



CASTLE ROCK CITY COUNCIL AGENDA

Regular Meeting: Monday, February 28, 2022
7:30 PM

Location
Castle Rock Senior Center
222 Second Ave SW
Castle Rock, WA 98611

AGENDA

The public may join In-person, but must meet social distancing and mask requirements.

In-person attendance will be limited in the Senior Center.

The public may also join virtually via GoToMeeting.

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1. CALL TO ORDER

- a. Pledge of Allegiance
- b. Roll Call
- c. Changes to Agenda

2. PROCLAMATIONS & PRESENTATIONS

- a. Red Cross Month Proclamation (page 3)
- b. Traffic Gardens Presentation by Lindsey Worley (CARE Coalition) and Dianne Swanson (WA Traffic Safety Commission). (page 4-14)

3. BUSINESS FROM THE FLOOR/PHONE

4. DEPARTMENT REPORTS

- City Attorney Frank Randolph
- Police Chief Charlie Worley
- Public Works Director Dave Vorse
- City Engineer Tom Gower
- Clerk-Treasurer Carie Cuttonaro

5. COUNCIL AND AD HOC COMMITTEE REPORTS

- Mayor / Mayor Pro-Tempore / Councilmembers
- CRCDA Representative Nancy Chennault

6. PUBLIC HEARINGS

- a. To take public testimony on the renewal of interim zoning controls. (page 15)

Ordinance No. 2022-01, an ordinance of the Castle Rock City Council renewing Interim Zoning Controls to preserve and protect critical areas; authorizing administrative code interpretations; providing for severability; and declaring an emergency, on emergency reading. (page 16-39)

7. CONSENT AGENDA

- a. Approve the minutes of the January 24, 2022 Regular Council Meeting. (page 40-41)
- b. Approve the minutes of the February 14, 2022 Regular Council Meeting. (page 42-45)

8. OLD BUSINESS

- a. Resolution No. 2022-01, a resolution adopting the 2022 City of Castle Rock and Castle Rock School District #401 Park and Recreation Plan, on second reading. (page 46-47)

9. NEW BUSINESS

- a. Contract agreement with Cowlitz-Wahkiakum Council of Governments to provide Planning Assistance, not to exceed \$20,000 during 2022. (page 48-57)

10. OTHER BUSINESS

11. ADJOURNMENT

NEXT REGULAR COUNCIL MEETINGS:

Non-Discrimination Statement: This institution is an equal opportunity provider and employer. If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, found online at https://www.ascr.usda.gov/sites/default/files/Complain_combined_6_8_12_508_0.pdf or at any USDA office, or call 866.632.9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter by mail to USDA, Office of the Assistant Secretary for Civil Rights, 1400 Independence Ave, SW, Stop 9410, Washington, DC 20250-9410 or email to program.intake@usda.gov or by fax (202) 690-7442.

Title VI: The City of Castle Rock ensures compliance with Title VI of the Civil Rights Act of 1964 and American Disabilities Act of 1990 by prohibiting discrimination against any person on the basis of race, color, national origin, sex or disabilities in the provision of benefits and services from its federal assisted programs and activities. If you need special accommodations to participate in this meeting, please contact Carie Cuttonaro at 360.274.8181 by 9:00 a.m. three days prior to the meeting. City Council may add and take action on other items not listed on this Agenda.

Proclamation

FOR

RED CROSS MONTH

March 2022

WHEREAS, the American Red Cross is a humanitarian organization that eases people's suffering during life's emergencies throughout Southwest Washington, Oregon, across the United States and around the world. Our Red Cross, Cascades Region and SW Washington Chapter, has a long history of helping our neighbors in need by delivering shelter, care, and hope during disasters. Also, making our community safer with Preparedness Programs and CPR and First Aid Training; supporting military and veterans and their families; and providing lifesaving blood to our medical community; and

WHEREAS, last year, in the Cascades Region, more than 3,000 volunteers helped the families affected by over 650 home fires by addressing their urgent needs like food and lodging and providing recovery support. Meanwhile, when large disasters like the fall wildfires devastated our region, volunteers from our area and across the country provided 173,489 overnight stays, 387,590 meals and snacks, 9,955 relief items, emotional support, recovery planning and other assistance; and

WHEREAS, the Red Cross continues to carry out the organization's 140-year mission of preventing and alleviating suffering. During the trying times of the COVID-19 pandemic, people have stepped up to help others in need, whether it was responding to this year's record-breaking disasters across the country or rolling up their sleeves to give more than 148,500 units of blood in the Cascades Region when our country faced a severe blood shortage. This lifesaving work is vital to strengthening our community's resilience. Nearly 200 years since the birth of American Red Cross founder Clara Barton, we dedicate this month of March to all those who continue to advance her noble legacy, and we ask others to join in their commitment to care for people in need.

THEREFORE, BE IT RESOLVED, as Mayor of the City of Castle Rock, I hereby proclaim the month of March 2022 as Red Cross Month in the City of Castle Rock and encourage all citizens to join in this observance.

Signed on this 28th day of February, 2022,

Paul Helenberg, Mayor
City of Castle Rock, Washington



Discover Traffic Gardens

What is a Traffic Garden?

- Set of small-sized streets with scaled-down traffic features and other fun elements.
- Can be as elaborate as we have the capacity to create, or very simple constructed with stencils and paint.
- What they all have in common is they create a small world to ride bicycles, steer scooters and act out pedestrian roles.
- Children navigate and practice using roadways, intersections and crossings in a safe environment free of motor vehicles.
- Children learn while having fun and interacting with features and other users.
- A low-cost community resource and family-friendly gathering place for events, volunteering, and celebrations.

History of Traffic Gardens

- First developed in 1937 by a local police officer in Mansfield Ohio, who was inspired by a children's book of traffic safety lessons.
- In the 1960's an Ohio preschool teacher created curriculum and went on to develop Safety Towns which have been expanded to include traffic gardens.
- More than 300 permanent traffic gardens of many different types are currently in operation worldwide.

Why Traffic Gardens?

- **Vehicle crashes are the leading cause of death among teenagers 15-19 years.**
- **In 2019, there were 1,053 traffic fatalities involving children aged 14 and younger.**
- **Prevention should begin at the earliest age possible.**
- **Parents and adult caregivers play a vital role in teaching children road safety skills.**
- **Because we are a CPWI community, this project aligns with the CPWI goals – creating opportunities for pro social involvement through community and family bonding.**















City of Castle Rock, Washington
Renewal of Interim Zoning Controls
Public Comment Period/Notice of Public Hearing
February 11, 2022

Notice is hereby given that the City of Castle Rock intends to renew the Interim Zoning Controls adopted in 2021 updating the City's Development Regulations to protect environmentally sensitive areas, also known as critical areas (CRMC Chapter 18.10), as well as regulations to continue to permit Master Planned Developments in all zoning districts (CRMC Chapter 17.100). These renewals will provide up to six additional months to complete the review and final adoption of these interim measures, as well as to potentially integrate additional amendments to streamline the administration of the City's Development Regulations, and to finalize amendments to the City's Shoreline Master Program.

These interim zoning controls may be viewed online on the City's webpage at <https://ci.castle-rock.wa.us>. In addition, the materials may be viewed during normal business hours at the Castle Rock City Hall, 141 A Street SW.

The Castle Rock City Council will conduct a public hearing to receive comments on the renewal of these interim zoning controls during their February 28th, 2022, meeting which will start at 7:30 pm. It is anticipated that in-person testimony will be accepted as well as online testimony. Virtual connection information will be posted online and included on the agenda. Written comments may also be submitted for consideration by the City Council, **provided that all written comments must be received by the City no later Friday, February 25th, 2022, at 4:00 pm.** All written comments must clearly identify the name and address of the person(s) submitting the comments and may be submitted one of two ways, listed as follows:

- Letters may be mailed, or hand delivered to City of Castle Rock, Attention: Karlene Akesson, 141 A Street SW, Castle Rock, WA 98611.
- Emails may be sent to the City of Castle Rock at kakesson@ci.castle-rock.wa.us. Please include "Interim Zoning Controls" in the subject line.

ORDINANCE NO. 2022-01

AN ORDINANCE OF THE CASTLE ROCK CITY COUNCIL RENEWING INTERIM ZONING CONTROLS TO PRESERVE AND PROTECT CRITICAL AREAS; AUTHORIZING ADMINISTRATIVE CODE INTERPRETATIONS; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY

WHEREAS, THE City of Castle Rock, Washington has prepared and is implementing a Comprehensive Plan and Development Regulations in accordance with the provisions of the Laws of Washington State; and

WHEREAS, on July 12th, 2021, the Castle Rock City Council approved Ordinance No. 2021-07 adopting Interim Zoning Controls to preserve and protect environmentally sensitive areas, also known as critical areas; and

WHEREAS, the renewal of these Interim Zoning Controls six additional months will enable the City to review these regulations in conjunction with the final adoption of amendments to the City's Shoreline Master Program, along with proposed amendments to update and streamline the City's procedures for processing land use applications; and

WHEREAS, the City advertised and conducted a public hearing on the renewal of these Interim Zoning Controls on February 28, 2022; and

WHEREAS, the City also accepted written comments on the proposed renewal of the Interim Zoning Controls February 25, 2022; and

WHEREAS, the renewal of the Interim Zoning Controls an additional six months to allow for a review of these regulations in conjunction with the final adoption of amendments to the City's Shoreline Master Program and amendments to streamline the administration of the City's Development Regulations, are necessary to protect the public health and safety and is in the public interest.

NOW, THEREFORE BE IT ORDAINED by the City Council of the City of Castle Rock as follows:

Section 1 – Interim Zoning Controls Renewed. The City of Castle Rock hereby renews Chapter 18.10 of the Castle Rock Municipal Code as an Interim Zoning Control to permit preserve and protect critical areas, in substantially the same form as the attached Exhibit A.

Section 2 – Duration of the Interim Zoning Controls. The Chapter 18.10 Critical Areas Interim Zoning Controls shall remain in effect through July 28, 2022, unless terminated earlier by action of the City Council.

Section 3 – Administrative Code Interpretations Authorized. In the event of any question or uncertainty regarding the applicability of the Chapter 18.10 Interim Official Controls, the Mayor or his/her designee is hereby authorized to make such administrative code interpretations as may be necessary to implement this Ordinance.

Section 4 – Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulations, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 5 – Effective Date and Declaration of Emergency. This Ordinance, as a public emergency ordinance necessary for the protection of the protection of the public health, public safety, public property, or public peace, shall take effect and be in full force and effect immediately upon adoption. Pursuant to *Matson v. Clark County Board of Commissioners*, 79 WN. App 641, 904 P. 2d 317 (1995), underlying facts necessary to support this emergency declaration are included in the “WHEREAS” clauses, above, all of which are adopted by reference as findings of fact as if fully set forth herein. This Ordinance shall become effective immediately upon passage. The City Clerk is directed to publish a summary of this Ordinance, consisting of the title, at the earliest publication date.

ADOPTED by the City Council and signed by the Mayor on the 28th day of February 2022.

Mayor Paul Helenberg

Attest:

Carie Cuttonaro, Clerk-Treasurer

Approved as to form:

Frank Randolph, City Attorney

Exhibit A: CRMC Chapter 18.10

Ordinance 2022-01
Exhibit A
Interim Zoning Controls
Chapter 18.10 Critical Areas

Sections:

18.10.010	Introduction.
18.10.020	General Provisions.
18.10.030	Definitions
18.10.040	Critical Aquifer Recharge Areas.
18.10.050	Special Flood Hazard Areas.
18.10.060	Geologic Hazard Areas.
18.10.070	Wetlands.
18.10.080	Fish and Wildlife Habitat Conservation Areas.
18.10.090	Enforcement.

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

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

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

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

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

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

18.10.020 General Provisions.

- A. It shall be the responsibility of Property Owners and Project Sponsors to know and/or to identify the location of critical areas on and near their property and to comply with the provisions of this Chapter at all times.
 1. Property Owners and Project Sponsors that may be proposing development activities in proximity of critical areas are strongly encouraged to schedule and attend a conference with City staff to discuss the applicability of these regulations prior to preparing and submitting land use applications to the City.
 2. The City maintains public maps that may assist in the identification of critical areas.
 - a. It is the responsibility of the Property Owner/Project Sponsor to identify and map all critical areas on their property.
 - b. The presence of a critical area and/or its associated buffer on a parcel triggers the requirements of these regulations, regardless of whether a critical area or buffer is depicted on an official map.

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

- b. Change course based on the results and interpretation of new information that resolves uncertainties. and
 - c. Commit to the appropriate timeframe and scale necessary to reliably evaluate regulatory and nonregulatory actions affecting protection of critical areas. and anadromous fisheries.
- D. Property Owners and Project Sponsors shall, when designing development activities that may affect geologic hazard areas, wetlands, and fish and wildlife habitat conservation areas, use the following measures, listed in priority order:
 - 1. Avoid the adverse impact altogether by not taking a certain action or parts of an action or moving the proposed action.
 - 2. Minimize adverse impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology and engineering, or by taking affirmative steps to avoid or reduce adverse impacts.
 - 3. Rectify the adverse impact by repairing, rehabilitating or restoring the affected environment to the conditions existing at the time of the initiation of the project.
 - 4. Reduce or eliminate the adverse impact over time by preservation and maintenance activities during the life of the action.
 - 5. Compensate for the adverse impact by replacing, enhancing, or providing similar substitute resources or environments.
 - 6. Monitor the impact for a reasonable period of time and taking appropriate corrective measures. and
 - 7. Mitigate the adverse impact through a combination of measures.
- E. Reasonable Use Exception
 - 1. Project review: If the application of this title would deny all reasonable use of the subject property, the property owner may apply for an exception pursuant to this section. To qualify for an exception the applicant must demonstrate all of the following:
 - a. That no other reasonable use can be made of the property that will have a lesser adverse impact on the critical area and adjoining and neighboring lands;
 - b. That the proposed use does not pose a threat to the public health, safety or welfare;
 - c. Any alteration is the minimum necessary to allow reasonable use of the property; and,

- d. The inability of the proponent to derive reasonable use of the property is not the result of actions by the applicant after the effective date of this chapter.
 - e. A request for a reasonable use exception shall be submitted to the City with the application materials for the particular development proposal. The application shall be supplemented with an explanation as to how the reasonable use exception criteria are satisfied. The City may require additional information or studies to supplement the reasonable use exception request.
 - f. Where a request for a reasonable use exception is granted, impacts to critical areas and buffers shall be mitigated consistent with the purpose and standards of this Chapter to the greatest extent feasible.
 - g. A reasonable use exception shall be processed by the administrator.
- F. A Critical Area Authorization or Permit is required before any construction or development activity may be initiated on a site with an area that meets the criteria for designation as a Special Flood Hazard Area, Geologic Hazard Area, Wetland, or Fish and Wildlife Habitat Conservation Area(s) or their associated buffers.
- 1. A Critical Area Authorization must be based on a written finding by the City that:
 - a. The proposed activity is exempt. or
 - b. The proposed activity only occurs outside of the critical area and the associated buffer. or
 - c. The City has adequate information to determine that the proposal will not have an adverse impact on the Critical Area. or
 - d. The proposed activity will not have an adverse impact on the critical area and otherwise complies with the provisions of this Section.
 - 2. A Critical Area Permit shall be based on the findings and recommendations contained in a Critical Area Report(s).
- G. In order to receive a required Critical Area Permit, Project Sponsors must prepare and submit for City review and approval a critical area report(s) in a format prescribed by the City
- 1. The City shall determine the scope, content, and format for a Critical Area Report based on pre-application consultation with the Project Sponsor and his/her consultants, resource agencies, and qualified professionals.

- a. Please contact the City Community Development Department or go to the City's website to get the most recent copy of the City's Guidelines for preparing a Critical Area Report.
 - b. Individual critical areas reports may be combined into a single comprehensive report, in a format approved by the City.
2. Critical Area Reports shall be prepared by a qualified professional, as determined by the City.
 - a. The cost of preparing required critical areas report(s) shall be borne by the Applicant/Project Sponsor.
 - b. The cost of a professional peer review of any required critical areas report, if required by the City, shall be borne by the Applicant/Project Sponsor.
3. Critical Area Reports shall be submitted to the City in draft form for City review and comment. Following this review, the City shall notify the Applicant in writing:
 - a. That the report complies with City guidelines and that it may be submitted in final form.
 - b. That additional information is necessary and/or revisions must be made before the report can be accepted for processing, and that identifies the corrective actions that must be taken. or
 - c. That the report does not comply with City guidelines and that identifies the corrective actions that must be taken.
4. Upon acceptance of the Critical Area Report(s), the City shall utilize the report to evaluate the proposed development activity and to establish conditions of approval. In addition, the City may require the Project Sponsor to:
 - a. Submit detailed construction plans and drawings prepared by a qualified professional necessary to implement mitigating measures and other conditions of approval.
 - b. Conduct or permit to be conducted on-going monitoring and evaluation.
 - c. Install protective fencing and signage.
 - d. Provide the City with financial guarantees. and
 - e. Comply with other such measures as may be necessary to comply with the provisions of the applicable local, state, and federal laws.

- G. Fencing and Signs of Critical Areas and Required Buffers. The City may require, as a condition of approval, that temporary or permanent fencing and signage may be installed to protect critical areas and their buffers from inappropriate uses, unauthorized development activities, intrusion, or accidental encroachment.
1. The outer perimeter of the critical area or buffer and the limits of those areas to be disturbed pursuant to an approved permit or authorization shall be marked in the field in such a way as to ensure that no unauthorized intrusion will occur and is subject to inspection by the City prior to the commencement of permitted activities. This temporary marking shall be maintained throughout construction and shall not be removed until permanent signs, if required, are in place.
 2. Fencing installed as part of a proposed activity or as required in this Section shall be designed so as to not interfere with native species migration, including fish runs, and shall be constructed in a manner that minimizes impacts to critical areas and buffers.
- H. In order to inform subsequent purchasers of real property of the existence of critical areas, the owner of private property containing a critical area or buffer on which a development proposal has been approved, shall file a notice with the County Records and Elections Division, as directed by the City. The notice shall state the presence of the critical area or buffer on the property, the application of this Chapter to the property, and the fact that limitations on actions in or affecting the critical area or buffer may exist. The notice shall "run with the land."

18.10.030 Definitions.

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

“Agricultural activities (existing and ongoing)” means those activities conducted on lands defined in RCW 84.34.020(2), Open space, agricultural, timber lands – Current use – Conservation futures, and those activities involved in the production of crops and livestock, including but not limited to operation and maintenance of existing farm and stock ponds or drainage systems, irrigation systems, changes between agricultural activities, and maintenance or repair of existing serviceable structures and facilities. Activities which bring an area into agricultural use are not part of an ongoing activity. An activity ceases to be ongoing when the area on which it was conducted has been converted to a nonagricultural use or, with the exception of forest practices, has been unattended for five years.

“Alluvial fan” means a low, outspread, relatively flat to gently sloping mass of loose alluvium, shaped like an open fan, deposited by a stream where it issues from a narrow valley, or where a tributary stream issues into the main stream, or wherever a constriction in a valley abruptly ceases or the gradient of the stream suddenly decreases; it is steepest near the mouth of the valley where

its apex points upstream, and it slopes gently and convexly outward with gradually decreasing gradient.

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

“Alteration” means a human-induced action which materially affects a regulated critical area or associated buffer, such as a physical change to the existing condition of land or improvements, including but not limited to construction, clearing, filling, and grading.

“Applicant” means the person, party, firm, corporation, Indian tribe, or federal, state or local government, or any other entity that proposes any activity that could affect a critical area.

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

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

“Best management practices” means systems of practices and management measures that: (1) control soil loss and reduce water quality degradation caused by nutrients, animal waste, and toxins; (2) control the movement of sediment and erosion caused by land alteration activities; (3) avoid adverse impacts to surface and groundwater quality, flow, and circulation patterns; and (4) avoid adverse impacts to the chemical, physical, and biological characteristics of a critical area.

"Critical areas" include the following areas and ecosystems: (a) Wetlands; (b) areas with a critical recharging effect on aquifers used for potable water; (c) fish and wildlife habitat conservation areas; (d) frequently flooded areas; and (e) geologically hazardous areas. "Fish and wildlife habitat conservation areas" does not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of and are maintained by a port district or an irrigation district or company.

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

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

“Development” means a construction project involving property improvement or a change of physical character within the site; the act of using land for building or extractive purposes. “Development” shall include, but shall not be limited to, the activities identified in CRMC 18.10.060.

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

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

“Excavation” means the mechanical removal of earth material.

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

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

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

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

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

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

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

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

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

“Geotechnical report” means a report prepared by a geotechnical engineer including a description of the site geology, conclusions, and recommendations regarding the effect of geologic conditions on the proposed development, opinions and recommendations of the adequacy of the site to be developed, the effects of groundwater interception and infiltration, seepage, potential slip planes,

and changes in soil bearing strength, and the impacts of the proposed development and appropriate mitigating measures. See Appendix 18.10B.

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

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

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

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

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

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

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

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

Landslide Hazard Area. See CRMC 18.10.150(C).

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

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

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

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

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

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

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

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

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

“Priority species” means fish and wildlife species requiring protective measures and/or management guidelines to ensure their perpetuation as determined by the Washington State Department of Fish and Wildlife’s Priority Habitats and Species List, as now exists or is hereafter amended.

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

In understanding wetland regulation it is important to distinguish between “biological,” “jurisdictional,” and “regulated” wetlands. (1) Biological wetland: A biological wetland is one that is determined (by a qualified expert) to have the physical, biological and chemical characteristics to be called a “wetland” [see definition of “wetland” in this section]; (2) Jurisdictional wetland: A jurisdictional wetland is one that a particular law has determined should be regulated by the provisions of the law. It may be the same as a biological wetland or it may represent a subset of biological wetlands. For example, the Shoreline Management Act has defined wetlands under its jurisdiction as being all wetlands associated with tidal waters and certain lakes and streams. Most freshwater wetlands in the state are not within the shorelines jurisdiction. The SMA definition further restricts jurisdictional wetlands by specifically excluding artificial wetlands intentionally created from nonwetland sites such as canals, farm ponds and landscape amenities. Thus, even though some of these areas may meet the above biological definition, the SMA would not regulate them; (3) Regulated wetland: While most jurisdictional wetlands are going to be regulated to some extent, there are always certain activities that are exempt from a given law. This results in some jurisdictional wetlands not being regulated. For example, a wetland may fall under SMA jurisdiction because it meets the specific criteria contained in the SMA wetland definition. However, if the wetland occurred in an area that had been historically farmed, a landowner could

plow the wetland to plant a crop without having to get a shoreline permit because the activity is exempt. Thus, some people have been confused by the notion that an area may meet the above jurisdictional definition of a wetland, are delineated as such, and still be exempt from any regulation because of the particular activity proposed.

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

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

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

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

"Slope" means an inclined earth surface, the inclination of which is expressed as the ratio of horizontal distance to vertical distance. In these regulations, slopes are generally expressed as a percentage; percentage of slope refers to a given rise in elevation over a given run in distance. Slopes 15 to 30 percent constitute areas of geologic concern. Slopes greater than 30 percent constitute potential areas of geological hazard.

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

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

"Utility line" means pipe, conduit, cable, or other similar facility by which services are conveyed to the public or individual recipients. Such services shall include, but are not limited to, water supply, electric power, natural gas, communications, and sanitary sewer.

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

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

“Wetland functions” are determined by physical, chemical, and biological characteristics and include but are not limited to fish and wildlife habitat, aquifer recharge and discharge, water quality, shoreline stabilization, and flood and erosion control.

14.70.040 Critical Aquifer Recharge Areas. Critical aquifer recharge areas (CARAs) are lands with prevailing geologic conditions associated with infiltration rates that create a high potential for contamination of ground water resources or contribute significantly to the replenishment of ground water.

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

18.10.050 Special Flood Hazard Areas.

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

- C. All proposed development activities and new uses on sites with designated Special Flood Hazard Areas must comply with FEMA regulations and standards. Please note that federal flood insurance purchase requirements apply in these zones.

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

- A. Geologic hazard areas in the City of Castle Rock shall include those areas that are susceptible to one or more of the following types of hazards:
 - 1. Erosion hazard.
 - 2. Landslide hazard.
 - 3. Seismic hazard. or
 - 4. Other geological events including, mass wasting, debris flows, rock falls, and differential settlement.
- B. No development activities or new uses may be permitted on sites with areas that meet the criteria for designation as a Geologic Hazard Area or an associated buffer without a Critical Areas Authorization or Permit in accordance with the provisions of this Chapter, including but not limited to, Chapter 18.10.020.
 - 1. The City may waive or reduce engineering study and design requirements in geologic hazard areas for:
 - a. Additions or alterations to existing structures that do not increase occupancy or significantly affect the risk of structural damage or injury. or
 - b. New buildings that are not dwelling units or used as places of employment or public assembly and do not pose a significant threat to a dwelling unit(s) or places of employment or public assembly.
 - 2. For more information on how to identify geologic hazard areas and the standards to protect them, please refer to City of Castle Rock document entitled Standards for Identifying and Protecting Geologic Hazard Areas, August 18, 2021 or as subsequently amended.
 - 3. For information on how to prepare the required Geologic Hazard Area Report please refer to City of Castle Rock document entitled Guidelines for Preparing Geologic Hazard Area Reports, August 18, 2021, or as subsequently amended.

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

- A. All areas within the City of Castle Rock meeting the wetland designation criteria in the approved federal wetland delineation manual and applicable regional supplements, as amended, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this Chapter.
 - 1. Wetlands shall be rated according to the Washington Department of Ecology Wetland Rating System, as set forth in the Washington State Wetland Rating System for Western Washington: 2014 Update (Ecology Publication #14-06007), or as revised. Wetland delineations are valid for five (5) years after such date the City shall determine whether a revision or additional assessment is necessary.
 - 2. A buffer area shall be established for all designated wetlands to protect the function and values of the wetland.
- B. No development activities or new uses may be permitted on sites that meet the criteria for designation as a wetland or an associated buffer without a Critical Areas Authorization or Critical Areas Permit in accordance with the provisions of this Chapter, including but not limited to, Chapter 18.10.020.
 - 1. The following uses and activities may be permitted by the City in wetlands through a Critical Areas Authorization:
 - a. Conservation or preservation of soil, water, vegetation, fish, and other wildlife that does not entail changing the structure, or functions of the existing wetland.
 - b. The harvesting of wild crops in a manner that is not injurious to natural reproduction of such crops and provided the harvesting does not require tilling of soil, planting of crops, or alteration of the wetland by changing existing topography, water conditions or water sources.
 - c. Recreational and educational activities.
 - d. Research.

- e. Drilling for utilities under a wetland provided that the drilling does not interrupt the ground water connection to the wetland or percolation of surface water down through the soil column. The City may require the Project Sponsor to submit a special study prepared by a qualified professional to determine whether the ground water connection to the wetland or percolation of surface water down through the soil column is disturbed prior to any drilling or drilling associated activities.
 - f. Enhancement of a wetland through the removal of non-native invasive species. Weeding shall be restricted to hand removal and weed material shall be removed from the site. Bare areas that remain after weed removal shall be re-vegetated with native shrubs and trees at natural densities. Some hand seeding may also be done over the bare areas with native plants.
- 2. For more information on the rating of wetlands as well as the criteria and standards for classifications and establishing buffer areas, please refer to the City of Castle Rock document entitled Standards for Classifying and Protecting Wetlands, August 18, 2021, or as subsequently amended.
 - 3. For more information on how to prepare a required Wetlands Report please refer to the City of Castle Rock document entitled Guidelines for Preparing a Wetlands Report, August 18, 2021, or as subsequently amended.

18.10.080 Fish and Wildlife Habitat Conservation Areas.

- A. All areas within the city meeting one or more of the following criteria, regardless of any formal designation, are hereby designated Fish and wildlife habitat conservation areas and are subject to the critical area provisions of this Chapter:
 - 1. Areas where state or federal designated endangered, threatened, and sensitive species have a primary association.
 - a. Federal designated endangered and threatened species are those fish, wildlife, and plant species identified by the U.S. Fish and Wildlife Service and the National Marine Fisheries Service that are in danger of extinction or threatened to become endangered.
 - b. State designated endangered, threatened, and sensitive species are those fish, wildlife and plant species native to the State of Washington identified by the state Department of Fish and Wildlife, that are in danger of extinction, threatened to become endangered, vulnerable, or declining and are likely to become endangered or threatened in a significant portion of their range within the state without cooperative management or removal of threats. State designated endangered, threatened, and sensitive species are periodically recorded in WAC 232-12-014

(state endangered species), and WAC 232-12-011 (state threatened and sensitive species).

2. Priority habitats and species identified by the state Department of Fish and Wildlife. Priority species require protective measures for their perpetuation due to their population status, sensitivity to habitat alteration, and/or recreational, commercial, or tribal importance. Priority habitats are those habitat types or elements with unique or significant value to a diverse assemblage of species. A priority habitat may consist of a unique vegetation type or dominant plant species, a described successional stage, or a specific structural element.
 3. Habitats and species of local importance as identified by the City, including those that possess unusual or unique habitat warranting protection because of qualitative species diversity or habitat system health indicators.
 4. Naturally occurring ponds are those ponds under 20 acres and their submerged aquatic beds that provide native fish or wildlife habitat, including those artificial ponds intentionally created from dry areas in order to mitigate impacts to ponds. Naturally occurring ponds do not include ponds deliberately designed and created from dry sites, such as canals, detention facilities, wastewater treatment facilities, farm ponds, temporary construction ponds, and landscape amenities, unless such artificial ponds were intentionally created for mitigation.
 5. Waters of the state includes lakes, rivers, ponds, streams, inland waters, underground waters, and all other surface waters and watercourses within the jurisdiction of the State of Washington, as classified in WAC 222-16-031.
 6. Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity.
 7. Natural area preserves, and natural resource conservation areas are defined, established, and managed by the Washington State Department of Natural Resources.
 8. Streams shall be designated in accordance with the Washington State Department of Natural Resources (DNR) stream type as provided in WAC 222-16-030. Streams are further categorized according to Ecosystem Diagnosis and Treatment (EDT)/Snake River Salmon Recovery Plan priority protection reaches.
 9. Areas of rare plant species and high-quality ecosystems that are identified by the Washington State Department of Natural Resources through the Natural Heritage Program.
- B. No development activities or new or modified uses may be permitted on sites that meet the criteria for designation as a Fish and wildlife habitat conservation area or an associated

buffer without a Critical Areas Authorization or Permit in accordance with the provisions of this Chapter, including but not limited to, Chapter 18.10.020.

1. For information on the standards for identifying and protecting Fish and wildlife habitat conservation areas please refer to the City of Castle Rock document entitled Standards for Classifying and Protecting Fish and wildlife habitat conservation areas, August 18, 2021, or as subsequently amended.
2. For information on how to prepare the required critical areas report for development activities on sites meeting the criteria of designation as a Fish and Wildlife Habitat Area, please refer to the City of Castle Rock document entitled Guidelines for Classifying and Protecting Fish and wildlife habitat conservation areas, August 18, 2021, or as subsequently amended.

18.10.090 Enforcement.

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

- b. The soil types and configuration shall be replicated.
 - c. The critical area and buffers shall be replanted with native vegetation that replicates the vegetation typically found on the site in species types, sizes, and densities.
6. For alterations to flood and geological hazards, the following minimum performance standards shall be met for the restoration of a critical area, provided that, if the violator can demonstrate that greater safety can be obtained, these standards may be modified:
- a. The hazard shall be reduced to a level equal to, or less than, the pre-development hazard.
 - b. Any risk of personal injury resulting from the alteration shall be eliminated or minimized. and
 - c. The hazard area and any buffers shall be replanted with native vegetation sufficient to minimize the hazard.
- B. Representatives of the City are authorized to make site inspections and take such actions as are necessary to enforce this Chapter. The authorized representatives shall present proper credentials and make a reasonable effort to contact any property owner before entering onto private property.

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

1. CALL TO ORDER

Mayor Paul Helenberg called the regular meeting of the Castle Rock City Council to order at 7:31 PM.

a. Pledge of Allegiance

Mayor Helenberg led the Pledge of Allegiance.

b. Roll Call

Councilmembers present: Art Lee, Lee Kessler, Earl Queen, and Ellen Rose. Councilmember Paul Simonsen was excused.

Staff present: Police Chief Charlie Worley, City Attorney Frank Randolph, Public Works Director Dave Vorse, City Engineer Tom Gower, and Clerk-Treasurer Carie Cuttonaro.

c. Changes to Agenda

2. PROCLAMATIONS & PRESENTATIONS

3. BUSINESS FROM THE FLOOR/PHONE

Larry Crosby; had questions regarding the waterline on Huntington Ave, Exit 48 and the Regional Water Board. Public Works Director Dave Vorse provided an explanation.

4. DEPARTMENT REPORTS

- City Attorney Frank Randolph

- Police Chief Charlie Worley

- Public Works Director Dave Vorse

Gave recap of the snow, ice, and rain events we had on Christmas Day through January 7th. The state declared an emergency and Cowlitz County met the threshold for recouping damage costs and assistance for overtime. He was able to submit his paperwork to the Cowlitz County Department of Emergency Management.

- City Engineer Tom Gower

- Clerk-Treasurer Carie Cuttonaro

5. COUNCIL AND AD HOC COMMITTEE REPORTS

- Mayor / Mayor Pro-Tempore / Councilmembers

Last week, the City and project sponsors for the Castle Rock Landing on the Cowlitz met with the Cowlitz Indian Tribe. Public Works Director Dave Vorse, Clerk-Treasurer Carie Cuttonaro, Deputy Clerk II Karlene Akesson and Mayor Helenberg also toured the Port of Camas-Washougal which is a

similar model for the Castle Rock Landing on the Cowlitz.

- CRCDA Representative Nancy Chennault

6. PUBLIC HEARINGS

7. CONSENT AGENDA

a. Approve the December 2021 Open Period invoices as described in the Fund Transaction Summary Report, in the amount of \$64,998.88. *Pages 3-9*

Councilmember Queen made a motion, seconded by Lee to approve the Consent Agenda as presented. Motion carried by roll call vote. Councilmembers Lee, Kessler, Queen, and Rose voted 'Aye'.

8. OLD BUSINESS

9. NEW BUSINESS

a. Request to remove two decaying trees located in the ROW at 649 2nd Avenue SW. *Pages 10-12*

Councilmember Kessler made a motion, seconded by Queen to approve the request to have PUD take down the trees. Motion carried by roll call vote. Councilmembers Lee, Kessler, Queen, and Rose voted 'Aye'.

10. OTHER BUSINESS

Donna Williams; asked if the City is getting money from the Biden Fund and if we do will any of that money go towards paying for Exit 48 waterline. Mayor Helenberg and Public Works Director Dave Vorse gave explanations.

11. ADJOURNMENT

There being no further business, Mayor Helenberg adjourned the meeting at 7:54 PM.

Mayor Paul Helenberg

Clerk-Treasurer Carie Cuttonaro

1. CALL TO ORDER

Mayor Paul Helenberg called the regular meeting of the Castle Rock City Council to order at 7:30 PM.

a. Pledge of Allegiance

Mayor Helenberg led the Pledge of Allegiance.

b. Roll Call

Councilmembers present: Art Lee, Lee Kessler, and Earl Queen. Councilmember Paul Simonsen arrived at 7:33 PM, however, he was experiencing technical difficulties and the City was not aware he was present until 8:17 PM. Councilmember Ellen Rose arrived at 7:42 PM.

Staff present: Police Chief Charlie Worley, City Attorney Frank Randolph, Public Works Director Dave Vorse, City Engineer Tom Gower, City Planner Keshia Owens, and Clerk-Treasurer Carie Cuttonaro.

c. Changes to Agenda

2. PROCLAMATIONS & PRESENTATIONS

a. Teen Domestic Violence Awareness Month Proclamation (page 4)

Clerk-Treasurer Carie Cuttonaro read the Teen Domestic Violence Awareness Month Proclamation.

3. BUSINESS FROM THE FLOOR/PHONE

4. DEPARTMENT REPORTS

- City Attorney Frank Randolph

- Police Chief Charlie Worley

- Public Works Director Dave Vorse

Advised Council about the damage to the picnic structure at Gateway Park and the surrounding landscaping that was damaged. Police Chief Charlie Worley also added comment to the incident.

1. 2021 Projects Completed (page 5-11)

2. 2022 Projects Proposed (page 12-15)

- City Engineer Tom Gower

Gave an update on the Six Rivers Regional Trail System Project at Exit 49.

- Clerk-Treasurer Carie Cuttonaro

1. Final 2021 Expense, Revenue, Cash & Investment Reports (page 16-18)

5. COUNCIL AND AD HOC COMMITTEE REPORTS

- Mayor / Mayor Pro-Tempore / Councilmembers

Mayors of Cowlitz County have been meeting one Friday a month to sit down and talk about what's going on in each of the cities.

- CRCDA Representative Nancy Chennault

Getting ready for Clean Up day on April 23rd.

6. PUBLIC HEARINGS

a. To take public testimony on the proposed 2022 update to the City of Castle Rock and Castle Rock School District #401 Park and Recreation Plan. (page 19)

Presentation (page 20-35)

Resolution No. 2022-02, a resolution of the City of Castle Rock, Washington, adopting the 2022 update to the City of Castle Rock and Castle Rock School District #410 Park and Recreation Plan and authorizing city staff to submit the plan to the Washington State Recreation and Conservation Office in fulfillment of funding requirements, on first reading. (page 36-37)

Mayor Helenberg closed the regular council meeting at 7:42 PM and opened the public hearing.

City Planner Keshia Owens presented the Park and Recreation Plan Update.

Public Works Director Dave Vorse also presented comment.

There was no public comment provided.

Mayor Helenberg closed the public hearing at 8:01 PM and reopened the regular council meeting.

Councilmember Lee made a motion, seconded by Queen to approve Resolution No. 2022-02.

Motion carried by roll call vote. Councilmembers Lee, Kessler, Queen, and Rose voted 'Aye'.

7. CONSENT AGENDA

Councilmember Queen made a motion, seconded by Rose to approve the Consent Agenda as presented. Motion carried by roll call vote. Councilmembers Lee, Kessler, Queen, and Rose voted 'Aye'.

a. Approve the minutes of the January 10, 2022 Regular Council Meeting. (page 38-40)

b. Approve the January 2022 invoices as described in the Fund Transaction Summary Report, in the amount of \$562,236.66. (page 41-42)

8. OLD BUSINESS

9. NEW BUSINESS

a. Request to remove three trees located in the ROW at 325 Allen Ave SE. (page 43-45)

Councilmember Kessler made a motion to approve the homeowner to remove trees, seconded by Queen to approve. Motion carried by roll call vote. Councilmembers Kessler, Queen, and Rose voted 'Aye'. Councilmember Lee abstained.

b. Request to release City's interest in encroachment into ROW located at 238 Huntington Ave N. (page 46-50)

City Engineer Tom Gower and Public Works Director Dave Vorse provided comments for the City. The property owner, Cole Blackburn, presented comment.

Mayor Helenberg closed the regular council meeting at 8:17 PM to open a 15 minute executive session.

Mayor Helenberg closed the executive session at 8:32 PM and reopened the regular council meeting.

City received confirmation Councilmember Simonsen was in attendance and was no longer experiencing technical difficulties.

Councilmember Rose made a motion, seconded by Queen to decline a lease agreement at 238 Huntington Ave N. Motion carried by roll call vote. Councilmembers Lee, Kessler, Queen, Simonsen, and Rose voted 'Aye'.

c. Request for Declaration of Cooperation for the Spirit Lake, Toutle/Cowlitz River Collaborative (SLTCRC). (page 51-59)

Councilmember Kessler made a motion, seconded by Rose to approve the Declaration of Cooperation. Motion carried by roll call vote. Councilmembers Lee, Kessler, Queen, Simonsen, and Rose voted 'Aye'.

d. Patrick Bohna, 731 Pioneer Ave NE, requests a utility adjustment for the November/December billing in the amount of \$351.90. Request meets ordinance provisions; staff recommends approval. (page 60)

Councilmember Rose made a motion, seconded by Lee to approve the utility adjustment. Motion carried by roll call vote. Councilmembers Lee, Kessler, Queen, Simonsen, and Rose voted 'Aye'.

e. Dan Farvour, 225 Warren St SW, requests a utility adjustment for the December/January billing in the amount of \$1,493.30. Request meets ordinance provisions; staff recommends approval. (page 61)

Councilmember Kessler made a motion, seconded by Rose to approve the utility adjustment. Motion carried by roll call vote. Councilmembers Lee, Kessler, Queen, Simonsen, and Rose voted 'Aye'.

f. Personal Services Agreement with Townzen & Associates Inc. for inspection and plan review services at an hourly rate of \$85 plus travel time and mileage, on an as-needed basis. (page 62-85)

Councilmember Kessler made a motion, seconded by Rose to approve the agreement. Motion carried by roll call vote. Councilmembers Lee, Kessler, Queen, Simonsen, and Rose voted 'Aye'.

g. Annual Spring Clean-Up Event; CRCDA requests City sponsorship to pay costs of printing forms and flyers quoted at \$403.40 plus tax. (page 86-87)

Councilmember Queen made a motion, seconded by Rose to approve City sponsorship and to pay

the costs of printing the forms and flyers as quoted. Motion carried by roll call vote. Councilmembers Lee, Kessler, Queen, Simonsen, and Rose voted 'Aye'.

h. TIB Supplemental Agreement #3 for Complete Streets in the amount of \$6,600 for preparation of contract documents for bidding and limited construction observation. This increases the current agreement from \$42,000 to \$48,600. (page 88)

Councilmember Queen made a motion, seconded by Lee to approve TIB Supplemental Agreement #3. Motion carried by roll call vote. Councilmembers Lee, Kessler, Queen, Simonsen, and Rose voted 'Aye'.

i. TIB Supplemental Agreement #4 for Complete Streets, in the amount of \$2,500 for photometric design for streetlights on Huntington Ave. This increases the current agreement from \$48,600 to \$51,100. (page 89)

Councilmember Lee made a motion, seconded by Rose to approve TIB Supplemental Agreement #4. Motion carried by roll call vote. Councilmembers Lee, Kessler, Queen, Simonsen, and Rose voted 'Aye'.

10. OTHER BUSINESS

11. ADJOURNMENT

There being no further business, Mayor Helenberg adjourned the meeting at 8:59 PM.

Mayor Paul Helenberg

Clerk-Treasurer Carie Cuttonaro

RESOLUTION NO. 2022-01

A RESOLUTION OF THE CITY OF CASTLE ROCK, WASHINGTON, ADOPTING THE 2022 UPDATE TO THE CITY OF CASTLE ROCK AND CASTLE ROCK SCHOOL DISTRICT #410 PARK AND RECREATION PLAN AND AUTHORIZING CITY STAFF TO SUBMIT THE PLAN TO THE WASHINGTON STATE RECREATION AND CONSERVATION OFFICE IN FULFILLMENT OF FUNDING REQUIREMENTS

WHEREAS, the Washington State Recreation and Conservation Office (RCO) requires that an updated plan for park and recreation facilities be adopted every six years in order for grantees to remain eligible for grants-in-aid, necessitating that the City of Castle Rock submit such an update to the RCO by March 1, 2022; and

WHEREAS, between September 2021 and December 2021, the City of Castle Rock Board of Park Commissioners undertook efforts to review and update the Park and Recreation Plan adopted in 2016 for the Castle Rock area, working in conjunction with the Castle Rock School District superintendent; and

WHEREAS, the proposed 2022 plan update has been prepared to meet the requirements of the RCO with an updated inventory of parks and recreation resources, refinements to the goals and objectives, and an updated capital facilities program for park and recreation facilities responsive to a thorough public outreach effort, and

WHEREAS, the park and recreation plan is adopted by reference as a part of the existing City of Castle Rock Comprehensive Plan, thus serving to comply with planning requirements under RCW 36.70A.070(8); and

WHEREAS, the City was advised by Washington State Department of Commerce staff that as a document of reference in the comprehensive plan, the 2022 plan update does not require 60-day notice to the state under RCW 36.70A.106; and

WHEREAS, via open public meetings, social media, and a community survey, the general public and any interested groups or organizations have had ample opportunity to give input to the process; and

WHEREAS, the Board of Park Commissioners voted on December 8, 2021, to recommend that the City Council approve the 2022 update, incorporating amendments identified at that meeting; and

WHEREAS, a determination of non-significance was issued under the State Environmental Policy Act on July 9, 2021, about which no comments were received; and

WHEREAS, the Castle Rock City Council conducted a public hearing on the 2016 plan update on February 14, 2021, and duly considered all comments made at or received in writing timely to that hearing;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CASTLE ROCK DO HEREBY RESOLVE AS FOLLOWS:

Section 1. The City of Castle Rock and Castle Rock School District #401 Park and Recreation Plan dated February 2022 is hereby adopted.

Section 2. The adopted update replaces and supersedes the 2016 plan update and is recognized for long-range planning purposes as the document of reference in the City's adopted comprehensive plan.

Section 3. City staff is directed to incorporate a copy of this fully executed resolution into Appendix D of the adopted plan update as proof of adoption required by the RCO. It is to replace the City "placeholder" page and, when proof of adoption is received from the School District, it is to replace the School District "placeholder" page without further action from this body.

Section 3. City staff is authorized to submit the adopted 2022 plan update to the RCO at such time as necessary to support City funding application(s).

Adopted by the City Council and signed by the Mayor on this 28th day of February, 2022.

Mayor Paul Helenberg

ATTEST:

Carie Cuttonaro, Clerk-Treasurer

APPROVED AS TO FORM:

Frank Randolph, City Attorney

**CONTRACT AGREEMENT
FOR
CITY OF CASTLE ROCK – PLANNING ASSISTANCE**

THIS AGREEMENT dated for reference purposes January 01, 2022, is entered into by and between the Cowlitz-Wahkiakum Council of Governments, a municipal corporation (hereinafter referred to as the “CWCOG”), and City of Castle Rock (hereinafter referred to as the “Agency”), collectively the “Parties” and individually the “Party.”

RECITALS

WHEREAS, the CWCOG is a regional planning agency organized under RCW 36.64.080 to serve general and special purpose governments in Cowlitz and Wahkiakum region; and

WHEREAS, the Agency is has expressed the necessity for professional planning services as specified in Exhibit A, Scope of Work; and

WHEREAS, the CWCOG currently has the capacity to assist the Agency by providing experienced and skilled staff under their city planning support services;

NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

1. PURPOSE

- 1.1 The CWCOG agrees to perform and complete the work as described in Exhibit A – Scope of Work (hereinafter referred to as the “Work”), attached hereto and by this reference made a part of this Agreement.
- 1.2 The Agency agrees to reimburse the CWCOG for the Work as provided in Section 3 of this Agreement and as defined in Exhibit B – Compensation Rates, attached hereto and by this reference made a part of this Agreement.

2. CWCOG & AGENCY RESPONSIBILITIES

2.1 CWCOG RESPONSIBILITIES

- 2.1.1 The CWCOG shall provide to the Agency professional planning staff to fulfill the Scope of Work as outlined in Exhibit A.

2.2 AGENCY RESPONSIBILITIES

- 2.2.1 The Agency shall provide the CWCOG staff with applicable guidance, ordinances, background information and related documentation in its possession deemed necessary to accomplish the work as set forth in the Exhibit A – Scope of Work.

3. PAYMENT

- 3.1 The Agency, in consideration of the faithful performance of the services to be provided by the CWCOG as described in Exhibit A – Scope of Work, agrees to reimburse the CWCOG for actual direct and related indirect costs of the Work to a maximum, not-to-exceed amount of Twenty Thousand Dollars (\$20,000), as established in this Agreement.
- 3.2 The compensation rate for services to be provided by the CWCOG is marked Exhibit B – Compensation Rates, and is attached hereto and by this reference made a part of this Agreement.

- 3.3 Upon request of the CWCOG and upon the CWCOG's submission to the Agency of invoices and supporting materials as deemed appropriate by the Agency, payment shall be made by the Agency to the CWCOG for expenses reasonably and necessarily incurred in performing the Work. The CWCOG shall request reimbursement from the Agency not more than one time per calendar month.
- 3.4 The CWCOG's request for reimbursement to the Agency shall detail the Work accomplished during the current billing period, as well as a summary of the total costs billed to date. The invoice shall summarize all CWCOG staff time and expenses.
- 3.5 To ensure payment, the CWCOG shall email (preferred) or mail via United States Postal Service invoices and supporting materials to the appropriate contact in Section 6 of this Agreement.
- 3.6 The Agency shall make payment in full to the CWCOG within thirty (30) calendar days after its receipt of an appropriate invoice and approved supporting materials from the CWCOG.
- 3.7 If there is a change in the Scope of Work to be performed by the CWCOG that results in an increase in costs in excess of the maximum amount allowed under section 3.1 herein, the Parties shall enter into an amendment to this Agreement to document the change in scope and to increase the maximum amount reimbursable under this Agreement.
- 3.8 The CWCOG agrees to submit a final invoice to the Agency within sixty (60) calendar days after the CWCOG has completed the Work. At the time of final billing, all necessary adjustments will be made and reflected in the final payment. In the event that such final review or audit reveals overpayment to the CWCOG or under billings to the Agency, the CWCOG agrees to refund any overpayment to the Agency within thirty (30) calendar days after receipt of an invoice from the Agency and the Agency agrees to reimburse the under billed amount to the CWCOG within thirty (30) calendar days after the Agency's receipt of an invoice.

4. AMENDMENT

This Agreement sets forth the entire agreement between the parties with respect to the subject matter hereof and understandings, agreements, representations not contained in this Agreement shall not be binding on either Party. Either Party may request changes to the provisions of this Agreement. Such changes that are mutually agreed upon shall be incorporated by written amendment to this Agreement. No variation or alteration of the terms of this Agreement shall be valid unless made in writing and signed by authorized representatives of the Parties hereto.

5. TERM / TERMINATION

- 5.1 The term of this Agreement shall begin January 1, 2022, and terminate December 31, 2022, or earlier if agreed to in writing by the Parties, except as set forth below in this section. The term of this Agreement may be modified and continued by amendment for work beyond this date at the discretion of the Parties.
- 5.2 Either Party may terminate this Agreement at any time in the event the other Party fails to perform a material obligation of this Agreement or fails to perform any of the requirements of this Agreement, including, but not limited to, if either Party fails to make reasonable progress on the Work or other violation of this Agreement that endangers substantial performance of the Work. The Parties shall serve written notice of a Party's intent to terminate this Agreement setting forth in detail the reasons for such termination. The Party receiving such notice of intent to terminate shall be given the opportunity to remedy the default within fifteen (15) calendar

days of receipt of such notice. If the default is not cured within the designated time period, this Agreement may be terminated immediately by written notice of the aggrieved Party to the other.

- 5.3 Either Party may terminate this Agreement for convenience and without cause upon thirty (30) days written notice to the other Party. The Agency shall pay in full for all services provided up to the date of termination of this Agreement.

6. PARTY CONTACTS

All contact between the Parties, including, but not limited to, Agreement administration, will be between the representatives of each Party or their designee as follows:

CWCOG	AGENCY
William A. (Bill) Fashing, Executive Director Email: bfashing@cwco.org Financial/Contract Amendments Designee: Anisa Kisamore, Chief Administrative Officer Email: akisamore@cwco.org Planning/Scope of Work Designee: Keshia Owens, Comm Dev Planner Email: kowens@cwco.org	Paul Helenberg, Mayor Email: phelenberg@gmail.com Electronic Invoice Designee: Carie Cuttonaro, City Clerk Email: ccuttonaro@ci.castle-rock.wa.us Planning/Scope of Work: Dave Vorse, Public Works Director crpwd@ci.castle-rock.wa.us
Cowlitz-Wahkiakum Council of Govts Administration Annex / 207 4 th Avenue N Kelso, WA 98626	PO Box 370 Castle Rock, WA 98611
Telephone: (360) 577-3041 Facsimile: (360) 214-3425	Telephone: (360) 274-8181 Facsimile: (360) 274-4876

7. NOTIFICATION

Any notice required pursuant to this Agreement shall be in writing and shall be sent postage prepaid by U.S. Mail, return receipt requested, to the individual(s) identified in Section 6 herein unless otherwise indicated in writing by the Parties to the Agreement.

8. INDEMNIFICATION

- 8.1 Each Party to this Agreement shall protect, defend, indemnify, and hold harmless the other Party, its officers, employees, and agents, while acting within the scope of their employment as such, from any and all costs (including reasonable attorneys' fees and costs), claims, judgments, and/or awards of damages (both to persons and/or property), arising out of, or in any way resulting from, each of the Party's own negligent acts or omissions with respect to the provisions of this Agreement. No party will be required to indemnify, defend, or save harmless the other Party if the claim, suit, or action for injuries, death, or damages (both to persons and/or property) is caused by the sole negligence of the other Party. Where such claims, suits, or actions result from the concurrent negligence of the Parties, the indemnity provisions provided herein shall be valid and enforceable only to the extent of the Party's own negligent acts or omission. Each Party

waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend, and hold harmless the other Party and its agencies, officials, agents, or employees.

- 8.2 The indemnification obligation described in this section shall survive the termination of this Agreement.

9. DISPUTES

The designated representatives herein under Section 6 of this Agreement shall use their best efforts to resolve disputes between the Parties. If these individuals are unable to resolve a dispute, the Parties shall agree upon a third party to provide non-binding mediation of the issue prior to institution of litigation. Each Party shall bear its own costs and one-half of the cost of the third-party mediator.

10. VENUE

This Agreement shall be deemed to be made in the County of Cowlitz, State of Washington, and the legal rights and obligations of the Parties shall be determined in accordance with the laws of the State of Washington. All legal actions in connection with this Agreement shall be brought in the superior court situated in the County of Cowlitz, State of Washington.

11. ATTORNEY FEES & COSTS

In the event a suit, or other proceeding of any nature whatsoever, including without limitation any proceeding under the U.S. Bankruptcy Code, is instituted, or the services of an attorney are retained to interpret or enforce any provision of this Agreement or with respect to any dispute relating to this Agreement, the prevailing party shall be entitled to recover from the losing party its attorneys', paralegals', accountants', and other experts' fees and all other fees, costs, and expenses actually incurred and reasonably necessary in connection therewith. In the event of suit, action, arbitration, or other proceeding, the amount thereof shall be determined by the judge or arbitrator, and shall include fees and expenses incurred on any appeal or review, and shall be in addition to all other amounts provided by law.

12. SEVERABILITY

If any provision of this Agreement or its application is held invalid, the remainder of the Agreement or the application of the remainder shall not be affected.

13. ASSIGNMENT

Neither this Agreement nor any interest therein may be assigned by either Party without first obtaining the written consent of the other Party.

14. NONDISCRIMINATION

No person shall, on the grounds of race, creed, color, national origin, sex, sexual orientation, or handicapped condition, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under activities performed pursuant to this Agreement.

15. RECORD RETENTION & AUDIT

During the progress of the Work and for a period of not less than six (6) years from the date of final payment to the CWCOG, the records and accounts pertaining to the services under this Agreement and accounting thereof shall be kept available for inspection and audit by the Parties, City, State, and/or Federal Government, and copies of all records, accounts, documents, or other data pertaining to this Agreement will be furnished upon request. The Parties shall have full

access to and right to examine and copy said records during normal business hours and as often as it deems necessary. The Parties agree that the services performed herein are subject to audit by either or both Parties.

16. COPYRIGHTS

Copyright of all material created by the CWCOG and paid for with funds as a part of this Agreement shall be deemed the property of the Agency authored by the CWCOG. Either Party may use the material and permit others to use such for any purpose consistent with the Party's respective mission. This material includes, but is not limited to, documents, reports, books, videos, pamphlets, sound reproductions, photographs, studies, surveys, tapes, and training material. Materials used to perform the services and create the deliverables of this Agreement that are not created for or paid for through this Agreement shall be owned by such party as determined by law. The legal owner thereof hereby grants a perpetual, unrestricted, royalty free, non-exclusive license to the other party to use and to permit others to use for any purpose consistent with the respective mission of said material.

17. AUTHORIZED SIGNATURES

The undersigned acknowledge that they are authorized to execute this Agreement and bind their respective agencies to the obligations set forth herein.

18. COUNTERPARTS

This agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all such counterparts shall constitute one agreement.

IN WITNESS HEREOF, the Parties have subscribed their names hereto effective as of the year and date first written above.

**COWLITZ-WAHKIAKUM
COUNCIL OF GOVERNMENTS**

By: William A. Fashing
Its: Executive Director

Date: _____

ATTEST

By: Anisa Kisamore
Its: Chief Administrative Officer

Date: _____

CITY OF CASTLE ROCK

By: Paul Helenberg
Its: Mayor

Date: _____

ATTEST

By: Carie Cuttonaro
Its: City Clerk

Date: _____

APPROVED AS TO FORM

By: Frank Randolph
Its: Agency Attorney

Date: _____

Exhibit A

**SCOPE OF WORK
FOR
CITY OF CASTLE ROCK – PLANNING ASSISTANCE**

1.0 PLANNING ASSISTANCE

The Mayor and Public Works Director in coordination with the City Clerk shall prioritize the work assigned to the CWCOG Project Lead. The Project Lead will consult with the appropriate local, state, and federal agencies and private interest parties in order to fulfill the request(s) of the aforementioned Agency representative(s). The Project Lead will also work with the third-party planner, also engaged by the Agency, as needed and appropriate. The City Clerk and the CWCOG Business Administrator shall provide financial oversight for the duration of this contract to maintain budgetary compliance.

1.1 WORK TASKS & COLLABORATION

- 1.1.1 Attend meetings of the planning commission, City Council and other city boards or commissions as requested or as necessary to transmit or develop work, hearings examiner proceedings and development review committee that involve permits and require administrative review.
- 1.1.2 Attend pre-application conferences and offer feedback on land-use proposal to prospective applicants. As appropriate to the type of permit, advise the building official on land-use aspects for development of projects or consider other committee members' input when approving, denying, and/or placing conditions on short subdivisions and boundary line adjustment.
- 1.1.3 Prepare staff reports with findings, recommendations for, and any necessary clarification as appropriate to the hearings examiner, planning commission, City Council for consideration on conditional use permits, variances, special use permits, similar use authorizations, amendments to the zoning map or text, amendments to the comprehensive plan map or text, subdivisions (preliminary/final plats), condominiums, binding site plans, annexations, critical areas permits, appeals and land use and development. Conduct follow-up work to carry out hearing examiner's and council's decisions.
- 1.1.4 Present staff reports at applicable public hearings and assist the hearings examiner and City Council in answering concerns of the applicants and general public.
- 1.1.5 Assist with Agency ordinance and land-use administration procedures; identify roles and responsibilities; and develop amendments as necessary while maintaining compliance with state and federal laws and other ordinances.
- 1.1.6 Pursuant to WAC 197-11-910 and CRMC 18.04.050, the CWCOG's Project Lead is hereby designated as the city's official State Environmental Policy Act (SEPA) Responsible Official as defined in WAC 197-11-788. They shall review environmental documents and the issuance of threshold determinations for both project and non-project actions inside the Agency, as well as documents circulated by other agencies for proposals which are adjacent to and /or affecting the Agency.
- 1.1.7 Provide assistance to Agency staff and the public in response to questions concerning land use and development. Providing clarification reports when necessary.

- 1.1.8 Provide general assistance for such activities as grant applications and administration, researching specific issues, attending meetings and hearings on behalf of the Agency, and attending Agency staff meetings as requested.
- 1.1.9 Assist the Agency in annexation requests, coordination, and preparation for approval by Agency County, and State agencies.
- 1.1.10 As requested, investigate possible land use violations, generate letters to property owners, and prepare reports for use in the code enforcement process. The mayor or, staff will make the final decision on issuance letters and other enforcement actions.

1.2 DELIVERABLE(S)

- 1.2.1 Attendance and participation at planning commission, hearings examiner and City Council meetings, public hearing, and workshops.
- 1.2.2 Legally defensible, written staff reports and oral presentations on land-use applications and proposals as noted in Work Tasks
- 1.2.3 Consultation with Agency staff, the public, and applicants as required regarding planning assistance matters.
- 1.2.4 Legally defensible threshold determinations under SEPA, together with timely notices for publication, posting and mailing.

2.0 CODE UPDATES

This section is intended to address minor and standalone code revisions only. Large code revisions shall be negotiated on a project basis and shall trigger an amendment to both the Scope of Work and contract budget.

2.1 WORK TASKS & COLLABORATION

- 2.1.1 Review the Agency's zoning and other land-use regulations as needed or requested and prepare proposed revisions designed to implement applicable plans and policies as directed by the Agency. Monitor case law, best practices, regulator agency guidance, and other sources to advise Agency when code amendments are needed or desirable.
- 2.1.2 Prepare public notices and other material to support public participation regarding code amendments and facilitate discussion at public meetings.
- 2.1.3 Make final text corrections base upon public comment as directed by the planning commission.
- 2.1.4 Submit proposed code changes to the City Council.
- 2.1.5 Conduct workshops and hearings with the council as necessary and make modification as directed.

2.2 DELIVERABLES

- 2.2.1 Attendance and participation at planning commission and City Council meetings, public hearings and workshops to review proposed code changes.
- 2.2.2 Drafting of final code changes and facilitation of discussion and public participation at hearings and workshops.

3.0 PARK PLAN UPDATE

Per the Washington State Recreation and Conservation Office (RCO) Guidebook- Manual 2, organizations must plan and establish eligibility by producing a comprehensive plan before they may apply for grants. The 2022 work tasks listed below establish the initial efforts to update the City of Castle Rock and the Castle Rock School District Park and Recreation Plan, last updated February 2016, to allow the Agency to remain eligible for funding under all of RCO's grant programs. The 2022 scope of work includes the finalization of the Park and Recreation Plan Revision.

3.1 WORK TASKS & COLLABORATION

- 3.1.1 Finalize the update of the adopted 2016 City of Castle Rock and Castle Rock School District Park and Recreation Plan.
- 3.1.2 Coordinate work on the Park Plan update with the appropriate local, county, regional, and state agencies, as well as members of the public affected by changes to the Plan.
- 3.1.3 Updates made will reflect the input and comments received from the public and Park Board.

3.2 DELIVERABLES

- 3.2.1 Final 2022 Park Plan Update delivered in electronic format to the Agency for Council's consideration.

**COMPENSATION RATES
FOR
CITY OF CASTLE ROCK – PLANNING ASSISTANCE**

The following rates are applicable to the 2022 calendar year.

PROJECT LEAD

<i>Position</i>	<i>Rate</i>
Community Development Planner, Keshia Owens	\$68.22

SERVICE COORDINATION RATES:

<i>Position</i>	<i>Rate Range</i>
Planning Support	\$65.25-77.90
GIS	\$77.90
Support Staff	\$48.81-49.36