

1
2 C. Utilities that are granted more lenient treatment under some circumstances
3 because they provide significant community benefit in themselves and the community
4 benefits from efficient and economic installation of utility facilities.

5
6 Deviation from the standards imposed herein are limited to the least practicable
7 difference from the requirements of this ordinance; and
8

9 **WHEREAS**, the City of Lake Forest Park is an urban community with most of
10 the land within the City developed for public or private use so that the City's
11 development regulations must be adapted to the current state of development; now,
12 therefore,
13

14 **THE CITY COUNCIL OF THE CITY OF LAKE FOREST PARK,**
15 **WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:**
16

17 Section 1. Chapter 16.16 and Chapter 16.18 of the Lake Forest Park
18 Municipal Code are each repealed.
19

20 Section 2. A new Chapter 16.16 of the Lake Forest Park Municipal Code is
21 adopted as follows:
22

23 **Chapter 16.16**
24

25 **ENVIRONMENTALLY SENSITIVE AREAS**
26

27 Sections:

- 28 16.16.010 Purpose.
- 29 16.16.020 Sensitive Areas Protected.
- 30 16.16.030 Applicability.
- 31 16.16.040 Definitions.
- 32 16.16.050 Maps and study – Adoption.
- 33 16.16.060 Sensitive area - Authority of Planning Director –Review process
- 34 16.16.070 Review Process Applications – Content – Fee.
- 35 16.16.080 Applications – Approval – Permits – General Condition.
- 36 16.16.090 Applications – Approval – Criteria.
- 37 16.16.100 Sensitive area – Special study requirement.
- 38 16.16.110 Sensitive Area Study – Contents.
- 39 16.16.120 Mitigation and monitoring
- 40 16.16.130 Mitigation sequencing.
- 41 16.16.140 Timing.
- 42 16.16.150 Bond requirements.
- 43 16.16.160 Vegetation management plan.
- 44 16.16.170 Sensitive areas - Markers and signs.
- 45 16.16.180 Sensitive areas - Tract designations.
- 46 16.16.190 Notice to title.

- 1 16.16.200 Performance standards for subdivision.
- 2 16.16.210 Sensitive area rules.
- 3 16.16.220 Exemptions from regulation under this chapter.
- 4 16.16.230 Authorized exceptions to work in sensitive areas.
- 5 16.16.240 Setback exception.
- 6 16.16.250 Reasonable use exception.
- 7 16.16.260 Public agency and utility exception.
- 8 16.16.270 Development Standards – Sensitive Area Permits.
- 9 16.16.280 Erosion hazard areas – Development standards – Permitted alterations.
- 10 16.16.290 Landslide hazard areas – Development standards – Permitted alterations.
- 11 16.16.300 Seismic hazard areas – Development standards – Permitted alterations.
- 12 16.16.310 Steep slope hazard areas – Development standards – Permitted alterations.
- 13 16.16.320 Wetlands – Development standards.
- 14 16.16.330 Wetlands – Permitted alterations.
- 15 16.16.340 Wetlands – Mitigation requirements.
- 16 16.16.350 Streams – Development standards.
- 17 16.16.360 Streams – Permitted alterations.
- 18 16.16.370 Streams – Mitigation requirements.
- 19 16.16.380 Wildlife habitat conservation areas.
- 20 16.16.390 Wellhead Protection Areas.
- 21 16.16.400 Enforcement

22

23 **16.16.010 Purpose.**

24

25 The provisions of this chapter implement the goals and policies of Washington State
26 Growth Management Act, the Lake Forest Park Municipal Code, the Washington State
27 Environmental Policy Act and the Comprehensive Plan for the City of Lake Forest Park
28 to protect the public health and safety and to protect the natural environment, in particular
29 the Lyon and McAleer creek basins, but also all sensitive areas of the city, including their
30 structures, functions and values.

31 This chapter is adopted, in part to:

32

A. Protect sensitive areas;

33

B. Protect unique, fragile and irreplaceable elements of the environment.

34

C. Protect public and private property from damage due to landslide, seismic hazard,
35 flooding, sedimentation, or erosion;

36

D. Minimize stormwater runoff, and

37

E. Prevent losses from turbidity and pollution of wetlands and fish-bearing waters
38 such as lakes and streams which are used in the life cycles of anadromous salmon,
39 steelhead, or other species of fish and to maintain wildlife habitat;

40

F. Achieve a goal of no net loss of wetland function, value, and acreage within each
41 drainage basin.

42

H. Maintain stream, habitat and riparian corridor functions.

43

G. Provide the Planning Director and others with decision making authority with
44 supplemental information for use concerning public or private development or work that
45 affects sensitive areas, including decisions to approve or deny an application or to impose
46 conditions thereon, and for use by the City with respect to determinations under the State

1 Environmental Policy Act, Chapter 43.21C RCW, the Washington Administrative Code
2 provisions, and city ordinances adopted in conjunction therewith;

3
4 **16.16.020 Sensitive Areas Protected.**

5
6 Unless expressly authorized herein, any alteration of or work in or development of a
7 sensitive area is prohibited.

8
9 **16.16.030 Applicability.**

10
11 A. The provisions of this chapter shall apply to development proposals for sites in the
12 city on which are located sensitive areas or sensitive area buffers or that are contiguous to
13 sensitive areas or sensitive area buffers

14
15 B. Whenever the Planning Director determines that a development proposal is for a
16 site described in section 16.16.020, all work shall be performed and all construction
17 completed in compliance with sensitive area permits issued by the city according to the
18 requirements of this chapter. Permit decisions shall be Type III decisions and processed
19 according to chapter 16.26 LFPMC.

20
21 C. The decision of the city to issue a sensitive area permit conditioned by the
22 requirements of this chapter does not relieve the applicant from complying with all other
23 applicable city ordinances and plans. In case of a conflict among ordinances or between
24 this chapter and adopted City plans, the more stringent shall apply.

25
26 **16.16.040 Definitions.**

27
28 Words and phrases used in this chapter shall have the meaning set forth in this
29 section. Undefined words and phrases that are defined in Chapter 18 LFPMC shall have
30 the meaning ascribed therein unless the context clearly requires otherwise or another code
31 provision is referenced. For purposes of interpretation, the present tense includes the
32 future, the singular form includes the plural, and the plural form includes the singular.
33 “Shall” is mandatory and not discretionary. The words “person” or “applicant” shall
34 include an individual(s), a corporation, partnership or other legal entity. Whenever a
35 specific document or regulation is referenced herein, the reference shall refer to the most
36 recent edition of such document or regulation, unless the context clearly indicates
37 otherwise.

38
39 A. “Alteration” means any human activity that results or might result in any impact
40 upon a sensitive area; provided that alteration does not include walking, fishing, or any
41 other passive recreation or other similar activities

42
43 B. “Best management practices”: Regularly accepted principles and practices or
44 systems of practices and management measures that are recommended by qualified
45 professional as most likely to:

- 1 1. Control soil loss and reduce water quality degradation caused by high
- 2 concentrations of nutrients, animal waste, toxics, and sediment;
- 3 2. Minimize adverse impacts to surface water and ground water flow, circulation
- 4 patterns, and to the chemical, physical, and biological characteristics of streams and
- 5 wetlands;
- 6 3. Protect trees and vegetation designated to be retained during and following
- 7 site construction;
- 8 4. Protect wildlife habitat; and
- 9 5. Protect and enhance sensitive areas and their function and values.

10
11 C. “Buffer” means an area contiguous to a sensitive area that is established to protect

12 the sensitive area.

13
14 D. “Development proposal” means any proposed activity relating to the use and/or

15 development of land requiring a permit or approval from the city.

16
17 E. “Enhancement” means an action which increases the functions and values of a

18 stream, wetland or other sensitive area.

19
20 F. “Erosion hazard area” means an area with soil characteristics that, according to the

21 USDA Soil Conservation Service Soil Classification System, may experience severe to

22 very severe erosion hazard, including slopes greater than 15% with erodible soils that are

23 exposed. Any activity which exposes erodible soils to rainfall or running water will

24 create erosion hazard conditions on slopes greater than 15 percent. Soils which are

25 particularly susceptible to erosion include fill constructed of virtually all soil types, loose

26 sandy native soils such as Vashon recessional outwash (Qvr), Esperance sand (Qe),

27 Vashon Till (weathered Qvt), and the dense fine-grained clay (Qcl). Improper fill

28 methods, especially near flowing water, can produce an erosion hazard in areas not

29 identified as hazard areas.

30
31 G. “Landslide” means any episodic downslope movement of a mass including, but

32 not limited to, soil, rock or snow.

33
34 H. Landslide Hazard Area.

35 1. “Landslide hazard area” means a slope that is potentially subject to landslides.

36 All landslide hazard areas are classified as:

37 a. Class I: a slope that is less than 15 percent and is considered relatively

38 stable;

39 b. Class II: a slope that is greater than 15 percent and is underlain by

40 permeable soils that are relatively stable in their natural state but may become unstable if

41 slope configurations or draining conditions are modified;

42 c. Class III: a slope that is greater than 15 percent and is underlain by

43 impermeable soils, and may be characterized by springs or seeping groundwater during

44 the wet season.

45 2. “Landslide hazard areas” includes Class II and Class III if any of the

46 following are present:

- 1 3. a. Any area that has shown movement during the Holocene epoch (from
2 10,000 years ago to present) or which is underlain by significant waste debris
3 of that epoch; or
4 b. An area potentially unstable as a result of rapid stream incision, stream
5 bank erosion or undercutting; or
6 c. Any area located on an alluvial fan or delta potentially subject to inundation
7 by debris flows; or
8 d. Any area with a slope of 40 percent or greater and with a vertical relief of
9 10 or more feet except any area composed of consolidated rock.

10
11 I. “Light equipment” means non-motorized hand-held tools and construction
12 equipment, such as handsaws, wheelbarrows, and post-hole diggers.

13
14 J. “Mitigation,” means any of the following actions or combination of
15 actions:

- 16 1. Avoiding impacts to environmentally sensitive areas by avoiding actions or
17 parts of actions; or
18 2. Minimizing impacts by limiting the degree of an action and its
19 implementation by affirmative acts designed to avoid or reduce impacts; or
20 3. Restoration measures that reduce or eliminate over time the adverse impacts
21 to - sensitive area by preservation and maintenance operations; or
22 3. Compensation for an impact by means of replacement or enhancement of a
23 sensitive area or providing for substitute resources; or
24 4. Monitoring the impact and initiating appropriate corrective measures.

25
26 K. “Monitoring” means the evaluation of the impacts of development proposals on
27 biologic, hydrologic and geologic systems through the collection and analysis of data
28 over a designated period of time and producing periodic reports for the purpose of
29 understanding and documenting changes in natural ecosystems, functions and features.

30
31 L. “Pervious Material” means any material that permits full or partial absorption of
32 stormwater into previously unimproved land.

33
34 M. “Priority habitats” means a seasonal range or habitat element with which a
35 priority species has a primary association and which, if altered, may reduce the likelihood
36 that the species will maintain and reproduce over the long term.

37
38 N. “Priority species” means those species that are listed in the Washington
39 Department of Wildlife Priority and Habitat Species (PHS) list for Forested and Urban
40 Areas.

41
42 O. “Qualified Professional” means a person with experience and training in the
43 pertinent scientific discipline, and who is a qualified scientific expert with expertise
44 appropriate for the relevant sensitive area subject according to WAC 365-195-905(4). A
45 qualified professional must also have obtained a Bachelor of Science or Bachelor of Arts
46 or equivalent degree in biology, engineering, environmental studies, fisheries,

1 geomorphology, or related field, with at least three years experience in the related
2 profession, such as botany, wetlands, fisheries, wildlife, soils, ecology, and similar areas
3 of specialization, provided that a qualified professional for:

4 1. habitat must have a degree from an accredited college or university in biology
5 and professional experience related to the subject species.

6 2. wetlands must be a certified Professional Wetland Scientist or have, at a
7 minimum: (1) a Bachelor's degree in hydrology, soil science, biology botany, ecology,
8 or related field; and (2) at least two years of full-time work experience as a wetlands
9 professional, including experience in delineating wetlands using the state or federal
10 manuals, preparing wetland reports, conducting function assessments, and developing
11 and implementing mitigation plans.

12 3. a geological hazard must be a professional engineer or geologist, licensed in
13 the state of Washington.

14 4. wellhead protection areas must be a hydrogeologist, geologist, engineer, or
15 other scientist with experience in preparing hydrogeologic assessments.

16
17 P. "Recommended development practices" means guidelines for development in or
18 near sensitive areas as may be utilized by the Planning Director from time to time.

19
20 Q. "Restorations" or "restoration" means the actions or action taken to return a
21 sensitive area to a state in which the stability, functions and values approach the natural
22 state as closely as possible.

23
24 R. "Salmonid" means a member of the fish family salmonidae, which include
25 Chinook, coho, chum, sockeye, and pink salmon; rainbow, steelhead, and cutthroat trout;
26 brown trout; bull trout, brook and dolly varden, char, kokanee, and white fish.

27
28 S. "Seismic hazard areas" means areas underlain by low-strength fill and floodplain
29 deposits with soil and groundwater conditions that are more susceptible to seismic
30 hazards than other areas.

31
32 T. "Sensitive areas" means erosion hazard areas, landslide hazard areas, seismic
33 hazard areas, steep-slope hazard areas, streams, wetlands, wellhead protection areas,
34 wildlife habitat conservation areas and flood hazard areas. "Sensitive areas" also means
35 and includes any buffers established by this chapter, or any buffer or setback established
36 by state law or other city ordinance that serve to protect sensitive areas. "Sensitive areas"
37 also means and includes sensitive areas that are located on neighboring lots.

38
39 U. "Setback" means the area delineated on a development proposal site permit that
40 separates building structures from sensitive area buffers present on the development site
41 or on neighboring lots, unless otherwise specified in this Chapter.

42
43 V. "Slope" means an inclined ground surface, the inclination of which is expressed as
44 a ratio (percent) of vertical distance to the horizontal distance, using the formula:

45
$$\frac{\text{Vertical distance}}{\text{Horizontal distance}} \times 100 = \text{percent (\%)} \text{ slope}$$

46

1 A slope is delineated by establishing its toe and top and measured by averaging the
2 inclination over at least 10 feet of vertical relief.

3
4 W. "Steep slope hazard areas" means areas not composed of consolidated rock with
5 slope gradients of 40 percent or greater, within a vertical elevation change of at least 10
6 feet.

7 1. "Toe of a slope" is a distinct topographic break in slope that separates slopes
8 inclined at less than 40 percent from slopes equal to or in excess of 40 percent. Where no
9 distinct break exists, the toe of a steep slope is the lowermost limit of the area where the
10 ground surface drops 10 feet or more vertically within the horizontal distance of 25 feet.

11 2. "Top of a slope" is a distinct, topographic break in slope that separates slopes
12 inclined at less than 40 percent from slopes equal to or in excess of 40 percent. Where no
13 distinct break in slope exists, the top of the slope shall be the uppermost limit of the area
14 where the ground surface drops 10 feet or more vertically within a horizontal distance of
15 25 feet.

16
17 X. "Streams" means surface water carried in defined channels or beds, intermittently
18 or perennially, excluding irrigation ditches, canals, storm or surface water runoff devices
19 or other entirely artificial streams, unless used by salmonids or to convey surface water
20 naturally occurring prior to the alteration of the land. A defined channel or bed shall
21 constitute an area which demonstrates clear evidence of the passage of water and
22 includes, but is not limited to, bedrock channels, gravel beds, sand and silt beds, and
23 defined channel swales. A channel or bed need not contain water year-round, but should
24 show evidence of annual intermittent flow to meet the requirements of this definition.
25 The upstream reach of a stream shall end at the most upstream segment of open water
26 channel flow provided that segments that have been culverted shall continue to be
27 considered streams for the purpose of this title. Streams shall be designated as Type 1,
28 Type 2, and Type 3 according to the following criteria.

29 1. Type 1: Streams that are used at least seasonally by fish for spawning, rearing
30 or migration. Stream that are fish passable from Lake Washington are presumed to be
31 Type 1. Fish passage should be determined by using a qualified professional. Type 1
32 streams include streams or parts thereof that are waters of the state according to law.

33 2. Type 2: Streams that are not fish bearing and that do not go dry any time
34 during a year of normal rainfall (perennial streams); provided however, Type 2 streams
35 include the intermittent dry portions of the perennial channel below the uppermost point
36 of perennial flow, provided further that if the uppermost point of perennial flow cannot
37 be identified with simple, non-technical observations then the point of perennial flow
38 should be determined by a qualified professional.

39 3. Type 3: Streams that are not Type 1 or 2. These are seasonal, non-fish-bearing
40 streams in which surface flow is not present for a significant portion of a year of normal
41 rainfall and that are not located downstream from any Type 2 or higher stream.

42
43 Y. "Utilities" means facilities providing services to lots within the city through wires,
44 pipes, or lines provide by a public or private utility. "Utilities" does not include wireless
45 facilities.

1 Z. “Wellhead Protection Area” means the surface and subsurface area surrounding a
2 water well or wellhead, supplying a public water system, through which contaminants are
3 reasonably likely to move toward and reach such water well or wellhead.
4

5 AA. “Wetlands” means land that is inundated or saturated with water, such as
6 swamps, marshes, bogs, and similar or areas, that under normal circumstances support, a
7 prevalence of vegetation typically adapted for life in saturated soil conditions; excluding
8 artificial wetlands intentionally created from non-wetland sites, including, but not limited
9 to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities,
10 wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands
11 created after July 1, 1990, that were unintentionally created as a result of the construction
12 of a road, street, or highway. Wetlands may include those artificial wetlands intentionally
13 created from non-wetland areas created to mitigate conversion of wetlands. Wetlands
14 shall be delineated in accordance with the Washington State Wetland Identification and
15 Delineation Manual (Department of Ecology Publication #96-94).
16

17 To differentiate between levels of wetland protection and the application of
18 development standards, wetlands are rated as follows:

- 19 1. “Category 1: wetlands” that meet any of the following:
20 a. The wetland contains species listed by the federal government as
21 endangered or threatened, or
22 b. The wetland is listed by the federal or the state government as containing
23 critical or outstanding actual habitat for endangered or threatened species; or
24 c. Wetlands with 40 percent to 60 percent permanent open water in dispersed
25 patches with two or more classes of vegetation;
26 d. Wetlands equal to or greater than 10 acres in size and having three or more
27 wetland classes, one of which is open water; or
28 e. Wetlands with plant associations of infrequent occurrence that are
29 associated with wetland values and functions.
30 2. “Category 2: wetlands” that are not Category 1 wetland and meet any of the
31 following criteria:
32 a. Wetlands greater than one acre in size;
33 b. Wetlands equal to or less than one acre in size and having three wetland
34 classes;
35 c. Wetlands equal to or less than one acre that have a forested wetland class;
36 or
37 d. Wetlands with heron rookeries or raptor nesting trees.
38

39 “Category 3: wetlands” that are not Category 1 or 2 wetlands and that are equal to or
40 less than one acre in size with two or fewer wetland classes.
41

42 BB. “Wetland boundary” means the line delineating the outer edge of a wetland as
43 determined a qualified professional using the *Washington State Wetland Identification*
44 *and Delineation Manual* (Department of Ecology Publication #96-94) as required by
45 RCW 36.70A.175.
46

1 CC. “Wetland functions” means the natural processes performed by wetlands,
2 including functions that are important in facilitating food chain production, providing
3 sites for nesting, rearing and resting for aquatic, terrestrial and avian species, maintaining
4 the availability and quality of water, acting as recharge and discharge areas for
5 groundwater aquifers and moderating surface and stormwater flows, as well as
6 performing other functions including, but not limited to, those set forth in the U.S. Army
7 Corps of Engineers regulations at 33 C.F.R. Section 320.4(b)(2), 1988.

8
9 DD. “Wildlife habitat conservation area” means feeding, breeding and nesting sites
10 for priority, endangered or threatened species, regardless of number. These lands are
11 managed for maintaining species in a wild state in suitable habitats within their natural
12 geographic distribution so that isolated subpopulations are not created. Wildlife habitat
13 conservation areas include:

- 14 1. Priority habitats with priority species;
- 15 2. Naturally occurring ponds under 20 acres and their submerged aquatic beds
16 that provide fish or wildlife habitat;
- 17 3. Waters of the state;
- 18 4. Lakes, ponds, streams and rivers planted with game fish by a governmental or
19 tribal entity; or
- 20 5. State natural area preserves and natural resource conservation areas.

21
22 **16.16.050 Maps and study – Adoption.**

23
24 A. The approximate location and extent of sensitive areas are shown on the sensitive
25 area maps adopted by the City of Lake Forest Park, as most recently updated. The
26 following sensitive area maps are hereby adopted:

- 27 1. City of Lake Forest Park official sensitive area maps known as the “Lake
28 Forest Park Sensitive Areas Mapping Project,” completed in December 1991, and
29 updates that are the result of sensitive areas studies by a qualified professional subject to
30 review by the Planning Commission and approval by the Planning Director. Updates and
31 original plates may be consolidated into a new official map subject to approval of the
32 Planning Director.
- 33 2. Washington Department of Fish and Wildlife Priority Habitat and Species
34 Maps;
- 35 3. Maps of wellhead protection areas included in the Lake Forest Park Water
36 District Comprehensive Water System Plan, 2001.

37
38 B. These maps are for the guidance of the City of Lake Forest Park, project
39 applicants, and/or property owners. They are a reference and do not provide a final
40 sensitive area designation or delineation.

41
42 **16.16.060 Sensitive area – Authority of Planning Director - Review process.**

43
44 A. The Planning Director is authorized to administer this chapter and to make all
45 decisions required by this chapter unless specifically provided otherwise.

1 B. The Planning Director shall perform a review for any development proposal permit
2 application or other request for permission to proceed with an alteration on a site to:

3 1. Determine whether any sensitive area exists on the property and confirm its
4 nature and type;

5 2 Determine whether a sensitive area study is required and, if so, the nature of
6 that study;

7 3 Evaluate the sensitive area study;

8 4 Determine whether any proposed alteration to the sensitive area is necessary;
9 and

10 5 Determine whether the mitigation and monitoring plans and bonding measures
11 proposed by the applicant are sufficient to protect the public health, safety and
12 welfare, consistent with the purposes of this chapter.
13

14 **16.16.070 Applications – Content – Fee.**

15
16 A. Whenever the Planning Director determines that work on or development of a site
17 will affect a sensitive area, an application for a sensitive area permit shall be filed with
18 the Planning Director on forms provided by the city.
19

20 B. The applicant is responsible for providing and the application shall include
21 information known to the applicant indicating whether the subject property is located in,
22 adjacent to, contains, or has characteristics of an environmentally sensitive area as
23 defined in this chapter or other adopted ordinances. The applicant responsibility
24 includes informing the Planning Director of the discovery of sensitive areas during the
25 development process that had not been earlier discovered or disclosed.
26

27 C. An application shall not be complete until:
28

29 1. The applicant has submitted a study prepared by a qualified professional that
30 identifies and assesses any sensitive areas and buffers located on or adjacent to the
31 proposed development site, the potential impacts to the sensitive areas; provided,
32 however, that the Planning Director may waive the requirement for a study whenever the
33 Planning Director determines that sufficient information is otherwise available to decide
34 upon the application consistent with the requirements of this chapter, the city's
35 comprehensive plan, and city ordinances; and

36 2. The applicant has executed a hold harmless and release agreement in a form
37 approved by the city releasing the city from liability for any damage arising from the
38 location of improvements within the sensitive area or sensitive area buffer; and

39 3. The applicant has agreed that should applicant fail to perform mitigation and
40 monitoring as required the city may enter onto the property for the purpose mitigation
41 and monitoring as required by city permit at the applicant's expense.

42 4. The applicant has paid the fee established by the city council. An applicant
43 shall be responsible for all costs associated with the employment of qualified
44 professionals and any review conducted by city employees or city retained consultants.
45 The Planning Director may require a deposit to pay for city expenses related to the
46 application as a condition of approval.

1
2 **16.16.080 Applications – Approval – Permits – General Condition.**
3

4 A. In accordance with the provisions of this chapter, the Planning Director may
5 approve, deny, or approve with conditions any application for a sensitive area permit.
6 The Planning Director’s decision shall be in a writing that sets forth the basis of the
7 decision and cites the relevant code provision. Sensitive area permits shall be of two
8 types:

9 1. A Major Sensitive Area Permit shall be required for all activities subject to
10 this chapter, except as provided in subsection 2.

11 2. A Minor Sensitive Area Permit shall be required for all activities
12 a. performed only by light equipment.
13 b. authorized by section 16.16. 230 and performed only by light equipment.
14 c. authorized by the setback exceptions of 16.16.240.

15 B. All work authorized by a sensitive area permit shall be conducted using the best
16 management practices that result in the least amount of impact to the sensitive areas,
17 including for tree and vegetation protection, construction management, erosion and
18 sedimentation control, water quality protection, and regulation of chemical applications.
19 The City may observe the use of best management practices as necessary to ensure that
20 the activity does not result in degradation to the sensitive area. Any damage to, or
21 alteration of, a sensitive area shall be restored, rehabilitated, or replaced as determined by
22 the Planning Director at the responsible party’s expense.
23

24 **16.16.090 Applications – Approval – Criteria – Revocation.**
25

26 A. The Planning Director shall make final sensitive area determinations and issue
27 sensitive area permits according to the requirements of this Chapter, best available
28 science, and sensitive area studies prepared by qualified professionals.

29 B. The Planning Director is authorized to conduct review of the sensitive area study
30 submitted by the applicant using a qualified professional to verify the studies’ findings,
31 conclusions and recommendations. Before initiating a professional review, the city shall
32 inform the applicant of the review and anticipated expense.

33 C. When reviewing an application, the Planning Director may consider any
34 recommended development practices that may be used in conjunction with the adopted
35 sensitive areas map and study. Recommended development practices may serve as a
36 guideline for interpretation of both the study and sensitive areas map.

37 D. A permit that issued on the basis of false information provided by the applicant is
38 void and the holder of such permit shall have no rights thereunder.
39

40 **16.16.100 Sensitive area – Special study requirement.**
41

42 A. An applicant for a development proposal on a site determined by the Planning
43 Director to be subject to the requirements of this chapter shall submit a sensitive area
44 study that in the judgment of the Planning Director adequately evaluates the proposal and
45 all probable impacts to the satisfaction of the planning director.

1 B. The Planning Director may require information from the applicant in addition to
2 the sensitive area study, as necessary to ensure compliance with this chapter.

3
4 **16.16.110 Contents of sensitive areas study.**

5
6 A. Sensitive area studies shall be in writing and:

- 7 1. Identify and characterize sensitive area as a part of a larger development
8 proposal site;
9 2. Assess hazards posed by the development proposal to any sensitive areas or
10 sensitive area buffers on or adjacent to the proposed site;
11 3. Propose adequate mitigation, maintenance, monitoring and contingency plans
12 and bonding measures, if necessary;
13 4. Provide a scale map of the development proposal site;
14 5. Provide detailed studies, as required.

15 B. Sensitive area studies shall incorporate the best available science.

16 C. The Planning Director may permit a sensitive area study to incorporate studies
17 required by other laws and regulations or other sensitive area studies performed under
18 this chapter.

19
20 **16.16.120 Mitigation and monitoring.**

21
22 A. The Planning Director may require such mitigation as may be indicated as
23 beneficial by the sensitive area study.

24 B. Mitigation of sensitive area impacts shall be conducted according to an
25 approved mitigation plan that shall describe the existing functions and values of the
26 affected sensitive areas, the nature and extent of impacts to those areas, proposed
27 mitigation measures to offset those impacts. The mitigation plan shall also contain a
28 drawing that illustrates the compensatory mitigation elements. The plan and/or drawing
29 shall list plant materials and other habitat features to be installed.

30 C. The applicant shall submit a monitoring and maintenance program prepared
31 by a qualified professional that shall, at a minimum include the following:

- 32 1. The goals and objectives for the mitigation plan;
33 2. The criteria for assessing the mitigation;
34 3. A monitoring plan that includes annual site visits by a qualified professional,
35 with annual progress reports submitted to the Planning Director and that lasts for a period
36 sufficient to establish that performance standards have been met as determined by the
37 planning director, but no less than five years;
38 4. A contingency plan; and
39 5. A signed copy of the written contract with a qualified professional who will
40 perform the monitoring program. The contract shall incorporate the terms of the required
41 monitoring program.

42 D. Whenever the Planning Director determines that monitoring has established a
43 significant adverse deviation from predicted impacts, or that mitigation or maintenance
44 measures have failed, the applicant or the property owner shall be required to institute
45 correction action, which shall also be subject to further monitoring as provided in this
46 section.

1 E. All costs associated with the mitigation/monitoring and planning therefore,
2 including city expenses, shall be the responsibility of the applicant.
3

4 **16.16.130 Mitigation sequencing.**
5

6 Applicants shall demonstrate that all reasonable efforts to avoid and minimize
7 impacts to sensitive areas and buffers have been examined and that impacts have been
8 avoided, minimized, or compensated for in the following order of preference:

9 A. Minimizing impacts by limiting the degree or magnitude of the action by using
10 appropriate technology, or by taking affirmative steps to avoid or reduce the impact;

11 B. Rectifying the impact by repairing, rehabilitating, or restoring the affected
12 sensitive area(s) and/or buffer(s);

13 C. Reducing or eliminating the impact or hazard over time through preservation
14 and/or maintenance operations;

15 D. Compensating for the impact by replacing, enhancing, or providing substitute
16 sensitive areas and/or buffers; and

17 E. Monitoring the impact and/or hazard and making appropriate corrective measures
18 when necessary.
19

20 **16.16.140 Timing.**
21

22 A. All work approved or mitigation required by a sensitive areas permit shall be
23 completed prior to the final inspection and occupancy of a project, or sooner as
24 prescribed by the planning director.

25 B. Failure to complete such action within the required time limit or any approved
26 extension thereof shall render the sensitive area permit void, the project shall be subject
27 to abatement, and the applicant shall be subject to sanctions as provided herein.

28 C. Upon showing of good cause, the Planning Director may extend the completion
29 period.
30

31 **16.16.150 Bond requirements.**
32

33 A. The Planning Director may require a performance bond(s) or other security in an
34 amount sufficient to guarantee that all required mitigation measures will be completed in
35 a manner that complies with conditions of approval and to guarantee satisfactory
36 workmanship and materials for a period not to exceed five years. The Planning Director
37 shall establish the conditions of the bond or other security according to the nature of the
38 proposed mitigation, maintenance or monitoring and the likelihood and expense of
39 correcting mitigation or maintenance failures.

40 B. Performance and maintenance/monitoring bonds or other security shall also be
41 required for restoration of a sensitive area or buffer not performed as part of a mitigation
42 or maintenance plan, except that no bond shall be required for minor stream restorations
43 carried out in compliance with applicable ordinances. The bond or other security shall be
44 in a form and amount deemed acceptable by the planning director.

45 C. Posting of a bond or other security shall not discharge the obligation of an
46 applicant or violator to complete required mitigation, monitoring or restoration. The

1 requirement of a bond or other security is not intended and shall not be construed to
2 relieve an applicant of any obligation imposed under this chapter.

3
4 **16.16.160 Vegetation management plan.**

5
6 A. Whenever the Planning Director determines that preservation of existing
7 vegetation is required, a vegetation management plan prepared by a qualified professional
8 shall be approved by the Planning Director before permit approval.

9 B. The vegetation plan shall identify the proposed clearing limits for the project and
10 any areas where the sensitive area or buffer is proposed to be disturbed.

11 C. Clearing limits will be marked in a prominent and durable manner. Proposed
12 methods of field marking shall be approved by the Planning Director and remain in place
13 and visible until final project approval is granted.

14 D. The vegetation plan may be incorporated into a temporary erosion and sediment
15 control plan (TESCP) or landscaping plan where either of these measures are required by
16 the city or other laws.

17
18 **16.16.170 Sensitive areas – Markers and signs.**

19
20 A. Before work commences, the applicant shall mark the property with permanent
21 survey markings, and stakes delineating the boundary between sensitive areas and
22 adjoining areas shall be set, as established by current survey standards.

23 B. Temporary survey markings shall be highly visible and shall remain in place until
24 the Planning Director authorizes their removal at the completion of the work.

25 C. The Planning Director may require fencing when needed to best protect the
26 sensitive area.

27 D. The boundary between a sensitive area and adjoining land shall be identified with
28 permanent signs.

29
30 **16.16.180 Sensitive areas – Tract designations.**

31
32 A. Sensitive areas tracts shall be established or legally described to delineate and
33 protect all sensitive areas and buffers and shall be recorded on all documents of title or
34 record for all affected lots. Development proposals, including subdivisions, short
35 subdivisions, lot line adjustments, variance requests, conditional use permits and
36 reasonable use requests shall be required to meet the provisions of this section when one
37 or more of the following areas are present:

- 38 1. Landslide hazard areas and buffers;
- 39 2. Steep slope hazard areas and buffers;
- 40 3. Wetlands and buffers; and
- 41 4. Streams and buffers.

42 B. Site plans submitted as a part of development proposals shall include and delineate
43 all sensitive areas attached and shall be attached to the notice on title as required by the
44 planning director.

45
46 **16.16.190 Notice to title.**

1
2 A. A condition of a major sensitive area permit shall be a requirement that the
3 property owner shall record a notice that the property is subject to regulation under this
4 chapter.

5 B. The Planning Director may require that as a condition of approval of any
6 development proposal or minor sensitive area permit a notice on title be filed putting on
7 record that the property is subject to regulation under this chapter.

8 C. Notice on title shall include any requirement for mitigation and monitoring
9 imposed as a condition of a sensitive area permit.

10
11 **16.16.200 Performance standards for subdivisions.**

12
13 The subdivision and short subdivision of land in sensitive areas and associated buffers is
14 subject to the following:

15 A. Land that is located wholly within a wetland, stream, landslide hazard area or
16 their buffers may not be subdivided.

17 B. Land on which a wetland, stream, landslide hazard area, or their buffers is located
18 may not be subdivided unless each new lot that is created can be developed under city
19 ordinances without resort to variance or other exemption and contains a buildable area of
20 no less than one thousand (1000) square feet.

21 C. Access roads and utilities serving the proposed subdivision may be permitted
22 within the sensitive area and associated buffers only if the Planning Director determines
23 that no other feasible alternative exists and then only in a manner consistent with the
24 requirements of this chapter.

25
26 **16.16.210 Sensitive areas rules.**

27 The Mayor shall adopt such administrative rules and regulations, including
28 recommended development practices, deemed necessary to implement this chapter.

29
30 **16.16.220 Exemptions.**

31
32 The following are exempt from regulation under this chapter, unless specifically
33 provided otherwise.

34 A. Emergency Actions.

35 1. Actions taken to prevent an immediate threat to public health, safety, or
36 welfare, or that are necessary to address an immediate risk of damage to public or private
37 property; provided that emergency actions that create an impact to a sensitive area or its
38 buffer shall be taken with reasonable methods that are least likely to affect sensitive
39 areas.

40 2. The person undertaking such action shall notify the Planning Director within
41 one (1) working day following commencement of the emergency activity and shall apply
42 to the Planning Director for review of the work performed. The Planning Director may
43 require a study by a qualified professional or mitigation and monitoring as provided in
44 sections 16.16.100-130. Restoration and/or mitigation activities must be initiated within
45 one (1) year of the date of the emergency and completed in a timely manner as prescribed
46 by the planning director, with the goal of no net loss of critical area functions and values;

1 B. Operation, maintenance, or repair of existing structures, infrastructure
2 improvements, utilities, public or private roads, or drainage systems, that do not require
3 construction permits, including vegetation management; provided that the activity does
4 not alter or increase the impact to, or encroach further within, the sensitive area or buffer.

5 C. Use, preservation, or continuation of landscaping and landscaped areas existing as
6 of the effective date of this ordinance or gardens planted and maintained before the
7 effective date of this ordinance; provided, that such use does not expand the landscaped
8 areas into sensitive areas or their buffers and does not involve the applying of herbicides,
9 pesticides or any other hazardous substance. However, property owners shall be
10 encouraged to allow sensitive areas and buffers to become naturalized whenever possible;
11 or

12 D. Passive recreation, education, and scientific research activities that do not degrade
13 sensitive areas or buffers, such as fishing, hiking and bird watching, not including trail
14 building or clearing; or

15 E. Construction or modification of navigational aids and boundary markers.

16 F. The removal of the following vegetation with hand labor and light equipment:

- 17 1. Invasive and noxious weeds as listed by state and county agencies;
- 18 2. English Ivy (*Hedera helix*);
- 19 3. Himalayan blackberry (*Rubus discolor*, *R. procerus*); and
- 20 4. Evergreen blackberry (*Rubus laciniatus*);

21
22 **16.16.230. Authorized Exceptions to work in sensitive areas.**

23
24 A. The Planning Director may issue a Sensitive Area Permit for work in sensitive
25 areas or sensitive area buffers as follows:

26 1. Work necessary for land use submittals, such as surveys, soil logs, percolation
27 tests, and other related activities, where such activities do not require construction of new
28 access roads or excavation activities that involve the removal of more than ten cubic
29 yards of material. In every case, impacts to sensitive areas and buffers shall be minimized
30 and disturbed areas shall be immediately restored; or

31 2. Conservation, preservation, restoration and/or enhancement unrelated to
32 development proposals.

33 a. Conservation and/or preservation of soil, water, native vegetation, fish
34 and/or other wildlife that does not entail modification of the location, size, dimensions or
35 negatively impact the functions of an existing sensitive area and/or buffer; and

36 b. Restoration and/or enhancement of sensitive areas or buffers; provided
37 that the actions do not: (i) alter the location, dimensions or size of the sensitive area
38 and/or buffer; (ii) negatively impact the native vegetation or wildlife habitat attributes;
39 and (iii) reduce, but improve the existing functions of the sensitive areas or buffers; and

40 c. All actions under this section must be actions that are implemented
41 according to a restoration and/or enhancement plan that has been approved by the
42 Planning Director. The Planning Director may waive the fee for permits issued under
43 16.16.230.A.2.

44 3. Structural modification of, addition to, or replacement of an existing legally
45 constructed structure, constructed on or before the effective date of this ordinance as long
46 as the structure is enlarged not more than the lesser of 10 percent or 250 square feet than

1 its footprint as of the effective date of this ordinance, and that no portion of the
2 modification or replacement is located closer to the sensitive area, provided that
3 restoration of structures damaged by fire, flood, or act of nature must be initiated within
4 one (1) year of the date of such damage, as evidenced by the issuance of a valid building
5 permit, and diligently pursued to completion.

6 4. Activities Within the Improved Right-of-Way

7 5. Utility projects that have minor or short-duration impacts to sensitive areas,
8 and do not significantly impact the function or values of a sensitive area(s), as determined
9 by the Planning Director according to the following criteria:

10 a. There is no practical alternative to the proposed activity with less
11 impact on sensitive areas;

12 b. The activity involves the placement of a utility pole, street signs,
13 anchor, or vault or other small component of a utility facility;

14 c. The activity involves disturbance of an area less than 75 square
15 feet;

16 d. The project does not result in the permanent transportation of
17 sediment or increased stormwater flow.

18 6. Public and Private Pedestrian Trails. Public and private pedestrian trails,
19 except in wetlands or streams, subject to the following:

20 a. The trail surface shall be made with pervious materials and meet
21 all other requirements including city surface water management standards;

22 b. The mitigation may include increase of sensitive area and/or buffer
23 widths equal to the width of the trail corridor, including disturbed areas; and

24 c. Trails proposed to be located in landslide or erosion hazard areas
25 shall be constructed in a manner that does not increase the risk of landslide or erosion and
26 in accordance with an approved geotechnical report;

27 7. Select Vegetation Removal Activities

28
29 a. Notwithstanding the provisions of chapter 16.14 LFPMP, trees shall
30 not be removed from sensitive areas, except for trees that are hazardous, or pose an
31 imminent risk of damage to private property, provided that:

32 i. The applicant submits a report from a certified arborist, registered
33 landscape architect, or professional forester that documents the hazard and provides a
34 replanting schedule for the replacement trees;

35 ii. Tree cutting shall be limited to pruning and crown thinning, unless
36 otherwise justified by a qualified professional. Where pruning or crown thinning is
37 not sufficient to address the hazard, trees should be removed or converted to wildlife
38 snags;

39 iii. All vegetation cut (tree stems, branches, etc.) shall be left within
40 the sensitive area or buffer unless removal is warranted because of the potential for
41 disease or pest transmittal to other healthy vegetation or the potential fire hazard;

42 iv. The landowner shall replace any trees that are removed with new
43 trees at a ratio of one replacement trees for each tree removed (1:1) within one (1)
44 year in accordance with an approved restoration plan. Replacement trees may be
45 planted at a nearby location if it can be determined that planting in the same location
46 would create a new hazard or potentially damage the sensitive area. Replacement

1 trees shall be species that are native and indigenous to the watershed and a minimum
2 of one (1) inch in diameter-at-breast height (dbh) for deciduous trees and a minimum
3 of six (6) feet in height for evergreen trees as measured from the top of the root ball;

4 v. If a tree to be removed provides critical habitat, such as an eagle
5 perch, a qualified wildlife biologist shall be consulted to determine timing and
6 methods or removal that will minimize impacts; and

7 vi. Hazard trees determined to pose an imminent threat or danger to
8 public health or safety, to public or private property, or of serious environmental
9 degradation may be removed or pruned by the landowner prior to receiving written
10 approval from the city provided that within fourteen (14) days following such action,
11 the landowner shall submit a restoration plan that demonstrates compliance with the
12 provisions of this Title.

13 b. Measures to control a fire or halt the spread of disease or damaging
14 insects consistent with the state Forest Practices Act; Chapter 76.09 RCW, provided
15 that the removed vegetation shall be replaced in-kind or with similar native species or
16 other non-native plants as may be approved by the City within one (1) year in
17 accordance with an approved restoration plan.

18 c. Unless otherwise provided, or as a necessary part of an approved alteration,
19 removal of any vegetation or woody debris from a habitat conservation area or wetland
20 shall be prohibited;

21
22 **16.16.240 Setback Exception.**

23
24 A. Whenever in the judgment of the Planning Director the presence of a sensitive
25 area makes it impractical to locate a building pad on the lot except by intruding into
26 required setbacks, the Planning Director may permit a deviation from the front and rear
27 yard zoning setbacks required by this code for residential development proposals for
28 single lots, long subdivisions, lot line revisions and short subdivisions.

29 B. Aggregate setbacks for new short subdivisions, long subdivisions, and lot line
30 revisions shall be recorded on final documents.

31 C. The decision to grant a deviation shall be based on the following criteria:

32 1. The aggregate setbacks for the zoning front, rear, and side yard setbacks
33 total 60 feet or more;

34 2. Front and rear zoning setbacks are no less than ten feet;

35 3. Side zoning setbacks are no less than five feet;

36 4. Significant vegetation is preserved;

37 5. The applicant demonstrates to the city through submittal of an application
38 and supporting documentation that the use of aggregate zoning setbacks will not:

39 a. Be materially detrimental to the public welfare or injurious to adjacent
40 property or development or alterations; and

41 b. Alter the neighborhood character or the appropriate use or
42 development of adjacent property; and

43 c. Conflict with the general purposes and objectives of the
44 comprehensive plan; and

45 d. Degrade sensitive areas and sensitive areas buffer functions.
46

1 **16.16.250 Reasonable use exception to allow for reasonable economic use.**

2
3 A. If the application of this chapter will prevent any reasonable economic use of the
4 owner's property, then the applicant may apply to the planning department for an
5 exception from the requirements of this chapter may be applied for in accordance with
6 the provisions of Chapter 16.26 LFPMC.

7 B. The Planning Director shall forward the application, along with the record
8 submitted to the city and the director's recommendation, to the hearing examiner for
9 decision.

10 C. The hearing examiner shall grant an exception only if:

11 1. Application of the requirements of this chapter will deny all reasonable
12 economic use of the property; and

13 2. There is no other reasonable economic use with less impact on the sensitive
14 area; and

15 3. The proposed development does not pose an unreasonable threat to the public
16 health, safety, or welfare, on or off the proposed site and is consistent with the general
17 purposes of this chapter and the comprehensive plan; and

18 4. Any alteration is the minimum necessary to allow for reasonable economic use
19 of the property.

20 D. The hearing examiner shall grant an exemption from the requirements of this
21 chapter only to the minimum necessary extent to allow for reasonable economic use of
22 the applicant's property.

23 E. The hearing examiner shall condition any exception from the requirements of this
24 chapter upon conditions recommended by the city and upon compliance with any
25 mitigation plan approved by the city.

26
27 **16.16.260 Public agency and utility exception.**

28
29 A. Whenever requirements of this chapter would prohibit a development proposal by
30 a public agency or public utility, the agency or utility may apply to the Planning Director
31 for an exception pursuant to this Section.

32 B. An application for a public agency and utility exception shall include a sensitive
33 area study, including mitigation plan, if required. The Planning Director shall prepare and
34 submit a recommendation to the hearing examiner.

35 C. The hearing examiner shall review and decide upon the application pursuant to
36 the provisions of LFPMC 16.26. The hearing examiner shall approve, approve with
37 conditions, or deny the request according to the following criteria:

38 1. There is no other practical alternative to the proposed development with less
39 impact on the sensitive areas;

40 2. The application of this chapter would unreasonably restrict the ability to
41 provide utility services to the public;

42 3. The proposal does not pose an unreasonable threat to the public health, safety,
43 or welfare on or off the development proposal site;

44 4. The proposal attempts to protect and mitigate impacts to the sensitive area
45 functions and values consistent with the best available science with the objective of no
46 net loss of critical area functions and values; and

1 5. The proposal is consistent with other applicable regulations and standards.

2

3 **16.16.270 Development Standards – Sensitive Area Permits**

4

5 Work or development authorized by a sensitive area permit shall be subject to the
6 development standards of this chapter.

7

8 **16.16.280 Erosion hazard areas – Development standards – Permitted alterations.**

9

10 A. Clearing is allowed between April 1 and September 30.

11 B. Development proposals shall include a temporary erosion control plan approved
12 by the planning director.

13 C. Clearing of roads and utilities shall remain within construction limits, which must
14 be marked in the field prior to the beginning of any site work.

15 D. Clearing of roads and utilities shall be the minimum necessary to accomplish
16 project specific designs and shall remain within approved rights-of-way.

17 E. Clearing of trees, as permitted by the Lake Forest Park Municipal Code, may
18 occur in conjunction with clearing for roadways and utilities.

19 F. Only that clearing necessary to install temporary sedimentation and erosion
20 control measures shall occur before clearing of roadways or utilities.

21 G. All trees and understory shall be retained on lots or parcels during clearing for
22 roadways and utilities; provided, that understory damaged during approved clearing
23 operations may be pruned.

24 H. Retained trees, understory and stumps may be cleared only if such action is a
25 necessary element of any site plan approval.

26 I. Erosion control measures including but not limited to hydroseeding shall be
27 required.

28 J. All development proposals shall include an erosion control plan consistent with
29 this chapter and other adopted requirements prior to plan approval.

30 K. Whenever, in the judgment of the Planning Director erosion from a development
31 site poses a risk of damage to downstream receiving waters, the applicant shall be
32 required to provide regular monitoring of surface water discharge from the site. If the
33 project does not meet water quality standards established by other applicable code or
34 rules, the city may suspend further development work until the project meets such
35 standards.

36 L. The use of pesticides, herbicides, fertilizers and hazardous substances in erosion
37 hazard areas shall be prohibited unless demonstrated to the satisfaction of the Planning
38 Director that special circumstances require their use.

39

40 **16.16.290 Landslide hazard areas –Development standards – Permitted alterations.**

41

42 A. A minimum buffer of 50 feet shall be established from all edges of the landslide
43 hazard area. Buffer widths shall be extended or adjusted as needed to mitigate a steep
44 slope or erosion hazard or to promote the health and safety of the public. The buffer may
45 be reduced to a minimum of twenty-five (25) feet when a qualified professional
46 demonstrates to the Planning director’s satisfaction that the reduction will adequately

1 protect the proposed development, adjacent developments, and uses and the landslide
2 hazard area.

3 B. Unless permitted by a sensitive area permit vegetation may not be removed from a
4 landslide hazard area or buffer except as required for surveying purposes.

5 C. Vegetation that has been damaged by any activity or invaded by noxious weeds or
6 nonnative vegetation may be replaced within a landslide hazard area with approved
7 native vegetation or non-native plants as may be approved by the City as part of an
8 approved enhancement plan. The use of pesticides, herbicides, fertilizers and hazardous
9 substances in landslide hazard areas shall be prohibited unless demonstrated to the
10 satisfaction of the Planning Director that special circumstances require their use.

11 D. Permitted alterations to landslide hazard areas and buffers are allowed only as
12 follows:

13 1. Landslide hazard areas located on a slope of 40 percent or steeper may only
14 be altered if the alteration meets the standards and limitations established for steep slope
15 hazard areas;

16 2. Alteration of landslide hazard areas located on slopes of less than 40 percent
17 are permitted only under the following conditions or circumstances:

18 a. The development proposal will not decrease slope stability on the site or on
19 adjoining properties; and

20 b. A licensed geologist or geotechnical engineer certifies that the landslide
21 hazard area can be safely modified or the development proposal designed so the landslide
22 hazard risk to the property or adjacent property is eliminated or mitigated;

23 c. The alteration will not adversely impact other sensitive areas, such as
24 streams; and

25 d. The alteration will not result in an increase in peak surface water flows or
26 sedimentation to adjacent properties;

27 3. Where such alterations are approved, buffers may not be required.
28

29 **16.16.300 Seismic hazard areas –Development standards – Permitted alterations.**

30
31 Development proposals for developments other than single family residence may
32 require review standards of critical facilities based on larger earthquake recurrence
33 intervals and implementation of measures to mitigate the risk are implemented that meet
34 accepted engineering standards for safety.
35

36 **16.16.310 Steep slope hazard areas –Development standards – Permitted alterations.**

37 38 A. Buffer Width Requirements.

39 A minimum buffer shall be established at a horizontal distance of 50 feet from the
40 top, toe and along all sides of any slope 40 percent or greater. The buffer may be reduced
41 to a minimum of twenty-five (25) feet when a qualified professional demonstrates to the
42 Planning director's satisfaction that the reduction will adequately protect the proposed
43 development, adjacent developments, and uses and the steep slope hazard area.

44 1. Removal of existing vegetation from a steep slope hazard area or buffer is
45 prohibited unless otherwise provided for in an approved alteration plan. Limited removal
46 for surveying purposes is permitted;

1 2. All buildings and structures shall have a minimum setback of 15 feet from the
2 edge of the slope buffer. The 15-foot setback shall be measured at an angle that is
3 perpendicular to the edge of the slope buffer.

4 B. Alterations to steep slopes and buffers will be permitted only as follows:

5 1. An approved surface water conveyance may be allowed on steep slopes if in
6 the judgment of the Planning Director it can be installed in a manner to minimize
7 disturbance to the slope and vegetation;

8 2. Approval of public and private trails may be allowed on steep slopes subject
9 to compliance with recognized construction and maintenance standards. Construction of
10 impervious surfaces, such as asphalt and concrete, that would contribute to surface water
11 runoff is prohibited unless the applicant demonstrates to the satisfaction of the Planning
12 Director such action is necessary for soil stabilization or prevention of soil erosion;

13 3. Utility corridors on steep slope hazard areas may be permitted if a study
14 performed by a qualified professional establishes to the satisfaction of the Planning
15 Director that the risk of landslide or erosion will not increase;

16 4. Limited trimming, limbing and pruning may be allowed on steep slopes for
17 the creation and maintenance of views based on an approved vegetation management
18 plan if soils are not disturbed and applicable administrative rules are followed.

19 C. The following may be permitted:

20 1. Alteration of slopes that are 40 percent or steeper with a vertical elevation
21 change of up to 20 feet, provided that, a soils report prepared by a qualified professional
22 satisfies the Planning Director that no adverse impact will result from the exception;

23 2. Any slope that was created through legal grading activity may be regraded as
24 part of an approved development plan; provided that, any slope that remains 40 percent
25 or steeper following site development shall be subject to all requirements for steep slopes.

26 D. When steep slope alterations are allowed by this section, the proposal shall:

27 1. not decrease slope stability on the site or on adjoining properties; and

28 2. be subject to certification by a qualified professional that the landslide hazard
29 area can be modified safely or that the development proposal eliminates or mitigates the
30 landslide hazard risk to the property or adjacent property.

31 3. not adversely impact other sensitive areas, such as streams; and

32 4. not result in an increase in peak surface water flows or sedimentation to
33 adjacent properties;

34
35 **16.16.320 Wetlands – Development standards.**

36 A. Wetland buffers, measured from the outer edge of the wetland boundary, are
37 established as follows:
38

Wetland Type	Standard Buffer Width (feet)	Minimum Buffer Width with Enhancement (ft)
Category 1	150	105
Category 2	100	70
Category 3	50	35

39

1 B. Except as otherwise permitted herein alteration of any wetland buffer is
2 prohibited.

3 C. Wetlands within 25 feet of the toe of a slope 30 percent or steeper, but less than
4 40 percent, shall have the following buffers:

5 1. Where the horizontal length of the slope including small benches and terraces
6 is within the buffer for the wetland class, the buffer width shall be the greater of:

- 7 a. The minimum standard for that wetland class,
- 8 b. Twenty-five feet beyond the top of the slope.

9 2. Where the horizontal length of the slope extends beyond the standard buffer
10 for that wetland class, the buffer shall extend to a point 25 feet beyond the standard
11 buffer for that wetland class.

12 D. Buffer width averaging may be allowed only where the applicant demonstrates to
13 the satisfaction of the Planning Director:

14 1. That the wetland contains variations in sensitivity because of to existing
15 physical characteristics; and

16 2. That low-intensity land uses would be located adjacent to areas where buffer
17 width is reduced and that such low-intensity land uses are guaranteed in perpetuity by
18 covenant deed restriction, easement or other legally binding mechanism; and

19 3. That buffer width averaging will not adversely impact the wetland's
20 functional values; and

21 4. The buffer averaging provides additional protection; and

22 5. That the total area contained in the buffer on the development proposal site
23 does not decrease, and the buffer is not reduced in any one location to less than the
24 minimum buffer specified in LFPMC 16.16.320A.

25 E. The Planning Director may reduce a standard wetland buffer to not less than the
26 minimum buffer as follows:

27 1. In accordance with an approved sensitive area study, mitigation plan, and the
28 best available science, provided that a smaller area is adequate to protect the wetland
29 functions based on site-specific characteristics and the proposal will result in a net
30 improvement of wetland and buffer functions.

31 2. A plan for mitigating buffer-reduction impacts must be prepared that
32 incorporates from the list below incentive-based mitigation to achieve a buffer no less
33 than the minimum buffer listed in 16.16.320A. Whenever the reduced buffer area is
34 degraded, the buffer reduction plan shall provide for revegetation of the degraded area
35 with native plants or other non-native plants as may be approved by the City and shall
36 provide for a five (5) year monitoring and maintenance plan. Mitigation options include:

- 37 a. Removal of impervious surfaces.
- 38 b. Installation of biofiltration/infiltration mechanisms, such as the
39 installation of bioswales, created and/or enhanced wetlands, or ponds.
- 40 c. Removal of invasive, non-native vegetation subject to monitoring
41 (minimum of 5 years) and continued-removal maintenance of relatively
42 dense stands of invasive, non-native vegetation from significant portions
43 of the remaining buffer area in conjunction with dense planting of native
44 trees and shrubs or other non-native plants as may be approved by the
45 City.

- d. If not already required under an existing development proposal, installation of oil/water separators for storm water quality control.
- e. Use of pervious material for driveway/road construction.
- f. Construction of roofs for on site buildings built in accordance with the standards of the LEED Green Building Rating System.
- g. Removal of significant refuse or sources of toxic material.
- h. Revegetation enhancement of degraded buffer outside of the reduced buffer area if the remaining buffer beyond the enhanced buffer reduction area is degraded and a substantial portion of this degraded area is enhanced through revegetation with native plants or other non-native plants as may be approved by the City subject to a five (5) year monitoring and maintenance plan.

F. Increased buffer widths shall be required when necessary to protect wetlands. The criteria used to determine increased buffer widths shall include:

- 1. The presence of critical drainage areas;
- 2. Location of hazardous materials;
- 3. The presence of critical fish and wildlife habitat;
- 4. The presence of landslide or erosion hazard areas adjacent to wetlands;
- 5. The presence of groundwater recharge and discharge;
- 6. The location of trail or utility corridors; and
- 7. Such other factors as may adopted by administrative rule.

G. All buildings or other structures shall have a minimum setback of at least 15 feet from any place on the edge of a wetland buffer. The setback line shall be established by measuring perpendicularly from the edge of a wetland buffer.

H. Development proposals that would permit the introduction of livestock shall protect wetlands by the use of fencing located not closer than the buffer edge, or by use of other measures approved by the Planning Director.

I. The use of hazardous substances, pesticides or fertilizers in the wetland its buffer, or in its setback shall be prohibited unless demonstrated to the satisfaction of the Planning Director that special circumstances require their use.

16.16.330 Wetlands – Permitted alterations.

A. Exceptions to the wetlands requirements may be allowed only if it is determined by the Planning Director that the development site proposal will enhance or protect the wildlife habitat, natural drainage or other functions and will be consistent with the purposes of this chapter.

1. The applicant shall submit a report prepared by a qualified professional. The report shall assess the habitat, water quality, storm water detention, ground water recharge, and erosion protection functions of the buffer; assess the effects of the proposed modification on those functions, and address other criteria listed in this subsection. The report shall include specific recommendations for mitigation including, but not limited to, construction techniques or design, drainage or density specifications.

2. If a wetland is located in a flood hazard area, the applicant shall notify in writing the affected parties and the appropriate responsible officials of the proposed alterations before undertaking any alteration.

1 3. Introduction of nonnative plant material or wildlife into any wetland or buffer
2 is prohibited unless authorized by a city-approved non-native plant list or a state or
3 federal permit or approval.

4 B. Sewer utility corridors may be allowed in wetland buffers only if:

5 1. The applicant demonstrates that there are no feasible alternatives;

6 2. The corridor is not located in a wetland or buffer that is used by species listed
7 as endangered, threatened or priority by the state or federal government or that contains
8 critical or outstanding actual habitat for those or rookeries or raptor nesting sites;

9 3. The corridor alignment including, but not limited to, any allowed maintenance
10 roads follows a path beyond a distance equal to 75 percent of the standard buffer width
11 from the wetland edge;

12 4. Any corridor construction or maintenance protects the wetland and buffer, the
13 corridor is aligned to avoid cutting trees greater than 12 inches in diameter when
14 possible, and use of pesticides, fertilizers, or herbicides is consistent with best
15 management practices to avoid wetland and habitat impacts;

16 5. Provision is made for an additional contiguous buffer of equal width to the
17 proposed corridor, including any maintenance roads to protect the wetland;

18 6. The corridor is revegetated with native vegetation to a state equal to or greater
19 than preconstruction densities immediately upon completion of construction or as soon as
20 possible. Maintenance and monitoring provisions for the revegetation will be a part of
21 any revegetation plan;

22 7. Additional access for maintenance shall be limited to specific points rather
23 than via parallel road; and

24 8. The width of any necessary parallel road providing maintenance access is as
25 narrow as possible, not to exceed 15 feet, and maintenance is carried out in accordance
26 with wetland management standards.

27 C. Joint use of an approved sewer utility corridor by other utilities shall be
28 encouraged.

29 D. Surface water management activities and facilities may be allowed in wetland
30 buffers only as follows:

31 1. Surface water may discharge to a wetland from a detention facility,
32 presettlement pond or other surface water management activity or facility;
33 provided that the discharge does not increase the rate of flow, change the plant
34 composition or decrease the water quality of the wetland;

35 2. A Category 2 or 3 wetland or buffer may be used for a regional
36 detention/retention facility only when:

37 a. A public agency or utility is authorized by to LFPMC 16.16.260,

38 b. The rating or factors used in rating the wetlands will not alter the use,

39 c. There are no adverse impacts to the wetland;

40 3. A Category 3 wetland or buffer with the major function of water storage may
41 be used as a regional retention/detention facility; provided that presettlement
42 ponds are required and all other applicable standards are met and:

43 a. No other practical alternative exists, and

44 b. The functions of the buffer or wetland are not adversely affected.

45 E. Wetlands shall not be used for retention/detention facilities other than for regional
46 facilities as provided for in this section.

1 F. Alterations to isolated wetlands will be permitted only pursuant to an approved
2 mitigation plan.

3 G. Wetland crossings may be allowed; provided that the Planning Director
4 determines that:

- 5 1. No possible alternative exists;
- 6 2. All crossings minimize impact to the wetland and provide mitigation for
7 unavoidable impacts through restoration, enhancement or replacement of disturbed areas;
- 8 3. The overall wetland hydrology is not changed;
- 9 4. Important habitat functions are not disturbed;
- 10 5. Construction is scheduled during periods of low water tables, generally during
11 the drier summer months.

12
13 **16.16.340 Wetlands – Mitigation requirements.**
14

15 A. Mitigation shall be conducted pursuant to LFPMC 16.16.100-130.

16 B. Restoration shall be required when a wetland or its buffer is altered in violation of
17 this chapter or other applicable standards. To the extent practicable and applicable,
18 restoration will conform to the following minimum requirements:

- 19 1. The original wetland shape and form shall be replicated, including its depth,
20 width, length and gradients at the original location;
- 21 2. The original soil types and configuration should be restored;
- 22 3. The wetland edge and buffer configuration shall be restored to original
23 condition;
- 24 4. The wetland edge and buffer shall be replanted with native vegetation which
25 recreates the original in species, sizes and densities; and
- 26 5. The original wetland functions shall be restored, including but not limited to
27 hydrologic and biologic functions.

28 C. The requirements of subsection A of this section may be modified if it is
29 demonstrated that greater wetlands functions can be obtained otherwise.

30 D. Replacement shall be required when a buffer is altered pursuant to an approved
31 development proposal or a wetland is used for a regional retention/detention facility or
32 other approved use. The minimum standards required for the restoration of a wetland
33 listed under LFPMC 16.16.340(B) shall be followed.

34 E. Enhancement may be allowed when a wetland or buffer will be altered pursuant to
35 a development proposal, but the wetlands water quality or wildlife habitat functions will
36 be improved. Minimum requirements for enhancement shall be established in
37 administrative rules.

38 F. Surface water management or flood control alterations shall not constitute
39 replacement or enhancement unless other functions are simultaneously improved.

40 G. Replacement or enhancement for approved wetland alterations shall meet the
41 following minimum requirements unless upon review it is shown that a different ratio
42 would enhance the wetland values and functions:

- 43 1. Unless it is shown upon review that different ratios would benefit the wetland,
44 wetlands that are altered shall be replaced or enhanced on-site with equal or greater
45 biological values including habitat value, and with equivalent hydrological values,
46 including storage capacity using the following formulas:

- 47 a. Category 1 wetlands on a 6:1 ratio basis,

- 1 b. Category 2 wetlands on a 3:1 ratio basis,
- 2 c. Category 3 wetlands on a 2:1 ratio basis,
- 3 Mitigation shall result in equal or greater biological values including habitat and
- 4 hydrological values, including storage capacity;
- 5 2. Replacement or enhancement off the site may be allowed, provided that if the
- 6 applicant demonstrates that the off-site location is in the same drainage subbasin as the
- 7 original wetland and that water quality or wildlife habitat functions will be increased. The
- 8 formulas and requirements of subsection (G)(1) of this section will apply.
- 9 H. Monitoring shall be required in accordance with LFPMC 16.16.120.

10
11 **16.16.350 Streams – Development standards.**

12 A. Stream buffers measured from the ordinary high water mark, if such can be

13 identified, otherwise from the top of the bank are established as follows:

14

Stream Type	Standard Buffer Width (feet)	Minimum Buffer Width with Enhancement (ft)
Type 1	115	70
Type 2	50	35
Type 3	35	25

- 15
- 16 B. Except as otherwise permitted herein, alteration of any stream buffer is
- 17 prohibited.
- 18 C. Any stream restored, relocated, replaced or enhanced because of stream alteration
- 19 shall have the standard required buffer.
- 20 D. Any stream with an ordinary high water mark within 25 feet of the toe of a slope
- 21 30 percent or steeper shall have a buffer equal to the greater of:
- 22 1. The standard stream buffer; or
- 23 2. A buffer 25 feet beyond the top of the slope, provided that a stream buffer
- 24 shall not be required to be greater than 25 feet beyond the standard stream buffer if the
- 25 horizontal length of the slope including benches and terraces extends beyond the buffer.
- 26 E. Any stream abutted by riparian wetlands or other contiguous sensitive areas shall
- 27 have the largest buffer required.
- 28 F. Buffer Width Averaging. Buffer width averaging may be allowed if it is
- 29 demonstrated to the satisfaction of the Planning Director that averaging will provide
- 30 additional protection, provided the total area contained in the buffer on the development
- 31 proposal site does not decrease, and the buffer is not reduced in any one location to less
- 32 than the minimum buffer listed above.
- 33 G. Reduction of stream buffer widths.
- 34 1. The Planning Director may reduce the standard buffer to no less than the
- 35 minimum buffer allowed by LFPMC 16.16.350 A, whenever, in the judgment of the
- 36 Planning Director a smaller width is adequate to protect the stream and habitat functions
- 37 and the development proposal will result in a net improvement of stream and buffer
- 38 functions.

1 2. The Planning Director’s decision shall be based upon a sensitive area
2 study. If the Planning Director determines that mitigation is necessary, such mitigation
3 shall be performed in accordance with LFPMC 16.16.120-130.

4 3. In addition, a plan for mitigating buffer-reduction impacts must be
5 prepared that incorporates from the list below incentive-based mitigation options to
6 achieve a buffer no less than the minimum buffer listed above. Whenever the reduced
7 buffer area is degraded, the buffer reduction plan shall provide for revegetation of the
8 degraded area with native plants and shall provide for a five (5) year monitoring and
9 maintenance plan. Mitigation options include:

- 10 a. Removal of impervious surfaces.
- 11 b. Installation of biofiltration/infiltration mechanisms, such as the
12 installation of bioswales, created and/or enhanced wetlands, or ponds supplemental to
13 existing storm drainage and water quality requirements.
- 14 c. Removal of invasive, non-native vegetation subject to a monitoring
15 (minimum of 5 years) and continued-removal maintenance of relatively dense stands of
16 invasive, non-native vegetation from significant portions of the remaining buffer area in
17 conjunction with dense planting of native trees and shrubs.
- 18 d. In-stream habitat enhancement, such as log structure placement,
19 bioengineered bank stabilization, culvert removal or replacement, improving fish passage
20 and/or creation of side channel or backwater areas.
- 21 e. If not already required under an existing development proposal,
22 installation of oil/water separators for storm water quality control.
- 23 f. Use of pervious material for driveway/road construction.
- 24 g. Construction of roofs for on site buildings in accordance with the
25 standards of the LEED Green Building Rating System.
- 26 h. Removal of significant refuse or sources of toxic material.
- 27 i. Revegetation enhancement of degraded buffer outside of
28 the reduced buffer area if the remaining buffer beyond the enhanced buffer reduction
29 area is degraded and a substantial portion of this degraded area is enhanced through
30 revegetation with native plants and subject to a five (5) year monitoring and maintenance
31 plan.

32 H. As an alternative to the standard buffers listed in LFPMC 16.16..350A, stream
33 buffers in the Town Center Zone may be determined by the Planning Director according
34 to a sensitive area study prepared by a qualified professional. The Planning Director
35 may approve the site specific stream buffers provided the following criteria are met:

- 36 1. Multiple fish and wildlife habitat functions will be enhanced;
- 37 2. Risk of flood or geologic hazards will be reduced;
- 38 3. Encroachment of paved areas into the standard buffer area is reduced;
- 39 4. Impacts of existing and proposed development are mitigated; and
- 40 5. The proposal results in a significant net benefit to sensitive areas protection.

41 I. Increased buffer widths will be required whenever in the judgment of the Planning
42 Director an increase is necessary to protect streams. Provisions for additional buffer
43 widths will be set forth in administrative rules and will include but not be limited to
44 critical drainage areas, location of hazardous substances, fish and wildlife habitat,
45 contiguous landslide or erosion hazard areas, groundwater recharge and discharge and
46 location of trail or utility corridors.

1 J. The Planning Director may prohibit the use of herbicides, fertilizers, and pesticides
2 in stream corridors or buffers unless it is demonstrated that special circumstances require
3 their use and they are used in accordance with best management practices to avoid
4 adverse habitat and wetland impacts.

5 K. LFPMC 16.16.320H applies to streams and their buffers.

6 L. Compliance with this chapter shall be in addition to, and not a fulfillment of, all
7 requirements under Chapter 90.58 RCW, the Shoreline Management Act, and any
8 development proposal shall, in addition to the requirements of this chapter, comply with
9 the permitting and substantive requirements of Chapter 90.58 RCW, the Shoreline
10 Management Act.

11 M. All buildings or structures shall have a set-back of at least 15 feet from any place
12 on the edge of a stream buffer. The setback line shall be established by measuring
13 perpendicularly from the edge of a stream buffer.

14 15 **16.16.360 Streams – Permitted alterations.**

16 Alterations to streams and buffers may be allowed only as follows:

17 A. In accordance with a sensitive area study.

18 B. If a stream is located in a flood hazard area, the applicant shall notify affected
19 parties in writing, as well as the appropriate responsible officials, of proposed alterations
20 prior to any alteration.

21 C. Introduction of nonnative plant material or wildlife into any stream or buffer is
22 prohibited unless authorized by a city-approved non-native plant list or a state or federal
23 permit or approval.

24 D. LFPMC 16.16.330B applies to streams and their buffers.

25 E. Joint use of an approved sewer utility corridor by other utilities shall be
26 encouraged.

27 F. Surface water discharge to a stream from a detention facility, presettlement pond or
28 other surface water management activity or facility may be allowed in a stream buffer if
29 the discharge does not increase the rate of flow, or decrease the water quality of the
30 stream.

31 G. Stream crossings may be allowed if:

32 1. All crossings minimize impact to the stream and provide mitigation according
33 to LFPMC 16.16.120;

34 2. All road crossings use bridges or other construction techniques which do not
35 disturb the stream bank or bed;

36 3. All crossings are constructed during the low summer flow and are scheduled to
37 avoid disturbances during critical salmonid use periods;

38 4. Crossings do not decrease the flood-carrying capacity of the stream;

39 5. Crossings are minimized and serve multiple purposes whenever possible or no
40 other possible crossing site exists; and

41 6. Underground utility crossings are laterally drilled and located below the
42 maximum depth of scour for the base flood, as determined by a qualified professional.

43 H. Stream relocations may be allowed only in the following instances:

44 1. As part of a public road project for which a public agency or utility exception
45 is granted pursuant to LFPMC 16.16.260; and
46

1 2. For the purpose of enhancing resources in the stream if:
2 a. Appropriate floodplain protection measures are used, and
3 b. The relocation occurs on-site, except that relocation off-site may be allowed
4 if no practical on-site location exists, the applicant provides necessary easements and
5 waivers from affected property owners and the off-site location is in the same drainage
6 subbasin as the original stream.

7 I. Based on information provided by a civil engineer and biologist, approved
8 relocations must demonstrate to the satisfaction of the Planning Director the following:

- 9 1. Equivalent base-flood storage volume and function will be enhanced;
- 10 2. There will be no adverse impact to local groundwater;
- 11 3. There will be no increase in velocity;
- 12 4. There will be no interbasin exchange of water;
- 13 5. There will be no increased sediment load;
- 14 6. Requirements of a mitigation plan are met; and

15 J. A stream channel may be stabilized if:

- 16 1. Movement of the stream channel threatens existing improvements, natural
17 resources or the sole access to property; and
- 18 2. The stabilization is done in compliance with the requirements of LFPMC
19 16.24.250 through 16.24.270.

20 K. Stream enhancement not part of any other development proposal may be permitted
21 if the enhancement is carried out using a plan addressing design, implementation,
22 maintenance and monitoring and prepared by a civil engineer and biologist.

23 L. A minor stream restoration project for fish habitat enhancement may be allowed if:

- 24 1. The restoration is completed by an authorized public agency;
- 25 2. The restoration plan is unassociated with mitigation of a specific development
26 project;
- 27 3. The restoration is limited to specific salmonid habitat improvements as
28 determined by appropriate public agencies; and
- 29 4. Disturbance to the area being restored is limited.

30 M. Restoring piped streams.

- 31 1. The city encourages the opening of previously channelized/culverted streams
32 and the rehabilitation and restoration of streams.
- 33 2. When piped stream sections are restored, the minimum buffers listed in
34 LFPMC 16.16.350 shall apply.
- 35 3. Modifications to the stream and buffer area to be restored shall include habitat
36 improvements and measures to prevent erosion, landslide and water quality impacts.
37 Opened channels shall be designed to support fish access, unless determined to be
38 unfeasible by the Planning Director.
- 39 5. Removal of pipes conveying streams shall only occur when the Planning
40 Director determines that the proposal will result in a net improvement of
41 ecological functions and will not significantly increase the threat of on-site or
42 off-site erosion, flooding, slope stability or other hazards.

43 N. All projects involving perennial streams shall make adequate accommodation for
44 fish passage, as approved by Washington State Department of Fisheries and Game. No
45 obstructions shall be placed within the stream that would prohibit the free passage of fish
46 under all flow conditions.

1
2 **16.16.370 Streams – Mitigation requirements.**
3

4 A. Restoration may be required as a condition of a sensitive area permit and shall be
5 required when a stream or its buffer is altered in violation of this chapter or when done
6 without permission. A mitigation plan for the restoration shall demonstrate that:

- 7 1. The stream has been degraded and restoration activity will not cause further
8 damage;
9 2. The restoration will improve the water quality and fish and wildlife habitat of
10 the stream;
11 3. The restoration will have no lasting adverse impact on the stream or its
12 functions; and
13 4. The action of restoration will include, but not be limited to, the use of
14 bioengineering principles to assist in stream stabilization.

15 B. Minimum requirements for stream restoration will include:

- 16 1. Basin analysis to determine hydrologic conditions;
17 2. The natural channel dimensions will be restored, including its depth, width,
18 length and gradient at the original location, and the original horizontal alignments shall
19 be replaced;
20 3. The stream bottom will be restored with identical or similar materials;
21 4. The bank and buffer configuration shall be restored to the original condition;
22 5. The channel, bank and buffer areas will be replanted with native vegetation or
23 other non-native plants as may be approved by the City;
24 6. The original biologic functions of the stream will be recreated.

25 C. The requirements of subsection B of this section may be modified if the applicant
26 demonstrates that a greater biologic function can be achieved.

27 D. Replacement or enhancement will be required when a stream or buffer is altered
28 pursuant to an approved development proposal. There will be no net loss of stream
29 functions on a development proposal site and no impact on stream functions above or
30 below the site due to approved alterations.

31 E. Relocation of streams must meet the requirements of subsection B of this section
32 unless it can be demonstrated that the relocation will result in increased biologic function.

33 F. Replacement or enhancement for approved stream alterations shall be done in
34 streams and onsite unless it can be demonstrated that:

- 35 1. Enhancement or replacement on the site is not practical or possible;
36 2. The off-site location is in the same drainage sub-basin as the original stream;
37 and
38 3. Greater biologic and hydrologic functions will be obtained.

39 G. Surface water management or flood control alterations shall not be considered
40 enhancement of a stream unless other functions are improved at the same time by the
41 action.
42

1 **16.16.380 Wildlife Habitat Conservation Areas.**

2
3 A. A sensitive area study for a habitat conservation area shall contain the information
4 listed in LFPMC 16.16.110 and an assessment of habitats and potential for priority
5 species including the following site and proposal related information:

6 1. Identification of any non-aquatic species of local importance, priority species,
7 or endangered, threatened, sensitive or candidate species that have a primary association
8 with habitat on or adjacent to the project area, and assessment of potential project impacts
9 to the use of the site by the species;

10 2. A discussion of any federal, state, or local special management
11 recommendations, including Washington Department of Fish and Wildlife habitat
12 management recommendations, that have been developed for species or habitats located
13 on or adjacent to the project area;

14 3. A discussion of any ongoing management practices that will protect habitat
15 after the project site has been developed, including any proposed monitoring,
16 maintenance, and adaptive management programs.

17 4. When appropriate, because of the type of habitat or species present or the
18 project area conditions, the Planning Director may also require the habitat management
19 plan to include an evaluation by the Washington Department of Fish and Wildlife or
20 other qualified professional regarding the applicant's analysis and the effectiveness of
21 any proposed mitigating measures or programs, to include any recommendations as
22 appropriate.

23 5. Such other information that is required in the judgment of the Planning
24 Director.

25 B. Development Standards.

26 1. Wildlife Habitat Conservation Area Buffers.

27 a. Establishment of buffers. The Planning Director shall require the
28 establishment of buffer areas for activities in, or adjacent to, habitat conservation areas
29 when needed to protect wildlife habitat conservation areas.

30 b. Seasonal restrictions. When a species is more susceptible to adverse
31 impacts during specific periods of the year, seasonal restrictions may apply. Activities
32 may be further restricted and buffers may be increased during the specified season.

33 2. General Requirements.

34 a. A wildlife habitat conservation area and associated buffer may be altered
35 only if the proposed alteration of the habitat and associated buffer does not degrade the
36 functions of the habitat and associated buffer.

37 b. Whenever activities are proposed in or adjacent to a wildlife habitat
38 conservation area or associated buffer, such area shall be protected through the
39 application of measures in accordance with a sensitive area study prepared by a qualified
40 professional and approved by the City of Lake Forest Park, and guidance provided by the
41 appropriate state and/or federal agencies.

42 c. Mitigation sites should be located to achieve contiguous wildlife habitat
43 corridors in accordance with a mitigation plan that is part of an approved sensitive area
44 study to minimize the isolating effects of development on habitat areas.

45 d. The Planning Director shall condition approvals of activities allowed
46 within or adjacent to a wildlife habitat conservation area or its buffers, as necessary to

1 minimize or mitigate any potential adverse impacts. Conditions may include, but are not
2 limited to, the following:

- 3 i. Establishment of buffer zones;
- 4 ii. Preservation of critically important vegetation;
- 5 iii. Limitation of public access to the habitat area, including fencing to
6 deter unauthorized access;
- 7 iv. Seasonal restriction of activities;
- 8 v. Establishment of a duration and timetable for periodic review of
9 mitigation activities; and
- 10 vi. Requirement of a performance bond, when necessary, to ensure
11 completion and success of proposed mitigation.

12 e. Mitigation of alterations to wildlife habitat conservation areas shall
13 achieve equivalent or greater biologic functions. Mitigation shall address each function
14 affected by the alteration to achieve functional equivalency or improvement on a per
15 function basis.

16
17 **16.16.390 Wellhead Protection Areas.**

18
19 A. To prevent uses that may be incompatible with ground water protection,
20 development in wellhead protection areas shall be limited to those uses allowed under
21 single family residential zoning.

22
23 B. Site impervious surfaces shall be limited to a total of 5,000 square feet or
24 35% of lot size, whichever is greater, provided that this limit may be increased if a
25 special study submitted by the applicant indicates that the proposed development includes
26 on site infiltration and will not have a negative impact on groundwater recharge.

27
28 **16.16.400 Enforcement.** Except as provided in section E, violations of this chapter shall
29 be enforced as follows:

30 A. Except as otherwise provided in this section 400, a first offense shall be a
31 civil infractions and proceeded against as provided in Chapter 18.71 LFPMC

32 B. Except as otherwise provided in this section 400, a Second offense shall
33 be a civil violation subject to a fine not to exceed five thousand dollars (\$5000.00). Each
34 day of violation shall be a separate offense. Civil violations shall be filed by civil
35 complaint in the Lake Forest Park Municipal Court, which shall hear the matter without a
36 jury.

37 C. A third offense shall be a gross misdemeanor.

38 D. Notwithstanding anything to the contrary in subsections, A and B, the
39 Planning Director may refer any violation for criminal prosecution as a gross
40 misdemeanor if the Planning Director determines that the estimated cost of mitigation or
41 restoration will exceed five thousand dollars, or that failure to comply with the provisions
42 of this chapter result in environmental damage that, in the Planning Director's judgment,
43 cannot be corrected by mitigation or restoration.

44 E. Notwithstanding anything to the contrary in subsections, A and B, any
45 person who works in a sensitive area without obtaining a sensitive area permit, when
46 such a permit is required, is guilty of a gross misdemeanor

1 F. Notwithstanding anything to the contrary in subsections, A and B, any
2 person who fails to comply with a stop work order issued under chapter 18.71 LFPMC
3 with respect to a violation of this chapter shall be guilty of a gross misdemeanor.
4

5
6 Section 3. This ordinance shall take effect after publication and posting as provided
7 by law.
8

9 PASSED BY A MAJORITY VOTE of the members of the City of Lake Forest
10 Park City Council this ____ day of _____ 2005.
11

12 APPROVED:

13 _____
14
15 David R. Hutchinson, Mayor
16
17