

TITLE 22

Chapters:

- 22.09 State Environmental Policy Act
- 22.10 Sensitive Areas
- 22.12 Dedication or Payment of Fee for Park, Recreation, and Open Space Land

Chapter 22.09 - State Environmental Policy Act

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22.09.010 Authority

The City of Richland Adopts this Ordinance Under the State Environmental Policy Act (SEPA), RCW 43.21C.120, and the SEPA Rules, WAC 197-11-904.

This ordinance contains this city's SEPA procedures and policies. The SEPA rules, chapter 197-11 WAC, must be used in conjunction with this ordinance. (Ord. 26-84).

22.09.020 General Requirements

This section contains the basic requirements that apply to the SEPA process. The city adopts the following sections of chapter 197-11 of the Washington Administrative Code by reference:

WAC 197-11-040: Definitions
 197-11-050: Lead Agency
 197-11-055: Timing of the SEPA Process
 197-11-060: Content of Environmental Review
 197-11-070: Limitations on Action During SEPA Process
 197-11-080: Incomplete or Unavailable Information
 197-11-090: Supporting Documents
 197-11-100: Information Required of Applicants. (Ord.26-84)

22.09.030 Additional Definitions

In addition to those definitions contained within WAC 197-11-700 through -799, when used in this ordinance, the following terms shall have the following meanings, unless the context indicates otherwise:

- A. "Department" means any division, subdivision, or organizational unit of the city established pursuant to ordinance, rule, or order.
- B. "SEPA rules" means Chapter 197-11 WAC adopted by the Department of Ecology.
- C. "Ordinance" means the ordinance, resolution, or other procedure used by the city to adopt regulatory requirements.
- D. "Early notice" means the city's response to an applicant stating whether it considers issuance of a determination of significance likely for the applicant's proposal (mitigated DNS procedures). (Ord. 26-84).

22.09.040 Designation of Responsible Official

- A. For those proposals for which the city is the lead agency, the responsible official shall be the Planning and Inspection Services Director or his designee.
- B. For all proposals for which the city is the lead agency, the responsible official shall make the threshold determination, supervise scoping and preparation of any required EIS, and perform any other functions assigned to the "lead agency" or "responsible official" by those sections of the SEPA rules that were adopted by reference in RMC 22.09.020. (Ord. 26-84)

22.09.050 Lead Agency Determination and Responsibilities

- A. Any department within the city receiving any application for or initiating a proposal that involves a nonexempt action shall forward such proposal to the planning and inspection services department for determination of the lead agency for that proposal under WAC 197-11-050 and 197-11-922 through 197-11-940; unless the lead agency has been previously determined or the department is aware that another department or agency is in the process of determining the lead agency.
- B. In those instances in which the city is the lead agency, the responsible official of the city shall supervise compliance with the threshold determination, and if an EIS is necessary, shall supervise preparation of the EIS.
- C. When the city is not the lead agency for a proposal, all departments of the city shall use and consider, as appropriate, either the DNS or the final EIS of the lead agency in making decisions on the proposal. No city department shall prepare or require preparation of a DNS or EIS in addition to that prepared by the lead agency, unless required under WAC 197-11-600. In some cases, the city may conduct supplemental environmental review under WAC 197-11-600.

- D. If the city or any of its departments receives a lead agency determination made by another agency that appears inconsistent with the criteria of WAC 197-11-922 through 197-11-940, it may object to that determination. Any objections must be made to the agency originally making the determination and resolved within fifteen days of receipt of the determination, or the city must petition the Department of Ecology for a lead agency determination under WAC 197-11-946 within the fifteen day time period. Any such petition on behalf of the city shall be initiated by the city's responsible official or his designee.
- E. Departments of the city are authorized to make agreements as to lead agency status or shared lead agency duties for a proposal under WAC 197-11-942 and 197-11-944; provided that the responsible official and any department that will incur responsibilities as the result of such agreement must approve the agreement.
- F. The planning and inspection services department shall require sufficient information from the applicant to identify which other agencies have jurisdiction over the proposal (that is, which agencies require nonexempt licenses). (Ord. 26-84).

22.09.060 Time Limits Applicable to the Threshold Determination

The following time limits (expressed in calendar days) shall apply when the city processes licenses for all private projects and those governmental proposals submitted to the city by other agencies:

- A. The city shall complete threshold determinations that can be based solely upon review of the environmental checklist for the proposal within fifteen days of submission of an adequate application and completed checklist.
- B. Threshold determinations which require further studies, field investigations, or further information from the applicant, shall be completed within fifteen days after the required information or investigation is completed.
- C. Threshold determinations that require consultation with other agencies with jurisdiction shall be completed within 30 days of submission of an adequate application and completed checklist. (Ord 26-84).

22.09.070 Additional Timing Considerations

- A. For nonexempt proposals, the DNS or draft EIS for the proposal shall accompany the city's staff recommendation to the physical planning commission and/or board of adjustment, when they are acting in an advisory capacity.
- B. If the city's only action on a proposal is a decision on a building permit or other license that requires detailed project plans and specifications, the applicant may request in writing that the city conduct environmental review prior to submission of the detailed plans and specifications. (Ord. 26-84).

22.09.080 Categorical Exemptions and Threshold Determinations

This section contains the rules for deciding whether a proposal has a "probable significant, adverse environmental impact" requiring an environmental impact statement (EIS) to be prepared. This part also contains rules for evaluating the impacts of proposals not requiring an EIS. The city adopts the following sections by reference, as supplemented in this part:

- WAC 197-11-300: Purpose of This Part
- 197-11-305: Categorical Exemptions
- 197-11-310: Threshold Determination Required
- 197-11-315: Environmental Checklist
- 197-11-330: Threshold Determination Process
- 197-11-335: Additional Information
- 197-11-340: Determination of Nonsignificance (DNS)
- 197-11-350: Mitigated DNS
- 197-11-360: Determination of Significance (DS)/Initiation of Scoping
- 197-11-390: Effect of Threshold Determination. (Ord. 26-84)

22.09.090 Flexible Thresholds for Categorical Exemptions

- A. The City of Richland establishes the following exempt levels for minor new construction under WAC 197-11-800 (1)(b) based on local conditions:
 1. For residential units in WAC 197-11-800(1)(b)(i), 20 dwelling units.

2. For office, school, commercial, recreational, service or storage buildings in WAC 197-11-800(1)(b)(iii): 12,000 sq.ft. with associated parking lots designed for 40 automobiles.
3. For parking lots in WAC 197-11-800(1)(b)(iv), parking lots designed for 40 automobiles.
4. For landfills and excavations in WAC 197-11-800(1)(b)(v), 500 cubic yards.
5. Whenever the city establishes new exempt levels under this section, it shall send them to the Department of Ecology, headquarters office, Olympia, Washington, under WAC 197-11-800(1)(c). (Ord. 26-84).

22.09.100 Use of Exemptions

- A. Each department within the city that receives an application for a license or, in the case of governmental proposals, the department initiating the proposal, shall forward the application to the responsible official to determine whether the license and/or the proposal is exempt. The responsible official's determination that a proposal is exempt shall be final and not subject to administrative review. If a proposal is exempt, none of the procedural requirements of this ordinance apply to the proposal. The city shall not require completion of an environmental checklist for an exempt proposal.
- B. In determining whether or not a proposal is exempt, the responsible official shall make certain the proposal is properly defined and shall identify the governmental licenses required (WAC 197-11-060). If a proposal includes exempt and nonexempt actions, the department shall determine the lead agency even if the license application that triggers the department's consideration is exempt.
- C. If a proposal includes both exempt and nonexempt actions, the city may authorize exempt actions prior to compliance with the procedural requirements of this ordinance, except that:
 1. The city shall not give authorization for:
 - a) Any nonexempt action;
 - b) Any action that would have an adverse environmental impact; or
 - c) Any action that would limit the choice of alternatives.
 2. A department may withhold approval of an exempt action that would lead to modification of the physical environment, when such modification would serve no purpose if nonexempt action(s) were not approved;
 3. A department may withhold approval of exempt actions that would lead to substantial financial expenditures by a private applicant when the expenditures would serve no purpose if nonexempt action(s) were not approved. (Ord. 26-84).

22.09.110 Environmental Checklist

- A. A completed environmental checklist (or a copy) in the form provided in WAC 197-11-960, shall be filed at the same time as an application for a permit, license, certificate, or other approval not specifically exempted in this ordinance; except, a checklist is not needed if the city and an applicant agree an EIS is required, SEPA compliance has been completed, or SEPA compliance has been initiated by another agency. The city shall use the environmental checklist to determine the lead agency. If the city is the lead agency, the environmental checklist shall be used for making the threshold determination.
- B. For private and other agency proposals, the city will require the applicant to complete the environmental checklist, providing assistance as necessary. For city proposals, the department initiating the proposal shall complete the environmental checklist for the proposal. (Ord. 26-84).

22.09.120 Mitigated Determination of Non-Significance (DNS)

- A. As provided in this section and in WAC 197-11-350, the responsible official may issue a determination of nonsignificance (DNS) based on conditions attached to the proposal by the responsible official or on changes to, or clarifications of, the proposal made by the applicant.
- B. An applicant may request in writing early notice of whether a DS is likely under WAC 197-11-350. The request must:
 1. Follow submission of a permit application and environmental checklist for a nonexempt proposal for which the department is lead agency; and
 2. Precede the city's actual threshold determination for the proposal.
- C. The responsible official should respond to the request for early notice within 15 working days. The response shall:
 1. Be written;
 2. State whether the city currently considers issuance of a DS likely and if so, indicate the general or specific area(s) of concern that are leading the city to consider a DS; and

3. State that the applicant may change or clarify the proposal to mitigate the indicated impacts, revising the environmental checklist and/or permit application as necessary to reflect the changes or clarifications.
- D. As much as possible the city should assist the applicant with identification of impacts to the extent necessary to formulate mitigation measures.
- E. When an applicant submits a changed or clarified proposal, along with a revised environmental checklist, the city shall base its threshold determination on the changed or clarified proposal and should make the determination within 15 days of receiving the changed or clarified proposal:
 1. If the city indicated specific mitigation measures in its response to the request for early notice, and the applicant changed or clarified the proposal to include these specific mitigation measures, the city shall issue and circulate a determination of nonsignificance under WAC 197-11-340(2).
 2. If the city indicated areas of concern, but did not indicate specific mitigation measures that would allow it to issue a DNS, the city shall make the threshold determination, issuing a DNS or DS as appropriate.
 3. The applicant's proposed mitigation measures (clarifications, change or conditions) must be in writing and must be specific. For example, proposals to "control noise" or "prevent stormwater runoff" are inadequate, whereas proposals to "muffle machinery to 'x' decibel" or "construct 200 foot stormwater retention pond at 'y' location" are adequate.
 4. Mitigation measures which justify issuance of a mitigated DNS may be incorporated in the DNS by reference to agency staff reports, studies or other documents.
- F. A mitigated DNS is issued under WAC 197-11-340(2), requiring a fifteen-day comment period and public notice.
- G. Mitigation measures incorporated in the mitigated DNS shall be deemed conditions of approval of permit decision and may be enforced in the same manner as any term or condition of the permit, or enforced in any manner specifically prescribed by the city.
- H. If the city's tentative decision on a permit or approval does not include mitigation measures that were incorporated in a mitigated DNS for the proposal, the city should evaluate the threshold determination to assure consistency with WAC 197-11-340(3)(a).
- I. The city's written response under (B) of this section shall not be construed as a determination of significance. In addition, preliminary discussion of clarifications or changes to a proposal, as opposed to a written request for early notice, shall not bind the city to consider the clarifications or changes in its threshold determination. (Ord. 26-84).

22.09.130 Environmental Impact Statement (EIS)

This part contains the rules for preparing environmental impact statements. The city adopts the following sections by reference, as supplemented by this part:

- WAC 197-11-400: Purpose of EIS
 197-11-402: General Requirements
 197-11-405: EIS Types
 197-11-406: EIS Timing
 197-11-408: Scoping
 197-11-410: Expanded Scoping
 197-11-420: EIS Preparation
 197-11-425: Style and Size
 197-11-430: Format
 197-11-435: Cover Letter or Memo
 197-11-440: EIS Contents
 197-11-442: Contents of EIS on Nonproject Proposals
 197-11-443: EIS Contents When Prior Nonproject EIS
 197-11-444: Elements of the Environment
 197-11-448: Relationship of EIS to Other Considerations
 197-11-450: Cost-Benefit Analysis
 197-11-455: Issuance of Draft EIS
 197-11-460: Issuance of Final EIS (Ord. 26-84).

22.09.140 Additional Considerations in Preparation of an EIS

- A. The draft and final EIS shall be prepared either by the responsible official or his designee, or by a private applicant or a consultant retained by the private applicant. In the event the responsible official determines that the applicant will be required to prepare an EIS, the applicant shall be so notified immediately after completion of the threshold determination.
- B. Whenever an applicant, or a consultant retained by the city or the applicant is preparing an EIS, the responsible official shall assure that the EIS is prepared in a responsible manner and with appropriate interdisciplinary methodology. The city shall:
 - 1. Direct the areas of research and examination to be undertaken and the content and organization of the document.
 - 2. Initiate and coordinate scoping, ensuring that the individual preparing the EIS receives all substantive information submitted by an agency or person.
 - 3. Assist in obtaining information on file with another agency that is needed by the person preparing the EIS.
 - 4. Allow the person preparing the EIS access to city records relating to the EIS (under Chapter 42.17 RCW - Public Disclosure and Public Records Law).
- C. The city may require an applicant to provide information the city does not possess, including specific investigations. However, the applicant is not required to supply information that is not required under this ordinance or that is being requested from another agency. (This does not apply to information the city may request under another ordinance or statute.) (Ord. 26-84).

22.09.160 Commenting

This section contains rules for commenting, consulting, and responding on all environmental documents under SEPA, including rules for public notice and hearings. The city adopts the following sections by reference, as supplemented in this part:

- WAC 197-11-500: Purpose of this Part
 197-11-502: Inviting Comment
 197-11-504: Availability and Cost of Environmental Documents
 197-11-508: SEPA Register
 197-11-535: Public Hearings and Meetings
 197-11-545: Effect of No Comment
 197-11-550: Specificity of Comments
 197-11-560: FEIS Response to Comments
 197-11-570: Consulted Agency Cost to Assist Lead Agency (Ord. 26-84).

22.09.170 Public Notice

- A. Whenever the City of Richland issues a DNS under WAC 197-11-340(2) or a DS under WAC 197-11-360(3) the city shall give public notice as follows:
 - 1. If public notice is required for a nonexempt license, the notice shall state whether a DS or DNS has been issued and when comments are due.
 - 2. If no public notice is required for the permit or approval, the city shall give notice of the DNS or DS by:
 - a) Posting the property for site-specific proposals; and
 - b) Publishing notice in the Tri-City Herald, a daily newspaper of general circulation in the city and a legal newspaper of Benton County, Washington.
- B. Whenever the city issues a draft EIS under WAC 197-11-455(5) or a supplemental EIS under WAC 197-11-620, notice of the availability of those documents shall be given by:
 - 1. Indicating the availability of the DEIS in any public notice required for a nonexempt license; and
 - 2. Posting the property for site specific proposals;
 - 3. Publishing notice in the Tri-City Herald.
- C. Whenever possible, the city shall integrate the public notice required under this section with existing notice procedures for the city's nonexempt permit(s) or approval(s) required for the proposal.
- D. The city may require an applicant to pay for costs incurred in completing the public notice requirements for the applicant's proposal. (Ord. 26-84).

22.09.180 Designation of Official to Perform Consulted Agency

Responsibilities of the City:

- A. The responsible official shall be responsible for preparation of written comments for the city in response to a consultation request prior to a threshold determination, participation in scoping, or reviewing a draft EIS.
- B. The responsible official shall also be responsible for the city's compliance with WAC 197-11-550 whenever the city is a consulted agency and is authorized to develop operating procedures that will ensure that responses to consultation requests are prepared in a timely fashion and include data from all appropriate departments of the city. (Ord. 26-84).

22.09.190 Using Existing Environmental Documents

This section contains rules for using and supplementing existing environmental documents prepared under SEPA or National Environmental Policy Act (NEPA) for the city's own environmental compliance. The city adopts the following sections by reference:

- WAC 197-11-600: When to Use Existing Environmental Documents
 197-11-610: Use of NEPA Documents
 197-11-620: Supplemental Environmental Impact Statement -- Procedures
 197-11-625: Addenda -- Procedures
 197-11-630: Adoption -- Procedures
 197-11-635: Incorporation by Reference -- Procedures
 197-11-640: Combining Documents (Ord. 26-84).

22.09.200 SEPA and Agency Decisions

This section contains rules (and policies) for SEPA's substantive authority, such as decisions to mitigate or reject proposals as a result of SEPA. This part also contains procedures for appealing SEPA determinations to agencies or the courts. The city adopts the following sections by reference.

- WAC 197-11-650: Purpose of this Part
 197-11-655: Implementation
 197-11-660: Substantive Authority and Mitigation
 197-11-680: Appeals (Ord.26-84).

22.09.210 Substantive Authority

- A. The policies and goals set forth in this ordinance are supplementary to those in the existing authorization of the City of Richland.
- B. The city may attach conditions to a permit or approval for a proposal so long as:
 1. Such conditions are necessary to mitigate specific probable adverse environmental impacts identified in environmental documents prepared pursuant to this ordinance; and
 2. Such conditions are in writing; and
 3. The mitigation measures included in such conditions are reasonable and capable of being accomplished; and
 4. The city has considered whether other local, state, or federal mitigation measures applied to the proposal are sufficient to mitigate the identified impacts; and
 5. Such conditions are based on one or more policies in subsection (D) below and cited in the license or other decision document.
- C. The city may deny a permit or approval for a proposal on the basis of SEPA so long as:
 1. A finding is made that approving the proposal would result in probably significant adverse environmental impacts that are identified in a final EIS or final supplemental EIS prepared pursuant to this ordinance; and
 2. A finding is made that there are no reasonable mitigation measures capable of being accomplished that are sufficient to mitigate the identified impact; and
 3. The denial is based on one or more policies identified in subsection (D) below and identified in writing in the decision document.
- D. The city designates and adopts by reference the following policies as the basis for the city's exercise of authority pursuant to this section:

1. The city shall use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate plans, functions, programs and resources to the end that the state and its citizens may:
 - a) Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;
 - b) Assure for all people of Washington safe, healthful, productive, and aesthetically and culturally pleasing surroundings;
 - c) Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;
 - d) Preserve important historic, cultural and natural aspects of our national heritage;
 - e) Maintain, whenever possible, an environment which supports diversity and variety of Individual choice;
 - f) Achieve a balance between population and resource use which will permit high standards of living and wide sharing of life's amenities;
 - g) Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.
2. The city recognizes that each person has a fundamental and inalienable right to a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.
3. The city adopts by reference the policies in the following city codes, plans, ordinances and resolutions as a basis for the exercise of authority under SEPA:
 - a) The Comprehensive Plan of the City (Chapter 23.01 RMC);
 - b) The city's zoning code (Title 23 RMC);
 - c) The city's fire and building codes (Titles 20 and 21 RMC);
 - d) The city's shoreline master program (Title 26 RMC);
 - e) Any other policies of the city which have been incorporated in resolutions, regulations, ordinances, plans, or codes and which provide a reasonable basis for conditioning or denying a proposal in order to mitigate adverse environmental impacts;
4. The city establishes by reference the following additional policies:
 - a) The policies and regulations of the Benton, Franklin, Walla Walla Counties Air Pollution Control Authority;
 - b) The policies and regulations of the Benton-Franklin Health District;
 - c) The policies and regulations of state or federal regulatory agencies which pertain to environmental quality standards. (Ord. 26-84).

22.09.220 Appeals

The following shall be the procedure for appeal of decisions:

- A. Except for permits and variances issued pursuant to Title 26 (Shoreline Management) of the Richland Municipal Code, when any proposal or action not requiring a decision of the city council is conditioned or denied on the basis of SEPA by a nonelected official, the decision shall be appealable to the city council. Such appeal shall be perfected by the proponent or any aggrieved party by filing a written notice with the City Clerk within 15 days of the date of the decision. Such notice shall clearly state: the date of the decision from which the appeal is taken; the name, title or other designation of the responsible official; the nature of the decision; the manner in which the appellant is aggrieved; a statement that the appeal is not being filed for the purpose of harassment or causing needless delay to the project forming the subject matter of the appeal; and that the facts contained in the notice of the appeal are true and correct to the best of the appellant's knowledge. The notice shall be subscribed and sworn to by the appellant.
- B. Upon receipt of a notice of appeal, the city shall proceed according to rules and regulations as may be adopted by the City Council. (Ord. 26-84).

22.09.230 Notice/Statute of Limitations

- A. The city, applicant for, or proponent of an action may publish a notice of action pursuant to RCW 43.21C.080 for any action.
- B. The form of the notice shall be substantially in the form provided in WAC 197-11-990. The notice shall be published by the City Clerk, applicant or proponent pursuant to RCW 43.21C.080. (Ord. 26-84).

22.09.240 Definitions

This section contains uniform usage and definitions of terms under SEPA. The city adopts the following sections by reference, as supplemented by Richland Municipal Code 22.09.030:

WAC 197-11-700: Definitions
 197-11-702: Act
 197-11-704: Action
 197-11-706: Addendum
 197-11-708: Adoption
 197-11-710: Affected Tribe
 197-11-712: Affecting
 197-11-714: Agency
 197-11-716: Applicant
 197-11-718: Built Environment
 197-11-720: Categorical Exemption
 197-11-722: Consolidated Appeal
 197-11-724: Consulted Agency
 197-11-726: Cost-Benefit Analysis
 197-11-728: County/City
 197-11-730: Decisionmaker
 197-11-732: Department
 197-11-734: Determination of Nonsignificance (DNS)
 197-11-736: Determination of Significance (DS)
 197-11-738: EIS
 197-11-740: Environment
 197-11-742: Environmental Checklist
 197-11-744: Environmental Document
 197-11-746: Environmental Review
 197-11-748: Environmentally Sensitive Area
 197-11-750: Expanded Scoping
 197-11-752: Impacts
 197-11-754: Incorporation by Reference
 197-11-756: Lands Covered by Water
 197-11-758: Lead Agency
 197-11-760: License
 197-11-762: Local Agency
 197-11-764: Major Action
 197-11-766: Mitigated DNS
 197-11-768: Mitigation
 197-11-770: Natural Environment
 197-11-772: NEPA
 197-11-774: Nonproject
 197-11-776: Phased Review
 197-11-778: Preparation
 197-11-780: Private Project
 197-11-782: Probable
 197-11-784: Proposal
 197-11-786: Reasonable Alternative
 197-11-788: Responsible Official
 197-11-790: SEPA
 197-11-792: Scope
 197-11-793: Scoping
 197-11-794: Significant
 197-11-796: State Agency
 197-11-797: Threshold Determination
 197-11-799: Underlying Governmental Action (Ord.26-84).

22.09.250 Categorical Exemptions

The city adopts by reference the following rules for categorical exemptions, as supplemented in this ordinance, including Richland Municipal Code 22.09.090 (flexible thresholds), Richland Municipal Code 22.09.100 (use of exemptions), and Richland Municipal Code 22.09.270 (environmentally sensitive areas):

- WAC 197-11-800: Categorical Exemptions
 197-11-880: Emergencies
 197-11-890: Petitioning DOE to Change Exemptions (Ord. 26-84).

22.09.260 Agency Compliance

This section contains rules for agency compliance with SEPA, including rules for charging fees under the SEPA process, designating environmentally sensitive areas, listing agencies with environmental expertise, selecting the lead agency, and applying these rules to current activities. The city adopts the following sections by reference as supplemented by this part:

- WAC 197-11-900: Purpose of this Part
 197-11-902: Agency SEPA Policies
 197-11-916: Application to ongoing Actions
 197-11-920: Agencies with Environmental Expertise
 197-11-922: Lead Agency Rules
 197-11-924: Determining the Lead Agency
 197-11-926: Lead Agency for Governmental Proposals
 197-11-928: Lead Agency for Public and Private Proposals
 197-11-930: Lead Agency for Private Projects with One Agency with Jurisdiction
 197-11-932: Lead Agency for Private Projects Requiring Licenses from More than One Agency, when One of the Agencies is a County/City
 197-11-934: Lead Agency for Private Projects Requiring Licenses from a Local Agency, Not a County/City, and One or More State Agencies
 197-11-936: Lead Agency for Private Projects Requiring Licenses from More than One State Agency
 197-11-938: Lead Agencies for Specific Proposals
 197-11-940: Transfer of Lead Agency Status to a State Agency
 197-11-942: Agreements on Lead Agency Status
 197-11-944: Agreements on Division of Lead Agency Duties
 197-11-946: DOE Resolution of Lead Agency Disputes
 197-11-948: Assumption of Lead Agency Status (Ord. 26-84).

22.09.270 Environmentally Sensitive Areas

- A. The City of Richland shall designate environmentally sensitive areas under the standards of WAC 197-11-908 and shall file maps designating such areas together with the exemptions from the list in WAC 197-11-908 that are inapplicable in such areas, with the planning and inspection services department and the Department of Ecology, headquarters office, Olympia, Washington. The environmentally sensitive area designations shall have full force and effect of law as of the date of filing.
- B. The city shall treat proposals located wholly or partially within an environmentally sensitive area no differently than other proposals. The city shall not automatically require an EIS for a proposal merely because it is proposed for location in an environmentally sensitive area.
- C. Certain exemptions do not apply on lands covered by water, and this remains true regardless of whether or not lands covered by water are mapped. (Ord. 26-84).

22.09.280 Fees

The city shall require the following fees for its activities in accordance with the provisions of this ordinance:

- A. Threshold determination. For every environmental checklist the city will review when it is lead agency, the city shall collect a fee of \$100.00 from the proponents of the proposal prior to undertaking the threshold determination. The time periods provided by this ordinance for making a threshold determination shall not begin to run until payment of the fee.
- B. Environmental Impact Statement.
 - 1. When the city is the lead agency for a proposal requiring an EIS, and the responsible official determines that the EIS shall be prepared by employees of the city, the city may charge and collect a reasonable fee from an applicant to cover costs incurred by the city in preparing the EIS. The responsible official shall advise the applicant(s) of the projected costs for the EIS prior to actual preparation. The applicant shall post bond or otherwise ensure payment of such costs.
 - 2. The responsible official may determine that the city will contract directly with a consultant for preparation of an EIS, or a portion of the EIS, for activities initiated by some persons or entity other than the city, and may bill such costs and expenses directly to the applicant. Such consultants shall be selected by mutual agreement of the city and applicant. The city may require the applicant to post bond or otherwise ensure payment of such costs.
 - 3. If a proposal is modified so that an EIS is no longer required, the responsible official shall refund any fees collected under (A) or (B) of this subsection which remain after incurred costs are paid.
- C. Public notice. The city may collect a reasonable fee from an applicant to cover the cost of meeting the public notice requirements of this ordinance relating to the applicant's proposal.
- D. Cost of documents. The city may charge any person for copies of any document prepared under this ordinance, and for mailing the document, in a manner provided by Chapter 42.17 RCW.
- E. The city shall not collect a fee for performing its duties as a consulted agency. (Ord. 26-84).

22.09.285 SEPA Public Information

The city shall retain all documents required by the SEPA rules (Chapter 197-11 WAC) and make them available in accordance with Chapter 42.17 RCW. (Ord. 26-84).

22.09.290 Forms

The city adopts the following forms and sections by reference:

- WAC 197-11-960: Environmental Checklist
- 197-11-965: Adoption Notice
- 197-11-970: Determination of Nonsignificance (DNS)
- 197-11-980: Determination of Significance and Scoping Notice (DS)
- 197-11-985: Notice of Assumption of Lead Agency Status
- 197-11-990: Notice of Action. (Ord. 26-84)

Chapter 22.10 - Sensitive Areas

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PART I - General Introduction**22.10.010 General Purpose and Intent**

- A. Sensitive areas perform many important biological and physical functions that benefit the City of Richland and its residents.

These functions include but are not limited to, the following (by type): (1) Wetlands: helping to maintain water quality; storing and conveying storm water and flood water; recharging groundwater; providing important wildlife habitat; and serving as areas for recreation, educational and scientific study, and aesthetic appreciation; and (2) Fish and Wildlife Habitat Areas: maintaining species diversity and genetic diversity of local flora and fauna; providing opportunities for food, cover, nesting, breeding and movement for fish and wildlife; serving as areas for recreation, educational and scientific study and aesthetic appreciation; helping to maintain air and water quality; controlling erosion; and providing neighborhood separation and visual diversity within urban areas. In addition, certain portions of the City of Richland are characterized by geologic hazards that pose a risk to public and private property, to human life and safety and to the natural systems that make up the environment of the City of Richland. These lands are affected by natural processes that make them susceptible to land-slides, seismic activity, and/or severe erosion. The City of Richland maintains that protection of sensitive areas and regulation of geologic hazards are necessary to protect the public health, safety, and welfare.

- B. This section of the Richland Municipal Code contains standards, guidelines, criteria and requirements intended to identify, analyze and mitigate probable impacts to the City of Richland's sensitive areas and geologic hazard areas and to enhance and restore them when possible. The intent of these regulations is to avoid environmental impacts where such avoidance is feasible and reasonable. In appropriate circumstances, impacts to sensitive and geologic hazard areas that result from regulated activities may be minimized, rectified, reduced and/or compensated for, consistent with the requirements of this section. The City of Richland's goal shall be to achieve no net loss of wetlands and to avoid probable impacts, to the extent practical, to fish and wildlife habitat and within geologic hazard areas.
- C. It is the intent of this section to:
1. Implement the goals and policies of the City of Richland's Comprehensive Plan, including those goals and policies that pertain to natural features and environmental protection; aesthetics and community character; adequate housing and infrastructure; opportunities for economic development; creation of a balanced transportation system; adequate public facilities; and achievement of a mix of land use types and densities consistent with the City of Richland's land use plan;
 2. Serve as a basis for exercise of the City of Richland's substantive authority under the State Environmental Policy Act (SEPA) and the City of Richland's SEPA rules;
 3. Comply with the requirements of the Growth Management Act (RCW 36.70A) and implementing rules; and
 4. Coordinate environmental review and permitting of proposals to avoid duplication and delay.
- D. The City of Richland further notes that Benton County, the U.S. Department of Fish and Wildlife, the U.S. Department of Energy and the Washington State Department of Ecology have identified and mapped some portions of the City of Richland - based on topographic, geologic, hydrologic, and habitat characteristics - where the conditions indicate that sensitive areas or geologic hazards may exist. Additional study and mapping are needed to verify that such conditions do prevail and are needed to identify other areas that are potentially geologic hazards. Mapping will enable the City of Richland to provide notice of the potential presence of sensitive areas or the risks associated with developing lands subject to geologic hazards to the public. It should be noted that the boundaries of the sensitive areas and geologic hazard areas displayed on these maps are approximate and are not intended to be used for individual site assessment. When differences occur between what is illustrated on these maps and current site conditions, the actual presence or absence of environmentally sensitive areas or geologic hazard areas on the site shall determine the action to be taken. (Ord. 48-93).

22.10.020 General Applicability of These Regulations

- A. The provisions of these regulations shall apply to any activity that affects sensitive areas or their established buffers unless otherwise exempt.
- B. To avoid duplication, the following permits and approvals shall be subject to and coordinated with the requirements of these regulations: clearing and grading; subdivision or short subdivision; building permit; planned unit development; shoreline substantial development; variance; conditional use; other permits leading to the development or alteration of land; rezones and annexations. (Ord. 48-93).

22.10.030 General Relationship of Regulations of One Type of Sensitive Area Protection to Other Regulations

These regulations shall apply as an overlay and in addition to zoning, land use and other regulations, including critical areas regulations, established by the City of Richland.

- A. Areas characterized as sensitive may also be subject to other regulations established by this ordinance due to the overlap or multiple functions of some sensitive or critical areas. For example, some landslide hazard areas (e.g., steep slopes) adjacent to wetlands may be regulated by buffering requirements according to the wetland management provisions of this ordinance. Wetlands may be defined and regulated according to the wetland section and habitat management provisions of this ordinance. In the event of any conflict among regulations in this ordinance for a particular sensitive area, those regulations that provide greater protection to the environmentally sensitive area shall apply.
- B. These sensitive area regulations shall apply as an overlay and in addition to zoning, land use, and other regulations established by the City of Richland. In the event of any conflict between these regulations and any other regulations of the City of Richland, the regulations which provide greater protection to environmentally sensitive areas shall apply. (Ord. 48-93).

PART II – Wetlands**22.10.040 Definitions - Wetlands**

For purposes of this chapter, the following definitions shall apply.

- A. Applicant: The person, party, firm, partnership, corporation, or other entity that proposes any activity that could affect a wetland.
- B. Artificially Created Wetland: Wetlands created through purposeful action from non wetland sites, including but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscaping amenities.
- C. Best Management Practices (BMP): Excludes existing, ongoing, and new agricultural activities outside of sensitive areas and their buffers. BMP's are current and evolving conservation practices, or systems of practices, management or operational measures, or design and construction techniques; or normal and accepted industry standards that are applied to land use activity in a manner which:
 1. Controls soil loss and reduces water surface and groundwater quality degradation caused by nutrients, and wastes, toxics, and sediment; and
 2. Mitigates adverse impacts to the natural chemical, physical and biological environment of the City; and
 3. Utilizes the City's natural resources on a long term, sustainable yield basis.
- D. Clearing: The removal of trees, brush, grass, ground cover, or other vegetative matter from a site which exposes the earth's surface of the site.
- E. Creation: The production or formation of a wetland through artificial means from an upland (dry) site.
- F. Department: The City of Richland Community and Development Services Group.
- G. Earth/Earth Material: Naturally occurring rock, soil, stone, sediment, or combination thereof.
- H. Enhancement: The improvement of an existing viable wetland or buffer, such as by increasing plant diversity, increasing wildlife habitat, installing environmentally-compatible erosion controls, or removing non-indigenous plant or pest animal species.
- I. Erosion: Wearing away of rock or soil by the gradual detachment of soil and rock fragments by water, wind, ice, and other mechanical and chemical forces.
- J. Excavation: The mechanical removal of earth material.
- K. Existing and Ongoing Agricultural Activities: "Existing and ongoing agricultural activities" include those activities conducted on lands defined in RCW 84.34.020(2), and those activities involved in the production of crops and livestock, including, but not limited to, operation and maintenance of farm and stock ponds or drainage ditches, irrigation systems, changes between agricultural activities, and

normal operation, maintenance or repair of existing serviceable structures, facilities or improved areas. Activities that bring a previously non-agricultural area into agricultural use are not part of an ongoing activity. An operation ceases to be ongoing when the area on which it was conducted is proposed for conversion to a non-agricultural use or has lain idle for a period of longer than five years, unless the idle land is registered in a federal or state soils conservation program.

- L. Federal Manual, or Federal Methodology: The methodology for identifying wetlands in the field as described in the Current Federal Manual for Identifying and Delineating Jurisdictional Wetlands.
- M. Fill/Fill Materials: A deposit of earth materials placed by human or mechanical (machine) means.
- N. Filling: The act of transporting or placing (by any manner or mechanism) fill material from, to, or on any soil surface, sediment surface, or other fill material.
- O. Grading: Any excavating, filling, clearing, leveling, or contouring of the ground surface by human or mechanical means.
- P. High Impact Land Use: Land uses that are generally associated with relatively high levels of human activity or disturbance, development of structures, or substantial wetland habitat impacts. Depending on their context, high impact land uses can include, but are not limited to, residential buildings and structures, active recreation areas and facilities, commercial and industrial land uses, buildings and structures, and similar uses and activities which create a significant potential for impacts to wetlands. The context for determining the impact of a land use includes the sensitivity of the wetland, the density and intensity of adjacent development, the amount of impervious surface, the orientation of proposed buildings and structures and other relevant factors as determined in an individual case.
- Q. In-Kind Mitigation: Replacement of wetlands with substitute wetlands whose characteristics closely approximate those destroyed or degraded by a regulated activity.
- R. Low Impact Land Use: Land uses that are typically associated with relatively low levels of human activity, disturbance or development and that are conducted in a manner as to minimize impacts to the buffer. Low impact land uses may include:
 - 1. Conservation or restoration activities aimed at protecting the soil, water, vegetation, or wildlife;
 - 2. Passive recreation, including walkways or trails located in the outer twenty-five percent (25%) of the buffer area;
 - 3. Educational and scientific research activities provided prior approval is obtained from the approval authority;
 - 4. Normal and routine maintenance and repair of any existing public or private facilities provided appropriate measures are undertaken to minimize impacts to the wetland and its buffer and that disturbed areas are restored immediately to a natural condition; or
 - 5. Agricultural land uses that do not create a significant probable wetland impact.
- S. Mitigation: A series of prioritized actions that when achieved in full ensures project impacts will result in no net loss of habitat value or fish and wildlife populations. "Mitigation" involves actions that proceed in sequence from the highest to the lowest priority as follows:
 - 1. Avoiding impacts to environmentally sensitive areas by not taking action or parts of actions.
 - 2. Minimizing impact by limiting the degree or magnitude of the action and its implementation.
 - 3. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.
 - 4. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.
 - 5. Compensating for the impact by replacing or providing substitute resources or environments.While monitoring alone is not considered mitigation for purposes of these regulations, it may be part of a comprehensive mitigation program.
- T. Native Vegetation: Vegetation indigenous to the area in question.
- U. Out-of-Kind Mitigation: Replacement of wetlands with substitute wetlands whose characteristics do not closely approximate those destroyed or degraded by a regulated activity.
- V. Permanent Erosion Control: Continuous on-site and off-site control measures that are needed to control conveyance or deposition of earth, and turbidity or pollutants after development, construction, or restoration.
- W. Qualified Consultant: A "qualified wetland specialist" means a person or firm with experience and training in wetland issues, and with experience in performing delineations, analyzing wetland impacts, and recommending wetland mitigation and restoration. Qualifications include:
 - 1. A Bachelor of Science or Bachelor of Arts or equivalent degree in biology, botany, or environmental studies, fisheries, soil science, wildlife or related field, and two years of related work experience, including a minimum of one year experience delineating wetlands using the

- Unified Federal manual preparing wetland reports. Additional education may substitute for one year of related work experience; or
2. Four years of related work experience and training, with a minimum of two years experience delineating wetlands with the Unified Federal Manual and preparing wetland reports.
- X. Regulated Activity: Activities occurring in or near and/or potentially affecting a wetland or wetland buffer that are subject to the provisions of this section. Regulated activities generally include, but are not limited to, any filling, dredging, dumping or stockpiling, draining, excavation, flooding, construction or reconstruction, driving pilings, obstructing, shading, clearing or harvesting.
- Y. Restoration: The reestablishment of a viable wetland from a previously filled or degraded wetland site.
- Z. Site: Any parcel or combination of contiguous parcels where the proposed project impacts a wetland(s).
- AA. Slope: An inclined earth surface, the inclination of which is expressed as the ratio of horizontal distance to vertical distance.
- BB. Substrate: The soil, sediment, decomposing organic matter or combination of those located on the bottom surface of the wetland.
- CC. Temporary Erosion Control: On-site and off-site control measures that are needed to control conveyance or deposition of earth, turbidity or pollutants during development, construction, or restoration.
- DD. Wetland: "Wetland" or "wetlands" refers to areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities. However, wetlands do include those artificial wetlands intentionally created to mitigate conversion of wetlands.
- EE. Wetland Buffer Area: A naturally vegetated and undisturbed, enhanced or revegetated zone surrounding a natural, restored or newly created wetland that is an integral part of a wetland ecosystem, and protects a wetland from adverse impacts to the integrity and value of the wetland. Wetland buffers serve to moderate runoff volume and flow rates; reduce sediment, chemical nutrient and toxic pollutants; provide shading to maintain desirable water temperatures; provide habitat for wildlife; and protect wetland resources from harmful intrusion.
- FF. Wetland Class: The U.S. Fish and Wildlife Service wetland classification scheme uses a hierarchy of systems, subsystems, classes and subclasses to describe wetland types (refer to USFWS, December 1979, Classification of Wetlands and Deepwater Habitats of the United States for a complete explanation of the wetland classification scheme). Eleven class names are used to describe wetland and deepwater habitat types. These include: forested wetland, scrub-shrub wetland, emergent wetland, moss-lichen wetland, unconsolidated shore, aquatic bed, unconsolidated bottom, rock bottom, rocky shore, stream bed, and reef.
- GG. Wetland Delineation: The delineation requires the actual flagging or staking in the field of the edges of the wetland by a qualified consultant or their representative.
- HH. Wetland Determination: A report prepared by a qualified consultant that identifies, characterizes and analyzes potential impacts to wetlands consistent with applicable provisions of these regulations. A determination does not include a formal delineation. (Ord. 48-93: Ord. 45-00: Ord. 23-01: Ord. 31-03).

22.10.050 Applicability to Wetlands

- A. See Section 22.10.020 for General Applicability.
- B. Non-project actions, limited to: rezones & annexations. (Ord. 48-93)

22.10.060 Regulation Wetlands

- A. All Category I wetlands;
- B. Category II and III wetlands greater than 1/2 (.5) acre; and
- C. Category IV wetlands greater than one (1) acre. (Ord. 48-93).

22.10.070 Regulated Activities in Wetlands

The following activities which occur in conjunction with a development application within a wetland and its associated buffer, or outside a wetland or buffer, but affecting the wetland or buffer, shall be regulated pursuant to the standards of this chapter:

- A. Removing, excavating, disturbing or dredging soil, sand, gravel, minerals, organic matter or materials of any kind;
- B. Dumping, discharging or filling with any material;
- C. Draining, flooding or disturbing the water level or water table;
- D. Driving, piling or placing obstructions;
- E. Constructing, reconstructing, demolishing or altering any structure or infrastructure if the activity results in greater impervious surface coverage;
- F. Destroying or altering vegetation through clearing, harvesting, shading or planting vegetation that would alter the character of wetland;
- G. Activities that result in significant changes in water temperature, physical or chemical characteristics of wetland water sources, including water quantity and quality as stated in RCW 90.03 & WAC 173.201;
- H. Alteration of natural drainage patterns or any activity that results in a discharge of stormwater runoff into a wetland; and
- I. Any other activities affecting a wetland or wetland buffer not otherwise exempt from the provisions of this section. (Ord. 48-93, Ord. 23-01).

22.10.080 Exemptions to Wetland Regulations

- A. See Section 22.10.300 for general exemptions to all sensitive areas.
- B. The following activities shall be exempt from the provisions of this chapter provided they are conducted using best management practices on wetlands:
 - 1. Activities involving artificially created wetlands intentionally created from non-wetland sites, including but not limited to, grass-lined swales, irrigation and drainage ditches, detention facilities, and landscape features, except wetlands created as mitigation;
- C. Notwithstanding the exemptions provided by Section 22.10.300 and by this chapter, any otherwise exempt activities occurring in or near wetlands shall comply with the intent of these standards and shall consider on-site alternatives that avoid or minimize probable wetland impacts. (Ord. 48-93, Ord. 45-00, Ord. 23-01).

22.10.090 Wetland Inventory Maps

The approximate location and extent of wetlands within the City of Richland's planning area are shown on the sensitive areas maps adopted as part of this section. These maps shall be used only as a general guide for the assistance of property owners and the public, as the boundaries are generalized. The actual type, extent and boundaries of wetlands shall be determined in the field by a qualified consultant according to the procedures, definitions and criteria established by this ordinance. In the event of any conflict between the wetland location or designation shown on the City of Richland's maps and the criteria or standards of this ordinance, the results of applying the criteria and standards during the field investigation shall control. (Ord. 48-93).

22.10.100 Rating: Categories of Wetland

Wetlands shall be designated Category I, Category II, Category III, Category IV or Locally Significant according to the following criteria:

- A. "Category I, II, III, & IV are set forth in the Washington State Department of Ecology's Wetland Rating System for Eastern Washington, October, 1991 (Publication # 91-58) or as amended.
- B. "Locally Significant Wetlands" are those that are deemed important to the City of Richland because they function as part of a water quality or flood mitigation program, are planned to be or can be integrated into an identified open space plan or system, or serve other substantial public purposes. Locally significant wetlands may be considered for acquisition by the City of Richland pursuant to land trade, purchase of a fee or lesser interest, or other appropriate mechanism. (Ord. 48-93, Ord. 45-00).

22.10.110 Wetland Buffer Areas

- A. The establishment of wetland buffer areas shall be required for all development proposals and activities adjacent to wetlands to protect the integrity, function and value of the wetland. Buffers shall consist of an undisturbed area of vegetation established to protect the functions and values of the wetland. Buffers shall be determined in conjunction with considerations of wetland type and quality, approved wetland alterations and required mitigation measures. Buffers are not intended to be established or to function independently of the wetland they are established to protect; the establishment of a buffer shall not operate to prevent a use or activity that would otherwise be permitted in the wetland subject to mitigation.
- B. Buffers shall be measured from the wetland edge as delineated using the Washington State Wetlands Identification and Delineation Manual and marked in the field. Required buffer widths shall reflect the sensitivity of the wetland and the type and intensity of human activity proposed to be conducted near the wetland.
- C. The following buffer widths are established:

WETLAND CATEGORY	HIGH IMPACT LAND USE	LOW IMPACT LAND USE
Category I	150 feet	75 feet
Category II	100 feet	50 feet
Category III	50 feet	25 feet
Category IV	50 feet	25 feet

- D. Buffer widths may be modified by averaging buffer widths or by enhancing buffer quality as set forth herein.
 - 1. Buffer width averaging shall be allowed only where the applicant demonstrates to the Department that the wetland contains variations in sensitivity due to existing physical characteristics, that lower intensity land uses would be located adjacent to areas where the buffer width is reduced, that width averaging will not adversely impact the wetland functional values, and that the total area contained within the buffer after averaging is no less than that contained within the standard buffer prior to averaging.
 - 2. Buffer width may be reduced by up to 25 percent if the existing buffer area is vegetated with greater than 90% areal cover of native species and a report by a qualified wetlands specialist demonstrates that a smaller than standard wetland buffer will provide all of the buffer functions necessary to protect all functions and values of the wetland. The Department may require long-term monitoring of the buffer and wetland with appropriate contingency actions if adverse impacts to the wetland occur.
 - 3. Notwithstanding the reductions permitted in subparagraphs (A) and (B) above, buffer widths shall not be reduced by more than 50 percent of the required buffer or to less than 25 feet.
- E. The minimum buffer width stated in Paragraph (3) of this section shall be increased not more than 125 percent (Buffer width x 1.25) when the qualified consultant determines, based upon a site-specific wetland analysis, that impacts on the wetland from a proposed development can only be mitigated by a greater buffer width. The standard wetland buffer width shall be increased:
 - 1. When the adjacent land is susceptible to severe erosion and erosion control measures will not effectively prevent adverse wetland impacts; or
 - 2. When the standard buffer has minimal or degraded vegetative cover that cannot be improved through enhancement; or
 - 3. When the minimum buffer for a wetland extends into an area with a slope of greater than 25 percent, the buffer shall be the greater of:
 - a) The minimum buffer for that particular wetland; or
 - b) Twenty-five feet beyond the point where the slope becomes 25 percent or less.
- F. Low impact uses and activities that are consistent with the purpose and function of the wetland buffer and do not detract from its integrity may be permitted within the buffer depending on the sensitivity of the wetland. Examples of uses and activities which may be permitted in appropriate cases include pedestrian trails, viewing platforms, storm water management facilities such as grass-lined swales, and utility easements. Uses permitted within the buffer shall be located in the outer portion of the buffer as far as possible from the wetland.

- G. Required buffers shall not deny all reasonable use of property. A variance from buffer width requirements may be granted by the City of Richland upon a demonstration by the applicant that:
1. There are special circumstances applicable to the subject property or to the intended use such as shape, topography, location or surroundings that do not apply generally to other properties and which support the granting of a variance from the buffer width requirements;
 2. Such buffer width variance is necessary for the preservation and enjoyment of a substantial property right or use possessed by other similarly situated property, but which because of special circumstances is denied to the property in question;
 3. The granting of such buffer width variance will not be materially detrimental to the public welfare or injurious to the property or improvement; and
 4. The granting of the buffer width variance will not materially affect the subject wetland.
 5. All variances shall be in accord with Richland Municipal Code 23.82.040 through 23.82.170. (Ord. 48-93, Ord. 45-00).

22.10.120 Wetland Alteration and Mitigation

- A. All adverse impacts to wetland functions and values shall be mitigated. Mitigation actions by an applicant or property owner shall occur in the following priority sequence:
1. Avoiding the impact by not taking a certain action or parts of actions;
 2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation;
 3. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
 4. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action; and/or
 5. Compensating for the impact by replacing or providing substitute resources or environments.
- B. Where impacts cannot be avoided, the applicant or property owner shall seek to implement other appropriate mitigation actions in compliance with the intent, standards and criteria of this section. These shall include consideration of alternative site plans and building layouts and/or reduction in the density or scope of the proposal.
- C. Alteration of wetlands and/or their buffers may be permitted by the Department subject to the following criteria:
1. Category I Wetlands:
Alterations of Type I wetlands shall be avoided subject to the reasonable use provisions of these regulations.
 2. Category II Wetlands:
 - a) Any proposed alteration and mitigation shall comply with the requirements of Sections 22.10.120 through 2.10.150 of these regulations; and
 - b) No net loss of wetland function and value will occur due to the alteration.
 3. Category III Wetlands:
 - a) The proposed mitigation complies with the requirements of Sections 22.10.120 through 22.10.150 of these regulations; and
 - b) Where enhancement is proposed, replacement ratios comply with the requirements of Section 22.10.130(3) of these regulations. (Ord. 48-93).

22.10.125 Stormwater Runoff

New development within 150 feet of a wetland buffer shall contain stormwater runoff within the developed portions of the site. No stormwater runoff shall drain into the wetland. Deviations from this standard may be approved by the Department provided that a study undertaken by a qualified consultant in accordance with the provisions of Section 22.10.140 of the Richland Municipal Code indicates that the potential discharge of stormwater runoff from a development site into a wetland is adequately mitigated to protect the functions and values of the wetland. In the case of a Category 3 or Category 4 wetland, stormwater management facilities may be located within the outer 25% of the required wetland buffer; provided that a determination is made that no other location is feasible and the location of such facilities will not have an adverse impact on the functions and values of the wetland. (Ord. 23-01).

22.10.130 Mitigation Standards, Criteria, and Plan Requirements

- A. Location and Timing of Mitigation.
1. Mitigation shall be provided on-site, except where on-site mitigation is not feasible or practical due to physical features of the property. The burden of proof shall be on the applicant to demonstrate that mitigation cannot be provided on-site.

2. When mitigation cannot be provided on-site, mitigation shall be provided in the immediate vicinity of and within the same watershed as the permitted activity on property owned or controlled by the applicant. When possible, this means within the same watershed as the location of the proposed project.
 3. In-kind mitigation shall be provided except when the applicant demonstrates and the Department concurs that greater functional and habitat value can be achieved through out-of-kind mitigation.
 4. Only when it is determined by the Department that (1), (2) and (3) above are inappropriate and/or impractical shall off-site, out-of-kind mitigation be considered.
 5. Whether occurring on-site or off-site, the mitigation project shall occur near an adequate water supply (river, stream, groundwater) with a hydrologic connection to the wetland to ensure a successful wetlands development or restoration.
 6. Any agreed upon proposal shall be completed before initiation of other permitted activities, unless a phased or concurrent schedule has been approved by the Department.
 7. Wetland acreage replacement ratios shall be as specified in subsection (C).
- B. Mitigation Performance Standards
1. Adverse impacts to wetlands functions and values shall be mitigated. Mitigation actions shall be implemented in the preferred sequence identified in Section 22.10.120(1) Proposals which include less preferred and/or compensatory mitigation shall demonstrate that:
 - a) All feasible and reasonable measures will be taken to reduce impacts and losses to the original wetland;
 - b) No overall net loss will occur in wetland functions and values; and
 - c) The restored, created or enhanced wetland will be as persistent and sustainable as the wetland it replaces.
- C. Wetland Replacement Ratios
1. Where wetlands alterations are permitted by the Department, the applicant shall restore or create equivalent areas of wetlands in order to compensate for wetland losses. Equivalent areas shall be determined according to acreage, function, type, location, timing factors, and projected success of restoration or creation.
 2. The following acreage replacement ratios shall be used as targets. The Department may vary these standards if the applicant can demonstrate and the Department agrees that the variation will provide adequate compensation for lost wetland area, functions and values, or if other circumstances as determined by the Department justify the variation.

WETLAND SYSTEM CATEGORY/CLASS	WETLAND CREATION AND REPLACEMENT RATIO*	WETLAND ENHANCEMENT RATIO**
Category I	6:1	12:1
Category II and III		
- Forested	3:1	6:1
- Scrub/Shrub or Emergent	2:1	4:1
Category IV	1.5:1	3:1

*Acres replaced: acres altered
 **Acres enhanced: acres altered

3. The qualified consultant in the wetlands report may, where feasible, recommend that restored or created wetlands shall be a higher wetland category than the altered wetland in exchange for requiring less than the required amount of restored or created wetland acreage for categories II, III, and IV only. (Ord. 48-93, Ord.45-00, Ord. 23-01).

22.10.140 Wetland Mitigation Plan Requirements

- A. Where it is determined by the City that compensatory wetland mitigation is required or appropriate, a mitigation plan shall be prepared. The purpose of the plan is to prescribe mitigation to compensate for impacts to the wetland functions, values and acreage as a result of the proposed action. This plan shall consider the chemical, physical, and biological impacts on the wetland system using a recognized wetlands assessment methodology and/or best professional judgment. The mitigation plan shall be prepared in two phases, a conceptual phase and a detailed phase.

1. Conceptual Plan: Standards and Criteria.
The applicant shall prepare a conceptual mitigation plan for submission to the Department at a pre-mitigation conference. The conceptual mitigation plan shall include:
 - a) General goals of the mitigation plan;
 - b) A review of literature or experience to date in restoring or creating the type of wetland proposed;
 - c) Location of proposed wetland compensation area;
 - d) General hydrologic patterns on the site following construction;
 - e) Nature of compensation, including wetland types (in-kind and out-of-kind), general plant selection and justification, approximate project sequencing and schedule, and approximate size of the new wetland buffer;
 - f) A conceptual maintenance plan; and
 - g) Conceptual monitoring and contingency plan.
2. Detailed Plan: Standards and Criteria
Following acceptance of the conceptual mitigation plan by the Department, the applicant will prepare a detailed mitigation plan. Each detailed plan shall contain, at a minimum, the following seven components, and shall be consistent with the standards in Sections 2.10 and 2.12:
 - a) A clear statement of the objectives of the mitigation. The goals of the mitigation plan should be stated in terms of the new wetland functions and values compared to the functions and values of the original wetland. Objectives should include:
 - (1) Qualitative and quantitative standards for success of the project, including hydrologic characteristics (water depths, water quality, hydroperiod/hydrocycle characteristics, flood storage capacity); vegetative characteristics (community types, species composition, density, and spacing); faunal characteristics, and final topographic elevations.
 - (2) An ecological assessment of the wetlands values and wetland buffers that will be lost as a result of the activities, and of the replacement wetlands and buffers, including but not limited to the following:
 - (a) Acreage of project;
 - (b) Existing functions and values;
 - (c) Sizes of wetlands, wetland buffers, and areas to be altered;
 - (d) Vegetative characteristics, including community type, areal coverage, species composition, and density;
 - (e) Habitat type(s) to be enhanced, restored, or created; and
 - (f) Dates for beginning and completion of the mitigation project, and sequence of construction activities.
3. A statement of the location, elevation, and hydrology of the new site, including the following:
 - a) Relationship of the project to the watershed and existing water bodies;
 - b) Topography of site using the smallest readily available intervals, preferably one-foot contour intervals but two-foot is acceptable;
 - c) Water level data, including depth and duration of seasonally high water table;
 - d) Water flow patterns;
 - e) Grading, filling and excavation, including a description of imported soils;
 - f) Irrigation requirements, if any;
 - g) Water pollution mitigation measures during construction;
 - h) Aerial coverage of planted areas to open water areas (if any open water is to be present); and
 - i) Appropriate buffers.
4. A planting plan, describing what will be planted, and where and when the planting will occur, as follows:
 - a) Soils and substrate characteristics;
 - b) Specify substrate stockpiling techniques; and
 - c) Planting instructions, including species, stock type and size, density or spacing of plants, and water and nutrient requirements.
5. A monitoring and maintenance plan, consistent with Section 22.10.160.
 - a) Specify procedures for monitoring and site maintenance; and
 - b) Submit monitoring reports to the Department.
6. A contingency plan, consistent with these regulations.

7. A detailed budget for implementation of the mitigation plan, including monitoring, maintenance and contingency phases.
8. A guarantee, in the form of a bond or other security device in a form and amount acceptable to the City Attorney, assuring that the work will be performed as planned and approved, consistent with these regulations. (Ord. 48-93).

22.10.150 Performance Standards for Wetlands Mitigation Planning

- A. The following performance standards shall be incorporated into mitigation plans submitted to the City of Richland:
 1. Plants should be indigenous to the region (not introduced or foreign species);
 2. Plants should be adaptable to a broad range of water depths;
 3. Plants should be commercially available or available from local sources;
 4. Plant species high in food and cover value for fish and wildlife are recommended, when possible;
 5. Plant should be mostly perennial species;
 6. Avoid committing significant areas of site to species that have questionable potential for successful establishment;
 7. Plant selection must be approved by wetlands biologist/ecologist;
 8. Water depth is not to exceed 6.5 feet (2 meters);
 9. The grade or slope that water flows through the wetland is not to exceed 6 percent;
 10. Slopes within the wetland basin and the buffer zone should not be steeper than 3:1 (horizontal to vertical);
 11. The substrate should consist of a minimum of one foot, in depth, of clean (uncontaminated with chemicals, or solid/hazardous wastes) inorganic/organic materials;
 12. Planting densities and placement of plants should be determined by a qualified professional and shown on the design plans;
 13. 13. The wetland (excluding the buffer area) should not contain more than 60 percent open water as measured at the seasonal high water mark;
 14. Minimum buffer widths should extend 25-100 feet from the wetland boundary;
 15. The planting plan must be approved by the Deputy City Manager for Community and Development Services or consultant acting on behalf of the City;
 16. Stockpiling should be confined to upland areas and contract specifications should limit stockpile durations to less than four weeks;
 17. Planting instructions which describe proper placement, diversity, and spacing of seeds, tubers, bulbs, rhizomes, sprigs, plugs, and transplanted stock;
 18. Apply controlled release fertilizer, if reasonable and prudent, at the time of planting and afterward only as plant conditions warrant (determined during the monitoring process);
 19. Install an irrigation system, if necessary, for initial establishment period; and
 20. Construction specifications and methods must be approved by a qualified consultant and the Department.
- B. On completion of construction, the wetland mitigation project must be signed off by the applicant's qualified consultant and the Department. Signature will indicate that the construction has been completed as planned and all design elements have been fully and correctly implemented. If there have been changes in the implementation of the plan, a written explanation from the consulting biologist must be included. (Ord. 48-93: Ord. 31-03).

22.10.160 Wetland Monitoring Program and Contingency Plan

- A. A monitoring program shall be implemented to determine the success of the mitigation project and any necessary corrective actions. This program shall determine if the original goals and objectives are being met.
- B. A contingency plan shall be established for compensation in the event that the mitigation project is inadequate or fails. A performance and maintenance bond or other acceptable security device is required to ensure the applicant's compliance with the terms of the mitigation agreement. The amount of the performance and maintenance bond shall equal 125 percent of the cost of the mitigation project for a period of 3 years. The Department may agree to reduce the bond in phases in proportion to work successfully completed over the period of the bond.
 1. During monitoring, scientific procedures for establishing the success or failure of the project must be used;
 2. For vegetation determinations, permanent sampling points shall be established;

3. Vegetative success will be defined as 80 percent per year survival of planted trees and shrubs and 80 percent per year cover of desirable understory or emergent species;
4. Submit monitoring reports on the current status of the mitigation project to the Department. The reports are to be prepared by a qualified consultant and reviewed by the City's consultant and should include monitoring information on wildlife, vegetation, water quality, water flow, storm water storage and conveyance, and existing or potential degradation, and shall be produced on the following schedule:
 - a) At the time of construction,
 - b) 30 days after planting,
 - c) Early in the growing season of the first year,
 - d) End of the growing season of the first year,
 - e) Twice the second year, and
 - f) Annually thereafter.
5. Monitor between three and five growing seasons, depending on the complexity of the wetland system. The time period will be determined and specified by the qualified consultant in writing prior to the implementation of the site plan;
6. If necessary, correct for failures in the mitigation project;
7. Replace dead or undesirable vegetation with appropriate plantings, based on the approved planting plan or Section 22.10.150 of this chapter;
8. Repair damages caused by erosion, settling, or other geomorphological processes;
9. Redesign mitigation project (if necessary) and implement the new design; and
10. Correction procedures shall be approved by a qualified consultant and the Department. (Ord. 48-93).

PART III - Fish and Wildlife Habitat Areas

22.10.170 Definitions - Fish and Wildlife Habitat Areas

For purposes of this chapter, the following definitions shall apply:

- A. Critical Habitat, or Critical Wildlife Habitat: Habitat areas associated with threatened, endangered, sensitive, or priority species of plants or wildlife and which, if altered, could reduce the likelihood that the species will maintain and reproduce over the long term. Such areas are documented with reference to lists, categories and definitions of species promulgated by the Washington Department of Wildlife (Non-Game Data System Special Animal Species) as identified in WAC 232-12-011 or 232-12-014 and in the Priority Habitat Species lists compiled in compliance with WAC 365-190-080; or by rules and regulations adopted currently or hereafter by the U.S. Fish and Wildlife Service.
- B. Critical habitat also includes the following types of areas:
 1. Regionally rare native fish and wildlife habitat (i.e. one of five or fewer examples of the habitat within the Mid-Columbia region).
 2. Fish and wildlife areas with irreplaceable ecological functions, including the following:
 - a) The areas listed as a National Wildlife Refuge, national park, natural area preserve or any preserve or reserve designated under WAC 332-30-151;
 - b) The Lake Wallula wildlife habitat areas managed by the U.S. Army Corps of Engineers including, the Yakima River Wildlife Management Area and the Hanford Islands in the Columbia River managed by the U.S. Fish and Wildlife Service.
 - c) Category I wetlands as defined in Section 22.10.100 of this Chapter;
 - d) State Nature Area Preserves or Natural Resource Conservation Areas identified by state law and managed by the Department of Natural Resources;
 - e) Documented habitat, other than transient and/or occasional presence, of threatened or endangered species;
 - f) Documented habitat, other than transient and/or occasional presence, of regional or national significance for migrating birds.
- C. Enhancement: The improvement of existing habitat such as by increasing plant density or structural diversity, or by removing non-indigenous or noxious species.
- D. Exotic: A species, plant community type, or habitat that has been introduced or modified as a result of human actions.
- E. Habitat Management: Management of land to maintain species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created. This does not imply maintaining all habitat or individuals of all species in all cases.

- F. Habitat Map: Maps of plant cover types/communities (titled: Fish and Wildlife Conservation Areas) adopted by the City of Richland to indicate the potential presence of wildlife species.
- G. Native Vegetation: Vegetation existing on a site or plant species that are indigenous to the area in question.
- H. Priority Species: Fish and wildlife species requiring protective measures for their perpetuation due to their population status, their sensitivity to habitat alteration and/or their recreational, commercial, or tribal importance, as identified by the Washington Department of Fish and Wildlife.
- I. Qualified Consultant: For purposes of these regulations, qualified consultant shall mean a professionally trained and/or certified wildlife biologist or ecologist or other professional with expertise in the scientific disciplines necessary to identify, evaluate and manage habitat. See Section 22.10.320 for more information.
- J. Secondary Habitat, Secondary Wildlife Habitat: Areas with one or more of the following attributes: comparatively high wildlife density; high wildlife species richness; significant wildlife breeding habitat; significant wildlife seasonal ranges; significant movement corridors; limited availability; and or high vulnerability. Secondary habitat offers less diversity of animal and plant species than critical habitat, but is important for performing the essential functions of habitat.
- K. Structural Diversity: The relative degree of diversity or complexity of vegetation in a habitat area as indicated by the stratification or layering of different plant communities (e.g. ground cover, shrub layer and tree canopy); the variety of plant species; and the spacing or pattern of vegetation.
- L. Wildlife Habitat: Areas that provide food, protective cover, nesting, breeding or movement for fish and wildlife and with which individual species have a primary association.
- M. Wildlife Report: A report, prepared by a qualified consultant, that evaluates plant communities and wildlife functions and values on a site, consistent with the format and requirements established by this chapter. (Ord. 48-93, Ord. 23-01).

22.10.180 Exemption from Fish and Wildlife Regulations

- A. See Section 22.10.300 for general exemptions to all sensitive areas.
- B. The following activities shall be exempt from the provisions of this chapter related to fish and wildlife habitat provided they are conducted using best management practices:
 - 1. Activities involving artificially created habitat, including but not limited to grass-lined swales, irrigation and drainage ditches, detention facilities such as reservoirs, ponds, and landscape features, except for habitat areas created as mitigation;
- C. Notwithstanding the exemption provided by this section, any otherwise exempt activities occurring in or near critical habitat areas shall comply with the intent of these standards and shall consider on-site alternatives that avoid or minimize potential habitat impacts. (Ord. 48-93).

22.10.190 Fish and Wildlife Habitat Inventory Maps

The approximate location and extent of habitat areas within the City of Richland's planning area are shown on the maps adopted as part of this chapter. These maps shall be used as a general guide only for the assistance of property owners and other interested parties; boundaries are generalized. The actual type, extent, and boundaries of habitat areas shall be determined by a qualified professional according to the procedures, definitions, and criteria established by this section. In the event of any conflict between the habitat location or type shown on the City of Richland's maps and the criteria or standards of this section, the criteria and standards resulting from the field investigation shall control. (Ord. 48-93).

22.10.200 Classification of Fish and Wildlife Habitat Areas

Wildlife habitat areas shall be established as critical, secondary or tertiary according to the criteria established in Section 22.10.170. (Ord. 48-93).

22.10.210 Fish and Wildlife Habitat Buffer Areas

- A. The establishment of buffer areas shall be required for regulated activities in or adjacent to habitat areas. Buffer shall consist of an undisturbed area of native vegetation established to protect the integrity, functions, and values of the affected habitat.
- B. The following buffer widths are established:

WILDLIFE HABITAT TYPE	HIGH IMPACT LAND USE	LOW IMPACT LAND USE
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Critical	150	75
Secondary	100	50

- C. Buffers shall be measured, on a horizontal plane, from the habitat edge as delineated by a qualified consultant. Required buffer widths shall reflect the sensitivity of the habitat and the type and intensity of human activity proposed to be conducted nearby. Buffers shall be determined by the Department based on information in the wildlife report supplemented by its own investigations, the sensitivity and value of the habitat areas, the intensity and design of the proposed use, and adjacent uses and activities.
- D. Buffer widths may be modified by averaging buffer widths or by enhancing buffer quality as set forth herein.
1. Buffer width averaging shall be allowed only where the applicant demonstrates to the Department that:
 - a) The habitat contains variations in sensitivity due to the existing physical characteristics;
 - b) That lower intensity land uses would be located adjacent to areas where buffer width is reduced;
 - c) That width averaging will not adversely impact the habitat functional values; and
 - d) That the total area contained within the buffer after averaging is no less than that contained within the standard buffer prior to averaging.
 2. Buffer width may be reduced by up to 25 percent if the existing buffer area is vegetated with greater than 90% areal cover of native species and a report by a qualified fish/wildlife specialist demonstrates that a smaller than standard buffer will provide all of the buffer functions necessary to protect all functions and values of the habitat. The Department may require long-term monitoring of the buffer with appropriate contingency actions if adverse impacts to the wetland occur. In no instance, however, shall the buffer width be reduced by more than 50 percent of the required buffer or be less than 25 feet.
- E. The buffer width stated in Paragraph (B) of this section shall be increased not more than 125 percent (Buffer width x 1.25) when the qualified consultant determines, based upon a site specific habitat analysis, that impacts on the habitat from a proposed development can only be mitigated by a greater buffer width. The standard habitat buffer width shall be increased:
3. When the adjacent land is susceptible to severe erosion and erosion control measures will not effectively prevent adverse habitat impacts; or
 4. When the standard buffer has minimal or degraded vegetative cover that cannot be improved through enhancement; or
 5. When the minimum buffer for a habitat extends into an area with a slope of greater than 25 percent, the buffer shall be the greater of:
 - a) The minimum buffer for that particular habitat; or
 - b) Twenty-five feet beyond the point where the slope becomes 25 percent or less.
- F. Low impacts uses and activities which are consistent with the purpose and function of the habitat buffer and do not detract from its integrity may be permitted within the buffer depending on the sensitivity of the habitat involved. Examples of uses and activities which may be permitted in appropriate cases include pedestrian trails, viewing platforms, storm water management facilities such as grass-lined swales and utility easements.
- G. Required buffers shall not deny all reasonable use of property. A variance from buffer widths requirements may be granted by the City of Richland upon a showing by the applicant that:
1. There are special circumstances applicable to the subject property or to the intended use such as shape, topography, location or surroundings that do not apply generally to other properties and which support the granting of a variance from the buffer width requirement;
 2. Such buffer width variance is necessary for the preservation and enjoyment of a substantial property right or use possessed by other similarity situated property but which because of special circumstances is denied to the property in question;
 3. The granting of such buffer width variance will not be materially detrimental to the public welfare or injurious to the property or improvement; and
 4. All variances shall be in accord with Richland Municipal Code 23.82.040 through 23.82.170. (Ord. 48-93, Ord. 23-01).

22.10.220 Fish and Wildlife Habitat Alteration

- A. Adverse impacts to habitat functions and values shall be mitigated to the extent feasible and reasonable. Mitigation actions by an applicant or property owner shall occur in the following preferred sequence:
1. Avoiding the impact altogether by not taking a certain action or parts of actions;
 2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation;
 3. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
 4. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action; and/or
 5. Compensating for the impact by replacing or providing substitute resources or environments
 6. Monitoring the impact over time and taking corrective measures to minimize additional impacts.
- B. Where impacts cannot be avoided, the applicant or property owner shall seek to implement other appropriate mitigation actions in compliance with the intent, standards and criteria of this section. In an individual case, these actions may include consideration of alternative site plans and layouts, reductions in the density or scope of the proposal, and/or implementation of the performance standards listed in Section 22.10.230.
- C. Alteration of habitat and/or their buffers may be permitted by the Department subject to the following standards:
1. Critical Habitat: Alterations of critical habitat shall be avoided, subject to the reasonable use provisions of this ordinance.
 2. Secondary Habitat: Alterations of secondary habitat may be permitted provided that the applicant mitigates adverse impacts consistent with the performance standards and other requirements of this chapter. (Ord. 48-93, Ord. 23-01).

22.10.230 Fish and Wildlife Habitat Performance Standards and Incentives

- A. The performance standards and criteria contained in this section shall be incorporated into plans submitted for regulated activities:
1. Consider habitat in site planning and design;
 2. Locate buildings and structures in a manner that preserves and minimizes adverse impacts to important habitat areas;
 3. Integrate retained habitat into open space and landscaping, consistent with the provisions of all open space and landscaping requirements;
 4. Where possible, consolidate habitat and vegetated open space in contiguous blocks;
 5. Locate habitat contiguous to other habitat areas, open space or landscaped areas to contribute to a continuous system or corridor that provides connections to adjacent habitat areas and allows movement of wildlife;
 6. Use native species in any landscaping of disturbed or undeveloped areas and in any enhancement of habitat or buffers;
 7. Emphasize heterogeneity and structural diversity of vegetation in landscaping and food producing plants beneficial to wildlife;
 8. Remove and/or control any noxious or undesirable species of plants and animals; and
 9. Preserve significant trees and/or snags, preferably in groups, consistent with achieving the objectives of these standards.
 10. Buffers shall be surveyed, staked, and fenced prior to any constructed work, including grading and clearing, may take place on the site; and
 11. Temporary erosion and sedimentation controls, pursuant to an approved plan, shall be implemented during construction.
- B. A landscape plan shall be submitted consistent with the requirements, goals and standards of this chapter. The plan shall reflect the report prepared pursuant to Section 22.10.310 of these regulations.
- C. As an incentive to encourage preservation of secondary habitat as defined in these regulations, the net amount of landscaping required by the City of Richland may be reduced by .25 acres for each 1 acre of secondary habitat and buffer preserved on the site; however, that amount cannot exceed 50 percent of the amount of required landscaping. The reduction shall be calculated on the basis of square feet of habitat preserved or enhanced and square feet required. Habitat and habitat buffer that is enhanced by the applicant may also qualify for this reduction. Preservation of secondary habitat shall be execution of an easement or other protective device acceptable to the City of Richland. (Ord. 48-93, Ord. 23-01).

PART IV - Geologic Hazard Areas**22.10.240 Identification and Definition**

- A. Geologic Hazard Areas identification and designation shall be consistent with the minimum guideline classifications established in WAC 365-190-080(4) which includes any future amendments to the code. Areas that are susceptible to one or more of the following types of hazards shall be classified as a geologic hazard area:
1. Erosion hazard;
 2. Landslide hazard;
 3. Seismic hazard; and
 4. Mine hazard.
- B. Erosion Hazard Areas. Those areas that are identified by the United States Department of Agriculture Soil Conservation Service as having a severe rill and inter-rill erosion hazard.
- C. Landslide Hazard Areas. Those areas that are potentially subject to landslides based on a combination of geologic, topographic, and hydrologic factors. They include any areas susceptible because of any combination of bedrock, soil, slope (gradient), slope aspect, structure, hydrology, or other factors. Landslide hazard areas include, but are not limited to, the following types of areas:
1. Areas delineated by the United States Department of Agriculture Soil Conservation Service as having a severe limitation for building site development;
 2. Areas designated as quaternary slumps, earthflows, mudflows, lahars, or landslides on maps published by the United States Geological Survey or Department of Natural Resources Division of Geology and Earth Resources;
 3. Areas with all three of the following characteristics:
 - a) Areas with slope steeper than fifteen percent (15%);
 - b) Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and
 - c) Springs or ground water seepage;
 4. Areas that have shown movement during the holocene epoch (from ten thousand years ago to the present) or which are underlain or covered by mass wastage debris of that epoch;
 5. Areas with slopes that are parallel or subparallel to planes of weakness (such as bedding planes, joint systems, and fault planes) in subsurface materials;
 6. Areas with slopes having gradients steeper than eighty percent (80%) subject to rockfall during seismic shaking;
 7. Areas potentially unstable as a result of rapid stream incision, stream bank erosion and undercutting by wave action;
 8. Areas that show evidence of, or on an active alluvial fan, presently or potentially subject to inundation by debris flows or catastrophic flooding; or
 9. Areas with a slope of forty percent (40%) or steeper and with a vertical relief of ten (10) or more feet except areas composed of consolidated rock. A slope is delineated by establishing its toe and top and measured by averaging the inclination over at least ten (10) feet of vertical relief.
- D. Seismic Hazard Areas. Those areas subject to severe risk of damage as a result of earthquake induced ground shaking, slope failure, settlement, soil liquefaction, or surface faulting. One indicator of potential for future earthquake damage is a record of earthquake damage in the past. Ground shaking is the primary cause of earthquake damage in Washington. The strength of ground shaking is primarily affected by: (1) Magnitude of an earthquake; (2) distance from the source of an earthquake; (3) type of thickness of geologic materials at the surface; and (4) type of subsurface geologic structure.
- E. Mine Hazard Areas. Those areas underlain by, adjacent to, or affected by mine working areas as designated by the Washington State Department of Natural Resources. (Ord. 48-93, Ord. 45-00, Ord. 23-01).

22.10.250 Applicability to Geological Hazards

- D. The provisions of Part IV – Geological Hazard Areas shall apply to any activity that occurs in or within 200 feet of a geologic hazard area unless otherwise exempt. These activities include, but are not limited to the following:
1. Removing, excavating, disturbing or dredging soil, sand, gravel, minerals, organic matter or materials of any kind;
 2. Dumping, discharging or filling with any material;

3. Driving piling or placing obstructions;
4. 4. Constructing, reconstructing, demolishing or altering the size of any structure or infrastructure which has an adverse effect on a geologic hazard area; Destroying or altering vegetation through clearing or harvesting; and Any project permit established in Chapter 19.20. (Ord. 48-93, Ord. 45-00, Ord. 23-01).

22.10.260 Geologic Hazard Inventory Maps

The approximate location and extent of geologic hazard areas within the City of Richland's planning area are shown on the sensitive areas maps adopted as part of this chapter. These maps should be used as a general guide only for the assistance of property owners and the City of Richland to identify and designate geologic hazard areas. (Ord. 48-93, Ord. 45-00, Ord. 23-01).

22.10.270 Preliminary Assessment

- A. The City of Richland shall conduct a preliminary assessment of the proposed activity. The preliminary assessment shall consist of reviewing geologic hazard inventory maps, conducting an on-site evaluation, and, if necessary, consulting with state and/or federal agencies to determine whether there is a reasonable belief that a proposed activity may be present within 200 feet of a geologic hazard area. In the event there is a disagreement as to whether the activity is within 200 feet of a geologic hazard area, a geologic report prepared by a qualified consultant as defined in RMC 22.10.320 shall be required, at the property owner or applicant's expense, to determine this issue.
- B. If it is determined that there is a reasonable belief that a proposed activity may be present within 200 feet of a geologic hazard area, then geologic reports and studies are required at the property owner or applicant's expense. (Ord. 48-93, Ord. 45-00, Ord. 23-01).

22.10.280 Geologic Reports and Studies

- A. Geologic studies and reports shall comply with the requirements established in RMC 22.10.310(b)(3), Permit Process and Application Requirements. These studies and reports shall be prepared using best available science to protect the functions and values of the geologic hazard area. Best available science includes using a valid scientific process that includes the following:
 1. Peer Review. The information has been critically reviewed by other persons who are qualified professionals or based on scientific publications.
 2. Method. The methods used to obtain the information are clearly stated and able to be replicated. The methods are standardized in the pertinent scientific discipline or, if not, the methods have been appropriately peer-reviewed to assure their reliability and validity.
 3. Logical conclusions and reasonable inferences. The conclusions presented are based on reasonable assumptions supported by other studies and consistent with the general theory underlying the assumptions. The conclusions are logically and reasonably derived from the assumptions and supported by the data presented. Any gaps in information and inconsistencies with other pertinent scientific information are adequately explained.
 4. Quantitative analysis. The data has been analyzed using appropriate statistical or quantitative methods.
 5. Context. The information is placed in proper context. The assumptions, analytical techniques, data, and conclusions are appropriately framed with respect to the prevailing body of pertinent scientific knowledge.

References. The assumptions, analytical techniques, and conclusions are well referenced with citations to relevant, credible literature and other pertinent existing information. (Ord. 48-93, Ord. 45-00, Ord. 23-01).

22.10.290 Administrative Evaluation of Geologic Reports and Studies

- A. The City of Richland shall review the geologic reports and studies to determine the significant risks posed by the activity to life and property on and off the project site. The City of Richland may approve, conditionally approve or deny an activity, as appropriate, based on the degree to which significant risks posed to public and private property and to the health and safety of the community. Conditional approval of the activity may include mitigation measures based on the geologic reports and studies. Where potential impacts of the activity cannot be effectively mitigated, or where the risk of public health, safety and welfare of the community is significant notwithstanding mitigation, the activity shall be denied. (Ord. 48-93, Ord. 45-00, Ord. 23-01).

22.10.295 Assurance

- A. The City of Richland may require assurance from the owner or applicant and/or its geologic consultant that the activity creates a minimal risk of danger to life or property on or off the project site. Such assurance may include the following:
1. A letter from the geologic consultant who prepared the required study and report stating that the activity creates a minimal risk of danger to life or property on or off the project site; or
 2. A letter from the owner or applicant stating its understanding and acceptance of any risk of injury or damage associated with the activity and agreeing to notify any future purchasers of the site, portions of the site, or structures located on the site of the geologic hazard. (Ord. 23-01).

PART V - General Information**22.10.300 General Exemptions**

- A. The following activities shall be exempt from the provisions of this chapter provided they are conducted using best management practices:
1. Existing and ongoing agricultural activities, as defined in Section 22.10.040;
 2. Maintenance, operation and reconstruction of existing roads, streets, utilities, and associated structures, provided that reconstruction of any structures may not increase the impervious area;
 3. Normal maintenance, repair and reconstruction of residential or commercial structures, provided that reconstruction of any structures may not increase the impervious floor area;
 4. Site investigative work and studies necessary for preparing land use applications, including soils tests, water quality studies, wildlife studies and similar tests and investigations, provided that any disturbance of sensitive areas shall be the minimum necessary to carry out the work or studies;
 5. Educational activities, scientific research, and outdoor recreational activities, including but not limited to interpretive fields, bird watching, fishing and hiking, that will not have a significant effect on the habitat area;
 6. Public agency emergency activities necessary to prevent an immediate threat to public health, safety or property;
 7. Prior to the effective date of this ordinance any of the following activities that have met all conditions of approval in a timely manner and are consistent with the reasonable use provisions of this ordinance:
 - a) Complete applications as defined by the appropriate ordinance;
 - b) Approved preliminary plats; and
 - c) Development of legally created lots which have been recorded with Benton County.
 8. Minor activities not mentioned above and determined by the Community and Development Services Group to pose minimal risk to the public health, safety, and general welfare. (Ord. 48-93, Ord. 45-00: Ord. 31-03).

22.10.310 Permit Process and Application Requirements

- A. Pre-Application Conference. All applicants are encouraged to meet with the Planning and Development Services Manager of the City of Richland or his or her representative prior to submitting an application subject to these regulations. The purpose of this meeting shall be to discuss the City of Richland's sensitive areas' requirements, process, and procedures; to review any conceptual site plans prepared by the applicant; to discuss appropriate investigative techniques and methodology; to identify potential impacts and mitigation measures; and to familiarize the applicant with state and federal programs, particularly those pertaining to wetlands. Such conference shall be for the convenience of the applicant and any recommendations shall not be binding on the applicant or the City of Richland.
- B. Application Requirements. The information required by this section should be coordinated with reporting requirements required by this section for any other sensitive area located on the site.
1. Prior to the issuance of a SEPA threshold determination for a proposal, a wetland determination, wetland delineation report, wildlife habitat report or geologic hazard report must be submitted to the City of Richland for review upon request of the Planning and Development Services Manager if such sensitive areas are indicated on any portion of the site. The purpose of the report is to determine the extent and function of wetlands, and the extent, type, function and value of wildlife habitat on any site where regulated activities are proposed. The report will also be used by the City of Richland to determine the appropriate wetland rating designation and buffering

- requirement for the wetland, or the sensitivity and appropriate classification of the habitat, appropriate buffering requirements, and potential impacts of proposed activities.
2. In addition wetland boundaries must be staked and flagged in the field by a qualified consultant employing the Federal Methodology. Field flagging must be distinguishable from other survey flagging on the site. The field flagging must be accompanied by a wetland delineation report.
 3. Applicants for activities within 200 feet of geologic hazard areas shall conduct technical studies and reports which include the following:
 - a) Review site history and available information;
 - b) Conduct a surface reconnaissance of the site and adjacent areas;
 - c) Conduct subsurface exploration suitable to the site and proposal to assess geotechnical geohydrologic conditions;
 - d) Recommend surface water management controls during construction and operation;
 - e) Propose construction scheduling;
 - f) Recommendations for site monitoring and inspection during construction;
 - g) Conduct a detailed stability analysis of the existing landslide that demonstrates that the proposal will result in a suitable factor of safety during and following site development;
 - h) Evaluate the presence of geologic conditions giving rise to geologic hazards;
 - i) Evaluate the safety and appropriateness of the proposed activities;
 - j) Recommend appropriate construction practices, monitoring programs and other mitigating measures required to ensure achievement of the purpose and intent of these regulations. The format of any required reports shall be determined by the City of Richland;
 - k) A characterization of soils, geology and drainage;
 - l) A characterization of groundwater conditions including the presence of any public or private wells in the immediate vicinity; and
 - m) Analysis of proposed clearing, grading and construction activities, including construction scheduling; potential direct and indirect, on-site and off-site, impacts from development; and proposed mitigation measures, including any special construction techniques, monitoring or inspection programs (during and after construction), and surface water management controls.
 4. The report on any sensitive area shall include the following information:
 - a) Vicinity map;
 - b) A map showing:
 - (1) Site boundary, property lines and roads;
 - (2) Internal property lines, rights-of-way, easements, etc.;
 - (3) Existing physical features of the site including buildings, fences, and other structures, roads, parking lots, utilities, water bodies, etc.;
 - (4) Contours at the smallest readily available intervals, preferably at 5-foot intervals; and
 - (5) For large (50 acres or larger) or complex projects with wetlands or habitat areas, an aerial photo with overlays displaying the site boundaries and wetland delineation or habitat area(s) may be required. Generally, an orthophotograph at a scale of 1" = 400' or greater (such as 1" = 200') should be used. If an orthophotograph is not available, the center of a small scale (e.g., 1" = 2,000' aerial enlarged to 1" = 400' may be used.
 - c) The report for any sensitive area must describe:
 - (1) Locational information including legal description and address;
 - (2) All natural and man-made features within 150 feet of the site boundary;
 - (3) general site conditions including topography, acreage, and water bodies or wetlands; and
 - (4) Identification of any areas that have previously been disturbed or degraded by human activity or natural processes.
 5. In addition to the general report requirements, a report on wetlands shall include the following information:
 - a) Delineated wetland boundary;
 - b) The wetland boundary must be accurately drawn at an appropriate engineering scale such that information shown is not cramped or illegible. The drawing shall be prepared by a surveyor. Generally, a scale of 1" = 40' or greater (such as 1" = 20') should be used. Existing features must be distinguished from proposed features;
 - c) Site designated on the Wetlands Areas Maps described in Section 22.10.090 of this ordinance;
 - d) Hydrologic mapping showing patterns of water movement into, through, and out of the site area;

- e) Location of all test holes and vegetation sample sites, numbered to correspond with flagging in the field and field data sheets;
 - f) Field data sheets from the Federal Manual, numbered to correspond with sample site locations as staked and flagged in the field; and describe:
 - (1) Specific descriptions of plant communities, soils, and hydrology;
 - (2) A summary of existing wetland function and value; and
 - (3) A summary of proposed wetland and buffer alterations, impacts, and the need for the alterations as proposed. Potential impacts may include but are not limited to loss of flood storage potential, loss of wildlife habitat, expected decreases in species diversity or quantity, changes in water quality, increases in human intrusion, and impacts on associated wetland or water resources. If alteration of a Category I, II, III or IV wetland is proposed, a wetland mitigation plan is required according to the standards of Section 22.10.140.
6. In addition to the general report requirements, a report on fish and wildlife habitats shall include the following information. (The level of detail contained in the report shall generally reflect the size and complexity of the proposal and the function and value of the habitat. The Department may require field studies at the applicant's expense in appropriate cases.):
- a) A map of vegetative cover types, reflecting the general boundaries of different plant communities on the site;
 - b) A description of the species typically associated with the cover types, including an identification of any critical wildlife species expected to be found;
 - c) The results of searches of Washington State Department of Natural Resource's Natural Heritage and Washington State Department of Wildlife's Non-Game Data System databases, if available; and
 - d) Additional information on species occurrence available from the City of Richland or Benton County;
 - e) And describe:
 - (1) The layers, diversity and variety of habitat found on the site;
 - (2) Identification of edges between habitat types and any species commonly associated with that habitat;
 - (3) The location of any migration or movement corridors;
 - (4) A narrative summary of existing habitat functions and values; and
 - (5) A summary of proposed habitat and buffer alterations, impacts, and mitigation. Potential impacts may include but are not limited to clearing of vegetation, fragmentation of wildlife habitat, expected decreases in species diversity or quantity, changes in water quality, increases in human intrusion, and impacts on wetlands or water resources.
- C. Permit Process. This section is not intended to create a separate permit process for development proposals. To the extent possible, the City of Richland shall consolidate and integrate the review and processing of sensitive area-related aspects of proposals with other land use and environmental considerations and approvals. (Ord. 48-93, Ord. 45-00, Ord. 23-01: Ord. 31-03).

22.10.320 Requirements of Qualified Consultants

All reports or studies are to be performed by a professional, licensed or qualified as a consultant, in the sensitive area at issue. The City of Richland shall determine whether a person is a qualified consultant based on the criteria established in WAC 365-195-905(4). (Ord. 48-93, Ord. 23-01).

22.10.330 Land Divisions

All proposed divisions of land which include regulated sensitive areas shall comply with the following procedure and development standard:

- A. New lots shall contain at least one building site, including access that is suitable for development and is not within the regulated sensitive area or its associated buffer or setback. (Ord. 48-93).

22.10.340 On-Site Density Transfer for Sensitive Areas

- A. An owner of a residential site or property containing sensitive areas may be permitted to transfer the density attributable to the sensitive area and associated buffer area or setback to another non-sensitive portion of the same site or property, subject to the limitations of this section and other applicable regulations.

- B. Density can be transferred from the sensitive portion and associated buffer area or setback to the non-sensitive portion of the residential site subject to the following conditions:
 - 1. The basis for the density transfer will be an actual site plan for the site or property as if it did not have the sensitive area, subject to the provisions of the underlying zoning classification, applicable setbacks, and other standards of the City code or other land development regulations.
 - 2. Based on the above site plan, a portion of the density that could be achieved on the sensitive portion and associated buffer or setback of the site can be transferred to the non-sensitive portion of the site. The following chart indicates the amount of density that can be transferred, based on the degree of sensitivity of the sensitive area:

CATEGORY OF SENSITIVE	AREA PERCENT OF DENSITY ON SENSITIVE AREA THAT MAY BE TRANSFERRED ON-SITE
Category I & II Wetlands -	25%
Critical Habitat	
High & Very High Geologic Hazard	
Seismic Hazard	
Category III & IV Wetlands -	100%
Secondary Habitat	
Low and Medium Geologic Hazard	

- 3. In transferring the density from the sensitive portion of the site and its associated buffer or setback to the non-sensitive portion of the site the density of the non-sensitive portion of the site may be increased up to the equivalent next density classification. However, in the case of the highest density multi-family zoning classifications, the density may not be increased beyond the current density.
- 4. The non-wetland portion of the site is not constrained by another environmentally sensitive or geologic hazard areas regulated by this code.
- 5. The non-wetland portion of the site is subject to the density limitations of the new density zoning classification, and to applicable setbacks, and other standards of the City code or other land development regulations.
- C. An on-site density transfer shall meet the requirements and follow the procedures of:
 - 1. Planned Unit Development, 23.70.240;
 - 2. Plats & Subdivisions, Title 24.
- D. The fact that development rights have been sold or received, and all related conditions, will be recorded, in a form acceptable to the City Attorney, to become a part of the deed of the "sending" and "receiving" properties. (Ord. 48-93, Ord. 45-00, Ord. 23-01).

22.10.350 General Procedural Provisions

- A. Interpretations and Conflicts. Any question regarding interpretation of these regulations shall be resolved pursuant to the procedures set forth in Section 23.82.070 of the Richland Municipal Code.
- B. Penalties and Enforcement. Any person convicted of violating any of the provisions of this ordinance shall be punished by a fine not to exceed \$5,000.00, or by imprisonment for not more than one year, or both such fine and imprisonment. The City Attorney of the City of Richland may bring civil actions in the appropriate court of the State of Washington in the name of the city for the remedy herein provided.
- C. Appeals from permit decisions shall be governed by the procedures set forth in Chapter 19.70 of the Richland Municipal Code. (Ord. 48-93, Ord. 45-00).

22.10.360 General Savings Provision - Reasonable Use

- A. The standards and regulations of this section are not intended, and shall not be construed or applied in a manner, to deny all reasonable economic use of private property. If an applicant demonstrates to the satisfaction of the City of Richland that strict application of these standards and the utilization of cluster techniques, planned unit development, and transfer of development rights would deny all reasonable economic use of its property, development may be permitted subject to appropriate conditions, derived from this ordinance as determined by the Deputy City Manager, Community and Development Services, and after all requests from the Board of Adjustment have been denied.

- B. An applicant for relief from strict application of these standards shall demonstrate the following:
1. That no reasonable use with less impact on the critical habitat and/or hazard area and buffer is feasible and reasonable;
 2. That there is no feasible and reasonable on-site alternative to the activities proposed, considering possible changes in site layout, reductions in density and similar factors;
 3. That the proposed activities, as conditioned, will result in the minimum possible impacts to wetlands and buffers;
 4. That all reasonable mitigation measures have been implemented or assured;
 5. That all provisions of the City's regulations allowing density transfer on-site and off-site have been considered; and (Ord. 48-93: Ord. 31-03).

22.10.370 No Special Duty Created

It is the purpose of this ordinance to provide for the health, welfare, and safety of the general public, and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this ordinance. No provision or term used in this ordinance is intended to impose any duty whatsoever upon the City or any of its officers, agents, or employees for whom the implementation or enforcement of this ordinance shall be discretionary and not mandatory.

Nothing contained in this ordinance is intended to be, nor shall be construed to create or form the basis for any liability on the part of the City or its officers, agents, and employees for any injury or damage resulting from the failure of any premises to abate a nuisance or to comply with the provisions of this ordinance or be a reason or a consequence of any inspector, notice, order, in connection with the implementation or enforcement of this ordinance, or by reason of any action of the City related in any manner to enforcement of this ordinance by its officers, agents or employees. (Ord. 48-93).

22.10.380 Severability

The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this ordinance to any person or circumstance shall not affect the validity of the remainder of this ordinance or the validity of its application to other persons or circumstances. (Ord. 48-93).

Chapter 22.12 - Dedication or Payment of Fee for Park, Recreation and Open Space Land

Sections:

- 22.12.010 Purpose**
- 22.12.020 Dedication of Land or Payment of Fee in Lieu of Dedication Required**
- 22.12.025 Review by Richland Parks and Recreation Commission**
- 22.12.030 Payment of Fee When Dedication is Impractical, Not Feasible, or Sufficient**
- 22.12.035 Criteria for Acceptance of Park Land Dedication**
- 22.12.037 Criteria for Acceptance of Open Space Dedication**
- 22.12.040 Amount of Land or Fee in Lieu of Dedication**
- 22.12.045 Value of Dedicated Park Land**
- 22.12.050 Use of Land and Fees**
- 22.12.060 Time of Payment of Required Fee**
- 22.12.070 Credit for Land and/or Facilities**
- 22.12.080 Appeals**

22.12.010 Purpose

The following sections of this chapter are enacted and shall be liberally construed to effectuate the following purposes:

- A. To aid in the amelioration of adverse environmental impacts of land use and development;
- B. To assure that adequate park and recreational sites and facilities are properly located, developed and preserved to meet the recreational needs of the residents of the city's neighborhoods;
- C. To equitably apportion, on the basis of the additional need created by individual developments, the cost of providing park and recreational sites and facilities necessary to serve the additional families brought into the community by new development;
- D. To aid in implementation of the goal, objectives, policies and standards set forth in the parks and recreation element of the Richland comprehensive plan. (Ord. 78-80 1.01).

22.12.020 Dedication of Land or Payment of Fee in Lieu of Dedication Required

As a condition of the granting of approval of any residential zoning or residential development plan under Title 23 of this code, or any residential subdivision or residential short subdivision under Title 24 of this code, and consistent with the needs and purposes expressed in Section 22.12.010 hereof, a dedication of land, or payment of a fee in lieu thereof, shall be required for one or more of the following: the acquisition or development of public open spaces devoted to public parks, playgrounds, and trails and other recreational purposes; provided, that when the required dedication is impractical or not feasible, or does not meet the criteria set forth in Section 22.12.030, a fee in lieu of dedication shall be required in accordance with Section 22.12.040 hereof; provided further, that no dedication or fee in lieu of dedication shall be required where the average density of the proposed use or development is one dwelling unit or less per two and one-half acres. (Ord. 78-80 1.01; Ord. 36-02).

22.12.025 Review by Richland Parks and Recreation Commission

The Richland Parks and Recreation Commission shall review all development proposals in which the applicant is proposing the dedication of any park, trail or open space property to the City and/or the applicant is requesting credit or partial credit against fees otherwise required by this chapter for private park improvements or other related private improvements that may have the effect of reducing the need for City parks. Projects that are less than 250 dwelling units in size and that do not abut or adjoin existing City park or trail properties and that do not include any proposed land dedications or requests for park mitigation fee credits shall be exempt from review by the Parks and Recreation Commission. (Ord. 36-02)

22.12.030 Payment of Fee When Dedication is Impractical, Not Feasible or Insufficient

Dedication of land may be determined to be impractical or not feasible, or insufficient to meet the needs and purposes set forth in Section 22.12.010 hereof, and therefore requiring payment of a fee in lieu of dedication, for any one or more of the following reasons:

- A. A sufficient amount of land has already been acquired by the city.
- B. The inability to acquire additional adjoining land in order to assemble an amount of land necessary to accommodate the activities and/or facilities typically associated with or specifically proposed for the parks and open space needs identified in the parks and recreation element of the Richland comprehensive plan.

- C. The size and/or configuration of the land available and/or proposed for dedication is insufficient or inadequate to provide for the proper location, construction, maintenance of use of facilities typically associated with or specifically proposed for the parks and open space needs identified in the parks and recreation element of the Richland comprehensive plan. Generally, park land dedications less than three (3) acres in area are not acceptable, unless the proposed park land dedication includes a significant natural, cultural or historical feature such as a lake, river or panoramic viewpoint.
- D. The physical characteristics of the site, including specifically the topography, hydrology, geology, soils, location, access, or adjoining land use, are unsuitable to accommodate the facilities and/or activities typically associated with or specifically proposed for the parks and open space needs identified in the parks and recreation element of the Richland comprehensive plan. (Ord. 78-80 1.01; Ord. 36-02).

22.12.035 Criteria for Acceptance of Park Land Dedication

Dedication of land for park and/or trail purposes shall generally be acceptable when the proposed land dedication includes a minimum of one hundred-fifty (150) feet of street frontage with unrestricted parking; when at least fifty percent (50%) of the proposed park land dedication has a slope of six percent (6%) or less; when the proposed land dedication is free of storm drainage facilities, easements or other improvements that preclude or restrict active recreational use of the property; and when one or more of the following conditions are met:

There is an insufficient amount of parkland in the vicinity of the proposed land dedication;

The proposed park dedication is adjacent to land that has already been dedicated to the City for park purposes;

There is an identified need for park land or a trail in the immediate vicinity of the proposed dedication as identified in the parks and recreation element of the comprehensive plan; and/or

The proposed land dedication would result in the extension of or link between existing or planned trail segments. (Ord. 36-02)

22.12.037 Criteria for Acceptance of Open Space Dedication

For the purposes of this chapter, open space is undeveloped land that due to its physical characteristics, is not suitable for active recreational uses. Such open space is typically encumbered with steep slopes, natural drainage features, wetlands or similar features. Open space is generally not acceptable for land dedications to fully meet the requirements of this chapter; however, land dedication of open space may be acceptable by the City when such dedication involves open space that includes significant natural, cultural or historical features such as a lake, river, panoramic viewpoint or landmark. (Ord. 36-02)

22.12.040 Amount of Land or Fee in Lieu of Dedication

In order that all residential zoning, subdivision or development of land shall be treated equally according to the needs anticipated or created; and to assure to the greatest extent possible that park and open space acquisition and development will be directly proportional to the residents' recreation needs resulting from approval of such zoning, subdivision or land development; and to assure that the amount of land to be dedicated, or fees to be paid in lieu thereof, shall bear a reasonable relationship to the use of park, recreational, open space, greenbelt, and reservation areas by future inhabitants of the proposed zone, subdivision or development; the amount of land required to be dedicated shall be determined by the following formula:

- (A) = Average number of people per dwelling unit type, as determined by the most recent census data.
- (B) = Total number of dwelling units, as determined by the density allowed by zoning, subdivision plat or development plans submitted by the developer.
- (C) = Projected number of people, as determined by Formula I.
- (D) = Desirable park land to population ratio, as stated in the parks and recreation element of Richland's comprehensive plan (i.e.: 1.4 acre/500 persons).
- (E) = Acreage required for dedication, as determined by Formula II.

Formula I: $(A) \times (B) = (C)$
 $(A \text{ persons/dwelling unit}) \times (B \text{ dwelling units}) = (C \text{ persons}).$

Formula II: $(C) \times (D) = (E)$
 $(C \text{ persons}) \times (D \text{ acres/persons}) = (E \text{ acres}).$

The amount of any fee to be paid in lieu of dedication shall be based on an average value of park acquisition and development costs of \$90,000/acre. Provided, that this fee shall be updated January 1 of each year, based on current construction costs. (Ord. 78-80 1.10; Ord. 36-02).

22.12.045 Value of Dedicated Park Land

Where the dedication of park land is accepted by the City, the value of such dedication shall be established at a set dollar/acre figure to be calculated annually by the City, based on the average of recent undeveloped residential land sales occurring within the City of Richland. Alternatively, an applicant may choose to establish a value through the use of a certified land appraiser, provided that any such appraisal shall be independently reviewed by a second certified land appraiser. The costs of such appraisals shall be borne by the applicant. The value of open space land dedicated to the City shall be established by the Parks and Recreation Commission on a case-by-case basis. These land values shall be used to determine the amount of credit provided against any required park fees.

22.12.050 Use of Land and Fees

Any land dedicated pursuant to this chapter shall be used for the purpose for which dedicated as expressed in the deed or other instrument of dedication. Any land dedicated shall be so located as to be at all times available and accessible to all residents of the proposed park zone, but nothing herein shall permit any park or recreation facility be reserved for the exclusive use of such residents.

Fees paid in lieu of dedication shall be deposited in a park reserve fund account as established in Sections 3.24.150 through 3.24.170 of the Richland Municipal Code and shall be used for the acquisition or improvement of park and recreation facilities serving and primarily benefiting residents of the zone with respect to which such payment has been made. Acquisition and/or improvement of such park and recreation facilities shall be made as sufficient funds become available and consistent with the city's program for park and recreation development. (Ord. 78-80 1.01; Ord. 36-02).

22.12.060 Time of Payment of Required Fee

Fees to be paid in lieu of dedication shall be paid at the time of building permit issuance. No building permit shall be issued for development of any lot in a platted subdivision or for any structure in an approved development for which a fee is required, unless the required fee has been paid in full. Land dedication shall be made at the time of final subdivision plat approval. In the case of a multi-phased subdivision, required land dedication shall be completed at the time of the final plat for the initial phase of development is recorded. Any person, firm or corporation who has paid fees and/or dedicated land to the City of Richland for park purposes prior to the adoption of this ordinance amendment on December 10, 2002, to satisfy the requirements of this chapter shall not be assessed any additional fees or required to dedicate additional park land under this chapter. Any person, firm or corporation who received a preliminary approval for a residential development that requires compliance with this chapter but has not yet paid fees by December 10, 2002, shall pay fees in accordance with the current provisions of this chapter. A note shall be placed on the final plat of all subdivisions accepted after December 10, 2002, designating that fees required for park purposes under this chapter shall be paid by the property owner at the time of building permit issuance. (Ord. 78-80 1.01: 36-02).

22.12.070 Credit for Land and/or Facilities

Credit may be granted for private land and/or facilities which are provided in a residential subdivision or development. Credit may also be granted for improvements made to existing public park land or facilities. Improvements to public or private lands that are eligible for credit are those that assist in meeting the need for neighborhood recreational lands or facilities and which implement the parks and recreation element of the Richland comprehensive plan. Projects for which credit may be granted include the provision of usable open space containing minimum improvements (irrigation system, ground cover and landscaping) and/or the provision of facilities typically associated with neighborhood parks and playgrounds. All park improvements and installation of park facilities and/or equipment eligible for such credit shall be subject to the approval of the Parks and Recreation Department for conformance with City standards. The amount of credit to be granted, if any, shall be determined by the Richland Parks and Recreation Commission and shall be based on the value of the land and/or facilities provided, the suitability of such land and/or facilities for activities typically associated with neighborhood parks and playgrounds, the ability of the land and/or facilities to serve public and private recreational needs of the

neighborhood, and the impact on implementation of the parks and recreation element of the Richland comprehensive plan.

Requests for credit shall be submitted to the City Planning and Development Services Division and shall contain the following information:

- A. A site plan showing:
 - 0. Scale of the drawing and the boundaries, dimensions and orientation of the site to True North;
 - 0. Topography at a minimum two-foot contour interval;
 - 0. Location and layout of existing physical characteristics (vegetation, natural waterways and drainage ways, rock outcroppings, etc.) indicating any significant features to be removed, improved or preserved;
 - 0. Location and layout of proposed improvements including landscaping, irrigation system, pathways and trails, play areas and playground equipment, lighting, fencing, structures, etc.;
 - 0. Ingress, egress and internal circulation for the site;
 - 0. Relationship of the site and proposed improvements to adjoining property.
- H. An itemized list of the proposed improvements including a description, the quantity, and estimated per unit cost figure for the individual improvements.
- I. A statement of the methods and/or provision for ownership, maintenance and use of the site and proposed improvements.
- J. Any other materials and/or information determined by the City Planning and Development Services Division to be necessary or appropriate.

The City Parks Department shall coordinate review of the request for credit and shall forward same to the Richland Parks and Recreation Commission, which shall review the request for credit and determine the amount of credit to be granted, if any. If the granting of credit is determined to be appropriate, the value established therefor shall be deducted from the value of the land required to be dedicated or from the amount of the fee to be paid in lieu of dedication and the amount of required land or fee shall be correspondingly decreased. Credit may be granted for the dedication of open space upon a finding that the dedication would advance the goals of the parks and recreation element of the comprehensive plan and/or would preserve a significant natural, cultural or historic feature or landmark. (Ord. 78-80 1.01: Ord. 36-02).

22.12.080 Appeals

Appeal to the Parks and Recreation Commission concerning interpretation or administration of this title may be taken by any person aggrieved. Such appeals shall be taken within ten days from the date of the order, requirement, decision or determination by filing with the City Planning and Development Services Division a notice of appeal specifying the grounds thereof, together with a \$100.00 filing fee. The Planning and Development Services Division shall transmit to the Parks and Recreation Commission all papers constituting the record upon which the action appealed from was taken. The Parks and Recreation Commission shall conduct a hearing of the appeal within forty-five (45) days after the filing of the notice of appeal. Written notice of such hearing shall be mailed at least ten days before said hearing to the parties in interest. At the hearing, any party may appear in person or by agent or attorney. Any decision made by the Richland Parks and Recreation Commission may be appealed to the Richland City Council. (Ord. 78-80 1.01: Ord. 36-02).

HISTORICAL CHRONOLOGY OF ORDINANCES

Ord. 36-78
Ord. 78-80
Ord. 26-84
Ord. 48-93
Ord. 01-00
Ord. 45-00
Ord. 23-01
Ord. 36-02
Ord. 31-03