

**Discussion Draft PROPOSED AMENDMENT SHEET NO. 1 TO ORDINANCE NO. 24-097**

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

**Brief Description:** This amendment would retain existing incentives to:

1. Provide protecting fencing;
2. Place critical areas and buffers in separate tracts;
3. Combine fencing and tracts to increase likelihood of protection;
4. Use buffer averaging; and
5. Fill and mitigate small wetlands when following Best Management Practices (BMPs).

**Proposed By:** Councilmembers Mead and Nehring

**Affecting:** Ordinance Recital, Findings, and Sections

**Existing Ordinance Recitals, Findings, or Sections:**

Note: A final amendment sheet will need to include several changes to the proposed ordinance findings to describe these amendments and justify them. The basic rationale is that maintaining flexibility for designing new development (1) maintains capacity for growth inside UGAs (2) helps address housing affordability challenges and (3) reduces pressure to expand UGAs in the future.

**Page 52, line 14, delete:**

- ~~((f) The following measures for reducing buffer width and area may be used without a critical area study or mitigation plan:~~
- ~~(i) separate tract reductions. Up to a 15 percent reduction of the standard buffer is allowed when the buffer and associated aquatic critical area are located in a separate tract as specified in SCC 30.62A.160(3);~~
  - ~~(ii) fencing reductions. Up to a 15 percent reduction of the standard buffer is allowed when a fence is installed along the perimeter of the buffer. The fence shall be designed and constructed as set forth below:
    - ~~(A) the fence shall be designed and constructed to be a permanent structure;~~
    - ~~(B) the fence shall be designed and constructed to clearly demarcate the buffer from the developed portion of the site and to limit access of landscaping equipment, vehicles, or other human disturbances;~~
    - ~~(C) the fence shall allow for the passage of wildlife, with a minimum gap of one and one half feet at the bottom of the fence, and a maximum height of three and one half feet at the top; and~~
    - ~~(D) the enhancement area complies with the enhancement ratios of Table 3; and~~~~
  - ~~(iii) for permanent fencing combined with separate tracts, the maximum reduction shall be limited to 25 percent.))~~

**And replace with (and renumber subsequent code subsections)**

- ~~((f))~~ (g) The following measures for reducing buffer width and area may be used without a critical area study or mitigation plan:
- (i) separate tract reductions. Up to a 15 percent reduction of the standard buffer is allowed when the buffer and associated aquatic critical area are located in a separate tract as specified in SCC 30.62A.160(3);
  - (ii) fencing reductions. Up to a 15 percent reduction of the standard buffer is allowed when a fence is installed along the perimeter of the buffer. The fence shall be designed and constructed as ~~((set forth below:))~~ specified in SCC 30.62A.160(5); and
    - ~~((A) the fence shall be designed and constructed to be a permanent structure;~~
    - ~~(B) the fence shall be designed and constructed to clearly demarcate the buffer from the developed portion of the site and to limit access of landscaping equipment, vehicles, or other human disturbances;~~
    - ~~(C) the fence shall allow for the passage of wildlife, with a minimum gap of one and one half feet at the bottom of the fence, and a maximum height of three and one half feet at the top; and~~
    - ~~(D) the enhancement area complies with the enhancement ratios of Table 3; and))~~
  - (iii) for permanent fencing combined with separate tracts, the maximum reduction shall be limited to 25 percent.

**Page 53, line 11, delete:**

- ~~(D) no part of the width of the buffer may be less than 50 percent of the standard required width or 25 feet, whichever is greater, for streams, lakes, and marine waters;~~
- ~~(E) the wetland buffer at its narrowest point shall not be less than the greater of either:~~
  - ~~(I) 75 percent of the standard required buffer width, or~~
  - ~~(II) 75 feet for Category I and II wetlands, 50 feet for Category III wetlands, and 25 feet for Category IV wetlands;~~

**And replace with (and renumber subsequent code subsections)**

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

**Page 79, line 26, delete:**

~~(g) ((All development activities in non-riparian Category II and III wetlands smaller than 5,000 square feet, and non-riparian Category IV wetlands smaller than 10,000 square feet, and their associated buffers;)) Forest practices that are exempt from local regulation and conducted pursuant to the Forest Practices Act, chapter 76.09 RCW, and implementing regulations in title 222 WAC. This section does not apply to development activity or actions requiring a Class IV General forest practices permit pursuant to chapter 30.43F SCC;~~

**And replace with (and renumber subsequent code subsections):**

(g) All development activities in non-riparian Category II and III wetlands smaller than 5,000 square feet, and non-riparian Category IV wetlands smaller than 10,000 square feet, and their associated buffers;

(h) Forest practices that are exempt from local regulation and conducted pursuant to the Forest Practices Act, chapter 76.09 RCW, and implementing regulations in title 222 WAC. This section does not apply to development activity or actions requiring a Class IV General forest practices permit pursuant to chapter 30.43F SCC;

**Page 80, line 7, delete:**

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

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

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

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

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

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

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

**Council Disposition:** \_\_\_\_\_

**Date:** \_\_\_\_\_