

**APPENDIX A.4**  
**EMC 19.33.D.360-590**  
**ENVIRONMENTALLY SENSITIVE AREAS**  
**AND**  
**APPLICABLE DEFINITIONS IN EMC 19.4**

**Article VII. Environmentally Sensitive Areas**

**33D.360 User guide.**

This article establishes regulations pertaining to the development of environmentally sensitive areas. Many areas of Everett have been or may become listed, identified, inventoried, classified or rated as environmentally sensitive by the city or other public agencies. This article establishes regulations for development within or adjacent to all environmentally sensitive areas. If you are interested in developing property identified as containing or adjacent to steep slopes, lakes, streams, wetlands, springs, erosion hazard areas, landslide hazard areas, seismic hazard areas, or other unstable soil conditions, you should read this article. This article contains more stringent requirements than other provisions within this title for affected properties. These regulations supersede any less restrictive requirements contained elsewhere in this title. No action may be undertaken by any person which results in any alteration of an environmentally sensitive area unless such alteration is in compliance with the requirements of this article. Alteration includes the terms “use” and “development” as defined in this title, and includes any modification of the natural environment of environmentally sensitive areas including any grading, filling and/or excavation. Certain exceptions to the requirements of this article are listed in Section 33D.400. (Ord. 2909-06 § 64, 2006; Ord. 1838-91 § 1, 1991.)

**33D.370 Purpose.**

Erosion, flood, landslide, and seismic hazard areas, streams, wetlands, protective buffers, and wildlife habitat areas constitute environmentally sensitive areas that are of special concern to the city. The purpose of this article is to protect the environmentally sensitive areas of the Everett community by establishing standards for development of properties which contain or adjoin environmentally sensitive areas and thus protect the public health, safety, and welfare by:

- A. Preserving, protecting, and restoring environmentally sensitive areas by regulating development within such areas and their buffers;
- B. Mitigating unavoidable adverse impacts by regulating alterations, when protection cannot be required;
- C. Protecting the public from personal injury, loss of life or property damage due to flooding, erosion, landslides, seismic events, or soil subsidence;
- D. Avoiding publicly financed expenditures to correct misuses of environmentally sensitive areas, which may cause:
  - 1. Unnecessary maintenance and replacement of public facilities,
  - 2. Publicly funded mitigation of avoidable impacts,
  - 3. Public costs for emergency rescue and relief operations where the causes are avoidable, or
  - 4. Degradation of the natural environment;
- E. Protecting and enhancing unique, sensitive, and valuable elements of the environment, including fish and wildlife habitat;

F. Alerting appraisers, assessors, owners, potential buyers or lessees to the presence of environmentally sensitive areas and the respective development limitations of such areas;

G. Providing city officials with sufficient information, direction and authority to protect environmentally sensitive areas when evaluating public or private development proposals; and

H. Implementing the policies of the Growth Management Act, State Environmental Policy Act, Chapter 43.21C RCW, Chapter 20.04 of the Everett Municipal Code, the city's general plan, and all updates and amendments, functional plans and other land use policies formally adopted or accepted by the city. (Ord. 2909-06 § 64, 2006: Ord. 1838-91 § 2, 1991.)

**33D.380 Applicability.**

A. This article establishes regulations for the protection of environmentally sensitive areas. No development permit may be issued, no subdivision of land may be approved, nor may any use be established on any lot which contains, adjoins, or is in close proximity to an environmentally sensitive area until approvals required by this article have been granted by the city. Lots which are listed, identified, classified, or rated as environmentally sensitive areas are those which are or may become so designated by the Everett general plan, Everett SEPA resource inventory maps, Everett inventory of environmentally sensitive areas or by any other studies which indicate that all or portions of a lot are environmentally sensitive areas. A site-specific analysis which indicates that any environmentally sensitive area regulated by this article exists on a lot will result in that portion of the lot being classified as environmentally sensitive.

B. In addition to the requirements of this article, the applicant shall obtain all necessary state and federal and other local permits. (Ord. 2909-06 § 64, 2006: Ord. 1838-91 § 3, 1991.)

**33D.390 Environmentally sensitive features.**

On all lots containing or adjoining environmentally sensitive areas the following features shall not be altered or developed except as otherwise permitted by this article:

A. Area of flood hazard (if located in a designated floodplain, see Chapter 19.30 of the Everett Municipal Code);

B. Wetlands;

C. Streams;

D. The following geologically hazardous areas:

1. Slopes of forty percent or greater,

2. Erosion hazard areas when associated with another environmentally sensitive area,

3. Landslide hazard areas.

4. Seismic hazard areas;

E. Fish and wildlife conservation areas;

F. Slopes of twenty-five percent or greater associated or in conjunction with one or more of the sensitive elements listed in subsections A through E of this section; and

G. Ground water discharge areas, such as springs and seeps, that are associated with or occur upon any of the environmentally sensitive areas listed in subsections A through F of this section. (Ord. 2909-06 § 64, 2006: Ord. 1838-91 § 4, 1991.)

**33D.400 Exemptions, exceptions, modifications.**

Certain activities are exempt from the requirements of this article, while other activities which are regulated by this article may be granted specific exceptions or an administrative modification as provided in this article. This section lists the activities which are exempt from the regulations of this article, the exceptions which may be granted to the requirements of this article, and the administrative modifications which can be granted to other requirements of this title of the city code.

A. Exemptions. All activities which are exempted, excepted, or granted modifications shall prevent, minimize and/or compensate for impacts to environmentally sensitive areas to the maximum extent possible. Such activities which are exempted, excepted, or granted modifications shall not be exempt from other laws or permit requirements which may be applicable. The following are exemptions to the provisions of this article; however, the exemptions listed in this section may not be exempted from other state or federal regulations or permit requirements:

1. Emergencies that threaten the public health, safety and welfare, as verified by the city;
2. Legally constructed structures in existence on the date the ordinance codified in this article becomes effective that do not meet the buffer requirements of this article may be remodeled, reconstructed or replaced provided that the new construction or related activity does not further encroach into an environmentally sensitive area. Remodeling or reconstruction shall be subject to all other requirements of the zoning code;
3. Existing and ongoing agriculture in agricultural zones in existence as of the date this article becomes effective; provided, however, at such time as the property ceases to be used for agricultural activities, the property shall be brought into compliance with the provisions of this article;
4. Normal and routine maintenance of legally constructed irrigation and drainage ditches, provided that this exemption shall not apply to any ditches used by salmonids;
5. Normal and routine maintenance of agricultural ponds, livestock watering ponds and fish ponds, provided that such activities shall not involve the conversion of any wetland or stream not used for such purposes on the date this article becomes effective;
6. Entirely artificial structures intentionally constructed by humans from upland areas for purposes of storm water drainage or water quality control, or ornamental landscape ponds, which are not part of a mitigation plan required by this article;
7. Category III wetlands less than five hundred square feet in area having only one wetland class, which is not forested, and which is hydrologically isolated;
8. Category IV wetlands less than eight thousand square feet in area;
9. The following water, sewer, storm drainage, electric, natural gas, cable communications, and telephone utility related activities, public street and public park maintenance activities when undertaken pursuant to best management practices to avoid impacts to environmentally sensitive areas:
  - a. Normal and routine maintenance or repair of existing utility structures or right-of-way,
  - b. Relocation of electric facilities, lines, equipment or appurtenances, not including substations, with an associated voltage of fifty-five thousand volts or less, when required and/or approved by the planning director, using the review process described in Title 15, Local Project Review Procedures,
  - c. Relocation of natural gas, cable communications, telephone facilities, lines, pipes, mains, equipment or appurtenances when required and/or approved by the planning director, using the review process described in Title 15, Local Project Review Procedures,
  - d. Installation or construction in improved street rights-of-way and replacement, operation or alteration of all facilities listed in subsections A.9.b and A.9.c of this section,

e. Normal and routine maintenance of public streets, state highways, and public park facilities. Maintenance and repair does not include any modification that changes the character, scope, or size of the original structure, facility, or improved area nor does it include construction of a maintenance road or the dumping of maintenance debris;

10. Buffer management when approved by the planning director and all agencies with jurisdiction;

11. Forest practices on city-owned watershed property located in remote areas not contiguous to the Everett corporate boundaries, undertaken in accordance with the requirements of the State Department of Natural Resources.

B. Reasonable Use Exception. Nothing in this article is intended to preclude reasonable economic use of property as set forth in this title. If the requirements of this article as applied to a specific lot would deny all reasonable economic use of the lot, development will be permitted if the applicant demonstrates all of the following to the satisfaction of the planning director:

1. There is no other reasonable use or feasible alternative to the proposed development with less impact on the environmentally sensitive area; and

2. The proposed development does not pose a threat to the public health, safety and welfare on or off of the subject lot; and

3. Any alterations permitted to the requirements of this article shall be the minimum necessary to allow for reasonable use of the property; and

4. The inability of the applicant to derive reasonable economic use of the property is not the result of actions by the applicant in subdividing the property or adjusting a boundary line, thereby creating the undevelopable condition after the effective date of this article; and

5. The proposal mitigates the impacts on the environmentally sensitive areas to the maximum extent possible.

C. Reasonable Use Decision Process. Whenever an applicant for a development proposal submits a reasonable use proposal to the planning director, the proposal shall include the following information which will be used to evaluate the criteria for reasonable use exception:

1. A description of the areas of the lot which are either environmentally sensitive or within setbacks required by this article;

2. A description of the amount of the lot which is within setbacks required by other standards of the zoning code;

3. An analysis of the minimum amount of development that would be considered "reasonable economic use" of the lot, including a narrative which includes a factual basis for this determination;

4. An analysis of the impact that the amount of development described in subsection C.3 of this section would have on the environmentally sensitive areas;

5. An analysis of whether any other reasonable use with less impact on the environmentally sensitive areas and buffers is possible. This must also include an analysis of whether there is any practicable on-site alternative to the proposed development with less impact, including reduction in density, phasing of project implementation, change in timing of activities, revision of lot layout, and/or related site planning considerations that would allow a reasonable economic use with less adverse impacts to the environmentally sensitive areas and buffers;

6. A design of the proposal so that the amount of development proposed as "reasonable economic use" will have the least impact practicable on the environmentally sensitive areas;

7. An analysis of the modifications needed to the standards of this article to accommodate the proposed development;

8. A description of any modifications needed to the required front, side and rear setbacks; building height; and landscape widths to provide for a reasonable use while providing protection to the environmentally sensitive areas;
9. Such other information as the planning director determines is reasonably necessary to evaluate the issue of reasonable economic use as it relates to the proposed development.

D. Reasonable Use Administrative Modification. If, in order to provide reasonable economic use, the standards of this title need to be modified, the planning director is authorized to grant an administrative modification to the standards of this title in accordance with the following:

1. If a reasonable economic use of a lot cannot exist without modification of the required front, side and/or rear setbacks, building height, and/or landscape widths, the planning director is authorized to administratively modify such standards only to the extent necessary to provide for a reasonable economic use of the lot while still providing protection to the environmentally sensitive areas;
  2. If a reasonable economic use of a lot cannot exist without a reduction of the buffers of the environmentally sensitive areas, the planning director is authorized to administratively permit a reduction in the buffers only to the extent necessary to provide for a reasonable use of the lot, provided there is adequate mitigation provided for any reduction in the buffer. This approach shall be preferred in circumstances where the environmentally sensitive areas have already been degraded or imputed by activities occurring prior to the effective date of this article, and enhancement/restoration of the degraded environmentally sensitive area can reasonably be expected to be accomplished; or
  3. If a reasonable economic use of a lot cannot exist by means of either subsection D.1 or D.2 of this section, then the planning director is authorized, using the review process described in Title 15, Local Project Review Procedures, to administratively grant a transfer of development rights in addition to subsection D.1 or D.2 of this section, or in lieu of them. For purposes of this section, “transfer of development rights (TDR)” means that the city severs the development rights from the fee interest and permits the owner of the restricted property to either transfer an authorized portion of the development rights in that property to another lot owned by the restricted party in accordance with the following provisions, or permits the owner of the restricted property to sell an authorized portion of the rights to owners of land who can use the authorized development rights in accordance with the following:
    - a. R-S, R-1 and R-2 Zones. The number of dwelling units allowed under a reasonable use determination for any residential development may be transferred to an R-S, R-1 or R-2 zone; provided, that the number of dwelling units allowed to be transferred to the receiving site shall not exceed the lesser of:
      - i. The number of dwelling units which the planning director determines to be the minimum necessary to allow for reasonable economic use of the restricted property, or
      - ii. Twenty percent more dwelling units than would be permitted on the receiving site without the transfer of development rights.
- In approving a transfer of development rights to the receiving site in the R-S, R-1, or R-2 zone, the planning director shall have the authority to allow for a reduction of the minimum lot area allowed by the zone in which the receiving site is located by not more than twenty percent. All such lots shall have a minimum lot width of fifty feet. All dwelling units on such lots shall be single-family dwellings.
- b. R-1(A) and R-2(A) Zones. The amount of development transferred to the receiving lot shall not result in a development density which exceeds the maximum permitted in the use zone of the receiving lot without the transferred development by more than twenty-five percent. All other requirements of the use zone in which the receiving lot is located shall apply to the transferred development.
  - c. Multiple-Family Zones. The amount of development transferred to the receiving lot shall be limited only by all other requirements of this title applicable to the use zone in which the receiving lot is located (building height, off-street parking, setbacks, multiple-family development standards, etc.), excluding maximum permitted density.

d. Commercial and Industrial Zones. The amount of development transferred to the receiving lot shall not exceed that which can be accommodated by allowing an increase of permitted height on the receiving lot of not more than fifteen feet. All other requirements of the use zone in which the receiving lot is located shall be applicable to the transferred development.

E. Public Utility and Infrastructure Exception. If the application of this section would prohibit a development proposal by a public agency or public utility to construct utility lines for the conveyance of water, sewage, storm drainage, natural gas, or telecommunications; or the construction of collector or arterial streets and highways, the agency or utility may request an exception pursuant to this subsection. Such a request shall be reviewed by the hearing examiner using the review process described in Title 15, Local Project Review Procedures. The hearing examiner may approve, or approve with modifications such a request only when the following findings are made:

1. There is no other practicable alternative to the proposed development with less impact on the environmentally sensitive area; and
2. The proposal mitigates the impacts on the environmentally sensitive areas to the maximum extent possible; and
3. The proposal does not impact a significant fish or wildlife habitat area.

F. Prohibition on Variances—Other Exceptions Permitted by this Article. The variance procedures described in Section 41.130 of this title shall not apply to the standards of this article. The following subsections permit alteration or modification of the requirements of this article for protection of environmentally sensitive areas:

1. Subsection 8 for modification of standards for geologically hazardous areas;
2. Subsections 10 and 11 for modification of standards for wetlands and their required buffers;
3. Subsection 14 for modification of standards for streams and their required buffers. (Ord. 2909-06 § 64, 2006; Ord. 2538-01 §§ 44, 45, 46, 2001; Ord. 1838-91 § 5, 1991.)

**33D.410 Permitted uses.**

Uses permitted on lots containing or adjoining environmentally sensitive areas shall be the same as those permitted in the use zone in which the lot is located. Each use shall be evaluated in accordance with the review process required for the proposed use in the use zone in conjunction with the requirements of this article and other city, state, and federal regulations. (Ord. 2909-06 § 64, 2006; Ord. 1838-91 § 6, 1991.)

**33D.420 Submittal requirement—Supporting information.**

A. Submittal Requirements. Applications for land uses or developments proposed on lots with environmentally sensitive areas shall be filed with the planning department. The city may waive specific submittal requirements determined to be unnecessary for review of a specific application. All developments proposed on lots which may contain or adjoin environmentally sensitive areas shall be evaluated by the applicant to provide the information necessary for the planning department to determine if and to what extent the site contains environmentally sensitive areas.

B. Supporting Information. All land uses and developments proposed on or adjacent to lots which are listed, identified, inventoried, classified, or rated as environmentally sensitive shall include studies which describe the environmental conditions of the site. No activity, including clearing, filling or grading, shall be permitted until the information required by this section is reviewed and approved by the city. Such studies shall be prepared by experts with demonstrated qualifications in the area of concern, who shall prepare the studies in accordance with the requirements of this article to the satisfaction of the planning department. The city may retain consultants at the applicant's expense to assist the review of studies outside the range of staff expertise. The planning director shall develop and maintain a detailed list of required study contents. (Ord. 2909-06 § 64, 2006; Ord. 1838-91 § 7, 1991.)

**33D.430 Geologically hazardous areas.**

A. Designation. The following are considered geologically hazardous areas and shall not be altered except as otherwise provided by this article:

1. Slopes of forty percent or greater;
2. Landslide hazard areas;
3. Seismic hazard areas;
4. Erosion hazard areas when associated with other environmentally sensitive areas;
5. Other areas which the city has reason to believe are geologically hazardous.

B. Protective Requirements.

1. Development proposals on properties which are designated as or which the city has reason to believe are geologically hazardous areas shall have a standard buffer of twenty-five feet from the top, toe and sides of such areas.
2. The setback buffer requirement listed in subsection B.1 of this section may be increased by the city when necessary to protect public health, safety and welfare, based upon information contained in a geotechnical report or for other reasons related to the geologically hazardous conditions of the lot.
3. The setback buffers required by this subsection shall be maintained in native vegetation to provide additional soil stability and erosion control. If the buffer area has been cleared, it shall be replanted with native vegetation

C. Permitted Alterations. Unless associated with another environmentally sensitive area, the planning director, using the review process described in Title 15, Local Project Review Procedures, may allow alteration of an area identified as a geologically hazardous area or the standard buffers listed in subsection B of this section if he/she approves a geotechnical report which demonstrates that:

1. The proposed development will not create a hazard to the subject property, surrounding properties or rights-of-way, erosion or sedimentation to off-site properties or bodies of water;
2. The proposal addresses the existing geological constraints of the site, including an assessment of soils and hydrology;
3. The proposed method of construction will reduce erosion potential, landslide and seismic hazard potential, and will improve or not adversely affect the stability of slopes;
4. The proposal uses construction techniques which minimize disruption of existing topography and natural vegetation;
5. The proposal is consistent with the purposes and provisions of this article;
6. The proposal mitigates all impacts identified in the geotechnical report; and
7. All utilities and access roads or driveways to and within the site are located so as to require the minimum amount of modification to slopes, vegetation or geologically hazardous areas.

D. Additional Requirements. As part of any approval of development on or adjacent to geologically hazardous areas or within the standard buffers required by subsection B of this section, the city may require:

1. An environmentally sensitive area protective covenant or tract for the area approved for alteration or any geologically hazardous area not approved for alteration;
2. The presence of a geotechnical consultant on the site to supervise during clearing, grading, filling and construction activities which may affect geologically hazardous areas, and provide the city with certification that the

construction is in compliance with his/her recommendations and has met with his/her approval, and other relevant information concerning the geologically hazardous conditions of the site;

3. Vegetation and other soil stabilizing structures or materials be retained or provided. (Ord. 2909-06 § 64, 2006; Ord. 2538-01 § 47, 2001; Ord. 1838-91 § 8, 1991.)

**33D.440 Wetland delineation and rating.**

A. Wetland Delineation. Wetlands shall be identified and delineated in accordance with the approach specified in the Washington State Wetlands Identification and Delineation Manual. The wetlands boundaries established by this approach shall then be used in satisfying the requirements of this section. Wetlands shall be classified according to the classification of the U.S. Fish and Wildlife Service's Classification of Wetlands and Deepwater Habitats of the United States.

B. Wetland Rating. "Wetland rating" means the placement of wetlands into one of the following categories:

1. Category I Wetlands (Exceptional Resource Value). "Category I wetlands" means wetlands that meet any one of the following criteria:

a. Documented habitats of primary association;

b. High-quality native wetland communities, including documented category I or II quality natural heritage wetland sites and sites which qualify as a category I or II quality natural heritage wetland;

c. High-quality, regionally rare wetland communities with irreplaceable ecological functions, including sphagnum bogs and fens, kelp, and eel grass beds, estuarine wetlands, or coniferous forested wetlands occurring on organic soils;

d. Wetlands which:

i. Are greater than or equal to five acres in size;

ii. Have three or more wetland classes; and

iii. Have an open water component.

2. Category II Wetlands (Significant Resource Value). "Category II wetlands" means wetlands other than category I wetlands that meet any one of the following criteria:

a. Wetlands which:

i. Are greater than or equal to one acre;

ii. Have forty to sixty percent open water in dispersed patches; and

iii. Have two or more wetland classes.

b. Wetlands which:

i. Are greater than or equal to one acre; and

ii. Have a forested wetland class; or

c. Riparian wetlands of any size.

3. Category III Wetlands (Important Resource Value). "Category III wetlands" means wetlands which do not qualify as category I, II or IV wetlands.

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4. Category IV Wetlands (Ordinary Resource Value). “Category IV wetlands” means wetlands that are hydrologically isolated; have an area less than or equal to one acre; and contain one vegetation class, eighty percent of which is dominated by one or more of the species listed below:

Common Name	Scientific Name
Small-fruited bulrush	<i>Scirpus microcarpus</i>
Hard hack spirea	<i>Spirea douglasii</i>
Purple loosestrife	<i>Lythrum salicaria</i>
Townsend’s cordgrass	<i>Spartina townsendii</i>
Canada thistle	<i>Cirsium arvense</i>
Himalayan blackberry	<i>Rubus discolor</i>
Reed canary grass	<i>Phalaris arundinacea</i>
Velvet grass	<i>Holcus lanatus</i>
Foxtail	<i>Alopecurus pratensis</i>
Soft rush	<i>Juncus effusus</i>
Reed	<i>Phragmites communis</i>
Orchard grass	<i>Dactylis glomerata</i>
Buttercup	<i>Ranunculus repens</i>
Colonial Bent Grass	<i>Agrostis tenuis</i>
Redtop	<i>Agrostis alba</i>

(Ord. 2909-06 § 64, 2006; Ord. 2397-99 § 60, 1999; Ord. 1838-91 § 9, 1991.)

**33D.450 Standard wetland buffer width requirements.**

A. Standard Buffer Width. The following minimum buffers of native vegetation shall apply to wetlands based upon the wetland category. Buffers shall be measured from the wetland boundary delineated as required by Section 33D.440.A. If the designated buffer contains significant vegetation with drip lines extending beyond the edge of the buffer, the buffer shall be extended to five feet beyond the outside edge of the drip line. For purposes of this section, “significant vegetation” means a healthy evergreen tree, ten inches in diameter or greater, measured 4.5 feet above existing grade.

1. Category I: one hundred feet;
2. Category II: seventy-five feet;
3. Category III: fifty feet;
4. Category IV: twenty-five feet.

B. Permitted Uses within Required Buffers.

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1. Subject to the following criteria, wetponds, bioswales, and detention facilities are permitted within the following required wetland buffers areas:
  - a. Permitted Areas.
    - i. For category I wetlands, facilities shall be permitted only within buffer areas where there has been prior legal alteration which eliminated significant vegetation and where a buffer enhancement plan is provided for the proposed facility.
    - ii. For category II wetlands, facilities shall be located to minimize reduction of the required buffer. To the maximum extent feasible, facilities shall be located within buffer areas where there has been prior legal alteration or in buffer areas with less than fifty percent forested/native vegetation cover.
    - iii. Buffer areas for category III and IV wetlands.
  - b. Criteria.
    - i. Permitted facilities shall not substantially alter wetland hydrology and shall not degrade wetland functions;
    - ii. Facilities shall not occupy more than fifty percent of the total required buffer area;
    - iii. Facilities shall be designed to be integrated into the wetland buffer as a natural drainage system meeting the requirements as established in Section [18.28.080\(I\)\(1\)](#) and [18.28.160\(C\)\(1\)](#). The slopes and all areas that are disturbed shall be planted with the native vegetation consistent with a buffer enhancement/mitigation plan. Above ground concrete walls and structures are not permitted. Below grade structures may be permitted only if it can be shown to the satisfaction of the planning director that the use of such materials fits with the natural design of the proposed facility and does not interfere with wildlife passages or adversely impact biological functions of the buffer or the adjacent environmentally sensitive area;
    - iv. The location of a maintenance/access road is limited to the upland side of the facility, unless otherwise approved by the planning director; and
    - v. With the exception of buffers for category I wetlands, buffer replacement is not required for facilities which meet the criteria in subsection (a) and this subsection.
  - c. Maintenance. Normal and routine maintenance of the storm water drainage or water quality control facility and required planting is permitted and shall exempt from the requirements of this article.
- C. Required Fencing—Signs.
  1. A temporary construction fence shall be placed along the construction setback line to prevent encroachment during construction. The city may require any development proposed on a lot which contains or adjoins a wetland to provide a fence or other structural protection at the edge of the wetland buffer to minimize encroachment into and disturbance of the wetland and buffer area after construction.
  2. The city may require the applicant to provide informational signs in conspicuous locations on the fence or near the wetland to identify the wetland as an environmentally sensitive area and the importance of maintaining it in a clean and undisturbed condition. Such signs shall meet the requirements for incidental signs as specified in Chapter 36 of this title.
- D. Increased Standard Wetland Buffer Width. The minimum buffer width stated in subsection A of this section shall be increased when the city finds, based upon a site-specific wetland analysis, that impacts on the wetland from a proposed development can only be mitigated by a greater buffer width. The standard wetland buffer width shall be increased:
  1. When the wetland is used by salmonids, plant and/or animal species proposed or listed by the federal government or state as an endangered, threatened, rare, candidate, sensitive or monitored; or has critical or

outstanding potential habitat for those species or has unusual nesting or resting sites such as heron rookeries or raptor nesting trees, and the increased buffer is necessary to protect such habitat;

2. When the adjacent land is susceptible to severe erosion and erosion control measures will not effectively prevent adverse wetland impacts; or

3. When the standard buffer has minimal or degraded vegetative cover that cannot be improved through enhancement; or

4. When the minimum buffer for a wetland extends into an area with a slope of greater than twenty-five percent, the buffer shall be the greater of:

a. The minimum buffer for that particular wetland; or

b. Twenty-five feet beyond the point where the slope becomes twenty-five percent or less.

E. **Standard Wetland Buffer Width Reduction.** The planning director may, using the review process described in Title 15, Local Project Review Procedures, reduce the standard wetland buffer width only when there has previously been substantial legal alteration of the wetland and/or buffer on the subject lot or adjoining lots. The planning director shall require buffer width averaging rather than allowing a buffer width reduction except when the proposal includes a wetland and buffer enhancement plan that improves the functional values of the buffer and the wetland. An enhanced buffer shall not result in more than a fifty percent reduction in the standard buffer width, and the reduced buffer shall not be less than the minimum dimension allowed by buffer width averaging.

F. **Buffer Width Averaging.** The city may allow buffer width averaging, provided that the total area on the lot contained within the buffer is not less than that required within the standard buffer, and that averaging will not reduce the wetland functional values. The city may require buffer width averaging in order to provide protection to a particular portion of a wetland which is especially sensitive, or to incorporate existing significant vegetation or habitat areas into the buffer. Buffer width averaging shall not adversely impact the functions and values of the wetland. The adjusted minimum buffer width shall not be less than fifty percent of the standard buffer width or twenty feet, whichever is greater. (Ord. 2909-06 § 64, 2006; Ord. 2538-01 § 48, 2001; Ord. 2332-98 § 1, 1998; Ord. 1838-91 § 10, 1991.)

**33D.460 Avoiding wetland impacts.**

A. **Preservation and Protection Goals.** It is the short-term goal of this article that there be no net loss of the acreage or functional values of all wetlands regulated by this article. The long-term goal is a net gain in functional values. To realize wetland preservation goals, the city will use the following methods of wetland impact mitigation in order of preference:

1. Avoid impact altogether by not taking a certain action or parts of an action;

2. Minimize impact by limiting the degree or magnitude of the action and its implementation by using appropriate technology, or by taking affirmative steps to avoid or reduce impact;

3. Rectify the impact by repairing, rehabilitating or restoring the affected sensitive areas;

4. Reduce or eliminate the impact over time by prevention and maintenance operations during the life of the actions;

5. Compensate for the impact by replacing, enhancing, or providing substitute wetland areas and environments;

6. Monitor the impact and take appropriate corrective measures.

B. **Wetland Preservation/Alteration Thresholds.**

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1. Category I Wetlands. All category I wetlands shall be preserved except as provided in this article. The planning director, using the review process as described in Title 15, Local Project Review Procedures, may allow alteration of category I wetlands:

- a. Where alteration is allowed pursuant to Section 33D.400 of this article:
- b. The alteration is solely to provide access to deep water for a water-dependent use or to expand an existing water-dependent use in an area which is designated as an urban environment by the shoreline master program, and the alteration does not act to degrade the functions of the wetland, or the alteration proposed has a reasonable likelihood of being fully mitigated; or
- c. The alteration is to allow a public park or public recreational use, or to provide public access to the shoreline within an area designated as an urban or conservancy/recreation environment by the shoreline master program; provided, that there is no feasible and reasonable alternative to making the alteration and the alteration does not act to degrade the functions of the wetland, or the alteration proposed has a reasonable likelihood of being fully mitigated;
- d. Enhancement of wetlands is permitted where the wetlands being enhanced are in a degraded condition and the enhancement proposed is likely to provide substantial rehabilitation and improved functional values.

2. Category II Wetlands. All category II wetlands shall be preserved except as provided in this article. The planning director, using the review process described in Title 15, Local Project Review Procedures, may allow alteration of category II wetlands:

- a. Where alteration is allowed pursuant to Section 33D.400; or
- b. The alteration is solely to provide access to deep water for a water-dependent use or to expand an existing water-dependent use in an area which is designated as an urban environment by the shoreline master program, and the alteration does not act to degrade the functions of the wetland, or the alteration proposed has a reasonable likelihood of being fully mitigated; or
- c. The alteration is to allow a public park or recreational use, or to provide public access to the shoreline within an area designated as an urban or conservancy/recreation environment by the shoreline master program; provided, that there is no feasible and reasonable alternative to making the alteration and the alteration does not act to degrade the functions of the wetland, or the alteration proposed has a reasonable likelihood of being fully mitigated; or
- d. In areas which are not subject to the shoreline master program, alteration of category II wetlands may only occur under the following circumstances:
  - i. Water-dependent activities may be approved where there are no practicable alternatives which would not involve a wetland or which would not have other significant adverse environmental impacts.
  - ii. Non-water-dependent activities may be allowed to alter category II wetlands only upon demonstration that (a) reduction in the size, scope, configuration, or density of the project as proposed and all alternative designs of the project as proposed that would avoid or result in less adverse impact on a regulated wetland or its buffer, will not accomplish the basic purpose of the project; and (b) in cases where the applicant has rejected alternatives to the project as proposed, due to constraints such as zoning, deficiencies of infrastructure, or lot size, the applicant has made a reasonable attempt to remove or accommodate such constraints.
- e. Enhancement of wetlands is permitted where the wetlands being enhanced are in a degraded condition and the enhancement proposed is likely to provide substantial rehabilitation and improved functional values.

3. Category III Wetlands.

- a. Alteration of category III wetlands may be allowed by the city only when mitigation is provided for the loss of all functional values.

- b. Enhancement of wetlands is permitted.
- 4. Category IV Wetlands. Category IV wetlands are permitted to be altered as provided for category III wetlands, or in the event the city has established a wetland mitigation fund for the area in which the wetland is located, then the applicant may pay into a wetland mitigation fund established by the city, which shall be a pro rata share of the cost of the drainage facilities or improvements to be constructed, based upon the size and functional values of the wetland to be altered. All mitigation funds shall be paid to the city prior to alteration of the category IV wetland.
- 5. Silver Lake Watershed. The city shall not allow the draining, filling, encroachment or degradation of wetlands within the Silver Lake Watershed, except for the following circumstances:
  - a. Hydrologically isolated category III or IV wetlands with a surface area of three thousand square feet or less, or hydrologically isolated category IV wetlands less than ten thousand square feet in area. Compensatory wetland mitigation shall still be required for alteration of such wetlands;
  - b. Where alteration is necessary to allow for reasonable use of property as provided in Section 33D.400, or to allow access to a lot; or
  - c. When the applicant demonstrates to the satisfaction of the planning director and public works director that such activities will result in an enhancement of wetlands which improves the water quality functions of the wetland, or will improve the other functions of the wetland if water quality will not be degraded. Any such proposed activities shall be reviewed using the review process described in Title 15, Local Project Review Procedures.
- C. Compensating for Wetland Impacts. Wetland and buffer alteration allowed by this section shall be subject to the following requirements:
  - 1. Each activity/use shall be designed so as to minimize overall wetland or buffer alteration to the greatest extent possible.
  - 2. Construction techniques and field marking of areas to be disturbed shall be approved by the city prior to site disturbance to ensure minimal encroachment.
  - 3. A mitigation plan shall be prepared in accordance with subsection D of this section.
  - 4. The city may require the applicant to rehabilitate a wetland or its buffer by removing debris, sediment, non-native vegetation, or other material detrimental to the area, by replanting disturbed vegetation, or by other means deemed appropriate by the city. Rehabilitation or restoration may be required at any time that a condition detrimental to water quality or habitat exists.
  - 5. In approving alteration or relocation of a wetland, the city shall require that an area larger than the altered portion of the wetland be provided as compensation for destruction of the functions of the altered wetland and to ensure that such functional values are replaced. The following ratios apply to creation or restoration which is in-kind, on-site, timed prior to or concurrent with alteration, and has a high probability of success. The first number specifies the acreage of wetlands requiring replacement and the second specifies the acreage of wetlands altered.
    - a. Category I. 6:1
    - b. Category II or III.
      - i. Forested—3:1
      - ii. Scrub-Shrub—1.5:1
      - iii. Emergent—1.25:1
    - c. Category IV. 1.25:1 unless a mitigation fee is paid as provided by subsection B.4 of this section.
    - d. The city may increase the ratios under any one of the following circumstances:

- i. Uncertainty as to the probable success of the proposed restoration or creation;
  - ii. Significant period of time between destruction and replication of wetland functions;
  - iii. Projected losses in functional value;
  - iv. The relocation is off-site or the replacement is with out-of-kind compensation;
  - v. The wetland has been illegally filled or altered.
- e. The city may decrease these ratios if the findings of a wetlands mitigation plan demonstrates that no net loss of wetland functional values will result from the decreased ratio.
- f. In no case shall the replacement acreage be less than that which is altered.
6. When wetland compensation is allowed, the city may require that the wetland compensation be completed and functioning prior to allowing the existing wetland to be filled or altered. For category I wetlands, the city shall require the relocated wetland area to be completed and functioning prior to allowing the existing wetland to be altered.
7. The city may limit certain development activities near a wetland to specific months in order to minimize impacts on wetland functional values.
8. The city may apply additional conditions or restrictions or require specific construction techniques in order to minimize impacts on wetland functional values.
9. Wetland compensation shall not occur in areas having high-quality terrestrial habitat.
10. The city may allow wetland mitigation banking in lieu of other forms of wetland impact mitigation when the mitigation site being used for the credit allowed pursuant to this section is either a wetland created from a site which was previously nonwetland or a wetland of lesser size or functional value than the wetland being altered. Under the wetland mitigation banking process, alteration of a wetland on the development site shall occur only when the created or enhanced wetland is successfully functioning in accordance with an approved wetland mitigation plan. The created or enhanced wetland shall have greater functional value than that being altered. In evaluating a wetland mitigation banking proposal, the planning director shall determine the amount of credit given for mitigation banking using the ratios described in subsection C.5 of this section as a guide. The amount of credit will be dependent upon the functional value of the wetland being altered and the wetland being used for mitigation banking. The city, using the review process described in Title 15, Local Project Review Procedures, may allow wetland mitigation banking under the following circumstances:
- a. When alteration is allowed pursuant to the “reasonable use” exception as provided in Section 33D.400.B;
  - b. When alteration is allowed for a water-dependent or water-related use;
  - c. When on-site or off-site mitigation is not practicable;
  - d. When the wetland being altered is of a lower quality and has lesser functional values than the wetland which is being used for the mitigation banking.
- D. Wetland Mitigation Plans. When wetland alteration is permitted by this article, a mitigation plan shall be required to describe the methods the applicant will use to minimize impacts to wetland functional values. A detailed mitigation plan shall be approved by the city prior to any development activity occurring on a lot upon which wetland or wetland buffer alteration, restoration, creation or enhancement is proposed. The mitigation plan shall be prepared by a qualified person using accepted methodologies and include information as required by the planning director’s administrative guidelines, and shall:

1. Include a baseline study that quantifies the existing functional values of the wetland, functional values that will be lost, and the wetland's functional values after mitigation;
  2. Specify how functional values will be preserved or replaced;
  3. Specify how impacts will be avoided, minimized or compensated for;
  4. Specify when mitigation will occur relative to project construction and to the requirements of permits issued by other agencies;
  5. Include provisions for monitoring the mitigated area on a long-term basis to determine whether the plan was successful;
  6. Include a contingency plan specifying what corrective actions will be taken should the mitigation not be successful; and
  7. Include provisions for an assurance device as provided by Chapter 40 of this title to ensure that work is completed in accordance with the mitigation plan and that restoration or rehabilitation is performed in accordance with the contingency plan if mitigation failure results within five years of implementation.
- E. Protective Covenants and Tracts. The city may require that wetlands and their buffers on development sites be placed within an environmentally sensitive area protective covenant or tract as provided in Section 33D.550 of this article. (Ord. 2909-06 § 64, 2006; Ord. 2538-01 §§ 49—52, 2001; Ord. 1838-91 § 11, 1991.)

**33D.470 Lakes, ponds, constructed and created wetlands.**

- A. Lakes. Lakes which are subject to the shoreline master program shall be protected as required by Section 33D.460.B of this article. Lakes which are not subject to the shoreline master program shall be protected according to the applicable wetland category.
- B. Ponds. Ponds are considered wetlands unless they were intentionally created from nonwetland sites, in which case they do not constitute wetlands and are not regulated by the provisions of this article. Ponds shall be protected according to the applicable wetland category.
- C. Constructed Wetlands. Wetlands that were intentionally constructed by humans from nonwetland sites shall be considered as artificial wetlands, and shall not be regulated by the provisions of this article. Constructed wetlands can include ponds, irrigation and drainage ditches, grass-lined swales, canals, storm water detention and retention facilities, and artificial landscape features.
- D. Created Wetlands. Wetlands created to mitigate alteration, restoration, creation, or enhancement activities allowed pursuant to this article shall be protected according to the applicable wetland category being replaced. (Ord. 2909-06 § 64, 2006; Ord. 1838-91 § 12, 1991.)

**33D.480 Stream rating.**

Rating means the placement of streams into one of the following categories:

- A. Category I. Category I streams are those streams inventoried as shorelines of the state under the city's shoreline master program, pursuant to Chapter 90.58 RCW, or those that are used by salmonids.
- B. Category II. Category II streams are those streams that are smaller than category I streams that flow year-round during years of normal rainfall.
- C. Category III. Category III streams are those streams that are naturally intermittent or ephemeral during years of normal rainfall and are not used by salmonids in any portion of the stream system.
- D. Category IV. Category IV streams are naturally occurring, intermittent swales. (Ord. 2909-06 § 64, 2006; Ord. 1838-91 § 13, 1991.)

**33D.490 Standard stream buffer requirements.**

A. Standard Buffer Width. It is the goal of this article to preserve streams and their buffers in a natural condition to the maximum extent possible. Buffers shall be measured from the top of the upper bank or, if that cannot be determined, from the ordinary high-water mark as surveyed in the field. In braided channels and alluvial fans, the top of the bank or ordinary high-water mark shall be determined so as to include the entire stream feature. Except for category IV streams, if the designated buffer contains significant vegetation with drip lines extending beyond the edge of the buffer, the buffer shall be extended to five feet beyond the outside edge of the drip line. For purposes of this section, significant vegetation means a healthy evergreen tree, ten inches in diameter or greater, measured four and one-half feet above existing grade. Except as otherwise provided by Section 33D.400 of this article, the following minimum buffers of native vegetation shall apply to streams based upon category:

1. Category I Streams. Category I streams shall have a minimum buffer of one hundred feet on each side of the stream, except that properties under the jurisdiction of the shoreline master program which abut category I streams may have a minimum buffer of less than one hundred feet when shoreline public access improvements may otherwise be permitted or required during the shoreline permit review process; or when a water-dependent or water-related use which requires a lesser buffer standard is approved during the shoreline permit review process.
2. Category II Streams. Category II streams shall have a minimum buffer of fifty feet on each side of the stream.
3. Category III Streams. Category III streams shall have a minimum buffer of twenty-five feet.
4. Category IV Streams. Category IV streams shall have a minimum buffer of ten feet.

B. Permitted Uses within Required Buffers. Subject to the following criteria, wetponds, bioswales, and detention facilities are permitted within the following required stream buffers areas:

1. Permitted Areas.

a. For category I streams, facilities shall be permitted only within buffer areas where there has been prior legal alteration which eliminated significant vegetation and where a buffer enhancement plan is provided for the proposed facility.

b. For category II streams, facilities shall be located to minimize reduction of the required buffer. To the maximum extent feasible, facilities shall be located within buffer areas where there has been prior legal alteration or in buffer areas with less than fifty percent forested/native vegetation cover.

c. Buffer areas for category III and IV streams.

2. Criteria.

a. Permitted facilities shall not substantially alter stream hydrology and shall not degrade stream functions;

b. Facilities shall not occupy more than fifty percent of the total required buffer area;

c. Facilities shall be designed to be integrated into the stream buffer as a natural drainage system meeting the requirements as established in Sections [18.28.080\(I\)\(1\)](#) and [18.28.160\(C\)\(1\)](#). The slopes and all areas that are disturbed shall be planted with the native vegetation consistent with a buffer enhancement/mitigation plan. Above ground concrete walls and structures are not permitted. Below grade structures may be permitted only if it can be shown to the satisfaction of the planning director that the use of such materials fits with the natural design of the proposed facility and does not interfere with wildlife passages or adversely impact biological functions of the buffer or the adjacent environmentally sensitive area;

d. The location of a maintenance/access road is limited to the upland side of the facility unless otherwise approved by the planning director; and

e. With the exception of buffers for category I streams, buffer replacement is not required for facilities which meet the criteria in subsection B.1 of this section and this subsection.

3. Maintenance. Normal and routine maintenance of the storm water drainage or water quality control facility and required planting is permitted and shall exempt from the requirements of this article.

C. Standard Buffer Width Increase. The city shall require increased buffer widths as necessary to protect streams when the stream is particularly sensitive to disturbance, or the development poses unusual impacts and the increased buffer width is necessary to protect the environmentally sensitive areas described in this subsection. Circumstances which may require buffers beyond minimum requirements include, but are not limited to, the following:

1. The stream reach affected by the development proposal serves as critical fish habitat for spawning or rearing as determined by the city using information from resource agencies including, but not limited to, the Washington State Departments of Fisheries or Wildlife, U.S. Fish and Wildlife Service, and native tribes;
2. The stream or adjacent riparian corridor is used by species listed by the federal government or the state as endangered, threatened, rare, sensitive, or monitored, or provides critical or outstanding actual or potential habitat for those species, or has unusual nesting or resting sites such as heron rookeries or raptor nesting or lookout trees;
3. The land adjacent to the stream and its associated buffer is classified as a geologically hazardous or unstable area;
4. Increased buffer width is necessary to effectively include the riparian corridor of the stream;
5. A trail or utility corridor, as provided by Section 33D.400, is proposed within the buffer;
6. A drainage or water quality improvement, approved by the city, is proposed within the buffer;
7. When the minimum buffer for a stream extends into an area with a slope of greater than twenty-five percent, the buffer shall be the greater of:
  - a. The minimum buffer for that particular stream; or
  - b. Twenty-five feet beyond the point where the slope becomes twenty-five percent or less.

D. Standard Stream Buffer Width Reduction. The planning director may, using the review process as described in Title 15, Local Project Review Procedures, reduce the standard stream buffer width only when there has previously been substantial legal alteration of the stream and/or buffer on the subject lot or adjoining lots. The planning director shall require buffer width averaging rather than allowing a buffer width reduction except when the proposal includes a stream and buffer enhancement plan that improves the functional values of the buffer and the stream. An enhanced buffer shall not result in more than a fifty percent reduction in buffer width, and the reduced buffer shall not be less than the minimum dimension allowed by buffer width averaging.

E. Riparian Wetland. Any stream adjoined by a riparian wetland shall have the buffer which applies to the wetland, unless the stream buffer requirement is more protective, in which case the stream buffer requirement shall apply. Riparian wetland and associated stream buffers shall not be reduced except as provided in Section 33D.400 of this article.

F. Standard Buffer Width Averaging. The city may allow buffer width averaging, provided that the total area on the lot contained within the averaged buffer is not less than that required within the standard buffer. The city may require buffer width averaging in order to provide protection to a particular portion of a stream which is especially sensitive or to incorporate existing significant vegetative or habitat features into the buffer. Averaging shall not adversely impact the functions and values of the stream system. In either case, the adjusted minimum buffer width shall not be less than fifty percent of the standard buffer width or ten feet, whichever is greater. (Ord. 2909-06 § 64, 2006; Ord. 2538-01 § 53, 2001; Ord. 2332-98 § 2, 1998; Ord. 1838-91 § 14, 1991.)

**33D.500 Avoiding stream impacts.**

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## EVERETT SHORELINE MASTER PROGRAM

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A. Stream Preservation/Alteration Goal and Priorities. It is the short-term goal of this section that there be no net loss of the functional values of all streams in the city, and the long-term goal to improve the quality and functional values of the stream systems in Everett. To realize stream preservation and protection goals, the city will use the following methods of stream impact mitigation in order of preference:

1. Avoid impact altogether by not taking a certain action or parts of an action;
2. Minimize impact by limiting the degree or magnitude of the action and its implementation by using appropriate technology, or by taking affirmative steps to avoid or reduce impact;
3. Rectify the impact by repairing, rehabilitating or restoring the affected sensitive areas;
4. Reduce or eliminate the impact over time by prevention and maintenance operations during the life of the actions;
5. Compensate for the impact by replacing, enhancing, or providing substitute streams and environments;
6. Monitor the impact and take appropriate corrective measures.

B. Stream Preservation/Alteration Thresholds.

1. Category I Streams. All category I streams shall be preserved. The city may allow alteration of category I streams under the following circumstances:

- a. Where alteration is allowed pursuant to Section 33D.400 of this article;
- b. The alteration is solely to provide access to deep water for a water-dependent use or to expand an existing water-dependent use in an area which is designated as an urban environment by the shoreline master program, and the alteration does not act to degrade the functions of the stream, or the degradation can be fully mitigated; or
- c. When necessary to provide access to a lot or a substantial portion of a lot when no other feasible means of access exists. Use of common access points shall be required for abutting lots which have no other feasible means of access. Alteration for the purpose of providing access shall be limited to the minimum number of stream crossings required to permit reasonable access.

2. Category II and Category III Streams.

- a. Except as provided in this subsection no alteration of a category II or category III stream shall be allowed except as otherwise provided by Section 33D.400 of this article; or
- b. The planning director may, using the review process described in Title 15, Local Project Review Procedures, allow alteration or relocation of category II or category III streams only when the applicant can demonstrate that the alteration or relocation enhances the functional values of the stream;
- c. Culverting within a stream shall only be permitted as provided by Section 33D.400 of this article or to provide access to a lot or a substantial portion of a lot when no other feasible means of access exists. Use of common access points shall be required for abutting lots which have no other feasible means of access. Culverting shall be limited to the minimum number of stream crossings required to permit reasonable access. The type of culvert used shall be as required by the Department of Fisheries or Department of Wildlife.

3. Category IV Streams. Category IV streams may be altered, relocated or culverted when:

- a. The loss of the functional values of the altered stream can be fully replaced;
- b. No feasible and reasonable development alternative exists which does not alter, relocate or culvert the stream; or
- c. It is necessary for access to the lot or a substantial portion of a lot.

4. Watershed Management Plans. The city shall not allow relocation or alteration of any category I, II or III stream located within an area where an adopted watershed management plan does not allow for stream alteration or relocation, except when allowed by Section 33D.400 of this article, or to allow access to a lot or substantial portion of a lot when no other feasible means of access exists.

C. Compensating for Stream Impacts. Stream system and buffer alteration, when allowed by Section 33D.400 of this article shall be subject to the following requirements:

1. Each activity/use shall be designed so as to minimize overall stream system or buffer alteration to the greatest extent possible.
2. Construction techniques and field marking of areas to be disturbed shall be approved by the city prior to site disturbance to ensure minimal encroachment.
3. A mitigation plan shall be prepared in accordance with subsection D of this section.
4. The city may require the applicant to rehabilitate a stream system and its buffer area by removing harmful debris, sediment, non-native vegetation, or other material detrimental to the area, by replanting disturbed vegetation, by removing culverted portions of a stream from culverts, or by other means deemed appropriate by the city. Rehabilitation or restoration may be required at any time that a condition detrimental to stream functional values exists.
5. In approving alteration or relocation of a stream system or its buffer, the city may require that an area larger than the altered portion of the stream and its buffer be provided as compensation for destruction of the functions of the altered stream system and to ensure that such functional values are replaced.
6. When stream system relocation or compensation is allowed, the city shall require that the stream relocation be completed prior to allowing the existing stream to be filled or altered.
7. The city may limit certain development activities near a stream to specific months in order to minimize impacts on water quality and wildlife habitat.
8. The city may apply additional conditions or restrictions, or require specific construction techniques in order to minimize impacts to stream systems and their buffers.
9. Stream compensation shall not occur in areas having high-quality terrestrial habitat.

D. Stream Impact Mitigation Plans. When stream alteration is permitted, mitigation shall be required for the loss of stream system functional values. All required mitigation shall be specified in a detailed mitigation plan, which shall be approved by the city prior to any development activity occurring on a site upon which stream system alteration is proposed. The mitigation plan shall be prepared by a qualified person using accepted methodologies and include information as required by the planning director's administrative guidelines, and shall:

1. Include a baseline study that quantifies the existing functional values of the system, functional values that will be lost, and the stream's functional values after mitigation;
2. Specify how functional values will be replaced;
3. Specify when mitigation will occur relative to project construction and to the requirements of permits issued by other agencies;
4. Include provisions for monitoring the mitigated area on a long-term basis to determine whether the plan was successful;
5. Include a contingency plan specifying what corrective actions will be taken should the mitigation not be successful; and

6. Include provisions for an assurance device as provided by Chapter 40 of this title to ensure that work is completed in accordance with the mitigation plan and that restoration or rehabilitation is performed in accordance with the contingency plan if mitigation failure results within five years of implementation.

E. Protective Covenants and Tracts. The city may require that streams and their buffers on development sites be placed within an environmentally sensitive area protective covenant or environmentally sensitive area tract as provided by Section 33D.550 of this article.

F. Fencing and Other Protection Mechanisms. The city may require that any development proposed on a lot which contains or adjoins a stream provide a fence or other structural protection along the upland side of the stream and its buffer to minimize encroachment into and disturbance of the stream and buffer area. (Ord. 2909-06 § 64, 2006: Ord. 2538-01 § 54, 2001; Ord. 1838-91 § 15, 1991.)

**33D.510 Areas of special flood hazard.**

Areas of special flood hazard shall be governed by the provisions of Chapter 30 of this title. (Ord. 2909-06 § 64, 2006: Ord. 1838-91 § 16, 1991.)

**33D.520 Fish and wildlife conservation areas.**

It is the goal of the city to preserve, protect and enhance fish and wildlife conservation areas through sound habitat management practices. If a development is proposed on or within a distance which could impact fish and wildlife conservation areas, as described in this section, the applicant shall provide a habitat management plan (HMP), prepared by a qualified expert for evaluation by the city, state and federal agencies. The HMP shall be based upon sound habitat management practices and be designed to achieve specific habitat objectives. The city shall ask the appropriate resource agencies to review and comment on the development impacts and the provisions of the HMP.

A. Habitats of Primary Association. When a development is proposed on or adjacent to a habitat of primary association, the applicant shall prepare an HMP. All actions shall be taken which are necessary to avoid reducing the likelihood that the species will maintain and reproduce over the long term.

B. Riparian Corridors. When riparian corridors are in satisfactory condition for fish and wildlife use, the habitat management approach shall be to allow the natural ecosystems to function with minimal disruption. Protection from human disturbance shall be carried out by following the standards of this article for wetlands, streams, lakes and ponds. When a development is proposed on a lot with a disturbed riparian corridor, the city may require that the habitat be enhanced by creating more diversity and eliminating any source of degradation, including, but not limited to:

1. Vegetative plantings of native or preferred wildlife food species;
2. Construction of nesting islands or installation of nesting boxes;
3. Removal of pollutant sources or fish movement blockages; or
4. Other actions necessary to enhance the viability of the riparian corridor for the benefit of wildlife habitat.

C. Continuous Vegetative Corridors Linking Watersheds. When a development is proposed in an area which is within vegetative corridors linking watersheds, the applicant shall prepare an HMP, which includes measures to:

1. Design cleared areas with irregular boundaries to increase edge habitat and the length of edge habitat; and
2. Maintain a mix of natural vegetation having structural diversity in a continuum from watershed to watershed.

D. Significant Biological Areas. When a development is proposed adjacent to or on a significant biological area, an HMP shall be prepared, shall include all actions necessary to maintain or enhance the significant biological features present. (Ord. 2909-06 § 64, 2006: Ord. 1838-91 § 17, 1991.)

**33D.530 Ground water discharge areas.**

Lots which contain or are affected by springs, seeps or ground water discharge areas shall be evaluated to determine the relationship the discharge has on geologically hazardous areas, wetlands, streams, fish, plant and wildlife habitat areas. An analysis of such features shall be included in the application for development of the subject property. The city may allow modification of such features consistent with the provisions of this article related to geological hazards, streams, wetlands, fish, plant and wildlife habitat areas, as applicable. (Ord. 2909-06 § 64, 2006: Ord. 1838-91 § 18, 1991.)

**33D.540 Lot area—Lot coverage—Permitted number of dwelling units in multiple-family developments.**

A. Lot Area. The calculation of minimum lot area for lots which contain areas classified as environmentally sensitive shall be determined as provided in this section. Lots that include land which is submerged beneath the mean high water mark of lakes, Port Gardner Bay, or category I streams shall not be permitted to include the submerged portion of the lot in the calculation of lot area.

1. Single-Family Residential Developments. This subsection applies to new lots created through the subdivision, short subdivision, or cluster development process, where the land to be subdivided contains environmentally sensitive areas and/or buffers. This subsection is not to be used with the lot area averaging provisions in Section 39.130 of this title, or in easement access short subdivisions.

a. For any new residential lot created, one hundred percent of the area of those portions of the lot classified as environmentally sensitive and buffer may be credited toward the calculation of lot area. All such lots shall contain not less than four thousand square feet, exclusive of environmentally sensitive area or buffer. Land placed within an environmentally sensitive area protective tract may be included in the calculation of lot area as provided in this article. Where a protective tract is provided, all lots shall contain a net area, excluding the tract, of not less than four thousand square feet.

2. Multiple-Family Developments. In multiple-family residential developments, all of the area which is classified as environmentally sensitive may be included in the calculation of minimum lot area; however, the permitted number of dwelling units shall be calculated in accordance with the requirements of subsection C of this section.

3. Commercial and Industrial Zones.

a. If the minimum lot area requirement is twelve thousand square feet or less, none of those portions of the lot which are classified as environmentally sensitive may be used in the calculation of minimum lot area. Land placed within an environmentally sensitive area protective tract may be included in the calculation of minimum lot area provided in this article.

b. If the minimum lot area requirement is between twelve thousand square feet and one acre, up to twenty-five percent of the area of those portions of the lot classified as environmentally sensitive may be included in the calculation of minimum lot area. Land placed within an environmentally sensitive area protective tract may be included in the calculation of minimum lot area provided in this article.

c. If the minimum lot area requirement is greater than one acre, up to fifty percent of those portions of the lot classified as environmentally sensitive may be included in the calculation of minimum lot area. Land placed within an environmentally sensitive area protective tract may be included in the calculation of minimum lot area provided in this article.

B. Lot Coverage. For any zone in which lot coverage requirements apply, only the area defined as buildable shall be used in the calculation of lot coverage.

C. Permitted Number of Dwelling Units in Multiple-Family Developments. For zones in which multiple-family developments are permitted, the number of dwelling units allowed for lots which contain areas classified as environmentally sensitive shall be determined using the formula specified in this subsection. Lots that include land which is submerged beneath lakes, Port Gardner Bay, or category I streams shall not be permitted to include the submerged portion of the lot in the calculation of lot area.

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**EVERETT SHORELINE MASTER PROGRAM**

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$[(D.U./Ac.) (Buildable Area)] + [(D.U./Ac.) (Undevelopable Area)] \times (Development Factor) = \text{Permitted Number of Dwelling Units.}$

(D.U./Ac. is derived by dividing 43,560 square feet by the density standard in the applicable zone, as listed in the use-standards table.)

The development factor is determined by the following table:

Percent of Lot in Buildable Area*	Development Factor
91—99	0.45
81—90	0.40
71—80	0.35
61—70	0.30
51—60	0.25
41—50	0.20
31—40	0.15
21—30	0.10
11—20	0.05
0—10	0.03

\*Percentages of more than two digits shall be rounded down to two digits.

(Ord. 2909-06 § 64, 2006; Ord. 2720-03 § 5, 2003; Ord. 1838-91 § 19, 1991.)

**33D.550 Covenants, tracts, notice on title.**

A. Environmentally Sensitive Area Covenants. All features classified as environmentally sensitive by this article, including buffers, shall be placed in environmentally sensitive area protective covenant.

B. Environmentally Sensitive Area Tracts. The city may require that any area classified as environmentally sensitive be placed in a separate tract, rather than included in the protective covenant. Such a tract shall remain in the same ownership as the parcel it was segregated from; placed into undivided common ownership of all lots within a proposed subdivision, short subdivision, or binding site plan; or dedicated to a public agency who is willing to accept the tract for long-term management of the protected resource.

C. Notice on Title. The owner of any property on which a development proposal is submitted shall file with the Snohomish County auditor a notice approved by the planning department, which shall provide notice in the public record of the presence of an environmentally sensitive area covenant or tract, the application of this article to the property, and that limitations on actions in or affecting such areas may exist. The applicant shall submit proof that the notice has been filed for record before the city may approve any development proposal on the site. The notice shall run with the land, and failure to provide such notice to any purchaser prior to transferring any interest in the property is a violation of this article. (Ord. 2909-06 § 64, 2006; Ord. 1838-91 § 20, 1991.)

**33D.560 Appeals.**

Any decision made by the city pursuant to this article shall be subject to the appeals provisions as set forth in Title 15, Local Project Review Procedures. (Ord. 2909-06 § 64, 2006; Ord. 2538-01 § 55, 2001; Ord. 1838-91 § 21, 1991.)

**33D.570 Assurance devices.**

The city shall require performance or maintenance assurance devices in accordance with Chapter 40 of this title to ensure compliance with this article and adequate protection and maintenance of environmentally sensitive areas. (Ord. 2909-06 § 64, 2006; Ord. 1838-91 § 22, 1991.)

**33D.580 Previously altered environmentally sensitive areas.**

It is the goal of this article to restore and enhance the condition of environmentally sensitive areas which have been previously altered. Properties containing environmentally sensitive areas which have been previously altered may be developed in accordance with all requirements of this article and this title of the code.

A. Legal Alterations. Environmentally sensitive areas regulated by this article which previously have been legally altered in accordance with all local, state and federal regulations in effect at the time of alteration may be developed in accordance with the requirements of this article. Any prior alteration which was legally commenced that resulted in an environmentally sensitive area which is regulated by this article being reclassified as buildable shall be evaluated using the review process described in Title 15, Local Project Review Procedures. The planning director may approve any development proposal which meets all other requirements of this title, or modify such proposal based upon the impacts that the proposal would have on any remaining area classified by this article as environmentally sensitive. The planning director shall use all authority granted by this article, SEPA, or other legal mechanism to require enhancement of the previously altered environmentally sensitive area to the condition which would be required by this article for new development, to the maximum extent feasible.

B. Unauthorized Alterations.

1. Environmentally sensitive areas regulated by this article which have been illegally altered may be developed in accordance with the requirements of this title; provided, that all environmentally sensitive areas which were illegally altered shall be considered environmentally sensitive areas and shall be regulated in accordance with the requirements of this article. Any proposal to develop on a lot which contains an environmentally sensitive area that has been illegally altered shall be reviewed by the planning director using the review process described in Title 15, Local Project Review Procedures.

2. The planning director shall require restoration of the unauthorized area of alteration to a condition which is equivalent or superior to its prior natural condition, to the extent that such condition can be determined. As an alternative to restoration of the illegally altered environmentally sensitive area, the planning director may allow for the recreation of wetlands, stream corridors, or habitat areas of the same type which have been altered in a different location than that which has been altered if the alternative location will result in a net improvement in functional values or a higher quality environmentally sensitive area than possible in the area which has been previously altered.

3. Any illegal alteration of an environmentally sensitive area that occurred prior to the effective date of this article which is not proposed for development as allowed by this article shall be restored as provided by Section 33D.590 of this article. (Ord. 2909-06 § 64, 2006; Ord. 2538-01 §§ 56, 57, 2001; Ord. 1838-91 § 23, 1991.)

**33D.590 Enforcement—Violation—Penalties.**

Notwithstanding the enforcement, violation and penalties provision found in Chapter 41 of this title, the provisions set forth in this section shall apply to all violations of this article. Penalty and enforcement provided in this section shall not be deemed exclusive, and the city may pursue any remedy or relief it deems appropriate.

A. Any person, firm, corporation, or association or any agent thereof who violates any of the provisions of this article shall be subject to the provisions of Chapter 1.20.

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**EVERETT SHORELINE MASTER PROGRAM**

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- B. Any person, firm, corporation, or association or any agent thereof who violates any of the provisions of this article is guilty of a misdemeanor punishable by a fine not to exceed one thousand dollars. It shall be a separate offense for each and every day or portion thereof during which any violation of any provisions of this article is committed.
- C. Any person, firm, corporation, or association or any agent thereof who violates any of the provisions of this article is liable for all damages to public or private property arising from such violation, including the cost of restoring the affected area to an equivalent or improved condition prior to the violation occurring. If an equivalent condition cannot be provided, the violator shall be subject to a fine in an amount equal to the value of the damage to the environmentally sensitive area, determined using best available methods of calculating the value of vegetation, land and water resources, including but not limited to the evaluation methods of the International Society of Arboriculture.
- D. Restoration shall include, but not be limited to, the replacement of all improperly removed ground cover with species similar to those which were removed or other approved species such that the biological and habitat values will be replaced, improper fill removed and slope stabilized. Studies by the qualified experts shall be submitted to determine the conditions which were likely to exist on the lot prior to the illegal alteration.
- E. Restoration shall also include installation and maintenance of interim and emergency erosion controls measures until such time as the restored ground cover and vegetation reach sufficient maturation to function in compliance with the performance standards adopted by the city.
- F. The city shall stop work on any existing permits and halt the issuance of any or all future permits or approvals for any activity which violates the provisions of this article, until the property is fully restored in compliance with this article and all penalties are paid.
- G. Notwithstanding the other provisions provided in this article, anything done contrary to the provisions of this article or the failure to comply with the provisions of this article is declared to be a public nuisance.
- H. The city is authorized to apply to any court of competent jurisdiction and any such court, upon hearing and for cause shown, may grant a preliminary, temporary or permanent injunction restraining any person, firm, and/or corporation from violating any of the provisions of this article and compelling compliance with the provisions thereof. The violator shall comply with the injunction and pay all costs incurred by the city in seeking the injunction. (Ord. 2909-06 § 64, 2006: Ord. 1838-91 § 24, 1991.)

EMC 19.4  
ZONING CODE DEFINITIONS

**Sections:**

[4.010](#) Zoning Code definitions, general.

[4.020](#) Zoning Code definitions, specific.

[4.030](#) Floodplain overlay zone definitions.

**4.010 Zoning Code definitions, general.**

Except where specifically defined in this section or other sections of this title, all words used in this title shall have the meaning commonly or logically associated therewith. When not inconsistent with the context, words used in the present tense include the future, words in the singular include the plural, and words in the plural include the singular. The word "person" may be taken for persons, association, firm, partnership or corporation as well as the individual. The masculine includes the feminine. The word "occupied" includes premises designed or intended to be occupied; the word "used" includes designed or intended to be used. The word "shall" is always mandatory; the word "may" denotes a use of discretion in making a decision. (Ord. 1847-92 § 2, 1992.)

**4.020 Zoning Code definitions, specific.**

This section defines specific terms used within this title in a context which may have a different meaning or connotation than ordinarily associated with such terms.

"Abandoned sign" means a sign which no longer identifies or advertises a bona fide business, lessor, service, owner, product or activity, or for which no legal owner can be found, and which has no historical significance.

"Above ground utility and communications facility, major" means a structure or improvement built or installed above ground for the purpose of providing utility services or communications services to more than one lot. Included in this definition for purposes of this title are electrical substations; water storage reservoirs or tanks or pumping stations; telephone exchanges; manmade regional drainage detention or retention facilities; natural gas regulating facilities greater than four feet in height; sewer lift stations; wireless communications facilities including personal wireless service facilities; television or radio transmission or reception towers, antennas; and other ancillary or similar facilities or structures housing utility or communications equipment or improvements as determined by the planning director. This term shall not apply to equipment and vehicle storage yards, offices and buildings used to support the operations of utility or communication service providers.

"Above ground utility and communications facility, minor" means fire hydrants; amateur radio antennas or towers and television reception dishes or antennas for private residential use regulated by Section [39.040](#) of this title; utility poles carrying electrical transmission lines with fifty-five thousand volts or less of electrical power; pad-mounted switches and transformers; telephone or television cables; utility structures less than four feet in height above grade, minor above ground equipment associated with underground utility facilities, or other such similar facilities as determined by the planning director. This term shall not apply to equipment and vehicle storage yards, offices and buildings used to support the operations of utility or communication service providers.

"Accessory dwelling unit," see "dwelling unit, accessory."

"Accessory use, activity or structure" means a use, activity, structure or part of a structure which is customarily subordinate and incidental to the permitted principal use or building, located on the same lot with such principal use or building, and erected or established only after or in conjunction with the establishment of the principal use or building.

"Adjacent" means any lot or property contiguous to or within one hundred feet of a proposed development site.

"Adjoining," See "adjacent."

"Adult entertainment establishment, live" means any building or portion of a building which contains any exhibition or dance wherein any employee or entertainer is unclothed or in such attire, costume or clothing so as to expose to view any portion of the female breast below the areola, or male or female genitals, vulva, anus and/or buttocks, or any portion of the pubic hair and which exhibition or dance is for

the benefit of a member or members of the adult public, or advertised for the use or benefit of a member of the adult public, held, conducted, operated or maintained for profit, direct or indirect.

“Adult family home” means a home in which twenty-four-hours-per-day residential care is provided for up to four adults by an owner or tenant of the home in which care is provided plus the family of the provider. Under certain circumstances, up to six adults may be accommodated, in accordance with the regulations of the Washington State Department of Social and Health Services.

“Adult mini theater” means an enclosed building with a capacity of less than fifty persons, a portion of an enclosed building with a capacity of less than fifty persons, or outdoor theater with a capacity of less than fifty persons used for presenting motion picture films, video cassettes, cable television or any other such visual media, distinguished or characterized by emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas” as defined herein for observation by patrons therein.

“Adult motion picture theater” means an enclosed building with a capacity of fifty or more persons, a portion of an enclosed building with a capacity of fifty or more persons, or outdoor theater with a capacity of fifty or more persons used for presenting motion picture films, video cassettes, cable television or any other such visual media, distinguished or characterized by an emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas” as defined herein for observation by patrons therein.

“Adult panoram establishment” means any building or portion of a building which contains device(s) which for payment of a fee, membership fee or other charge, is used to exhibit or display a picture, view or other graphic display distinguished or characterized by emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas” as defined herein for observation by patrons therein.

“Adult use business” means any live adult entertainment establishment, adult panoram establishment, adult motion picture and adult mini theater, or any establishment which provides one or more of the activities listed herein even if only a portion of the establishment is dedicated to one or more of the activities listed herein.

“Aggregates extraction and related manufacturing” means the mining and processing of sand and gravel resources and closely related manufacturing such as concrete or asphalt batch plants, manufacturing of products using concrete or aggregate materials, storage and transport of mined or excavated materials, and other closely related uses accessory to aggregate extraction activities.

“Agricultural activities” means those activities conducted on lands defined in RCW 84.34.020(2), and those activities involved in the production of crops or livestock, for example, the operation and maintenance of farm and stock ponds or drainage ditches, operation and maintenance of ditches, irrigation drainage ditches, changes between agricultural activities and normal maintenance, repair or operation of existing serviceable structures, facilities or improved areas. Activities which bring an area into agricultural use are not part of an ongoing operation. An operation ceases to be ongoing when the area on which it is conducted is converted to a nonagricultural use or has lain idle for more than five years, unless the idle land is registered in a federal or state soils conservation program, or unless the activity is maintenance of irrigation ditches, laterals, canals or drainage ditches related to an existing and ongoing agricultural activity. Forest practices are not included in this definition.

“Agricultural industries” means industrial processing of agricultural products, excluding breweries or wineries.

“Aircraft assembly” means the assembly of aircraft components into finished aircraft or the repair, service or maintenance of aircraft, including engine testing, test flights, and major overhaul or rebuilding.

“Aircraft landing facilities” means airports, landing fields, helipads, or seaplane landing facilities and terminals for the accommodation of passengers and/or cargo carried by means of air transport.

“Alley” means a public or private way permanently reserved as a means of access to abutting property.

“Alteration” means any human-induced action which impacts the existing condition of an environmentally sensitive area. Alterations include but are not limited to grading; filling; dredging; draining; channelizing; cutting, pruning, limbing or topping, clearing, relocating or removing vegetation; applying herbicides or pesticides or any hazardous or toxic substance; discharging pollutants; grazing domestic animals; paving, construction, application of gravel; modifying for surface water management purposes; or any other human activity that impacts the existing vegetation, hydrology, wildlife or wildlife habitat. Alteration does not include walking, passive recreation, fishing or other similar activities.

“Antenna” means any exterior apparatus or apparatuses designed for telephonic, radio, data, internet, or other communications through the sending and/or receiving of electromagnetic waves or radio frequency signals, including without limitation equipment attached to a tower or building for the purpose of providing personal wireless services.

“Applicant” means a person who applies for any permit or approval to do anything governed by this chapter and who has legal standing to apply for a permit or approval on the specific property.

“Architectural barrier” means a fence, berm, wall or combination of earth, plant and structural materials designed and constructed to reduce visual or noise impacts between properties or uses.

“Assisted living facility” means a residential facility for elderly persons (age fifty-five or older) who require moderate to extensive assistance with daily tasks such as cooking, eating, bathing, housekeeping, dispensing of medicines, shopping, appointments and other tasks.

“Assurance device” means a financial mechanism by which the city assures compliance with the requirements of this chapter or other development or use entitlement.

“Attached housing,” see “dwelling, single-family attached.”

“Automated teller machine” means an electronic machine which is customarily located at banks, shopping centers or other commercial locations which automatically disburses cash to persons with card identification.

“Awning sign” means the use of an awning attached to a building for advertisement, identification or promotional purposes. Only that portion of the awning which bears graphics, symbols and/or written copy shall be construed as being a sign.

“Base elevation” means the average elevation of the approved topography of a parcel at the midpoint on each of the four sides of the smallest rectangle which will enclose the proposed structure, excluding all eaves and decks. The approved topography of a parcel is the natural topography of a parcel or the topographic conditions approved by the city prior to January 1st, 1988, or as approved by a subdivision, short subdivision, binding site plan, shoreline substantial development permit, filling and grading permit, or SEPA environmental review issued after January 1st, 1988. On any lot exhibiting evidence of an unapproved fill, a soils analysis may be required to determine the approved topography. An approved bench mark will establish the relative elevation of the four points used to establish the base elevation.

“Bed and breakfast house” means an owner-occupied dwelling which is used to provide overnight guest lodging in not more than five guest rooms and which usually provides a morning meal as part of the room rate structure.

“Below ground utilities” means equipment or infrastructure installed underground for the transmission or provision of public or private utilities or communications services.

“Benchmark” means a fixed reference point or object, more or less permanent in character, the elevation of which is known, or to which a nominal elevation can be assigned.

“Billboard” means an outdoor advertising sign or poster panel which advertises products, businesses, and/or services not connected with the site on which the sign is located, and which sign is a substantial permanent structure with display services of a type which are customarily leased for commercial purposes.

“Biologist” means a person who has earned a degree in biological sciences from a college or university, with practical experience that includes at least two years expertise in matters involving wetlands biology or stream ecology in the Pacific Northwest.

“Board of adjustment” means the board of adjustment for the city.

“Boarding” means the provision of a room for lodging purposes and meals in return for payment of rent.

“Boardinghouse” means a principal building other than a hotel where lodging which complies with the city Housing Code, with one or more daily meals, is provided for compensation on other than a day-to-day basis and which is not open to transient guests.

“Bog” means wetlands with extensive living sphagnum moss or sphagnum peat and a distinctive flora that results from the acidic substrate.

“Bottling plant” means a plant in which soft drinks are made and bottled for wholesale distribution.

“Brewery, distillery or winery” means a plant in which beer, wine or other alcoholic beverages are produced and bottled for wholesale distribution.

“Brewery, micro-” means a small-scale beer brewing plant located within a restaurant or tavern building in which a portion of the building is used for the production of beer for wholesale distribution and for on-site retail sale to restaurant or tavern patrons.

“Buffer” means an area which provides the margin of safety through protection of slope stability, attenuation of surface water flows and erosion controls necessary to minimize risk to the public from loss of life or well-being or property damage resulting from natural disasters, or an area which is an integral part of the natural system and which provides shading, input of organic debris and coarse sediments, room for variation in stream or wetland boundaries, habitat for wildlife and protection from harmful intrusion necessary to protect the public from losses suffered when the functions and values of important aquatic resources are degraded.

“Buffer management” means an activity proposed by a public agency, public utility, or private entity, and approved by the planning director, within a buffer required by this title, that is proposed to:

1. Reduce or eliminate a verified public safety hazard;
2. Maintain or enhance wildlife habitat diversity; or
3. Maintain or enhance the fishery or other aspects of stream, wetland, or terrestrial ecosystems.

“Buildable area” means the lot area minus undevelopable areas.

“Building” means any structure built for the support, shelter or enclosure of persons, animals, vehicles, mechanical devices or property of any kind. When separated by common walls located on property lines, each portion of such structure shall be deemed a separate building.

“Building appurtenance” means chimneys, steeples, television and radio antennas, ham radio antennas, television dish antennas, flagpoles, and vent pipes in any zone, and mechanical systems in zones other than single-family zones, and other similar features, excluding signs, which are customarily located on or above the roof of a building.

“Building footprint” means the perimeter of a building at the outer edge of the outside walls of the building, including cantilevered portions of a building.

“Building official” means the building official for the city or his/her designee.

“Bulk fuel storage” means an installation for the storage, handling and selling of flammable fuels and from which fuels are sold at wholesale or distributed to retail stations or for private use.

“Business license” means a license issued by the city for the purpose of collecting business tax revenues.

“Business or vocational school” means a public or private post-secondary school other than a community college or four-year college providing occupational or job skills training for specific occupations.

“Business park” means more than one commercial and/or light industrial uses located within a building or buildings on one or more lots built as a unified development with common access, landscaping, parking areas and other site improvements.

“Carport” means a covered shelter for an automobile, open on two or more sides.

“Casino, mini” means a business which provides gambling and gaming as a primary source of its revenue, which may include food and beverage sales for consumption on the premises as a secondary part of its business activity.

“Cease(d)” means, for purposes of Chapter 38 of this title, to come to an end; to not use; to vacate. For purposes of Chapter [19.38](#), no showing of intent to cease is required.

“Certificate of occupancy” means a permit to occupy a building.

“City attorney” means the city attorney for the city or his/her designee.

“City council” means the city council of the city.

“City engineer” means the public works director for the city or his/her designee.

“Clearance of a sign” means the smallest vertical distance between grade and lowest point of any sign, including framework and embellishments, extending over that grade.

“Clearing” means the act of removing or destroying vegetation or other organic plant materials by physical, mechanical, or chemical means.

“Clinic” means a building or portion of a building containing an office or offices of medical doctors, dentists, psychiatrists, chiropractors, physical therapists and other members of the medical profession which provide facilities and services for outpatient care, diagnosis, treatment, and observation of individuals suffering from illness, injury or other conditions requiring medical, surgical or therapeutic services. This definition does not include facilities providing patient beds for overnight care, or opiate substitution treatment facilities. See also “medical-related activities.”

“Code” means the city Zoning Code, also known as Title [19](#) of the Everett Municipal Code.

“Code compliance officer” means the code compliance officer for the city.

“College, university” means a public or private institution for post-secondary education and uses normally incidental thereto, including but not limited to classrooms, administrative offices, cafeteria, athletic facilities, dormitories, and off-street parking areas.

“Combination sign” means a sign which is partially or wholly supported by a pole or similar structural support attached to the ground, which is also attached to, and which may be supported by, the wall or roof of a building.

“Commercial parking” means a parking lot or parking garage that is built as a facility to provide parking for rent or lease to the general public, as opposed to a parking lot or garage which is constructed as required or accessory parking for another building.

“Commuter parking” means a parking lot parking structure that is built to provide parking for persons commuting to another location, such as a park-and-ride lot, as opposed to a commercial parking facility or parking which is which is required or accessory parking for another building or use.

“Compensation” means the replacement, enhancement, or creation of an undevelopable environmentally sensitive area equivalent in functions, values and size to those being altered or lost to development.

“Compensation, in-kind” means the replacement of wetlands with substitute wetlands whose characteristics closely approximate those destroyed or degraded by a regulated activity.

“Compensation, off-site” means the replacement of wetlands away from the lot on which a regulated wetland has been impacted.

“Compensation, on-site” means the replacement of wetlands on or adjacent to the lot on which a wetland has been impacted by a regulated activity.

“Compensation, out-of-kind” means the replacement of wetlands with substitute wetlands whose characteristics do not closely approximate those destroyed or degraded by a regulated activity.

“Composting” means a land use where biodegradable yard waste plant materials are collected and processed through composting for future use as plant mulch, soil amendment or other similar horticultural application.

“Comprehensive design plan” means the integration of the building, landscaping and signs into one architectural design.

“Comprehensive plan” means the city of Everett comprehensive plan adopted pursuant to Chapter 36.70A RCW.

“Congregate care facility” means a residential facility for the elderly. The minimum age limit for the elderly is fifty-five years for the residents, with younger spouses permitted. The facility must have a central lobby, common dining area, hobby and/or recreational rooms. The fee structure shall include at least one meal per day in the common dining area. Accessory support uses for the tenants, such as pharmacies, banking service, etc., may be included.

“Consumer services” means a business or occupation which is performed primarily off-site and can include services such as pest control, chimney sweep, carpet cleaners, contractors, janitorial, and landscaping. Only those support activities, such as office work, and storage of equipment, is conducted at the business location.

“Correctional facilities” means public or private facilities providing for the confinement of juvenile offenders, for the incarceration, confinement or detention of individuals arrested for or convicted of a crime, or for the punishment, correction and/or rehabilitation of individuals convicted of crimes whose freedom is restricted. The term “jails and correctional facilities” includes those group-care homes, Class II (as defined in this section, including subclassifications II-A II-B, and II-C) which are exempt from the provisions of the Federal Fair Housing Act Amendments of 1988 and the Washington Housing Policy Act (RCW 35.63.220).

“Courtyard” means any portion of the interior of a lot which is fully or partially enclosed by the walls of a building or buildings on the same development site, which is not within a required setback area and is unobstructed from the ground upward.

“Day care center, commercial” means a day care facility for more than twelve children or adults.

“Day care, family home” means day care provided in the home as an incidental use to the principal residential use of the property, for up to twelve children full time, or six adults full time, or as otherwise provided by the state of Washington.

“Day, working” means any day which the city administrative offices are open for normal business.

“Density” means a ratio of dwelling units to lot area, usually expressed in terms of dwellings per acre or square feet of land area per dwelling unit.

“Detoxification center, drug rehabilitation” means a state-licensed facility where alcohol and drug abusers can be placed in lieu of incarceration for detoxification from the effects of alcohol and drugs.

“Development” means all structures, uses or other modifications of the natural landscape occurring above or below ground or water on a particular lot.

“Development permit” means any permit issued by the city to use or develop property that must be issued before initiating the use or development.

“Directional sign” means a single- or double-faced sign not exceeding six square feet in surface area per side, designed to guide or direct pedestrian or vehicular traffic to an area, place or convenience. Advertising on said signs shall be limited to incidental graphics such as trade names and trademarks.

“Directory sign, on-premises” means a sign located on a lot or within a business or office complex which is used to direct persons who are already on the premises to a particular business or office within the business or office complex.

“Disabled person” means a person who is defined as handicapped under the provisions of the federal Fair Housing Act Amendments of 1988.

“Dish antenna” means a parabolic-shaped antenna which is designed to receive television broadcasts or other electronic communication signals. The antenna is considered as an accessory structure unless it is attached to the principal building, in which case it is considered a building appurtenance.

“Drainage facility” means the system of collecting, conveying and storing surface and storm water runoff. Drainage facilities shall include but not be limited to all surface and storm water runoff conveyance and containment facilities, including streams, pipelines, channels, ditches, wetlands, infiltration facilities, retention/detention facilities, erosion/sedimentation control facilities, and other drainage structures and appurtenances, both natural and manmade.

“Drive-in window or station” means a window or station used for providing service to customers who remain seated in their vehicle to conduct a business transaction, such as are commonly found at restaurants, financial institutions, or other similar businesses.

“Driveway” means an area of property designed to provide access between a street and a building or parking area.

“Duplex” means a detached building containing two dwelling units, each with a kitchen, designed for and occupied by two families living independently of each other in separate dwelling units.

“Dwelling” means one or more habitable rooms which are designed to be occupied by one family with facilities for living, sleeping, cooking, eating, and sanitation, which meets the minimum requirements of the Everett Housing Code, and in which all habitable rooms are internally accessible from within the dwelling.

“Dwelling, multiple-family” means a building or portion of a building arranged or designed to be occupied by three or more families living independently of each other, including triplexes, fourplexes, apartment buildings, and stacked dwelling units.

“Dwelling, single-family attached” means a building containing more than one dwelling attached only by a common wall or walls, but not stacked in a manner that individual dwelling units are located above or below other dwelling units.

“Dwelling, single-family detached” means a detached building designed for and occupied by one family only, sharing no common walls with other dwelling units.

“Dwelling, two-family”: See “duplex.”

“Dwelling unit, accessory” means an additional room or set of rooms located within an owner-occupied single-family dwelling and designed, arranged, occupied or intended to be occupied by not more than one family as living accommodations independent from the accommodations for the owner’s family and subject to the limitations of Section 39.020(D) of this title.

“Electrical sign” means a sign or sign structure in which electrical wiring, connections or fixtures are used.

“Electronic changing message sign” means an electrically activated sign whose message content, either in whole or in part, may be changed by means of electronic programming. These signs shall include those displaying time, temperature, and messages of a public or commercial nature.

“Enhancement” means an action which increases the functions and values of a stream or wetland or terrestrial ecosystem.

“Environmentally sensitive area” means any of those areas of the city which are subject to natural hazards or those landform features which carry, hold, or purify water and/or support unique, fragile or valuable natural resources including fish, wildlife, and other organisms and their habitat. Sensitive areas include the following features: geologically hazardous areas; wetlands; streams; flood hazard areas; fish and wildlife conservation areas, and ground water discharge areas.

“Environmentally sensitive area protective covenant” means a covenant granted for the protection of an environmentally sensitive area through the maintenance of the natural environment. The covenant prohibits alteration of the area and must be duly recorded on appropriate documents of title and filed with the Snohomish County auditor.

“Environmentally sensitive area tract” means a legally created, non building lot containing an environmentally sensitive area which is subject to an environmentally sensitive area protective covenant and which shall be duly recorded on the appropriate documents of title and filed with the Snohomish County auditor.

“Erosion” means the process whereby the landform is worn away by the action of water, wind, or ice activity.

“Erosion hazard areas” means those areas of the city containing soils which, according to the USDA Soil Conservation Service, County Soils Survey dated July 1983, may experience severe to very severe erosion hazard. This group of soils includes the following when they occur on slopes of fifteen percent or greater: Alderwood gravelly sand loam (AgD), Alderwood-Kitsap (AKF), and Whidbey formation.

“Espresso stand” means a business contained in a structure which can serve customers who remain in their vehicles, by means of a drive-up window. Mobile espresso vehicles and espresso retail uses not able to serve customers who remain seated in their vehicles are not included in this term.

“Everett comprehensive plan,” see “comprehensive plan.”

“Exotic” means any species of plant or animal that is non-native to the subject lot or area.

“Facade” means the entire building exterior wall face, including grade to the top of the parapet or eaves, and the entire width of the building elevation. For buildings with more than one occupant, the facade for each occupant shall be that portion of the exterior wall face between the points where interior walls between tenants intersect with the exterior wall.

“Family” means any number of persons related by blood, marriage or legal adoption and including foster children and exchange students living together as a single housekeeping unit. “Family” also means the following when living together as a single, not-for-profit housekeeping unit:

1. A group of not more than four related and unrelated adults and their related minor children, but not to exceed a total of eight related and unrelated persons; or
2. Not more than eight disabled persons, whether adults or minors, living together in a consensual residential living arrangement, but not to exceed a total of eight persons.

For the purposes of this definition, an adult is a person eighteen years of age or older, and a minor child is a person under the age of eighteen years old.

“Farmer’s market” means an open-air, temporary grouping of vendors in a common location, usually selling produce, freshly prepared foods, handmade crafts, or other unique goods.

“Fence” means a manmade barrier erected to enclose, screen or separate areas of land.

“Financial institution” means a business or entity which provides financial services which may include, but are not limited to, loans, savings, checking, money management and other similar services and includes, but is not limited to banks, savings and loan associations, credit unions, finance companies, and mortgage companies.

“Fish and wildlife conservation areas” means an area of habitat that is necessary and suitable for maintaining individual species, species diversity, or biological diversity. Fish and wildlife conservation areas include:

1. Habitats of primary association;
2. Riparian corridors;
3. Continuous vegetative corridors linking watersheds; and
4. Significant biological areas listed by the city.

“Flashing sign” means a sign or a portion thereof which changes light intensity or switches on and off in a constant pattern, or contains motion or the optical illusion of motion by use of electrical energy.

“Floor area ratio” means a measure of development intensity which is the gross building area (square footage of the total floor area except parking areas) divided by the lot area.

“Fraternal organization”: See “private club or lodge.”

“Freestanding sign” means a permanent pole, ground or monument sign attached to the ground and supported by uprights or braces attached to a foundation in the ground and not attached to any building.

“Functions and values,” or “functional values” means the beneficial roles served by environmentally sensitive areas including but not limited to, water quality protection and enhancement, fish and wildlife habitat, food chain support, flood storage, conveyance and attenuation, ground water recharge and discharge, erosion control, wave attenuation, recreation, aesthetics, and slope and soil stabilization.

“Garage” means an accessory building constructed of at least three walls, designed or used for the shelter or storage of vehicles owned or operated by the occupants of the principal building.

“Garage, private attached” means a portion of the principal building which is attached by a common wall or substantial roof structure to the principal dwelling designed or used for the storage or shelter of vehicles owned or operated by the occupants of the principal building.

“Geologically hazardous areas” means areas susceptible to erosion, landslide, earthquake, or other geological events.

“Geologist” means a person who has earned a degree in geology from a college or university, or who has equivalent training with practical experience that includes at least two years work in applied geology and landslide evaluation, in close association with geotechnical/civil engineers, one year of which shall have been in the Pacific Northwest.

“Geotechnical engineer” means a practicing geotechnical/civil engineer licensed as a professional civil engineer with the state who has a least four years of professional employment as a geotechnical engineer in responsible charge, including experience with landslide evaluation.

“Government administrative offices” means offices for federal, state, county, city or other governmental, public utility, school district, or quasi-public agencies where staff of such agencies are employed in the administration of government or public services. This term does not include correctional facilities, utility facilities, equipment storage or parking, schools, fire stations, community centers, parks, or other public or quasi-public service uses specifically listed in this title.

“Grade” means the elevation of a lot prior to development.

“Grade, finished” means the elevation of a lot after completion of development.

“Grading” means any excavating, filling, or clearing of land or any combination thereof.

“Gross floor area” means the sum of the gross horizontal areas of the floors of a building or buildings, measured from exterior faces of exterior walls, and from the centerline of common walls.

1. Gross floor area includes: basement space, elevator shafts and stairwell at each floor, mechanical equipment rooms or attic spaces with headroom of seven feet, six inches or more, penthouse floors, interior balconies and mezzanines, and enclosed porches.

2. Gross floor area shall not include: accessory water tanks and cooling towers, mechanical equipment rooms or attic spaces with headroom of less than seven feet, six inches, exterior steps or stairs, terraces, breezeways, and open spaces.

“Ground sign” means a freestanding sign that is five feet or less in height.

“Group home”:

1. Group-Care Homes, Class I. State-licensed foster homes for children (not including nursing homes), homes for handicapped and the mentally ill, and homes for those with developmental disabilities. Group-care homes, class I, are subclassified as follows:

- a. Group-Care Homes, Class I-A. A maximum of six residents and two resident staff;
- b. Group-Care Homes, Class I-B. A maximum of twelve residents and resident staff; and
- c. Group-Care Homes, Class I-C. A maximum of twenty residents and four resident staff.

2. Group-Care Homes, Class II. State-licensed group-care homes for juvenile delinquents, halfway houses providing residence in lieu of institutional sentencing, halfway houses providing residence to those needing correctional institutionalization, and residential rehabilitation centers for current abusers of alcohol and drugs. Group care homes, class II, are subclassified as follows:

- a. Group-Care Homes, Class II-A. A maximum of six residents and two resident staff;
- b. Group-Care Homes, Class II-B. A maximum of ten residents and two resident staff; and
- c. Group-Care Homes, Class II-C. A maximum of twenty residents and four resident staff.

“Habitat management plan” means an activity proposed by a public agency or private entity, and approved by the planning director, within an area which may impact a fish and wildlife conservation area to preserve, protect or enhance the fish and wildlife conservation area.

“Habitats of primary association” means a critical component(s) of the habitats of federally or state-listed endangered, threatened, candidate, sensitive, priority, and monitored wildlife or plant species which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term. Habitats of primary association include, but are not limited to, winter ranges, migration ranges, breeding sites, nesting sites, regular large concentrations, communal roosts, roosting sites, staging areas, and “priority habitats” listed by the Washington State Department of Wildlife.

“Hazardous waste” means all dangerous and extremely hazardous waste as defined in RCW 70.105.010(15), except for moderate risk waste as set forth in RCW 70.105.010(17).

“Hazardous waste storage” means the holding of hazardous waste for a temporary period, as regulated by the state dangerous waste regulations, Chapter 173-303 WAC.

“Hazardous waste treatment” means the physical, chemical or biological processing of hazardous waste for the purpose of rendering these wastes for material resource recovery, amenable for storage, or reduced in volume, as regulated by the state dangerous waste regulations, Chapter 173-303 WAC.

“Hazardous waste treatment and storage facility, off-site” means treatment and storage facilities which treat and store hazardous wastes generated on properties other than those on which the off-site facilities are located.

“Hazardous waste treatment and storage facility, on-site” means treatment and storage facilities which treat and store hazardous wastes generated on the same property.

“Health club” or “athletic facility” means a building which is used for sports, health and recreational uses by the general public or by members not restricted to living within a specified area (as in a homeowner’s association or multiple-family development), which normally operates for a profit. Such facilities include, but are not limited to, tennis or racquetball courts, swimming pools, weight training, exercise classes, health spas and other similar uses. Where such uses are also permitted outdoors in specific zones, the following uses are included: Tennis courts, golf-driving range, miniature golf courses, running tracks, and swimming pools.

“Hearing examiner” means the land use hearing examiner for the city.

“Height, building” means the vertical distance from the base elevation of a building to the highest point of the roof, exclusive of building appurtenances. In the B-3 and R-5 zones, building height is measured as the height above the highest point of any public sidewalk immediately contiguous to the lot upon which the building is located, or height above the base elevation, whichever is greater.

“Height of building appurtenance” means the vertical distance from the base elevation of a building to the highest point of the building appurtenance.

“Hillsides” means geological features on the landscape having slopes of fifteen percent or greater.

“Historical commission” means the historical commission for the city.

“Home occupation” means an occupation which is incidental and subordinate to a residential use, which is carried on by a member of the family residing in the dwelling.

“Hospital” means an institution that provides twenty-four-hour-per-day care for the diagnosis, treatment, care and curing of individuals suffering from illness, injury or any condition requiring medical, obstetric, surgical, or psychiatric care; and other related uses customarily incidental thereto.

“Hotel” means a facility offering transient lodging accommodations on a daily rate to the general public which may also provide incidental services such as restaurants, meeting rooms or recreational facilities.

“Hydric soil” means a soil that is saturated, flooded or ponded long enough during the growing season to develop anaerobic conditions in the upper part. The presence of hydric soil shall be determined following the methods described in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands.

“Impound, storage, tow yards” means a lot used for the temporary storage of vehicles which have been towed by a towing company or for impounded vehicles, but which does not include permanent vehicle storage or dismantling of vehicles.

“Incidental sign” means a small sign, emblem or decal informing the public of goods, facilities or services available on the premises, e.g., a credit card sign or a sign indicating hours of business, which does not exceed two square feet in size.

“Indirect lighting” means lighting displayed or reflected on the surface or face of a sign which is not inside the sign and not a part of the sign proper.

“Jail,” see “correctional facility.”

“Kennel, commercial” means an establishment that houses, cares for, breeds, or raises dogs, cats or other small domestic animals for profit.

“Lake” means a natural or artificially created permanent body of water with an average depth of six feet or greater and an area larger than twenty acres, as measured at the ordinary high water mark.

“Landscaping” means the planting, removal and maintenance of vegetation along with the movement and displacement of earth, topsoil, rock, bark and similar substances done in conjunction with the planting, removal and maintenance of vegetation.

“Landslide” means episodic downslope movement of a mass of soil or rock that includes but is not limited to rock falls, slumps, mudflows, earth flows, and avalanches.

“Landslide hazard areas” means those areas of the city subject to a severe risk of landslide. They include the following areas:

1. Any area with a combination of:
  - a. Slopes greater than fifteen percent; and
  - b. Impermeable soils (typically silt and clay) frequently interbedded with granular soils (predominantly sand and gravel); and
  - c. Springs, groundwater seepage, or saturated soils.
2. Any area located on a landslide feature described in subsection (1) of this definition which has shown movement during the Holocene epoch (from ten thousand years ago to the present) or which is underlain by mass wastage debris of that epoch.
3. Any area potentially unstable as a result of rapid stream incision, stream bank erosion or undercutting by wave action.

“Line of sight” with respect to the siting of secure community transition facilities means the maximum unobstructed distance at which it is possible to reasonably visually distinguish and recognize individuals. For the siting of secure community transition facilities, this distance is six hundred feet. However, a distance less than six hundred feet may be considered if the applicant demonstrates that visual barriers exist or can be created that would reduce the line of sight to a distance less than six hundred feet.

“Lot” means an area of land established by plat, subdivision or as otherwise permitted by law to be used, developed or built upon in accordance with the provisions of the Zoning Code.

“Lot area” means the total area within the lot lines of a lot, excluding any primary access easements or panhandles, and excluding any area dedicated for public right-of-way purposes.

“Lot, corner” means a lot located at the junction of and fronting on two or more intersecting streets.

“Lot coverage by building” means the amount or percent of the ground area of a lot on which buildings are located. This amount/percent includes all areas which are partially or totally enclosed and covered by a weather tight roof, including any garages, carports, and cantilevered portions of a building which are not above the ground floor of a building, and storage areas covered by a watertight roof even if not fully enclosed. Building coverage does not include eaves, decks, and uncovered porches. Minor portions of panhandle lots and primary access easements shall not be included in the lot area for purposes of calculating building coverage.

“Lot depth” means the mean distance between the front lot line and rear lot line.

“Lot frontage” means the length of the front lot line measured at the street right-of-way.

“Lot, interior” means any lot which is not a corner lot.

“Lot line” means a line of record that divides one lot from another lot or from a public or private street or alley.

“Lot line, front” means the lot line dividing a lot from the street. On a corner lot, only the shorter lot frontage shall be considered as the front lot line (see Section [39.075](#) for corner sites with more than one lot). On a panhandle lot, the front lot line and setbacks shall be determined during the subdivision approval process, or, if not determined during subdivision review, shall be determined by the planning director.

“Lot line, rear” means the lot line opposite and most distant from the front lot line. In the case of triangular or other irregularly shaped lots, an imaginary line ten feet in length located entirely within the lot, parallel to and at a maximum distance from the front lot line.

“Lot line, side” means any lot line which is not a front or rear lot line.

“Lot, panhandle” means a lot with access provided to the bulk of the lot by means of a narrow strip of land which does not meet the full frontage or width requirements of this title.

“Lot width” means the horizontal distance between side lot lines measured at right angles to the lot depth at a point midway between the front and rear lot lines.

“Lumber and building materials sales” means a business that sells building materials and/or lumber in large quantities, and includes a significant portion of its product storage outdoors or in warehouse portions of the building.

“Maintenance, service (heavy)” means a business which services, maintains or repairs automobiles and small trucks including vehicle body work and painting, but which does not sell motor fuel to the public.

“Maintenance, service (light)” means a business which services, maintains or repairs automobiles and small trucks, excluding vehicle body work and painting, and also excluding sale of motor fuel to the public.

“Manufactured home” means a manufactured home constructed after June 15, 1976, in accordance with state and federal requirements for manufactured homes, which:

1. Is comprised of at least two fully enclosed parallel sections, each of which is not less than twelve feet wide by thirty-six feet long;
2. Was originally constructed with and now has composition or wood shake or shingle, coated metal, or similar roof of not less than 3:12 pitch; and
3. Has exterior siding similar in appearance to siding materials commonly used on conventional site-built Uniform Building Code single-family residences.

“Manufacturing” means the process of transforming materials or substances into new products using chemical or mechanical processes.

“Manufacturing, heavy” means manufacturing uses not otherwise defined in this title that employ processes that generate potentially noxious or objectionable impacts such as noise, smoke, dust, vibration, odor, or concussion, the use or outdoor storage of heavy equipment, or outdoor storage of large quantities of bulk materials.

“Manufacturing, light” means processing or fabrication of materials involving methods or manufacturing processes which do not generate noxious or objectionable impacts such as noise, smoke, dust, vibration, odor, or concussion; does not require the use of heavy equipment; and does not involve outdoor storage of large quantities of bulk materials or heavy equipment.

“Marquee” means a permanent roof-like structure or canopy of rigid material supported by and extending from the facade of a building.

“Marsh” means an area permanently inundated by water less than six feet deep and occupied predominantly by an emergent wetland vegetation community.

“Medical-related activities” means uses that are closely related to clinic and hospital uses, including but not limited to, pharmacies, retail sales of durable medical goods, medical or dental laboratories and emergency ambulance services.

“Mitigation” means the use of any or all of the following actions:

1. Avoiding the impact altogether by not taking a certain action or parts of an action;
2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;
3. Rectifying the impact by repairing, rehabilitating or restoring the affected environmentally sensitive area;
4. Reducing or eliminating the impact over time by preservation or maintenance operations during the life of the development proposal;
5. Compensating for the impact by replacing or enhancing substitute environmentally sensitive areas.

“Mobilehome park” means a lot where two or more mobilehomes are used for dwelling purposes.

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

“Monument sign” means a freestanding sign higher than five feet above grade which is attached to the ground by means of a wide base.

“Motel” means a building providing transient lodging with parking conveniently located to each unit, which may also include incidental uses such as meeting rooms, restaurants, etc.

“Multiple-family dwelling”: See “dwelling, multiple-family.”

“Municipal Code” means the various laws of the city contained within the Everett Municipal Code.

“Native vegetation” means vegetation on a site or plant species which are indigenous to the area in question; or if the site has been cleared, species of a size and type that were on the site on the effective date of this title or reasonably could have been expected to have been found on the site at the time it was cleared.

“Natural topography” means the elevation of a parcel of land prior to any human modification of the topography.

“Nightclub” means a commercial establishment which sells beverages for consumption on the premises and which includes entertainment and/or dancing.

“Nonconforming building” means a legally established structure or building, the size, dimensions, or setbacks of which met the applicable Zoning Code requirements in effect at the time the building was constructed, but which fails by reason of adoption, revision or amendment of the Zoning Code, to conform to the present requirements of the zone in which it is located.

“Nonconforming landscaping” means on-site landscaping, the dimensions, area or location of which met the applicable Zoning Code requirements in effect at the time the use or building was established, but which fails by reason of adoption, revision or amendment of the Zoning Code to conform to the present requirements of the zone in which it is located.

“Nonconforming lot” means a legally established lot, the area, dimensions or location of which met the applicable Zoning Code requirements in effect at the time the lot was created, but which fails by reason of such adoption, revision or amendment of the Zoning Code, to conform to the present requirements of the zone in which it is located.

“Nonconforming parking” means legally established off-street parking for a particular use, the quantity, design, location or construction of which met the applicable Zoning Code requirements in effect at the time the use was established, but which fails by reason of adoption, revision or amendment of the Zoning Code to conform to the present requirements of the zone in which it is located.

“Nonconforming use” means a legally established use which met the applicable Zoning Code requirements at the time it was established but which fails by reason of adoption, revision or amendment of the Zoning Code to conform to the present requirements of the zone in which it is located.

“Normal rainfall” means that rainfall that is at or above the mean of the accumulated rainfall record, based upon the water year, for the city as recorded at the Seattle Tacoma International Airport, or other local rainfall recording station recognized by the city.

“Nursery” means an establishment where trees, shrubs and other plant materials are grown, propagated and/or stored for the purpose of sale.

“Nursing or convalescent home” means a facility or institution for the care of the aged or infirm, or a place of rest for those suffering bodily disorders. This term does not include hospitals or facilities for the primary treatment of sickness or injuries, or for surgical care, or congregate care facilities.

“Off-premises sign” means an outdoor advertising, informational, directional or identification sign other than a billboard, which relates to products, businesses, services or premises not located on or otherwise directly associated with the site on which the sign is erected.

“Off-street parking area” means an area designed and/or used for parking vehicles which is not located in a street or alley right-of-way.

“Office” means a building or portion thereof which is used for general business purposes not involving manufacturing, sale of inventory or provision of services involving manual skills or mechanical processes. Not included in the category of office are those businesses and occupations defined by this title as clinics, medical-related activities, personal services, financial institutions, service businesses, government administrative offices or uses such as private clubs or fraternal organizations.

“Open space” means land area not covered by buildings, roads, driveway and parking areas, or outdoor storage areas, including, but not limited to, landscape areas, gardens, woodlands, walkways, courtyards or lawns, and outdoor recreation areas. Except as otherwise provided by this title, open space includes setback areas that meet the requirements defined in this chapter.

“Open space, common” means private open space provided within a development which is provided for, and which is permanently accessible to, all residents/tenants of the development.

“Open space, private” means a small parcel of land or outside area (deck, lanai, patio) immediately adjacent to an individual dwelling unit maintained by and for its residents and reserved exclusively for their use.

“Open space, public” means an area dedicated in fee to the city and operated and maintained by it. Public open space in a planned residential development is designed primarily for the use of residents of the particular development, but cannot be reserved for this exclusive use due to the public ownership.

“Open water component” means water in dispersed patches covering forty to sixty percent of the wetland which have not less than six inches and not more than six feet of standing water for at least ten months of the year.

“Opiate substitution treatment facility” means an organization that administers or dispenses an approved drug as specified in 212 CFR Part 291 for treatment of detoxification of opiate substitution. The agency is:

1. Approved by the Federal Food and Drug Administration;
2. Registered with the Federal Drug Enforcement Administration;
3. Registered with the State Board of Pharmacy;
4. Licensed by the county in which it operates; and
5. Certified as an opiate substitution treatment agency by the State Department of Social and Health Services.

“Ordinary high water mark” means the mark that will be found by examining the channel bed and banks of a stream, lake or pond and ascertaining where the presence and action of waters are so common and usual, and so long maintained in all years of normal rainfall as to mark upon the soil a character distinct from that of the abutting upland in respect to vegetation. In any area where the ordinary high water mark cannot be found, the line of mean high water shall substitute. In braided channels and alluvial fans, the ordinary high water mark or substitute shall be measured so as to include the entire stream feature.

“Outdoor recreation, commercial” means an outdoor recreational use operated as a private commercial enterprise not otherwise defined in this title including but not limited to golf course, golf driving range, archery range, campground or other similar use. This term does not include recreational vehicle parks or trailer parks.

“Overlay zone” means a zone which is used in conjunction with, and which cannot be established without, another zone. The overlay zone adds additional regulations, allows development to occur which would not otherwise be possible and/or which modifies standards in the underlying zone.

“Owner” means the holder of fee title, a mortgagee, or contract purchaser.

“Parking space” means a portion of an off-street parking area, meeting the city’s design and construction standards, having access to a public street or alley.

“Passenger terminal” means a facility for passengers of a public or private transportation carrier to purchase tickets and board such means of transport, baggage handling, and related uses providing services to passengers of a small scale and nature, including but not limited to retail uses, restaurants, lockers, personal services, barber or beauty salon, and other similar activities.

“Personal service use” means a business or occupation which provides services involving personal grooming or the care of a person’s apparel, including, but not limited to, laundry (not including self-service laundromat) services, manicurists, tailors, shoe repair shops, tanning salons.

“Planned residential development (PRD)” means a residential development which is comprehensively planned as an entity and which is permitted greater flexibility in building siting, lot size, setbacks, mixture of housing types, usable open space and preservation of significant natural features than otherwise allowed or required in the underlying zone, and which is established through a public hearing process through the use of a PRD overlay zone.

“Planning commission” means the planning commission for the city.

“Planning department” means the planning department for the city.

“Planning director” means the planning director for the city or his/her authorized representative.

“Plant associations of infrequent occurrence” means one or more plant species on a landform type which, because of the rarity of the habitat or the species involved or both, or for other botanical or environmental reasons, do not occur frequently in Everett or Snohomish County.

“Plat, formal” means the division or redivision of land into ten or more lots, tracts, parcels, sites or divisions for the purpose of sale, lease, or transfer of ownership.

“Plat, short” means the division or redivision of land into nine or fewer lots, tracts, parcels, sites or divisions for the purpose of sale, lease, or transfer of ownership.

“Pole sign” means any freestanding sign more than five feet in height that does not meet the definition of monument, ground or portable sign. These signs are composed of the sign cabinet or base and the sign pole or pylon by which it connects to the ground.

“Political sign” means any sign intended to express political beliefs, or to promote an individual or an issue on an election ballot.

“Pond” means an area permanently inundated by water in excess of six feet deep and less than twenty acres in area as measured at the ordinary high water mark.

“Portable sign” means any sign which is capable of being moved easily and is not permanently affixed to the ground or a structure or building, including readerboards (see Section 36.140).

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

“Principal building” means the primary or predominant building on a lot.

“Principal use” means the primary or predominant use of any lot or building.

“Private club or lodge” means an association of persons organized for some common purpose, including fraternal organizations but not including groups organized primarily to render a service which is customarily carried on as a business.

“Projecting sign” means any sign, other than a flat wall sign, which is attached to and projects more than twelve inches from a building wall or other structure not specifically designed to support the sign.

“Public agency” means any agency, political subdivision, or unit of local government of this state including but not limited to municipal corporations, special purpose districts, and local service districts; any agency of the state, the United States, or any Indian tribe recognized as such by the federal government.

“Public service use, building” means a use or building supporting the services provided by a public agency. This term includes fire stations, police precinct or substations, community centers, and other public service uses, but does not include government administrative offices; schools; equipment storage yards, buildings or parking; correctional facilities; parks; public or publicly subsidized housing; social service agencies; or utility facilities.

“Public works director” means the public works department director for the city or his/her authorized representative.

“Readerboard” means a sign or a part of a sign on which the letters are readily replaceable such that the copy can be changed from time to time at will.

“Real estate sign” means a sign erected by the owner or his/her agent advertising the real estate upon which the sign is located for rent, lease or sale, or directing interested parties to the property.

“Real estate directional sign” means an off-premises sign which directs persons to a property for sale, lease or rent.

“Reasonable use” or “reasonable economic use” means a legal concept that has been articulated by federal and state courts in regulatory takings cases.

“Repair or maintenance” means an activity that restores the character, scope, size, and design of a serviceable area, structure, or land use to its previously authorized undamaged condition. Activities that change the character, size, or scope of a project beyond the original design and alter a regulated environmentally sensitive area are not included in this definition.

“Research, testing laboratory” means a facility in which scientific or developmental research is performed, but which does not include mass production or mass manufacturing of goods and commodities.

“Restaurant” means an establishment open to the public selling food and drink which may be consumed on or off of the premises.

“Restoration” means the return of a stream or wetland, or terrestrial ecosystem to a state in which its functions and values significantly approach its unaltered state.

“Retail use” means an establishment engaged in the sale of goods or merchandise to the general public.

“Retail use, indoors” means a business which is not otherwise defined in this title providing products for retail sale to the general public or to group members, located primarily within a building, but which may

include outdoor display on walkways within shopping centers, or on public sidewalks as permitted by the city engineer.

“Retail use, outdoors” means a business not otherwise defined in this title which sells products to the general public from display areas located outside of enclosure by buildings.

“Retention/detention facility” means a type of drainage facility designed either to hold water for a considerable length of time and then release it by evaporation, plant transpiration, and/or infiltration into the ground; or to hold runoff for a short period of time and then release it to the surface and storm water management system.

“Review authority” means the individual or the board, council or commission with authority to review, make recommendations concerning, or approve development permits.

“Review process” means the procedure listed in EMC Title 15, Local Project Review Procedures, by which a specific use shall be evaluated before a determination is made concerning the issuance of an approval, a license or permit.

“Right-of-way” means the actual property which is publicly dedicated or reserved for street and alley access and for other public purposes such as public utilities, bicycle paths, and pedestrian walkways.

“Riparian corridor” means a perennial, intermittent, ephemeral stream or swale including its channel bottom; lower and upper banks, and area beyond the top of the upper bank which influences the stream through shading and organic matter input, and is influenced by the presence of water, particularly in regard to plant composition. The riparian corridor is the transitional area between aquatic and upland ecosystems and does not necessarily include the entire floodplain of a stream.

“Roof sign” means any sign erected over or on the roof of a building, or attached to the wall of a building and extending above the roofline.

“Rooming” means the provision of a room for lodging purposes, without meals, in return for payment of rent.

“Roominghouse” means a principal building other than a hotel where lodging which complies with the city Housing Code is provided, without meals, for compensation on other than a day-to-day basis, and which is not open to transient guests.

“Salmonid” means a member of the fish family Salmonidae. In the city these include chinook, coho, chum, sockeye and pink salmon; cutthroat, brook, brown, rainbow and steelhead trout; and Dolly Varden, kokanee and char.

“Secure community transition facility” means a facility, as defined in RCW 71.09.020, for the housing of sexually violent predators.

“Seismic hazard areas” means those areas of the city subject to severe risk of earthquake damage as a result of seismically induced settlement or soil liquefaction. These conditions occur in areas underlain by cohesionless soils of low density usually in association with a shallow groundwater table.

“Self-serve storage facility” means a building or buildings containing separate storage spaces of a limited size leased or rented on an individual basis, which does not include warehouses or loading docks.

“Senior citizen housing” means a housing development in which all dwelling units are to be occupied by a person or persons age fifty-five or older; provided, however, that younger spouses shall be permitted.

“Sensitive land uses” means those land uses which are particularly sensitive to the secondary effects of adult use businesses. Sensitive land uses include the following:

1. Single-family and multiple-family residential zones;
2. Churches, or other religious facilities or institutions;
3. Public and private schools, training facilities and technical schools which have twenty-five percent or more of their students under the age of eighteen;
4. Public parks and playgrounds;
5. Community development block grant designated neighborhoods.

“SEPA” means the current edition of the State Environmental Policy Act and the city ordinance implementing the State Act.

“Service (gasoline) station” means a retail establishment selling motor fuels to the public and may also include retail sale of motor oil, auto accessories and travel aids, automobile servicing, repairs and maintenance, excluding vehicle body work and painting.

“Setback” means the required minimum distance between any lot line and any structure, building or use.

Setback, Front. "Front setback" means the required minimum distance between the front lot line and any structure, building or use.

Setback, Rear. "Rear setback" means the required minimum distance between the rear lot line and any structure, building or use.

Setback, Side (Interior). "Side (interior) setback" means the required minimum distance between the side lot line which does not abut a street and any structure, building or use.

Setback, Side (Street). "Side (street) setback" means the required minimum distance between the side lot line abutting the street on a corner lot and any structure, building or use.

"Shipping, trucking terminal" means a business that provides transport of goods, has parking on site for large trucks, and may include outdoor container storage, rail-to-truck transfer facilities, warehouse storage and vehicle maintenance facilities.

"Shopping center" means a grouping of retail business and service uses on a single development site with common parking facilities.

"Shoreline management master program" means the city of Everett-adopted shoreline management master program.

"Should" means encouraged but not required.

"Sign" means any device, structure, fixture, placard, painted surface, awning, banner or balloon using graphics, lights, symbols and/or written copy designed specifically for the purpose of advertising, identifying or promoting the interest of any person, institution, business, event, product, goods or services; provided, that the same is visible from any street, way, sidewalk or parking area open to the public.

"Sign area" means the entire area of a sign on which copy is to be placed. Sign structure, architectural embellishments, framework and decorative features which contain no written or advertising copy shall not be included. Sign area shall be calculated by measuring the perimeter enclosing the extreme limits of the module or background containing the advertising or identifying message; provided, that individual letters using a wall as the background, without added decoration or change in wall color, shall have a sign area calculated by measuring the smallest rectangle enclosing each letter and totaling the square footage thereof. For double-faced signs, total sign area shall be calculated by measuring only one face.

"Sign height" means the vertical distance from grade to the highest point of a freestanding sign or any vertical projection thereof, including its supporting columns. Grade shall be determined by taking the average elevation at finished grade for the midpoints of the four sides of the smallest rectangle that will enclose all area which is within a five-foot horizontal radius of the sign and its supporting structure.

"Significant biological areas" means the following areas of the city:

1. Plant associations of infrequent occurrence;
2. Commercial and recreational shellfish areas;
3. Kelp and eelgrass beds;
4. Herring and smelt spawning areas;
5. State natural area preserves and natural resource conservation areas; and
6. Those areas listed in the 1981 SEPA Resource Inventory as significant biological areas, which are:
  - a. Malsby Swamp,
  - b. Bomarc Bog,
  - c. Yew groves,
  - d. Simpson Lee site,
  - e. Narbeck Swamp,
  - f. Jetty Island.

"Significant surface water connection" means a surface water flow that is continuous for thirty days or more.

"Social service facility" means a facility housing a public or nonprofit agency that provides counseling, therapy or other social or human services to persons needing such services due to physical, mental, emotional or other disabilities. This definition does not include schools, hospitals, clinics, daycare, or residential uses.

"Solid waste transfer station" means a solid waste handling facility where nonhazardous solid waste is delivered by public agencies, businesses or individuals and transferred and/or sorted into other containers to be transported to another location for ultimate disposal. A solid waste transfer station may

include provisions for extraction of recyclable or reusable materials, as well as collection facilities for recyclable materials.

“Specified anatomical areas” means:

1. Less than completely and opaquely covered human genitals, pubic region, buttock and female breast below a point immediately above the top of the areola; and

2. Human male genitals in a discernible turgid state, even if completely and opaquely covered.

“Special property use” means a use of property which is permitted only if approved by the city following public notification and/or public hearing, as provided in Chapter 41 of this title.

“Specified sexual activities” means:

1. Human genitals in a state of sexual stimulation or arousal;

2. Acts of human masturbation, sexual intercourse or sodomy;

3. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

“Steep slopes” means any ground that rises ten or more for every twenty-five feet of horizontal distance, thus having a grade of forty percent or steeper. A slope is delineated by establishing its toe and top:

1. “Toe” of a steep slope is the lower most limit of the area where the ground surface rises ten feet or more vertically within a horizontal distance of twenty-five feet.

2. “Top” of a steep slope is a distinct, sharp break in slope which separates slopes inclined at less than forty percent from slopes equal to or greater than forty percent. Where no distinct break in slope exists, the top of the steep slope shall be the uppermost limit of the area where the ground surface drops ten feet or more vertically within a horizontal distance of twenty-five feet.

“Stream” means a year-round or intermittent water course or route, formed by nature or modified by human activities and generally consisting of a defined channel with a bed, banks or sides for a substantial portion of its length, along which surface waters naturally and normally flow from higher to lower lands. Streams include natural swales. Wetlands and entirely artificial watercourses such as irrigation and drainage ditches, grass-lined swales, canals and storm water runoff devices shall not be considered to be streams. Streams which have been channelized or culverted shall continue to be considered streams for the purpose of this title.

“Stream channel bottom” means the submerged portion of the stream cross-section which is totally an aquatic environment. The channel bottom may be seasonally dry.

“Street” means a public or private thoroughfare which provides the principal means of access to abutting properties.

“Structure” means a combination of materials constructed or erected on or under the ground, or attached to something having a permanent location on or under the ground.

“Swale” means a shallow drainage conveyance with relatively gentle side slopes, generally with flow depths less than one foot.

“Swamp” means an area permanently saturated or inundated by water, and occupied predominantly by either a scrub-shrub or forested wetland vegetation community.

“Tavern” means an establishment selling beer and/or wine for consumption on the premises.

“Temporary or special event sign” means a nonpermanent sign intended for use for a short period of time, including banners, pennants or advertising displays constructed of canvas, fabric, wood, plastic, cardboard or wallboard, with or without frame. Signs in this category include signs painted on window surfaces which are readily removed by washing, and signs referred to in Section 36.150.

“Temporary shelter home” means a facility providing temporary housing for victims of domestic violence, the homeless, or other persons in need of temporary housing. Temporary shelter homes may also provide support services to assist residents become self sufficient or make the transition to their own housing. This term does not include Class I or Class II group homes.

“Tower” means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers or monopole towers. The term encompasses personal wireless service facilities towers, microwave towers, common-carrier towers, cellular telephone towers, personal communications services tower, alternative tower structures, and other similar structures, and its attendant base station.

“Traffic engineer” means the traffic engineer for the city.

“Transfer of development rights” means the amount of development allowed to be transferred from a lot containing an environmentally sensitive area to another lot, as permitted in Chapter 37 of this title.

“Transit station” means a dedicated transit facility where several transit routes converge, designed to accommodate several buses at once to permit transfer between transit routes. A transit center may provide transit passenger shelters and waiting areas, but does not include off-street parking for transit passenger vehicles.

“Transportation facilities of statewide significance” means the interstate highway system; interregional state principal arterials including ferry connections that serve statewide travel; regional transit systems as defined in RCW 81.104.015; high capacity transportation systems serving regions as defined in RCW 81.104.015; intercity passenger rail services; intercity high-speed ground transportation; rail fixed guideway system, as defined in RCW 81.104.015, excluding yards and service and maintenance facilities; the freight and passenger railroad system as regulated by the Federal Railroad Administration, excluding yards and service and maintenance facilities; and in shoreline zones, and in adjacent zones where all or any portion of a development is within a shoreline designated area or zone, marine port and barge facilities and services that are related to marine activities affecting international and interstate trade, excluding centralized, high density concentrations of port, deep water port, and marine shipping facilities and services.

“Unavoidable and necessary impacts” means impacts to regulated environmentally sensitive areas after the applicant proposing to alter a regulated environmentally sensitive area has demonstrated that no practicable alternative exists for the proposed project.

“Undevelopable area” means:

1. Regulated wetlands;
2. Geologically hazardous areas which are determined by supporting studies to be unsuitable for development;
3. Streams;
4. Habitats of primary association;
5. Plant associations of infrequent occurrence.

“Unstable soils” means soils which by their physical nature are not suitable to support buildings, roads, utilities or other manmade development related improvements, or which have the potential for slope failure, erosion, or subsidence. Unstable soils include, but are not limited to, those areas defined as landslide hazard areas, erosion hazard areas, and seismic hazard areas, or other soils which have been determined by the public works director or the building official to be unsuitable for building foundations or structural support.

“Upper bank” means that portion of the topographic cross-section of a stream which extends from the break in the general slope of the surrounding land to the ordinary high water mark.

“Use” means the activity or function carried out on an area of land, or in a building located thereon.

“Use table” means the charts used to display uses, and applicable review process in each use zone.

“Use zone” means those zones contained within this title as designated by Section 1.030.

“Vacate” means to move out; to make vacant or empty; to leave.

“Video board” means an electronically activated sign that creates the effect of motion or animation, except as allowed by this chapter for changing electronic message signs which are in compliance with the 2-1-2 provision, and the prohibition of RGB technology.

“Wall sign” means a sign attached, painted onto or erected parallel to and extended not more than one foot from the facade or face of any building to which it is attached and supported throughout its entire length, with the exposed face of the sign parallel to the plane of said wall or facade.

“Warehouse” means a building used to store merchandise, materials or commodities.

“Wastewater treatment plant” means a utility facility for the collection and treatment of sanitary sewage and storm water through mechanical, chemical and biological processes for the purpose of improving the quality of wastewater.

“Water-dependent” means requiring the use of surface water that would be essential to fulfill the purpose of the proposed project.

“Water-dependent use” means a use which is dependent upon a location on or adjacent to the shoreline to be successful, and without such location cannot exist, including but not limited to deepwater shipping terminals, marinas and accessory uses, boat launches, fishing piers, commercial fishing terminals, marine construction businesses, barge loading terminals, and similar industrial, commercial or recreational uses.

“Water-related uses” means uses that are not water-dependent but are enhanced by a location on or adjacent to the shoreline, including but not limited to recreational trails, restaurants, marine-related retail or service businesses, resort hotels, boat sales and service, fish markets, public parks, and similar industrial, commercial or recreational uses.

“Wetlands,” for the purpose of inventory mapping, means lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. Wetlands must have one or more of the following three attributes:

1. At least periodically, the soil supports predominantly hydrophytes;
2. The substrate is predominantly undrained hydric soil;
3. The substrate is non soil and saturated with water at some time during the growing season of each year.

Wetlands include all areas waterward from the wetland edge. Where the vegetation has been removed, or substantially altered, a wetland shall be determined by the presence or evidence of hydric or organic soils.

“Wetland boundary” means, for the purposes of the calculation of the area of the wetland, the total extent of the wetland both on- and off-site.

“Wetland class” means a description of vegetation habitat based on the predominant life forms that occupy a particular layer of vegetation and possess an aerial coverage of thirty percent or greater of the entire wetland. The basis for these descriptive classes is derived from the Wetlands Taxonomic Classification System of the United States Fish and Wildlife Service (Cowardin et al., 1978).

“Wetland, contiguous” means wetland systems connected by hydric soils or a significant surface water connection. For purposes of this title, wetlands will not be considered contiguous if the only hydrologic connection is a category I, II or III stream, or if the wetlands had historically been connected but are now separated by a legal fill or culvert which is one hundred feet or more in length.

“Wetland edge” means the line delineating the outer edge of a wetland established by using the Federal Manual for Identifying and Delineating Jurisdictional Wetlands dated January 10, 1989, and jointly published by the U.S. Environmental Protection Agency, the U.S. Fish and Wildlife Service, the U.S. Army Corps of Engineers, and the U.S. Soil Conservation Service,

“Wetlands, emergent” means a regulated wetland that does not qualify as a forested wetland or a scrub-shrub wetland with at least thirty percent of the surface area covered by erect, rooted, herbaceous vegetation as the uppermost vegetative strata.

“Wetlands, forested” means a regulated wetland with at least thirty percent of the surface area covered by woody vegetation greater than twenty feet in height.

“Wetlands, isolated” means those wetlands which:

1. Are outside of and not contiguous to any one hundred year floodplain or riparian corridor of a lake, river, or stream; and
2. Have no contiguous hydric soil or surface water connection between the wetland and another surface water body.

“Wetlands, regulated” means those lands defined as wetlands under the Federal Clean Water Act, 33 U.S.C., Sec. 1251 et seq., and rules promulgated thereto, and includes those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Regulated wetlands generally include swamps, marshes, ponds, bogs and similar areas. Wetlands created as mitigation and wetlands modified for approved land use activities shall be considered as regulated wetlands.

“Wetlands, riparian” means those wetlands that generally occur within a riparian corridor that is contiguous to or have a surface hydrologic connection with a stream. Wetlands formed by hillside seeps that are not hydrologically affected by water in a nearby stream are not riparian wetlands. However, wetlands on a hillside may be riparian wetlands if adjacent to a stream that flows down the hillside.

“Wetlands, scrub-shrub” means a regulated wetland that does not qualify as a forested wetland with at least thirty percent of its surface area covered by woody vegetation less than twenty feet in height as the uppermost strata.

“Window sign” means a sign located inside and affixed to windows of a building, whether temporary or permanent, lighted or unlighted, which may be viewed from the exterior of the building. The term does not include merchandise located within a building.

“Zone” means a specifically delineated area within the city, which is indicated on the zoning map, within which regulations and requirements uniformly govern the use, location and size of buildings and land.

“Zoning map” means the map adopted by the city showing the geographic location of zones within the municipal boundaries. (Ord. 2708-03 §§ 2, 3, 2003; Ord. 2706-03 § 8, 2003; Ord. 2657-02 §§ 1—7, 2002; Ord. 2639-02 § 1, 2002; Ord. 2616-02 §§ 1, 2, 2002; Ord. 2556-01 § 1, 2001; Ord. 2538-01 §§ 1, 72, 2001; Ord. 2397-99 §§ 12—34, 1999; Ord. 2290-98 § 1, 1998; Ord. 2111-95 § 2(A), 1995; Ord. 2106-95 § 1(A), 1995; Ord. 2076-95 § 1, 1995; Ord. 1978-93 §§ 1, 2, 1993; Ord. 1864-92 § 1, 1992; Ord. 1847-92 § 3 (part), 1992.)

#### **4.030 Floodplain overlay zone definitions.**

Following are the floodplain overlay zone definitions pertaining to Chapter 30 of this title, as amended.

“Appeal” means a request for a review of the planning director’s interpretation of any provision of Chapter 30.

“Area of special flood hazard” means the land in the floodplain within the city subject to a one percent or greater chance of flooding in any given year. Designation on flood insurance rate maps always includes the letters A or V.

“Base flood” means the flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as the “one-hundred-year flood.” Designation on flood insurance rate maps always includes the letters A or V.

“Breakaway wall” means a wall that is not a part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

“Coastal high hazard area” means the area subject to high velocity waters, including but not limited to, storm surge or tsunamis. The area is designated on the FIRM as zone V1-V30, VE or V.

“Development” means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

“Flood” or “flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters; and/or
2. The unusual and rapid accumulation of runoff of surface waters from any source.

“Flood fringe” means the portion of the regulatory floodplain beyond the limits of the floodway. Floodwaters in this area are usually shallow and slow moving. Development is permitted in the flood fringe if protected from the water of the one-hundred-year flood.

“Flood insurance rate map (FIRM)” means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

“Flood insurance study” means the official report provided by the Federal Insurance Administration that includes flood profiles, the flood boundary-floodway map, and the water surface elevation of the base flood.

“Floodplain” means the land adjacent to a body of water which has been or may be hereafter covered by floodwater. The extent of the floodplain may vary with the frequency of flooding being considered. The United States Corps of Engineers, in meeting the minimum requirements of the Federal Flood Insurance Program, determines the one-hundred-year flood as the frequency of flooding. (Floodplain includes the floodway and flood fringe.)

“Floodplain development permit” means the permit required for development activity not requiring a shoreline permit, yet located in a flood hazard area. This would be reviewed prior to the normal building permit review process.

“Floodproofing” means a combination of structural provisions, changes or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages to properties, water and sanitary facilities, structures and contents of buildings in a flood hazard area.

“Floodway” means the channel of a river or other watercourse, and adjacent land areas that must be reserved in order to discharge the base flood.

“Lowest floor” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building’s lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of Chapter 30.

“Manufactured home” means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term “manufactured home” also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than one hundred eighty consecutive days. For insurance purposes, the term “manufactured home” does not include park trailers, travel trailers, and other similar vehicles.

“Manufactured home park or subdivision” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

“New construction” means structures for which the start of construction commenced on or after the effective date of this title.

“Obstruction” means any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel rectification, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure or matter in, along, across, or projecting into any channel, watercourse or regulatory flood hazard area which may impede, retard or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water, or which is placed where the flow of water might carry the same downstream to the detriment of life or property.

“One-hundred-year flood” means a flood of such magnitude which occurs on the average once in any one-hundred-year period, or which has a one-in-one-hundred chance of occurring in any year.

“Reach” means a longitudinal segment of a stream or river. A reach will generally include the segment of the flood hazard area where flood heights are influenced by a manmade or natural obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would typically constitute a reach.

“Regulatory flood” means a flood which is representative of large floods known to have occurred generally in the area and reasonably characteristic of what can be expected to occur in a particular stream or river. Regulatory flood generally has a frequency of approximately one hundred years, determined from an analysis of floods in a particular stream and other streams in the same general region.

“Regulatory flood protection elevation” means the elevation to which uses regulated by Chapter 30 are required to be elevated or floodproofed.

“Shoreline permit” means a permit issued by the city for development adjacent to water bodies per Chapter 90.58 RCW and Chapter 173-14 WAC. The floodplain areas are included in the jurisdiction of the shoreline permit. However, not all development needs a shoreline permit. See the definition of “floodplain development permit.”

“Substantial improvement” means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent of the market value of the structure either:

1. Before the improvement or repair is started; or
2. If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

1. Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to ensure safe living conditions; or
2. Any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.

“Variance” means a grant of relief from the requirements of Chapter 30 which permits construction in a manner that would otherwise be prohibited. (Ord. 1847-92 § 3 (part), 1992.)