



ORDINANCE NO. 3457-15

AN ORDINANCE Amending Critical Area and Floodplain Regulations as Part of the 2015-2035 Comprehensive Plan Update, Amending Ordinance No.s 2909-06 and 1671-89, as Amended

WHEREAS, RCW 36.70A.130 (5) requires that cities in Snohomish County take action on or before June 30, 2015 to review and, if needed, revise their comprehensive plans and development regulations to ensure the plan and regulations comply with the requirements of the Growth Management Act; and

WHEREAS, on June 24, 2015, City Council adopted Resolution No. 6872 concluding that the City had completed a great majority of the substantive steps necessary to complete the 2015 update and establishing a schedule for adoption of the Comprehensive Plan Update and related regulations by October 28, 2015 provided that the schedule is subject to change as necessary to ensure public review and comment and thorough review by the City Council; and

WHEREAS, the update must include review and, if needed, revision to policies and regulations regarding critical areas and natural resource lands; and

WHEREAS, following a public involvement process that included issuance of a Determination of Significance and scoping for an environmental impact statement on the update, on December 18, 2013 City Council approved Resolution No. 6685 adopting a Comprehensive Plan Audit and Public Involvement Plan for the update in accordance with RCW 36.70A.130(2); and

WHEREAS, Everett has followed its adopted Public Involvement Plan and provided many opportunities for public comment; and

WHEREAS, the Comprehensive Plan Update, Williams Plan Amendment and Rezone, Draft Environmental Impact Statement and related regulations were submitted to the Washington Department of Commerce for 60-day review on July 17, 2015 in accordance with RCW 36.70A.106; and

WHEREAS, RCW 36.70A.172 requires that jurisdictions include Best Available Science in developing policies and development regulations to protect the functions and values of critical areas and to give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries; and

WHEREAS, the City completed a review of Best Available Science for the update to critical area policies and regulations including the information identified in Exhibit A to this Resolution; and

WHEREAS, little new science was found that is contradictory to current Critical Area Regulations, with the primary need for amendments related to new WA Department of Ecology guidance for wetlands and frequently flooded areas, including use of the Corps of Engineers Wetland Delineation Manual and a new State wetland rating system, a new method of calculating debits and credits for wetland mitigation, new in-lieu fee mitigation programs, and implementation of a National Marine Fisheries Service Biological Opinion on the effect of the National Flood Insurance Program on species listed under the Endangered Species Act and their critical habitats in Puget Sound; and

WHEREAS, the City issued a Draft Environmental Impact Statement (DEIS) under State Environmental Policy Act requirements that evaluated the impacts of the proposals on July 20, 2015 and a Final Environmental Impact Statement (FEIS) responding to the comments received on September 4, 2015; and

WHEREAS, because the proposal includes adopting Snohomish County's adopted population and employment targets for the unincorporated portion of Everett's planning area, to meet the City's State Environmental Policy Act requirements, the City issued a Notice of Adoption of the Environmental Impact Statement for the Snohomish County Comprehensive Plan 2015 Update on July 20, 2015; and

WHEREAS, the Planning Commission held a public workshop to review proposed amendments to the critical area and floodplain regulations on March 3, 2015, and held a public hearing to take public testimony on the proposed amendments on September 15, 2015 and recommended that City Council approve the proposed amendments; and

WHEREAS, the City Council finds that:

1. The proposed amendments to the city's regulations in the Zoning Code for critical areas and floodplains are consistent with the GMA requirements for incorporating Best Available Science and to give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries;
2. The proposed amendments are consistent with the applicable provisions of the Everett Comprehensive Plan;
3. The proposed amendments bear a substantial relation to public health, safety or welfare; and
4. The proposed amendments promote the best long term interests of the Everett community.

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

SECTION 1: Section 5 of Ordinance 2909-06 (EMC 19.37.050), which read in part as follows:

Exemptions – Exceptions - Modifications

Certain activities are exempt from the requirements of this chapter, while other activities which are regulated by this chapter may be granted specific exceptions or an administrative

modification as provided in this chapter. This section lists the activities which are exempt from the regulations of this chapter, the exceptions which may be granted to the requirements of this chapter, and the administrative modifications which can be granted to other requirements of this title of the city code.

All activities or developments which are exempted, excepted, or granted modifications shall use reasonable methods to avoid and minimize potential impacts to critical areas, including use of any applicable best management practices. Such activities or developments which are exempted, excepted, or granted modifications shall not be exempt from other laws or permit requirements which may be applicable.

A. Exemptions. The following are exemptions to the provisions of this chapter; however, the exemptions listed in this section may not be exempted from other state or federal regulations or permit requirements. Any incidental damage to, or alteration of, a critical area that is not a necessary outcome of the exempted activity shall be restored, rehabilitated, or replaced at the expense of the property owner.

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7. Wetland Size Exemptions. The following wetlands are exempt from compliance with the mitigation sequencing provisions in Section 37.120.A of this chapter:

- a. Category I, II, III, and IV wetlands less than one thousand square feet in area that meet all of the following criteria:
 - i. The wetland is not associated with a riparian corridor;
 - ii. The wetland is not part of a wetland mosaic; and
 - iii. The wetland does not contain habitat identified as essential for local populations of priority species identified by the Washington State Department of Fish and Wildlife.
- b. Category III and IV wetlands between one thousand square feet and four thousand square feet in area that meet all of the following criteria:
 - i. The wetland is not associated with a riparian corridor;
 - ii. The wetland is not part of a wetland mosaic;
 - iii. The wetland does not contain habitat identified as essential for local populations of priority species identified by the Washington State Department of Fish and Wildlife; and
 - iv. The wetland scores less than twenty points for habitat in the 2004 Western Washington Wetland Rating System.

Mitigation must be provided for any approved impacts per Section 37.120.C through F or payment of a mitigation fee to the city. Payment of a mitigation fee is allowed subject to the city establishing a program to mitigate cumulative impacts of wetland losses by acquiring wetlands, acquiring conservation easements which will protect wetlands, establishing wetland mitigation banks or purchasing mitigation credits in established wetland mitigation banks, or creating wetlands. The program must establish a mitigation fee schedule for exempt wetlands. Mitigation fees shall be paid to the city prior to the issuance of permits authorizing wetland alteration.

is hereby amended to read as follows:

Exemptions – Exceptions - Modifications

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

All activities or developments which are exempted, excepted, or granted modifications shall use reasonable methods to avoid and minimize potential impacts to critical areas, including use of any applicable best management practices. Such activities or developments which are exempted, excepted, or granted modifications shall not be exempt from other laws or permit requirements which may be applicable.

A. Exemptions. The following are exemptions to the provisions of this chapter; however, the exemptions listed in this section may not be exempted from other state or federal regulations or permit requirements. Any incidental damage to, or alteration of, a critical area that is not a necessary outcome of the exempted activity shall be restored, rehabilitated, or replaced at the expense of the property owner.

.....

7. Wetland Size Exemptions. The following wetlands are exempt from compliance with the mitigation sequencing provisions in Section 37.120.A of this chapter:

- a. Category III and IV wetlands less than one thousand square feet in area that meet all of the following criteria:
 - i. The wetland is not associated with a riparian corridor;
 - ii. The wetland is not part of a wetland mosaic; and
 - iii. The wetland does not contain habitat identified as essential for local populations of priority species identified by the Washington State Department of Fish and Wildlife.
- b. Category III and IV wetlands between one thousand square feet and four thousand square feet in area that meet all of the following criteria:
 - i. The wetland is not associated with a riparian corridor;
 - ii. The wetland is not part of a wetland mosaic;
 - iii. The wetland does not contain habitat identified as essential for local populations of priority species identified by the Washington State Department of Fish and Wildlife; and
 - iv. The wetland scores three or four points for habitat in the 2014 Western Washington Wetland Rating System.

Mitigation must be provided for any approved impacts per Section 37.120.C through F.

SECTION 2: Section 9 of Ordinance 2909-06 (EMC 19.37.090), which read as follows:

37.090 Wetland designation, delineation, mapping and rating.

A. Wetland Delineation. Wetlands shall be identified and delineated in accordance with the Washington State Wetlands Identification and Delineation Manual (Ecology Publication No. 96-94) as required by RCW 36.70A.175. All areas within the city meeting the criteria in the wetland definition in the Washington State Wetlands Identification and Delineation Manual,

regardless of any formal identification, are hereby designated critical areas and shall be subject to the provisions of this chapter; provided, however, that wetlands in shoreline jurisdiction are regulated by the shoreline master program, rather than this chapter.

B. The approximate location and extent of known or suspected wetlands are shown on the city's critical area maps. These maps shall be used as a guide for the city, applicants and/or property owners, and may be updated as new wetlands are identified. It is the actual presence of wetlands on a property that triggers the requirements of this chapter. The exact location of a wetland boundary shall be determined through field investigation by a qualified professional applying the Washington state Wetlands Identification and Delineation Manual methods and procedures.

C. Wetlands shall be rated and regulated according to the categories defined by the Washington State Department of Ecology Washington State Wetland Rating System for Western Washington, Revised (Ecology Publication No. 04-06-025). Wetlands, as defined by this chapter, shall be classified as category I, category II, category III, or category IV.

1. Category I wetlands are those that: (a) represent a unique or rare wetland type; or (b) are more sensitive to disturbance than most wetlands; or (c) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or (d) provide a very high level of function. All wetlands that meet one or more of the following criteria shall be considered category I wetlands:
 - a. Wetlands that are designated as Natural Heritage Wetlands by the Washington State Department of Natural Resources;
 - b. Bogs;
 - c. Mature forested wetlands larger than one acre;
 - d. Wetlands that perform a very high level of function as evidenced by a score of seventy points or more on the Wetland Rating Form—Western Washington.
2. Category II wetlands are ecologically important and provide a high level of function. They are difficult but not impossible to replace. Wetlands that meet the following criteria shall be considered category II wetlands:
 - a. Wetlands that do not meet the criteria of category I wetlands;
 - b. A wetland identified by the state Department of Natural Resources as containing "sensitive" plant species;
 - c. Wetlands with high functions and values as indicated by a score of fifty-one to sixty-nine points on the Wetland Rating System Form—Western Washington.
3. Category III wetlands provide a moderate level of functions. They are typically more disturbed, smaller, and/or more isolated in the landscape than category I or II wetlands. Wetlands that meet the following criteria shall be considered category III wetlands:
 - a. Wetlands that score thirty to fifty points on the Wetland Rating Form—Western Washington.
4. Category IV wetlands provide the lowest level of function and are often heavily disturbed, but still provide important functions. Category IV wetlands include:
 - a. All wetlands that score less than thirty points on the Wetland Rating Form—Western Washington.

is hereby amended to read as follows:

A. Wetland Delineation. Identification of wetlands and delineation of their boundaries pursuant to this Chapter shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements. All areas within the City meeting the wetland designation criteria in that procedure are hereby designated critical areas and are subject to the provisions of this Chapter; provided, however, that wetlands in shoreline jurisdiction are regulated by the shoreline master program, rather than this chapter.

B. The approximate location and extent of known or suspected wetlands are shown on the city's critical area maps. These maps shall be used as a guide for the city, applicants and/or property owners, and may be updated as new wetlands are identified. It is the actual presence of wetlands on a property that triggers the requirements of this chapter. The exact location of a wetland boundary shall be determined through field investigation by a qualified professional applying the approved federal wetland delineation manual and applicable regional supplements methods and procedures.

C. Wetlands shall be rated and regulated according to the categories defined by the Washington State Department of Ecology Washington State Wetland Rating System for Western Washington 2014 Update, or as revised (Ecology Publication No. 14-06-029). Wetlands, as defined by this chapter, shall be classified as category I, category II, category III, or category IV.

1. Category I wetlands are those that: (a) represent a unique or rare wetland type; or (b) are more sensitive to disturbance than most wetlands; or (c) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or (d) provide a very high level of function. All wetlands that meet one or more of the following criteria shall be considered category I wetlands:
 - a. Wetlands that are designated as Natural Heritage Wetlands by the Washington State Department of Natural Resources;
 - b. Bogs;
 - c. Mature forested wetlands larger than one acre;
 - d. Wetlands that perform a very high level of function as evidenced by a score of twenty-three points or more on the Wetland Rating Form—Western Washington.
2. Category II wetlands are ecologically important and provide a high level of function. They are difficult but not impossible to replace. Wetlands that meet the following criteria shall be considered category II wetlands:
 - a. Wetlands that do not meet the criteria of category I wetlands;
 - b. A wetland identified by the state Department of Natural Resources as containing "sensitive" plant species;
 - c. Wetlands with high functions and values as indicated by a score of twenty to twenty-two points on the Wetland Rating System Form—Western Washington.
3. Category III wetlands provide a moderate level of functions. They are typically more disturbed, smaller, and/or more isolated in the landscape than category I or II wetlands. Wetlands that meet the following criteria shall be considered category III wetlands:

- a. Wetlands that score sixteen to nineteen points on the Wetland Rating Form—Western Washington.
4. Category IV wetlands provide the lowest level of function and are often heavily disturbed, but still provide important functions. Category IV wetlands include:
- a. All wetlands that score nine to fifteen points on the Wetland Rating Form—Western Washington.

SECTION 3: Subsection A of Section 11 of Ordinance 2909-06 (EMC 19.37.110), which reads in part as follows:

Standard wetland buffer width requirements.

- A. Standard Buffer Width.
 - 1. Bogs shall have a minimum buffer width of one hundred ninety feet. The following minimum buffers of native vegetation shall apply to all other wetlands based upon the wetland category and score for habitat functions from the Wetland Rating Form—Western Washington. Buffers shall be measured from the wetland boundary delineated as required by Section 37.090.A of this chapter.
 - a. Category II and III wetlands scoring less than nineteen points for habitat function shall have the following buffers:

	Category II wetlands	Category III wetlands
Buffer Width	75	60

- b. Category I, II, and III wetlands that score nineteen or more points for habitat shall have the following buffers:

Habitat Points	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36
Buffer Width	75	75	75	90	105	120	135	150	165	180	195	210	225	225	225	225	225	225

- c. Category IV wetlands that score nineteen or fewer points for habitat shall have a minimum buffer width of thirty-five feet.
 - d. Category IV wetlands that score twenty or more points for habitat shall have a minimum buffer width of forty-four feet.
2. Required Mitigation.
- a. For wetlands that score moderate or high for habitat (twenty points or more for the habitat functions), the following criteria must be met:
 - i. When feasible, a relatively undisturbed vegetated corridor at least one hundred feet wide must be protected between the wetland and any other priority habitats as defined by the Washington State Department of Fish and Wildlife (“relatively undisturbed” and “vegetated corridor” are defined in questions H.2.1 and H.2.2 of the Washington State Wetland Rating System for Western Washington, Revised. Priority habitats include:

- (A) Wetlands;
- (B) Riparian zones;
- (C) Marine/estuarine shorelines;
- (D) Urban natural open space.

The corridor must be protected for the entire distance between the wetland and the priority habitat by some type of legal protection such as a conservation easement.

- ii. Measures to minimize the impacts of different land uses on wetlands, such as the examples summarized in Table 37.1, are applied.
- b. For wetlands that score less than twenty points for habitat, measures to minimize the impacts of different land uses on wetlands, such as the examples summarized in Table 37.1, must be applied.

Table 37.1: Mitigation Measures

Examples of Disturbance	Activities and Uses That Cause Disturbance	Examples of Measures to Minimize Impacts
Lights	<ul style="list-style-type: none"> • Parking lots • Warehouses • Manufacturing • Residential areas 	<ul style="list-style-type: none"> • Direct lights away from wetland
Noise	<ul style="list-style-type: none"> • Manufacturing • Residential areas 	<ul style="list-style-type: none"> • Locate noise-generating activities away from the wetland to the extent feasible
Polluted runoff*	<ul style="list-style-type: none"> • Parking lots • Roads • Manufacturing • Residential areas • Application of agricultural pesticides • Landscaping 	<ul style="list-style-type: none"> • Comply with the Department of Ecology’s Stormwater Management Manual for Western Washington (2005)
Stormwater runoff	<ul style="list-style-type: none"> • Parking lots • Roads • Manufacturing • Residential areas • Commercial • Landscaping 	<ul style="list-style-type: none"> • Comply with the Department of Ecology’s Stormwater Management Manual for Western Washington (2005)
Change in water regime	<ul style="list-style-type: none"> • Impermeable surfaces • Lawns • Tilling 	<ul style="list-style-type: none"> • Comply with the Department of Ecology’s Stormwater Management Manual for Western Washington (2005)
Pets and human disturbance	<ul style="list-style-type: none"> • Residential areas 	<ul style="list-style-type: none"> • Use fencing; plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the Puget Lowland ecoregion; place wetland and its buffer in a separate tract
Dust	<ul style="list-style-type: none"> • Tilled fields 	<ul style="list-style-type: none"> • Use best management practices to control dust
*Additional mitigation to minimize polluted runoff may be necessary if threatened or endangered species		

Table 37.1: Mitigation Measures

Examples of Disturbance	Activities and Uses That Cause Disturbance	Examples of Measures to Minimize Impacts
are present at the site.		

3. All projects must include and integrate mitigation of land use impacts into the proposed project. Required mitigation measures shall be based upon the site-specific analysis required by this section. An analysis of potential impacts and recommended mitigation measures must be included in the wetland study required by this chapter.

Additionally, at a minimum the analysis shall address the potential land use impacts identified in Table 37.1. Mitigation of land use impacts must include, but not be limited to, reasonable mitigation of impacts identified in Table 37.1. In addition, for wetlands that score twenty or more points for habitat, the study shall include an analysis of existing habitat connections to priority habitats and include measures necessary to maintain those connections as required by subsection A.2 of this section.

is hereby amended to read as follows:

Standard wetland buffer width requirements.

A. Standard Buffer Width.

1. Bogs shall have a minimum buffer width of one hundred ninety feet. The following minimum buffers of native vegetation shall apply to all other wetlands based upon the wetland category and score for habitat functions from the Wetland Rating Form—Western Washington. Buffers shall be measured from the wetland boundary delineated as required by Section 37.090.A of this chapter.

- a. Category I, II and III wetlands scoring three points for habitat function shall have the following buffers:

	Category I and II wetlands	Category III wetlands
Buffer Width	75	60

- b. Category I, II, and III wetlands that score four or more points for habitat shall have the following buffers:

Habitat Points	4	5	6	7	8	9
Buffer Width	75	105	135	165	195	225

- c. Category IV wetlands that score three or four points for habitat shall have a minimum buffer width of thirty-five feet.
- d. Category IV wetlands that score five or more points for habitat shall have a minimum buffer width of forty-four feet.

2. Required Mitigation.
- a. For wetlands that score moderate or high for habitat (five points or more for the habitat functions), the following criteria must be met:
- i. When feasible, a relatively undisturbed vegetated corridor at least one hundred feet wide must be protected between the wetland and any other priority habitats as defined by the Washington State Department of Fish and Wildlife (“relatively undisturbed is defined in question H2.0 of the 2014 Washington State Wetland Rating System for Western Washington. Vegetated corridors have at least 30% cover of shrubs or forest. Priority habitats include:
- (A) Wetlands;
 (B) Riparian zones;
 (C) Marine/estuarine shorelines;
 (D) Urban natural open space.
- The corridor must be protected for the entire distance between the wetland and the priority habitat by some type of legal protection such as a conservation easement.
- ii. Measures to minimize the impacts of different land uses on wetlands, such as the examples summarized in Table 37.1, are applied.
- b. For wetlands that score less than three or four points for habitat, measures to minimize the impacts of different land uses on wetlands, such as the examples summarized in Table 37.1, must be applied.

Table 37.1: Mitigation Measures

Examples of Disturbance	Activities and Uses That Cause Disturbance	Examples of Measures to Minimize Impacts
Lights	<ul style="list-style-type: none"> • Parking lots • Warehouses • Manufacturing • Residential areas 	<ul style="list-style-type: none"> • Direct lights away from wetland
Noise	<ul style="list-style-type: none"> • Manufacturing • Residential areas 	<ul style="list-style-type: none"> • Locate noise-generating activities away from the wetland to the extent feasible
Polluted runoff*	<ul style="list-style-type: none"> • Parking lots • Roads • Manufacturing • Residential areas • Application of agricultural pesticides • Landscaping 	<ul style="list-style-type: none"> • Comply with the Department of Ecology’s Stormwater Management Manual for Western Washington (2005)
Stormwater runoff	<ul style="list-style-type: none"> • Parking lots • Roads • Manufacturing • Residential areas • Commercial • Landscaping 	<ul style="list-style-type: none"> • Comply with the Department of Ecology’s Stormwater Management Manual for Western Washington (2005)
Change in water	<ul style="list-style-type: none"> • Impermeable 	<ul style="list-style-type: none"> • Comply with the Department of Ecology’s Stormwater

Table 37.1: Mitigation Measures

Examples of Disturbance	Activities and Uses That Cause Disturbance	Examples of Measures to Minimize Impacts
regime	surfaces • Lawns • Tilling	Management Manual for Western Washington (2005)
Pets and human disturbance	• Residential areas	• Use fencing; plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the Puget Lowland ecoregion; place wetland and its buffer in a separate tract
Dust	• Tilled fields	• Use best management practices to control dust
*Additional mitigation to minimize polluted runoff may be necessary if threatened or endangered species are present at the site.		

3. All projects must include and integrate mitigation of land use impacts into the proposed project. Required mitigation measures shall be based upon the site-specific analysis required by this section. An analysis of potential impacts and recommended mitigation measures must be included in the wetland study required by this chapter.

Additionally, at a minimum the analysis shall address the potential land use impacts identified in Table 37.1. Mitigation of land use impacts must include, but not be limited to, reasonable mitigation of impacts identified in Table 37.1. In addition, for wetlands that score five or more points for habitat, the study shall include an analysis of existing habitat connections to priority habitats and include measures necessary to maintain those connections as required by subsection A.2 of this section.

SECTION 4: Subsection C of Section 11 of Ordinance 2909-06 (EMC 19.37.110), which reads as follows:

C. Standard Buffer Width Reduction for Category IV Wetlands. Buffer reductions are allowed; provided, that the applicant demonstrates the proposal meets criteria in subsections C.1 through C.3 and either C.4 or C.5 of this section. If the criteria are met, buffers may be reduced by up to twenty-five percent or no less than twenty-six feet.

1. The buffer area has less than fifteen percent slopes, the existing buffer provides minimal vegetative cover and cannot provide the minimum water quality or habitat functions, and enhancement is proposed consistent with the following criteria:
 - a. A mitigation plan consistent with Sections 37.120.D, E and F is approved by the director, including, but not limited to, maintenance, monitoring and provisions for an assurance device;
 - b. The plan shall include plant densities not less than five feet on center for shrubs and ten feet on center for trees;
2. A site-specific evaluation and documentation of buffer adequacy is based on consideration of the best available science and special consideration for the conservation or protection measures necessary to preserve or enhance anadromous fisheries consistent with WAC [365-195-900](#) through [365-195-925](#); and
3. Buffer width averaging is not utilized; and either

4. Structures, public roads, or other substantial improvements separate the subject upland property from the wetland and due to their height or width, prevent or impair the delivery of buffer functions to the wetland, in which cases the reduced buffer width shall reflect the buffer functions that can be delivered to the wetland; or
5. The wetland scores nineteen points or less for wildlife habitat.

is hereby amended to read as follows:

C. Standard Buffer Width Reduction for Category IV Wetlands. Buffer reductions are allowed; provided, that the applicant demonstrates the proposal meets criteria in subsections C.1 through C.3 and either C.4 or C.5 of this section. If the criteria are met, buffers may be reduced by up to twenty-five percent or no less than twenty-six feet.

1. The buffer area has less than fifteen percent slopes, the existing buffer provides minimal vegetative cover and cannot provide the minimum water quality or habitat functions, and enhancement is proposed consistent with the following criteria:
 - a. A mitigation plan consistent with Sections 37.120.D, E and F is approved by the director, including, but not limited to, maintenance, monitoring and provisions for an assurance device;
 - b. The plan shall include plant densities not less than five feet on center for shrubs and ten feet on center for trees;
2. A site-specific evaluation and documentation of buffer adequacy is based on consideration of the best available science and special consideration for the conservation or protection measures necessary to preserve or enhance anadromous fisheries consistent with WAC [365-195-900](#) through [365-195-925](#); and
3. Buffer width averaging is not utilized; and either
4. Structures, public roads, or other substantial improvements separate the subject upland property from the wetland and due to their height or width, prevent or impair the delivery of buffer functions to the wetland, in which cases the reduced buffer width shall reflect the buffer functions that can be delivered to the wetland; or
5. The wetland scores three or four points for wildlife habitat.

SECTION 5: Subsection C.5 of Section 12 of Ordinance 2909-06 (EMC 19.37.120), which reads as follows:

Avoiding Wetland Impacts.

5. Wetland Compensation Ratios. 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 functions are replaced. The ratios in this section apply to creation, restoration, and enhancement which is in-kind (within the same hydrogeomorphic (HGM) class), on or adjacent to the site, timed prior to or concurrent with alteration, and has a high probability of success. The city may accept or recommend compensation which is off-site and/or out-of-kind, if the applicant can demonstrate that on-site compensation is infeasible due to constraints such as parcel size or wetland type or that a wetland of a different type or location is justified based on regional needs or functions. When mitigating allowed impacts to wetlands, the standard ratios in Table 37.2 shall be used, except as otherwise provided below in this subsection.

Table 37.2: Standard Wetland Compensation Ratios

Category and Type of Wetland	Reestablishment or Creation	Rehabilitation	Reestablishment or Creation (R/C) and Rehabilitation (RH)	Reestablishment or Creation (R/C) and Enhancement (E)	Enhancement Only
Category I					
Forested	6:1	12:1	1:1 R/C and 10:1 RH	1:1 R/C and 20:1 E	24:1
Bog	Irreplaceable—Avoidance Required	6:1 Rehabilitation of a Bog	R/C not considered possible	R/C not considered possible	Case-by-case
Natural Heritage	Irreplaceable—Avoidance Required	6:1 Rehabilitation of a Natural Heritage Site	R/C not considered possible	R/C not considered possible	Case-by-case
Others	4:1	8:1	1:1 R/C and 6:1 RH	1:1 R/C and 12:1 E	16:1
Category II					
Forested	4:1	8:1	1:1 R/C and 4:1 RH	1:1 R/C and 6:1 E	16:1
Others	3:1	6:1	1:1 R/C and 4:1 RH	1:1 R/C and 8:1 E	12:1
Category III	2:1	4:1	1:1 R/C and 2:1 RH	1:1 R/C and 2:1 E	8:1
Category IV	1.5:1	3:1	1:1 R/C and 1:1 RH	1:1 R/C and 2:1 E	6:1

Creation = The manipulation of the physical, chemical, or biological characteristics present to develop a wetland on an upland or deepwater site, where a wetland did not previously exist. Activities typically involve excavation of upland soils to elevation that will produce a wetland hydroperiod, create hydric soils, and support the growth of hydrophytic plant species. Establishment results in a gain in wetland acres. Activities typically involve excavation of upland soils to elevations that will produce a wetland hydroperiod, create hydric soils, and support the growth of hydrophytic plant species.

Reestablishment = The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former wetland. Activities could include removing fill material, plugging ditches, or breaking drain tiles. Reestablishment results in a gain in wetland acres. Activities could include removing fill material, plugging ditches, or breaking drain tiles. Activities could involve breaching a dike to reconnect wetlands to a floodplain or return tidal influence to a wetland.

Rehabilitation = The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural or historic function of a degraded wetland. Activities could involve breaching a dike or reconnecting wetland to a floodplain or returning tidal influence to a wetland. Rehabilitation results in a gain in wetland function but does not result in a gain in wetland acres.

Enhancement = The manipulation of the physical, chemical or biological characteristics of a wetland site to heighten, intensify or improve functions or to change the growth stage or composition of the vegetation present. Enhancement is undertaken for specified purposes such as water quality improvement, flood water retention or habitat. Activities typically consist of planting vegetation, controlling nonnative or invasive species, modifying the site elevation or the proportion of open water to influence hydroperiods, or some combination of these. Enhancement results in a change in some wetland functions and can lead to a decline in other wetland function, but does not result in a gain in wetland acres. Activities typically consist of planting vegetation, controlling nonnative or invasive species, modifying site elevations or the proportion of open water to influence hydroperiods, or some combination of these activities.

- a. Increased Mitigation Ratios. 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. The proposed mitigation will result in a lower category wetland or projected losses in functions relative to the wetland being impacted;
 - iv. The relocation is off-site or the replacement is with out-of-kind compensation;
 - v. The wetland has been illegally filled or altered.
 - b. Decreased Mitigation Ratios. The city may decrease these ratios under the following circumstances:
 - i. Documentation by a qualified wetland specialist demonstrates that the proposed mitigation actions have a very high likelihood of success.
 - ii. Documentation by a qualified wetland specialist demonstrates that the proposed mitigation actions will provide significantly greater functions than the wetland being impacted.
 - iii. The mitigation actions are conducted in advance of the impact and have been shown to be successful.
 - c. In no case shall the mitigation 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 functions.
 8. The city may apply additional conditions or restrictions or require specific construction techniques in order to minimize impacts on wetland functions.
 9. Wetland compensation shall not occur in areas having high-quality terrestrial habitat.
 10. When wetland compensation is allowed, mitigation areas shall be located to preserve or achieve contiguous wildlife habitat corridors to minimize the isolation and fragmenting effects of development on habitat areas.
 11. When wetland creation is proposed, all required buffers for the creation site shall be located on the proposed creation site. Properties adjacent to or abutting wetland creation projects shall not be responsible for providing any additional buffer requirements.
 12. Wetland mitigation banks are sites where wetlands are restored, created, enhanced, or in exceptional circumstances, preserved, expressly for the purpose of providing compensatory mitigation in advance of authorized impacts to similar resources.
 - a. 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, a wetland of lesser size or functional value than the wetland being altered, or where the mitigation bank site substantially increases wetland functions in the watershed within which it is located. 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 a higher wetland function rating 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 functions of the wetland being altered and the wetland being used for mitigation banking. The city, using the review process described in EMC Title [15](#), Local Project Review Procedures, may allow wetland mitigation banking under the following circumstances:

- i. When alteration is allowed pursuant to the “reasonable use” exception as provided in Section 37.050.B of this chapter;
 - ii. When alteration is allowed for a water-dependent or water-related use;
 - iii. When on-site or off-site mitigation in the immediate vicinity of the project is not reasonable;
 - iv. When the wetland being altered is of a lower quality and has lesser functions than the wetland which is being used for the mitigation banking.
- b. Wetland mitigation banks may be approved under the provisions of Chapter [173-700](#) WAC (currently a draft). For any wetland mitigation bank certified under Chapter [173-700](#) WAC, credits from a wetland bank may be approved for use as compensation for unavoidable impacts to wetlands when:
- i. The director determines that the wetland mitigation bank provides appropriate compensation for the authorized impacts.
 - ii. The proposed use of credits is consistent with the terms and conditions of the bank’s certification.
 - iii. Replacement ratios for projects using bank credits shall be consistent with the terms and conditions of the bank’s certification.
 - iv. Credits from a certified wetland mitigation bank may be used to compensate for impacts located within the service area specified in the bank’s certification. In some cases, bank service areas may include portions of more than one adjacent drainage basin for specific wetland functions.

is hereby amended to read as follows:

Avoiding Wetland Impacts.

.....

5. Wetland Compensation Ratios. 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 functions are replaced. The ratios in this section apply to creation, restoration, and enhancement which is in-kind (within the same hydrogeomorphic (HGM) class), on or adjacent to the site, timed prior to or concurrent with alteration, and has a high probability of success. The city may accept or recommend compensation which is off-site and/or out-of-kind, if the applicant can demonstrate that on-site compensation is infeasible due to constraints such as parcel size or wetland type or that a wetland of a different type or location is justified based on regional needs or functions. When mitigating allowed impacts to wetlands, the standard ratios in Table 37.2 shall be used, except as otherwise provided below in this subsection.

Table 37.2: Standard Wetland Compensation Ratios

Category and Type of Wetland	Reestablishment or Creation	Rehabilitation	Reestablishment or Creation (R/C) and Rehabilitation (RH)	Reestablishment or Creation (R/C) and Enhancement (E)	Enhancement Only
Category I					
Forested	6:1	12:1	1:1 R/C and 10:1 RH	1:1 R/C and 20:1 E	24:1
Bog	Irreplaceable—Avoidance Required	6:1 Rehabilitation of a Bog	R/C not considered possible	R/C not considered possible	Case-by-case
Natural Heritage	Irreplaceable—Avoidance Required	6:1 Rehabilitation of a Natural Heritage Site	R/C not considered possible	R/C not considered possible	Case-by-case
Others	4:1	8:1	1:1 R/C and 6:1 RH	1:1 R/C and 12:1 E	16:1
Category II					
Forested	4:1	8:1	1:1 R/C and 4:1 RH	1:1 R/C and 6:1 E	16:1
Others	3:1	6:1	1:1 R/C and 4:1 RH	1:1 R/C and 8:1 E	12:1
Category III	2:1	4:1	1:1 R/C and 2:1 RH	1:1 R/C and 2:1 E	8:1
Category IV	1.5:1	3:1	1:1 R/C and 1:1 RH	1:1 R/C and 2:1 E	6:1
<p>Creation = The manipulation of the physical, chemical, or biological characteristics present to develop a wetland on an upland or deepwater site, where a wetland did not previously exist. Activities typically involve excavation of upland soils to elevation that will produce a wetland hydroperiod, create hydric soils, and support the growth of hydrophytic plant species. Establishment results in a gain in wetland acres. Activities typically involve excavation of upland soils to elevations that will produce a wetland hydroperiod, create hydric soils, and support the growth of hydrophytic plant species.</p>					
<p>Reestablishment = The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former wetland. Activities could include removing fill material, plugging ditches, or breaking drain tiles. Reestablishment results in a gain in wetland acres. Activities could include removing fill material, plugging ditches, or breaking drain tiles. Activities could involve breaching a dike to reconnect wetlands to a floodplain or return tidal influence to a wetland.</p>					
<p>Rehabilitation = The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural or historic function of a degraded wetland. Activities could involve breaching a dike or reconnecting wetland to a floodplain or returning tidal influence to a wetland. Rehabilitation results in a gain in wetland function but does not result in a gain in wetland acres.</p>					
<p>Enhancement = The manipulation of the physical, chemical or biological characteristics of a wetland site to heighten, intensify or improve functions or to change the growth stage or composition of the vegetation present. Enhancement is undertaken for specified purposes such as water quality improvement, flood water retention or habitat. Activities typically consist of planting vegetation, controlling nonnative or invasive species, modifying the site elevation or the proportion of open water to influence hydroperiods, or some combination of these. Enhancement results in a change in some wetland functions and can lead to a decline in other wetland function, but does not result in a gain in wetland acres. Activities typically consist of planting vegetation, controlling nonnative or invasive species, modifying site elevations or the proportion of open water to influence hydroperiods, or some combination of these activities.</p>					

- a. Increased Mitigation Ratios. 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. The proposed mitigation will result in a lower category wetland or projected losses in functions relative to the wetland being impacted;
 - iv. The relocation is off-site or the replacement is with out-of-kind compensation;
 - v. The wetland has been illegally filled or altered.
 - b. Decreased Mitigation Ratios. The city may decrease these ratios under the following circumstances:
 - i. Documentation by a qualified wetland specialist demonstrates that the proposed mitigation actions have a very high likelihood of success.
 - ii. Documentation by a qualified wetland specialist demonstrates that the proposed mitigation actions will provide significantly greater functions than the wetland being impacted.
 - iii. The mitigation actions are conducted in advance of the impact and have been shown to be successful.
 - c. In lieu of the ratios described above, mitigation ratios may be calculated using the method in *Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Western Washington: Final Report*, March 2012. Washington State Department of Ecology Publication #10-06-011.
 - d. In no case shall the mitigation 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 functions.
 8. The city may apply additional conditions or restrictions or require specific construction techniques in order to minimize impacts on wetland functions.
 9. Wetland compensation shall not occur in areas having high-quality terrestrial habitat.
 10. When wetland compensation is allowed, mitigation areas shall be located to preserve or achieve contiguous wildlife habitat corridors to minimize the isolation and fragmenting effects of development on habitat areas.
 11. When wetland creation is proposed, all required buffers for the creation site shall be located on the proposed creation site. Properties adjacent to or abutting wetland creation projects shall not be responsible for providing any additional buffer requirements.
 12. Wetland mitigation banks are sites where wetlands are restored, created, enhanced, or in exceptional circumstances, preserved, expressly for the purpose of providing compensatory mitigation in advance of authorized impacts to similar resources. Banks typically involve the consolidation of many small wetland mitigation projects into a larger, potentially more ecologically valuable site. Such consolidation encourages greater diversity of habitat and wetland functions. It also helps create more sustainable systems. Banks provide a greater likelihood of success over permittee-responsible mitigation projects, since the banks are up and running before unavoidable damage occurs to a wetland(s) at another site.

timeframe, working with regulatory agencies to make sure impacts are fully mitigated. ILF programs are approved by the U.S. Army Corps of Engineers and the Washington State Department of Ecology. The City may allow compensation for unavoidable impacts to wetlands through contribution to an approved ILF program.

SECTION 6: Section 19 of Ordinance 2909-06 (EMC 19.37.190), which reads in part as follows:

Additional fish and wildlife habitat conservation areas requirements.

A. Definitions.

1. Habitats of primary association” means a critical component(s) of the habitats of federally or state-listed endangered, threatened, candidate, sensitive, and priority 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 Fish and Wildlife.
2. Continuous vegetative corridors linking watersheds” means areas that link larger habitat blocks. The corridors can provide wildlife habitat and allow for relatively free movement of animals among larger habitat blocks that would otherwise be isolated. This allows use of habitat patches that are not themselves large enough to support sustainable breeding populations. The corridors also allow wildlife to move from a habitat area used for one activity, such as feeding, to a habitat area used for another activity, such as nesting.
3. Significant biological areas” means the following areas of the city:
 - a. Plant associations of infrequent occurrence;
 - b. Commercial and recreational shellfish areas;
 - c. Kelp and eelgrass beds;
 - d. Herring, sand lance, and smelt spawning areas;
 - e. State natural area preserves and natural resource conservation areas; and
 - f. Significant biological areas of local importance:
 - i. Maulsby Swamp,
 - ii. Bomarc Bog,
 - iii. Simpson site, category I wetlands,
 - iv. Narbeck Swamp,
 - v. Jetty Island.

B. Goals and Additional Requirements. It is the goal of the city to preserve, protect and enhance fish and wildlife habitat conservation areas through sound habitat management practices. Fish and wildlife habitat conservation areas in shoreline jurisdiction are regulated by the shoreline master program. All other fish and wildlife habitat conservation areas are regulated by this chapter.

1. All new development and redevelopment adjacent to fish and wildlife habitat conservation areas should consider low impact stormwater management techniques where site conditions allow as described in the Low Impact Development Technical Guidance Manual for Puget Sound, January 2005.

2. If a development is proposed on or within a distance which could impact habitats of primary association, significant biological areas, and/or vegetative corridors linking watersheds, as described in this section, the applicant shall provide a habitat assessment. If the habitat assessment determines that the proposed development could potentially adversely impact a fish and wildlife habitat conservation area, 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 must address activities that can be taken to preserve, protect, or enhance the affected fish and wildlife habitat conservation areas. The HMP shall be based upon sound habitat management practices and be designed to achieve specific habitat objectives. If the habitat assessment finds that the proposed development could result in substantial elimination of or significant reduction in riparian corridors, existing connections between critical areas, or continuous vegetated corridors linking watersheds, the HMP must analyze alternatives and measures to maximize the maintenance of existing corridors. The city shall ask the appropriate resource agencies to review and comment on the development impacts and the provisions of the HMP.
 - a. Distance for Habitats of Primary Association.
 - i. Salmonids . When development is proposed on or within two hundred feet of a Type F stream, a habitat assessment shall be required.
 - ii. Bald Eagles. When a development is proposed within eight hundred feet of an eagle nest, or within one-half mile of a nest if also within two hundred fifty feet of the shoreline, or within one-quarter mile of a communal roost, a habitat assessment meeting the requirements of this chapter shall be required. In addition to the requirements of this chapter, the habitat assessment shall address the criteria contained in WAC [232-12-292](#), the Washington State Bald Eagle Protection Rules. The director is authorized to promulgate an administrative rule identifying the required content for an integrated habitat assessment consistent with these requirements.
 - iii. Other Species. If habitats of primary association are identified for other species, the director, after consulting with the Department of Fish and Wildlife, shall determine the appropriate distance from a designated fish and wildlife habitat conservation area which will require a habitat assessment or habitat management plan.
 - b. Continuous Vegetative Corridors Linking Watersheds. If a development is proposed within an area that provides a continuous vegetative corridor linking watersheds, a habitat assessment is required.
 - c. Significant Biological Areas. If a development is proposed within three hundred feet of a significant biological area, a habitat assessment is required.

is hereby amended to read as follows:

Additional fish and wildlife habitat conservation areas requirements.

- A. Definitions.
 1. "Habitats of primary association" means a critical component(s) of the habitats of federally or state-listed endangered, threatened, candidate, sensitive, and priority 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 Fish and Wildlife.

2. Continuous vegetative corridors linking watersheds” means areas that link larger habitat blocks. The corridors can provide wildlife habitat and allow for relatively free movement of animals among larger habitat blocks that would otherwise be isolated. This allows use of habitat patches that are not themselves large enough to support sustainable breeding populations. The corridors also allow wildlife to move from a habitat area used for one activity, such as feeding, to a habitat area used for another activity, such as nesting.
3. Significant biological areas” means the following areas of the city:
 - a. Plant associations of infrequent occurrence;
 - b. Commercial and recreational shellfish areas;
 - c. Kelp and eelgrass beds;
 - d. Herring, sand lance, and smelt spawning areas;
 - e. State natural area preserves and natural resource conservation areas; and
 - f. Significant biological areas of local importance:
 - i. Maulsby Swamp,
 - ii. Bomarc Bog,
 - iii. Simpson site, category I wetlands,
 - iv. Narbeck Swamp,
 - v. Jetty Island.

B. Goals and Additional Requirements. It is the goal of the city to preserve, protect and enhance fish and wildlife habitat conservation areas through sound habitat management practices. Fish and wildlife habitat conservation areas in shoreline jurisdiction are regulated by the shoreline master program. All other fish and wildlife habitat conservation areas are regulated by this chapter.

1. All new development and redevelopment adjacent to fish and wildlife habitat conservation areas should consider low impact stormwater management techniques where site conditions allow as described in the City’s Stormwater Management Manual.
2. If a development is proposed on or within a distance which could impact habitats of primary association, significant biological areas, and/or vegetative corridors linking watersheds, as described in this section, the applicant shall provide a habitat assessment. If the habitat assessment determines that the proposed development could potentially adversely impact a fish and wildlife habitat conservation area, 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 must address activities that can be taken to preserve, protect, or enhance the affected fish and wildlife habitat conservation areas. The HMP shall be based upon sound habitat management practices and be designed to achieve specific habitat objectives. If the habitat assessment finds that the proposed development could result in substantial elimination of or significant reduction in riparian corridors, existing connections between critical areas, or continuous vegetated corridors linking watersheds, the HMP must analyze alternatives and measures to maximize the maintenance of existing corridors. The city shall ask the appropriate resource agencies to review and comment on the development impacts and the provisions of the HMP.

- a. Distance for Habitats of Primary Association.
 - i. Salmonids and steelhead. When development is proposed within the distances specified in Planning Director Interpretations (PDIs) No. 2011-1 and 2000-2, as revised, a habitat assessment shall be required.
 - ii. Bald Eagles. When a development is proposed within eight hundred feet of an eagle nest, or within one-half mile of a nest if also within two hundred fifty feet of the shoreline, or within one-quarter mile of a communal roost, a habitat assessment meeting the requirements of this chapter shall be required. In addition to the requirements of this chapter, the habitat assessment shall address the criteria contained in WAC [232-12-292](#), the Washington State Bald Eagle Protection Rules. The director is authorized to promulgate an administrative rule identifying the required content for an integrated habitat assessment consistent with these requirements.
 - iii. Other Species. If habitats of primary association are identified for other species, the director, after consulting with the Department of Fish and Wildlife, shall determine the appropriate distance from a designated fish and wildlife habitat conservation area which will require a habitat assessment or habitat management plan.
- b. Continuous Vegetative Corridors Linking Watersheds. If a development is proposed within an area that provides a continuous vegetative corridor linking watersheds, a habitat assessment is required.
- c. Significant Biological Areas. If a development is proposed within three hundred feet of a significant biological area, a habitat assessment is required.

SECTION 7: Section 30 of Ordinance 1671-89, as amended (EMC 19.30) is hereby amended by the addition of the following subsection to be codified as 19.30.045:

Biological Assessments

Planning Director Interpretations (PDI) No. 2011-1 and 2000-2 require that a biological assessment be completed to determine the impacts of proposed development to endangered species and mitigation requirements. Unless a development proposal is exempted by PDI No. 2011-1, the biological assessment must be prepared consistent with the standards in the PDIs and approved by the planning director per Section 37.190.

SECTION 8: Authority. In addition to the authority provided by Chapter 36.70A RCW, the City adopts the Critical Area and Floodplain amendments set forth in this Ordinance under its general land use authority, Washington State Constitution, Article XI, Section 11 and Chapter 35.63 RCW.

SECTION 9: Pending actions. The enactment of this Ordinance shall not affect any case, proceeding, appeal or other matter currently pending before the City or in any court.

SECTION 10: Severability. Should any section, paragraph, clause or phrase of this Ordinance or its application to any person or circumstance be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulations, this shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

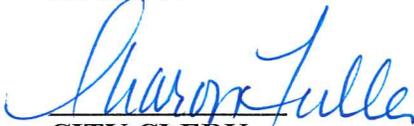
SECTION 11: Conflict. In the event there is a conflict between the provisions of this Ordinance and any other City ordinance, the provisions of this Ordinance shall control.

SECTION 12: Corrections. The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection number and any references thereto.

SECTION 13: General Duty. It is expressly the purpose of this Ordinance to provide for and promote the health safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this Ordinance. It is the specific intent of this Ordinance that no provisions or any term used in this Ordinance is intended to impose any duty whatsoever upon the City or any of its officers or employees. Nothing contained in this Ordinance is intended nor shall be construed to create or form the basis of any liability on the part of the City, or its officers, employees or agents, for any injury or damage resulting from any action or inaction on the part of the City related in any manner to the enforcement of this Ordinance by its officers, employees or agents.


Ray Stephanson, Mayor

ATTEST:


CITY CLERK

Passed: 10/21/2015

Valid: 10/26/2015

Published: 10/30/2015

Effective Date: 11/10/2015

Exhibit A
Best Available Science Update
Information Reviewed for Critical Area Policies and Regulations Update

- Guidance from the Washington State Department of Ecology on Wetlands and Frequently Flooded Areas
 - Email from Donna Bunten. Ecology Guidance on Wetlands and Frequently Flooded Areas for CAO Updates. January 21, 2015
 - Guidance to Local Governments on Frequently Flooded Area Updates in CAO's, January 20, 2015.
 - Email from Donna Bunten regarding modifying Everett's CAO related to the new wetland rating system. January 28, 2015.
 - Clarifying email from Donna Bunten on March 17, 2015.
 - Hruby, T. (2014). Washington State Wetland Rating System for Western Washington: 2014 Update. (Publication #14-06-029). Olympia, WA: Washington Department of Ecology.
 - Personal communication (phone call) with David Radabaugh regarding floodplain maps. March 2, 2015
- Snohomish County's 2015 Best Available Science Review for Critical Area Regulation Update, which included an extensive literature review by Snohomish County engineers and scientists and professional consultation with State agencies, professionals, and other local jurisdictions. The science was gathered following the BAS rules contained in WAC 365-195-900 through 925.
- Growth Hearings Board and court decisions since Everett's 2006 update
- FEMA Region X. Integrating the Local Natural Hazard Mitigation Plan into a Community's Comprehensive Plan, A Guidebook for Local Governments.-
- Knight, K. 2009. Land Use Planning for Salmon, Steelhead and Trout. Washington Department of Fish and Wildlife. Olympia, Washington.
- New inventory information from land use permit applications, the development of Everett's Surface Water Comprehensive Plan, and Washington Department of Fish and Wildlife Priority Habitat and Species data.