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)

WHEREAS, the Growth Management Act, chapter 36.70A RCW (GMA), requires Snohomish County (the “County”) to regulate land use and development within the County’s jurisdiction; and

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

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

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

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

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

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

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WHEREAS, the Snohomish County Planning Commission ("Planning Commission") held a briefing on January 27, 2015, concerning the code amendments contained in this ordinance; and

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

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

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

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

NOW, THEREFORE, BE IT ORDAINED:

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

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

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

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

1. GMA Planning Goal 6 (RCW 36.70A.020(6)): “Property rights. Private property shall not be taken for public use without just compensation having been made. The property rights of landowners shall be protected from arbitrary and discriminatory actions.” This proposal is consistent with this goal by providing for flexibility in applying regulations and by allowing reasonable use of property within critical areas and their buffers.
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
quickly, and alternative approaches that provide equal or greater protection to the environment may be considered.”

b. Policy NE 1.B.1 “The county shall consider comprehensive land use plan designations and development regulations that take into account:
(a) environmental sensitivity and ecological functions and values;
(b) limitations of ground and surface water quantities; and
(c) potential impacts on surface and ground water quality.”

c. Policy NE 1.C.2 “The county shall continue to protect and enhance wetlands and fish and wildlife habitat conservation areas through the use of a variety of strategies, such as:
(a) including best available science in plans and programs;
(b) supporting the development and implementation of watershed management plans and identifying areas where voluntary restoration and enhancement should be used to improve water quality, water quantity, fish habitat and overall hydrologic function;
(c) coordinating the use of agricultural resource lands with the protection, restoration and/or enhancement of ecological functions and values;
(d) developing incentive-based, voluntary restoration and enhancement programs to offset impacts to overall ecological functions and values resulting from development projects or the use of agricultural resource lands and encouraging creative on-site, and reach scale restoration/enhancement proposals that optimize natural and/or agricultural resource values and ecological function; and
(e) including strategies for monitoring and adaptive management in plans and programs.”

d. Goal NE 3 “Comply with the requirements of state, federal and local laws for protecting and managing critical areas, shorelines, and water.”
e. Policy NE 3.A.1 “The county shall designate and protect critical areas including fish and wildlife habitat conservation areas, wetlands, critical aquifer recharge areas, frequently flooded areas and geologically hazardous areas and include best available science in the development of programs, policies and regulations relating to critical areas.”
f. Policy NE 3.A.2 “The county shall establish development regulations that offer flexibility in site design to accommodate innovative solutions for critical area protection where site constraints or critical area characteristics warrant use of a creative approach. Flexibilities may be considered on a site-by-site basis. Examples of innovative options include but are not limited to buffer width averaging, on- or off-site enhancement or restoration projects, use of best management practices, or a combination of creative solutions.”
g. Objective NE 3.B “Designate and protect fish and wildlife habitat conservation areas and wetlands pursuant to the Growth Management Act.”

h. Policy NE 3.B.1 “Vegetated areas in and adjacent to wetlands and fish and wildlife habitat conservation areas shall be established to protect their ecological functions and values and include special consideration for the protection of water-dependent and riparian-dependent fish and wildlife.”

i. Policy NE 3.B.5 “The county shall protect state and federal officially designated threatened and endangered species and their habitat conservation areas, as prescribed by state and federal law.”

j. Policy NE 3.B.8 “The county shall include special consideration to conserve, protect and enhance anadromous fish and their habitat in policies and regulations.”

k. Policy NE 3.B.9 “The county should adopt a water typing system and wetland classification system consistent with state guidelines.”

l. Policy NE 3.B.10 “The county shall require that alterations to wetlands and fish and wildlife habitat conservation areas be avoided or minimized to protect ecological functions and values consistent with the GMA’s requirement of ensuring no net loss of the functions and values of critical areas.”

2. Policy NE 3.C.2 “The county shall establish development regulations that include a variety of strategies for protecting groundwater.” This proposal implements this policy by amending chapter 30.62C SCC, Critical Aquifer Recharge Areas, by adding new requirements to the hydrogeologic report, requiring consideration of nitrite impacts on groundwater, revising certain citations to reflect changes in law, and revising for clarity and consistency.

3. This proposal is consistent with and further implements the following policies by amending chapter 30.62B SCC, Geologically Hazardous Areas, by adding new requirements to geotechnical reports regarding the analysis of hazards and risks and landslide run out; adding amendments regarding the definition of a landslide hazard area, development restrictions and allowing deviations to development restrictions within a landslide hazard area; adding a section to ensure the county has the authority to require additional studies or more stringent standards when needed; and including additional notice, disclosure, and covenant requirements for development activities or actions requiring a project permit or approval in a landslide hazard area.

a. Policy NE 1.D.1 “The county should consider natural hazards in all land use planning.”

b. Policy NE 1.D.5 “The county shall develop programs that provide for notification of the presence of geologic hazards.”

c. Policy NE 3.A.4 “The county shall evaluate the level of risk of damage or injury to people, property and the environment when formulating development regulations.”

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d. Objective NE 3.E “Designate and protect geologic hazard areas pursuant to the Growth Management Act.”

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

f. Policy NE 3.E.2 “The county shall develop regulations that are consistent with geologic constraints and the All Hazards Vulnerability Assessment and the Snohomish County Natural Hazards Mitigation Plan.”

g. Policy NE 3.E.3 “The county shall require that development proposals include where appropriate a geotechnical assessment of the site’s susceptibility to known geologic hazards.”

h. Policy NE 3.E.4 “The county shall require that development standards incorporate practices and techniques to reduce potential damage from seismic, tsunami, mine, erosion, landslide, and volcanic hazards.”

i. Objective NE 8.A “Reduce the potential for physical injury and property damage from natural hazards.”

E. Procedural requirements.

1. The environmental impacts of this proposal are within the range of impacts analyzed by the draft environmental impact statement (DEIS) and final environmental impact statement (FEIS) prepared for the critical area regulations adopted through Amended Ordinance 06-061. The FEIS was issued on July 23, 2007. No new impacts have been identified for this proposal. State Environmental Policy Act (SEPA) requirements with respect to this non-project action have been satisfied through the issuance of Addendum No. 2, issued on July 2, 2015, to the FEIS for the critical area regulations adopted in 2007.

2. The proposal is a Type 3 legislative action pursuant to SCC 30.73.010.

3. Pursuant to RCW 36.70A.106(1), a notice of intent to adopt this ordinance was transmitted to the Washington State Department of Commerce for distribution to state agencies on April 6, 2015.

4. The public participation process used in the adoption of this ordinance has complied with all applicable requirements of the GMA and the SCC.

5. As required by RCW 36.70A.370, the Washington State Attorney General last issued an advisory memorandum in December of 2006 entitled “Advisory Memorandum: Avoiding Unconstitutional Takings of Private Property” to help local governments avoid the unconstitutional taking of private property. The process outlined in the State Attorney General’s 2006 advisory memorandum was used by the County in objectively evaluating the regulatory changes proposed by this ordinance.

6. The review and update requirements pursuant to RCW 36.70A.130(1) have been satisfied.
7. The requirements to review BAS and incorporate it into the development regulations for critical areas pursuant to RCW 36.70A.172 have been satisfied.

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

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

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

I. This ordinance is consistent with the record.

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

   a. The Revised Draft Summary of Best Available Science (March 28, 2006) and its BAS addendum (Spring 2015) were produced through an extensive literature review by Snohomish County engineers and scientists and through professional consultation with State agencies such as the Department of Ecology, professionals, and other local jurisdictions.


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

d. Some of the background material for this document originated from King
County’s Best Available Science, Volume 1, A Review of Science Literature,
King County Executive Report, February 2004, and Pentec Environmental’s
Review Draft, Appendix B, Use of Best Available Science in Critical Area
Protection in Snohomish County, June 9, 2004. The wetlands chapter is the
Washington State Department of Ecology’s Wetlands in Washington State –
Volume 1: A Synthesis of the Science, March 2005. The BAS review by the
Department of Ecology was far more comprehensive and complete than the
County could have accomplished.

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

f. The County’s BAS summary contains bibliographic information citing all sources
supporting the scientific summary. In addition, several documents were
submitted into the public record. A complete bibliography including all BAS
references and all other submitted documents are part of the public record and are
available for public review upon request during the public participation process.

g. An addendum to the 2006 Best Available Science (BAS) was issued in February
2015. The addendum and all related documents are included in the public record
and available for public review. A complete bibliography including all BAS
references and all other submitted documents is available for public review.

h. New literature in several key areas has been reviewed, including but not limited
to: stormwater, buffers, land use intensity, wetlands, wildlife, agriculture, aquifer
recharge areas, landslide and other geologic hazards. With the exception of
landslide hazard areas and wetland categorization, the BAS review did not find
new science that indicates that any significant changes to the critical area
regulations are warranted.

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

   a. Updates to the GMA since the County’s existing critical area regulations were
      adopted;

   b. The guidelines provided in chapters 365-190 and 365-195 WAC, WAC 365-196-
      485 and WAC 365-196-830;

   c. Decisions and orders from the growth management hearings boards and courts on
      GMA cases related to critical areas;

   d. The BAS with respect to protection of critical area functions and values and
      conservation and protection of anadromous fisheries;

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HAZARD AREAS) AND SCC 30.91E.230 (EXCAVATION)
The County’s comprehensive plan, specifically the General Policy Plan policies adopted under the Natural Environmental chapter;

Local priorities and policies for achieving a balance between the GMA goals; and

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.
9. The amendment to SCC 30.62A.160(1)(b) is necessary to clarify what a critical area site plan is and what it needs to include.

10. The amendments to newly numbered SCC 30.62A.160(1)(c) are necessary to clarify what a critical area site plan is and what it needs to include.

11. The amendments to SCC 30.62A.160(3) are proposed to allow non-subdivision type multi-family or other residential projects with protected open space owned in common to satisfy the requirements of this section for permanent protection.

12. The amendment to SCC 30.62A.160(4) is necessary to clarify that existing legally established uses and structures are allowed to continue and that areas need to be clearly identified on critical area site plans. The primary structure exclusion from separate tracts and easements allows for greater flexibility.


14. The amendment to SCC 30.62A.160(6) clarifies the meaning of “consistent” in relation to previously approved critical area site plans, providing predictability of future development requirements.

15. The amendment to SCC 30.62A.230 is necessary to reflect new BAS regarding the classification of wetlands from the State of Washington and to be consistent with 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.”

16. The amendment to SCC 30.62A.310 is necessary to provide clarification and internal consistency and to correct a typographical error.

17. The amendments to the tables in SCC 30.62A.320 are necessary for clarity and to reflect new BAS regarding the classification of wetlands 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. It is necessary to clarify that this section addresses both requirements for buffers and impervious surfaces within and outside of buffers. 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.”

18. The amendments to SCC 30.62A.320(1)(c) are necessary to provide clarification that impervious surface restrictions only apply to new impervious surface and not existing impervious surface.

19. The new language in newly numbered SCC 30.62A.320(1)(e) is necessary for consistency with SCC 30.62A.330(2)(b), which deals with shoreline and streambank stabilization and flood protection measures.
20. The amendments to newly numbered SCC 30.62A.320(1)(f) and (g) are necessary for clarity and to delete unnecessary language.

21. The new and amended language in SCC 30.62A.320(3)(a), (b) and (c) clarifies the relationship between the buffer mitigation ratios in this section and mitigation requirements of newly numbered SCC 30.62A.320(1)(f)(i), SCC 30.62A.320(1)(f)(ii), SCC 30.62A.320(1)(g)(i) and SCC 30.62A.320(1)(g)(ii).

22. The new language in new subsection SCC 30.62A.320(3)(d) allows a decreased mitigation ratio for minor buffer impacts that can be restored to pre-disturbance condition within one growing season.


24. The amendments to SCC 30.62A.340 are necessary to reflect new BAS regarding the classification of wetlands from Ecology.

25. Language was deleted from SCC 30.62A.340(3)(a) to eliminate a potential ambiguity. All impacts must be avoided when possible, not just wetlands that are larger than 1 acre.


27. New SCC 30.62A.340(4)(b) allows for a lower mitigation ratio requirement for minor impacts to wetlands that can be easily restored to pre-disturbance conditions within one year. Minor impacts are temporary and will not apply to forested buffers, thus resulting in no net loss in function and values of the buffer.

28. The amendments to SCC 30.62A.340, Table 4, are necessary for consistency with the new wetland rating system from the Department of Ecology and they correct a typographical error.


30. The amendments to SCC 30.62A.340, Table 6, are necessary for consistency with the new wetland rating system from the Department of Ecology.

31. The amendment to SCC 30.62A.340(4)(a)(i)(B)(IV)(bb)(C) deletes reference to a type of activity allowed under vegetation management (i.e., removing noxious weeds) because it is already exempt from chapter 30.62A SCC.

32. The amendment to SCC 30.62A.350(1)(a) deletes superfluous language.

33. The amendments to SCC 30.62A.410(3) are necessary to incorporate the most recent state sensitive species list.
34. The amendments to SCC 30.62A.430 provide clarification and allow more flexibility on meeting rule-making deadlines. The state does not notify the County when the list is updated, making the 120-day timeline unreasonable.

35. The amendments to SCC 30.62A.510(2) are necessary to provide clarification and allow more flexibility in meeting rule-making deadlines.

36. New SCC 30.62A.510(3)(l) allows, as a minor development activity, site investigative work in critical areas and buffers to collect data required for submittal in project permit applications, provided that land disturbance is minimized and areas are restored to pre-disturbance conditions in one growing season.

37. The new SCC 30.62A.520(1) is necessary to clarify that only single family residential development projects that cannot comply with the standard requirements of PART 300 can use the buffer encroachment exception.

38. The amendment to SCC 30.62A.520(1) provides clarification.

39. The new SCC 30.62A.520(3) is necessary to provide a criterion limiting the circumstances under which a project can use the buffer encroachment exception to only those projects where area is unavailable outside the standard buffer.

40. The amendment to SCC 30.62A.520(2) is necessary to provide clarity regarding new impervious surface limitations.

41. The amendment to SCC 30.62A.520(3) is necessary to provide a limitation of the area allowed for expansion of an existing structure into a buffer.

42. The amendment to SCC 30.62A.520(7) is necessary to provide the flexibility to allow road crossing access through buffers when unavoidable.

43. The amendment to SCC 30.62A.520(9) is necessary to provide the flexibility to allow use of property by allowing residential utility crossing through buffers when unavoidable.

44. The amendment to SCC 30.62A.520(10) is necessary to provide to provide protection for buffers.

45. The amendment to SCC 30.62A.550 is necessary for clarification and consistency, to provide protection for buffers in mitigation sequencing and to provide for the establishment of an in-lieu fee program for mitigation banking.

46. One of the ways agricultural activities can comply with chapter 30.62A SCC is when such activities are conducted in compliance with a farm conservation plan as described in Part 600 of chapter 30.62A SCC. The amendments to Part 600 are necessary for the County to ensure that farm conservation plans are implemented fully, are monitored for continued compliance with the farm conservation plan and to ensure no impacts to critical areas. Therefore, a new section SCC 30.62A.640 has been added, which sets forth reasonable provisions to ensure implementation and monitoring of farm conservation plans.
47. The amendments to SCC 30.62A.730 synchronize the timing of the monitoring report with the GMA required review and update of comprehensive plans and development regulations, making the report more useful to inform updates. The monitoring and reporting is an ongoing project that does not fit into a yearly timeline.

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

1. This proposal will amend chapter 30.62B SCC Geologically Hazardous Areas, by adopting: new requirements for geotechnical reports regarding the analysis of hazards and risks and landslide run out; amendments regarding the definition of a “landslide hazard area”; development restrictions and deviations to development restrictions within a landslide hazard area; a new section to ensure the county has the authority to require additional studies or more stringent standards when needed; and new notice, disclosure, and covenant requirements for development activities or actions requiring a project permit or approval in a landslide hazard area.

2. The amendment to SCC 30.62B.010 is necessary for clarity and consistency. A more complete definition of “normal maintenance and repair” is already codified in SCC 30.91N.095, Normal maintenance and repair.

3. The amendment to SCC 30.62B.020 is necessary to clarify the GMA requirement that critical areas within shoreline jurisdiction are subject to the shoreline code regulations in chapter 30.67 SCC only.

4. The amendments to SCC 30.62B.130 (4) and (5) are necessary for clarity and consistency.

5. The amendments to SCC 30.62B.130(7) 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.

6. The amendment to SCC 30.62B.140(1)(b) is necessary for consistency with amendments to the definition of landslide hazard area and development restrictions within the landslide hazardous area made by this ordinance.

7. The amendment to SCC 30.62B.140 (2)(d) is necessary for clarity and consistency.

8. The amendments to SCC 30.62B.140(2)(i), (n) and (o) address requirements for additional information to be included in a geotechnical report regarding the analysis of hazards and risks and are necessary to fully identify potential impacts to public health and safety and for the preservation of critical areas. The expanded geotechnical report requirements will provide site-specific BAS to determine the boundaries of a landslide hazard area and to identify what mitigation measures may be required.
9. The addition of SCC 30.62B.140(3) is necessary to ensure that a summary of the geological information for a property is available to owners, applicants and potential purchasers of a property.

10. The amendments to SCC 30.62B.160 are necessary for consistency and to clarify what a critical area site plan is and what needs to be included in a critical area site plan.

11. The addition of SCC 30.62B.160(4) includes additional notice, disclosure, and covenant requirements for development activities or actions requiring a project permit or approval in a landslide hazard area. This does not include approvals for fences, retaining walls, deflection walls, or landslide mitigation. The notice requires a covenant that runs with the land and states that the property is in a landslide hazard area, describes the hazards, states the owner accepts the responsibility for the risks, informs future purchasers and provides indemnification. Other Washington State jurisdictions with geologically hazardous areas impose similar notice, disclosure and covenant requirements. The addition of SCC 30.62B.160(4) ensures that the owner is aware of the hazards and accepts responsibility for choosing to develop in a landslide hazard area and that the geological information for a property is available to all subsequent prospective purchasers of a property.

12. The addition of SCC 30.62B.160(5)(b) is necessary for the protection of public health and safety by ensuring compliance with mitigation measures identified in a geotechnical report and to reflect any changed conditions since the last geotechnical report was completed.

13. The amendment to SCC 30.62B.320(2) is necessary for consistency with chapter 30.67 SCC.

14. The amendments to SCC 30.62B.330(3) are necessary to allow minor activities that are customary and cause little or no impacts in the channel migration zone, to improve consistency with uses allowed in chapter 30.67 SCC, and to improve clarity.

15. The amendments to SCC 30.62B.340 are necessary to provide consistency with the definition of a landslide hazard area as amended by this ordinance. The amendments protect the public health and safety by not allowing most development in landslide hazard areas. Providing a methodology to construct in a landslide hazard area if there is no other alternate building location is necessary for consistency with private property rights.

16. Adding new section SCC 30.62B.390 is necessary to protect the public health and safety by providing the authority and methodology for the department to expand the boundaries of a geologically hazardous area.

17. The geotechnical report provides site-specific BAS that assists in determining the boundaries of the landslide hazard area and what mitigation measures are necessary if construction is allowed within the landslide hazard area.
18. Providing a methodology to expand a landslide hazard area by the department beyond the criteria listed in the definition of a landslide hazard area is necessary to protect public health and safety as determined through site-specific BAS provided by a geotechnical analysis of site conditions.

19. The criteria that defines a landslide hazard area in SCC 30.91L.090 is expanded to include lands within a distance from the top of the slope equal to the height of a slope or within a distance of the toe of the slope equal to two times the height of the slope. The amendment to the definition further protects the public health and safety by including areas in the landslide hazard area definition that can potentially be impacted by a landslide event.

20. Particularly in relation to landslide hazard areas, BAS indicates each landslide hazard area needs to be evaluated on its individual merits. Factors such as soil type, height of the slope, slope angle, mass volume, degree of soils saturation and the proximity to a fault or river system may warrant additional regulation depending on the unique circumstances of the site to reduce specific health and safety impacts. The proposed definition of landslide hazard area incorporates the current setback area for structures. The current setback was established based on International Building Code requirements, which are intended to protect a structure from either sliding down the slope from the top of slope or being hit by a slide that had mobilized at the toe of slope. This current setback is proposed to be included in the definition of a landslide hazard area, and it will no longer be considered a setback.

21. Review of the State DNR’s Washington Geology Library Bibliography of the Hazel/Oso/Steelhead/Stillaguamish Landslide dated March 2014 prompted a need to re-evaluate the areas at the toe and top of slopes.

22. The height to toe run out ratio incorporates typical observed run out from mapped slides in the County and the Puget Sound region. The run out length is a function of the height of the slope being evaluated on a site, slope angle, mass volume, degree of soils saturation and potentially the proximity to a fault or river system.

23. The amendments to the landslide hazard area definition to include the prior setbacks and the ability to enlarge them based on site-specific conditions will capture the vast majority of landslide events, but likely not every extreme event.

24. The amendments to SCC 30.62B.520 are necessary to reference the definition of agriculture, delete a reference to an outdated code section and clarify the approval process for farm conservation plans.

25. One of the ways agricultural activities can comply with chapter 30.62B SCC is when such activities are conducted in compliance with a farm conservation plan as described in Part 500 of chapter 30.62B SCC. The amendments to Part 500 are necessary for the County to ensure that farm conservation plans are implemented fully, are monitored for continued compliance with the farm conservation plan and to ensure no impacts to critical areas. Therefore, a new section SCC 30.62B.540 has
been added, which sets forth reasonable provisions to ensure implementation and monitoring of farm conservation plans.

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

1. This proposal will amend chapter 30.62C SCC Critical aquifer recharge areas, by adding new requirements to the Hydrogeologic Report, requiring consideration of nitrite impacts on groundwater, revising certain citations to reflect changes in law, and revising for clarity and consistency.

2. The amendment to SCC 30.62C.010(2)(b) is necessary to reflect that chapter 30.64 SCC no longer applies, has a sunset date which has passed and is proposed to be deleted by this ordinance.

3. The amendments to SCC 30.62C.130 are necessary for clarity and consistency.

4. There are minor amendments to SCC 30.62C.140 to provide clarity and consistency.

5. The amendment to add SCC 30.62C.140(3)(f)(iii) is necessary to quantify the groundwater recharge potential to ensure water quality and quantity in the groundwater source and near-by surface water features.

6. The amendment to add SCC 30.62C.140(3)(f)(iv) is necessary to acquire additional information about the source of water for the development activity.

7. The amendments to SCC 30.62C.140(3)(f) described above add new requirements to the Hydrogeologic Report to identify groundwater sources for proposed water withdrawals and quantify the groundwater recharge potential, further ensuring that proposed development does not adversely affect water quality and quantity in the Critical Aquifer Recharge Area. The Washington State Department of Ecology determined that an increase in impervious surfaces and disturbance of natural vegetation resulting from development can increase surface runoff and decrease recharge. Regulating agencies are directed to assess the potential impacts on drinking water sources and stream flow from groundwater withdrawals and changes in recharge in Critical Aquifer Recharge Areas, and maintain stream base flows from ground water to support in-stream flows, especially for salmon bearing streams.

8. The amendment to add nitrite to SCC 30.62C.140(3)(n) is necessary to ensure evaluation for nitrite as well as nitrate impacts on groundwater. This is supported by the United States Environmental Protection Agency, which considers both nitrate and nitrite pollution as potential contaminate sources which can lead to the infant/toddler condition omethemoglobinemia, or blue baby syndrome, with contaminated drinking water cited as the most likely exposure pathway.

9. It is necessary to amend the table in SCC 30.62C.340 to add chapter 90.76 RCW and RCW 43.131.394 to reflect the red tag program established in 2007 and sunset dates for repeal and to revise certain citations to reflect changes in law.

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

1. The amendment to repeal chapter 30.64 SCC is necessary to reflect that chapter 30.64 SCC no longer applies and has a sunset date that has passed.

2. Pursuant to Chapter 353, Laws of 2007, when the County adopted Amended Ordinance No. 06-061, the County retained existing chapter 30.64 SCC and limited its applicability to agricultural activities on land designated as rural land or agricultural resource land.

3. This ordinance amends Title 30 SCC to make the critical area regulations adopted by Amended Ordinance No. 06-061, codified in chapter 30.62C SCC consistently applicable to all areas by amending SCC 30.62C.010(2)(b), repealing the outdated critical area regulations codified in chapter 30.64 SCC and deleting all cross references to chapter 30.64 SCC.

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

Section 2. The County Council makes the following conclusions:

A. The proposal is consistent with the goals, objectives, and policies of the County’s GMA Comprehensive Plan.

B. The proposal is consistent with Washington State law and the County Code.

C. The County has complied with all SEPA requirements with respect to this non-project action.

D. The regulations proposed by this ordinance do not result in an unconstitutional taking of private property for a public purpose.

E. This ordinance is necessary to comply with RCW 36.70A.710(6) and to maintain consistency with GMA.

F. The County has performed a thorough review of best available science published since the adoption of Amended Ordinance No. 06-061 on August 1, 2007. That review is summarized in the Spring 2015 BAS Addendum. The amendments contained in this ordinance are consistent with RCW 36.70A.060(2), RCW 36.70A.170, RCW 36.70A.172, RCW 36.70A.710(6) and the best available science.
G. The regulations proposed by this ordinance complete the critical area regulations update project required by Amended Motion No. 14-140 to comply with RCW 36.70A.130.

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

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

30.31D.130 Protection of water quality.

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

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

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

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

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

SEPA review shall include consideration of the specific probable adverse environmental impacts of a development activity with regard to on-site and off-site changes to stormwater volume, release rate, erosion, sedimentation, stream channel stability and water quality. When the director determines that the requirements of chapters 30.31C, 30.43D, 30.44, 30.62A, 30.62B, 30.62C, 30.63A, 30.63B, 30.63C, (30.64_) 30.65 and 30.67 SCC ensure that the development activity will not result in any probable significant adverse environmental impacts, compliance with those requirements shall constitute adequate analysis and mitigation of the specific significant probable adverse environmental impacts of the development activity with regard to on-site and off-site changes to stormwater volume, release rate, erosion, sedimentation, stream channel stability and water quality, as provided by RCW 43.21C.240.
Section 6. Snohomish County Code Section 30.62A.010, last amended by Amended Ordinance No. 13-042 on July 10, 2013, is amended to read:

30.62A.010  Purpose and applicability.

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

(a) Wetlands, and

(b) Fish and wildlife habitat conservation areas including:

(i) streams;

(ii) lakes;

(iii) marine waters; and

(iv) primary association areas for critical species.

(2) This chapter applies to:

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

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

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

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

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

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

(A) Septic tanks and drainfields;

(B) wells;

(C) individual utility service connections; and

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

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

(vii) Nonmechanical survey and monument placement; and

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

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

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

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

Protection of wetlands and fish and wildlife habitat conservation areas located within shorelines of the state, as defined in chapter 90.58 RCW, shall be accomplished through compliance with the provisions of (this) chapter 30.67 SCC. Nothing in this section shall be construed to be inconsistent with RCW 36.70A.480.
Section 8. Snohomish County Code Section 30.62A.130, adopted by Amended Ordinance No. 06-061 on August 1, 2007, is amended to read:

30.62A.130 Submittal requirements.
(1) For any development activity or action requiring a project permit, the applicant shall submit a site development plan drawn to a standard engineering scale which includes:
(a) Boundary lines and dimensions of the subject property;
(b) Boundary lines and dimensions of the site;
(c) The topography at contour intervals of five feet unless the underlying project permit requires a lesser interval;
(d) Location, size, and type of any existing structures, cleared areas and other existing improvements;
(e) Location, size and type of all proposed development activities, subject to project permits and clearing on the site);
(f) Location and description of all wetlands and fish and wildlife habitat conservation areas located on the site or within 300 feet or the width of the widest potential buffer of the site boundaries;
(g) Location of all other critical areas regulated pursuant to chapters 30.62B, 30.62C and 30.65 SCC on or within 300 feet of the site; and
(h) Location of structure setbacks as required in chapter 30.23 SCC.
(2) In addition to a site development plan the following additional information will be required where applicable:
(a) Classification of all streams, wetlands or lakes pursuant to SCC 30.62A.230 (Table 1).
Classification is not required if the project permit applicant applies the maximum protection for the specific critical area as specified at SCC 30.62A.320 (Table 2);
(b) Provisions for permanent protection as specified at SCC 30.62A.160;
(c) Provisions for temporary marking on the site of all critical area protection areas, or the limits of the proposed site disturbance outside of the critical area protection areas; and
(d) A critical area study as required by SCC 30.62A.140.

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

30.62A.140 Critical area study content requirements.
For any development activity or action requiring a project permit occurring in wetlands, fish and wildlife habitat conservation areas, or within a buffer unless otherwise provided in Part 300, the director may require, where applicable, a survey or map drawn to scale and a report describing the following information:
(1) A wetland delineation map and report, including field worksheets in accordance with the approved federal wetland delineation manual and applicable regional supplement (see WAC 173-22-035)). This requirement may be waived if a wetland delineation has
been performed within the previous five years that was approved by the department, and the
department determines after site review that the wetland boundary is the same as the approved
delineation;
(2) Wetland categorization, including worksheets, documenting the proposed wetland categories,
based on the Washington State Wetland Rating System for Western Washington: 2014 Update,
(Hruby, T., (August 2004)) October 2014, or latest edition, Department of Ecology Publication
((#04-06-025)) #14-06-029;
(3) Wetland classes present as defined in the United States Fish and Wildlife Service’s
Classification of Wetlands and Deep Water Habitats in the U.S. (Cowardin et al., 1979);
(4) Stream location, stream name (if named), and stream type pursuant to the typing system
contained in SCC 30.62A.230 (Table 1);
(5) Lake location, lake name (if named), and lake type pursuant to the typing system contained in
SCC 30.62A.230 (Table 1);
(6) The ordinary high-water mark of any stream, lake or marine water;
(7) A description and illustration of proposed activities within any critical area or buffers;
(8) An assessment of the existing functions and values of the critical area(s) or buffers that will
be affected by the proposed activity and the methods used to assess those functions and values;
(9) An assessment of how the activity meets the protection standards established in SCC
30.62A.310 and SCC 30.62A.450. For applications under SCC 30.62A.350, an assessment of
how the proposal protects the functions and values specified in SCC 30.62A.220, and how the
proposal provides protection equivalent to the standards established in SCC 30.62A.310 and
SCC 30.62A.450((Proposals offering better protection would also be acceptable));
(10) A mitigation plan for activities occurring in a critical area or buffer according to the
requirements in SCC 30.62A.150;
(11) A habitat management plan in accordance with SCC 30.62A.460 for any activity occurring
within the primary association area of a critical species;
(12) When shoreline or bank stabilization measures and/or flood protection measures are
proposed, a geotechnical report investigating alternative structural and non-structural methods
pursuant to SCC 30.62B.140; and
(13) Any other information necessary to determine compliance with this chapter.

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

30.62A.150 Mitigation plan requirements.
Unless otherwise provided by this chapter, project permit applicants must provide a mitigation
plan to address impacts to affected wetland, fish and wildlife habitat conservation area, or buffer
functions and values as identified in the critical area study required pursuant to SCC 30.62A.140,
provided that mitigation for the primary association area of critical species shall also comply
with the requirements of Part 400.
(1) All mitigation plans shall:
   (a) Include a ((baseline study)) report that describes and evaluates the existing functions and
values, the functions and values that will be impacted, and the functions and values after
mitigation;

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(b) Specify how functions and values lost as a result of the activity will be replaced;

c) Include performance standards;

d) Specify when mitigation will occur relative to project construction and to the requirements of permits required by other jurisdictional entities;

e) Include provisions for monitoring and maintenance of the mitigation area on a long-term basis to determine whether the approved plan was successful and that the mitigation measures in the plan are sufficient to determine if mitigation performance standards have been achieved; and the approved plan will be sustainable after the monitoring period has expired;

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

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) 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 a 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) a legal description of the subject property;

(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;

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

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

(A) restrictions on the construction of new structures;
(B) restrictions on the removal of existing native vegetation; and
(C) restrictions on other development activities that would adversely affect the functions and values of the wetland(s), fish and wildlife habitat conservation area(s), or buffers.

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

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

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

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

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

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

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

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

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

(2) Classification and scoring of wetlands shall occur pursuant to the Washington State Wetland...
Rating System for Western Washington: 2014 Update, (Hruby, T., October 2014, or latest edition, Department of Ecology Publication #14-06-029 (to the rating system and criteria contained in the Wetland Rating System for Western Washington, (Washington State Department of Ecology Publication #04-06-025)) summarizes the event of a conflict between the DOE publication and the contents of Table 1, the provisions in the DOE publication will govern.

Table 1 - Classification of streams, lakes and wetlands

<table>
<thead>
<tr>
<th>Classification</th>
<th>Classification Criteria Summary</th>
</tr>
</thead>
<tbody>
<tr>
<td>Type S</td>
<td>Segments of all natural waters within their bankfull width, as inventoried as &quot;shorelines of the state&quot; under chapter 90.58 RCW and the rules promulgated pursuant to chapter 90.58 RCW.</td>
</tr>
</tbody>
</table>
| 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. |
| Category I    | Wetlands listed by the Washington Natural Heritage Program ((WNR)) as having high conservation value ((high quality wetlands))  
  Bogs  
  Estuarine wetlands (greater than or equal to one acre) & Coastal Lagoons (greater than or equal to 1/10 acre)  
  High Level Habitat Function (habitat function score is ((20-36)) 8-9  
  Moderate Level Habitat Function (habitat function score is ((20-28)) 5-7 |

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

30.62A.310 General standards and requirements.
(1) This Part establishes specific standards and requirements for protection of wetlands, fish and wildlife habitat conservation areas and their buffers, and under what circumstances mitigation may be used to address the impacts of development.
(2) Any development activity, action requiring a project permit or clearing occurring within wetlands, fish and wildlife habitat conservation areas, and buffers is prohibited unless conducted in compliance with this chapter.
(3) Except as otherwise provided in Part 500, all development activities, actions requiring a project permit or clearing shall be designed and conducted to achieve no net loss of critical area functions and values and comply with the following general standards and requirements:
   (a) The project proponent shall make all reasonable efforts to avoid and minimize impacts to wetlands, fish and wildlife habitat conservation areas, and buffers in the following sequential order of preference:
      (i) avoiding impacts altogether by not taking a certain action or parts of an action; or;
      (ii) when avoidance is not possible, minimizing impacts by limiting the degree or magnitude of the action and its implementation, using appropriate technology, or by taking affirmative steps, such as project redesign, relocation, or timing, to avoid or reduce impacts; and mitigating for the affected functions and values of the critical area;
   (b) When mitigation is required it shall be conducted in accordance with the following requirements:
      (i) mitigation location. Unless otherwise provided in this chapter, mitigation for impacts to the functions and values of wetlands, fish and wildlife habitat conservation areas and buffers shall be in-kind and on-site. Off-site mitigation may be approved only in those situations where appropriate and adequate on-site mitigation cannot replace the function(s) of the wetlands, fish and wildlife habitat conservation area(s) or buffers at an equivalent level to the off-site location. Off-site mitigation must occur in the same sub-drainage basin for streams, lakes and wetlands, or drift cell for marine waters;

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(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>
<thead>
<tr>
<th>Table 2a - Stream, Lake and Marine Buffer Width Standards (Feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Type</td>
</tr>
<tr>
<td>-----------------</td>
</tr>
<tr>
<td>Type S</td>
</tr>
<tr>
<td>Type F with anadromous or resident salmonids</td>
</tr>
<tr>
<td>Type F without anadromous or resident salmonids</td>
</tr>
<tr>
<td>Type Np</td>
</tr>
<tr>
<td>Type Ns</td>
</tr>
</tbody>
</table>

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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
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)
<table>
<thead>
<tr>
<th>Wetland Category</th>
<th>Description</th>
<th>Buffer Width Requirements (feet)</th>
<th>High Intensity Land Use (^1) [30.62A.340(4)(b)]</th>
<th>Buffer w/ mitigation measure 1 or 2</th>
<th>Buffer w/ mitigation measure 1 (*may use measure 1 OR 2)</th>
<th>Buffer w/ mitigation measures 1 AND 2</th>
<th>Low Intensity Land Use (^2)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Category I</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wetlands listed by the Washington Natural Heritage Program(({\text{IDNR}})) as having High Conservation Value</td>
<td>190</td>
<td>250</td>
<td>220*</td>
<td>190</td>
<td>125</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bogs</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Estuarine wetlands (({\text{at least one acre}})) (greater than or equal to one acre) &amp; Coastal Lagoons (greater than or equal to (1/10) acre)</td>
<td>150</td>
<td>200</td>
<td>175*</td>
<td>150</td>
<td>100</td>
<td></td>
<td></td>
</tr>
<tr>
<td>High level habitat function (habitat function score is ({29-36}) (8-9))</td>
<td>225</td>
<td>300</td>
<td>262*</td>
<td>225</td>
<td>150</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Moderate level habitat function (habitat function score is ({20-26}) (5-7))</td>
<td>110</td>
<td>150</td>
<td>130*</td>
<td>110</td>
<td>75</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total score (({70})) (\geq 23) or above but not meeting above criteria</td>
<td>75</td>
<td>100</td>
<td>75</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Category II</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Estuarine wetlands (less than 1 acre)</td>
<td>110</td>
<td>150</td>
<td>130*</td>
<td>110</td>
<td>75</td>
<td></td>
<td></td>
</tr>
<tr>
<td>High level of function for habitat (habitat function score is ({8-9}) ({29-36}))</td>
<td>225</td>
<td>300</td>
<td>262*</td>
<td>225</td>
<td>150</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Moderate to high level of function for habitat (habitat function score is ({5-7}) ({20-26}))</td>
<td>110</td>
<td>150</td>
<td>130*</td>
<td>110</td>
<td>75</td>
<td></td>
<td></td>
</tr>
<tr>
<td>High level of function for water quality improvement and low for habitat (water)</td>
<td>75</td>
<td>100</td>
<td>75</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

\(^1\) [30.62A.340(4)(b)]

\(^2\) [Wetland Buffer Width Standards (feet)]
<table>
<thead>
<tr>
<th>Category</th>
<th>Quality function score is ((24-32)) and habitat function score is less than ((20))</th>
<th>5</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total score (51-69) 20-22 but not meeting above criteria</td>
<td>75</td>
<td>100</td>
</tr>
<tr>
<td>Category III</td>
<td>Moderate level of habitat function (habitat function score is 5-7 (20-28))</td>
<td>110</td>
</tr>
<tr>
<td>Total score of (30-50) 16-19 but not meeting above criteria</td>
<td>60</td>
<td>80</td>
</tr>
<tr>
<td>Category IV</td>
<td>Low level function score (less than 16) ((\text{Total score for all functions less than 30 points}))</td>
<td>40</td>
</tr>
</tbody>
</table>

1 High intensity land uses include:
- commercial or industrial uses
- nonresidential use in zones where the primary intent is residential use as per SCC 30.21.025
- Residential use (4 or more units/acre)
- High-intensity recreation (golf courses, ball fields, ORV parks, etc.)

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

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

(b) Buffer widths shall be measured as follows:
(i) the buffer for streams, lakes and marine waters shall be measured from the ordinary high-water mark extending horizontally in a landward direction and for wetlands, the buffer shall be measured from the edge of the wetland extending horizontally in a landward direction; and
(ii) provided however, where the landward edge of the standard buffer shown in Table 2a or 2b extends on to a slope of 33 percent or greater, the buffer shall extend to a point 25 feet beyond the top of the slope.

(c) New effective impervious surface restrictions ((Within buffers, the following restrictions on impervious surfaces apply)):
(i) no new effective impervious surfaces are allowed within the buffer of streams, wetlands, lakes or marine waters; and
(ii) total new effective impervious surfaces shall be limited to 10 percent within 300 feet of:
(A) any streams or lakes containing salmonids;
(B) wetlands containing salmonids; or
(C) marine waters containing salmonids.

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

(e) All development activities, actions requiring project permits or clearing shall be sited and
designed to prevent the need for shoreline or bank stabilization and structural flood hazard
protection measures for the life of the development except as allowed pursuant to SCC

The following measures for reducing buffer width and area may be used without a
critical area study or mitigation plan:

(i) separate tract reductions. Up to a 15 percent reduction of the standard buffer is
allowed when the buffer and associated aquatic critical area are located in a separate
tract as specified in SCC 30.62A.160(3);
(ii) fencing reductions. Up to a 15 percent reduction of the standard buffer is allowed
when a fence is installed along the perimeter of the buffer. The fence shall be designed
and constructed as set forth below:
    (A) the fence shall be designed and constructed to be a permanent structure;
    (B) the fence shall be designed and constructed to clearly demarcate the buffer from
    the developed portion of the site and to limit access of landscaping equipment,
    vehicles, or other human disturbances; (and)
    (C) the fence shall allow for the passage of wildlife, with a minimum gap of one and
    one half feet at the bottom of the fence, and a maximum height of three and one half
    feet at the top; and
    (D) the enhancement area complies with the enhancement ratios of Table 3; and
(iii) for permanent fencing combined with separate tracts, the maximum reduction shall
be limited to 25 percent.

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

(i) the width of a buffer may be averaged, by reducing the width of a portion of the
buffer and increasing the width of another portion of the same buffer, if all of the
following requirements are met:
    (A) averaging will not diminish the functions and values of the wetland(s), fish and
wildlife habitat conservation area(s) or buffer(s);
    (B) the total area of the buffer on the subject property may not be less than the area
that would have been required if averaging had not occurred;
    (C) the total area of buffer averaging shall be placed between the developed area and
the wetland, lake, stream or marine water;
    (D) no part of the width of the buffer may be less than 50 percent of the standard
required width or 25 feet, whichever is greater;
    (E) averaging of a buffer shall not be allowed where the reduction extends into
associated sloping areas of 33 percent or greater; and
buffers on isolated - wetlands or lakes located in close proximity to other aquatic
critical areas shall be connected by corridors of native vegetation where possible
using the buffer averaging provisions of this section and the following criteria:
   (1) the width of the corridor connection between the aquatic critical areas shall
be no less than the combined average of the standard buffers for each of the
critical areas, provided that if there is not sufficient buffer area available when
using averaging to establish a connection, a connection is not required;
   (2) no more than 25 percent of the buffer of the individual critical areas shall be
used to make a corridor connection;
   (3) the corridor connection shall be established where feasible using the highest
quality habitat existing between the critical areas;
(ii) enhancement reductions. Up to a 25 percent reduction of the standard buffer width
and area is allowed provided the project proponent demonstrates the enhancement
complies with all of the following criteria:
   (A) a comparative analysis of buffer functions and values prior to and after
enhancement, demonstrates that there is no net loss of buffer functions and values;
   (B) a full enhancement reduction shall only be allowed where it can be demonstrated
that the existing buffer functions and values are non-existent or significantly
degraded. Buffers with partial function may receive a partial or prorated reduction;
and
   (C) the total buffer area after reduction is not less than 75 percent of the total buffer
area before reduction;
(iii) reductions may be combined based on the following criteria:
   (A) for enhancement combined with permanent fencing, the maximum reduction in
width and area shall be limited to 30 percent; and
   (B) for enhancement combined with separate tracts, the maximum reduction in both
width and area shall be limited to 30 percent.
(2) Buffer standards and requirements - mitigation required. All actions, structures or facilities
listed in this section are allowed only when they are determined to be unavoidable pursuant to
SCC 30.62A.310(3) and are conducted according to the standards and requirements identified in
this section. When a permit is required, an applicant must also provide a critical area study
meeting the requirements of SCC 30.62A.140 and a mitigation plan meeting the requirements of
SCC 30.62A.150.
   (a) New utilities and transportation structures are allowed within buffers when:
      (i) no other feasible alternative exists or the alternative would result in unreasonable or
disproportionate costs; and
      (ii) location, design and construction minimizes impacts to the buffers pursuant to SCC
30.62A.310.
   (b) Stormwater detention/retention facilities are allowed pursuant to the requirements of
SCC 30.63A.570.
(c) Access through buffers is allowed provided it is designed and constructed to be the minimum necessary to accommodate the use or activity.
(d) Construction of pedestrian walkways or trails in buffers is allowed when constructed with natural permeable materials and does not exceed 6 feet in width.
(e) Trimming of vegetation for purposes of providing a view corridor in a buffer is allowed provided that:
    (i) trimming shall not include felling, topping, or removal of trees and be limited to hand pruning of branches and vegetation;
    (ii) trimming and limbing of vegetation for the creation and maintenance of view corridors shall occur in accordance with the pruning standards of the International Society of Arboriculture (See articles published by the International Society of Arboriculture, Consumer Information Program, updated July, 2005);
    (iii) trimming shall be limited to view corridors of 30 feet wide or 50 percent of the lot width, whichever is less;
    (iv) no more than 30 percent of the live crown shall be removed; and
    (v) the activity will not increase the risk of landslide or erosion.
(f) New shoreline and bank stabilization measures or flood protection are allowed pursuant to SCC 30.62A.330(2).
(g) Reconstruction or replacement of buildings may be allowed provided the new building does not encroach further into a critical area or its buffer than did the original building being reconstructed or replaced.

(3) Buffer standards and requirements - mitigation ratios.
(a) The mitigation ratios in Table 3 shall apply to buffer impacts and mitigation measures that exceed those allowed in SCC 30.62A.320(1)(f)(i), SCC 30.62A.320(1)(f)(ii), SCC 30.62A.320(1)(g)(i), and SCC 30.62A.320(1)(g)(ii).
(b) (i) Except as provided in SCC 30.62A.320(3)(c) & (d) ((Tb)), to ((Tb)) mitigate the loss ((impacts to functions and values)) of ((buffers)) buffer functions and values, the ratios in Table 3 shall be required ((unless using the provisions of innovative development in SCC 30.62A.350)). The ratios are based upon the existing type of vegetative cover and are expressed in terms of the units of mitigation area needed to replace ((number of acres needed to recover)) the lost functions and values ((of one acre)) of the impacted buffer area. ((For impacts to buffers that permanently remove existing vegetation, functions and values shall be assumed to be replaced by creating or enhancing new buffers at the following ratios:))
(c) Enhancement shall occur in accordance with enhancement criteria contained in SCC 30.62A.320(1)(g)(ii) A, B and C.
(d) For temporary impacts, the ratios shall be to be 1:1. Temporary impacts are those that can be restored to pre-disturbance conditions in one growing season.
Table 3 - Buffer Mitigation Ratios

<table>
<thead>
<tr>
<th>Existing Riparian habitat vegetation type</th>
<th>Creation</th>
<th>Enhancement¹</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mature forest</td>
<td>6:1</td>
<td>12:1</td>
</tr>
<tr>
<td>Non-mature forest</td>
<td>3:1</td>
<td>6:1</td>
</tr>
<tr>
<td>Shrub</td>
<td>2:1</td>
<td>4:1</td>
</tr>
<tr>
<td>Non-woody vegetation</td>
<td>1.5:1</td>
<td>3:1</td>
</tr>
<tr>
<td>No vegetated cover</td>
<td>1:1</td>
<td>2:1</td>
</tr>
</tbody>
</table>

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

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

30.62A.330 Standards and requirements for activities conducted within streams, lakes and marine waters.
This section provides standards and requirements for activities conducted within streams, lakes and marine waters. Protection of streams, lakes and marine waters is inextricably linked to protection of the adjacent buffers. Standards and requirements for buffers adjacent to streams, lakes and marine waters are found in SCC 30.62A.320.

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

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

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

(a) All development activities, actions requiring project permits and clearing shall meet the
following requirements:
   (i) the project shall be sited and designed to prevent the need for shoreline or bank
   stabilization and structural flood hazard protection measures for the life of the
development;
   (ii) the project shall be sited and designed to avoid the need for new or maintenance
dredging; and
   (iii) the project shall not obstruct the source and movement of sediment from bluffs
   along marine waters except as necessary pursuant to SCC 30.62A.330(2)(b).

(b) Shoreline and streambank stabilization and flood protection measures. Shoreline and
streambank stabilization and flood protection measures are only allowed to protect an
existing primary structure; new or existing utilities, roads and bridges; agricultural land; or
as part of a project where the sole purpose is to protect or restore wetlands, fish and wildlife
habitat conservation areas or buffers. Activities allowed under SCC 30.62A.330(2)(b) shall
meet the following conditions:
   (i) the applicant shall submit a geotechnical report as required pursuant to SCC
   30.62B.140 which establishes that the stabilization or flood protection is necessary;
   (ii) non-structural measures shall be used unless a geotechnical report indicates that the
   only alternative is use of structural stabilization measures;
   (iii) the activity shall avoid interrupting hyporheic zone continuity; and
   (iv) the activity should be designed and constructed based on the guidance contained in
   the Integrated Streambank Protection Guidelines (Washington State Department of Fish
   and Wildlife, April 2003) and the Alternative Bank Protection Methods for Puget Sound
   Shorelines (Washington State Department of Ecology, May 2000, Publication #00-06-
   012) as appropriate for the type of critical area impacted.

(c) Utility construction. For utilities permitted under Title 30 SCC and Title 13 SCC, the
following additional requirements shall apply:
   (i) new utility crossings shall be bored beneath types S and F streams, and channel
   migration zones where feasible;
   (ii) underground utilities shall avoid interrupting hyporheic zone continuity;
   (iii) utilities shall be contained within the developed footprint of existing roads or utility
   crossings, where feasible;
   (iv) utilities placement shall not increase or decrease the natural rate of shore migration,
   channel migration or longshore sediment transport within a drift cell;
   (v) utilities placement shall avoid interrupting downstream movement of wood and
   sediment; and
   (vi) new overhead electrical facilities are allowed when no other feasible alternative
   exists or the alternative would result in unreasonable or disproportionate costs, and the
   location, design and construction minimizes impacts to streams, lakes and marine waters
   pursuant to SCC 30.62A.310.
(d) Road crossings are subject to the following requirements:
   (i) road crossings on fish-bearing streams shall be designed according to the guidelines set forth in Water Crossing Design Guidelines (Washington Department of Fish and Wildlife, May 9, 2013) or as subsequently amended or revised (Fish Passage Design at Road Culverts (Washington Department of Fish and Wildlife, March 3, 1999)); and
   (ii) road crossings shall avoid interrupting natural rates of the downstream movement of woody debris and sediment.

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

(f) Docks, piers and floats are subject to the following requirements:
   (i) use of toxic or treated materials that will come in contact with the water is prohibited;
   (ii) construction timing shall avoid critical life cycle stages of fish and wildlife;
   (iii) these structures shall avoid critical saltwater habitats; and
   (iv) joint use of docks, piers and floats shall be required where feasible.

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

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

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

1. Standards for wetlands - prohibitions. The following actions are prohibited:
   (a) Filling of estuarine wetlands, wetlands listed by the Washington Natural Heritage Program as having High Conservation Value (Natural Heritage wetlands), mature forested wetlands and Category I bogs;
   (b) Point discharges of storm water into Category I bogs; and
   (c) Septic systems and effective impervious surfaces within 300 feet of Category I bogs.

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

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

   ((a) Except for estuarine wetlands, Natural Heritage wetlands, mature forested wetlands and bogs, filling of up to one acre of wetland is allowed provided no other feasible alternative exists.))
(b) New utilities and transportation structures are allowed within wetlands provided no other feasible alternative exists.

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

(4) Standards for wetlands - mitigation requirements.

(a) Mitigation ratios – Except as provided in SCC 30.62A.340(4)(b), to mitigate the loss of wetland functions, the ratios in Table 4 shall be required. The ratios are expressed in terms of the units of area needed to replace the lost functions and values of the wetland.

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

(Table 30.62.340) Table 4

<table>
<thead>
<tr>
<th>Category/Type of Wetland</th>
<th>Creation</th>
<th>Enhancement¹</th>
</tr>
</thead>
<tbody>
<tr>
<td>All Category IV</td>
<td>1.5:1</td>
<td>3:1</td>
</tr>
<tr>
<td>All Category III</td>
<td>2:1</td>
<td>4:1</td>
</tr>
<tr>
<td>Category II Estuarine</td>
<td>innovative development only</td>
<td>4:1</td>
</tr>
<tr>
<td>All other Category II</td>
<td>3:1</td>
<td>6:1</td>
</tr>
<tr>
<td>Category I based on score for functions</td>
<td>4:1</td>
<td>8:1</td>
</tr>
<tr>
<td>Category I listed by the Washington Natural Heritage Program as having High Conservation Value (Natural Heritage Site)</td>
<td>Innovative development only</td>
<td>Innovative development only</td>
</tr>
<tr>
<td>Category I Coastal Lagoon</td>
<td>Innovative development only</td>
<td>Innovative development only</td>
</tr>
</tbody>
</table>

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

(i) Optional mitigation measures.

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

Table 5 - Mitigation Measures for High Intensity Land Uses

<table>
<thead>
<tr>
<th>Examples of disturbance</th>
<th>Activities and uses that cause disturbances</th>
<th>Examples of measures to minimize impacts</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lights</td>
<td>• Parking lots • Warehouses • Manufacturing • Residential</td>
<td>• Direct lights away from wetland</td>
</tr>
<tr>
<td>Noise</td>
<td>• Manufacturing • Residential</td>
<td>• Locate activity that generates noise away from the wetland</td>
</tr>
<tr>
<td>Toxic runoff*</td>
<td>• Parking lots • Roads • Manufacturing • Residential areas • Landscaping</td>
<td>• 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</td>
</tr>
<tr>
<td>Stormwater runoff</td>
<td>• Parking lots</td>
<td>• Apply integrated pest management</td>
</tr>
<tr>
<td>---------------------</td>
<td>----------------------</td>
<td>-----------------------------------</td>
</tr>
<tr>
<td></td>
<td>• Roads</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Manufacturing</td>
<td>• Retrofit stormwater</td>
</tr>
<tr>
<td></td>
<td>• Residential areas</td>
<td>detention and treatment for roads</td>
</tr>
<tr>
<td></td>
<td>• Commercial</td>
<td>and existing adjacent development</td>
</tr>
<tr>
<td></td>
<td>• Landscaping</td>
<td>• Prevent channelized flow from</td>
</tr>
<tr>
<td></td>
<td></td>
<td>lawns that directly enters buffer</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Change in water regime</th>
<th>• Impermeable surfaces</th>
<th>• Infiltrate or treat, detain, and disperse into buffer</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>• Lawns</td>
<td>new runoff from imperious surface and new lawns</td>
</tr>
<tr>
<td></td>
<td>• Tilling</td>
<td></td>
</tr>
</tbody>
</table>

| Pets and human disturbance | • Residential areas | • Use privacy fencing; plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion; place wetland and its buffer in a separate tract |

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

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

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

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

(bb) on adjacent properties and already protected as Native Growth Protection Areas or Critical Area Protection Areas $\left(\text{NGPAs or CAPAs}\right)$ or other permanently protected open space suitable for wildlife habitat use and which either extends to the property boundary or connected by easement; or

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(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 \((20)\) 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)

<table>
<thead>
<tr>
<th>Wetland Category</th>
<th>Description</th>
<th>Standard Buffer Width</th>
<th>High Intensity Buffer Width</th>
<th>Average Habitat Corridor Width</th>
</tr>
</thead>
<tbody>
<tr>
<td>Category I</td>
<td>((Washington Natural Heritage Program/DNR high quality wetlands)) Listed by the Washington Natural Heritage Program as having High Conservation Value</td>
<td>190</td>
<td>250</td>
<td>60</td>
</tr>
<tr>
<td></td>
<td>Bogs</td>
<td>190</td>
<td>250</td>
<td>60</td>
</tr>
<tr>
<td></td>
<td>Estuarine (at least 1 acre) &amp; Coastal Lagoons</td>
<td>150</td>
<td>200</td>
<td>50</td>
</tr>
<tr>
<td></td>
<td>High Level Habitat Function (habitat function score is ((29-36)))</td>
<td>225</td>
<td>300</td>
<td>75</td>
</tr>
<tr>
<td></td>
<td>Moderate Level Habitat Function (habitat function score is ((20-28))) 5-7)</td>
<td>110</td>
<td>150</td>
<td>40</td>
</tr>
<tr>
<td>Category II</td>
<td>Estuarine (less than 1 acre)</td>
<td>110</td>
<td>150</td>
<td>40</td>
</tr>
<tr>
<td></td>
<td>High Level Habitat Function (habitat function score is ((29-36))) 5-7)</td>
<td>225</td>
<td>300</td>
<td>75</td>
</tr>
</tbody>
</table>
Moderate Level Habitat Function (habitat function score is \((20-28)\) 5-8)  

| 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
plans, and low impact stormwater management strategies that address wetlands, fish and
wildlife habitat conservation area or buffer protection consistent with this section;
(c) The innovative design will not be materially detrimental to the public health, safety or
welfare or injurious to other properties or improvements located outside of the subject
property; and
(d) Applicants for innovative designs are encouraged to consider the use of low impact
development best management practices described in chapter 30.63C SCC.
(2) Applicants proposing development activities on properties designated as Urban Center
Transit Pedestrian Village on the county’s Future Land Use Map may utilize the innovative
design provisions in this section to deviate from the requirements in Part 300. Such deviations
may include, but are not limited to provisions related to avoidance of impacts, standard buffer
widths, allowed uses in buffers and wetlands, mitigation ratios and use of off-site mitigation. The
applicant shall demonstrate in a critical area study required pursuant to SCC 30.62A.140:
(a) Why the deviation is necessary to implement the policies in the county’s comprehensive
plan General Policy Plan under objective LU 3.B; and
(b) How the innovative development design achieves protection at least equivalent to the
application of the functions and values of the critical area(s) which would be obtained by
applying the standard prescriptive measures contained in Part 300.

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

30.62A.410 Purpose.
This Part establishes standards and requirements for the protection of critical species, which
includes:
(1) Species listed as threatened or endangered under RCW 77.12.020 and Title 16 United States
Code;
(2) Species of local importance designated under SCC 30.62A.470; and
(3) The following Washington State listed sensitive species:
   (a) Larch mountain salamander;
   (b) Common loon;
   (c) Peregrine falcon;
   (d) Olympic mudminnow;
   (e) Pygmy whitefish; (and)
   (f) Gray whale((s));
   (g) Bald eagle; and
   (h) Margined sculpin.

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

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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)
30.62A.430 Administrative rules authorized.

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

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

30.62A.510 Minor development activity exceptions.

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

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

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

(a) Normal maintenance and repair that does not expand the footprint of existing:
   (i) improved public and private road rights-of-way,
   (ii) utility corridors,
   (iii) trails,
   (iv) utility facilities,
   (v) flood protection and bank stabilization structures,
   (vi) stormwater facilities; and
   (vii) structures;
(b) Minor replacement, modification, extension, installation, or construction by a utility purveyor in an improved public road right-of-way;
(c) Survey or monument placement;
(d) Minor replacement or modification of existing facilities by a utility purveyor in an improved utility corridor;
(e) Minor replacement or modification by a utility purveyor of individual utility service lines connecting to a utility distribution system;
(f) Minor replacement, modification, minor installation or construction in an improved road right-of-way by the county or by the holder of a current right-of-way use permit;
(g) All development activities in non-riparian Category II and III wetlands smaller than 5,000 square feet, and non-riparian Category IV wetlands smaller than 10,000 square feet, and their associated buffers;
(h) Removal of invasive weeds;
(i) Felling or topping of hazardous trees based on review by a qualified arborist;

(j) Minor replacement, modification or installation of drainage, water quality or habitat enhancement projects; 

(k) All other on-going lawfully established development activities not specifically addressed in this chapter; and

(l) Site investigative work necessary for land use application submittals pursuant to this title, such as surveys, soil borings, test pits, percolation tests, non-mechanical survey monument placement, data collection by non-mechanical means or other related activities, provided that the work is otherwise consistent with the provisions of other local, state and federal laws and regulations. Land disturbance shall be no greater than that necessary to accomplish the site investigative work and disturbed areas shall be restored to pre-disturbance conditions in one growing season.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30.62A.550 Mitigation banking and in lieu fee program.
(1) The director may approve the establishment and use of a wetland, fish and wildlife habitat conservation area or buffer mitigation bank to provide mitigation required by this chapter. The director’s approval may allow for deviations from the requirements of Parts 100 through 400 with respect to the treatment of wetlands, fish and wildlife habitat conservation areas or buffers.

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

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

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

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

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

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

(C) methods for tracking credits;

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

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

(F) professional construction oversight to ensure successful construction of the mitigation bank site;

(G) quantitative and qualitative performance standards;
(G) systematic compliance and performance monitoring to determine the
degree to which the site meets performance standards;
(H) a schedule and timeline for compliance and performance monitoring,
(I) contingency plans;
(J) methods to be used to determine the functions and values of replacement
wetlands, fish and wildlife habitat conservation area or buffers based on a watershed
analysis;
(K) provisions for assuring the funding of long-term maintenance of the bank
and performance of mitigation and monitoring requirements;
(L) a description of wetland, fish and wildlife habitat conservation area or
buffer mitigation ratios to be used and justification for these ratios based upon best
available science. Mitigation ratios will be based upon consideration of factors
including but not limited to the likelihood of success of the mitigation, the types and
quality of wetland, fish and wildlife habitat conservation areas or buffers involved,
research results, and monitoring results;
(M) the mitigation plan requirements contained in SCC 30.62A.150 and
(N) provisions for mitigation sequencing that requires at minimum that all
proposals using a mitigation bank shall have made reasonable efforts to avoid and
minimize impacts to wetlands, fish and wildlife habitat conservation areas and
buffers.
(b) The use of the mitigation bank will result in equivalent treatment of the functions and
values of the wetland, fish and wildlife habitat conservation area or buffer to offset the
impacts to critical areas functions and values on the project site such that the total net impact
will be no net loss of critical area functions and values in the watershed in which the impacts
will occur. (Proposals offering a net gain of functions and values would also be
acceptable.) For the purposes of this section, "watershed" means an area identified as a state
of Washington water resource inventory area (WRIA) under WAC 173-500-040.
(c) The creation and operation of the mitigation bank and development activity which
utilizes the wetland, fish and wildlife habitat conservation area or buffer bank, shall not
create unmitigated long term or permanent adverse impacts to the critical functions and
values of the wetlands, fish and wildlife habitat conservation areas or buffers in the sub-
drainage basin in which the impacts will occur. Critical functions and values listed at SCC
30.62A.220 are those that are important to the long-term ecological viability of the wetlands,
fish and wildlife habitat conservation areas or buffers in the sub-drainage basin.
(3) The director shall make MOAs and mitigation banking documents available for public review and comment prior to approval.
(4) In-lieu fee mitigation.
(a) The director may approve the establishment and use of a wetland, fish and wildlife
habitat conservation area or buffer mitigation in-lieu fee program to provide mitigation
required by this chapter. The director’s approval may allow for deviations from the
requirements of Parts 100 through 400 of this chapter with respect to the treatment of
wetlands, fish and wildlife habitat conservation areas or buffers.

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

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

30.62A.620 General Agricultural Standards.
Except as provided in SCC 30.62A.630, normal agricultural activities as defined in SCC
30.91A.090 or 30.91A.092, subject to this Part 600, are in compliance with this chapter when
those activities are performed in accordance with subsection (1), (2) or (3) of this section:
(1) The best management practices contained in the latest edition of the USDA Natural
Resources Conservation Service (NRCS) Field Office Technical Guide (FOTG);
(2) Other recognized best management practices for such activity that protect the functions and
values of critical areas, where the NRCS FOTG does not provide specific guidance or a best
management practice; or
(3) A farm conservation plan that includes provisions addressing critical areas protection specific
to the farm site ((approved)) recommended by the NRCS or the Snohomish conservation district
(SCD), approved by the county and signed by the landowner. Any confidential or proprietary
information contained in a farm conservation plan may be redacted prior to public disclosure.

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

30.62A.630 Special Agricultural Conditions.
(1) Notwithstanding SCC 30.62A.620, agricultural activities as defined in ((SCC
30.32B.230 or))
SCC 30.91A.090 or 30.91A.092 subject to this Part 600 that meet one or more of the following
special conditions shall comply with SCC 30.62A.630(2):
(a) Agricultural activities that require a county permit or project approval except for a flood
hazard permit required pursuant to chapter 30.43C SCC;
(b) In certain special flood hazard areas designated by the Federal Emergency Management
Agency (FEMA) as specified in SCC 30.65.040, the construction of agricultural access or
service roads greater than six inches average and twelve inches maximum height above
grade;
(c) Agricultural activities that occur in a wetland, except where:
(i) The activity is exempt from wetland regulation under Section 404(f) of the federal
Clean Water Act;
(ii) The activity is occurring in a non-riparian Category II or III wetland that is no
greater than 5,000 square feet in size; or
(iii) The activity is occurring in a non-riparian Category IV wetland that is no greater
than 10,000 square feet in size; and
(d) Agricultural activities that bring land into agricultural use by removal of native woody
vegetation or alteration of surface or ground water flows, other than that which results from
normal cultivation.

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(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)
(2) The agricultural activities listed in SCC 30.62A.630(1) are in compliance with this chapter when those activities are performed as follows:
   (a) The activity complies with Parts 000 through 500 of this chapter;
   (b) The activity is done in compliance with a farm conservation plan, as described in SCC 30.62A.620(3); or
   (c) The director issues a written decision finding that the landowner’s compliance with other state or federal regulations or permits provides sufficient protection on the site to satisfy related critical areas requirements of this chapter.

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

30.62A.640 Farm conservation plans and best management practices.
(1) Farm conservation plans and best management practices described in SCC 30.62A.620 are subject to the approval of the county.
(2) Farm conservation plans and best management practices shall:
   (a) Specify when implementation will occur relative to project construction;
   (b) Include provisions for monitoring and maintenance on a long term basis to determine whether the practices are successful. The length of time for monitoring and maintenance should be sufficient to determine if performance standards have been achieved; and
   (c) Include provisions on a form approved by the department for the right to entry to the county for the purpose of inspection for the length of the monitoring and maintenance period. Prior to a site inspection the county shall provide reasonable notice to the property owner as to the purpose and need for entry.
(3) The county and/or the farm operator shall monitor and report farm plan implementation and compliance provided in the farm plan. The farm plan should include periodic inspections by the county for the first two years after permit issuance or self-assessment and certification by the operator, or by other appropriate means thereafter as determined by the county.
(4) Agricultural operations shall cease to be in compliance with this chapter when the department determines one of the following three conditions is met. In such an event, a new or revised farm conservation plan may be required or the noncompliance may be referred to the appropriate agency for enforcement:
   (a) The operator fails to implement and maintain the farm plans and/or best management practices;
   (b) It has been determined by the county that the farm conservation plan and/or best management practices fails to protect critical areas. If so a new or revised plan shall be required; or
   (c) Substantial changes in the agricultural activities of the operation have occurred which render the current plan ineffective.
(5) The county shall only retain summary information of that portion of the plan needed for permit approval, including the general location of the operation, the nature of the activity, required permits and specific best management practices. The summary information shall be supplied to the county by the operator and used to document the basis for the county’s approval.
of the plan. Any confidential or proprietary information contained in a farm conservation plan may be redacted prior to public disclosure.

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

30.62A.730 Monitoring and adaptive management program - reporting.

(((1) Starting in December, 2008, and each year following,)) One year prior to the GMA (RCW 36.70A.130) required review and update of the county’s critical area regulations, the executive shall report to the council on the monitoring and adaptive management program, using best available science, and provide data and conclusions regarding the effectiveness of the county in achieving no net loss of critical area functions and values. If net loss is detected, using scientifically valid techniques, the executive shall report and recommend strategies for adaptive management.

(((2) At any point when the monitoring program identifies a significant decline in functions and values of a critical area or areas, the executive shall provide a report to the council as required in SCC 30.62A.730(1).))

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

30.62B.010 Purpose and applicability.

(1) The purpose of this chapter is to provide regulations for the protection of public safety, health and welfare pursuant to the Growth Management Act (chapter 36.70A RCW), in geologically hazardous areas, including: erosion hazard, landslide hazard, seismic hazard, mine hazard, volcanic hazard, and tsunami hazard areas.

(2) This chapter applies to:

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

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

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

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

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

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

(A) septic tanks and drainfields;

(B) wells;

(C) individual utility service connections; and

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

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

(vii) Nonmechanical survey and monument placement;

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

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

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

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

30.62B.130 Submittal requirements. For any development activity or action requiring a project permit, the applicant shall submit a site development plan drawn to a standard engineering scale which includes:
(1) Boundary lines and dimensions of the subject property;
(2) Boundary lines and dimensions of the site;
(3) Topography at contour intervals of five feet unless the underlying project permit requires a lesser interval;
(4) Location, size, and type of any existing structures, cleared areas or other improvements (and other existing developed areas);
(5) Location, size and type of all proposed development activities, activities subject to project permits and clearing (structures and development activity on the site);
(6) Location of all geologically hazardous areas on and within 200 feet of the site, to the extent possible;
(7) Location of all other critical areas regulated pursuant to chapters 30.62A, 30.62C and 30.65 SCC on and within (200) 300 feet of the site; and
(8) Location of structure setbacks as required in (SCC 30.62A.320(1)(d)) chapter 30.62A SCC, SCC 30.62B.340(2) and chapter 30.23 SCC.

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

30.62B.140 Geotechnical report requirements.
(1) A geotechnical report will be required for any development activity, action requiring a project permit or clearing proposed within:
(a) An erosion hazard area;
(b) A landslide hazard area (or its setback);
(c) Two hundred feet of a mine hazard area; or
(d) Two hundred feet of any faults.

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

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

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

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

(1) Critical area site plan.

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

(b) A critical area site plan is any site 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: ((The critical area site plan shall be drawn to a standard engineering scale and include at 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 of the geologically hazardous area(s), identified by hazard type; and

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

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

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

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

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

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

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

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

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

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

   (i) A description of the property condition making this subsection SCC 30.62B.160(4) applicable;
   (ii) A statement that the owner(s) of the property understands and accepts the responsibility for the risks associated with development on the property given the described condition, and agrees to inform future purchasers and other successors and assignees of the risks;
   (iii) The application date, type and number of the permit or approval for which the covenant is required and a description of any future development activities that the owner(s) chooses to include in the covenant;
   (iv) A waiver and release of any right to assert claims against the county arising out of the issuance of any permit or approval by the county for development or alteration of the property, except for such losses that directly result from the sole negligence of the county; and
   (v) An abstract of the geotechnical report prepared pursuant to SCC 30.62B.140(3).

(((4))) (5) Previously approved critical area site plans.

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

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

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

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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)
30.62B.320 General standards and requirements for erosion and landslide hazard areas.
(1) Any development activity, action requiring a project permit or clearing occurring in an
erosion or landslide hazard area:
   (a) Shall be designed to:
      (i) Comply with the requirements in an approved geotechnical report when required
          pursuant to SCC 30.62B.140;
      (ii) Utilize best management practices (BMPs) adopted by the department pursuant to
          chapter 30.63A SCC and all known and available reasonable technology (AKART)
          appropriate for compliance with this chapter;
      (iii) Prevent collection, concentration or discharge of stormwater or groundwater within
          an erosion or landslide hazard area, except as otherwise provided in this chapter;
      (iv) Minimize impervious surfaces and retain vegetation to minimize risk of erosion or
          landslide hazards; and
   (b) Shall not:
      (i) result in increased risk of property damage, death or injury;
      (ii) cause or increase erosion or landslide hazard risk;
      (iii) increase surface water discharge, sedimentation, slope instability, erosion or
           landslide potential to adjacent or downstream and down-drift properties beyond pre-
           development conditions; or
      (iv) adversely impact wetlands, fish and wildlife habitat conservation areas or their
           buffers.
(2) For shoreline and bank stabilization and flood protection measures proposed in erosion or
    landslide hazard areas, the project proponent shall make all reasonable efforts to avoid and
    minimize impacts to wetlands and fish and wildlife habitat conservation areas and their buffers
    pursuant to the requirements of(( chapter)) chapters 30.62A SCC and 30.67 SCC, in the
    following sequential order of preference:
    (a) Utilize setbacks sufficient to ensure that shoreline stabilization or flood hazard reduction
        measures will not be necessary to protect development for its projected design life, or;
    (b) When sufficient setbacks are not possible, utilize other non-structural measures unless
        the applicant demonstrates through a geotechnical report required pursuant to SCC
        30.62B.120 that new or enlarged structural stabilization or flood protection is necessary to
        protect:
            (i) existing primary structures, water dependent structures and facilities, utilities, roads
                and bridges;
            (ii) new utilities or public bridges and transportation structures allowed pursuant to
                30.62B.330(3);
            (iii) agricultural land; or
            (iv) projects where the sole purpose is to protect or restore wetlands, fish and wildlife
                habitat conservation areas or their buffers.

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

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)
30.62B.330 Erosion hazard areas - Channel migration zones.

(1) This section establishes specific standards and requirements for development activities, actions requiring a project permit or clearing in channel migration zones adjacent to the following rivers:

<table>
<thead>
<tr>
<th>River Name</th>
<th>River Sections (mi)</th>
</tr>
</thead>
<tbody>
<tr>
<td>North Fork Skykomish</td>
<td>0.00 - 8.64</td>
</tr>
<tr>
<td>North Fork Stillaguamish</td>
<td>0.00 - 35.18</td>
</tr>
<tr>
<td>Pilchuck Creek</td>
<td>0.00 - 6.96</td>
</tr>
<tr>
<td>Pilchuck River</td>
<td>0.00 - 36.17</td>
</tr>
<tr>
<td>Sauk River</td>
<td>All</td>
</tr>
<tr>
<td>Skykomish River</td>
<td>0.00 - 29.15</td>
</tr>
<tr>
<td>Snohomish River &amp; Sloughs</td>
<td>All</td>
</tr>
<tr>
<td>Snoqualmie River</td>
<td>0.00 - 5.41</td>
</tr>
<tr>
<td>South Fork Skykomish</td>
<td>0.00 - 6.71</td>
</tr>
<tr>
<td>South Fork Stillaguamish</td>
<td>0.00 - 43.07</td>
</tr>
<tr>
<td>Stillaguamish River &amp; Sloughs</td>
<td>All</td>
</tr>
<tr>
<td>Sultan River</td>
<td>0.00 - 7.64</td>
</tr>
<tr>
<td>Wallace River</td>
<td>0.00 - 7.71</td>
</tr>
</tbody>
</table>

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

(a) The study shall be conducted in accordance with Section 2 of the Forest Practices Board Manual (Title 222 WAC), Standard Methods for Identifying Bankfull Channel Features and Channel Migration Zones, November, 2004, except that areas behind natural or manmade features which limit channel migration that allow fish passage shall not be included in the channel migration zone;

(b) The study shall be performed under the direction of a qualified professional with experience in fluvial geomorphology or river hydraulics;

(c) The study shall contain the following:

(i) a determination of the presence of channel migration, and if present, the delineation of the channel migration zone;

(ii) an analysis of the impacts of potential channel migration on the proposed development activity; and

(iii) an analysis of the impacts of the proposed development activity on the channel migration zone.

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

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

(i) removal of hazardous trees;

(ii) new utility facilities based on the following requirements:

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

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

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

(iv) boat ramps;

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

 (((B)) (vi) shoreline and bank stabilization and flood protection measures pursuant to the general requirements contained SCC 30.62B.320(2)((i)) ;

 (vii) habitat restoration and enhancement projects; and

 (viii) mitigation banks.

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

30.62B.340 Landslide hazard areas.

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

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

 (a) Setbacks shall be established as follows:

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

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

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

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

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

 (ii) a geotechnical report demonstrates that:

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

 (B) the proposal meets the requirements of SCC 30.62B.320(2))

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

(a) There is no alternate location for the structure on the subject property; and

(b) A geotechnical report demonstrates that building within a landslide hazardous area:
   (i) will provide protection commensurate to being located outside of the landslide hazard area; and
   (ii) the proposal meets the requirements of SCC 30.62B.320.

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

(a) Vegetation shall not be removed from a landslide hazard area, except for hazardous trees based on review by a qualified arborist or as otherwise provided for in a vegetation management and restoration plan;

(b) The factor of safety for landslide occurrences shall not be decreased below the limits of 1.5 for static conditions or 1.1 for dynamic conditions. Analysis of dynamic conditions shall be based on horizontal acceleration as established by the current version of the International Building Code;

(c) Tiered piles or piers shall be used for structural foundations where possible to conform to existing topography;

(d) Retaining walls that allow for the maintenance of existing natural slope area shall be used wherever possible instead of graded artificial slopes;

(e) Provided there is no practical alternative, utility lines and pipes may be constructed in landslide hazard areas under the following conditions:
   (i) the line or pipe shall be located above ground and properly anchored or designed so that it will continue to function in the event of an underlying slide; and
   (ii) stormwater conveyance systems shall be designed with high-density polyethylene pipe with fuse-welded joints, or similar product that is technically equivalent; or
   (iii) alternatively, utilities may be bored below landslide hazard areas provided they are located beneath the depth of potential slope failure.

(f) Point source discharge of stormwater may be allowed in landslide hazard areas under the following conditions:
   (i) the stormwater is conveyed via continuous storm pipe downslope to a point where it does not increase risk to landslide hazard areas or other properties downstream from the discharge;
   (ii) the stormwater is discharged at flow durations matching predeveloped conditions with adequate energy dissipation into existing channels; or
   (iii) discharge upslope of the landslide hazard area may only occur if:
      (A) it is dispersed onto a low-gradient undisturbed setback adequate to infiltrate all surface and stormwater runoff; and
      (B) the discharge will not decrease the stability of the slope.
Section 35. A new section is added to Chapter 30.62B of the Snohomish County Code to read:

30.62B.390 Authority to require more stringent standards and requirements and to impose mitigation.
(1) The director may expand the boundary of a geologically hazardous area, impose additional or more stringent standards and requirements than those specified in this chapter or impose mitigation requirements to the extent necessary to:
   (a) Protect the public health, safety, and welfare; or
   (b) Mitigate any significant adverse impact from the proposed development activity.
(2) The director’s decision under SCC 30.62B.390(1) shall be in writing and shall include findings that demonstrate how the decision meets the following criteria:
   (a) The decision eliminates or substantially reduces a specific public health, safety or welfare concern or a significant adverse impact; and
   (b) The decision is based on sound engineering practices.

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

30.62B.520 General Agricultural Standards.
Except as provided in SCC 30.62B.530, normal agricultural activities as defined in SCC (30.32B.230 or) 30.91A.090 or 30.91A.092 subject to this Part 500 are in compliance with this chapter when those activities are performed in accordance with (1), (2) or (3) below:
(1) The best management practices contained in the latest edition of the USDA Natural Resources Conservation Service (NRCS) Field Office Technical Guide (FOTG);
(2) Other recognized best management practices for such activity that protect the functions and values of critical areas, where the NRCS FOTG does not provide specific guidance or a best management practice; or
(3) A farm conservation plan that includes provisions addressing critical areas protection specific to the farm site (approved) recommended by the NRCS or the Snohomish conservation district (SCD), approved by the county and signed by the landowner. Any confidential or proprietary information contained in a farm conservation plan may be redacted prior to public disclosure.

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

30.62B.530 Special Agricultural Conditions.
(1) Notwithstanding SCC 30.62B.520, agricultural activities as defined in (SCC 30.32B.230 or) SCC 30.91A.090 or 30.91A.092 subject to this Part 500 that meet one or more of the following special conditions shall comply with SCC 30.62B.530(2):
   (a) Agricultural activities that require a county permit or project approval except for a flood hazard permit required pursuant to chapter 30.43C SCC.
(b) In certain special flood hazard areas designated by the Federal Emergency Management Agency (FEMA) as specified in SCC 30.65.040, the construction of agricultural access or service roads greater than six inches average and twelve inches maximum height above grade;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) The operator fails to implement and maintain the farm plans and/or best management practices;
(b) it has been demonstrated by the county that the farm conservation plan and/or best management practices fails to protect critical areas. If so a new or revised plan shall be required; or
(c) Substantial changes in the agricultural activities of the operation have occurred which demonstrate that the current plan is ineffective.

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

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

30.62C.010 Purpose and applicability.
(1) The purpose of this chapter is to designate and protect critical aquifer recharge areas pursuant to the Growth Management Act (chapter 36.70A RCW) in order to safeguard the public health, safety, and welfare and to protect groundwater resources. Critical aquifer recharge areas include: sole source aquifers, Group A wellhead protection areas and areas sensitive to groundwater contamination.

(2) This chapter applies to:
(a) development activities and actions requiring projects permits;
(b) agricultural activities as defined in SCC 30.91A.090 or SCC 30.91A.092 where critical aquifer recharge areas are present on the site; ((except that certain agricultural activities as defined in SCC 30.64.010 occurring on rural and agricultural resource lands are exempt from this chapter and are subject only to chapter 30.64 SCC)) and
(c) other activities or uses that have the potential to harm water quality or quantity within critical aquifers recharge areas.

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

30.62C.130 Submittal requirements.
(1) For any development activity or action requiring a project permit ((When a project permit is required for any development activity or action subject to this chapter)), the applicant shall submit a site development plan drawn to a standard engineering scale which includes:
(a) Boundary lines and dimensions of the subject property;
(b) Boundary lines and dimensions of the site;
(c) Topography at contour intervals of five feet unless the underlying project permit requires a lesser interval;

(d) Location, size, and type of any existing structures, cleared areas or other existing improvements (and other existing developed areas);

(e) Location, size and type of all proposed structures and development activities requiring project permits and clearing on the site;

(f) Location, size and type of all critical aquifer recharge areas on the subject property;

(g) Location of all other critical areas regulated pursuant to chapters 30.62A, 30.62B and 30.65 SCC on and within 200 feet of the site; and

(h) Location of structure setbacks as required in SCC 30.62A.320(1)(d)((,-SCC 30.62B.340(2))) and chapter 30.23 SCC; and

(2) A hydrogeologic report as required pursuant to SCC 30.62C.140.

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

30.62C.140 Hydrogeologic report.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 42. Snohomish County Code Section 30.62C.340, adopted by Amended Ordinance No. 06-061 on August 1, 2007, is amended to read:

30.62C.340 Uses and development activities subject to special conditions.
The following activities and uses shall be conditioned as necessary to protect critical aquifer recharge areas in accordance with the applicable state and federal regulations and recommendations from an approved hydrogeologic report required pursuant to SCC 30.62C.140.

<table>
<thead>
<tr>
<th>Activity</th>
<th>Statute - Regulation - Guidance</th>
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<tbody>
<tr>
<td>Above Ground Storage Tanks</td>
<td>Chapter 173-303-640 WAC</td>
</tr>
<tr>
<td>Animal Feedlots</td>
<td>Chapter 173-216 WAC, Chapter 173-220 WAC</td>
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<tr>
<td>Animal feeding operations/concentrated</td>
<td>Final Rule 40 CFR Parts 9, 122, 123, and 412]</td>
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<td>Activity</td>
<td>Statute - Regulation - Guidance</td>
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<td>animal feeding operations</td>
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<tr>
<td>Below Ground Storage Tanks</td>
<td>Chapter 173-360 WAC, Chapter 90.76 RCW, RCW 43.131.394</td>
</tr>
<tr>
<td>Chemical Treatment Storage and Disposal Facilities</td>
<td>((Chapter 173-303-182-WAC)) Chapter 173-303 WAC</td>
</tr>
<tr>
<td>Dangerous waste</td>
<td>Chapter 70.105 RCW, chapter 173-303 WAC, Snohomish Health District Sanitary Code ((chapter 3.5)) and ((chapter 7.53.070-SCC)) SCC 7.53.070</td>
</tr>
<tr>
<td>Injection Wells</td>
<td>Federal 40 CFR Parts 144 and 146, Chapter 173-218 WAC</td>
</tr>
<tr>
<td>On-Site Sewage Systems (Large Scale &gt; 3,500 gal/day)</td>
<td>Chapter 173-240 WAC, Chapter 246-272 WAC, Chapter 246-272B WAC, Local Health Ordinances</td>
</tr>
<tr>
<td>A single or multiple small on-site sewage systems with a combined design volume of greater than 3,500 gal/day</td>
<td>Chapter 246-272 WAC, Chapter 246-272A WAC, Local Health Ordinances</td>
</tr>
<tr>
<td>Pesticide and Fertilizer Storage and Use</td>
<td>Chapter 15.54 RCW, Chapter 17.21 RCW</td>
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<tr>
<td>Reclaimed water for groundwater recharge</td>
<td>Chapter 90.46 RCW</td>
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<tr>
<td>Solid Waste Handling and Recycling Facilities</td>
<td>Chapter 173-304 WAC</td>
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</table>

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<tr>
<th>Activity</th>
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<tr>
<td>Surface Mining</td>
<td>Chapter 332-18 WAC</td>
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</table>

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:

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

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

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

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

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

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

PASSED this 2nd day of September, 2015.

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

[Signature]

Dave Somers, Chairperson

ATTEST:

[Signature]
Debbie Eco
Clerk of the Council
AMENDED ORDINANCE NO. 15-034
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