

CRITICAL AQUIFER RECHARGE AREAS

Federal Way Revised Code (FWRC) Title 19, Chapter 145, “Critical Aquifer Recharge Areas,” apply to any development activity, or division of land, which requires review under FWRC Chapter 14, “Environmental Policy,” and which is located within a designated Critical Aquifer Recharge Area.

EFFECTIVE DATE OF REGULATION AND VESTING

Projects that have received a Letter of Completeness, or a single-family building permit that has been accepted for review prior to November 25, 2004, are not required to comply with these regulations. All other activities governed by the regulations must fill out a Hazardous Materials Inventory Statement (Bulletin #056).

ACTIVITIES GOVERNED BY REGULATIONS

The following activities must comply with FWRC Title 19, Chapter 145, Article V, “Critical Aquifer Recharge Areas.”

- Construction of any residential structure, including single-family development.
- Construction of any barn or other agricultural structure.
- Construction of any office, school, commercial, recreational, service, or storage building.
- Construction of a parking lot of any size.
- Other minor new construction (see WAC 197-11-800[2]).
- Additions or modifications to or replacement of any building or facility (does not include tenant improvements¹).
- Demolition of any structure.
- Any landfill or excavation.
- Installation of underground tanks.
- Any division of land, including short plats.
- Change of use that involves repair, remodeling, and maintenance activities.
- Dredging.
- Reconstruction/maintenance of groins and similar shoreline protection structures.
- Replacement of utility cables that must be buried under the surface of the bedlands.
- Repair/rebuilding of major dams, dikes, and reservoirs.
- Installation or construction of any utility, except for on-going operation and maintenance activities of public wells by public water providers.
- Personal wireless service facilities.

¹ *Tenant improvement* means any work, improvement or remodeling completely within the interior of a building necessary to meet the varied requirements of continuing or succeeding tenants.

PROHIBITED ACTIVITIES IN SIX-MONTH CAPTURE ZONE

Land uses or activities for development that pose a significant hazard to the city's groundwater resources resulting from storing, handling, treating, using, producing, recycling, or disposing of hazardous materials, or other deleterious substances, shall be prohibited in the six-month capture zone, except as specified in FWRC 19.145.80, "Prohibited Development in Six-Month and One-Year Capture Zones," and as described under Nonconforming Uses in this bulletin.

Prohibited land uses and activities include, but are not limited to:

- a. On-site community sewage disposal systems as defined in Chapter 248-272, WAC;
- b. Hazardous liquid pipelines as defined in Chapter 81.88, RCW;
- c. Solid waste landfills;
- d. Solid waste transfer stations;
- e. Liquid petroleum refining, reprocessing, and storage;
- f. Storage or distribution of gasoline treated with the additive MTBE;
- g. Hazardous waste treatment, storage, and disposal facilities (except those defined under permit by rule for industrial wastewater treatment processes per WAC Chapter 173-303-802[5][c]);
- h. Chemical manufacturing, including but not limited to, organic and inorganic chemicals, plastics and resins, pharmaceuticals, cleaning compounds, paints and lacquers, and agricultural chemicals;
- i. Dry cleaning establishments using the solvent perchloroethylene;
- j. Primary and secondary metal industries that manufacture, produce, smelt, or refine ferrous and non-ferrous metals from molten materials;
- k. Wood treatment facilities, including wood preserving and wood products preserving;
- l. Mobile fleet fueling operations;
- m. Mining (metal, sand, and gravel); and
- n. Other land uses and activities that the city determines would pose a significant groundwater hazard to the city's groundwater supply.

NONCONFORMING USE OR DEVELOPMENT OF PROPERTY

FWRC 19.30.170, "Special Provisions for Critical Aquifer Recharge Areas":

- "(1) A nonconforming use as defined in FWRC 19.145.480 may be continued unless the thresholds of FWRC 19.30.080 are reached, in which case it shall be terminated.
- "(2) Regardless of the thresholds in FWRC 19.30.090, any use, applying for a development permit within six-month, one-year, five-year, or 10-year capture zones must be brought into compliance with the protection measures specified in FWRC 19.145.500."

Nonconforming Uses

A nonconforming use for the purpose of wellhead and critical aquifer recharge protection is any use listed in FWRC 19.145.480 (items *a-n*, above). These uses are prohibited only in the six-month and one-year capture zones. Pursuant to FWRC 19.30.080, any nonconforming use must be terminated if:

- "(1) The applicant is expanding gross floor area on the subject property, whether the expansion involves an addition to an existing building or a new and separate structure.
- "(2) The subject property has been abandoned."

Nonconforming Development

A nonconforming development is an allowable use, based on the Use Zone Charts, which does not meet the capture zone protection measures, per. FWRC 19.145.500, related to critical aquifer recharge areas.

Regardless of the thresholds in FWRC 19.30.090, any nonconforming development that triggers SEPA review must be brought into compliance with the capture zone protection measures specified in FWRC 19.185.060.

PROCESS FOR REVIEW

1. Any development activity or division of land which requires review under FWRC Title 14, “Environmental Policy,” and which is located within a designated Critical Aquifer Recharge Area, shall submit a Hazardous Materials Inventory Statement with a permit application. On-going operation and maintenance activities of public wells by public water providers are exempt from these requirements.
2. If hazardous materials are involved, a SEPA checklist must be filled out. (A determination as to whether hazardous materials will be used, stored, transported, or disposed of in connection with the proposed activity will normally be made at the preapplication stage.)
3. The Development Review Committee will review the Hazardous Materials Inventory Statement, along with the permit application, to determine whether hazardous materials meeting the definition of FWRC 19.05.005² will be used, stored, transported, or disposed of in connection with the proposed activity.
4. The Development Review Committee shall make the following determination:
 - a) No hazardous materials are involved.
 - b) Hazardous materials are involved; however, existing laws or regulations adequately mitigate any potential impact, and documentation is provided to demonstrate compliance. (Refer to list of activities and state regulation that apply to them in this bulletin.)
 - c) Hazardous materials are involved and the proposal has the potential to significantly impact Critical Aquifer Recharge Areas; however, sufficient information is not available to evaluate the potential impact of contamination. The city may require a Hydrogeologic Critical Area Assessment Report prepared by a qualified groundwater scientist determining the potential impacts of contamination on the aquifer.

STATE AND FEDERAL REGULATIONS

Applicants for uses listed below will be required to provide documentation of compliance with state and/or federal standards and regulations.

Statutes, Regulations, and Guidance Pertaining to Groundwater Impacting Activities

ACTIVITY	STATUTE – REGULATION – GUIDANCE
Above Ground Storage Tanks	Chapter 173-303-640 WAC
Animal Feedlots	Chapter 173-216 WAC, Chapter 173-220 WAC
Automobile Washers	Chapter 173-216 WAC, Best Management Practices for Vehicle and Equipment Discharges (WDOE WQ-R-95-56)
Below Ground Storage Tanks	Chapter 173-360 WAC

² “Hazardous materials mean any material, either singularly or in combination, that is a physical or health hazard as defined and classified in the International Fire Code, whether the materials are in usable or waste condition; any material that may degrade groundwater quality when improperly stored, handled, treated, used, produced, recycled, disposed of, or otherwise mismanaged; any hazardous waste, hazardous substance, dangerous waste, or extremely hazardous waste that is a physical or health hazard as defined or classified in Chapter 70.105 RCW and Chapter 173-303 WAC, whether the materials are in usable or waste condition; and petroleum or petroleum products that are in a liquid phase at ambient temperatures, including any waste oils or sludge.”

ACTIVITY	STATUE – REGULATION – GUIDANCE
Chemical Treatment Storage and Disposal Facilities	Chapter 173-303-182 WAC
Hazardous Waste Generators (<i>boat repair shops, biological research facility, dry cleaners, furniture stripping, motor vehicle service garages, photographic processing, printing and publishing shops, etc.</i>)	Chapter 173-303 WAC
Injection Wells	Federal 40 CFR Parts 144 and 146, Chapter 173-218 WAC
Junk Yards and Salvage Yards	Chapter 173-304 WAC, Best Management Practices to Prevent Stormwater Pollution at Vehicles Recycler Facilities (WDOE 94-146)
Oil and Gas Drilling	Chapter 332-12-450 WAC, WAC, Chapter 173-218 WAC
On-Site Sewage Systems (large scale)	Chapter 173-240 WAC
On-Site Sewage Systems <14,500 gal/day	Chapter 246-272 WAC, Local Health Ordinances
Pesticide Storage and Use	Chapter 15.54 RCW, Chapter 17.21 RCW
Sawmills	Chapter 173-303 WAC, 173-304 WAC, Best Management Practices to Prevent Stormwater Pollution at Log Yards (WDOE 95-53)
Solid Waste Handling and Recycling Facilities	Chapter 173-304 WAC
Surface Mining	Chapter 332-18-015 WAC
Waste Water Application to Land Surface	Chapter 173-216 WAC, Chapter 173-200 WAC, WDOE Land Application Guidelines, Best Management Practices for Irrigated Agriculture

QUESTIONS?

Additional questions about Critical Aquifer Recharge may be directed to the Federal Way Department of Community Development's Permit Center (253-835-2607, permitcenter@federalwaywa.gov, 33325 8th Avenue South, Federal Way, WA 98003).

This handout cannot be used as a substitute for codes and regulations. Every project should be reviewed for specific compliance with the City of Federal Way codes and regulations.