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2 Effective: 11/01/15

3
4 SNOHOMISH COUNTY COUNCIL
5 Snohomish County, Washington
6

7 AMENDED ORDINANCE NO. 15-034
8

9 RELATING TO THE CRITICAL AREA REGULATIONS UPDATE PURSUANT TO THE
10 GROWTH MANAGEMENT ACT, AMENDING CHAPTER 30.62A OF THE SNOHOMISH
11 COUNTY CODE (SCC) (WETLANDS AND FISH & WILDLIFE HABITAT
12 CONSERVATION AREAS), CHAPTER 30.62B SCC (GEOLOGICALLY HAZARDOUS
13 AREAS) AND CHAPTER 30.62C SCC (CRITICAL AQUIFER RECHARGE AREAS),
14 REPEALING CHAPTER 30.64 SCC (GROUNDWATER PROTECTION), AND AMENDING
15 SCC 30.31D.130, SCC 30.61.122, SCC 30.91L.040 (LANDSLIDE HAZARD AREAS) AND
16 SCC 30.91E.230 (EXCAVATION)
17

18 WHEREAS, the Growth Management Act, chapter 36.70A RCW (GMA), requires
19 Snohomish County (the "County") to regulate land use and development within the County's
20 jurisdiction; and
21

22 WHEREAS, RCW 36.70A.060 and RCW 36.70A.170 require the County to designate
23 critical areas and adopt regulations to protect them; and
24

25 WHEREAS, RCW 36.70A.130(1)(a) requires the County to periodically review and, if
26 necessary, revise development regulations regarding critical areas according to deadlines set
27 forth in RCW 36.70A.130(4) and (5); and
28

29 WHEREAS, the County's adoption of Amended Ordinance No. 06-061 on August 1,
30 2007, established the critical area regulations contained in chapters 30.62A, 30.62B and 30.62C
31 SCC, fulfilling the requirements of RCW 36.70A.060 and RCW 36.70A.130; and
32

33 WHEREAS, RCW 36.70A.172 requires that cities and counties include the best available
34 science (sometimes referred to herein as "BAS") in developing policies and development
35 regulations to protect the functions and values of critical areas and to give special consideration to
36 conservation or protection measures necessary to preserve or enhance anadromous fisheries; and

37 WHEREAS, in accordance with the requirement for the inclusion of BAS and the
38 requirement in RCW 36.70A.130 to periodically review development regulations, the County has
39 conducted a review of its existing critical area regulations together with a review of BAS; and

40 WHEREAS, as a result of the County's internal review, review of BAS and comment
41 from public agencies, citizens and other stakeholders, several issues were identified for potential
42 updates to the existing critical area regulations; and
43

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1 WHEREAS, the Snohomish County Planning Commission (“Planning Commission”)
2 held a briefing on January 27, 2015, concerning the code amendments contained in this
3 ordinance; and
4

5 WHEREAS, the Planning Commission held a public hearing after proper notice on
6 February 23 and 24, 2015, to receive public testimony concerning the code amendments
7 contained in this ordinance; and
8

9 WHEREAS, at the conclusion of the Planning Commission’s public hearing, the
10 Planning Commission deliberated and voted to recommend approval of the code amendments
11 contained in this ordinance, as set forth in its recommendation letter dated March 20, 2015; and
12

13 WHEREAS, on August 12, 2015 and continued to September 2, 2015, the Snohomish
14 County Council (“County Council”) held a public hearing after proper notice, and considered
15 public comments and the entire record related to the proposal contained in this ordinance; and
16

17 WHEREAS, following the public hearing, the County Council deliberated on the code
18 amendments contained in this ordinance;
19

20 NOW, THEREFORE, BE IT ORDAINED:
21

22 Section 1. The County Council adopts the following findings in support of this ordinance:
23

24 A. The foregoing recitals are adopted as findings as if set forth in full herein.
25

26 B. This ordinance will amend Title 30 SCC to ensure the critical area regulations in chapter
27 30.62A SCC (Wetlands and Fish & Wildlife Habitat Conservation Areas), chapter 30.62B SCC
28 (Geologically Hazardous Areas) and chapter 30.62C SCC (Critical Aquifer Recharge Areas) and
29 SCC 30.91L.040 (Landslide Hazard Area definition) are consistent with the GMA and
30 incorporate BAS, make housekeeping amendments to various code sections for consistency and
31 repeal outdated chapter 30.64 SCC (Groundwater Protection).
32

33 C. This ordinance is consistent with the requirements of RCW 36.70A.060(2) (natural resource
34 lands and critical areas – development regulations), RCW 36.70A.170 (natural resource lands
35 and critical areas – designations), RCW 36.70A.172 (critical areas – designation and protection –
36 best available science to be used) and RCW 36.70A.710(6) (critical areas protection – alternative
37 to RCW 30.70A.060 – county’s responsibilities – procedures) and maintains consistency with the
38 following GMA goals:
39

- 40 1. GMA Planning Goal 6 (RCW 36.70A.020(6)): “ Property rights. Private property shall
41 not be taken for public use without just compensation having been made. The property
42 rights of landowners shall be protected from arbitrary and discriminatory actions.” This
43 proposal is consistent with this goal by providing for flexibility in applying regulations
44 and by allowing reasonable use of property within critical areas and their buffers.

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2. GMA Planning Goal 8 (RCW 36.70A.020(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.” This proposal strengthens and clarifies regulations to conserve fish habitat by utilizing BAS and introducing monitoring and implementation requirements of farm practices.
3. GMA Planning Goal 9 (RCW 36.70A.020(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.” This proposal strengthens and clarifies regulations to conserve fish and wildlife habitat by utilizing BAS to further the protection, restoration and/or enhancement of ecological functions and values.
4. GMA Planning Goal 10 (RCW 36.70A.020(10)): “Environment. Protect the environment and enhance the state's high quality of life, including air and water quality, and the availability of water.” This proposal strengthens and clarifies regulations to protect the environment and the availability of water by utilizing BAS to further the protection, restoration and/or enhancement of ecological functions and values and strengthening aquifer recharge area requirements.
5. GMA Planning Goal 11 (RCW 36.70A.020(11)): “Citizen participation and coordination. Encourage the involvement of citizens in the planning process and ensure coordination between communities and jurisdictions to reconcile conflicts.” The development of the proposed code changes satisfies this goal through the involvement of various individuals, the agricultural community, state agencies, tribal entities and private organizations and through the legislative process, consistent with SCC public participation requirements.

D. This proposal is consistent with the following goals, objectives, and policies contained in the County’s GMA Comprehensive Plan:

1. The proposal is consistent with and further implements the following policies by utilizing and adopting new BAS from the State of Washington regarding wetland classification, making numerous amendments to provide for clarity and consistency regarding application and permitting requirements and enhancing flexibility in the application of regulations. Additionally, this proposal strengthens and clarifies regulations by utilizing BAS to further the protection, restoration and/or enhancement of ecological functions and values of critical areas.
 - a. Policy NE 1.A.1 “Regulatory programs developed for the protection of the natural environment shall provide certainty, clarity, flexibility, efficiency, public outreach and education so that citizens understand the requirements, permits are processed

1 quickly, and alternative approaches that provide equal or greater protection to the
2 environment may be considered.”

- 3
- 4 b. Policy NE 1.B.1 “The county shall consider comprehensive land use plan
5 designations and development regulations that take into account:
- 6 (a) environmental sensitivity and ecological functions and values;
 - 7 (b) limitations of ground and surface water quantities; and
 - 8 (c) potential impacts on surface and ground water quality.”
- 9
- 10 c. Policy NE 1.C.2 “The county shall continue to protect and enhance wetlands and fish
11 and wildlife habitat conservation areas through the use of a variety of strategies, such
12 as:
- 13 (a) including best available science in plans and programs;
 - 14 (b) supporting the development and implementation of watershed
15 management plans and identifying areas where voluntary restoration
16 and enhancement should be used to improve water quality, water
17 quantity, fish habitat and overall hydrologic function;
 - 18 (c) coordinating the use of agricultural resource lands with the
19 protection, restoration and/or enhancement of ecological functions
20 and values;
 - 21 (d) developing incentive-based, voluntary restoration and enhancement
22 programs to offset impacts to overall ecological functions and values
23 resulting from development projects or the use of agricultural
24 resource lands and encouraging creative on-site, and reach scale
25 restoration/enhancement proposals that optimize natural and/or
26 agricultural resource values and ecological function; and
 - 27 (e) including strategies for monitoring and adaptive management in
28 plans and programs.”
- 29
- 30 d. Goal NE 3 “Comply with the requirements of state, federal and local laws for
protecting and managing critical areas, shorelines, and water.”
- 31
- 32 e. Policy NE 3.A.1 “The county shall designate and protect critical areas including fish
33 and wildlife habitat conservation areas, wetlands, critical aquifer recharge areas,
34 frequently flooded areas and geologically hazardous areas and include best available
35 science in the development of programs, policies and regulations relating to critical
areas.”
- 36
- 37 f. Policy NE 3.A.2 “The county shall establish development regulations that offer
38 flexibility in site design to accommodate innovative solutions for critical area
39 protection where site constraints or critical area characteristics warrant use of a
40 creative approach. Flexibilities may be considered on a site-by-site basis. Examples
41 of innovative options include but are not limited to buffer width averaging, on- or off-
42 site enhancement or restoration projects, use of best management practices, or a
combination of creative solutions.”

- 1 g. Objective NE 3.B “Designate and protect fish and wildlife habitat conservation areas
2 and wetlands pursuant to the Growth Management Act.”
- 3 h. Policy NE 3.B.1 “Vegetated areas in and adjacent to wetlands and fish and wildlife
4 habitat conservation areas shall be established to protect their ecological functions
5 and values and include special consideration for the protection of water-dependent
6 and riparian-dependent fish and wildlife.”
- 7 i. Policy NE 3.B.5 “The county shall protect state and federal officially designated
8 threatened and endangered species and their habitat conservation areas, as prescribed
9 by state and federal law.”
- 10 j. Policy NE 3.B.8 “The county shall include special consideration to conserve, protect
11 and enhance anadromous fish and their habitat in policies and regulations.”
- 12 k. Policy NE 3.B.9 “The county should adopt a water typing system and wetland
13 classification system consistent with state guidelines.”
- 14 l. Policy NE 3.B.10 “The county shall require that alterations to wetlands and fish and
15 wildlife habitat conservation areas be avoided or minimized to protect ecological
16 functions and values consistent with the GMA’s requirement of ensuring no net loss
17 of the functions and values of critical areas.”
- 18 2. Policy NE 3.C.2 “The county shall establish development regulations that include a
19 variety of strategies for protecting groundwater.” This proposal implements this policy
20 by amending chapter 30.62C SCC, Critical Aquifer Recharge Areas, by adding new
21 requirements to the hydrogeologic report, requiring consideration of nitrite impacts on
22 groundwater, revising certain citations to reflect changes in law, and revising for clarity
23 and consistency.
- 24 3. This proposal is consistent with and further implements the following policies by
25 amending chapter 30.62B SCC, Geologically Hazardous Areas, by adding new
26 requirements to geotechnical reports regarding the analysis of hazards and risks and
27 landslide run out; adding amendments regarding the definition of a landslide hazard area,
28 development restrictions and allowing deviations to development restrictions within a
29 landslide hazard area; adding a section to ensure the county has the authority to require
30 additional studies or more stringent standards when needed; and including additional
31 notice, disclosure, and covenant requirements for development activities or actions
32 requiring a project permit or approval in a landslide hazard area.
- 33 a. Policy NE 1.D.1 “The county should consider natural hazards in all land use
34 planning.”
- 35 b. Policy NE 1.D.5 “The county shall develop programs that provide for notification of
36 the presence of geologic hazards.”
- 37 c. Policy NE 3.A.4 “The county shall evaluate the level of risk of damage or injury to
38 people, property and the environment when formulating development regulations.”

- 1 d. Objective NE 3.E “Designate and protect geologic hazard areas pursuant to the
2 Growth Management Act.”
- 3 e. Policy NE 3.E.1 “The county should avoid development in landslide hazard areas
4 and minimize development in erosion hazard areas commensurate with the level of
5 risk.”
- 6 f. Policy NE 3.E.2 “The county shall develop regulations that are consistent with
7 geologic constraints and the All Hazards Vulnerability Assessment and the
8 Snohomish County Natural Hazards Mitigation Plan.”
- 9 g. Policy NE 3.E.3 “The county shall require that development proposals include where
10 appropriate a geotechnical assessment of the site’s susceptibility to known geologic
11 hazards.”
- 12 h. Policy NE 3.E.4 “The county shall require that development standards incorporate
13 practices and techniques to reduce potential damage from seismic, tsunami, mine,
14 erosion, landside, and volcanic hazards.”
- 15 i. Objective NE 8.A “Reduce the potential for physical injury and property damage
16 from natural hazards.”

17 E. Procedural requirements.

- 18
- 19 1. The environmental impacts of this proposal are within the range of impacts analyzed by
20 the draft environmental impact statement (DEIS) and final environmental impact
21 statement (FEIS) prepared for the critical area regulations adopted through Amended
22 Ordinance 06-061. The FEIS was issued on July 23, 2007. No new impacts have been
23 identified for this proposal. State Environmental Policy Act (SEPA) requirements with
24 respect to this non-project action have been satisfied through the issuance of Addendum
25 No. 2, issued on July 2, 2015, to the FEIS for the critical area regulations adopted in 2007.
- 26 2. The proposal is a Type 3 legislative action pursuant to SCC 30.73.010.
- 27 3. Pursuant to RCW 36.70A.106(1), a notice of intent to adopt this ordinance was
28 transmitted to the Washington State Department of Commerce for distribution to state
29 agencies on April 6, 2015.
- 30 4. The public participation process used in the adoption of this ordinance has complied with
31 all applicable requirements of the GMA and the SCC.
- 32 5. As required by RCW 36.70A.370, the Washington State Attorney General last issued an
33 advisory memorandum in December of 2006 entitled “Advisory Memorandum: Avoiding
34 Unconstitutional Takings of Private Property” to help local governments avoid the
35 unconstitutional taking of private property. The process outlined in the State Attorney
36 General’s 2006 advisory memorandum was used by the County in objectively evaluating
37 the regulatory changes proposed by this ordinance.
- 38 6. The review and update requirements pursuant to RCW 36.70A.130(1) have been satisfied.

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1 7. The requirements to review BAS and incorporate it into the development regulations for
2 critical areas pursuant to RCW 36.70A.172 have been satisfied.

3 F. The record supporting the critical area regulations update adopted by Amended Ordinance
4 No. 06-061 on August 1, 2007, is incorporated into and included as part of the record for this
5 ordinance. The index to the critical areas regulations update is included as a legislative record to
6 this ordinance and the legislative record for this ordinance includes all documents cited therein.
7 The findings adopted by Amended Ordinance No. 06-061 are incorporated by reference as
8 findings of this ordinance.

9
10 G. The record supporting Amended Ordinance No. 13-042 on July 10, 2013, is incorporated into
11 and included as part of the record for this ordinance. The index to Amended Ordinance No. 13-
12 042 is included as a legislative record to this ordinance and the legislative record for this
13 ordinance includes all documents cited therein. The findings adopted by Amended Ordinance
14 No. 13-042 are incorporated by reference as findings of this ordinance.

15
16 H. After the adoption of Amended Ordinance No. 06-061 in 2007, the county's critical area
17 regulations were challenged before the Central Puget Sound Growth Management Hearings
18 Board (CPSGMHB) on the basis that the adopted code provisions did not accurately reflect BAS
19 and therefore the county did not satisfy the no net loss standard for critical area functions and
20 values. In its final decision, the CPSGMHB upheld the regulations and the County's BAS as
21 meeting the requirements under the GMA [*Pilchuck VII v. Snohomish County, CPSGMHB, 07-3-*
22 *40 0033, Final Decision, April 1, 2008*].

23
24 I. This ordinance is consistent with the record.

25
26 1. The County completed a review of BAS and compiled a document summarizing locally
27 relevant scientific research.

- 28 a. The Revised Draft Summary of Best Available Science (March 28, 2006) and its
29 BAS addendum (Spring 2015) were produced through an extensive literature
30 review by Snohomish County engineers and scientists and through professional
31 consultation with State agencies such as the Department of Ecology,
32 professionals, and other local jurisdictions.
- 33 b. The County followed "The Minimum Guidelines to Classify Agriculture, Forest,
34 Mineral Lands and Critical Areas," chapter 365-190 WAC and *former* WAC 365-
35 195-410 to outline the primary topics covered in the 2006 BAS document.
- 36 c. The science was gathered following the BAS rules contained in WAC 365-195-
37 900 through WAC 365-195-925. These rules define BAS as science that has the
38 characteristics of a valid scientific process. These characteristics include peer
39 review, following a replicable method, logical conclusions and reasonable
40 inferences, appropriately framing conclusions, and using appropriate statistical or
41 quantitative methods for analysis [WAC 365-195-905(5)(a)]. Common sources of
42 scientific information include research, monitoring, inventory and survey data,

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1 mathematical or symbolic models, site-specific assessment, synthesized
2 information by experts and expert opinion [WAC 365-195-905(5)(b)].

- 3 d. Some of the background material for this document originated from King
4 County's Best Available Science, Volume 1, A Review of Science Literature,
5 King County Executive Report, February 2004, and Pentec Environmental's
6 Review Draft, Appendix B, Use of Best Available Science in Critical Area
7 Protection in Snohomish County, June 9, 2004. The wetlands chapter is the
8 Washington State Department of Ecology's Wetlands in Washington State –
9 Volume 1: A Synthesis of the Science, March 2005. The BAS review by the
10 Department of Ecology was far more comprehensive and complete than the
11 County could have accomplished.
- 12 e. The County received public comments on an initial draft of the BAS summary
13 (June 2005) and released a revised draft summary on March 28, 2006.
- 14 f. The County's BAS summary contains bibliographic information citing all sources
15 supporting the scientific summary. In addition, several documents were
16 submitted into the public record. A complete bibliography including all BAS
17 references and all other submitted documents are part of the public record and are
18 available for public review upon request during the public participation process.
- 19 g. An addendum to the 2006 Best Available Science (BAS) was issued in February
20 2015. The addendum and all related documents are included in the public record
21 and available for public review. A complete bibliography including all BAS
22 references and all other submitted documents is available for public review.
- 23 h. New literature in several key areas has been reviewed, including but not limited
24 to: stormwater, buffers, land use intensity, wetlands, wildlife, agriculture, aquifer
25 recharge areas, landslide and other geologic hazards. With the exception of
26 landslide hazard areas and wetland categorization, the BAS review did not find
27 new science that indicates that any significant changes to the critical area
28 regulations are warranted.

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

- 31 a. Updates to the GMA since the County's existing critical area regulations were
32 adopted;
- 33 b. The guidelines provided in chapters 365-190 and 365-195 WAC, WAC 365-196-
34 485 and WAC 365-196-830;
- 35 c. Decisions and orders from the growth management hearings boards and courts on
36 GMA cases related to critical areas;
- 37 d. The BAS with respect to protection of critical area functions and values and
38 conservation and protection of anadromous fisheries;

- e. The County’s comprehensive plan, specifically the General Policy Plan policies adopted under the Natural Environmental chapter;
 - f. Local priorities and policies for achieving a balance between the GMA goals; and
 - g. Current practices and processes for implementing the critical area regulations in conjunction with permit applications and enforcement actions.
3. This ordinance makes multiple housekeeping edits to multiple chapters of Title 30 SCC to reflect changes in code citations and other amendments made through this ordinance in chapters 30.62A, 30.62B and 30.62C SCC and with the repeal of outdated chapter 30.64 SCC to ensure consistency.

J. The amendments to chapter 30.62A SCC, Wetlands and Fish & Wildlife Habitat Conservation Areas, are consistent with the record.

- 1. The amendment to SCC 30.62A.010 is necessary for clarity and consistency. A more complete definition of “normal maintenance or repair” is already codified in SCC 30.91N.095, Normal maintenance or repair.
- 2. The amendment to SCC 30.62A.020 is necessary to clarify that the critical area regulations are consistent with the GMA requirement, RCW 36.70A.480, that critical areas within shoreline jurisdiction are subject to the shoreline code regulations in chapter 30.67 SCC only.
- 3. The amendments to SCC 30.62A.130(1)(d) and (e) are necessary for clarity and for consistency of permit application submittal requirements.
- 4. The amendments to SCC 30.62A.130(1)(f) are necessary to clarify that only information regarding critical areas and their associated buffers that overlap with a project site are needed in the permit application documentation. This change eliminates the requirement to needlessly identify critical areas and buffers beyond the distance where they would overlap with the site and be affected by development, therefore reducing time and costs to the County and applicants.
- 5. The amendments to SCC 30.62A.140 are necessary to reflect new BAS from the State of Washington and to be consistent with the Washington State Department of Ecology state permit requirements related to shorelines and water quality. This amendment is consistent with GPP Policy NE 3.B.9: “The county should adopt a water typing system and wetland classification system consistent with state guidelines.”
- 6. The amendments to SCC 30.62A.150 are necessary to require permit applicants to provide information that will provide a benchmark to determine mitigation success and to ensure sustainability after monitoring has ended.
- 7. The amendment to SCC 30.62A.160 is necessary to clarify that “restoration” is exempt from identification, protection and recording of critical areas.
- 8. The amendment to SCC 30.62A.160(1)(a) is necessary to provide clarity and consistency.

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- 1 9. The amendment to SCC 30.62A.160(1)(b) is necessary to clarify what a critical area site
2 plan is and what it needs to include.
- 3 10. The amendments to newly numbered SCC 30.62A.160(1)(c) are necessary to clarify what
4 a critical area site plan is and what it needs to include.
- 5 11. The amendments to SCC 30.62A.160(3) are proposed to allow non-subdivision type
6 multi-family or other residential projects with protected open space owned in common to
7 satisfy the requirements of this section for permanent protection.
- 8 12. The amendment to SCC 30.62A.160(4) is necessary to clarify that existing legally
9 established uses and structures are allowed to continue and that areas need to be clearly
10 identified on critical area site plans. The primary structure exclusion from separate tracts
11 and easements allows for greater flexibility.
- 12 13. The new SCC 30.62A.160(5) is a mitigation measure for using easements rather separate
13 tracts for permanent protection.
- 14 14. The amendment to SCC 30.62A.160(6) clarifies the meaning of “consistent” in relation
15 to previously approved critical area site plans, providing predictability of future
16 development requirements.
- 17 15. The amendment to SCC 30.62A.230 is necessary to reflect new BAS regarding the
18 classification of wetlands from the State of Washington and to be consistent with
19 Washington State Department of Ecology state permit requirements related to shorelines
20 and water quality. This amendment is consistent with GPP Policy NE 3.B.9: “The county
21 should adopt a water typing system and wetland classification system consistent with
22 state guidelines.”
- 23 16. The amendment to SCC 30.62A.310 is necessary to provide clarification and internal
24 consistency and to correct a typographical error.
- 25 17. The amendments to the tables in SCC 30.62A.320 are necessary for clarity and to reflect
26 new BAS regarding the classification of wetlands from the State of Washington and to be
27 consistent with the Washington State Department of Ecology state permit requirements
28 related to shorelines and water quality. It is necessary to clarify that this section
29 addresses both requirements for buffers and impervious surfaces within and outside of
30 buffers. This amendment is consistent with GPP Policy NE 3.B.9: “The county should
31 adopt a water typing system and wetland classification system consistent with state
32 guidelines.”
- 33 18. The amendments to SCC 30.62A.320(1)(c) are necessary to provide clarification that
34 impervious surface restrictions only apply to new impervious surface and not existing
35 impervious surface.
- 36 19. The new language in newly numbered SCC 30.62A.320(1)(e) is necessary for
37 consistency with SCC 30.62A.330(2)(b), which deals with shoreline and streambank
38 stabilization and flood protection measures.

- 1 20. The amendments to newly numbered SCC 30.62A.320(1)(f) and (g) are necessary for
2 clarity and to delete unnecessary language.
- 3 21. The new and amended language in SCC 30.62A.320(3)(a), (b) and (c) clarifies the
4 relationship between the buffer mitigation ratios in this section and mitigation
5 requirements of newly numbered SCC 30.62A.320(1)(f)(i), SCC 30.62A.320(1)(f)(ii),
6 SCC 30.62A.320(1)(g)(i) and SCC 30.62A.320(1)(g)(ii).
- 7 22. The new language in new subsection SCC 30.62A.320(3)(d) allows a decreased
8 mitigation ratio for minor buffer impacts that can that be restored to pre-disturbance
9 condition within one growing season.
- 10 23. The amendment to SCC 30.62A.330(2)(d)(i) reflects new guidance from the Washington
11 State Department of Fish and Wildlife relating to stream crossings.
- 12 24. The amendments to SCC 30.62A.340 are necessary to reflect new BAS regarding the
13 classification of wetlands from Ecology.
- 14 25. Language was deleted from SCC 30.62A.340(3)(a) to eliminate a potential ambiguity.
15 All impacts must be avoided when possible, not just wetlands that are larger than 1 acre.
- 16 26. The deleted language in SCC 30.62A.340(4)(a), referencing SCC 30.62A.350, is not
17 necessary.
- 18 27. New SCC 30.62A.340(4)(b) allows for a lower mitigation ratio requirement for minor
19 impacts to wetlands that can be easily restored to pre-disturbance conditions within one
20 year. Minor impacts are temporary and will not apply to forested buffers, thus resulting
21 in no net loss in function and values of the buffer.
- 22 28. The amendments to SCC 30.62A.340, Table 4, are necessary for consistency with the
23 new wetland rating system from the Department of Ecology and they correct a
24 typographical error.
- 25 29. The amendments to SCC 30.62A.340(4)(b)(i)(B)(III)(bb) are necessary for consistency
26 with the new wetland rating system from the Department of Ecology.
- 27 30. The amendments to SCC 30.62A.340, Table 6, are necessary for consistency with the
28 new wetland rating system from the Department of Ecology.
- 29 31. The amendment to SCC 30.62A.340(4)(b)(i)(B)(IV)(bb)(C) deletes reference to a type of
30 activity allowed under vegetation management (i.e., removing noxious weeds) because it
31 is already exempt from chapter 30.62A SCC.
- 32 32. The amendment to SCC 30.62A.350(1)(a) deletes superfluous language.
- 33 33. The amendments to SCC 30.62A.410(3) are necessary to incorporate the most recent
34 state sensitive species list.

- 1 34. The amendments to SCC 30.62A.430 provide clarification and allow more flexibility on
2 meeting rule-making deadlines. The state does not notify the County when the list is
3 updated, making the 120-day timeline unreasonable.
- 4 35. The amendments to SCC 30.62A.510(2) are necessary to provide clarification and allow
5 more flexibility in meeting rule-making deadlines.
- 6 36. New SCC 30.62A.510(3)(1) allows, as a minor development activity, site investigative
7 work in critical areas and buffers to collect data required for submittal in project permit
8 applications, provided that land disturbance is minimized and areas are restored to pre-
9 disturbance conditions in one growing season.
- 10 37. The new SCC 30.62A.520(1) is necessary to clarify that only single family residential
11 development projects that cannot comply with the standard requirements of PART 300
12 can use the buffer encroachment exception.
- 13 38. The amendment to SCC 30.62A.520(1) provides clarification.
- 14 39. The new SCC 30.62A.520(3) is necessary to provide a criterion limiting the
15 circumstances under which a project can use the buffer encroachment exception to only
16 those projects where area is unavailable outside the standard buffer.
- 17 40. The amendment to SCC 30.62A.520(2) is necessary to provide clarity regarding new
18 impervious surface limitations.
- 19 41. The amendment to SCC 30.62A.520(3) is necessary to provide a limitation of the area
20 allowed for expansion of an existing structure into a buffer.
- 21 42. The amendment to SCC 30.62A.520(7) is necessary to provide the flexibility to allow
22 road crossing access through buffers when unavoidable.
- 23 43. The amendment to SCC 30.62A.520(9) is necessary to provide the flexibility to allow use
24 of property by allowing residential utility crossing through buffers when unavoidable.
- 25 44. The amendment to SCC 30.62A.520(10) is necessary to provide to provide protection for
26 buffers.
- 27 45. The amendment to SCC 30.62A.550 is necessary for clarification and consistency, to
28 provide protection for buffers in mitigation sequencing and to provide for the
29 establishment of an in-lieu fee program for mitigation banking.
- 30 46. One of the ways agricultural activities can comply with chapter 30.62A SCC is when
31 such activities are conducted in compliance with a farm conservation plan as described in
32 Part 600 of chapter 30.62A SCC. The amendments to Part 600 are necessary for the
33 County to ensure that farm conservation plans are implemented fully, are monitored for
34 continued compliance with the farm conservation plan and to ensure no impacts to
35 critical areas. Therefore, a new section SCC 30.62A.640 has been added, which sets
36 forth reasonable provisions to ensure implementation and monitoring of farm
37 conservation plans.

1 47. The amendments to SCC 30.62A.730 synchronize the timing of the monitoring report
2 with the GMA required review and update of comprehensive plans and development
3 regulations, making the report more useful to inform updates. The monitoring and
4 reporting is an ongoing project that does not fit into a yearly timeline.

5 K. The amendments to chapter 30.62.B SCC, Geologically Hazardous Areas, are consistent with
6 the record.

- 7 1. This proposal will amend chapter 30.62B SCC Geologically Hazardous Areas, by
8 adopting: new requirements for geotechnical reports regarding the analysis of hazards
9 and risks and landslide run out; amendments regarding the definition of a “landslide
10 hazard area”; development restrictions and deviations to development restrictions
11 within a landslide hazard area; a new section to ensure the county has the authority to
12 require additional studies or more stringent standards when needed; and new notice,
13 disclosure, and covenant requirements for development activities or actions requiring
14 a project permit or approval in a landslide hazard area.
- 15 2. The amendment to SCC 30.62B.010 is necessary for clarity and consistency. A more
16 complete definition of “normal maintenance and repair” is already codified in SCC
17 30.91N.095, Normal maintenance and repair.
- 18 3. The amendment to SCC 30.62B.020 is necessary to clarify the GMA requirement that
19 critical areas within shoreline jurisdiction are subject to the shoreline code regulations
20 in chapter 30.67 SCC only.
- 21 4. The amendments to SCC 30.62B.130 (4) and (5) are necessary for clarity and
22 consistency.
- 23 5. The amendments to SCC 30.62B.130(7) are necessary to clarify that only information
24 regarding critical areas and their associated buffers that overlap with a project site are
25 needed in the permit application documentation. This change eliminates the
26 requirement to needlessly identify critical areas and buffers beyond the distance
27 where they would overlap with the site and be affected by development, therefore
28 reducing time and costs to the County and applicants.
- 29 6. The amendment to SCC 30.62B.140(1)(b) is necessary for consistency with
30 amendments to the definition of landslide hazard area and development restrictions
31 within the landslide hazardous area made by this ordinance.
- 32 7. The amendment to SCC 30.62B.140 (2)(d) is necessary for clarity and consistency.
- 33 8. The amendments to SCC 30.62B.140(2)(i), (n) and (o) address requirements for
34 additional information to be included in a geotechnical report regarding the analysis
35 of hazards and risks and are necessary to fully identify potential impacts to public
36 health and safety and for the preservation of critical areas. The expanded
37 geotechnical report requirements will provide site-specific BAS to determine the
38 boundaries of a landslide hazard area and to identify what mitigation measures may
39 be required.

- 1 9. The addition of SCC 30.62B.140(3) is necessary to ensure that a summary of the
2 geological information for a property is available to owners, applicants and potential
3 purchasers of a property.
- 4 10. The amendments to SCC 30.62B.160 are necessary for consistency and to clarify
5 what a critical area site plan is and what needs to be included in a critical area site
6 plan.
- 7 11. The addition of SCC 30.62B.160(4) includes additional notice, disclosure, and
8 covenant requirements for development activities or actions requiring a project permit
9 or approval in a landslide hazard area. This does not include approvals for fences,
10 retaining walls, deflection walls, or landslide mitigation. The notice requires a
11 covenant that runs with the land and states that the property is in a landslide hazard
12 area, describes the hazards, states the owner accepts the responsibility for the risks,
13 informs future purchasers and provides indemnification. Other Washington State
14 jurisdictions with geologically hazardous areas impose similar notice, disclosure and
15 covenant requirements. The addition of SCC 30.62B.160(4) ensures that the owner is
16 aware of the hazards and accepts responsibility for choosing to develop in a landslide
17 hazard area and that the geological information for a property is available to all
18 subsequent prospective purchasers of a property.
- 19 12. The addition of SCC 30.62B.160(5)(b) is necessary for the protection of public health
20 and safety by ensuring compliance with mitigation measures identified in a
21 geotechnical report and to reflect any changed conditions since the last geotechnical
22 report was completed.
- 23 13. The amendment to SCC 30.62B.320(2) is necessary for consistency with chapter
24 30.67 SCC.
- 25 14. The amendments to SCC 30.62B.330(3) are necessary to allow minor activities that
26 are customary and cause little or no impacts in the channel migration zone, to
27 improve consistency with uses allowed in chapter 30.67 SCC, and to improve clarity.
- 28 15. The amendments to SCC 30.62B.340 are necessary to provide consistency with the
29 definition of a landslide hazard area as amended by this ordinance. The amendments
30 protect the public health and safety by not allowing most development in landslide
31 hazard areas. Providing a methodology to construct in a landslide hazard area if there
32 is no other alternate building location is necessary for consistency with private
33 property rights.
- 34 16. Adding new section SCC 30.62B.390 is necessary to protect the public health and
35 safety by providing the authority and methodology for the department to expand the
36 boundaries of a geologically hazardous area.
- 37 17. The geotechnical report provides site-specific BAS that assists in determining the
38 boundaries of the landslide hazard area and what mitigation measures are necessary if
39 construction is allowed within the landslide hazard area.

- 1 18. Providing a methodology to expand a landslide hazard area by the department beyond
2 the criteria listed in the definition of a landslide hazard area is necessary to protect
3 public health and safety as determined through site-specific BAS provided by a
4 geotechnical analysis of site conditions.
- 5 19. The criteria that defines a landslide hazard area in SCC 30.91L.090 is expanded to
6 include lands within a distance from the top of the slope equal to the height of a slope
7 or within a distance of the toe of the slope equal to two times the height of the slope.
8 The amendment to the definition further protects the public health and safety by
9 including areas in the landslide hazard area definition that can potentially be impacted
10 by a landslide event.
- 11 20. Particularly in relation to landslide hazard areas, BAS indicates each landslide hazard
12 area needs to be evaluated on its individual merits. Factors such as soil type, height
13 of the slope, slope angle, mass volume, degree of soils saturation and the proximity to
14 a fault or river system may warrant additional regulation depending on the unique
15 circumstances of the site to reduce specific health and safety impacts. The proposed
16 definition of landslide hazard area incorporates the current setback area for structures.
17 The current setback was established based on International Building Code
18 requirements, which are intended to protect a structure from either sliding down the
19 slope from the top of slope or being hit by a slide that had mobilized at the toe of
20 slope. This current setback is proposed to be included in the definition of a landslide
21 hazard area, and it will no longer be considered a setback.
- 22 21. Review of the State DNR's Washington Geology Library Bibliography of the
23 Hazel/Oso/Steelhead/Stillagumish Landslide dated March 2014 prompted a need to
24 re-evaluate the areas at the toe and top of slopes.
- 25 22. The height to toe run out ratio incorporates typical observed run out from mapped
26 slides in the County and the Puget Sound region. The run out length is a function of
27 the height of the slope being evaluated on a site, slope angle, mass volume, degree of
28 soils saturation and potentially the proximity to a fault or river system.
- 29 23. The amendments to the landslide hazard area definition to include the prior setbacks
30 and the ability to enlarge them based on site-specific conditions will capture the vast
31 majority of landslide events, but likely not every extreme event.
- 32 24. The amendments to SCC 30.62B.520 are necessary to reference the definition of
33 agriculture, delete a reference to an outdated code section and clarify the approval
34 process for farm conservation plans.
- 35 25. One of the ways agricultural activities can comply with chapter 30.62B SCC is when
36 such activities are conducted in compliance with a farm conservation plan as
37 described in Part 500 of chapter 30.62B SCC. The amendments to Part 500 are
38 necessary for the County to ensure that farm conservation plans are implemented
39 fully, are monitored for continued compliance with the farm conservation plan and to
40 ensure no impacts to critical areas. Therefore, a new section SCC 30.62B.540 has

1 been added, which sets forth reasonable provisions to ensure implementation and
2 monitoring of farm conservation plans.

3 L. The amendments to chapter 30.62C SCC, Critical Aquifer Recharge Areas, are consistent
4 with the record.

- 5 1. This proposal will amend chapter 30.62C SCC Critical aquifer recharge areas, by adding
6 new requirements to the Hydrogeologic Report, requiring consideration of nitrite impacts
7 on groundwater, revising certain citations to reflect changes in law, and revising for
8 clarity and consistency.
- 9 2. The amendment to SCC 30.62C.010(2)(b) is necessary to reflect that chapter 30.64 SCC
10 no longer applies, has a sunset date which has passed and is proposed to be deleted by
11 this ordinance.
- 12 3. The amendments to SCC 30.62C.130 are necessary for clarity and consistency.
- 13 4. There are minor amendments to SCC 30.62C.140 to provide clarity and consistency.
- 14 5. The amendment to add SCC 30.62C.140(3)(f)(iii) is necessary to quantify the
15 groundwater recharge potential to ensure water quality and quantity in the groundwater
16 source and near-by surface water features.
- 17 6. The amendment to add SCC 30.62C.140(3)(f)(iv) is necessary to acquire additional
18 information about the source of water for the development activity.
- 19 7. The amendments to SCC 30.62C.140(3)(f) described above add new requirements to the
20 Hydrogeologic Report to identify groundwater sources for proposed water withdrawals
21 and quantify the groundwater recharge potential, further ensuring that proposed
22 development does not adversely affect water quality and quantity in the Critical Aquifer
23 Recharge Area. The Washington State Department of Ecology determined that an
24 increase in impervious surfaces and disturbance of natural vegetation resulting from
25 development can increase surface runoff and decrease recharge. Regulating agencies are
26 directed to assess the potential impacts on drinking water sources and stream flow from
27 groundwater withdrawals and changes in recharge in Critical Aquifer Recharge Areas,
28 and maintain stream base flows from ground water to support in-stream flows, especially
29 for salmon bearing streams.
- 30 8. The amendment to add nitrite to SCC 30.62C.140(3)(n) is necessary to ensure evaluation
31 for nitrite as well as nitrate impacts on groundwater. This is supported by the United
32 States Environmental Protection Agency, which considers both nitrate and nitrite
33 pollution as potential contaminate sources which can lead to the infant/toddler condition
34 omethemoglobinemia, or blue baby syndrome, with contaminated drinking water cited as
35 the most likely exposure pathway.
- 36 9. It is necessary to amend the table in SCC 30.62C.340 to add chapter 90.76 RCW and
37 RCW 43.131.394 to reflect the red tag program established in 2007 and sunset dates for
38 repeal and to revise certain citations to reflect changes in law.

1 M. The amendment to repeal chapter 30.64 SCC, Groundwater Protection, is consistent with the
2 record.

- 3 1. The amendment to repeal chapter 30.64 SCC is necessary to reflect that chapter 30.64
4 SCC no longer applies and has a sunset date that has passed.
- 5 2. Pursuant to Chapter 353, Laws of 2007, when the County adopted Amended Ordinance
6 No. 06-061, the County retained existing chapter 30.64 SCC and limited its applicability
7 to agricultural activities on land designated as rural land or agricultural resource land.
- 8 3. This ordinance amends Title 30 SCC to make the critical area regulations adopted by
9 Amended Ordinance No. 06-061, codified in chapter 30.62C SCC consistently applicable
10 to all areas by amending SCC 30.62C.010(2)(b), repealing the outdated critical area
11 regulations codified in chapter 30.64 SCC and deleting all cross references to chapter
12 30.64 SCC.

13
14 N. Chapter 30.65 SCC, Special Flood Hazard Areas, is consistent with the record. Chapter
15 30.65 SCC, Special Flood Hazard Areas, has been reviewed for compliance with the GMA. The
16 County has determined that chapter 30.65 SCC satisfies the requirements for the designation and
17 protection of frequently flooded areas, therefore no changes are proposed for this chapter at this
18 time. Chapter 30.65 SCC was last updated by Amended Ordinance No. 07-005 on February 21,
19 2007, for compliance with FEMA requirements to remain eligible for the National Flood
20 Insurance Protection (NFIP), at which time the updates were reviewed by the Washington State
21 Department of Commerce.

22
23 Section 2. The County Council makes the following conclusions:

- 24
25 A. The proposal is consistent with the goals, objectives, and policies of the County's GMA
26 Comprehensive Plan.
- 27
28 B. The proposal is consistent with Washington State law and the County Code.
- 29
30 C. The County has complied with all SEPA requirements with respect to this non-project action.
- 31
32 D. The regulations proposed by this ordinance do not result in an unconstitutional taking of
33 private property for a public purpose.
- 34
35 E. This ordinance is necessary to comply with RCW 36.70A.710(6) and to maintain consistency
36 with GMA.
- 37
38 F. The County has performed a thorough review of best available science published since the
39 adoption of Amended Ordinance No. 06-061 on August 1, 2007. That review is summarized
40 in the Spring 2015 BAS Addendum. The amendments contained in this ordinance are
41 consistent with RCW 36.70A.060(2), RCW 36.70A.170, RCW 36.70A.172,
42 RCW 36.70A.710(6) and the best available science.

1 G. The regulations proposed by this ordinance complete the critical area regulations update
2 project required by Amended Motion No. 14-140 to comply with RCW 36.70A.130.
3

4 Section 3. The County Council bases its findings and conclusions on the entire record of
5 the County Council, including all testimony and exhibits. Any finding which should be deemed
6 a conclusion, and any conclusion which should be deemed a finding, is hereby adopted as such.
7

8 Section 4. Snohomish County Code Section 30.31D.130, last amended by Amended
9 Ordinance No. 07-090 on September 5, 2007, is amended to read:
10

11 30.31D.130 Protection of water quality.

12 (1) Operators shall divert or protect all natural drain courses to prevent pollution or reduction
13 of natural flow, shall impound runoff as necessary to hold run-off to levels existing prior to the
14 introduction of excavation operations, shall protect streams and grounds from acid forming or
15 toxic materials exposed or produced by excavation operations, shall seal off to the extent
16 directed by the approval authority, any breakthrough of acid water creating a hazard, and shall
17 not allow water to collect nor permit stagnant water to remain in excavations. Wherever possible,
18 the operator shall refrain from disturbing natural drainage course, streams, rivers, and lakes.

19 (2) All applications for an administrative conditional use permit or a conditional use permit for
20 mineral excavation shall also include a hydrogeologic site evaluation pursuant to chapter
21 ~~((30.64))~~ 30.62C SCC. The excavation shall identify an adequate separation between the bottom
22 of the excavation and the groundwater table.

23 (3) Pursuant to SCC 30.31D.220, the approval authority may require summer testing of
24 groundwater levels and quality.
25

26 Section 5. Snohomish County Code Section 30.61.122, last amended by Amended
27 Ordinance No. 13-042 on July 10, 2013, is amended to read:
28

29 30.61.122 State Environmental Policy Act (SEPA) requirements relating to stormwater
30 management.
31

32 SEPA review shall include consideration of the specific probable adverse environmental
33 impacts of a development activity with regard to on-site and off-site changes to stormwater
34 volume, release rate, erosion, sedimentation, stream channel stability and water quality. When
35 the director determines that the requirements of chapters 30.43C, 30.43D, 30.44, 30.62A,
36 30.62B, 30.62C, 30.63A, 30.63B, 30.63C, ~~((30.64,))~~ 30.65 and 30.67 SCC ensure that the
37 development activity will not result in any probable significant adverse environmental impacts,
38 compliance with those requirements shall constitute adequate analysis and mitigation of the
39 specific significant probable adverse environmental impacts of the development activity with
40 regard to on-site and off-site changes to stormwater volume, release rate, erosion, sedimentation,
41 stream channel stability and water quality, as provided by RCW 43.21C.240.
42

1
2 Section 6. Snohomish County Code Section 30.62A.010, last amended by Amended
3 Ordinance No. 13-042 on July 10, 2013, is amended to read:

4
5 30.62A.010 Purpose and applicability.

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

8 (a) Wetlands, and

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

10 (i) streams;

11 (ii) lakes;

12 (iii) marine waters; and

13 (iv) primary association areas for critical species.

14 (2) This chapter applies to:

15 (a) Development activities, actions requiring project permits, and clearing, except for the
16 following:

17 (i) Non-ground disturbing interior or exterior building improvements;

18 (ii) Routine landscape maintenance of established, ornamental landscaping;

19 (iii) Non ground disturbing normal maintenance or repair; ((Exterior structure
20 maintenance, including, but not limited to, painting and roofing))

21 (iv) Removal of noxious weeds conducted in accordance with chapter 16-750 WAC;

22 (v) Maintenance or replacement that does not expand the affected area of the following
23 existing facilities:

24 (A) septic tanks and drainfields;

25 (B) wells;

26 (C) individual utility service connections; and

27 (D) individual cemetery plots in established and approved cemeteries;

28 (vi) Data collection and research by nonmechanical means if performed in accordance
29 with state-approved sampling protocols or Endangered Species Act (ESA) Section
30 10(a)(1)(a), Section 7 consultation (16 USC § 1536);

31 (vii) Nonmechanical survey and monument placement; and

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

33 (b) Agricultural activities, which are subject only to Part 600 of this chapter.
34

35 Section 7. Snohomish County Code Section 30.62A.020, adopted by Amended
36 Ordinance No. 06-061 on August 1, 2007, is amended to read:

37
38 30.62A.020 Relationship to Snohomish County Shoreline Management Program.

39 Protection of wetlands and fish and wildlife habitat conservation areas located within shorelines
40 of the state, as defined in chapter 90.58 RCW, shall be accomplished through compliance with
41 the provisions of ~~((this))~~ chapter 30.67 SCC. Nothing in this section shall be construed to be
42 inconsistent with RCW 36.70A.480.
43

1 Section 8. Snohomish County Code Section 30.62A.130, adopted by Amended
2 Ordinance No. 06-061 on August 1, 2007, is amended to read:

3
4 30.62A.130 Submittal requirements.

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

- 7 (a) Boundary lines and dimensions of the subject property;
8 (b) Boundary lines and dimensions of the site;
9 (c) The topography at contour intervals of five feet unless the underlying project permit
10 requires a lesser interval;
11 (d) Location, size, and type of any existing structures, ~~((and other existing developed areas))~~
12 cleared areas and other existing improvements;
13 (e) Location, size and type of all proposed development activities, ((activity)) activities
14 subject to project permits and clearing((on the site));
15 (f) Location and description of all wetlands~~((;))~~ and fish and wildlife habitat conservation
16 areas ~~((and buffers,))~~ located on the site or within 300 feet or the width of the widest
17 potential buffer of the site boundaries;
18 (g) Location of all other critical areas regulated pursuant to chapters 30.62B, 30.62C and
19 30.65 SCC on or within ~~((200))~~ 300 feet of the site; and
20 (h) Location of structure setbacks as required in ~~((SCC 30.62B.340(2) and))~~ chapter 30.23
21 SCC.

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

- 24 (a) Classification of all streams, wetlands or lakes pursuant to SCC 30.62A.230 (Table 1).
25 Classification is not required if the project permit applicant applies the maximum protection
26 for the specific critical area as specified at SCC 30.62A.320 (Table 2);
27 (b) Provisions for permanent protection as specified at SCC 30.62A.160;
28 (c) Provisions for temporary marking on the site of all critical area protection areas, or the
29 limits of the proposed site disturbance outside of the critical area protection areas; and
30 (d) A critical area study as required by SCC 30.62A.140.

31
32 Section 9. Snohomish County Code Section 30.62A.140, adopted by Amended
33 Ordinance No. 06-061 on August 1, 2007, is amended to read:

34
35 30.62A.140 Critical area study content requirements.

36 For any development activity or action requiring a project permit occurring in wetlands, fish and
37 wildlife habitat conservation areas, or within a buffer unless otherwise provided in Part 300, the
38 director may require, where applicable, a survey or map drawn to scale and a report describing
39 the following information:

40 (1) A wetland delineation map and report, including field worksheets in accordance with the
41 approved federal wetland delineation manual and applicable regional supplement (see WAC
42 173-22-035)((manual adopted by the Department of Ecology pursuant to RCW 36.70A.175. (See
43 Wetlands Identification and Delineation Manual, Department of Ecology Publication #96-94,
44 March 1997, or latest edition)))). This requirement may be waived if a wetland delineation has

AMENDED ORDINANCE NO. 15-034
RELATING TO THE CRITICAL AREA REGULATIONS UPDATE PURSUANT TO THE GROWTH MANAGEMENT ACT,
AMENDING CHAPTER 30.62A OF THE SNOHOMISH COUNTY CODE (SCC) (WETLANDS AND FISH & WILDLIFE
HABITAT CONSERVATION AREAS), CHAPTER 30.62B SCC (GEOLOGICALLY HAZARDOUS AREAS) AND
CHAPTER 30.62C SCC (CRITICAL AQUIFER RECHARGE AREAS), REPEALING CHAPTER 30.64 SCC
(GROUNDWATER PROTECTION), AND AMENDING SCC 30.31D.130, SCC 30.61.122, SCC 30.91L.040 (LANDSLIDE
HAZARD AREAS) AND SCC 30.91E.230 (EXCAVATION)

- 1 been performed within the previous five years that was approved by the department, and the
2 department determines after site review that the wetland boundary is the same as the approved
3 delineation;
- 4 (2) Wetland categorization, including worksheets, documenting the proposed wetland categories,
5 based on the Washington State Wetland Rating System for Western Washington: 2014 Update,
6 (Hruby, T., ((August 2004)) October 2014, or latest edition, Department of Ecology Publication
7 ((#04-06-025)) #14-06-029;
- 8 (3) Wetland classes present as defined in the United States Fish and Wildlife Service's
9 Classification of Wetlands and Deep Water Habitats in the U.S. (Cowardin et al., 1979);
- 10 (4) Stream location, stream name (if named), and stream type pursuant to the typing system
11 contained in SCC 30.62A.230 (Table 1);
- 12 (5) Lake location, lake name (if named), and lake type pursuant to the typing system contained in
13 SCC 30.62A.230 (Table 1);
- 14 (6) The ordinary high-water mark of any stream, lake or marine water;
- 15 (7) A description and illustration of proposed activities within any critical area or buffers;
- 16 (8) An assessment of the existing functions and values of the critical area(s) or buffers that will
17 be affected by the proposed activity and the methods used to assess those functions and values;
- 18 (9) An assessment of how the activity meets the protection standards established in SCC
19 30.62A.310 and SCC 30.62A.450. For applications under SCC 30.62A.350, an assessment of
20 how the proposal protects the functions and values specified in SCC 30.62A.220, and how the
21 proposal provides protection equivalent to the standards established in SCC 30.62A.310 and
22 SCC 30.62A.450(~~Proposals offering better protection would also be acceptable~~);
- 23 (10) A mitigation plan for activities occurring in a critical area or buffer according to the
24 requirements in SCC 30.62A.150;
- 25 (11) A habitat management plan in accordance with SCC 30.62A.460 for any activity occurring
26 within the primary association area of a critical species;
- 27 (12) When shoreline or bank stabilization measures and/or flood protection measures are
28 proposed, a geotechnical report investigating alternative structural and non-structural methods
29 pursuant to SCC 30.62B.140; and
- 30 (13) Any other information necessary to determine compliance with this chapter.

31
32 Section 10. Snohomish County Code Section 30.62A.150, adopted by Amended
33 Ordinance No. 06-061 on August 1, 2007, is amended to read:

34
35 30.62A.150 Mitigation plan requirements.

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

41 (1) All mitigation plans shall:

- 42 (a) Include a ~~((baseline study))~~ report that describes and evaluates the existing functions and
43 values, the functions and values that will be impacted, and the functions and values after
44 mitigation;

AMENDED ORDINANCE NO. 15-034
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HABITAT CONSERVATION AREAS), CHAPTER 30.62B SCC (GEOLOGICALLY HAZARDOUS AREAS) AND
CHAPTER 30.62C SCC (CRITICAL AQUIFER RECHARGE AREAS), REPEALING CHAPTER 30.64 SCC
(GROUNDWATER PROTECTION), AND AMENDING SCC 30.31D.130, SCC 30.61.122, SCC 30.91L.040 (LANDSLIDE
HAZARD AREAS) AND SCC 30.91E.230 (EXCAVATION)

- (b) Specify how functions and values lost as a result of the activity will be replaced;
- (c) Include performance standards;
- ~~((e))~~ (d) Specify when mitigation will occur relative to project construction and to the requirements of permits required by other jurisdictional entities;
- ~~((d))~~ (e) Include provisions for monitoring and maintenance of the mitigation area on a long-term basis to determine whether the ~~((plan))~~ mitigation was successful and that the mitigation measures in the ~~((The length of time for monitoring and maintenance should be sufficient to determine if mitigation performance standards have been achieved))~~ approved plan will be sustainable after the monitoring period has expired;
- ~~((e))~~ (f) Include provisions for performance and maintenance security pursuant to chapter 30.84 SCC to ensure that work is completed in accordance with approved plans; and
- ~~((f))~~ (g) Include provisions on a form approved by the department for right of entry to the county for the purpose of inspection for the length of the monitoring and maintenance period.

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

Section 11. Snohomish County Code Section 30.62A.160, adopted by Amended Ordinance No. 06-061 on August 1, 2007, is amended to read:

30.62A.160 Permanent identification, protection and recording.

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

(1) Critical area site ~~((plan))~~ plans.

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

(b) ~~((The critical area site plan shall be drawn to a standard engineering scale and include at minimum))~~ A critical area site plan is any plan approved by the department that includes but is not limited to subdivisions, records of survey, official site plans, administrative site plans, binding site plans, or other form drawn to a standard engineering scale. ~~((that includes at minimum the following))~~

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

- (i) the boundaries of the site;
- (ii) the boundaries of the property;
- ~~((iii))~~ (iii) a legal description of the subject property;
- ~~((iii))~~ (iv) accurate locations/boundaries of the critical area protection area(s), identified by critical area type;
- (v) identification of existing legally established uses and structures;
- ~~((iv))~~ (vi) provisions allowing habitat enhancement in wetland(s), fish and wildlife habitat conservation area(s) and buffers; and

1 ((+)) (vii) provisions for the permanent protection of the critical area(s) functions and
2 values including, at minimum, the following:

3 (A) restrictions on the construction of new structures;

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

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

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

10 (3) Separate tracts and easements. Wetlands, fish and wildlife habitat conservation areas, and
11 buffers shall be located in easements or in separate tracts or other protected open space owned in
12 common by all owners of the lots or parcels within any land division or land use permit or
13 decision regulated pursuant to chapters 30.41A, 30.41B, 30.41C and 30.41D SCC(~~Provided~~
14 ~~that in urban growth areas, wetlands, fish and wildlife habitat conservation areas and buffers may~~
15 ~~be contained in an easement on individual lots or parcels in a form approved by the department.~~)
16 or any other multi-family project approval with protected open space owned in common.

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

21 (5) When using easements on lots for the protection of critical areas or buffers, a fence shall be
22 installed consistent with the fence design and placement requirements of SCC
23 30.62A.320(1)(f)(ii).

24 ((4)) (6) Previously approved critical area site plans. For any development activity, action
25 requiring a project permit or clearing occurring consistent with a previously approved critical
26 area site plan shall be governed according to the terms and conditions of the approved site plan,
27 provided that all wetlands, fish and wildlife habitat conservation areas and buffers have been
28 identified and specific permanent protection has been provided. "Consistent" means that there
29 are no proposed modifications to the critical area protective measures established on the
30 previously approved plan or direct impacts to the critical areas or buffers.

31 ((5)) (7) Permanent marking. Critical area protection area boundaries shall be permanently
32 marked on the site prior to final inspection by the county using methods and materials acceptable
33 to the county, provided that this requirement does not apply to single family residential
34 development occurring on existing lots.

35
36 Section 12. Snohomish County Code Section 30.62A.230, adopted by Amended
37 Ordinance No. 06-061 on August 1, 2007, is amended to read:

38
39 30.62A.230 Classification of streams, lakes, wetlands and marine waters.

40 (1) Classification of streams, lakes and marine waters shall be established in accordance with the
41 water typing rules contained in WAC 222-16-030, summarized in Table 1. In the event of a
42 conflict between WAC 222-16-030 and the contents of Table 1, the provisions in WAC 222-16-
43 030 will govern.

44 (2) Classification and scoring of wetlands shall occur pursuant to the Washington State Wetland

AMENDED ORDINANCE NO. 15-034
RELATING TO THE CRITICAL AREA REGULATIONS UPDATE PURSUANT TO THE GROWTH MANAGEMENT ACT,
AMENDING CHAPTER 30.62A OF THE SNOHOMISH COUNTY CODE (SCC) (WETLANDS AND FISH & WILDLIFE
HABITAT CONSERVATION AREAS), CHAPTER 30.62B SCC (GEOLOGICALLY HAZARDOUS AREAS) AND
CHAPTER 30.62C SCC (CRITICAL AQUIFER RECHARGE AREAS), REPEALING CHAPTER 30.64 SCC
(GROUNDWATER PROTECTION), AND AMENDING SCC 30.31D.130, SCC 30.61.122, SCC 30.91L.040 (LANDSLIDE
HAZARD AREAS) AND SCC 30.91E.230 (EXCAVATION)

1 Rating System for Western Washington: 2014 Update, (Hruby, T., October 2014, or latest
 2 edition, Department of Ecology Publication #14-06-029 ((to the rating system and criteria
 3 contained in the Wetland Rating System for Western Washington, (Washington State
 4 Department of Ecology Publication #04-06-025))) summarized in Table 1. In the event of a
 5 conflict between the DOE publication and the contents of Table 1, the provisions in the DOE
 6 publication will govern.
 7

8 Table 1 - Classification of streams, lakes and wetlands
 9

| Classification | Classification Criteria Summary |
|-------------------|--|
| Streams and Lakes | |
| Type S | Segments of <u>all natural</u> waters within their bankfull width, as inventoried as "shorelines of the state" under chapter 90.58 RCW and the rules promulgated pursuant to chapter 90.58 RCW. |
| Type F | Segments of natural waters other than Type S waters, which are within the bankfull widths of defined channels or within lakes 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: (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; (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; (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; (d) Riverine ponds, wall-based channels, and other channel features that are used by fish for off-channel habitat. |
| 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. |
| 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 | <u>Wetlands listed by the Washington Natural Heritage Program ((#DNR)) as having high conservation value ((high quality wetlands))</u> |
| | Bogs |
| | <u>Estuarine wetlands (greater than or equal to one acre) & Coastal Lagoons (greater than or equal to 1/10 acre)</u> |
| | High Level Habitat Function (habitat function score is ((29-36)) 8-9) |
| | Moderate Level Habitat Function (habitat function score is ((20-28)) 5-7) |

AMENDED ORDINANCE NO. 15-034
 RELATING TO THE CRITICAL AREA REGULATIONS UPDATE PURSUANT TO THE GROWTH MANAGEMENT ACT, AMENDING CHAPTER 30.62A OF THE SNOHOMISH COUNTY CODE (SCC) (WETLANDS AND FISH & WILDLIFE HABITAT CONSERVATION AREAS), CHAPTER 30.62B SCC (GEOLOGICALLY HAZARDOUS AREAS) AND CHAPTER 30.62C SCC (CRITICAL AQUIFER RECHARGE AREAS), REPEALING CHAPTER 30.64 SCC (GROUNDWATER PROTECTION), AND AMENDING SCC 30.31D.130, SCC 30.61.122, SCC 30.91L.040 (LANDSLIDE HAZARD AREAS) AND SCC 30.91E.230 (EXCAVATION)

| | |
|--------------|--|
| | Total score ((70)) <u>23</u> or above but not meeting above criteria |
| Category II | Estuarine <u>wetlands</u> (less than one acre) |
| | High level of function for habitat (habitat function score is ((29-36)) <u>8-9</u>) |
| | Moderate level of function for habitat (habitat function score is ((20-28)) <u>5-7</u>) |
| | High level of function for water quality improvement and low for habitat (water quality function score is ((24-32)) <u>8-9</u> and habitat function score is less than ((20)) <u>5</u>) |
| | Total score ((54-69)) <u>20-22</u> but not meeting above criteria |
| Category III | Moderate Level Habitat Function (habitat function score is ((20-28)) <u>5-7</u>) |
| | Total score ((54-69)) <u>16-19</u> but not meeting above criteria |
| Category IV | Total score for all function less than <u>16</u> ((30 points)) |

1
2 Section 13. Snohomish County Code Section 30.62A.310, adopted by Amended
3 Ordinance No. 06-061 on August 1, 2007, is amended to read:

4
5 30.62A.310 General standards and requirements.

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

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

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

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

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

19 (ii) when avoidance is not possible, minimizing impacts by limiting the degree or
20 magnitude of the action and its implementation, using appropriate technology, or by
21 taking affirmative steps, such as project redesign, relocation, or timing, to avoid or
22 reduce impacts; and mitigating for the affected functions and values of the critical area;

23 (b) When mitigation is required it shall be conducted in accordance with the following
24 requirements:

25 (i) mitigation location. Unless otherwise provided in this chapter, mitigation for impacts
26 to the functions and values of wetlands, fish and wildlife habitat conservation areas and
27 buffers shall be in-kind and on-site. Off-site mitigation may be approved only in those
28 situations where appropriate and adequate on-site mitigation ~~((can not))~~ cannot replace
29 the function(s) of the wetlands, fish and wildlife habitat conservation area(s) or buffers
30 at an equivalent level to the off-site location. Off-site mitigation must occur in the same
31 sub-drainage basin for streams, lakes and wetlands, or drift cell for marine waters;

AMENDED ORDINANCE NO. 15-034
RELATING TO THE CRITICAL AREA REGULATIONS UPDATE PURSUANT TO THE GROWTH MANAGEMENT ACT,
AMENDING CHAPTER 30.62A OF THE SNOHOMISH COUNTY CODE (SCC) (WETLANDS AND FISH & WILDLIFE
HABITAT CONSERVATION AREAS), CHAPTER 30.62B SCC (GEOLOGICALLY HAZARDOUS AREAS) AND
CHAPTER 30.62C SCC (CRITICAL AQUIFER RECHARGE AREAS), REPEALING CHAPTER 30.64 SCC
(GROUNDWATER PROTECTION), AND AMENDING SCC 30.31D.130, SCC 30.61.122, SCC 30.91L.040 (LANDSLIDE
HAZARD AREAS) AND SCC 30.91E.230 (EXCAVATION)

- (ii) mitigation timing. Mitigation shall be completed prior to granting of final building occupancy, or the completion or final approval of any development activity or action requiring a project permit for which mitigation measures have been required, except as set forth in chapter 30.84 SCC; and
- (iii) function replacement. Unless otherwise provided in this chapter, functions and values shall be replaced at a one to one ratio;
- (c) A project proponent may demonstrate compliance with SCC 30.62A.310(3) by:
 - (i) adhering to the standards and requirements in SCC 30.62A.320(1), .330(1), .340(1) and (2) and .450 of this chapter as applicable; or by
 - (ii) adhering to the performance standards in SCC 30.62A.320(2) and (3), .330(2), .340(3) and (4), or .350 and mitigating for impacted functions and values as follows:
 - (A) any development activity, action requiring a project permit or clearing allowed pursuant to SCC 30.62A.320(2), .330(2), .340(3) or .350 shall also comply with general mitigation requirements in SCC 30.62A.310(3). Activities not listed or deviations from the standards contained in Part 300 may only be conducted pursuant to SCC 30.62A.350 or Part 500; and
 - (B) any development activity or action requiring a project permit listed in SCC 30.62A.320(2), .330(2), .340(3) or .350 shall also comply with the critical area study requirements of SCC 30.62A.140, and the mitigation plan requirements of SCC 30.62A.150; and
- (d) Permanent identification and protection of wetlands, fish and wildlife habitat conservation areas, and their buffers shall be provided as required by SCC 30.62A.160.

Section 14. Snohomish County Code Section 30.62A.320, adopted by Amended Ordinance No. 06-061 on August 1, 2007, is amended to read:

30.62A.320 Standards and requirements for buffers and impervious surfaces.

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

(1) Buffer standards and requirements - no mitigation required. All development activities, actions requiring project permits and clearing that comply with the buffer requirements of SCC 30.62A.320(1)(a) through (g) satisfy the avoidance criteria of SCC 30.62A.310(3) and are not required to provide mitigation.

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

| Table 2a - Stream, Lake and Marine Buffer Width Standards (Feet) | |
|--|-----|
| Streams and Lakes | |
| Type S | 150 |
| Type F with anadromous or resident salmonids | 150 |
| Type F without anadromous or resident salmonids | 100 |
| Type Np | 50 |
| Type Ns | 50 |

AMENDED ORDINANCE NO. 15-034
 RELATING TO THE CRITICAL AREA REGULATIONS UPDATE PURSUANT TO THE GROWTH MANAGEMENT ACT, AMENDING CHAPTER 30.62A OF THE SNOHOMISH COUNTY CODE (SCC) (WETLANDS AND FISH & WILDLIFE HABITAT CONSERVATION AREAS), CHAPTER 30.62B SCC (GEOLOGICALLY HAZARDOUS AREAS) AND CHAPTER 30.62C SCC (CRITICAL AQUIFER RECHARGE AREAS), REPEALING CHAPTER 30.64 SCC (GROUNDWATER PROTECTION), AND AMENDING SCC 30.31D.130, SCC 30.61.122, SCC 30.91L.040 (LANDSLIDE HAZARD AREAS) AND SCC 30.91E.230 (EXCAVATION)

| | | |
|----------------------|-------------------|-----|
| <i>Marine Waters</i> | | |
| Type 1 | All marine waters | 150 |

1

| Table 2b: Wetland Buffer Width Standards (feet) | | | | | | |
|---|---|----------------------------------|---|--|---------------------------------------|-------------------------------------|
| <i>Wetlands</i> | | | | | | |
| Wetland Category | Description | Buffer Width Requirements (feet) | | | | Low Intensity Land Use ² |
| | | Standard Buffer Width** | High Intensity Land Use ¹ [30.62A.340(4)(b)] | | | |
| | | | 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 | <u>Wetlands listed by the Washington Natural Heritage Program((DNR)) as having High Conservation Value</u> | 190 | 250 | 220* | 190 | 125 |
| | Bogs | 190 | 250 | 220* | 190 | 125 |
| | <u>Estuarine wetlands ((at least one acre))) (greater than or equal to one acre) & Coastal Lagoons (greater than or equal to 1/10 acre)</u> | 150 | 200 | 175* | 150 | 100 |
| | High level habitat function (habitat function score is ((29-36)) 8-9) | 225 | 300 | 262* | 225 | 150 |
| | Moderate level habitat function (habitat function score is ((20-28)) 5-7) | 110 | 150 | 130* | 110 | 75 |
| | Total score ((70)) 23 or above but not meeting above criteria | 75 | 100 | 75 | | 50 |
| Category II | <u>Estuarine wetlands (less than 1 acre)</u> | 110 | 150 | 130* | 110 | 75 |
| | High level of function for habitat (habitat function score is 8-9 ((29-36))) | 225 | 300 | 262* | 225 | 150 |
| | Moderate to high level of function for habitat (habitat function score is 5-7 ((20-28))) | 110 | 150 | 130* | 110 | 75 |
| | High level of function for water quality improvement and low for habitat (water | 75 | 100 | 75 | | 50 |

AMENDED ORDINANCE NO. 15-034
RELATING TO THE CRITICAL AREA REGULATIONS UPDATE PURSUANT TO THE GROWTH MANAGEMENT ACT, AMENDING CHAPTER 30.62A OF THE SNOHOMISH COUNTY CODE (SCC) (WETLANDS AND FISH & WILDLIFE HABITAT CONSERVATION AREAS), CHAPTER 30.62B SCC (GEOLOGICALLY HAZARDOUS AREAS) AND CHAPTER 30.62C SCC (CRITICAL AQUIFER RECHARGE AREAS), REPEALING CHAPTER 30.64 SCC (GROUNDWATER PROTECTION), AND AMENDING SCC 30.31D.130, SCC 30.61.122, SCC 30.91L.040 (LANDSLIDE HAZARD AREAS) AND SCC 30.91E.230 (EXCAVATION)

| | | | | | | |
|--|---|-----|-----|-----|--|----|
| | quality function score is ((24-32)) 8-9 and habitat function score is less than ((20)) 5) | | | | | |
| | Total score ((51-60)) 20-22 but not meeting above criteria | 75 | 100 | 75 | | 50 |
| Category III | Moderate level of habitat function (habitat function score is 5-7 ((20-28))) | 110 | 150 | 110 | | 75 |
| | Total score of ((30-50)) 16-19 but not meeting above criteria | 60 | 80 | 60 | | 40 |
| Category IV | Low level function score (less than 16) ((Total score for all functions less than 30 points)) | 40 | 50 | 40 | | 25 |
| ¹ High intensity land uses include: <ul style="list-style-type: none"> • 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: <ul style="list-style-type: none"> • 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. | | | | | | |
| ** Standard buffers represent moderate level land use intensity and include uses that are not defined as high or low intensity. | | | | | | |

- 1
- 2 (b) Buffer widths shall be measured as follows:
- 3 (i) the buffer for streams, lakes and marine waters shall be measured from the ordinary
- 4 high-water mark extending horizontally in a landward direction and for wetlands, the
- 5 buffer shall be measured from the edge of the wetland extending horizontally in a
- 6 landward direction; and
- 7 (ii) provided however, where the landward edge of the standard buffer shown in Table
- 8 2a or 2b extends on to a slope of 33 percent or greater, the buffer shall extend to a point
- 9 25 feet beyond the top of the slope.
- 10 (c) New effective impervious surface restrictions ((Within buffers, the following restrictions
- 11 on impervious surfaces apply)):
- 12 (i) no new effective impervious surfaces are allowed within the buffer of streams,
- 13 wetlands, lakes or marine waters; and
- 14 (ii) total new effective impervious surfaces shall be limited to 10 percent within 300 feet
- 15 of:

AMENDED ORDINANCE NO. 15-034
RELATING TO THE CRITICAL AREA REGULATIONS UPDATE PURSUANT TO THE GROWTH MANAGEMENT ACT,
AMENDING CHAPTER 30.62A OF THE SNOHOMISH COUNTY CODE (SCC) (WETLANDS AND FISH & WILDLIFE
HABITAT CONSERVATION AREAS), CHAPTER 30.62B SCC (GEOLOGICALLY HAZARDOUS AREAS) AND
CHAPTER 30.62C SCC (CRITICAL AQUIFER RECHARGE AREAS), REPEALING CHAPTER 30.64 SCC
(GROUNDWATER PROTECTION), AND AMENDING SCC 30.31D.130, SCC 30.61.122, SCC 30.91L.040 (LANDSLIDE
HAZARD AREAS) AND SCC 30.91E.230 (EXCAVATION)

1 (A) any streams or lakes containing salmonids;

2 (B) wetlands containing salmonids; or

3 (C) marine waters containing salmonids.

4 (d) All development activities, actions requiring project permits or clearing shall be designed
5 to avoid the loss of or damage to trees in buffers due to blow down or other causes.

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

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

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

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

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

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

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

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

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

28 ~~((F))~~ (g) The following buffer reduction methods are only allowed in conjunction with a
29 critical area study, pursuant to SCC 30.62A.140, demonstrating that the methods will
30 provide protection equivalent to the standard requirements contained in ~~((Table 2.))~~ Tables
31 2a and 2b: ~~((Proposals offering better protection would also be acceptable.))~~

32 (i) the width of a buffer may be averaged, by reducing the width of a portion of the
33 buffer and increasing the width of another portion of the same buffer, if all of the
34 following requirements are met:

35 (A) averaging will not diminish the functions and values of the wetland(s), fish and
36 wildlife habitat conservation area(s) or buffer(s);

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

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

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

43 (E) averaging of a buffer shall not be allowed where the reduction extends into
44 associated sloping areas of 33 percent or greater; and

AMENDED ORDINANCE NO. 15-034

RELATING TO THE CRITICAL AREA REGULATIONS UPDATE PURSUANT TO THE GROWTH MANAGEMENT ACT,
AMENDING CHAPTER 30.62A OF THE SNOHOMISH COUNTY CODE (SCC) (WETLANDS AND FISH & WILDLIFE
HABITAT CONSERVATION AREAS), CHAPTER 30.62B SCC (GEOLOGICALLY HAZARDOUS AREAS) AND
CHAPTER 30.62C SCC (CRITICAL AQUIFER RECHARGE AREAS), REPEALING CHAPTER 30.64 SCC
(GROUNDWATER PROTECTION), AND AMENDING SCC 30.31D.130, SCC 30.61.122, SCC 30.91L.040 (LANDSLIDE
HAZARD AREAS) AND SCC 30.91E.230 (EXCAVATION)

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

4 (1) the width of the corridor connection between the aquatic critical areas shall
5 be no less than the combined average of the standard buffers for each of the
6 critical areas, provided that if there is not sufficient buffer area available when
7 using averaging to establish a connection, a connection is not required;

8 (2) no more than 25 percent of the buffer of the individual critical areas shall be
9 used to make a corridor connection;

10 (3) the corridor connection shall be established where feasible using the highest
11 quality habitat existing between the critical areas;

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

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

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

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

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

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

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

28 ~~((g))~~ (h) When averaging is used in combination with any or all of the reduction methods
29 contained in this section, the buffer shall not be reduced to less than half of the standard
30 buffer widths contained in SCC 30.62A.320(1)(a), ~~((Table 2))~~ Tables 2a or 2b.

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

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

38 (i) no other feasible alternative exists or the alternative would result in unreasonable or
39 disproportionate costs; and

40 (ii) location, design and construction minimizes impacts to the buffers pursuant to SCC
41 30.62A.310.

42 (b) Stormwater detention/retention facilities are allowed pursuant to the requirements of
43 SCC 30.63A.570.

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

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

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

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

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

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

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

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

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

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

22 (3) Buffer standards and requirements - mitigation ratios.

23 (a) The mitigation ratios in Table 3 shall apply to buffer impacts and mitigation measures
24 that exceed those allowed in SCC 30.62A.320(1)(f)(i), SCC 30.62A.320(1)(f)(ii), SCC
25 30.62A.320(1)(g)(i), and SCC 30.62A.320(1)(g)(ii).

26 (b) ~~((a))~~ Except as provided in SCC 30.62A.320(3)(c) & (d) ~~((b))~~, to ~~((f))~~ mitigate the
27 loss ~~((impacts to functions and values))~~ of ~~((buffers))~~ buffer functions and values, the ratios
28 in Table 3 shall be required ~~((unless using the provisions of innovative development in SCC~~
29 30.62A.350)). The ratios are based upon the existing type of vegetative cover and are
30 expressed in terms of the units of mitigation area needed to replace ~~((number of acres~~
31 needed to recover)) the lost functions and values ~~((of one acre))~~ of the impacted buffer area.
32 ~~((For impacts to buffers that permanently remove existing vegetation, functions and values~~
33 shall be assumed to be replaced by creating or enhancing new buffers at the following
34 ratios:))

35 (c) Enhancement shall occur in accordance with enhancement criteria contained in SCC
36 30.62A.320(1)(g)(ii) A, B and C.

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

1
2
3

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 | | |

4

5 Section 15. Snohomish County Code Section 30.62A.330, adopted by Amended
6 Ordinance No. 06-061 on August 1, 2007, is amended to read:

7

8 30.62A.330 Standards and requirements for activities conducted within streams, lakes
9 and marine waters.

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

14 (1) Standards and requirements for streams, lakes and marine waters - no mitigation required.
15 Any development activity, action requiring project permit or clearing that does not encroach into
16 streams, lakes or marine waters and provides buffers consistent with the requirements of SCC
17 30.62A.320(1) satisfies the avoidance criteria of SCC 30.62A.310(3) and do not require
18 mitigation.

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

AMENDED ORDINANCE NO. 15-034
RELATING TO THE CRITICAL AREA REGULATIONS UPDATE PURSUANT TO THE GROWTH MANAGEMENT ACT,
AMENDING CHAPTER 30.62A OF THE SNOHOMISH COUNTY CODE (SCC) (WETLANDS AND FISH & WILDLIFE
HABITAT CONSERVATION AREAS), CHAPTER 30.62B SCC (GEOLOGICALLY HAZARDOUS AREAS) AND
CHAPTER 30.62C SCC (CRITICAL AQUIFER RECHARGE AREAS), REPEALING CHAPTER 30.64 SCC
(GROUNDWATER PROTECTION), AND AMENDING SCC 30.31D.130, SCC 30.61.122, SCC 30.91L.040 (LANDSLIDE
HAZARD AREAS) AND SCC 30.91E.230 (EXCAVATION)

1 provide a critical area study meeting the requirements of SCC 30.62A.140 and a mitigation plan
2 meeting the requirements of SCC 30.62A.150.

3 (a) All development activities, actions requiring project permits and clearing shall meet the
4 following requirements:

5 (i) the project shall be sited and designed to prevent the need for shoreline or bank
6 stabilization and structural flood hazard protection measures for the life of the
7 development;

8 (ii) the project shall be sited and designed to avoid the need for new or maintenance
9 dredging; and

10 (iii) the project shall not obstruct the source and movement of sediment from bluffs
11 along marine waters except as necessary pursuant to SCC 30.62A.330(2)(b).

12 (b) Shoreline and streambank stabilization and flood protection measures. Shoreline and
13 streambank stabilization and flood protection measures are only allowed to protect an
14 existing primary structure; new or existing utilities, roads and bridges; agricultural land; or
15 as part of a project where the sole purpose is to protect or restore wetlands, fish and wildlife
16 habitat conservation areas or buffers. Activities allowed under SCC 30.62A.330(2)(b) shall
17 meet the following conditions:

18 (i) the applicant shall submit a geotechnical report as required pursuant to SCC

19 30.62B.140 which establishes that the stabilization or flood protection is necessary;

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

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

23 (iv) the activity should be designed and constructed based on the guidance contained in
24 the Integrated Streambank Protection Guidelines (Washington State Department of Fish
25 and Wildlife, April 2003) and the Alternative Bank Protection Methods for Puget Sound
26 Shorelines (Washington State Department of Ecology, May 2000, Publication #00-06-
27 012) as appropriate for the type of critical area impacted.

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

30 (i) new utility crossings shall be bored beneath types S and F streams, and channel
31 migration zones where feasible;

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

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

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

37 (v) utilities placement shall avoid interrupting downstream movement of wood and
38 sediment; and

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

43

- 1
2 (d) Road crossings are subject to the following requirements:
3 (i) road crossings on fish-bearing streams shall be designed according to the guidelines
4 set forth in Water Crossing Design Guidelines (Washington Department of Fish and
5 Wildlife, May 9, 2013) or as subsequently amended or revised (~~(Fish Passage Design at~~
6 ~~Road Culverts (Washington Department of Fish and Wildlife, March 3, 1999))~~); and
7 (ii) road crossings shall avoid interrupting natural rates of the downstream movement of
8 woody debris and sediment.
9 (e) Stream conveyances. Where feasible, stream conveyances shall avoid interrupting natural
10 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 prohibited;
13 (ii) construction timing shall avoid critical life cycle stages of fish and wildlife;
14 (iii) these structures shall avoid critical saltwater habitats; and
15 (iv) joint use of docks, piers and floats shall be required where feasible.
16

17 Section 16. Snohomish County Code Section 30.62A.340, last amended by Amended
18 Ordinance No. 10-026 on June 9, 2010, is amended to read:
19

20 30.62A.340 Standards and requirements for activities conducted in wetlands.

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

25 (1) Standards for wetlands - prohibitions. The following actions are prohibited:

- 26 (a) Filling of estuarine wetlands, wetlands listed by the Washington Natural Heritage
27 Program as having High Conservation Value (~~(Natural Heritage wetlands)~~), mature forested
28 wetlands and Category I bogs;
29 (b) Point discharges of stormwater into Category I bogs; and
30 (c) Septic systems and effective impervious surfaces within 300 feet of Category I bogs.

31 (2) Standards for wetlands - no mitigation required. All development activities, actions requiring
32 project permits and clearing that do not encroach into wetlands and provide buffers consistent
33 with the requirements of SCC 30.62A.320(1)(a) through (f) and the prohibitions in SCC
34 30.62A.340(1) satisfy the avoidance criteria of SCC 30.62A.310(3) and do not require
35 mitigation.

36 (3) Standards for wetlands - mitigation required. The actions, structures and facilities listed in
37 this section are allowed only when they are determined to be unavoidable pursuant to SCC
38 30.62A.310, are consistent with the prohibitions in SCC 30.62A.340(1), and are conducted
39 according to the standards and requirements identified in this section. When a permit is required,
40 an applicant must also provide a critical area study meeting the requirements of SCC 30.62A.140
41 and a mitigation plan meeting the requirements of SCC 30.62A.150.

42 (~~((a) Except for estuarine wetlands, Natural Heritage wetlands, mature forested wetlands and~~
43 ~~bogs, filling of up to one acre of wetland is allowed provided no other feasible alternative~~
44 ~~exists.))~~)

AMENDED ORDINANCE NO. 15-034
RELATING TO THE CRITICAL AREA REGULATIONS UPDATE PURSUANT TO THE GROWTH MANAGEMENT ACT,
AMENDING CHAPTER 30.62A OF THE SNOHOMISH COUNTY CODE (SCC) (WETLANDS AND FISH & WILDLIFE
HABITAT CONSERVATION AREAS), CHAPTER 30.62B SCC (GEOLOGICALLY HAZARDOUS AREAS) AND
CHAPTER 30.62C SCC (CRITICAL AQUIFER RECHARGE AREAS), REPEALING CHAPTER 30.64 SCC
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HAZARD AREAS) AND SCC 30.91E.230 (EXCAVATION)

1 ((b)) (a) New utilities and transportation structures are allowed within wetlands provided
2 no other feasible alternative exists.

3 ((e)) (b) Stormwater detention/retention facilities are prohibited in Category I bogs
4 pursuant to SCC 30.62A.340(1)(b) but are otherwise allowed pursuant to the requirements of
5 SCC 30.63A.570.

6 (4) Standards for wetlands - mitigation requirements.

7 (a) Mitigation ratios – Except as provided in SCC 30.62A.340(4)(b), to ((To)) mitigate
8 ((total)) the loss of wetland functions, the ratios in Table 4 shall be required. ((unless using
9 the provisions for innovative development in SCC 30.62A.350.)) The ratios are expressed in
10 terms of the units of area needed to replace the lost functions and values of the wetland.

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

13
14 ((Table 30.62.340-)) Table 4
15 ((Wetlands Migrations)) Wetland Mitigation Ratios
16

| 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 listed by the Washington Natural Heritage Program as having High Conservation Value ((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 | | |

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

5 (i) Optional mitigation measures.

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

11
12 Table 5 - Mitigation Measures for High Intensity Land Uses
13

| 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 |

| | | |
|---|--|---|
| | | <ul style="list-style-type: none"> • 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> | | |

1
2 (B) Mitigation measure 2. For Category I or II wetlands that score moderate or high
3 for habitat (5 ((20)) points or more for the habitat functions), a habitat corridor shall
4 be preserved that meets the following criteria:
5 (I) Except as allowed in number (II) below, the habitat corridor shall connect the
6 Category I or II wetland with a habitat score of ((20)) 5 or more to any other
7 wetland, fish and wildlife habitat conservation area or buffer which is:
8 (aa) on the same property or within the same development, including all
9 phases proposed;
10 (bb) on adjacent properties and already protected as Native Growth
11 Protection Areas or Critical Area Protection Areas ((NGPAs or CAPAs)) or
12 other permanently protected open space suitable for wildlife habitat use and
13 which either extends to the property boundary or connected by easement; or

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

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

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

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

(bb) The corridor shall maintain an average width equal to the difference between the high intensity buffer and the standard buffer for the relevant Category I or II wetland as shown in Table 6, except when the corridor is connecting two Category I or II wetlands each with a habitat score of ~~((20))~~ 5 or more and the corridor maintains an average width of 100 feet, it will fulfill the connection requirement for both wetlands.

Table 6 - Average Width for Habitat Corridor (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)) <u>Listed by the Washington Natural Heritage Program as having High Conservation Value</u> | 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 <u>8 or greater</u> ((29-36))) | 225 | 300 | 75 |
| | Moderate Level Habitat Function (habitat function score is ((20-28)) <u>5-7</u>) | 110 | 150 | 40 |
| Category II | Estuarine (less than 1 acre) | 110 | 150 | 40 |
| | High Level Habitat Function (habitat function score is ((29-36)) <u>5-7</u>) | 225 | 300 | 75 |

| | | | |
|--|-----|-----|----|
| Moderate Level Habitat Function (habitat function score is ((20-28)) <u>5-8</u>) | 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))~~ (C) when trails are allowed as per (4)(aa) above, minimal trail maintenance is also allowed

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

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

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

Section 17. Snohomish County Code Section 30.62A.350, last amended by Amended Ordinance No. 10-024 on June 9, 2010, is amended to read:

30.62A.350 Innovative development design.

(1) A project permit applicant may request approval of an innovative design, which addresses wetland, fish and wildlife habitat conservation area or buffer treatment in a manner that deviates from the standards contained in Part 300. The applicant shall demonstrate in a critical area study required pursuant to SCC 30.62A.140 how the innovative development design complies with the following requirements:

(a) The innovative design will achieve protection equivalent to the treatment of the functions and values of the critical area(s) which would be obtained by applying the standard prescriptive measures contained in this chapter(~~-Proposals offering better protection would also be acceptable~~));

(b) Applicants for innovative designs are encouraged to consider measures prescribed in guidance documents, such as watershed conservation plans or other similar conservation

AMENDED ORDINANCE NO. 15-034
RELATING TO THE CRITICAL AREA REGULATIONS UPDATE PURSUANT TO THE GROWTH MANAGEMENT ACT, AMENDING CHAPTER 30.62A OF THE SNOHOMISH COUNTY CODE (SCC) (WETLANDS AND FISH & WILDLIFE HABITAT CONSERVATION AREAS), CHAPTER 30.62B SCC (GEOLOGICALLY HAZARDOUS AREAS) AND CHAPTER 30.62C SCC (CRITICAL AQUIFER RECHARGE AREAS), REPEALING CHAPTER 30.64 SCC (GROUNDWATER PROTECTION), AND AMENDING SCC 30.31D.130, SCC 30.61.122, SCC 30.91L.040 (LANDSLIDE HAZARD AREAS) AND SCC 30.91E.230 (EXCAVATION)

1 plans, and low impact stormwater management strategies that address wetlands, fish and
2 wildlife habitat conservation area or buffer protection consistent with this section;

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

6 (d) Applicants for innovative designs are encouraged to consider the use of low impact
7 development best management practices described in chapter 30.63C SCC.

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

14 (a) Why the deviation is necessary to implement the policies in the county's comprehensive
15 plan General Policy Plan under objective LU 3.B; and

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

19
20 Section 18. Snohomish County Code Section 30.62A.410, adopted by Amended
21 Ordinance No. 06-061 on August 1, 2007, is amended to read:

22
23 30.62A.410 Purpose.

24 This Part establishes standards and requirements for the protection of critical species, which
25 includes:

26 (1) Species listed as threatened or endangered under RCW 77.12.020 and Title 16 United States
27 Code;

28 (2) Species of local importance designated under SCC 30.62A.470; and

29 (3) The following Washington State listed sensitive species:

30 (a) Larch mountain salamander;

31 (b) Common loon;

32 (c) Peregrine falcon;

33 (d) Olympic mudminnow;

34 (e) Pygmy whitefish; (~~and~~)

35 (f) Gray whale((-));

36 (g) Bald eagle; and

37 (h) Margined sculpin.

38
39 Section 19. Snohomish County Code Section 30.62A.430, adopted by Amended
40 Ordinance No. 06-061 on August 1, 2007, is amended to read:

1 30.62A.430 Administrative rules authorized.

2 In order to protect critical species and their habitats, the department shall develop administrative
3 rules under chapter 30.82 SCC (~~within 120 days of the species listing~~) that establish protection
4 requirements specific to these species and their habitats.

5
6 Section 20. Snohomish County Code Section 30.62A.510, adopted by Amended
7 Ordinance No. 06-061 on August 1, 2007, is amended to read:

8
9 30.62A.510 Minor development activity exceptions.

10 (1) Certain minor development activities may occur in or cause impacts to wetlands, fish and
11 wildlife habitat conservation areas or buffers provided the project proponent complies with best
12 management practices (BMPs) adopted through rulemaking pursuant to chapter 30.82 SCC and
13 all known and available reasonable technology (AKART) appropriate for compliance with this
14 chapter. Best management practices are physical, structural, or managerial practices which have
15 gained general acceptance by professionals in the appropriate field to minimize and mitigate
16 adverse impacts to the functions and values of critical areas.

17 (2) All minor development activities authorized in this section shall comply with administrative
18 BMP rules upon adoption. Prior to adoption of such administrative rules, project proponents
19 shall comply with all known and available BMPs as defined in SCC 30.62A.510(1). The director
20 shall (~~use his or her best efforts to~~) adopt BMPs for the minor development activities listed in
21 this section pursuant to the rulemaking provisions of chapter 30.82 SCC (~~within 12 months of~~
22 ~~the effective date of this chapter~~).

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

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

- 25 (i) improved public and private road rights-of-way,
- 26 (ii) utility corridors,
- 27 (iii) trails,
- 28 (iv) utility facilities,
- 29 (v) flood protection and bank stabilization structures,
- 30 (vi) stormwater facilities; and
- 31 (vii) structures;

32 (b) Minor replacement, modification, extension, installation, or construction by a utility
33 purveyor in an improved public road right-of-way;

34 (c) Survey or monument placement;

35 (d) Minor replacement or modification of existing facilities by a utility purveyor in an
36 improved utility corridor;

37 (e) Minor replacement or modification by a utility purveyor of individual utility service lines
38 connecting to a utility distribution system;

39 (f) Minor replacement, modification, minor installation or construction in an improved road
40 right-of-way by the county or by the holder of a current right-of-way use permit;

41 (g) All development activities in non-riparian Category II and III wetlands smaller than
42 5,000 square feet, and non-riparian Category IV wetlands smaller than 10,000 square feet,
43 and their associated buffers;

44 (h) Removal of invasive weeds;

AMENDED ORDINANCE NO. 15-034
RELATING TO THE CRITICAL AREA REGULATIONS UPDATE PURSUANT TO THE GROWTH MANAGEMENT ACT,
AMENDING CHAPTER 30.62A OF THE SNOHOMISH COUNTY CODE (SCC) (WETLANDS AND FISH & WILDLIFE
HABITAT CONSERVATION AREAS), CHAPTER 30.62B SCC (GEOLOGICALLY HAZARDOUS AREAS) AND
CHAPTER 30.62C SCC (CRITICAL AQUIFER RECHARGE AREAS), REPEALING CHAPTER 30.64 SCC
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HAZARD AREAS) AND SCC 30.91E.230 (EXCAVATION)

- 1 (i) Felling or topping of hazardous trees based on review by a qualified arborist;
- 2 (j) Minor replacement, modification or installation of drainage, water quality or habitat
- 3 enhancement projects; ~~((and))~~
- 4 (k) All other on-going lawfully established development activities not specifically addressed
- 5 in this chapter~~((-))~~ ; and
- 6 (l) Site investigative work necessary for land use application submittals pursuant to this title,
- 7 such as surveys, soil borings, test pits, percolation tests, non-mechanical survey monument
- 8 placement, data collection by non-mechanical means or other related activities, provided that
- 9 the work is otherwise consistent with the provisions of other local, state and federal laws and
- 10 regulations. Land disturbance shall be no greater than that necessary to accomplish the site
- 11 investigative work and disturbed areas shall be restored to pre-disturbance conditions in one
- 12 growing season.

13
 14 Section 21. Snohomish County Code Section 30.62A.520, adopted by Amended
 15 Ordinance No. 06-061 on August 1, 2007, is amended to read:

16
 17 30.62A.520 Single family residential development exceptions in buffers.
 18 New single family residential development, expansions of existing single family residences and
 19 ordinary residential improvements on lots existing prior to October 1, 2007 are allowed in
 20 buffers only as follows:

21 (1) The development cannot comply with the standard requirements contained in PART 300 of
 22 this chapter;

23 (2) ~~((1))~~ The development ~~((New single family residential structures and ordinary residential~~
 24 improvements)) shall not disturb more than 4,000 square feet of the buffer;

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

27 (4) ~~((2))~~ To the extent feasible, total effective new impervious areas shall be limited to 10
 28 percent within 300 feet of all waters containing salmonids and bogs ~~((containing salmonids))~~;

29 (5) ~~((3))~~ Expansion of an existing single family residence or accessory structure may be
 30 allowed within a buffer provided the footprint of the expansion does not exceed fifty percent of
 31 the existing structure or 2,000 square feet, whichever is less, and the expansion is set back from
 32 the critical area a distance which is greater than or equal to the setback of the original structure;

33 ~~((4) Development in the buffer shall be the minimum necessary to accomplish the uses~~
 34 ~~described in this section;))~~

35 (6) ~~((5))~~ For new single family development, there must be no alternate location for the
 36 development outside of the buffer;

37 (7) ~~((6))~~ Development in the buffer shall be located to avoid impacts to critical species;

38 (8) ~~((7))~~ The buffer shall ~~((in no case))~~ not be reduced to less than one half of the standard
 39 buffer as provided at SCC 30.62A.320(1)(a) ~~((SCC))~~ or 25 feet, whichever is greater, provided
 40 that access road crossing may encroach further into the buffer when there are no feasible
 41 alternatives;

42 (9) ~~((8))~~ To the maximum extent feasible, the development shall be designed to avoid the
 43 removal of existing native vegetation with emphasis on preservation of conifers greater than or

1 equal to 24 inches diameter at breast height (dbh), and hardwoods greater than or equal to 20
2 inches dbh;

3 ~~(10) ((9) New sewage distribution lines))~~ Utility service lines servicing a single family residence
4 may be allowed in areas of the buffer containing native vegetation provided that ((the lines are
5 installed without the aid of mechanical equipment, and)) the removal of any vegetation within
6 the buffer shall be the minimum necessary to install the lines;

7 ~~(11) ((10))~~ A permanent fence or other equivalent visual and physical barrier shall be installed
8 along the edge of the reduced buffer, provided that the barrier may be installed at the edge of the
9 naturally or restored vegetated part of the buffer;

10 ~~(12) ((11))~~ Mitigation for any encroachment into the buffer shall include, where beneficial,
11 enhancement of existing buffers on the site based on the following criteria:

12 (a) The enhanced buffer should be located between the residential structures and
13 improvements and the aquatic critical area; and

14 (b) The ratio of the area of buffer enhanced to the area of the buffer encroached upon should
15 be 2 to 1.

16
17 Section 22. Snohomish County Code Section 30.62A.550, adopted by Amended
18 Ordinance No. 06-061 on August 1, 2007, is amended to read:

19
20 30.62A.550 Mitigation banking and in lieu fee program.

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

25 (2) Criteria for approval of use of mitigation banks:

26 (a) The following must have been approved by the County and the federal, state and local
27 agencies with jurisdiction:

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

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

33 ~~((A) the categories of development activities that may use the mitigation bank;))~~

34 ~~((B))~~ (A) specific criteria and standards for use of the mitigation bank;

35 ~~((C))~~ (B) methods for tracking credits;

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

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

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

43 ~~((G))~~ (F) quantitative and qualitative performance standards;

1 ((H)) (G) systematic compliance and performance monitoring to determine the
2 degree to which the site meets performance standards;
3 ((H)) (H) a schedule and timeline for compliance and performance monitoring,
4 ((J)) (I) contingency plans;
5 ((K)) (J) methods to be used to determine the functions and values of replacement
6 wetlands, fish and wildlife habitat conservation area or buffers based on a watershed
7 analysis;
8 ((L)) (K) provisions for assuring the funding of long-term maintenance of the bank
9 and performance of mitigation and monitoring requirements;
10 ((M)) (L) a description of wetland, fish and wildlife habitat conservation area or
11 buffer mitigation ratios to be used and justification for these ratios based upon best
12 available science. Mitigation ratios will be based upon consideration of factors
13 including but not limited to the likelihood of success of the mitigation, the types and
14 quality of wetland, fish and wildlife habitat conservation areas or buffers involved,
15 research results, and monitoring results;
16 ((N)) (M) the mitigation plan requirements contained in SCC 30.62A.150; ((-)) and
17 ((O)) (N) provisions for mitigation sequencing that requires at minimum that all
18 proposals using a mitigation bank shall have made reasonable efforts to avoid and
19 minimize impacts to wetlands, ~~(and)~~ fish and wildlife habitat conservation areas and
20 buffers.

21 (b) The use of the mitigation bank will result in equivalent treatment of the functions and
22 values of the wetland, fish and wildlife habitat conservation area or buffer to offset the
23 impacts to critical areas functions and values on the project site such that the total net impact
24 will be no net loss of critical area functions and values in the watershed in which the impacts
25 will occur. ~~((Proposals offering a net gain of functions and values would also be~~
26 ~~acceptable.)) For the purposes of this section, "watershed" means an area identified as a state
27 of Washington water resource inventory area (WRIA) under WAC 173-500-040.~~

28 (c) The creation and operation of the mitigation bank and development activity which
29 utilizes the wetland, fish and wildlife habitat conservation area or buffer bank, shall not
30 create unmitigated long term or permanent adverse impacts to the critical functions and
31 values of the wetlands, fish and wildlife habitat conservation areas or buffers in the sub-
32 drainage basin in which the impacts will occur. Critical functions and values listed at SCC
33 30.62A.220 are those that are important to the long-term ecological viability of the wetlands,
34 fish and wildlife habitat conservation areas or buffers in the sub-drainage basin.

35 (3) The director shall make MOAs and mitigation banking documents ~~((implementation~~
36 ~~manuals))~~ available for public review and comment prior to approval.

37 (4) In-lieu fee mitigation.

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

1 (b) In-lieu fee mitigation shall be established in accordance with the guidance contained in
2 “Guidance on In-lieu Fee Mitigation” (Washington State Department of Ecology,
3 December 2012, or latest edition, Publication #12-06-012).

4 Section 23. Snohomish County Code Section 30.62A.620, last amended by Amended
5 Ordinance No. 13-042 on July 10, 2013, is amended to read:

6
7 30.62A.620 General Agricultural Standards.

8 Except as provided in SCC 30.62A.630, normal agricultural activities as defined in SCC
9 30.91A.090 or 30.91A.092, subject to this Part 600, are in compliance with this chapter when
10 those activities are performed in accordance with subsection (1), (2) or (3) of this section:

- 11 (1) The best management practices contained in the latest edition of the USDA Natural
12 Resources Conservation Service (NRCS) Field Office Technical Guide (FOTG);
13 (2) Other recognized best management practices for such activity that protect the functions and
14 values of critical areas, where the NRCS FOTG does not provide specific guidance or a best
15 management practice; or
16 (3) A farm conservation plan that includes provisions addressing critical areas protection specific
17 to the farm site (~~approved~~) recommended by the NRCS or the Snohomish conservation district
18 (SCD), approved by the county and signed by the landowner. Any confidential or proprietary
19 information contained in a farm conservation plan may be redacted prior to public disclosure.
20

21 Section 24. Snohomish County Code Section 30.62A.630, adopted by Amended
22 Ordinance No. 06-061 on August 1, 2007, is amended to read:

23
24 30.62A.630 Special Agricultural Conditions.

25 (1) Notwithstanding SCC 30.62A.620, agricultural activities as defined in (~~SCC 30.32B.230 or~~)
26 SCC 30.91A.090 or 30.91A.092 subject to this Part 600 that meet one or more of the following
27 special conditions shall comply with SCC 30.62A.630(2):

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

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

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

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

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

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

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

- 1 (2) The agricultural activities listed in SCC 30.62A.630(1) are in compliance with this chapter
2 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 described in SCC
5 30.62A.620(3); or
 - 6 (c) The director issues a written decision finding that the landowner's compliance with other
7 state or federal regulations or permits provides sufficient protection on the site to satisfy
8 related critical areas requirements of this chapter.

9
10 Section 25. A new section is added to Chapter 30.62A of the Snohomish County Code to
11 read:

12
13 30.62A.640 Farm conservation plans and best management practices.

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

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

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

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

21 (c) Include provisions on a form approved by the department for the right to entry to the
22 county for the purpose of inspection for the length of the monitoring and maintenance period.

23 Prior to a site inspection the county shall provide reasonable notice to the property owner as to
24 the purpose and need for entry.

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

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

33 (a) The operator fails to implement and maintain the farm plans and/or best management
34 practices;

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

38 (c) Substantial changes in the agricultural activities of the operation have occurred which
39 render the current plan ineffective.

40 (5) The county shall only retain summary information of that portion of the plan needed for
41 permit approval, including the general location of the operation, the nature of the activity,
42 required permits and specific best management practices. The summary information shall be
43 supplied to the county by the operator and used to document the basis for the county's approval

1 of the plan. Any confidential or proprietary information contained in a farm conservation plan
2 may be redacted prior to public disclosure.

3
4 Section 26. Snohomish County Code Section 30.62A.730, adopted by Amended
5 Ordinance No. 06-061 on August 1, 2007, is amended to read:

6
7 30.62A.730 Monitoring and adaptive management program - reporting.
8 ~~((1) Starting in December, 2008, and each year following,))~~ One year prior to the GMA (RCW
9 36.70A.130) required review and update of the county's critical area regulations, the executive
10 shall report to the council on the monitoring and adaptive management program, using best
11 available science, and provide data and conclusions regarding the effectiveness of the county in
12 achieving no net loss of critical area functions and values. If net loss is detected, using
13 scientifically valid techniques, the executive shall report and recommend strategies for adaptive
14 management.
15 ~~((2) At any point when the monitoring program identifies a significant decline in functions and~~
16 ~~values of a critical area or areas, the executive shall provide a report to the council as required in~~
17 ~~SCC 30.62A.730(1).))~~

18
19 Section 27. Snohomish County Code Section 30.62B.010, last amended by Amended
20 Ordinance No. 13-042 on July 10, 2013, is amended to read:

21
22 30.62B.010 Purpose and applicability.
23 (1) The purpose of this chapter is to provide regulations for the protection of public safety, health
24 and welfare pursuant to the Growth Management Act (chapter 36.70A RCW), in geologically
25 hazardous areas, including: erosion hazard, landslide hazard, seismic hazard, mine hazard,
26 volcanic hazard, and tsunami hazard areas.
27 (2) This chapter applies to:
28 (a) Development activities, actions requiring project permits, and clearing except for the
29 following:
30 (i) Non-ground disturbing interior or exterior building improvements;
31 (ii) Routine landscape maintenance of established, ornamental landscaping;
32 (iii) Non-ground disturbing normal maintenance or repair ~~((Exterior structure~~
33 ~~maintenance, including, but not limited to, painting and roofing))~~;
34 (iv) Removal of noxious weeds conducted in accordance with chapter 16-750 WAC;
35 (v) Maintenance or replacement that does not expand the affected area of the following
36 existing facilities:
37 (A) septic tanks and drainfields;
38 (B) wells;
39 (C) individual utility service connections; and
40 (D) individual cemetery plots in established and approved cemeteries;
41 (vi) Data collection and research by nonmechanical means if performed in accordance
42 with state-approved sampling protocols or Endangered Species Act (ESA) Section
43 10(a)(1)(a), Section 7 consultation (16 USC § 1536);
44 (vii) Nonmechanical survey and monument placement;

AMENDED ORDINANCE NO. 15-034
RELATING TO THE CRITICAL AREA REGULATIONS UPDATE PURSUANT TO THE GROWTH MANAGEMENT ACT,
AMENDING CHAPTER 30.62A OF THE SNOHOMISH COUNTY CODE (SCC) (WETLANDS AND FISH & WILDLIFE
HABITAT CONSERVATION AREAS), CHAPTER 30.62B SCC (GEOLOGICALLY HAZARDOUS AREAS) AND
CHAPTER 30.62C SCC (CRITICAL AQUIFER RECHARGE AREAS), REPEALING CHAPTER 30.64 SCC
(GROUNDWATER PROTECTION), AND AMENDING SCC 30.31D.130, SCC 30.61.122, SCC 30.91L.040 (LANDSLIDE
HAZARD AREAS) AND SCC 30.91E.230 (EXCAVATION)

- 1 (viii) Soils testing or topographic surveying of slopes for purposes of scientific
2 investigation, site feasibility analysis, and data acquisition for geotechnical report
3 preparation provided it can be accomplished without road construction; and
4 (ix) Quasi-judicial rezones not accompanied by another permit or approval.
5 (b) Agricultural activities, which are subject only to Part 500 of this chapter.
6

7 Section 28. Snohomish County Code Section 30.62B.020, adopted by Amended
8 Ordinance No. 06-061 on August 1, 2007, is amended to read:
9

10 30.62B.020 Relationship to Snohomish County Shoreline Management Program.
11 Regulation of geologically hazardous areas located within shorelines of the state, as defined in
12 chapter 90.58 RCW, shall be accomplished through compliance with the provisions of ~~((this))~~
13 chapter 30.67 SCC. Nothing in this section shall be construed to be inconsistent with RCW
14 36.70A.480.
15

16 Section 29. Snohomish County Code Section 30.62B.130, adopted by Amended
17 Ordinance No. 06-061 on August 1, 2007, is amended to read:
18

19 30.62B.130 Submittal requirements.

20 For any development activity or action requiring a project permit, the applicant shall submit a
21 site development plan drawn to a standard engineering scale which includes:

- 22 (1) Boundary lines and dimensions of the subject property;
23 (2) Boundary lines and dimensions of the site;
24 (3) Topography at contour intervals of five feet unless the underlying project permit requires a
25 lesser interval;
26 (4) Location, size, and type of any existing structures, cleared areas or other improvements ~~((and~~
27 ~~other existing developed areas))~~;
28 (5) Location, size and type of all proposed development activities, activities subject to project
29 permits and clearing ~~((structures and development activity on the site))~~;
30 (6) Location of all geologically hazardous areas on and within 200 feet of the site, to the extent
31 possible;
32 (7) Location of all other critical areas regulated pursuant to chapters 30.62A, 30.62C and 30.65
33 SCC on and within ~~((200))~~ 300 feet of the site; and
34 (8) Location of structure setbacks as required in ~~((SCC 30.62A.320(1)(d)))~~ chapter 30.62A SCC,
35 SCC 30.62B.340(2) and chapter 30.23 SCC.
36

37 Section 30. Snohomish County Code Section 30.62B.140, adopted by Amended
38 Ordinance No. 06-061 on August 1, 2007, is amended to read:
39

40 30.62B.140 Geotechnical report requirements.

41 (1) A geotechnical report will be required for any development activity, ~~((or))~~ action requiring a
42 project permit or clearing proposed within:

- 43 (a) An erosion hazard area;
44 (b) A landslide hazard area ~~((or its setback))~~;

AMENDED ORDINANCE NO. 15-034
RELATING TO THE CRITICAL AREA REGULATIONS UPDATE PURSUANT TO THE GROWTH MANAGEMENT ACT,
AMENDING CHAPTER 30.62A OF THE SNOHOMISH COUNTY CODE (SCC) (WETLANDS AND FISH & WILDLIFE
HABITAT CONSERVATION AREAS), CHAPTER 30.62B SCC (GEOLOGICALLY HAZARDOUS AREAS) AND
CHAPTER 30.62C SCC (CRITICAL AQUIFER RECHARGE AREAS), REPEALING CHAPTER 30.64 SCC
(GROUNDWATER PROTECTION), AND AMENDING SCC 30.31D.130, SCC 30.61.122, SCC 30.91L.040 (LANDSLIDE
HAZARD AREAS) AND SCC 30.91E.230 (EXCAVATION)

- 1 (c) Two hundred feet of a mine hazard area; or
2 (d) Two hundred feet of any faults.
- 3 (2) The geotechnical report shall be prepared, stamped, and signed by a licensed engineer or
4 geologist and contain the following information relevant to the geologically hazardous area:
5 (a) The topography at contour intervals of five feet unless the underlying project permit
6 requires a lesser interval;
7 (b) Significant geologic contacts, landslides, or downslope soil movement on and within 200
8 feet of the site;
9 (c) A channel migration zone study when required pursuant to SCC 30.62B.330(2);
10 (d) Impervious surfaces, wells, drain fields, drain field reserve areas, roads, easements, and
11 utilities on the site;
12 (e) The location or evidence of any springs, seeps, or other surface expressions of
13 groundwater;
14 (f) The location or evidence of any surface waters;
15 (g) Identification of all existing fill areas;
16 (h) The location and extent of all proposed development activity;
17 (i) A discussion of the geological condition of the site including:
18 (i) a description of the soils in accordance with the Natural Resource Conservation
19 Service indicating the potential for erosion;
20 (ii) engineering properties of the soils, sediments, and rocks on the subject property and
21 adjacent properties and their effect on the stability of the slope;
22 (iii) a description of the slope in percent gradient; ~~((and))~~
23 (iv) the location or evidence of seismic faults and soil conditions indicating the potential
24 for liquefaction; and
25 (v) a hazard analysis and finding of risks associated with geologic hazards and the
26 potential impacts to public safety, the hazard area and the subject property;
27 (j) The proposed method of drainage and locations of all existing and proposed surface and
28 subsurface drainage facilities and patterns, and the locations and methods for erosion
29 control;
30 (k) The extent and type of existing vegetative cover;
31 (l) A vegetation management and restoration plan prepared by persons experienced in
32 vegetation management and restoration plans such as botanists, landscape architects and
33 certified arborist, or other means for maintaining long-term stability of slopes;
34 (m) Analysis of erosion rates, slope recession rates and potential impacts to existing or
35 proposed development from wave cutting, stream meandering, or other erosional forces
36 to determine the recommended solution for bank or shoreline stabilization or flood
37 protection in conformance with SCC 30.62B.320(2); ~~((and))~~
38 (n) Analysis of soil borings when the geology of an area is uncertain; and
39 ~~((n))~~ (o) Any other information determined by the department to be necessary to determine
40 compliance with this chapter including but not limited to the use of LIDAR, technical
41 reports, studies or documents related to geologic hazards and models for estimating how
42 far landslide materials will travel.

1 (3) The geotechnical report shall include a summary or abstract of the report for the property
2 where the development activity is proposed. The abstract shall at a minimum include the type of
3 hazard, extent of the hazard, hazard analysis and geologic conditions.
4

5 Section 31. Snohomish County Code Section 30.62B.160, adopted by Amended
6 Ordinance No. 06-061 on August 1, 2007, is amended to read:
7

8 30.62B.160 Permanent identification, development restrictions, and recording.

9 The following measures for permanent identification, development restrictions and disclosure of
10 geologically hazardous areas are required for any development activity or action requiring a
11 project permit, except those occurring in public and private road or utility easements and rights-
12 of-way, or those conducted for the primary purpose of habitat enhancement or restoration.

13 (1) Critical area site plan.

14 (a) All erosion, landslide, and mine hazard areas, ~~((and))~~ seismic faults and structure setback
15 areas shall be designated on a critical area site plan.

16 (b) A critical area site plan is any site plan approved by the department that includes but is
17 not limited to subdivisions, records of survey, official site plans, administrative site plans,
18 binding site plans, or other form drawn to a standard engineering scale that includes at
19 minimum the following: ~~((The critical area site plan shall be drawn to a standard~~
20 ~~engineering scale and include at minimum:-))~~

21 (i) the boundaries of the site;

22 (ii) the boundaries of the property;

23 ~~((iii))~~ (iii) a legal description of the subject property;

24 ~~((iii))~~ (iv) accurate locations of the geologically hazardous area(s), identified by hazard
25 type; and

26 ~~((iv))~~ (v) visual and written documentation of any permanent restrictions on
27 development activities in the geologically hazardous area occurring as a result of
28 compliance with this chapter, including, but not limited to: structural setbacks and
29 vegetation retention requirements or other restrictions as may be required pursuant to
30 this chapter.

31 (2) Recording. Critical area site plans or disclosure notices as required pursuant to SCC
32 30.62B.160(1) or (3) shall be recorded with the county auditor. Documentation of recording shall
33 be provided to the department prior to permit issuance.

34 (3) Disclosure requirements for buildings in volcanic and tsunami hazard areas. A disclosure
35 notice acknowledging that the development is occurring on or within 200 feet of a volcanic or
36 tsunami hazard area. The notice shall include the following disclosure text, as appropriate:

37 (a) For volcanic hazard areas, "This property is on or within 200 feet of the Glacier Peak
38 Volcanic Hazard Area, which is subject to periodic and potentially life-threatening
39 destructive mud, water, and debris flows."; or

40 (b) For tsunami hazard areas, "This property is on or within 200 feet of a tsunami hazard
41 area, which could be subject to potentially life-threatening destructive waves."

42 (4) Notice, disclosure, and covenant requirements for development activities or actions requiring
43 a project permit in a landslide hazard area, except for approvals for fences, retaining walls,
44 deflection walls or landslide mitigation, shall include the following:

1 (a) A covenant between the owner(s) of property and the county is required prior to
2 approving any application for any development activity or action requiring a project permit
3 proposed on property within a landslide hazard area unless the proposed development
4 activity is described in a covenant that is already recorded on the property pursuant to this
5 subsection.

6 (b) A covenant shall not be required where the permit or approval is for work done by the
7 county.

8 (c) The covenant shall be recorded with the county auditor, and a copy of the recorded
9 covenant provided to the department, before a permit may be issued.

10 (d) The covenant shall describe the specific types of risks identified in the geotechnical
11 report prepared pursuant to SCC 30.62B.140, shall be signed by the owner(s) of the
12 property, shall be notarized, shall run with the land, and shall include, but not be limited to,
13 the following:

14 (i) A description of the property condition making this subsection SCC
15 30.62B.160(4) applicable;

16 (ii) A statement that the owner(s) of the property understands and accepts the
17 responsibility for the risks associated with development on the property given the
18 described condition, and agrees to inform future purchasers and other successors and
19 assignees of the risks;

20 (iii) The application date, type and number of the permit or approval for which the
21 covenant is required and a description of any future development activities that the
22 owner(s) chooses to include in the covenant;

23 (iv) A waiver and release of any right to assert claims against the county arising out
24 of the issuance of any permit or approval by the county for development or alteration of
25 the property, except for such losses that directly result from the sole negligence of the
26 county; and

27 (v) An abstract of the geotechnical report prepared pursuant to SCC 30.62B.140(3).
28 ((4)) (5) Previously approved critical area site plans.

29 (a) ((For any)) Any development activity, action requiring a project permit or clearing
30 occurring consistent with a previously approved critical area site plan shall be governed
31 according to the terms and conditions of the approved site plan, provided that all erosion,
32 landslide, mine and seismic hazard areas have been adequately identified and appropriate
33 measures for the protection of public safety have been established.

34 (b) To ensure that all landslide hazard areas have been adequately identified and
35 appropriate measures for the protection of public safety have been established, the
36 department may require compliance with the requirements for a geotechnical report pursuant
37 to SCC 30.62B.140 for approval of any development activity, action requiring a project
38 permit or clearing, notwithstanding approval of any previous application or site plan.

39
40 Section 32. Snohomish County Code Section 30.62B.320, adopted by Amended
41 Ordinance No. 06-061 on August 1, 2007, is amended to read:
42

1 30.62B.320 General standards and requirements for erosion and landslide hazard areas.

2 (1) Any development activity, action requiring a project permit or clearing occurring in an
3 erosion or landslide hazard area:

4 (a) Shall be designed to:

5 (i) Comply with the requirements in an approved geotechnical report when required
6 pursuant to SCC 30.62B.140;

7 (ii) Utilize best management practices (BMPs) adopted by the department pursuant to
8 chapter 30.63A SCC and all known and available reasonable technology (AKART)
9 appropriate for compliance with this chapter;

10 (iii) Prevent collection, concentration or discharge of stormwater or groundwater within
11 an erosion or landslide hazard area, except as otherwise provided in this chapter;

12 (iv) Minimize impervious surfaces and retain vegetation to minimize risk of erosion or
13 landslide hazards; and

14 (b) Shall not:

15 (i) result in increased risk of property damage, death or injury;

16 (ii) cause or increase erosion or landslide hazard risk;

17 (iii) increase surface water discharge, sedimentation, slope instability, erosion or
18 landslide potential to adjacent or downstream and down-drift properties beyond pre-
19 development conditions; or

20 (iv) adversely impact wetlands, fish and wildlife habitat conservation areas or their
21 buffers.

22 (2) For shoreline and bank stabilization and flood protection measures proposed in erosion or
23 landslide hazard areas, the project proponent shall make all reasonable efforts to avoid and
24 minimize impacts to wetlands and fish and wildlife habitat conservation areas and their buffers
25 pursuant to the requirements of ~~(chapter)~~ chapters 30.62A SCC and 30.67 SCC, in the
26 following sequential order of preference:

27 (a) Utilize setbacks sufficient to ensure that shoreline stabilization or flood hazard reduction
28 measures will not be necessary to protect development for its projected design life, or;

29 (b) When sufficient setbacks are not possible, utilize other non-structural measures unless
30 the applicant demonstrates through a geotechnical report required pursuant to SCC
31 30.62B.120 that new or enlarged structural stabilization or flood protection is necessary to
32 protect:

33 (i) existing primary structures, water dependent structures and facilities, utilities, roads
34 and bridges;

35 (ii) new utilities or public bridges and transportation structures allowed pursuant to
36 30.62B.330(3);

37 (iii) agricultural land; or

38 (iv) projects where the sole purpose is to protect or restore wetlands, fish and wildlife
39 habitat conservation areas or their buffers.

40
41 Section 33. Snohomish County Code Section 30.62B.330, adopted by Amended
42 Ordinance No. 06-061 on August 1, 2007, is amended to read:

1 30.62B.330 Erosion hazard areas - Channel migration zones.
 2 (1) This section establishes specific standards and requirements for development activities,
 3 actions requiring a project permit or clearing in channel migration zones adjacent to the
 4 following rivers:
 5

| River Name | River Sections (mi) |
|--------------------------------|---------------------|
| North Fork Skykomish River | 0.00 - 8.64 |
| North Fork Stillaguamish River | 0.00 - 35.18 |
| Pilchuck Creek | 0.00 - 6.96 |
| Pilchuck River | 0.00 - 36.17 |
| Sauk River | All |
| Skykomish River | 0.00- 29.15 |
| Snohomish River & Sloughs | All |
| Snoqualmie River | 0.00 - 5.41 |
| South Fork Skykomish River | 0.00 - 6.71 |
| South Fork Stillaguamish River | 0.00 - 43.07 |
| Stillaguamish River & Sloughs | All |
| Sultan River | 0.00 - 7.64 |
| Wallace River | 0.00 - 7.71 |

6
 7 (2) The department may require a channel migration zone study when a development activity or
 8 action requiring a project permit is proposed to occur in areas where evidence indicates channel
 9 migration is likely, in accordance with the following requirements:

- 10 (a) The study shall be conducted in accordance with Section 2 of the Forest Practices Board
 11 Manual (Title 222 WAC), Standard Methods for Identifying Bankfull Channel Features and
 12 Channel Migration Zones, November, 2004, except that areas behind natural or manmade
 13 features which limit channel migration that allow fish passage shall not be included in the
 14 channel migration zone;
 15 (b) The study shall be performed under the direction of a qualified professional with
 16 experience in fluvial geomorphology or river hydraulics;
 17 (c) The study shall contain the following:
 18 (i) a determination of the presence of channel migration, and if present, the delineation
 19 of the channel migration zone;
 20 (ii) an analysis of the impacts of potential channel migration on the proposed
 21 development activity; and
 22 (iii) an analysis of the impacts of the proposed development activity on the channel
 23 migration zone.

1 (3) Channel Migration Zone (CMZ) standards and requirements.

2 (a) All development activities, actions requiring a project permit and clearing are prohibited
3 in the channel migration zone, except as provided below.

4 (i) removal of hazardous trees;

5 (ii) new utility facilities based on the following requirements;

6 (A) pipelines shall be bored 10 feet beneath the thalweg scour depth of the river
7 within the CMZ;

8 (B) surface utilities such as power transmission lines shall be located away from the
9 current channel if feasible; and if not feasible, foundations within the CMZ shall be
10 designed as in-channel structures if determined by the department to be necessary;

11 (iii) new public bridges and transportation structures when no other feasible alternative
12 exists or the alternative would result in unreasonable and disproportionate costs;

13 (iv) boat ramps;

14 ~~((iv))~~ (v) normal maintenance or repair of existing flood control and bank stabilization
15 structures, buildings, roads, bridges and utilities; ~~(and)~~

16 ~~((v))~~ (vi) shoreline and bank stabilization and flood protection measures pursuant to
17 the general requirements contained SCC 30.62B.320(2)((-)) ;

18 (vii) habitat restoration and enhancement projects; and

19 (viii) mitigation banks.

20
21 Section 34. Snohomish County Code Section 30.62B.340, adopted by Amended
22 Ordinance No. 06-061 on August 1, 2007, is amended to read:

23
24 30.62B.340 Landslide hazard areas.

25 ~~(((1) Development activities, actions requiring project permits and clearing shall not be allowed~~
26 ~~in landslide hazard areas or their required setbacks unless there is no alternate location on the~~
27 ~~subject property.~~

28 ~~(2) Structures shall be setback from landslide hazard areas unless the department approves a~~
29 ~~deviation as provided below.~~

30 (a) ~~Setbacks shall be established as follows:~~

31 ~~(i) the minimum top of slope setback shall be equal to the height of the slope divided~~
32 ~~by three, or 50 feet, whichever is greater;~~

33 ~~(ii) the minimum toe of slope setback shall be 50 feet or the height divided by two~~
34 ~~whichever is greater; and~~

35 ~~(iii) slope setbacks shall be no less than the minimum necessary to ensure that~~
36 ~~structural shoreline stabilization measures will not be necessary to protect the development.~~

37 (b) ~~Deviations from setbacks may be allowed when the applicant demonstrates that the~~
38 ~~following conditions are met:~~

39 ~~(i) there is no alternate location for the structure on the subject property; and~~

40 ~~(ii) a geotechnical report demonstrates that:~~

41 ~~(A) the alternative setbacks provide protection which is equal to that provided by~~
42 ~~the standard minimum setbacks; and~~

43 ~~(B) the proposal meets the requirements of SCC 30.62B.320.))~~

1 (1) Development activities, actions requiring project permits and clearing shall not be allowed in
2 landslide hazard areas as defined in SCC 30.91L.040 unless a deviation is granted by the director
3 when the applicant demonstrates the following criteria are met:

- 4 (a) There is no alternate location for the structure on the subject property; and
- 5 (b) A geotechnical report demonstrates that building within a landslide hazardous area:
 - 6 (i) will provide protection commensurate to being located outside of the landslide
 - 7 hazard area; and
 - 8 (ii) the proposal meets the requirements of SCC 30.62B.320.

9 ~~((3))~~ (2) In addition to the requirements in SCC 30.62B.320 the following standards and
10 requirements apply to development activities, actions requiring project permits and clearing in
11 landslide hazard areas:

- 12 (a) Vegetation shall not be removed from a landslide hazard area, except for hazardous trees
13 based on review by a qualified arborist or as otherwise provided for in a vegetation
14 management and restoration plan;
- 15 (b) The factor of safety for landslide occurrences shall not be decreased below the limits of
16 1.5 for static conditions or 1.1 for dynamic conditions. Analysis of dynamic conditions shall
17 be based on horizontal acceleration as established by the current version of the International
18 Building Code;
- 19 (c) Tiered piles or piers shall be used for structural foundations where possible to conform to
20 existing topography;
- 21 (d) Retaining walls that allow for the maintenance of existing natural slope area shall be used
22 wherever possible instead of graded artificial slopes;
- 23 (e) Provided there is no practical alternative, utility lines and pipes may be constructed in
24 landslide hazard areas under the following conditions:
 - 25 (i) the line or pipe shall be located above ground and properly anchored or designed so
26 that it will continue to function in the event of an underlying slide; and
 - 27 (ii) stormwater conveyance systems shall be designed with high-density polyethylene
28 pipe with fuse-welded joints, or similar product that is technically equivalent; or
 - 29 (iii) alternatively, utilities may be bored below landslide hazard areas provided they are
30 located beneath the depth of potential slope failure.
- 31 (f) Point source discharge of stormwater may be allowed in landslide hazard areas under the
32 following conditions:
 - 33 (i) the stormwater is conveyed via continuous storm pipe downslope to a point where it
34 does not increase risk to landslide hazard areas or other properties downstream from the
35 discharge;
 - 36 (ii) the stormwater is discharged at flow durations matching predeveloped conditions
37 with adequate energy dissipation into existing channels; or
 - 38 (iii) discharge upslope of the landslide hazard area may only occur if:
 - 39 (A) it is dispersed onto a low-gradient undisturbed setback adequate to infiltrate all
40 surface and stormwater runoff; and
 - 41 (B) the discharge will not decrease the stability of the slope.

1
2 Section 35. A new section is added to Chapter 30.62B of the Snohomish County Code to
3 read:

4
5 30.62B.390 Authority to require more stringent standards and requirements and to impose
6 mitigation.

7 (1) The director may expand the boundary of a geologically hazardous area, impose additional or
8 more stringent standards and requirements than those specified in this chapter or impose
9 mitigation requirements to the extent necessary to:

10 (a) Protect the public health, safety, and welfare; or

11 (b) Mitigate any significant adverse impact from the proposed development activity.

12 (2) The director's decision under SCC 30.62B.390(1) shall be in writing and shall include
13 findings that demonstrate how the decision meets the following criteria:

14 (a) The decision eliminates or substantially reduces a specific public health, safety or welfare
15 concern or a significant adverse impact; and

16 (b) The decision is based on sound engineering practices.

17
18 Section 36. Snohomish County Code Section 30.62B.520, adopted by Amended
19 Ordinance No. 06-061 on August 1, 2007, is amended to read:

20
21 30.62B.520 General Agricultural Standards.

22 Except as provided in SCC 30.62B.530, normal agricultural activities as defined in SCC
23 ~~((30.32B.230 or))~~ 30.91A.090 or 30.91A.092 subject to this Part 500 are in compliance with this
24 chapter when those activities are performed in accordance with (1), (2) or (3) below:

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

27 (2) Other recognized best management practices for such activity that protect the functions and
28 values of critical areas, where the NRCS FOTG does not provide specific guidance or a best
29 management practice; or

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

34
35 Section 37. Snohomish County Code Section 30.62B.530, adopted by Amended
36 Ordinance No. 06-061 on August 1, 2007, is amended to read:

37
38 30.62B.530 Special Agricultural Conditions.

39 (1) Notwithstanding SCC 30.62B.520, agricultural activities as defined in ~~((SCC 30.32B.230 or))~~
40 SCC 30.91A.090 or 30.91A.092 subject to this Part 500 that meet one or more of the following
41 special conditions shall comply with SCC 30.62B.530(2):

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

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

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

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

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

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

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

15 (2) The agricultural activities listed in SCC 30.62B.530(1) are in compliance with this chapter
16 when those activities are performed as follows:

17 (a) The activity complies with Parts 000 through 400 of this chapter;

18 (b) The activity is done in compliance with a farm conservation plan, as described in SCC
19 30.62B.520(3); or

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

23
24 Section 38. A new section is added to Chapter 30.62B of the Snohomish County Code to
25 read:

26
27 30.62B.540 Farm conservation plans and best management practices.

28 (1) Farm conservation plans and best management practices described in SCC 30.62B.520 are
29 subject to the approval of the county.

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

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

32 (b) Include provisions for monitoring and maintenance to determine whether the
33 practices are successful. The length of time for monitoring and maintenance should be sufficient
34 to determine if performance standards have been achieved; and

35 (c) Include provisions on a form approved by the department for the right to entry to the
36 county for the purpose of inspection for the length of the monitoring and maintenance period.

37 Prior to a site inspection the county shall provide reasonable notice to the property owner as to
38 the purpose and need for entry.

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

43 (4) Agricultural operations shall cease to be in compliance with this chapter when the department
44 determines one of the following three conditions is met. In such an event, a new or revised farm

AMENDED ORDINANCE NO. 15-034
RELATING TO THE CRITICAL AREA REGULATIONS UPDATE PURSUANT TO THE GROWTH MANAGEMENT ACT,
AMENDING CHAPTER 30.62A OF THE SNOHOMISH COUNTY CODE (SCC) (WETLANDS AND FISH & WILDLIFE
HABITAT CONSERVATION AREAS), CHAPTER 30.62B SCC (GEOLOGICALLY HAZARDOUS AREAS) AND
CHAPTER 30.62C SCC (CRITICAL AQUIFER RECHARGE AREAS), REPEALING CHAPTER 30.64 SCC
(GROUNDWATER PROTECTION), AND AMENDING SCC 30.31D.130, SCC 30.61.122, SCC 30.91L.040 (LANDSLIDE
HAZARD AREAS) AND SCC 30.91E.230 (EXCAVATION)

1 conservation plan may be required or the noncompliance may be referred to the appropriate
2 agency for enforcement:

3 (a) The operator fails to implement and maintain the farm plans and/or best management
4 practices;

5 (b) It has been demonstrated by the county that the farm conservation plan and/or best
6 management practices fails to protect critical areas. If so a new or revised plan shall be required;
7 or

8 (c) Substantial changes in the agricultural activities of the operation have occurred which
9 demonstrate that the current plan is ineffective.

10 (5) The county shall only retain summary information of that portion of the plan needed for
11 permit approval, including the general location of the operation, the nature of the activity,
12 required permits and specific best management practices. The summary information shall be
13 supplied to the county by the operator and used to document the basis for the county's approval
14 of the plan. Any confidential or proprietary information contained in a farm conservation plan
15 may be redacted prior to public disclosure.

16
17 Section 39. Snohomish County Code Section 30.62C.010, adopted by Amended
18 Ordinance No. 06-061 on August 1, 2007, is amended to read:

19
20 30.62C.010 Purpose and applicability.

21 (1) The purpose of this chapter is to designate and protect critical aquifer recharge areas pursuant
22 to the Growth Management Act (chapter 36.70A RCW) in order to safeguard the public health,
23 safety, and welfare and to protect groundwater resources. Critical aquifer recharge areas include:
24 sole source aquifers, Group A wellhead protection areas and areas sensitive to groundwater
25 contamination.

26 (2) This chapter applies to:

27 (a) development activities and actions requiring projects permits;

28 (b) agricultural activities as defined in SCC 30.91A.090 or SCC 30.91A.092 where critical
29 aquifer recharge areas are present on the site; ~~((except that certain agricultural activities as
30 defined in SCC 30.64.010 occurring on rural and agricultural resource lands are exempt from
31 this chapter and are subject only to chapter 30.64 SCC;))~~ and

32 (c) other activities or uses that have the potential to harm water quality or quantity within
33 critical aquifers recharge areas.

34
35 Section 40. Snohomish County Code Section 30.62C.130, adopted by Amended
36 Ordinance No. 06-061 on August 1, 2007, is amended to read:

37
38 30.62C.130 Submittal requirements.

39 (1) For any development activity or action requiring a project permit ~~((When a project permit is
40 required for any development activity or action subject to this chapter)),~~ the applicant shall
41 submit a site development plan drawn to a standard engineering scale which includes:

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

43 (b) Boundary lines and dimensions of the site;

- 1 (c) Topography at contour intervals of five feet unless the underlying project permit requires
2 a lesser interval;
- 3 (d) Location, size, and type of any existing structures, cleared areas or other existing
4 improvements (~~and other existing developed areas~~);
- 5 (e) Location, size and type of all proposed structures and development (~~(activity)~~) activities
6 requiring project permits and clearing on the site;
- 7 (f) Location, size and type of all critical aquifer recharge areas on the subject property;
- 8 (g) Location of all other critical areas regulated pursuant to chapters 30.62A, 30.62B and
9 30.65 SCC on and within 200 feet of the site; and
- 10 (h) Location of structure setbacks as required in SCC 30.62A.320(1)(d)(~~SCC~~
11 ~~30.62B.340(2)~~) and chapter 30.23 SCC; and
- 12 (2) A hydrogeologic report as required pursuant to SCC 30.62C.140.

13
14 Section 41. Snohomish County Code Section 30.62C.140, adopted by Amended
15 Ordinance No. 06-061 on August 1, 2007, is amended to read:

16
17 30.62C.140 Hydrogeologic report.

18 (1) A hydrogeologic report is required for any activity or use requiring a project permit regulated
19 in Part 300, and proposed within a sole source aquifer, Group A wellhead protection area or
20 critical aquifer recharge area with high or moderate groundwater sensitivity.

21 (2) The hydrogeologic report shall be prepared by a qualified professional who is a geologist,
22 hydrogeologist, engineering geologist, or engineer, who is licensed by the State of Washington
23 and who has experience preparing hydrogeologic assessments.

24 (3) The hydrogeologic report shall contain the following information relevant to the critical
25 aquifer recharge area:

26 (a) The surface location of all critical aquifer recharge areas located on site or immediately
27 adjacent to the site, and the permeability of the unsaturated zone;

28 (b) Groundwater depth, flow direction, and gradient based on available information;

29 (c) Currently available data on wells and springs within one fourth mile of the site;

30 (d) Currently available information on the location of surface waters within one fourth mile
31 of the site;

32 (e) Historic water quality data for the area to be affected by the proposed activity or use
33 compiled for at least the previous five-year period;

34 (f) Discussion of the effects of the proposed project on the groundwater quality and quantity,
35 including:

36 (i)(~~predictive~~) Predictive evaluation of groundwater withdrawal effects on nearby wells
37 and surface water features; (~~and~~)

38 (ii) Predictive evaluation of contaminant transport based on potential releases to
39 groundwater;

40 (iii) Recharge potential of the site including permeability and transmissivity; and

41 (iv) If water use is proposed for the development activity, a description of the
42 groundwater source of water to the site or a letter from an approved water purveyor
43 stating the ability to provide water to the site;

44 (g) Best management practices relevant to the proposed activity or use;

AMENDED ORDINANCE NO. 15-034
RELATING TO THE CRITICAL AREA REGULATIONS UPDATE PURSUANT TO THE GROWTH MANAGEMENT ACT,
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HABITAT CONSERVATION AREAS), CHAPTER 30.62B SCC (GEOLOGICALLY HAZARDOUS AREAS) AND
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HAZARD AREAS) AND SCC 30.91E.230 (EXCAVATION)

- 1 (h) Provisions to monitor the groundwater quality and quantity;
- 2 (i) A spill plan that identifies equipment and structures that could fail, resulting in an impact
- 3 to the critical aquifer recharge area. Spill plans shall include provisions for regular
- 4 inspection, repair, and replacement of structures and equipment with the potential to fail;
- 5 (j) Salt-water intrusion addendums shall be required for withdrawals of groundwater or
- 6 reductions in available recharge within one fourth mile of any part of Puget Sound, or a
- 7 greater distance inland where there is evidence that chloride (bicarbonate + carbonate) ratio
- 8 exceeds 1.5 equivalent parts per million at any time of the year. The addendum shall include
- 9 an assessment of the likelihood and extent of seawater intrusion into a critical aquifer and a
- 10 description of probable impact on wells on adjacent or nearby parcels;
- 11 (k) An assessment of how the development activity meets the protection standards
- 12 established in SCC 30.62C.320;
- 13 (l) If the hydrogeologic report identifies impacts to critical aquifer recharge areas, the project
- 14 applicant will be required to:
- 15 (i) ~~((identify))~~ Identify and provide an analysis of alternatives by which such impacts
- 16 could be avoided or prevented; and
- 17 (ii) ~~((provide))~~ Provide a detailed mitigation plan for any unavoidable impacts. The
- 18 mitigation plan should include preventative measures, monitoring, process control and
- 19 remediation and a contingency plan, as appropriate;
- 20 (m) Recommendations for implementation and operation of activities, including size
- 21 limitations, monitoring, reporting and best management practices ~~((bmp))~~ (BMP);
- 22 (n) An evaluation of potential nitrate and nitrite impacts on the aquifer, including cumulative
- 23 impacts of adjacent or surrounding developments and activities, and provide
- 24 recommendations for monitoring and ~~((bmps))~~ BMP of nitrate and nitrite generating
- 25 activities; and
- 26 (o) Any other information necessary to determine compliance with this chapter.

27

28 Section 42. Snohomish County Code Section 30.62C.340, adopted by Amended

29 Ordinance No. 06-061 on August 1, 2007, is amended to read:

30

31 30.62C.340 Uses and development activities subject to special conditions.

32 The following activities and uses shall be conditioned as necessary to protect critical aquifer

33 recharge areas in accordance with the applicable state and federal regulations and

34 recommendations from an approved hydrogeologic report required pursuant to SCC 30.62C.140.

35

| 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 | Final Rule 40 CFR Parts 9, 122, 123, and 412] |

AMENDED ORDINANCE NO. 15-034
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AMENDING CHAPTER 30.62A OF THE SNOHOMISH COUNTY CODE (SCC) (WETLANDS AND FISH & WILDLIFE
HABITAT CONSERVATION AREAS), CHAPTER 30.62B SCC (GEOLOGICALLY HAZARDOUS AREAS) AND
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HAZARD AREAS) AND SCC 30.91E.230 (EXCAVATION)

| Activity | Statute - Regulation - Guidance |
|---|---|
| animal feeding operations | |
| 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, <u>Chapter 90.76 RCW, RCW 43.131.394</u> |
| Chemical Treatment Storage and Disposal Facilities | ((Chapter 173-303-182 WAC)) <u>Chapter 173-303 WAC</u> |
| Dangerous waste | Chapter 70.105 RCW, chapter 173-303 WAC, Snohomish Health District Sanitary Code ((chapter 3.5)) and ((chapter 7.53.070 SCC)) <u>SCC 7.53.070</u> |
| Injection Wells | Federal 40 CFR Parts 144 and 146, Chapter 173-218 WAC |
| Junk Yards and Salvage Yards | Chapter 173-304 WAC, Best Management Practices to Prevent Stormwater Pollution at Vehicles Recycler Facilities (Washington State Department of Ecology 94-146) |
| On-Site Sewage Systems (Large Scale > 3,500 gal/day) | Chapter 173-240 WAC, Chapter 246-272 WAC, Chapter 246-272B WAC, Local Health Ordinances |
| A single or multiple small on-site sewage systems with a combined design volume of greater than 3,500 gal/day | Chapter 246-272 WAC, Chapter 246-272A WAC, Local Health Ordinances |
| Pesticide and Fertilizer Storage and Use | Chapter 15.54 RCW, Chapter 17.21 RCW |
| Reclaimed water for groundwater recharge | Chapter 90.46 RCW |
| Sawmills | Chapter 173-303 WAC, Chapter 173-304 WAC, Best Management Practices to Prevent Stormwater Pollution at Log Yards (Washington State Department of Ecology, 95-53) |
| Solid Waste Handling and Recycling Facilities | Chapter 173-304 WAC |

AMENDED ORDINANCE NO. 15-034
RELATING TO THE CRITICAL AREA REGULATIONS UPDATE PURSUANT TO THE GROWTH MANAGEMENT ACT, AMENDING CHAPTER 30.62A OF THE SNOHOMISH COUNTY CODE (SCC) (WETLANDS AND FISH & WILDLIFE HABITAT CONSERVATION AREAS), CHAPTER 30.62B SCC (GEOLOGICALLY HAZARDOUS AREAS) AND CHAPTER 30.62C SCC (CRITICAL AQUIFER RECHARGE AREAS), REPEALING CHAPTER 30.64 SCC (GROUNDWATER PROTECTION), AND AMENDING SCC 30.31D.130, SCC 30.61.122, SCC 30.91L.040 (LANDSLIDE HAZARD AREAS) AND SCC 30.91E.230 (EXCAVATION)

| Activity | Statute - Regulation - Guidance |
|--|---|
| 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 |

Section 43. Chapter 30.64 of the Snohomish County Code, adopted by Amended Ordinance No. 02-064 on December 9, 2002, and last amended by Amended Ordinance No. 06-061 on August 1, 2007, is repealed.

Section 44. Snohomish County Code Section 30.91E.230, adopted by Amended Ordinance No. 10-023, on June 9, 2010, is amended to read:

30.91E.230 Excavation.

"Excavation" means the mining or quarrying or other mechanical removal of sand, gravel, bedrock or precious metals including underground shaft operations, but excluding:

(1) Land disturbing activity for building construction where such construction is authorized by a valid building permit; or

(2) Tilling of soil for agricultural purposes; or

(3) Any excavation:

(a) Which does not alter a drainage course, and

(b) Which has less than two feet of mean average depth, or which does not create a cut slope greater than five feet in height and steeper than one and one-half horizontal to one vertical, and

(c) Located in an MR, LDMR, R-7200, R-8400, R-9600, R-12,500 or WFB zone, where the cubic yardage excavated from contiguous land under common ownership shall never exceed 500 cubic yards, and

(d) Located in any zone other than those listed in the preceding subsection, where the cubic yardage excavated from contiguous land under common ownership shall never exceed 2,000 cubic yards. The distinction between zones which is provided in this and the preceding subsections shall be observed notwithstanding cross-referencing between zones which may be found elsewhere in this title.

This definition applies only to chapters 30.22, 30.23, 30.25, 30.31D, 30.32C((-)) and 30.63B ((and 30.64)) SCC

Section 45. Snohomish County Code Section 30.91L.040, adopted by Amended Ordinance No. 06-061 on August 1, 2007, is amended to read:

30.91L.040 Landslide hazard areas.

"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:

AMENDED ORDINANCE NO. 15-034
RELATING TO THE CRITICAL AREA REGULATIONS UPDATE PURSUANT TO THE GROWTH MANAGEMENT ACT, AMENDING CHAPTER 30.62A OF THE SNOHOMISH COUNTY CODE (SCC) (WETLANDS AND FISH & WILDLIFE HABITAT CONSERVATION AREAS), CHAPTER 30.62B SCC (GEOLOGICALLY HAZARDOUS AREAS) AND CHAPTER 30.62C SCC (CRITICAL AQUIFER RECHARGE AREAS), REPEALING CHAPTER 30.64 SCC (GROUNDWATER PROTECTION), AND AMENDING SCC 30.31D.130, SCC 30.61.122, SCC 30.91L.040 (LANDSLIDE HAZARD AREAS) AND SCC 30.91E.230 (EXCAVATION)

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

3 (2) Areas with slopes steeper than 33 percent which intersect geologic contacts with a
4 relatively permeable sediment overlying a relatively impermeable sediment or bedrock, and
5 which contain springs or ground water seeps;

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


8 For sections 1, 2, and 3 above, the landslide hazard area also includes lands within a distance
9 from the top of the slope equal to the height of the slope or within a distance of the toe of the
10 slope equal to two times the height of the slope. The director may expand the boundary of a
11 landslide hazard area pursuant to 30.62B.390 SCC.

12
13 Section 46. Severability and Savings. If any section, sentence, clause or phrase of this
14 ordinance is held invalid by the Growth Management Hearings Board (Board), or
15 unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall
16 not affect the validity or constitutionality of any other section, sentence, clause or phrase of this
17 ordinance. Provided, however, that if any section, sentence, clause or phrase of this ordinance is
18 held invalid by the Board or unconstitutional by a court of competent jurisdiction, then the
19 section, sentence, clause or phrase in effect prior to the effective date of this ordinance shall be in
20 full force and effect for that individual section, sentence, clause or phrase as if this ordinance had
21 never been adopted.

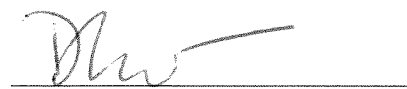
22
23 Section 47. Effective date, implementation. This ordinance shall take effect November 1,
24 2015. The Department of Planning and Development Services is authorized to take such actions
25 as may be necessary to implement this ordinance on its effective date.

26
27
28 PASSED this 2nd day of September, 2015.

29
30 SNOHOMISH COUNTY COUNCIL
31 Snohomish County, Washington

32
33
34 
35 _____
36 Dave Somers, Chairperson

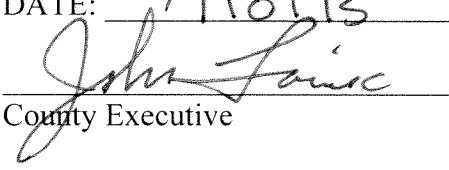
37 ATTEST:

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39 
40 _____
41 Debbie Eco
42 Clerk of the Council

43 D-20
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- APPROVED
- EMERGENCY
- VETOED

DATE: 9/10/15


 County Executive

ATTEST:



Approved as to form only:

 Deputy Prosecuting Attorney