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2 ADOPTED: 07/12/17
3 EFFECTIVE: 08/03/17
4

5 SNOHOMISH COUNTY COUNCIL
6 Snohomish County, Washington
7

8 ORDINANCE NO. 17-039
9

10 RELATING TO GROWTH MANAGEMENT, UPDATING CRITICAL AREA
11 REGULATIONS TO DESIGNATE AND PROTECT ADDITIONAL FISH AND WILDLIFE
12 HABITAT CONSERVATION AREAS TO COMPLY WITH THE GROWTH
13 MANAGEMENT HEARINGS BOARD'S FINAL DECISION AND ORDER; AMENDING
14 CHAPTERS 30.62A, 30.91C, 30.91N, AND 30.91S OF THE SNOHOMISH COUNTY CODE
15

16 WHEREAS, on September 2, 2015, the Snohomish County Council ("County Council")
17 adopted Amended Ordinance No. 15-034 amending the critical area regulations contained in
18 chapters 30.62A, 30.62B and 30.62C of the Snohomish County Code (SCC); and
19

20 WHEREAS, Futurewise and Pilchuck Audubon Society and the Tulalip Tribes separately
21 appealed the adoption of Amended Ordinance No. 15-034 to the Growth Management Hearings
22 Board ("Board") Central Puget Sound Region, which appeals were eventually consolidated as
23 Case No. 15-3-0012c, *Futurewise, Pilchuck Audubon Society, and the Tulalip Tribes v.*
24 *Snohomish County*; and
25

26 WHEREAS, on February 17, 2017, the Board issued the Final Decision and Order (FDO)
27 in Case No. 15-3-0012c finding the County's adoption of Amended Ordinance 15-034 compliant
28 with the Growth Management Act, chapter 36.70A RCW (GMA), except as to one issue,
29 identified as Issue A-7; and
30

31 WHEREAS, with respect to Issue A-7, the Board found that the County failed to include
32 and consider certain requirements related to the designation and protection of critical areas in
33 violation of RCW 36.70A.170, RCW 36.70A.060 and WAC 365-190-130 because the County
34 did not follow the Minimum Guidelines in WAC 365-190-130 for designation of three separate
35 types of critical areas: (1) naturally occurring ponds under twenty acres and their submerged
36 aquatic beds that provide fish or wildlife habitat; (2) lakes, ponds, streams and rivers planted
37 with game fish by a governmental or tribal entity; and (3) state natural area preserves, natural
38 resource conservation areas, and state wildlife areas; and
39

1 WHEREAS, the Snohomish County Planning Commission (“Planning Commission”)
2 held a briefing on April 25, 2017, concerning the code amendments contained in this ordinance;
3 and
4

5 WHEREAS, the Planning Commission held a public hearing after proper notice on May
6 23, 2017, to receive public testimony concerning the code amendments contained in this
7 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 May 23, 2017; and
12

13 WHEREAS, on July 12, 2017, the County Council held a public hearing after proper
14 notice, and considered public comments and the entire record related to the proposal contained in
15 this ordinance; and
16

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

20 WHEREAS, the County Council desires by this legislative action to bring the County
21 into compliance with the GMA as ordered in the Board’s FDO;
22

23 NOW, THEREFORE, BE IT ORDAINED:
24

25 Section 1. The County Council adopts the following findings in support of this
26 ordinance:
27

28 A. The foregoing recitals are adopted as findings as if set forth in full herein.
29

30 B. This ordinance will amend chapter 30.62A SCC by designating three additional types of
31 critical areas for protection as specified in WAC 365-190-130: (1) naturally occurring ponds
32 under twenty acres and their submerged aquatic beds that provide fish or wildlife habitat; (2)
33 lakes, ponds, streams and rivers planted with game fish by a governmental or tribal entity; and
34 (3) state natural area preserves, natural resource conservation areas, and state wildlife areas.
35

- 36 1. A designation for naturally occurring ponds under twenty acres and their submerged
37 aquatic beds that provide fish or wildlife habitat is added. The designation states that any
38 reference to lakes in chapter 30.62A SCC also includes these ponds. The existing
39 regulations in chapter 30.62A SCC, Part 300-Standards and Requirements, which
40 currently apply to lakes also apply to naturally occurring ponds under twenty acres and
41 their submerged aquatic beds that provide fish or wildlife habitat.
42

- 1 2. A designation for lakes, ponds, streams and rivers planted with game fish by a
2 governmental or tribal entity is included in the existing designations for lakes and
3 streams. Rivers are not referenced in the code by that term, however rivers are captured
4 under the code’s definition of stream, SCC 30.91S.640. The existing regulations in
5 chapter 30.62A SCC, Part 300-Standards and Requirements, which currently apply to
6 lakes and streams also apply to water bodies planted with game fish by a governmental or
7 tribal entity.
8
- 9 3. A designation for state natural area preserves, natural resource conservation areas, and
10 state wildlife areas is added as a new designation under SCC 30.62A.010. The existing
11 regulations in chapter 30.62A SCC, Part 400-Critical Species, apply to this designated
12 critical area, which is collectively referred to as “state natural habitats.”
13
- 14 4. SCC 30.62A.220 is amended to add state natural area preserves, natural resource
15 conservation areas, and state wildlife areas with functions and values that include fish and
16 wildlife habitat and recreational opportunities.
17
- 18 5. Chapter 30.62A SCC Part 400 is amended to clarify the designated critical area
19 collectively referred to as “state natural habitats” will be regulated in the same manner as
20 critical species. The Part 400 title and SCC sections 30.62A.410, 30.62A.420,
21 30.62A.430, 30.62A.440, 30.62A.450, and 30.62A.460 are each amended to include state
22 natural habitats for consistency.
23
- 24 a. The amendments to SCC 30.62A.420 provide protection by applying habitat management
25 plan criteria to development activities within state natural habitats.
26
- 27 b. The amendments to SCC 30.62A.430 and 30.62A.440 allow for administrative rules to be
28 developed to establish minimum protection requirements for state natural habitats.
29
- 30 c. The amendment to SCC 30.62A.450 requires any proposed development activities,
31 actions requiring a project permit, or clearing to make all reasonable efforts to avoid or
32 minimize impacts to state natural habitats.
33
- 34 d. The amendment to SCC 30.62A.460, Habitat Management Plan Contents, adds the
35 protection of state natural habitats and that a habitat management plan may be
36 required to address limitations on development activities and access, seasonal
37 restrictions if appropriate, and preservation and protection of state natural habitats.
38
- 39 6. The definition of “critical area,” SCC 30.91C.340, is amended to be consistent with and
40 mirror the proposed amendments to SCC 30.62A.010(1), purpose and applicability, and
41 WAC 365-190-130.

1
2 7. New definitions for “naturally occurring ponds” and “state natural area preserves, natural
3 resource areas, and state wildlife areas” are added to chapter 30.91 SCC for consistency
4 with the amendments to chapter 30.62A SCC and WAC 365-190-130.
5

6 C. This ordinance is consistent with the record.
7

8 1. Adoption of this ordinance is necessary to resolve the finding of noncompliance in the
9 FDO issued by the Board in Case No. 15-3-0012c and to bring the County into
10 compliance with the GMA.
11

12 2. By designating three additional types of critical areas for protection, this ordinance is
13 consistent with the requirements of, and maintains consistency with, the following
14 provisions of the GMA:
15

- 16 a. RCW 36.70A.060(2) (natural resource lands and critical areas – development
17 regulations);
- 18 b. RCW 36.70A.130(1)(d), (requiring regulations to be consistent with and
19 implement the plan);
- 20 c. RCW 36.70A.170 (natural resource lands and critical areas – designations); and
- 21 d. RCW 36.70A.172 (critical areas – designation and protection – best available
22 science to be used).
23

24 3. By designating three additional types of critical areas for protection, this ordinance
25 maintains consistency with WAC 365-190-130, one of the Minimum Guidelines adopted
26 by the Department of Commerce to classify natural resource lands and critical areas.
27

28 4. By designating three additional types of critical areas for protection, this ordinance is
29 consistent with the following goals, objectives, and policies contained in the County’s
30 GMA Comprehensive Plan:
31

- 32 a. Goal NE 3 “Comply with the requirements of state, federal and local laws for
33 protecting and managing critical areas, shorelines, and water.”
- 34 b. Policy NE 3.A.1 “The county shall designate and protect critical areas including
35 fish and wildlife habitat conservation areas, wetlands, critical aquifer recharge
36 areas, frequently flooded areas and geologically hazardous areas and include best
37 available science in the development of programs, policies and regulations
38 relating to critical areas.”
- 39 c. Objective NE 3.B “Designate and protect fish and wildlife habitat conservation
40 areas and wetlands pursuant to the Growth Management Act.”

- 1
- 2 5. The record supporting the critical area regulations update adopted by Amended Ordinance
- 3 No. 06-061 on August 1, 2007, is incorporated into and included as part of the record for
- 4 this ordinance. The index to the critical areas regulations update is included as a legislative
- 5 record to this ordinance and the legislative record for this ordinance includes all documents
- 6 cited therein. The findings adopted by Amended Ordinance No. 06-061 are incorporated
- 7 by reference as findings of this ordinance.
- 8
- 9 6. The record supporting Amended Ordinance No. 13-042 on July 10, 2013, is incorporated
- 10 into and included as part of the record for this ordinance. The index to Amended
- 11 Ordinance No. 13-042 is included as a legislative record to this ordinance and the
- 12 legislative record for this ordinance includes all documents cited therein. The findings
- 13 adopted by Amended Ordinance No. 13-042 are incorporated by reference as findings of
- 14 this ordinance.
- 15
- 16 7. The record supporting Amended Ordinance No. 15-034 on September 2, 2015, is
- 17 incorporated into and included as part of the record for this ordinance. The index to
- 18 Amended Ordinance No. 15-034 is included as a legislative record to this ordinance and
- 19 the legislative record for this ordinance includes all documents cited therein. The
- 20 findings adopted by Amended Ordinance No. 15-034 are incorporated by reference as
- 21 findings of this ordinance.
- 22

23 D. Procedural requirements.

- 24
- 25 1. The environmental impacts of this proposal are within the range of impacts analyzed by
- 26 the draft environmental impact statement (DEIS) and final environmental impact
- 27 statement (FEIS) prepared for the critical area regulations adopted through Amended
- 28 Ordinance 06-061. The FEIS was issued on July 23, 2007. No new impacts have been
- 29 identified for this proposal. State Environmental Policy Act (SEPA) requirements with
- 30 respect to this non-project action have been satisfied through the issuance of Addendum
- 31 No. 3 to the FEIS for the critical area regulations adopted in 2007.
- 32
- 33 2. The proposal is a Type 3 legislative action pursuant to SCC 30.73.010.
- 34
- 35 3. Pursuant to RCW 36.70A.106(1), a notice of intent to adopt this ordinance was
- 36 transmitted to the Washington State Department of Commerce for distribution to state
- 37 agencies on April 28, 2017, and assigned Material ID No. 23654.
- 38
- 39 4. The public participation process used in the adoption of this ordinance has complied with
- 40 all applicable requirements of the GMA and the SCC.
- 41
- 42 5. As required by RCW 36.70A.370, the Washington State Attorney General last issued an
- 43 advisory memorandum in December of 2015 entitled “Advisory Memorandum: Avoiding

1 Unconstitutional Takings of Private Property” to help local governments avoid the
2 unconstitutional taking of private property. The process outlined in the State Attorney
3 General’s 2015 advisory memorandum was used by the County in objectively evaluating
4 the regulatory changes proposed by this ordinance.
5

- 6 6. The requirements to review Best Available Science (BAS) and incorporate it into the
7 development regulations for critical areas pursuant to RCW 36.70A.172 have been
8 satisfied.
- 9 a. The County completed a review of BAS and compiled a document
10 summarizing locally relevant scientific research.
11
 - 12 b. An addendum to the 2006 Best Available Science (BAS) was issued in
13 February 2015. The addendum and all related documents are included in the
14 public record and available for public review. A complete bibliography
15 including all BAS references and all other submitted documents is available
16 for public review.
17
 - 18 c. The protection measures relating to streams and lakes planted with game fish
19 by a governmental or tribal entity and naturally occurring ponds under twenty
20 acres that provide fish or wildlife habitat, including those planted with game
21 fish by a governmental or tribal entity, are consistent with the record. Those
22 protection measures are set forth in Part 300 of chapter 30.62A SCC and
23 include SCC 30.62A.320 and 30.62A.330 which address standards and
24 requirements for activities conducted within streams and lakes and their
25 associated buffers. The County has reviewed all applicable BAS. The
26 review did not find new science that indicates any changes to the critical area
27 regulations for protection of these newly-designated critical areas are
28 warranted.
29
 - 30 d. State natural area preserves and natural resource conservation areas are
31 defined, established, and managed by the Washington State Department of
32 Natural Resources (DNR) and state wildlife areas are defined, established, and
33 managed by the Washington State Department of Fish and Wildlife (WDFW).
34 Each state natural area preserve, natural resource conservation area and state
35 wildlife area is established and managed for their unique attributes and
36 protection measures are appropriately evaluated for each state natural habitat.
37 DNR and WDFW provide site specific and technical expertise addressing the
38 necessary measures to include in administrative rules or habitat management
39 plans to provide protection and minimize impacts to the resources unique to
40 each designated state natural habitat.

1
2 Section 2. The County Council makes the following conclusions:

- 3
4 A. The proposal is consistent with the goals, objectives, and policies of the County's GMA
5 Comprehensive Plan.
6
7 B. The proposal is consistent with Washington State law and the County Code.
8
9 C. The County has complied with all SEPA requirements with respect to this non-project action.
10
11 D. The regulations proposed by this ordinance do not result in an unconstitutional taking of
12 private property for a public purpose.
13
14 E. Adoption of this ordinance resolves the finding of noncompliance in the FDO issued by the
15 Board in Case No. 15-3-0012c and establishes County compliance with the GMA.
16
17 F. The County has performed a thorough review of best available science published since the
18 adoption of Amended Ordinance No. 06-061 on August 1, 2007. That review is summarized
19 in the Spring 2015 BAS Addendum. The amendments contained in this ordinance are
20 consistent with RCW 36.70A.060(2), RCW 36.70A.170, RCW 36.70A.172,
21 RCW 36.70A.710(6) and the best available science.
22

23 Section 3. The County Council bases its findings and conclusions on the entire record of
24 the County Council, including all testimony and exhibits. Any finding which should be deemed
25 a conclusion, and any conclusion which should be deemed a finding, is hereby adopted as such.
26

27 Section 4. Snohomish County Code Section 30.62A.010, last amended by Amended
28 Ordinance No. 15-034 on September 2, 2015, is amended to read:
29

30 **30.62A.010 Purpose and applicability.**

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

34 (a) Wetlands, and

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

36 (i) streams, including those planted with game fish by a governmental
37 or tribal entity;

38 (ii) lakes, including those planted with game fish by a governmental or
39 tribal entity;

1 (iii) naturally occurring ponds under twenty acres and their submerged
2 aquatic beds that provide fish or wildlife habitat, including those
3 planted with game fish by a governmental or tribal entity. Reference to
4 “lake” or “lakes” in this chapter includes naturally occurring ponds
5 under twenty acres and their submerged aquatic beds that provide fish
6 or wildlife habitat;
7 ~~((iii))~~(iv) marine waters; ~~((and))~~
8 ~~((iv))~~(v) primary association areas for critical species; and
9 (vi) state natural area preserves, natural resource conservation areas,
10 and state wildlife areas.

11 (2) This chapter applies to:

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

- 14 (i) Non-ground disturbing interior or exterior building improvements;
15 (ii) Routine landscape maintenance of established, ornamental landscaping;
16 (iii) Non ground disturbing normal maintenance or repair;
17 (iv) Removal of noxious weeds conducted in accordance with chapter 16-750
18 WAC;
19 (v) Maintenance or replacement that does not expand the affected area of the
20 following existing facilities:
21 (A) septic tanks and drainfields;
22 (B) wells;
23 (C) individual utility service connections; and
24 (D) individual cemetery plots in established and approved cemeteries;
25 (vi) Data collection and research by nonmechanical means if performed in
26 accordance with state-approved sampling protocols or Endangered Species
27 Act (ESA) Section 10(a)(1)(a), Section 7 consultation (16 USC § 1536);
28 (vii) Nonmechanical survey and monument placement; and
29 (viii) Quasi-judicial rezones not accompanied by another permit or approval.

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

31
32 Section 5. Snohomish County Code Section 30.62A.220, last amended by Amended
33 Ordinance No. 06-061 on August 1, 2007, is amended to read:

34
35 **30.62A.220 Functions and values of wetlands, fish and wildlife habitat conservation**
36 **areas and buffers.**

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

- 1 (1) Streams. Fish and wildlife habitat; transport of water, sediment and organic material;
 2 floodwater storage and attenuation;
 3 (2) Wetlands. Fish and wildlife habitat, pollution assimilation, sediment retention,
 4 shoreline stabilization, floodwater storage, attenuation and conveyance, wave energy
 5 attenuation, stream base-flow maintenance, and groundwater discharge/recharge;
 6 (3) Lakes. Fish and wildlife habitat, sediment retention, pollution assimilation, and
 7 floodwater attenuation, storage and conveyance;
 8 (4) Marine waters. Fish and wildlife habitat; wind, wave and current attenuation;
 9 sediment supply; longshore transport of sediment; and pollution assimilation;
 10 (5) Primary association areas of critical species. Fish and wildlife habitat; ~~((and))~~
 11 (6) State natural area preserves, natural resource conservation areas, and state wildlife
 12 areas. Fish and wildlife habitat and recreation; and
 13 ~~((6))~~ (7) Buffers. Habitat for water associated and riparian associated wildlife, wildlife
 14 movement corridors, noise and visual screening, large woody debris and other natural
 15 organic matter recruitment, floodwater attenuation and storage, temperature maintenance,
 16 pollution assimilation, streambank stabilization and supply of sediments and nutrients.
 17

18 Section 6. The title for Snohomish County Code chapter 30.62A, Part 400, is amended to
 19 read:

20
 21 **PART 400 - CRITICAL SPECIES AND STATE NATURAL HABITATS**
 22

23 Section 7. Snohomish County Code Section 30.62A.410, last amended by Amended
 24 Ordinance No. 15-034 on September 2, 2015, is amended to read:

25
 26 **30.62A.410 Purpose.**

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

- 29 (1) Species listed as threatened or endangered under RCW 77.12.020 and Title 16 United
 30 States Code;
 31 (2) Species of local importance designated under SCC 30.62A.470; and
 32 (3) The following Washington State listed sensitive species:
 33 (a) Larch mountain salamander;
 34 (b) Common loon;
 35 (c) Peregrine falcon;
 36 (d) Olympic mudminnow;
 37 (e) Pygmy whitefish;
 38 (f) Gray whale;
 39 (g) Bald eagle; and
 40 (h) Margined sculpin.

1 (4) State natural area preserves, natural resource conservation areas, and state wildlife
2 areas, collectively referred to as “state natural habitats.”

3
4 Section 8. Snohomish County Code Section 30.62A.420, last amended by Amended
5 Ordinance No. 06-061 on August 1, 2007, is amended to read:

6
7 **30.62A.420 Applicability.**

8 (1) The provisions of this Part shall apply as of the effective date of the listing to all
9 development activities, actions requiring project permits and clearing occurring on a site
10 containing a primary association area for a critical species. The provisions of this Part
11 shall also apply to all development activities, actions requiring project permits and
12 clearing within a state natural habitat. The provisions of this Part shall apply in addition
13 to any other requirements of this chapter.

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

18
19 Section 9. Snohomish County Code Section 30.62A.430, last amended by Amended
20 Ordinance No. 15-034 on September 2, 2015, is amended to read:

21
22 **30.62A.430 Administrative rules authorized.**

23 In order to protect critical species and their habitats and state natural habitats, the
24 department shall develop administrative rules under chapter 30.82 SCC that establish
25 protection requirements specific to these species and their habitats and state natural
26 habitats.

27
28 Section 10. Snohomish County Code Section 30.62A.440, last amended by Amended
29 Ordinance No. 06-061 on August 1, 2007, is amended to read:

30
31 **30.62A.440 Administrative rules - minimum protection requirements.**

32 In developing administrative rules under this section, the department shall consider
33 establishing at least the following minimum protections:

- 34 (1) Establishment of the primary association area;
35 (2) Limitation on development activities within the primary association area;
36 (3) Limitation on access to the primary association area;
37 (4) Provisions for seasonal restrictions on construction activities where appropriate;
38 (5) Preservation of habitat for the critical species; ~~((and))~~
39 (6) Permanent protection pursuant to SCC 30.62A.160 ~~((:));~~ and
40 (7) Protection of state natural habitats.

1
2 Section 11. Snohomish County Code Section 30.62A.450, last amended by Amended
3 Ordinance No. 06-061 on August 1, 2007, is amended to read:
4

5 **30.62A.450 General standards and requirements.**

6 Proponents for all development activities, actions requiring project permits or clearing
7 shall make all reasonable efforts to avoid and minimize impacts to critical species and
8 state natural habitats pursuant to the requirements of this section, in the following
9 sequential order of preference:

- 10 (1) Avoid impacts altogether by not taking a certain action or parts of an action; or
11 (2) When avoidance is not possible, minimize impacts by limiting the degree or
12 magnitude of the action and its implementation, using appropriate technology, or by
13 taking affirmative steps, such as project redesign, relocation, or timing, to avoid or reduce
14 impacts; and
15 (3) Comply with rules adopted pursuant to SCC 30.62A.430 and a habitat management
16 plan when required pursuant to SCC 30.62A.460.
17

18 Section 12. Snohomish County Code Section 30.62A.460, last amended by Amended
19 Ordinance No. 06-061 on August 1, 2007, is amended to read:
20

21 **30.62A.460 Habitat management plan contents.**

22 For any development activity or action requiring a project permit occurring within the
23 primary association area of a critical species or state natural habitats, the director may
24 require all or a portion of the following:

- 25 (1) A critical area study meeting the requirements of SCC 30.62A.140;
26 (2) A map drawn to scale or survey showing the location and description of the primary
27 association area(s) of the critical species or state natural habitats on the subject property;
28 (3) Evidence of use of the site by a critical species, including the location and nature of
29 use;
30 (4) An assessment of how the proposed activities will affect the critical species and/or its
31 habitat or the state natural habitat, and how the proposal will avoid, minimize or mitigate
32 impacts to those critical species and their habitats or state natural habitats pursuant to
33 SCC 30.62A.450. The department shall waive this requirement when a proposed activity
34 is consistent with the protection standards adopted in an administrative rule developed
35 pursuant to SCC 30.62A.430; and
36 (5) In the absence of an adopted administrative rule governing a listed species or state
37 natural habitat, the applicant shall provide a habitat management plan consistent with the
38 minimum requirements of SCC 30.62A.440. In addition, the habitat management plan
39 shall contain an assessment of best available science applicable to the species or the state
40 natural habitat, demonstrating how the proposal will provide sufficient protection of the

1 critical species and its habitat or the state natural habitat. Applicants are encouraged to
2 consult with the department, and federal and state agencies with technical expertise or
3 regulatory jurisdiction.
4

5 Section 13. Snohomish County Code Section 30.91C.340, last amended by Amended
6 Ordinance No. 06-061 on August 1, 2007, is amended to read:
7

8 **30.91C.340 Critical area.**

9 “Critical area” means the following areas:

- 10 (1) Wetlands;
11 (2) Areas with a critical recharging effect on aquifers used for potable water, including:
12 (a) Sole source aquifers,
13 (b) Group A well head protection areas, and
14 (c) Critical aquifer recharge areas;
15 (3) Fish and wildlife habitat conservation areas, including:
16 (a) Streams, including those planted with game fish by a governmental or
17 tribal entity,
18 (b) Lakes, including those planted with game fish by a governmental or
19 tribal entity,
20 (c) Naturally occurring ponds under twenty acres and their submerged
21 aquatic beds that provide fish or wildlife habitat, including those planted
22 with game fish by a governmental or tribal entity,
23 ~~((e))~~ (d) Marine waters, ~~((and))~~
24 ~~((d))~~ (e) Primary association areas for critical species~~((;))~~, and
25 (f) State natural area preserves, natural resource conservation areas, and state
26 wildlife areas;
27 (4) Frequently flooded areas; and
28 (5) Geologically hazardous areas, including:
29 (a) Erosion hazard areas,
30 (b) Landslide hazard areas,
31 (c) Seismic hazard areas,
32 (d) Mine hazard areas,
33 (e) Volcanic hazard areas, and
34 (f) Tsunami hazard areas.
35
36
37
38
39

1 Section 14. A new section is added to chapter 30.91N of the Snohomish County Code to
2 read:

3
4 **30.91N.033 Naturally occurring ponds.**

5 “Naturally occurring ponds” do not include ponds deliberately designed and created from
6 dry sites, such as canals, detention facilities, wastewater treatment facilities, farmponds,
7 temporary construction ponds (of less than three years duration) and landscape amenities.
8 Naturally occurring ponds may include those artificial ponds intentionally created from
9 dry areas to mitigate conversion of ponds, if permitted by a regulatory authority.

10
11 Section 15. A new section is added to chapter 30.91S of the Snohomish County Code to
12 read:

13
14 **30.91S.581 State natural area preserves, natural resource conservation areas, and**
15 **state wildlife areas.**

16 “State natural area preserves, natural resource conservation areas, and state wildlife
17 areas” means those areas defined, established, and managed by the Washington State
18 Department of Natural Resources (state natural area preserves and natural resource
19 conservation areas) or the Washington State Department of Fish and Wildlife (state
20 wildlife areas).

21
22 Section 16. Severability and Savings. If any section, sentence, clause or phrase of this
23 ordinance is held invalid by the Growth Management Hearings Board (Board), or
24 unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall
25 not affect the validity or constitutionality of any other section, sentence, clause or phrase of this
26 ordinance. Provided, however, that if any section, sentence, clause or phrase of this ordinance is
27 held invalid by the Board or unconstitutional by a court of competent jurisdiction, then the
28 section, sentence, clause or phrase in effect prior to the effective date of this ordinance shall be in
29 full force and effect for that individual section, sentence, clause or phrase as if this ordinance had
30 never been adopted.


31
32
33 PASSED this 12th day of July, 2017.

34
35
36 SNOHOMISH COUNTY COUNCIL
37 Snohomish County, Washington

38
39
40 
Chairperson

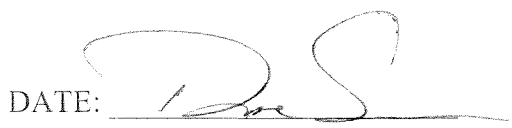
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ATTEST:



Clerk of the Council

- APPROVED
- EMERGENCY
- VETOED

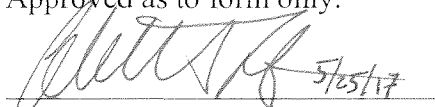
DATE: 

2/24/17
County Executive

ATTEST:



Approved as to form only:



Deputy Prosecuting Attorney

D-5