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**SNOHOMISH COUNTY COUNCIL
SNOHOMISH COUNTY, WASHINGTON**

AMENDED ORDINANCE NO. 06-061

RELATING TO THE CRITICAL AREA REGULATIONS UPDATE PURSUANT TO THE GROWTH MANAGEMENT ACT, AMENDING CHAPTER 30.62 SCC CRITICAL AREA REGULATIONS AND CHAPTER 30.64 SCC GROUNDWATER PROTECTION; AMENDING CHAPTER 4.28 SCC OPEN SPACE, AGRICULTURAL AND TIMBERLAND POLICIES AND PROCEDURES, CHAPTER 30.23 SCC GENERAL DEVELOPMENT STANDARDS – BULK REGULATIONS, CHAPTER 30.25 GENERAL DEVELOPMENT STANDARDS – LANDSCAPING, CHAPTER 30.26 SCC GENERAL DEVELOPMENT STANDARDS – PARKING, CHAPTER 30.27 SCC GENERAL DEVELOPMENT STANDARDS – SIGNS, CHAPTER 30.31F SCC RURAL BUSINESS (RB), RURAL INDUSTRIAL(RI), RURAL FREEWAY SERVICE (RFS) AND CLEARVIEW RURAL COMMERCIAL (CRC) ZONES, CHAPTER 30.34B SCC REDUCED DRAINAGE DISCHARGE DEMONSTRATION PROGRAM, CHAPTER 30.41A SCC SUBDIVISIONS, CHAPTER 30.41C SCC RURAL CLUSTER SUBDIVISIONS AND SHORT SUBDIVISIONS, CHAPTER 30.41D SCC BINDING SITE PLANS, CHAPTER 30.42B SCC PLANNED RESIDENTIAL DEVELOPMENT, CHAPTER 30.63A SCC DRAINAGE, CHAPTER 30.63B SCC GRADING CODE, CHAPTER 30.63C SCC LOW IMPACT DEVELOPMENT, CHAPTER 30.70 SCC GENERAL PROVISIONS, CHAPTER 30.86 SCC FEES AND SUBTITLE 30.9 SCC DEFINITIONS; AND ADDING NEW CHAPTER 30.62A SCC WETLANDS AND FISH AND WILDLIFE HABITAT CONSERVATION AREAS, A NEW CHAPTER 30.62B SCC GEOLOGICALLY HAZARDOUS AREAS AND A NEW CHAPTER 30.62C CRITICAL AQUIFER RECHARGE AREAS

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

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

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

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

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As Amended and Adopted by Council August 1, 2007

WHEREAS, in light of this amendment to the GMA related to inclusion of best available science and the requirement in RCW 36.70A.130 to periodically review development regulations, the County has conducted a review of its existing critical areas regulations together with a review of the best available science; and

WHEREAS, the County has invited public participation and comments via public meetings, workshops, news releases, newsletters, internet access and a dedicated email address; and

WHEREAS, the County held three public workshops on May 4, 10, and 11, 2005, to solicit public assistance with identifying issues to be addressed during review of the current code and the best available science; and

WHEREAS, as a result of the internal county review, review of the best available science and input from the public at the workshops, several issues were identified for potential updates to the existing critical areas regulations; and

WHEREAS, the County drafted an updated version of the existing critical areas code, *Preliminary Draft Critical Areas Regulations*, released for public comment in June 2005 addressing the issues identified during the public review process; and

WHEREAS; the County also compiled a collection of the best available science and prepared a summary of the scientific research, *Draft Summary of Best Available Science for Critical Areas*, which was also released in June 2005 for public comment as a companion document supporting the draft regulations; and

WHEREAS, the County held three additional public meetings on July 19, 27 and 28, 2005, to review the proposed revisions to the critical areas regulations and accept comments on both the draft code and the draft scientific summary; and

WHEREAS, the County invited stakeholder groups, including utilities, real estate and land development groups, the environmental coalition and tribes, to additional meetings on June 30, 2005, and September 15, 2005, to review and discuss the proposed amendments to the critical area regulations; and

WHEREAS, the County had several meetings with representatives from the agricultural advisory board during the period from late July 2005 to early November 2005 to develop standards for critical area protection compatible with agricultural activities; and

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WHEREAS, the planning commission held a briefing on the *Preliminary Draft Critical Areas Regulations* on August 23, 2005, a status update on September 27, 2005, and a work session on October 25, 2005, to review statutory requirements, issues raised during the public workshops and the resulting draft revisions to the code; and

WHEREAS, the County received written comments from the public on both the *Preliminary Draft Critical Areas Regulations* and the *Draft Summary of Best Available Science for Critical Areas* which resulted in a lengthy revision process and release of a second draft of the proposed regulations (*Draft Critical Areas Regulations*) and the scientific summary (*Revised Draft Summary Best Available Science*) on March 28, 2006, and

WHEREAS, the County prepared a Draft Environmental Impact Statement (DEIS) reviewing the potential impacts of the proposed critical areas regulations on April 7, 2006; and

WHEREAS, the planning commission held additional briefings on March 28 and April 25, 2006, to review the *Draft Critical Areas Regulations*; and

WHEREAS, the county council and the planning commission held joint public hearings on the *Draft Critical Areas Regulations*, on May 9 and 16, 2006; and

WHEREAS, the county planning commission conducted deliberations on the entire public record on May 23, 2006, and

WHEREAS, the planning commission forwarded their recommendation to the county council via the county executive on July 5, 2006; and

WHEREAS, the County met with representatives from the agricultural community in late 2006, to reach a consensus on the provisions for agricultural activities; and

WHEREAS, subsequent to reaching an agreement on these agricultural provisions at the local level, the state passed SSB 5248 (Chapter 353, Laws of 2007) restricting local jurisdictions from adopting or amending critical area regulations affecting agricultural activities as defined in SSB 5248; and

WHEREAS, the county council held additional public hearings on April 17th and August 1st of 2007; and

WHEREAS, the County prepared a Final Environmental Impact Statement (FEIS) responding to public comments on the DEIS and addressing potential amendments to the second draft of the critical areas regulations identified during the public hearing process. The FEIS was released on July 23, 2007; and

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WHEREAS, the county council held deliberations on Ordinance No. 06-061 considering the entire record on the proposed critical areas regulations as amended during the public hearing process on April 23 and 25, May 22 and 30, June 11 and August 1, 2007.

NOW, THEREFORE BE IT ORDAINED:

Section 1. The foregoing recitals are incorporated herein as findings of fact as if set forth in full.

Section 2. The county council makes the following additional findings of fact:

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

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

C. RCW 36.70A.020 and 36.70A.480 identify the fourteen goals of the GMA. The goals are not prioritized in the statute but instead the responsibility of prioritizing and balancing the goals of the GMA is left to the local jurisdictions pursuant to RCW 36.70A.3201.

D. The County has addressed the GMA requirements by reviewing the existing standards and regulations with respect to:

1. Updates to the GMA since the County's existing codes were adopted;
2. The guidelines provided in WAC 365-190-080, 365-195-410 and 365-195-900 et seq.;
3. Decisions and orders from the growth management hearings boards and courts on GMA cases related to critical areas;
4. The BAS with respect to protection of critical area functions and values and conservation and protection of anadromous fisheries;
5. The County's newly adopted comprehensive plan, specifically the General Policy Plan policies adopted under the Natural Environmental chapter;

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6. Local priorities and policies for achieving a balance between the GMA goals; and
7. Current practices and processes for implementing the critical area regulations in conjunction with permit applications and enforcement actions.

E. Snohomish County has included opportunities for public participation in conjunction with the review and update process required by the GMA:

1. The Department of Planning and Development Services (PDS) began the review and update process during 2001 with a compilation of recommended changes based on best available science (news release 3/26/01), requests for public input (7/12/01) and public meetings (10/01/01).
2. In April, 2003, the County began the review and update process. A multidisciplinary project team worked on compiling the BAS and developing a concept draft.
3. Four public workshops were held during July and August, 2003, to launch the review process and to solicit public comment on specific sections of the concept draft dealing with fish and wildlife, wetlands, geologic and flood hazard areas, and aquifer recharge areas.
4. Early documents summarizing the BAS and the concept draft were produced and presented in briefings to the Planning Commission on January 27, February 24, and November 30, 2004.
5. Three public workshops were held in May 2005, with three follow-up meetings in July 2005 to provide further comment and review on the BAS and the draft regulations. The workshops and meetings were held at several locations throughout the county to improve accessibility for rural residents.
6. Public notice was provided about the County's process to update its critical area regulations in the form of (1) newsletters sent to approximately 1,200 citizens and groups, (2) paid advertising in *The Everett Herald* and *The Seattle Times*, and (3) notification on a web page dedicated to the critical areas update project. Articles were also published prior to the meetings in *The Monroe Monitor* and *The Arlington Times* notifying the public of the meetings and providing information regarding the update.
7. Two newsletters (May, 2005 and June, 2005) were published and mailed to county land owners and stakeholders. The mailing list consists of stakeholder groups, county residents who have attended critical area meetings or requested information and lakefront property owners identified using the county's geographic information system and assessor records. The mailing list contained 1,240 names and addresses. The newsletters

described the critical areas update issues and process and notified recipients of the dates, times and locations for upcoming workshops and meetings.

8. County staff also held several stakeholder meetings during the period from June 2005, to March 2006. Stakeholder groups have included utilities, the environmental coalition, tribes, development and real estate interests, agricultural advisory board, farm bureau and state agencies.

9. Since the release of the documents in June 2005, the County has received hundreds of pages of written comments on the *Preliminary Draft Critical Areas Regulations* and on the *Draft Summary of the Best Available Science*.

10. The Planning Commission held five public briefings: August 23, 2005, September 27, 2005, October 25, 2005, March 28, 2006 and April 25, 2006. Public notice was provided as required pursuant to SCC 30.73.050.

11. As a result of public and internal comments, the County revised the proposed critical area regulations and the BAS summary in the winter of 2006. These revisions were released on March 28, 2006.

12. Upon release of the *Draft Critical Areas Regulations (March 2006)*, the *Revised Draft Summary of the Best Available Science (March 2006)*, the County posted the documents and public hearing schedule on the web site and sent notices to all addresses on the mailing list.

13. The Planning Commission and County Council held joint public hearings on May 9, and 16, 2006.

14. The council's Planning and Community Development Committee held two public workshops on October 3, 2006 and January 29, 2007, to discuss the scientific and policy basis underlying the proposed regulations.

15. The council held additional public hearings on April 17th and August 1st 2007.

16. Public input and comment was also accepted by the County in conjunction with the process for environmental review conducted pursuant to the State Environmental Policy Act (SEPA).

F. The County conducted the required SEPA process pursuant to Chapter 30.61 SCC and WAC Chapter 197-11.

1. PDS issued a Determination of Significance and request for comments on the scope of the environmental impact statement (EIS) for the critical areas update. Snohomish County published the notice on September 26, 2003.

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2. During the EIS scoping process, affected tribes, agencies, and members of the public were invited to comment on the scope of the EIS, including alternatives and probable environmental impacts. Public comments on the scope of the EIS were accepted until October 20, 2004.

3. A Draft Environmental Impact Statement (DEIS) was prepared to analyze the potential impacts of the proposed critical area regulations. The DEIS was issued on April 7, 2006.

4. The text of the Draft Environmental Impact Statement and the public comment schedule were posted on the County's Critical Areas Update web page.

5. Public comment was accepted on the DEIS for the required 30-day period beginning on the date the DEIS was released and ending on May 8, 2006.

6. A Final Environmental Impact Statement was prepared to address public comments on the DEIS. The FEIS was issued on July 23, 2007.

G. The County completed a review of the best available science (BAS) and compiled a document summarizing locally relevant scientific research.

1. The *Revised Draft Summary of Best Available Science* (March 28, 2006) was produced through an extensive literature review by Snohomish County engineers and scientists and through professional consultation with State agencies, professionals, and other local jurisdictions.

2. The County followed "The Minimum Guidelines to Classify Agriculture, Forest, Mineral Lands and Critical Areas", WAC 365-190 and WAC 365-195-410 to outline the primary topics covered in the BAS document.

3. The science was gathered following the BAS rules contained in WAC 365-195-900 thru 925. These rules define BAS as science that has the characteristics of a valid scientific process. These characteristics include peer review, following a replicable method, logical conclusions and reasonable inferences, appropriately framing conclusions, and using appropriate statistical or quantitative methods for analysis. WAC 365-195-905(5)(a). Common sources of scientific information include research, monitoring, inventory and survey data, mathematical or symbolic models, site-specific assessment, synthesized information by experts and expert opinion WAC 365-195-905(5)(b).

4. Some of the background material for this document was borrowed from King County's Best Available Science, *Volume 1, A Review of Science Literature*, King County Executive Report, February 2004, and Pentec Environmental's *Review Draft, Appendix B, Use of Best Available Science in Critical Area Protection in Snohomish County*, June 9, 2004. The wetlands

chapter is the Washington Department of Ecology's Wetlands *Volume 1: A Synthesis of the Science*, March 2005. The wetland review done by the Department of Ecology was far more comprehensive and complete than the County could have accomplished.

5. The County received public comments on an initial draft of the BAS summary (June 2005) and released a revised draft summary on March 28, 2006.

6. The county's BAS summary contains bibliographic information identifying all resources supporting the scientific summary. In addition, several documents were submitted into the public record. A complete bibliography including all BAS references and all other submitted documents is available. All of the documents listed in the bibliography are part of the public record and were on file and available for public review upon request during the public participation process.

H. During the public process a number of policy issues were identified for review and possible inclusion in the update of the critical areas regulations. Comments focused on the following key issues:

1. Updates should focus on addressing recommended guidelines in the WAC and including best available science as required by the GMA.

Identified issues included:

- a. Applicability;
- b. Flexibility for constrained lots;
- c. Inclusion of lakes;
- d. Provisions for agricultural activities;
- e. Re-examination of wetland buffers;
- f. Stream protection and special consideration for anadromous fish;
- g. State-listed sensitive, threatened and endangered species and species of local importance;
- h. Recommendations in community-based salmon conservation plans;
- i. Land uses that potentially impact groundwater supplies; and
- j. Safety and welfare issues in channel migration zones.

2. The following sections of the GMA have been identified during the public process for special consideration as part of the County's approach to critical area protection such that all goals and requirements of the GMA can be satisfied in a coordinated and cohesive manner:

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a. Public comments focused on the need for the County to achieve a fair and locally relevant balance between the following goals contained in RCW 36.70A.020:

(4) Housing. Encourage the availability of affordable housing to all economic segments of the population of this state, promote a variety of residential densities and housing types, and encourage preservation of existing housing stock.

(5) Economic development. Encourage economic development throughout the state that is consistent with adopted comprehensive plans, promote economic opportunity for all citizens of this state, especially for unemployed and for disadvantaged persons, promote the retention and expansion of existing businesses and recruitment of new businesses, recognize regional differences impacting economic development opportunities, and encourage growth in areas experiencing insufficient economic growth, all within the capacities of the state's natural resources, public services, and public facilities.

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

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

(8) Natural resource industries. Maintain and enhance natural resource-based industries, including productive timber, agricultural, and fisheries industries. Encourage the conservation of productive forest lands and productive agricultural lands, and discourage incompatible uses.

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

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

b. Further, the Legislature's findings for rural lands in RCW 36.70A.011 support preservation of rural character consistent with economic, resource and environmental goals.

The legislature finds that this chapter is intended to recognize the importance of rural lands and rural character to Washington's economy, its people, and its environment, while respecting regional differences. Rural lands and rural-based economies enhance the economic desirability of the state, help to preserve traditional economic activities, and contribute to the state's overall quality of life.

The legislature finds that to retain and enhance the job base in rural areas, rural counties must have flexibility to create opportunities for business development. Further, the legislature finds that rural counties must have the flexibility to retain existing businesses and allow them to expand. The legislature recognizes that not all business developments in rural counties require an urban level of services; and that many businesses in rural areas fit within the definition of rural character identified by the local planning unit.

Finally, the legislature finds that in defining its rural element under RCW 36.70A.070(5), a county should foster land use patterns and develop a local vision of rural character that will: Help preserve rural-based economies and traditional rural lifestyles; encourage the economic prosperity of rural residents; foster opportunities for small-scale, rural-based employment and self-employment; permit the operation of rural-based agricultural, commercial, recreational, and tourist businesses that are consistent with existing and planned land use patterns; be compatible with the use of the land by wildlife and for fish and wildlife habitat; foster the private stewardship of the land and preservation of open space; and enhance the rural sense of community and quality of life.

c. Finally, the rural element of the comprehensive plan is required to provide opportunities for agricultural activities outside of designated agricultural resource lands pursuant to RCW 36.70A.070(5)(b) as follows:

(5) Rural element. Counties shall include a rural element including lands that are not designated for urban growth, agriculture, forest, or mineral resources. The following provisions shall apply to the rural element:

...
(b) Rural development. The rural element shall permit rural development, forestry, and agriculture in rural areas. The rural element

shall provide for a variety of rural densities, uses, essential public facilities, and rural governmental services needed to serve the permitted densities and uses. To achieve a variety of rural densities and uses, counties may provide for clustering, density transfer, design guidelines, conservation easements, and other innovative techniques that will accommodate appropriate rural densities and uses that are not characterized by urban growth and that are consistent with rural character.

I. The County has the authority and the responsibility to incorporate local conditions into comprehensive plans and development regulations pursuant to RCW 36.70A.3201:

In amending RCW 36.70A.320(3) by section 20(3), chapter 429, Laws of 1997, the legislature intends that the boards apply a more deferential standard of review to actions of counties and cities than the preponderance of the evidence standard provided for under existing law. In recognition of the broad range of discretion that may be exercised by counties and cities consistent with the requirements of this chapter, the legislature intends for the boards to grant deference to counties and cities in how they plan for growth, consistent with the requirements and goals of this chapter. Local comprehensive plans and development regulations require counties and cities to balance priorities and options for action in full consideration of local circumstances. The legislature finds that while this chapter requires local planning to take place within a framework of state goals and requirements, the ultimate burden and responsibility for planning, harmonizing the planning goals of this chapter, and implementing a county's or city's future rests with that community.

K. In drafting the proposed development regulations pertaining to critical areas the County has considered local policies and conditions contained in:

1. Executive Order 05-43 to implement the *Snohomish County Agriculture Action Plan, a Plan to Preserve and Enhance the Agricultural Economy in Snohomish County*, March, 2005.
2. The Snohomish County Citizens Cabinet on Economic Development, *Final Report: A Blueprint for the Economic Future of Snohomish County*, August, 2004. (Executive Order 2004-40).
3. *Snohomish County Comprehensive Plan, General Policy Plan*, December 21, 2005.
4. Tri-County Model 4(d) Rule Response Proposal, *A Salmon Conservation Program*, May 18, 2001.

5. The Water Resources Inventory Area Plans (WRIA) developed in an extensive cooperative effort involving multiple stakeholders. The County had a lead role in developing the following WRIA plans for the major local watersheds:

- a. *The Stillaguamish Watershed Chinook Salmon Recovery Plan* (Stillaguamish Implementation Review Committee, 2005), Council Resolution No. 05-025 and Joint Resolution 05-030 of the Snohomish County Executive and the Snohomish County Council;
- b. *The Snohomish Basin Salmon Conservation Plan* (Snohomish Basin Salmon Recovery Forum, June 2005) and Council Resolution No. 05-026);
- c. *The Lake Washington/Cedar/Sammamish Watershed Chinook Conservation Plan*, (July, 2005); and

6. The County has formally committed to supporting the recommendations in the salmon conservation plans. See Snohomish County Resolutions 05-025, 05-026 and 05-030. See also letter from Aaron Reardon, Snohomish County Executive, to Bill Ruckelshaus, Shared Strategy Development Committee Chair; Bob Lohn, Regional Administrator, NOAA Fisheries; and Ken Berg, Assistant Regional Administrator, U.S. Fish and Wildlife Service, dated January 5, 2005, regarding the County's commitment to support the recommendations in the salmon conservation plans.

L. The County adopted an updated comprehensive plan as required pursuant to RCW 36.70A.130 in December, 2005, including goals, objectives and policies establishing the County's overall approach to environmental protection.

1. The goals, objectives and policies in the Natural Environment Element of the comprehensive plan establish a multifaceted approach to environmental protection including both regulatory and non-regulatory programs. This multifaceted approach includes planning; intergovernmental coordination; development of regulation; enforcement; and improved protection of ecological functions and values through non-regulatory incentive-based means, such as voluntary enhancement and restoration, public education and other voluntary activity; and monitoring and adaptive management. The County's strategy for protecting critical areas through both regulatory and non-regulatory means is in keeping with WAC 365-195-410(2)(d), which states that "[i]n connection with critical area protection, the department recommends that planning jurisdictions identify the policies by which decisions are made on when and how police powers will be used (regulation) and when and how other means will be employed (purchases, development rights, etc.).

2. The Natural Environment Element provides a consistent policy framework to coordinate and focus the various policies, plans and programs, with a guiding principle that the cumulative effect of the county's efforts and programs should result in no net loss of ecological functions and values consistent with the requirements of state law. The County's program and particular mix of regulatory and other means for protecting the functions and values of critical areas is a result of balancing of the goals of the GMA in a manner that is unique to the local circumstances of Snohomish County. Regulations for the protection of critical areas comprise only one segment of the County's approach for preserving the natural environment.

3. The policies support several existing programs which restore and improve environmental functions and values, including: parks enhancement, restoration and acquisition programs, lake and water quality stewardship programs, fish habitat enhancement and removal of barriers to migration, educational programs, and cooperative bank stabilization programs.

4. Taken as a whole, the County's multifaceted approach to environmental preservation accounts for no net loss of critical area functions and values by utilizing restoration, enhancement, open space incentive programs and other similar programs to offset unavoidable adverse impacts resulting from growth and development.

5. The County's current implementation and enforcement procedures contribute to the effectiveness of the multifaceted approach to environmental preservation by encouraging permit pre-application conferences and offering services to assist with critical area submittal requirements, verifying the presence and location of critical areas, and monitoring the installation and success of mitigation measures.

6. The County's new monitoring and adaptive management program will allow the County to determine the effectiveness of the multi-faceted approach by establishing a baseline of environmental conditions and monitoring functions and values of critical areas at a landscape scale.

M. The planning commission adopted a finding at their deliberations on May 23, 2006 expressing their position on seeking a balance between land use regulations which may restrict development potential and the need to provide adequate land capacity to accommodate expected population and housing growth. The adopted finding states, "Whereas, General Policy Plan policy LU 1.A.2 requires no net loss of housing capacity that preserves the county's ability to accommodate the (2025) targets". GPP policy LU 1.A.2 states:

LU 1.A.2 Snohomish County shall ensure no net loss of capacity to accommodate the amount and type of projected employment growth for 2025 while ensuring an adequate supply of both new and existing affordable housing.

Section 3. The county council makes the following conclusions:

Compliance with Statutory Requirements

A. Procedural requirements pursuant to RCW 36.70A.035 and Chapter 30.73 SCC for public involvement and notification have been satisfied.

B. Review and update requirements pursuant to RCW 36.70A.130(1) have been satisfied.

C. The requirements to review the best available science and incorporate the science into the development regulations for critical areas pursuant to RCW 36.70A.172 have been satisfied.

D. Procedural requirements pursuant to Chapter 43.21C RCW and Chapter 30.61 SCC with regards to SEPA have been satisfied.

E. The regulations proposed by this ordinance are consistent with the requirements of the GMA, Chapter 36.70A RCW.

F. The regulations proposed by this ordinance are consistent with the requirements of the Shoreline Management Act (SMA), Chapter 90.58 RCW and Chapter 173-26 WAC and RCW 36.70A.480.

G. The regulations proposed by this ordinance are consistent with the goals, objectives and policies in the Snohomish County Comprehensive Plan General Policy Plan as adopted December 21, 2005 and effective February 1, 2006.

H. The regulations proposed by this ordinance are consistent with existing land use codes in Snohomish County's Unified Development Code (SCC Title 30), as amended by this ordinance.

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I. The following code references constitute the County's critical area regulations: wetlands and fish and wildlife habitat conservation areas are combined in proposed Chapter 30.62A SCC (see Exhibit A); geologically hazardous areas are addressed in proposed Chapter 30.62B SCC (see Exhibit B); areas with a critical recharging affect on aquifers used for potable water are addressed in proposed Chapter 30.62C SCC (see Exhibit C); and frequently flooded areas are regulated pursuant to existing Chapter 30.65 SCC.

J. Chapter 30.65 SCC, Special Flood Hazard Areas, has been reviewed for compliance with the GMA. It has been determined that Chapter 30.65 SCC satisfies the requirements for the designation and protection of frequently flooded areas therefore no changes are proposed for this chapter at this time. Chapter 30.65 SCC was last updated September, 2005, for compliance with FEMA requirements to remain eligible for National Flood Insurance Protection (NFIP) at which time the updates were reviewed by the state Department of Community, Trade and Economic Development.

Special Consideration for Anadromous Fish

K. The County has included special consideration for the protection of anadromous fish pursuant to RCW 36.70A.172 and General Policy Plan Policy NE 3.B.8. The following new code provisions were designed specifically to preserve the critical area functions beneficial to anadromous fish:

1. The ordinance regulates clearing activities within critical areas and buffers, which the BAS indicates leads to adverse impacts on fish habitat.
2. Critical area designations have been expanded to include elements identified in WAC 365-190-080 as providing important fish and wildlife habitat conservation areas.
 - a. Critical area designation includes, marine waters, wetlands and lakes, which either support fish directly by supplying habitat or indirectly by providing vital functions for the protection of the fish habitat such as filtration and removal of sediments and contaminants, runoff attenuation, water supply for streams, water temperature control, supply of nutrients and large woody debris, and habitat for fish prey species.
 - b. Critical area designation criteria and the protective requirements specifically address the functions necessary to sustain quality fish habitat.
 - i. The County has adopted the water typing criteria identified in WAC 222-16-030 to better reflect the presence of fish based on scientific research documenting the characteristics of fish bearing waters. The updated water typing system was developed by the

Department of Fish and Wildlife and the Department of Natural Resources.

ii. All anadromous and resident salmonid bearing waters, including streams, lakes, marine waters and wetlands receive 150-foot buffers. These buffers protect the functions that support fish habitat (Revised Draft Summary of Best Available Science (March 28, 2006, pg. 78-80).

iii. There is no longer any difference between the widths of buffers in urban and rural areas. Review of the BAS suggests that more protective buffers should be applied in higher intensity land use areas as well as in less intensive use areas (BAS, pg. 82).

iv. The new code contains creation and enhancement ratios for buffers to improve the likelihood of successful mitigation and the replacement of buffer functions and values. These ratios are based on the recommendations in *Wetlands in Washington State, Volume 1*, Department of Ecology, April, 2005.

v. The new code improves wetland protection through: improved rating system, wider buffers, larger replacement ratios, added enhancement ratios as recommended in *Wetlands in Washington State, Volume 1*, Department of Ecology, April 2005.

3. Standards and requirements for development activities have been established to protect functions necessary to support fish. The functions listed in a and b below support habitat for all life stages of anadromous fish.

a. To protect water quality, temperature, structural diversity of riparian areas and fish bearing waters, the sources and natural rates of large woody debris recruitment and sediment attenuation and transport, nutrients and food supply, the following provisions have been added to the code:

i. requirements to site and design projects to prevent the need for bank stabilization or new or maintenance dredging;

ii. requirement to limit shoreline and streambank stabilization and flood protection measures for the protection of existing and new primary structures, utilities, roads and bridges; agricultural lands and for projects whose sole purpose is to protect or restore wetlands and fish and wildlife habitat conservation areas;

iii. requirement to limit shoreline and streambank stabilization and flood protection measures to non-structural only unless no alternative available;

- iv. restrictions on the construction and placement of docks, piers and floats including a prohibition in critical saltwater habitats; and
 - v. adoption of WDF&W Integrated Streambank Protection Guidelines (WDF&W April 2003).
- b. To maintain natural hydrologic processes, protect water quality and ensure migratory access, the following provisions have been added:
- i. limitations on impacts from impervious surfaces and related development through prohibition of effective impervious surface within buffers and limitation of total effective impervious surface to 10% within 300 feet of all waters containing salmonids. (Revised Draft Summary of Best Available Science (March 28, 2006) pg. 69-72);
 - ii. provisions for the protection of the hyporheic zone;
 - iii. limitations and design criteria on utility crossings on streams; and
 - iv. adoption of WDF&W guidelines for Fish Passage Design at Road Culverts (WDF&W, March 3, 1999).
4. To encourage voluntary enhancement projects, the new code removes requirements to record critical areas site plans for enhancement projects and allows utilization of BMPs to mitigate impacts in conjunction with enhancement projects.

Updates to the Critical Areas Regulations

- L. Review of existing code, GMA requirements, WAC 365-190-080, the BAS, local policies and priorities and input from the public has indicated the need for several updates to the County's critical areas regulations for wetlands, fish and wildlife habitat conservation areas, geologically hazardous areas and critical aquifer recharge areas.
- 1. Based on guidance for critical area designation provided in WAC 365-190-080 the designations for fish and wildlife habitat conservation areas, geologically hazardous areas and critical aquifer recharge areas have been refined and expanded. Review of the BAS supports the inclusion of additional designation criteria as contributing vital functions and values to these critical areas.
 - a. Fish and wildlife habitat conservation areas now include lakes, habitat areas for species listed by the state as endangered, threatened, or sensitive, and habitat areas for species of local importance in addition to streams, marine waters, and habitat areas for federally listed endangered or threatened species.

b. Geologically hazardous areas now include channel migration zones and tsunami hazard areas, in addition to erosion, landslide, seismic, mine and volcanic hazard areas.

c. Critical aquifer recharge areas are now include sole source aquifers, areas within the 10-year travel zone of Group A wellhead protection areas; and areas with high, medium or low sensitivity to groundwater.

2. To ensure that the protective standards and regulations apply to the development activities most likely to adversely impact critical areas, code applicability has been expanded to include clearing.

a. The BAS analyzes the impacts of various development activities such as clearing, grading, land use type and intensity, construction and impervious surface at a watershed scale. All of these activities can adversely affect the functions and values of critical areas and should be carefully managed or regulated to prevent or minimize these impacts.

•Clearing and certain other subsequent actions reduce or destroy the nutrient-providing function of riparian vegetation.” (BAS, pg. 74).

“Many of these seven major functions [large woody debris, shoreline and bank stabilization, sediment and chemical control, water temperature, microclimate, terrestrial habitat, nutrient sources for aquatic life, BAS pg. 72-74] are interrelated, all are performed primarily by vegetation, and all are decreased or eliminated when riparian vegetation is degraded or destroyed.” (Revised Draft Summary of Best Available Science (March 28, 2006) pg. 74)

b. The critical area regulations address clearing within critical areas and buffers at a site specific or project level rather than at the watershed scale as they are a permit-driven regulatory tool. The critical area regulations comprise one set of regulations contributing to the County’s overall approach adopted in the comprehensive plan. There are other regulatory and non-regulatory programs in addition to the critical areas regulations that also address impacts from clearing:

i. General Policy Plan Objective NE 1.C. says, “Protect and enhance natural watershed processes, wetlands, fish and wildlife habitat, shorelines, and water resources with the long-term objective of improving ecological function.”

ii. General Policy Plan Objective NE 3.H. says, “Comply with the requirements of the National Pollutant Discharge Elimination System (NPDES) permit issued to the county pursuant to the Clean Water Act.”

iii. General Policy Plan Objective NE 3.H. says, "Adopt regulations and development standards as required by the Forest Practices Act (chapter 76.09 RCW)."

iv. General Policy Plan Goal NE 5. says, "Improve and protect ecological functions and values of the natural environment through non-regulatory programs." These include objectives addressing restoration, enhancement, incentives and voluntary environmental protection.

v. The County is actively implementing and constructing restoration projects that protect and enhance natural watershed processes.

3. Exemptions have been included for development activities considered by the County to have little or no potential to result in new impacts on the existing functions and values of critical areas. These activities include: (a) Non-ground disturbing interior or exterior building improvements; (b) Exterior structure maintenance, including, but not limited to, painting and roofing; (c) Removal of noxious weeds conducted in accordance with chapter 16-750 WAC (12/2/04); (d) Maintenance or replacement of the following existing facilities that does not expand the affected area: septic tanks and drainfields; wells; individual utility service connections; and individual cemetery plots in established and approved cemeteries; (e) Data collection and research by non-mechanical means if performed in accordance with state-approved sampling protocols or Endangered Species Act (ESA) Section 10(a)(1)(a), Section 7 consultation (16 USC § 1536); and (f) Non-mechanical survey and monument placement.

4. Functions have been defined in the code to better address the protection and mitigation measures needed to satisfy the GMA requirements and provide special consideration for the habitat needs of anadromous fish.

a. The growth management hearings boards have established a standard of "no net loss" of critical areas functions and values. To determine if this standard is being met, the functions must be identified.

b. For wetlands and fish and wildlife habitat conservation areas, the functions are those highly beneficial to the maintenance of aquatic systems and necessary to support fish and riparian wildlife species as well as habitat for critical species and species of local importance. (Revised Draft Summary of Best Available Science (March 28, 2006) pg. 63-66; 167).

c. The functions identified in the draft regulations are consistent with those identified in the BAS, facilitate compliance with the "no net loss of functions and values" standard of the GMA, and are consistent with the guidelines for shorelines to characterize functions and ecosystem-wide process in WAC 173-26-201(3)(d).

- d. The functions identified to be conserved and protected are vital to support all life stages of anadromous fish: stream flows, water quality and temperature, spawning substrates, instream structural diversity, migratory access, estuary and nearshore marine habitat quality, and the maintenance of salmon prey species. [RCW 36.70A.172(1)]
 - e. For geologically hazardous areas and critical aquifer recharge areas the issue is one of public health, safety and welfare.
5. The county will continue to provide assistance to project proponents by encouraging permit pre-application conferences and offering services to assist with critical area submittal requirements. Provision of these services helps reduce permit processing timelines consistent with GMA goal 7 (RCW 36.70A.020(7)) and General Policy Plan Policy NE 1.A.1 and Objective ED 2.A.
 6. The pre-application process assists the county in identifying critical areas and potential impacts early in the project review process allowing the opportunity to work with applicants to design projects that avoid critical areas, or when avoidance is not possible, to minimize and mitigate all impacted functions and values.
 7. Submittal and critical area study content requirements include provisions addressing critical area functions: which functions are impacted, how those functions were assessed and how they will be mitigated. Critical area studies include an assessment of wetlands and fish and wildlife habitat conservation areas; a geotechnical report; and/or a hydrogeologic report.
 8. Changes to the provisions for permanent identification and recording are included in the new code as follows:
 - a. The term "Native Growth Protection Area" has been changed to "Critical Area Protection Area (CAPA)". This change in terminology is used to clarify the intent to protect existing critical area functions, not all of which are characterized by native growth. "CAPA" is a more generic term which does not imply that native growth should be preserved where none currently exists.
 - b. Permanent marking and recording of CAPAs is no longer required for utility or road projects. This change is recommended because of the difficulty introduced into the easement negotiation process with numerous property owners affected by these long linear projects. Utilities and roads are vital public facilities. Permanent marking and recording requirements are a disincentive for property owners to grant easements to utility providers, increases providers' costs and ultimately public costs. Due to the nature of these types of projects, only narrow slices of critical areas are typically affected. To ensure an adequate level of protection for critical

areas functions and values, providers are required to use best management practices and are not exempt from mitigation requirements.

c. Permanent marking and recording of CAPAs is no longer required for enhancement projects to provide incentive to embark on such projects and reduce project costs. Enhancement projects are significant contributors to the “no net loss” equation.

d. CAPAs are required to be established as separate tracts in subdivisions unless inside an Urban Growth Area where CAPAs may be easements on individual lots or parcels. This change simplifies the provisions improving critical area protection in rural areas yet allowing more flexibility in urban growth areas to support urban development densities.

e. CAPAs will be recorded with the County Auditor. This will make the CAPA readily retrievable through a title search. Critical area protection requirements established on any given site will be available to all subsequent land owners improving long term protection for critical areas.

9. The proposed regulations split the existing section on “Mitigation plan requirements” (SCC 30.62.345) into two new sections: “General provisions” and “Mitigation plan requirements”.

a. General provisions include:

i. Sequencing - project proponents must demonstrate that all reasonable efforts have been made to avoid impacts to critical areas and to minimize and mitigate for any impacts that do occur;

ii. Mitigation location –on-site mitigation for impacts to critical areas is preferred but alternatives within the same sub-basin may be considered;

iii. Mitigation timing – mitigation must be completed prior to final approval for the action or development activity;

iv. Function replacement – project proponents who impact critical areas must replace functions at one to one ratio. Replacement and enhancement area ratios have been added for wetlands and buffers based on the documentation contained in the BAS. These area ratios are based on the observations of the success and risk of compensatory mitigation, the time needed to fully recover impacted function and the rarity in the case of wetlands. (DOE BAS Volume 1, chapter 6.6, pg. 6-35 to 6-41). This will provide more certainty that functions will be adequately replaced, and increase consistency in application of mitigation requirements.

	Replacement	enhancement
All category IV	1.5:1	3:1
All category III	2:1	4:1
Category II estuarine	NA	4:1
other category II	3:1	6:1
Other category 1	4:1	8:1

Impacts to wetlands that are State Natural Heritage sites, coastal lagoons, bogs or estuaries are only allowed on a case-by-case basis.

These ratios are considered to be flexible standards when innovative development design is proposed provided that protection of the functions and values is well documented in the critical area study and mitigation plan.

- b. Mitigation plan requirements include a description of existing functions, functions affected by the development activity and how those functions will be replaced; the timing of the mitigation; and provisions for monitoring, performance and maintenance. The proposed regulations add one additional component to allow the County right-of-entry to inspect the mitigation work for the life of the monitoring and maintenance period to ensure successful recovery of impacted functions.

10. For consistency with the current state typing system used by state agencies and most local jurisdictions, the proposed classification of streams and lakes utilizes the updated state water typing system from WAC 222-16-030 as recommended in WAC 365-190-080(5)(c)(vi). The updated state water typing system is consistent with General Policy Plan Policy NE 3.B.9. and better reflects the presence of fish based on scientific research documenting the characteristics of fish bearing waters. The updated water typing system was developed by the Washington Department of Fish and Wildlife and the Department of Natural Resources.

11. To classify wetlands the County proposes to use the Washington state four-tier wetlands rating system, "Wetland Rating System for Western Washington", Department of Ecology, 2004, as recommended in WAC 365-190-080(1)(a)(i) and consistent with General Policy Plan Policy NE 3.B.9. There are several benefits to utilizing this system:

- a. This water typing system is required for state water quality certification if impacting wetlands subject to state jurisdiction, including using wetlands as part of storm water management systems. Under the previous code,

proponents were required to use both the county's rating system and the DOE rating system and provide two separate ratings for wetlands;

- b. Use of the 2004 DOE rating system enables alignment with state permit requirements;
- c. 2004 DOE rating system has been determined as BAS pursuant to 36.70A.172 and WAC 365-195 Part Nine;
- d. Use of this system is consistent with General Policy Plan Policy NE 3.B.9;
- e. Use of this system is consistent with other jurisdictions;
- f. Use of this system is supported by state agencies (DOE, WDFW, CTED); and
- g. The rating system is based on wetland function. Wetland function then becomes the basis for applied buffer width and mitigation requirements. Identifying and protecting wetland function is vital to achieving "no net loss" standard established for critical area protection and key to successful monitoring and adaptive management.

12. General standards and requirements for development activities in wetlands and fish and wildlife habitat conservation areas are established to identify the criteria necessary to meet the mitigation avoidance standard. When a development proposal meets these criteria, no further mitigation is required. These criteria address standard widths and measurement for buffers (Revised Draft Summary of Best Available Science (*March 28, 2006*) pg. 78-81), protection of vegetation along the outer edge of buffers, limitations on effective impervious surface and provisions for limited adjustments to buffers. Through experience, the county has determined these measures to be effective protection for critical areas.

13. New standards and requirements are imposed for specific development activities in, and immediately adjacent to streams, lakes and marine waters:

- a. Shoreline and streambank stabilization and flood protection measures may be allowed only to protect existing primary structures, roads, bridges and utilities, agricultural land or as part of a project whose sole purpose is to protect or restore fish and wildlife habitat conservation areas. A geotechnical report will be needed to document the source and rate of erosional forces and to identify the appropriate solutions. Non-structural methods of protection and stabilization are preferred. These provisions are included in the draft regulations to clearly establish alignment between standards for critical areas and shorelines consistent with RCW 36.70A.480 and with the general principles for shoreline stabilization and flood protection measures in WAC 173-26-231.

- b. Utility construction standards are established which minimize impacts to streams, wetlands and channel migration zones by preventing disruption of natural processes and utilizing existing developed road and utility corridors wherever possible.
- c. Stream conveyance and road crossings must be designed to accommodate fish passage where necessary and allow for uninterrupted downstream flow of woody debris and sediments.
- d. Design and construction standards are established for in-water structures (docks, piers, floats) to protect ecological functions and natural shoreline process as required pursuant to Chapter 90.58 RCW and consistent with WAC 173-26-231.

14. Standards are proposed for specific development activities in, and immediately adjacent to wetlands:

- a. The code prohibits filling of estuarine wetlands, Natural Heritage wetlands, mature forested wetlands and Category I bogs.
- b. Septic systems and effective impermeable surfaces are not permitted within 300 feet of category 1 bogs.
- c. Filling of wetlands is limited to one acre and new utilities or transportation structures may only be constructed if wetland functions and area are replaced pursuant to the mitigation requirements and no feasible alternative is available.
- d. Stormwater detention is only allowed in wetlands as provided in Chapter 30.63A SCC. The requirements for using wetlands for storm water detention are consistent with the goals for protecting critical areas: detention is only allowed in Category 3 and 4 wetlands; all functions and values must be mitigated; water quality standards must be met; and, for Category 4 wetlands, aquatic habitat values and functions must be increased through diversification of wetland plant species and control and monitoring of water level fluctuations (SCC 30.63A.240(4)(c)).

15. Standards are proposed for specific development activities in, and immediately adjacent to buffers:

- a. The buffer lies adjacent to a wetland or aquatic fish and wildlife habitat conservation areas and contains elements of both aquatic and terrestrial ecosystems that mutually influence each other. Buffers include that portion of the terrestrial landscape that most directly influences the aquatic ecosystem by providing shade, fine or large woody material, nutrients, organic and inorganic debris, terrestrial insects, or habitat for riparian-associated wildlife (Revised Draft Summary of Best Available Science (March 28, 2006) pg. 71-75, 89-106).

b. Buffer widths vary based on classification of the critical area which in turn is based on the functions and values present. Effective buffer widths are directly related to the buffer characteristics and conditions. The recommendations from science vary widely because of the specific conditions present in each individual study and which function is being studied.

c. In general, the scientific literature indicates that the higher the habitat functions and values supported by a critical area, the larger the buffers necessary to support habitat functions. And conversely, lower buffers can adequately support the functions and values of critical areas with low habitat value.

d. Habitat value appears to be the function resulting in the greatest variability of buffer width recommendations.

e. Habitat value is the main component of the County's recommended classification systems for streams, lakes, marine waters and wetlands. In accordance with the County's classification systems, buffer widths increase as habitat value increases.

f. The buffers proposed in Chapter 30.62A SCC are within the range of the scientific recommendations for the protection of water quality and habitat functions.

Buffer Function	Buffer Width Recommended to Perform Function		
	May	Knutson/Naef	FEMAT
Erosion / Sediment Control	26-600' 98' min (80%)	100-125' (erosion) 26-300' (sediment)	1.0 SPTH ¹ (sediment -200')
Bank Stabilization			0.50 SPTH (bank stabilization - 100')
Pollutant Removal	13-860' 98' min (80%)	13-600'	1.0 SPTH
Large Woody Debris Recruitment	33-328' 1.0 SPTH - 262'	100-200'	1.0 SPTH (200')
Water Temperature / Shade	36-141' 98' min.	35-151'	0.75 SPTH (150')
Organic Litter	n/a	n/a	0.5 SPTH (100')
Microclimate	148-656' 328' min.	200-525'	up to 3.0 SPTH (up to 600')
Habitat	33-656' 328' min.	25-984'	98-600'

¹SPTH means site potential tree height.

g. Buffers are not the only measures in the proposed critical area regulations designed to protect habitat. While riparian buffers provide a significant network of habitat corridors, additional measures are required to maintain non-riparian habitat corridors where habitat functions and values are high. Habitat protection is further supplemented in the proposed code by requiring habitat management plans for critical species.

h. Buffer widths are based on recommendations in the BAS to protect the functions and values of aquatic critical areas including: fish and wildlife habitat; transport of water; sediment and organic material; floodwater storage, conveyance and attenuation; pollutant assimilation; sediment retention; shoreline stabilization; streamflow maintenance; groundwater recharge and discharge; wind, wave and current attenuation; and longshore transport of sediment and nutrients. Buffer width recommendations vary by function as described in the BAS, pages 85 and 88, and summarized in the table below.

i. Proposed buffer widths for streams, lakes and marine waters:

Water Type	Buffer Width (ft.)
Type S	150
Type F (w/ salmonids)	150
Type F (w/out salmonids)	100
Type Nf	50
Type Ns	50

i. The maximum buffer width is equivalent to 1 SPTH for 100 year old tree (Revised Draft Summary of Best Available Science (March 28, 2006) pg. 86-87). SPTH for 100-year old Douglas Fir in Alderwood soils, the dominant soil type in Snohomish County, is 146' (Id. at pg. 86). All functions, with the exception of microclimate functions, are on average protected by a buffer width equivalent to one SPTH. (Id. at pg. 86-87). A buffer width equal to one SPTH would provide for a broad range of riparian functions important for sustaining salmonids.

ii. The proposed buffers are highest for aquatic habitats supporting anadromous or resident salmonids consistent with the recommendations from the science and RCW 36.70A.172(2) to protect the habitat elements supporting anadromous fisheries.

iii. Relatively lower buffers are allowed when anadromous or resident salmonids are not present. This is consistent with the functions and values present: predominantly water quality, storage and conveyance. These functions are adequately protected by buffers from 50 – 100 feet, solidly within the range of the scientific recommendations.

j. Proposed buffer widths for wetlands:

Table 2b: Wetland Buffer Width Standards (feet)

Wetlands						
Wetland Category	Description	Standard Buffer Width	Buffer Width Requirements (feet)			
			High Intensity Land Use ¹ [30.62A.340(4)(b)]			Low Intensity Land Use ²
			Buffer w/out mitigation measure 1 or 2	Buffer w/ mitigation measure 1 (*may use measure 1 OR 2)	Buffer w/ mitigation measures 1 AND 2	
Wetlands containing salmonids (minimum)		150				
Category I	Washington Natural Heritage Program/DNR high quality wetlands	190	250	220*	190	125
	Bogs	190	250	220*	190	125
	Estuarine (at least 1 acre) & Coastal Lagoons	150	200	175*	150	100
	High Level Habitat Function (habitat function score is 29-36)	225	300	262*	225	150
	Moderate Level Habitat Function (habitat function score is 20-28)	110	150	130*	110	75
	Total score 70 or above but not meeting above criteria	75	100	75		50
Category II	Estuarine (less than 1 acre)	110	150	130*	110	75
	High level of function for habitat (habitat function score is 29-36)	225	300	262*	225	150
	Moderate level of function for habitat (habitat function score is 20-28)	110	150	130*	110	75
	High level of function for water quality improvement and low for habitat (water quality function score is 24 – 32 and habitat function score is less than 20)	75	100	75		50
	Total score 51-69 but not meeting above criteria	75	100	75		50
Category III	Moderate Level Habitat Function (habitat function score is 20-28)	110	150	110		75
	Total score of 30-50 but not meeting above criteria	60	80	60		40
Category IV	Total score for all functions less than 30 points	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.)

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.

AMENDED ORDINANCE NO. 06-061 RELATING TO CRITICAL AREA REGULATIONS UPDATE PURSUANT TO THE GROWTH MANAGEMENT ACT; AMENDING CHAPTERS 30.62 AND 30.64 SCC; AMENDING SEVERAL SUBSECTIONS OF TITLES 4 AND 30 SCC AND ADDING NEW CHAPTERS 30.62A SCC WETLANDS, FISH AND WILDLIFE HABITAT CONSERVATION AREAS, 30.62B SCC GEOLOGICALLY HAZARD AREAS AND 30.62C SCC CRITICAL AQUIFER RECHARGE AREAS

As Amended and Adopted by Council August 1, 2007

- i. The proposed buffer widths associated with wetlands are increased relative to current requirements based on guidance from DOE in *Wetlands in Washington State Volume 2: Guidance for Protecting and Managing Wetlands, Appendix 8-C, Guidance on Buffers and Ratios*, April, 2005.
- ii. The buffer widths in the proposed regulations reflect the buffer recommendations from Alternative 3 in *Wetlands in Washington State Volume 2: Guidance for Protecting and Managing Wetlands, Appendix 8-C, Guidance on Buffers and Ratios*, April, 2005, pg. 6-8.
- iii. These buffer widths are consistent with General Policy Plan Policy ED 2.A.1, NE 1.A.1 and RCW 36.70A.020(7). They provide an increased level of protection for wetlands over requirements in the current regulations.
- iv. These buffer recommendations are sufficient to protect the functions necessary to sustain salmonids consistent with RCW 36.70A.172, preserve water quality and quantity functions and provide additional habitat functions for other water and riparian associated wildlife (Revised Draft Summary of Best Available Science (*March 28, 2006*), pg. 71-75, 89-106).
- v. The scientific research shows the relationship between buffer widths and the level of functions and values protected. According to Desbonnet's summary of the scientific literature as reported in DOE's Volume 1, the science indicates that the largest proposed standard wetland buffer of 225' is expected to achieve close to 80% effectiveness for pollutant removal and "fair to good" general wildlife and avian habitat. (Desbonnet summary table as reported in DOE Volume 1, Chapter 5, pg. 5-53)

Desbonnet Summary Table
(reported in DOE Volume 1, Chapter 5, pg. 5-53)

Buffer width (ft.)	Pollutant removal effectiveness	Wildlife habitat value
16	Approx. 50% >	Poor habitat value, temporary activities only
32	Approx. 60% >	Minimal stream protection, poor habitat value, useful for temporary activities
49	>60%	Minimal general value for wildlife and avian
66	>70%	Minimal for wildlife, some value for avian
98	Approx. 70% >	May be useful as wildlife corridor, general value for avian
Buffer width (ft.)	Pollutant removal effectiveness	Wildlife habitat value
164	Approx. 75% >	Minimal general wildlife use
246	Approx. 80% >	Fair to good general wildlife and avian habitat value
328	Approx. 80% >	Good general wildlife habitat value, may protect significant habitat
656	Approx. 90% >	Excellent general value, likely supports diverse community
1,968	Approx. 99% >	Excellent, good diversity, protects significant species

vi. Additional measures to improve protection of wildlife habitat are provided in the proposed regulations:

(A) Provisions to help maintain buffer connectivity between adjacent wetlands and other aquatic critical areas (Revised Draft Summary of Best Available Science (*March 28, 2006*), pg 89-93).

(B) Mitigation requirements addressing light, noise, runoff, water regime, disturbance and dust from high intensity land uses thereby improving habitat protection in areas with high habitat value.

- (C) Habitat management plans for critical species including:
- (1) federal and state listed endangered and threatened species,
 - (2) species nominated as "species of local importance"; and
 - (3) six specific sensitive species found in WDFW's Region 4 including:
 - (a) Larch Mountain salamander;
 - (b) Common loon;
 - (c) Peregrine falcon;
 - (d) Olympic mudminnow;
 - (e) Pygmy whitefish; and
 - (f) Gray whale.

k. The proposed buffer widths are similar to those adopted by other local jurisdictions and have been upheld by courts.

l. The proposed regulations remove the disparity between urban and rural area buffer widths. Urban buffer requirements in the previous code were lower than rural buffer requirements. Review of the BAS suggests that this distinction is not valid. (Revised Draft Summary of Best Available Science (*March 28, 2006*), pg. 82).

m. The standard buffer widths combined with the habitat mitigation measures are consistent with the recommendations from the state Department of Ecology for the protection of wetland functions and values.

n. The proposed regulations allow limited buffer reductions as long as there is no net loss of functions and values. Reductions may be achieved through averaging, enhancement, designation in separate tracts and/or installation of fencing. Maximum allowed reductions are limited to 25-30% of the prescribed width and area and, for averaging, up to 50% in width which can only be achieved when measures are used in combination.

i. The County has utilized similar flexibilities in the past under authority of the existing critical areas regulations. Through experience, the county has determined these measures to provide effective protection for critical areas.

ii. These flexible standards are also supported by guidance from DOE in *Wetlands in Washington State Volume 2: Guidance for Protecting and Managing Wetlands*, section 8.3.8, April, 2005.

iii. Flexibility in how the prescriptive standards may be applied allows accommodation of unique site characteristics and can ultimately result in better protection for critical areas.

- iv. Flexible provisions also facilitate implementation of the code reducing costs to the County and to the public.
- v. This provision is consistent with General Policy Plan Policies NE 1.A.1 and NE 3.A.2.
- vi. To reduce the buffer through enhancement or averaging, it must be demonstrated in a critical area study that the functions and values are protected at the same level as the standard buffer before reductions.
- vii. Increased flexibility provides for critical area protection in balance with other GMA goals to accommodate growth in urban areas and provide opportunities for affordable housing.
- viii. The county's monitoring and adaptive management program is designed to detect changes in critical areas in a timely fashion and will consist of two main components: (1) assessment of changes in land cover parameters using primarily remote sensing methods and (2) field assessment of select water quality and aquatic habitat parameters at randomly selected sites stratified by land use and/or application of code provisions. The adaptive management component, designed to provide greater certainty that the conservation goal will be achieved, will determine whether changes in parameters were due to the CAR, and whether modifications to the CAR or other County programs are needed to prevent a net loss of functions and values.
- o. The proposed regulations allow limited development activities in buffers provided that impacts to functions and values are minimized and mitigated in accordance with the prescribed standards:
 - i. Stormwater detention is allowed pursuant to Chapter 30.63A SCC provided that impacts to functions and values are minimized and mitigated;
 - ii. Access through buffers to otherwise allowed uses, particularly water dependent uses as promoted in Chapter 90.58 RCW and Chapter 173-26 WAC related to shorelines;
 - iii. Pedestrian walkways or trails are permitted within buffers;
 - iv. Vegetation management for view corridors is permitted;
 - v. Limited shoreline and bank stabilization measures are permitted as needed to protect existing primary structures or essential utility or transportation structures or when a necessary component of an enhancement project;

vi. New utilities and transportation structures are allowed, but subject to specific standards designed to avoid and minimize impacts to critical areas. Mitigation is also required. These facilities are essential to accommodate growth and development;

vii. Development activities shall be designed to avoid damage to trees in the buffer due to blow down, root damage or other causes. This requirement is currently used by the County and has proven to be effective for protecting the integrity of the outer edge of buffers;

viii. New single family residential development or one-time expansion on existing lots is allowed within buffers when there is no alternative location outside of the buffers. An analysis of the risk for net loss of functions and values associated with this allowance is as follows:

(A) A preliminary analysis done by the county shows that there are fewer than 500 lots with less than 4,000 square feet of developable area outside buffers, wetlands, streams and lakes. If 4,000 square feet of encroachment occurred into the buffer on each of these 500 lots, approximately 50 acres would be impacted. Note that this analysis can only provide a rough estimate of the impacts because the data cannot account for 100% wetland coverage due to incomplete wetland inventory and it did not consider other critical areas that would further limit the buildable area.

(B) Based on the GIS analysis, the scale of impacts expected from this allowance for single family development is minimal. The total impacts are distributed over several watersheds further reducing the cumulative impacts. When the temporal element is introduced, since not all of these lots will be developed simultaneously, the incremental nature of the impacts further reduces their overall impact.

(C) The county's overall approach to environmental protection adopted in the comprehensive plan will offset impacts to functions and values which may occur due to these provisions for single family residences. If these provisions did not exist, many of these lots would likely be developed in some manner to prevent an unconstitutional regulatory taking of property. Providing this allowance provides a consistent and practical approach to deal with these marginally developable sites. The County also currently conducts capital programs to acquire, enhance and restore critical areas and provides education, training and assistance to landowners for their own conservation projects.

p. New effective impervious surface is not allowed in buffers and is limited to 10% within 300 feet of salmonid bearing waters or wetlands with high level water quality improvement function scores. Impervious surface affects the rate and volume of surface water runoff and infiltration for groundwater recharge. This disrupts the natural hydrologic exchange between aquatic critical areas and adjacent riparian areas and increases erosion rates and sediment loading. (Revised Draft Summary of Best Available Science (March 28, 2006) pg. 70-72). This limitation on effective impervious surface applies to the 4,000 square foot single-family buffer exception to the extent feasible.

q. Impacts to the functions and values of buffers due to these limited allowed development activities will be recovered through mitigation requirements and further offset through the County's overall approach to environmental protection adopted in the comprehensive plan. In combination with other statutory requirements and non-regulatory enhancement and restoration capital projects, the protection requirements for buffers will adequately protect the functions and values.

r. The county's permit review and enforcement processes contribute to effectiveness of regulations in the following ways:

- i. Pre-application conferences give the county an early opportunity to educate applicants about regulatory requirements and identify critical area concerns;
- ii. Site visits verify the presence and location of critical areas and buffers;
- iii. Biologist review includes critical area studies, habitat management plans and mitigation plans; and
- iv. Inspections and enforcement verify that mitigation plans have been implemented and that mitigation measures are effective.

16. The new code adds state listed threatened and endangered species to the federally listed species already recognized in the existing critical area regulations. The state listed species have been added as recommended in WAC 365-190-080(5)(c)(i) and supported by General Policy Plan Policy NE 3.B.5.

17. The proposed draft adds a nomination process for identifying species and habitats of local importance as recommended in WAC 365-190-080(5)(c)(ii) and supported by General Policy Plan Policy NE 3.B.6.

18. The council has added six additional species to the definition of "critical species" subject to habitat management plans. These six species include the Larch Mountain salamander, Common loon, Peregrine falcon, Olympic mudminnow, Pygmy whitefish, and Gray whale.

19. The proposed regulations allow for minor development activities provided that best management practices (BMPs) are employed. BMPs are physical, structural, or managerial practices which have gained general acceptance by professionals in the appropriate field to minimize and mitigate adverse impacts to the functions and values of critical areas. BMPs provide the following benefits:

- a. Employing BMPs for minor development activities will reduce public costs associated with maintenance, repair and modifications to infrastructure;
- b. Utilizing BMPs will afford protection to critical areas from on-going pre-existing legal uses; and
- c. BMPs are defined as mitigation measures and by their nature minimize or eliminate adverse impacts to critical areas.

20. Minor development activities are limited to normal maintenance and repair, replacement or modification of existing roads, utilities, flood protection and bank stabilization structures; installation of new utilities in improved right-of-ways; management of invasive weeds and hazardous trees; development activities limited to non-riparian Category 2 and 3 wetlands under 5,000 square feet and non-riparian Category 4 wetlands under 10,000 square feet) and their associated buffers; and all other on-going legally established development activities. Small wetlands are not subject to the avoidance criteria but are subject to replacement of lost functions and values.

21. Proposed provisions to allow innovative development design are subject to approval criteria requiring equivalent or better treatment of critical area functions over that which would be achieved by applying the standard prescriptive measures. Innovative development design allows for creative development solutions and mitigation.

- a. Approval is based on clearly established standard of "no net loss" and may actually result in a net improvement of functions.
- b. Innovative development design allows for creative approaches and accommodation of unique circumstances and site characteristics.
- c. Flexibility in regulatory provisions is supported by General Policy Plan Policies NE 1.A.1, 1.A.3, 1.A.6 and 3.A.3.
- d. Use of low impact development techniques is encouraged.

e. Innovative development options may be used to implement the General Policy Plan policies under Objective 3.B guiding development of Transit Pedestrian Centers in designated locations. These flexible design and mitigation options combine to implement requirements of RCW 36.70A to direct population growth into urban areas (RCW 36.70A.020(1)) and achieve no net loss of critical area functions and values, and land use and transportation policies in the County's comprehensive plan related to urban centers (Goal LU 3) and trip reduction and support for transit use (Goal TR 2).

22. The code provides an allowance for emergency actions needed to protect the public health, safety, welfare or property, or to prevent an imminent threat of serious environmental degradation, provided that permits are obtained and mitigation is provided after the fact.

23. A project permit applicant who is unable to comply with the specific standards without forfeiting all reasonable use of the property may seek approval of a reasonable use allowance. This is supported by RCW 36.70A.020(6), the GMA goal to protect property rights. Criteria for approval will address alternatives to minimize impacts to critical areas. The County processes a limited number of these reasonable use allowances and involving a very small number of acres. The updates to the critical area regulations will result in even fewer of these requests due to the increased flexibility in the proposed regulations and the increased opportunity to utilize mitigation banks. This will create a very minimal impact more than made up for by the capital program.

24. The draft regulations propose to expand mitigation banking opportunities to include fish and wildlife habitat conservation areas in addition to wetlands. Mitigation banking requirements could be modified to reflect new state banking rules upon their completion. Mitigation banking can increase overall functions and values at a watershed scale by focusing the cumulative impacts of smaller projects into a more ecologically beneficial project. Further, mitigation banks provide a higher degree of certainty of successful replacement of functions and values.

25. The GMA establishes competing goals to conserve agricultural resource lands and maintain and enhance resource-based industries (RCW 36.70A.020(8)); encourage economic growth (RCW 36.70A.020(5)); and protect the natural environment (RCW 36.70A.020(10)). The GMA goals are not listed in order of priority and in enacting RCW 36.70A.3201, the Legislature recognized the County's authority and responsibility to balance priorities and options for action to be taken under GMA in full consideration of local circumstances.

26. RCW 36.70A.170(1)(a) requires the county to designate agricultural resource lands and RCW 36.70A.170(1)(d) requires designation of critical areas. Accordingly, the County Council must accommodate both the needs of the local agricultural industry along with the need to protect critical areas within the County.

27. The county engaged in a multi-year public process and open discussion with the agricultural community regarding the competing mandates of the GMA to protect critical areas while maintaining and enhancing the vitality of agricultural industries. After months of negotiation, the Agricultural Advisory Board and the Snohomish County Farm Bureau agreed on negotiated language that was submitted to the council for consideration. Shortly thereafter, the Legislature passed SSB 5248 (Chapter 353, Laws of 2007) which had the effect of prohibiting the county from amending the provisions in its critical area regulations in effect on May 1, 2007 as they applied to agricultural activities (as defined in the legislation). The legislation applies only to agricultural activities in the rural areas and in agricultural resource land areas, and is in effect until July 1, 2010. The result is that the county must leave its existing chapter 30.62 SCC in place to apply to agricultural activities in rural and agricultural resource land areas. However, it will apply the new provisions to agricultural activities in other areas.

28. Snohomish County strongly supports the conservation of an active, innovative and commercially viable agricultural industry within the County. This support has been demonstrated recently through several actions:

a. The Snohomish County Executive issued Executive Order 05-43 to implement the *Snohomish County Agriculture Action Plan, a Plan to Preserve and Enhance the Agricultural Economy in Snohomish County, March, 2005*. The plan recognizes, "...that saving family farms is vital to preserving the quality of life for all residents in Snohomish County. However, preservation can only happen if farmers have the opportunity to be profitable in their business."

b. On February 1, 2006, the County's updated GMA Comprehensive Plan (GMACP) became effective. The GMACP states the County's strong support for conservation of agricultural activities:

i. The objectives and policies listed under Goal NE 7 in the agricultural lands section of the Land Use element establish substantial support for the conservation of agricultural lands and continuation of agricultural activities contributing to the county's rural character and economy;

- ii. General Policy Plan Goal ED 6, Objective ED 6.A and Policy ED 6.A.2 in the Economic Development element promote a sustainable agricultural economy; and
- iii. General Policy Plan Policies LU 6.B.2 and LU 6.D.1 in the rural section of the land use element promote agricultural activities in the rural area.

29. The County Council finds that agricultural activities contribute to the rural character and economic health of Snohomish County. Economic data highlights the financial situation and the pressure to convert farmlands to other more profitable uses. The Council hereby incorporates by reference the findings and conclusions set forth in Ordinance No. 04-074 relating to agriculture and related uses, expanding the diversity of allowed uses to improve economic viability.

30. The 2002 U.S. Census of Agriculture was released on June 3, 2004 by the USDA. The data for Snohomish County reveals a continuing trend of loss of farms and farmland acreage between 1997 and 2002, and the increasing real estate value of farm land. The Census data also indicates a narrow margin between total sales and total farm production expenses. Farm production expenses are increasing at a faster rate than sales, resulting in a decline of already narrow profit margins.

31. Selected summary statistics from the 2002 U.S. Census of Agriculture are provided in the table below. These data reveal that local farming in the County is in economic decline. The total number of farms is decreasing. Land values have dramatically risen and these trends continue. Expenses for farmers have increased and incrementally small increases in expenses can have a dramatic effect on overall profitability for commercial farms, especially smaller, family-owned farms.

Agricultural Census Data for Snohomish County, US Census Bureau, 2002				
Variable	1997	2002	% Change	Source
Number of farms	1,819	1,574	-13.47	Table 8
Number of acres	72,882	68,612	-5.86	Table 8
Average market value of land/bldgs. per farm (\$)	328,062	439,666	+34.02	Table 8
Average market value of land/bldgs. per acre (\$)	7,310	9,654	+32.07	Table 8
Total sales (\$1,000)	117,076	126,947	+8.43	Table 2
Total sales – avg. per farm (\$)	64,363	80,653	+25.31	Table 2
Total farm production expenses (\$1,000)	104,918	116,078	+10.63	Table 3
Total farm production expenses – avg. per farm (\$)	57,647	73,841	+28.09	Table 3
Total sales less Total expenses (\$1,000)	12,158	10,869	-10.60	Calculated from Tables 2 & 3
Total sales less Total expenses – avg. per farm (\$)	6,716	6,812	1.43	Calculated from Tables 2 & 3

Based on the information revealing the critical state of decline in the traditional sectors of commercial agricultural in Washington State and particularly, Snohomish County, the Council finds that it is necessary to create a unique set of protections for critical areas that balances the needs of the commercial agricultural industry for long-term sustainability and allows for innovation.

32. A recent study released by the county shows that of 63,000 acres in agricultural resource land designation, actual farming is taking place on only 33,000 acres of that land. The study found that other areas are not farmed because the land is too wet or has too many trees. Other parts include waterways, roads, houses, driveways or other structures.

33. The policies and objectives found at Goal NE 4 in the Natural Environment element of the General Policy Plan establish a balance between the long-term viability of commercial agriculture and environmental protection. The County Council will require the use of certain "best management practices" (BMPs) for commercial agricultural activities as established by the Natural Resource Conservation Service (NRCS) and contained in the Field Office Technical Guide (FOTG or "FOTG manual"). When agricultural

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activities are performed according to the BMPs set forth in the FOTG manual, they are presumed to meet the requirements of the critical areas protections found in Parts 000-500 in the proposed Chapter 30.62A SCC (Attachment A). As referred to herein, this approach shall be known as the "presumptive approach" for commercial agriculture.

34. The FOTG manual BMPs are designed specifically to address the needs of agriculture and the standards recognize and seek to preserve the functions associated with critical areas by addressing such issues as vegetation management; erosion control; protection of surface and ground water quality; fish and wildlife habitat needs; wetland protection, enhancement and restoration; and flood protection.

35. The BMPs set forth in the FOTG manual have been determined by the State to be scientifically-based standards and are considered by the State to constitute part of the best available science. In a letter dated November 14, 2005 to Phil Bakke, the Director of the Island County Planning and Community Development, Leonard Bauer, Managing Director for Growth Management Services, with the Department of Trade and Economic Development wrote:

... We [CTED] have consulted with the Departments of Agriculture, Ecology and Fish and Wildlife as well as the Puget Sound Action Team and State Conservation Commission, and each agency concurs ... that the BMPs included in the NRCS Field Office Technical Guides exhibit the characteristics of a valid scientific process and, therefore, can be considered to constitute part of the BAS.

36. Several other jurisdictions are proposing to use a best management practice approach to protect critical areas within areas of active farming, including Skagit, Island, King, Whatcom, Pierce and Clallam counties.

37. Alternatively, agricultural activities occurring in critical areas according to the terms and conditions of a farm plans developed in coordination with the Snohomish Conservation District will also be deemed to meet the requirements of this ordinance.

The process for developing a farm plan requires (1) a site specific assessment of the resource concerns; (2) identification of the appropriate standards to be applied including an assessment of the functions to be maintained; (3) an evaluation of the impacts of each applicable standard on the entire set of resource concerns (for example, a standard selected to alleviate one resource concern may exacerbate another); and (4) provisions for monitoring the effectiveness of the applied BMPs.

Accordingly, the Council finds that adequate protections exist within the development and approval of farm plans to protect critical areas where commercial agricultural activities are present.

38. As used in this ordinance, the term "agricultural activities" includes the activities defined in SCC 30.91A.090. That section provides:

30.91A.090 "Agricultural activities" means a condition or activity which occurs on a farm in connection with the commercial production of farm products and includes, but is not limited to, marketed produce at roadside stands or farm markets, noise, odors, fumes, operation of machinery and irrigation pumps, movement of water, including, but not limited to, use of current county ditches, streams, rivers, canals, and drains, and use of water for agricultural activities; ground and aerial application of seed, fertilizers, conditioners, and plant protection products; employment and use of labor; roadway movement of equipment and livestock; protection from damage by wildlife; prevention of trespass; construction and maintenance of buildings, fences, roads, bridges, ponds, drains, waterways, and similar features and maintenance of stream banks and watercourses; and conversion from one agricultural activity to another.

39. Where commercial agricultural activities cause adverse impacts to critical areas the agricultural activity will no longer be allowed to use the presumptive BMP approach. In those cases, the County Council finds that it is necessary to require the agricultural activity to comply with the requirements of Part 000-500 of the regulations or to submit a farm plan implementing the NRCS standards in the FOTG Manual to ensure protection of critical areas. The County Council notes that this approach was approved by the Agricultural Advisory Board and, after some negotiations and revisions, was ultimately supported by the Snohomish County Farm Bureau. The regulations identify under what conditions impacts to critical areas are most likely to occur as a result of commercial agricultural activities. Impacts are likely when the agricultural activity:

- a. Requires a county permit, other than a Flood Hazard Permit pursuant to chapter 30.43C SCC;
- b. In certain special flood hazard areas designated by the Federal Emergency Management Agency (FEMA) as specified in SCC 30.65.040, includes construction of access or service roads greater than six inches average and twelve inches maximum height above grade;
- c. Occurs on a wetland, unless;
 - i. The activity is exempt from wetland regulation under Section 404(f) of the federal Clean Water Act; or

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- ii. the activity is occurring in a wetland that is no greater than 5,000 square feet of non-riparian Category 2 or 3 or 10,000 square feet of non-riparian Category 4 wetlands, as defined in this chapter;
- d. brings land into agricultural use for the first time; or
- e. brings land into agricultural use by removal of native woody vegetation or alteration of surface or ground-water flow, other than that which results from normal cultivation.

40. The County Council notes that the County Executive and staff worked closely with a subcommittee of the Agricultural Advisory Board as authorized pursuant to Chapter 2.06 SCC in developing the critical areas protections set forth in Part 600. The subcommittee was comprised of four members from the Agricultural Advisory Board who are actively farming in the County. The subcommittee recognized the need to protect critical areas and opted for regulatory standards employing BMPs designed for agricultural activities which address both the environmental impacts and the financial impacts to farmers. The subcommittee and County staff worked together from late July, 2005, to late October, 2005, to draft the substantive elements of the critical areas regulations related to agricultural activities and presented the proposal to the full Agricultural Advisory Board.

41. On November 3, 2005, the Agricultural Advisory Board supported the subcommittee's proposal in a unanimous vote signaling to the County strong local support from the agricultural community for the proposed approach.

42. Given the local economic conditions and strong local emphasis on agricultural conservation, the County Council finds that a presumptive approach to protecting critical areas is necessary to protect and conserve the long-term viability of agriculture within the County.

43. The County Council finds that Part 600 establishes adequate protections for critical areas on lands where commercial agriculture is ongoing or may begin in the future, where a presumptive approach to protection is coupled with the regulatory authority to require compliance with the protection standards set forth in Part 000-500 when adverse impacts to critical areas are caused by agricultural activities.

44. Given passage of SSB 5248, the County Council finds that this approach, while broadly supported by the agricultural community, can have only limited application.

f. SSB 5248 restricts a local jurisdictions authority to adopt or amend critical area regulations as they specifically apply to agricultural activities occurring on lands designated as agricultural or rural lands pursuant to RCW 36.70A.170.

g. The definition of "agricultural activities" under SSB 5248 includes:

Producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing agricultural facilities, when the replacement facility is no closer to a critical area than the original facility; and maintaining agricultural lands under production or cultivation.

c. If an agricultural activity meets the definition and location requirements in SSB 5248, the county can not apply the new provisions and must continue to rely on the existing critical area protection in Chapter 30.62 SCC.

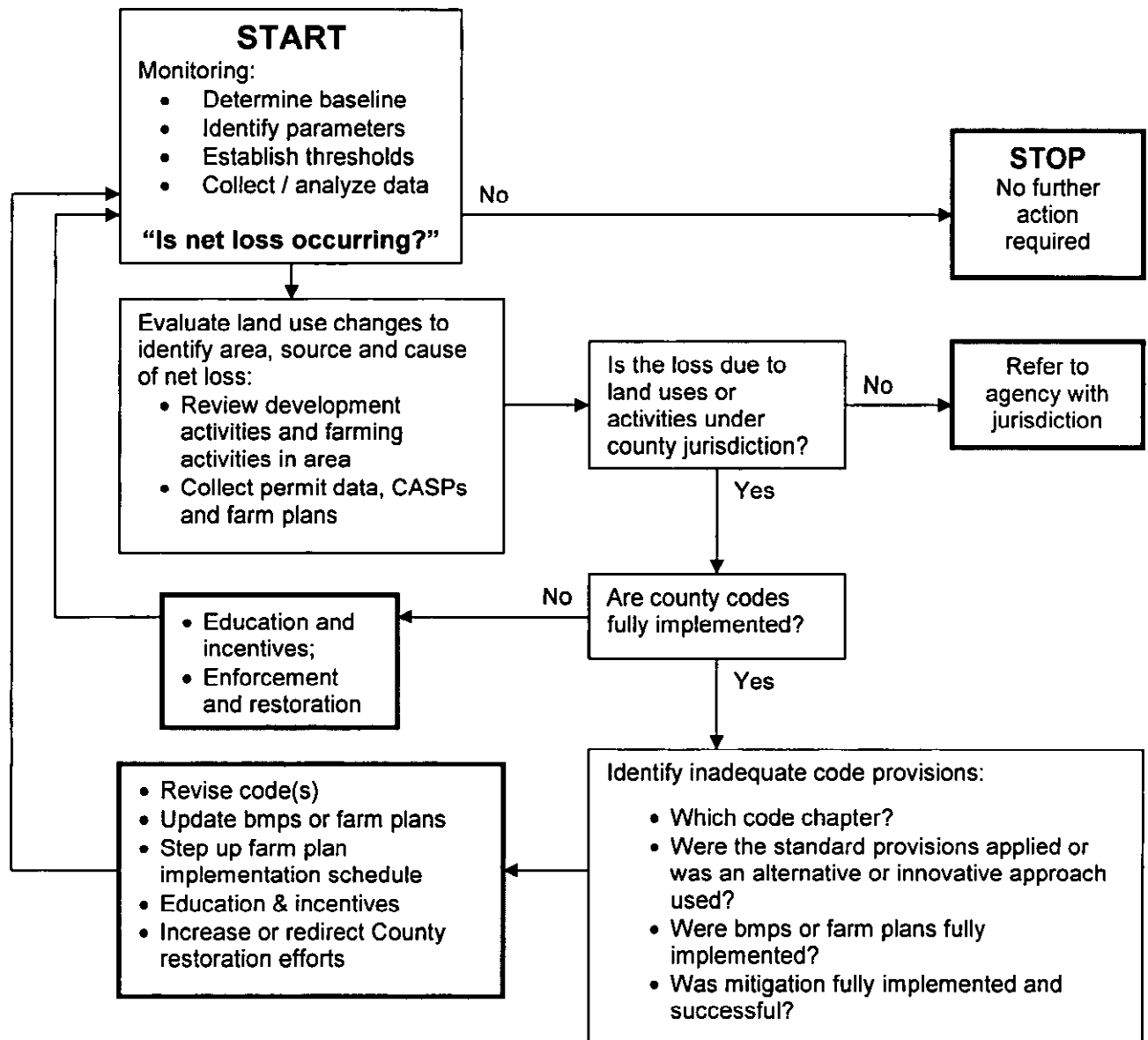
d. "Agricultural activities" as defined by the county under SCC 30.91A.090, applies more broadly than the definition in SSB 5248 in terms of both the activities included as "agricultural activities" and the location where these activities occur. It is these activities and locations outside of the definition in SSB 5248 where the new provisions can be applied.

45. The County has adopted policies at General Policy Plan Goal NE 7 of the GMACP directing the development of an integrated monitoring and adaptive management program to assess and adapt over time the county's overall approach to environmental protection. These policies demonstrate the County's commitment to successfully implementing the protection of critical areas across the entire unincorporated county. (Natural Environment Element, objectives and policies under Goal NE 7).

46. The County will assess the use of FOTG manual BMPs for agricultural activities in critical areas on lands where Chapter 30.62A and 30.62B SCC is in effect in the County's monitoring and adaptive management program. Additionally, the County will review and assess data collected from farm plans as part of the monitoring and adaptive management program.

47. The monitoring plan identifies measurable variables representing critical area functions and values. Data will be collected and assessed at scientifically meaningful time intervals to determine whether impacts have occurred, from what sources and what is the best adaptive management technique to employ to improve the protection of critical area functions and values. The adaptive management program will include a suite of possible actions, including but not limited to public education, code enforcement, BMP and/or code revisions, and county programs focusing on restoration, enhancement and acquisition.

48. The adaptive management strategy will be determined based on the source of loss of critical areas functions and values. The following diagram illustrates how adaptive management tools will be applied.



49. The new regulations for geologically hazardous areas include designation of the following hazard areas in addition to those already found in the existing code: tsunami hazard areas, channel migration zones and shorelines of other water bodies subject to wind and wave erosion. (Revised Draft Summary of Best Available Science (March 28, 2006) pg. 38-45, 137, 143; WAC 173-26-221).

50. A change is proposed for the definition of a landslide hazard area to increase the slope requirement from 15% to 33% for consistency with the Uniform Building Code and the International Building Code. Historic performance of the dominant soil types in Snohomish County indicate that slopes under 33% are relatively stable (Revised Draft Summary of Best Available Science (March 28, 2006) pg. 144). The slope gradient only applies to areas at risk of landslide due to geologic, soil and hydrologic conditions and is irrelevant to the designation of areas with empirical evidence of landslide. Where evidence of slide is present, these areas will be designated as landslide hazard areas regardless of the slope gradient. (Id. at pg. 148-150).

51. A geotechnical report by a licensed engineer will be required when any development activity is proposed within:

- a. Geologically hazardous areas presenting high levels of risk as a result of site disturbance and construction activity such as erosion hazard areas and landslide hazard areas or setbacks (Revised Draft Summary of Best Available Science (March 28, 2006) pg. 141, 143); and
- b. Geologically hazardous areas with low frequency but potentially catastrophic events such as mine hazard areas or along seismic faults.

52. The geotechnical report will describe:

- a. the type of geologic hazard, the scope and scale of the hazard and propose measures to minimize the risk to public health and safety;
- b. the soils, topographic, hydrologic and geologic data for the site, as well as these same conditions on adjacent properties and their effect on slope stability; and

h. When necessary because of site conditions and the nature of the development proposal, the geotechnical report shall address erosion and slope recession rates for those areas impacted by wave cutting, stream meandering, or other erosional forces to determine setbacks adequate to protect the proposed development and prevent the need for structural shoreline stabilization or flood hazard reduction measures. (WAC 173-26-221).

53. General standards and requirements for all development activity in geologically hazardous areas include that the development activity will not 1) increase the severity or scope of the hazard; 2) require new structural shoreline or flood protection measures (WAC 173-26-221); or 3) adversely impact adjacent properties and critical areas.

54. Standards and requirements for development activity in erosion or landslide hazard areas will include use of best management practices or approved alternatives such that: 1) activities will be conducted pursuant to the recommendations in a geotechnical report; 2) hazards will not be exacerbated on adjacent, downstream or down drift properties; 3) stormwater or groundwater will not be collected, concentrated or discharged within a hazard area; and 4) the development activity will not increase surface water discharge or sedimentation beyond pre-development conditions. (Revised Draft Summary of Best Available Science (March 28, 2006) pg.140).

55. Channel migrations zones (CMZs) are designated as erosion hazard areas. (WAC 365-195-080(4)(d)(vii); WAC 173-26-221(3) and Title 222 WAC, Board Manual, Section 2).

56. Standards and requirements within CMZs strictly limit development activities. New buildings and removal of non-hazardous trees are prohibited; new utility and transportation infrastructure is limited as is new shoreline and bank stabilization measures and flood protection measures. Normal maintenance and repair of existing utility, transportation, bank stabilization and flood control structures is allowed (Revised Draft Summary of Best Available Science (March 28, 2006), pg. 140-147) (WAC 173-26-221 and 176-23-231). [Stillaguamish Watershed Resource Inventory Area Plan pg 118-119, Snohomish Water Resource Inventory Area Plan 10-12 to 10-13, King, Pierce, and Snohomish Counties, Tri County Model 4(d) Rule Response Proposal (May 18, 2001) Chapter Two – 2}.

57. Development activities within landslide hazard areas are subject to top of slope and toe of slope setbacks, vegetation retention requirements and restrictions on stormwater detention and release. All of these provisions are designed to protect structures from damage and to reduce the risk of landslide. (Revised Draft Summary of Best Available Science (March 28, 2006) pg. 150).

58. When development activity is proposed within 200 feet of a known fault, a geotechnical report addressing the seismic hazard will be required. The activity will be conditioned based on the findings in the geotechnical report, the appropriate building codes and existing county code in Chapter 30.51 SCC. (Revised Draft Summary of Best Available Science (*March 28, 2006*) pg. 138)

59. Development activities in mine hazard areas are subject to the recommendations in a geotechnical report. Recommendations may include buffers or setbacks based on the depth of the mine hazard and may also include reclamation plans for properly closing the mine. (Revised Draft Summary of Best Available Science (*March 28, 2006*) pg. 159). Mine hazard areas have been identified in eastern Snohomish County outside of Index, Monte Cristo and Darrington.

60. Glacier Peak in eastern Snohomish County is an active volcano. The zone of flow from Glacier Peak follows the Sauk and Stillaguamish rivers. The areas of hazard have been identified on maps and when a development activity is proposed within 200 feet of the hazard area, a notice will be recorded with the county on the titles of properties within the hazard area. (Revised Draft Summary of Best Available Science (*March 28, 2006*), pg. 155).

61. Notice requirements for tsunami hazard areas are the same as for the volcanic hazard areas.

62. Agricultural activities in geologically hazardous areas are subject to the standards in Part 000 – 400 of Chapter 30.62B SCC, with the exception of erosion hazard areas. Agricultural activities in erosion hazard areas will be subject to Part 500 and SCC 30.62B.330(3) if within a channel migration zone. Part 500 requires compliance with BMPs addressing mitigation of erosion impacts as found in the FOTG manual. As erosion can be a significant issue in agricultural practices, the FOTG manual contains an extensive set of standards addressing the minimization of erosion and preservation of prime agricultural soils.

63. When a development activity or action requires a permit, is located within a sole source aquifer, a Group A wellhead protection area or a recharge area with high or moderate sensitivity and is likely to adversely impact groundwater, the County will require a hydrogeologic report. The proposed development activity will be conditioned based on: the recommendations in the hydrogeologic report; any additional standards and requirements in SCC 30.62C.320; and the requirements of any applicable state or federal law. (Revised Draft Summary of Best Available Science (*March 28, 2006*) pg. 25-29).

64 The County will notify the purveyors when a development activity or action listed in Part 300 of Chapter 30.62C SCC is proposed within the wellhead protection area of a Group A public water system.

65. Within the most sensitive aquifer recharge areas (sole source aquifers, Group A wellhead protection areas, or recharge areas with high sensitivity) certain activities or uses identified as a threat to groundwater quality due to release of contaminants are prohibited. These uses include: landfills, underground injection wells, mining of metals and hard rock, wood treatment facilities and facilities that store, process or dispose of radioactive waste. (Revised Draft Summary of Best Available Science (March 28, 2006) pg. 25-29).

M. The proposed changes to the Critical Area Regulations in SCC 30.62A, (Exhibit A) 30.62B (Exhibit B) and 30.62C (Exhibit C) require changes to existing county code for consistency. These changes address procedural processes, code cross references and incorporation of new terms and definitions.

Section 4. The County Council bases its findings and conclusions on the entire record of the Planning Commission and the County Council, including all testimony and exhibits. Any finding which should be deemed a conclusion and any conclusion which should be deemed a finding is hereby adopted as such.

Section 5. Snohomish County Code Section 4.28.070, added by Ordinance 92-080 on July 23, 1992, is amended to read:

4.28.070 Application standards.

(1) Applicants for either open space-general classification or timberland shall submit the following to the assessor's office:

- (a) A completed application form.
- (b) A legal description of the subject property.
- (c) A detailed site plan of the subject property at sufficient scale to show any existing or proposed development, roads, easements and trails. Critical areas described in chapter 30.62A SCC, including ((Aquatic resources such as)) streams, wetlands, ((and)) lakes, marine waters, and their associated buffers must also be shown together with ((any proposed buffers and)) any other salient features which may be appropriate to include depending on which criteria have been claimed by the applicant. If open space or timberland classification is being sought on a portion of the property, the site plan must clearly delineate (with specific dimensions) the portion of the property for which the classification is

requested. (Developed portions of the property are generally not eligible for timberland classification; exceptions to this include roads and trails.)

(d) A vicinity map.

(e) A non-refundable fee of \$100.00.

(2) In addition to the requirements of subsection (1), applicants for open space-general classification shall also submit an "open space checklist" in which the applicant discloses the designation criteria he/she wishes to claim as being met on the subject property.

(3) In order to properly evaluate the degree to which an applicant for timberland classification is managing the timber resources on his property and to insure that the property is truly "primarily devoted to the growth and harvest of forest crops," it is deemed necessary that the following information be submitted to the assessor's office when application is made:

(a) Applications for timberland classification on parcels containing less than 20 contiguous acres under a single ownership or management shall be accompanied by a detailed forest management plan, prepared with the assistance of a professional forester whose signature and capacity is noted on the plan. This plan shall show how the subject property will be managed to provide for the long-term commercial productivity of the timber resource on the site and shall detail projected cutting and reforestation methods.

(b) Applications for timberland classification on parcels of 20 contiguous acres or more under single ownership or management shall include either a forest management plan, as detailed above, or a detailed statement by the owner which addresses the same issues.

Section 6. Snohomish County Code Section 4.28.080, added by Ordinance 92-080 on July 23, 1992, is amended to read:

4.28.080 Performance standards and change in use.

(1) **Open Space-General.** Developed portions of a property are generally not eligible for open space classification. Exceptions to this include but are not limited to: outdoor recreational facilities, interpretive centers, outdoor displays, etc.

Lands which have been granted open space classification must remain in a natural, undeveloped state and/or provide the features for which the classification was granted.

Development or subdivision of the property may result in revocation of the open space classification. Failure to meet the intent of the designation criteria and standards or any conditions of approval will result in revocation of the classification and the assessment of taxes and penalties pursuant to chapters 84.34 RCW and 458-30 WAC.

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(2) Timberland. The following standards are designed to insure that properties designated "timberland" provide well managed, environmentally sound timber production:

(a) Management standards specified by a forest management plan and/or a detailed statement of management are binding conditions of timberland application approval. Timberland classification may be revoked if approval conditions are not met. Development or subdivision of the property may result in revocation of the classification as well.

(b) Any property under timberland classification which is harvested must be reforested within 12 months of tree cutting in order to retain timberland classification.

(c) Buffering of ((aquatic resources))critical areas, including ((such as))streams, wetlands, lakes, and marine waters, is required as per state forest practices regulations (Washington Administrative Code (WAC) 222-30-021). The state terminology "riparian management zone" is comparable to "buffers" in chapter 30.62A SCC. Buffer widths shall be sufficient to comply with critical area buffer requirements ((county aquatic resource regulations)) in chapter 30.62A SCC. Any harvesting or site disturbance which constitutes a violation of the state forest practices act or the conditions of a state forest practice permit or applicable county regulations may result in revocation of the timberland classification.

Section 7. Snohomish County Code Section 30.23.020, added by Amended Ordinance 02-064 on December 9, 2002, is amended to read:

30.23.020 Minimum net density for residential development in UGAs.

(1) A minimum net density of four dwelling units per acre shall be required in all UGAs for:

(a) New subdivisions, short subdivisions, PRDs, and mobile home parks;
and

(b) New residential development in the LDMR, MR, and Townhouse zones.

(2) Minimum net density is the density of development excluding roads, ~~((critical areas and required buffers,))~~ drainage detention/retention areas, biofiltration swales, ~~((and))~~ areas required for public use, and critical areas and their required buffers pursuant to chapters 30.62A and 30.62B SCC.

(3) Minimum net density is determined by rounding up to the next whole unit or lot when a fraction of a unit or lot is 0.5 or greater.

(4) For new subdivisions and short subdivisions, the minimum lot size of the underlying zone may be reduced as necessary to allow a lot yield that meets the minimum density requirement. Each lot shall be at least 6,000 square feet, except as otherwise allowed by this title.

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- (5) The minimum net density requirement of this section shall not apply:
- (a) In the Darrington, Index, and Gold Bar UGAs; and
 - (b) Where regulations on development of steep slopes, SCC 30.41A.250, or sewerage regulations, SCC 30.29.100, require a lesser density.

Section 8. Snohomish County Code Section 30.23.040, last amended by Amended Ordinance 06-004 on March 15, 2006, is amended to read:

30.23.040 Reference notes for bulk matrix:

- (1) MR bulk requirements shall apply for all residential development permitted in urban commercial zones.
- (2) When subdivisionally described, the minimum lot area shall be 1/128th of a section.
- (3) When subdivisionally described, the minimum lot area shall be 1/32nd of a section.
- (4) In the LDMR zone, the maximum density shall be calculated based on 4,000 square feet of land per dwelling unit.
- (5) In the MR zone, the maximum density shall be calculated based on 2,000 square feet of land per dwelling unit.
- (6) Commercial forestry structures shall not exceed 65 feet in height.
- (7) Non-residential structures shall not exceed 45 feet in height.
- (8) Lot coverage includes all buildings on the given lot.
- (9) Includes public rights-of-way 60 feet and wider; public rights-of-way under 60 feet in a recorded plat with curbs and gutters; and private roads and easements. These setbacks shall be measured from the edge of the right-of-way.
- (10) Applies to public rights-of-way under 60 feet. These setbacks shall be measured from the center of the right-of-way.
- (11) These setbacks shall be measured from the property line.
- (12) These setbacks shall be measured from the ordinary high ~~((--))~~ water mark and shall apply only to the rear setback. In the LDMR and MR zones this setback applies to single family dwellings only. Greater setbacks than those listed may apply to areas subject to Shoreline Management Master Program jurisdiction or critical areas regulations in chapters 30.62A, 30.62B, and 30.62C SCC. Some uses have special setbacks identified in ~~((--See--))~~ SCC 30.23.110 ~~((for specifics))~~.
- (13) The listed setbacks apply where the adjacent property is zoned F. In all other cases, setbacks are the same as in the R-8,400 zone. In the F zone, the setbacks for residential structures on 10 acres or less which were legally created prior to being zoned to F shall be the same as in the R-8,400 zone.

(14) The listed setbacks apply to single family detached structures. For a townhouse, see chapter 30.31E SCC.

(15) MR and LDMR setbacks.

(a) Single family detached structures and duplexes shall have the minimum setbacks required in the R-8,400 zone. Building separation between single family detached structures or duplexes shall be a minimum of 10 feet.

(b) Other structures shall have minimum side and rear setbacks of five feet (10 feet where abutting residential, rural, or resource zones). Building separation between primary MR and LDMR structures shall be a minimum of 15 feet. Building separation between primary structures and secondary/accessory structures, including but not limited to carports and garages, and separation between secondary structures themselves, shall be determined by the applicable sections of the Uniform Building Code (UBC).

(c) Multi-story structures shall increase all setbacks by three feet and building separations by five feet for each additional story over two stories.

(16) In the FS zone, the setback from non-residential property shall be five feet for side setbacks and 15 feet for rear setbacks.

(17) In the IP zone there shall be an additional one foot setback for every one foot of building height over 45 feet.

(18) In the PCB zone the setback from private roads and easements is 25 feet.

(19) See SCC 30.31A.020(1) and (2) which specifies the minimum area of a tract of land necessary for PCB or BP zoning.

(20) See additional setback provisions for dwellings located along the boundaries of designated farmland contained in SCC 30.32B.130.

(21) See additional setback provisions for structures located adjacent to forest lands, and/or on lands designated local forest or commercial forest contained in SCC 30.32A.110.

(22) The minimum lot size for properties designated Rural Residential (RR) - 10 (Resource Transition) on the comprehensive plan shall be 10 acres. For properties designated Rural Residential - 10 (Resource Transition) and located outside the Tulalip Reservation the lot/unit yield for rural cluster subdivisions or housing demonstration program projects using PRD provisions shall be based on a minimum lot size of 200,000 square feet.

(23) Minimum lot area requirements may be modified within UGAs in accordance with SCC 30.23.020.

(24) In rural cluster subdivisions approved in accordance with the provisions of chapter 30.41C SCC, the minimum lot area shall be as provided in SCC 30.23.220. The maximum lot area shall be 20,000 square feet or less when located in rural/urban transition areas.

(25) These setbacks shall be measured from the edge of the right-of-way as determined by the director of the department of public works.

(26) Except where specifically prohibited by the hearing examiner, the director of the department may waive or modify building setback requirements abutting private roads and/or private access easements serving lots within commercial and industrial zones only if such waiver or modification will not have a likely impact upon future right-of-way needs and/or right-of-way improvements.

(27) See SCC 30.23.050 for height limit exceptions.

(28) See SCC 30.23.100 et seq. for additional setback requirements and exceptions.

(29) See SCC 30.23.200 et seq. for additional lot area requirements and exceptions.

(30) SCC 30.32A.120 (Siting of new structures: commercial forest land) requires an application for a new structure on parcels designated commercial forest, but not within a designated commercial forest-forest transition area, to provide a minimum 500-foot setback, which shall be a resource protection area, from the property boundaries of adjacent commercial forest lands except that if the size, shape, and/or physical site constraints of an existing legal lot do not allow a setback of 500 feet, the new structure shall maintain the maximum setback possible, as determined by the department.

(31) Performance standards and minimum zoning criteria to establish and continue a MC zone are set forth in chapter 30.31D SCC.

(32) The site shall be a contiguous geographic area and have a size of not less than 10 acres, except in the case of subsurface shaft excavations, no minimum acreage is required, pursuant to SCC 30.31D.020(1)(a).

(33) See SCC Table 30.28.050(3)(i) for setback requirements for structures containing a home occupation.

(34) See SCC 30.23.120 for other setback exceptions.

(35) See chapter 30.31E SCC, for more complete information on the Townhouse Zone height, setback, and lot coverage requirements.

(36) RESERVED for future use (MR and LDMR setbacks - DELETED by Ord. 05-094 effective September 29, 2005.

(37) Agriculture: All structures used for housing or feeding animals, not including household pets, shall be located at least 30 feet from all property lines and dwellings, as provided in SCC 32.23.110(1).

(38) There shall be no subdivision of land designated commercial forest in the comprehensive plan except to allow installation of communication and utility facilities if all the following requirements are met:

(a) The facility cannot suitably be located on undesignated land;

(b) The installation cannot be accomplished without subdivision;

(c) The facility is to be located on the lowest feasible grade of forest land;

and

(d) The facility removes as little land as possible from timber production.

(39) On parcels designated commercial forest, but not within a designated commercial forest - forest transition area, establish and maintain a minimum 500-foot setback, which shall be a resource protection area, from the property boundaries of adjacent commercial forest lands except when the size, shape, and/or physical site constraints of an existing legal lot do not allow a setback of 500 feet, the new structure shall maintain the maximum setback possible as provided in SCC 30.32A.120.

(40) Land designated local commercial farmland shall not be divided into lots of less than 10 acres unless:

(a) A properly executed deed restriction which runs with the land and which provides that the land divided is to be used exclusively for agriculture, forestry, utility purposes, or for gift or dedication to a public or not-for-profit park or conservation agency and specifically not for a dwelling(s), is recorded with the Snohomish County Auditor; or

(b) A rural cluster subdivision at the underlying zoning is approved, as provided for in SCC 30.32B.120.

(41) Minimum lot area in the rural use zone shall be the minimum allowed by the zone identified as the implementing zone by the comprehensive plan for the plan designation applied to the subject property. Where more than one implementing zone is identified for the same designation, the minimum lot size shall be that of the zone allowing the smallest lot size.

(42) Figure 30.23.040(42) EASEMENT SETBACKS PER BULK MATRIX.

(43) Additional bulk requirements may apply. Refer to SCC 30.31F.100 and 30.31F.140.

(44) The 50% maximum lot coverage limitation applies solely to the portion of the area within the CRC comprehensive plan designation and zone that is centered at 180th Street SE and SR 9, generally extending between the intersection of 172nd Street/SR 9 to just south of 184th Street/SR 9, as indicated on the County's FLUM and zoning map.

(45) The 30% maximum lot coverage limitation applies solely to the portion area located within the CRC comprehensive plan designation and zone that is centered at State Route (SR) 9 and 164th Street SE, as indicated on the County's Future Land Use Map (FLUM) and zoning map.

(46) See SCC 30.33B.020 for bulk regulations related to existing playing fields on designated recreational land.

Section 9. Snohomish County Code Section 30.23.210, last amended by Amended Ordinance 04-081 on September 1, 2004, is amended to read:

30.23.210 Lot size averaging.

(1) A subdivision or short subdivision will meet the minimum lot area of the zone in which it is located if the area in lots plus critical areas and their buffers and areas designated as open space or recreational uses, if any, divided by the total number of lots equals or exceeds the minimum lot area of the zone in which the property is located. In no case shall the density achieved be greater than the gross site area divided by the underlying zoning.

(2) This section shall only apply to:

(a) subdivisions or short subdivisions within zones having a minimum lot area requirement of 12,500 square feet or less; and

(b) short subdivisions in rural areas within zones having a minimum lot size greater than 12,500 square feet but not larger than 5 acres.

~~((7))~~ (3) ~~Roadways ((and surface detention/retention facilities))~~ shall not count toward the calculations for lot size averaging.

(4) ~~((However, e))~~ Surface detention/retention facilities ~~((shall))~~ may count toward calculations for lot size averaging only if the detention/retention facility:

~~((1))~~ (a) is designed to not require security fencing under the EDDS standards; and ~~((2))~~

(b) the facility is either:

~~((a))~~ (i) designed so as to appear as a natural wetland system, or

~~((b))~~ (ii) provides active or passive recreational benefits in a natural landscaped setting.

(5) For subdivisions and short subdivisions within zones having a minimum lot area requirement of 12,500 square feet or less, the following additional criteria apply:

~~((4))~~ ~~((3))~~ (a) Each single lot shall be at least 3,000 square feet in area;

(b) Lots in subdivisions and short subdivisions created under the provisions of this section shall have a maximum lot coverage of 55%;

~~((5))~~ (c) Lots with less than the prescribed minimum lot area for the zone in which they are located shall have a minimum lot width of at least 40 feet, and right-of-way setbacks of 15 feet except that garages must be setback 18 feet from the right-of-way (with the exception of alleys) and corner lots may reduce one right-of-way setback to no less than 10 feet; and

~~((6))~~ (d) Preliminary subdivisions approved utilizing lot size averaging shall not be recorded by divisions unless such divisions individually or together as cumulative, contiguous parcels, satisfy the requirements of this section.

(6) For short subdivisions in rural areas within zones having a minimum lot size greater than 12,500 square feet but not larger than 5 acres, the following additional criteria apply:

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(a) Each single lot shall be at least 12,500 square feet in area or the minimum area necessary to comply with the Snohomish Health District's rules and regulations for onsite sewage disposal and potable water supply, whichever is greater;

(b) Lots in short subdivisions created under the provisions of this section shall have a maximum lot coverage of 35%; and

(c) Lots with less than the prescribed minimum lot area for the zone in which they are located shall have a minimum lot width of at least 75 feet, and right-of-way setbacks of 50 feet except corner lots may reduce one right-of-way setback to no less than 20 feet.

Section 10. Snohomish County Code Section 30.25.040, last amended by Amended Ordinance 04-003 on March 31, 2004, is amended to read:

30.25.040 Landscaping modifications.

(1) An applicant may request modification of landscaping requirements as part of project review.

(2) The decision maker (either the department or the hearing examiner) may approve a request for modification when:

(a) The proposed landscaping represents an equal or better result than would be achieved by strictly following the requirements of the code; or

(b) The proposed landscaping fulfills its intended purpose as described in this chapter, or when applicable, chapter 30.42B SCC..

(3) The decision on a request for general modification may be appealed as follows:

(a) As part of the project if the project is subject to administrative appeal; or

(b) As a Type I decision pursuant to chapter 30.71 SCC if the project is not subject to administrative appeal.

(4) Notice of the request and of the department decision or recommendation on a landscaping modification shall be provided:

(a) Pursuant to SCC 30.70.050 and 30.72.030 if the project is a Type 2 application; or

(b) Pursuant to SCC 30.70.050 and 30.71.040, if the project is a Type 1 application or is a project not subject to administrative appeal.

(5) In considering requests for modification of perimeter landscaping requirements, the following strategies shall be favored:

(a) Preservation of existing vegetation, particularly healthy trees standing 50 feet or more in height or other groupings of natural vegetation in consolidated locations;

(b) Better accommodation of existing physical conditions on site, including incorporation of elements to provide for wind protection or improve solar access;

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- (c) Incorporation of elements to protect or improve upon water quality;
 - (d) Increased landscaping width adjacent to residential uses or zones or in other strategic locations; ~~((and))~~
 - (e) Provision of a unique focal point of interest or better useable open space~~((:))~~; and
 - (f) Preservation of wetlands and fish and wildlife habitat conservation areas and their buffers.
- (6) A modification is not required to provide more than the minimum width, density, or quality of landscaping.

Section 11. Snohomish County Code Section 30.26.020, added by Amended Ordinance 02-064 on December 9, 2002, is amended to read:

30.26.020 Location of parking spaces.

Off-street parking spaces shall be located as specified in this section. Where a distance is specified, the distance shall be the walking distance measured from the nearest point of the parking facilities to the nearest point of the building which it serves.

- (1) Parking for single and multifamily dwellings shall be within 300 feet of and on the same lot or building site with the building it serves.
- (2) Parking for uses not specified above shall not be over 300 feet from the building it serves. Parking spaces for uses on land subject to a binding site plan (BSP) with record of survey shall be located on land within the BSP area per recorded covenants, conditions, and restrictions (CCRs) or declaration.
- (3) All off-street parking spaces shall be located on land zoned in a manner which would allow the particular use the parking will serve.
- (4) Parking shall be set back from lakes, streams, wetlands, and other bodies of water as necessary to comply with~~((required by))~~ the shoreline management ~~((code))~~ and/or critical areas regulations. See chapters 30.44 and 30.62A SCC.

Section 12. Snohomish County Code Section 30.27.010, added by Amended Ordinance 02-064 on December 9, 2002, is amended to read:

30.27.010 Signs: general requirements.

The following regulations shall pertain to signs in all zones where signs are allowed unless modified by more specific regulations within this chapter:

- (1) Signs not exceeding 15 square feet in area for each building site may be displayed for the purpose of advertising the sale or lease of the real property upon which displayed;

(2) For signs or displays that involve moving parts or flashing or blinking lights simulating traffic signals, three copies of drawings or sketches showing the proposed size, lettering, and location on the ground shall be filed with the department for the approval of the state highway department and/or the director of the department of public works;

(3) No sign or advertising display is permitted that obstructs in any way the vision of motorists entering or leaving public or private rights-of-way;

(4) At street intersections, signs or advertising displays shall be so located that they permit an unobstructed sight distance of at least 300 feet along the intersecting rights-of-way. Supports for signs or advertising displays do not constitute an obstruction;

(5) Signs shall observe the height regulations of the zone in which they are located;

(6) Artificial lighting shall be hooded or shaded so that direct light of lamps will not result in glare when viewed from the surrounding property or rights-of-way; ((and))

(7) All signs must be a distance of 100 feet or more from all road crossings of railroad rights-of-way. They must be placed in a manner that they do not block the view of the crossing by operating personnel aboard the trains or by motorists approaching the crossing from either direction((-)); and

(8) No sign or advertising display is permitted in a critical area or required buffers designated pursuant to chapter 30.62A SCC except as provided in 30.62A.160(5).

Section 13. Snohomish County Code Section 30.31F.020, last amended by Ordinance 04-070 on July 28, 2004, is amended to read:

30.31F.020 Minimum zoning criteria.

(1) The RI and RFS zones shall be applied only to properties that contain the appropriate land use designation as depicted on the Future Land Use Map (FLUM) of the General Policy Plan (GPP).

(2) The RB zone is a zoning classification which will be located within a rural residential land use designation. The RB zone, including expansions to the RB zone classification, shall be applied only to properties that meet all the following locational criteria, except as provided in SCC 30.31F.020(3) and (4):

(a) A minimum of 600 residential dwelling units shall be located within a two and one-half mile radius of the proposed site;

(b) The proposed site is located along a county road or state highway with at least 100 feet of street frontage or at an intersection of two public roads;

(c) The proposed new site shall be located no closer than two and one-half miles from an existing RB, RFS, or commercial designation in the rural area;

(d) The total area zoned RB at any given location shall not include more than five acres designated as net usable area. In calculating net usable area pursuant to this chapter, net usable area shall be the total site area less critical areas and their required buffers pursuant to chapters 30.62, 30.62A and 30.62B SCC, public rights-of-way, private roads, detention/retention areas, and biofiltration swales;

(e) The proposed site shall be located outside of an urban growth area (UGA) boundary;

(f) The proposed site shall contain a rural residential designation on the GPP FLUM, and not be designated forest lands or farmlands by the FLUM;

(g) The size and configuration of the proposed site must be capable of accommodating applicable setbacks, buffers, and critical area protection pursuant to chapters 30.62, 30.62A, 30.62B and 30.62C SCC;

(h) Site information required pursuant to SCC 30.31F.200(2) shall have been submitted by the applicant. The information shall clearly demonstrate that an adequate building and development area is located on the site outside of identified critical areas and their buffers pursuant to chapters 30.62, 30.62A and 30.62B SCC;

(3) Any proposed site that expands an existing RB zone shall meet the requirements of SCC 30.31F.020(2)(d) through (h) and both of the following locational criteria:

(a) The expansion area shall have a common property boundary with the existing RB zone. A common property boundary may consist of properties separated by a public right-of-way where the centerline of the right-of-way is used as their extended front property boundary; and

(b) The majority of rural residential lots within a one-quarter mile radius of the proposed expansion area are not greater than one acre in size or the majority of rural residential lots that have a common property boundary with the proposed expansion area not greater than one acre in size.

(4) For properties that contain a commercial use permitted or otherwise allowed in the RB zone that existed on or before the effective date of this section, a rezone to RB may be approved only for that portion of the site containing the existing use and may not expand beyond the location of the existing commercial use unless the locational criteria of SCC 30.31F.020(2) are met with respect to the expansion area. The locational criteria contained in SCC 30.31F.020(2) and the maximum building footprint requirements of SCC 30.31F.110 and 30.31F.120 need not be met for that portion of the site containing the existing use.

(5) Any applicant proposing a rezone to the RFS zone must

(a) Demonstrate that the proposed site is abutting a frontage or access road of a limited access highway and is under a single ownership or unified control; and

(b) Submit a freeway interchange evaluation in accordance with the provisions of SCC 30.31B.200(3).

(6) The CRC zone shall only be applied to those properties that contain a Clearview Rural Commercial designation on the comprehensive plan future land use map.

Section 14. Snohomish County Code Section 30.31F.200, added by Amended Ordinance 02-064 on December 9, 2002, is amended to read:

30.31F.200 Procedural requirements.

(1) An official site plan shall not be required at the time of rezone application for the RB and RI zones. The performance standards of SCC 30.31F.100, 30.31F.110, and 30.31F.130, and other applicable provisions of this chapter shall be applied to a site development plan otherwise required at the time of initial development in the RB and RI zones.

(2) For the RB zone, information shall be submitted at the time of application for the RB rezone in a form acceptable to the director of the department, and in compliance with SCC 30.70.030, that identifies the approximate location and amount of net usable area designated on the site. The submittal shall also include the approximate location and type of critical areas and their probable required buffers pursuant to chapters 30.62, 30.62A and 30.62B SCC, detention/retention areas, biofiltration swales, public rights-of-way, and private roads. This information is to be used at the time of zoning approval to determine whether an adequate development and building area exists on the site, and whether the five-acre net usable area limitation of SCC 30.31F.020(2)(d) has been met.

(3) An official site plan shall be required at the time of rezone application for the RFS zone. The plan shall be reviewed and approved in accordance with the provisions governing official site plan approval for the Freeway Service (FS) zone as provided in SCC 30.31B.200. The performance standards of SCC 30.31F.100 and 30.31F.120, and other provisions of this title applicable to the RFS zone shall be applied at the time of official site plan review and approval. Modifications of a RFS official site plan are permitted in accordance with the provisions of 30.31B.300.

(4) An official site plan shall not be required at the time of rezone application for development in the CRC zone. The performance standards of SCC 30.31F.100 and 30.31F.140, and other applicable provisions of this title, shall be approved to the site development plan required at the time of building or grading permit application submittal.

Section 15. Snohomish County Code Section 30.34B.050, added by Amended Ordinance 02-064 on December 9, 2002, is amended to read:

30.34B.050 Minimum performance standards for participation.

(1) An applicant shall demonstrate that the following standards will be met:

(a) The development will not create new effective impervious surface, unless the applicant can demonstrate that infiltration is infeasible. In all cases the proposed development must result in a significant reduction in the amount of impervious surface that would typically result from a traditional development of the type proposed. Any necessary impervious surface will be placed in discontinuous increments such that runoff travel distance to a forested buffer is minimized and in no case exceeds 50 feet;

(b) The development will retain natural vegetative cover to the maximum extent possible. Any landscaped areas will be minimized and mitigated on the downslope side by a forested area at least 50 feet in width. Forested area must comprise at least 60 percent of the project site. Forested areas must be maintained in perpetuity on the site through designation as a ~~((native-growth))~~ resource protection area easement on the site plan and recorded on the title of the subject property pursuant to SCC 30.32A.020(2);

(c) As an alternative to the minimum performance standards cited above, the development may, subject to the approval by the department, utilize a combination of open space, landscaping, permeable soils, trees and other vegetative ground cover, and similar elements which achieve the goal of 100 percent infiltration of drainage on site, i.e., zero drainage discharge from the site;

(d) The site is characterized by predominance of a soil type which is capable of allowing infiltration;

(e) The proposed development will be located in one of the following zones: MR, LDMR, NB, PCB, CB, GC, R-7200, R-8,400, R-9,600, WFB, R-5, or RC;

(f) The county will assist each applicant to create a means of data collection, measurement, and recording that conforms with the county's requirements for creating an accurate, reliable database that will serve as a basis for future policy analysis; and

(g) An ongoing monitoring program acceptable to the county will be prepared and submitted by the project applicant and will be used by the county to determine whether the goals of this chapter are met by the constructed development.

(2) In the event of a conflict between the requirements of SCC 30.34B.050(1) of this section and any other applicable section of this code, the requirements of SCC 30.34B.050(1) will control, unless the director or the director of the department of public works, whichever retains administrative authority over the section of the code in question, determines that imposition of the requirement would be detrimental to the public health, safety, or welfare.

Section 16. Snohomish County Code Section 30.34B.070, added by Amended Ordinance 02-064 on December 9, 2002, is amended to read:

30.34B.070 Deviations from Snohomish County Code.

(1) To accomplish the purposes of the reduced drainage discharge program, an applicant may request deviations from the following provisions of the county code:

- (a) Chapter 30.23 SCC, General development standards - bulk regulations;
- (b) Chapter 30.42B SCC, Planned residential developments;
- (c) Chapter 30.51 SCC, Construction code;
- (d) Chapter 30.63A SCC, Drainage; and/or
- (e) Chapter 30.41C SCC, Rural Cluster Subdivision.

(2) Deviations from the county code listed in SCC 30.34B.070(1) or 30.34B.080 will be made based upon the following criteria:

- (a) The change is consistent with and furthers the purposes of this chapter;
- (b) The change does not result in significant adverse environmental impacts;
- (c) The change furthers compliance with the county's NPDES permit responsibilities and deviates from particular provisions of chapters 30.51 or 30.63A SCC of the county code only for the purpose of demonstrating higher levels of compliance than is achieved by applying those chapters' standards for off-site drainage for water quantity and quality purposes;
- (d) The change complies with the substantive environmental requirements of chapter 30.61 SCC;
- (e) The change does not threaten public health, safety, or welfare;
- (f) The change is consistent with generally accepted engineering and design criteria, except as provided in this chapter;
- (g) The change promotes one or more of the following: innovative site or housing design furthering the purposes of the program, increased on-site stormwater retention using a variety of vegetation and landscape conditions, retention or redevelopment of original natural habitat conditions over a significant portion of the site, improved on-site water quality beyond that required by current applicable regulations, retention or re-creation of pre-development and/or natural hydrologic conditions, and retention or re-creation of forested watershed conditions;
- (h) The change does not allow unit yield greater or lesser than what would otherwise be allowed under existing county regulations; and
- (i) The change complies with the critical areas regulations in chapters 30.62A, 30.62B and 30.62C SCC.

(3) As a part of an application for deviations from the county code or the EDDS, the applicant must quantify reductions in runoff and improvements to water quality and demonstrate which deviation, whether it results in a change to

public infrastructure or to private development or building design, causes the reduction in runoff or improvement to water quality.

Section 17. Snohomish County Code Section 30.41A.250, added by Amended Ordinance 02-064 on December 9, 2002, is amended to read:

30.41A.250 Density for sloping land.

All subdivisions shall comply with applicable requirements of SCC 30.28.050 regarding development on steep slopes. For other regulations affecting development activity on slopes see also SCC 30.62B.320 and 30.62B.340~~((30.62.200-30.62.250))~~. In addition, the following requirements shall apply to all subdivisions:

(1) Determination of Slope. The applicant shall determine land slope and assess the applicability of this section. This information shall be provided to the department along with the completed application. In determining slope, the applicant shall obtain a topographic survey from a registered professional engineer or land surveyor which defines the slope of the property to a recognized and acceptable mapping standard. In all areas proposed for roads or dwellings, elevations of 90 percent of the area shall be within three feet of the actual ground elevations;

(2) Determination of Potential Maximum Dwelling Unit Density. The applicant shall determine maximum unit yield for the specified zones from Table 30.41A.250(2), except that this requirement shall not apply to a planned residential development combined with a preliminary subdivision; and

(3) The department may require engineering or other technical justification for development in sloped areas where it determines that the public health, safety, welfare, or environment may be jeopardized by the proposed development.

Section 18. Snohomish County Code Section 30.41C.010, added by Amended Ordinance 02-064 on December 9, 2002, is amended to read:

30.41C.010 Purpose.

The purpose of this chapter is to provide an alternative method for developing rural residential property which provides incentives to landowners and developers to cluster lots on the most buildable and least environmentally sensitive portions of sites while retaining a substantial portion of each site, including most resource lands and environmentally sensitive areas, in restricted open space tracts. Specifically, this chapter is designed:

(1) To produce a development pattern in rural areas that is consistent with rural character and to produce a rural development pattern which will be better than traditional lot-by-lot development on either consolidated lots or unsubdivided

property in that it allows for variety in design, placement of buildings, use of open space, more efficient use of the most buildable portion of sites, and retention of the environmentally sensitive and scenic portions of sites as permanent open space;

(2) To permit flexibility that will encourage a more creative approach in the development of land in rural areas and will result in a more efficient, aesthetic, and environmentally sound use of land, while harmonizing with adjoining development and preserving the county's attractive rural character;

(3) To encourage the development of cluster housing which provides greater compatibility with surrounding development and land uses in rural areas by providing larger buffer areas;

(4) To encourage the retention of more permanently undisturbed open space with its natural vegetative cover which protects continued groundwater recharge and reduces potential water pollution, flooding, erosion and other drainage-related problems often associated with rural development;

(5) To minimize adverse impacts on the county's productive agricultural, forestry, mineral and other important resource lands;

(6) To minimize adverse impacts on the county's environmentally sensitive ~~((streams, shorelines,))~~ areas such as wetlands, fish and wildlife habitat conservation areas ((and corridors)), areas of unique vegetation or wildlife species, steep slopes, geologically hazardous areas, and other critical areas;

(7) To minimize the risk of danger to human life and property by restricting rural development on geologically unstable lands and in flood prone areas;

(8) To minimize the cost of installing essential public and private capital facilities necessary for a rural infrastructure;

(9) To support the provision of more affordable housing in rural areas;

(10) To provide reasonable opportunity for rural property owners to derive economic use of land characterized by features which substantially limit its development potential;

(11) To protect rural natural features and landscape by minimizing tree, vegetation, and soil removal; and

(12) To provide a subdivision or short subdivision alternative for use in the rural/urban transition areas that will maintain and enhance rural character while preserving large tracts for future development upon inclusion into a UGA.

Section 19. Snohomish County Code Section 30.41C.040, added by Amended Ordinance 02-064 on December 9, 2002, is amended to read:

30.41C.040 Additional submittal requirements.

In addition to the basic submittal requirements for a subdivision or short subdivision (see submittal checklists provided by the department), each application for preliminary approval of a rural cluster subdivision or short

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subdivision shall include, at a minimum, the following information:

- (1) The approximate location, general dimensions, and approximate building footprints for all existing and proposed structures or other improvements;
- (2) The approximate location of all existing and proposed pedestrian walks, landscaped areas and areas to permanently remain in a natural condition. The location of existing and proposed on-site water sources and generalized designation of sewage disposal drainfields and reserve areas;
- (3) The location and width of proposed roadways, driveway areas for turning and maneuvering of vehicles and the relationship of circulation to adjacent properties;
- (4) The location, either on the property or adjacent thereto, of lands designated as natural resource lands and the approximate size (in square feet or acres) of any area on the property that is a designated natural resource lands;
- (5) A general description of any major physiographic or other natural features and critical areas, including ((such as drainage ways,)) wetlands, fish and wildlife habitat((s)) conservation areas, geologically hazardous areas,((steep slopes,)) and shorelines;
- (6) The approximate number of square feet (or acreage) proposed to be included in paved or other impervious surfaces, restricted open space tracts and recreation areas, and the total area of the site;
- (7) A description of, and proposed schedule for, any proposed phasing of the project;
- (8) A general landscape, clearing and buffering plan, drawn to scale and showing: community areas, pathways or other recreation areas, significant landscape features and vegetation on the site, natural vegetation and mature trees to be retained, and the location and conceptual design of landscaped areas and buffers. Detailed site analysis and design information shall not be required for those portions of the site proposed for retention in restricted open space tracts which do not contain proposed recreation facilities; and
- (9) A vicinity sketch to identify the effect of proposed development on surrounding properties and uses.

Section 20. Snohomish County Code Section 30.41C.200, added by Amended Ordinance 05-083 on December 21, 2005, is amended to read:

30.41C.200 Design standards - general.

In addition to all other requirements of state law and county code for approval of a subdivision or short subdivision, a rural cluster subdivision or short subdivision shall meet all the following design standards:

- (1) When environmentally sensitive areas such as ~~((streams, shorelines,))~~ wetlands, fish and wildlife habitat conservation areas ~~((and corridors))~~, areas of unique vegetation or wildlife species, steep slopes, and other critical areas are

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present, and when such areas are identified and protected pursuant to chapters 30.62A and 30.62B SCC and/or other applicable county ordinances or policies, the areas shall be designated as critical area (~~((native-growth))~~) protection areas;

(2) The transition from any proposed residences within the rural cluster subdivision or short subdivision to uses on adjoining property or adjoining public roadways classified as an arterial (any type) or a non-arterial collector, according to the Snohomish County Arterial Plan and the EDDS, shall be provided with a sight obscuring buffer of native vegetation, or where no native vegetation exists, landscape screening comprised of fast growing, low maintenance, native trees and shrubs in accordance with the requirements of SCC Table 30.41C.210(1). Existing wind resistant vegetation providing such a screen shall be preserved. Between proposed residences and any adjoining natural resource lands, a setback shall be established consistent with the setback shown in SCC Table 30.41C.210(1);

(3) All roads, whether public or private, shall be provided in accordance with the EDDS. Access to the boundary of a rural cluster subdivision by a private road may be permitted as specified in notes (1) and (8) of SCC Table 30.41A.210. Location of public or private roads and access points to the existing public roadway system shall be carefully controlled, with no more than two access points allowed per cluster unless specifically requested by the county engineer;

(4) Electric, telephone, and other utility lines shall be designed, located, and screened so as to minimize their visibility from adjacent properties and the site or shall be located underground;

(5) All unbuildable lands shall be designated as native growth protection areas unless designated as natural resource lands within restricted open space;

(6) When agricultural, forestry, or mineral uses are proposed for the open space area(s), adequate buffers to minimize conflicts between resource and residential uses shall be provided;

(7) When agricultural or forestry uses are proposed within an open space tract within a rural cluster subdivision or short subdivision, a disclosure statement, as described in SCC 30.41C.200(8), shall be placed on the final plat or final short plat in a location determined by the department. The disclosure statement shall apply to the real property that is subject to the final subdivision or final short subdivision as of the date of approval and may not be applicable thereafter if the agricultural, forestry, or mineral uses are discontinued.

(8) The following disclosure statements shall constitute the disclosure required by this section for notice of resource uses within required or optional open space:

(a) Notice for agricultural or forestry uses within required or optional open space:

Lots within a rural cluster subdivision or short subdivision, and adjacent to or within 1,300 feet of agricultural or forestry uses located in a designated open space tract may be subject to inconvenience or discomforts arising from agricultural or forestry activities, including but not limited to noise, odors, fumes,

dust, smoke, the operation of machinery of any kind, timber harvest, brush control, the storage and disposal of manure, the application by spraying or otherwise of chemical or organic fertilizers, soil amendments, herbicides and pesticides, hours of operation, and other agricultural or forestry activities.

(b) Notice for mineral uses within required open space:

Lots within a rural cluster subdivision or short subdivision, and adjacent to or within 2,000 feet of mineral uses located in a designated open space tract may be subject to inconvenience or discomforts arising from mineral operations, including but not limited to noise, vibration, odors, fumes, dust smoke, the operation of machinery of any kind, heavy truck traffic, hours of operation, and other mineral related activities.

(9) Where practicable, open space tracts within a rural cluster subdivision or short subdivision shall be located contiguous to designated open space tracts on adjacent properties;

(10) A management plan which details the required maintenance and management tasks and responsibilities may be required by the department for all restricted open space and other open space areas which require continuing maintenance or management;

(11) Each rural cluster subdivision or short subdivision shall be divided into physically separated clusters with a maximum of 30 residential lots per cluster. The minimum physical separation shall consist of a buffer of wind resistant native vegetation with an average width of 75 feet and a minimum width of 50 feet (see SCC Table 30.41C.210(1));

(12) At least 75 percent of the residential lots within a rural cluster subdivision or short subdivision shall abut a required buffer or open space tract;

(13) The rural cluster subdivision or short subdivision shall be designed, to the greatest extent possible, to configure the residential lots in accordance with the natural features of the site and minimize topographic alteration, to maintain rural character, and to maximize the visibility of the open space tracts from adjoining collector roads, arterials, or state and federal highways;

(14) Rural cluster subdivisions or short subdivisions shall not be served by public sanitary sewers unless the Snohomish Health District requires the development to connect to a public sewer system to protect public health;

(15) Each cluster of lots within the subdivision or short subdivision shall be located near the interior of the site, if feasible, and also located where the cluster and/or the building sites are within existing forested areas of the site; except individual clusters shall be sited as far as possible from adjacent natural resource lands as permitted in chapters 30.32A - 30.32C SCC. Individual clusters shall not be located on ridgelines and other prominent topographic features visible to adjacent and vicinity properties when other locations are available;

(16) Rural cluster subdivisions or short subdivisions shall be located in a rural fire district; and

(17) Rural cluster subdivisions or short subdivisions shall meet applicable rural concurrency standards.

Section 21. Snohomish County Code Section 30.41D.100, added by Amended Ordinance 02-064 on December 9, 2002, is amended to read:

30.41D.100 Decision criteria.

In order to approve a binding site plan, the department must find that the newly created lots function and operate as one site, and that the binding site plan and record of survey comply and are consistent with the following provisions as well as any other applicable regulations as determined by the department:

- (1) The requirements of this chapter;
- (2) Requirements for noise control - see chapter 10.01 SCC;
- (3) Requirements for public or private roads, right-of-way establishment and permits, access, and other applicable road and traffic requirements;
- (4) Compliance with fire lane, emergency access, fire-rated construction, hydrants and fire flow, and other requirements of chapter 30.53A SCC;
- (5) Compliance with applicable construction code requirements, subtitle 30.5 SCC;
- (6) Compliance with applicable use and development standard requirements of Subtitle 30.2 SCC;
- (7) Compliance with applicable shoreline management code requirements of chapter 30.44 SCC and/or flood hazard area requirements of chapter 30.65 SCC;
- (8) Compliance with environmental policies and procedures, critical areas regulations, (~~(groundwater protection regulations,)~~) and resource lands requirements of chapters 30.61, 30.62A, 30.62B, 30.62C, 30.65(~~-30.64~~), and 30.32A - 30.32C SCC;
- (9) Compliance with applicable drainage requirements of chapter 30.63A SCC;
- (10) Compliance with applicable impact fee requirements of chapters 30.66A - 30.66C SCC;
- (11) Applicable sewerage regulations, chapter 30.29 SCC, and provisions for adequate water supply and refuse disposal; and
- (12) Any other applicable provision of this title.

Section 22. Snohomish County Code Section 30.42B.040, last amended by Amended Ordinance 04-003 on March 31, 2004, is amended to read:

30.42B.040 Unit yield and bonus.

(1) For all PRDs, except retirement apartment and retirement housing PRDs, the maximum number of dwelling units permissible shall be 120 percent of the maximum number of units permitted by the underlying zone as determined in

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SCC 30.42B.040(2), unless adjusted per the provisions of SCC 30.42B.040(3).

(2) The maximum number of dwelling units permitted in a PRD shall be computed as follows:

(a) Determine the net development area on the project site. Net development area is the gross site area (in square feet) less critical areas and their buffers subject to chapters 30.62A and 30.62B SCC (~~(, lakes, and ponds)~~).

(b) Divide the net development area by the minimum lot area permitted by the underlying zone, or where LDMR and MR standards apply, by 4,000 square feet and 2,000 square feet respectively. For retirement apartment PRDs and retirement housing PRDs in the LDMR zone divide by 4,000 square feet and in the MR zone and commercial zones divide by 2,000 square feet.

(c) Divide the area comprised of critical areas and their buffers subject to chapters 30.62A and 30.62B SCC by the minimum lot area of the underlying zone used for the calculation in SCC 30.42B.040(2)(b).

(d) Add the numerical unit yield results of subsections SCC 30.42B.040(2)(b) and (2)(c) and multiply the resulting number of units by 2.2 for retirement housing PRDs, 1.54 for retirement apartment PRDs, and 1.2 for all other PRDs.

(3) In the R-7,200, R-8,400, and R-9,600 zones, the maximum number of dwelling units allowed pursuant to SCC 30.42B.040(2) shall be reduced so that the maximum net density (number of dwelling units per acre in the net development area) does not exceed nine dwelling units per net acre. Except that, a maximum net density of 12 dwelling units per net acre is allowed when the PRD is accepted in the reduced drainage discharge housing demonstration program of chapter 30.34B SCC. Whenever the calculated number of dwelling units results in a fractional equivalent of 0.5 or more, the fraction shall be rounded up to the next whole number, fractions of less than 0.5 shall be rounded down.

Section 23. Snohomish County Code Section 30.42B.115, last amended by Amended Ordinance 04-003 on March 31, 2004, is amended to read:

30.42B.115 Design criteria - open space.

(1) Total open space shall be provided in every PRD consistent with the following standards:

(a) Within a PRD, a minimum of 20 percent of the gross site area shall be established as total open space;

(b) Total open space shall be used for:

(i) usable open space;

(ii) critical areas and their required buffers subject to chapters 30.62A and 30.62B SCC;

(iii) site perimeter landscaping and other required landscaped areas outside of right-of-ways;

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- (iv) landscaped, unfenced stormwater detention/retention ponds; and
- (v) all other open space areas owned in common by all residents or owners in the PRD, but not including items listed in SCC 30.42B.115(1)(c);
- (c) total open space shall not include any of the following:
 - (i) lots, dwellings, and associated private yards, outdoor storage areas, and building setback areas;
 - (ii) public or private street right-of-way including sidewalks and planter strips;
 - (iii) parking lots, driveways and other areas of motorized vehicle access;
 - (iv) stormwater detention or retention ponds which are fenced; or
 - (v) submerged lands when not defined as critical areas pursuant to chapters 30.62A, 30.62B, or 30.62C SCC.
- (d) Where possible, open space tracts shall be located adjacent to permanently designated open space areas on adjacent properties;
- (e) Total open space shall be permanently established in clearly designated, separate tracts. Tracts shall be owned by:
 - (i) the landowner, when no individual building lots are created and the property is held under single ownership;
 - (ii) all lot owners and condominium owners jointly, with an equal and undivided interest; or
 - (iii) a homeowners association, when consistent with SCC 30.42B.210(6);
- (f) Total open space shall be protected in perpetuity by a recorded covenant, in a form approved by the director. The recorded covenant must restrict uses of the total open space to those specified in the approved PRD site plan and must provide for the maintenance of the total open space in a manner which assures its continuing use for the intended purpose; and
- (g) The applicant shall propose a method for separating private use areas from adjacent open space tracts within the PRD that is acceptable to the department. The type of permanent marking of the open space tracts proposed shall provide a clear and distinctive separation of properties at the open space boundary.
- (2) Usable open space shall be provided as a component of total open space and shall be consistent with the following standards:
 - (a) Usable open space shall be developed for active and/or passive recreation purposes that serve the needs of the PRD residents. Usable open space shall consist of buildable land areas that do not contain:
 - (i) critical areas and their buffers subject to chapters 30.62A and 30.62B SCC; and
 - (ii) utility easements that exist on the project site at the time of application submittal;

(b) The following are examples of active and passive recreation activities that may be allowed in usable open space:

- (i) open play areas;
- (ii) pedestrian or bicycle paths;
- (iii) picnic areas with tables and benches;
- (iv) gazebos, benches and other resident gathering areas;
- (v) community gardens;
- (vi) any active recreation use listed in subsection 3 below;
- (vii) nature interpretive areas;
- (viii) flower gardens when in conjunction with pedestrian paths, and
- (ix) unfenced detention ponds consistent with the provisions of SCC

30.42B.125(2)(b)(ii);

(c) The total site requirement for usable open space shall be no less than 600 square feet per dwelling unit*: except that usable open space for retirement apartments and retirement housing on sites of any size shall be 200 square feet per dwelling unit;

(d) 40 percent of the required usable open space shall be located in a single open space tract or permanent easement. Alternatively, the applicant shall be permitted to satisfy this requirement when no more than three open space tracts are created that provide a comparable open space use to that otherwise required. Power line, utility rights-of-way and other similar easement may be incorporated into useable open space and counted towards the open space requirements of this section, provided they are developed with active recreational improvements. Remaining usable open space shall be adequate in design and size for the intended passive and/or active recreation. No usable open space shall have any dimension less than 20 feet (except for segments containing trails, which shall not be less than 10 feet in width), unless the applicant can demonstrate and the director of the department can concur, that a lesser dimension will not inhibit the use of the open space for its designated purpose;

(e) Usable open space shall be accessed by all-weather pedestrian pathways and/or sidewalks from all lots and dwellings within the PRD;

(f) Usable open space designed for children shall not be located adjacent to any street designated as a collector/arterial unless properly designed with fencing, located away from street edges and other provisions to ensure adequate child safety. Usable open space designed for children shall be open, accessible, and visible from adjacent dwellings in order to enhance security;

(g) Usable open space shall have the appropriate location, slope, soils, and drainage to be considered for recreational development;

(h) Usable open space shall not contain above ground utility transmission lines and associated easement or right of way;

(i) Usable open space shall be landscaped pursuant to the provisions of SCC 30.42B.125(1), and in accordance with the required landscape plan in a manner that enhances the design of the open space while not conflicting with the function of the proposed recreation use; and

(j) Any buildings, structures, and improvements to be permitted in the usable open space shall be those appropriate to the proposed uses.

(3) Active recreation uses shall be provided as follows:

(a) A minimum of 30 percent of all usable open space within PRDs with 10 or more lots or dwelling units shall be developed for active recreation uses. The type(s) of active recreation uses provided shall, to the extent possible, correspond to anticipated needs of the potential residents of the PRD;

(b) Active recreation uses shall consist of one or more of the following:

(i) sport court;

(ii) tot lot with play equipment (soft surface);

(iii) open play area or sports field (grass or other pervious surface);

(iv) indoor recreation center for youth, adult and/or seniors containing exercise and game rooms, sport courts and other community activities;

(v) swimming pool;

(vi) similar uses; and

(vii) any other active recreation use approved by the director;

(c) The active recreation requirement may be reduced by up to 30 percent, subject to approval by the director, for projects of 20 or fewer dwelling units, if pedestrian access is constructed to an adjacent off-site public recreation area that contains an active recreation use that meets the needs of residents within the PRD and is approved by the off-site recreation provider;

(d) The active recreation facility shall be located on a reasonably level site with slopes no greater than six percent unless the applicant can demonstrate that the recreation facility can function adequately on greater slopes; and

(e) Tot lot areas shall meet all safety recommendations and construction specifications of the manufacturer of the equipment used.

Section 24. Snohomish County Code Section 30.42B.125, amended by Amended Ordinance 04-003 on March 31, 2004, is amended to read:

30.42B.125 Design criteria - landscaping.

All PRD proposals shall provide the following site landscaping in addition to landscaping required in chapter 30.25 SCC:

(1) Usable open space shall be landscaped in a manner appropriate for the proposed recreation uses;

(2) Drainage detention facilities shall meet the following landscaping criteria:

(a) Where fencing of a detention facility is required, Type A landscaping

(densely planted sight-obscuring screen) at least six feet in height, or living fence at least three feet in height which will grow to at least eight feet in height within three years shall be installed in an area with a minimum width of six feet along the outside edge of the fence. Where fenced facilities abut public rights-of-way, setbacks and height restrictions per SCC 30.23.100(3) shall apply. The director shall provide a listing of acceptable plant species to be used for a "living fence";

(b) Where fencing is not required and the detention pond is not completely screened as described in (a) above, surface detention facilities shall be landscaped in one or more of the methods provided in (i) through (iii) of this subsection. When landscaping is provided pursuant to this subsection, the detention ponds shall count toward the total open space requirements of SCC 30.42B.115(1);

(i) if the detention facilities are located adjacent to or near a natural, year-round stream or wetland, these systems shall be landscaped to replicate natural or near-natural conditions.

(ii) if the open detention pond is sized and designed to be dry on the average of at least six months a year, it may be planted in grass or paved to provide useable open space. No more than 50 percent of the area of such a pond may be counted toward the usable open space requirements of SCC 30.42B.115 if the pond is an open detention pond. Such ponds may be used to satisfy up to 30 percent of the required usable open space. In such cases, finished contours and access must allow the intended use and function.

(iii) the detention pond may feature terraces or steps to provide a safe pond edge and accommodate changes in water levels. In this case, landscaping must complement the terraced edge condition.

(iv) ponds may incorporate two or more of the methods from (i), (ii), and (iii) above. Trails or walkways may be incorporated into the landscaping. Project applicants may submit other methods for the department's consideration; and

(c) All detention areas shall be landscaped in a manner which is both aesthetic and able to successfully endure the expected inundation. All proposed landscaping screens around detention ponds are subject to department approval; and

(3) Site perimeter landscaping shall be established as a tract or easement along any property boundary of a PRD where adjacent property is currently used for single family residential purposes, or is zoned or designated for single family residential use:

(a) Except for any portion developed as usable open space pursuant to SCC 30.42B.115 or as permanently protected as Native Growth Protection Area (NGPA), resource protection area, critical area protection area, or equivalent, the perimeter landscaping shall consist of a vegetative screen located along the perimeter of the PRD site with a minimum planting bed width of no less than 15 feet when adjacent property is not developed as a PRD, except as follows:

- i. Where proposed perimeter lots have rear yards abutting road frontage, a 10 foot type B landscape buffer shall be provided, except in areas for required driveways, project roads, storm drainage facility maintenance roads, pedestrian trail connections, or where encumbered by utility crossings or other easements subject to permanent access and maintenance (if the buffer separates the abutting road from a home within the lot, the buffer may be contained within a minimum 10 foot wide easement within the lot); or
- ii. Where the perimeter of a PRD abuts a utility easement greater than 15 feet in width, no perimeter landscaping will be required; or
- iii. When the front or side yards of the perimeter lots of a PRD abut a road frontage, no site perimeter landscaping will be required other than street landscaping pursuant to SCC 30.42B.125(4); or
- iv. When the perimeter of the PRD abuts a non-residential zone, no site perimeter landscaping will be required; or
- v. When the perimeter of the PRD abuts a property that currently contains adjacent buffer areas, including formally designated NGPAs, open space, landscaping buffers, mapped critical areas, or where adjacent abutting rear yards are 40 feet or greater in depth, no site perimeter landscaping will be required; or
- vi. When the perimeter of the PRD abuts another property zoned PRD, no site perimeter landscaping will be required; or
- vii. Where the proposed perimeter lots have a minimum area of 6000 square feet or are at least 100 feet in depth, no site perimeter landscaping will be required; or
- viii. Where all of the rear yards along the entire length of the abutting perimeter PRD boundary are at least 1200 square feet in area and at least 30 feet in average depth, no site perimeter landscaping shall be required; or
- ix. Where the proposed access connection to the existing street system along the perimeter of a PRD is required to meet minimum stopping and/or entering sight distance requirements, the required site perimeter landscaping may be reduced or eliminated as necessary to achieve compliance; or
- x. In proposed mixed use PRDs no perimeter buffering, landscaping or other visual barriers will be required between the phases or divisions within that mixed use project.
- xi. The director may waive all or part of the required perimeter buffer where an applicant can demonstrate that a six foot high solid fence will provide equal or greater perimeter screening.

(b) The landscape area shall consist of clusters or solid rows of plant materials and comply with the following:

- i. One tree for every 25 feet of linear feet of buffer. Trees may be grouped in clusters, but at no time shall they be spaced greater than 50 feet apart. Trees must be 66% evergreen species with conifers at least 6 feet in height at the time of planting and deciduous trees at least 1 and 3/4 inch caliper at the time of planting. Shrubs shall be placed 6 feet on center and shall consist of 66%

evergreen species with a minimum spread of 21 inches at planting. Ground cover can consist of lawn, but for groundcover that consists of plantings, the plantings shall be placed no more than 24 inches on center for 4 inch pots and 30 inches on center for 1 gallon pots. The director shall provide a list of unacceptable tree species;

ii. In PRDs where parking for multiple family structures is located adjacent to the perimeter landscape area, a solid fence at sufficient height to block headlight glare on adjoining property shall be installed along the perimeter property boundary, or a landscaped earthen berm at least four feet high with side slopes not exceeding a slope of two horizontal feet to one vertical foot (2:1) shall be incorporated into the perimeter landscaping, except as provided for in section (a) above;

iii. All planting materials required by this subsection shall be included in the PRD landscape plan and shall be installed prior to occupancy of any dwelling unit in the project located within 100 feet of said perimeter landscaping area; or

iv. The applicant shall be allowed to retain existing vegetation to satisfy the requirements of this section if it provides an equivalent buffer.

(4) Streetscape (ROW and easement) landscaping shall be provided as follows:

(a) All public and private roads within and abutting a PRD shall provide planter strips adjacent to the curb, unless a private road serves four or less lots;

(b) The applicant shall provide landscape treatment along both sides of all roads located within the PRD and along the frontage of the perimeter of the PRD as follows: plant or retain sufficient trees so that an average of one deciduous tree every 30 feet on center with a minimum of two inches DBH at the time of planting and with a canopy that starts at least six feet above finished grade and has or will have when fully mature, a minimum caliper at DBH of eight inches;

(c) The director may allow a lesser DBH than required in SCC 30.42B.125(4)(b) for fully mature trees when it can be demonstrated that an alternative tree species can approximate the same size canopy as an eight inch DBH tree; and

(d) The required spacing for street trees may be adjusted to allow for sight lines, utilities, traffic signs, lighting standards, driveways and other street appurtenances.

(e) The director shall provide a listing of acceptable tree species to be used in the planter strips; and

(5) Installation and maintenance of landscape improvements shall be subject to the following:

(a) All development within an approved PRD shall conform to the approved landscape plan, and associated conditions;

(b) To assure compliance with the provisions of this section, a bond or other guarantee of performance shall be required by the hearing examiner and approved by the director;

(c) The applicant shall provide a maintenance bond for required landscape improvements, in an amount and form satisfactory to the director, prior to occupancy of any unit in the PRD project; and

(d) To ensure permanent, ongoing maintenance of all landscape areas required by this section, landscape maintenance covenants shall be prepared by the applicant and submitted together with documents otherwise required for maintenance of site improvements pursuant to SCC 30.42B.250;

(6) To promote stabilization and continued healthy growth of the landscape areas required by this section, the project qualified landscape designer shall determine the need for irrigation. Upon determining the need for irrigation, an irrigation plan shall be submitted for project application with the required landscape plan;

(7) Off-street parking area landscaping shall be provided per SCC 30.25.022;

(8) Outdoor storage areas consisting of bulk storage, service areas and parking areas for storage of recreation and similar-type vehicles shall be screened from abutting public or private rights-of-way, adjacent structures, and/or abutting property owners by a minimum 10-foot wide, Type A landscaping consisting of evergreen trees and shrubs; and

(9) All landscape plantings shall consist of native species or, if not available or feasible, other species well adapted to the Pacific Northwest. Other species may be used when necessary to meet site-specific, micro-climatic conditions. Drought tolerant species are encouraged. The director shall prepare a list of acceptable species and provide additional guidance for the use of specific species.

(10) The landscape provisions of this section may be modified using the provisions of SCC 30.25.040.

Section 25. Snohomish County Code Section 30.42B.130, amended by Amended Ordinance 04-003 on March 31, 2004, is amended to read:

30.42B.130 Design criteria - tree retention.

(1) The project applicant shall submit a conceptual tree plan that provides trees at a rate of two (2) per lot, provided that the total number of trees is a minimum of 50% conifer trees. Required trees shall be a minimum of 1 3/4 inch caliper or 6 feet high for deciduous, and 6 feet high for conifer. Each significant tree retained shall be considered equivalent to two required trees and shall satisfy the requirements of this section, provided that the minimum 50% conifer requirement shall not apply for retained trees. Required street trees shall count towards the total number of trees required by this section.

(2) The project applicant shall provide a conceptual clearing plan that would designate the general areas where significant trees will be retained. It is not the intent of this section to require retention of all significant trees on a project site,

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but rather to maximize the retention of existing significant trees within perimeter landscaping, open space, ~~((and))~~ native growth protection areas, resource protection areas, and critical area protection areas.

(3) Significant trees shall be retained as follows:

(a) Within perimeter landscaping, open space ~~((or))~~, resource protection areas, and critical area protection areas as long as they do not constitute a current or future safety hazard.

(b) When significant trees are not retained or are damaged during construction, they shall be replaced at a ratio of 2:1 using a minimum of 1 3/4 inch caliper or 6 feet high for deciduous, and 6 feet high for conifer.

(4) To provide protection for significant trees during the construction stage, the applicant shall install a temporary, three foot high, orange clearing limits construction fence in a line generally corresponding to the drip line of any significant tree(s) to be retained. All such fencing shall be installed and inspected by PDS prior to commencement of site work.

(5) If an applicant proposes to disturb ground within the drip line of a significant tree, a certified arborist shall supervise the activity.

(6) All required or replacement trees shall be installed as a condition of the building permit prior to occupancy.

Section 26. Snohomish County Code Section 30.42B.135, added by Amended Ordinance 02-064 on December 9, 2002, is amended to read:

30.42B.135 Design criteria - drainage detention facilities.

(1) All on-site drainage detention structures shall be constructed as surface or underground vault facilities. Such construction shall conform to the provisions of chapter 30.63A SCC, including the Snohomish County drainage manual and the EDDS.

(2) Subject to provisions of chapter 30.63A SCC, PRDs may be incorporated into the service area of established regional drainage facilities. No PRD building permits shall be issued until the regional facility is inspected and in operation.

(3) Underground detention vaults, including oversized pipe facilities, are allowed for satisfying on-site drainage requirements. The site area immediately above a detention vault may be applied toward satisfaction of required total and usable open space per SCC 30.42B.115. Vault facilities may also be located under private roads, and under public road rights-of-way if approved by the director of the department of public works.

(4) The design of detention ponds will focus on both functional requirements and aesthetics. The design will provide a "natural look" with landscaping features that integrate ponds with the surrounding area. Detention pond construction and use shall be subject to the following design parameters and measures in addition to chapter 30.63A SCC regulations:

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(a) Unless fenced and screened, detention pond side slopes shall not exceed 33 percent unless slopes are existing, natural, and covered with vegetation;

(b) Detention pond design shall include accessible forebay(s) for pond maintenance;

(c) Where detention facility fencing is not required, a detention pond may be graded and blended with the topography of the site;

(d) Ponds without fencing are required to have a safety bench or shelf surrounding the permanent pool of the wet pond;

(e) If the detention facilities are located adjacent to or near a ~~((natural, year-round stream,))~~ wetland, or fish and wildlife habitat conservation area or their buffers, these systems shall be left in natural or near-natural conditions; and

(f) Detention areas shall be landscaped in a manner consistent with SCC 30.42B.125(2) and which is both aesthetic and able to successfully endure the expected inundation.

Section 27. Snohomish County Code section 30.62.010 added by Amended Ordinance 02-064 on December 9, 2002, and last amended by Emergency Ordinance 04-024 on March 10, 2004, is amended to read:

30.62.010 Purpose and applicability.

(1) The purpose of this chapter is to designate critical areas by definition and regulate development activities in critical areas to safeguard the public health, safety, and welfare.

(2) Applicability. This chapter has been for the most part superseded by Chapters 30.62A and 30.62B SCC. However, due to the enactment of SSB 5248 (Chapter 353, Laws of 2007), this chapter, which was the law applicable to certain agricultural activities on May 1, 2007, must remain in place for those activities until July 1, 2010 unless otherwise repealed. Accordingly, this chapter applies only to ~~((all development activity))~~ the following:

(a) agricultural activities as defined in SCC 30.62.015(1); and

(b) that requires a permit, approval or authorization from the county or is proposed by a public agency;

~~(3)~~ The objectives of this chapter are as follows:

~~((1))~~ (a) To protect unique, fragile, and important elements of the natural environment;

~~((2))~~ (b) To implement the Growth Management Act by designating, and adopting regulations for critical areas;

~~((3))~~ (c) To inform county residents of the hazards from, and importance of critical areas;

- ~~((4))~~ (d) To increase predictability regarding what can be developed on sites that contain, or are near critical areas;
- ~~((5))~~ (e) To reduce public costs resulting from inappropriate development activities on, or near critical areas;
- ~~((6))~~ (f) To protect the public from natural hazards;
- ~~((7))~~ (g) To minimize the need for emergency rescue services;
- ~~((8))~~ (h) To balance the private rights of individual property owners with the need to protect the public health, safety, and welfare and preserve environmentally sensitive areas;
- ~~((9))~~ (i) To prevent, or reduce the likelihood of damage to property and injury to persons resulting from development activities on or near critical areas;
- ~~((10))~~ (j) To assist property owners in developing their property in a manner which is consistent with its natural constraints; and
- ~~((11))~~ (k) To provide clear procedures for review of applications and to provide the criteria for compliance with both the State Environmental Policy Act (SEPA), chapter 43.21C RCW, and chapter 30.61 SCC.

Section 28. A new section is added to Chapter 30.62 SCC added by Amended Ordinance 02-064 on December 9, 2002, and last amended by Emergency Ordinance 04-024 on March 10, 2004 to read:

30.62.015 Definitions.

The definitions in this section apply to chapter 30.62 SCC only. Where conflicting definitions exist in chapter 30.91 SCC, the definitions in this section shall govern.

(1) "Agricultural activities" means agricultural uses and practices currently existing or legally allowed on rural land or agricultural land designated under RCW 36.70A.170 including, but not limited to: Producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing agricultural facilities, when the replacement facility is no closer to a critical area than the original facility; and maintaining agricultural lands under production or cultivation.[Chapter 353, Section 2, Laws of 2007.]

(2) "**Best management practices**" means management measures that are reasonable and available that mitigate adverse impacts to surface and groundwater, and to the functions and values of critical areas. See also chapter 30.62 SCC.

(3) "**Bog/fen system**" means a wetland which accumulates organic soil, has little or no inflow and is characterized by acidophilic (acid loving/producing) vegetation such as sphagnum moss, Labrador tea and bog laurel.

(4) "**Buffer**" means an area adjacent to a critical area consisting of naturally occurring or re-established vegetation and having a width adequate to protect the critical area.

(5) "**Critical area**" means the following areas:
(a) Wetlands;
(b) fish and wildlife habitat conservation areas; and
(c) geologically hazardous areas.

(6) "**Critical area study**" means an investigation, report, map, study and/or evaluation which may be required to demonstrate that a proposed development activity is in compliance with this chapter. As applicable, a critical area study may be a habitat management plan or a geotechnical report.

(7) "**Critical species**" means all species listed by the state or federal government as endangered or threatened.

(8) "**Easement**" is a right granted by a property owner to specifically named parties or to the public for the use of certain land for specified purposes. Where appropriate to the context, "easement" may also refer to the land covered by the grant. This may include access, pedestrian paths, bicycle paths, utility easements, drainage,

(9) "**Erosion hazard areas**" means those areas with naturally occurring slopes, containing soils which are at high risk from water erosion according to the mapped description units of the United States Department of Agriculture Soil Conservation Service Soil Classification System.

(10) "**Estuarine wetland**" means wetlands where salt tolerant plant species are dominant and the hydrology is influenced by tidal action. The wetlands are usually partially enclosed by land with open, or partially obstructed access to open saline water. In areas where freshwater wetlands grade into estuarine areas, the boundary of the latter extends to an area where the salinity is less than 0.5 ppt (parts per thousand) during the period of average annual low flow.

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(11) "Fish and wildlife habitat conservation areas" means:

(a) Streams and wetlands regulated under SCC 30.62.300 through SCC 30.62.360;

(b) Areas with which critical species listed as endangered or threatened under federal law have a primary association; and

(c) Saltwater-related habitat including kelp and eelgrass beds, shellfish areas, and herring and smelt spawning areas.

(12) "Functions and values" means those functions and values of a critical area or buffer which are highly beneficial to the maintenance of the aquatic system and surrounding environment. As used in this chapter, "functions and values" for wetlands, streams and buffers are limited to the following elements:

(a) Streams. Fish and wildlife habitat, water quality maintenance, water supply and water conveyance.

(b) Wetlands. Fish and wildlife habitat, water quality maintenance, pollution assimilation, shore stabilization, sediment retention, runoff and floodwater storage and conveyance, runoff control, stream baseflow maintenance, and groundwater discharge/recharge

(c) Buffers. Fish and wildlife habitat, runoff absorption, pollution assimilation, streambank stabilization, sediment entrapment, water quality maintenance, noise and visual screening, upland flood protection, recreation, and provision of nutrients and woody debris for streams.

(13) "Habitat enhancement" means improvement or restoration of habitat areas by adding, replacing or restoring important habitat components, or by removing detrimental elements.

(14) "Hydrologically connected" means those wetlands which have surface water connection to another wetland, stream, river, or lake.

(15) "Lake" means a naturally existing or artificially created body of standing water that:

(a) is present on a year-round basis;

(b) occurs in a depression of land or expanded part of a stream, including reservoirs;

(c) is greater than 6.6 feet (2 meters) in depth at the deepest point; and

(d) has less than 30% coverage by trees, shrubs, or persistent emergent vegetation.

A lake is bounded by the ordinary high water mark, or, where a stream enters the lake, the extension of the elevation of the lake's ordinary high water mark within the stream. For purposes of this title, "lake" does not include storm water

retention or detention ponds, ornamental ponds, artificially created private fishing or recreational ponds less than 30,000 square feet in size, or farm ponds.

(16) "Landslide hazard areas" means areas potentially subject to mass earth movement based on a combination of geologic, topographic, and hydrologic factors, with a vertical height of 10 feet or more. These include the following:

(a) Areas of historic landslides as evidenced by landslide deposits, avalanche tracks, and areas susceptible to basal undercutting by streams, rivers or waves;

(b) Areas with slopes steeper than 15 percent which intersect geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock, and which contain springs or ground water seeps;

(c) Areas located in a canyon or an active alluvial fan, susceptible to inundation by debris flows or catastrophic flooding.

(17) "Mature forested wetland" means wetlands which are dominated by woody vegetation (such as alder, cedar, hemlock, cottonwood, and some willow species, etc.) that is over 20 feet tall, and at least 50 years old for deciduous trees and 80 years old for evergreens. (See also "wetland class.")

(18) "Native growth protection area (NGPA)" means an area which is to be left permanently undisturbed in a substantially natural state and in which no clearing, grading, filling, building construction or placement, or road construction of any kind is allowed except the following:

(a) Crossings for underground utility lines and drainage discharge swales which utilize the shortest alignment possible and for which no alignment that would avoid such a crossing is feasible;

(b) Removal of hazardous trees by the property owner;

(c) Fences, only if the critical area and its buffer are not detrimentally affected; and

(d) Other uses and development activity as allowed by chapter 30.62 SCC; and

(e) In rural cluster subdivisions approved pursuant to chapter 30.41C SCC, buffer plantings as required by SCC 30.41C.200 and passive recreational uses limited to nonmotorized trails, exercise pathways, and wildlife viewing areas.

(19) "Ordinary high-water mark" on all lakes, streams and tidal waters is the mark that will be found by examining the beds and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, with respect to vegetation. The following criteria clarify this mark on tidal waters, lakes, and streams:

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(a) Tidal waters.

(i) in high energy environments where the action of waves or currents is sufficient to prevent vegetation establishment below mean higher high tide, the ordinary high water mark is coincident with the line of vegetation. Where there is no vegetative cover for less than one hundred feet parallel to the shoreline, the ordinary high water mark is the average tidal elevation of the adjacent lines of vegetation. Where the ordinary high water mark cannot be found, it is the elevation of mean higher high tide.

(ii) in low energy environments where the action of waves and currents is not sufficient to prevent vegetation establishment below mean higher high tide, the ordinary high water mark is coincident with the landward limit of salt tolerant vegetation. "Salt tolerant vegetation" means vegetation which is tolerant of interstitial soil salinities greater than or equal to 0.5 parts per thousand (ppt);

(b) Lakes. Where the ordinary high water mark cannot be found, it shall be the line of mean high water;

(c) Streams. Where the ordinary high water mark cannot be found, it shall be the line of mean high water. For braided streams, the ordinary high water mark is found on the banks forming the outer limits of the depression within which the braiding occurs.

(20) "Ordinary residential improvements" means those structures and facilities which are commonly found with, and are incidental to the development and use of a single-family residence and are located landward of the ordinary high water mark including, but not limited to, garages, decks, driveways and serving utility systems.

(21) "Primary association" means use of a habitat area by a critical species for rearing young, roosting, feeding, or foraging on a regular basis during the appropriate season.

(22) "Riparian wetlands" means those wetlands that are fully or partially contained within 100 feet of Type 1, 2 or 3 streams, within 25 feet of Type 4 streams, or within 10 feet of Type 5 streams according to the stream classification system in SCC 30.62. 300.

(23) "Seismic hazard areas" means areas that have been determined by the building official to have known or inferred faults, ground rupture potential, liquefaction potential, or seismically induced slope instability, where such information is provided to Snohomish County through any of the following means: geotechnical studies and reports prepared by licensed professionals pursuant to chapter 19.27 RCW or SCC 30.62.240; geotechnical studies and reports prepared by federal, state or local agencies; and geotechnical studies, reports or

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environmental impact statements prepared through the requirements of the State Environmental Policy Act (SEPA) chapter 43.21C RCW.

(24) "Site" means that portion of the subject property within 200 feet of the development activity provided, however, that for subdivisions, short subdivisions, planned residential developments, and projects with binding site plans, the "site" shall include the entire subject property.

(25) "Site review" means county inspection of a site where development activity has been proposed, including, but not limited to, examination and comparison of site conditions and erosion control with proposed plans and applicable county codes, standards and administrative policies and procedures. A site review may include a critical area site plan review pursuant to chapter 30.62 SCC.

(26) "Stream" means those areas where naturally occurring surface waters flow sufficiently to produce a defined channel or bed which demonstrates clear evidence of the passage of water including, but not limited to, bedrock channels, gravel beds, sand and silt beds and defined-channel swales. The channel or bed need not contain water during the entire year. This definition does not include water courses which were created entirely by artificial means, such as irrigation ditches, canals, roadside ditches or storm or surface water run-off features, unless the artificially created water course contains salmonids or conveys a stream that was naturally occurring prior to the construction of the artificially created water course.

(27) "Subject property" means the entire lot or parcel, or contiguous combination thereof, on which a development activity is proposed.

(28) "Utility corridor" means areas identified for utility facility development, public right-of-way and other dedicated utility right-of-way.

(29) "Wetland class" means any of the wetland class designations described in Classification of Wetlands and Deepwater Habitats of the United States (Cowardin, et al. 1979). Cowardin's deep water and wetland classes include: rock bottom, unconsolidated bottom, aquatic bed, reef, rocky shore, unconsolidated shore, emergent wetland, scrub-shrub wetland, forested wetland, stream-bed and moss-lichen wetland.

(30) "Wetlands" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands include, but are not limited to swamps, marshes, bogs, and similar areas, as well as artificial wetlands

intentionally created from non-wetland areas to mitigate for conversion of wetlands, as permitted by the county. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to irrigation and drainage ditches, grasslined or biofiltering swales, canals, detention facilities, wastewater treatment facilities, farm ponds and landscaping amenities.

Section 29. A new Chapter 30.62A "Wetlands and Fish and Wildlife Habitat Conservation Areas" is added to the Snohomish County Code and reads as set forth in Exhibit A of this ordinance, which is incorporated herein by this reference as if set forth in its entirety.

Section 30. A new Chapter 30.62B "Geologically Hazardous Areas" is added to the Snohomish County Code and reads as set forth in Exhibit B of this ordinance, which is incorporated herein by this reference as if set forth in its entirety.

Section 31. A new Chapter 30.62C "Critical Aquifer Recharge Areas" is added to the Snohomish County Code and reads as set forth in Exhibit C of this ordinance, which is incorporated herein by this reference as if set forth in its entirety.

Section 32. Snohomish County Code Section 30.63A.010, added by Amended Ordinance 02-064 on December 9, 2002, is amended to read:

30.63A.010 Purpose and applicability.

The purpose of this chapter is to regulate and control drainage and storm water to safeguard the public health, safety, and general welfare. This chapter applies to all development activity. The objectives of this chapter are as follows:

- (1) To promote sound, practical, and economical development practices and construction procedures which prevent or minimize impacts to the county's waters;
- (2) To prevent or minimize degradation of water quality and to control the sedimentation of streams, rivers, lakes, wetlands, and other surface water;
- (3) To control storm water runoff originating on developing land;
- (4) To preserve the suitability of water for recreation and fishing;
- (5) To maintain aquatic habitat;
- (6) To maintain the quality of the county's water resources;
- (7) To prevent or minimize adverse effects caused by alterations in surface water or ground water quality, quantities, locations, and flow patterns;
- (8) To maintain the safety of county roads and rights-of-way;
- (9) To protect public safety by reducing slope instability and landslides;
- (10) To preserve and protect the county's wetlands by maintaining hydrologic continuity with other aquatic resources; and

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(11) To encourage development to locate within urban growth areas, and prevent or minimize drainage impacts from development ~~((therefrom))~~.

Section 33. Snohomish County Code Section 30.63A.060, added by Amended Ordinance 02-064 on December 9, 2002, is amended to read:

30.63A.060 Relationship to chapter 30.61 SCC.

When the director, upon consideration of the specific probable adverse environmental impacts of a development activity with regard to on-site and off-site changes to storm water volume, release rate, erosion, sedimentation, and water quality, determines that the requirements of this chapter and chapters 30.43C, 30.43D, 30.44, 30.62, 30.62A, 30.62B, 30.62C, 30.63B, 30.64 ~~((30.64,))~~ and 30.65 SCC adequately address those impacts, compliance with those requirements shall constitute adequate analysis of and mitigation for the specific adverse or significant adverse environmental impacts of the development activity with regard to on-site and off-site changes to storm water volume, release rate, erosion, sedimentation, and water quality, as provided by RCW 43.21C.240.

Section 34. Snohomish County Code Section 30.63A.200, added by Amended Ordinance 02-064 on December 9, 2002, is amended to read:

30.63A.200 Drainage system requirements for all development activities with drainage plans.

The review standards and drainage system requirements of this section shall apply to all drainage plans and subsequent development activities.

(1) Storm water entry and exit. If drainage patterns currently exist on the site, drainage facilities shall be designed so that storm water enters and exits the site at the existing location(s) of entry and exit.

(2) Mitigation.

(a) Mitigation shall be provided for all significant drainage impacts upstream or downstream caused only by the development activity, including any significant drainage impacts identified in a downstream analysis performed in accordance with paragraph (b) of this subsection, to the extent the impacts are caused by the development activity. Avoiding, minimizing, rectifying, or lastly compensating for impacts shall be given preference in that order.

(b) Downstream and upstream analysis. The applicant shall perform a downstream analysis for at least a quarter mile downstream of the subject property which evaluates potential downstream drainage impacts as well as the adequacy of the downstream drainage facilities to accommodate flows from the development activity and all other upstream sources. The downstream analysis shall include proposed mitigation pursuant to paragraph (a) of this subsection for

all significant drainage impacts from the development activity identified in the downstream analysis. The applicant shall include in the downstream analysis a computation of the adequacy of downstream conveyance systems in accordance with SCC 30.63A.210(2)(c), and whenever possible, shall include a visual or photographic inspection of the condition of the downstream drainage system to verify that it will function in accordance with the analysis. If flooding areas, locations of existing severe cumulative drainage impacts, critical areas, lakes, or fisheries resources which may be adversely impacted, or other features where significant drainage impacts may occur as a result of the proposed development activity, are located more than a quarter of a mile downstream of the subject property, the downstream analysis shall also evaluate the potential impacts by the development activity to these areas. If the director determines that a downstream analysis fails to include an evaluation of all such areas located more than a quarter mile downstream of the subject property, the downstream analysis shall be returned to the applicant for revision.

The applicant shall perform an upstream analysis of the area upstream from the site which drains onto or through the site, which evaluates potential upstream drainage impacts, and calculates the area of land and drainage flow to the site in accordance with SCC 30.63A.210(2)(c). The upstream analysis shall include proposed mitigation pursuant to paragraph (a) of this subsection for all significant drainage impacts from the development activity identified in the upstream analysis.

(3) Conveyance systems.

(a) Conveyance systems shall accommodate the peak discharge from the 25-year, 24-hour design storm based on post-development site conditions including storm water flowing through the site which originates on-site and off-site.

(b) Conveyance systems within public road rights-of-way shall be constructed of vegetation-lined channels, instead of pipe systems unless:

- (i) the channel gradient exceeds five percent (5%),
- (ii) construction of the channel will require deviation from the EDDS, or
- (iii) the director determines that an open channel presents an unacceptable public health or safety risk.

(c) Conveyance systems shall not place streams in culverts unless determined by the director to be necessary for property access and traffic circulation. Bridges or bottomless arch culverts shall be installed instead of culverts at stream crossings, unless an alternative which has been approved by the Washington Department of Fish and Wildlife is approved by the director.

(4) Setbacks from drainage facilities.

(a) Open drainage facilities. A setback of at least fifteen (15) feet, measured horizontally, shall be provided between the plan view projection of any structure, on-site or off-site, and the top of the bank of a constructed open channel or open retention or detention pond.

(b) Closed drainage facilities. A setback of at least ten (10) feet, measured horizontally, shall be provided between the plan view projection of any structure, on-site or off-site and the nearest edge of a closed drainage facility, unless the public works director determines that adequate accessibility can be provided otherwise.

(5) Easements. Drainage facilities shall include easements as provided in SCC 30.63A.330 and SCC 30.63A.340, if required thereby.

(6) Maintenance. Drainage facilities shall be maintained as required by SCC 30.63A.300.

(7) Storm water retention, detention and water quality treatment facilities may not be constructed within critical areas and their buffers pursuant to chapters 30.62, 30.62A and 30.62B SCC (~~(or critical area buffers)~~) except as authorized under the provisions of SCC 30.63.240.

(8) Compliance with the EDDS. All drainage facilities constructed in the county road right-of-way or in easements granted to the County in accordance with chapter 30.63A SCC, shall be constructed in accordance with the EDDS.

Section 35. Snohomish County Code Section 30.63A.220, last amended by Amended Ordinance 03-013 on March 19, 2003, is amended to read:

30.63A.220 Erosion and sedimentation control requirements.

(1) The erosion and sedimentation control requirements of paragraphs (a), (b), (c), (d), (e), (f) and (g) of this subsection and subsection (2) shall apply to all development activity. In addition, all erosion and sedimentation control review standards and requirements of this subsection shall apply to any major development activity and the review of drainage plans submitted therefore. The erosion and sedimentation control requirements of this section shall also apply to grading pursuant to chapter 30.51 SCC. The applicant shall meet these standards and requirements by using appropriate best management practices (BMPs) for erosion and sedimentation control in accordance with the Snohomish County Drainage Manual, the EDDS, or as approved by the director.

(a) Erosion on- and off-site. During and after construction, all persons engaging in development activities shall prevent or minimize erosion and sedimentation on-site and shall protect properties and water courses downstream from the site from erosion due to increases in the volume, velocity and peak flow rate of storm water runoff from the site;

(b) Transport of sediment onto adjacent properties. The applicant shall prevent the transport of sediment onto adjacent properties;

(c) Transport of sediment onto paved surfaces. The applicant shall apply BMPs from the Snohomish County Drainage Manual or as approved by the director to prevent or minimize the transport of sediment onto paved surfaces

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during construction, and if sediment is transported onto a paved surface, to clean the paved surface immediately or at the end of each day as determined by the department.

(d) Stabilizing exposed soil. The applicant shall stabilize denuded areas and soil stockpiles as follows:

(i) from October 1 to April 30, no soil may remain exposed for more than 2 days. From May 1 to September 30, no soil may remain exposed for more than 7 days. On portions of the site where active grading is in progress, the director may extend the deadline for soil stabilization upon determining that the likelihood of erosion impacts is low based on the type and amount of soil exposed, site topography, the potential for discharge to critical areas and lakes, and other factors. Upon finding a risk of erosion, the applicant shall immediately apply soil stabilization, regardless of any previously established deadline, and the director may require immediate stabilization at any time for this purpose. The applicant shall keep materials, equipment, and other resources on site at all times, in adequate quantities to immediately stabilize all soil;

(ii) denuded areas shall be covered by mulch, sod, plastic, or other BMP in the Snohomish County Drainage Manual or approved by the director;

(iii) soil stockpiles shall be stabilized or protected with sediment retention BMPs within 24 hours of formation to prevent soil loss; and

(iv) grading and construction shall be timed and conducted in stages to minimize soil exposure;

(e) Removal of temporary erosion and sedimentation control measures. The applicant may remove all temporary erosion and sedimentation control BMPs within 30 days after final site stabilization or after they are no longer necessary;

(f) Permanent vegetative cover. Before construction acceptance by the county, the applicant shall establish a permanent vegetative ground cover to control soil erosion and to survive severe weather conditions on all areas of land disturbance not otherwise permanently stabilized by impervious surfaces or other means;

(g) Maintenance and repair of erosion and sedimentation control measures. The applicant shall maintain and repair as necessary all temporary and permanent erosion and sedimentation control BMPs to assure their continued performance through construction acceptance and extending to the release of all associated warranty security and maintenance security;

(h) Field marking. Before performing any grading or clearing, the applicant shall mark, in the field, the limits of all proposed clearing and grading, critical areas and their buffers pursuant to chapters 30.62, 30.62A and 30.62B SCC, trees to be retained, and drainage courses;

(i) Protecting storm sewer inlets. The applicant shall protect storm sewer inlets receiving storm water runoff during construction so that water will not enter the inlet without first being filtered or otherwise treated to minimize the amount of sediment entering the inlet;

(j) Sediment retention. The applicant shall route storm water runoff from disturbed areas of the site through sediment ponds, traps or other sediment retention BMPs prior to discharge from the site. The BMPs shall be installed as the first step in grading, and shall be in operation before any other site disturbance occurs. The applicant shall stabilize temporary earth structures within the time period specified in subparagraph (1)(d). If site conditions warrant, the director may require additional sediment controls, including but not limited to, preserving a vegetated buffer strip around the lower perimeter of the site;

(k) Design of temporary sediment ponds and traps. The applicant shall design and construct all temporary sediment ponds and sediment traps in accordance with the EDDS to accommodate the peak discharge from the 10-year, 24-hour design storm based on the post development site conditions. Periodic removal of trapped sediments shall be performed as necessary, however trapped sediment may also be permanently stabilized on-site;

(l) Temporary conveyance systems. The applicant shall design and construct all temporary storm water conveyance systems to withstand, without erosion, the peak discharge from the 2-year, 24-hour design storm. The peak discharge shall be calculated on the basis of post-development site conditions;

(m) Prevention of erosion. The applicant shall design and construct temporary and permanent BMPs adequate to prevent erosion of outlets, adjacent stream banks, slopes and downstream reaches;

(n) Additional requirements for utilities. The installation of underground utility lines shall be subject to the following additional requirements:

(i) between October 1 and March 31, no more than 500 feet of continuous trench may remain open at one time unless check dams to reduce flow velocities and prevent erosion are installed in accordance with the Snohomish County Drainage Manual;

(ii) excavated material shall be placed on the uphill side of trenches, unless inconsistent with safety or site constraints;

(o) Discharge from dewatering devices. Water from a dewatering device shall discharge into a sediment-retention BMP.

(2) The applicant shall implement fully the erosion and sedimentation control plan at each stage of site development.

Section 36. Snohomish County Code Section 30.63A.240, added by Amended Ordinance 02-064 on December 9, 2002, is amended to read:

30.63A.240 Detention in wetlands and wetland buffers.

(1) Natural wetlands and created wetlands intended to mitigate for loss of wetlands, shall not be used for water quality treatment. Storm water treatment BMP's shall not be built within a vegetated buffer to a wetland except for necessary conveyance systems.

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(2) Category 1 and 2 wetlands as classified in SCC 30.62A.230 ~~((300))~~, or SCC 30.62.300 where applicable, and their buffers shall not be used for detention of storm water runoff in lieu of detention or retention facilities required by this chapter.

(3) Category 3 wetlands as classified in SCC 30.62A.230 ~~((300))~~ or SCC 30.62.300 where applicable, created wetlands intended to mitigate for loss of wetlands, and their buffers shall not be used for detention of storm water runoff in lieu of detention or retention facilities required by this chapter, except when the applicant demonstrates to the satisfaction of the ~~((director))~~ department that all of the criteria of this subsection have been met.

(a) Alternatives to detention in the wetland are not feasible.

(b) The applicant has complied with the wetlands and fish and wildlife habitat conservation ~~((critical))~~ areas regulations of chapter 30.62A SCC ~~((including the reasonable use allowance provisions of 30.62.400 SCC))~~ or chapter 30.62 SCC where applicable.

(c) Water quality treatment requirements of SCC 30.63A.210(4)(b) are met prior to discharge of storm water runoff into a wetland.

(d) The overall impacts on critical areas within the watershed are beneficial, impacts on the wetland will be minimized, and mitigation is provided for loss of all wetland ~~((values and))~~ functions and values as provided in ~~((chapter))~~ SCC 30.62A.310 ~~SCC~~ or chapter 30.62 SCC where applicable.

(e) Water level fluctuations or hydroperiod in wetlands used for storm water detention will remain similar to those which would be present under natural conditions. Periodic restrictions of outflow, causing temporary increases in storage above normal volumes during storms, may occur if necessary to prevent or minimize flooding and erosion downstream.

(4) Category 4 wetlands as classified in SCC 30.62A.230 ~~((300))~~ or in SCC 30.62.300 where applicable, and their buffers shall not be used for detention of storm water runoff in lieu of detention or retention facilities required by this chapter, except when the applicant demonstrates to the satisfaction of the department that either the criteria of subsection (3) or the criteria of this subsection have been met.

(a) The applicant has complied with the wetlands and fish and wildlife habitat conservation areas regulations ~~((critical))~~ of chapter 30.62A SCC and the geologically hazardous areas regulations of chapter 30.62B SCC, excluding the reasonable use allowance provisions of ~~((30.62.400))~~ SCC 30.62A.540 or with the critical area regulations of chapter 30.62 SCC where applicable, but excluding the reasonable use allowance provisions in SCC 30.62.400.

(b) Water quality treatment requirements of SCC 30.63A.210(4)(b) are met prior to discharge of storm water runoff into a wetland.

(c) Aquatic habitat ~~((values and))~~ functions and values of the wetland will be increased through diversification of wetland plant species and control and monitoring of water level fluctuations.

(5) If the department approves the use of a natural or created wetland for storm water detention as provided in subsections (3) or (4), the design of the facility must be approved by the director. The design of such a detention facility shall be based on field measurements of water level fluctuations under natural conditions, collected in accordance with a plan approved by the department.

(6) Public regional detention facilities. As an alternative to detention in wetlands as provided in subsections (3) or (4), public regional storm water management facilities constructed by public agencies may be located within critical areas and their buffers regulated pursuant to chapters 30.62, 30.62A and 30.62B SCC if alternative sites which provide the same degree of downstream benefits are not available and the facility is designed to prevent or minimize damage to aquatic resources and mitigation is provided in accordance with the requirements of chapter 30.62A SCC for loss of all wetland values and functions.

Section 37. Snohomish County Code Section 30.63B.010, added by Amended Ordinance 02-064 on December 9, 2002, is amended to read:

30.63B.010 Purpose and applicability.

The purpose of this chapter shall be to regulate grading to safeguard life, limb, property, and the general welfare. The provisions of this chapter apply to all grading activity. A grading permit is required for all grading activity unless exempted in SCC 30.63B.020. Grading occurring within or near a critical area must be consistent with chapters 30.62A, 30.62B and 30.62C SCC or chapters 30.62 and 30.64 SCC as applicable. Specific objectives of this chapter are as follows:

- (1) To promote sound, practical, and economical development practices and construction procedures which prevent or minimize impacts to the county's water and adjoining properties;
- (2) To prevent or minimize degradation of water quality and to control the sedimentation of ~~((streams, rivers, lakes,))~~ wetlands~~((,))~~ and fish and wildlife habitat conservation areas and other surface waters;
- (3) To control soil movement originating on developing land;
- (4) To preserve the suitability of water for recreation and fishing;
- (5) To maintain stable earth foundations for structures and to maintain stable earth during site grading operations by using benches, keys, and compaction of soils or other suitable engineering methods;
- (6) To maintain the quality of the county's water resources;
- (7) To prevent or minimize adverse effects caused by alterations in surface water or ground water quality, quantities, locations, and flow patterns;
- (8) To maintain the safety of county roads and rights-of-way;
- (9) To protect public safety by reducing slope instability and potential for landslides; and

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(10) To encourage development to locate within urban growth areas, and prevent or minimize grading-related impacts from development (~~(therefrom)~~).

Section 38. Snohomish County Code Section 30.63B.050, added by Amended Ordinance 02-064 on December 9, 2002, is amended to read:

30.63B.050 Relationship to other environmental regulations.

(1) The grading requirements of this chapter, together with applicable requirements from chapters 30.44, 30.62, 30.62A, 30.62B and 30.62C, 30.63A, 30.64 (~~(30.64,)~~) and 30.65 SCC shall be used to determine the impacts of grading and required mitigation for on-site and off-site changes.

(2) When the director, upon consideration of the specific probable adverse environmental impacts on-site and off-site from grading associated with a development activity, determines that the requirements of this chapter and chapters 30.43C, 30.43D, 30.44, 30.62, 30.62A, 30.62B and 30.62C, 30.63A, 30.64 (~~(30.64,)~~) and 30.65 SCC adequately address those impacts, compliance with those requirements shall constitute adequate analysis of and mitigation for the specific adverse or significant adverse environmental impacts on-site and off-site from grading associated with the development activity, as provided by RCW 43.21C.240.

Section 39. Snohomish County Code Section 30.63B.310, added by Amended Ordinance 02-064 on December 9, 2002, is amended to read:

30.63B.310 Cuts or excavations.

(1) Unless otherwise recommended in the approved soils engineering or engineering geology report, cuts shall conform to the provisions of this section. These provisions shall not apply to minor cuts which are less than four feet in height when such cuts do not pose a threat to adjoining property.

(2) The slope of cut surfaces shall be no steeper than is safe for the intended use and shall be no steeper than 1 unit vertical in 2 units horizontal (50% slope) unless the applicant furnishes a soils engineering report or an engineering geology report, or both, stating that the site has been investigated and giving an opinion that a cut at a steeper slope will be stable and not create a hazard to public or private property.

(3) Slopes shall be stabilized after being cut. The soils engineering or an engineering geology report, or both, shall verify that the slopes shall not be subject to on-going erosion that would adversely impact public or private property. Erosion hazard areas as defined in chapter 30.62B SCC shall be described and shown in the soils engineering report.

(4) Cuts or excavations within critical areas shall not occur unless a critical area study and mitigation is provided consistent with requirements of chapters 30.62A and 30.62B SCC or chapter 30.62 SCC as applicable.

Section 40. Snohomish County Code Section 30.63B.320, added by Amended Ordinance 02-064 on December 9, 2002, is amended to read:

30.63B.320 Fills or embankments.

(1) General. Unless otherwise recommended in the approved soils engineering report, fills shall conform to the provisions of this section. These provisions shall not apply to minor fills not intended to support structures, and which are less than four feet in height when such fills do not pose a threat to adjoining property.

(2) Preparation of ground. Fill slopes shall not be constructed on natural slopes steeper than 1 unit vertical in 2 units horizontal (50% slope).

(3) Fill material.

(a) Detrimental amounts of organic material shall not be permitted in fills. Except as permitted by the building official, no rock or similar irreducible material with a maximum dimension greater than 12 inches (305 mm) shall be buried or placed in fills.

(b) Exception: The building official may permit placement of larger rock when the soils engineer properly devises a method of placement, and continuously inspects its placement and approves the fill stability. The following conditions shall also apply:

(i) prior to issuance of the grading permit, potential rock disposal areas shall be delineated on the grading plan;

(ii) rock sizes greater than 12 inches (305 mm) in maximum dimension shall be 10 feet (3048 mm) or more below grade, measured vertically; and

(iii) rocks shall be placed so as to assure filling of all voids with well-graded soil.

(4) Compaction. All fills intended to support structures or private roads shall be compacted to a minimum of 90% of maximum density. All fills within public or private rights of way shall be compacted in accordance with county specifications.

(5) Slope. The slope of fill surfaces shall be no steeper than is safe for the intended use. Fill slopes shall be no steeper than 1 unit vertical in 2 units horizontal (50% slope).

(6) Fills shall not be placed in critical areas unless a critical area study is performed and mitigation is provided in a manner consistent with the requirements of chapters 30.62A and 30.62B SCC or chapter 30.62 SCC as applicable.

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Section 41. Snohomish County Code Section 30.63B.330, added by Amended Ordinance 02-064 on December 9, 2002, is amended to read:

30.63B.330 Setbacks for cuts or fills.

(1) Field marking. Before performing any grading or clearing subject to a grading permit pursuant to this chapter, the applicant shall mark, in the field, the limits of all proposed clearing and grading, sensitive and critical areas and their buffers subject to chapters 30.62A and 30.62B SCC or chapter 30.62 SCC as applicable, trees to be retained, and drainage courses.

(2) Cut and fill slopes shall be set back from site boundaries in accordance with this section. Setback dimensions shall be horizontal distances measured perpendicular to the site boundary.

(3) The top of cut slopes shall not be made nearer to a site boundary line than one fifth of the vertical height of cut, but in no event nearer than two feet (610 mm) from the boundary line. The setback shall be increased as necessary for stability of any required subsurface drainage or surcharge.

(4) The toe of fill slope shall not be made nearer to the site boundary line than one half the height of the slope, but in no event nearer than two feet (610 mm) from the boundary line.

Section 42. Snohomish County Code Section 30.63C.040, added by Amended Ordinance 06-044 on July 16, 2006, is amended to read:

30.63C.040 Modifications from Snohomish County Code.

(1) To meet the purposes of the LID Guidance Manual, an applicant may request modifications from the provisions of the following SCC chapters:

- (a) Chapter 30.23 SCC, General development standards - bulk regulations;
- (b) Chapter 30.42B SCC, Planned residential developments;
- (c) Chapter 30.52A SCC, Construction code;
- (d) Chapter 30.63A SCC, Drainage;
- (e) Chapter 30.63B SCC, Grading; and
- (f) Chapter 30.24 – General Development Standards – Access and Roads.

(2) Modifications pursuant to SCC 30.63C.040(1) may be granted based upon the following criteria:

- (a) The change is consistent with and furthers the purposes of the LID Guidance Manual;
- (b) The change does not result in significant adverse environmental impacts;
- (c) The change does not threaten public health, safety, or welfare;
- (d) The change is consistent with generally accepted engineering and design criteria, as provided in this chapter;
- (e) The change promotes one or more of the following:

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- (i) innovative site design furthering the purposes of the program;
 - (ii) increased on-site stormwater retention using a variety of vegetation and landscape conditions;
 - (iii) retention or redevelopment of original natural habitat conditions over a significant portion of the site;
 - (iv) improved on-site water quality beyond that required by current applicable regulations; or
 - (v) retention or re-creation of pre-development and/or natural hydrologic conditions, and retention or re-creation of forested watershed conditions; and
 - (f) The change does not conflict with chapters 30.62, 30.62A, 30.62B, 30.62C, 30.64 and 30.65 SCC;
- (3) Requests for modifications from Snohomish County Code and any deviation required from the EDDS shall be submitted under one proposal as a comprehensive site analysis.
- (4) Applicants will be required to list and document justification for each requested code modification and deviation required from the EDDS.

Section 43. Snohomish County Code Chapter 30.64 "Groundwater protection," last amended by Amended Ordinance 05-083 on December 21, 2005, is amended to read:

30.64.010 Purpose and applicability.

- (1) The purpose of this chapter is to establish minimum ground water protection standards for certain uses.
- (2) Applicability. This chapter ((shall apply to all)) has been for the most part superseded by Chapter 30.62C SCC, Critical Aquifer Recharge Area Regulations. However, due to the enactment of SSB 5248 (Chapter 353, Laws of 2007), this chapter, which was the law applicable to certain agricultural activities on May 1, 2007, must remain in place for those activities until July 1, 2010 unless otherwise repealed. Accordingly, this chapter applies only to ((proposed project permit applications)) agricultural activities as defined in this paragraph which require a project permit and are subject to SEPA, except that single family building permits are exempt. For the purposes of this chapter "agricultural activities" means agricultural uses and practices currently existing or legally allowed on rural land or agricultural land designated under RCW 36.70A.170 including, but not limited to: producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal

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conservation program, or the land is subject to a conservation easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing agricultural facilities, when the replacement facility is no closer to a critical area than the original facility; and maintaining agricultural lands under production or cultivation. SSB 5248 (Chapter 353, Section 2, Laws of 2007).

Section 44. Snohomish County Code Section 30.70.020, added by Amended Ordinance 02-064 on December 9, 2002, is amended to read:

30.70.020 Pre-application meeting.

- (1) A pre-application meeting is strongly encouraged for the following:
 - (a) Subdivisions;
 - (b) Planned residential developments;
 - (c) Rezones;
 - (d) Conditional use permits; ~~((and))~~
 - (e) Development activities and actions requiring project permits when critical areas are located on the subject property; and
~~((e))~~f) Any application for which official site plan approval is required.
- (2) The purpose of a pre-application meeting is to provide the department with preliminary information regarding the development proposal and to provide the applicant with preliminary information about development requirements, environmental issues, procedural requirements, known community concerns, and other relevant matters prior to the filing of a formal application.
- (3) Pre-application meetings provide preliminary information only and are not intended to result in final actions or commitments by either the county or the applicant.
- (4) The department shall prepare a pre-application submittal checklist that lists specific items or information requested for the meeting. When available, the applicant shall provide the information prior to the meeting.
- (5) Within a reasonable time following a pre-application meeting, the department shall provide the applicant with a written summary of the issues discussed and specific instructions for submittal of a complete application, if any.

Section 45. Snohomish County Code Section 30.86.110, added by Amended Ordinance 02-064 on December 9, 2002, is amended to read:

Table 30.86.110 □ SHORT SUBDIVISION FEES

OTHER FEES: All necessary fees for subdivision approval/recording are not listed here. Examples of fees not collected by the department include: (1) Applicable private well and septic system approvals (Snohomish Health District); (2) right-of-way permit (the department/ department of public works), see SCC 13.110.020; and (3) short subdivision recording fees (auditor).

PRE-APPLICATION CONFERENCE FEE ⁽¹⁾	\$400
PRELIMINARY SHORT SUBDIVISION FILING FEES ⁽²⁾	
Base fee	\$1,300
Plus \$ per acre	65
Plus \$ per lot	65
((CRITICAL AREA SITE EVALUATION))	(((\$150))
((CRITICAL AREA REVIEW))	(((\$250))
SHORT SUBDIVISION MODIFICATION APPLICATION	\$800
PLAN/DOCUMENT RESUBMITTAL FEE ⁽³⁾	\$200
SHORT SUBDIVISION REVISIONS AFTER PRELIMINARY APPROVAL	\$260
SHORT SUBDIVISION FINAL APPROVAL	\$500
SHORT SUBDIVISION FINAL DOCUMENT CHECK	\$1,500
RECORDING OF FINAL SHORT SUBDIVISION	\$25
ALTERATIONS TO RECORDED SHORT SUBDIVISIONS	\$350
Reference notes:	
(1) The pre-application conference fee shall be credited toward the preliminary subdivision or preliminary short subdivision application fee upon submittal of said application if received within 12 months from the date of the pre-application conference.	
(2) A preliminary filing fee consists of the sum of a base fee, a per lot fee, a per acre fee, and a supplemental fee if applicable.	
(3) This fee applies to the resubmittal of short subdivision plans and documents after a second review for which the applicant did not include corrections noted by the department, or the applicant made revisions, which necessitate additional review and comments.	

Section 46. Snohomish County Code Section 30.86.400, last amended by Amended Ordinance 06-004 on March 15, 2006, is amended to read:

30.86.400 Uniform Building Code fees.

(1) **Occupancies defined.** Fees established in 30.86.400(2) shall be assessed based on whether an occupancy type is commercial or residential. SCC Table 30.86.400(3) defines the occupancy groups in these two occupancy types. See also chapter 30.52A SCC.

(2) **Outstanding fees.** Any outstanding fees or portions thereof shall be added to the required fee(s) of any future plan review or permit prior to application acceptance or permit issuance. Any fee shall not relieve the applicant from a duty to obtain permits for moving buildings upon roads and/or highways from the appropriate authorities. The permit fee for construction of a new foundation, enlargement, or remodeling of the move-in building shall be in addition to the pre-move fee. The fee for a factory built structure as approved by the Washington State Department of Labor and Industries as a modular structure is specified in SCC 30.86.180.

(3) **Commercial and residential occupancies defined.**

Table 30.86.400(3) COMMERCIAL AND RESIDENTIAL OCCUPANCIES DEFINED

OCCUPANCY TYPES	OCCUPANCY GROUPS
COMMERCIAL	A, I, R-1, E, H, F, LC ⁽¹⁾ , M, S, B
RESIDENTIAL	R-3, U

Reference note: (1) Except adult-family homes as defined in chapter 70.128 RCW.

(4) **Commercial pre-application review.**⁽¹⁾ See also chapter 30.52A SCC.

Table 30.86.400(4) COMMERCIAL PRE-APPLICATION REVIEW

REVIEW FEE ⁽²⁾	\$400
SITE REVIEW (at applicant's request)	\$100
ADDED SERVICES REQUEST	\$60/hour
REVIEW FEE FOR PLAYING FIELDS ON DESIGNATED RECREATIONAL LAND IN ACCORDANCE WITH SCC 30.28.076 and CHAPTER 30.33B SCC	\$0

Reference notes:

(1) Prior to making application for a commercial building permit, an applicant may request pre-application review to learn about submittal requirements. The department will provide a written outline of requirements, and may include identification of site-specific issues when known, depending on the detail and scope of the submitted materials.

(2) Includes a conference with only a senior planner in attendance, and does not include review of detailed construction plans and specifications.

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(5) **Base permit fees.**⁽¹⁾ See also chapter 30.52A SCC.

Table 30.86.400(5) □ BASE PERMIT FEES

COMMERCIAL	\$250
COMMERCIAL PLUMBING	\$125
COMMERCIAL MECHANICAL	\$125
COMMERCIAL MECHANICAL AND PLUMBING (not in conjunction with a commercial building permit)	\$125
MECHANICAL, PLUMBING, OR MECHANICAL, AND PLUMBING	\$80
RESIDENTIAL	\$80
COMMERCIAL REVIEW FEE FOR PLAYING FIELDS ON DESIGNATED RECREATIONAL LAND IN ACCORDANCE WITH SCC 30.28.076 and CHAPTER 30.33B SCC	\$0
Reference notes: (1) Base fees shall compensate the department for preliminary application screening and the establishment and administration of the permit application file.	

(6) **Plan review fees.**⁽¹⁾ See also chapter 30.52A SCC.

Table 30.86.400(6) □ PLAN REVIEW FEES

PLAN, DRAWING, OR DOCUMENT BEING REVIEWED	
R-3, U-1 and U-3 Occupancies	65% of building permit fee
A, I, R-1, E, H, F, LC, M, S, U-2 and B Occupancies	85% of building permit fee
EXCEPTIONS	
Successive construction ^{(2) (3)}	
R-3, U-1 and U-3 Occupancies	20% of building permit fee
R-1 Occupancies	45% of building permit fee
The plan review fee shall be supplemented for A, I, R-1, E, H, F, LC, M, S, U-2 and B Occupancies as follows:	
Commercial permit application for 1 or more buildings or additions requiring site review	\$640
Commercial permit application for 1 or more buildings or additions with a previously approved official site plan	\$500

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Tenant improvements not requiring site plan review	\$100
ADDITIONAL REVIEW ⁽⁴⁾	\$200 or 25% of the plan review fee, whichever is less.
PLAN REVIEW FEE FOR PLAYING FIELDS ON DESIGNATED RECREATIONAL LAND IN ACCORDANCE WITH SCC 30.28.076 and CHAPTER 30.33B SCC	\$0
<p>Reference notes:</p> <p>(1) Plan review fees shall compensate the department for the plan review necessary to determine compliance with the adopted uniform codes and other county regulations.</p> <p>(2) A plan review fee for successive construction will be assessed where more than one building or structure is proposed to be constructed in accordance with a single basic plan for the following classifications of buildings and structures:</p> <p>(a) Group R-3 occupancies.</p> <p>(b) Garages, carports, storage buildings, agricultural buildings, and similar structures for private use, none of which are located in commercial or industrial zones per chapter 30.21 SCC.</p> <p>(3) Procedures for approval of basic plans for successive construction shall be established by the director. Basic plans are transferable from one applicant to another only by explicit written permission of the owner.</p> <p>(4) This fee is charged whenever an applicant re-submits documents failing to make county-required corrections noted on "markup" plans, drawings, or such other documents during plan review; or whenever as a result of changes, additions, or revisions to previously approved plans, drawings or such other documents, a subsequent plan review is required.</p>	

(7) **Building permit fees.**⁽¹⁾ See also chapter 30.52.A SCC.

Table 30.86.400(7) □ BUILDING PERMIT FEES

TOTAL BUILDING/STRUCTURAL VALUATION ⁽²⁾	PERMIT FEE ⁽³⁾⁽⁴⁾
\$1-\$500	\$23.50
\$501-\$2,000	\$23.50 for the first \$500 plus \$3.05 for each additional \$100 or fraction thereof, including \$2,000
\$2001-\$25,000	\$69.25 for the first \$2,000 plus \$14.00 for each additional \$1,000 or fraction thereof, including \$25,000
\$25,001-\$50,000	\$391.25 for the first \$25,000 plus \$10.10 for each additional \$1000 or fraction thereof, including \$50,000
\$50,001-\$100,000	\$643.75 for the first \$50,000 plus \$7.00 for each additional \$1,000 or fraction thereof, including \$100,000

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\$100,001-\$500,000	\$993.75 for the first \$100,000 plus \$5.60 for each additional \$1,000 or fraction thereof, including \$500,000												
\$500,001-\$1,000,000	\$3,233.75 for the first \$500,000 plus \$4.75 for each additional \$1,000 or fraction thereof, including \$1,000,000												
Over \$1,000,000	\$5,608.75 for the first \$1,000,000 plus \$3.15 for each additional \$1,000 or fraction thereof.												
FIRE SPRINKLER SYSTEM PLAN REVIEW	100% of valuation plus \$1.50/square foot												
BUILDING/STRUCTURAL PERMITS INCLUDING REQUIRED FIRE SPRINKLER SYSTEM PLANS	100% of valuation plus \$1.50/square foot												
<p>Reference notes:</p> <p>(1) Permit fees shall compensate the department for inspections necessary to determine compliance with the adopted uniform codes, other county regulations, and the approved plan. The fee table shall be applied separately to each building within a project and used for the calculation of all plan review and permit fees, except those for which a separate permit fee is required to be paid in accordance with subtitle 30 SCC.</p> <p>(2) Building valuation shall be based on the building valuation data sheet contained within each year's May/June "Building Standards" magazine published by the International Conference of Building Officials to be applied effective January 1, of each subsequent year.</p> <p>(3) Plan review and permit fees are based on 100% of the building valuation with these exceptions:</p> <table border="0"> <tr> <td>>Accessory farm buildings & storage utility sheds</td> <td>80% of valuation</td> </tr> <tr> <td>>Additions w/plumbing</td> <td>110% of the main floor valuation</td> </tr> <tr> <td>>Dwellings without plumbing</td> <td>90% of the main floor valuation</td> </tr> <tr> <td>>Foundation (existing structure)</td> <td>10% of main floor valuation</td> </tr> <tr> <td>>Greenhouse (dirt floor, light frame/ plastic cover)</td> <td>40% of valuation</td> </tr> <tr> <td>>Pole and roof only/no sides</td> <td>40% of valuation</td> </tr> </table> <p>(4) Permit fees for playing fields on designated recreational land in accordance with SCC 30.28.076 and chapter 30.33B SCC shall be set at \$0, regardless of valuation. All buildings on the site shall be permitted on one permit.</p>		>Accessory farm buildings & storage utility sheds	80% of valuation	>Additions w/plumbing	110% of the main floor valuation	>Dwellings without plumbing	90% of the main floor valuation	>Foundation (existing structure)	10% of main floor valuation	>Greenhouse (dirt floor, light frame/ plastic cover)	40% of valuation	>Pole and roof only/no sides	40% of valuation
>Accessory farm buildings & storage utility sheds	80% of valuation												
>Additions w/plumbing	110% of the main floor valuation												
>Dwellings without plumbing	90% of the main floor valuation												
>Foundation (existing structure)	10% of main floor valuation												
>Greenhouse (dirt floor, light frame/ plastic cover)	40% of valuation												
>Pole and roof only/no sides	40% of valuation												

(8) **Certificates of occupancy/changes of use fees.** See also chapter 30.52A SCC.

Table 30.86.400(8) □ CERTIFICATES OF OCCUPANCY/CHANGE OF USE FEES

CERTIFICATE OF OCCUPANCY	
Home occupation	\$100
Temporary or final, when applicant requests phased issuance for each structure or structures	
COMMERCIAL BUILDING CHANGE OF USE OR OCCUPANCY ⁽¹⁾	
Under 10,000 square feet	\$250
Over 10,000 square feet	\$500
Reference note:	
(1) This fee shall be deducted from the permit fee if a permit is required.	

(9) **Special inspections and investigation fees.** See also chapter 30.52A SCC.

Table 30.86.400(9) □ SPECIAL INSPECTIONS AND INVESTIGATION FEES

BUILDING AND MOBILE HOME PRE-MOVE INSPECTIONS	
Snohomish County inspection	\$60/hour-2 hour min
Outside Snohomish County inspection for move to Sno. Co.	\$120 plus \$0.28/mile
INSPECTIONS OUTSIDE NORMAL COUNTY BUSINESS HOURS	\$60/hour-2 hour min
INSPECTIONS FOR WHICH NO FEE IS OTHERWISE INDICATED	
REINSPECTION FEE ⁽¹⁾	\$60
INVESTIGATION FEE ⁽²⁾	100% of permit fee
Reference notes:	
(1) A fee assessed for work requiring an inspection or re-inspection when said work is not complete at the last inspection or re-inspection. No further inspection or re-inspection of the work will be performed until the required fees have been paid. (UBC Section 108.8).	
(2) A fee charged for work requiring a permit, which is commenced without first obtaining said permit. This fee shall be collected regardless of whether a permit is subsequently issued or not. (UBC Section 107.5).	

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(10) Miscellaneous review and permit fees. ⁽¹⁾ See also chapter 30.52A SCC.

TABLE 30.86.400(10) □ MISCELLANEOUS REVIEW AND PERMIT FEES

PRE-APPLICATION SITE REVIEW (\$200 to be applied towards site review/permit fees at time of application)	\$250
ACCESSORY BUILDINGS LESS THAN 1000 SQUARE FEET	50% of site review fee
BUILDING ADDITIONS	
CONVERSION OPTION HARVEST PLAN REVIEW	\$300
Sites larger than 10 acres	\$5/acre
((CRITICAL AREA REVIEW FEE pursuant to chapter 30.62 SCC for: ⁽²⁾))	
((Single family residential dwellings, duplexes and accessory structures, and commercial structures with a complete professional critical area study and/or habitat management plan submitted at the time of application:))	(((\$250))
((Delineation and categorizing services provided for erosion and landslide hazard areas only:))	(((\$450))
((Delineation and categorizing services provided for streams and wetlands with or without erosion and landslide hazards:))	(((\$1,200))
((Delineation, categorizing and habitat management plan services provided for endangered or threatened critical species pursuant to SCC 30.62.110:))	(((\$1,600))
COMPLETION PERMIT	\$50
CONDOMINIUM CONVERSION PERMIT (per unit)	\$50
DECK PERMIT	\$50
DEMOLITION PERMIT	\$50
DOCK PERMIT	\$50
FIREPLACE PERMIT	\$50
SWIMMING POOL PERMIT	\$50
TEMPORARY BUILDING PERMIT	\$50
TITLE ELIMINATION	\$30
LOT STATUS DETERMINATION	\$100
ROOFING PERMIT ⁽³⁾	
11 to 25 squares	\$37
More than 25 squares	\$55

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SITE REVIEW FOR NEW BUILDINGS OR ADDITIONS ⁽⁴⁾	\$100
SUCCESSIVE CONSTRUCTION SET-UP FEE	\$200
Reference notes:	
(1) These fees are charged in addition to building/structural plan and permit fees.	
(((2) For single family residential (SFR) dwellings, duplexes, and accessory structures, and commercial structures 8,000 square feet or less subject to critical areas review per chapter 30.62 SCC.))	
(((3))2) No permit is required for use of 10 squares or less of roofing material.	
(((4))3) If permits are sought for more than one lot within the same subdivision and the subdivision has been recorded within the previous year, and all the permit applications are submitted at the same time, the first lot's site review fee shall be for the full amount and the site review fee for each of the other lots shall be one-half the full fee amount.	

(11) **Fee refunds.** See also chapter 30.52A SCC.

The director shall refund all fees collected in error. In all other cases, upon request by an applicant within 180 days of fee payment, the director is authorized to refund 80 percent of any fee paid only if no work has commenced under the issued permit or plan review and the issued permit is surrendered with the request.

Section 47. Snohomish County Code Section 30.86.500, added by Amended Ordinance 06-004 on March 15, 2006, is amended to read:

Table 30.86.500 □ SEPA FEES

CHECKLIST REVIEW/THRESHOLD DETERMINATION (TD) ^{(2), (3) (7)}	
Single family dwellings or duplex	\$350
Short Subdivisions	
0 to 4 lots	\$550
5 to 9 lots	\$650
Subdivisions	
0 to 10 lots	\$650
11 to 20 lots	\$750
21 to 50 lots	\$900
51 to 100 lots	\$1,100
101 to 200 lots	\$1,350
Greater than 200 lots	\$1,600

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Commercial (project actions requiring commercial zoning or commercial building permits, and multiple family construction in any zone:	
0 to 2 acres	\$500
3 to 5 acres	\$700
6 to 10 acres	\$850
11 to 20 acres	\$1,000
21 to 100 acres	\$1,200
Greater than 100 acres	\$1,400
Industrial (project actions requiring industrial zoning):	
0 to 2 acres	\$600
3 to 5 acres	\$800
6 to 10 acres	\$1,000
11 to 20 acres	\$1,200
21 to 100 acres	\$1,500
Greater than 100 acres	\$2,000
ENVIRONMENTAL REVIEW FEES FOR PLAYING FIELDS ON DESIGNATED RECREATIONAL LAND IN ACCORDANCE WITH SCC 30.28.076 and CHAPTER 30.33B SCC	\$0
Threshold determinations for all other project actions not specifically listed:	\$500
Staff review of special studies submitted to supplement the environmental checklist	\$60/Hour
MITIGATED DETERMINATION OF NONSIGNIFICANCE (MDNS) ^{(4), (7)}	
Review fee for school, park, and road mitigation	\$150
((Review fee for wetland and related critical areas mitigation))	(((\$600))
((Review fee for wetland and related critical areas mitigation for an individual single family residence))	(((\$150))
County professional staff time spent in making the determination beyond the scope of initial review of mitigation	\$60/Hour
ENVIRONMENTAL IMPACT STATEMENT <input type="checkbox"/> See Footnote 6	
WITHDRAWAL OF DETERMINATION OF SIGNIFICANCE (DS) AND NEW TD ^{(5), (7), (8)}	Fee equal to original fee for environmental checklist review

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Reference notes:

(1) These fees, which are in addition to any other fees provided for by law, shall be charged when Snohomish County is the lead agency for a non-county proposal.

(2) The fee shall be collected prior to undertaking the threshold determination. Time periods provided in SCC 30.61.060 for making a threshold determination shall not begin to run until fee payment occurs.

(3) Threshold determination fees required for these actions shall be reduced by the amount of the critical area review fee for such actions when critical area review is required: SFR dwellings, duplexes, accessory structures, and commercial structures 8,000 square feet or less per SCC 30.86.400(9); grading of 500 cubic yards or less per SCC 30.86.520; and short subdivisions per SCC 30.86.110.

(4) For every mitigated threshold determination considered as provided by SCC 30.61.120 and WAC 197-11-350, one, or a combination of the following fees, shall be paid by the applicant. If after 30 days of the date an applicant receives "Notice of Payment Due" by certified mail, the required fees remain unpaid, the county shall discontinue action on the proposal, including postponement of scheduled hearings, until the fees are paid. Such fees are in addition to the initial threshold determination fees above.

(5) This fee shall be charged for the additional environmental review conducted when a determination of significance is withdrawn and a new threshold determination is made for the same proposal. The fee shall be paid prior to issuance of the new threshold determination.

(6)(a) The following EIS preparation and distribution costs shall be borne by the applicant or proponent:

(i) Actual cost of the time spent by regular county professional, technical, and clerical employees required for the preparation and distribution of the applicant's impact statement. The costs shall be accounted for properly. No costs shall be charged for processing of the application which would be incurred with or without the requirement for an EIS or which are covered by the regular application fee;

(ii) Additional costs, if any, for experts not employed by the county, texts, printing, advertising, and for any other actual costs required for the preparation and distribution of the EIS; and

(iii) When an EIS is to be prepared by a consultant, actual consultant fees which shall be solely the responsibility of and billed directly to the applicant or proponent. The applicant or proponent shall also bear such additional county costs as provided for in (i) and (ii) above as are incurred in the review, revision, approval, and distribution of the EIS.

(b) When an EIS is to be prepared by the county, following consultation with the applicant, the lead department shall inform the applicant of estimated costs and completion date for the draft EIS prior to accepting the deposit required by (4) above. Such estimate shall not constitute an offer or covenant by the lead department nor shall it be binding upon the county. In order to assure payment of the above county costs, the applicant or proponent shall post with the county cash, surety bond, or other sufficient

and acceptable bond in the minimum amount of \$1,500 in accordance with chapter 30.84 SCC regarding bonding security administration.

(c) If a proposal is modified so that an EIS is no longer required, the responsible official shall refund any fees collected pursuant to reference note (4) above which remain after incurred costs are paid.

(7) The county shall collect a reasonable fee from an applicant to cover the cost of meeting the public notice requirements of this title relating to the applicant's proposal.

(8) The county may charge any person for copies of any document prepared under this title, and for mailing the document in the manner provided by chapter 42.17 RCW.

Section 48. Snohomish County Code Section 30.86.520, added by Amended Ordinance 06-004 on March 15, 2006, is amended to read:

30.86.520 Grading fees. See also chapter 30.51 SCC.

(1) Purpose. This section establishes the fees required for all grading reviews, approvals and inspections conducted by the county in order to compensate the department for the costs of administering this chapter. Such fees are in addition to any other fees required by law.

(2) Basic grading fees.

Table 30.86.520(2) □ GRADING FEES

PRE-APPLICATION SITE REVIEW FEE ⁽¹⁾	\$250
SITE REVIEW FEE	\$100
BASE FEE	\$200
PLAN REVIEW AND INSPECTION FEE	\$0.33/cubic yard of total cut or fill amount, whichever is greater, not to exceed \$23,000.
((CRITICAL AREA REVIEW FEE ⁽²⁾))	(((\$250 for 500 cubic yards of grading or less))
INVESTIGATION FEE (grading without a permit/pursuant to UBC section 107.5.1)	\$200 plus \$0.33/cubic yard of earth moved
GRADING REVIEW FEES FOR PLAYING FIELDS ON DESIGNATED RECREATIONAL LANDS IN ACCORDANCE WITH SCC 30.28.076 AND CHAPTER 30.33B SCC	\$0

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PERMIT RENEWAL FEE	50% of normal permit fee
Reference notes:	
(1) \$200 shall be applied towards site review/permit fees at the time of application.	
((2) This fee is established for earthwork proposed within "Critical Areas" as determined pursuant to SCC 30.62.040.))	

- (3) Grading permit applications prepared by the Snohomish Conservation District for commercial agricultural activities shall not be subject to the plan review and inspection fee.
- (4) Grading permits for dike or levee construction or reconstruction, when implementing a Snohomish County approved floodplain management plan, shall be subject to a plan review and inspection fee of \$60.00/hour.

Section 49. Snohomish County Code Section 30.86.525, added by Amended Ordinance 06-004 on March 15, 2006, is amended to read:

30.86.525 Critical areas ((regulation)) review fees.

- (1) This section establishes the fees required for all critical areas reviews, evaluations, delineations, categorization, inspections, and monitoring conducted by the county in order to compensate the department for the costs of review and services provided by the department.
- (2) Fees include first and second reviews. Third and subsequent reviews shall require additional fees as listed below.
- (3) Fees for work not covered in other fees shall be charged hourly.
- (4) Such fees are in addition to any other fees required by law.

Table 30.86.525(5) □ CRITICAL AREAS ((REGULATION)) REVIEW FEES

<u>Activity</u>	<u>Fees</u>
<u>Third and subsequent reviews</u>	<u>50% of original fee</u>
<u>Additional work not covered by the fees listed below</u>	<u>\$80/hour</u>
<u>SHORT SUBDIVISIONS</u>	
<u>Critical Area Site Evaluation</u>	<u>\$150</u>
<u>Critical Area Review</u>	<u>\$250</u>
<u>SINGLE FAMILY RESIDENTIAL (SFR) DWELLINGS, DUPLEXES, AND ACCESSORY STRUCTURES, AND COMMERCIAL STRUCTURES 8,000 SQUARE FEET OR LESS</u>	

<u>Review of complete professional critical area study and/or habitat management plan submitted at the time of application</u>	<u>\$250</u>
<u>Delineation and categorizing services provided for erosion and landslide hazard areas only</u>	<u>\$450</u>
<u>Delineation and categorizing services provided for streams and wetlands with or without erosion and landslide hazards</u>	<u>\$1,200</u>
<u>Delineation, categorizing and habitat management plan services provided for endangered or threatened critical species</u>	<u>\$1,600</u>
<u>ALL OTHER PERMITS ⁽¹⁾</u>	
<u>Critical area study (CAS) review pursuant to SCC 30.62.340, 30.62A.((340))120, 30.62B.120 and 30.62C.120 ((⁽⁴⁾))</u>	<u>\$600</u>
<u>Habitat management plan (HMP) review pursuant to SCC 30.62.110 or 30.62A.((440))460 ((⁽⁴⁾))</u>	<u>\$600</u>
<u>MITIGATION PERFORMANCE - Monitoring, inspection, and administration of the performance security required for mitigation planting pursuant to SCC 30.62.070 or 30.62A.((070))150</u>	<u>\$80/hour</u>
<u>SEPA MITIGATED DETERMINATION OF NONSIGNIFICANCE (MDNS) ⁽²⁾⁽³⁾</u>	
<u>Review fee for wetland and related critical areas mitigation</u>	<u>\$600</u>
<u>Review fee for wetland and related critical areas mitigation for an individual single family residence</u>	<u>\$150</u>
<u>GRADING – review of earthwork proposed within critical areas</u>	<u>\$250 for 500 cubic yards of grading or less</u>
<u>PETITION FOR SPECIES AND HABITAT OF LOCAL IMPORTANCE - Submittal and review of nomination petition pursuant to 30.62A.470(2).</u>	<u>\$1,000</u>
<u>Critical area review fees for playing fields on designated recreational land in accordance with SCC 30.28.076 and chapter 30.33B SCC</u>	<u>\$0</u>
Reference notes:	
<u>((-1) These fees do not apply where critical area review fees are required per SCC 30.86.400(10-))</u>	
<u>(1) Fees for review of permits not listed separately in this table, including, but not limited to the following permits: shoreline, conditional use, subdivision, official site plan with rezone, PRD with rezone, and commercial.</u>	
<u>(2) For every mitigated threshold determination considered as provided by SCC 30.61.120 and WAC 197-11-350, one, or a combination of the following fees, shall be paid by the applicant. If after 30 days of the date an applicant receives "Notice of Payment Due" by certified mail, the required fees remain unpaid, the county shall discontinue action on the proposal, including postponement of scheduled hearings, until the fees are paid. Such fees are in addition to the initial threshold determination fees above.</u>	
<u>(3) The county shall collect a reasonable fee from an applicant to cover the cost of meeting the public notice requirements of this title relating to the applicant's proposal.</u>	

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Section 50. A new section is added to Chapter 30.91A of the Snohomish County Code to read:

30.91A.XXX “Animal feeding operations” means either of the following:

(1) “Animal feeding operation (AFO)” is a lot or facility (other than an aquatic animal production facility) where the following conditions are met: animals (other than aquatic animals) have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.

(2) “Concentrated animal feeding operation (CAFO)” is defined in the CAFO regulation as an AFO that is defined as a Large CAFO or as a Medium CAFO in the regulations, or that is designated as a CAFO by the permitting authority. Two or more AFOs under common ownership are considered to be a single AFO for the purposes of determining the number of animals at an operation, if they adjoin each other or if they use a common area or system for the disposal of wastes. [40 CFR 122.23(b)(2)].

Section 51. Snohomish County Code Section 30.91B.090, added by Amended Ordinance 02-064 on December 9, 2002, is amended to read:

30.91B.090 “Best management practices” means ~~((management measures that are reasonable and available that mitigate adverse impacts to surface and groundwater, and to the functions and values of critical areas. See also chapter 30.62 SCC.))~~ physical, structural, or managerial practices which have gained general acceptance by professionals in the appropriate field to minimize and mitigate adverse impacts to the functions and values of critical areas.

This definition applies only to “Critical areas” regulations in chapters 30.62A, 30.62B and 30.62C SCC.

Section 52. Snohomish County Code Section 30.91B.100 “Best management program,” added by Amended Ordinance 02-064 on December 9, 2002, is repealed in its entirety.

Section 53. Snohomish County Code Section 30.91B.170 “Bog/fen system,” added by Amended Ordinance 02-064 on December 9, 2002, is repealed in its entirety.

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Section 54. Snohomish County Code Section 30.91B.190 added by Amended Ordinance 02-064 on December 9, 2002, is amended to read:

30.91B.190 "Buffer" means an area adjacent to a critical area consisting of naturally occurring or re-established vegetation and having a width adequate to protect the critical area.

This definition applies only to "Critical areas" regulations in chapters 30.62A and 30.62B SCC.

Section 55. A new section is added to Chapter 30.91C of the Snohomish County Code to read:

30.91C.XXX "Channel migration zones (CMZ)" means the land adjacent to the current river channel that is at high risk of occupation by the channel within the next 100 years. The CMZ shall not include areas landward of natural or man-made features which limit channel migration. Such features may include, but are not limited to: bedrock outcroppings, bank armoring structures, or roads, railroads or flood control structures which receive regular maintenance sufficient to maintain structural integrity. Areas behind natural or manmade features which limit channel migration that allow fish passage shall not be included in the channel migration zone.

Section 56. A new section is added to Chapter 30.91C of the Snohomish County Code to read:

30.91C.XXX "Clearing" means the surface removal of vegetation by cutting, pruning, limbing, topping, relocating, application of herbicides or pesticides, or any application of hazardous or toxic substance that has the effect of destroying or removing the vegetation.

Section 57. Snohomish County Code Section 30.91C.340, last amended by Emergency Ordinance 04-024, March 10, 2004, is amended to read:

30.91C.340 "Critical area" means the following areas (~~and ecosystems~~):

- (1) Wetlands;
- (2) Areas with a critical recharging effect on aquifers used for potable water, including:
 - (a) Sole source aquifers,
 - (b) Group A well head protection areas, and
 - (c) Critical aquifer recharge areas;

- (3) Fish and wildlife habitat conservation areas, including:
 - (a) Streams,
 - (b) Lakes,
 - (c) Marine waters, and
 - (e) Riparian habitat areas; and
 - (d) Primary association areas for critical species;
- (4) Frequently flooded areas; and
- (5) Geologically hazardous areas, including:
 - (a) Erosion hazard areas,
 - (b) Landslide hazard areas,
 - (c) Seismic hazard areas,
 - (d) Mine hazard areas,
 - (e) Volcanic hazard areas, and
 - (f) Tsunami hazard areas.

Section 58. A new section is added to Chapter 30.91C of the Snohomish County Code to read:

30.91C.XXX “Critical area protection areas” means areas designated, pursuant to chapter 30.62A SCC, on a critical area site plan with restrictions to protect the functions and values of critical areas and their buffers.

Section 59. Snohomish County Code Section 30.91C.350 “Critical area study,” added by Amended Ordinance 02-064 on December 9, 2002, is repealed in its entirety.

Section 60. A new section is added to Chapter 30.91C of the Snohomish County Code to read:

30.91C.XXX “Critical saltwater habitats” include all kelp beds, eelgrass beds, spawning and holding areas for forage fish, such as herring, smelt and sandlance; subsistence, commercial and recreational shellfish beds; mudflats and intertidal habitats with vascular plants.

Section 61. Snohomish County Code Section 30.91C.370, added by Amended Ordinance 02-064 on December 9, 2002, is amended to read:

30.91C.370 “Critical species” means all species listed by the state or federal government as endangered or threatened and species of local importance, and also includes: Larch Mountain salamander, Common loon, Peregrine falcon, Olympic mudminnow, Pygmy whitefish, and Gray whale.

Section 62. A new section is added to Chapter 30.91D of the Snohomish County Code to read:

30.91D.XXX "Dangerous waste" means any discarded, useless, unwanted, or abandoned non-radioactive substances, including but not limited to certain pesticides or any residues or containers of such substances, which are disposed of in such quantity or concentration as to pose a substantial present or potential hazard to human health, wildlife, or the environment because such wastes or constituents or combinations of such wastes: (a) have short-lived, toxic properties that may cause death, injury, or illness or have mutagenic, teratogenic, or carcinogenic properties; or (b) are corrosive, explosive, flammable, or may generate pressure through decomposition or other means.

This definition applies only to "Critical aquifer recharge areas" regulations in chapter 30.62C SCC.

Section 63. Snohomish County Code Section 30.91D.190, added by Amended Ordinance 02-064 on December 9, 2002, is amended to read:

30.91D.190 "Developable area" means the area available for development outside identified critical areas and their buffers as required by chapters 30.62A, 30.62B or 30.62C.

This definition applies only to the "Urban centers demonstration program" regulations in chapter 30.34A SCC.

Section 64. Snohomish County Code Section 30.91D.380, added by Amended Ordinance 02-064 on December 9, 2002, is amended to read:

30.91D.380 "Drainage impacts" means the adverse impacts from changes to existing water quantity, rate or quality; water storage, retention and detention capacity, or water conveyance ability caused by a development activity; and may include, but are not limited to, flooding, erosion, sedimentation, scouring, bank sloughing, groundwater discharges to aquifer recharge areas, and adverse impacts to wetlands, fish and wildlife habitat conservation areas and geologically hazardous areas. (~~critical areas, lakes, aquatic habitat, salmonids, or other fisheries resources.~~)

Section 65. Snohomish County Code Section 30.91E.030, added by Amended Ordinance 02-064 on December 9, 2002, is amended to read:

30.91E.030 "Easement" is a right granted by a property owner to specifically named parties or to the public for the use of certain land for specified purposes. Where appropriate to the context, "easement" may also refer to the land covered by the grant. This may include access, pedestrian paths, bicycle paths, utility easements, drainage, native growth protection areas, resource protection areas, critical area protection areas, or open space.

Section 66. Snohomish County Code Section 30.91E.160, added by Amended Ordinance 02-064 on December 9, 2002, is amended to read:

30.91E.160 "Erosion hazard areas" means:

(1) ~~((these a))~~ Areas ~~((with naturally occurring slopes,))~~ containing soils which are at high risk from water erosion according to the mapped description units of the United States Department of Agriculture Natural Resources Conservation Service (NRCS), formerly the Soil Conservation Service, National Soil Classification System,

(2) Channel migration zones, and

(3) The shorelines of water bodies subject to wind and wave erosion.

Section 67. Snohomish County Code Section 30.91E.200 "Estuarine wetland," added by Amended Ordinance 02-064 on December 9, 2002, is repealed in its entirety.

Section 68. Snohomish County Code Section 30.91F.320 "Fish and wildlife habitat conservation areas," added by Amended Ordinance 02-064 on December 9, 2002, is repealed in its entirety.

Section 69. A new section is added to Chapter 30.91F of the Snohomish County Code to read:

30.91F.XXX "Fish and wildlife habitat" means habitat for aquatic and riparian dependent fish and wildlife, habitat for state or federal threatened and endangered species, and species and habitats of local importance. Habitat includes space or conditions for reproduction, resting, hiding, migration, and food production and delivery.

Section 70. A new section is added to Chapter 30.91F of the Snohomish County Code to read:

30.91F.XXX "Flood protection measures" See "Shoreline and bank stabilization and flood protection measures."

Section 71. Snohomish County Code Section 30.91F.530 "Functions and values," last amended by Amended Ordinance 02-064 on December 9, 2002, is repealed in its entirety.

Section 72. A new section is added to Chapter 30.91G of the Snohomish County Code to read:

30.91G.XXX "Groundwater sensitivity" means a measure of the ease with which groundwater enters and moves through both the unsaturated and saturated zones; it is a characteristic of the aquifer and overlying material and hydrologic conditions, and is independent of the chemical characteristics of the contaminant and its sources.

Section 73. A new section is added to Chapter 30.91G of the Snohomish County Code to read:

30.91G.XXX "Group A public water supply system" means a water system providing service to fifteen or more service connections used by year-round residents for one hundred eighty or more days within a calendar year, regardless of the number of people, or regularly serving at least twenty-five year-round (i.e., more than one hundred eighty days per year) residents. Examples of a community water system might include a municipality, subdivision, mobile home park, apartment complex, college with dormitories, nursing home, or prison.

Section 74. Snohomish County Code Section 30.91H.010, added by Amended Ordinance 02-064 on December 9, 2002, is amended to read:

30.91H.010 “Habitat enhancement” means ~~((improvement or restoration of wetland critical areas by adding, replacing or restoring important habitat components, or by removing detrimental elements-))~~ the manipulation of the physical, chemical, or biological characteristics of a wetland or fish and wildlife habitat conservation area to heighten, intensify or improve specific function(s) or to change the growth stage or composition of the vegetation present. Enhancement is undertaken for specified purposes such as water quality improvement, flood water retention or preservation of wildlife habitat.

Section 75. A new section is added to Chapter 30.91H of the Snohomish County Code to read:

30.91H.XXX “Hyporheic zone” means the saturated zone under and adjacent to a river or stream, comprising substrate with the interstices filled with water.

Section 76. Snohomish County Code Section 30.91H.270 “Hydrologically connected,” added by Amended Ordinance 02-064 on December 9, 2002, is repealed in its entirety.

Section 77. A new section is added to Chapter 30.91I of the Snohomish County Code to read:

30.91I.XXX “Improved road right-of-way” means that portion of the road right-of-way that was altered to construct the road. This includes the road prism, shoulders, sidewalks, cut and fill slopes, and necessary ditches and vegetation management areas.

This definition applies only to “Wetlands and fish and wildlife habitat” regulations in chapter 30.62A SCC.

Section 78. A new section is added to Chapter 30.91I of the Snohomish County Code to read:

30.91I.XXX “Invasive weeds” means a plant that is

- (1) Non-native (or alien) to Snohomish County and
- (2) Is known to aggressively displace or cause harm to native plants or ecosystems.

Section 79. Snohomish County Code Section 30.91L.010, added by Amended Ordinance 02-064 on December 9, 2002, is amended to read:

30.91L.010 "Lake" means a ~~((naturally existing or artificially created))~~ body of ~~((standing-))~~ freshwater that:

~~((—(1)— is present on a year-round basis;))~~

~~(1)((2))~~ Qccurs in a depression of land or expanded part of a stream, including reservoirs;

~~(2)((3))~~ Iis greater than 6.6 feet (2 meters) in depth at the deepest point at ordinary low water; ~~((and))~~

~~(3)((4))~~ Hhas less than 30% coverage by trees, shrubs, or persistent emergent vegetation; ~~and.~~

~~(4)~~ Has an ocean-derived salinity of less than 0.5 parts per thousand (ppt).

A lake is bounded by the ordinary high water mark, or, where a stream enters the lake, the extension of the elevation of the lake's ordinary high water mark within the stream. Lakes formed by a dam on a stream or river are bounded by a contour approximating the normal spillway elevation or normal pool elevation. ~~((For purposes of this title, "lake" does not include storm water retention or detention ponds, ornamental ponds, artificially created private fishing or recreational ponds less than 30,000 square feet in size, or farm ponds.))~~

Lakes do not include artificial water bodies including, but not limited to, lakes constructed for irrigation or detention, wastewater treatment facilities, farm ponds, recreational or fishing ponds or other landscape ponds, unless they contain naturally occurring salmonids. Naturally occurring means that the salmonids have migrated into the lake via a connection to another water body containing salmonids and are not artificially introduced into the lake.

Section 80. Snohomish County Code Section 30.91L.040, added by Amended Ordinance 02-064 on December 9, 2002, is amended to read:

30.91L.040 "Landslide hazard areas" means areas potentially subject to mass earth movement based on a combination of geologic, topographic, and hydrologic factors, with a vertical height of 10 feet or more. These include the following:

(1) Areas of historic landslides as evidenced by landslide deposits, avalanche tracks, and areas susceptible to basal undercutting by streams, rivers or waves;

(2) Areas with slopes steeper than ~~((15))~~33 percent which intersect geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock, and which contain springs or ground water seeps; or

(3) Areas located in a canyon or an active alluvial fan, susceptible to inundation by debris flows or catastrophic flooding.

Section 81. A new section is added to Chapter 30.91M of the Snohomish County Code to read:

30.91M.XXX "Maintenance or repair, normal" of existing structures or developments, including damage by accident, fire or elements. See "Normal maintenance or repair."

Section 82. A new section is added to Chapter 30.91M of the Snohomish County Code to read:

30.91M.XXX "Marine waters" means non-wetland salt water bodies of the state regulated under chapter 90.58 RCW where average surface water salinity is equal to or greater than 0.5 parts per thousand (ppt).

Section 83. Snohomish County Code Section 30.91M.050 "Mature forested wetland," last amended by Amended Ordinance 02-064 on December 9, 2002, is repealed in its entirety.

Section 84. Snohomish County Code Section 30.91N.010, added by Amended Ordinance 02-064 on December 9, 2002, is amended to read:

30.91N.010 "Native growth protection area (NGPA)" means an area which is to be left permanently undisturbed in a substantially natural state and in which no clearing, grading, filling, building construction or placement, or road construction of any kind is allowed except the following:

(1) Crossings for underground utility lines and drainage discharge swales which utilize the shortest alignment possible and for which no alignment that would avoid such a crossing is feasible;

(2) Removal of hazardous trees by the property owner;

(3) Fences, only if the critical area and its buffer are not detrimentally affected; ~~((and))~~

(4) Other uses and development activity as allowed ~~((by chapter 30.62A SCC))~~; and

(5) In rural cluster subdivisions approved pursuant to chapter 30.41C SCC, buffer plantings as required by SCC 30.41C.200 and passive recreational uses limited to nonmotorized trails, exercise pathways, and wildlife viewing areas.

For critical areas, this definition applies only to critical areas designated under the critical area regulations before adoption of the 2007 Critical Areas Regulations Update in chapters 30.62A, 30.62B and 30.62C. See "Critical area protection areas."

Section 85. A new section is added to Chapter 30.91N of the Snohomish County Code to read:

30.91N.XXX "Non-riparian" means areas that are not within the riparian area of a stream, lake or marine water.

Section 86. A new section is added to Chapter 30.91N of the Snohomish County Code to read:

30.91M.XXX "Normal maintenance or repair" of existing structures or developments, including damage by accident, fire or elements. "Normal maintenance" includes those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition. "Normal repair" means to restore a development to a state comparable to its original condition, including but not

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limited to its size, shape, configuration, location and external appearance, within a reasonable period after decay or partial destruction, except where repair causes substantial adverse effects the environment. Replacement of a structure or development may be authorized as repair where such replacement is the common method of repair for the type of structure or development and the replacement structure or development is comparable to the original structure or development including but not limited to its size, shape, configuration, location, and external appearance and the replacement does not cause substantial adverse effects to shoreline resources or environment.

This definition applies only to "Shorelines" regulations in chapter 30.44 SCC and "Critical areas" regulations in chapters 30.62A, 30.62B and 30.62C SCC.

Section 87. Snohomish County Code Section 30.910.030, added by Amended Ordinance 02-064 on December 9, 2002, is amended to read:

30.910.030 "Ordinary high((-))_water mark" on all lakes, streams and tidal waters is the mark that will be found by examining the beds and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, with respect to vegetation. The following criteria clarify this mark on tidal waters, lakes, and streams:

(1) Tidal waters.

(a) In high energy environments where the action of waves or currents is sufficient to prevent vegetation establishment below mean higher high tide, the ordinary high water mark is coincident with the line of vegetation. Where there is no vegetative cover for less than one hundred feet parallel to the shoreline, the ordinary high water mark is the average tidal elevation of the adjacent lines of vegetation. Where the ordinary high water mark cannot be found, it is the elevation of mean higher high tide.

(b) In low energy saltwater environments where the action of waves and currents is not sufficient to prevent vegetation establishment below mean higher high tide, use the mean higher high tide elevation or the ordinary high water mark is coincident with the landward limit of hydrophytic salt tolerant vegetation, whichever is further landward. "Salt tolerant vegetation" means vegetation which is tolerant of interstitial soil salinities greater than or equal to 0.5 parts per thousand (ppt);

(c) In low energy freshwater environments where the action of the water is not sufficient to prevent vegetation establishment below the mean higher high tide, use the mean higher high tide elevation or one or more the following indicators: landward limits of drift logs or other drift deposits, presence of hydrophytic plants, presence of hydric soils, soil surface changes from algae, or sediment deposition areas to areas where the soils show no sign of depositional processes from water;

(2) Lakes. Where the ordinary high water mark cannot be found, it shall be the line of mean high water;

(3) Streams. Where the ordinary high water mark cannot be found, it shall be the line of mean high water. For braided streams, the ordinary high water mark is found on the banks forming the outer limits of the depression within which the braiding occurs.

Section 88. Snohomish County Code Section 30.91O.040, added by Amended Ordinance 02-064 on December 9, 2002, is amended to read:

30.91O.040 "Ordinary residential improvements" means those structures and facilities which are commonly found with, and are incidental to, the development and use of a single-family residence (~~and are located landward of the ordinary high water mark,~~) including, but not limited to, garages, decks, driveways and serving utility systems.

This definition applies only to "Critical areas" regulations in chapters 30.62A, 30.62B and 30.62C SCC.

Section 89. Snohomish County Code Section 30.91P.290, added by Amended Ordinance 02-064 on December 9, 2002, is amended to read:

30.91P.290 "Primary association area" means (~~use of a habitat area by a critical species for rearing young, roosting, feeding, or foraging on a regular basis during the appropriate season,~~) the area necessary for the viability and protection of any critical species, including its habitat and surrounding areas needed for protection of the habitat. Primary association areas include habitat areas that are known to contain a critical species, or where evidence from the best available science indicates that a critical species is using a habitat area. Primary association areas include but are not limited to areas for breeding, feeding, cover and migration. The size of the primary association area is species

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and population dependent and based on the known habitat requirements of the species.

This definition applies only to "~~(Critical areas)~~ Wetlands and fish and wildlife habitat" ~~((R))~~ regulations in chapter 30.62A SCC.

Section 90. A new section is added to Chapter 30.91P of the Snohomish County Code to read:

30.91P.XXX "Primary structure" means any permanent building, road, bridge or utility requiring a permit or approval which is necessary to support the primary use of a site. Primary use means the predominate use of any lot or development as determined by county zoning regulations.

Section 91. A new section is added to Chapter 30.91P of the Snohomish County Code to read:

30.91P.XXX "Project proponent" means an individual, person, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of the state or local governmental unit, or an agent or representative thereof proposing a development activity or project permit.

Section 92 A new section is added to Chapter 30.91R of the Snohomish County Code to read:

30.91R.XXX "Reclaimed water" means effluent derived in any part from sewage from a wastewater treatment system that has been adequately and reliably treated, so that as a result of that treatment, it is suitable for beneficial use or a controlled use that would not otherwise occur, and it is no longer considered wastewater.

Section 93. A new section is added to Chapter 30.91R of the Snohomish County Code to read:

30.91R.XXX “Restoration” means the manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic ecological functions of a former or degraded wetland or fish and wildlife habitat conservation area.

This definition applies only to “Shorelines” regulations in chapter 30.44 SCC and “Wetlands and fish and wildlife habitat conservation areas” regulations in chapter 30.62A SCC.

Section 94. Snohomish County Code Section 30.91R.210 “Riparian wetlands,” added by Amended Ordinance 02-064 on December 9, 2002, is repealed in its entirety.

Section 95. Snohomish County Code Section 30.91S.121, added by Ordinance 06-075 on October 4, 2006, is amended to read:

30.91S.121 “Seismic hazard areas” means areas that have been determined by the building official to have known or inferred faults, ground rupture potential, liquefaction potential, or seismically induced slope instability, where such information is provided to Snohomish County through any of the following means: geotechnical studies and reports prepared by licensed professionals pursuant to chapter 19.27 RCW, ~~((or))~~ SCC 30.62~~((-240))~~B.140 or 30.62B.350; geotechnical studies and reports prepared by federal, state or local agencies; and geotechnical studies, reports or environmental impact statements prepared through the requirements of the State Environmental Policy Act (SEPA) chapter 43.21C RCW.

Section 96. A new section is added to Chapter 30.91S of the Snohomish County Code to read:

30.91S.XXX “Shoreline and bank stabilization and flood protection measures” means measures taken to address erosion impacts and reduce flood damage or hazards to property and buildings and structures, caused by natural processes such as current, flood, tides, wind or wave actions. Stabilization and flood protection measures can be either non-structural or structural.

(1) Non-structural. Shoreline and bank stabilization and flood protection accomplished by preventing or removing development in flood, landslide or erosion prone areas or by preserving or enhancing natural hydrological and biological processes. Such measures may include, but are not limited to,

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setbacks, buffers, bank or riparian revegetation, wetland restoration, dike removal or relocation, biotechnical stabilization measures or elevation of structures.

(2) Structural. Shoreline and bank stabilization and flood protection accomplished by the physical manipulation of the bank or channel, other than through enhancement of natural hydrological or biological processes. Such measures may include, but are not limited to, floodwalls, dikes, bulkheads, revetments, levees, jetties, channel realignment, and groins. Structural methods range from "soft" structures that are less rigid and incorporate biotechnical or beach enhancement to "hard" structures that are solid, hard surfaces such as bulkheads, retaining walls, bluff walls and rock revetments.

Section 97. Snohomish County Code Section 30.91S.350, added by Amended Ordinance 02-064 on December 9, 2002, is amended to read:

30.91S.350 "Site" means that portion of the subject property within 200 feet of the development activity provided, however, that for subdivisions, short subdivisions, planned residential developments, and projects with binding site plans, the "site" shall include the entire subject property.

This definition applies only to "Critical areas" regulations in chapters 30.62A, 30.62B and 30.62C SCC.

Section 98. Snohomish County Code Section 30.91S.370, added by Amended Ordinance 02-064 on December 9, 2002, is amended to read:

30.91S.370 "Site review" means county inspection of a site where development activity has been proposed, including, but not limited to, examination and comparison of site conditions and erosion control with proposed plans and applicable county codes, standards and administrative policies and procedures. A site review may include a critical area site plan review pursuant to chapters 30.62A, 30.62B and 30.62C SCC.

Section 99. A new section is added to Chapter 30.91S of the Snohomish County Code to read:

30.91S.XXX “Sole source aquifer” means an aquifer that supplies 50 percent or more of the drinking water of an area.

Section 100. A new section is added to Chapter 30.91S of the Snohomish County Code to read:

30.91S.XXX “Species of local importance” means species that are of local concern due to their population status or their sensitivity to habitat manipulation or that are game species of local importance including a seasonal range or habitat element with which a given species has a primary association, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long-term. These might include areas of high relative density or species richness, breeding habitat, winter range, and movement corridors.

Section 101. Snohomish County Code Section 30.91S.640, added by Amended Ordinance 02-064 on December 9, 2002, is amended to read:

30.91S.640 “Stream” means those areas where naturally occurring surface waters flow sufficiently to produce a defined channel or bed which demonstrates ~~((clear))~~ evidence of the passage of water including, but not limited to, bedrock channels, gravel beds, sand and silt beds, and defined-channel swales. A defined channel or bed means a water course that is scoured by water or contains deposits of mineral alluvium. The channel or bed need not contain water during the entire year.

~~((This definition does))~~Streams do not include water courses which were created ~~((entirely))~~ by artificial means, such as tiled channels, culverts, irrigation ditches, canals, roadside ditches, or constructed storm or surface water run-off features, unless the artificially created water course contains naturally occurring salmonids or conveys a stream that was naturally occurring prior to the construction of the artificially created water course.

Section 102. A new section is added to Chapter 30.91S of the Snohomish County Code to read:

30.91S.XXX “Sub-drainage basin” means the drainage area of the highest order salmonid bearing stream containing the subject property impact area. Stream order is the term used to define the position of a stream in the hierarchy of tributaries in the watershed. The smallest streams are the highest order (first order) tributaries. These are the upper watershed streams and have no tributaries of their own. When two first order streams meet, they form a second order stream, and when two second order streams meet they become a third order stream, and so on.

Section 103. Snohomish County Code Section 30.91S.740, added by Amended Ordinance 02-064 on December 9, 2002, is amended to read:

30.91S.740 “Subject property” means the entire lot or parcel, or contiguous combination thereof, on which a development activity is proposed.

((This definition applies only to critical area regulations in chapter 30.62 SCC.))

Section 104. Snohomish County Code Section 30.91S.770 “Surface water connection,” added by Amended Ordinance 02-064 on December 9, 2002, is repealed in its entirety.

Section 105. A new section is added to Chapter 30.91T of the Snohomish County Code to read:

30.91T.XXX “Thalweg” means the deepest point of a streambed.

Section 106. A new section is added to Chapter 30.91T of the Snohomish County Code to read:

30.91T.XXX “Threatened and Endangered Species” means state and federally listed species. State species are listed under chapter 232-12 WAC. Federal species are listed under the Endangered Species Act of 1973.

Section 107. Snohomish County Code Section 30.91U.120, added by Amended Ordinance 02-064 on December 9, 2002, is amended to read:

30.91U.120 "Utility corridor" means areas identified for utility facility development, public right-of-way and other dedicated utility right-of-way.

This definition applies only to "Critical areas" regulations in chapters 30.62A, 30.62B and 30.62C SCC.

Section 108. Snohomish County Code Section 30.91W.050 "Wetland class," added by Amended Ordinance 02-064 on December 9, 2002, is repealed in its entirety.

Section 109. Snohomish County Code Section 30.91W.060, added by Amended Ordinance 02-064 on December 9, 2002, is amended to read:

30.91W.060 "Wetlands" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas, as well as artificial wetlands intentionally created from non-wetland areas to mitigate for conversion of wetlands. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to irrigation and drainage ditches, grass-lined ((~~or biofiltering~~))biofiltration swales, canals, detention facilities, wastewater treatment facilities, farm ponds and landscaping amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. The detailed methodology for wetland delineation is ((~~contained~~))contained in *Washington State Wetlands Identification and Delineation Manual* (Washington State Department of Ecology, Publication #96-94, March 1997).

Section 110. Monitoring and Adaptive Management Plan. The county shall develop and implement a plan to monitor environmental conditions to determine if the county is meeting the standard of "no net loss" of critical area functions and values. This plan shall determine a baseline from which to measure future conditions; identify measurable parameters as indicators of critical area functions and values; set thresholds that indicate loss of functions and values; and establish an adaptive management strategy employing corrective measures to prevent further net loss.

Section 111. Severability and savings. If any section, sentence, clause or phrase of this ordinance shall be held to be invalid or unconstitutional by the Growth Management Hearings Board (Board), or a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance. Provided, however, that if any section, sentence, clause or phrase of this ordinance is held to be invalid by the Board or court of competent jurisdiction, then the section, sentence, clause or phrase in effect prior to the effective date of this ordinance shall be in full force and effect for that individual section, sentence, clause or phrase as if this ordinance had never been adopted.

Section 112. Effective date, implementation. This ordinance shall take effect October 1, 2007. The Department of Planning and Development Services is authorized to take such actions as may be necessary to implement this ordinance on its effective date.

PASSED this 1st day of August, 2007.

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington


Council Chair


ATTEST:


Asst. Clerk of the Council

- APPROVED
- EMERGENCY
- VETOED

DATE: 8/15, 2007


Snohomish County Executive

ATTEST: 

Approved as to form only:

Deputy Prosecuting Attorney

D-5

Wetlands and Fish & Wildlife Habitat Conservation Areas

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PART 000 – GENERAL

30.62A.010 Purpose and applicability.

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

(a) Wetlands, and

(b) Fish and wildlife habitat conservation areas including:

(i) streams;

(ii) lakes;

(iii) marine waters; and

(iv) primary association areas for critical species

(2) This chapter applies to:

(a) Development activities, actions requiring project permits, and clearing, except for the following:

(i) Non-ground disturbing interior or exterior building improvements;

(ii) Routine landscape maintenance of established, ornamental landscaping;

(iii) Exterior structure maintenance, including, but not limited to, painting and roofing;

(iv) Removal of noxious weeds conducted in accordance with chapter 16-750 WAC;

(v) Maintenance or replacement that does not expand the affected area of the following existing facilities:

(A) septic tanks and drainfields;

(B) wells;

(C) individual utility service connections; and

(D) individual cemetery plots in established and approved cemeteries;

(vi) Data collection and research by non-mechanical means if performed in accordance with state-approved sampling protocols or Endangered Species Act (ESA) Section 10(a)(1)(a), Section 7 consultation (16 USC § 1536);

(vii) Non-mechanical survey and monument placement; and

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

2 (b) Agricultural activities, which are subject only to Part 600 of this chapter; except that
3 certain agricultural activities as defined in SCC 30.62.015(1) occurring on rural and agricultural
4 resource lands are exempt from this chapter and are subject only to chapter 30.62 SCC.

5

6

7 30.62A.015 Intent

8 It is the intent of this chapter to provide the protection required by chapter 36.70A RCW for
9 wetlands and for fish & wildlife habitat conservation areas while simultaneously protecting
10 property rights. The county council nevertheless recognizes that implementation of some
11 provisions of this chapter 30.62A SCC will inevitably entail some restriction of property rights.

12 It is the intent of the county council that this chapter be always construed and interpreted so that
13 property rights be restricted no further than strictly necessary for the critical area protection
14 required under chapter 36.70A RCW.

15

16 30.62A.020 Relationship to Snohomish County Shoreline Management Program.

17 Protection of wetlands and fish and wildlife habitat conservation areas located within shorelines
18 of the state, as defined in chapter 90.58 RCW, shall be accomplished through compliance with
19 the provisions of this chapter. Nothing in this section shall be construed to be inconsistent with
20 RCW 36.70A.480.

21

22 30.62A.030 Relationship to chapter 30.61 SCC – environmental impacts.

23 Critical area protective measures required by this chapter shall also constitute adequate
24 mitigation of adverse or significant adverse environmental impacts on wetlands, fish and wildlife
25 habitat conservation areas and their buffers pursuant to chapter 30.61 SCC, to the extent
26 permitted by RCW 43.21C.240.

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1

2 **30.62A.040 Rulemaking authority.**

3 The director shall have the authority to adopt administrative rules to implement the provisions of
4 this chapter. Rulemaking authority shall include, but is not limited to, the adoption of best
5 management practices for the regulation of wetlands, fish and wildlife habitat conservation areas
6 and buffers.

7

8

9 **PART 100 – PROCESS REQUIREMENTS**

10

11 **30.62A.110 Permit pre-applications.**

12 Project proponents may request a pre-application meeting pursuant to SCC 30.70.020 to obtain a
13 preliminary analysis of how the requirements of this chapter apply to the proposed project.

14

15 **30.62A.120 Critical area services provided by the department.**

16 The department may provide the following services to applicants for single family residential
17 (SFR) dwellings, duplexes, and accessory structures, and commercial structures of 8,000 square
18 feet or less upon submittal of the application and the payment of fees as required by chapter
19 30.86 SCC:

- 20 (1) Identification of fish and wildlife habitat conservation areas;
- 21 (2) Development of habitat management plans; and
- 22 (3) Delineation and categorization of streams and wetlands.

23

24 **30.62A.130 Submittal requirements.**

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

- 27 (a) Boundary lines and dimensions of the subject property;
- 28 (b) Boundary lines and dimensions of the site;
- 29 (c) The topography at contour intervals of five feet unless the underlying project

30 permit requires a lesser interval;

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1 (d) Location, size, and type of any existing structures and other existing developed
2 areas;

3 (e) Location, size and type of all development activity and clearing on the site;

4 (f) Location and description of all wetlands, fish and wildlife habitat conservation
5 areas and buffers, located on the site within 300 feet of the site boundaries;

6 (g) Location of all other critical areas regulated pursuant to chapters 30.62B,
7 30.62C and 30.65 SCC on or within 200 feet of the site; and

8 (h) Location of structure setbacks as required in SCC 30.62B.340(2) and chapter
9 30.23 SCC.

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

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

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

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

18 (d) A critical area study as required by SCC 30.62A.140.

19 **30.62A.140 Critical area study content requirements.**

20 For any development activity or action requiring a project permit occurring in wetlands, fish and
21 wildlife habitat conservation areas, or within a buffer unless otherwise provided in Part 300, the
22 director may require, where applicable, a survey or map drawn to scale and a report describing
23 the following information:

24 (1) A wetland delineation map and report, including field worksheets in accordance with
25 the manual adopted by the Department of Ecology pursuant to RCW 36.70A.175. (See Wetlands
26 Identification and Delineation Manual, Department of Ecology Publication #96-94, March 1997,
27 or latest edition). This requirement may be waived if a wetland delineation has been performed
28 within the previous five years that was approved by the department, and the department
29 determines after site review that the wetland boundary is the same as the approved delineation;

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1 (2) Wetland categorization, including worksheets, documenting the proposed wetland
2 categories, based on the Wetland Rating System for Western Washington, (Hruby, T., August
3 2004, or latest edition, Department of Ecology Publication #04-06-025);

4 (3) Wetland classes present as defined in the United States Fish and Wildlife Service's
5 Classification of Wetlands and Deep Water Habitats in the U.S. (Cowardin et al., 1979);

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

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

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

11 (7) A description and illustration of proposed activities within any critical area or
12 buffers;

13 (8) An assessment of the existing functions and values of the critical area(s) or buffers
14 that will be affected by the proposed activity and the methods used to assess those functions and
15 values;

16 (9) An assessment of how the activity meets the protection standards established in SCC
17 30.62A.310 and SCC 30.62A.450. For applications under SCC 30.62A.350, an assessment of
18 how the proposal protects the functions and values specified in SCC 30.62A.220, and how the
19 proposal provides protection equivalent to the standards established in SCC 30.62A.310 and
20 SCC 30.62A.450. Proposals offering better protection would also be acceptable;

21 (10) A mitigation plan for activities occurring in a critical area or buffer according to
22 the requirements in SCC 30.62A.150;

23 (11) A habitat management plan in accordance with SCC 30.62A.460 for any activity
24 occurring within the primary association area of a critical species;

25 (12) When shoreline or bank stabilization measures and/or flood protection measures are
26 proposed, a geotechnical report investigating alternative structural and non-structural methods
27 pursuant to SCC 30.62B.140; and

28 (13) Any other information necessary to determine compliance with this chapter.
29

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1 30.62A.150 Mitigation plan requirements.

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

7 (1) All mitigation plans shall:

8 (a) Include a baseline study that describes and evaluates the existing functions and values,
9 the functions and values that will be impacted, and the functions and values after mitigation;

10 (b) Specify how functions and values lost as a result of the activity will be replaced;

11 (c) Specify when mitigation will occur relative to project construction and to the
12 requirements of permits required by other jurisdictional entities;

13 (d) Include provisions for monitoring and maintenance of the mitigation area on a
14 long-term basis to determine whether the plan was successful. The length of time for monitoring
15 and maintenance should be sufficient to determine if mitigation performance standards have been
16 achieved;

17 (e) Include provisions for performance and maintenance security pursuant to
18 chapter 30.84 SCC to ensure that work is completed in accordance with approved plans; and

19 (f) Include provisions on a form approved by the department for right of entry to
20 the county for the purpose of inspection for the length of the monitoring and maintenance period.

21 (2) For development activities that require approval by the hearing examiner or those
22 that receive phased administrative, conditional or preliminary approvals, the director may allow
23 mitigation plans to be submitted in two phases: a conceptual phase and a detailed plan phase.
24

25 30.62A.160 Permanent identification, protection and recording.

26 The following measures for permanent identification and protection of wetlands, fish and
27 wildlife habitat conservation areas and buffers are required for any development activity or
28 action requiring a project permit, except those occurring in public and private road or utility

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1 easements and rights-of-way, or those conducted for the primary purpose of habitat
2 enhancement.

3 (1) Critical area site plan.

4 (a) All wetlands, fish and wildlife habitat conservation areas and, buffers shall be
5 designated on a critical area site plan as critical area protection areas.

6 (b) The critical area site plan shall be drawn to a standard engineering scale and
7 include at minimum:

8 (i) the boundaries of the site;

9 (ii) a legal description of the subject property;

10 (iii) accurate locations/boundaries of the critical area protection area(s),
11 identified by critical area type;

12 (iv) provisions allowing habitat enhancement in wetland(s), fish and wildlife
13 habitat conservation area(s) and buffers; and

14 (v) provisions for the permanent protection of the critical area(s) functions and
15 values including, at minimum, the following:

16 (A) restrictions on the construction of new structures;

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

18 (C) restrictions on other development activities that would adversely
19 affect the functions and values of the wetland(s), fish and wildlife habitat
20 conservation area(s), or buffers.

21 (2) Recording. Critical area site plans shall be recorded with the county auditor.

22 Documentation of recording shall be provided to the department prior to permit issuance.

23 (3) Separate tracts and easements. Wetlands, fish and wildlife habitat conservation
24 areas, and buffers shall be located in separate tracts owned in common by all owners of the lots
25 or parcels within any land division or land use permit or decision regulated pursuant to chapters
26 30.41A, 30.41B, 30.41C and 30.41D SCC. Provided that in urban growth areas, wetlands, fish
27 and wildlife habitat conservation areas and buffers may be contained in an easement on
28 individual lots or parcels in a form approved by the department.

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1 (4) Previously approved critical area site plans. For any development activity, action
2 requiring a project permit or clearing occurring consistent with a previously approved critical
3 area site plan shall be governed according to the terms and conditions of the approved site plan,
4 provided that all wetlands, fish and wildlife habitat conservation areas and buffers have been
5 identified and specific permanent protection has been provided.

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

PART 200 – DESIGNATION, FUNCTIONS AND VALUES, AND CLASSIFICATION

30.62A.210 Designation of wetlands and fish and wildlife habitat conservation areas.

15 The county has designated wetlands and fish and wildlife habitat conservation areas pursuant to
16 RCW 36.70A.170 by defining them and providing criteria for their identification and
17 establishing the functions and values to be protected. Project proponents are responsible for
18 determining whether a wetland or fish and wildlife habitat conservation area exists and is
19 regulated pursuant to this chapter. The department will verify on a case-by-case basis the
20 presence of wetlands and fish and wildlife habitat conservation areas identified by project
21 proponents. Specific criteria for the designation of wetlands and fish and wildlife habitat
22 conservation areas are contained in this chapter and chapter 30.91 SCC. While the county
23 maintains some maps of wetlands and fish and wildlife habitat conservation areas, they are for
24 informational purposes only and may not accurately represent all such areas.

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

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

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1 (1) Streams. Fish and wildlife habitat; transport of water, sediment and organic material;
2 floodwater storage and attenuation;

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

6 (3) Lakes. Fish and wildlife habitat, sediment retention, pollution assimilation, and
7 floodwater attenuation, storage and conveyance;

8 (4) Marine waters. Fish and wildlife habitat; wind, wave and current attenuation;
9 sediment supply; longshore transport of sediment; and pollution assimilation;

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

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

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

15
16
17 (1) Classification of streams, lakes and marine waters shall be established in accordance
18 with the water typing rules contained in WAC 222-16-030, summarized in Table 1. In the event
19 of a conflict between WAC 222-16-030 and the contents of Table 1, the provisions in WAC 222-
20 16-030 will govern.

21 (2) Classification and scoring of wetlands shall occur pursuant to the rating system and
22 criteria contained in the Wetland Rating System for Western Washington, (Washington State
23 Department of Ecology Publication #04-06-025) summarized in Table 1. In the event of a
24 conflict between the DOE publication and the contents of Table 1, the provisions in the DOE
25 publication will govern.

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1

Table 1 - Classification of streams, lakes and wetlands

Classification	Classification Criteria Summary
Streams and Lakes	
Type S	Segments of natural 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	<p>Segments of natural waters other than Type S waters, which are within the bankfull widths of defined channels or within lakes 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:</p> <p>(a) Are 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 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	Segments of natural waters within the bankfull width of defined channels that are perennial nonfish habitat streams. Perennial streams are 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.

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Type Ns	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.
Wetlands	
Category I	Washington Natural Heritage Program/DNR high quality wetlands
	Bogs
	Estuarine (greater than or equal to one acre) & Coastal Lagoons
	High Level Habitat Function (habitat function score is 29-36)
	Moderate Level Habitat Function (habitat function score is 20-28)
	Total score 70 or above but not meeting above criteria
Category II	Estuarine (less than one acre)
	High level of function for habitat (habitat function score is 29-36)
	Moderate level of function for habitat (habitat function score is 20-28)
	High level of function for water quality improvement and low for habitat (water quality function score is 24 – 32 and habitat function score is less than 20)
	Total score 51-69 but not meeting above criteria
Category III	Moderate Level Habitat Function (habitat function score is 20-28)
	Total score of 30-50 but not meeting above criteria
Category IV	Total score for all functions less than 30 points

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PART 300 – STANDARDS AND REQUIREMENTS

30.62A.310 General standards and requirements.

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

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

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

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

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

(ii) when avoidance is not possible, minimizing impacts by limiting the degree or magnitude of the action and its implementation, using appropriate technology, or by taking affirmative steps, such as project redesign, relocation, or timing, to avoid or reduce impacts; and mitigating for the affected functions and values of the critical area;

(b) When mitigation is required it shall be conducted in accordance with the following requirements:

(i) mitigation location. Unless otherwise provided in this chapter, mitigation for impacts to the functions and values of wetlands, fish and wildlife habitat conservation areas and buffers shall be in-kind and on-site. Off-site mitigation may be approved only in those situations where appropriate and adequate on-site mitigation can not replace the function(s) of

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1 the wetlands, fish and wildlife habitat conservation area(s) or buffers at an equivalent level to the
2 off-site location. Off-site mitigation must occur in the same sub-drainage basin for streams, lakes
3 and wetlands, or drift cell for marine waters;

4 (ii) mitigation timing. Mitigation shall be completed prior to granting of final
5 building occupancy, or the completion or final approval of any development activity or action
6 requiring a project permit for which mitigation measures have been required, except as set forth
7 in chapter 30.84 SCC; and

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

10 (c) A project proponent may demonstrate compliance with SCC 30.62A.310(3) by:

11 (i) adhering to the standards and requirements in SCC 30.62A.320(1), .330(1),
12 .340(1) and (2) and .450 of this chapter as applicable; or by

13 (ii) adhering to the performance standards in SCC 30.62A.320(2) and (3),
14 .330(2), .340(3) and (4), or .350 and mitigating for impacted functions and values as follows:

15 (A) any development activity, action requiring a project permit or
16 clearing allowed pursuant to SCC 30.62A.320(2), .330(2), .340(3) or .350 shall also
17 comply with general mitigation requirements in SCC 30.62A.310(3). Activities not listed
18 or deviations from the standards contained in Part 300 may only be conducted pursuant to
19 SCC 30.62A.350 or Part 500; and

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

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

**Wetlands and Fish & Wildlife Habitat Conservation Areas
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1 **30.62A.320 Standards and requirements for buffers**

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

4 (1) Buffer standards and requirements – no mitigation required. All development activities,
5 actions requiring project permits and clearing that comply with the buffer requirements of SCC
6 30.62A.320(1)(a) through (g) satisfy the avoidance criteria of SCC 30.62A.310(3) and are not
7 required to provide mitigation.

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

9

10

Table 2a – Stream, Lake and Marine Buffer Width Standards (Feet)		
<i>Streams and Lakes</i>		
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

11

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Table 2b: Wetland Buffer Width Standards (feet)

<i>Wetlands</i>						
Wetland Category	Description	Buffer Width Requirements (feet)				
		Standard Buffer Width	High Intensity Land Use ¹ [30.62A.340(4)(b)]			Low Intensity Land Use ²
			Buffer w/out mitigation measure 1 or 2	Buffer w/ mitigation measure 1 (*may use measure 1 OR 2)	Buffer w/ mitigation measures 1 AND 2	
Wetlands containing salmonids (minimum)		150				
Category I	Washington Natural Heritage Program/DNR high quality wetlands	190	250	220*	190	125
	Bogs	190	250	220*	190	125
	Estuarine (at least 1 acre) & Coastal Lagoons	150	200	175*	150	100
	High Level Habitat Function (habitat function score is 29-36)	225	300	262*	225	150
	Moderate Level Habitat Function (habitat function score is 20-28)	110	150	130*	110	75
	Total score 70 or above but not meeting above criteria	75	100	75	75	50
Category II	Estuarine (less than 1 acre)	110	150	130*	110	75
	High level of function for habitat (habitat function score is 29-36)	225	300	262*	225	150
	Moderate level of function for habitat (habitat function score is 20-28)	110	150	130*	110	75
	High level of function for water quality improvement and low for habitat (water quality function score is 24 – 32 and habitat function score is less than 20)	75	100	75	75	50
	Total score 51-69 but not meeting above criteria	75	100	75	75	50
Category III	Moderate Level Habitat Function (habitat function score is 20-28)	110	150	110	110	75
	Total score of 30-50 but not meeting above criteria	60	80	60	60	40
Category IV	Total score for all functions less than 30 points	40	50	40	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.)

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.

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(b) Buffer widths shall be measured as follows:

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(i) the buffer for streams, lakes and marine waters shall be measured from the ordinary high-water mark extending horizontally in a landward direction and for wetlands, the buffer shall be measured from the edge of the wetland extending horizontally in a landward direction; and

7

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9

(ii) provided however, where the landward edge of the standard buffer shown in Table 2a or 2b extends on to a slope of 33 percent or greater, the buffer shall extend to a point 25 feet beyond the top of the slope.

10

(c) Within buffers, the following restrictions on impervious surfaces apply:

11

12

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

13

14

(ii) total effective impervious surfaces shall be limited to 10 percent within 300 feet of:

15

(A) any streams or lakes containing salmonids;

16

(B) wetlands containing salmonids; or

17

(C) marine waters containing salmonids.

18

19

(d) All development activities, actions requiring project permits or clearing shall be designed to avoid the loss of or damage to trees in buffers due to blow down or other causes.

20

21

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

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(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);

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(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:

28

29

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

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

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

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

9 (f) The following buffer reduction methods are only allowed in conjunction with a
10 critical area study, pursuant to SCC 30.62A.140, demonstrating that the methods will provide
11 protection equivalent to the standard requirements contained in Table 2. Proposals offering
12 better protection would also be acceptable:

13 (i) the width of a buffer may be averaged, by reducing the width of a portion
14 of the buffer and increasing the width of another portion of the same buffer, if all of the
15 following requirements are met:

16 (A) averaging will not diminish the functions and values of the wetland(s),
17 fish and wildlife habitat conservation area(s) or buffer(s);

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

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

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

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

26 (F) 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
29 following criteria:

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

5 (2) no more than 25% of the buffer of the individual critical areas shall be
6 used to make a corridor connection;

7 (3) the corridor connection shall be established where feasible using the
8 highest quality habitat existing between the critical areas;

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

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

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

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

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

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

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

25 (g) When averaging is used in combination with any or all of the reduction methods
26 contained in this section, the buffer shall not be reduced to less than half of the standard buffer
27 widths contained in SCC 30.62A.320(1)(a), Table 2.
28

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

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

8 (i) no other feasible alternative exists or the alternative would result in
9 unreasonable or disproportionate costs; and

10 (ii) location, design and construction minimizes impacts to the buffers pursuant
11 to SCC 30.62A.310.

12 (b) Stormwater detention/retention facilities are allowed pursuant to the
13 requirements of SCC 30.63A.240.

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

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

18 (e) Trimming of vegetation for purposes of providing a view corridor in a buffer is
19 allowed provided that:

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

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

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

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

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

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

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

(3) Buffer standards and requirements – mitigation ratios. To mitigate impacts to functions and values of buffers, the ratios in Table 3 shall be required unless using the provisions of innovative development in 30.62A.350. The ratios are based upon the existing type of vegetative cover and are expressed in terms of the number of acres needed to recover the lost functions and values of one acre of buffer area. For impacts to buffers that permanently remove existing vegetation, functions and values shall be assumed to be replaced by creating or enhancing new buffers at the following ratios:

Table 3 –Buffer Mitigation Ratios

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

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30.62A.330 Standards and requirements for activities conducted within streams, lakes and marine waters.

5

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

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

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

21 (a) All development activities, actions requiring project permits and clearing shall
22 meet the following requirements:

23 (i) the project shall be sited and designed to prevent the need for shoreline or
24 bank stabilization and structural flood hazard protection measures for the life of the
25 development;

26 (ii) the project shall be sited and designed to avoid the need for new or
27 maintenance dredging; and

28 (iii) the project shall not obstruct the source and movement of sediment from
29 bluffs along marine waters except as necessary pursuant to SCC 30.62A.330(2)(b).

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1 (b) Shoreline and streambank stabilization and flood protection measures. Shoreline
2 and streambank stabilization and flood protection measures are only allowed to protect an
3 existing primary structure; new or existing utilities, roads and bridges; agricultural land; or as
4 part of a project where the sole purpose is to protect or restore wetlands, fish and wildlife habitat
5 conservation areas or buffers. Activities allowed under SCC 30.62A.330(2)(b) shall meet the
6 following conditions:

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

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

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

12 (iv) the activity should be designed and constructed based on the guidance
13 contained in the Integrated Streambank Protection Guidelines (Washington State
14 Department of Fish and Wildlife, April 2003) and the Alternative Bank Protection
15 Methods for Puget Sound Shorelines (Washington State Department of Ecology, May
16 2000, Publication #00-06-012) as appropriate for the type of critical area impacted.

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

19 (i) new utility crossings shall be bored beneath types S and F streams, and
20 channel migration zones where feasible;

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

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

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

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

28 (vi) new overhead electrical facilities are allowed when no other feasible alternative
29 exists or the alternative would result in unreasonable or disproportionate costs, and the

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1 location, design and construction minimizes impacts to streams, lakes and marine waters
2 pursuant to SCC 30.62A.310.

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

4 (i) road crossings on fish-bearing streams shall be designed according to the
5 guidelines set forth in Fish Passage Design at Road Culverts (Washington Department of
6 Fish and Wildlife, March 3, 1999); and

7 (ii) road crossings shall avoid interrupting natural rates of the downstream
8 movement of woody debris and sediment.

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

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

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

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

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

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

17 18 **30.62A.340 Standards and requirements for activities conducted in wetlands.**

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

23 (1) Standards for wetlands – prohibitions. The following actions are prohibited:

24 (a) Filling of estuarine wetlands, Natural Heritage wetlands, mature forested
25 wetlands and Category I bogs;

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

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

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1 (2) Standards for wetlands – no mitigation required. All development activities, actions
2 requiring project permits and clearing that do not encroach into wetlands and provide buffers
3 consistent with the requirements of SCC 30.62A.320(1)(a) through (f) and the prohibitions in
4 SCC 30.62A.340(1) satisfy the avoidance criteria of SCC 30.62A.310(3) and do not require
5 mitigation.

6 (3) Standards for wetlands – mitigation required. The actions, structures and facilities
7 listed in this section are allowed only when they are determined to be unavoidable pursuant to
8 SCC 30.62A.310, are consistent with the prohibitions in SCC 30.62A.340(1), and are conducted
9 according to the standards and requirements identified in this section. When a permit is required,
10 an applicant must also provide a critical area study meeting the requirements of SCC 30.62A.140
11 and a mitigation plan meeting the requirements of SCC 30.62A.150.

12 (a) Except for estuarine wetlands, Natural Heritage wetlands, mature forested
13 wetlands and bogs, filling of up to one acre of wetland is allowed provided no other feasible
14 alternative exists.

15 (b) New utilities and transportation structures are allowed within wetlands provided
16 no other feasible alternative exists.

17 (c) Stormwater detention/retention facilities are prohibited in Category I bogs
18 pursuant to SCC 30.62A.340(1)(b) but otherwise allowed pursuant to the requirements of SCC
19 30.63A.240.

20 (4) Standards for wetlands – mitigation requirements.

21 (a) Mitigation ratios - To mitigate total loss of wetland functions, the ratios in Table 4
22 shall be required unless using the provisions for innovative development in 30.62A.350. The
23 ratios are expressed in terms of the units of area needed to replace the lost functions and values
24 of the wetland.

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Table 4 – Wetland Mitigation Ratios

Category/Type of Wetland	Creation	Enhancement ¹
All Category IV	1.5:1	3:1
All Category III	2:1	4:1
Category II Estuarine	innovative development only	4:1
All other Category II	3:1	6:1
Category I based on score for functions	4:1	8:1
Category I Natural Heritage site	Innovative development only	Innovative development only
Category I Coastal Lagoon	Innovative development only	Innovative development only
Category I Bog	Not allowed	Innovative design only
Category I Estuarine	Innovative development only	Innovative development only
¹ Enhancement is allowed in lieu of creation for up to one acre of wetland fill		

3 (b) To reduce wetland buffer widths from the width required for high intensity land uses,
4 optional mitigation measures and process requirements may be applied to reduce wetland buffer
5 widths as shown in 30.62A.320(1)(a) Table 2b.

6 (i) Optional mitigation measures.

7 (A) Mitigation measure 1. All applicable mitigation measures from Table
8 5 may be used to mitigate impacts to wetlands from high intensity land uses. When
9 fencing and/or separate tracts are used pursuant to this section additional buffer width
10 reductions for fencing or separate tracts otherwise allowed in 30.62A.320(1) SCC shall
11 not be 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
Pets and human disturbance	<ul style="list-style-type: none"> • Residential areas 	<ul style="list-style-type: none"> • 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
<p>* These examples are not necessarily adequate for minimizing toxic runoff if threatened or endangered species are present at the site.</p>		

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1 (B) Mitigation measure 2. For Category I or II wetlands that score
2 moderate or high for habitat (20 points or more for the habitat functions), a habitat
3 corridor shall be preserved that meets the following criteria:

4 (I) Except as allowed in number (II) below, the habitat corridor
5 shall connect the Category I or II wetland with a habitat score of 20 or
6 more to any other wetland, fish and wildlife habitat conservation area or
7 buffer which is:

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

10 (bb) on adjacent properties and already protected as
11 NGPAs or CAPAs or other permanently protected open space
12 suitable for wildlife habitat use and which either extends to the
13 property boundary or connected by easement; or

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

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

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

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

23 (bb) The corridor shall maintain an average width equal to
24 the difference between the high intensity buffer and the standard
25 buffer for the relevant Category I or II wetland as shown in Table
26 6, except when the corridor is connecting two Category I or II
27 wetlands each with a habitat score of 20 or more and the corridor
28 maintains an average width of 100 feet, it will fulfill the
29 connection requirement for both wetlands.

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Table 6: Average Width for Habitat Corridors (feet)

Wetland Category	Description	Standard Buffer Width	High Intensity Buffer Width	Average Habitat Corridor Width
Category I	Washington Natural Heritage Program/DNR high quality wetlands	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 29-36)	225	300	75
	Moderate Level Habitat Function (habitat function score is 20-28)	110	150	40
Category II	Estuarine (less than 1 acre)	110	150	40
	High Level Habitat Function (habitat function score is 29-36)	225	300	75
	Moderate Level Habitat Function (habitat function score is 20-28)	110	150	40

(cc) The corridor shall maintain a width at each connection not less than the required average width as described in (3)(bb) above.

(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:

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

(bb) Vegetation management is allowed as follows:

(A) hazardous tree management – creation of snags and down logs is favored over tree removal whenever possible

(B) hand removal of invasive plant species

(C) removal of noxious weeds using bmps

(D) when trails are allowed as per (4)(aa) above, minimal trail maintenance is also allowed

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1 (E) restorative/enhancement plantings with native
2 species to increase species diversity or replace plants lost to
3 disease or damage; and

4 (F) planting with native species along outer edge of
5 corridor to increase plant density and discourage disturbance or
6 intrusion.

7 (ii) Process requirements in Part 100 shall be supplemented with the necessary
8 information to document the mitigation locations and protection requirements, provide an
9 assessment of functions and values and evaluation of the level of protection achieved by the
10 mitigation measures and establish provisions for permanent protection.

11 12 **30.62A.350 Innovative development design.**

13 (1) A project permit applicant may request approval of an innovative design, which addresses
14 wetland, fish and wildlife habitat conservation area or buffer treatment in a manner that deviates
15 from the standards contained in Part 300. The applicant shall demonstrate in a critical area study
16 required pursuant to SCC 30.62A.140 how the innovative development design complies with the
17 following requirements:

18 (a) The innovative design will achieve protection equivalent to the treatment of the
19 functions and values of the critical area(s) which would be obtained by applying the standard
20 prescriptive measures contained in this chapter. Proposals offering better protection would also
21 be acceptable;

22 (b) Applicants for innovative designs are encouraged to consider measures prescribed in
23 guidance documents, such as watershed conservation plans or other similar conservation plans,
24 and low impact stormwater management strategies that address wetlands, fish and wildlife
25 habitat conservation area or buffer protection consistent with this section;

26 (c) The innovative design will not be materially detrimental to the public health, safety
27 or welfare or injurious to other properties or improvements located outside of the subject
28 property; and

29 (d) Applicants for innovative designs are encouraged to consider measures prescribed in
30 the PSAT 2005 Technical Guidance Manual for Low Impact Development and in chapter 30.63C
31 SCC.

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1 (2) Applicants proposing development activities on properties designated as Urban Center
2 Transit Pedestrian Village on the county's Future Land Use Map may utilize the innovative
3 design provisions in this section to deviate from the requirements in Part 300. Such deviations
4 may include, but are not limited to provisions related to avoidance of impacts, standard buffer
5 widths, allowed uses in buffers and wetlands, mitigation ratios and use of off-site mitigation. The
6 applicant shall demonstrate in a critical area study required pursuant to SCC 30.62A.140:

7 (a) Why the deviation is necessary to implement the policies in the county's
8 comprehensive plan General Policy Plan under objective LU 3.B; and

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

12 13 14 **PART 400 - CRITICAL SPECIES**

15 16 **30.62A.410 Purpose.**

17 This Part establishes standards and requirements for the protection of critical species, which
18 includes:

19 (1) Species listed as threatened or endangered under RCW 77.12.020 and Title 16 United
20 States Code;

21 (2) Species of local importance designated under SCC 30.62A.470; and

22 (3) The following species:

23 (a) Larch mountain salamander;

24 (b) Common loon;

25 (c) Peregrine falcon;

26 (d) Olympic mudminnow;

27 (e) Pygmy whitefish; and

28 (f) Gray whale.
29

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1 30.62A.420 Applicability.

2 (1) The provisions of this Part shall apply as of the effective date of the listing to all
3 development activities, actions requiring project permits and clearing occurring on a site
4 containing a primary association area for a critical species. The provisions of this Part shall
5 apply in addition to any other requirements of this chapter.

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

10

11 30.62A.430 Administrative rules authorized.

12 In order to protect critical species and their habitats, the department shall develop administrative
13 rules under chapter 30.82 SCC within 120 days of the species listing that establish protection
14 requirements specific to these species and their habitats.

15

16 30.62A.440 Administrative rules - minimum protection requirements.

17 In developing administrative rules under this section, the department shall consider establishing
18 at least the following minimum protections:

- 19 (1) Establishment of the primary association area;
- 20 (2) Limitation on development activities within the primary association area;
- 21 (3) Limitation on access to the primary association area;
- 22 (4) Provisions for seasonal restrictions on construction activities where appropriate;
- 23 (5) Preservation of habitat for the critical species; and
- 24 (6) Permanent protection pursuant to SCC 30.62A.160.

25

26 30.62A.450 General standards and requirements.

27 Proponents for all development activities, actions requiring project permits or clearing shall
28 make all reasonable efforts to avoid and minimize impacts to critical species pursuant to the
29 requirements of this section, in the following sequential order of preference:

- 0 (1) Avoid impacts altogether by not taking a certain action or parts of an action; or

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1 (2) When avoidance is not possible, minimize impacts by limiting the degree or
2 magnitude of the action and its implementation, using appropriate technology, or by taking
3 affirmative steps, such as project redesign, relocation, or timing, to avoid or reduce impacts; and

4 (3) Comply with rules adopted pursuant to SCC 30.62A.430 and a habitat management
5 plan when required pursuant to SCC 30.62A.460.

6 7 **30.62A.460 Habitat management plan contents.**

8 For any development activity or action requiring a project permit occurring within the primary
9 association area of a critical species, the director may require all or a portion of the following:

10 (1) A critical area study meeting the requirements of SCC 30.62A.140;

11 (2) A map drawn to scale or survey showing the location and description of the primary
12 association area(s) of the critical species on the subject property;

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

15 (4) An assessment of how the proposed activities will affect the critical species and/or
16 its habitat, and how the proposal will avoid, minimize or mitigate impacts to those critical
17 species and their habitats pursuant to SCC 30.62A.450. The department shall waive this
18 requirement when a proposed activity is consistent with the protection standards adopted in an
19 administrative rule developed pursuant to SCC 30.62A.430; and

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

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1 30.62A.470 Species of local importance.

2 This section provides the process for the designation, nomination and protection of species of
3 local importance. The designation, nomination and protection strategies shall be based on best
4 available science.

5 (1) Designation criteria.

6 (a) Designation of species of local importance must be based on both the following
7 circumstances:

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

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

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

16 (i) local populations of a native species are in danger of extirpation based on
17 existing trends;

18 (ii) local populations of a native species are likely to become threatened or
19 endangered under state or federal law;

20 (iii) local populations of a native species are vulnerable or declining;

21 (iv) the native species has recreational, commercial, or tribal significance; or

22 (v) long-term persistence of a native species is dependent on the protection,
23 maintenance, and/or restoration of the nominated primary association area.

24 (2) Petition Contents. The petition to nominate a species of local importance shall
25 contain all the following:

26 (a) A map showing the nominated primary association area location(s);

27 (b) An environmental checklist in conformance with SCC 30.61.100;

28 (c) A written statement that

29 (i) identifies which designation criteria form the basis of the nomination;

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1 (ii) includes supporting evidence that designation criteria are met; and

2 (iii) indicates what specific habitat feature(s) or plant communities are to be
3 protected (e.g., nest sites, breeding areas, and nurseries);

4 (d) Recommended management strategies for the species, supported by the best
5 available science and which meet the minimum requirements of SCC 30.62A.440; and

6 (e) An economic analysis identifying the cost of implementing a mitigation or
7 protection plan and the financial impact of the requested designation on affected properties or
8 local governments.

9 (3) Approval Process.

10 (a) Timing. Nominations for species of local importance will be considered by the
11 council no more than once per year. The department will accept proposals for amendments at
12 any time; however, proposals received after July 31st of each year will be processed in the next
13 annual review cycle.

14 (b) Process. The county may include a species of local importance for protection
15 pursuant to this section through adoption of legislation by the council. The council considers
16 whether to adopt a motion to list a species of local importance through the following process:

17 (i) any person may nominate species for designation by submitting a petition
18 meeting the requirements of SCC 30.62A.470(2) and payment of fees as required by
19 chapter 30.86 SCC;

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

23 (iii) the department shall review the submittal of the petitioner, and coordinate
24 and assemble all available comments of the public, other county departments, and other
25 agencies. Based on the available record, and any other information that may be available,
26 the department shall provide a staff report and recommendation to the council concerning
27 whether the petition meets the requirements for approval;

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

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

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

11 (4) Establishment of specific rules for protection. Within 120 days of an action by the
12 council, the department shall develop an administrative rule pursuant to chapter 30.82 SCC
13 addressing protection of the species of local importance in compliance with this section.

14 (5) The department may establish administrative procedures necessary to administer this
15 section.

PART 500 - EXCEPTIONS

30.62A.510 Minor development activity exceptions.

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21 (1) Certain minor development activities may occur in wetlands, fish and wildlife
22 habitat conservation areas or buffers provided the project proponent complies with best
23 management practices (BMPs) adopted through rulemaking pursuant to chapter 30.82 SCC and
24 all known and available reasonable technology (AKART) appropriate for compliance with this
25 chapter. Best management practices are physical, structural, or managerial practices which have
26 gained general acceptance by professionals in the appropriate field to minimize and mitigate
27 adverse impacts to the functions and values of critical areas.

28 (2) All minor development activities authorized in this section shall comply with
29 administrative BMP rules upon adoption. Prior to adoption of such administrative rules, project
30 proponents shall comply with all known and available BMPs as defined in SCC 30.62A.510(1).
31 The director shall use his or her best efforts to adopt BMPs for the minor development activities

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1 listed in this section pursuant to the rulemaking provisions of chapter 30.82 SCC within 12
2 months of the effective date of this chapter.

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

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

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

6 (ii) utility corridors,

7 (iii) trails,

8 (iv) utility facilities,

9 (v) flood protection and bank stabilization structures,

10 (vi) stormwater facilities; and

11 (vii) structures;

12 (b) Minor replacement, modification, extension, installation, or construction by a
13 utility purveyor in an improved public road right-of-way;

14 (c) Survey or monument placement;

15 (d) Minor replacement or modification of existing facilities by a utility purveyor in
16 an improved utility corridor;

17 (e) Minor replacement or modification by a utility purveyor of individual utility
18 service lines connecting to a utility distribution system;

19 (f) Minor replacement, modification, minor installation or construction in an
20 improved road right-of-way by the county or by the holder of a current right-of-way use permit;

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

24 (h) Removal of invasive weeds;

25 (i) Felling or topping of hazardous trees based on review by a qualified arborist;

26 (j) Minor replacement, modification or installation of drainage, water quality or
27 habitat enhancement projects; and

28 (k) All other on-going lawfully established development activities not specifically
29 addressed in this chapter.

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1

30.62A.520 Single family residential development exceptions in buffers.

3 New single family residential development, expansions of existing single family residences and
4 ordinary residential improvements on lots existing prior to October 1, 2007 are allowed in
5 buffers only as follows:

6 (1) New single family residential structures and ordinary residential improvements shall
7 not disturb more than 4,000 square feet of the buffer;

8 (2) To the extent feasible, total effective impervious areas shall be limited to 10 percent
9 within 300 feet of all waters and bogs containing salmonids;

10 (3) Expansion of an existing single family residence or accessory structure may be
11 allowed within a buffer provided the footprint of the expansion does not exceed fifty percent of
12 the existing structure, and the expansion is set back from the critical area a distance which is
13 greater than or equal to the setback of the original structure;

14 (4) Development in the buffer shall be the minimum necessary to accomplish the uses
15 described in this section;

16 (5) For new single family development, there must be no alternate location for the
17 development outside of the buffer;

18 (6) Development in the buffer shall be located to avoid impacts to critical species;

19 (7) The buffer shall in no case be reduced to less than one half of the standard buffer as
20 provided at 30.62A.320(1)(a) SCC or 25 feet, whichever is greater;

21 (8) To the maximum extent feasible, the development shall be designed to avoid the
22 removal of existing native vegetation with emphasis on preservation of conifers greater than or
23 equal to 24 inches diameter at breast height (dbh), and hardwoods greater than or equal to 20
24 inches dbh;

25 (9) New sewage distribution lines may be allowed in areas of the buffer containing
26 native vegetation provided that the lines are installed without the aid of mechanical equipment,
27 and the removal of any vegetation within the buffer shall be the minimum necessary to install the
28 lines;

29 (10) A permanent fence shall be installed along the edge of the reduced buffer;

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1 (11) Mitigation for any encroachment into the buffer shall include, where beneficial,
2 enhancement of existing buffers on the site based on the following criteria:

3 (a) The enhanced buffer should be located between the residential structures and
4 improvements and the aquatic critical area; and

5 (b) The ratio of the area of buffer enhanced to the area of the buffer encroached
6 upon should be 2 to 1.

30.62A.530 Emergency activities.

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9 Emergency activities necessary to prevent an immediate threat to public health, safety, welfare
10 or property, or to prevent an imminent threat of serious environmental degradation, are allowed
11 without prior approval in wetlands, fish and wildlife habitat conservation areas or buffers, based
12 on the criteria set forth in this section:

13 (1) The activity must be the minimum necessary to alleviate the emergency;

14 (2) The project proponent shall notify the department prior to any action taken to
15 remedy an emergency. If prior notification is not feasible, the project proponent shall notify the
16 department within 48 hours of the action; and

17 (3) Applications for any required project permits necessary to satisfy compliance with
18 this chapter are submitted to the department within 120 days of the start of the action taken. For
19 actions not requiring permits, compliance with this chapter shall occur within a reasonable time
20 period not to exceed twelve months.

30.62A.540 Reasonable use.

21
22
23 (1) A project permit applicant who is unable to comply with the specific standards of
24 this chapter without forfeiting all economically viable use of the property may seek approval of a
25 "reasonable use" allowance under this section. The application must be made on a form
26 provided by the department and accompany a project permit application.

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

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1 (a) Application of this chapter will deny all economically viable use of the subject
2 property. In making this determination, the director shall also determine that:

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

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

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

12 (3) If the director determines that a project permit application meets the requirements of
13 SCC 30.62A.540(2), the project permit application may be approved where the director finds:

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

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

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

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

24 (e) If a reasonable use of a parcel cannot exist without modification of the required
25 front, side or rear setbacks or other bulk standards, the department may consider modifying those
26 standards only to the extent necessary to provide for a reasonable use, while providing as much
27 protection as is possible under the circumstances to critical areas, while maintaining the public
28 health safety and welfare. This section shall not relieve an applicant from the obligation of

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1 complying with applicable variance procedures set forth in chapters 30.43B and 30.43E SCC or
2 other applicable modification procedures adopted under this title; and

3 (f) To the greatest extent feasible, the project includes compensation and mitigation
4 for unavoidable impacts to the functions and values of critical areas regulated under this chapter
5 in accordance with the requirements of SCC 30.62A.150.

6 7 **30.62A.550 Mitigation banking.**

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

12 (2) Criteria for approval of use of mitigation banks:

13 (a) The following must have been approved by the County and the federal, state
14 and local agencies with jurisdiction:

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

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

20 (A) the categories of development activities that may use the mitigation
21 bank;

22 (B) specific criteria and standards for use of the mitigation bank;

23 (C) methods for tracking credits;

24 (D) an interagency oversight committee composed of representatives from
25 each of the agencies with jurisdiction for the purpose of regulatory review and
26 approval of banking activities;

27 (E) permanent management and maintenance to assure the long-term
28 viability of the bank site;

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1 (F) professional construction oversight to ensure successful construction
2 of the mitigation bank site;

3 (G) quantitative and qualitative performance standards;

4 (H) systematic compliance and performance monitoring to determine the
5 degree to which the site meets performance standards;

6 (I) a schedule and timeline for compliance and performance monitoring,

7 (J) contingency plans;

8 (K) methods to be used to determine the functions and values of
9 replacement wetlands, fish and wildlife habitat conservation area or buffers;

10 (L) provisions for assuring the funding of long-term maintenance of the
11 bank and performance of mitigation and monitoring requirements;

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

18 (N) the mitigation plan requirements contained in SCC 30.62A.150. and

19 (O) provisions for mitigation sequencing that requires at minimum that all
20 proposals using a mitigation bank shall have made reasonable efforts to avoid and
21 minimize impacts to wetlands and fish and wildlife habitat conservation areas.

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

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1 (c) The creation and operation of the mitigation bank and development activity
2 which utilizes the wetland, fish and wildlife habitat conservation area or buffer bank, shall not
3 create unmitigated long term or permanent adverse impacts to the critical functions and values of
4 the wetlands, fish and wildlife habitat conservation areas or buffers in the sub-drainage basin in
5 which the impacts will occur. Critical functions and values listed at SCC 30.62A.220 are those
6 that are important to the long-term ecological viability of the wetlands, fish and wildlife habitat
7 conservation areas or buffers in the sub-drainage basin.

8 (3) The director shall make MOAs and mitigation banking implementation manuals
9 available for public review and comment prior to approval.

PART 600 - AGRICULTURAL ACTIVITIES

30.62A.605 Purpose.

15 In accordance with RCW 36.70A.020, the Growth Management Act (GMA) goals require the
16 county to maintain and enhance natural resource-based industries, including commercial
17 agriculture. This Part implements the necessary balance between goals 8 and 10 of the GMA
18 relative to commercial agriculture and the protection of critical areas.

30.62A.610 Applicability.

21 This Part applies to agricultural activities as defined in SCC 30.91A.090, but not meeting the
22 definition of agricultural activities in SCC 30.62.015(1), occurring on lands where agriculture is
23 a legal use, where critical areas defined as wetlands or fish and wildlife habitat conservation
24 areas, or their buffers are present on the site.

30.62A.620 General Agricultural Standards.

27 Except as provided in SCC 30.62A.630, normal agricultural activities as defined in SCC
28 30.32B.230 or SCC 30.91A.090 subject to this Part 600 are in compliance with this chapter when
29 those activities are performed in accordance with (1), (2) or (3) below:

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

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1 (2) Other recognized best management practices for such activity that protect the
2 functions and values of critical areas, where the NRCS FOTG does not provide specific guidance
3 or a best management practice; or

4 (3) A farm conservation plan that includes provisions addressing critical areas
5 protection specific to the farm site approved by the NRCS or the Snohomish Conservation
6 District (SCD) and signed by the landowner. Any confidential or proprietary information
7 contained in a farm conservation plan may be redacted prior to public disclosure.

8 9 **30.62A.630 Special Agricultural Conditions.**

10 (1) Notwithstanding SCC 30.62A.620, agricultural activities as defined in SCC
11 30.32B.230 or SCC 30.91A.090 subject to this Part 600 that meet one or more of the following
12 special conditions shall comply with SCC 30.62A.630(2):

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

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

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

20 (i) The activity is exempt from wetland regulation under Section
21 404(f) of the federal Clean Water Act;

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

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

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

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1 (2) The agricultural activities listed in SCC 30.62A.630(1) are in compliance with this
2 chapter when those activities are performed as follows:

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

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

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

PART 700 – MONITORING AND ADAPTIVE MANAGEMENT

30.62A.710 Monitoring and adaptive management program.

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14 The Executive shall develop and implement a monitoring and adaptive management program to
15 establish a baseline and provide performance measures to determine whether the County is
16 achieving no net loss through its policies and programs affecting wetlands and fish and wildlife
17 habitat conservation areas, in conformance with the Natural Environment Element of the General
18 Policy Plan of the comprehensive plan. The program along with a budget shall be submitted for
19 approval to the County Council within six months of the effective date of this ordinance.
20

30.62A.720 Monitoring and adaptive management program - contents.

21
22
23 (1) Monitored critical areas shall include wetlands and fish and wildlife habitat conservation
24 areas.

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

26 (a) Identify and collect meaningful data concerning the effectiveness of the county's
27 programs and policies concerning protection of wetlands and fish and wildlife habitat
28 conservation areas; and

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

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

3 (a) Benchmarks that describe the state of existing functions and values of the monitored
4 critical areas and that are tied to the protective measures being assessed;

5 (b) Data collection methods that provides accurate measurements of the functions and
6 values of the monitored critical areas and that are tied to the protective measures being assessed,
7 including appropriate time periods for collection of data;

8 (c) Threshold levels for addressing management practices, regulations and other
9 measures that are determined through data collection and monitoring to be negatively affecting
10 functions and values of monitored critical areas. Thresholds are to be set in light of the
11 benchmarks for existing conditions and in accordance with scientifically-based habitat
12 minimums; and

13 (d) Strategies for adaptive management or addressing change to provide for expeditious
14 action in reaction to reaching a threshold level. The monitoring and adaptive management
15 program may provide for different strategies for action, depending on the critical area being
16 monitored, the cause of the negative impacts to functions and values, and other variables.

17

30.62A.730 Monitoring and adaptive management program - reporting.

18

19
20 (1) Starting in December, 2008, and each year following, the executive shall report to the
21 council on the monitoring and adaptive management program, using best available science, and
22 provide data and conclusions regarding the effectiveness of the county in achieving no net loss of
23 critical area functions and values. If net loss is detected, using scientifically valid techniques, the
24 executive shall report and recommend strategies for adaptive management.

25 (2) At any point when the monitoring program identifies a significant decline in functions and
26 values of a critical area or areas, the executive shall provide a report to the council as required in
27 SCC 30.62A.730(1).

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1 PART 000 – GENERAL

2 3 30.62B.010 Purpose and applicability.

4 (1) The purpose of this chapter is to provide regulations for the protection of public
5 safety, health and welfare pursuant to the Growth Management Act (Chapter 36.70A RCW), in
6 geologically hazardous areas, including: erosion hazard, landslide hazard, seismic hazard, mine
7 hazard, volcanic hazard, and tsunami hazard areas.

8 (2) This chapter applies to:

9 (a) Development activities, actions requiring project permits, and clearing except for the
10 following:

11 (i) Non-ground disturbing interior or exterior building improvements;

12 (ii) Routine landscape maintenance of established, ornamental landscaping;

13 (iii) Exterior structure maintenance, including, but not limited to, painting and
14 roofing;

15 (iv) Removal of noxious weeds conducted in accordance with chapter 16-750
16 WAC;

17 (v) Maintenance or replacement that does not expand the affected area of the
18 following existing facilities:

19 (A) septic tanks and drainfields;

20 (B) wells;

21 (C) individual utility service connections; and

22 (D) individual cemetery plots in established and approved cemeteries;

23 (vi) Data collection and research by non-mechanical means if performed in
24 accordance with state-approved sampling protocols or Endangered Species Act (ESA) Section
25 10(a)(1)(a), Section 7 consultation (16 USC § 1536);

26 (vii) Non-mechanical survey and monument placement;

27 (viii) Soils testing or topographic surveying of slopes for purposes of scientific
28 investigation, site feasibility analysis, and data acquisition for geotechnical report preparation
29 provided it can be accomplished without road construction; and

30 (ix) Quasi-judicial rezones not accompanied by another permit or approval.

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1 (b) Agricultural activities, which are subject only to Part 500 of this chapter; except that
2 certain agricultural activities as defined in SCC 30.62.015(1) occurring on rural and agricultural
3 resource lands are exempt from this chapter and are subject only to chapter 30.62 SCC.
4

5 **30.62B.015 Intent.**

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

14 **30.62B.020 Relationship to Snohomish County Shoreline Management Program.**

15 Regulation of geologically hazardous areas located within shorelines of the state, as defined in
16 chapter 90.58 RCW, shall be accomplished through compliance with the provisions of this
17 chapter. Nothing in this section shall be construed to be inconsistent with RCW 36.70A.480.
18

19 **30.62B.030 Relationship to chapter 30.61 SCC – environmental impacts.**

20 Critical area protective measures required by this chapter shall also constitute adequate
21 mitigation of adverse or significant adverse environmental impacts on geologically hazardous
22 areas pursuant to chapter 30.61 SCC, to the extent permitted by RCW 43.21C.240.
23

24 **30.62B.040 Rulemaking authority.**

25 The director shall have the authority to adopt administrative rules to implement the provisions of
26 this chapter. Rulemaking authority shall include, but is not limited to, the adoption of best
27 management practices for the regulation of geologically hazardous areas.
28

**Geologically Hazardous Areas
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1 PART 100 – PROCESS REQUIREMENTS

2
3 30.62B.110 Permit pre-applications.

4 Project proponents may request a pre-application meeting pursuant to SCC 30.70.020 to obtain a
5 preliminary analysis of how the requirements of this chapter apply to the proposed project.
6

7 30.62B.120 Critical area services provided by the department.

8 The department may provide the following service upon submittal of an application and the
9 payment of fees as required by chapter 30.86 SCC: identification of erosion and landslide
10 hazard areas for single-family residential (SFR) dwellings, duplexes, and accessory structures,
11 and commercial structures of 8,000 square feet or less.
12

13 30.62B.130 Submittal requirements.

14 For any development activity or action requiring a project permit, the applicant shall submit a
15 site development plan drawn to a standard engineering scale which includes:

- 16** (1) Boundary lines and dimensions of the subject property;
- 17** (2) Boundary lines and dimensions of the site;
- 18** (3) Topography at contour intervals of five feet unless the underlying project permit
19 requires a lesser interval;
- 20** (4) Location, size, and type of any existing structures and other existing developed
21 areas;
- 22** (5) Location, size and type of all proposed structures and development activity on the
23 site;
- 24** (6) Location of all geologically hazardous areas on and within 200 feet of the site, to the
25 extent possible;
- 26** (7) Location of all other critical areas regulated pursuant to chapters 30.62A, 30.62C and
27 30.65 SCC on and within 200 feet of the site; and
- 28** (8) Location of structure setbacks as required in SCC 30.62A.320(1)(d), SCC
29 30.62B.340(2) and chapter 30.23 SCC.

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30.62B.140 Geotechnical report requirements.

(1) A geotechnical report will be required for any development activity or action requiring a project permit-proposed within:

- (a) An erosion hazard area;
- (b) A landslide hazard area or its setback;
- (c) Two hundred feet of a mine hazard area; or
- (d) Two hundred feet of any faults.

(2) The geotechnical report shall be prepared, stamped, and signed by a licensed engineer or geologist and contain the following information relevant to the geologically hazardous area:

- (a) The topography at contour intervals of five feet unless the underlying project permit requires a lesser interval;
- (b) Significant geologic contacts, landslides, or downslope soil movement on and within 200 feet of the site;
- (c) A channel migration zone study when required pursuant to SCC 30.62B.330(2);
- (d) Impervious surfaces, wells, drain fields, drain field reserve areas, roads, easements, and utilities on site;
- (e) The location or evidence of any springs, seeps, or other surface expressions of groundwater;
- (f) The location or evidence of any surface waters;
- (g) Identification of all existing fill areas;
- (h) The location and extent of all proposed development activity;
- (i) A discussion of the geological condition of the site including:
 - (i) a description of the soils in accordance with the Natural Resource Conservation Service indicating the potential for erosion;
 - (ii) engineering properties of the soils, sediments, and rocks on the subject property and adjacent properties and their effect on the stability of the slope;
 - (iii) a description of the slope in percent gradient; and
 - (iv) the location or evidence of seismic faults and soil conditions indicating the potential for liquefaction;

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1 (j) The proposed method of drainage and locations of all existing and proposed
2 surface and subsurface drainage facilities and patterns, and the locations and methods for erosion
3 control;

4 (k) The extent and type of existing vegetative cover;

5 (l) A vegetation management and restoration plan prepared by persons experienced
6 in vegetation management and restoration plans such as botanists, landscape architects and
7 certified arborist, or other means for maintaining long-term stability of slopes;

8 (m) Analysis of erosion rates, slope recession rates and potential impacts to existing
9 or proposed development from wave cutting, stream meandering, or other erosional forces to
10 determine the recommended solution for bank or shoreline stabilization or flood protection in
11 conformance with SCC 30.62B.320(2); and

12 (n) Any other information necessary to determine compliance with this chapter.

13
14 **30.62B.150 Independent consultant review.**

15 If the department lacks the necessary expertise, the department may require independent
16 consultant review of the application by a qualified professional to assess compliance with this
17 chapter. If independent consultant review is required, the applicant shall make a deposit with the
18 department to cover the cost of the review pursuant to the requirements of chapter 30.86 SCC.
19 Unexpended funds will be returned to the applicant following final decision on the application.

20
21 **30.62B.160 Permanent identification, development restrictions, and recording.**

22 The following measures for permanent identification, development restrictions and disclosure of
23 geologically hazardous areas are required for any development activity or action requiring a
24 project permit, except those occurring in public and private road or utility easements and rights-
25 of-way, or those conducted for the primary purpose of habitat enhancement.

26 (1) Critical area site plan.

27 (a) All erosion, landslide, and mine hazard areas and seismic faults shall be
28 designated on a critical area site plan.

29 (b) The critical area site plan shall be drawn to a standard engineering scale and
30 include at minimum:

**Geologically Hazardous Areas
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- (i) the boundaries of the site;
- (ii) a legal description of the subject property;
- (iii) accurate locations of the geologically hazardous area(s), identified by hazard type; and
- (iv) visual and written documentation of any permanent restrictions on development activities in the geologically hazardous area occurring as a result of compliance with this chapter, including, but not limited to: structural setbacks and vegetation retention requirements or other restrictions as may be required pursuant to this chapter.

(2) Recording. Critical area site plans or disclosure notices as required pursuant to SCC 30.62B.160(1) or (3) shall be recorded with the county auditor. Documentation of recording shall be provided to the department prior to permit issuance.

(3) Disclosure requirements for buildings in volcanic and tsunami hazard areas. A disclosure notice acknowledging that the development is occurring on or within 200 feet of a volcanic or tsunami hazard area. The notice shall include the following disclosure text, as appropriate:

(a) For volcanic hazard areas, "This property is on or within 200 feet of the Glacier Peak Volcanic Hazard Area, which is subject to periodic and potentially life-threatening destructive mud, water, and debris flows."; or

(b) For tsunami hazard areas, "This property is on or within 200 feet of a tsunami hazard area, which could be subject to potentially life-threatening destructive waves."

(4) Previously approved critical area site plans. For any development activity, action requiring a project permit or clearing occurring consistent with a previously approved critical area site plan shall be governed according to the terms and conditions of the approved site plan, provided that all erosion, landslide, mine and seismic hazard areas have been adequately identified and appropriate measures for the protection of public safety have been established.

30.62B.170 Bonding and insurance requirements.

(1) The director shall require bonds or insurance pursuant to chapter 30.84 SCC when the depth of any proposed excavation will exceed four (4) feet and the bottom elevation of the

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1 proposed excavation will be below a one hundred (100) percent slope line originating from the
2 elevation of any adjacent property lines.

3 (2) The director may require bonds or insurance pursuant to chapter 30.84 SCC adequate
4 to cover potential claims for property damage which may arise from or be related to development
5 activities within a landslide hazard area or in other circumstances where there is potential for
6 significant harm to a wetland, fish and wildlife habitat conservation area or buffer or a public
7 right of way during the construction process.

8
9
10 **PART 200 – DESIGNATION**

11
12 **30.62B.210 Designation of geologically hazardous areas.**

13 The county has designated geologically hazardous areas pursuant to RCW 36.70A.170 by
14 defining them and providing criteria for their identification. Project proponents are responsible
15 for determining whether a geologically hazardous area exists and is regulated pursuant to this
16 chapter. The department will verify on a case-by-case basis the presence of geologically
17 hazardous areas identified by project proponents. Specific criteria for the designation of
18 geologically hazardous areas are contained in this chapter and chapter 30.91 SCC. While the
19 county maintains some maps of geologically hazardous areas, they are for informational
20 purposes only and may not accurately represent all such areas.

21
22 **PART 300 – STANDARDS AND REQUIREMENTS**

23
24 **30.62B.310 Purpose of Part 300.**

25 Part 300 of this chapter establishes specific standards and requirements for the treatment of
26 erosion, landslide, seismic, mine, volcanic and tsunami hazard areas.

27
28 **30.62B.320 General standards and requirements for erosion and landslide hazard areas.**

29 (1) Any development activity, action requiring a project permit or clearing
30 occurring in an erosion or landslide hazard area:

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1 (a) Shall be designed to:

2 (i) Comply with the requirements in an approved geotechnical report when
3 required pursuant to SCC 30.62B.140;

4 (ii) Utilize best management practices (BMPs) adopted by the department pursuant
5 to chapter 30.63A SCC and all known and available reasonable technology (AKART)
6 appropriate for compliance with this chapter;

7 (iii) Prevent collection, concentration or discharge of stormwater or groundwater
8 within an erosion or landslide hazard area, except as otherwise provided in this chapter;

9 (iv) Minimize impervious surfaces and retain vegetation to minimize risk of erosion
10 or landslide hazards; and

11 (b) Shall not:

12 (i) result in increased risk of property damage, death or injury;

13 (ii) cause or increase erosion or landslide hazard risk;

14 (iii) increase surface water discharge, sedimentation, slope instability, erosion or
15 landslide potential to adjacent or downstream and down-drift properties beyond pre-development
16 conditions; or

17 (iv) adversely impact wetlands, fish and wildlife habitat conservation areas or their
18 buffers.

19 (2) For shoreline and bank stabilization and flood protection measures proposed in
20 erosion or landslide hazard areas, the project proponent shall make all reasonable efforts to avoid
21 and minimize impacts to wetlands and fish and wildlife habitat conservation areas and their
22 buffers pursuant to the requirements of chapter 30.62A SCC, in the following sequential order of
23 preference:

24 (a) Utilize setbacks sufficient to ensure that shoreline stabilization or flood hazard
25 reduction measures will not be necessary to protect development for its projected design life, or;

26 (b) When sufficient setbacks are not possible, utilize other non-structural measures
27 unless the applicant demonstrates through a geotechnical report required pursuant to SCC
28 30.62B.120 that new or enlarged structural stabilization or flood protection is necessary to
29 protect:

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- (i) existing primary structures, utilities, roads and bridges;
- (ii) new utilities or public bridges and transportation structures allowed pursuant to 30.62B.330(3);
- (iii) agricultural land; or
- (iv) projects where the sole purpose is to protect or restore wetlands, fish and wildlife habitat conservation areas or their buffers.

30.62B.330 Erosion hazard areas - Channel migration zones.

(1) This section establishes specific standards and requirements for development activities, actions requiring a project permit or clearing in channel migration zones adjacent to the following rivers:

River name	River sections (mi)
North Fk Skykomish River	0.00 - 8.64
North Fk 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 Fk Skykomish River	0.00 - 6.71
South Fk Stillaguamish River	0.00 - 43.07
Stillaguamish River & Sloughs	All
Sultan River	0.00 - 7.64
Wallace River	0.00 - 7.71

(2) The department may require a channel migration zone study when a development activity or action requiring a project permit is proposed to occur in areas where evidence indicates channel migration is likely, in accordance with the following requirements:

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1 (a) The study shall be conducted in accordance with Section 2 of the Forest
2 Practices Board Manual (Title 222 WAC), Standard Methods for Identifying Bankfull Channel
3 Features and Channel Migration Zones, November, 2004, except that areas behind natural or
4 manmade features which limit channel migration that allow fish passage shall not be included in
5 the channel migration zone;

6 (b) The study shall be performed under the direction of a qualified professional
7 with experience in fluvial geomorphology or river hydraulics;

8 (c) The study shall contain the following:

9 (i) a determination of the presence of channel migration, and if present, the
10 delineation of the channel migration zone;

11 (ii) an analysis of the impacts of potential channel migration on the proposed
12 development activity; and

13 (iii) an analysis of the impacts of the proposed development activity on the
14 channel migration zone.

15 (3) Channel Migration Zone (CMZ) standards and requirements.

16 (a) All development activities, actions requiring a project permit and clearing are
17 prohibited in the channel migration zone, except as provided below.

18 (i) removal of hazardous trees;

19 (ii) new utility facilities based on the following requirements;

20 (A) pipelines shall be bored 10 feet beneath the thalweg scour depth of the
21 river within the CMZ;

22 (B) surface utilities such as power transmission lines shall be located away
23 from the current channel if feasible; and if not feasible, foundations within the CMZ
24 shall be designed as in-channel structures if determined by the department to be
25 necessary;

26 (iii) new public bridges and transportation structures when no other feasible
27 alternative exists or the alternative would result in unreasonable and disproportionate
28 costs;

29 (iv) normal maintenance or repair of existing flood control and bank
30 stabilization structures, buildings, roads, bridges and utilities; and

Geologically Hazardous Areas
Chapter 30.62B

1 (v) shoreline and bank stabilization and flood protection measures pursuant to
2 the general requirements contained SCC 30.62B.320(2).

3
4 **30.62B.340** Landslide hazard areas.

5 (1) Development activities, actions requiring project permits and clearing shall not be
6 allowed in landslide hazard areas or their required setbacks unless there is no alternate location
7 on the subject property.

8 (2) Structures shall be setback from landslide hazard areas unless the department
9 approves a deviation as provided below.

10 (a) Setbacks shall be established as follows:

11 (i) the minimum top of slope setback shall be equal to the height of the slope
12 divided by three, or 50 feet, whichever is greater;

13 (ii) the minimum toe of slope setback shall be 50 feet or the height divided by
14 two whichever is greater; and

15 (iii) slope setbacks shall be no less than the minimum necessary to ensure that
16 structural shoreline stabilization measures will not be necessary to protect the
17 development.

18 (b) Deviations from setbacks may be allowed when the applicant demonstrates that
19 the following conditions are met:

20 (i) there is no alternate location for the structure on the subject property; and

21 (ii) a geotechnical report demonstrates that:

22 (A) the alternative setbacks provide protection which is equal to that
23 provided by the standard minimum setbacks; and

24 (B) the proposal meets the requirements of SCC 30.62B.320.

25 (3) In addition to the requirements in SCC 30.62B.320 the following standards and
26 requirements apply to development activities, actions requiring project permits and clearing in
27 landslide hazard areas:

28 (a) Vegetation shall not be removed from a landslide hazard area, except for
29 hazardous trees based on review by a qualified arborist or as otherwise provided for in a
30 vegetation management and restoration plan;

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1 (b) The factor of safety for landslide occurrences shall not be decreased below the
2 limits of 1.5 for static conditions or 1.1 for dynamic conditions. Analysis of dynamic conditions
3 shall be based on horizontal acceleration as established by the current version of the International
4 Building Code;

5 (c) Tiered piles or piers shall be used for structural foundations where possible to
6 conform to existing topography;

7 (d) Retaining walls that allow for the maintenance of existing natural slope area
8 shall be used wherever possible instead of graded artificial slopes;

9 (e) Provided there is no practical alternative, utility lines and pipes may be
10 constructed in landslide hazard areas under the following conditions:

11 (i) the line or pipe shall be located above ground and properly anchored or
12 designed so that it will continue to function in the event of an underlying slide; and

13 (ii) stormwater conveyance systems shall be designed with high-density
14 polyethylene pipe with fuse-welded joints, or similar product that is technically
15 equivalent; or

16 (iii) alternatively, utilities may be bored below landslide hazard areas provided
17 they are located beneath the depth of potential slope failure.

18 (f) Point source discharge of stormwater may be allowed in landslide hazard areas
19 under the following conditions:

20 (i) the stormwater is conveyed via continuous storm pipe downslope to a point
21 where it does not increase risk to landslide hazard areas or other properties downstream
22 from the discharge;

23 (ii) the stormwater is discharged at flow durations matching predeveloped
24 conditions with adequate energy dissipation into existing channels; or

25 (iii) discharge upslope of the landslide hazard area may only occur if:

26 (A) it is dispersed onto a low-gradient undisturbed setback adequate to
27 infiltrate all surface and stormwater runoff; and

28 (B) the discharge will not decrease the stability of the slope.
29
30

Geologically Hazardous Areas
Chapter 30.62B

30.62B.350 Seismic hazard areas.

(1) Development activities or actions requiring a project permit occurring within 200 feet of a seismic hazard area may be allowed with an approved geotechnical report that confirms the site is suitable for the proposed development.

(2) Development activities or actions requiring a project permit occurring in a seismic hazard area shall meet applicable standards of the International Building Code and chapter 30.51A SCC.

30.62B.360 Mine hazard areas.

(1) Development activities or actions requiring a project permit occurring on or within 200 feet of a mine hazard area may be allowed with an approved geotechnical report that confirms the site is suitable for the proposed development or action.

(2) For any reclamation activity under the jurisdiction of the county pursuant to SCC 30.63B.360, the applicant must submit as-built drawings in a form specified by the director that reflect the final grades on-site, proper site stabilization and vegetative cover.

30.62B.370 Volcanic hazard areas.

Development activities or actions requiring a project permit occurring on or within 200 feet of a volcanic hazard area shall comply with the identification, disclosure, and recording requirements of SCC 30.62B.160.

30.62B.380 Tsunami hazard areas.

Development activities or actions requiring a project permit occurring on or within 200 feet of a tsunami hazard area shall comply with the identification, disclosure, and recording requirements of SCC 30.62B.160 as evidence becomes available. In Tsunami Hazard Areas, project proponents are encouraged to follow the recommendations from "Designing for Tsunamis: Seven Principles for Planning and Designing for Tsunami Hazards"

Geologically Hazardous Areas
Chapter 30.62B

1 PART 400 – EXCEPTIONS

2
3 30.62B.410 Minor development activity exceptions.

4
5 (1) Certain minor development activities may occur in geologic hazard areas or setbacks
6 provided the project proponent complies with best management practices (BMPs) adopted
7 through rulemaking pursuant to chapter 30.82 SCC and all known and available reasonable
8 technology (AKART) appropriate for compliance with this chapter. Best management practices
9 are physical, structural, or managerial practices which have gained general acceptance by
10 professionals in the appropriate field to minimize and mitigate adverse impacts to the functions
11 and values of critical areas.

12 (2) All minor development activities authorized in this section shall comply with
13 administrative BMP rules upon adoption. Prior to adoption of such administrative rules, project
14 proponents shall comply with all known and available BMPs as defined in SCC 30.62A.510(1).
15 The director shall use his or her best efforts to adopt BMPs for the minor development activities
16 listed in this section pursuant to the rulemaking provisions of chapter 30.82 SCC within 12
17 months of the effective date of this chapter.

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

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

- 20 (i) improved public and private road rights-of-way,**
- 21 (ii) utility corridors,**
- 22 (iii) trails,**
- 23 (iv) utility facilities,**
- 24 (v) flood protection and bank stabilization structures,**
- 25 (vi) stormwater facilities; and**
- 26 (vii) structures;**

27 (b) Minor replacement, modification, extension, installation, or construction by a
28 utility purveyor in an improved public road right-of-way;

29 (c) Survey or monument placement;

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Chapter 30.62B

1 (d) Minor replacement or modification of existing facilities by a utility purveyor in
2 an improved utility corridor;

3 (e) Minor replacement or modification by a utility purveyor of individual utility
4 service lines connecting to a utility distribution system;

5 (f) Minor replacement, modification, minor installation or construction in an
6 improved road right-of-way by the county or by the holder of a current right-of-way use permit;

7 (g) Removal of invasive weeds;

8 (h) Felling or topping of hazardous trees based on review by a qualified arborist;

9 (i) Minor replacement, modification or installation of drainage, water quality or
10 habitat enhancement projects; and

11 (j) All other on-going lawfully established development activities not specifically
12 addressed in this chapter.

13
14 **30.62B.420 Emergency activities.**

15 Emergency activities necessary to prevent an immediate threat to public health, safety, welfare
16 or property, or to prevent an imminent threat of serious environmental degradation, are allowed
17 without prior approval in geologically hazardous areas, based on the criteria set forth in this
18 section:

19 (1) The activity must be the minimum necessary to alleviate the emergency;

20 (2) The project proponent shall notify the department prior to any action taken to
21 remedy an emergency. If prior notification is not feasible, the project proponent shall notify the
22 department within 48 hours of the action; and

23 (3) Applications for any required project permits necessary to satisfy compliance with
24 this chapter are submitted to the department within 120 days of the start of the action taken. For
25 activities not requiring permits, compliance with this chapter shall occur within a reasonable time
26 period not to exceed twelve months.

Geologically Hazardous Areas
Chapter 30.62B

PART 500 AGRICULTURAL ACTIVITIES

30.62B.505 Purpose.

In accordance with RCW 36.70A.020, the Growth Management Act (GMA) goals require the county to maintain and enhance natural resource-based industries, including commercial agriculture. This Part implements the necessary balance between goals 8 and 10 of the GMA relative to commercial agriculture and the protection of critical areas.

30.62B.510 Applicability.

This Part applies to agricultural activities as defined in SCC 30.91A.090, but not meeting the definition of agricultural activities in SCC 30.62.015(1), occurring on lands where agriculture is a legal use, where critical areas defined as erosion hazard areas are present on the site. Provided however, that proposals for building construction in channel migration zones must comply with the requirements in SCC 30.62B.330(3).

30.62B.520 General Agricultural Standards.

Except as provided in SCC 30.62B.530, normal agricultural activities as defined in SCC 30.32B.230 or SCC 30.91A.090 subject to this Part 500 are in compliance with this chapter when those activities are performed in accordance with (1), (2) or (3) below:

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

(2) Other recognized best management practices for such activity that protect the functions and values of critical areas, where the NRCS FOTG does not provide specific guidance or a best management practice; or

(3) A farm conservation plan that includes provisions addressing critical areas protection specific to the farm site approved by the NRCS or the Snohomish Conservation District (SCD) and signed by the landowner. Any confidential or proprietary information contained in a farm conservation plan may be redacted prior to public disclosure.

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30.62B.530 Special Agricultural Conditions.

(1) Notwithstanding SCC 30.62B.520, agricultural activities as defined in SCC 30.32B.230 or SCC 30.91A.090 subject to this Part 500 that meet one or more of the following special conditions shall comply with SCC 30.62B.530(2):

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

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

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

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

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

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

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

(2) The agricultural activities listed in SCC 30.62B.530(1) are in compliance with this chapter when those activities are performed as follows:

(a) The activity complies with Parts 000 through 400 of this chapter;

(b) The activity is done in compliance with a farm conservation plan, as described in SCC 30.62B.520(3); or

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

**Critical Aquifer Recharge Areas
Chapter 30.62C**

1 **PART 000 - GENERAL2**

2 **30.62C.010 Purpose and applicability.2**

3 **30.62C.015 Intent.....2**

4 **30.62C.020 Relationship to Snohomish County Shoreline Master Program.3**

5 **30.62C.030 Relationship to 30.61 SCC - environmental impacts.....3**

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7 **PART 100 – PROCESS REQUIREMENTS3**

8 **30.62C.110 Permit pre-applications.....3**

9 **30.62C.120 Critical area services provided by the department.3**

10 **30.62C.130 Submittal requirements.....4**

11 **30.62C.140 Hydrogeologic report.4**

12 **30.62C.150 Notification to purveyors of Group A public water supply systems.....6**

13 **PART 200 – DESIGNATION AND CLASSIFICATION.....6**

14 **30.62C.210 Designation of critical aquifer recharge areas.6**

15 **30.62C.220 Classification of critical aquifer recharge areas7**

16 **PART 300 – STANDARDS AND REQUIREMENTS7**

17 **30.62C.310 Purpose of Part 3007**

18 **30.62C.320 General requirements.....7**

19 **30.62C.330 Prohibited uses.....8**

20 **30.62C.340 Uses and development activities subject to special conditions.9**

Critical Aquifer Recharge Areas

Chapter 30.62C

1

2 **PART 000 - GENERAL**

3

4 **30.62C.010 Purpose and applicability.**

5 (1) The purpose of this chapter is to designate and protect critical aquifer recharge areas
6 pursuant to the Growth Management Act (chapter 36.70A RCW) in order to safeguard the public
7 health, safety, and welfare and to protect groundwater resources. Critical aquifer recharge areas
8 include: sole source aquifers, Group A wellhead protection areas and areas sensitive to
9 groundwater contamination.

10 (2) This chapter applies to:

11 (a) development activities and actions requiring projects permits;

12 (b) agricultural activities as defined in SCC 30.91A.090 where critical aquifer recharge
13 areas are present on the site; except that certain agricultural activities as defined in SCC
14 30.64.010 occurring on rural and agricultural resource lands are exempt from this chapter and are
15 subject only to chapter 30.64 SCC; and

16 (c) other activities or uses that have the potential to harm water quality or quantity within
17 critical aquifers recharge areas.

18 **30.62C.015 Intent.**

19 It is the intent of this chapter to provide the protection required by chapter 36.70A RCW for
20 wetlands and for fish & wildlife habitat conservation areas while simultaneously protecting
21 property rights. The county council nevertheless recognizes that implementation of some
22 provisions of this chapter 30.62C SCC will inevitably entail some restriction of property rights.
23 It is the intent of the county council that this chapter be always construed and interpreted so that
24 property rights be restricted no further than strictly necessary for the critical area protection
25 required under chapter 36.70A RCW.

26

Critical Aquifer Recharge Areas Chapter 30.62C

1 **30.62C.020 Relationship to Snohomish County Shoreline Master Program.**

2 Protection of critical aquifer recharge areas located within shorelines of the state, as defined in
3 chapter 90.58 RCW, shall be accomplished through compliance with the provisions of this
4 chapter. Nothing in this section shall be construed to be inconsistent with RCW 36.70A.480.

5

6 **30.62C.030 Relationship to 30.61 SCC - environmental impacts.**

7 Critical aquifer recharge area protective measures required by this chapter shall also constitute
8 adequate mitigation of adverse or significant adverse environmental impacts pursuant to chapter
9 30.61 SCC, to the extent permitted by RCW 43.21C.240.

10

11 **30.62C.040 Rulemaking authority.**

12 The director shall have the authority to adopt administrative rules to implement the provisions of
13 this chapter. Rulemaking authority shall include, but is not limited to, the adoption of best
14 management practices for the protection of critical aquifer recharge areas.

15

16 **PART 100 – PROCESS REQUIREMENTS**

17 **30.62C.110 Permit pre-applications.**

18 Project proponents may request a pre-application meeting pursuant to SCC 30.70.020 to obtain a
19 preliminary analysis of how the requirements of this chapter apply to the proposed project.

20 **30.62C.120 Critical area services provided by the department.**

21 The department may provide the following services to applicants upon submittal of the
22 application and the payment of fees as required by chapter 30.86 SCC:

- 23 (1) Review geotechnical, geologic, hydraulic, or groundwater reports; and
24 (2) Designate critical aquifer recharge areas on site for single family residential (SFR)
25 dwellings, duplexes, and accessory structures, and commercial structures of 8,000 square feet or
26 less.

27

28

Critical Aquifer Recharge Areas Chapter 30.62C

1 **30.62C.130 Submittal requirements.**

2 (1) When a project permit is required for any development activity or action subject to
3 this chapter, the applicant shall submit a site development plan drawn to a standard engineering
4 scale which includes:

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

6 (b) Boundary lines and dimensions of the site;

7 (c) Topography at contour intervals of five feet unless the underlying project permit
8 requires a lesser interval;

9 (d) Location, size, and type of any existing structures and other existing developed
10 areas;

11 (e) Location, size and type of all proposed structures and development activity on
12 the site;

13 (f) Location, size and type of all critical aquifer recharge areas on the subject
14 property;

15 (g) Location of all other critical areas regulated pursuant to chapters 30.62A,
16 30.62B and 30.65 SCC on and within 200 feet of the site; and

17 (h) Location of structure setbacks as required in SCC 30.62A.320(1)(d), SCC
18 30.62B.340(2) and chapter 30.23 SCC; and

19 (2) A hydrogeologic report as required pursuant to SCC 30.62C.140.

20

21 **30.62C.140 Hydrogeologic report.**

22 (1) A hydrogeologic report is required for any activity or use requiring a project permit
23 regulated in Part 300, and proposed within a sole source aquifer, Group A wellhead protection
24 area or critical aquifer recharge area with high or moderate groundwater sensitivity.

25 (2) The hydrogeologic report shall be prepared by a qualified professional who is a
26 geologist, hydrogeologist, engineering geologist, or engineer, who is licensed by the State of
27 Washington and who has experience preparing hydrogeologic assessments.

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1 (3) The hydrogeologic report shall contain the following information relevant to the
2 critical aquifer recharge area:

3 (a) The surface location of all critical aquifer recharge areas located on site or
4 immediately adjacent to the site, and the permeability of the unsaturated zone;

5 (b) Groundwater depth, flow direction, and gradient based on available information;

6 (c) Currently available data on wells and springs within one fourth mile of the site;

7 (d) Currently available information on the location of surface waters within one
8 fourth mile of the site;

9 (e) Historic water quality data for the area to be affected by the proposed activity or
10 use compiled for at least the previous five-year period;

11 (f) Discussion of the effects of the proposed project on the groundwater quality and
12 quantity, including:

13 (i) predictive evaluation of groundwater withdrawal effects on nearby wells
14 and surface water features; and

15 (ii) Predictive evaluation of contaminant transport based on potential releases
16 to groundwater;

17 (g) Best management practices relevant to the proposed activity or use;

18 (h) Provisions to monitor the groundwater quality and quantity;

19 (i) A spill plan that identifies equipment and structures that could fail, resulting in
20 an impact to the critical aquifer recharge area. Spill plans shall include provisions for regular
21 inspection, repair, and replacement of structures and equipment with the potential to fail;

22 (j) Salt-water intrusion addendums shall be required for withdrawals of
23 groundwater or reductions in available recharge within one fourth mile of any part of Puget
24 Sound, or a greater distance inland where there is evidence that chloride (bicarbonate +
25 carbonate) ratio exceeds 1.5 equivalent parts per million at any time of the year. The addendum
26 shall include an assessment of the likelihood and extent of seawater intrusion into a critical
27 aquifer and a description of probable impact on wells on adjacent or nearby parcels;

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1 (k) An assessment of how the development activity meets the protection standards
2 established in SCC 30.62C.320;

3 (l) If the hydrogeologic report identifies impacts to critical aquifer recharge areas,
4 the project applicant will be required to:

5 (i) identify and provide an analysis of alternatives by which such impacts
6 could be avoided or prevented; and

7 (ii) provide a detailed mitigation plan for any unavoidable impacts. The
8 mitigation plan should include preventative measures, monitoring, process control and
9 remediation and a contingency plan, as appropriate;

10 (m) Recommendations for implementation and operation of activities, including
11 size limitations, monitoring, reporting and best management practices (bmp);

12 (n) An evaluation of potential nitrate impacts on the aquifer, including cumulative
13 impacts of adjacent or surrounding developments and activities, and provide recommendations for
14 monitoring and bmps of nitrate generating activities; and

15 (o) Any other information necessary to determine compliance with this chapter.
16

30.62C.150 Notification to purveyors of Group A public water supply systems.

17 The department shall provide notification as required by chapter 30.70 SCC of any proposed
18 development activity or actions requiring a project permit subject to Part 300 to purveyors of
19 Group A public water supply systems established pursuant to WAC 246-290.
20

PART 200 – DESIGNATION AND CLASSIFICATION

30.62C.210 Designation of critical aquifer recharge areas.

21 The county has designated critical aquifer recharge areas pursuant to RCW 36.70A.170 by
22 defining them and providing criteria for their identification. Project proponents are responsible
23 for determining whether a critical aquifer recharge area exists and is regulated pursuant to this
24 chapter. The department will verify on a case-by-case basis the presence of critical aquifer
25 recharge areas identified by project proponents. Specific criteria for the designation of critical
26 recharge areas identified by project proponents. Specific criteria for the designation of critical
27

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1 aquifer recharge areas are contained in this chapter and Chapter 30.91 SCC. While the county
2 maintains some maps of critical aquifer recharge areas, they are for informational purposes only
3 and may not accurately represent all such areas.

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 (1) Sole source aquifers designated by the U.S. Environmental Protection Agency in
9 accordance with the Safe Drinking Water Act of 1974 (Public Law 93-523);

10 (2) Areas within the 10-year travel zone of Group A wellhead protection areas,
11 determined in accordance with delineation methodologies specified by the Washington
12 Department of Health under authority of chapter 246-290 WAC; and

13 (3) Areas of high, medium, and low sensitivity to groundwater contamination, based on
14 depth to groundwater and in accordance with *The Ground-Water System and Ground-Water*
15 *Quality in Western Snohomish County, Washington* (United States Geological Survey, Water
16 Resources Investigations, Report #96-4312, 1997).

17

PART 300 – STANDARDS AND REQUIREMENTS

30.62C.310 Purpose of Part 300.

18
19
20 Part 300 of this chapter establishes specific standards and requirements for the protection of
21 critical aquifer recharge areas.

30.62C.320 General requirements.

22
23 (1) The project proponent shall make all reasonable efforts to avoid and minimize
24 impacts to critical aquifer recharge areas pursuant to the requirements of this section, in the
25 following sequential order of preference:

26 (a) Avoiding impacts altogether by not taking a certain action or parts of an action;
27 or when avoidance is not possible,

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1 (b) minimizing impacts by limiting the degree or magnitude of the action and its
2 implementation, using appropriate technology, or by taking affirmative steps, such as project
3 redesign, relocation, or timing, to avoid or reduce impacts; and

4 (c) mitigation for the impacts to the critical aquifer recharge area;

5 (2) Any activity or use specifically listed in Part 300 shall comply with the best
6 management practices and mitigation plan identified in the hydrogeologic report, and any
7 additional requirements contained in SCC 30.62C.340.

8 (3) All development activities shall comply with the groundwater quality standards
9 contained in WAC Chapter 173-200 and RCW Chapter 90.48.

10 (4) Where the department determines that an activity or use not specifically listed in Part
11 300 has the potential to harm water quality or quantity within critical aquifer recharge areas, the
12 applicant shall comply with Part 100 and apply best management practices and all known and
13 available reasonable technology (AKART) appropriate to protect critical aquifer recharge areas.

14 15 **30.62C.330 Prohibited uses.**

16 The following activities and uses are prohibited in sole source aquifers, Group A wellhead
17 protection areas and critical aquifer recharge areas with high sensitivity:

18 (1) Landfills, including hazardous or dangerous waste, municipal solid waste, special
19 waste, woodwaste, and inert and demolition waste landfills;

20 (2) Underground injection wells;

21 (3) Mining of metals and hard rock;

22 (4) Wood treatment facilities occurring over permeable surfaces (natural or manmade);

23 and

24 (5) Facilities that store, process, or dispose of radioactive substances.

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- 1 **30.62C.340 Uses and development activities subject to special conditions.**
 2 The following activities and uses shall be conditioned as necessary to protect critical aquifer
 3 recharge areas in accordance with the applicable state and federal regulations and
 4 recommendations from an approved hydrogeologic report required pursuant to SCC 30.62C.140.
 5

Activity	Statute – Regulation – Guidance
Above Ground Storage Tanks	Chapter 173-303-640 WAC
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
Chemical Treatment Storage and Disposal Facilities	Chapter 173-303-182 WAC
Dangerous waste	Chapter 70.105 RCW, chapter 173-303 WAC, Snohomish Health District Sanitary Code chapter 3.5, and chapter 7.53.070 SCC
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

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Activity	Statute – Regulation – Guidance
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
Wastewater Application to Land Surface	Chapter 173-216 WAC, Chapter 173-200 WAC, Washington State Department of Ecology Land Application Guidelines, Best Management Practices for Irrigated Agriculture