AMENDMENT SHEET NO. 3 TO ORDINANCE NO. 24-097

Amendment Name: Retaining and Amending Existing Mitigation Incentives and Options.

Brief Description: This amendment will retain and revise existing incentives related to:

- Protective fencing
- Use of separate tracts
- Combining fencing and tract incentives
- Buffer averaging
- Buffer enhancement
- Exemption thresholds for small wetlands

Proposed By: Councilmember Jared Mead

Affecting: Ordinance Findings and Sections

Existing Ordinance Findings or Sections:

Page 19, lines 13 to 23, delete:

SCC 30.62A.320(1)(f): Repealing two buffer width reduction criteria that are present in existing code that allow reduced buffers when a critical area is located in a separate tract or behind a fence within a new development. All critical areas must be located within a tract or easement pursuant to SCC 30.62A.160(3). When an applicant selects an option that is not beyond an existing requirement, this does not provide additional protection or enhancement of the critical area and should not receive reduced buffer widths. Similarly, fencing is often required along critical areas protection boundaries pursuant to SCC 30.62A.160(5). Therefore, providing a reduced buffer width for installing a permanent fence does not better protect or provide increased value in a way that would warrant a reduced buffer width. This repeal is consistent with Ecology and WDFW guidance.

And replace with:

SCC 30.62A.320(1)(f): Amending two options for buffer width reductions in existing code that allow reduced buffers when a critical area is located in a separate tract or behind a fence within new development and for combining these two reduction options. See additional County Council findings J, J.1. J.2, J.3, and J.4.

Page 19, lines 25 to 40, delete:

SCC 30.62A.320(1)(g): Addition of new standards for buffer averaging requirements for wetlands based on the category of wetland, and to clarify that the existing buffer averaging requirements in code pertain to streams, lakes, and marine waters. These updates to the buffer averaging requirements for wetlands are to align with Ecology's 2022 guidance on this type of flexibility using a

moderate risk approach. Ecology guidance states that "The buffer recommendations contained herein are based on a moderate-risk approach. In this document, risk is addressed by tailoring the degree of protection to several factors the scientific literature says are important. The widths recommended in this guidance were selected from the middle of the range of buffers suggested in the literature. In combination with other strategies like limiting buffer reductions, buffer averaging, and exemptions, it represents a moderate-risk approach to determining buffer widths." Amendments also remove the ability for applicants to combine buffer reductions with buffer averaging in line with Ecology's guidance and to be consistent with the repealed language within (1)(f). 2022 Ecology guidance does not include the ability to combine buffer averaging with other reductions.

And replace with:

SCC 30.62A.320(1)(g): Amending standards regarding buffering averaging and enhancement. See additional County Council findings J, J.1, J.5, and J.6.

Page 24 Line 35 to Page 25, line 2, delete:

SCC 30.62A.510(3)(g): Repealing (g) as a minor development activity allowed. Instead of allowing development in non-riparian Category II and II wetlands smaller than 5,000 square feet and Category IV wetlands smaller than 10,000 square feet, (4) is added consistent with 2022 Ecology guidance to allow development within Category IV wetlands less than 4,000 square feet that meet new criteria. A new (5) is also added to exempt Category IV wetlands less than 1,000 square feet with criteria. These amendments are made because the WAC requires no net loss of critical areas, and Ecology has refined their guidance since the last major CAR update about the wetlands that are acceptable to be impacted by development. A new (3)(g) is added to exempt Forest Practices pursuant to chapter 76.09 RCW, and a new (3)(m) is added to exempt conservation and preservation projects. Conservation projects aim to enhance critical areas and do not need to provide additional mitigation. This amendment is consistent with the 2024 Comprehensive Plan that amended policies to encourage and support conservation projects.

And replace with:

SCC 30.62A.510(3)(g): Moving requirements for minor development activities in certain wetlands to new subsections SCC 30.62A.510(4) and (5) and amending requirements for development activities related to those wetlands for reasons provided in County Council findings J, J.1 and J.7. A new (3)(g) is added to exempt Forest Practices pursuant to chapter 76.09 RCW.

SCC 30.62A.510(3)(m): A new (3)(m) is added to exempt conservation and preservation projects. Conservation projects aim to enhance critical areas and do not need to provide additional mitigation. This amendment is consistent with the 2024 Comprehensive Plan that amended policies to encourage and support conservation projects.

Page 30, Line 34. Insert a new Subsection J. as follows:

J. The County Council makes the following additional findings to supplement the record as set forth in the PDS Staff Report dated April 9, 2024. These include: (1) general findings related to critical

area regulations and requirements, (2) use of tracts, (3) protective fencing, (4) combining tract and fencing incentives, (5) buffer averaging, (6) buffer enhancement, and (7) exemptions for small wetlands.

1. *General Findings.*

    a. The Snohomish County Department of Conservation & Natural Resources Surface Water Management Division and Department of Planning and Development Services jointly published the *January 2024 Critical Area Regulations Monitoring Report* (2024 Monitoring Report). This is the most recent of several monitoring reports by the executive branch that fulfill the requirements of the county's monitoring and adaptive management program (SCC 30.62A Part 700).

        i. The 2024 Monitoring Report studied land cover and other changes to critical areas between 2009 and 2021. The report evaluates and compares these changes with predetermined adaptive management thresholds representing levels at which critical area functions and values might be affected. (Page 4)

        ii. The 2024 Monitoring Report concluded that:

            > Overall, the County's [existing] CAR regulations are helping to preserve the functions and values associated with critical areas given significant growth and development. […] Permit protections were found largely to be effective, meaning unpermitted actions, natural events, and other stressors are likely the major causes of critical area changes. (Page 12)

    b. The County Council finds that the 2024 Monitoring Report is an example of local information that meets the criteria for best available science consistent with WAC 365-195-905.

    c. The County Council finds agreement with the 2024 Monitoring Report's conclusion that existing regulations are largely effective.

    d. The County Council finds that although the executive branch's recommendations are compatible with available BAS, BAS does not mandate all the specific amendments put forward in this ordinance.

    e. Given the significant public interest involved, the County Council finds that the buffer reduction incentives and allowances for development impacts to small wetlands retained and revised in this ordinance, as amended, should continue to be evaluated as part of the county's critical areas monitoring and adaptive management program, SCC 30.62A Part 700.

    f. The County Council finds that as amended, the ordinance balances the need to maintain housing capacity with the need to protect the environment.

i. Snohomish County will continue to monitor impacts on critical areas through its monitoring and adaptive management program (SCC 30.62A Part 700).

ii. Snohomish County will continue to monitor impacts on housing capacity through its buildable lands program (RCW 36.70A.215).

2. *Tract Reductions*. All critical areas must be in a tract or easement pursuant to SCC 30.62A.160(3). This choice at the discretion of the applicant. Existing code provisions allow reduced buffers when a critical area is in a separate tract within a new development. As amended, this ordinance will revise provisions related to reductions for tracts for the following reasons.

a. Recommendations supported by BAS indicate that jurisdictions achieve better long-term protections of critical areas and buffers by placing them in tracts rather than in easements.

i. *Wetland Buffers – A Field Evaluation of Buffer Effectiveness in Puget Sound* by Sarah Spear Cooke (Cooke 1992). Cooke found that the effectiveness of buffers in protecting an adjacent wetland depends in part on the ownership of the buffer and adjacent wetland (page 64). Projects that incorporated the buffer in the lots as an easement on the lot rather than in a separate tract "always resulted in the loss of the natural vegetation to lawn over time" (pages 82-83). A successful buffer strategy includes ownership of the buffer by landowners that understand the purpose of the buffer (page 85).

ii. *Wetlands in Washington State Vol. 2: Guidance for Protecting and Managing Wetlands*, Publication #05-06-008, the Washington State Department of Ecology and Department of Fish and Wildlife (Wetlands Vol. 2). Wetlands Vol. 2 discusses the importance of common ownership in several places. These include recommendations that local jurisdictions adopt policies to encourage separate tracts that will remain in common ownership rather than easements on individual lots (pages 7-16 and 8-45).

iii. *Wetland Guidance for Critical Areas Ordinance (CAO) Updates*, Publication #22-06-014, the Washington State Department of Ecology (Wetland Guidance 2022). recommends that the "most effective long-term protection is to place the wetland and buffer in a non-buildable tract that is owned and maintained by an organization dedicated to protecting them" (page 33).

b. The County Council finds it important to retain an incentive to place critical areas and buffers in a tract rather than in an easement. This is consistent with recommendations supported by BAS that better long-term protection occurs through common ownership in a tract rather than private ownership of an easement.

c. Although the documentation regarding effectiveness of tracts is primarily about tracts as protection for wetlands and associated buffers, the County Council finds that the same reasoning should also be applied to the protection of streams, lakes and marine waters and their associated buffers.

d. The County Council has considered input received regarding the size of the incentive to place critical areas and buffers in a tract rather than an easement. The incentive in current code provides a 15% reduction in standard buffer width.

e. The County Council concludes that reducing the incentive to place critical areas in tracts to 10% will result in a net increase in habitat functions and values relative to current regulations while continuing to encourage applicants to place critical areas in tracts to better protect those habitat functions and values in the long-term.

3. *Fencing reductions*. Permanent fencing is sometimes but not always a requirement pursuant to SCC 30.62A.160(5). When fencing is not a requirement, it is a choice at the discretion of the applicant. Existing code provisions allow reduced buffers when an applicant installs a protective fence along the perimeter of the buffer. As amended, this ordinance will revise provisions related to fencing reductions for the following reasons.

   a. Recommendations supported by BAS indicate that jurisdictions achieve better long-term protections of critical areas when permanent fencing protects critical areas and buffers.

      i. Cooke 1992 found that one function of a buffer is to prevent human physical intrusion into the critical area and that a fence functions as a physical barrier to such intrusion (page 74). Based on an inspection of sites post development, Cooke concludes that fencing is “perhaps the optimum physical barrier” for reducing human caused disturbances in wetland buffers (page 76).

      ii. Wetlands Vol. 2 describes fences as important to marking the boundary of protected areas to limit human and pet intrusion that can impact wildlife habitat. It also describes fences as useful in educating landowners about the purpose and value of protecting buffer areas (because of signage typically installed on the fence) (pages 8-44 to 8-45). These regulatory functions are part of the definition of protection/maintenance actions taken to preserve wetland acreage and habitat functions (Glossary, page 15).

      iii. Wetland Guidance 2022 reiterates that a “fence is generally necessary to demarcate the outer boundary of the buffer and to limit human and pet access” (page 25) and recommends that an “applicant shall be required to install a permanent fence” (page A-12). Although the protective functions of a fence “does not result in a gain of aquatic resource area or [habitat] functions but may result in a gain in functions over time” as vegetative habitat in the protected area matures (page A-18).

   b. The County Council finds it important to retain an incentive to provide protective fencing for critical areas and associated buffers. This is consistent with recommendations supported by BAS that fences improve long-term protections by limiting intrusion and providing education through signage affixed to fences.

   c. Although the documentation regarding effectiveness of permanent fencing is primarily about fences as protection for wetlands and associated buffers, the County Council finds

that the same reasoning should also be applied to the protection of other aquatic critical areas (stream, lakes and marine waters) and their associated buffers.

d. The County Council has considered input received regarding the size of the incentive to provide permanent fencing. The incentive in current code provides a 15% reduction in standard buffer width.

e. The County Council concludes that reducing the incentive to protect critical areas with fences to 10% will result in a net increase in habitat functions and values relative to current code while continuing to encourage applicants to use fences when not required to better protect those habitat functions and values in the long-term.

4. *Combining tract and fencing incentives*. Existing code provisions allow applicants to reduce buffers when combining placement of a fence along the perimeter of a protective tract. As amended, this ordinance will revise provisions related to combined incentives for the following reasons.

a. SCC 30.62A.160 does not always require critical areas and buffers to be in tracts protected by permanent fencing. When tracts or protective fencing are not requirement, the added protections offered by tracts and fences are design choices made at the discretion of the applicant.

b. Recommendations supported by BAS as cited above clearly indicate that jurisdictions achieve better long-term protections of critical areas when critical areas and buffers are in tracts protected by permanent fencing.

c. Consistent with these recommendations, the County Council finds it important to retain an incentive to combine tracts and protective fencing for critical areas and associated buffers.

d. The County Council has considered input received regarding the size of the combined incentive. The incentive in current code provides a 25% reduction in standard buffer width.

e. The County Council concludes that reducing the combined incentive to protect critical areas with both tracts and fences to 20% will result in a net increase in habitat functions and values relative to current code while continuing to encourage applicants to use both incentives to better protect habitat functions and values in the long-term.

5. *Buffer averaging*. Existing code provisions allow buffer averaging, which allows for the reduction of buffer width in one portion of the buffer when another portion of the same buffer increases so that the total buffer area is unchanged. Approval of buffer averaging requires an applicant to demonstrate that there is no net loss of buffer functions and values after averaging compared to the functions and values that standard buffers would achieve.

a. Provisions for buffer averaging in effect since 2007 allow a reduced width of a portion of a buffer up to 50% of the standard buffer width or 25 feet, whichever is greater, in exchange

for increases in width elsewhere in the same buffer. These existing provisions currently apply equally to both wetlands and to streams, lakes and marine waters.

b. As transmitted to the County Council, the original ordinance would create separate buffer averaging standards for wetlands and for streams, lakes, and marine waters:

    i. For wetlands, it would also revise the averaging standards to become the greater of 75% of the standard width or 75 feet for Category I and II wetlands, 50 feet for Category III wetlands, and 25 feet for Category IV wetlands.

    ii. For streams, lakes, and marine waters, it would retain the current buffer averaging standards – 50% of the standard with or 25 feet, whichever is greater.

c. The County Council has considered input and recommendations from Ecology that recommends buffer widths for wetlands should be no less than 75% of the standard buffer width. Ecology's 2022 guidance describes this recommendation as part of a moderate risk approach. The same guidance acknowledges that buffer averaging may in some cases improve wetland protection, including situations where there are dual-rated wetlands with contiguous buffers (where the higher-functioning area of habitat or more sensitive portion of the wetland has a larger buffer width than the lower rated area).

d. The County Council has considered input and recommendations from WDFW concerning buffer widths for fish and wildlife habitat conservation areas.

    i. *Riparian Ecosystems, Volume 2: Management Recommendations*, the Washington State Department of Fish and Wildlife (Riparian Ecosystems Vol. 2). Riparian Ecosystems Vol. 2 includes recommendations for policies and practices for protecting and restoring riparian ecosystems in areas generally synonymous with the fish and wildlife habitat conservation areas specified in the Growth Management Act. WDFW's objective in making its recommendations is that they would result in "fully functioning riparian ecosystems" (pages 16-17).

    ii. Streams are the most common type of fish and wildlife habitat conservation area.

    iii. Riparian Ecosystems Vol. 2 is silent on the topic of buffer averaging; however, it shows deference to Ecology regarding buffer widths in areas where high intensity land uses may be located adjacent to riparian areas (page 27).

    iv. In discussing buffer widths in urban areas where typical new development is a high intensity land use, Wetlands Vol. 2 (Ecology), states that "a good stormwater management program can reduce the need for buffers to perform filtration functions" (page 8-46).

e. Most of the new development in Snohomish County will be in urban areas with a greater potential for high intensity land uses, the County Council finds that it is appropriate to

utilize Ecology wetland guidance from Ecology in its consideration of buffers for other aquatic critical areas.

f. Because many streams originate in, pass through, or are associated with wetlands, the County Council finds that it is appropriate to continue allowing buffer averaging on sites where buffers for wetlands overlap with buffers for other aquatic critical areas.

g. The County Council finds that the flexibility in current code regarding buffer width may be too high and that it is appropriate to amend buffer averaging provisions.

    i. As amended, the ordinance will allow buffer averaging at streams, lakes, and marine waters to reduce buffers to no less than 75% of the standard buffer width rather than to 50% of the standard width. This matches the changes in the original ordinance that was applicable only for wetlands.

    ii. These changes are consistent with guidance from WDFW that it is appropriate to defer to Ecology for some types of guidance.

    iii. These changes are consistent with guidance from Ecology 2022 that when allowing buffer averaging, provisions should allow buffers to be no narrower than 75% of the standard buffer.

    iv. These changes are consistent BAS findings and guidance from both Ecology and WDFW that many buffer functions have diminishing returns relative to width, meaning that the part of the buffer closest to the critical area is often the most important part. The reduced flexibility for buffer averaging preserves more of the buffer area closest to the critical area.

    v. Utilization of buffer averaging for wetlands, streams, lakes and marine waters will continue to require the applicant to demonstrate through a critical area study that there is no net loss of buffer functions and values after averaging compared to the functions and values that standard buffers would achieve.

    vi. Where two or more wetland, stream, lake or marine buffers overlap, the widest buffer width must be used, and this requirement applies equally when buffer averaging is applied to an area with two or more overlapping critical areas.

h. The County Council concludes that these changes will increase protections for wetlands, streams, lakes, and marine waters compared to the original ordinance and current code.

6. *Buffer enhancement*. Existing code provisions allow reductions in buffer width and in buffer area in exchange for buffer enhancement. Enhancement involves restorative activities on sites where existing functions and values are non-existent or significantly degraded due to existing conditions. Approval of a buffer reduction for enhancement requires an applicant to demonstrate that there is no net loss of buffer functions and values after enhancement compared to the functions and values that standard buffers would achieve.

a. When enhancement is the sole buffer reduction method proposed, current code allows reductions of up to 25% of both the standard buffer width and area.

b. When combined with permanent fencing or use of separate tracts, current code allows reductions of up to 30% of both the standard buffer width and area.

c. When combined with buffer averaging, current code allows a reduction of total buffer area of 25% and a reduced averaged buffer width of no less than 50% of the standard buffer widths.

d. The original ordinance would repeal existing code provisions that combine the buffer reduction incentive for buffer enhancement with reductions for use of permanent fencing, tracts, and buffer averaging.

e. The County Council finds that the original ordinance would increase the likelihood that an enhanced critical area and buffer habitat would become degraded again without maintaining incentives for use of protective fences and tracts.

f. The County Council finds that the original ordinance limits opportunities for the restoration of degraded habitat when an applicant wishes to use buffer averaging, thereby increasing the likelihood that already degraded critical area buffer would remain so after development.

g. BAS shows that for many buffer functions the part of the buffer closest to the critical area is the most important.

h. Ecology guidance that buffer averaging provisions should not allow standard buffer reductions of more than 25% assumes that sites are already well vegetated with native species.

i. Buffer width and buffer area are related concepts but not the same. Buffer width describes the distance between the edge of a critical area and the edge of the buffer. Area is a description of the overall buffer size. Regulations that allow modifications to width and area are setting thresholds for each parameter.

    i. The only time a percentage of reduction in width results in the same percentage reduction in area is when the boundaries of a critical area are exactly straight, however most critical areas have curved boundaries.

    ii. On the outside of a curve, a uniform reduction in width by a certain percentage will result in a larger reduction in area.

    iii. On the inside of a curve, a uniform reduction in width will by the same percentage will result in a smaller reduction in area.

    iv. BAS shows that the portion of a protective buffer closest to a critical area – the width measurement – is the most important for some functions including pollutant removal.

v. BAS shows that the total area of a buffer is related to the habitat functionality of a buffer area, but the quality of the habitat provided is in some ways more important than the total area. For example, a large but degraded briar of invasive blackberry is not as beneficial as smaller stand of native trees and native understory plants.

j. The County Council finds that it is appropriate to continue incentivizing restoration of degraded habitat, and the use of separate width and area reductions will help optimize long term outcomes.

k. As amended, the ordinance will retain and revise incentives to provide buffer enhancement in combination with protective fences, tracts and buffer averaging.

i. The County Council finds that current code allowing for a 25% reduction of both buffer width and area when providing buffer enhancement without additional actions of separate tracts or fencing to protect the restored buffer area may be less effective at achieving long term protection. The County Council finds that it is appropriate to lower the maximum reduction of buffer width to no more than 20% of the standard buffer for buffer enhancement activities without also installing protective fencing or placing the buffer area in a tracts. This will preserve more of the buffer width closest to the critical area where such buffers are the most valuable for many functions and values. The County Council also finds that it is appropriate to retain the maximum buffer area reduction of 25% in order to continue incentivizing restoration of degraded habitat.

ii. As amended, the maximum buffer reductions for providing buffer enhancement along with greater long term protection through separate tracts or easements will be increased to allow a 25% reduction in buffer width and a 30% reduction in buffer area.

l. As retained and revised, use of enhancement in SCC 30.62A.320(1)(h)(ii) is consistent with guidance from Ecology.

i. As used by Ecology in its guidance, “enhancement” can lead to a decline in some functions; however, the term “enhancement” as defined in SCC 30.91E.125 and used in chapter 30.62A SCC does not allow for a decline in existing functions.

ii. The baseline for Ecology’s guidance is that a development site is already well-vegetated with native species, whereas the baseline for buffer enhancement in county code is that the site is already in a degraded condition.

iii. The difference in starting conditions is important in the context of SCC 30.62A.320(1)(h)(ii) because county code creates an incentive to improve habitat that has already experienced degradation. Although the result may not match the functions of a site that is already well vegetated with native species, the resulting conditions will be an improvement from the present degraded conditions.

iv. Protective fences and use of tracts help to provide long term protection of critical areas and habitat, consistent with long standing recommendations from Ecology based on

BAS, including Wetland Buffers (1992), Wetlands Vol. 1 (2005), and Wetland Guidance (2022).

v. The buffer enhancement provisions in SCC 30.62A.320(1)(h)(ii) do not conflict with guidance from Ecology; rather they address starting conditions that differ from the starting conditions assumed by Ecology when that agency makes its recommendations.

m. To receive a buffer reduction for providing buffer enhancement, an applicant must demonstrate that their enhancement plan does not result in a loss of buffer functions and values.

n. Retaining incentives for enhancement techniques in already degraded critical areas and buffers is part of an overall countywide mitigation strategy to repair, rehabilitate, and restore environmental systems already impacted by past activities consistent with regional and local goals and policies related to restoration and WAC 197-11-768(3).

o. The County Council concludes that as amended, this ordinance will increase protections for wetlands, streams, lakes, and marine waters compared to existing regulations and when compared to the ordinance as originally proposed. Such actions are consistent with a moderate risk approach to the protection of critical areas.

7. *Small Wetlands*. Existing code provisions in SCC 30.62A.510 allow exemptions for minor development activities including all development activities in certain small wetlands. All such activities must comply with best management practices to minimize and mitigate adverse impacts to the functions and values of critical areas (SCC 30.62A.510(2)). Current exemptions allow filling of non-riparian Category II and III wetlands smaller than 5,000 square feet, and non-riparian Category IV wetlands smaller than 10,000 square feet, and their associated buffers.

a. The original ordinance would repeal minor development activity exemptions in SCC 30.62A.510(3)(g) and replace them with a narrower range of exemptions in SCC 30.62A.510(4) and (5). As originally proposed:

i. Fill of Category II and III wetlands would no longer be allowable as minor new development activity; and

ii. Fill and mitigation of Category IV wetlands less than 4,000 square feet that meet certain criteria could be filled provided the project includes adequate mitigation.

b. The County Council has considered input from the public, state agencies, tribal representatives, industry and the 2024 Monitoring Report to receive better understanding of the impacts exemptions thresholds for small wetlands and makes the following findings related to exemptions thresholds:

i. Consistent with conclusions in the 2024 Monitoring Report, current regulations are "helping preserve the functions and values associated with critical areas given significant growth and development [and existing regulations are] largely effective, meaning unpermitted actions, natural events, and other stressors are likely the major causes of critical area changes."

ii. Appropriately designed development can replace several functions of small wetlands such as stormwater retention, pollutant removal, and release into groundwater consistent with a natural hydroperiod by complying with existing stormwater and land disturbing activity regulations.

iii. Other functions of small wetlands, including reducing isolation of critical areas on the landscape – as distinct from regulatory isolated wetlands – are not replaceable though compliance with existing stormwater and land disturbing activity regulations or by use of best management practices.

iv. The housing industry has indicated it relies on current exemption thresholds to achieve the densities of development observed and planned for in the Urban Growth Area; reducing exemptions thresholds may reduce capacity for future urban development.

v. The record for this ordinance does not include any empirical analysis of the impact of reducing exemption thresholds on housing capacity.

c. As amended, this ordinance will revise provisions related to exemptions for certain small wetlands.

i. Regardless of size, fill of Category II wetlands will no longer be allowed as a minor development activity.

ii. Category III wetlands smaller than 5,000 square feet that meet specific criteria proposed in the original ordinance will be eligible to fill as minor development activity, provided their impacts are fully mitigated.

iii. Category IV wetlands smaller than 10,000 square feet that meet specific criteria proposed in the original ordinance can be impacted as a minor development activity, provided their impacts are fully mitigated.

d. The County Council concludes that as amended, this ordinance may reduce housing capacity in the Urban Growth Area, thereby increasing the likelihood of future expansion of the Urban Growth Area, but the County Council lacks sufficient information to fully evaluate the issue.

e. The County Council concludes that as amended, this ordinance will do more to preserve small wetland habitats and to help prevent future isolation of critical areas on the landscape than current regulations.

f. The County Council concludes that as amended, this ordinance will increase protections for wetlands compared to present day regulations and is consistent with a moderate risk approach.

Page 52, line 14, delete:

(((~~(f) The following measures for reducing buffer width and area may be used without a critical area study or mitigation plan:~~

~~(i) separate tract reductions. Up to a 15 percent reduction of the standard buffer is allowed when the buffer and associated aquatic critical area are located in a separate tract as specified in SCC 30.62A.160(3);~~

~~(ii) fencing reductions. Up to a 15 percent reduction of the standard buffer is allowed when a fence is installed along the perimeter of the buffer. The fence shall be designed and constructed as set forth below:~~

~~(A) the fence shall be designed and constructed to be a permanent structure;~~

~~(B) the fence shall be designed and constructed to clearly demarcate the buffer from the developed portion of the site and to limit access of landscaping equipment, vehicles, or other human disturbances;~~

~~(C) the fence shall allow for the passage of wildlife, with a minimum gap of one and one half feet at the bottom of the fence, and a maximum height of three and one half feet at the top; and~~

~~(D) the enhancement area complies with the enhancement ratios of Table 3; and~~

~~(iii) for permanent fencing combined with separate tracts, the maximum reduction shall be limited to 25 percent.~~))

And replace with:

(((~~(f)~~))) (g) The following measures for reducing buffer width and area may be used without a critical area study or mitigation plan:

(i) separate tract reductions. Up to a ((~~15~~)) 10 percent reduction of the standard buffer is allowed when the buffer and associated aquatic critical area are located in a separate tract as specified in SCC 30.62A.160(3);

(ii) fencing reductions. Up to a ((~~15~~)) 10 percent reduction of the standard buffer is allowed when a fence is installed along the perimeter of the buffer. The fence shall be designed and constructed as ((~~set forth below:~~)) specified in SCC 30.62A.160(5); and

(((~~(A) the fence shall be designed and constructed to be a permanent structure;~~

~~(B) the fence shall be designed and constructed to clearly demarcate the buffer from the developed portion of the site and to limit access of landscaping equipment, vehicles, or other human disturbances;~~

~~(C) the fence shall allow for the passage of wildlife, with a minimum gap of one and one half feet at the bottom of the fence, and a maximum height of three and one half feet at the top; and~~

~~(D) the enhancement area complies with the enhancement ratios of Table 3; and~~))

(iii) for permanent fencing combined with separate tracts, the maximum reduction shall be limited to ((~~25~~)) 20 percent.

Page 52, line 40, delete:

(g) ((~~The~~)) One of the following buffer reduction methods ((~~are only~~)) is allowed in conjunction with a critical area study, pursuant to SCC 30.62A.140, demonstrating that the methods will provide protection equivalent to the standard requirements contained in Tables 2a and 2b((~~;~~)). The buffer reduction methods may not be combined.

And replace with:

((~~(g)~~))(h) The following buffer reduction methods are only allowed in conjunction with a critical area study, pursuant to SCC 30.62A.140, demonstrating that the methods will provide protection equivalent to the standard requirements contained in Tables 2a and 2b:

Page 53, line 11, delete:

(D) no part of the width of the buffer may be less than 50 percent of the standard required width or 25 feet, whichever is greater, for streams, lakes, and marine waters;

(E) the wetland buffer at its narrowest point shall not be less than the greater of either:

(I) 75 percent of the standard required buffer width, or

(II) 75 feet for Category I and II wetlands, 50 feet for Category III wetlands, and 25 feet for Category IV wetlands;

And replace with (and renumber subsequent code subsections)

(D) no part of the width of the buffer may be less than ((~~50~~)) 75 percent of the standard required width ((~~or 25 feet, whichever is greater~~));

Page 53, line 42, delete:

(ii) ((~~enhancement~~)) Enhancement reductions. Up to a 25 percent reduction of the standard buffer width and area is allowed provided the project proponent demonstrates the enhancement complies with all of the following criteria:

(A) a comparative analysis of buffer functions and values prior to and after enhancement, demonstrates that there is no net loss of buffer functions and values;

(B) a full enhancement reduction shall only be allowed where it can be demonstrated that the existing buffer functions and values are non-existent or significantly degraded. Buffers with partial function may receive a partial or prorated reduction; and

(C) the total buffer area after reduction is not less than 75 percent of the total buffer area before reduction((~~;~~)).

(((~~(iii) reductions may be combined based on the following criteria:~~

~~(A) for enhancement combined with permanent fencing, the maximum reduction in width and area shall be limited to 30 percent; and~~

~~(B) for enhancement combined with separate tracts, the maximum reduction in both width and area shall be limited to 30 percent.~~

~~(h) When averaging is used in combination with any or all of the reduction methods contained in this section, the buffer shall not be reduced to less than half of the standard buffer widths contained in SCC subsection (1)(a) of this section, Tables 2a or 2b.~~))

And replace with:

(ii) ((~~enhancement~~)) Enhancement reductions. Up to a ((~~25~~)) 20 percent reduction of the standard buffer width and a 25 percent reduction in area is allowed provided the project proponent demonstrates the enhancement complies with all of the following criteria:

(A) a comparative analysis of buffer functions and values prior to and after enhancement, demonstrates that there is no net loss of buffer functions and values;

(B) a full enhancement reduction shall only be allowed where it can be demonstrated that the existing buffer functions and values are non-existent or significantly degraded. Buffers with partial function may receive a partial or prorated reduction; and

(C) the total buffer area after reduction is not less than 75 percent of the total buffer area before reduction((~~;~~)).

(iii) ((~~reductions~~)) Reductions may be combined based on the following criteria:

(A) for enhancement combined with permanent fencing, the maximum reduction in width shall be limited to 25 percent and the maximum reduction in area shall be limited to 30 percent; and

(B) for enhancement combined with separate tracts, the maximum reduction in ((~~both~~)) width shall be limited to 25 percent and the maximum reduction in area shall be limited to 30 percent.

((~~(h)~~))(i) When averaging is used in combination with any or all of the reduction methods contained in this section, the buffer width shall not be reduced to less than ((~~half~~)) 75 percent of the standard buffer widths contained in SCC subsection (1)(a) of this section, Tables 2a or 2b, and the maximum reduction in buffer area shall be limited to 30 percent.

Page 80, line 7:

Delete "Category IV wetlands less than 4,000" and replace with "Category III wetlands less than 5,000"

Page 80, line 23:

Delete "1,000" and replace with "10,000"

Council Disposition:_____ **Date:**_____