § 410, 1992)

##### **14.20.680 Permitted uses.**

Development permitted on lands or shorelands designated as fish and wildlife habitat conservation areas shall be the same as those permitted in the underlying zoning classification, if applicable, subject to the standards of this chapter and article. (Ord. 342 § 420, 1992)

##### **14.20.690 Classification and designation.**

(1) Classification. All city of Forks lands and shorelands shall be classified as follows:

- (a) Class I aquatic habitat conservation areas: Those streams, lakes and associated wetlands defined as shorelines of the state in the Shoreline Management Act of 1971 and the Clallam County shoreline master program, as now or hereafter amended.
- (b) Class II aquatic habitat conservation areas: Those streams, lakes and associated wetlands which meet the criteria for Type 2, 3, 4 and 5 waters as set forth in WAC [222-16-020](#) and [222- 16-030](#) as now or hereafter amended.
- (c) Class I wildlife conservation area: All lands including the following:
  - (i) All seasonal ranges and habitat elements with which federal and state listed endangered, threatened and sensitive species have a primary association and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term.
  - (ii) Areas targeted for preservation by federal, state and/or local government which provide fish and wildlife habitat benefits, such as important waterfowl areas identified by the U.S. Fish and Wildlife Service and state conservation areas identified by Washington state.
- (d) Class II wildlife conservation area: All seasonal ranges and habitat elements with which state listed candidate and monitor species or priority game species have a primary association and which, if altered, may reduce the likelihood that the species will maintain and reproduce

over the long term.

(e) Class III wildlife conservation area: Habitats which include attributes such as comparatively high wildlife density, high wildlife species richness, significant wildlife breeding habitat, seasonal ranges or movement corridors of limited availability and/or high vulnerability. These habitats may include caves, cliffs, islands, meadows, old-growth/mature forest, snag-rich, talus slopes, and urban natural open space.

(2) Designation. All lands and shorelands classified as fish and wildlife habitat conservation areas are hereby designated as fish and wildlife habitat conservation areas. These areas should be mapped whenever possible. These maps shall be advisory and used by the administrator and/or review authority to provide guidance in determining applicability of the standards to a property. Sites which include fish and wildlife habitat conservation areas which are not mapped shall be subject to the provisions of this article and chapter. The administrator shall use, but is not limited to, the following information sources as guidance in identifying the presence of fish and wildlife habitat conservation areas:

- (a) Department of Wildlife nongame and priority habitat and species data bases.
- (b) Department of Wildlife Washington rivers information system data base.
- (c) Department of Natural Resources natural heritage data base.
- (d) Washington State Department of Health commercial and recreational shellfish area inventory.
- (e) Clallam County shoreline master program.
- (f) National wetlands inventory.
- (g) Department of Natural Resources waters of the state.
- (h) North American waterfowl management plan – Pacific joint venture.
- (i) Coastal zone atlas of Clallam County. (Ord. 342 § 430, 1992)

**14.20.700 Performance standards for regulated uses.**

Those regulated uses identified below within or adjacent to designated fish and wildlife habitat conservation areas shall comply with the performance standards outlined in this section, in addition to specific habitat protection standards outlined in FMC [14.20.710](#).

(1) Road/Street Repair and Construction. Any private or public road or street repair, maintenance, expansion or construction which is allowed shall comply with the following minimum development standards:

- (a) No other practicable alternative exists and the road or street crossing serves multiple properties;
- (b) Repair, maintenance, expansion or construction of any private or public road within a fish and wildlife habitat conservation area or buffer, shall only be allowed when there are no significant adverse impacts to the habitat which cannot be mitigated;
- (c) Public road or street crossings should provide for other purposes, such as utility crossings, pedestrian or bicycle easements, viewing points, etc.; and
- (d) The road or street repair and construction is the minimum necessary to provide safe roads and streets.

(2) Stream Crossings. Any private or public bridge expansion or construction which is allowed shall comply with the following minimum development standards:

- (a) Bridges are required for streams which support salmonids;
- (b) All crossings using culverts shall use superspan or oversize culverts;
- (c) Crossings shall not occur in salmonid spawning areas unless no other feasible crossing site exists;
- (d) Bridge piers or abutments shall not be placed in either the floodway or between the ordinary high water marks unless no other feasible alternative placement exists;
- (e) Crossings shall not diminish flood carrying capacity; and
- (f) Crossings shall serve multiple properties whenever possible.

(3) Land Divisions (Subdivisions, Short Subdivisions, Mobile Home and RV Parks, Binding Site Plans). All proposed divisions of land which include fish and wildlife habitat conservation areas shall comply with the following procedures and development standards:

- (a) Lakes, streams, and tidal lands shall not be permitted for use in calculating minimum lot area for the proposed lots.
- (b) A habitat management plan shall be required for proposed land divisions

within designated Class I wildlife conservation areas. A habitat management plan may be required for proposed land divisions in other designated fish and wildlife habitat conservation areas.

(c) Land division approvals shall be conditioned to require that buffers be dedicated as open space tracts, or an easement or covenant encumbering the buffer. Such dedication, easement or covenant shall be recorded together with the land division and represented on the final plat, short plat or binding site plan.

(d) New lots shall contain at least one site, including access and on-site sewage disposal system location, that is suitable for development and does not adversely impact the fish and wildlife conservation area.

(e) In order to implement the goals and policies of this chapter, to accommodate innovation, creativity, and design flexibility, and to achieve a level of environmental protection that would not be possible by typical lot-by-lot development, the use of the planned unit development process (Clallam County Code Chapter 33.38) is strongly encouraged for projects within designated fish and wildlife habitat conservation areas.

(4) Livestock Restrictions. In all development proposals which would permit introduction of livestock to Class I and Class II aquatic habitat conservation areas, damage to the aquatic area shall be avoided by one of the following methods:

(a) Implementation to the satisfaction of the city of Forks city council of a conservation plan to protect and enhance the water quality of the wetland; and/or

(b) Fencing located not closer than the buffer edge.

(5) Trails and Trail-Related Facilities. Construction of public and private trails and trail-related facilities, such as picnic tables, benches, interpretive centers and signs, viewing platforms, and campsites, may be allowed in fish and wildlife habitat conservation areas pursuant to the following standards:

(a) Trails and related facilities shall, to the extent feasible, be placed on existing road grades, utility corridors, or any other previously disturbed areas;

(b) Trails and related facilities shall be planned to minimize removal of trees, shrubs, snags and important wildlife habitat;

(c) Viewing platforms, interpretive centers, campsites, picnic areas, benches and access to them shall be designed and located to minimize disturbance of wildlife habitat and/or critical characteristics of the affected conservation area;

(d) Trail surfaces shall not be of impervious materials, except that impervious public multi- purpose trails may be allowed if they meet all other rents including water quality; and

(e) Where trails are provided, buffers shall be expanded, where possible, equal to the width of the trail corridor including disturbed areas.

(6) Utilities. Placement of utilities within or adjacent to designated fish and wildlife habitat conservation areas may be allowed pursuant to the following standards:

(a) Construction of utilities may be permitted in fish and wildlife habitat conservation areas only when no practical alternative location is available and the utility corridor meets the requirements for installation, replacement of vegetation and maintenance outlined below and as required in the filing and approval of applicable permits and special reports (Article VIII) required by this chapter.

(b) Sewer or On-Site Sewage Utility. Construction of sewer lines or on-site sewage systems may be permitted in fish and wildlife habitat conservation areas when the applicant demonstrates it is necessary to meet state and/or local health code requirements, there are no other practicable alternatives available and construction meets the requirement of this section. Joint use of the sewer utility corridor by other utilities may be allowed.

(i) Corridors shall not be allowed in habitat conservation areas used by species with which federal or state listed endangered, threatened or sensitive species have a primary association or heron rookeries or raptor nesting sites, except in those circumstances where an approved habitat management plan indicates that the utility corridor will not significantly impact the conservation area;

(ii) Corridor construction and maintenance shall protect the fish and wildlife habitat area, shall be aligned when possible to avoid cutting trees greater than 12 inches in diameter at breast height (four and one-half feet) measured on the uphill side and shall not use pesticides, herbicides or other hazardous or toxic substances;

- (iii) Corridors shall require an additional, adjacent, undisturbed buffer width equal to the proposed corridor width including any allowed maintenance roads;
- (iv) Corridors shall be revegetated with appropriate native vegetation at preconstruction densities or greater immediately upon completion of construction or as soon thereafter as possible due to seasonal growing constraints and the sewer utility shall ensure that such vegetation survives;
- (v) Any additional corridor access for maintenance shall be provided as much as possible at specific points rather than by parallel roads. If parallel roads are necessary they shall be of a minimum width but no greater than 15 feet, shall be maintained without the use of herbicides, pesticides or other hazardous or toxic substances, and shall be contiguous to the location of the utility corridor on the side away from the conservation area. (Ord. 342 § 440, 1992)

**14.20.710 Specific habitat protection standards.**

Regulated uses within or adjacent to the fish and wildlife habitat conservation areas shall adhere to the performance standards for regulated uses outlined in FMC [14.20.700](#) and the specific habitat protection standards outlined below:

- (1) Class I Aquatic Habitat Conservation Areas. All development within designated Class I aquatic habitat conservation areas shall adhere to the following:
  - (a) All regulated uses shall submit and have approved a drainage and erosion control plan as specified in Article VIII of this chapter.
  - (b) All regulated uses shall submit and have approved a grading plan as specified in Article VIII of this chapter.
  - (c) Buffers. Buffers shall be maintained along all Class I aquatic areas. Distances shall be measured from the ordinary high water mark (OHWM) or from the top of the bank where the OHWM cannot be identified. Except as allowed for water-dependent and water-related activities, buffers shall be retained in their natural condition. Minor pruning of vegetation and tree limbs may be allowed for enhancement of views; provided, that such activity is approved by the review authority. The distance of the buffer shall be increased to include streamside wetlands which provide overflow storage for stormwaters, feed water back to the stream during low flows or provide shelter

and food for fish. In braided channels, the OHWM or top of bank shall be defined so as to include the entire stream feature.

(i) The depth of the buffer for minor new development shall be based on the Clallam County shoreline master program environment designation, as now or hereafter amended, and the following standards:

| Shoreline Master Program | Buffer depth |
|--------------------------|--------------|
| Urban shoreline          | 25 feet      |
| Suburban shoreline       | 35 feet      |
| Rural shoreline          | 35 feet      |
| Conservancy shoreline    | 50 feet      |
| Natural shoreline        | 100 feet     |

~~Urban Shoreline: 25 feet Suburban Shoreline: 35 feet Rural Shoreline: 35 feet Conservancy S~~

(ii) The depth of the buffer for all new major development and all land divisions shall be 150 feet or the 100-year floodplain, whichever is greater. The review authority may decrease the buffer to no less than the minimum buffer for minor new development if a habitat management plan (Article VIII) approved by the review authority provides sufficient mitigation measures to protect the affected habitat.

(iii) The depth of the buffer may be increased by the review authority whenever a development proposal is habitat with which federal or state listed endangered, threatened or sensitive species or other state species of concern have a primary association, located within landslide or erosion hazard area, or the site supports unique or rare plant communities or heron rookeries and raptor nesting sites.

(d) Water-dependent structures and utilities may alter the required buffer when no other practicable alternative exists and the development is consistent with the Clallam County shoreline master program. Any alteration of a buffer shall be the least necessary and shall require an approved habitat management plan which adequately protects habitat values.

(e) Land divisions within Class I aquatic habitat conservation areas shall

require a minimum lot frontage along the shoreline of 150 feet, measured in a straight line, and required buffer areas shall be dedicated as open space tracts, or an easement or covenant encumbering the buffer.

(f) A stream channel or bank, bluff, and shore may be stabilized when their naturally occurring movement threatens existing structures, public improvements, unique natural resources, or the only feasible access to property, and, in the case of streams, when such stabilization results in maintenance of fish and wildlife habitat, flood control and improved water quality. The review authority may require that bank stabilization be designed by an engineer with sufficient expertise in hydraulic actions of shorelines.

(g) Stream relocations for the purpose of flood protection and/or fisheries restoration shall only be allowed when adhering to the following minimum performance standards:

(i) The bank and buffer configuration should be restored to the original conditions;

(ii) The channel, bank and buffer areas should be replanted with native vegetation which replicates the original in species, size and densities; and

(iii) When required by the city of Forks city council, a civil engineer provides information which demonstrates that the equivalent base flood storage volume and function will be maintained.

(h) Prior to approval or issuance of permits for land divisions and major new development, the common boundary between a required buffer and the adjacent land shall be identified using permanent signs as shown in Exhibit 1 (attached to the ordinance codified in this chapter and on file in the office of the city clerk/treasurer).

(2) Class II Aquatic Habitat Conservation Areas. All development within or adjacent to designated Class II aquatic habitat conservation areas shall adhere to the following standards:

(a) All regulated uses shall submit and have approved a drainage and erosion control plan as specified in Article VIII of this chapter.

(b) All regulated uses shall submit and have approved a grading plan as specified in Article VIII of this chapter.

(c) Buffers. Buffers shall be maintained along all Class II aquatic areas. Distances shall be measured from the ordinary high-water mark (OHWM) or from the top of the bank where the OHWM cannot be identified. Except as allowed for water-dependent and water-related activities, buffers shall be retained in their natural condition. Minor pruning of vegetation and tree limbs may be allowed for enhancement of views; provided, that such activity is approved by the review authority. The distance of the buffer shall be increased to include streamside wetlands which provide overflow storage for stormwaters, feed water back to the stream during low flows or provide shelter and food for fish. In braided channels, the OHWM or top of bank shall be defined so as to include the entire stream feature.

(i) The depth of the buffer for minor new development shall be based on applicable zoning requirements and the following standards:

| Zones                                               | Buffer  |
|-----------------------------------------------------|---------|
| Urban residential, commercial, and industrial zones | 25 feet |
| Rural residential                                   | 35 feet |
| Agricultural residential                            | 35 feet |
| Forestry zones                                      | 50 feet |

~~Urban-~~

~~Residential,-~~

~~Commercial-~~

~~and Industrial-~~

~~Zones:\_\_\_\_\_25 feet~~

~~Rural Residential-~~

~~Zones:\_\_\_\_\_35-~~

~~feet Agricultural-~~

~~Residential Zones:\_\_\_\_\_35 feet Forestry Zones:\_\_\_\_\_50 feet~~

(ii) The depth of the buffer for all new major development and all land

divisions shall meet the standards for the type of stream as specified below. The review authority may decrease the buffer if a habitat management plan (Article VIII) approved by the review authority provides sufficient mitigation measures to protect the affected habitat.

| Type   | Buffer                                                   |
|--------|----------------------------------------------------------|
| Type 2 | 150 feet or the 100-year floodplain whichever is greater |
| Type 3 | 100 feet or the 100-year floodplain whichever is greater |
| Type 4 | 50 feet or the 100-year floodplain whichever is greater  |
| Type 5 | 25 feet or the 100-year floodplain whichever is greater  |

~~Type 2 Waters: 150 feet or the~~

~~100-year flood plain,~~

~~whichever is greater~~

~~Type 3 Waters: 100 feet or the 100-year flood~~

~~plain, whichever is greater~~

~~Type 4 Waters: 50 feet or the~~

~~100-year flood plain,~~

~~whichever is greater~~

~~Type 5 Waters: 25 feet or the 100-year flood~~

~~plain, whichever is greater~~

(iii) The depth of the buffer may be increased by the review authority whenever a development proposal is a habitat with which federal or state listed endangered, threatened or sensitive species or other state species of concern have a primary association, located within landslide or erosion hazard area, or the site supports unique or rare plant communities or heron rookeries and raptor nesting sites.

(d) Water-dependent structures and utilities may intrude into the required buffer when no other practicable alternative exists. Any alteration of a buffer shall be the least necessary and shall require an approved habitat management plan.

(e) A stream channel or bank, bluff, and shore may be stabilized when their naturally occurring movement threatens existing structures, public improvements, ongoing agricultural activities, unique natural resources, or the only feasible access to property, and, in the case of streams, when such stabilization results in improved fish and wildlife habitat, flood control and improved water quality.

(f) Stream relocations for the purpose of flood protection and/or fisheries restoration shall only be allowed when adhering to the following minimum performance standards:

(i) The bank and buffer configuration should be restored to the original conditions;

(ii) The channel, bank and buffer areas should be replanted with native vegetation which replicates the original in species, size and densities; and

(iii) When required by the city of Forks city council, a civil engineer provides information which demonstrates that the equivalent base flood storage volume and function will be maintained.

(3) Class I Wildlife Conservation Areas. All development within or adjacent to designated Class I wildlife conservation areas shall adhere to the following standards:

(a) All sites with known or suspected locations of Class I wildlife species shall require the withholding of all development permits without the filing and approval of a habitat management plan as specified in Article VIII by the review authority. In the case of bald eagles, an approved bald eagle management plan by the Washington Department of Wildlife meeting the requirements and guidelines of the bald eagle protection rules (WAC [232-12-292](#)), as now or hereafter amended, shall satisfy the requirements for a habitat management plan.

(b) All development within ranges and habitat elements with which Class I wildlife have a primary association may require the filing of a habitat management plan (HMP) as specified in Article VIII. An HMP shall consider measures to retain and protect the wildlife habitat and shall consider effects of land use intensity, buffers, setbacks, impervious surfaces, erosion control

and retention of natural vegetation. The requirement for an HMP shall be determined during the SEPA threshold determination on the project and/or by the review authority.

(4) Class II and III Wildlife Conservation Areas. All development within designated Class II and III wildlife conservation areas shall adhere to the following standards:

(a) All development within Class II and III wildlife conservation areas may require the filing of a habitat management plan (HMP). An HMP shall consider measures to retain and protect the wildlife habitat and shall consider effects of land use intensity, buffers, setbacks, impervious surfaces, erosion control and retention of natural vegetation. The requirement for an HMP shall be determined during the SEPA threshold determination on the project and/or by the review authority. (Ord. 342 § 450, 1992)

## **Article V. Geologically Hazardous Areas**

### **14.20.720 Applicability.**

This article applies to all regulated uses within or adjacent to areas designated as geologically hazardous. (Ord. 342 § 510, 1992)

### **14.20.730 Exemptions.**

The following development shall be exempt from grading plan or geotechnical report requirements of this article:

(1) Grading which exposes less than 5,000 square feet of earth and presents no danger for any development proposal within an erosion or landslide hazard area or buffer;

(2) An excavation below finished grade for basements and footings of a building, retaining wall or other structure authorized by a valid building permit. This shall not exempt any fill made with the material from such excavation nor exempt any excavation having an unsupported height greater than five feet after the completion of such structure;

(3) Exploratory excavations under the direction of soil engineers or engineering geologists;

(4) An excavation which (a) is less than two feet in depth, or (b) which does not create a cut slope greater than five feet in height and steeper than one and one-half horizontal to one vertical; and

(5) A fill less than one foot in depth and placed on natural terrain with a slope flatter than five horizontal to one vertical, or less than three feet in depth, not intended to support structures, which does not exceed 50 cubic yards on any one lot and does not obstruct a drainage course. (Ord. 342 § 520, 1992)

**14.20.740 Permitted uses.**

Developments permitted on properties designated as geologically hazardous shall be the same as those permitted in the underlying zoning classification subject to the standards of this chapter and article. (Ord. 342 § 530, 1992)

**14.20.750 Classification and designation.**

(1) Classification. The following definitions and terms shall be used in classifying geologically hazardous areas:

(a) Erosion Hazard Area. Any area containing soils which meet one of the following conditions:

(i) Soils or soil complexes described and mapped within the soil survey of Clallam County as having a moderate, severe or very severe erosion hazard potential, and soils of the Elwha, Clallam and Yeary series when occurring on slopes 15 percent or greater.

(ii) Any soil sloping greater than or equal to 40 percent.

(b) Landslide Hazard Area. Any area potentially subject to mass movement due to a combination of geologic, topographic, and hydrologic factors. The following areas are considered to be subject to landslide hazards:

(i) Areas of historic failures or potentially unstable slopes, such as areas mapped within the Soils Conservation Service slide hazard area studies; marine bluffs; and areas designated as quaternary slumps, earthflows, mudflows, or landslides on maps published by the United States Geological Survey or Department of Natural Resources Division of Geology and Earth Resources.

(ii) Any area with a combination of:

(A) Slopes 15 percent or steeper; and

(B) Slowly permeable soils (typically silt and clay) frequently interbedded with granular soils (predominantly sand and gravel); and

(C) Springs or seepage from perched water tables.

(iii) Any slope 40 percent or steeper and with a vertical relief of 10 or more feet except areas composed of consolidated rock.

(iv) Slopes greater than 80 percent subject to rockfall during seismic shaking.

(v) Any area potentially unstable as a result of rapid stream incision (e.g., ravine side walls), stream bank erosion or undercutting by wave action (e.g., marine bluffs).

(vi) Any area located on an active alluvial fan, presently or potentially subject to inundation by debris flows or deposition of stream-transported sediments.

(vi) Slopes that are parallel or subparallel to planes of weakness, such as bedding planes, joint systems and fault planes in subsurface materials.

(c) Seismic Hazard Areas. Any area subject to severe risk of damage as a result of earthquake induced ground shaking, slope failure, settlement, soil liquefaction, or surface faulting. These conditions occur in areas of loose sand or gravel, peat, artificial fill and landslide materials, poorly drained soils with greater than 50 percent silt and very little coarse material, soil units with high organic content, unconsolidated, recent (post-glacial), fine-grained alluvium in low areas subject to frequent saturation, and areas of artificial fill. These areas are considered likely to experience some sort of surficial disturbance under anticipated earthquake loads.

(2) Designation. Lands classified as erosion, landslide or seismic hazards are hereby designated as geologically hazardous areas and are subject to the procedures and standards of this chapter and article. Geologically hazardous areas shall be mapped whenever possible. These maps shall be advisory and used by the administrator to provide guidance in determining applicability of the standards to a property. Sites which include geologically hazardous areas which are not mapped shall be subject to the provisions of this article and chapter. The administrator shall use, but is not limited to, the following information sources as guidance in identifying the presence of geologically hazardous areas:

(a) Sweet Edwards/EMCOM hazard rating maps;

(b) Coastal zone management atlas;

- (c) Soil Survey of Clallam County;
- (d) U.S.G.S. topographic maps; and
- (e) Aerial photos. (Ord. 342 § 540, 1992)

**14.20.760 Erosion hazard protection standards.**

All development within designated erosion hazard areas or adjacent to such areas shall adhere to the following standards:

(1) Drainage and Erosion Control. All development which exposes 5,000 square feet of earth or more shall submit and have approved a drainage and erosion control plan as specified in Article VIII of this chapter.

(2) Clearing and Grading.

(a) All development which exposes 5,000 square feet of earth or more shall submit and have approved a grading plan as specified in Article VIII of this chapter.

(b) Excavation, grading and earthwork construction shall only be allowed from April 1st to October 15th, or outside this date range if weather conditions do not cause any erosion problems. The following projects are also allowed throughout the year:

- (i) Up to 15,000 square feet may be cleared on any lot, subject to approval of a drainage and erosion control and grading plan as required above; and
- (ii) Timber harvest pursuant to a DNR approved forest practice permit or clearing and grading permit may be allowed.

(3) Utilities. Construction of public and private utility corridors may be allowed in erosion hazard areas when no practicable alternative exists; and provided, that a geotechnical report (Article VIII) indicates that such alteration will not subject the area and development to the risk of erosion.

(4) Land Divisions. No new lot or parcel shall be created in a known erosion hazard area without meeting the following requirements:

- (a) A drainage and erosion/sediment control plan shall be submitted and approved which concludes that division of property will not increase erosion or sedimentation of adjacent

properties or watercourses; and

(b) Any contiguous erosion hazard areas greater than one acre in area within a proposed land division development proposal site shall require the submission of a geotechnical report (Article VIII). All areas which are determined to be unbuildable shall be dedicated as an open space tract, easement or covenant which assures the ownership and protection of the area.

(5) Trails. Trail construction may be allowed; provided, that such trails are not constructed of concrete, asphalt or other impervious surface which would contribute to surface water runoff unless such construction is necessary for soil stabilization or soil erosion prevention. (Ord. 342 § 550, 1992)

**14.20.770 Landslide hazard protection standards.**

All development within designated landslide hazard areas or adjacent to such areas shall adhere to the following standards:

(1) Drainage and Erosion Control. All development which exposes 5,000 square feet of earth or more shall submit and have approved a drainage and erosion control plan as specified in Article VIII of this chapter. Surface drainage shall not be directed across the face of a marine bluff, landslide hazard or ravine. If drainage must be discharged from the bluff into adjacent waters, it shall be collected above the face of the bluff and directed to the water by tight line drain and provided with an energy dissipating device at the shoreline.

(2) Grading and Clearing.

(a) All development which exposes 5,000 square feet of earth or more shall submit and have approved a grading plan as specified in Article VIII of this chapter. There shall be minimum disturbance of trees and vegetation on landslide hazard areas in order to minimize erosion and stabilize bluffs.

(b) Excavation, grading and earthwork construction shall only be allowed from April 1st to October 15th, or outside this date range if weather conditions do not cause any landslide problems. The following projects are also allowed throughout the year:

(i) Up to 15,000 square feet may be cleared on any lot, subject to approval of a drainage and erosion control and grading plan as required above; and

(ii) Timber harvest pursuant to a DNR approved forest practice permit or clearing and grading permit may be allowed.

(3) Buffers. A minimum buffer of 30 feet shall be established from the top, toe and all edges of landslide hazard areas. Existing native vegetation within the buffer area shall be maintained. The buffer may be reduced to a minimum of 10 feet when an applicant demonstrates to the satisfaction of the review authority that the reduction will adequately protect the proposed development and the landslide hazard area. The buffer may be increased by the review authority for development adjacent to a marine bluff or ravine which is unstable. Normal nondestructive pruning and trimming of vegetation for maintenance purposes, or thinning of limbs of individual trees to provide for a view corridor, shall not be subject to these buffer requirements.

Alterations of the buffer for landslide hazard area, or the hazard area itself, may occur for development meeting the following criteria:

- (a) There will be no increase in surface water discharge or sedimentation to adjacent properties;
- (b) There will be no decrease in slope stability on adjacent properties;
- (c) No reasonable alternative exists; and
- (d) A geotechnical report (Article VIII) is submitted and demonstrates that:
  - (i) There is no hazard as proven by evidence of no landslide activity in the past in the vicinity of the proposed development and a quantitative analysis of slope stability indicates no significant risk to the development proposal and adjacent properties; and
  - (ii) The landslide hazard area can be modified or the development proposal can be designed so that the landslide hazard is eliminated or mitigated so that the site is as safe as a site without a landslide hazard.

(4) Land Divisions. No new lot or parcel shall be created in a lawn landslide hazard area without meeting the following requirements:

- (a) No lot or parcel shall be created in a landslide hazard area or its required buffer unless a geotechnical report (Article VIII) of the property indicates that proposed building sites will be safe; and
- (b) Any contiguous landslide hazard areas greater than one acre in area within a proposed land division development proposal site shall require the submission of a geotechnical report (Article VIII). All areas which are determined to be unbuildable shall be dedicated as an open space tract, easement or covenant which assures the ownership and protection of the

area.

(5) Utilities.

(a) Construction of public and private utility corridors may be allowed in landslide hazard areas; provided, that a geotechnical report (Article VIII) indicates that such alteration will not subject the area and development to the risk of landslide.

(b) Septic system drainfields shall be located outside of landslide hazard areas and their associated buffers, except for the toe of slope, unless otherwise justified by a qualified geotechnical engineer.

(c) Stormwater retention and detention systems, including percolation systems and curtain drains utilizing buried pipe or french drain, are prohibited in landslide and steep slope hazard areas and their buffers unless a geotechnical report indicates such a system shall not affect slope stability. The city of Forks city council may require that a licensed civil engineer shall design the systems and certify that the systems have been installed as designed.

(6) Trails. Trail construction may be allowed; provided, that such trails are not constructed of concrete, asphalt or other impervious surface which would contribute to surface water runoff unless such construction is necessary for soil stabilization or soil erosion prevention.

(7) Critical Facilities. Critical facilities shall not be sited within landslide hazard areas unless such facilities meet the following criteria:

(a) No feasible alternative site is available; and

(b) A preliminary or shallow geotechnical report evaluation demonstrates how the proposed construction will adequately protect the proposed development from landslide. (Ord. 342 § 560, 1992)

**14.20.780 Seismic hazard protection standards.**

All development within designated seismic hazard areas shall adhere to the following standards:

(1) Land Divisions. No new lot or parcel shall be created in a seismic hazard area without placing a note on the face of the plat which indicates the presence of a potential hazard and encourages the builder to have any structure designed by a civil engineer to withstand potential seismic activity.

(2) Utilities. Construction of public and private utility corridors may be allowed in seismic hazard areas; provided, that a geotechnical report (Article VIII) indicates that such alteration will not subject the area and development to the risk of earthquake. Utility corridors which carry oil, gas or any other hazardous substance transmission facility shall be prohibited in seismic hazard areas.

(3) Critical Facilities. Critical facilities shall not be sited within seismic hazard areas unless such facilities meet the following criteria:

(a) No feasible alternative site is available; and

(b) A preliminary or shallow geotechnical report (Article VIII) evaluation demonstrates how the proposed construction will adequately protect the proposed development from earthquake.

(4) Construction on Artificial Fills. The city of Forks city council may require that construction on artificial fills shall be certified by a geotechnical report (Article VIII) as safe from earthquake damage. This provision shall not apply to normal maintenance or repair of existing legal structures not exceeding 50 percent of the fair market value of the existing structure.

(5) Public Buildings (Commercial, Industrial, Publicly Owned). Construction of commercial, industrial or any publicly owned building which allows public access shall prepare a preliminary or shallow geotechnical report (Article VIII) evaluation prior to the granting of development permits. The evaluation shall demonstrate that the proposed design will adequately protect the public which has access to the proposed development. The results or conclusions of the evaluation shall be considered a condition of development approval. For the purposes of this section, public access does not include employees of the company or authorized salespeople. (Ord. 342 § 570, 1992)

## **Article VI. Frequently Flooded Areas**

### **14.20.790 Applicability.**

This article applies to all development proposals within or adjacent to designated frequently flooded areas of the city of Forks. The growing of crops and trees and associated land preparation and harvesting activities is not included in the definition of development for the purposes of this article; provided, that land filling or excavating of floodplain areas are not a part of said activities. (Ord. 342

§ 610, 1992)

**14.20.800 Permitted uses.**

Development proposals permitted on lands or shorelands designated as frequently flooded areas shall be the same as those permitted in the underlying zoning classification subject to the standards of this chapter and article. (Ord. 342 § 620, 1992)

**14.20.810 Classification and designation.**

(1) Classification. Frequently flooded areas shall be classified as floodways, floodplains and special flood hazard areas. "Floodway" means the channel of a stream, plus any adjacent floodplain areas, that must be kept free of encroachment in order that the base flood be carried without substantial increases in flood heights. "Floodplain" means the floodway and the special flood hazard area. "Special flood hazard area" means the area adjoining the floodway which is subject to a one percent or greater chance of flooding in any given year, as determined by engineering studies accepted by the city of Forks. Coastal high hazard areas are located within special flood hazard areas.

(2) Designation. All city of Forks lands, shorelands and waters which are identified as within the 100- year floodplain (floodway and floodway fringe, or special flood hazard area) in the Federal Emergency Management Agency report titled "The Flood Insurance Study for Clallam County" dated December 5, 1989, with accompanying flood insurance rate and boundary maps, are designated as frequently flooded areas. (Ord. 342 § 630, 1992)

**14.20.820 Protection standards.**

All development within designated frequently flooded areas shall be in compliance with the Clallam County floodplain management ordinance; Clallam County Chapter 32.01, as now or hereafter amended, in addition to the standards outlined in this section.

(1) New subdivisions, manufactured home park subdivisions, and short subdivisions, as defined in the Forks Municipal Code and applicable state land division laws, are prohibited in special flood hazard areas, unless each buildable lot has an area outside the special flood hazard area equal to or greater than the applicable minimum lot size.

(2) Residential buildings are prohibited within special flood hazard areas unless constructed or placed on lots or parcels of land platted specifically for residential use by a final plat approved and recorded prior to the effective date of this chapter for all other special flood hazard areas. In such cases where residential buildings are allowed within flood hazard areas, such buildings shall be placed the

greatest distance landward from the floodway on the subject parcel. (Ord. 342 § 640, 1992)

## **Article VII. Critical Aquifer Recharge Areas**

### **14.20.830 Applicability.**

This article applies to all development proposals within designated areas with a critical recharging effect on aquifers used for potable water. (Ord. 342 § 710, 1992)

### **14.20.840 Permitted uses.**

Development permitted on lands or shorelands designated as having a critical recharging effect on aquifers used for potable water shall be the same as those permitted in the underlying zoning classification subject to the restrictions and standards of this chapter and article. (Ord. 342 § 720, 1992)

### **14.20.850 Classification and designation.**

(1) Classification. All city of Forks lands and shorelands shall be classified as having either a high, moderate or low aquifer recharge potential. At a minimum, classification shall be based on soil permeability as described within the soil survey of Clallam County. Where adequate information is available, aquifer recharge potential shall be further classified based on the recharge potential of surficial geologic materials, depth to ground water, and topography (i.e., slopes). Lands classified as having a high, moderate or low aquifer recharge potential shall also be classified as having a high, moderate or low susceptibility to contamination of an underlying aquifer, respectively. Based on these criteria, the potential for recharging aquifers or transmitting contaminants to the underlying aquifer is greatest where the aquifer is close to the ground surface, where ground surface slopes are minimal, and where the recharge potential of the soils and/or surficial geologic material is greatest.

(2) Designation. All lands and shorelands classified as high aquifer recharge potential and aquifer susceptibility are hereby designated as areas with critical recharging effect or aquifers used for potable water. (Ord. 355 § 3, 1993; Ord. 342 § 730, 1992)

### **14.20.860 Performance standards for regulated uses.**

The following protection standards shall apply to the regulated uses outlined below designated as areas with a high PAO recharging effect on aquifers used for potable water.

(1) Aboveground Storage Tanks or Vaults. Aboveground storage tanks or vaults for the storage of hazardous substances or dangerous wastes as defined in Chapter [173-303](#) WAC, or any other substances, solids or liquids in quantities identified by

the city of Forks, consistent with Chapter [173- 303](#) WAC, as a risk to ground water quality, shall be designed and constructed so as to:

- (a) Prevent the release of a hazardous substance to the ground, ground waters or surface waters;
- (b) Have constructed around and under it an impervious containment area enclosing or underlying the tank or part thereof. Impervious containment shall be greater than the volume of the tank to avoid an overflow of the containment area;
- (c) Provide for release detection;
- (d) Provide written spill response and spill notification procedures to the local fire district.

(2) Agricultural Activities. Agricultural activities, including commercial and hobby farms, are encouraged to incorporate best management practices concerning animal keeping, animal waste disposal, fertilizer use, pesticide use, and stream corridor management.

(3) Land Divisions. Subdivisions, short subdivisions and other divisions of land shall be evaluated for their impact on ground water quality. The following measures may be required as determined by the city of Forks city council:

- (a) An analysis of the potential nitrate loading to the ground water may be required to assess the impact on ground water quality.
- (b) Alternative site designs, phased development and/or ground water quality monitoring may be required to reduce contaminant loading where site conditions indicate that the proposed action will measurably degrade ground water quality.
- (c) Open spaces may be required on development proposals overlying areas highly susceptible for contaminating ground water resources.
- (d) Community/public water systems and community drainfields are encouraged and may be required where site conditions indicate a high degree of potential contamination to individual wells from on-site or off-site sources.
- (e) Where wells are required to be abandoned, the applicant shall ensure that they are abandoned according to state guidelines.

(4) Landfills, Junk Yards, Etc. Landfills, junk yards, salvage yards, auto wrecking yards, and other solid waste disposal facilities, other than brush and stumps, sawdust, and inert construction debris, shall demonstrate that such facilities will not significantly impact ground water resources. In order to make such determination, the review authority or administrator may require the filing of a hydrologic report addressing one or more of the following:

- (a) Geologic setting and soils information of site and surrounding area;
- (b) Water quality data, including pH, temperature, conductivity, nitrates, and bacteria;
- (c) Location and depth to perched water tables;
- (d) Recharge potential of facility site (permeability/transmissivity);
- (e) Local ground water flow, direction and gradient;
- (f) Location, depth and other water quality data mentioned in subsection (4)(b) of this section on the three shallowest wells or springs located within 1,000 feet of site;
- (g) Surface water locations within 1,000 feet of the site;
- (h) Discussion of the effects of the proposed project on ground water quality and quantity; and
- (i) Recommendations on appropriate mitigations, if any, to assure that there shall be no significant degradation of ground water quality or quantity.

All lands on which the report indicates the proposed development could negatively impact the quality of the aquifer shall be prohibited unless the report can demonstrate conclusively that these negative impacts would be overcome in such a manner as to prevent adverse impacts on the ground water.

The city of Forks city council may require that the report shall be prepared by a person or persons with experience in hydrogeologic assessment and shall derive his/her livelihood from employment in hydrogeology or a related field. The city of Forks city council may also require that the person shall also be knowledgeable in the effect of the proposed development on water quality.

(5) Stormwater Standards for Commercial and Industrial Uses. All new commercial and industrial

land uses which either (a) have greater than 5,000 square feet of impervious area, or (b) handle, store, dispose, transport, or generate hazardous substances/wastes defined as dangerous or extremely dangerous wastes under Chapter [173-303 WAC](#) (regardless of quantity), which may come in contact with stormwater runoff including, but not limited to, gas stations and distributors, car washes, trucking companies, and paint shops, shall remove contaminants prior to their point of entry into surface or ground water resources using available and reasonable best management practices.

Standard drywells are prohibited. Maintenance of stormwater facilities must be assured as a permit condition of the review authority.

(6) **Underground Storage Tanks and Vaults.** Underground storage tanks and vaults used for the storage of hazardous substances or dangerous wastes as defined in Chapter [173-303 WAC](#) as a risk to ground water quality shall be designed and constructed so as to:

- (a) Prevent releases due to corrosion or structural failure for the operational life of the tank or vault;
- (b) Be cathodically protected against corrosion, constructed of noncorrosive material, steel clad with a noncorrosive material, or designed in a manner to prevent the release or threatened release of any stored substance;
- (c) Use material in the construction or lining of the tank which is compatible with the substance to be stored;
- (d) Provide for release detection method(s); and
- (e) Provide written spill response and spill notification procedures to the local fire district.

(7) **Utility Transmission Facilities.** Utility facilities which carry oil, gas or any other hazardous substance shall require information required in subsection (4) of this section for landfills in addition to spill prevention measures and an emergency spill management plan.

(8) **Sewage Effluent and Sludge Disposal.** Sewage and sludge disposal shall be prohibited on lands having a high aquifer recharge potential and aquifer susceptibility and shall be provided information as required for landfills and be carefully evaluated on lands having a moderate aquifer recharge potential and aquifer susceptibility. (Ord. 355 § 4, 1993; Ord. 342 § 740, 1992)

## **Article VIII. Special Reports**

**14.20.870 Purpose.**

In order to maintain and protect critical areas, sufficient environmental information will be required to evaluate a development proposal. (Ord. 342 § 810, 1992)

**14.20.880 When required.**

Special reports shall be submitted and approved for regulated uses when required by this chapter for the protection of a critical area. Refer to specific critical area protection standards for when special reports will be required. (Ord. 342 § 820, 1992)

**14.20.890 Special reports – Responsibility for completion.**

The developer or applicant shall reimburse the city of Forks for the costs incurred in the preparation of special reports or tests and for the costs incurred by the city of Forks to engage technical consultants or staff for review and interpretation of data and findings submitted by or on behalf of the developer or applicant. The applicant or developer shall also pay for permit fees or technical assistance fees. (Ord. 342 § 830, 1992)

**14.20.900 Building site application.**

(1) All building site applications shall identify the proposed development plan which includes the footprint and dimensions of all structures along with the location and dimensions of the primary and reserve drainfield and the source of water supply.

(2) All building site applications shall identify the known locations of any critical areas and the required buffer as regulated by this chapter. (Ord. 342 § 840, 1992)

**14.20.910 Drainage and erosion control plan.**

(1) This plan shall address methods to minimize erosion and contain eroded soil within the project boundaries during construction and to provide for stormwater drainage from the site and its surroundings during and after construction.

(2) For proposed land divisions, a preliminary drainage and erosion control plan shall be submitted together with the preliminary plat application. A final drainage and erosion control plan for the site shall be prepared following preliminary plat approval and prior to final plat approval.

(3) The design standards for the plan shall be consistent with the drainage design manual for Clallam County adopted by resolution of the Clallam County board of commissioners.

(4) The city of Forks city council may require that this report shall be prepared by

a civil engineer licensed in the state of Washington.

(5) Drainage and erosion control plans shall be reviewed and approved by the administrator. (Ord. 342 § 850, 1992)

**14.20.920 Geotechnical report.**

(1) This report shall include a description of the geology of the site, 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, and determine the impacts of the proposed development and appropriate mitigating measures.

(2) The city of Forks city council may require that the report shall be prepared by a (a) geologist and a geotechnical engineer, (b) geologist and/or a geotechnical engineer, (c) a licensed civil engineer or an engineering geologist, who is knowledgeable of regional geologic conditions and who derives his/her livelihood from employment in one of these specialized fields, or (d) any other person whom the city of Forks city council determines has sufficient expertise to prepare the report.

(3) The city of Forks city council may waive the requirement for the report if it finds that the proposed development would not cause significantly adverse geological impacts, or there is adequate geological information available on the area proposed for development to determine the impacts of the proposed development and appropriate mitigating measures. (Ord. 342 § 860, 1992)

**14.20.930 Grading plan.**

(1) This plan shall identify the proposed development project including the movement of material on- site along with the proposed and existing contours of the site, and cross sections thereof.

(2) For proposed land divisions, a preliminary grading plan shall be submitted together with the preliminary plat application. A final grading plan for the site shall be prepared following preliminary plat approval and prior to final plat approval.

(3) The city of Forks city council may require that this report shall be prepared by a civil engineer licensed in the state of Washington.

(4) The standards for this report are found in Chapter 70 of the 1989 Uniform Building Code, or as amended.

(5) This plan shall be reviewed and approved by the administrator who shall require

the payment of expenses as incurred by the city of Forks in the preparation of the report. (Ord. 342 § 870, 1992)

**14.20.940 Habitat management plan.**

(1) This report shall identify how the development impacts from the proposed project will be mitigated (see definition of mitigation at FMC [14.20.255](#) and FMC [14.20.920](#)). The Washington Department of Wildlife Priority Habitat and Species Management Recommendations, dated May 1991, shall be the basis for this report or bald eagle protection rules outlined in WAC [232-12-292](#), as now or hereafter amended.

(2) The habitat management plan shall contain a map prepared at an easily readable scale, showing the location of the proposed development site, the relationship of the site to surrounding topographic, water features, and cultural features, proposed building locations and arrangements, a legend which includes a complete legal description, acreage of the parcel, scale, north areas, and date of map revision.

(3) The habitat management plan shall also contain a report which describes the nature and intensity of the proposed development, an analysis of the effect of the proposed development, activity or land use change upon the wildlife species identified for protection, and a plan which identifies how the applicant proposed to mitigate (see definition at FMC [14.20.255](#), and FMC [14.20.920](#) for standards) any adverse impacts to wildlife habitats created by the proposed development.

(4) Possible mitigation measures to be included in the report, or required by the review authority, shall include, but are not limited to:

- (a) Establishment of buffer zones;
- (b) Preservation of critically important plants and trees;
- (c) Limitation of access to habitat areas;
- (d) Seasonal restriction of construction activities; and
- (e) Establishing phased development requirements and/or a timetable for periodic review of the plan.

(5) The city of Forks city council may require that the plan shall be prepared by a person who has been educated in this field and derives his/her livelihood from employment as a wildlife biologist. (Ord. 342 § 880, 1992)

**14.20.950 Mitigation plan.**

(1) This report shall identify how the development proposal has considered the following criteria in the order of preference which protects the affected critical area. For mitigation of wetland impacts, a wetland mitigation plan shall be required. For mitigation of fish and wildlife habitat impacts, a habitat management plan may also be required.

- (a) Avoiding the impact altogether by not taking a certain action or parts of an action;
- (b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;
- (c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
- (d) Compensating for the impact by replacing, enhancing, or providing substitute resources or environments.

(2) The report shall be prepared by the applicant and/or a qualified professional and shall specifically outline how the development proposal will meet the criteria identified above. (Ord. 342 § 890, 1992)

The Forks Municipal Code is current through Ordinance 662, passed December 27, 2022.

Disclaimer: The city clerk's office has the official version of the Forks Municipal Code. Users should contact the city clerk's office for ordinances passed subsequent to the ordinance cited above.

City Website:

<http://forkswashington.org/> City

Telephone: (360) 374-5412 Ext 240

[General Code](#)