

1 SNOHOMISH COUNTY COUNCIL
2 SNOHOMISH COUNTY, WASHINGTON

3
4 ORDINANCE NO. 24-097

5
6 RELATING TO THE CRITICAL AREA REGULATIONS UPDATE PURSUANT TO THE
7 GROWTH MANAGEMENT ACT, AMENDING SNOHOMISH COUNTY CODE CHAPTERS
8 30.62A WETLANDS AND FISH AND WILDLIFE HABITAT CONSERVATION AREAS, 30.62B
9 GEOLOGICALLY HAZARD AREAS, 30.62C CRITICAL AQUIFER RECHARGE AREAS,
10 30.43C FLOOD HAZARD PERMITS, 30.86 FEES, AND 30.91 DEFINITIONS

11
12 WHEREAS, Revised Code of Washington (RCW) 36.70A.060 and RCW 36.70A.170
13 require counties and cities to designate critical areas and adopt regulations to protect them; and

14
15 WHEREAS, the County designated critical areas and adopted protective regulations on
16 March 7, 1995 [Ordinance No. 94-108] with amendments adopted on April 30, 1996 [Amended
17 Ordinance No. 96-011]; and

18
19 WHEREAS, RCW 36.70A.130(1) directs counties planning under the Growth
20 Management Act (GMA) to take periodic legislative action to review and, if needed, revise its
21 comprehensive plan and development regulations, including critical area regulations, to ensure
22 that the plan and regulations are consistent with the GMA; and

23
24 WHEREAS, in 1995, the GMA was amended to require that cities and counties include
25 the best available science (BAS) in developing policies and development regulations to protect
26 the functions and values of critical areas and to give special consideration to conservation or
27 protection measures necessary to preserve or enhance anadromous fisheries [RCW 36.70A.172];
28 and

29
30 WHEREAS, in light of this amendment to the GMA related to the inclusion of BAS and the
31 requirement in RCW 36.70A.130 to periodically review development regulations, the County
32 conducted a review of its existing critical areas regulations together with a review of the BAS; and

33
34 WHEREAS, the County prepared a document entitled *Draft Summary of Best Available*
35 *Science for Critical Areas, March 2006*, and updated the critical area regulations in 2006 in
36 accordance with recommendations from the BAS [Amended Ordinance No 06-061]; and

37
38 WHEREAS, the County has regularly reviewed the critical area regulations as new BAS
39 became available and adopted updates to the regulations in 2010, 2013, 2015, 2017, 2019, and
40 2022 [Amended Ordinance No. 10-026; Amended Ordinance No. 10-086; Amended Ordinance
41 No. 13-042; Amended Ordinance No. 15-034; Amended Ordinance No. 15-042; Amended
42 Ordinance No. 15-103; Amended Ordinance No.17-039; Amended Ordinance No. 19-020;
43 Amended Ordinance No. 19-022; and Amended Ordinance No. 22-062]; and

44
45 WHEREAS, as an initial step to prepare for the required 2024 review and update of the
46 critical area regulations, the County invited the public, state agencies, tribes, stakeholder groups,
47 and internal County departments to contribute BAS documents for the county to review; and

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1 WHEREAS, the County compiled the collection of BAS and prepared an annotated
2 bibliography to supplement the *Draft Summary of Best Available Science for Critical Areas*; and
3

4 WHEREAS, as a result of the internal county review of existing regulations, review of state
5 requirements and guidance, and review of the BAS collected by the county, several potential
6 updates to the existing critical areas regulations were identified; and
7

8 WHEREAS, the County drafted an updated version of the critical area regulations and
9 released the drafts for a public comment period from January 16th through February 7th, 2024,
10 prior to submittal to the Snohomish County Planning Commission (Planning Commission); and
11

12 WHEREAS, many of the public comments received during the pre-Planning Commission
13 review period were incorporated into the updated draft critical area regulations and included in
14 the draft code amendments formally sent to the Planning Commission for their review; and
15

16 WHEREAS, the County prepared and issued a Determination of Non-significance (DNS)
17 under the State Environmental Policy Act, RCW 43.21C on May 1, 2024; and
18

19 WHEREAS, the Planning Commission held a briefing on the critical area regulations on
20 April 23, 2024; a public hearing on the updated critical area regulations on May 28, 2024; and
21 began deliberations on May 28, 2024, concluding their deliberations on June 25, 2024, after
22 reviewing the entire public record; and
23

24 WHEREAS, the Planning Commission forwarded their letter to the Snohomish County
25 Council (County Council) on June 27, 2024, recommending adoption of the proposed code
26 amendments as presented to them by staff, but including one additional amendment; and
27

28 WHEREAS, on _____, 2024, the County Council held a public hearing after proper
29 notice, and considered public comment and the entire record related to the code amendments
30 contained in this ordinance; and
31

32 WHEREAS, following the public hearing, the County Council held deliberations on
33 Ordinance No. _____ considering the entire record on the critical areas regulations as amended
34 during the public hearing process on _____, 2024;
35

36 NOW, THEREFORE BE IT ORDAINED:
37

38 Section 1. The County Council makes the following findings:
39

- 40 A. The County Council adopts and incorporates the foregoing recitals as findings as if set forth
41 fully herein.
42
- 43 B. This ordinance will amend Title 30 SCC to revise the critical area regulations in chapters
44 30.62A, 30.62B, and 30.62C SCC, as well as related amendments in chapters 30.43C, 30.86,
45 and 30.91 SCC. The amendments are intended to ensure compliance with the Growth
46 Management Act (GMA), state and federal requirements and guidance, and best available

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1 science (BAS). The amendments also make housekeeping amendments and increase
2 consistency within and across chapters of Title 30 SCC.
3

4 C. In developing the code amendments, the County considered the goals and requirements of
5 the GMA as follows:
6

7 1. The County conducted the periodic review of the regulations required in RCW 36.70A.130
8 including review for updates to the state law, guidelines, and court decisions; checklists
9 prepared by state agencies to facilitate local critical area review; and recently published BAS
10 found through staff research, or submitted to the County by key parties, by state agencies, or
11 by other interested individuals.
12

13 2. The amendments are consistent with the following goals of the GMA in RCW 36.70A.020:
14

15 a. (6) Property rights. Private property shall not be taken for public use without just
16 compensation having been made. The property rights of landowners shall be protected
17 from arbitrary and discriminatory actions.
18

19 The critical area regulations are consistent with Goal 6 because the regulations do not
20 unduly restrict the use of property; the requirements are well supported by a
21 preponderance of recommendations from valid science without applying extreme
22 measures, or outliers, that would result in excessive loss of use by property owners.
23 For smaller sized properties where most or all of the property may be encumbered by
24 critical area protection measures, the critical area code offers a reasonable use
25 provision.
26

27 b. (7) Permits. Applications for both state and local government permits should be
28 processed in a timely and fair manner to ensure predictability.
29

30 Amendments to the critical area regulations increase the clarity of the code
31 requirements and improves consistency in interpretation and permit review by
32 providing more detail and specifics to guide both reviewers and applicants.
33

34 c. (8) Natural resource industries. Maintain and enhance natural resource-based
35 industries, including productive timber, agricultural, and fisheries industries.
36 Encourage the conservation of productive forestlands and productive agricultural
37 lands and discourage incompatible uses.
38

39 The critical area regulations are consistent with Goal 8 because regulations place a
40 substantive focus on the protection of fish habitat and the natural ecological processes
41 that support and create fish habitat. The regulations also support agriculture by offering
42 an alternative path for compliance that is designed around best management practices
43 compatible with farming.
44

45 d. (9) Open space and recreation. Retain open space and green space, enhance
46 recreational opportunities, enhance fish and wildlife habitat, increase access to natural
47 resource lands and water, and develop parks and recreation facilities.

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1 The critical area regulations are consistent with Goal 9 because measures used to
2 protect critical areas involve the protection of vegetated buffers along streams, lake
3 and marine shorelines, and around wetlands. The regulations and amendments
4 support connections between buffers and include requirements to protect habitat for
5 critical species. The code provisions allow for trails and access to critical areas subject
6 to standards that maintain ecologically protective buffer functions and protect public
7 health and welfare.

- 8
9 e. (10) Environment. Protect and enhance the environment and enhance the state's high
10 quality of life, including air and water quality, and the availability of water.

11
12 The critical area regulations are consistent with Goal 10 because the protection of
13 native vegetation in buffers supports ecological functions contributing to the protection
14 of air and water quality, and provides green space important to human health. In
15 addition, use limitations within areas important for groundwater recharge reduce the
16 potential for groundwater contamination, preserves hydrologic connections, and
17 protects groundwater sources relied upon for public consumption.

- 18
19 f. (11) Citizen participation and coordination. Encourage the involvement of citizens in
20 the planning process, including the participation of vulnerable populations and
21 overburdened communities, and ensure coordination between communities and
22 jurisdictions to reconcile conflicts.

23
24 The critical area regulations are consistent with Goal 11 because the County solicited
25 public involvement in the collection of BAS, offered early and continuous opportunity
26 to comment on draft code language, invited public participation in the process under
27 the State Environmental Policy Act [chapter 43.21C RCW], and provided opportunity
28 for the public to attend and contribute testimony to the Snohomish County Planning
29 Commission and the County Council public hearing processes.

- 30
31 g. (14) Climate change and resiliency. Ensure that comprehensive plans, development
32 regulations, and regional policies, plans, and strategies under RCW 36.70A.210 and
33 chapter 47.80 RCW adapt to and mitigate the effects of a changing climate; support
34 reductions in greenhouse gas emissions and per capita vehicle miles traveled; prepare
35 for climate impact scenarios; foster resiliency to climate impacts and natural hazards;
36 protect and enhance environmental, economic, and human health and safety; and
37 advance environmental justice.

38
39 The critical area regulations are consistent with Goal 14 to the extent that they protect
40 native vegetation helping to mitigate impacts of climate change and provide some
41 protective measures for public health and safety from natural hazards that may be
42 exacerbated by climate change.

- 43
44 h. (15) Shorelines of the state. For shorelines of the state, the goals and policies of the
45 shoreline management act as set forth in RCW 90.58.020 shall be considered an
46 element of the County's or city's comprehensive plan.

1 The critical area regulations are consistent with Goal 15 since they contain protective
2 measures specifically addressing areas defined as shorelines of the state in chapter
3 90.58 RCW, including Type S streams and lakes, and marine waters, 100-year
4 floodplains, and wetlands associated with shoreline water bodies. The Shoreline
5 Management Act guidelines [WAC 173-26-221(2)] describe shoreline ecological
6 functions as directly comparable to the functions and values attributed to critical areas
7 and buffers described in the County's BAS: hydrologic functions, habitat functions, and
8 water quality functions.
9

10 3. The updates to the critical area regulations are consistent with RCW 36.70A.172 which
11 requires that recommendations from BAS be used to support designation and protection of
12 critical areas and that special consideration must be given to anadromous fisheries.
13

14 a. In 2006, the County adopted the *Draft Summary of Best Available Science* (2006 BAS)
15 that was prepared in advance of updating the existing critical area regulations. To
16 support this current update, the County reviewed 177 additional research reports,
17 guidance documents, fact sheets, and articles published since 2006, and prepared an
18 appendix to the 2006 BAS summary consisting of an annotated bibliography
19 describing the focus and recommendations from each source.
20

21 b. Special consideration is focused on anadromous fisheries by providing stringent
22 protective regulatory measures to waters containing anadromous fish species and
23 through adding more focus on recent science addressing elements of the marine
24 nearshore environment, and kelp and eel grass beds important to early life cycle
25 stages of juvenile salmonids.
26

27 c. The amendments address special consideration for anadromous fisheries by seeking
28 BAS from individuals and agencies with fisheries expertise recommending higher
29 levels of protection, specifically wider riparian buffers, on waters that contain fish.
30

31 d. The Washington Administrative Code (WAC) 365-190-130(4)(b) identifies specific
32 sources of BAS for habitats and species of local importance that are a part of fish and
33 wildlife habitat conservation areas. The WAC provision notes that priority habitats and
34 species (PHS) identified by the Washington Department of Fish and Wildlife (WDFW)
35 and the Washington Department of Natural Resources (DNR) Natural Heritage
36 Program (WNHP) lists of high-quality ecological communities and systems and rare
37 plants must be consulted by the County when designating habitats and species of local
38 importance. The amendments to the critical area regulations comply with this WAC
39 provision as they include a new section within Chapter 30.62A SCC designating the
40 habitats and species on the PHS and WNHP lists as critical species and habitats to
41 be protected.
42

43 D. RCW 36.70A.100 requires coordinated planning between local and regional jurisdictions. The
44 County participates on the Puget Sound Regional Council (PSRC) and Snohomish County
45 Tomorrow (SCT) to develop coordinated policies at the regional and countywide levels. The
46 amendments to the critical area regulations are consistent with multicounty and countywide
47 planning policies as follows:

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1 1. The multicounty planning policies (MPPs) are contained in VISION 2050, a document
2 prepared in a cooperative effort led by PSRC. MPPs implemented by the critical area
3 regulation amendments include the following:
4

- 5 a. MPP Env GOAL The region cares for the natural environment by protecting and
6 restoring natural systems, conserving habitat, improving water quality, and reducing
7 air pollutants. The health of all residents and the economy is connected to the health
8 of the environment. Planning at all levels considers the impacts of land use,
9 development, and transportation on the ecosystem.
- 10 b. MPP-En-5 Locate development in a manner that minimizes impacts to natural
11 features. Promote the use of innovative environmentally sensitive development
12 practices, including design, materials, construction, and on-going maintenance.
- 13 c. MPP-En-6 Use the best information available at all levels of planning, especially
14 scientific information, when establishing and implementing environmental standards
15 established by any level of government.
- 16 d. MPP-En-11 Designate, protect, and enhance significant open spaces, natural
17 resources, and critical areas through mechanisms, such as the review and comment
18 of countywide planning policies and local plans and provisions.
- 19 e. MPP-En-13 Preserve and restore native vegetation and tree canopy, especially where
20 it protects habitat and contributes to overall ecological function.
- 21 f. MPP-En-14 Identify and protect wildlife corridors both inside and outside the urban
22 growth area.
- 23 g. MPP-En-16 Preserve and enhance habitat to support healthy wildlife and accelerate
24 the recovery of salmon, orca, and other threatened and endangered species and
25 species of local importance.
- 26 h. MPP-En-17 Maintain and restore natural hydrological functions and water quality
27 within the region's ecosystems and watersheds to recover the health of Puget Sound.

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36 2. The countywide planning policies (CPPs) are prepared in a cooperative effort between the
37 County and the cities within the County through SCT. CPPs implemented by the amendments
38 to the critical area regulations include the following:
39

- 40 a. Env-1 All jurisdictions shall protect and enhance natural ecosystems through their
41 comprehensive plans, development regulations, capital facilities programs, and
42 management practices. Jurisdictions should work collaboratively, employing
43 integrated and interdisciplinary approaches, to consider regional and countywide
44 strategies and assessments, as well as best available qualitative and quantitative
45 information, in formulating plans and regulations that are specific to their community.
46

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- b. Env-4 The county and cities should identify and protect, enhance, or restore wildlife corridors and important habitat areas that support designated species of local or state significance, such as orca and salmon, and those areas that are critical for survival of endangered or threatened species.
- c. Env-8 The county and cities shall work to maintain and improve air and water quality and ensure that all residents have equitable access to clean air and water.

3. The updates to the critical area regulations are consistent with, and implement the following goals, objectives, and policies from the Natural Environment element of the County's GMA comprehensive plan:

- a. Objective NE 1.A Balance the protection of the natural environment with economic growth, housing needs and the protection of property rights.
- b. NE Policy 1.A.1 Regulatory programs developed for the protection of the natural environment shall provide certainty, clarity, flexibility, efficiency, public outreach and education so that citizens understand the requirements, permits are processed quickly, and alternative approaches that provide equal or greater protection to the environment may be considered.
- c. NE Policy 1.B.1 The county shall consider comprehensive land use plan designations and development regulations that take into account:

- Subsection (a) environmental sensitivity and ecological functions and values;
- Subsection (b) limitations of ground and surface water quantities; and
- Subsection (c) potential impacts on surface and ground water quality.

- d. Objective NE 1.C Protect and enhance natural watershed processes, wetlands, fish and wildlife habitat conservation areas, shorelines, and water resources with the long-term objective of protecting ecological function and values.
- e. NE Policy 1.C.1 The county shall continue to protect water resources and natural watershed processes by maintaining the quality, rates and supplies of water, sediment, and woody debris through the use of a variety of strategies, such as:

- Subsection (a) maintaining the natural hydrologic cycle and minimizing alterations of natural drainage patterns;
- Subsection (b) encouraging alternative impervious surface techniques;
- Subsection (c) providing for the retention of natural vegetation;

- 1 f. NE Policy 1.C.2 The county shall continue to protect and enhance wetlands and fish
2 and wildlife habitat conservation areas through the use of a variety of strategies, such
3 as:
4
- 5 Subsection (a) including best available science in plans and programs;
6 . . .
7 Subsection (c) coordinating the use of agricultural resource lands with the
8 protection, restoration and/or enhancement of ecological
9 functions and values;
- 10
- 11 g. Objective NE 1.D The county shall protect the health, safety, welfare and the economy
12 of the community by minimizing the risks associated with natural hazards.
13
- 14 h. GOAL NE 3 Comply with the requirements of state, federal and local laws for protecting
15 and managing critical areas, shorelines, and water.
16
- 17 i. Objective NE 3.A Develop regulatory policies that apply to elements of the natural
18 environment.
19
- 20 j. NE Policy 3.A.1 The county shall designate and protect critical areas including fish and
21 wildlife habitat conservation areas, wetlands, critical aquifer recharge areas, frequently
22 flooded areas and geologically hazardous areas and include best available science in
23 the development of programs, policies and regulations relating to critical areas.
24
- 25 k. NE Policy 3.A.2 The county shall establish development regulations that offer flexibility
26 in site design to accommodate innovative solutions for critical area protection where
27 site constraints or critical area characteristics warrant use of a creative approach.
28 Flexibilities may be considered on a site-by-site basis. Examples of innovative options
29 include but are not limited to buffer width averaging, on- or off-site enhancement or
30 restoration projects, use of best management practices, or a combination of creative
31 solutions.
32
- 33 l. NE Policy 3.A.3 The county shall evaluate immediate and cumulative effects on the
34 natural environment, critical areas, shorelines and buildable land inventory when
35 formulating development regulations, including but not limited to, stormwater
36 management, clearing, and grading.
37
- 38 m. NE Policy 3.A.4 The county shall evaluate the level of risk of damage or injury to
39 people, property and the environment when formulating development regulations.
40
- 41 n. NE Policy 3.A.5 The county shall design development regulations to avoid or minimize
42 impacts to the ecological functions and values of critical areas.
43
- 44 o. NE Policy 3.A.6 The county should generally require that mitigation for impacts to the
45 natural environment be located in the following sequential order of preference: on-site,
46 in the same sub-basin, in the same watershed, or in another appropriate ecosystem.
47

- 1 p. NE Policy 3.A.7 The county shall consider a variety of strategies for the permanent
2 protection of critical areas.
- 3
- 4 q. NE Policy 3.A.8 The county shall consider the recommendations contained in
5 watershed management plans and salmon recovery plans in drafting development
6 regulations.
- 7
- 8 r. Objective NE 3.B Designate and protect fish and wildlife habitat conservation areas
9 and wetlands pursuant to the Growth Management Act.
- 10
- 11 s. NE Policy 3.B.1 Vegetated areas in and adjacent to wetlands and fish and wildlife
12 habitat conservation areas shall be established to protect their ecological functions
13 and values and include special consideration for the protection of water-dependent
14 and riparian-dependent fish and wildlife.
- 15
- 16 t. NE Policy 3.B.2 The county should maintain a fish and wildlife corridor map for critical
17 habitat.
- 18
- 19 u. NE Policy 3.B.3 The county shall adopt special provisions for the protection of unique
20 wetlands such as bogs, fens, estuarine wetlands, coastal lagoon wetlands, wetlands
21 with old growth forests, and wetlands with unique or rare wildlife or plant communities.
- 22
- 23 v. NE Policy 3.B.4 The county shall adopt vegetation retention standards to protect fish
24 and wildlife habitat conservation areas and limit the use of invasive and non-native
25 plant species that may adversely impact such habitat.
- 26
- 27 w. NE Policy 3.B.5 The county shall protect state and federal officially designated
28 threatened and endangered species and their habitat conservation areas, as
29 prescribed by state and federal law.
- 30
- 31 x. NE Policy 3.B.6 The county should develop a legislative approval process for the
32 purpose of nominating and protecting species and habitats of local importance.
- 33
- 34 y. NE Policy 3.B.7 The county shall protect critical saltwater habitats such as eelgrass
35 and kelp beds, shellfish areas, forage fish spawning areas and coastal lagoons.
- 36
- 37 z. NE Policy 3.B.8 The county shall include special consideration to conserve, protect
38 and enhance anadromous fish and their habitat in policies and regulations.
- 39
- 40 aa. NE Policy 3.B.9 The county should adopt a water typing system and wetland
41 classification system consistent with state guidelines.
- 42
- 43 bb. NE Policy 3.B.10 The county shall require that alterations to wetlands and fish and
44 wildlife habitat conservation areas be avoided or minimized to protect ecological
45 functions and values consistent with the GMA's requirement of ensuring no net loss of
46 the functions and values of critical areas.
- 47

- 1 cc. Objective NE 3.C Designate and protect critical aquifer recharge areas pursuant to the
2 Growth Management Act.
- 3
- 4 dd. NE Policy 3.C.1 The county shall establish a groundwater management program to
5 protect groundwater quality, assure groundwater quantity, and provide efficient
6 management of water resources for meeting future needs while protecting existing
7 water rights.
- 8
- 9 ee. NE Policy 3.C.2 The county shall establish development regulations that include a
10 variety of strategies for protecting groundwater.
- 11
- 12 ff. Objective NE 3.D Designate and protect frequently flooded areas pursuant to the
13 Growth Management Act.
- 14
- 15 gg. NE Policy 3.D.1 To protect public health, safety and welfare, the county shall preserve
16 natural floodplain and watershed processes to:
17
 - 18 Subsection (a) Maintain natural flood storage capacity;
 - 19 Subsection (b) Preserve natural drainage and conveyance systems;
 - 20 Subsection (c) Avoid increases in flood elevations; and
 - 21 Subsection (d) Prevent downstream flooding.
- 22
- 23
- 24
- 25
- 26 hh. NE Policy 3.D.2 The county shall allow only those developments and land uses in
27 floodplains that are compatible with floodplain processes.
- 28
- 29 ii. NE Policy 3.D.3 The county should meet the requirements of the National Flood
30 Insurance Program.
- 31
- 32 jj. NE Policy 3.D.4 The county should participate in the National Flood Insurance
33 Program Community Rating System (CRS).
- 34
- 35 kk. NE Policy 3.D.5 The county should incorporate new science and analysis of flood
36 hazards into its regulations and mapping as they become available, including
37 accounting for increases in future flood flows, sea level rise and tsunami risk.
- 38
- 39 ll. NE Policy 3.D.6 Flood regulations should allow for volume of on-site or in-floodplain
40 excavation to offset volume or fill.
- 41
- 42 mm. NE Policy 3.D.7 The county should promote programs that assist private landowners
43 with projects that reduce damage from stream and river bank erosion and flooding.
- 44
- 45 nn. Objective NE 3.E Designate and protect geologic hazard areas pursuant to the Growth
46 Management Act.
- 47

1 oo. NE Policy 3.E.1 The county should avoid development in landslide hazard areas and
2 minimize development in erosion hazard areas commensurate with the level of risk.
3

4 pp. NE Policy 3.E.2 The county shall develop regulations that are consistent with geologic
5 constraints and the All Hazards Vulnerability Assessment and the Snohomish County
6 Natural Hazards Mitigation Plan.
7

8 qq. NE Policy 3.E.3 The county shall require that development proposals include where
9 appropriate a geotechnical assessment of the site's susceptibility to known geologic
10 hazards.
11

12 rr. NE Policy 3.E.4 The county shall require that development standards incorporate
13 practices and techniques to reduce potential damage from seismic, tsunami, mine,
14 erosion, landside and volcanic hazards.
15

16 ss. NE Policy 3.E.5 The county should only allow development in the channel migration
17 zone that has a low risk to public health, safety and property.
18

19 E. The processes used to prepare the proposed amendments to the critical area regulations are
20 consistent with the following procedural requirements:
21

22 1. Under Snohomish County Code, this ordinance meets requirements as a Type 3
23 legislative action under SCC 30.73.010.
24

25 2. As required by RCW 36.70A.106(1), a notice of intent to adopt the proposed code
26 amendments was transmitted to the Washington State Department of Commerce for
27 distribution to state agencies on April 11, 2024.
28

29 3. State Environmental Policy Act (SEPA), chapter 43.21 RCW, requirements with respect
30 to this non-project action have been satisfied through the completion of an environmental
31 checklist and the issuance of a determination of non-significance on May 1, 2024.
32

33 a. A DNS is adequate in this case because the code amendments, which are supported
34 by recommendations from BAS, are expected to provide environmental protection and
35 avoid, minimize, or mitigate for potential impacts from new development activities.
36

37 b. The DNS was published in the newspaper of broad local circulation, *The Everett*
38 *Herald*, on May 1, 2024, along with notice of a 14-day public comment period.
39

40 c. The DNS was sent via email to the County's SEPA distribution list which includes,
41 interested parties, community groups, and state agencies on May 1, 2024, including
42 notice of the 14-day comment period.
43

44 d. The DNS was posted on the County's website page dedicated to the critical area
45 regulations update along with a link to provide comments within the 14-day comment
46 period.
47

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1 4. The public process associated with the proposed updates to the critical area regulations
2 is consistent with public notice and participation requirements in RCW 36.70A.035 as follows:
3

4 a. Notice was provided to interested parties via announcements and presentations at
5 meetings with committees and community groups, emails to County contact lists, and
6 posting on the County website alerting the public about opportunities to: (1) submit
7 best available science documents for review and inclusion into the project record; (2)
8 review and comment on draft code versions prior to beginning the Planning
9 Commission's public hearing process; and (3) attend presentations summarizing the
10 proposed amendments to the critical area regulations.
11

12 b. Notice was provided to interested parties via email, County website, official news
13 release, and through publication in the local newspaper alerting the public about: (1)
14 release of SEPA documentation and opportunity for public comment; and (2) notice of
15 public hearings before the Planning Commission and the County Council.
16

17 5. In accordance with SCC.30.73.040, the proposed amendments were sent to the
18 Snohomish County Planning Commission for review and recommendation to approve, amend,
19 or disapprove the proposal.
20

21 a. After proper public notice per SCC 30.73.050, the Planning Commission held a briefing
22 on the proposed amendments to the critical area regulations on April 23, 2024; a public
23 hearing on May 28, 2024; and began deliberations on May 28, 2024, concluding their
24 deliberations on June 25, 2024, after reviewing the entire public record.
25

26 b. During deliberations the Planning Commission discussed two main issues:
27

28 i. The importance of alerting the County Council to the Planning Commission's
29 concerns about the ability to achieve the necessary balance between
30 protecting the County's natural environment and the creation of housing for the
31 region's growing population with respect to potential land area dedicated to
32 buffers for critical area protection rather than to housing development; and
33

34 ii. A proposed code amendment to include all future updates to the list of Priority
35 Habitat and Species (PHS) created by the Washington State Department of
36 Fish and Wildlife (WDFW) when identifying species and habitats of local
37 importance, instead of relying only on the PHS list most recently updated in
38 2023.
39

40 c. After deliberations and review of the entire record, the Planning Commission voted to
41 recommend to the County Council approval of the proposed critical area code update
42 with one additional amendment incorporating reliance on all future updates to the PHS
43 list made by WDFW.
44

45 6. After review of the Planning Commission's recommendation including the amendment to
46 the critical area code update, the Snohomish County Executive prepared an alternative to the
47 Planning Commission's PHS amendment:

ORDINANCE NO. 24-097

RELATING TO THE CRITICAL AREA REGULATIONS UPDATE PURSUANT TO THE GROWTH MANAGEMENT ACT,
AMENDING SNOHOMISH COUNTY CODE CHAPTERS 30.62A WETLANDS AND FISH AND WILDLIFE HABITAT
CONSERVATION AREAS, 30.62B GEOLOGICALLY HAZARD AREAS, 30.62C CRITICAL AQUIFER RECHARGE AREAS,
30.43C FLOOD HAZARD PERMITS, 30.86 FEES, AND 30.91 DEFINITIONS.

- a. The Executive’s alternative amendment relies on the PHS Program list as of 2023 as originally proposed, and then clarifies that the Washington Department of Natural Resources (DNR) Natural Heritage Program (WNHP) identifies rare and high-quality ecosystems and rare plants as of 2024. The alternative amendment also includes a new provision for annual review of the lists from the PHS Program and the WNHP to watch for and incorporate updates.
- b. The Executive’s alternative amendment is included in the proposed code amendments at SCC 30.62A.465 and forwarded to the County Council in place of the Planning Commission’s version.

7. The Executive has also recommended amendments to the Planning Commission’s recommended version of chapter 30.62C SCC to address public comments by Group A Public Water Systems related to protection of wellhead zones associated with public water supply sources. The Executive recommends the following revisions:

- a. In SCC 30.62C.140, based on the inadvisability of mitigation for potential impacts to the public water supply, avoidance of impacts should be the required standard within Group A wellhead protection zones to protect public health.
- b. In SCC 30.62C.150, 30.62C.340, and 30.62C.345, language has been added to advise that comments and conditions recommended by Group A water systems related to protection of their Group A wellhead protection zones may be included as conditions on certain permits or approvals issued by the county.
- c. SCC 30.62C.340 has been shortened by removing requirements for UIC wells and creating a new SCC 30.62C.345 addressing UIC wells that require special conditions. This is largely an organizational change with minor wording changes; the content remains consistent with the Planning Commission recommendation, except as noted in (E)(7)(b) above.

8. This ordinance also includes housekeeping amendments recommended by the Executive throughout the CAR that were not presented to the Planning Commission. Within Part 400 of chapter 30.62A SCC, for instance, there are three new sections with proposed amendments to ensure consistent language across the CAR. These include new amendments in SCC 30.62A.420, SCC 30.62A.430, and SCC 30.62A.450 to update how the code refers to critical species and habitats to be consistent with SCC 30.62A.410. Additionally, amendments are made to SCC 30.62A.010, SCC 30.62A.410 and SCC 30.91C.370 to include all state listed sensitive species in the code instead of calling them out by name and to add habitats of local importance to the list of fish and wildlife habitat conservation areas protected under chapter 30.62A SCC.

9. The Washington State Attorney General last issued an advisory memorandum, as required by RCW 36.70A.370, in September of 2018 entitled *Advisory Memorandum and Recommended Process for Evaluating Proposed Regulatory and Administrative Actions to Avoid the Unconstitutional Takings of Private Property* to help local governments avoid the unconstitutional taking of private property. The process outlined in the State Attorney

1 General's 2018 advisory memorandum was used by the County in objectively evaluating the
2 regulatory changes proposed by this ordinance.
3

4 F. The proposed code amendments to the critical area regulations are consistent with the record
5 as follows:
6

7 1. The code amendments are consistent with the record as set forth in the PDS
8 communications to the Snohomish County Planning Commission dated April 9, 2024, May 3,
9 2024, June 11, 2024, and June 28, 2024.
10

11 2. The code amendments are consistent with the recommendations from the BAS to first
12 avoid disruptions to critical areas and buffers, but where avoidance is not possible, potential
13 impacts must be minimized and mitigated such that there is no net loss of ecological functions.
14 The BAS provides a range of recommendations for measures that will prevent, minimize, and
15 mitigate potential impacts. These recommendations vary depending on the type of critical
16 area, a variety of existing conditions that may be present, the existing ecological functions and
17 values, as well as on the types of impacts that may result from new development of varying
18 types and intensities. Also considered is whether the recommended measures will provide
19 protection for critical area functions and values, or whether the protective measures are
20 designed to protect public health and safety. A BAS report was created in 2006 called *Revised*
21 *Draft Summary of Best Available Science for Critical Areas*, and the 2024 CAR update
22 produced an annotated bibliography to supplement the 2006 report. The BAS reviewed for
23 the 2024 update covers a variety of topics, including but not limited to, marine and nearshore
24 habitats, wetland guidance and mitigation, salmon and wildlife habitat, riparian protection,
25 shoreline modifications, emerging knowledge of contaminants harmful to fish and water
26 quality, groundwater, and guidance for UIC wells, and clean water guidance for agriculture.
27

28 3. The code amendments updating the critical area regulations are described below. The
29 purpose and reasoning upon which the amendments are based is also provided. Generally,
30 the amendments are based on recommendations from BAS, implementation and procedural
31 improvements, improved clarity for permit applicants and staff, or housekeeping corrections.
32

33 a. Chapter 30.43C SCC – Flood Hazard Permits is amended:
34

35 i. *Additional submittal requirements – SCC 30.43C.030:*
36

37 The amendment provides a cross reference to the habitat assessment and
38 management plan submittal requirements within SCC 30.62A.460 that also apply to
39 projects proposed within the special flood hazard area. BAS indicates that the special
40 flood hazard area is a primary association area for critical fish species during flood
41 events, thus triggering the need for habitat assessment and management plans when
42 applying for flood hazard permits. This amendment codifies current practice as
43 required under the National Flood Insurance Program.
44

45 b. Chapter 30.62A SCC – Wetlands and Fish and Wildlife Habitat Conservation Areas
46 is amended:
47

ORDINANCE NO. 24-097

RELATING TO THE CRITICAL AREA REGULATIONS UPDATE PURSUANT TO THE GROWTH MANAGEMENT ACT,
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CONSERVATION AREAS, 30.62B GEOLOGICALLY HAZARD AREAS, 30.62C CRITICAL AQUIFER RECHARGE AREAS,
30.43C FLOOD HAZARD PERMITS, 30.86 FEES, AND 30.91 DEFINITIONS.

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1
2 i. *Purpose and applicability – SCC 30.62A.010:*
3

4 Housekeeping amendment to add “habitats of local importance” within the fish and
5 wildlife habitat conservation areas of (1)(b) to be consistent with the amendments
6 within Part 400 and the amended definition of critical areas within SCC 30.91C.340.
7

8 ii. *Submittal requirements – SCC 30.62A.130:*
9

10 SCC 30.62A.130(1)(f): Amendments to how far outside of the site applicants need
11 to display wetlands and fish and wildlife habitat areas on the site plan. This amendment
12 requires critical areas on the site and within 300 feet of the project site to be shown on
13 the site plan, this is the same as the existing code. The amendment removes the “or
14 the width of the widest potential buffer from the site boundaries” from the provision as
15 this is already included in the 300 feet and as written often confuses staff and
16 applicants. The amendment is proposed by staff to streamline permit application
17 requirements. The amendment will not remove the need to display onsite buffers on
18 the critical area study map.
19

20 SCC 30.62A.130(1)(i): Addition based on guidance in the 2022 Department of
21 Ecology "Wetland Guidance for Critical Areas Ordinance (CAO) Updates" publication
22 #22-06-014 to include proposed stormwater facilities and their estimated area of
23 intrusion into buffers on the site plan at submittal.
24

25 SCC 30.62A.130(2)(e) and (f): Adding a requirement to submit wetland field
26 delineation worksheets and wetland categorization worksheets at submittal, where
27 applicable. If a development proposal will not impact wetlands, and a critical area study
28 is not required, the applicant must still display wetlands on the site plan. In order for
29 staff to confirm the accurate location of these potential wetlands and buffers on the
30 site, these two worksheets are required. The addition is to clarify this requirement for
31 applicants and will likely result in a more efficient review of permits as staff will not
32 have to ask for this documentation after the first review.
33

34 iii. *Critical area study content requirements – SCC 30.62A.140:*
35

36 Housekeeping amendment to change “director” to “department” throughout the
37 section, as well as inserting language requiring that the critical area study must be
38 prepared by a qualified professional. This is based on 2022 Ecology wetland guidance,
39 publication #22-06-014. The CAR amendments also provide a new definition of
40 qualified professional to ensure this is implemented consistently. Further
41 housekeeping amendments within (2) and (3) update the referenced documentation
42 to reflect the most recently published, and new language in (15) clarifies that submittal
43 checklists can be the source of necessary information for applications.
44

45 SCC 30.62A.140(7) and (8): Adding requirement to show the buffer locations and
46 any functionally and effectively disconnected areas from buffers within the critical area

1 study. Amendments are based on 2022 Ecology wetland guidance, publication #22-
2 06-014, and connecting this code section to amendments later in the chapter.
3

4 *SCC 30.62A.140(13)*: To be consistent with later amendments within SCC
5 30.62A.460, adding that a habitat management plan is required for any activity within
6 a habitat of local importance, special flood hazard area, or a Priority Habitat Species
7 (PHS) area mapped by WDFW.
8

9 *iv. Mitigation plan requirements – SCC 30.62A.150:*
10

11 Amendment to ensure that mitigation plans are prepared by qualified
12 professionals, similar to the amendments for the preparation of critical area studies.
13 This amendment is based on guidance received from the Washington State
14 Department of Fish and Wildlife (WDFW).
15

16 *SCC 30.62A.150(1)*: A 2008 Federal Mitigation Rule (U.S. Army Corps of
17 Engineers, Department of Defense; and Environmental Protection Agency,
18 “Compensatory Mitigation for Losses of Aquatic Resources; Final Rule, April 10, 2008)
19 requires mitigation plans for wetlands and fish and wildlife habitat conservation areas
20 to incorporate 12 essential components. Ecology's 2022 Wetland guidance provides
21 suggested language to ensure the 12 components are represented in code. The
22 existing County Code includes much of the required components and amendments to
23 (1) help ensure full compliance with the 2008 Rule. No net loss is clearly stated as the
24 requirement within SCC 30.62A.310 (general standards and requirements), as well as
25 within the monitoring program in SCC 30.62A.710, the existing code does not ask the
26 applicant to specify how their actions and mitigation will result in no net loss and
27 amendments to (1)(c) include this to clarify the requirement.
28

29 *SCC 30.62A.150(2)*: A new (2) is added to reference two Wetland mitigation
30 documents from Ecology that mitigation plans should reflect. The amendment stems
31 from the 2022 Ecology guidance.
32

33 *v. Permanent identification, protection, and recording – SCC 30.62A.160:*
34

35 Amendments detail when permanent fencing is required around critical areas, and
36 how it must be constructed. Amendments also add consistent temporary and
37 permanent marking requirements for critical areas. These amendments are consistent
38 with Ecology 2022 guidance and reorganizes language already present in Chapter
39 30.62A SCC into one location.
40

41 *vi. Classification of streams, lakes, wetlands, and marine waters – SCC 30.62A.230:*
42

43 Minor amendments to include supply and storage of water as functions of streams,
44 and minor amendments to Table 1 to better align with WAC 222-160-030 definitions.
45 Table 1 amendments are also based on July 2018 Ecology modifications to the Habitat
46 Function Score for a moderate level of function for habitat, as well as the need to clarify

1 that there are other special characteristic Category I wetlands, and that high level
2 habitat function is also included within Category III wetlands.

3
4 *vii. Functions and values of wetlands, fish and wildlife habitat conservation areas, and*
5 *buffers – SCC 30.62A.220(1) and (7):*
6

7 Minor amendment to include the supply and storage of water as a function of
8 streams, as well as shade as a function of buffers. Amendments are based in science
9 and stem originally from a public comment.

10
11 *viii. Classifications of streams, lakes, wetlands, and marine waters – SCC 30.62A.230:*
12

13 Housekeeping amendment to update the publications listed in (2) to be the most
14 up to date and minor amendments to Table 1 to better align with WAC 222-160-030.
15 Addition of mature forest and old growth forest wetlands to Category I wetlands to
16 clarify that there are other special characteristic Category I wetlands as displayed in
17 the wetland worksheets. Further, coastal lagoons greater than or equal to 1/10 acre is
18 one of several criteria within the Wetland Rating System for Western WA: 2014
19 Update, Rating Form - Version 2, July 2023, that determine a Category I or Category
20 II wetland. By removing this criterion from the code for Category I wetlands, and adding
21 in coastal lagoons for Category II wetlands, the applicant and staff are better able to
22 rely on the form. Amendments were also made to increase the habitat function score
23 for Category II wetlands to 6-7, and a low habitat function score to 5 or less per July
24 2018 Habitat Score Range amendments made by Ecology. Finally, a staff driven
25 amendment to Category III habitat function to include high level habitat function. This
26 amendment will reduce confusion for applicants and staff during permit submittals.
27

28 *ix. General standards and requirements – SCC 30.62A.310(3):*
29

30 The 2008 Federal Mitigation Rule flips the preference for mitigation of critical area
31 impacts from onsite to offsite. Snohomish County incorporates this preference switch
32 for mitigation of impacts to wetlands and allows offsite mitigation in a different sub-
33 drainage basin subject to analysis of a qualified professional. The addition to (3)(b)
34 and (3)(b)(i) is meant to alert the public and staff to this possibility and provide
35 guidance on the need for a qualified professional.
36

37 Other amendments in (3) add general mitigation requirements for cases where
38 mitigation is required for a project. Amendments include that mitigation timing shall be
39 planned to reduce impacts to existing fisheries, wildlife, and flora, that plantings must
40 be native and appropriate for the climate and ecoregion, and that monitoring is
41 required for a minimum of five years. These amendments are aligned with the 2022
42 Ecology guidance and public input and work to codify existing County practice.
43
44
45
46

1 x. *Standards and requirements for buffers and impervious surfaces – SCC*
2 *30.62A.320*

3
4 *30.62A.320(1)(a)*: Amending Table 2a to remove the 100-foot buffer for Type F
5 waterbodies without anadromous or resident salmonids. The amendment ensures all
6 Type F waterbodies have a 150-foot buffer. The amendment is based on public input,
7 definitions in WAC 222-16-030, and the BAS within the WDFW's Riparian Ecosystems
8 Volume 1, as well as the Management Recommendations within Volume 2. A new
9 note is added to Table 2a to adjust buffer widths when streams or lakes are located
10 within a Special Flood Hazard Area. The amendment is made to be consistent with
11 the Federal Emergency Management Agency (FEMA) Region 10 "Model Ordinance
12 for Floodplain Management under the National Flood Insurance Program and the
13 Endangered Species Act," January 2012. The amendment aims to help maintain
14 streams and floodplains in their natural state to the maximum extent possible so they
15 support healthy biological ecosystems, by: 1) assuring that flood loss reduction
16 measures under the NFIP protect natural floodplain functions and riparian habitat, and
17 the natural processes that create and maintain fish habitat, and 2) preventing or
18 minimizing loss of hydraulic, geomorphic, and ecological functions of freshwater and
19 estuarine floodplains and stream channels.
20

21 Minor adjustments to Table 2b to align with changes within Table 1, and to help
22 with table readability. Further, with the addition of functionally disconnected buffers
23 into the code, the county acknowledges the disturbance that roads as land uses can
24 have on the landscape. Amendments to the Table 2b notes adds public roads within
25 the UGA to the list of high intensity land uses, therefore public roads within the rural
26 areas and private roads will be considered moderate land uses.
27

28 *SCC 30.62A.320(1)(b)*: Amendment to how a buffer is measured within a channel
29 migration zone. The amendment is consistent with WDFW's Riparian Ecosystem
30 Volume 1 and the guidance in Volume 2. Page 271 of Volume 1 notes, "The riparian
31 ecosystem begins at the edge of the active channel or active floodplain, whichever is
32 wider. As the active channel moves back and forth across the channel migration zone
33 (CMZ), the riparian ecosystem moves with it. Consequently, there are times when the
34 riparian ecosystem lies adjacent to and immediately outside the CMZ. Hence, to
35 maintain riparian ecosystem functions, management must anticipate and protect future
36 locations of the riparian ecosystems." (1)(b) is also amended to add a new (iv) that
37 specifies that if there are two or more buffers that need to be applied in one location,
38 the wider buffer will be applied. New (iv) is consistent with 2022 Ecology guidance and
39 codifies existing County practice.
40

41 *SCC 30.62A.320(1)(c)*: Addition of functionally and effectively disconnected buffer
42 exclusions that are consistent with 2022 Ecology guidance, and work to codify existing
43 County practice. When buffers are bisected by existing, legally established structures
44 or roads, the buffer functions may be blocked, and increasing the buffer on the far side
45 of the existing development would not add protective benefit.
46

1 SCC 30.62A.320(1)(d): Amendments include a clarification within SCC
2 30.62A.320(1)(d)(ii) to better describe when total new effective impervious surfaces
3 shall be limited to 10 percent within 300 feet of waterbodies containing salmonids. The
4 10 percent limit is not required if the stormwater from the new effective impervious
5 surface will not drain into the waterbody containing salmonids. The reason for the
6 change is to ensure a more efficient and consistent review of permit applications.
7

8 SCC 30.62A.320(1)(e): If it can be determined that a tree fell down as a result of a
9 development activity (for example, due to damage to the root structure) this is an
10 impact to the buffer requiring mitigation. This amendment is consistent with WDFW
11 guidance.
12

13 SCC 30.62A.320(1)(f): Repealing two buffer width reduction criteria that are
14 present in existing code that allow reduced buffers when a critical area is located in a
15 separate tract or behind a fence within a new development. All critical areas must be
16 located within a tract or easement pursuant to SCC 30.62A.160(3). When an applicant
17 selects an option that is not beyond an existing requirement, this does not provide
18 additional protection or enhancement of the critical area and should not receive
19 reduced buffer widths. Similarly, fencing is often required along critical areas
20 protection boundaries pursuant to SCC 30.62A.160(5). Therefore, providing a reduced
21 buffer width for installing a permanent fence does not better protect or provide
22 increased value in a way that would warrant a reduced buffer width. This repeal is
23 consistent with Ecology and WDFW guidance.
24

25 SCC 30.62A.320(1)(g): Addition of new standards for buffer averaging
26 requirements for wetlands based on the category of wetland, and to clarify that the
27 existing buffer averaging requirements in code pertain to streams, lakes, and marine
28 waters. These updates to the buffer averaging requirements for wetlands are to align
29 with Ecology's 2022 guidance on this type of flexibility using a moderate risk approach.
30 Ecology guidance states that "The buffer recommendations contained herein are
31 based on a moderate-risk approach. In this document, risk is addressed by tailoring
32 the degree of protection to several factors the scientific literature says are important.
33 The widths recommended in this guidance were selected from the middle of the range
34 of buffers suggested in the literature. In combination with other strategies like limiting
35 buffer reductions, buffer averaging, and exemptions, it represents a moderate-risk
36 approach to determining buffer widths." Amendments also remove the ability for
37 applicants to combine buffer reductions with buffer averaging in line with Ecology's
38 guidance and to be consistent with the repealed language within (1)(f). 2022 Ecology
39 guidance does not include the ability to combine buffer averaging with other
40 reductions.
41

42 SCC 30.62A.320(2): Adding further detail to the requirements for new utilities and
43 transportation corridors allowed in buffers with mitigation within SCC 30.62A.320(2)(a)
44 to ensure that entrance and exits must be outside of the buffer. The existing code
45 provides general requirements to minimize impacts to the buffer, and the new criteria
46 focuses particularly on underground utilities and transportation corridors and requires
47 a study from a professional hydrologist to ensure that impacts are not created altering

1 the percolation of surface water through the soil column or groundwater connection to
2 the critical area. This better protects the values and functions of critical areas and is
3 consistent with 2022 Ecology guidance.
4

5 SCC 30.62A.320(3): Amendments to clarify what areas can be included in the
6 buffer mitigation area required by the ratios in Table 3 (Buffer Mitigation Ratios). Areas
7 cannot include driveways, roads, paved areas for vehicles or foot traffic, easements
8 for utility corridors, stormwater facilities, rights-of-way, and streams conveyed
9 underground. These types of areas do not allow for full protection of the values and
10 functions of buffers and therefore should not be given as credit to the project. This
11 clarification is consistent with 2022 Ecology guidance.
12

13 SCC 30.62A.320(4): Relocate the optional mitigation measures for wetlands from
14 SCC 30.62A.340 into SCC 30.62A.320(4) to improve the readability of the chapter and
15 allow the public and staff to better locate all relevant code sections in one place.
16 Additional mitigation measures are added to Table 4 consistent with 2022 Ecology
17 guidance to be more helpful to applicants and staff, as well as more inclusive of a wide
18 variety of minimization measures. Additional amendments aim to reduce the
19 complexity of optional mitigation measure 2 for habitat corridors to potentially increase
20 this measure's use in projects. The amendments are in line with 2022 Ecology
21 guidance, in particular, to require that all corridors are a minimum of 100 feet in width.
22

23 xi. *Standards and requirements for activities conducted within streams, lakes, and*
24 *marine waters – SCC 30.62A.330:*
25

26 Minor housekeeping amendments along with an additional requirement for roads
27 that cross any of the listed water bodies. Amendment aims to encourage road
28 crossings designed to withstand higher flows expected as a result of climate change,
29 and includes a new requirement that “Incorporating Climate Change into the Design
30 of Water Crossing Structures: Final Project Report” (Washington Department of Fish
31 and Wildlife, revised November 2017) be considered when designing road crossings.
32 This amendment will help inform applicants of the existence of the report, without
33 requiring adherence to the information therein.
34

35 xii. *Standards and requirements for activities conducted in wetlands – SCC*
36 *30.62A.340:*
37

38 Minor amendment to (1)(a) to align with previous amendments within Table 1.
39 Adding new mitigation type requirements within SCC 30.62A.340(4) to indicate the
40 shift in preferences from onsite mitigation for wetland impacts by the project proponent,
41 to offsite mitigation through a third party mitigation bank or in-lieu fee program pursuant
42 to the scientific understanding within the 2008 Federal Mitigation Rule previously
43 referenced. This approach considers the watershed scale, where it could be more
44 beneficial to protect, create, or enhance wetlands elsewhere in the watershed than at
45 a specific site where development is proposed. Additional amendments are included
46 to exclude certain areas from the mitigation ratios required in Table 5 such as
47 driveways consistent with the amendments within SCC 30.62A.320(3).

1
2 Table 5 includes a new column for rehabilitation as a form of mitigation and an
3 increase in mitigation ratios required for enhancement. Table 5 currently includes
4 creation and enhancement, two forms of mitigation that have been in the code since
5 2007 following Ecology guidance at that time. Ecology's current definition of
6 rehabilitation is similar to how the existing Snohomish County code treats
7 enhancement, although, there are some important differences. Breaking out
8 rehabilitation from enhancement in this table could provide more options to applicants
9 for mitigation.

10
11 Amendments to increase the mitigation ratios for enhancement are based on
12 scientific rationale primarily within a 2021 Ecology publication (#21-06-003) that states
13 on page 84, "A 2002 study of mitigation in Washington State (Johnson et al., 2002)
14 raised concerns about the value of enhancement. Only 11 percent of enhanced
15 wetlands were even moderately successful, and none were fully successful.
16 Furthermore, regulatory agency compliance inspections of compensatory wetland
17 mitigation sites since 2006 indicate these concerns are still relevant:

- 18
19 - Most enhancement actions focus on improving vegetation structure and ignore
20 improving environmental processes that support wetland systems and
21 functions.
- 22
23 - There is a net loss of water quality and quantity functions, and only modest
24 gains in habitat functions.
- 25
26 - The use of enhancement as a primary means of compensatory mitigation
27 contributes to a loss of wetland area and functions...
- 28
29 - Enhancement could be more effective if it were geared to improve functions
30 that are limited in a watershed or region...

31
32 Because enhancement occurs within existing wetlands that already provide functions
33 to a certain degree, applicants proposing enhancement of freshwater wetlands will
34 generally need to demonstrate a gain in wetland functions (i.e., functional lift) sufficient
35 to compensate for wetland impacts by applying the Credit-Debit Method (Hruby,
36 2012a; Hruby, 2012b)."

37
38 Adding a new provision within (4)(e) based on Ecology 2022 guidance to provide
39 applicants with the option to utilize a credit-debit method of mitigation as an alternative
40 to the mitigation ratios within Table 5. This new provision provides applicants with more
41 options for their projects and follows BAS for the protection of critical areas.

42
43 *xiii. Innovative development design – SCC 30.62A.350:*

44
45 Housekeeping amendments to clarify that any innovative design must be based
46 on BAS, the proposal must demonstrate why the other standards cannot be met, and
47 that outside of the specific deviation(s) addressed by innovative approach, all other

1 standards must be met. This is an existing County practice and codifying it provides
2 more backing for staff to require adherence to BAS.
3

4 Additional housekeeping amendments to align the section with updates to the 2024
5 Comprehensive Plan including, Transit Pedestrian Villages will no longer be a future
6 land use designation on the future land use map with the 2024 Update to the
7 Comprehensive Plan. The 2024 Update also introduces new designations where
8 density is encouraged in the county's urban growth areas. With allowances for
9 increased densities, including more affordable housing, there may be the need to
10 utilize innovative design when there are critical areas on site.
11

12 *xiv. Mitigation banking and in-lieu fee program – SCC 30.62A.360:*
13

14 This section is relocated from the exemptions within Part 500. With the shift in
15 preferring offsite mitigation rather than onsite mitigation for wetland impacts based on
16 the 2008 Federal Mitigation Rule, offsite mitigation is no longer an exception to the
17 standard requirements. There is also an update to the referenced guidance for the in-
18 lieu fee (ILF) program to be an Ecology, US Army Corps of Engineer Seattle District,
19 and U.S Environmental Protection Agency Region 10 2021 publication (# 21-06-003).
20 Ecology no longer guides the state's ILF program. The Seattle District of the US Army
21 Corps of Engineers is the agency that provides support on ILF programs with
22 authorization to approve an ILF program. The interagency publication provides general
23 guidance and is a publication that will aid applicants in their ILF mitigation.
24

25 *xv. Advance mitigation – SCC 30.62A.370:*
26

27 Amendments include a new section in line with Ecology's 2022 guidance, as well
28 as the Advanced Permittee Responsible Mitigation guidance from Ecology dated 2012
29 (#12-06-015). Advanced mitigation is within a new section because while it is a general
30 standard, the mitigation location is offsite, unlike the default discussion within SCC
31 30.62A.310. Advance mitigation fulfills several of the objectives that are cited in 33
32 CFR 332.3(a) as basis for concluding that mitigation banks and ILF programs are
33 preferable forms of compensatory mitigation: reducing temporal losses of functions,
34 and reducing uncertainty over mitigation project success. Although it is not a third party
35 mitigation option like those two options, it is permittee responsible mitigation.
36

37 *xvi. Purpose – SCC 30.62A.410:*
38

39 Amendments to clarify there are more habitats that could be protected than just
40 what is listed in (4) as "state natural habitats." Adding habitats to species and habitats
41 of local importance to better align to the existing definition within SCC 30.91S.535 and
42 adding a reference to a new SCC 30.62A.465 that utilizes the WDFW Priority Habitat
43 and Species (PHS) program and the Department of Natural Resource's (DNR's)
44 Natural Heritage Program (WNHP) to designate species of local importance.
45 Amendments to SCC 30.62A.410(3) to remove all individually listed Washington State
46 sensitive species, and replace it with all WDFW listed sensitive species. This will allow

1 the code section to be continually aligned with changes to listed state sensitive species
2 and to remove the need to update this code section in the future.

3
4 xvii. *Applicability – SCC 30.62A.420:*

5
6 Housekeeping amendments to ensure this section is consistent with other changes
7 made throughout Part 400 referring to habitats of local importance and critical species
8 and habitats.

9 xviii. *Administrative rules authorized – SCC 30.62A.430:*

10
11 Housekeeping amendments to ensure this section is consistent with other changes
12 made throughout Part 400 referring to critical species and habitats instead of species
13 and *their* habitats. State natural habitats are included within the definition of critical
14 species and habitats within SCC 30.62A.410, and do not need to be specifically called
15 out again.

16
17 xix. *Administrative rules – minimum protection requirements – SCC 30.62A.440:*

18
19 Amendment details that the primary association area for fish includes the stream,
20 lake, wetland, or marine water buffer. This is a clarification driven by staff input that
21 will help resolve questions among the public and staff and allow for more efficient
22 permit review.

23
24 xx. *General standards and requirements – SCC 30.62A.450:*

25
26 Housekeeping amendments to ensure this section is consistent with other changes
27 made throughout Part 400 referring to critical species and habitats and the amended
28 title of habitat assessment and management plans.

29
30 xxi. *Habitat assessment and management plan contents – SCC 30.62A.460:*

31
32 Additions to better align the existing habitat management plan section to special
33 flood hazard area requirements from FEMA Region 10 (Model Ordinance for
34 Floodplain Management under the NFIP and the ESA, FEMA - Region 10, January
35 2012). This amendment codifies existing requirements. Also adding in mapped PHS
36 areas as a trigger for a habitat assessment. The WAC 365-190-130(4)(b) states that
37 the county must consult WDFW in the designation and protection of habitats and
38 species of local importance. The WDFW PHS program represents the BAS for the
39 identification and protection of habitats and species of local importance, so it is also in
40 line with BAS for applicants to conduct a habitat assessment when a PHS is mapped
41 on their property to ensure the protection of all critical species and their primary
42 association areas.

43
44 xxii. *Designation of species and habitats of local importance – SCC 30.62A.465:*

45
46 A new section SCC 30.62A.465 is added to include WDFW’s list of priority habitats
47 and species (PHS) and DNR’s Natural Heritage Program (WNHP) list of high quality

1 ecological communities and systems and rare plants located in Snohomish County as
2 species and habitats as species of local importance. The WAC 365-190-130(4)(b)
3 states that the county must consult WDFW PHS Program list and DNR’s WNHP list of
4 high-quality ecological communities and systems and rare plants in the designation
5 and protection of habitats and species of local importance. The WDFW PHS Program
6 and DNR WNHP include BAS in the creation of their lists. The WDFW PHS list was
7 published in 2008 and updated in 2023. The WNHP publishes a list of vascular plant
8 species of conservation concern, and updates that list approximately every two years.
9 The most recent rare plant list was published in July 2024 (Natural Heritage Report
10 2024-07). This new section also requires the County to create an administrative rule
11 listing these species and habitats located in Snohomish County from the PHS and
12 WNHP program lists. The county will review the PHS and WNHP program lists
13 annually and the administrative rule will be updated as necessary for consistency with
14 the program lists.

15
16 *xxiii. Nomination of species and habitats of local importance – SCC 30.62A.470:*

17
18 Adding the DNR WNHP and WDFW PHS Program as two circumstances that
19 could be used to designate species of local importance. The new SCC 30.62A.465
20 designates species and habitats of local importance, this section now outlines how the
21 public could nominate additional species and habitats of local importance.
22 Amendments also remove “native” throughout the section as the language is confusing
23 and not defined.

24
25 *xxiv. Minor development activity exceptions – SCC 30.62A.510:*

26
27 *SCC 30.62A.510(1):* The requirement within WAC 365-196-830(4) has not
28 substantively changed since the last CAR update, although a sentence was added in
29 2023 noting that, “Avoidance is the most effective way to protect critical areas.”
30 Amendments add clarifying language to subsection (1) that states that best
31 management practices (BMPs) should include those that avoid impacts where
32 possible, in addition to those that minimize and mitigate for any adverse impacts to
33 ensure no net loss of critical area functions and values.

34
35 *SCC 30.62A.510(3)(g):* Repealing (g) as a minor development activity allowed.
36 Instead of allowing development in non-riparian Category II and II wetlands smaller
37 than 5,000 square feet and Category IV wetlands smaller than 10,000 square feet, (4)
38 is added consistent with 2022 Ecology guidance to allow development within Category
39 IV wetlands less than 4,000 square feet that meet new criteria. A new (5) is also added
40 to exempt Category IV wetlands less than 1,000 square feet with criteria. These
41 amendments are made because the WAC requires no net loss of critical areas, and
42 Ecology has refined their guidance since the last major CAR update about the
43 wetlands that are acceptable to be impacted by development. A new (3)(g) is added
44 to exempt Forest Practices pursuant to chapter 76.09 RCW, and a new (3)(m) is added
45 to exempt conservation and preservation projects. Conservation projects aim to
46 enhance critical areas and do not need to provide additional mitigation. This

1 amendment is consistent with the 2024 Comprehensive Plan that amended policies to
2 encourage and support conservation projects.

3
4 *xxv. Single family residential development exceptions in buffers – SCC 30.62A.520:*

5
6 Housekeeping amendments to clarify intent of the provision. Minor amendments
7 to (4) to be consistent with amendments earlier in the chapter related to new effective
8 impervious surfaces, as well as (12) to clarify that mitigation plans are required for
9 development proposed under this exception.

10 *xxvi. Reasonable use – SCC 30.62A.540:*

11
12 Reasonable use does not mean the highest economic value of a property.
13 Amendments provide parameters around the total impact area that can be permitted
14 in a critical area consistent with SCC 30.62A.520 as well as policies within other
15 nearby jurisdictions. This amendment will help ensure consistent implementation of
16 this allowance and efficient permit review. Amendments within this section also clarify
17 that mitigation plans are required for development projects applying for this exemption.

18
19 *xxvii. General Agricultural Standards – SCC 30.62A.620:*

20
21 Minor amendments to clarify that there can be no net loss of critical area ecological
22 function or value and the addition of a new source of BMPs.

23
24 *xxviii. Farm conservation plans and best management practices – SCC 30.62A.640:*

25
26 Minor amendment to remove a redundant sentence within (2)(b) as BMPs should
27 always be maintained as long as the agricultural activity is ongoing. Addition within (5)
28 to add that monitoring records provided by the farm operator shall be retained by the
29 County to ensure Farm Plans are working as intended.

30
31 *xxix. Monitoring and adaptive management program – SCC 30.62A.710:*

32
33 The monitoring and adaptive management program was created after the 2007
34 update to the CAR, and amendments to this section update the tense and description
35 of the program.

36
37 *xxx. Monitoring and adaptive management program – contents – SCC 30.62A.720:*

38
39 Minor amendments to better align the code with current County practice.

40
41 b. Chapter 30.62B SCC – Geologically Hazardous Areas is amended:

42
43 i. *Intent – SCC 30.62B.015:*

44
45 Housekeeping amendment to remove an incorrect reference to wetlands and fish
46 and wildlife habitat conservation areas and replace it with geologically hazardous
47 areas.

1
2 ii. *Geotechnical report requirements – SCC 30.62B.140:*
3

4 Minor amendment to ensure that licensed engineers or geologists preparing the
5 geotechnical reports must be licensed in the State of Washington. The code already
6 requires that the engineer be licensed, and this amendment adds that the license must
7 be from Washington State. This is already practice, and the amendment codifies this
8 practice. The amendment originally came from public input.
9

10 iii. *Erosion hazard areas – Channel migration zones – SCC 30.62B.330:*
11

12 Amendments within (1) to clarify that Table 1 is one way to identify channel
13 migration zones (CMZs), and there are other ways to identify CMZs utilizing BAS. In
14 the existing code, the subsequent study required when a development activity or action
15 is proposed within a CMZ can only be performed using a DNR method developed for
16 Forest Practices. Amendments add an additional Ecology methodology that County
17 consultants identified as effective, and is currently in use by Surface Water
18 Management. There are similarities between the DNR and Ecology methodologies,
19 although Ecology’s methodology provides multiple mapping methods that allow it to
20 be more cost effective, its documentation provides greater detail, and Ecology’s CMZ
21 program is kept more up to date. The addition of the second allowed method provides
22 applicants with another, usually more cost effective, option for CMZ studies.
23

24 c. Chapter 30.62C SCC - Critical Aquifer Recharge Areas is amended:
25

26 i. *Intent – SCC 30.62C.015:*
27

28 Housekeeping amendment to correct an incorrect reference to wetlands and fish
29 and wildlife habitat conservation areas and refer instead to critical aquifer recharge
30 areas.
31

32 ii. *Hydrogeologic report and mitigation plan – SCC 30.62C.140:*
33

34 Amendment to add criteria for when a hydrogeologic report is required for a project.
35 This will provide clarity to the public and staff. The proposed amendments to this
36 section require preparation of a hydrogeologic report when specific types of uses are
37 proposed within critical aquifer recharge areas with varying levels of vulnerability. A
38 report is required in all critical aquifer recharge areas for those uses with the greatest
39 potential for impacts to groundwater. When uses present less potential for impacts to
40 groundwater, the hydrogeologic report is required only when located within aquifer
41 recharge areas of higher vulnerability. This proposed amendment includes new
42 requirements that uses otherwise prohibited in critical aquifer recharge areas with high
43 or medium vulnerability must now prepare a hydrogeologic report if located in low
44 vulnerability critical aquifer recharge areas; and uses that pose a potential risk to
45 groundwater that are not otherwise listed in the chapter must also prepare a
46 hydrogeologic report
47

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iii. *Notice to Group A water systems – SCC 30.62C.150:*

Revising the section to clarify when notice will be provided to Group A water systems when certain activities are proposed within the wellhead protection zones of wells used for public water supply. Related amendments are also proposed to SCC 30.62C.340 and new section SCC 30.62C.345 concerning certain uses subject to conditions necessary to protect critical aquifer recharge areas to allow the department to consider, and impose conditions based on, recommendations from affected Group A public water systems. These changes will help ensure consistent permit review and reduce potential for impaired water quality of public drinking water supplies.

iv. *Classification of critical aquifer recharge areas – SCC 30.62C.220:*

Amendment to add Group A wellhead protection zones identified through watershed protection plans prepared by licensed engineers with hydrogeologic expertise. The detailed analysis contained in watershed protection plans may identify 10-year travel zones, additional buffer zones and zones of contribution which are all considered part of the critical aquifer recharge area.

v. *General requirements – SCC 30.62C.320:*

Amendment to add a provision stating that avoidance of impacts is the standard that must be met within Group A wellhead protection areas. Mitigation is not an option due to risk to human health. Impairment of water quality or quantity within a Group A wellhead zone is unacceptable.

vi. *Uses prohibited within certain critical aquifer recharge areas – SCC 30.62C.330:*

The amendment expands the prohibitions to include within CARA of medium sensitivity. The prohibition of landfills is expanded to address emerging issues such as e-wastes. The prohibition on Underground Injection Control (UIC) wells is clarified to address specific classes and types instead of a generic prohibition on all UICs.

UIC wells are categorized into Class I through Class V by the EPA. Class V UIC wells include certain types of stormwater management facilities considered as “low impact development” (LID). Use of LID is required as the preferred method for stormwater management under the county’s Phase I Municipal Stormwater Permit issued by Ecology under authority of the federal Clean Water Act (CWA) and the Washington Water Pollution Control Act, chapter 90.48 RCW, and codified in Chapter 30.63A SCC. The Phase I Permit also requires that adoption of county policy and code must not create barriers to the use of LID. Current language in SCC 30.62C.330 prohibits the use of all UIC wells within CARA of high sensitivity without recognizing the specific requirements for LID under the CWA.

1 vii. *Uses and development activities subject to special conditions – SCC 30.62C.340:*
2

3 Amendment to revise the table listing specific uses that are subject to CARA
4 requirements as well as subject to additional state or federal requirements. The table
5 has been reorganized to group storage tank requirements together, add requirements
6 for petroleum processing and recycling facilities, and separate out UIC wells for special
7 treatment in a new section. The table also includes updated references to applicable
8 WACs (junk yards and salvage yards; reclaimed water for groundwater recharge;
9 pesticide, herbicide and fertilizer storage and use; and solid waste handling and
10 recycling facilities) and guidance documents for sawmills. The section specifies the
11 uses may be conditioned based on state and federal regulations and
12 recommendations from hydrogeologic reports, and adds authority for the department
13 to consider recommendations from Group A public water systems when uses are
14 proposed within wellhead protection zones.
15

16 viii. *UIC wells subject to special conditions - SCC 30.62C.345:*
17

18 A new section is added to clarify requirements for UIC wells. A new table identifies
19 UIC wells by class and the associated state or federal requirements that apply. These
20 UIC wells may also be subject to hydrogeologic reports and recommendations from
21 Group A public water system. Requirements for UIC wells used for stormwater
22 management are categorized by: (1) those that do not meet the state endangerment
23 standard, (2) those that meet the endangerment standards under WAC 173-218-080
24 or WAC 173-218-090, and (3) those that automatically meet the state endangerment
25 standard under WAC 173-218-100.
26

27 The amendments contain provisions for stormwater-related UIC wells resolving the
28 potential conflict between Chapters 30.62C and 30.63A SCC while still recognizing the
29 potential for stormwater UIC wells to contaminate groundwater. A hydrogeologic report
30 would be required for any stormwater UIC wells located within certain CARA with high
31 or medium sensitivity (including Group A wellhead protection zones and sole source
32 aquifers) that do not meet the non-endangerment standard in the states UIC well
33 program described in WAC 173-218-080, -090, and -100. Stormwater UIC wells that
34 meet the nonendangerment standard in WAC 173-218-080 or WAC 173-218-090 may
35 still be conditioned based on recommendations from Group A public water systems if
36 necessary to protect the critical aquifer recharge area.
37

38 d. Chapter 30.86 SCC – Fees:
39

40 i. *Special flood hazard areas permit fees – SCC 30.86.300:*
41

42 Consistent with the amendment to codify the required habitat assessment and
43 management plan for projects needing flood hazard permits in Chapter 30.43C SCC,
44 the amendment is to add the associated fees for review. The fee for habitat
45 assessment and management plan in the special flood hazard area is the same as
46 within Table 30.86.525(5) for habitat assessment and management plans outside of
47 the special flood hazard area when otherwise required under Chapter 30.62A SCC.

1
2 e. Chapter 30.91 SCC – Definitions
3

4 i. *Appurtenance* – SCC 30.91A.250:
5

6 Minor amendment to be consistent with the amendment within SCC 30.86.300
7 that lists "appurtenance" in the fee table.
8

9 ii. *Critical area* – SCC 30.91C.340:
10

11 Housekeeping amendment to add "habitats of local importance" within the fish and
12 wildlife habitat conservation areas of (3)(f) to be consistent with the amendments within
13 Part 400 and the amendment within SCC 30.62A.010. An additional minor amendment
14 to help the public and staff understand that the term "frequently flooded areas" as used
15 in the GMA to define a critical area, includes "special flood hazard areas" used by the
16 National Flood Insurance Program and chapter 30.65 SCC. The GMA Guidelines in
17 WAC 365-190-110(1) directs that frequently flooded areas are a critical area and must
18 include, at a minimum, the 100-year flood plain designations of the Federal Emergency
19 Management Agency (FEMA) and the National Flood Insurance Program (NFIP).
20 FEMA and the NFIP refer to these floodplains as "special flood hazard areas."
21 Snohomish County Code utilizes the term special flood hazard areas to align with
22 FEMA definitions as per SCC 30.65.040 and SCC 30.91F.370.
23

24 iii. *Critical species* – SCC 30.91C.370:
25

26 Critical species are defined in county code as including species listed by state and
27 federal government as endangered, threatened, or sensitive, and species of local
28 importance. Amendment to the critical species definition to ensure all state listed
29 sensitive species are included within the definition. The amendment removes the
30 individually listed state sensitive species, consistent with the amendment to SCC
31 30.62A.410, and will ensure the code will remain consistent with WDFW listings
32 without the need to be updated in the future.
33

34 iv. *Qualified Professional* – SCC 30.91Q.020:
35

36 New definition to provide clarity to the public and staff. The term "qualified
37 professional" is utilized within existing code in Chapters 30.62B and 30.62C SCC and
38 is within an amendment to Chapter 30.62A SCC. The new definition applies to
39 Chapters 30.62A and 30.62B SCC because the term is sufficiently defined for chapter
40 30.62C SCC in SCC 30.62C.140.
41

42 v. *Special waste* – SCC 30.91S.528:
43

44 New definition necessary to aid in the implementation of the amendments to
45 Chapter 30.62C SCC that is consistent with the definition of special waste in WAC
46 173-030-040.
47

1 vi. *Underground injection control well (UIC well) – SCC 30.91U.065:*

2
3 New definition necessary to aid in the implementation of the amendments to
4 Chapter 30.62C SCC that is consistent with the definition of UIC well in the Washington
5 Underground Injection Control Program, chapter 173-218 WAC.
6

7 vii. *Wellhead protection area (WHPA) – SCC 30.91W.050:*

8
9 New definition necessary to aid in the implementation of the amendments to
10 Chapter 30.62C SCC. This definition is based on WAC 365-190-030 and on
11 information in Wellhead Protection Areas: Protecting Drinking Water, Washington
12 Department of Health (DOH) Publication No. 331-634.
13

- 14 G. The critical area amendments have been evaluated for the potential to create barriers to the
15 implementation of low impact development (LID) principles and measures for stormwater
16 management. Since the updates support the basic LID principles of preserving native
17 vegetation, limiting impervious surfaces, and protecting native soils and drainage channels,
18 the county determined that the critical area regulations support and implement LID principles
19 and thus, do not create a barrier to the use of LID techniques for stormwater management.
20
- 21 H. The critical area amendments address utilities in terms of when utilities can or cannot be
22 constructed through or within critical areas. Critical areas exist in rural and urban areas and
23 the amendments will not have an impact on the demand for capital facilities and utilities.
24 County and external service providers maintain long-range plans and financing strategies to
25 meet projected service demands that will not be impacted by the critical area regulation
26 amendments.
27
- 28 I. The critical area regulation amendments may impact the buildable lands of Snohomish County
29 potentially impacting housing and job creation in the County. The critical area regulation
30 amendments do not increase buffer widths, although they do remove certain exemptions and
31 flexible buffer provisions which will strengthen existing protections. The costs associated with
32 the provision of housing and jobs may increase with the need for further environmental
33 reviews.
34

35 Section 2. The County Council makes the following conclusions:

- 36
- 37 A. The amendments to the critical area regulations are consistent with the requirements in the
38 Growth Management Act.
39
- 40 B. The amendments to the critical area regulations are based on recommendations from the
41 best available science.
42
- 43 C. The amendments to the critical area regulations are consistent with the multicounty planning
44 policies, the countywide planning policies, and the County's policies in the comprehensive
45 plan adopted in compliance with the Growth Management Act.
46

ORDINANCE NO. 24-097

RELATING TO THE CRITICAL AREA REGULATIONS UPDATE PURSUANT TO THE GROWTH MANAGEMENT ACT,
AMENDING SNOHOMISH COUNTY CODE CHAPTERS 30.62A WETLANDS AND FISH AND WILDLIFE HABITAT
CONSERVATION AREAS, 30.62B GEOLOGICALLY HAZARD AREAS, 30.62C CRITICAL AQUIFER RECHARGE AREAS,
30.43C FLOOD HAZARD PERMITS, 30.86 FEES, AND 30.91 DEFINITIONS.

- 1 D. The processes to develop and adopt the updates to the critical area regulations meet GMA
2 requirements for public participation and public hearings.
3
4 E. The County has met the GMA requirements for public notice.
5
6 F. The SEPA process conducted for this ordinance satisfies the requirements of chapter
7 43.21C RCW, as implemented by chapter 197-11 WAC and chapter 30.61 SCC.
8 G. The amendments to the critical area regulations do not create a barrier to the use of low
9 impact development principles and facilities for management of stormwater whenever such
10 use is feasible.
11
12 H. The amendments do not result in an unconstitutional taking of private property for a public
13 purpose.
14

15 Section 3. The Snohomish County Council bases its findings and conclusions on the entire
16 record of the County Council, including all testimony and exhibits. Any finding, which should be
17 deemed a conclusion, and any conclusion which should be deemed a finding, is hereby adopted
18 as such.
19

20 Section 4. The *Revised Draft Summary of Best Available Science for Critical Areas, March*
21 *2006*, the *Draft Summary Snohomish County 2015 Best Available Science Review for Critical*
22 *Area Regulation Update, April 2015*, and the annotated bibliography identified as *Summary of*
23 *BAS and Other Key Resources, June 2024 (Parts I and II)*, are incorporated into the record for
24 this 2024 update to the critical area regulations.
25

26 Section 5. Snohomish County Code Section 30.43C.030, last amended by Ordinance No.
27 20-076 on November 4, 2020, is amended to read:
28

29 **30.43C.030 Additional submittal requirements.**
30

31 All persons applying for a flood hazard permit shall make application to and shall meet the
32 submittal requirements established by the department pursuant to SCC 30.70.030. Additional
33 submittal requirements shall include the following:
34

- 35 (1) Name of the stream or body of water associated with the floodplain in which the development
36 is proposed;
37
38 (2) General location of the proposed development, including direction and distance from the
39 nearest town or intersection;
40
41 (3) Site plan map showing:
42
43 (a) Site boundaries;
44
45 (b) Location and dimensions of the proposed development or structure;
46
47 (c) Location and volume of any proposed fill material; and

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- 1
2 (d) Location of existing structures;
3
4 (4) Topographic, engineering, and construction information necessary to evaluate the proposed
5 project that may be requested by the department through the preapplication process or during the
6 initial review for completeness of the application;
7
8 (5) Additional information when required pursuant to chapter 30.65 SCC;
9
10 (6) If a project proposes to alter or relocate a riverine watercourse, the flood hazard permit
11 application shall include a description of the extent to which the riverine watercourse will be altered
12 or relocated;
13
14 (7) If a project will alter the base flood elevation or the boundaries of the special flood hazard
15 area the flood hazard permit application shall include:
16
17 (a) Engineering documentation and analysis developed by a registered qualified professional
18 engineer regarding the proposed change; and
19
20 (b) If required by the Federal Emergency Management Agency, a letter of map change from
21 that agency. If a letter of map change is required, the applicant must receive approval of a
22 conditional letter of map revision from the Federal Emergency Management Agency before
23 the flood hazard permit may be approved. The application for the flood hazard permit shall
24 include the complete conditional letter of map revision application package;
25
26 (8) Elevation and floodproofing certification under SCC 30.65.130 and SCC 30.65.140;
27
28 (9) If a project is proposed in a V, V1-30, or VE zone, a design certificate as described in SCC
29 30.65.295(1)(c); ~~((and))~~
30
31 (10) If a project is proposed in the floodway, certification by a registered professional engineer
32 as described in SCC 30.65.230(1)(b) confirming that the proposal will not result in any increase
33 in flood levels during the occurrence of the base flood discharge((-)) ; and
34
35 (11) Habitat assessment and management plan under SCC 30.62A.460.
36

37 Section 6. Snohomish County Code Section 30.62A.010, last amended by Ordinance No.
38 17-039 on July 12, 2017, is amended to read:
39

40 **30.62A.010 Purpose and applicability.**
41

42 (1) The purpose of this chapter is to provide critical area regulations pursuant to the Growth
43 Management Act (chapter 36.70A RCW) for the designation and protection of:
44

45 (a) Wetlands, and
46

47 (b) Fish and wildlife habitat conservation areas including:

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- 1
2 (i) streams, including those planted with game fish by a governmental or tribal entity;
3
4 (ii) lakes, including those planted with game fish by a governmental or tribal entity;
5
6 (iii) naturally occurring ponds under 20 acres and their submerged aquatic beds that
7 provide fish or wildlife habitat, including those planted with game fish by a governmental
8 or tribal entity. Reference to "lake" or "lakes" in this chapter includes naturally occurring
9 ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife
10 habitat;
11
12 (iv) marine waters;
13
14 (v) primary association areas for critical species; and
15
16 (vi) state natural area preserves, natural resource conservation areas, ((and)) state
17 wildlife areas, and habitats of local importance.
18

19 (2) This chapter applies to:

- 20
21 (a) Development activities, actions requiring project permits, and clearing, except for the
22 following:
23
24 (i) Non-ground disturbing interior or exterior building improvements;
25
26 (ii) Routine landscape maintenance of established, ornamental landscaping;
27
28 (iii) Non ground disturbing normal maintenance or repair;
29
30 (iv) Removal of noxious weeds conducted in accordance with chapter 16-750 WAC;
31
32 (v) Maintenance or replacement that does not expand the affected area of the following
33 existing facilities:
34
35 (A) septic tanks and drainfields;
36
37 (B) wells;
38
39 (C) individual utility service connections; and
40
41 (D) individual cemetery plots in established and approved cemeteries;
42
43 (vi) Data collection and research by nonmechanical means if performed in accordance
44 with state-approved sampling protocols or Endangered Species Act (ESA) Section
45 10(a)(1)(a), Section 7 consultation (16 USC § 1536);
46
47 (vii) Nonmechanical survey and monument placement; and

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30.43C FLOOD HAZARD PERMITS, 30.86 FEES, AND 30.91 DEFINITIONS.

1
2 (viii) Quasi-judicial rezones not accompanied by another permit or approval.

3
4 (b) Agricultural activities, which are subject only to Part 600 of this chapter.

5
6 Section 7. Snohomish County Code Section 30.62A.015, adopted by Amended Ordinance
7 No. 06-061 on August 1, 2007, is amended to read:

8
9 **30.62A.015 Intent.**

10
11 It is the intent of this chapter to provide the protection required by chapter 36.70A RCW for
12 wetlands and for fish ((&)) and wildlife habitat conservation areas while simultaneously protecting
13 property rights. The county council nevertheless recognizes that implementation of some
14 provisions of this chapter 30.62A SCC will inevitably entail some restriction of property rights. It
15 is the intent of the county council that this chapter be always construed and interpreted so that
16 property rights be restricted no further than strictly necessary for the critical area protection
17 required under chapter 36.70A RCW.

18
19 Section 8. Snohomish County Code Section 30.62A.130, last amended by Amended
20 Ordinance No. 15-034 on September 2, 2015, is amended to read:

21
22 **30.62A.130 Submittal requirements.**

23
24 (1) For any development activity or action requiring a project permit, the applicant shall submit
25 a site development plan drawn to a standard engineering scale which includes:

26
27 (a) Boundary lines and dimensions of the subject property;

28
29 (b) Boundary lines and dimensions of the site;

30
31 (c) The topography at contour intervals of five feet unless the underlying project permit
32 requires a lesser interval;

33
34 (d) Location, size, and type of any existing structures, cleared areas and other existing
35 improvements;

36
37 (e) Location, size, and type of all proposed development activities, activities subject to
38 project permits, and clearing;

39 (f) Location and description of all wetlands and fish and wildlife habitat conservation areas
40 located on the site ((or)) and within 300 feet ((or the width of the widest potential buffer of the
41 site boundaries)) of the site;

42
43 (g) Location of all other critical areas regulated pursuant to chapters 30.62B, 30.62C, and
44 30.65 SCC on or within 300 feet of the site; ((and))

45
46 (h) Location of structure setbacks as required in chapter 30.23 SCC((-)) ; and

47
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30.43C FLOOD HAZARD PERMITS, 30.86 FEES, AND 30.91 DEFINITIONS.

1 (i) Location, size, and type of proposed stormwater facilities, including estimated areas of
2 intrusion into buffers.

3
4 (2) In addition to a site development plan the following additional information will be required
5 where applicable:

6
7 (a) Classification of all streams, wetlands, or lakes pursuant to SCC 30.62A.230 (Table 1).
8 Classification is not required if the project permit applicant applies the maximum protection
9 for the specific critical area as specified at SCC 30.62A.320 (Table ~~((2))~~ 2a and 2b);

10
11 (b) Provisions for permanent protection as specified at SCC 30.62A.160;

12
13 (c) Provisions for temporary marking on the site of all critical area protection areas, or the
14 limits of the proposed site disturbance outside of the critical area protection areas; ~~((and))~~

15
16 (d) A critical area study as required by SCC 30.62A.140~~((-))~~ ;

17
18 (e) Wetland delineation field worksheets in accordance with the approved federal wetland
19 delineation manual and applicable regional supplement (see WAC 173-22-035); and

20
21 (f) Wetland categorization worksheets based on the Washington State Wetland Rating
22 System for Western Washington: 2014 Update (Version 2), Hruby, T. & Yahnke, A. (2023),
23 Department of Ecology Publication #23-06-009, or latest edition.

24
25 Section 9. Snohomish County Code Section 30.62A.140, last amended by Amended
26 Ordinance No. 15-034 on September 2, 2015, is amended to read:

27
28 **30.62A.140 Critical area study content requirements.**

29
30 For any development activity or action requiring a project permit occurring in wetlands, fish and
31 wildlife habitat conservation areas, or within a buffer unless otherwise provided in Part 300, the
32 ~~((director))~~ department may require, where applicable, a critical area study prepared by a qualified
33 professional. The critical area study shall include a survey or map drawn to scale and a report
34 describing the following information:

35
36 (1) A wetland delineation map and report, including field worksheets in accordance with the
37 approved federal wetland delineation manual and applicable regional supplement (see WAC 173-
38 22-035). This requirement may be waived if a wetland delineation has been performed within the
39 previous five years that was approved by the department, and the department determines after
40 site review that the wetland boundary is the same as the approved delineation;

41
42 (2) Wetland categorization, including worksheets, documenting the proposed wetland
43 categories, based on the Washington State Wetland Rating System for Western Washington:
44 2014 Update~~((, (Hruby, T., October 2014, or latest edition, Department of Ecology Publication~~
45 ~~#14-06-029)))~~ (Version 2), Hruby, T. & Yahnke, A. (2023), Department of Ecology Publication
46 #23-06-009, or latest edition;

1 (3) Wetland classes present as defined in the United States Fish and Wildlife Service's
2 Classification of Wetlands and Deep Water Habitats in the U.S. (~~Cowardin et al., 1979~~) (i.e.
3 Cowardin classification), Federal Geographic Data Committee (2013), or latest edition;
4

5 (4) Stream location, stream name (if named), and stream type pursuant to the typing system
6 contained in SCC 30.62A.230 (Table 1);

7 (5) Lake location, lake name (if named), and lake type pursuant to the typing system contained
8 in SCC 30.62A.230 (Table 1);
9

10 (6) The ordinary high-water mark of any stream, lake, or marine water;

11
12 (7) Buffer location pursuant to SCC 30.62A.320;

13
14 (8) A description and assessment of any areas that are functionally and effectively disconnected
15 from buffers;

16
17 ~~((7))~~ (9) A description and illustration of proposed activities within any critical area or ~~((buffers))~~
18 buffer;

19
20 ~~((8))~~ (10) An assessment of the existing functions and values of the critical area(s) or buffers
21 that will be affected by the proposed activity and the methods used to assess those functions and
22 values;

23
24 ~~((9))~~ (11) An assessment of how the activity meets the protection standards established in SCC
25 30.62A.310 and SCC 30.62A.450. For applications under SCC 30.62A.350, an assessment of
26 how the proposal protects the functions and values specified in SCC 30.62A.220, and how the
27 proposal provides protection equivalent to the standards established in SCC 30.62A.310 and SCC
28 30.62A.450;

29
30 ~~((10))~~ (12) A mitigation plan for activities occurring in a critical area or buffer according to the
31 requirements in SCC 30.62A.150;

32
33 ~~((11))~~ (13) A habitat management plan in accordance with SCC 30.62A.460 for any activity
34 occurring within the primary association area of a critical species, habitats of local importance,
35 state natural habitats, special flood hazard areas, or Priority Habitat Species (PHS) areas mapped
36 by the Washington Department of Fish and Wildlife (WDFW);

37
38 ~~((12))~~ (14) When shoreline or bank stabilization measures and/or flood protection measures
39 are proposed, a geotechnical report investigating alternative structural and non-structural
40 methods pursuant to SCC 30.62B.140; and

41
42 ~~((13))~~ (15) Any other information necessary to determine compliance with this chapter or
43 identified on a submittal checklist created by the department.
44
45
46

1 Section 10. Snohomish County Code Section 30.62A.150, last amended by Amended
2 Ordinance No. 15-034 on September 2, 2015, is amended to read:

3
4 **30.62A.150 Mitigation plan requirements.**

5
6 Unless otherwise provided by this chapter, project permit applicants must provide a mitigation
7 plan prepared by a qualified professional to address impacts to affected wetland, fish and wildlife
8 habitat conservation area, or buffer functions and values as identified in the critical area study
9 required pursuant to SCC 30.62A.140, provided that mitigation for the primary association area
10 of critical species shall also comply with the requirements of Part 400.

11
12 (1) All mitigation plans shall:

13
14 (a) Describe the actions taken to avoid and minimize impacts to the critical area or buffer;

15
16 ~~((a))~~ (b) Include a report that describes and evaluates the existing functions and values,
17 the functions and values that will be impacted (both directly or indirectly, and permanently or
18 temporarily), ~~((and))~~ the functions and values after mitigation, and the baseline conditions of
19 the proposed location for compensatory mitigation if it is off-site;

20
21 ~~((b))~~ (c) Specify how functions and values lost as a result of the activity will be replaced
22 and result in no net loss of ecological values and functions. Include the amount of mitigation
23 to be provided and the rationale for the type and location of compensatory mitigation selected,
24 as applicable;

25
26 ~~((e))~~ (d) Include performance standards;

27
28 ~~((d))~~ (e) Specify when mitigation will occur relative to project construction and to the
29 requirements of permits required by other jurisdictional entities;

30
31 ~~((e))~~ (f) Include provisions for monitoring and maintenance of the mitigation area on a long-
32 term basis to determine whether the mitigation was successful and that the mitigation
33 measures in the approved plan will be sustainable after the monitoring period has expired;

34
35 ~~((f))~~ (g) Include provisions for ~~((performance and maintenance))~~ security devices pursuant
36 to ~~((chapter 30.84 SCC))~~ SCC 30.84.015 and SCC 30.84.140 to ensure that work is
37 completed in accordance with approved plans; and

38
39 ~~((g))~~ (h) Include provisions on a form approved by the department for right of entry to the
40 county for the purpose of inspection for the length of the monitoring and maintenance period.

41
42 (2) Mitigation plans for wetlands shall be consistent with Wetland Mitigation in Washington State—
43 Part 2: Developing Mitigation Plans—Version 1 (Ecology Publication #06-06-011b, or as revised),
44 and Selecting Wetland Mitigation Sites Using a Watershed Approach (Ecology Publication #09-
45 06-32, or as revised).

1 ((2)) (3) For development activities that require approval by the hearing examiner or those that
2 receive phased administrative, conditional, or preliminary approvals, the ~~(director)~~ department
3 may allow mitigation plans to be submitted in two phases: a conceptual phase and a detailed plan
4 phase.

5
6 Section 11. Snohomish County Code Section 30.62A.160, last amended by Amended
7 Ordinance No. 15-034 on September 2, 2015, is amended to read:

8
9 **30.62A.160 Permanent identification, protection, and recording.**

10
11 The following measures for permanent identification and protection of wetlands, fish and wildlife
12 habitat conservation areas, and buffers are required for any development activity or action
13 requiring a project permit, except those occurring in public and private road, trail, or utility
14 easements and rights-of-way, or for those projects conducted for the primary purpose of habitat
15 enhancement or restoration.

16
17 (1) Critical area site plans.

18
19 (a) All wetlands, fish and wildlife habitat conservation areas, and buffers occurring on the
20 site shall be designated on a critical area site plan as critical area protection areas.

21
22 (b) A critical area site plan is any plan approved by the department that includes but is not
23 limited to subdivisions, records of survey, official site plans, administrative site plans, binding
24 site plans, or other form drawn to a standard engineering scale.

25
26 (c) Critical area site plans shall include at a minimum:

27
28 (i) the boundaries of the site;

29
30 (ii) the boundaries of the property;

31
32 (iii) a legal description of the subject property;

33
34 (iv) accurate locations/boundaries of the critical area protection area(s), identified by
35 critical area type;

36
37 (v) identification of existing legally established uses and structures;

38
39 (vi) provisions allowing habitat enhancement in wetland(s), fish and wildlife habitat
40 conservation area(s), and buffers; and

41
42 (vii) provisions for the permanent protection of the critical area(s) functions and values
43 including, at minimum, the following:

44
45 (A) restrictions on the construction of new structures;

46
47 (B) restrictions on the removal of existing native vegetation; and

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1
2 (C) restrictions on other development activities that would adversely affect the
3 functions and values of the wetland(s), fish and wildlife habitat conservation area(s),
4 or buffers.
5

6 (2) *Recording.* Critical area site plans shall be recorded with the county auditor. Documentation
7 of recording shall be provided to the department prior to permit issuance.
8

9 (3) *Separate tracts and easements.* Wetlands, fish and wildlife habitat conservation areas, and
10 buffers shall be located in easements or in separate tracts or other protected open space owned
11 in common by all owners of the lots or parcels within any land division or land use permit or
12 decision regulated pursuant to chapters 30.41A, 30.41B, 30.41C and 30.41D SCC or any other
13 multi-family project approval with protected open space owned in common.
14

15 (4) *Legally established uses and structures.* Existing legally established uses or structures that
16 fall within the boundaries of the critical area protection area shall be allowed to continue to be
17 used and maintained without any additional restrictions. These uses and structures shall be
18 clearly identified and described on the critical area site plan.
19

20 (5) ~~((When))~~ Permanent Fencing. Permanent fencing is required along critical area protection
21 area boundaries when using easements on lots for the protection of critical areas or buffers, or
22 when adjacent activities could degrade the functions or values of the critical area or buffer.
23 Examples of adjacent activities include, but are not limited to, maintained landscaping, agricultural
24 uses, and commercial uses. ~~((a fence))~~ Permanent fencing shall be installed in a manner that
25 minimizes impacts to the critical area and buffer consistent with the ~~((fence))~~ following design and
26 placement requirements ~~((of SCC 30.62A.320(1)(f)(ii)-))~~;
27

28 (a) fencing shall allow for the passage of wildlife, including fish runs, with a maximum height
29 of three- and one-half feet and include a minimum gap of one- and one-half feet at the bottom
30 of the fence; and
31

32 (b) fencing placement shall clearly demarcate the critical area protection area(s) from the
33 developed portion of the site and limit access of landscaping equipment, vehicles, or other
34 human disturbances.
35

36 (6) *Previously approved critical area site plans.* For any development activity, action requiring a
37 project permit or clearing occurring consistent with a previously approved critical area site plan
38 shall be governed according to the terms and conditions of the approved site plan, provided that
39 all wetlands, fish and wildlife habitat conservation areas, and buffers have been identified and
40 specific permanent protection has been provided. “Consistent” means that there are no proposed
41 modifications to the critical area protective measures established on the previously approved plan
42 ~~((or))~~ . increase in impacts, or direct impacts to the critical areas or buffers.
43

44 (7) Temporary marking. Critical area protection area boundaries and the clearing limits identified
45 on the critical area site plan of an approved permit shall be marked in the field with temporary
46 high-visibility fencing to prevent unauthorized intrusion. Temporary markings are subject to
47 inspection by the department prior to the commencement of permitted activities. Temporary

1 markings shall be maintained throughout construction and shall not be removed until required
2 permanent fencing or markings are in place, or as directed by the department.

3
4 ~~((7))~~ (8) Permanent marking. Critical area protection area boundaries shall be permanently
5 marked with signs on the site prior to final inspection by the ~~((county using methods and materials~~
6 ~~acceptable to the county))~~ department, provided that this requirement does not apply to single
7 family residential development occurring on existing lots. Permanent signs shall comply with the
8 following requirements:

9 (a) signs shall be made of an enamel-coated metal face attached to a metal post or
10 another non-treated material of equal durability;

11
12 (b) signs shall be posted at an interval of one sign every one hundred feet, or one sign per
13 lot if the lot is less than one hundred feet wide;

14
15 (c) signs shall be worded as follows or with alternative language approved by the
16 department:

17
18 Critical Area Protection Area (CAPA)

19 This area is protected to provide wildlife habitat and maintain critical area(s) functions/values.

20 Please do not disturb this valuable resource.

21 Consult recorded plat or Snohomish County Planning and Development Services for CAPA
22 restrictions

23
24 (d) signs shall be maintained by the property owner in perpetuity; and

25
26 (e) the department may modify the requirements for permanent signs in SCC
27 30.62A.160(8)(a)-(d) as necessary for the protection of sensitive features or wildlife.

28
29 Section 12. Snohomish County Code Section 30.62A.220, last amended by Ordinance No.
30 17-039 on July 12, 2017, is amended to read:

31
32 **30.62A.220 Functions and values of wetlands, fish and wildlife habitat conservation areas,**
33 **and buffers.**

34
35 The functions and values listed in this section are included primarily based on their ecological
36 relationship and value to the critical areas subject to this chapter, and include, but are not
37 necessarily limited to, the following elements:

38
39 (1) *Streams.* Fish and wildlife habitat; supply, transport, and storage of water, sediment, and
40 organic material; floodwater storage and attenuation;

41
42 (2) *Wetlands.* Fish and wildlife habitat, pollution assimilation, sediment retention, shoreline
43 stabilization, floodwater storage, attenuation and conveyance, wave energy attenuation, stream
44 base-flow maintenance, and groundwater discharge/recharge;

45
46 (3) *Lakes.* Fish and wildlife habitat, sediment retention, pollution assimilation, and floodwater
47 attenuation, storage and conveyance;

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1
2 (4) *Marine waters*. Fish and wildlife habitat; wind, wave and current attenuation; sediment
3 supply; longshore transport of sediment; and pollution assimilation;
4

5 (5) *Primary association areas of critical species*. Fish and wildlife habitat;
6

7 (6) *State natural area preserves, natural resource conservation areas, and state wildlife areas*.
8 Fish and wildlife habitat and recreation; and

9 (7) *Buffers*. Habitat for water associated and riparian associated wildlife, wildlife movement
10 corridors, noise and visual screening, large woody debris and other natural organic matter
11 recruitment, floodwater attenuation and storage, temperature maintenance, pollution
12 assimilation, streambank stabilization, shade, and supply of sediments and nutrients.
13

14 Section 13. Snohomish County Code Section 30.62A.230, last amended by Amended
15 Ordinance No. 15-034 on September 2, 2015, is amended to read:
16

17 **30.62A.230 Classification of streams, lakes, wetlands, and marine waters.**
18

19 (1) Classification of streams, lakes, and marine waters shall be established in accordance with
20 the water typing rules contained in WAC 222-16-030, summarized in Table 1. In the event of a
21 conflict between WAC 222-16-030 and the contents of Table 1, the provisions in WAC 222-16-
22 030 will govern.
23

24 (2) Classification and scoring of wetlands shall occur pursuant to the Washington State Wetland
25 Rating System for Western Washington: 2014 Update (Version 2), ((~~©~~)Hruby, T. & Yahnke, A.
26 (2023), ((~~October 2014, or latest edition,~~)) Department of Ecology Publication #((~~14-06-029~~))) 23-
27 06-009, or latest edition, summarized in Table 1. In the event of a conflict between the DOE
28 publication and the contents of Table 1, the provisions in the DOE publication will govern.
29

30 **Table 1 Classification of Streams, Lakes, and Wetlands**
31

Classification	Classification Criteria Summary
Streams and Lakes	
Type S	Segments of all waters within their bankfull width, as inventoried as "shorelines of the state" under chapter 90.58 RCW and the rules promulgated pursuant to chapter 90.58 RCW.
Type F	Segments of natural waters other than Type S waters, which are within the bankfull widths of defined channels or within lakes <u>or impoundments</u> having a surface area of 0.5 acres or greater at seasonal low water and which in any case contain fish habitat or are described by one of the following four categories:

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Classification	Classification Criteria Summary
	<p>(a) ((Are)) <u>Waters</u> diverted for domestic use by more than 10 residential or camping units or by a public accommodation facility licensed to serve more than 10 persons, where such diversion is determined by the Washington State Department of Natural Resources to be a valid appropriation of water and the only practical water source for such users. Such waters shall be considered to be Type F water upstream from the point of such diversion for 1,500 feet or until the drainage area is reduced by 50 percent, whichever is less;</p> <p>(b) ((Are)) <u>Waters</u> diverted for use by federal, state, tribal or private fish hatcheries. Such waters shall be considered Type F water upstream from the point of diversion for 1,500 feet, including tributaries if highly significant for protection of downstream water quality;</p> <p>(c) Waters which are within federal, state, local or private campgrounds with more than 10 camping units: Provided that the water shall not be considered to enter a campground until it reaches the boundary of the park lands available for public use and comes within 100 feet of a camping unit, trail or other park improvement;</p> <p>(d) Riverine ponds, wall-based channels, and other channel features that are used by fish for off-channel habitat.</p>
Type Np	<p>Segments of natural waters within the bankfull width of defined channels that are perennial nonfish habitat streams. Perennial streams are <u>flowing</u> waters that do not go dry any time of the year of normal rainfall. However, for the purpose of water typing, Type Np waters include the intermittent dry portions of the perennial channel below the uppermost point of perennial flow. ((Np waters begin downstream of the point along the channel where the contributing basin area is at least 52 acres in size.))</p>
Type Ns	<p>Segments of natural waters within the bankfull width of the defined channels that are not Type S, F, or Np waters. These are seasonal, nonfish habitat streams in which surface flow is not present for at least some portion of a year of normal rainfall and are not located downstream from any stream reach that is a Type Np water. Ns waters must be physically connected by an above-ground channel system to Type S, F, or Np waters.</p>
Wetlands	
Category I	<p>Wetlands listed by the Washington Natural Heritage Program as having high conservation value</p>

Classification	Classification Criteria Summary
	<u>Bogs, Mature Forest, and Old Growth Forest Wetlands</u>
	Estuarine wetlands (greater than or equal to one acre) & Coastal Lagoons (((greater than or equal to 1/10 acre)))
	High Level Habitat Function (habitat function score is 8-9)
	Moderate Level Habitat Function (habitat function score is ((5)) <u>6-7</u>)
	Total score 23 or above but not meeting above criteria
Category II	Estuarine wetlands (less than one acre) <u>and Coastal Lagoons</u>
	High level of function for habitat (habitat function score is 8-9)
	Moderate level of function for habitat (habitat function score is ((5)) <u>6-7</u>)
	High level of function for water quality improvement and low for habitat (water quality function score is 8-9 and habitat function score is ((less than)) <u>5 or less</u>)
	Total score 20-22 but not meeting above criteria
Category III	Moderate <u>to High</u> Level Habitat Function (habitat function score is ((5-7)) <u>6-9</u>)
	Total score of 16-19 but not meeting above criteria
Category IV	Total score for all functions less than 16

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10

Section 14. Snohomish County Code Section 30.62A.310, last amended by Amended Ordinance No. 15-034 on September 2, 2015, is amended to read:

30.62A.310 General standards and requirements.

(1) This Part establishes specific standards and requirements for protection of wetlands, fish and wildlife habitat conservation areas, and their buffers, and under what circumstances mitigation may be used to address the impacts of development.

1 (2) Any development activity, action requiring a project permit or clearing occurring within
2 wetlands, fish and wildlife habitat conservation areas, and buffers is prohibited unless conducted
3 in compliance with this chapter.
4

5 (3) Except as otherwise provided in Part 500, all development activities, actions requiring a
6 project permit or clearing shall be designed and conducted to achieve no net loss of critical area
7 functions and values and comply with the following general standards and requirements:
8

9 (a) The project proponent shall make all reasonable efforts to avoid and minimize impacts
10 to wetlands, fish and wildlife habitat conservation areas, and buffers in the following
11 sequential order of preference:
12

13 (i) avoiding impacts altogether by not taking a certain action or parts of an action; ((or
14 ÷))

15
16 (ii) when avoidance is not possible, minimizing impacts by limiting the degree or
17 magnitude of the action and its implementation, using appropriate technology, or by
18 taking affirmative steps, such as project redesign, relocation, or timing, to avoid or reduce
19 impacts; and
20

21 (iii) mitigating for the affected functions and values of the critical area((÷)).
22

23 (b) When mitigation is required it shall be conducted in accordance with the following
24 requirements, unless otherwise provided in this chapter:
25

26 (i) mitigation location. Unless otherwise provided in this chapter, mitigation for impacts
27 to the functions and values of wetlands, fish and wildlife habitat conservation areas, and
28 buffers shall be in-kind and on-site. Off-site mitigation may be approved ((only)) in those
29 situations where appropriate and adequate on-site mitigation cannot replace the
30 function(s) of the wetlands, fish and wildlife habitat conservation area(s) or buffers at an
31 equivalent level to the off-site location. Off-site mitigation must occur in the same sub-
32 drainage basin for streams, lakes, and wetlands, or drift cell for marine waters((÷)) unless
33 the applicant's qualified professional can demonstrate that a mitigation site in a different
34 sub-drainage basin is ecologically preferable.
35

36 (ii) mitigation timing. Mitigation shall be timed to reduce impacts to existing fisheries,
37 wildlife, and flora and completed prior to granting of final building occupancy, or the
38 completion or final approval of any development activity or action requiring a project
39 permit for which mitigation measures have been required, except as set forth in chapter
40 30.84 SCC; ((and))
41

42 (iii) function replacement. Unless otherwise provided in this chapter, functions and
43 values shall be replaced at a one to one ratio;
44

45 (iv) plantings shall be native species appropriate to the climate and ecoregion; and
46

1 (v) monitoring shall be required for a period of at least five years. If the mitigation goals
2 described in the mitigation plan (SCC 30.62A.150) are not attained within the initially
3 established monitoring period, the applicant remains responsible for managing the
4 mitigation project until the goals of the mitigation plan are achieved.

5
6 (c) A project proponent may demonstrate compliance with subsection (3) of this section by:

7
8 (i) adhering to the standards and requirements in SCC 30.62A.320(1), .330(1), .340(1)
9 and (2) and .450 as applicable; or by

10
11 (ii) adhering to the performance standards in SCC 30.62A.320(2) and (3), .330(2),
12 .340(3) and (4) or .350 and mitigating for impacted functions and values as follows:

13
14 (A) any development activity, action requiring a project permit or clearing allowed
15 pursuant to SCC 30.62A.320(2), .330(2), .340(3) or .350 shall also comply with
16 general mitigation requirements in SCC subsection (3) of this section. Activities not
17 listed or deviations from the standards contained in Part 300 may only be conducted
18 pursuant to SCC 30.62A.350 or Part 500; and

19
20 (B) any development activity or action requiring a project permit listed in SCC
21 30.62A.320(2), .330(2), .340(3) or .350 shall also comply with the critical area study
22 requirements of SCC 30.62A.140, and the mitigation plan requirements of SCC
23 30.62A.150(~~;~~and) .

24
25 (d) Permanent identification and protection of wetlands, fish and wildlife habitat
26 conservation areas, and their buffers shall be provided as required by SCC 30.62A.160.

27
28 Section 15. Snohomish County Code Section 30.62A.320, last amended by Amended
29 Ordinance No. 15-034 on September 2, 2015, is amended to read:

30
31 **30.62A.320 Standards and requirements for buffers and impervious surfaces.**

32
33 Buffers shall be required adjacent to streams, lakes, wetlands, and marine waters to protect the
34 functions and values of these aquatic critical areas.

35
36 (1) Buffer standards and requirements – no mitigation required. All development activities,
37 actions requiring project permits, and clearing that comply with the buffer requirements of
38 ~~((subsections (1)(a) through (g)))~~ subsection (1) of this section satisfy the avoidance criteria of
39 SCC 30.62A.310(3) and are not required to provide mitigation.

40 (a) Buffer widths shall be as set forth in Table 2a or 2b below.

41
42 **Table 2a Stream, Lake, and Marine Buffer Width Standards (Feet)**

43
Streams and Lakes*

Type S		150
Type F ((with anadromous or resident salmonids))		150
((Type F without anadromous or resident salmonids))		((100))
Type Np		50
Type Ns		50
<i>Marine Waters</i>		
Type 1	All marine waters	150

1 * When the stream or lake is located within the Special Flood Hazard Area, the buffer shall
2 be the greater of the width listed in Table 2a, the channel migration zone where mapped plus
3 50 feet, or the mapped floodway.

4
5

Table 2b Wetland Buffer Width Standards (feet)

Wetlands						
Wetland Category	Description	Buffer Width Requirements (feet)				Low Intensity Land Use ²
		Standard Buffer Width ^{**}	High Intensity Land Use ¹ ((30.62A.340(4)(c))) See SCC 30.62A.320(4) for optional mitigation measures 1 and 2			
			Buffer w/out optional mitigation ((measure 1 or 2)) measures	Buffer w/ optional mitigation measure 1 (((*may use measure 1 OR 2))) or 2	Buffer w/ optional mitigation measures 1 AND 2	
Wetlands containing salmonids (minimum)			150			

Wetlands						
Wetland Category	Description	Buffer Width Requirements (feet)				
		Standard Buffer Width **	High Intensity Land Use ¹ ((30.62A.340(4)(c))) See SCC 30.62A.320(4) for optional mitigation measures 1 and 2			Low Intensity Land Use ²
			Buffer w/out optional mitigation ((measure 1 or 2)) <u>measures</u>	Buffer w/ optional mitigation measure 1 ((*may use measure 1 OR 2)) <u>or</u> <u>2</u>	Buffer w/ optional mitigation measures 1 AND 2	
Category 1	Wetlands listed by the Washington Natural Heritage Program as having High Conservation Value	190	250	220((*))	190	125
	<u>Bogs, Mature Forest, and Old Growth Forest Wetlands</u>	190	250	220((*))	190	125
	Estuarine wetlands (greater than or equal to one acre) & Coastal Lagoons ((greater than or equal to 1/10 acre))	150	200	175((*))	150	100
	High level habitat function	225	300	262((*))	225	150

ORDINANCE NO. 24-097

RELATING TO THE CRITICAL AREA REGULATIONS UPDATE PURSUANT TO THE GROWTH MANAGEMENT ACT, AMENDING SNOHOMISH COUNTY CODE CHAPTERS 30.62A WETLANDS AND FISH AND WILDLIFE HABITAT CONSERVATION AREAS, 30.62B GEOLOGICALLY HAZARD AREAS, 30.62C CRITICAL AQUIFER RECHARGE AREAS, 30.43C FLOOD HAZARD PERMITS, 30.86 FEES, AND 30.91 DEFINITIONS.

Wetlands						
Wetland Category	Description	Buffer Width Requirements (feet)				
		Standard Buffer Width **	High Intensity Land Use ¹ (([30.62A.340(4)(c)])) See SCC 30.62A.320(4) for optional mitigation measures 1 and 2			Low Intensity Land Use ²
			Buffer w/out <u>optional mitigation</u> ((measure 1 or 2)) <u>measures</u>	Buffer w/ <u>optional mitigation</u> measure 1 ((<u>*may use measure 1 OR 2</u>)) <u>or</u> <u>2</u>	Buffer w/ <u>optional mitigation</u> measures 1 AND 2	
	(habitat function score is 8-9)					
	Moderate level habitat function (habitat function score is ((5)) 6-7)	110	150	130((*))	110	75
	Total score 23 or above but not meeting above criteria	75	100	75		50
Category II	Estuarine wetlands (less than 1 acre)	110	150	130((*))	110	75
	<u>Coastal Lagoon</u>	<u>150</u>	<u>200</u>	<u>175</u>	<u>150</u>	<u>100</u>
	High level of function for habitat (habitat function score is 8-9)	225	300	262((*))	225	150

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RELATING TO THE CRITICAL AREA REGULATIONS UPDATE PURSUANT TO THE GROWTH MANAGEMENT ACT, AMENDING SNOHOMISH COUNTY CODE CHAPTERS 30.62A WETLANDS AND FISH AND WILDLIFE HABITAT CONSERVATION AREAS, 30.62B GEOLOGICALLY HAZARD AREAS, 30.62C CRITICAL AQUIFER RECHARGE AREAS, 30.43C FLOOD HAZARD PERMITS, 30.86 FEES, AND 30.91 DEFINITIONS.

Wetlands						
Wetland Category	Description	Buffer Width Requirements (feet)				
		Standard Buffer Width **	High Intensity Land Use ¹ ((30.62A.340(4)(c))) See SCC 30.62A.320(4) for optional mitigation measures 1 and 2			Low Intensity Land Use ²
			Buffer w/out optional mitigation ((measure 1 or 2)) <u>measures</u>	Buffer w/ optional mitigation measure 1 ((*may use measure 1 OR 2)) <u>or</u> <u>2</u>	Buffer w/ optional mitigation measures 1 AND 2	
	Moderate to high level of function for habitat (habitat function score is ((5)) <u>6-7</u>)	110	150	130((*))	110	75
	High level of function for water quality improvement and low for habitat (water quality function score is 8-9 and habitat function score is ((less than)) <u>5 or less</u>)	75	100	75		50
	Total score 20-22 but not meeting above criteria	75	100	75		50
Category III	<u>High or Moderate level habitat</u>	110	150	110		75

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RELATING TO THE CRITICAL AREA REGULATIONS UPDATE PURSUANT TO THE GROWTH MANAGEMENT ACT, AMENDING SNOHOMISH COUNTY CODE CHAPTERS 30.62A WETLANDS AND FISH AND WILDLIFE HABITAT CONSERVATION AREAS, 30.62B GEOLOGICALLY HAZARDOUS AREAS, 30.62C CRITICAL AQUIFER RECHARGE AREAS, 30.43C FLOOD HAZARD PERMITS, 30.86 FEES, AND 30.91 DEFINITIONS.

Wetlands						
Wetland Category	Description	Buffer Width Requirements (feet)				
		Standard Buffer Width **	High Intensity Land Use ¹ ((30.62A.340(4)(c))) See SCC 30.62A.320(4) for optional mitigation measures 1 and 2			Low Intensity Land Use ²
			Buffer w/out optional mitigation ((measure 1 or 2)) <u>measures</u>	Buffer w/ optional mitigation measure 1 ((*may use measure 1 OR 2)) <u>or</u> <u>2</u>	Buffer w/ optional mitigation measures 1 AND 2	
	function (habitat function score is ((5-7)) <u>6-9</u>)					
	Total score of 16-19 but not meeting above criteria	60	80	60		40
Category IV	Low level function score (less than 16)	40	50	40		25

1 High intensity land uses include:

- commercial or industrial uses
- nonresidential use in zones where the primary intent is residential use as per SCC 30.21.025
- Residential use (4 or more units/acre)
- High-intensity recreation (golf courses, ball fields, ORV parks, etc.)
- Public roads within the Urban Growth Area (UGA)

2 Low intensity land uses include:

- Forestry (cutting of trees only)
- Low-intensity open space (hiking, bird-watching, preservation of natural resources, etc.)
- Unpaved trails
- Utility corridor without a maintenance road and little or no vegetation management.

ORDINANCE NO. 24-097

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1 ** Standard buffers represent moderate level land use intensity and include uses that are
2 not defined as high or low intensity.

3
4 (b) Buffer widths shall be measured as follows:

5
6 (i) the buffer for streams, lakes, and marine waters shall be measured from the ordinary
7 high-water mark extending horizontally in a landward direction ~~((and for))~~ if there is not a
8 channel migration zone. If a channel migration zone is determined pursuant to SCC
9 30.62B.330, the buffer shall be measured horizontally from the landward edge of the
10 channel migration zone;

11
12 ~~(ii) the buffer for~~ wetlands ~~((, the buffer))~~ shall be measured from the edge of the wetland
13 extending horizontally in a landward direction;~~((and))~~

14
15 ~~((iii)) (iii)~~ ~~((provided however,))~~ where the landward edge of the standard buffer shown
16 in Table 2a or 2b extends on to a slope of 33 percent or greater, the buffer shall extend
17 to a point 25 feet beyond the top of the slope~~((-));~~ and

18
19 ~~(iv) if two or more stream, wetland, lake, or marine water buffers overlap, the wider buffer~~
20 shall be applied.

21
22 (c) Buffers may exclude areas that are functionally and effectively disconnected from the
23 critical area by an existing public or private road, or other legally established development
24 that is to continue its legally established use. Areas of exclusion shall be limited to those
25 buffer areas where buffer functions are blocked by the road or other legally established
26 development.

27
28 ~~((e)) (d)~~ New effective impervious surface restrictions:

29
30 (i) no new effective impervious surfaces are allowed within the buffer of streams,
31 wetlands, lakes, or marine waters; and

32
33 (ii) total new effective impervious surfaces shall be limited to 10 percent within 300 feet
34 of ~~((-))~~ any streams or lakes containing salmonids, wetlands containing salmonids, or
35 marine waters containing salmonids, except when:

36
37 (A) ~~((any streams or lakes containing salmonids;~~

38
39 ~~(B) wetlands containing salmonids; or~~

40
41 ~~(C) marine waters containing salmonids.))~~ the new effective impervious surfaces
42 are not within a flow path to the ordinary highwater mark of a stream, lake, wetland,
43 or marine waters containing salmonids; or

44
45 ~~(B) the flow path from the new effective impervious surfaces is functionally and~~
46 effectively disconnected from the stream, lake, wetland, or marine water containing

1 salmonids by an existing public or private road, or other legally established
2 development that is to continue its legally established use.

3
4 ~~((d))~~ (e) All development activities, actions requiring project permits, or clearing shall be
5 designed to avoid the loss of or damage to trees in buffers due to blow down or other causes.
6 If loss or damage does occur, mitigation measures must be taken to achieve no net loss of
7 ecological values and functions.

8
9 ~~((e))~~ (f) All development activities, actions requiring project permits, or clearing shall be
10 sited and designed to prevent the need for shoreline or bank stabilization and structural flood
11 hazard protection measures for the life of the development except as allowed pursuant to
12 SCC 30.62A.330(2)(b).

13
14 ~~((f))~~ The following measures for reducing buffer width and area may be used without a critical
15 area study or mitigation plan:

16
17 ~~(i) separate tract reductions. Up to a 15 percent reduction of the standard buffer is~~
18 ~~allowed when the buffer and associated aquatic critical area are located in a separate~~
19 ~~tract as specified in SCC 30.62A.160(3);~~

20
21 ~~(ii) fencing reductions. Up to a 15 percent reduction of the standard buffer is allowed~~
22 ~~when a fence is installed along the perimeter of the buffer. The fence shall be designed~~
23 ~~and constructed as set forth below:~~

24
25 ~~(A) the fence shall be designed and constructed to be a permanent structure;~~

26
27 ~~(B) the fence shall be designed and constructed to clearly demarcate the buffer~~
28 ~~from the developed portion of the site and to limit access of landscaping equipment,~~
29 ~~vehicles, or other human disturbances;~~

30
31 ~~(C) the fence shall allow for the passage of wildlife, with a minimum gap of one and~~
32 ~~one half feet at the bottom of the fence, and a maximum height of three and one half~~
33 ~~feet at the top; and~~

34
35 ~~(D) the enhancement area complies with the enhancement ratios of Table 3; and~~

36
37 ~~(iii) for permanent fencing combined with separate tracts, the maximum reduction shall~~
38 ~~be limited to 25 percent.))~~

39
40 (g) ~~((The))~~ One of the following buffer reduction methods ~~((are only))~~ is allowed in conjunction
41 with a critical area study, pursuant to SCC 30.62A.140, demonstrating that the methods will
42 provide protection equivalent to the standard requirements contained in Tables 2a and 2b(~~;~~).
43 The buffer reduction methods may not be combined.

44
45 (i) ~~((the))~~ Buffer averaging. The width of a buffer may be averaged, by reducing the width
46 of a portion of the buffer and increasing the width of another portion of the same buffer,
47 if all of the following requirements are met:

1
2 (A) averaging will not diminish the functions and values of the wetland(s), fish and
3 wildlife habitat conservation area(s), or buffer(s);
4

5 (B) the total area of the buffer on the subject property may not be less than the area
6 that would have been required if averaging had not occurred;
7

8 (C) the total area of buffer averaging shall be placed between the developed area
9 and the wetland, lake, stream, or marine water;
10

11 (D) no part of the width of the buffer may be less than 50 percent of the standard
12 required width or 25 feet, whichever is greater, for streams, lakes, and marine
13 waters;
14

15 (E) the wetland buffer at its narrowest point shall not be less than the greater of
16 either:
17

18 (I) 75 percent of the standard required buffer width, or
19

20 (II) 75 feet for Category I and II wetlands, 50 feet for Category III wetlands, and
21 25 feet for Category IV wetlands;
22

23 ~~((E))~~ (F) averaging of a buffer shall not be allowed where the reduction extends
24 into associated sloping areas of 33 percent or greater; and
25

26 ~~((F))~~ (G) buffers on isolated (-) wetlands or lakes located in close proximity to
27 other aquatic critical areas shall be connected by corridors of native vegetation
28 where possible using the buffer averaging provisions of this section and the following
29 criteria:
30

31 ~~((1))~~ (I) the width of the corridor connection between the aquatic critical areas
32 shall be no less than the combined average of the standard buffers for each of
33 the critical areas, provided that if there is not sufficient buffer area available
34 when using averaging to establish a connection, a connection is not required;
35

36 ~~((2))~~ (II) no more than 25 percent of the buffer of the individual critical areas
37 shall be used to make a corridor connection; and
38

39 ~~((3))~~ (III) the corridor connection shall be established where feasible using the
40 highest quality habitat existing between the critical areas(~~;~~);
41

42 (ii) ~~((enhancement))~~ Enhancement reductions. Up to a 25 percent reduction of the
43 standard buffer width and area is allowed provided the project proponent demonstrates
44 the enhancement complies with all of the following criteria:
45

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

1
2 (B) a full enhancement reduction shall only be allowed where it can be
3 demonstrated that the existing buffer functions and values are non-existent or
4 significantly degraded. Buffers with partial function may receive a partial or prorated
5 reduction; and
6

7 (C) the total buffer area after reduction is not less than 75 percent of the total buffer
8 area before reduction((÷)).
9

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

11 ~~(A) for enhancement combined with permanent fencing, the maximum reduction in~~
12 ~~width and area shall be limited to 30 percent; and~~
13

14 ~~(B) for enhancement combined with separate tracts, the maximum reduction in both~~
15 ~~width and area shall be limited to 30 percent.~~
16

17
18 ~~(h) When averaging is used in combination with any or all of the reduction methods~~
19 ~~contained in this section, the buffer shall not be reduced to less than half of the standard~~
20 ~~buffer widths contained in SCC subsection (1)(a) of this section, Tables 2a or 2b.)~~
21

22 (2) Buffer standards and requirements - mitigation required. All actions, structures, or facilities
23 listed in this section are allowed in buffers only when they are determined to be unavoidable
24 pursuant to SCC 30.62A.310(3) and are conducted according to the standards and requirements
25 identified in this section. When a permit is required, an applicant must also provide a critical area
26 study meeting the requirements of SCC 30.62A.140 and a mitigation plan meeting the
27 requirements of SCC 30.62A.150.
28

29 (a) New utilities and transportation structures are allowed within buffers when:

30 (i) no other feasible alternative exists or the alternative would result in unreasonable or
31 disproportionate costs; ~~((and))~~
32

33 (ii) location, design, and construction minimizes impacts to the buffers pursuant to SCC
34 30.62A.310((-)); and
35

36 (iii) for underground utility or transportation corridors, the entrance and exit portals shall
37 be located completely outside of the buffer, and the corridor shall not alter the percolation
38 of surface water through the soil column or the groundwater connection to adjacent
39 critical areas as demonstrated by a professional hydrologist study.
40

41
42 (b) Stormwater ~~((detention/retention))~~ facilities are allowed pursuant to the requirements of
43 SCC 30.63A.570 and the Snohomish County Drainage Manual.
44

45 (c) Access through buffers is allowed provided it is designed and constructed to be the
46 minimum necessary to accommodate the use or activity.
47

1 (d) Construction of pedestrian walkways or trails in buffers is allowed when constructed with
2 natural permeable materials and does not exceed 6 feet in width.

3
4 (e) Trimming of vegetation for purposes of providing a view corridor in a buffer is allowed
5 provided that:

6
7 (i) trimming shall not include felling, topping, or removal of trees and be limited to hand
8 pruning of branches and vegetation;

9
10 (ii) trimming and limbing of vegetation for the creation and maintenance of view corridors
11 shall occur in accordance with the pruning standards of the International Society of
12 Arboriculture (See articles published by the International Society of Arboriculture,
13 Consumer Information Program, updated July, 2005);

14
15 (iii) trimming shall be limited to view corridors of 30 feet wide or 50 percent of the lot
16 width, whichever is less;

17
18 (iv) no more than 30 percent of the live crown shall be removed; and

19
20 (v) the activity will not increase the risk of landslide or erosion.

21
22 (f) New shoreline and bank stabilization measures or flood protection are allowed pursuant
23 to SCC 30.62A.330(2).

24
25 (g) Reconstruction or replacement of buildings may be allowed provided the new building
26 does not encroach further into a critical area or its buffer than did the original building being
27 reconstructed or replaced.

28
29 (3) Buffer standards and requirements – mitigation ratios.

30
31 (a) The mitigation ratios in Table 3 shall apply to buffer impacts ~~((and mitigation measures))~~
32 that exceed those allowed in ~~((subsections (1)(f)(i), (1)(f)(ii), (1)(g)(i), and (1)(g)(ii) of this~~
33 ~~section))~~ SCC 30.62A.320(1).

34
35 (b) Except as provided in subsections (3)(c) and (d) of this section, to mitigate the loss of
36 buffer functions and values, the ratios in Table 3 shall be required. The ratios are based upon
37 the existing type of vegetative cover and are expressed in terms of the units of mitigation area
38 needed to replace the lost functions and values of the impacted buffer area.

39
40 (c) Enhancement shall occur in accordance with enhancement criteria contained in
41 ~~((subsections (1)(g)(ii)(A), (B) and (C) of this section))~~ SCC 30.62A.320(1)(g)(ii).

42
43 (d) For temporary impacts, the ratios shall be ~~((to be))~~ 1:1. Temporary impacts are those
44 that can be restored to pre-disturbance conditions in one growing season.

45
46 (e) The following areas shall not be part of the buffer mitigation area:

1 (i) easements for utility corridors, stormwater facilities, rights-of-way, and streams
2 conveyed underground;

3
4 (ii) driveways;

5
6 (iii) roads; or

7
8 (iv) any paved or graveled areas intended to convey vehicle or foot traffic.

9
10 **Table 3 Buffer Mitigation Ratios**

11

Existing Riparian habitat vegetation type	Creation	Enhancement ¹
Mature forest	6:1	12:1
Non-mature forest	3:1	6:1
Shrub	2:1	4:1
Non-woody vegetation	1.5:1	3:1
No vegetated cover	1:1	2:1

12 ¹ enhancement of the existing buffer is allowed in lieu of creation for up to one acre of buffer
13 loss

14
15 (4) Wetland buffer standards and requirements – high intensity land use optional mitigation
16 measures. The following optional mitigation measures and process requirements may be applied
17 to reduce wetland buffer widths shown in SCC 30.62A.320(1)(a) Table 2b for high intensity land
18 uses.

19
20 (a) Optional mitigation measure 1. To qualify for the reduced buffer widths listed in SCC
21 30.62A.320(1)(a) Table 2b, all applicable mitigation measures from Table 4 shall be used to
22 minimize impacts to wetlands from high intensity land uses;

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CONSERVATION AREAS, 30.62B GEOLOGICALLY HAZARD AREAS, 30.62C CRITICAL AQUIFER RECHARGE AREAS,
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Table 4 Mitigation Measures for High Intensity Land Uses

<u>Type of disturbance</u>	<u>Activities and uses that cause disturbances</u>	<u>Measures to minimize impacts</u>
<u>Lights</u>	<ul style="list-style-type: none"> • <u>Parking lots</u> • <u>Warehouses</u> • <u>Manufacturing</u> • <u>Residential</u> • <u>Commercial/industrial</u> • <u>Recreation (e.g., athletic fields)</u> • <u>Agricultural building</u> 	<ul style="list-style-type: none"> • <u>Direct lights away from wetland</u> • <u>Only use lighting where necessary for public safety and keep lights off when not needed</u> • <u>Use motion-activated lights</u> • <u>Use full cut-off filters to cover light bulbs and direct light only where needed</u> • <u>Limit use of blue-white colored lights in favor of red-amber hues</u> • <u>Dim light to the lowest acceptable intensity</u>
<u>Noise</u>	<ul style="list-style-type: none"> • <u>Manufacturing</u> • <u>Residential</u> • <u>Industrial</u> • <u>Recreation (e.g., athletic fields, bleachers, etc.)</u> • <u>Agriculture</u> 	<ul style="list-style-type: none"> • <u>Locate activity that generates noise away from the wetland</u> • <u>Construct a fence to reduce noise impacts on adjacent wetland and buffer</u> • <u>Plant a strip of dense shrub vegetation adjacent to wetland buffer</u>
<u>Toxic runoff *</u>	<ul style="list-style-type: none"> • <u>Parking lots</u> • <u>Roads</u> • <u>Manufacturing</u> • <u>Residential areas</u> • <u>Landscaping</u> • <u>Application of pesticides</u> • <u>Commercial/industrial</u> • <u>Agriculture</u> 	<ul style="list-style-type: none"> • <u>Route all new untreated runoff away from wetland while ensuring that wetland is not dewatered</u> • <u>Establish covenants governing use of pesticides within 150 feet of wetland</u> • <u>Apply integrated pest management</u>
<u>Stormwater runoff</u>	<ul style="list-style-type: none"> • <u>Parking lots</u> • <u>Roads</u> • <u>Manufacturing</u> 	<ul style="list-style-type: none"> • <u>Retrofit stormwater detention and treatment for roads and existing adjacent development</u> • <u>Prevent channelized flow from lawns that directly enters buffer</u>

ORDINANCE NO. 24-097

RELATING TO THE CRITICAL AREA REGULATIONS UPDATE PURSUANT TO THE GROWTH MANAGEMENT ACT, AMENDING SNOHOMISH COUNTY CODE CHAPTERS 30.62A WETLANDS AND FISH AND WILDLIFE HABITAT CONSERVATION AREAS, 30.62B GEOLOGICALLY HAZARD AREAS, 30.62C CRITICAL AQUIFER RECHARGE AREAS, 30.43C FLOOD HAZARD PERMITS, 30.86 FEES, AND 30.91 DEFINITIONS.

<u>Type of disturbance</u>	<u>Activities and uses that cause disturbances</u>	<u>Measures to minimize impacts</u>
	<ul style="list-style-type: none"> • <u>Residential areas</u> • <u>Commercial/industrial</u> • <u>Landscaping/ lawns</u> • <u>Other impermeable surfaces, compacted soil, etc.</u> 	<ul style="list-style-type: none"> • <u>Infiltrate or treat, detain, and disperse new runoff from impervious surfaces and lawns</u>
<u>Pets and human disturbance</u>	<ul style="list-style-type: none"> • <u>Residential areas</u> • <u>Recreation</u> 	<ul style="list-style-type: none"> • <u>Use privacy fencing</u> • <u>Plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion</u> • <u>Place wetland and its buffer in a separate tract</u> • <u>Place signs around the buffer every 50-200 feet, and for subdivisions place signs at the back of each residential lot</u> • <u>When platting new subdivisions, locate greenbelts, stormwater facilities, and other lower-intensity uses adjacent to buffers</u>
<u>Dust</u>	<ul style="list-style-type: none"> • <u>Tilled fields</u> • <u>Roads</u> 	<ul style="list-style-type: none"> • <u>Use best management practices to control dust</u>

* These measures may not be adequate for minimizing toxic runoff if threatened or endangered species are present at the site.

(b) Optional mitigation measure 2. For Category I, II, or III wetlands that score moderate or high for habitat (6 points or more for the habitat functions), to qualify for the reduced buffer widths listed in SCC 30.62A.320(1)(a) Table 2b, a habitat corridor shall be preserved that meets the following criteria:

(i) except as allowed in SCC 30.62A.320(4)(b)(ii), the habitat corridor shall connect the Category I or II wetland to any other wetland, fish and wildlife habitat conservation area, or buffer which is:

(A) on the same property or within the same development, including all phases proposed;

1 (B) on adjacent property and already protected as Native Growth Protection Area or
2 Critical Area Protection Area or other permanently protected open space suitable for
3 wildlife habitat use, and either extends to the development property boundary or is
4 connected by easement; or

5
6 (C) on county, state, or federal land used for forestry, conservation, or passive
7 recreation parks;

8
9 (ii) the habitat corridor may connect to a stormwater detention facility on-site or on an
10 adjacent site if it is designed to replicate a natural pond or wetland;

11
12 (iii) the habitat corridor shall meet the following minimum physical characteristics:

13
14 (A) the corridor shall consist of a relatively undisturbed, vegetated corridor; and

15
16 (B) the corridor shall be a minimum width of 100 feet;

17
18 (iv) the department may approve alternative configurations through innovative
19 development design under SCC 30.62A.350; and

20
21 (v) the following activities are allowed within the habitat corridor:

22
23 (A) unpaved trails limited to single-file paths for foot traffic that require minimal
24 maintenance and do not allow bicycles and motorized vehicles;

25
26 (B) hazardous tree management with the creation of snags and down logs favored
27 over tree removal whenever possible;

28
29 (C) hand removal of invasive plant species;

30
31 (D) restorative/enhancement planting with native species to increase species diversity
32 or replace plants lost to disease or damage; and

33
34 (E) planting with native species along outer edge of corridor to increase plant density
35 and discourage disturbance or intrusion.

36
37 (c) Process requirements in Part 100 shall be supplemented with the necessary information
38 to document the mitigation locations and protection requirements, provide an assessment of
39 functions and values and an evaluation of the protection achieved by the optional mitigation
40 measures, and establish provisions for permanent protection.

1 Section 16. Snohomish County Code Section 30.62A.330, last amended by Amended
2 Ordinance No. 19-020 on July 3, 2019, is amended to read:

3
4 **30.62A.330 Standards and requirements for activities conducted within streams, lakes, and**
5 **marine waters.**
6

7 This section provides standards and requirements for activities conducted within streams, lakes,
8 and marine waters. Protection of streams, lakes, and marine waters is inextricably linked to
9 protection of the adjacent buffers. Standards and requirements for buffers adjacent to streams,
10 lakes, and marine waters are found in SCC 30.62A.320.

11
12 (1) *Standards and requirements for streams, lakes, and marine waters - no mitigation required.*
13 Any development activity, action requiring project permit, or clearing that does not encroach into
14 streams, lakes, or marine waters and provides buffers consistent with the requirements of SCC
15 30.62A.320(1) satisfies the avoidance criteria of SCC 30.62A.310(3) and does not require
16 mitigation.

17
18 (2) *Standards and requirements for streams, lakes, and marine waters - mitigation required.* All
19 actions, structures, or facilities listed in this ((section)) subsection are allowed only when they are
20 determined to be unavoidable pursuant to SCC 30.62A.310(3), and are conducted according to
21 the standards and requirements identified in this ((section)) subsection. When a permit is required,
22 an applicant must also provide a critical area study meeting the requirements of SCC 30.62A.140
23 and a mitigation plan meeting the requirements of SCC 30.62A.150.

24
25 (a) All development activities, actions requiring project permits, and clearing shall meet the
26 following requirements:

27
28 (i) the project shall be sited and designed to prevent the need for shoreline or bank
29 stabilization and structural flood hazard protection measures for the life of the
30 development;

31
32 (ii) the project shall be sited and designed to avoid the need for new or maintenance
33 dredging; and

34
35 (iii) the project shall not obstruct the source and movement of sediment from bluffs along
36 marine waters except as necessary pursuant to subsection (2)(b) of this section.

37
38 (b) *Shoreline and streambank stabilization and flood protection measures.* Shoreline and
39 streambank stabilization and flood protection measures are only allowed to protect an existing
40 primary structure; new or existing utilities, roads, and bridges; agricultural land; or as part of
41 a project where the sole purpose is to protect or restore wetlands, fish and wildlife habitat
42 conservation areas, or buffers. Activities allowed under subsection (2)(b) of this section shall
43 meet the following conditions:

44
45 (i) the applicant shall submit a geotechnical report as required pursuant to SCC
46 30.62B.140 which establishes that the stabilization or flood protection is necessary;

1 (ii) non-structural measures shall be used unless a geotechnical report indicates that
2 the only alternative is use of structural stabilization measures;

3
4 (iii) the activity shall avoid interrupting hyporheic zone continuity; and

5
6 (iv) the activity should be designed and constructed based on the guidance contained
7 in the Marine Shoreline Design Guidelines (Washington State Department of Fish and
8 Wildlife, 2014) and the Soft Shoreline Stabilization Shoreline Master Program Planning
9 and Implementation Guidance (Washington State Department of Ecology, March 2014,
10 Publication No. 14-06-009) as appropriate for the type of critical area impacted.

11
12 (c) *Utility construction.* For utilities permitted under Title 30 SCC and Title 13 SCC, the
13 following additional requirements shall apply:

14
15 (i) new utility crossings shall be bored beneath types S and F streams, and channel
16 migration zones where feasible, and comply with SCC 30.62A.320(2)(a)(iii);

17
18 (ii) underground utilities shall avoid interrupting hyporheic zone continuity;

19
20 (iii) utilities shall be contained within the developed footprint of existing roads or utility
21 crossings, where feasible;

22
23 (iv) utilities placement shall not increase or decrease the natural rate of shore migration,
24 channel migration or longshore sediment transport within a drift cell;

25
26 (v) utilities placement shall avoid interrupting downstream movement of wood and
27 sediment; and

28
29 (vi) new overhead electrical facilities are allowed when no other feasible alternative
30 exists or the alternative would result in unreasonable or disproportionate costs, and the
31 location, design and construction minimizes impacts to streams, lakes, and marine
32 waters pursuant to SCC 30.62A.310.

33
34 (d) Road crossings are subject to the following requirements:

35
36 (i) road crossings on fish-bearing streams shall be designed according to the guidelines
37 set forth in Water Crossing Design Guidelines (Washington Department of Fish and
38 Wildlife, May 9, 2013) or as subsequently amended or revised; (~~and~~)

39
40 (ii) road crossings shall consider the guidelines set forth in Incorporating Climate Change
41 into the Design of Water Crossing Structures: Final Project Report (Washington
42 Department of Fish and Wildlife, revised November 2017) or as subsequently amended
43 or revised; and

44
45 (~~(iii)~~) (iii) road crossings shall avoid interrupting natural rates of the downstream
46 movement of woody debris and sediment.

1 (e) *Stream conveyances.* Where feasible, stream conveyances shall avoid interrupting
2 natural rates of the downstream movement of woody debris and sediment.

3
4 (f) Docks, piers, and floats are subject to the following requirements:

5 (i) use of toxic or treated materials that will come in contact with the water is prohibited;

6 (ii) construction timing shall avoid critical life cycle stages of fish and wildlife;

7
8 (iii) these structures shall avoid critical saltwater habitats; and

9 (iv) joint use of docks, piers and floats shall be required where feasible.

10
11 Section 17. Snohomish County Code Section 30.62A.340, last amended by Amended
12 Ordinance No. 15-034 on September 2, 2015, is amended to read:

13
14 **30.62A.340 Standards and requirements for activities conducted in wetlands.**

15
16 Protection of wetlands is inextricably linked to protection of the adjacent buffer areas. Standards
17 and requirements for the buffers adjacent to wetlands are found in SCC 30.62A.320. Additional
18 standards and requirements for development activities, actions requiring project permits, and
19 clearing within wetlands are in this section.

20
21 (1) *Standards for wetlands - prohibitions.* The following actions are prohibited:

22 (a) Filling of estuarine wetlands, wetlands listed by the Washington Natural Heritage
23 Program as having High Conservation Value, mature forested wetlands (~~and~~), Category I
24 bogs, and old growth forest wetlands;

25 (b) Point discharges of stormwater into Category I bogs; and

26 (c) Septic systems and effective impervious surfaces within 300 feet of Category I bogs.

27
28 (2) *Standards for wetlands - no mitigation required.* All development activities, actions requiring
29 project permits, and clearing that do not encroach into wetlands and provide buffers consistent
30 with the requirements of SCC 30.62A.320(1) (~~((a) through (f))~~) and the prohibitions in subsection
31 (1) of this section satisfy the avoidance criteria of SCC 30.62A.310(3) and do not require
32 mitigation.

33
34 (3) *Standards for wetlands - mitigation required.* The actions, structures, and facilities listed in
35 this (~~(section)~~) subsection are allowed only when they are determined to be unavoidable pursuant
36 to SCC 30.62A.310, are consistent with the prohibitions in subsection (1) of this section, and are
37 conducted according to the standards and requirements identified in this section. When a permit
38 is required, an applicant must also provide a critical area study meeting the requirements of SCC
39 30.62A.140 and a mitigation plan meeting the requirements of SCC 30.62A.150.

40
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42 RELATING TO THE CRITICAL AREA REGULATIONS UPDATE PURSUANT TO THE GROWTH MANAGEMENT ACT,
43 AMENDING SNOHOMISH COUNTY CODE CHAPTERS 30.62A WETLANDS AND FISH AND WILDLIFE HABITAT
44 CONSERVATION AREAS, 30.62B GEOLOGICALLY HAZARD AREAS, 30.62C CRITICAL AQUIFER RECHARGE AREAS,
45 30.43C FLOOD HAZARD PERMITS, 30.86 FEES, AND 30.91 DEFINITIONS.

46 Page 62 of 106

1 (a) New utilities and transportation structures are allowed within wetlands provided no other
2 feasible alternative exists and activities comply with SCC 30.62A.320(2)(a)(iii).

3
4 (b) Stormwater ~~((detention/retention))~~ facilities are prohibited in Category I bogs pursuant to
5 subsection (1)(b) of this section but are otherwise allowed pursuant to the requirements of
6 SCC 30.63A.570 and the Snohomish County Drainage Manual.

7
8 (4) *Standards for wetlands – mitigation requirements.*

9
10 (a) Mitigation type. Mitigation shall be provided through one of the following mechanisms
11 listed in order of preference:

12
13 (i) a mitigation bank established and managed by a third party that meets the
14 requirements in SCC 30.62A.360(1) through (3);

15
16 (ii) an in-lieu fee program established and managed by a third party that meets the
17 requirements of SCC 30.62A.360(4) and (5); or

18
19 (iii) project proponent mitigation provided that it is demonstrated through a critical areas
20 study pursuant to SCC 30.62A.140 to be ecologically preferable to the mitigation options
21 in SCC 30.62A.340(4)(a)(i) and (ii).

22
23 (b) Mitigation ratios ((-)). Except as provided in ((subsection (4)(b))) subsections (4)(d) and
24 (e) of this section, to mitigate the loss of wetland functions, the ratios in Table ((4)) 5 shall
25 be required. The ratios are expressed in terms of the units of area needed to replace the lost
26 functions and values of the wetland.

27
28 (c) The following areas shall not be part of the mitigation area:

29
30 (i) easements for utility corridors, stormwater facilities, rights-of-way, and streams
31 conveyed underground;

32
33 (ii) driveways;

34
35 (iii) roads; or

36
37 (iv) any paved or graveled areas intended to convey vehicle or foot traffic.

38
39 ~~((b))~~ (d) For temporary impacts, the ratios shall be to be 1:1. Temporary impacts are those
40 that can be restored to pre-disturbance conditions in one growing season.

41
42 **Table ((4)) 5 Wetland Mitigation Ratios**

Category/Type of Wetland	Creation	Rehabilitation	Enhancement ¹
All Category IV	1.5:1	<u>3:1</u>	((3:1)) <u>6:1</u>

Category/Type of Wetland	Creation	Rehabilitation	Enhancement ¹
All Category III	2:1	<u>4:1</u>	((4:1)) <u>8:1</u>
Category II Estuarine	innovative development only	<u>4:1</u>	4:1
All other Category II	3:1	<u>6:1</u>	((6:4)) <u>12:1</u>
Category I based on score for functions	4:1	<u>8:1</u>	((8:4)) <u>16:1</u>
Category I listed by the Washington Natural Heritage Program as having High Conservation Value	Innovative development only	<u>Innovative development only</u>	Innovative development only
Category I Coastal Lagoon	Innovative development only	<u>Innovative development only</u>	Innovative development only
Category I Bog, Mature Forest, and Old Growth Forest Wetlands	Not allowed	<u>Innovative development only</u>	Innovative design only
Category I Estuarine	Innovative development only	<u>Innovative development only</u>	Innovative development only

1
2 **1** Enhancement is allowed in lieu of creation for up to one acre of wetland fill

3
4 (e) Credit-Debit Method. As an alternative to the ratios in Table 5, the department may allow
5 the amount of mitigation required to be determined using the Credit-Debit Method in
6 accordance with Calculating Credits and Debits for Compensatory Mitigation in Wetlands of
7 Western Washington, Final Report, March 2012 (Department of Ecology, Publication # 10-06-
8 011), or as subsequently amended or revised.

9
10 ~~((c) To reduce wetland buffer widths from the width required for high intensity land uses,~~
11 ~~optional mitigation measures and process requirements may be applied to reduce wetland~~
12 ~~buffer widths as shown in SCC 30.62A.320(1)(a) Table 2b.~~

13
14 ~~(i) Optional mitigation measures.~~

15
16 ~~(A) Mitigation measure 1.~~ All applicable mitigation measures from Table 5 may be used
17 to mitigate impacts to wetlands from high intensity land uses. When fencing and/or
18 separate tracts are used pursuant to this section additional buffer width reductions for
19 fencing or separate tracts otherwise allowed in SCC 30.62A.320(1) shall not be
20 applied;

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Table 5 Mitigation Measures for High Intensity Land Uses

Examples of disturbance	Activities and uses that cause disturbances	Examples of measures to minimize impacts
Lights	<ul style="list-style-type: none"> • Parking lots • Warehouses • Manufacturing • Residential 	<ul style="list-style-type: none"> • Direct lights away from wetland
Noise	<ul style="list-style-type: none"> • Manufacturing • Residential 	<ul style="list-style-type: none"> • Locate activity that generates noise away from the wetland
Toxic runoff *	<ul style="list-style-type: none"> • Parking lots • Roads • Manufacturing • Residential areas • Landscaping 	<ul style="list-style-type: none"> • Route all new untreated runoff away from wetland while ensuring that wetland is not dewatered • Establish covenants governing use of pesticides within 150 feet of wetland • Apply integrated pest management
Stormwater runoff	<ul style="list-style-type: none"> • Parking lots • Roads • Manufacturing • Residential areas • Commercial • Landscaping 	<ul style="list-style-type: none"> • Retrofit stormwater detention and treatment for roads and existing adjacent development • Prevent channelized flow from lawns that directly enters buffer
Change in water regime	<ul style="list-style-type: none"> • Impermeable surfaces • Lawns • Tilling 	<ul style="list-style-type: none"> • Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surface and new lawns

Examples of disturbance	Activities and uses that cause disturbances	Examples of measures to minimize impacts
Pets and human disturbance	• Residential areas	• Use privacy fencing; plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion; place wetland and its buffer in a separate tract

~~* These examples are not necessarily adequate for minimizing toxic runoff if threatened or endangered species are present at the site.~~

~~(B) *Mitigation measure 2.* For Category I or II wetlands that score moderate or high for habitat (5 points or more for the habitat functions), a habitat corridor shall be preserved that meets the following criteria:~~

~~(I) Except as allowed in number (II) below, the habitat corridor shall connect the Category I or II wetland with a habitat score of 5 or more to any other wetland, fish and wildlife habitat conservation area or buffer which is:~~

~~(aa) on the same property or within the same development, including all phases proposed;~~

~~(bb) on adjacent properties and already protected as Native Growth Protection Areas or Critical Area Protection Areas or other permanently protected open space suitable for wildlife habitat use and which either extends to the property boundary or connected by easement; or~~

~~(cc) on county, state or federal land used for forestry, conservation or passive recreation parks.~~

~~(II) The habitat corridor may connect to a stormwater detention facility, either on-site or on an adjacent site, if it is designed to replicate a natural pond or wetland.~~

~~(III) The habitat corridor shall meet the following minimum physical characteristics:~~

~~(aa) The corridor shall consist of a relatively undisturbed, vegetated corridor.~~

~~(bb) The corridor shall maintain an average width equal to the difference between the high intensity buffer and the standard buffer for the relevant Category I or II wetland as shown in Table 6, except when the corridor is connecting two Category I or II wetlands each with a habitat score of 5 or more and the corridor maintains an average width of 100 feet, it will fulfill the connection requirement for both wetlands.~~

1
2
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Table 6 – Average Width for Habitat Corridor (Feet)

Wetland Category	Description	Standard Buffer Width	High Intensity Buffer Width	Average Habitat Corridor Width
Category I	Listed by the Washington Natural Heritage Program as having High Conservation Value	190	250	60
	Bogs	190	250	60
	Estuarine (at least 1 acre) & Coastal Lagoons	150	200	50
	High Level Habitat Function (habitat function score is 8 or greater)	225	300	75
	Moderate Level Habitat Function (habitat function score is 5-7)	110	150	40
Category II	Estuarine (less than 1 acre)	110	150	40
	High Level Habitat Function (habitat function score is 5-7)	225	300	75
	Moderate Level Habitat Function (habitat function score is 5-8)	110	150	40

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~~(cc) The corridor shall maintain a width at each connection not less than the required average width as described in subsection (4)(c)(i)(B)(III)(bb) of this section.~~

~~(dd) The director may approve alternative configurations which meet the intent of no net loss of habitat functions and values pursuant to SCC 30.62A.350.~~

(IV) The following activities are allowed within the habitat corridor:

1 ~~(aa) If the corridor maintains an average width of 100 feet or more, an unpaved~~
2 ~~trail— narrow single file walking path no bicycles or motorized vehicles allowed~~
3 ~~— may be allowed.~~

4
5 ~~(bb) Vegetation management is allowed as follows:~~

6
7 ~~(A) hazardous tree management— creation of snags and down logs is~~
8 ~~favored over tree removal whenever possible~~

9
10 ~~(B) hand removal of invasive plant species~~

11
12 ~~(C) when trails are allowed as per subsection (4)(c)(i)(B)(IV)(aa) of this~~
13 ~~section, minimal trail maintenance is also allowed~~

14
15 ~~(D) restorative/enhancement plantings with native species to increase~~
16 ~~species diversity or replace plants lost to disease or damage; and~~

17
18 ~~(E) planting with native species along outer edge of corridor to increase~~
19 ~~plant density and discourage disturbance or intrusion.~~

20
21 ~~(ii) Process requirements in Part 100 shall be supplemented with the necessary~~
22 ~~information to document the mitigation locations and protection requirements, provide an~~
23 ~~assessment of functions and values and evaluation of the level of protection achieved by~~
24 ~~the mitigation measures and establish provisions for permanent protection.))~~

25
26 Section 18. Snohomish County Code Section 30.62A.350, last amended by Ordinance No.
27 15-103 on January 11, 2016, is amended to read:

28
29 **30.62A.350 Innovative development design.**

30
31 (1) A project permit applicant may request approval of an innovative design based on best
32 available science, which addresses wetland, fish and wildlife habitat conservation area, or buffer
33 treatment in a manner that deviates from the standards contained in Part 300. The innovative
34 design shall comply with all reporting, monitoring, and performance standards of this chapter not
35 subject to the proposed deviation. The applicant shall demonstrate in a critical area study and
36 mitigation plan required pursuant to SCC 30.62A.140 and SCC 30.62A.150 why the standards of
37 Part 300 cannot be met and how the innovative development design complies with the following
38 requirements:

39
40 (a) The innovative design will achieve protection at least equivalent to the treatment of the
41 functions and values of the critical area(s) which would be obtained by applying the standard
42 prescriptive measures contained in this chapter;

43
44 (b) Applicants for innovative designs are encouraged to consider measures prescribed in
45 guidance documents, such as watershed conservation plans or other similar conservation
46 plans, and low impact stormwater management strategies that address ~~((wetlands))~~ wetland,

1 fish and wildlife habitat conservation area, or buffer protection consistent with this section;
2 and

3
4 (c) The innovative design will not be materially detrimental to the public health, safety, or
5 welfare or injurious to other properties or improvements located outside of the subject
6 property.

7
8 (2) Applicants proposing development activities on properties designated as Urban Center
9 (~~Transit Pedestrian Village~~) Light Rail Community, Mixed Use Corridor, or Urban Village on the
10 county's Future Land Use Map may utilize the innovative design provisions in this section to
11 deviate from the requirements in Part 300. Such deviations may include but are not limited to
12 provisions related to avoidance of impacts, standard buffer widths, allowed uses in buffers and
13 wetlands, and mitigation ratios (~~and use of off-site mitigation~~). The applicant shall demonstrate
14 in a critical area study required pursuant to SCC 30.62A.140 and mitigation plan pursuant to SCC
15 30.62A.150:

16
17 (a) Why the deviation is necessary to implement the policies in the county's comprehensive
18 plan (~~General Policy Plan~~), including the policies within the Land Use Element under
19 objective LU 3.B, and the Natural Environment Element; and

20
21 (b) How the innovative development design achieves protection at least equivalent to the
22 treatment of the functions and values of the critical area(s) which would be obtained by
23 applying the standard prescriptive measures contained in Part 300.

24
25 Section 19. A new Snohomish County Code Section 30.62A.360 is added to read:

26
27 **30.62A.360 Mitigation banking and in-lieu fee program.**

28
29 (1) Mitigation banking. The department may approve the establishment and use of a wetland,
30 fish and wildlife habitat conservation area, or buffer mitigation bank to provide compensatory
31 mitigation required by this chapter. The department's approval may allow for deviations from the
32 requirements of Parts 100 through 400 with respect to the treatment of wetlands, fish and wildlife
33 habitat conservation areas, or buffers.

34
35 (2) Criteria for approval of use of mitigation banks:

36
37 (a) The following must have been approved by the county and the federal, state, and local
38 agencies with jurisdiction:

39
40 (i) a memorandum of agreement (MOA) defining guidelines for establishing a wetland,
41 fish and wildlife habitat conservation area, or buffer mitigation banking program and an
42 implementation manual establishing a mitigation bank at a specific site; and

43
44 (ii) the MOA and/or implementation manual shall include, but not necessarily be limited
45 to, provisions for the following:

46
47 (A) specific criteria and standards for use of the mitigation bank;

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- (B) methods for tracking credits;
- (C) an interagency oversight committee composed of representatives from each of the agencies with jurisdiction for the purpose of regulatory review and approval of banking activities;
- (D) permanent management and maintenance to assure the long-term viability of the bank site;
- (E) professional construction oversight to ensure successful construction of the mitigation bank site;
- (F) quantitative and qualitative performance standards;
- (G) systematic compliance and performance monitoring to determine the degree to which the site meets performance standards;
- (H) a schedule and timeline for compliance and performance monitoring;
- (I) contingency plans;
- (J) methods to be used to determine the functions and values of replacement wetlands, fish and wildlife habitat conservation area or buffers based on a watershed analysis;
- (K) provisions for assuring the funding of long-term maintenance of the bank and performance of mitigation and monitoring requirements;
- (L) a description of wetland, fish and wildlife habitat conservation area, or buffer mitigation ratios to be used and justification for these ratios based upon best available science. Mitigation ratios will be based upon consideration of factors including but not limited to the likelihood of success of the mitigation, the types and quality of wetland, fish and wildlife habitat conservation areas, or buffers involved, research results, and monitoring results;
- (M) the mitigation plan requirements contained in SCC 30.62A.150; and
- (N) provisions for mitigation sequencing that requires at minimum that all proposals using a mitigation bank shall have made reasonable efforts to avoid and minimize impacts to wetlands, fish and wildlife habitat conservation areas, and buffers.

(b) Credits from a wetland mitigation bank certified under chapter 173-700 WAC may be used to compensate for impacts located within the service area specified in the mitigation bank instrument if all the following are met:

1 (i) the department determines that it would provide appropriate compensation for
2 the proposed impacts;

3
4 (ii) the proposed use of credits is consistent with the terms and conditions of the
5 mitigation bank instrument; and

6
7 (iii) mitigation ratios are consistent with ratios specified in the mitigation bank
8 instrument.

9
10 (c) The use of the mitigation bank will result in equivalent treatment of the functions and
11 values of the wetland, fish and wildlife habitat conservation area, or buffer to offset the
12 impacts to critical areas functions and values on the project site such that the total net impact
13 will be no net loss of critical area functions and values in the watershed in which the impacts
14 will occur. For the purposes of this section, "watershed" means an area identified as a state
15 of Washington water resource inventory area (WRIA) under WAC 173-500-040.

16
17 (d) The creation and operation of the mitigation bank and development activity which utilizes
18 the wetland, fish and wildlife habitat conservation area, or buffer bank, shall not create
19 unmitigated long term or permanent adverse impacts to the critical functions and values of
20 the wetlands, fish and wildlife habitat conservation areas, or buffers in the sub-drainage basin
21 in which the impacts will occur. Critical functions and values listed at SCC 30.62A.220 are
22 those that are important to the long-term ecological viability of the wetlands, fish and wildlife
23 habitat conservation areas, or buffers in the sub-drainage basin.

24
25 (3) The department shall make MOAs and mitigation banking documents available for public
26 review and comment prior to approval.

27
28 (4) In-lieu fee mitigation. The department may approve the establishment and use of a wetland,
29 fish and wildlife habitat conservation area, or buffer mitigation in-lieu fee (ILF) program to provide
30 compensatory mitigation required by this chapter. The department's approval may allow for
31 deviations from the requirements of Parts 100 through 400 with respect to the treatment of
32 wetlands, fish and wildlife habitat conservation areas, or buffers.

33
34 (5) Criteria for the use of an approved ILF program:

35
36 (a) in-lieu fee mitigation shall be conducted in accordance with the guidance contained in
37 Wetland Mitigation in Washington State Part 1: Agency Policies and Guidance (Version 2),
38 Washington State Department of Ecology, US Army Corps of Engineers Seattle District, and
39 U.S Environmental Protection Agency Region 10 (2021), Ecology Publication # 21-06-003, or
40 latest revision;

41
42 (b) the department determines that an approved ILF program would provide appropriate
43 compensation for the proposed impacts;

44
45 (c) the proposed use of credits is consistent with the terms and conditions of the approved ILF
46 program;

1 (d) debits associated with the proposed impacts calculated by the applicant's qualified
2 professional using the credit assessment method specified in the approved instrument for the
3 ILF program; and

4
5 (e) The impacts are located within the service area specified in the approved ILF program.

6
7 Section 20. A new Snohomish County Code Section 30.62A.370 is added to read:

8
9 **30.62A.370 Advance mitigation.**

10
11 The department may approve the use of advance mitigation to provide compensatory mitigation
12 required by this chapter. Advance mitigation shall be performed by the applicant and developed
13 in accordance with Interagency Regulatory Guide: Advance Permittee-Responsible Mitigation,
14 U.S. Army Corps of Engineers, Washington State Department of Ecology, and Washington State
15 Department of Fish and Wildlife (2012), Ecology Publication #12-06-015, or latest revision, and
16 Chapter 4.2 of Wetland Mitigation in Washington State Part 1: Agency Policies and Guidance
17 (Version 2), Washington State Department of Ecology, US Army Corps of Engineers Seattle
18 District, and U.S Environmental Protection Agency Region 10 (2021), Ecology Publication # 21-
19 06-003, or latest revision. Credits for advance mitigation may not be sold or transferred to another
20 applicant.

21
22 Section 21. Snohomish County Code Section 30.62A.410, last amended by Ordinance No.
23 17-039 on July 12, 2017, is amended to read:

24
25 **30.62A.410 Purpose.**

26
27 This Part establishes standards and requirements for the protection of critical species and ((state
28 natural)) habitats, which includes:

29
30 (1) Species listed as threatened or endangered under RCW 77.12.020 and Title 16 United States
31 Code;

32
33 (2) Species and habitats of local importance designated under ((SCC 30.62A.470; and)) SCC
34 30.62A.465 or through the nomination process under SCC 30.62A.470;

35
36 (3) ((The following)) Washington Department of Fish and Wildlife State listed sensitive species((:

37
38 (a) ~~Larch mountain salamander;~~

39
40 (b) ~~Common loon;~~

41
42 (c) ~~Peregrine falcon;~~

43
44 (d) ~~Olympic mudminnow;~~

45
46 (e) ~~Pygmy whitefish;~~

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- 1 (f) ~~Gray whale;~~
2
3 (g) ~~Bald eagle; and~~
4
5 (h) ~~Margined sculpin.); and~~
6

7 (4) State natural area preserves, natural resource conservation areas, and state wildlife areas,
8 collectively referred to as "state natural habitats."
9

10 Section 22. Snohomish County Code Section 30.62A.420, last amended by Ordinance No.
11 17-039 on July 12, 2017, is amended to read:
12

13 **30.62A.420 Applicability.**
14

15 (1) The provisions of this Part shall apply as of the effective date of the listing to all development
16 activities, actions requiring project permits, and clearing occurring on a site containing a primary
17 association area for a critical species. The provisions of this Part shall also apply to all
18 development activities, actions requiring project permits, and clearing within a habitat of local
19 importance or state natural habitat. The provisions of this Part shall apply in addition to any other
20 requirements of this chapter.
21

22 (2) Actions subject to this chapter not requiring a project permit should consult with state or
23 federal resource agencies with technical expertise and/or regulatory authority over such critical
24 species or habitat or necessary protection measures and comply with the administrative rules for
25 the species adopted pursuant SCC 30.62A.430.
26

27 Section 23. Snohomish County Code Section 30.62A.430, last amended by Ordinance No.
28 17-039 on July 12, 2017, is amended to read:
29

30 **30.62A.430 Administrative rules authorized.**
31

32 In order to protect critical species and ~~((their)) habitats ((and state natural habitats))~~, the
33 department shall develop administrative rules under chapter 30.82 SCC that establish protection
34 requirements specific to these species and ~~((their)) habitats ((and state natural habitats))~~.
35

36 Section 24. Snohomish County Code Section 30.62A.440, last amended by Ordinance No.
37 17-039 on July 12, 2017, is amended to read:
38

39 **30.62A.440 Administrative rules - minimum protection requirements.**
40

41 In developing administrative rules under this section, the department shall consider establishing
42 at least the following minimum protections:
43

44 (1) Establishment of the primary association area. For critical species that are fish, the primary
45 association area includes, but is not limited to, the buffer of the associated stream, lake, wetland,
46 or marine water;
47

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- 1 (2) Limitation on development activities within the primary association area;
- 2
- 3 (3) Limitation on access to the primary association area;
- 4
- 5 (4) Provisions for seasonal restrictions on construction activities where appropriate;
- 6
- 7 (5) Preservation of habitat for the critical species;
- 8
- 9 (6) Permanent protection pursuant to SCC 30.62A.160; ~~((and))~~
- 10
- 11 (7) Protection of habitats of local importance; and
- 12
- 13 ~~((7))~~ (8) Protection of state natural habitats.
- 14

15 Section 25. Snohomish County Code Section 30.62A.450, last amended by Ordinance No.
16 17-039 on July 12, 2017, is amended to read:

17
18 **30.62A.450 General standards and requirements.**

19
20 Proponents for all development activities, actions requiring project permits, or clearing shall make
21 all reasonable efforts to avoid and minimize impacts to critical species and ~~((state natural))~~
22 habitats pursuant to the requirements of this section, in the following sequential order of
23 preference:

- 24
- 25 (1) Avoid impacts altogether by not taking a certain action or parts of an action; or
- 26
- 27 (2) When avoidance is not possible, minimize impacts by limiting the degree or magnitude of the
28 action and its implementation, using appropriate technology, or by taking affirmative steps, such
29 as project redesign, relocation, or timing, to avoid or reduce impacts; and
- 30
- 31 (3) Comply with rules adopted pursuant to SCC 30.62A.430 and a habitat assessment and
32 management plan when required pursuant to SCC 30.62A.460.
- 33

34 Section 26. Snohomish County Code Section 30.62A.460, last amended by Ordinance No.
35 17-039 on July 12, 2017, is amended to read:

36
37 **30.62A.460 Habitat assessment and management plan contents.**

38
39 For any development activity or action requiring a project permit occurring within the primary
40 association area of a critical species ~~((or))~~, habitats of local importance, state natural habitats,
41 special flood hazard areas, or Priority Habitats and Species (PHS) areas mapped by the
42 Washington Department of Fish and Wildlife (WDFW), the ~~((director))~~ department may require all
43 or a portion of the following:

- 44
- 45 (1) A critical area study meeting the requirements of SCC 30.62A.140;
- 46

1 (2) A map drawn to scale or survey showing the location and description of the primary
2 association area(s) of the critical species or (~~state natural~~) critical habitats on the subject
3 property;

4
5 (3) Evidence of use of the site by a critical species, including the location and nature of use;

6
7 (4) An assessment of how the proposed activities will affect the critical species and/or its habitat
8 or the (~~state natural~~) critical habitat, and how the proposal will avoid, minimize, or mitigate
9 impacts to those critical species (~~and their habitats~~) or (~~state natural~~) habitats pursuant to SCC
10 30.62A.450. The department shall waive this requirement when a proposed activity is consistent
11 with the protection standards adopted in an administrative rule developed pursuant to SCC
12 30.62A.430; (~~and~~)

13
14 (5) If applicable, the assessment shall include a description of the impact of the proposed
15 development on existing floodplain and instream habitat functions and processes prepared in
16 accordance with Regional Guidance for Floodplain Habitat Assessment and Mitigation in the
17 Puget Sound Basin, FEMA Region 10 (2013), or latest revision; and

18
19 (~~(5)~~) (6) In the absence of an adopted administrative rule governing a listed species or (~~state~~
20 ~~natural~~) habitat, the applicant shall provide a habitat assessment and management plan
21 consistent with the minimum requirements of SCC 30.62A.440. In addition, the habitat
22 assessment and management plan shall contain an assessment of best available science
23 applicable to the species or (~~the state natural~~) habitat, demonstrating how the proposal will
24 provide sufficient protection of the critical species and its habitat or the (~~state natural~~) critical
25 habitat. Applicants are encouraged to consult with the department, and federal and state agencies
26 with technical expertise or regulatory jurisdiction.

27
28 Section 27. A new Snohomish County Code Section 30.62A.465 is added to read:

29
30 **30.62A.465 Designation of species and habitats of local importance.**

31
32 (1) Snohomish County designates the species and habitats in the Washington Department of
33 Fish and Wildlife Priority Habitat and Species (PHS) List, last updated June 2023, that are located
34 in Snohomish County as species and habitats of local importance.

35
36 (2) Snohomish County designates the rare and high-quality ecosystems, and the rare plant
37 species identified by the Washington Department of Natural Resources Natural Heritage Program
38 (WNHP), last updated in 2024, that are located in Snohomish County as species and habitats of
39 local importance.

40
41 (3) The department shall develop an administrative rule listing the species and habitats of local
42 importance. The department shall review the PHS Program and WNHP listings annually and
43 make updates to the administrative rule as necessary for consistency with these programs. The
44 annual review shall commence in January.

45
46
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1 Section 28. Snohomish County Code Section 30.62A.470, adopted by Amended Ordinance
2 No. 06-061 on August 1, 2007, is amended to read:

3
4 **30.62A.470 ((Species)) Nomination of species and habitats of local importance.**

5
6 This section provides the process for the designation, nomination, and protection of additional
7 species and habitats of local importance beyond those designated under SCC 30.62A.465. The
8 designation, nomination, and protection strategies shall be based on best available science.

9
10 (1) Designation criteria.

11
12 (a) Designation of species or habitats of local importance must be based on both the
13 following circumstances:

14
15 (i) protection of the ((~~native~~)) species and its primary association area through existing
16 policies, laws, regulations, or non-regulatory tools is not adequate to prevent degradation
17 of the species in the county; and

18
19 (ii) the primary association area nominated to protect a particular species is high quality
20 ((~~native~~)) habitat or has a high potential to be high quality habitat, or provides landscape
21 connectivity which contributes to the designated species' preservation.

22
23 (b) In addition to the requirements in SCC 30.62A.470(1)(a), designation of species or
24 habitats of local importance must also be based on one or more of the following
25 circumstances:

26
27 (i) local populations of a ((~~native~~)) species are in danger of extirpation based on existing
28 trends;

29
30 (ii) local populations of a ((~~native~~)) species are likely to become threatened or
31 endangered under state or federal law;

32
33 (iii) local populations of a ((~~native~~)) species are vulnerable or declining;

34
35 (iv) the ((~~native~~)) species has recreational, commercial, or tribal significance; ((~~or~~))

36
37 (v) long-term persistence of a ((~~native~~)) species is dependent on the protection,
38 maintenance, and/or restoration of the nominated primary association area((-));

39
40 (vi) The Washington Department of Natural Resources Natural Heritage Program
41 (WNHP) prioritizes the species or habitat; or

42
43 (vii) The Washington Department of Fish and Wildlife identifies the species or habitat
44 within their Priority Habitats and Species (PHS) Program.

45
46 (2) *Petition Contents.* The petition to nominate a species or habitat of local importance shall
47 contain all the following:

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- 1
2 (a) A map showing the nominated primary association area location(s);
3
4 (b) An environmental checklist in conformance with SCC 30.61.100;
5
6 (c) A written statement that
7
8 (i) identifies which designation criteria form the basis of the nomination;
9
10 (ii) includes supporting evidence that designation criteria are met; and
11
12 (iii) indicates what specific habitat feature(s) or plant communities are to be protected
13 (e.g., nest sites, breeding areas, and nurseries);
14
15 (d) Recommended management strategies for the species, supported by the best available
16 science and which meet the minimum requirements of SCC 30.62A.440; and
17
18 (e) An economic analysis identifying the cost of implementing a mitigation or protection plan
19 and the financial impact of the requested designation on affected properties or local
20 governments.

21
22 (3) *Approval Process.*

23
24 (a) *Timing.* Nominations for species or habitats of local importance will be considered by the
25 council no more than once per year. The department will accept proposals for amendments
26 at any time; however, proposals received after July 31st of each year will be processed in the
27 next annual review cycle.

28
29 (b) *Process.* The county may include a species or habitat of local importance for protection
30 pursuant to this section through adoption of legislation by the council. The council considers
31 whether to adopt a motion to list a species or habitat of local importance through the following
32 process:

33
34 (i) any person may nominate species or habitat for designation by submitting a petition
35 meeting the requirements of SCC 30.62A.470(2) and payment of fees as required by
36 chapter 30.86 SCC;

37
38 (ii) the department shall complete a SEPA threshold determination and provide notice
39 of the petition as required under SCC 30.70.045 for SEPA threshold determinations
40 associated with a project permit;

41
42 (iii) the department shall review the submittal of the petitioner, and coordinate and
43 assemble all available comments of the public, other county departments, and other
44 agencies. Based on the available record, and any other information that may be
45 available, the department shall provide a staff report and recommendation to the council
46 concerning whether the petition meets the requirements for approval;
47

1 (iv) the department shall submit to the executive an executive/council approval form
2 (ECAF) containing the staff recommendation, all relevant SEPA documents, and a
3 proposed motion which provides for disposition of the petition; and
4

5 (v) upon delivery of an ECAF to the council by the executive, the proposed motion will
6 be subject to the requirements of chapter 2.48 SCC.
7

8 (c) *Cost of environmental studies.* Any person submitting a petition to nominate a species
9 of local importance shall pay the cost of environmental review and studies necessary under
10 SEPA, as required under chapter 30.61 SCC. The person may, at his or her own expense
11 and to the extent determined appropriate by the responsible official, provide additional studies
12 or other information.
13

14 (4) *Establishment of specific rules for protection.* Within 120 days of an action by the council, the
15 department shall develop an administrative rule pursuant to chapter 30.82 SCC addressing
16 protection of the species or habitat of local importance in compliance with this section.
17

18 (5) The department may establish administrative procedures necessary to administer this
19 section.
20

21 Section 29. Snohomish County Code Section 30.62A.510, last amended by Amended
22 Ordinance No. 15-034 on September 2, 2015, is amended to read:
23

24 **30.62A.510 Minor development activity exceptions.**
25

26 (1) Certain minor development activities may occur in or cause impacts to wetlands, fish and
27 wildlife habitat conservation areas, or buffers provided the project proponent complies with best
28 management practices (BMPs) adopted through rulemaking pursuant to chapter 30.82 SCC and
29 all known and available reasonable technology (AKART) appropriate for compliance with this
30 chapter to ensure no net loss of functions or values. (~~Best management practices~~) BMPs are
31 physical, structural, or managerial practices which have gained general acceptance by
32 professionals in the appropriate field to avoid, minimize, and mitigate adverse impacts to the
33 functions and values of critical areas.
34

35 (2) All minor development activities authorized in (~~this section~~) SCC 30.62A.510(3) shall
36 comply with administrative BMP rules upon adoption. Prior to adoption of such administrative
37 rules, project proponents shall comply with all known and available BMPs as defined in subsection
38 (1) of this section. The (~~director~~) department shall adopt BMPs for the minor development
39 activities listed in this section pursuant to the rulemaking provisions of chapter 30.82 SCC.
40

41 (3) The following minor development activities may occur pursuant to this section:
42

43 (a) Normal maintenance and repair that does not expand the footprint of existing:
44

45 (i) improved public and private road rights-of-way,
46

47 (ii) utility corridors,

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- 1
2 (iii) trails,
3
4 (iv) utility facilities,
5
6 (v) flood protection and bank stabilization structures,
7
8 (vi) stormwater facilities~~((;))~~, and
9
10 (vii) structures;
11
12 (b) Minor replacement, modification, extension, installation, or construction by a utility
13 purveyor in an improved public road right-of-way;
14
15 (c) Survey or monument placement;
16
17 (d) Minor replacement or modification of existing facilities by a utility purveyor in an improved
18 utility corridor;
19
20 (e) Minor replacement or modification by a utility purveyor of individual utility service lines
21 connecting to a utility distribution system;
22
23 (f) Minor replacement, modification, minor installation or construction in an improved road
24 right-of-way by the county or by the holder of a current right-of-way use permit;
25
26 (g) ~~((All development activities in non-riparian Category II and III wetlands smaller than~~
27 ~~5,000 square feet, and non-riparian Category IV wetlands smaller than 10,000 square feet,~~
28 ~~and their associated buffers;)) Forest practices that are exempt from local regulation and
29 conducted pursuant to the Forest Practices Act, chapter 76.09 RCW, and implementing
30 regulations in title 222 WAC. This section does not apply to development activity or actions
31 requiring a Class IV General forest practices permit pursuant to chapter 30.43F SCC;
32
33 (h) Removal of invasive weeds;
34
35 (i) Felling or topping of hazardous trees based on review by a qualified arborist;
36
37 (j) Minor replacement, modification, or installation of enhancement projects related to
38 drainage, water quality, or habitat ~~((enhancement projects));~~
39
40 (k) All other on-going lawfully established development activities not specifically addressed
41 in this chapter; ~~((and))~~
42
43 (l) Site investigative work necessary for land use application submittals pursuant to this title,
44 such as surveys, soil borings, test pits, percolation tests, non-mechanical survey monument
45 placement, data collection by non-mechanical means or other related activities, provided that
46 the work is otherwise consistent with the provisions of other local, state, and federal laws and
47 regulations. Land disturbance shall be no greater than that necessary to accomplish the site~~

1 investigative work and disturbed areas shall be restored to pre-disturbance conditions in one
2 growing season((-)); and

3
4 (m) Conservation or preservation of soil, water, vegetation, fish, shellfish, or other wildlife
5 that does not change the structure or functions of the existing critical area.

6
7 (4) Category IV wetlands less than 4,000 square feet that meet the following criteria as
8 demonstrated through a critical areas study under SCC 30.62A.140 may be filled provided their
9 impacts are fully mitigated under SCC 30.62A.340:

10
11 (a) the wetland is not associated with fish and wildlife conservation areas or their buffers;

12
13 (b) the wetland is not associated with shorelines of statewide significance or their buffers;

14
15 (c) the wetland is not part of a wetland mosaic consisting of multiple small wetlands;

16
17 (d) the wetland does not have a habitat function score of 6 or more points; and

18
19 (e) the wetland is not a primary association area for critical species, located in a state natural
20 habitat, or mapped as a priority habitat and species (PHS) area by the Washington
21 Department of Fish and Wildlife.

22
23 (5) Category IV wetlands less than 1,000 square feet that meet the criteria in SCC
24 30.62A.510(4)(a) through (e) as demonstrated through a critical areas study under SCC
25 30.62A.140 are exempt from the buffer requirements contained in this chapter and may be filled
26 provided their impacts are fully mitigated per SCC 30.62A.340.

27
28 Section 30. Snohomish County Code Section 30.62A.520, last amended by Amended
29 Ordinance No. 15-034 on September 2, 2015, is amended to read:

30
31 **30.62A.520 Single family residential development exceptions in buffers.**

32
33 ~~((New))~~ On lots existing prior to October 1, 2007, new single family residential development,
34 expansions of existing single family residences, and ordinary residential improvements ~~((on lots~~
35 ~~existing prior to October 1, 2007))~~ are allowed in buffers only as follows:

36
37 (1) The development cannot feasibly comply with the ~~((standard))~~ buffer width requirements
38 contained in PART 300 of this chapter;

39
40 (2) The development shall not disturb more than 4,000 square feet of the buffer;

41
42 (3) There is not 4,000 square feet of area available for the development outside of the standard
43 buffer;

44
45 (4) To the extent feasible, ~~((total effective new impervious areas shall be limited to 10 percent~~
46 ~~within 300 feet of all waters containing salmonids and bogs))~~ the development shall comply with
47 the provisions of new effective impervious surface restrictions in SCC 30.62A.320(1)(d);

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1
2 (5) Expansion of an existing single family residence or accessory structure may be allowed within
3 a buffer provided the footprint of the expansion does not exceed 50 percent of the existing
4 structure or 2,000 square feet, whichever is less, and the expansion is set back from the critical
5 area a distance which is greater than or equal to the setback of the original structure;
6

7 (6) For new single family development, there must be no alternate location for the development
8 outside of the buffer;
9

10 (7) Development in the buffer shall be located to avoid impacts to critical species and habitats;
11

12 (8) The buffer shall not be reduced to less than one half of the standard buffer as provided at
13 SCC 30.62A.320(1)(a) or 25 feet, whichever is greater, provided that access road crossing may
14 encroach further into the buffer when there are no feasible alternatives;
15

16 (9) To the maximum extent feasible, the development shall be designed to avoid the removal of
17 existing native vegetation with an emphasis on preservation of conifers greater than or equal to
18 24 inches diameter at breast height (dbh), and hardwoods greater than or equal to 20 inches dbh;
19

20 (10) Utility service lines servicing a single family residence may be allowed in areas of the buffer
21 containing native vegetation provided that the removal of any vegetation within the buffer shall be
22 the minimum necessary to install the lines;
23

24 (11) A permanent fence or other equivalent visual and physical barrier shall be installed along
25 the edge of the reduced buffer, provided that the barrier may be installed at the edge of the
26 naturally or restored vegetated part of the buffer;
27

28 (12) ~~((Mitigation))~~ A mitigation plan pursuant to SCC 30.62A.150 shall be required for any
29 encroachment into the buffer. Mitigation shall include, where beneficial, enhancement of existing
30 buffers on the site based on the following criteria:
31

32 (a) The enhanced buffer should be located between the residential structures and
33 improvements and the aquatic critical area; and
34

35 (b) The ratio of the area of buffer enhanced to the area of the buffer encroached upon should
36 be 2 to 1.
37

38 Section 31. Snohomish County Code Section 30.62A.540, adopted by Amended Ordinance
39 No. 06-061 on August 1, 2007, is amended to read:
40

41 **30.62A.540 Reasonable use.**
42

43 (1) A project permit applicant who is unable to comply with the specific standards of this chapter
44 without forfeiting all economically viable use of the property may seek approval of a “reasonable
45 use” allowance under this section. The application must be made on a form provided by the
46 department and accompany a project permit application.
47

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1 (2) To qualify as a reasonable use, the ~~((director))~~ department shall find that the proposal meets
2 the following criteria:

3
4 (a) Application of this chapter will deny all economically viable use of the subject property.
5 In making this determination, the ~~((director))~~ department shall also determine that:

6
7 (i) the subject property is an existing legal lot and the inability to derive reasonable use
8 of the subject property is not the result of actions by the applicant in segregating, dividing,
9 or creating a condition on the site after April 1, 1995; and

10
11 (ii) the inability to derive all reasonable use of the subject property is not the result of
12 prior actions taken in violation of this title or any other local, state, or federal law or
13 regulation; and

14
15 (b) The proposed development activity meets all other requirements of this title, does not
16 otherwise constitute a nuisance or pose a threat to public health, safety, and welfare on or
17 off the site.

18
19 (3) If the ~~((director))~~ department determines that a project permit application meets the
20 requirements of SCC 30.62A.540(2), the project permit application may be approved where the
21 ~~((director))~~ department finds:

22
23 (a) The applicant has complied with Part 100 of this chapter;

24
25 (b) After review of the project under this chapter, there is no other permitted use of the
26 property with less impact on wetlands, fish and wildlife habitat conservation areas, or buffers;

27
28 (c) The proposed alteration of a wetland, fish and wildlife habitat conservation area, or buffer
29 is the minimum necessary to allow for reasonable use of the property. Activities shall be
30 located as far away as possible from wetlands, fish and wildlife habitat conservation areas,
31 and buffers and low impact development techniques shall be used to the maximum extent
32 possible. In all cases, disturbance of a wetland, stream, marine water, or lake may only occur
33 if no reasonable use can be achieved by disturbance of a buffer associated with that feature;

34
35 (d) The proposed activity is located to minimize impacts to critical species;

36
37 (e) If a reasonable use of a parcel cannot exist without modification of the required front,
38 side, or rear setbacks or other bulk standards, the department may consider modifying those
39 standards only to the extent necessary to provide for a reasonable use, while providing as
40 much protection as is possible under the circumstances to critical areas, while maintaining
41 the public health, safety, and welfare. This section shall not relieve an applicant from the
42 obligation of complying with applicable variance procedures set forth in chapters 30.43B and
43 30.43E SCC or other applicable modification procedures adopted under this title; ~~((and))~~

44
45 (f) ~~((To the greatest extent feasible, the))~~ The project ~~((includes compensation and))~~
46 applicant shall provide mitigation for unavoidable impacts to the functions and values of

1 critical areas regulated under this chapter in accordance with the requirements of SCC
2 30.62A.150((-)); and

3
4 (g) The maximum disturbance area impacting a wetland, fish and wildlife habitat conservation
5 area, or buffer may be no greater than 4,000 square feet. The disturbance area includes the
6 primary structure and any appurtenant development connected to the use and enjoyment of
7 the primary structure, including garages, decks, driveways, parking, on-site septic systems,
8 and lawn or other nonnative landscaping.
9

10 Section 32. Snohomish County Code Section 30.62A.550, last amended by Amended
11 Ordinance No. 15-034 on September 2, 2015, is repealed:

12
13 ~~**((30.62A.550 Mitigation banking and in lieu fee program.**~~

14
15 ~~(1) The director may approve the establishment and use of a wetland, fish and wildlife habitat~~
16 ~~conservation area or buffer mitigation bank to provide mitigation required by this chapter. The~~
17 ~~director's approval may allow for deviations from the requirements of Parts 100 through 400 with~~
18 ~~respect to the treatment of wetlands, fish and wildlife habitat conservation areas or buffers.~~

19
20 ~~(2) Criteria for approval of use of mitigation banks:~~

21
22 ~~(a) The following must have been approved by the county and the federal, state and local~~
23 ~~agencies with jurisdiction:~~

24
25 ~~(i) a memorandum of agreement (MOA) defining guidelines for establishing a wetland,~~
26 ~~fish and wildlife habitat conservation area or buffer mitigation banking program and an~~
27 ~~implementation manual establishing a mitigation bank at a specific site; and~~

28
29 ~~(ii) the MOA and/or implementation manual shall include, but not necessarily be limited~~
30 ~~to, provisions for the following:~~

31
32 ~~(A) specific criteria and standards for use of the mitigation bank;~~

33
34 ~~(B) methods for tracking credits;~~

35
36 ~~(C) an interagency oversight committee composed of representatives from each of~~
37 ~~the agencies with jurisdiction for the purpose of regulatory review and approval of~~
38 ~~banking activities;~~

39
40 ~~(D) permanent management and maintenance to assure the long term viability of~~
41 ~~the bank site;~~

42
43 ~~(E) professional construction oversight to ensure successful construction of the~~
44 ~~mitigation bank site;~~

45
46 ~~(F) quantitative and qualitative performance standards;~~
47

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1 ~~(G) systematic compliance and performance monitoring to determine the degree to~~
2 ~~which the site meets performance standards;~~

3
4 ~~(H) a schedule and timeline for compliance and performance monitoring,~~

5
6 ~~(I) contingency plans;~~

7
8 ~~(J) methods to be used to determine the functions and values of replacement~~
9 ~~wetlands, fish and wildlife habitat conservation area or buffers based on a watershed~~
10 ~~analysis;~~

11
12 ~~(K) provisions for assuring the funding of long-term maintenance of the bank and~~
13 ~~performance of mitigation and monitoring requirements;~~

14
15 ~~(L) a description of wetland, fish and wildlife habitat conservation area or buffer~~
16 ~~mitigation ratios to be used and justification for these ratios based upon best~~
17 ~~available science. Mitigation ratios will be based upon consideration of factors~~
18 ~~including but not limited to the likelihood of success of the mitigation, the types and~~
19 ~~quality of wetland, fish and wildlife habitat conservation areas or buffers involved,~~
20 ~~research results, and monitoring results;~~

21
22 ~~(M) the mitigation plan requirements contained in SCC 30.62A.150; and~~

23
24 ~~(N) provisions for mitigation sequencing that requires at minimum that all proposals~~
25 ~~using a mitigation bank shall have made reasonable efforts to avoid and minimize~~
26 ~~impacts to wetlands, fish and wildlife habitat conservation areas and buffers.~~

27
28 ~~(b) The use of the mitigation bank will result in equivalent treatment of the functions and~~
29 ~~values of the wetland, fish and wildlife habitat conservation area or buffer to offset the impacts~~
30 ~~to critical areas functions and values on the project site such that the total net impact will be~~
31 ~~no net loss of critical area functions and values in the watershed in which the impacts will~~
32 ~~occur. For the purposes of this section, "watershed" means an area identified as a state of~~
33 ~~Washington water resource inventory area (WRIA) under WAC 173-500-040.~~

34
35 ~~(c) The creation and operation of the mitigation bank and development activity which utilizes~~
36 ~~the wetland, fish and wildlife habitat conservation area or buffer bank, shall not create~~
37 ~~unmitigated long term or permanent adverse impacts to the critical functions and values of~~
38 ~~the wetlands, fish and wildlife habitat conservation areas or buffers in the sub-drainage basin~~
39 ~~in which the impacts will occur. Critical functions and values listed at SCC 30.62A.220 are~~
40 ~~those that are important to the long-term ecological viability of the wetlands, fish and wildlife~~
41 ~~habitat conservation areas or buffers in the sub-drainage basin.~~

42
43 ~~(3) The director shall make MOAs and mitigation banking documents available for public review~~
44 ~~and comment prior to approval.~~

45
46 ~~(4) In-lieu fee mitigation.~~

1 ~~(a) The director may approve the establishment and use of a wetland, fish and wildlife~~
2 ~~habitat conservation area or buffer mitigation in-lieu fee program to provide mitigation~~
3 ~~required by this chapter. The director's approval may allow for deviations from the~~
4 ~~requirements of Parts 100 through 400 of this chapter with respect to the treatment of~~
5 ~~wetlands, fish and wildlife habitat conservation areas or buffers.~~

6
7 ~~(b) In-lieu fee mitigation shall be established in accordance with the guidance contained in~~
8 ~~"Guidance on In-lieu Fee Mitigation" (Washington State Department of Ecology, December~~
9 ~~2012, or latest edition, Publication #12-06-012).))~~

10
11 Section 33. Snohomish County Code Section 30.62A.620, last amended by Amended
12 Ordinance No. 15-034 on September 2, 2015, is amended to read:

13
14 **30.62A.620 General Agricultural Standards.**

15
16 Except as provided in SCC 30.62A.630, normal agricultural activities as defined in SCC
17 30.91A.090 or 30.91A.092, subject to this Part 600, are in compliance with this chapter when
18 those activities are performed in accordance with subsection (1), (2) or (3) of this section and
19 ensure no net loss of ecological functions and values of critical areas:

20
21 (1) The best management practices contained in the latest edition of the USDA Natural
22 Resources Conservation Service (NRCS) Field Office Technical Guide (FOTG);

23
24 (2) Other recognized best management practices for such activity that protect the functions and
25 values of critical areas, including those in the Voluntary Clean Water Guidance for Agriculture,
26 Washington Department of Ecology Publication No. 20-10-008, revised August 2023, or as
27 subsequently revised or amended, where the NRCS FOTG does not provide specific guidance or
28 a best management practice; or

29
30 (3) A farm conservation plan that includes provisions addressing critical areas protection specific
31 to the farm site recommended by the NRCS or the Snohomish ((~~conservation district~~))
32 Conservation District (SCD), approved by the county and signed by the landowner. Any
33 confidential or proprietary information contained in a farm conservation plan may be redacted
34 prior to public disclosure.

35
36 Section 34. Snohomish County Code Section 30.62A.630, last amended by Amended
37 Ordinance No. 15-034 on September 2, 2015, is amended to read:

38
39 **30.62A.630 Special Agricultural Conditions.**

40
41 (1) Notwithstanding SCC 30.62A.620, agricultural activities as defined in SCC 30.91A.090 or
42 30.91A.092 subject to this Part 600 that meet one or more of the following special conditions shall
43 comply with subsection (2) of this section:

44
45 (a) Agricultural activities that require a county permit or project approval except for a flood
46 hazard permit required pursuant to chapter 30.43C SCC;

1 (b) In certain special flood hazard areas designated by the Federal Emergency Management
2 Agency (FEMA) as specified in SCC 30.65.040, the construction of agricultural access or
3 service roads greater than six inches average and twelve inches maximum height above
4 grade;

5
6 (c) Agricultural activities that occur in a wetland, except where:

7
8 (i) The activity is exempt from wetland regulation under Section 404(f) of the federal
9 Clean Water Act;

10
11 (ii) The activity is occurring in a non-riparian Category II or III wetland that is no greater
12 than 5,000 square feet in size; or

13
14 (iii) The activity is occurring in a non-riparian Category IV wetland that is no greater than
15 10,000 square feet in size; and

16
17 (d) Agricultural activities that bring land into agricultural use by removal of native woody
18 vegetation or alteration of surface or ground water flows, other than that which results from
19 normal cultivation.

20
21 (2) The agricultural activities listed in subsection (1) of this section are in compliance with this
22 chapter when those activities are performed as follows:

23
24 (a) The activity complies with Parts 000 through 500 of this chapter;

25
26 (b) The activity is done in compliance with a farm conservation plan, as described in SCC
27 30.62A.620(3); or

28
29 (c) The ((director)) department issues a written decision finding that the landowner's
30 compliance with other state or federal regulations or permits provides sufficient protection on
31 the site to satisfy related critical areas requirements of this chapter.

32
33 Section 35. Snohomish County Code Section 30.62A.640, adopted by Amended Ordinance
34 No. 15-034 on September 2, 2015, is amended to read:

35
36 **30.62A.640 Farm conservation plans and best management practices.**

37
38 (1) Farm conservation plans and best management practices described in SCC 30.62A.620 are
39 subject to the approval of the county.

40
41 (2) Farm conservation plans and best management practices shall:

42
43 (a) Specify when implementation will occur relative to project construction;

44
45 (b) Include provisions for monitoring and maintenance on a long term basis to determine
46 whether the practices are successful(~~-. The length of time for monitoring and maintenance
47 should be sufficient to determine if performance standards have been achieved~~); and

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1
2 (c) Include provisions on a form approved by the department for the right to entry to the
3 county for the purpose of inspection for the length of the monitoring and maintenance period.
4 Prior to a site inspection the county shall provide reasonable notice to the property owner as
5 to the purpose and need for entry.
6

7 (3) The county and/or the farm operator shall monitor and report farm plan implementation and
8 compliance provided in the farm plan. The farm plan should include periodic inspections by the
9 county for the first two years after permit issuance or self-assessment and certification by the
10 operator, or by other appropriate means thereafter as determined by the county.
11

12 (4) Agricultural operations shall cease to be in compliance with this chapter when the department
13 determines one of the following three conditions is met. In such an event, a new or revised farm
14 conservation plan may be required or the noncompliance may be referred to the appropriate
15 agency for enforcement:
16

17 (a) The operator fails to implement and maintain the farm plans and/or best management
18 practices;
19

20 (b) It has been determined by the county that the farm conservation plan and/or best
21 management practices fails to protect critical areas. If so a new or revised plan shall be
22 required; or
23

24 (c) Substantial changes in the agricultural activities of the operation have occurred which
25 render the current plan ineffective.
26

27 (5) The county shall only retain summary information of that portion of the plan needed for permit
28 approval and monitoring described in SCC 30.62A.640(2) and (3), including the general location
29 of the operation, the nature of the activity, required permits and specific best management
30 practices. The summary information shall be supplied to the county by the operator and used to
31 document the basis for the county's approval of the plan. Any confidential or proprietary
32 information contained in a farm conservation plan may be redacted prior to public disclosure.
33

34 Section 36. Snohomish County Code Section 30.62A.710, adopted by Amended Ordinance
35 No. 06-061 on August 1, 2007, is amended to read:
36

37 **30.62A.710 Monitoring and adaptive management program.**

38
39 The ~~((Executive shall develop and implement a))~~ executive's monitoring and adaptive
40 management program ~~((to establish a baseline and provide performance measures))~~ monitors
41 and assesses impacts to critical areas to determine whether the ~~((County))~~ county is achieving
42 no net loss through its policies and programs affecting wetlands and fish and wildlife habitat
43 conservation areas, in conformance with the Natural Environment Element of the ~~((General Policy~~
44 ~~Plan of the))~~ comprehensive plan. ~~((The program along with a))~~ Program updates shall be
45 submitted for approval to the ~~((County Council within six months of the effective date of this~~
46 ~~ordinance))~~ county council.
47

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1 Section 37. Snohomish County Code Section 30.62A.720, adopted by Amended Ordinance
2 No. 06-061 on August 1, 2007, is amended to read:

3
4 **30.62A.720 Monitoring and adaptive management program - contents.**

5
6 (1) Monitored critical areas shall include wetlands and fish and wildlife habitat conservation
7 areas.

8
9 (2) The purpose of the monitoring and adaptive management program is to

10
11 (a) Identify and collect meaningful data concerning the effectiveness of the county's
12 programs and policies concerning protection of wetlands and fish and wildlife habitat
13 conservation areas; and

14
15 (b) Identify corrective actions in response to a clear indication that the county's programs
16 are not sufficient to actually protect wetlands and fish and wildlife habitat conservation areas.

17
18 (3) The monitoring and adaptive management program shall be based on best available science,
19 and shall incorporate the following:

20
21 (a) Benchmarks that ~~((describe))~~ compare the state of indicators related to the condition of
22 existing functions and values of the monitored critical areas ~~((and that are tied to the~~
23 ~~protective measures being assessed))~~ to the established baseline;

24
25 (b) Data collection methods that ~~((provides))~~ provide accurate measurements of the
26 indicators used to assess the conditions of functions and values of the monitored critical areas
27 ~~((and that are tied to the protective measures being assessed)),~~ including appropriate time
28 periods for collection of data;

29
30 (c) Threshold levels for addressing management practices, regulations and other measures
31 that are determined through data collection and monitoring to be negatively affecting
32 functions and values of monitored critical areas ~~((Thresholds are to be set in light of the~~
33 ~~benchmarks for existing conditions and in accordance with scientifically-based habitat~~
34 ~~minimums)));~~ and

35
36 (d) Strategies for adaptive management or addressing change to provide for expeditious
37 action in reaction to reaching a threshold level. The monitoring and adaptive management
38 program may provide for different strategies for action, depending on the critical area being
39 monitored, the cause of the negative impacts to functions and values, and other variables.

40
41 Section 38. Snohomish County Code Section 30.62B.015, adopted by Amended
42 Ordinance No. 06-061 on August 1, 2007, is amended to read:

43
44 **30.62B.015 Intent.**

45
46 It is the intent of this chapter to provide the protection required by chapter 36.70A RCW for
47 ~~((wetlands and for fish & wildlife habitat conservation areas))~~ geologically hazardous areas while

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1 simultaneously protecting property rights. The county council nevertheless recognizes that
2 implementation of some provisions of this chapter 30.62B SCC will inevitably entail some
3 restriction of property rights. It is the intent of the county council that this chapter be always
4 construed and interpreted so that property rights be restricted no further than strictly necessary
5 for the critical area protection required under chapter 36.70A RCW.
6

7 Section 39. Snohomish County Code Section 30.62B.140, last amended by Amended
8 Ordinance No. 15-034 on September 2, 2015, is amended to read:
9

10 **30.62B.140 Geotechnical report requirements.**
11

12 (1) A geotechnical report will be required for any development activity, action requiring a project
13 permit or clearing proposed within:
14

- 15 (a) An erosion hazard area;
- 16
- 17 (b) A landslide hazard area;
- 18
- 19 (c) Two hundred feet of a mine hazard area; or
- 20
- 21 (d) Two hundred feet of any faults.
- 22

23 (2) The geotechnical report shall be prepared, stamped, and signed by ~~((a-licensed))~~ an engineer
24 or geologist licensed in the state of Washington and contain the following information relevant to
25 the geologically hazardous area:
26

- 27 (a) The topography at contour intervals of five feet unless the underlying project permit
28 requires a lesser interval;
- 29
- 30 (b) Significant geologic contacts, landslides, or downslope soil movement on and within 200
31 feet of the site;
- 32
- 33 (c) A channel migration zone study when required pursuant to SCC 30.62B.330(2);
- 34
- 35 (d) Impervious surfaces, wells, drain fields, drain field reserve areas, roads, easements, and
36 utilities on the site;
- 37
- 38 (e) The location or evidence of any springs, seeps, or other surface expressions of
39 groundwater;
- 40
- 41 (f) The location or evidence of any surface waters;
- 42
- 43 (g) Identification of all existing fill areas;
- 44
- 45 (h) The location and extent of all proposed development activity;
- 46
- 47 (i) A discussion of the geological condition of the site including:

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1
2 (i) a description of the soils in accordance with the Natural Resource Conservation
3 Service indicating the potential for erosion;

4
5 (ii) engineering properties of the soils, sediments, and rocks on the subject property and
6 adjacent properties and their effect on the stability of the slope;

7
8 (iii) a description of the slope in percent gradient;

9
10 (iv) the location or evidence of seismic faults and soil conditions indicating the potential
11 for liquefaction; and

12
13 (v) a hazard analysis and finding of risks associated with geologic hazards and the
14 potential impacts to public safety, the hazard area and the subject property;

15
16 (j) The proposed method of drainage and locations of all existing and proposed surface and
17 subsurface drainage facilities and patterns, and the locations and methods for erosion control;

18
19 (k) The extent and type of existing vegetative cover;

20
21 (l) A vegetation management and restoration plan prepared by persons experienced in
22 vegetation management and restoration plans such as botanists, landscape architects and
23 certified arborist, or other means for maintaining long-term stability of slopes;

24
25 (m) Analysis of erosion rates, slope recession rates and potential impacts to existing or
26 proposed development from wave cutting, stream meandering, or other erosional forces to
27 determine the recommended solution for bank or shoreline stabilization or flood protection in
28 conformance with SCC 30.62B.320(2);

29
30 (n) Analysis of soil borings when the geology of an area is uncertain; and

31
32 (o) Any other information determined by the department to be necessary to determine
33 compliance with this chapter including but not limited to the use of LIDAR, technical reports,
34 studies or documents related to geologic hazards and models for estimating how far landslide
35 materials will travel.

36
37 (3) The geotechnical report shall include a summary or abstract of the report for the property
38 where the development activity is proposed. The abstract shall at a minimum include the type of
39 hazard, extent of the hazard, hazard analysis and geologic conditions.

1 Section 40. Snohomish County Code Section 30.62B.330, last amended by Ordinance
2 No. 19-022 on June 26, 2019, is amended to read:

3
4 **30.62B.330 Erosion hazard areas - Channel migration zones.**

5
6 (1) This section establishes specific standards and requirements for development activities,
7 actions requiring a project permit or clearing in channel migration zones (~~adjacent to the following~~
8 ~~ivers ÷~~)).
9

Table 1 Potential Channel Migration Zone Locations

River Name	River Sections (mi)
North Fork Skykomish River	0.00 - 8.64
North Fork Stillaguamish River	0.00 - 35.18
Pilchuck Creek	0.00 - 6.96
Pilchuck River	0.00 - 36.17
Sauk River	All
Skykomish River	0.00- 29.15
Snohomish River & Sloughs	All
Snoqualmie River	0.00 - 5.41
South Fork Skykomish River	0.00 - 6.71
South Fork Stillaguamish River	0.00 - 43.07
Stillaguamish River & Sloughs	All
Sultan River	0.00 - 7.64
Wallace River	0.00 - 7.71

10 (a) The location and extent of a channel migration zone adjacent to the river sections
11 identified in Table 1 shall be determined by a channel migration zone study required under
12 SCC 30.62B.330(2), or other best available science.
13

1 (b) Where best available science identifies a channel migration zone adjacent to any river
2 or river section not listed in Table 1, the protection standards in SCC 30.62B.330(3) shall
3 apply.
4

5 (2) The department may require a channel migration zone study when a development activity or
6 action requiring a project permit is proposed to occur in areas where evidence indicates channel
7 migration is likely, in accordance with the following requirements:
8

9 (a) The study shall be conducted in accordance with Section 2 of the Forest Practices Board
10 Manual (~~(Title 222 WAC)~~), Standard Methods for Identifying Bankfull Channel Features and
11 Channel Migration Zones, Department of Natural Resources, November, 2004, or A
12 Framework for Delineating Channel Migration Zones, Washington State Department of
13 Ecology, November 2003 (Publication No. 03-06-027), except that areas behind natural or
14 manmade features which limit channel migration that allow fish passage shall not be included
15 in the channel migration zone;
16

17 (b) The study shall be performed under the direction of a qualified professional with
18 experience in fluvial geomorphology or river hydraulics;
19

20 (c) The study shall contain the following:
21

22 (i) a determination of the presence of channel migration, and if present, the delineation
23 of the channel migration zone;
24

25 (ii) an analysis of the impacts of potential channel migration on the proposed
26 development activity; and
27

28 (iii) an analysis of the impacts of the proposed development activity on the channel
29 migration zone.
30

31 (3) Channel Migration Zone (CMZ) standards and requirements.
32

33 All development activities, actions requiring a project permit and clearing are prohibited in the
34 channel migration zone, except as provided below:
35

36 (a) removal of hazardous trees;
37

38 (b) new utility facilities based on the following requirements;
39

40 (i) pipelines shall be bored 10 feet beneath the thalweg scour depth of the river within
41 the CMZ;
42

43 (ii) surface utilities such as power transmission lines shall be located away from the
44 current channel if feasible; and if not feasible, foundations within the CMZ shall be
45 designed as in-channel structures if determined by the department to be necessary;
46

1 (c) new public bridges and transportation structures when no other feasible alternative exists
2 or the alternative would result in unreasonable and disproportionate costs;

3
4 (d) boat ramps;

5
6 (e) normal maintenance or repair of existing flood control and bank stabilization structures,
7 buildings, roads, bridges and utilities;

8
9 (f) shoreline and bank stabilization and flood protection measures pursuant to the general
10 requirements contained SCC 30.62B.320(2);

11
12 (g) habitat restoration and enhancement projects;

13
14 (h) mitigation banks; and

15
16 (i) public parks intended to create or preserve open space, provide public access to
17 shorelines of statewide significance, or provide passive recreation opportunities. For the
18 purposes of this subsection, passive recreation may include, but is not limited to, memorials,
19 interpretive facilities, seasonal primitive camping, and soft surface trails, as well as support
20 infrastructure for those amenities, such as parking. All development subject to this subsection
21 shall meet the following specific performance standards and be designed, to the greatest
22 extent possible, to not inhibit channel migration:

23
24 (i) total impervious surface area shall not exceed the lesser of 10 percent of the site
25 area or two acres;

26
27 (ii) the maximum footprint of any individual building shall not exceed 600 square feet,
28 and the aggregate square footage of buildings on the site shall not exceed 2,400 square
29 feet; and

30
31 (iii) improvements shall be removed or relocated if at any time the ordinary high water
32 mark of the river channel is within two years of the average migration rate distance of
33 such improvements.

34
35 Section 41. Snohomish County Code Section 30.62C.015, adopted by Amended
36 Ordinance No. 06-061 on August 1, 2007, is amended to read:

37
38 **30.62C.015 Intent.**

39
40 It is the intent of this chapter to provide the protection required by chapter 36.70A RCW for
41 ~~((wetlands and for fish & wildlife habitat conservation areas))~~ critical aquifer recharge areas while
42 simultaneously protecting property rights. The county council nevertheless recognizes that
43 implementation of some provisions of this chapter 30.62C SCC will inevitably entail some
44 restriction of property rights. It is the intent of the county council that this chapter be always
45 construed and interpreted so that property rights be restricted no further than strictly necessary
46 for the critical area protection required under chapter 36.70A RCW.
47

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1 Section 42. Snohomish County Code Section 30.62C.130, last amended by Amended
2 Ordinance No. 15-034 on September 2, 2015, is amended to read:

3
4 **30.62C.130 Submittal requirements.**

5
6 (1) For any development activity or action requiring a project permit, the applicant shall submit a
7 site development plan drawn to a standard engineering scale which includes:

- 8
9 (a) Boundary lines and dimensions of the subject property;
10
11 (b) Boundary lines and dimensions of the site;
12
13 (c) Topography at contour intervals of five feet unless the underlying project permit requires
14 a lesser interval;
15
16 (d) Location, size, and type of any existing structures, cleared areas or other existing
17 improvements;
18
19 (e) Location, size, and type of all proposed structures and development activities requiring
20 project permits and clearing on the site;
21
22 (f) Location, size, and type of all critical aquifer recharge areas on the subject property;
23
24 (g) Location of all other critical areas regulated pursuant to chapters 30.62A, 30.62B and
25 30.65 SCC on and within ((200)) 300 feet of the site; and
26
27 (h) Location of structure setbacks as required in ((chapter)) chapters 30.62A SCC, 30.62B
28 SCC and ((chapter)) 30.23 SCC; and
29

30 (2) A hydrogeologic report as required pursuant to SCC 30.62C.140.

31
32 Section 43. Snohomish County Code Section 30.62C.140, last amended by Amended
33 Ordinance No. 15-034 on September 2, 2015, is amended to read:

34
35 **30.62C.140 Hydrogeologic report and mitigation plan.**

36
37 (1) A hydrogeologic report is required ((for)) when any of the following conditions apply:

- 38
39 (a) any activity or use requiring a project permit regulated in ((Part 300)) SCC 30.62C.330
40 when proposed within a critical aquifer recharge area with low groundwater sensitivity;
41
42 (b) any activity or use requiring a project permit regulated in SCC 30.62C.340 when proposed
43 within a critical aquifer recharge area;
44
45 (c) any activity or use requiring a project permit regulated in SCC 30.62C.345 and proposed
46 within a sole source aquifer, Group A wellhead protection area, or critical aquifer recharge
47 area with high or medium groundwater sensitivity;

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1
2 (d) any activity or use requiring a project permit regulated in SCC 30.62C.345 that does not
3 meet the nonendangerment standard in WAC 173-218-080, 173-218-090, or 173-218-100
4 when proposed within a critical aquifer recharge area; or

5
6 (e) any activity or use requiring a project permit proposed within a critical aquifer recharge
7 area but not otherwise listed in Part 300 when the department determines there is potential
8 for impairment to water quality or quantity within the critical aquifer recharge area.
9

10 (2) The hydrogeologic report shall be prepared by a qualified professional who is a geologist,
11 hydrogeologist, engineering geologist, or engineer, who is licensed by the State of Washington
12 and who has experience preparing hydrogeologic assessments.

13
14 (3) The hydrogeologic report shall contain the following information relevant to the critical aquifer
15 recharge area:

16
17 (a) The surface location of all critical aquifer recharge areas located on site or immediately
18 adjacent to the site, and the permeability of the unsaturated zone;

19
20 (b) Groundwater depth, flow direction, and gradient based on available information;

21
22 (c) Currently available data on wells and springs within one fourth mile of the site;

23
24 (d) Currently available information on the location of surface waters within one fourth mile of
25 the site;

26
27 (e) Historic water quality data for the area to be affected by the proposed activity or use
28 compiled for at least the previous five-year period;

29
30 (f) Discussion of the effects of the proposed project on the groundwater quality and quantity,
31 including:

32
33 (i) Predictive evaluation of groundwater withdrawal effects on nearby wells and surface
34 water features;

35
36 (ii) Predictive evaluation of contaminant transport based on potential releases to
37 groundwater;

38
39 (iii) Recharge potential of the site including permeability and transmissivity; and

40
41 (iv) If water use is proposed for the development activity, a description of the
42 groundwater source of water to the site or a letter from an approved water purveyor
43 stating the ability to provide water to the site;

44
45 (g) Best management practices relevant to the proposed activity or use;

46
47 (h) Provisions to monitor the groundwater quality and quantity;

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1
2 (i) A spill plan that identifies equipment and structures that could fail, resulting in an impact
3 to the critical aquifer recharge area. Spill plans shall include provisions for regular inspection,
4 repair, and replacement of structures and equipment with the potential to fail, and a
5 remediation plan should clean-up become necessary;

6
7 (j) Salt-water intrusion addendums shall be required for withdrawals of groundwater or
8 reductions in available recharge within one fourth mile of any part of Puget Sound, or a
9 greater distance inland where there is evidence that chloride (bicarbonate + carbonate) ratio
10 exceeds 1.5 equivalent parts per million at any time of the year. The addendum shall include
11 an assessment of the likelihood and extent of seawater intrusion into a critical aquifer and a
12 description of probable impact on wells on adjacent or nearby parcels;

13
14 (k) An assessment of how the development activity meets the protection standards
15 established in SCC 30.62C.320;

16 (l) If the hydrogeologic report identifies impacts to critical aquifer recharge areas, the project
17 applicant will be required to:

18
19 (i) Identify and provide an analysis of alternatives by which such impacts could be
20 avoided or prevented; and

21
22 (ii) ~~((Provide))~~ When mitigation is allowed, provide a detailed mitigation plan for any
23 unavoidable impacts. The mitigation plan should include preventative measures,
24 monitoring, process control and remediation, and a contingency plan, as appropriate;

25
26 (m) Recommendations for implementation and operation of activities, including size
27 limitations, monitoring, reporting and best management practices (BMP);

28
29 (n) An evaluation of potential nitrate and nitrite impacts on the aquifer, including cumulative
30 impacts of adjacent or surrounding developments and activities, and provide
31 recommendations for monitoring and BMP of nitrate and nitrite generating activities; and

32
33 (o) Any other information necessary to determine compliance with this chapter.

34
35 Section 44. Snohomish County Code Section 30.62C.150, last amended by Amended
36 Ordinance No. 06-061 on August 1, 2007, is amended to read:

37
38 **30.62C.150 Notification to purveyors of Group A public water supply systems.**

39
40 The department shall provide notification and an agency comment period as required by chapter
41 30.70 SCC of any proposed development activity or actions requiring a project permit subject to
42 Part 300 to purveyors of Group A public water supply established pursuant to ~~((WAC))~~ chapter
43 246-290 WAC, except that notification is not required for stormwater UIC wells that automatically
44 meet the nonendangerment standard in WAC 173-218-100.

1 Section 45. Snohomish County Code Section 30.62C.220, adopted by Amended
2 Ordinance No. 06-061 on August 1, 2007, is amended to read:

3
4 **30.62C.220 Classification of critical aquifer recharge areas.**

5
6 The county has established the following three classifications of critical aquifer recharge areas
7 (CARAs):

8
9 (1) Sole source aquifers designated by the U.S. Environmental Protection Agency in accordance
10 with the Safe Drinking Water Act of 1974 (Public Law 93-523);

11
12 (2) Areas within the 10-year travel zone of Group A wellhead protection areas, determined in
13 accordance with delineation methodologies specified by the Washington Department of Health
14 under authority of chapter 246-290 WAC. Group A wellhead protection areas include the
15 additional buffer zone or zone of contribution identified by hydrogeologic analysis conducted by
16 qualified licensed engineers and documented in a watershed protection plan or water system
17 comprehensive plan, provided that such plans and wellhead protection area boundary data are
18 provided to the county; and

19
20 (3) Areas of high, medium and low sensitivity to groundwater contamination, based on depth to
21 groundwater and in accordance with The Ground-Water System and Ground-Water Quality in
22 Western Snohomish County, Washington (United States Geological Survey, Water Resources
23 Investigations, Report #96-4312, 1997).

24
25 Section 46. Snohomish County Code Section 30.62C.320, adopted by Amended
26 Ordinance No. 06-061 on August 1, 2007, is amended to read:

27
28 **30.62C.320 General requirements.**

29
30 (1) The project proponent shall make all reasonable efforts to avoid and minimize impacts to
31 critical aquifer recharge areas pursuant to the requirements of this section, in the following
32 sequential order of preference:

33
34 (a) ~~((Avoiding))~~ avoiding impacts altogether by not taking a certain action or parts of an
35 action; or ~~((when avoidance is not possible,))~~

36
37 (b) avoiding or minimizing impacts by limiting the degree or magnitude of the action and its
38 implementation, using appropriate technology, or by taking affirmative steps, such as project
39 redesign, relocation, or timing, to avoid or reduce impacts; and

40
41 (c) when avoidance is not possible, mitigation for the impacts to the critical aquifer recharge
42 area;

43
44 (2) Any activity or use listed in Part 300 in a Group A wellhead protection area with impacts to
45 the critical aquifer recharge area that cannot be avoided will not be approved. Mitigation is not an
46 option because impacts to drinking water must not occur.

1 ~~((2))~~ (3) Any activity or use specifically listed in Part 300 shall comply with the best management
2 practices and mitigation plan identified in the hydrogeologic report when required, and any
3 additional requirements contained in SCC 30.62C.340 and SCC 30.62C.345.

4
5 ~~((3))~~ (4) All development activities shall comply with the groundwater quality standards
6 contained in ~~((WAC Chapter))~~ chapter 173-200 WAC and ~~((RCW Chapter))~~ chapter 90.48 RCW.

7
8 ~~((4))~~ (5) Where the department determines that an activity or use not specifically listed in Part
9 300 has the potential to harm water quality or quantity within critical aquifer recharge areas, the
10 applicant shall comply with Part 100 and apply best management practices and all known and
11 available reasonable technology (AKART) appropriate to protect critical aquifer recharge areas.

12
13 Section 47. Snohomish County Code Section 30.62C.330, adopted by Amended
14 Ordinance No. 06-061 on August 1, 2007, is amended to read:

15
16 **30.62C.330 ~~((Prohibited uses.))~~ Uses prohibited within certain critical aquifer recharge**
17 **areas.**

18
19 The following activities and uses are prohibited in sole source aquifers, Group A wellhead
20 protection areas, and critical aquifer recharge areas with high or medium sensitivity:

21
22 (1) Landfills, ~~((including))~~ outdoor storage facilities, or outdoor recycling centers for: hazardous
23 or dangerous waste, electronic waste, contaminated soil or dredged materials, municipal solid
24 waste, special waste, woodwaste, ~~((and))~~ or inert and demolition waste ~~((landfills))~~;

25
26 (2) Underground injection control (UIC) wells prohibited in Washington State under WAC 173-
27 218-040;

28
29 (3) Class II UIC wells defined in WAC 173-218-040(2);

30
31 ~~((3))~~ (4) Mining of metals and hard rock;

32
33 ~~((4))~~ (5) Wood treatment facilities occurring over permeable surfaces (natural or manmade);
34 and

35
36 ~~((5))~~ (6) Facilities that store, process, or dispose of radioactive substances.

37
38 Section 48. Snohomish County Code Section 30.62C.340, last amended by Amended
39 Ordinance No. 15-034 on September 2, 2015, is amended to read:

40
41 **30.62C.340 Uses and development activities subject to special conditions.**

42
43 The following activities and uses identified in Table 30.62C.340 when proposed within critical
44 aquifer recharge areas, or identified in SCC 30.62C.330 when proposed within critical aquifer
45 recharge areas with low sensitivity shall be conditioned as necessary to protect
46 critical aquifer recharge areas in accordance with the applicable state and federal regulations
47 and recommendations from an approved hydrogeologic report required pursuant to

ORDINANCE NO. 24-097

RELATING TO THE CRITICAL AREA REGULATIONS UPDATE PURSUANT TO THE GROWTH MANAGEMENT ACT,
AMENDING SNOHOMISH COUNTY CODE CHAPTERS 30.62A WETLANDS AND FISH AND WILDLIFE HABITAT
CONSERVATION AREAS, 30.62B GEOLOGICALLY HAZARD AREAS, 30.62C CRITICAL AQUIFER RECHARGE AREAS,
30.43C FLOOD HAZARD PERMITS, 30.86 FEES, AND 30.91 DEFINITIONS.

1 SCC 30.62C.140, and may also include recommendations from affected Group A public water
2 systems.
3

(Activity	Statute	Regulation	Guidance
Above Ground Storage Tanks	WAC 173-303-640		
Animal Feedlots	Chapter 173-216 WAC, Chapter 173-220 WAC		
Animal feeding operations/concentrated animal feeding operations	Final Rule 40 CFR Parts 9, 122, 123, and 412		
Automobile Washing facilities	Chapter 173-216 WAC, Best Management Practices for Vehicle and Equipment Discharges (Washington Department of Ecology WQ-R-95-56)		
Below Ground Storage Tanks	Chapter 173-360 WAC, Chapter 90.76 RCW, RCW 43.131.394		
Chemical Treatment Storage and Disposal Facilities	Chapter 173-303 WAC		
Dangerous waste	Chapter 70.105 RCW, chapter 173-303 WAC, county board of health code and SCC 7.53.070		
Injection Wells	Federal 40 CFR Parts 144 and 146, Chapter 173-218 WAC		
Junk Yards and Salvage Yards	Chapter 173-304 WAC, Best Management Practices to Prevent Stormwater Pollution at Vehicles Recycler Facilities (Washington State Department of Ecology 94-146)		
On-Site Sewage Systems (Large Scale > 3,500 gal/day)	Chapter 173-240 WAC, Chapter 246-272 WAC, Chapter 246-272B WAC, Local Health Ordinances		
A single or multiple small on-site sewage systems with a combined design volume of greater than 3,500 gal/day	Chapter 246-272 WAC, Chapter 246-272A WAC, Local Health Ordinances		
Pesticide and Fertilizer Storage and Use	Chapter 15.54 RCW, Chapter 17.21 RCW		
Reclaimed water for groundwater recharge	Chapter 90.46 RCW		
Sawmills	Chapter 173-303 WAC, Chapter 173-304 WAC, Best Management Practices to Prevent Stormwater Pollution at Log Yards (Washington State Department of Ecology, 95-53)		
Solid Waste Handling and Recycling Facilities	Chapter 173-304 WAC		
Surface Mining	Chapter 332-18 WAC		

1
2

Table 30.62C.340

<u>Activity/Uses</u>	<u>Statute - Regulation - Guidance</u>
<u>Animal feedlots</u>	<u>Chapter 173-216 WAC; Chapter 173-220 WAC</u>
<u>Animal feeding operations / concentrated animal feeding operations</u>	<u>40 CFR Parts 122, 123, and 412</u>
<u>Automobile washing facilities</u>	<u>Chapter 173-216 WAC; Best Management Practices for Vehicle and Equipment Discharges (Washington Department of Ecology Publication No. WQ-R-95-56, or latest edition)</u>
<u>Chemical treatment, storage and disposal facilities</u>	<u>Chapter 173-303 WAC</u>
<u>Dangerous waste</u>	<u>Chapter 70.105 RCW; Chapter 173-303 WAC; Snohomish County Board of Health Ordinances</u>
<u>Junk yards and salvage yards</u>	<u>Chapter 173-304 WAC; Chapter 173-350 WAC; Chapter 173-351 WAC; Best Management Practices for Vehicle and Metal Recyclers (Washington State Department of Ecology Publication No. 94-146, or latest edition)</u>
<u>Pesticide, herbicide and fertilizer storage and use</u>	<u>Chapter 15.54 RCW; Chapter 17.21 RCW; Chapters 16-200 through 16-232 WAC</u>
<u>Reclaimed water for groundwater recharge</u>	<u>Chapter 90.46 RCW; Chapter 173-218 WAC</u>
<u>Petroleum processing and recycling facilities</u>	<u>40 CFR Part 443 (paving and roofing materials); 40 CFR Part 419 (effluent guidelines); Chapter 70A.224 RCW (used oil recycling); Chapter 90.56 RCW (spill prevention)</u>
<u>Sawmills</u>	<u>Chapter 173-303 WAC; Chapter 173-304 WAC; Industrial Stormwater General Permit Implementation Manual for Log Yards (Washington Department of Ecology Publication No. 04-10-031, or latest edition)</u>
<u>Solid waste handling and recycling facilities</u>	<u>Chapter 173-304 WAC; Chapter 173-350 WAC; Chapter 173-351 WAC</u>
<u>Storage tanks, above ground</u>	<u>WAC 173-303-640</u>

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RELATING TO THE CRITICAL AREA REGULATIONS UPDATE PURSUANT TO THE GROWTH MANAGEMENT ACT, AMENDING SNOHOMISH COUNTY CODE CHAPTERS 30.62A WETLANDS AND FISH AND WILDLIFE HABITAT CONSERVATION AREAS, 30.62B GEOLOGICALLY HAZARD AREAS, 30.62C CRITICAL AQUIFER RECHARGE AREAS, 30.43C FLOOD HAZARD PERMITS, 30.86 FEES, AND 30.91 DEFINITIONS.

<u>Storage tanks, below ground</u>	<u>Chapter 173-360A WAC; Chapter 90.76 RCW; RCW 43.131.394</u>
<u>Surface mining</u>	<u>Chapter 332-18 WAC</u>
<u>Wastewater application to land surface</u>	<u>Chapter 173-216 WAC; Chapter 173-200 WAC</u>

Section 49. A new Snohomish County Code Section 30.62C.345 is added to read:

SCC 30.62C.345 UIC wells subject to special conditions.

(1) The underground injection control (UIC) wells identified in Table 30.62C.345 shall be conditioned as necessary to protect critical aquifer recharge areas in accordance with the applicable state and federal regulations and recommendations from an approved hydrogeologic report required pursuant to SCC 30.62C.140, and may also include recommendations from affected Group A public water systems.

Table 30.62C.345

UIC Well – Class and Type	Statute - Regulation - Guidance
Class IV UIC wells reinjecting treated groundwater into the same formation from where it was drawn as part of a removal or remedial action	WAC 173-218-040(4). Requires approval by EPA in accordance with the Comprehensive Environmental Response, Compensation, and Liability Act or the Resource Conservation and Recovery Act, 40 C.F.R. 144.13(c).
Class V UIC wells used for geologic sequestration of carbon dioxide	WAC 173-218-115
Class V UIC wells used for on-site sewage systems (OSS): large scale (> 3,500 gal/day); or multiple small scale OSS with combined design volume exceeding 3,500 gal/day	Chapter 173-240 WAC; Chapter 246-272 WAC; Chapter 246-272A WAC; Chapter 246-272B WAC; Chapter 173-218 WAC; Snohomish County Board of Health Ordinances
All other Class V UIC wells not identified in this table or SCC 30.62C.345, or prohibited under SCC 30.62C.330(2)	40 CFR Parts 144 and 146; Chapter 173-218 WAC

(2) Class V UIC wells used for stormwater management that meet the nonendangerment standard in WAC 173-218-080 or WAC 173-218-090 are allowed in critical aquifer recharge areas subject to the following requirements:

- (a) the UIC well complies with the stormwater regulations identified in SCC 30.63A.100; and

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RELATING TO THE CRITICAL AREA REGULATIONS UPDATE PURSUANT TO THE GROWTH MANAGEMENT ACT, AMENDING SNOHOMISH COUNTY CODE CHAPTERS 30.62A WETLANDS AND FISH AND WILDLIFE HABITAT CONSERVATION AREAS, 30.62B GEOLOGICALLY HAZARD AREAS, 30.62C CRITICAL AQUIFER RECHARGE AREAS, 30.43C FLOOD HAZARD PERMITS, 30.86 FEES, AND 30.91 DEFINITIONS.

(b) the UIC well shall be conditioned as necessary to protect critical aquifer recharge areas in accordance with applicable regulations and recommendations from an approved hydrogeologic report, if required pursuant to SCC 30.62C.140, and may also include recommendations from any affected Group A public water systems.

(3) Class V UIC wells used for stormwater management that automatically meet the nonendangerment standard in WAC 173-218-100 and comply with the stormwater regulations identified in SCC 30.63A.100 are allowed in critical aquifer recharge areas.

Section 50. Snohomish County Code Section 30.86.300, last amended by Amended Ordinance No. 24-056 on August 14, 2024, is amended to read:

30.86.300 Special flood hazard areas permit fees.

Table 30.86.300 Special Flood Hazard Area Permit Fees

FLOOD HAZARD AREA ((PERMIT)) <u>BASE REVIEW FEE</u>	(\$1,050) <u>\$800</u>
<u>FLOOD HAZARD AREA PERMIT</u>	<u>\$250</u>
FLOOD HAZARD AREA VARIANCE	See Table 30.86.230
PRE-APPLICATION CONFERENCE FEE	\$480
FLOOD HAZARD AREA DETERMINATION	\$300
FLOOD HAZARD PERMIT & FLOOD HAZARD VARIANCE APPLICATION EXTENSION⁽¹⁾	\$500
DENSITY FRINGE EXCEPTION APPLICATION	\$500
<u>HABITAT ASSESSMENT AND MANAGEMENT PLAN:</u>	
<u>Single-Family Residential, Duplex, Mobile Home and Appurtenances</u>	<u>\$250</u>
<u>All other application types</u>	<u>\$720</u>

(1) This fee applies to Flood Hazard Permit and Flood Hazard Variance application extensions pursuant to SCC Table 30.70.140(1).

1 Section 51. Snohomish County Code Section 30.91A.250, last amended by Amended
2 Ordinance No. 21-025 on June 16, 2021, is amended to read:

3
4 **30.91A.250 Appurtenance.**

5
6 "Appurtenance" means development necessarily connected to the use and enjoyment of a single-
7 family residence and located landward of the perimeter of a wetland and landward of the ordinary
8 high water mark. Normal appurtenances include a garage; deck; driveway; utilities solely servicing
9 the subject single-family residence; fences; and grading which does not exceed 250 cubic yards
10 (except to construct a conventional drainfield).

11
12 *This definition applies only to "Shoreline" regulations in chapters 30.44 and 30.67 SCC, Special*
13 *flood hazard areas permit fees in SCC 30.86.300, and "Drainage" regulations in chapter 30.63A*
14 *SCC.*

15
16 Section 52. Snohomish County Code Section 30.91C.340, last amended by Amended
17 Ordinance No. 17-039 on July 12, 2017, is amended to read:

18
19 **30.91C.340 Critical area.**

20
21 "Critical area" means the following areas:

- 22
23 (1) Wetlands;
24
25 (2) Areas with a critical recharging effect on aquifers used for potable water, including:
26
27 (a) Sole source aquifers,
28
29 (b) Group A well head protection areas, and
30
31 (c) Critical aquifer recharge areas;
32
33 (3) Fish and wildlife habitat conservation areas, including:
34
35 (a) Streams, including those planted with game fish by a governmental or tribal entity,
36
37 (b) Lakes, including those planted with game fish by a governmental or tribal entity,
38
39 (c) Naturally occurring ponds under 20 acres and their submerged aquatic beds that provide fish
40 or wildlife habitat, including those planted with game fish by a governmental or tribal entity,
41
42 (d) Marine waters,
43
44 (e) Primary association areas for critical species, and
45
46 (f) State natural area preserves, natural resource conservation areas, ((and)) state wildlife areas,
47 and habitats of local importance;

1
2 (4) Frequently flooded areas, including special flood hazard areas in chapter 30.65 SCC; and

3
4 (5) Geologically hazardous areas, including:

5
6 (a) Erosion hazard areas,

7
8 (b) Landslide hazard areas,

9
10 (c) Seismic hazard areas,

11
12 (d) Mine hazard areas,

13
14 (e) Volcanic hazard areas, and

15
16 (f) Tsunami hazard areas.

17
18 Section 53. Snohomish County Code Section 30.91C.370, last amended by Amended
19 Ordinance No. 06-061 on August 1, 2007, is amended to read:

20
21 **30.91C.370 Critical species.**

22
23 "Critical species" means all species listed by the state or federal government as endangered ~~((or)),~~
24 threatened, or sensitive, and species of local importance ~~((, and also includes: Larch Mountain~~
25 ~~salamander, Common loon, Peregrine falcon, Olympic mudminnow, Pygmy whitefish, and Gray~~
26 ~~whale))~~.

27
28 Section 54. A new Snohomish County Code Section 30.91Q.020 is added to read:

29
30 **30.91Q.020 Qualified Professional.**

31
32 "Qualified Professional" means a person who possesses a degree or equivalent from an
33 accredited institute of higher learning in biology, ecology, environmental science, resource
34 management, or a related field and has professional certifications and credentials necessary to
35 prepare plans.

36
37 *This definition applies only to chapters 30.62A and 30.62B SCC.*

38
39 Section 55. A new Snohomish County Code Section 30.91S.528 is added to read:

40
41 **30.91S.528 Special waste.**

42
43 "Special waste" is defined in WAC 173-303-040 and means any state-only dangerous waste that
44 is solid only (nonliquid, nonaqueous, nongaseous), that is: corrosive waste (WAC 173-303-090
45 (6)(b)(ii)), toxic waste that has Category D toxicity (WAC 173-303-100(5)), PCB waste (WAC 173-
46 303-9904 under State Sources), or persistent waste that is not extremely hazardous waste (EHW)

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RELATING TO THE CRITICAL AREA REGULATIONS UPDATE PURSUANT TO THE GROWTH MANAGEMENT ACT,
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CONSERVATION AREAS, 30.62B GEOLOGICALLY HAZARD AREAS, 30.62C CRITICAL AQUIFER RECHARGE AREAS,
30.43C FLOOD HAZARD PERMITS, 30.86 FEES, AND 30.91 DEFINITIONS.

1 (WAC 173-303-100(6)). Any solid waste that is regulated by the United States EPA as hazardous
2 waste cannot be a special waste.

3
4 Section 56. A new Snohomish County Code Section 30.91U.065 is added to read:

5
6 **30.91U.065 Underground injection control well (UIC well).**

7
8 "Underground injection control well" or "UIC well" means a well that is used to discharge fluids
9 into the subsurface. A UIC well is one of the following: (1) A bored, drilled, or driven shaft, or dug
10 hole whose depth is greater than the largest surface dimension; (2) an improved sinkhole; or (3)
11 a subsurface fluid distribution system. UIC wells are as classified in WAC 173-218-040. WAC
12 173-218-050 identifies what is not considered a UIC well and regulated under chapter 173-218
13 WAC.

14
15 Section 57. A new Snohomish County Code Section 30.91W.050 is added to read:

16
17 **30.91W.050 Wellhead protection area (WHPA).**

18
19 "Wellhead protection area (WHPA)" means the protective areas associated with public drinking
20 water sources established by water systems and approved or assigned by the state department
21 of health. A WHPA is the surface and subsurface area surrounding a water well or wellfield
22 supplying a public water system, through which contaminants are reasonably likely to move and
23 reach such water well or wellfield. A WHPA may be divided into zones representing the travel
24 time needed for a drop of water to move from the outer zone boundary into the well or wellfield.
25 A WHPA may also include a buffer zone.

26
27 Section 58. Severability. If any section, sentence, clause, or phrase of this ordinance is
28 held to be invalid or unconstitutional by the Growth Management Hearings Board, or a court of
29 competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or
30 constitutionality of any other section, sentence, clause, or phrase of this ordinance. Provided,
31 however, that if any section, sentence, clause, or phrase of this ordinance is held to be invalid by
32 the Growth Management Hearings Board or court of competent jurisdiction, then the section,
33 sentence, clause, or phrase in effect prior to the effective date of this ordinance shall be in full
34 force and effect for that individual section, sentence, clause, or phrase as if this ordinance had
35 never been adopted.

36
37 Section 59. Effective date, implementation. This ordinance shall take effect
38 _____, 2024. The Department of Planning and Development Services is authorized to
39 take such actions as may be necessary to implement this ordinance on its effective date.

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PASSED this ____ day of _____, 2024.

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

Council Chair

ATTEST:

Asst. Clerk of the Council

- APPROVED
- EMERGENCY
- VETOED

DATE: _____, 2024

Snohomish County Executive

ATTEST: _____

Approved as to form only:

 10/8/2024

Deputy Prosecuting Attorney