

**EXHIBIT 'A' TO ORDINANCE 2572
AMENDMENTS TO EMC 19.02 CRITICAL AREAS REGULATIONS**

The City Council hereby amends EMC Chapters 19.02.020; 19.02.030; 19.02.060; 19.02.190; 19.02.230 and 19.02.260 as follows:

1) EMC Section 19.02.020 Applicability, Regulated Activities, and Exempt Activities is hereby amended to read as follows (underlined text is added, struck-out text is deleted):

19.02.020 Applicability, Regulated Activities, and Exempt Activities

A. All regulated activities shall be subject to the provisions of this chapter, except those activities that occur within shoreline jurisdiction. When critical areas occur within shoreline jurisdiction, the critical areas regulations within the city of Enumclaw shoreline master program, Chapter 15.36 EMC, shall apply. The provisions of this chapter shall apply to all lands, all land uses, and development activities, and all structures and facilities in the city, whether or not a permit or authorization is required, and shall apply to every person, firm, partnership, corporation, group, governmental agency, or other entity that owns, leases, or administers land within the city. No person, company, agency, or applicant shall alter a critical area or its associated buffer except as consistent with the purposes and requirements of this chapter and as authorized by the administrator.

1. Regulated Activities. Regulated activities include, but are not limited to, development clearing (vegetation), draining, dredging, dumping or stockpiling (native or nonnative organic or inorganic materials), excavating, filling, flooding, grading, harvesting, obstructing, pile driving, or shading (with human-made structures) within critical areas and their associated buffers.

2. The city shall not approve any permit or otherwise issue any authorization to alter the condition of any land, water, or vegetation, for development within areas of special flood hazard or to construct or alter any structure or improvement in, over, or on a critical area or associated buffer, without first ensuring compliance with the requirements of this chapter, including, but not limited to, the following:

- a. Building permit;
- b. Clearing and grading permit;
- c. Forest practices permit;
- d. Conditional use permit;
- e. Shoreline conditional use permit;
- f. Shoreline substantial development permit;
- g. Shoreline exemption;

- h. Shoreline variance;
- i. Short subdivision;
- j. Subdivision;
- k. Planned unit development;
- l. Binding site plan;
- m. Zoning variance;
- n. Zoning code amendment; or
- o. Flood development permit; or
- p. Any other adopted permit or required approval not expressly exempted by this chapter.

3. Approval of a permit or development proposal pursuant to the provisions of this chapter does not discharge the obligation of the applicant to comply with the provisions of this chapter.

4. The city shall not grant any approval or permission to conduct a regulated activity in a critical area unless the activity is in compliance with this chapter or unless the activity is expressly exempted by this chapter.

5. Many state, federal and regional regulations apply to projects conducted within critical areas. Uses and development otherwise allowed by this Chapter do not eliminate other agency regulatory requirements nor the obligation of the applicant to comply with other federal, state and regional regulations.

B. Exempt Activities. The following exemptions do not apply when conducted within shoreline jurisdiction as defined by city of Enumclaw shoreline master program, Chapter 15.36 EMC or if defined as "Development" within Areas of Special Flood Hazard. With the approval of the administrator (director of community development), the uses listed below, ~~when conducted outside of shoreline jurisdiction as defined by city of Enumclaw shoreline master program, Chapter 15.36 EMC,~~ shall be exempt from the provisions of this chapter and are allowed within a critical area to the extent that the uses are consistent with the provisions of other applicable local, state, and federal laws, regulations and requirements and are not prohibited by any other chapter or law; and provided they are conducted using best management practices, except where such activities result in the conversion of a critical area to a use to which it was not previously subjected; and provided further, that forest practices and conversions shall be governed by current state regulations.

All exempted activities shall use reasonable methods to avoid potential impacts to critical areas. By finding that an activity proposed within a critical area or its associated buffer is exempt from the provisions of this chapter, the administrator is not granting permission to degrade a critical area or ignore risk from natural hazards. Any incidental damage to, or alteration of, a critical area that is not a necessary outcome of the exempted activity shall be restored, rehabilitated, or replaced at the responsible party's expense.

The following are exempt activities or allowable uses:

1. Conservation or preservation of soil, water, vegetation, fish, shellfish, and other wildlife including activities undertaken for purposes of habitat enhancement that is part of an enhancement project which has received prior written approval from the city and any other agency with jurisdiction over such activity;
2. Outdoor recreational activities, including fishing, bird watching, hiking, boating, horseback riding, swimming, canoeing, and bicycling;
3. The harvesting of wild crops in a manner that is not injurious to natural reproduction of such crops and provided the harvesting does not require tilling of soil, planting of crops, or alteration of the wetland by changing existing topography, water conditions or water sources;
4. Existing and ongoing agricultural activities including farming, horticulture, aquaculture, irrigation, ranching or grazing of animals.
 - a. Cessation of agricultural activities on an area that was previously farmed to allow that area to lie fallow as part of a conventional, rotational cycle (or for any other regular or normal farming practice) is considered to be part of an ongoing agricultural operation and is not to be considered as a cessation of farming or as a change in land use.
 - b. Cessation of farming activities in response to government programs designed to control commodity production shall not be considered a permanent cessation of farming activity or a change in land use unless the land is left fallow or unfarmed for a period of seven years beyond the termination of the government program. Farming activities can resume after seven or more years, but the administrator has the authority to impose new critical areas regulations on all land use activities initiated at the end of the seven-year period and beyond.
 - c. Cessation of farming activities in response to market conditions or economic irregularities adversely impacting farming activities will not be considered a cessation of farming activities or a change in land use unless the land is left fallow or unfarmed for a period of five years or longer. Farming activities can resume after five or more years, but the administrator has the authority to impose new critical areas regulations on all land use activities initiated at the end of the seven-year period and beyond.
 - d. Activities undertaken to bring an area back into agricultural use and production following a period of nonfarm use may not be considered, in the judgment of the administrator, part of an ongoing operation. As a result, such activities may not be exempt from the provisions of this chapter.
 - e. An operation ceases to be ongoing when the area on which it was conducted has been converted to another use or has lain idle so long that modifications to the hydrological regime are necessary to resume operations;
5. The maintenance (but not construction) of drainage ditches;

6. Education, scientific research, and use of nature trails;
7. Navigation aids, boundary markers, and boat mooring buoys;
8. Site investigative work necessary for land use application submittals such as surveys, soil logs, percolation tests and other related activities. In every case, impacts shall be minimized and disturbed areas shall be immediately restored;
9. Emergency repair or construction activities or vegetation harvesting (mowing) that the city determines to be necessary to protect the health, safety, or welfare of area residents. Upon abatement of the emergency situation the new construction shall be removed or any permit which would have been required, obtained;-
10. Normal maintenance, or operation of existing serviceable structures, facilities, or improved areas. Maintenance and repair does not include any modification that changes the character, scope, or size of the original structure, facility, or improved area and does not include the construction of a maintenance road;
11. Public and private pedestrian trails, except in wetlands, subject to the following:
 - a. The trail surface shall meet all other requirements including water quality standards set forth in the city's applicable storm water management regulations;
 - b. Whenever possible the trail surface should be comprised of materials that allow the maximum amount of storm water runoff infiltration;
 - c. When required by the administrator trails within nonwetland critical areas and/or their associated buffers, total widths of the buffers where the trail is located shall be increased, where possible, to a width equal to the width of the trail corridor, including disturbed areas; plus the originally prescribed wetland buffer width;
 - d. Trails proposed to be located in landslide or erosion hazard areas shall be constructed in a manner that does not increase the risk of landslide or erosion and in accordance with an approved geotechnical report; and
 - e. Trails may be allowed in wetlands if the administrator can demonstrate that the public education benefits are greater than the detrimental effects of the wetland impacts associated with the construction, maintenance, and long-term operation of the trail. The impacts of administrator-approved trail installation, public or private, shall be mitigated by the project proponent. Mitigation efforts may include unconventional mitigation activities such as:
 - (1) Purchase and installation of educational/interpretive signage within the wetland and the adjacent buffer;
 - (2) Purchase of materials and construction of unobtrusive viewing platforms and/or blinds; and

(3) Purchase of materials and installation of habitat features such as duck boxes, goose platforms, large woody debris to be installed as downed logs or snags, or native animal species to augment or increase species diversity;

12. The following vegetation removal activities; provided, that no vegetation shall be removed from a critical area or its buffer without approval from the administrator, are allowed:

a. The removal of the following vegetation with hand labor and light equipment:

- (1) Invasive and noxious weeds;
- (2) English Ivy (*Hedera helix*);
- (3) Himalayan blackberry (*Rubus discolor*, *R. procerus*); and
- (4) Evergreen blackberry (*Rubus laciniatus*);

b. The removal of trees from critical areas and buffers that are hazardous, posing a threat to public safety, or posing an imminent risk of damage to private property; provided, that:

- (1) The applicant submits a report from a certified arborist, registered landscape architect, or professional forester that documents the hazard and provides a replanting schedule for the replacement trees;
- (2) Tree cutting shall be limited to pruning and crown thinning, unless otherwise justified by a qualified professional. Where pruning or crown thinning is not sufficient to address the hazard, trees should be removed or converted to wildlife snags;
- (3) All vegetation cut (tree stems, branches, etc.) shall be left within the critical area or buffer unless removal is warranted due to the potential for disease or pest transmittal to other healthy vegetation;
- (4) Unless otherwise directed by the administrator, the landowner shall replace any significant trees that are removed as part of an approved land use or development project with new trees at a ratio of two replacement trees for each tree removed (2:1) within one year in accordance with an approved restoration plan.

(a) Significant trees are conifer species greater than six inches in diameter at breast height (dbh) and deciduous species greater than eight inches dbh.

(b) Replacement trees may be planted at a different, but nearby, location than the trees that were removed if it can be determined that planting in the same location would create a new hazard or potentially damage the critical area.

(c) Unless otherwise directed by the administrator, tree species removed will be replaced with the same species.

(d) Replacement trees shall be species that are native and indigenous to the site and a minimum of one inch in diameter at breast height (dbh) for deciduous trees and a minimum of six feet in height for evergreen trees as measured from the top of the root ball;

(5) If a tree to be removed provides critical habitat, such as an eagle perch, a qualified wildlife biologist shall be consulted to determine timing and methods of removal that will minimize impacts; and

(6) Hazard trees determined to pose an imminent threat or danger to public health or safety, to public or private property, or of serious environmental degradation may be removed or pruned by the landowner prior to receiving written approval from the city; provided, that within 14 days following such action, the landowner shall submit a restoration plan that demonstrates compliance with the provisions of this title;

c. Measures to control a fire or halt the spread of disease or damaging insects consistent with the State Forest Practices Act, Chapter [76.09](#) RCW, and any applicable city code sections; provided, that the removed vegetation shall be replaced in-kind or with similar native species within one year in accordance with an approved restoration plan; and

d. Unless otherwise provided, or as a necessary part of an approved alteration, removal of any vegetation or woody debris from a habitat conservation area or wetland shall be prohibited;

13. The application of herbicides, pesticides, organic or mineral-derived fertilizers, or other hazardous substances, if necessary, as approved by the administrator; provided, that their use shall be restricted in accordance with State Department of Fish and Wildlife Management recommendations and the regulations of the State Department of Agriculture and the U.S. Environmental Protection Agency; and

14. Utility projects which have minor or short-duration impacts to critical areas, as determined by the administrator in accordance with the criteria below, and which do not significantly impact the function or values of a critical area(s); provided, that such projects are constructed with best management practices and additional restoration measures are provided. Minor activities shall not result in the transport of sediment or increased storm water. Such allowed minor utility projects shall meet the following criteria:

a. There is no practical alternative to the proposed activity with less impact on critical areas;

b. The activity involves the placement of a utility pole, street signs, anchor, or vault or other small component of a utility facility; and

c. The activity involves disturbance of an area less than 75 square feet.

C. Exemption Request and Review Process. The proponent of the activity that is not specifically listed above may submit a written request for exemption to the administrator that describes the activity and states the exemption listed in subsection B of this section that may apply.

The administrator shall review the exemption request to verify that it complies with this title and approve or deny the exemption. If the exemption is approved, it shall be placed on file with the administrator. If the exemption is denied, the proponent may continue in the review process and shall be subject to the requirements of this chapter.

D. This chapter is to be administered with flexibility and attention to site-specific characteristics. It is not the intent of this chapter to make a parcel of property unusable by denying its owner reasonable economic use of the property that would otherwise be allowed under the current code and would be consistent with other allowable uses.

E. It is not the intent of this chapter to prevent the provision of public facilities and services necessary to support existing development and planned for by the community without decreasing current service levels below minimum standards (see RCW 36.70A.020(12)).

F. The city's enactment or enforcement of this chapter shall not be construed for the benefit of any individual person or group of persons other than the general public.

G. It is not the intent of this chapter to repeal, abrogate, or impair any existing regulations, easements, covenants, or deed restrictions. Where this chapter provides more protection to critical areas, however, the provisions of this chapter shall prevail unless specifically provided otherwise in this chapter. (Ord. 2509 § 4 (Exh. C), 2012; Ord. 2293 § 2 (Exh. A), 2005).

2) EMC Section 19.02.030 Exceptions is hereby amended to read as follows (underlined text is added, struck-out text is deleted):

19.02.030 Exceptions

A. Exception – Subdivisions with Substantial Completion of Infrastructure. A building permit application shall not be denied under this chapter if there has been substantial completion of the infrastructure of the plat within which the subject property of the permit is specifically located; however, a floodplain development permit is required, and the completed infrastructure cannot adversely impact critical area habitat or endangered species. A determination of substantial completion shall be based on the administrator's assessment of existing constructed infrastructure such as streets, utilities, and drainage improvements.

1. Typically "substantial completion" means the amount of construction within a particular project area has impacted critical areas to the maximum extent that would be attributable to the project actions and on-site mitigation is neither economically nor ecologically viable.

2. The administrator will confer with the city manager, the city's risk management specialist, and the city attorney regarding the consequences of a decision to deny a building permit for a project with a valid clearing and grading permit, approved site plans, and an authorization to proceed with construction.

B. Exception – Reasonable Use. Reasonable Use exceptions do not apply within shoreline jurisdiction or within areas of special flood hazard.

1. If the application of this chapter would deny all reasonable economic use of the subject property, the city shall determine if compensation is an appropriate action, or the property owner may apply for an exception pursuant to this section.

2. Exception Request and Review Process. An application for a reasonable use exception shall be made to the city and shall include a critical area identification form; critical areas report, including mitigation plan, if necessary; and any other related project documents, such as permit applications to other agencies, special studies, and environmental documents prepared pursuant to the State Environmental Policy Act (Chapter [43.21C](#) RCW). The administrator shall prepare a recommendation to the city council based on review of the submitted information, a site inspection, and the proposal's ability to comply with reasonable use exception criteria in subsection (B)(4) of this section.

3. City Council Review. The city council may elect to review an application for reasonable use and may elect to conduct a public hearing pursuant to the provisions of the applicable city code section(s). The city council may approve, approve with conditions, or deny a reasonable use exception request based on the proposal's ability or lack of ability to comply with all of the reasonable use exception review criteria in subsection (B)(4) of this section.

4. Reasonable Use Review Criteria. Criteria for review and approval of reasonable use exceptions follow; one or more may apply:

a. The application of this chapter would deny all reasonable economic use of the property;

b. No other reasonable economic use of the property has less impact on the critical area;

c. The proposed impact to the critical area is the minimum necessary to allow for reasonable economic use of the property;

d. The inability of the applicant to derive reasonable economic use of the property is not the result of actions by the applicant after the effective date of the ordinance codified in this chapter, or its predecessor;

e. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;

f. The proposal will result in no net loss of critical area functions and values consistent with the best available science; or

g. The proposal is consistent with other applicable regulations and standards.

5. Burden of Proof. The burden of proof shall be on the applicant to bring forth evidence in support of the application and to provide sufficient information on which any decision has to be made on the application.

C. Exception – Public Agency and Utility.

1. If the application of this chapter would prohibit a development proposal by a public agency or public utility, the agency or utility may apply for an exception pursuant to this section.

2. Exception Request and Review Process. An application for a public agency and utility exception shall be made to the city and shall include a critical area identification form; critical areas report, including mitigation plan, if necessary; and any other related project documents, such as permit applications to other agencies, special studies, and environmental documents prepared pursuant to the State Environmental Policy Act (Chapter 43.21C RCW). The director shall prepare a recommendation to the city council based on review of the submitted information, a site inspection, and the proposal's ability to comply with public agency and utility exception review criteria in subsection (C)(4) of this section.

3. City Council Review. The city council shall review the public agency exception application and administrator's recommendation. Following that review, the city council may elect to conduct a public hearing pursuant to the provisions of the applicable city code section. The city council shall approve, approve with conditions, or deny the public agency exception request based on the proposal's ability or lack of ability to comply with all of the public agency and utility exception criteria in subsection (C)(4) of this section.

4. Public Agency and Utility Review Criteria. The criteria for review and approval of public agency and utility exceptions follow:

a. There is no other practical alternative to the proposed development with less impact on the critical areas;

b. The application of this chapter would unreasonably restrict the ability to provide utility services to the public;

c. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;

d. The proposal attempts to protect and mitigate impacts to the critical area functions and values consistent with the best available science; and

e. The proposal is consistent with other applicable regulations and standards.

5. Burden of Proof. The burden of proof shall be on the applicant to bring forth evidence in support of the application and to provide sufficient information on which any decision has to be made on the application. (Ord. 2293 § 2 (Exh. A), 2005).

3) EMC section 19.02.060 Frequently Flooded Areas is hereby amended to read as follows (underlined text is added, struck-out text is deleted):

19.02.060 Frequently Flood Areas

A. Finding of Fact. The city finds that frequently flooded areas provide a variety of valuable and beneficial physical functions that benefit the city and its residents, and/or may pose a threat to human safety or to public and private property. The beneficial functions and values provided by frequently flooded areas include flood storage, conveyance and attenuation of flood waters as well as channel migration zone management.

B. Technical Information.

1. Applicability. This section shall apply to all areas of special flood hazards and wetlands within the jurisdiction of the city, originally adopted as Chapter 19.04 EMC and amended as a section of this chapter.

a. Basis for Establishing the Areas of Special Flood Hazard. The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for King County Washington, and Incorporated Areas" dated April 19, 2005, and any revisions thereto, with an accompanying Flood Insurance Rate Map (FIRM), dated May 16, 1995, and any revision thereto, are hereby adopted by reference and declared to be a part of this chapter. The Flood Insurance Study and FIRMs are on file with the City Clerk, City of Enumclaw, City Hall, Enumclaw, Washington. The flood insurance study is on file with the city clerk, city of Enumclaw, City Hall, Enumclaw, Washington.

C. Administrator – Duties.

1. When base flood elevation data has not been provided in accordance with the area identified by the Federal Insurance Administration scientific and engineering report referred to above, the administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source.

~~a~~2. Where base flood elevation data is provided through the flood insurance study, or as required as in subsection A of this section, obtain and record the actual (as-built) elevation (in relation to mean sea level) of the lowest floor, including basement, of all new or substantially improved structures, and whether or not the structure contains a basement;

~~b~~3. For all new or substantially improved floodproofed nonresidential structures where base flood elevation data is provided through the FIS, FIRM, or as required in EMC 19.02.060.C.1:

i. Obtain and record actual elevation (in relation to mean sea level) to which the structure was floodproofed; and

ii. Maintain the floodproofing certifications as required in EMC 19.02.060.C.4

4. Maintain for public inspection all records pertaining to the provisions of this ordinance.

5. Interpretation of Firm Boundaries – The administrator shall make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in EMC 17.02.170.

6.e The administrator shall notify adjacent communities and the Washington State Department of Ecology prior to any alteration or relocation of a watercourse, submit evidence of such notification to the Federal Insurance Administration, and require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished. (Ord. 2293 § 2 (Exh. A), 2005).

7. Habitat Assessment – The administrator shall require a habitat assessment for all development within areas of special flood hazard (reference “Floodplain Habitat Assessment and Mitigation, Regional Guidance for the Puget Sound Basin”, FEMA Region 10, 2013 or as hereafter revised).

4) EMC section 19.02.190 Critical Area Development Standards is hereby amended to read as follows (underlined text is added, struck-out text is deleted):

19.02.190 Critical Area Development Standards

A. Special Flood Hazard Area ~~Area of Special Flood Hazard~~ – Development Standards. In all areas of special flood hazard, the following standards are required:

1. Anchoring.

a. All new construction and substantial improvement shall be anchored to prevent flotation, collapse or lateral movement of structures.

b. All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, the use of over-the-top or frame ties to ground anchor (reference FEMA-85, “Manufactured Home Installation in Flood Hazard Areas for additional techniques”).

2. Construction Materials and Methods.

a. All new construction and substantial improvement shall be constructed with materials and utility equipment resistant to flood damage.

b. All new construction and substantial improvement shall be constructed using methods and practices that minimize flood damage.

c. Electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during the condition of flooding.

3. Utilities.

a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

b. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the system into floodwaters.

c. On-site waste disposal systems shall be located to avoid impairment or contamination of systems or from systems during flooding.

4. Subdivision Proposals – ~~Special Flood Hazard Area~~ Area of Special Flood Hazard.

a. All subdivision proposals shall be consistent with the need to minimize flood damage.

b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

d. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or five acres (whichever is less).

5. Review of Building Permits – ~~Flood Hazard Areas~~ Area of Special Flood Hazard. Where elevation data is not available either through the flood insurance study or from other authoritative source, applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment by the administrator may use and includes the use of historical data, high water marks, photographs of past floods, etc., where available to determine flood level. Failure to elevate at least two feet above the highest adjacent grade in these zones may result in higher insurance rates. The applicant is required to elevate the proposed finished floor elevation and place mechanical systems (example: HVAC ducts) that are not floodproof in a crawl space at least one foot above flood level in an identified flood zone. Failure to comply with this section may result in higher insurance rates.

6. Residential Construction – ~~Flood Hazard Areas~~ Area of Special Flood Hazard.

a. New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above base flood elevation.

b. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for entry and exit of floodwaters. Design for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

i. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

ii. The bottom of all openings shall be no higher than one foot above grade.

iii. Openings shall be equipped with screens, louvers or other coverings or devices; provided, that they permit the automatic entry and exit of floodwaters.

7. ~~Nonresidential Construction – Flood Hazard Areas~~ Area of Special Flood Hazard. New construction or substantial improvement of any commercial, industrial or other nonresidential structure shall either have the highest floor, including basement, elevated to or above the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

a. Be floodproofed so that below one foot above the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of the buoyancy;

c. Be certified by a registered professional engineer or architect that the design methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based upon their development and/or review of the structural design, specifications and plans. Such certification shall be provided to the official as set forth above;

d. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subsection (A)(5) of this section;

e. Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based upon rates that are one foot below floodproofed level (e.g., a building floodproofed to one foot above the base flood level will be rated as at the base flood level).

8. ~~Manufactured Homes – Flood Hazard Areas~~ Area of Special Flood Hazard. All manufactured homes to be placed or substantially improved within zones A1-30, AH and AE on the community's FIRM shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is to or above the base flood elevation; and be securely anchored to an adequately anchored foundation system in accordance with the provisions set forth in subsection (A)(1)(b) of this section.

9. Recreational Vehicles – Area of Special Flood Hazard. Recreational vehicles are allowed to be stored on sites within special flood hazard areas if they are fully licensed and ready for highway use, on their wheels, not connected to utilities and meet other zoning requirements.

10. ~~Floodways – Flood Hazard Areas~~ Area of Special Flood Hazard. Floodways are areas as designated ~~Located within areas of special flood hazard, as established in the section involving basis for establishing areas of special flood hazards, EMC 19.02.060(B)(1)(a), are areas designated as floodways.~~ Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

a. Prohibit encroachments, including fill, new construction, substantial improvement and other development unless certification by a registered professional engineer or architect is provided demonstrating that the encroachment shall not result in increased flood levels during the occurrence of the base flood discharge.

b. Construction or reconstruction of residential structures is prohibited within designated floodways, except for:

i. Repairs, construction or improvements to a structure which do not increase the ground floor area; and

ii. Repairs, reconstruction or improvements to a structure, the cost of which does not exceed 50 percent of the market value of the structure either:

(A) Before the repair, reconstruction or improvement has started; or

(B) If the structure has been damaged, and is being restored, before damage occurred.

iii. Any improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which are the minimum necessary to assure safe living conditions as determined by the Administrator, Work done on structures to comply with existing health, sanitary or safety codes or to structures identified as historical places shall not be included in the 50 percent.

c. If subsection A of this section is satisfied, all new construction and substantial improvement shall comply with the applicable flood hazard reduction provisions as set forth in the provisions for flood hazard reduction.

d. The city will control the degree of alteration of natural floodplains, wetlands, stream channels and natural protective barriers to help accommodate the storage or channeling of floodwaters, through provisions in the adopted storm water design manual regulations.

B. Geologically Hazardous Areas.

1. Erosion Hazard Areas – Development Standards.

- a. Erosion hazard areas shall be avoided as locations for building construction, roads or utility systems, where mitigation is not feasible.
- b. Development activities or their support infrastructure shall not be allowed that would directly or indirectly worsen the erosion hazard identified in the site analysis.
- c. Land clearing, grading, and filling shall not be permitted between October 15th and April 1st.

2. Landslide Hazard Areas – Development Standards.

- a. Documented landslide hazard areas shall be avoided as locations for building construction, roads or utility systems where mitigation is not feasible.
- b. If the degree of hazard warrants some development activity, postconstruction slope stabilization and appropriately upgraded road construction specifications shall be employed to eliminate as completely as practicable any public or private exposure to landslide hazards or abnormal maintenance or repair costs.
- c. Land clearing, grading, and filling shall not be permitted between October 15th and April 1st.

3. Seismic Hazard Areas – Development Standards.

- a. The list below defines critical facilities that will require engineering and design elements suitable for protecting public health and safety as well as other critical areas when sited in a seismic hazard area:
 - i. Hospitals and other medical facilities having surgery and emergency treatment areas;
 - ii. Structures housing, supporting or containing sufficient quantities of toxic or explosive substances to be dangerous to the safety of the general public if released;
 - iii. Covered structures whose primary occupancy is public assembly, with capacity of greater than 300 persons;
 - iv. Buildings for schools through secondary or day care centers, with a capacity of greater than 250 students;

- v. Buildings for colleges or adult education schools, with a capacity of 500 students or greater;
- vi. Medical facilities with 50 or more resident incapacitated patients;
- vii. Jails and detention facilities; and
- viii. All structures with occupancy of greater than 5,000 people.

C. Critical Aquifer Recharge Areas – Development Standards.

1. The site analysis will create a water quality baseline which will serve as a minimum standard that shall not be further degraded by proposed development.
2. The creation of additional impervious surfaces shall be limited to that amount described in the site analysis that will ensure adequate aquifer recharge and water quality protection.
3. Permits shall ensure that all best management practices are employed to avoid introducing pollutants into the aquifer. This includes the complete collection and disposal of storm water outside of the aquifer recharge area for all development impervious surfaces.

D. Wetlands – Development Standards.

1. Development standards for wetland habitat and wetland buffers are defined in EMC 19.02.090 and 19.02.130 through 19.02.180.
2. The applicant will not initiate any habitat-altering activities within a regulated wetland adjacent to a stream or river prior to having obtained approval for the proposed mitigation plan and a valid hydraulic project approval (HPA) from the Washington State Department of Fish and Wildlife.
3. The applicant will not initiate any work in an area that has been or has the potential to be designated as a wetland or fish and wildlife habitat conservation area without obtaining either a valid Section 404 permit or a letter indicating the affected wetland is isolated issued by the U.S. Army Corps of Engineers, Regulatory Branch.

E. Fish and Wildlife Habitat Conservation Areas – Development Standards.

1. No permit for land use activities involving the alteration of identified fish and wildlife habitat conservation areas shall be granted by the administrator unless mitigation of adverse effects that will ensure continuation of baseline populations for all endangered, threatened and sensitive species can be provided.
2. Development will not be allowed in fish and wildlife habitat conservation areas without administrator approval if listed species (those species listed on the Federal Endangered Species List and the State of Washington Priority Habitat and Species List) and their critical habitats will suffer population declines, migration route

interruption, or habitat degradation; the administrator may approve development in fish and wildlife conservation areas if it can be demonstrated that:

a. Mitigation measures (best management practices) intended to minimize or eliminate adverse affects on species and habitat are incorporated in the development plans; and

b. The applicant provides valid and scientifically supportable information demonstrating that adequate regional populations will be maintained after the development activities have ceased and the site is occupied.

3. Development reviews shall include regional species occurrence and movements and will avoid creating isolated subpopulations where warranted.

4. A grading, restoration, and erosion control plan shall be approved by the city prior to initiating any work proposed adjacent to a fish-bearing stream or buffer.

5. Any disturbance in the buffer area shall be restored and rehabilitated to ensure erosion and water quality is not degraded from predevelopment conditions.

6. Any disturbance in the buffer area shall be restored and rehabilitated to ensure restoration of native vegetation (trees, shrubs, and groundcover) within the fish and wildlife habitat conservation area.

7. The applicant will not initiate any work in a stream (below the ordinary high water mark) without having a valid hydraulic project approval (HPA) issued by the Washington State Department of Fish and Wildlife and, if necessary, a valid Section 404 permit issued by the U.S. Army Corps of Engineers, Regulatory Branch.

8. In the event that a federal or state protected species or its associated habitat is de-listed or the federal and state policies regarding listed species and habitats are modified or removed, the administrator will decide how fish and wildlife conservation areas will be managed from a permitting perspective. (Ord. 2293 § 2 (Exh. A), 2005).

5) EMC Section 19.02.230 Mitigation sequencing – Decision criteria is hereby amended to read as follows (underlined text is added, struck-out text is deleted):

19.02.230 Mitigation sequencing – Decision criteria

A. Eligibility for Reasonable Use Exception Application.

1. It is the city's responsibility to review all regulated land use activities and approve only those land use proposals that will not adversely impact public health and safety, public investments in infrastructure, and natural resources managed as a public trust.
2. It is the responsibility of an applicant requesting plan approval and development permits for a proposed land use action to ensure that all reasonable and practical project alternatives have been thoroughly evaluated in an effort to avoid adversely impacting public health and safety, public investments in infrastructure, and natural resources managed as a public trust.
3. To be consistent with the goals and objectives of its current comprehensive plan and the provisions of this chapter, the city shall require an applicant to clearly demonstrate that all efforts have been exhausted in the process of preparing a proposed development plan (land use activity).
4. The applicant having exhausted all reasonable and practical efforts to avoid impacts, it is the responsibility of the administrator to ensure that all unavoidable impacts to regulated critical areas are mitigated.

B. Compensatory Mitigation – Decision Criteria. Compensatory mitigation for alterations to critical areas, particularly wetlands and fish and wildlife habitat conservation areas, shall, in a reasonable period of time, achieve equivalent or greater biologic function within the critical area altered or in a viable alternative mitigation area. Compensatory mitigation plans shall be consistent with best available science (BAS), watershed approach to mitigation siting, as well as local knowledge and expertise.

1. Mitigation of critical area impacts associated with a proposed land use activity shall be required in the following order of preference:
 - a. Impact avoidance: avoiding the impact altogether by not taking a certain action or parts of an action. When it has been demonstrated, to the satisfaction of the administrator, that impact avoidance is neither practical nor prudent, the administrator shall approve one of the following, in descending order of preference;
 - b. Impact minimization: minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;
 - c. Impact rectification: rectifying the impact by repairing, rehabilitating, or restoring the affected environment. This may include off-site mitigation areas and the restoration of previously impacted habitats in other critical areas ~~in the same or adjacent watershed~~, provided that a watershed approach to mitigation siting (See Ecology publication 09-06-032) is required;

d. Impact reduction over time: reducing or eliminating the impact over time by preservation and maintenance operations;

e. Impact compensation: compensating for the impact by replacing, enhancing, or providing substitute resources or environments. This may include mitigation alternatives such as wetland mitigation banking, fee-in-lieu, credit-debit method (reference Ecology Publication #10-06-011) and other creative approaches to mitigation that will result in a net increase in critical area function and value.

C. Minimizing Wetlands Impacts – Decision Criteria. After it has been determined by the city council, based on information presented to the council by the administrator and the applicant, that the loss of critical areas is necessary and unavoidable or that all reasonable economic use has been denied:

1. The applicant shall implement project planning and implementation measures intended to minimize critical area impacts; and

2. Efforts to minimize critical area impacts shall include but are not limited to:

a. Limiting the degree or magnitude of the regulated activity;

b. Limiting the implementation of the regulated activity;

c. Using appropriate and best available technology;

d. Taking affirmative steps to avoid or reduce impacts;

e. Sensitive site design and siting of facilities and construction staging areas away from regulated wetlands and their buffers;

f. Involving resource agencies early in site planning; and

g. Providing protective measures such as siltation curtains, hay bales and other siltation prevention measures, scheduling the regulated activity to avoid interference with wildlife and fisheries rearing, nesting or spawning activities.

D. Mitigation of Unavoidable Critical Area Impacts as Part of a Reasonable Use Exception. If the administrator has determined that implementation of an applicant's land use proposal results in adverse impacts to critical areas identified within, or immediately adjacent to, the proposed project site and the application of the provisions of this chapter would deny all reasonable use of the property, the administrator may allow a proposed development that is consistent with the general purposes of this chapter and the public interest to proceed; provided, that the city council finds that:

1. Enforcement of the provisions of this chapter would otherwise deny all reasonable use of the property;

2. There is no other reasonable use with less impact on the wetland;

3. The proposed development does not pose an unreasonable threat to the public health, safety or welfare on or off the property;
4. Any proposed alteration of the wetland is the minimum necessary to allow for reasonable use of the property;
5. There is no feasible on-site alternative, including reduction in density and site-planning considerations;
6. The inability to derive reasonable economic use from the property is not the result of actions by the applicant in segregating or dividing the property and creating the undevelopable condition after the effective date of the ordinance codified in this chapter. (Ord. 2293 § 2 (Exh. A), 2005).

6) EMC Section 19.02.260 Alternative mitigation strategies. is hereby amended to read as follows (underlined text is added, struck-out text is deleted):

19.02.260 Alternative mitigation strategies.

A. Wetland Mitigation Banking and In-Lieu Fee (ILF) Mitigation Opportunities.

1. Credits from a wetland mitigation bank or federally certified In-Lieu Fee (ILF) program may be approved for use as compensation for unavoidable impacts to wetlands, fish and wildlife conservation areas and other aquatic resources when:

a. The bank is certified by WDOE under Chapter WAC 173-700 or the federally certified ILF program is certified by the U.S. Army Corps of Engineers per federal regulations (33 CFR Part 332 and 40 CFR Part 230, Subpart J);

b. The administrator determines that the wetland mitigation bank or federally certified ILF program provides appropriate compensation for wetland, fish and wildlife conservation areas or other aquatic resource impacts associated with the applicant's project; and

c. The proposed use of credits is consistent with the terms and conditions of the bank's or ILF program's certification.

2. Replacement ratios for projects using bank or ILF program credits shall be consistent with replacement ratios specified in the bank's or program's certification.

3. Credits from a certified wetland mitigation bank or ILF program may be used to compensate for impacts located within the service area specified in the bank's or ILF program's certification. ~~In some cases, bank service areas may include portions of more than one adjacent drainage basin for specific wetland functions.~~

B. Cooperative Restoration, Creation or Enhancement Projects. The city may encourage, facilitate, and approve cooperative projects wherein a single applicant, group of applicants, or other entity with demonstrated capability may undertake a compensatory mitigation project with funding from each of the applicants or another source under the following circumstances:

1. Restoration, creation, or enhancement at an individual location (site) may be scientifically or economically impractical, difficult, or impossible; or
2. Creation of one or several larger wetlands, riparian areas, or buffer areas in an off-site location may be preferable to the mitigation of many small wetlands in their existing on-site locations; or
3. Restoration/relocation of a previously degraded stream channel in conjunction with the creation of floodplain wetlands, riparian corridors, and enhanced buffers may have a greater benefit to fish and wildlife production in the watershed than smaller individual mitigation projects located within current or future project sites; and
4. The applicant or applicants proposing cooperative compensation projects shall:
 - a. Submit a cooperative project mitigation plan prepared by a qualified professional that contains the information required listed in Appendix B of this chapter;
 - b. Demonstrate compliance with the provisions of this chapter and all standards, rules, requirements, and regulations enforced by other resource management agencies with jurisdictional interest in the proposed project;
 - c. Demonstrate, in the form of contractual agreements or verifiable funding sources (i.e., an escrow account), that the organizational and fiscal capability to act cooperatively are in place and are perpetual; and
 - d. Demonstrate that long-term management capability can and will be provided through the entire life of the project; and
 - e. Obtain all state and federal permits and approvals necessary for the compensation project prior to making formal application to the City.
 - e. f. Note: This is an opportunity for individual land owners contemplating or anticipating future development opportunities to occur on the lands collectively to form a legal entity for the purpose of eliminating small, low function and value Category III and Category IV wetlands located on their individual properties and cooperatively mitigating the individual impacts in a larger off-site location in advance of the actual critical area impacts. The same concept can be used to restore and/or relocate stream habitat or to connect isolated areas of wildlife habitat.

~~C. Fee-in-Lieu Mitigation Opportunities. If the stipulations described in this section are applied, the administrator is authorized to negotiate with a single project applicant or with multiple project applicants to prepare a "fee-in-lieu" mitigation plan for the mitigation of critical area impacts associated with a development project or land use action that is capitalized with private, public, or public/private partnership funds.~~

- ~~1. A "fee-in-lieu" mitigation plan differs from the conventional mitigation plan (described in EMC 19.02.250) in that:~~

~~a. The implementation, maintenance, and monitoring aspects of the project are to be completed by the city using funds paid to the city by the applicant or applicants.~~

~~i. In some cases the applicant may be a city department not reporting directly to the administrator.~~

~~ii. In all cases the funds collected for “fee in lieu” mitigation projects will be managed by the administrator.~~

~~iii. Funds collected from an applicant or applicants can be pooled for use on a larger natural resources management project (primarily habitat enhancement, improvement, and/or restoration) or for the acquisition of property that will be set aside in trust as fish and wildlife habitat.~~

~~b. In most cases the mitigation plan will not be implemented within the applicant’s (or applicants’) specific project area.~~

~~c. In most cases the mitigation plan will be modified to fit into a larger habitat improvement area such as a stream corridor, in an area adjacent to a larger wetland complex, or a fish and/or wildlife habitat conservation area.~~

~~i. Note: The larger habitat improvement areas will be part of a landscape- or watershed-based restoration plan rather than a site-specific mitigation area selected because a regulatory requirement dictates on-site mitigation or the site is within a proposed project area owned by the applicant or applicants.~~

~~2. A “fee in lieu” mitigation plan is the same as a conventional mitigation plan in that:~~

~~a. The applicant (or applicants) must complete a critical areas assessment and, if necessary, a critical areas report which must be submitted to the administrator for review and approval. That submittal may occur in advance of or simultaneous to the applicant’s submittal of preliminary or conceptual project plans for a proposed land use action.~~

~~b. The applicant (or applicants) must prepare and submit a site development plan (proposal) that defines all design measures and best management practices incorporated into the design that are intended to eliminate or minimize impacts to identified, designated, or delineated critical areas within, or in close proximity to, the boundaries of the proposed development site.~~

~~c. The applicant must prepare a mitigation plan that addresses mitigation of all unavoidable development-related impacts to regulated critical areas. The proposed mitigation plan must include:~~

~~i. A mitigation project budget or project manager’s estimate that details cost estimates for mobilization, equipment rental, site preparation, plants material acquisition, plant installation, on-site consulting services, demobilization, and other necessary implementation costs.~~

ii. A budget or project manager's estimate for postproject maintenance and monitoring costs, including the cost of supplemental irrigation, native plant replacement, and invasive plant removal.

iii. Bids from three qualified landscaping or native plant/habitat restoration companies for the approved mitigation plan implementation, a one-year warranty, and project area maintenance for one year following construction (plant installation).

3. To approve a negotiated "fee-in-lieu" mitigation plan, the administrator must be able to demonstrate that:

a. The identified critical areas impacts are unavoidable and that those impacts can be successfully mitigated.

b. The impacts will occur in regulated, but primarily isolated, critical areas delineated within, or in close proximity to, the subject project site (or sites).

c. The areas of impact have low to moderate value even if the impacted functions were replaced on-site (within the project area).

d. In the city's assessment, the size of the critical area impacts and the benefits of on-site, in-kind mitigation would have to be relatively small. In addition, the small impact to or the collective impacts upon one or more identified critical areas must not result in a moderate to significant impact to other downstream or proximate critical areas, priority habitats, or habitat for listed species.

e. In the city's assessment, the replacement of the critical areas in-kind and on-site will not have as great or greater value than the value gained through the creation, enhancement, or restoration of other critical areas more closely associated with larger fish and wildlife habitat conservation areas or larger wetland complexes.

4. The purpose of any negotiation authorized under this code section and that could be initiated by either the applicant or the administrator would be to determine whether on-site, in-kind or on-site, out-of-kind mitigation would provide the greatest cost-benefit ratio compared to having the applicant or applicants pay a calculated mitigation fee to the city.

a. The collected funds shall be managed by the administrator as part of a natural resources management program designed to meet current comprehensive plan objectives.

b. The program may include passive use parks and trails with an ecological and environmental education focus.

5. Once the applicant's or applicants' "fee-in-lieu" invoice has been paid to the city, the administrator will:

~~a. Provide the applicant, or each individual applicant who is part of a group of applicants involved in one mitigation project, with a written statement indicating that all mitigation responsibilities and obligations associated with a project-specific critical areas impact mitigation plan, for which a “fee-in-lieu” agreement has been negotiated and consummated, have been fulfilled; and~~

~~b. The city shall undertake implementation of the mitigation process in a manner consistent with the provisions of this chapter. (Ord. 2293 § 2 (Exh. A), 2005).~~

8) Chapter 19.02 EMC Appendix A Wetland rating criteria. is hereby amended to read as follows (underlined text is added, struck-out text is deleted):

Appendix A Wetland rating criteria

Different types of wetlands are separated from one another on the basis of wetland class and wetland category. The former is a scientific system based upon dominant plant communities, substrate conditions, hydrologic regime, and location in the “watershed.” The latter is a categorization system used to regulate land uses adjacent to wetlands.

A. Wetland Class. Wetland class is a science- based classification system based on a U.S. Fish and Wildlife Service publication titled “Classification of Wetlands and Deepwater Habitats of the United States” that was edited by Lewis M. Cowardin et al. and published in December 1979. Cowardin divides wetlands into five systems (marine, estuarine, riverine, lacustrine, and palustrine), eight subsystems (subtidal, intertidal, tidal, lower perennial, upper perennial, intermittent, limnetic, and littoral), 10 classes, and numerous modifiers. A combination of the system name, subsystem, name, class, and a modifier forms a code that identifies the wetland class.

The WDOE expanded the term “wetland class” by incorporating use of the HGM (hydrogeomorphic method) classification into the Washington State Wetland Rating System for Western Washington (WDOE Publication No. 04-06-02514-06-029 or as hereafter revised and approved by Ecology). The HGM is based on the “landscape” location of a wetland or portion of a wetland. The HGM classes are depressional, riverine, lake-fringe, slope, flats, and freshwater tidal.

B. Wetland Category. In the city, wetland category is used to regulate activities within and adjacent to wetlands and in determining the width of the wetland buffer. The wetland category is determined after a wetland has been identified and delineated. Wetland category is determined using the current Washington State Wetland Rating System for Western Washington (WDOE Publication No. 04-06-04514-06-029 or as hereafter revised and approved by Ecology). ~~Wetlands are evaluated and scored on three criteria (water quality functions, hydrologic functions, and habitat functions).~~

The WDOE document contains the definitions and scoring methods used for determining if the wetland rating criteria outlined in this Appendix A are met. ~~The total score for the three functional areas determines the wetland category.~~ Note that streams and lakes are not rated as wetlands, but rather are classified and rated as fish and wildlife conservation areas (EMC 19.02.100).

C. Wetland Rating. Wetlands shall be rated according to the Washington Department of Ecology wetland rating system, as set forth in the *Washington State Wetland Rating System for Western*

Washington (Ecology Publication #04-06-025, or as revised and approved by Ecology), which contains the definitions and methods for determining whether the criteria below are met.

1. Category I. Category I wetlands are: (1) relatively undisturbed estuarine wetlands larger than one acre; (2) wetlands of high conservation value that are identified by scientists of the Washington Natural Heritage Program/DNR; (3) bogs; (4) mature and old-growth forested wetlands larger than one acre; (5) wetlands in undisturbed coastal lagoons; (6) interdunal wetlands that score 8 or 9 habitat points and are larger than 1 acre; and (7) wetlands that perform many functions well (scoring 23 points or more). These wetlands: (1) represent unique or rare wetland types; (2) are more sensitive to disturbance than most wetlands; (3) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; and (4) provide a high level of functions.

2. Category II. Category II wetlands are: (1) estuarine wetlands smaller than 1 acre, or disturbed estuarine wetlands larger than 1 acre; (2) interdunal wetlands larger than 1 acre or those found in a mosaic of wetlands; (3) disturbed coastal lagoons or (4) wetlands with a moderately high level of functions (scoring between 20 and 22 points).

3. Category III. Category III wetlands are: (1) wetlands with a moderate level of functions (scoring between 16 and 19 points); (2) can often be adequately replaced with a well-planned mitigation project; and (3) interdunal wetlands between 0.1 and 1 acre. Wetlands scoring between 16 and 19 points generally have been disturbed in some ways and are often less diverse or more isolated from other natural resources in the landscape than Category II wetlands.

4. Category IV. Category IV wetlands have the lowest levels of functions (scoring fewer than 16 points) and are often heavily disturbed. These are wetlands that we should be able to replace, or in some cases to improve. However, experience has shown that replacement cannot be guaranteed in any specific case. These wetlands may provide some important functions, and should be protected to some degree.

C. Wetland Rating Categories (WAC ~~365-190-080~~(1)(a) and WDOE Publication No. 04-06-025).

Note: The actual category of an individual wetland is determined by the total score for the functions which is recorded on the first page of the wetland rating form included in the above-referenced WDOE publication. Category I and Category II wetlands are also rated for "special characteristics," the value of which are included in the final category rating.

1. Category I. Category I wetlands are those that meet one or more of the following criteria:

a. Documented habitat for federal or state-listed endangered or threatened fish, animal, or plant species;

b. High quality native wetland communities, including documented Category I or II quality Natural Heritage wetland sites and sites which qualify as a Category I or II quality Natural Heritage wetland (defined in the rating system documents);

~~c. High quality, regionally rare wetland communities with irreplaceable ecological functions, including sphagnum bogs and fens, estuarine wetlands, or mature forested swamps (defined in the rating system documents); or wetlands of exceptional local significance.~~

~~2. Category II. Washington State Department of Fish and Wildlife, U.S. Fish and Wildlife Services, and National Marine Fisheries Services documented habitats for state-listed sensitive plant, fish, or animal species:~~

~~a. Wetlands that contain fish or animal species listed as priority species by the Washington State Department of Fish and Wildlife, or plant species listed as rare by the Washington State Department of Natural Resources (DNR).~~

~~b. Wetland types with significant ecological functions as determined by an agency-approved functional evaluation methodology that may not be adequately replicated through creation or restoration;~~

~~c. Wetlands possessing significant habitat value based on a score of 22 or more points in the state Department of Ecology habitat rating system; or~~

~~d. Documented wetlands of local significance.~~

~~3. Category III. Category III wetlands are those that do not satisfy Category I, II, or IV criteria, and with a habitat value rating of 21 points or less.~~

~~4. Category IV. Category IV wetlands are those that meet one or more of the following criteria:~~

~~a. Hydrologically isolated wetlands, as determined by the U.S. Army Corps of Engineers Regulatory Branch that are less than or equal to one acre in size, have only one wetland class, and are dominated (greater than 80 percent area cover) by a single, nonnative plant species (monotypic vegetation); or~~

~~b. Hydrologically isolated wetlands that are less than or equal to two acres in size, and have only one wetland class and greater than 90 percent areal cover of nonnative plant species. (Ord. 2293 § 2 (Exh. A), 2005).~~

EXHIBIT 'B' FOR ORDINANCE 2572

AMENDMENTS TO APPENDIX D OF CHAPTER 19.02 - DEFINITIONS

1) The City Council hereby amends Appendix D of Chapter 19.02 EMC - Definitions to read as follows (underlined text is added, struck-out text is deleted). Only definitions that are modified, deleted or new are included, all other definitions remain unchanged.

“Development” means any man-made change to improved or unimproved real estate in the Special Flood Hazard Area (SFHA), including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, storage of equipment or materials.

~~“Flood fringe, zero-rise” means that portion of the floodplain outside of the zero-rise floodway areas covered by the flood, but which do not experience a strong current. The zero-rise flood-fringe is generally associated with standing water rather than rapidly flowing water.~~

~~“Flood hazard area” means any area subject to inundation by the base flood or risk from channel migration including, but not limited to, an aquatic area, wetland or closed depression.~~

“Area of Special Flood Hazard” is the land in the flood plain within a community subject to one percent or greater chance of flooding in any given year. Designation on maps always include the letters A or V.

“Flood Insurance Rate Map (FIRM)” means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community. “Flood insurance rate map” means the insurance and floodplain management map produced by FEMA that identifies, based on detailed or approximate analysis, the areas subject to flooding during the base flood.

“Floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

~~“Floodway, zero-rise” means the channel of a stream and that portion of the adjoining floodplain that is necessary to contain and discharge the base flood flow without any measurable increase in base flood elevation.~~

A. ~~For the purpose of this definition, “measurable increase in base flood elevation” means a calculated upward rise in the base flood elevation, equal to or greater than 0.01 foot, resulting from a comparison of existing conditions and changed conditions directly attributable to alterations of the topography or any other flow obstructions in the floodplain. “Zero-rise floodway” is broader than that of the FEMA floodway but always includes the FEMA floodway.~~

B. ~~“Zero-rise floodway” includes the entire floodplain unless a critical areas report demonstrates otherwise.~~

“Lowest Floor” means the lowest floor of the lowest enclosed area (including the basement). An unfinished or flood resistant enclosure, useable solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building’s lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

“Substantial Damage” Means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

“Substantial Improvement” means any repair, reconstruction, or improvement to a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

1. Before the improvement is started; or
2. If the structure has been damaged and is being restored, before the damage occurred.

This term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are necessary to assure safe living conditions; or
2. Any alteration of a structure listed in the National or State Register of Historic Places.