

## Critical Areas Ordinance Update [DRAFT]

City of Mukilteo Draft CAO Update – Public Review Draft (November 2025)

## Introduction

Washington's Growth Management Act (RCW 36.70A) identifies five types of critical areas that must be designated and protected:

- Wetlands
- Frequently flooded areas
- Geologically hazardous areas
- Fish and wildlife habitat conservation areas
- Critical aquifer recharge areas [Note: these are not present in Mukilteo]

Every ten years, cities must review and update their critical areas policies and regulations to keep up with latest science and regulatory requirements. The city's critical areas regulations were adopted in 2005, with a major update in 2012 and some minor changes in 2016. The following sections of the municipal code will be amended by this update:

- MMC 15.12, Flood Damage Prevention [repealed and consolidated with 17.52D]
- MMC 17.08, Definitions [redlined changes]
- MMC 17.52, Critical Areas Regulations [repeal and replace]
- MMC 17.52A, Geologic Sensitive Area Regulations [repeal and replace]
- MMC 17.52B, Wetland Regulations [repeal and replace]
- MMC 17.52C, Fish and Wildlife Habitat Conservation Areas [repeal and replace]
- MMC 17.52D, Flood Hazard Areas [repeal and replace]

This public review draft goes chapter by chapter through the new regulations. It includes:

- An overview of what is changing and why
- A summary of policy decisions to be made where there is room for discretion
- Proposed code language

## Invitation to Comment

If you have questions about the proposed regulations or suggested changes you'd like to see incorporated in the next draft, please email [planningdept@mukilteowa.gov](mailto:planningdept@mukilteowa.gov).

## Written comments are due by Friday, December 12, 2025

Comments and feedback can also be shared in person at a Planning Commission or City Council meeting. After the comment period ends, staff will revise the draft for final review. We anticipate a Planning Commission public hearing and recommendation in January and City Council review and adoption in February/March.

## Chapter 17.52 - CRITICAL AREAS REGULATIONS

### What is changing

Most changes in this chapter are related to consolidation and simplification.

- Simplified language to make it easier for non-experts to understand.
- Moved performance standards used for designating critical areas to the definitions.
- Consolidated information from individual chapters this one, including: exemptions, designation and mapping of critical areas, mitigation sequencing, and reasonable use provisions.
- Made clear applicability and purpose sections that include language and standards previously scattered throughout the chapter.

There are a few substantive changes in this chapter:

- Eliminating the city's Critical Areas Mitigation Program (CAMP) because it is not a state-approved fee in lieu program. The proposed regulations include other mitigation options, including language that allows applicants to use mitigation banks if/when one becomes available that serves Mukilteo.
- Defining what counts as a reasonable use of residential property.
- Explicitly requiring split rail fencing (currently applied as a permit condition).

[Click here to see annotated version of existing Chapter 17.52](#)

### Key policy decision

**What is a reasonable use of residential property?** The purpose of reasonable use provisions (see 17.52.060) is to avoid a regulatory taking where local regulations prevent all reasonable use of private property. The Community Development Department issued an [administrative code interpretation in 2023 that states](#):

*A modest home/accessory buildings footprint is 2,500 square feet or smaller with a maximum driveway width of 20 feet. 2,500 square feet is a reasonable footprint when single-story construction. The footprint must be reduced to a maximum of 1,800 square feet when the building is multiple stories.*

While the dictionary definition of modest is, “limited in size, amount, or scope,” the city chose a standard closer to “average” home size to error on the side of property rights and minimize the risk of takings claims. We are proposing to codify this interpretation as written, but City Council could approve a different modest home standard.

## Proposed amendments

### Repeal MMC 3.120

### Repeal and replace MMC Chapter 17.52 with the following

#### Chapter 17.52 CRITICAL AREAS REGULATIONS

##### Sections:

- 17.52.010 Purpose.
- 17.52.020 Applicability.
- 17.52.030 Designation and delineation of critical areas.
- 17.52.040 Exemptions.
- 17.52.050 Standards applicable in all critical areas.
- 17.52.060 Reasonable use provisions.
- 17.52.070 Enforcement.

##### **17.52.010 Purpose.**

The purpose of the city's critical areas regulations (including those in Chapters [17.52A](#) through [17.52D](#)) is to:

- A. Use best available science to designate, classify, and protect critical areas.
- B. Ensure no net loss of critical area functions or values.
- C. Protect lives and property.
- D. Provide the flexibility needed to adjust to site-specific characteristics.
- E. Preserve reasonable use of private property.
- F. Facilitate development and maintenance of the public facilities and services necessary to support development.

##### **17.52.020 Applicability.**

- A. General applicability. These regulations apply to all development:
  - 1. Within a critical area.
  - 2. Within a critical area buffer.
  - 3. Within 50 feet of a wetland, steep slope, or landslide hazard area.

- B. Limited applicability to existing development. Enhancement of critical areas degraded by development legally established before the adoption of these regulations is not required. Development and activities existing prior to the adoption of this ordinance may continue as long as there is no expansion. Legally established impervious areas may be redeveloped without mitigation as long as the total square footage and location of impervious surface within a critical area or its buffer remains unchanged.
- C. Relationship to other critical area chapters. The standards of this chapter apply to all critical areas, regardless of type. Development subject to the general requirements of this chapter is also subject to the specific requirements for each critical area present, including regulations in:
  - a. Chapter 17.52A, Geologically Hazardous Areas
  - b. Chapter 17.52B, Wetlands
  - c. Chapter 17.52C, Fish and Wildlife Habitat Conservation Areas
  - d. Chapter 17.52D, Flood Hazard Areas
- D. Multiple critical areas. When a property or portion of a property contains multiple critical areas or buffers and there is a conflict between the requirements, the requirements that provide the most protection to the critical areas involved applies.
- E. Conflicts. When the critical areas regulations conflict with the requirements of the city's Shoreline Master Program or other lawfully adopted local, state, or federal regulations, the most restrictive standards apply.
- F. Relationship to SEPA. These regulations constitute adequate mitigation of adverse or significant adverse environmental impacts on critical areas for the purposes of Chapter [17.84](#), Implementing the State Environmental Policy Act (SEPA).
- G. Limitations. Compliance with these regulations does not constitute compliance with other local, state, or federal regulations and permit requirements. The applicant is responsible for complying with all relevant requirements.

#### **17.52.030 Designation and delineation of critical areas.**

- A. The City of Mukilteo contains the following critical areas:
  - 1. Wetlands.
  - 2. Fish and wildlife habitat conservation areas.
  - 3. Frequently flooded areas.
  - 4. Geologically hazardous areas.
- B. Reconnaissance. The city may require an applicant to do a critical area reconnaissance any time there is reason to believe critical areas or their buffers may be present on a property. The reconnaissance must be conducted by a qualified professional and result in clear written findings about the presence or absence of critical areas.
- C. Designating critical areas. Critical area designation and delineation is done based on performance standards, not maps. The criteria and characteristics that determine whether an area qualifies as a critical area are included in the definitions for each critical area found in Chapter 17.08.

- D. Mapping of critical areas. The actual location and extent of critical areas and their buffers must be determined by a qualified professional using the defined performance standards for each critical area. However, the city maintains maps showing the approximate location and extent of known critical areas that can be used as a general guide. City maps are based on:
1. Federal Emergency Management Administration flood insurance rate maps.
  2. U.S. Geological Survey landslide hazard, seismic hazard, and volcano hazard maps.
  3. Washington Department of Natural Resources seismic hazard and slope stability maps.
  4. National Wetlands Inventory.
  5. Washington Department of Fish and Wildlife Priority Habitat and Species maps.
- E. Conflicts. In the event of a conflict between the city's maps and the location determined in the field by a qualified professional, the field determination shall control, except for areas of special flood hazard. In the event of a conflict between the boundary mapped on Federal Emergency Management Agency's "Flood Insurance Rate Maps" and actual field conditions, a letter of map change must be approved by FEMA.

#### **17.52.040 Exemptions.**

- A. Interpretation. When there is a question as to whether a particular activity is exempt, the director's determination is final.
- B. Avoiding impacts. Even when an activity is exempt, applicants must consider alternatives that avoid or minimize impacts. Exemption from the provisions of this chapter does not give permission to degrade a regulated habitat or ignore risks from natural hazards. Any alteration of a critical area that is not a necessary outcome of the exempted activity must be mitigated.
- C. Written notice required. No person may undertake exempt activities until they have provided the city written notification of their intent and given the city 30 days to confirm the activity is exempt.
- D. Exemptions. The following activities are exempt from critical areas regulations:
1. Emergency repair of slope instabilities. Repairs are allowed when needed to correct an immediate danger to public health, welfare or safety. The director may apply after-the-fact mitigation requirements for emergency repairs when necessary to ensure that the purpose of this chapter has been met.
  2. Vegetation management. Minor vegetation management activities such as invasive plant management, removing or trimming of dead or diseased vegetation, planting of native species, pruning that complies with city regulations, or removal of hazardous trees. Vegetation management must be done by hand when feasible and avoid soil compaction to the maximum extent practical. Hazardous tree removal must minimize adverse effects on ecosystem functions and surrounding vegetation and leave snag in place to the extent practicable.

3. Work in drainage facilities. Mowing, maintenance, cleaning, excavation, or repair/replacement of flow control structures within existing swales, drainage ditches, detention facilities, or landscape ponds. Such activities are limited to the existing footprint of the area or facility.
4. Transportation and utilities.
  - a. Maintenance, operation, or reconstruction of existing streets, railroads, utilities, and associated structures, provided no new impervious area is added.
  - b. The extension, expansion, repair, replacement, or relocation of a street, road, railroad, essential public facility, high-capacity transit facility, or necessary utilities that would not otherwise be feasible under the critical areas regulations. These projects are only exempt with advanced approval of a mitigation plan that uses best available science, results in a net improvement to critical area functions, and includes provisions for at least three years of monitoring and maintenance.
5. Structure maintenance. Normal maintenance, repair and reconstruction of structures, provided the footprint is not increased.
6. Site investigation work. Disturbance necessary to prepare studies and application materials.
7. Educational activities. Activities such as field trips, bird watching, hiking, and interpretive signage, that will not have a significant effect on the critical area.
8. Emergency activities and utility repairs necessary to prevent an immediate threat to public health, safety, or property. When this exemption is used, a mitigation plan must be submitted to the city within three months. Restoration must be initiated within one year of the date of the emergency and completed in a timely manner.
9. Construction of, or improvements to, utility facilities that are either within existing improved right-of-way, within existing impervious surface area, or designed in a manner that does not impact the function or value of the critical area (e.g., trenchless technology, boring, or tunneling).
10. Activities that are part of a forest practice governed under Chapter [76.09](#) RCW and its rules. This does not include Class IV Forestry licenses.

#### **17.52.050 Standards applicable in all critical areas**

- A. No net loss. All development within a critical area or its buffer must ensure no net loss of critical area functions and values, with special consideration given to preserving or enhancing anadromous fish habitat.
- B. Best available science. Any reports prepared to determine whether the no net loss standard is achieved must rely on the best available science, consistent with the criteria established in



WAC [365-195-900](#) through [365-195-925](#). Where there is significant uncertainty about the risk to critical area functions that cannot be resolved because of incomplete scientific information, a precautionary or a no-risk approach that strictly limits potential impacts must be used until the uncertainty is sufficiently resolved.

- C. Use of native growth protection areas (NGPAs).
  - 1. Applicability. All critical areas and their buffers, except floodplains, are designated as native growth protection areas (NGPAs).
  - 2. Maintenance. NGPAs must be kept clear of weeds, invasive plants, lawn clippings, junk, debris, or the like.
  - 3. Fencing and signage.
    - a. Construction fencing and temporary signs noting the presence of a native growth protection area must be placed at the boundary of all NGPAs when there are clearing, grading, or excavation activities within 50 feet.
    - b. Permanent split rail fencing, or other physical barrier approved by the director, must be placed along the periphery of a NGPA with permanent signs (spaced no more than 50 feet on center) that state, “Protected Area – Do Not Disturb. Contact City of Mukilteo regarding restrictions.”
  - 4. Recording. Private property with wetland or fish and wildlife habitat conservation areas – as well as those with more than 1,000 square feet of geologically hazardous areas –must record the presence of the NGPA through one of the following methods:
    - a. For subdivisions, the NGPA must be placed in a separate tract held in equal and undivided interest by the owners of all lots in the subdivision. The location and limitations of the NGPA must be shown on the plat and recorded with the Snohomish County assessor’s office.
    - b. For other development types, the location and limitations of the NGPA must be recorded with the Snohomish County assessor’s office in the form of an easement or land use binder.
    - c. Restrictive language. Documents recording the presence of a native growth protection area must include the following language: No clearing, excavation, or fill is allowed within a native growth protection area except that required for utility installation, removal of drainage course obstructions, removal of dangerous trees, or vegetation thinning determined necessary by a certified arborist to be necessary for the benefit of the woodlands.
- D. Mitigation sequencing. Applicants proposing activities in or near critical areas must demonstrated that they have followed this mitigation sequence in order of priority, only moving on to the next option in the sequence when they have implemented the previous option to the maximum extent feasible:
  - 1. Avoid. Do not take an action or parts of an action. To demonstrate that avoidance has been adequately assessed, applicant must specifically address the following considerations where applicable:



- a. Alternative building locations on the property.
  - b. Adjustments to the project footprint and orientation.
  - c. Modification of non-critical area setbacks, where feasible, as a first option before encroaching into critical areas or their buffers.
  - d. Multi-story design or alternate building design
2. Minimize. Limit the degree or magnitude of the action with design changes, reduced scope, or the use of impact-reducing techniques and methods.
3. Repair. Restore any damaged areas to their original or better condition.
4. Manage. Reduce or eliminate the impact over time through preservation and maintenance practices.
5. Compensate. Provide equivalent or greater ecological functions and values.
6. Monitor. Track impacts over time and take corrective action if needed.

**17.52.060 Reasonable use provisions.**

- A. Reasonable use of property guaranteed. When strict application of the city's critical area standards would deny all reasonable use of a property, a reasonable use exception may be granted.
- B. Criteria. To be eligible for a reasonable use exception, an applicant must demonstrate:
  1. The application of the critical areas regulations would deny all reasonable economic use of the property.
  2. There is no other reasonable economic use of the property that would have less adverse impact on the critical area.
  3. The proposed impact to the critical area is the minimum necessary to allow for reasonable economic use of the property.
  4. The inability to derive reasonable economic use is not the result of the applicant's actions or that of a previous property owner, such as by segregating or dividing the property and creating an undevelopable condition.
  5. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site.
  6. The proposal will result in no net loss of critical area functions and values.
- C. Reasonable use exceptions on residential properties. In addition to the criteria that apply to all reasonable use exceptions, the following standards apply on residential properties:
  1. Maximum footprint. The footprint of the structure is no larger than 2,500 square feet for single-story structures and no larger than 1,800 square feet for multi-story structures.
  2. Driveway. Driveway is a maximum of 20 feet wide and designed to be the shortest and most direct reasonable route to the house.
  3. Setbacks. Building setbacks are at least 50% percent of the required zoning setback.

4. Undisturbed areas. At least 70% of the lot will remain undisturbed. Developed yard areas, structure footprints, driveways, and a 5 foot access buffer around all structures for maintenance is included in the disturbed area calculations.
  5. Yards. Developed yard areas are only allowed if they do not encroach into a critical area or buffer.
  6. Review authority. Reasonable use requests on residential properties can be approved administratively.
- D. Reasonable use exceptions on commercial, mixed-use, or industrial properties. In addition to the criteria that apply to all reasonable use exceptions, the following standards apply on commercial, mixed-use, or industrial properties:
1. Setbacks. Building setbacks are at least 50% percent of the required zoning setback.
  2. Parking. Required parking may be reduced by up to 40% if applicant can demonstrate that the reduction would not negatively affect the business or create spillover parking onto city streets.
  3. Review authority. All reasonable use exceptions on commercial, mixed-use, or industrial properties require approval by the hearing examiner.

#### **17.52.070 Enforcement.**

- A. Stop work orders. Violations of critical areas regulations will result in the immediate issuance of a stop work order that will remain in effect until the violation is corrected and properly mitigated.
- B. Procedures. Violations of the critical areas regulations (Chapters [17.52](#) through [17.52E](#)) will be enforced through the procedures set forth in Title [18](#), Land Use Enforcement.
- C. Civil infractions. Violations of this chapter also constitute a civil infraction as outlined in Chapter [1.32](#), General Penalties.
  1. The first violation is a Class III civil infraction.
  2. The second offense is a Class II civil infraction.
  3. Further violations within a one-year period will be classified as Class I civil infractions.

## Chapter 17.52A – GEOLOGICALLY HAZARDOUS AREAS

### What is changing

Most changes within this chapter relate clarification of requirements and simplification of code for ease of use and understanding.

There are some substantive changes:

- **Only regulating steep slopes that are part of a ravine or shoreline.** Currently, any steep slope (>40%) within city limits is regulated as a critical area. This creates situations where properties with small, isolated slopes are needlessly restricted despite slope impacts being unlikely to cause safety issues or environmental harm. The building code has adequate provisions to ensure development near slopes is designed safely (both for the stability of the structure and the stability of the slope). Limiting applicability of the critical area provisions to those slopes most likely to have erosion impacts on other critical areas (e.g., slopes in ravines where erosion would damage the stream) protects environmentally sensitive areas without creating needless impacts on owners with slopes that aren't as environmentally sensitive.
- **More generous and flexible provisions for retaining walls on steep slopes.** Currently, owners can only install retaining walls and other slope stabilization methods to remedy emergencies. That creates situations where owners need to wait for damage or failure to act. The revised code allows for proactive stabilization of slopes when needed.

[Click here to see annotated version of existing Chapter 17.52A](#)

### Key policy decision

#### Have we adequately mitigated risk?

The primary purpose of regulating geologically hazardous areas is to protect human health and safety. There are also environmental benefits associated with reducing erosion. The fundamental question is whether the proposed regulations strike the right balance between risk reduction and property rights – regulating private property where needed to protect the safety of the whole system but not over-regulating.

## Proposed amendments

**Repeal and replace MMC Chapter 17.52A with the following**

### **Chapter 17.52A GEOLOGICALLY HAZARDOUS AREAS**

#### Sections:

- 17.52A.010 Purpose.
- 17.52A.020 Applicability.
- 17.52A.030 Required reports and plans.
- 17.52A.040 Vegetation management.
- 17.52A.050 Development standards.

#### **17.52A.010 Purpose.**

The purpose of this chapter is to regulate development activities in or near geologically hazardous areas to reduce risks to life and property and prevent erosion at both the parcel and system scale.

#### **17.52A.020 Applicability.**

This chapter applies to any development activity within 50 feet of steep slopes or landslide hazard area, unless specifically exempted in Chapter 17.52.

#### **17.52A.030 Required reports and plans.**

- A. Third-party review. The city may retain a qualified professional, at the applicant's expense, to review and confirm any findings in required reports.
- B. Geotechnical report.
  - 1. Required. When proposing structures within 50 feet of a steep slope or landslide hazard area, applicants must submit a geotechnical report prepared by a qualified professional. The Building Official has discretion to waive or modify report requirements if the information is not needed to accomplish the purpose of this chapter.
  - 2. Contents. The report must include:
    - a. Project description.
    - b. Site plan showing the location of the soil investigations.
    - c. Previous landslide activity in the vicinity, an assessment of the overall slope stability, and the anticipated effect of the development on the slope over time.
    - d. Grading details, including: total amount of cut and fill, recommended procedures, fill placement, compaction criteria, temporary and permanent slope support, erosion

control measures, wet weather limitations, and design criteria for any recommended corrective measures.

- e. A description of surface and subsurface hydrology together including any wetland, streams, springs, seeps, or ground water features, together with recommendations for addressing the impacts of those features in a manner consistent with the city's critical areas regulations.
  - f. All IBC geotechnical requirements, including documentation to support any alternate setback proposals.
3. Expiration. Geotechnical reports are valid for five years. Reports older than five years at the time of permit submittal must be updated.
- C. Adherence to the recommendations required. All recommendations in required reports are considered conditions of approval. Failure to follow report recommendations will be considered a violation of permit conditions.

#### **17.52A.040 Vegetation management.**

- A. Altering or removing vegetation on a steep slope is prohibited, with the following exceptions:
  - 1. Pruning. Pruning methods consistent with Chapter 17.59 are allowed.
  - 2. Removal of hazardous trees. Removal of hazardous trees is permitted when a certified arborist determines removal is needed to resolve a safety issue that cannot be eliminated through pruning or other methods. Ten vertical feet of stump must be left in place when removing trees 15 inches or greater DBH.
  - 3. Removal of alder, willow, and bitter cherry trees. These tree species may be removed when the stumps and roots are left in place and three deep-rooted bushes or ground cover such as ocean spray, snow berry, salal or evergreen huckleberry are planted around each stump.
  - 4. Removal of invasive species. Himalayan blackberry, Scot's broom, thistle and other similar invasive plants may be removed manually, provided there is minimal soil disturbance and the area is immediately be replanted with native shrub species such as Oregon grape, salal and evergreen huckleberry.
  - 5. Other modifications consistent with the Department of Ecology's "Vegetation Management: A Guide for Puget Sound Bluff Property Owners" may be approved by the director.
- B. Replanting required. Applicants proposing vegetation removal, other than authorized pruning or snagging of hazardous trees, must submit a replanting plan that includes plant quantities, locations, and the schedule for installation.

#### **17.52A.050 Development standards.**

- A. Site design. Structures and improvements must be located to avoid geologically hazardous areas wherever possible, minimize alterations to the natural contours, preserve the most sensitive portions of the site, maximize vegetation retention, and avoid increased risk to neighboring properties.
- B. Minimum setbacks from steep slopes that are part of a ravine or shoreline.

1. Human safety standard. Structures must be 40 feet from the top of a steep slope and 15 feet from the toe. Applicants proposing structures closer than these standards must comply with the building setback and development recommendations in their geotechnical report.
2. Erosion reduction standard. All structures, except decks, must remain a minimum of 25 feet from the top of steep slopes that are part of a ravine or shoreline.
3. Exceptions.
  - a. Retaining walls. Retaining walls and other slope stability infrastructure are permitted in geologically hazardous areas when needed to remedy a safety issue or prevent damage to an existing structure. To be eligible for this exemption, a geotechnical report from a qualified professional is required and must contain a clear finding that the project minimizes slope disturbance as much as possible and will improve the long term stability of the slope.
  - b. Utilities. When there is no practical alternative, utility lines and pipes may be constructed on steep slopes. Lines and pipes must either be located above ground and properly anchored and designed to continue to function in the event of an underlying slide or bored to a depth beneath potential slope failure. Stormwater pipes must be designed with high-density polyethylene and fuse-welded joints, or similar product that is technically equivalent.
- C. Stormwater. Runoff must be collected, detained, and released in accordance with the city's stormwater detention requirements. Concentrated stormwater runoff is not allowed to flow directly over a steep slope or impact a neighboring property.
- D. Seismic safety factors. Development must be designed to provide a landslide safety factor of at least 1.5 for static conditions and 1.1 for dynamic conditions, based on horizontal acceleration and the standards in the current adopted version of the International Building Code.
- E. Seasonal restrictions. Clearing and grading within the wet weather months is only allowed with director approval of a winter weather construction plan that uses current best management practices.
- F. Alternative designs. Development within geologically hazardous areas must meet the requirements above unless the director finds that an alternative design standard will provide greater long-term slope stability (without the need for regular or periodic maintenance).

## Chapter 17.52B – WETLANDS

### What is changing

Most changes within this chapter relate clarification of requirements and simplification of code for ease of use and understanding.

There are some substantive changes:

- Clear distances are established for activities near wetlands and their buffer, replacing vague “potentially affecting” language which was subjective and difficult to enforce.
- Buffer widths are now based on wetland type and adjacent land use impact. Most residential projects will be unaffected, but higher intensity commercial and industrial uses will likely see wider buffers. The existing buffers for Category I/II/III wetlands are between 60 and 225 feet (depending on habitat score). Category IV wetlands currently have a 40-foot buffer.

Minimum Buffer Widths – Proposed			
Wetland Category	Land Use Impact		
	Low	Moderate	High
Category I	150 feet	225 feet	300 feet
Category II	150 feet	225 feet	300 feet
Category III	75 feet	110 feet	150 feet
Category IV	25 feet	40 feet	50 feet

[Click here to see annotated version of existing Chapter 17.52B](#)

### Key policy decision

**What’s the right balance of simplicity and flexibility for wetland buffers?** The Department of Ecology offers three approaches to buffers that meet BAS requirements.

- Option 1: Most complex but also the most flexible. Buffer widths are based on three factors: the wetland category, the level of impacts from adjacent land uses, and the functions or special characteristics of the wetland that need to be protected.
- Option 2: Simple to calculate buffer widths, but does not allow buffer reductions/averaging. Widths in this option are based on wetland category as determined by Ecology’s wetland rating system and the level of impact from the adjacent proposed or existing land use.
- Option 3: Simplest but most rigid, resulting in very large buffers. Buffers in this option are based solely on the category of the wetland as determined by Ecology’s wetland rating system which means all buffers are sized to protect the most-sensitive wetlands from the most-damaging land use impacts.

We’ve proposed Option 2 because it appears to be the best fit for the training and staffing levels available in Mukilteo and still moderates buffer widths to reduce impacts on property owners.



## Proposed amendments

### Repeal and replace MMC Chapter 17.52B with the following

#### Chapter 17.52B

#### WETLANDS

##### Sections:

- 17.52B.010 Purpose.
- 17.52B.020 Applicability.
- 17.52B.030 Required reports, plans, and sureties.
- 17.52B.050 Development outside wetlands and their buffers.
- 17.52B.060 Development inside wetland buffers.
- 17.52B.070 Development inside wetlands.

##### **17.52B.010 Purpose.**

The purpose of this chapter is to protect the functions and values of wetlands, including but not limited to:

- A. Maintaining water quality.
- B. Storing and conveying stormwater and floodwater.
- C. Recharging ground water.
- D. Providing important fish and wildlife habitat.
- E. Serving as areas for recreation, education, and aesthetic appreciation.

##### **17.52B.020 Applicability.**

- A. General. This chapter applies to any new activity within 50 feet of a wetland or its buffer, unless specifically exempted in Chapter 17.52.
- B. Limited applicability to existing development. Enhancement of wetlands or buffers degraded by development legally established before the adoption of these regulations is not required. Development and activities existing prior to the adoption of this ordinance may continue. Legally established impervious areas may be redeveloped without mitigation as long as the total square footage and location of impervious surface remains unchanged.

##### **17.52B.030 Required reports, plans, and sureties.**

- A. Third-party review. The city may retain a qualified professional, at the applicant's expense, to review and confirm any findings in required delineations, reports, studies, or plans.
- B. Adherence to the recommendations required. All recommendations in required reports are considered conditions of approval. Failure to follow report recommendations will be considered a violation of permit conditions.
- C. Wetland delineation and buffer analysis report.

1. Required. When proposed development is within 50 feet of a wetland or its buffer, the applicant must submit a wetland delineation report prepared by a qualified professional in accordance with city requirements and best available science.
  2. Contents. The report must:
    - a. Identify the wetland classification based on the most current Washington State Department of Ecology wetland rating guidance.
    - b. Provide sufficient information for the city to establish the location and boundaries of both the wetland and its associated buffer. At a minimum, this must include field worksheets, map of test pit locations, and clear findings.
    - c. Analyze existing conditions and the city's standard buffers to determine if the standard buffer width is adequate to ensure no net loss of functions or if vegetation enhancements or expanded buffers are needed.
  3. Expiration. Wetland delineation reports are valid for five years. Reports older than five years at the time of permit submittal must be updated.
  4. Relationship to biological/habitat assessment report. Wetlands are also considered Fish and Wildlife Habitat Conservation Areas. The wetland delineation and required biological/habitat assessment report may be combined.
- D. Mitigation plan.
1. Required. When a non-exempt development activity is located within a wetland or its buffer, the applicant must submit a mitigation plan prepared by a qualified professional.
  2. Contents. All mitigation plans must include:
    - a. Summary of the plan preparer's relevant experience and qualifications.
    - b. Project summary and drawings describing general project layout, construction timing sequencing, and grading and clearing limits.
    - c. Analysis of site characteristics and wetland/buffer functions as well as a description of expected impacts.
    - d. Proposed mitigation measures to ensure no net loss together with analysis of how mitigation sequencing was applied and documentation of best available science supporting the proposed mitigation.
    - e. Planting details, including species, quantities, locations, size, spacing, and density as well as plat protection and maintenance provisions to preserve existing vegetation.
    - f. Summary of required permits. A list of all required permits, including federal and state approvals.
    - g. Performance standards. The plan must identify measurable criteria to evaluate success of the mitigation and compliance with this chapter.

- h. Provisions to ensure a qualified professional is on site during construction to ensure mitigation is installed in accordance with the approved plan.
- i. Contingency plan. The plan must identify corrective actions to be taken if monitoring shows performance standards are not being met.

E. Monitoring program.

1. Required. When a non-exempt development activity is located within a wetland or its buffer, a monitoring program is required.
2. Contents. The monitoring program must ensure the site is monitored for an adequate number of years to ensure performance standards in mitigation plan are met (minimum of five years for buffer impacts, minimum of ten years for wetland impacts).
3. Annual reports. Annual monitoring reports consistent with best available science and Ecology guidance must be submitted to the city.
4. Extended monitoring. If the site does not perform as expected, the city may extend monitoring in two-year increments until performance standards are met.

F. Sureties and fees. To ensure compliance with mitigation and monitoring requirements, the city may require:

1. Performance surety. Mitigation must be completed before final project approval. If weather prevents timely completion, a performance surety equal to 150% of the mitigation installation costs may be accepted, conditioned on work being completed within six months.
2. Maintenance surety. A ten-year maintenance surety equal to 15% of the mitigation installation cost is required for all mitigation projects.
3. Monitoring deposit. The city may charge a set fee to cover the city's costs to review the yearly monitoring reports and conduct site inspections to ensure the performance standards are met.

**17.52B.050 Development outside wetlands and their buffers.**

All new development within 50 feet of a wetland buffer must:

- A. Temporary protections. Put temporary, protective measures in place during construction to ensure that dust, debris, and runoff do not enter the wetland.
- B. Permanent protections. When a wetland or its buffer exists on a property, the applicant must record notice of wetland presence with the Snohomish County assessor's office in the form of an easement, land use binder, or separate plat tract held in common ownership. The document must identify the approximate location of the wetland and restrict the use of herbicides, pesticides, and similar contaminants within a wetland or its buffer.

**17.52B.060 Development inside wetland buffers.**

- A. Buffer widths. Buffer widths vary based on the category of wetland and the intensity of the proposed development. Land use impact categories are defined in Chapter 17.08.

Minimum Buffer Widths			
Wetland Category	Land Use Impact		
	Low	Moderate	High
Category I	150 feet	225 feet	300 feet
Category II	150 feet	225 feet	300 feet
Category III	75 feet	110 feet	150 feet
Category IV	25 feet	40 feet	50 feet

- B. Development Standards.

1. General. Except as specified below or allowed through reasonable use approval, wetland buffers must be retained in an undisturbed condition.
2. Authorized activities. The following uses are allowed in the outer 25% of a buffer if they do not reduce wetland functions:
  - a. Viewing platforms and interpretive signage.
  - b. Pervious surface or boardwalk trails no more than five feet wide that are routed to avoid trees 18-inches or larger Diameter at Breast Height (DBH).

- C. Mitigation. Any impacts to wetland buffers must be mitigated at a one-to-one ratio to restore and preserve original functions.

#### **17.52B.070 Development inside wetlands.**

- A. Reasonable use required to alter. No alterations to wetland by non-exempt activities is allowed without reasonable use approval.
- B. Compensatory mitigation. All wetland impacts must be mitigated using the mitigation sequencing options in Chapter 17.52. Where impacts cannot be avoided or minimized, compensatory mitigation may be used.
1. Mitigation ratios for temporary impacts. When a project causes temporary impacts that can be restored to pre-disturbance conditions within a single growing season, the mitigation ratio is 1:1. All other impacts must comply with the permanent impact ratios.
  2. Mitigation ratios for permanent impacts. All permanent wetland impacts must be mitigated at the ratios below. These ratios apply to in-kind, on-site creation or restoration of the same wetland category.

Permanent Impact Mitigation Ratios Based on Method			
Impacted Wetland	Create/Re-establish	Rehabilitate	Enhance/Preserve
Category I	4:1	8:1	16:1

Category II	3:1	6:1	12:1
Category III	2:1	4:1	8:1
Category IV	1.5:1	3:1	6:1

3. Mitigation ratios for wetlands with special characteristics. Impacts to the following wetlands with special characteristics require consultation with the Department of Ecology and Department of Natural Resources to determine mitigation ratios:
  - a. Category I forested
  - b. Bogs
  - c. Wetlands of high conservation value
  - d. Category I and II estuarine wetlands
  - e. Interdunal wetlands
  - f. Category I and II wetlands in coastal lagoons
4. Methods. Mitigation for wetland and buffer impacts must rely on a method below, which are listed in order of preference. A lower-preference form of mitigation should be used only if a qualified professional demonstrates to the director's satisfaction that all higher-ranked methods of mitigation are not viable.
  - a. Re-establish. Manipulate the physical, chemical, or biological characteristics of a site to return natural/historic functions and environmental processes to a former wetland.
  - b. Rehabilitate. Manipulate the physical, chemical, or biological characteristics of a site to repairing natural/historic functions and environmental processes to a degraded wetland.
  - c. Preservation. The removal of a threat to, or preventing the decline of, wetlands by an action in or near those wetlands.
  - d. Enhance. Manipulate the physical, chemical, or biological characteristics of a wetland to heighten, intensify, or improve specific wetland function(s).
  - e. Create. Manipulate the physical, chemical, or biological characteristics of a site to develop a wetland on an upland where a wetland did not previously exist at an upland site.
5. Tools. Any of the following approaches may be used to provide compensatory mitigation:
  - a. Wetland mitigation bank. Credits from a wetland mitigation bank certified through WAC Chapter 173-700 may be used to compensate for impacts when the project is within the service area of the bank and the proposed use of credits

is consistent with both the replacement ratios of the city code and the terms and conditions of the bank's certification.

- b. Permittee-responsible mitigation. On- or off-site mitigation funded and executed by the permittee may be used after a qualified professional demonstrates to the director's satisfaction that the mitigation would provide appropriate compensation for the proposed impacts. Mitigation sites should be in the same sub-drainage basin unless the applicant can demonstrate that a mitigation site in a different sub-drainage basin is ecologically preferable.
6. Mitigation timing. Compensatory mitigation projects must be completed prior to use or occupancy.

DRAFT

## Chapter 17.52C – FISH AND WILDLIFE HABITAT CONSERVATION AREAS

### What is changing

Most changes within this chapter relate clarification of requirements and simplification of code for ease of use and understanding. We’ve also removed “outside of shoreline jurisdiction” from the chapter title because that’s true for all critical areas regulations.

There are some substantive changes:

- **New stream typing.** Currently, we type streams on a number system (Type I – 5). The new regulations align stream typing with state standards that use Types F and N.
- **Transition from “buffers” to riparian management zones.** Historically, we’ve spoken about streams and their buffers. The new science and state regulations transition away from this approach to thinking of buffers as their own type of critical area – namely a riparian management zone (RMZ). We’ve updated our regulations to align with this new vocabulary.
- **New measurement methodology.** We currently manage buffers as a certain distance from a stream, based on the type of stream. Best available science now requires a more site-based and contextual approach to determining what distance from a stream requires protecting. Washington State Department of Ecology guidance recommends basing stream buffers (now RMZs) on [Site Potential Tree Height \(SPTH<sub>200</sub>\)](#) as mapped by the Washington State Department of Fish and Wildlife. SPTH<sub>200</sub> is the height the tallest tree likely to grow in that area would reach by 200 years. In most areas of Mukilteo, this is around 196 feet (typically based on the height a Douglas fir would grow on the site).

[Click here to see annotated version of existing Chapter 17.52C](#)

### Key policy decision

#### **Should site potential tree height be used to determine all RMZ widths?**

We’ve proposed to use site potential tree height methodology for Type F fish-bearing streams but to use a 100-foot buffer for Type N streams since the science shows that a 100-foot buffer eliminates 99% of pollutants. The city could adopt the more rigorous SPTH<sub>200</sub> standards for all streams. Our proposed code language was designed to balance environmental protection with other city priorities (e.g., protecting property rights and preserving land to accommodate future population growth).



## Proposed amendments

**Repeal and replace MMC Chapter 17.52C with the following**

### **Chapter 17.52C FISH AND WILDLIFE HABITAT CONSERVATION AREAS**

#### Sections:

- 17.52C.010 Purpose.
- 17.52C.020 Applicability.
- 17.52C.030 Required reports, plans, and sureties.
- 17.52C.040 Standards for all fish and wildlife habitat conservation areas.
- 17.52C.050 Additional development standards for streams.
- 17.52C.060 Additional development standards for riparian management zones.

#### **17.52C.010 Purpose.**

The purpose of this chapter is to protect areas that serve a critical role in sustaining healthy populations of plant and animal species. These regulations are intended to ensure that development is conducted in a manner that preserves essential habitat functions such as water quality, vegetation cover, habitat connectivity, food and shelter.

#### **17.52C.020 Applicability.**

- A. General. This chapter applies to any new development activity within a designated fish and wildlife habitat conservation area (FWHCA), unless the activity is specifically exempt from the city's critical areas regulations.
- B. Limited applicability to existing development. Enhancement of FWHCAs degraded by development legally established before the adoption of these regulations is not required. Development and activities existing prior to the adoption of this ordinance may continue. Legally established impervious areas may be redeveloped without mitigation as long as the total square footage and location of impervious surface remains unchanged.
- C. Streams. These regulations apply to all F and N water types. Type S waters are shorelines of the state that are regulated by the city's Shoreline Master Program.
  - 1. Type F waters. Streams with continuous or seasonal flows that contain fish habitat.
  - 2. Type Np waters. Streams with continuous flows that do not contain fish habitat.

3. Type Ns waters. Streams with seasonal flows that do not contain fish habitat.
- D. Riparian management zones (RMZs). These regulations apply within all riparian management zones.
  1. The RMZ for Type F waters is based on the [Site Potential Tree Height at 200 years \(SPTH<sub>200</sub>\)](#) as mapped by the Washington State Department of Fish and Wildlife. Where no SPTH data is available, the RMZ is 200 feet.
  2. The RMZ for Type N waters is 100 feet.
  3. The RMZ is measured from the outer edge of the Channel Migration Zone (CMZ) where one exists. Otherwise, the RMZ is measured from the Ordinary High Water Mark (OHWM).
- E. Priority habitats and species. These regulations apply to areas with which state or federally endangered, threatened, or sensitive species have a primary association. Priority habitats and species identified by WDFW's Priority Habitats and Species Program are also subject to provisions of Chapter 17.52B.
- F. Other. These regulations also apply to:
  1. Areas identified by the Washington State Department of Natural Resources' Natural Heritage Program as having rare plant species and high-quality ecosystems.
  2. Commercial and recreational shellfish areas.
  3. Kelp and eelgrass beds.
  4. Herring, smelt, and other forage fish spawning areas.
  5. Naturally occurring ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat.
  6. Waters of the state.
  7. Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity.
  8. State natural area preserves, natural resource conservation areas, and state wildlife areas.

#### **17.52C.030 Required reports, plans, and sureties.**

- A. Third-party review. The city may retain a qualified professional, at the applicant's expense, to review and confirm any findings in required delineations, reports, studies, or plans.
- B. Adherence to the recommendations required. All recommendations in required reports are considered conditions of approval. Failure to follow report recommendations will be considered a violation of permit conditions.
- C. Biological/habitat assessment report.
  1. Required. A biological/habitat assessment report is required when development activity is proposed within 50 feet of a fish and wildlife habitat conservation area.
  2. Standards. The report must use best available science and be prepared by a qualified professional who is a biologist with experience preparing reports for the relevant type of habitat.

3. Contents. The report is intended to be an investigation of the project area to evaluate the quality and type of habitats present and make protection and mitigation recommendations. It must:
  - a. Provide a detailed description of vegetation on and adjacent to the project area.
  - b. List priority species on or near the project area, including:
    - i. Endangered, threatened, sensitive, or candidate species that have a primary association with habitat on or near the project area.
    - ii. Vulnerable aggregations of species or animals susceptible to significant population declines within the specific area.
    - iii. Species of recreational, commercial, and/or tribal importance.
  - c. Identify priority habitats on or near the project area, including any areas that have one or more of the following attributes:
    - i. Comparatively high fish and wildlife density.
    - ii. Comparatively high fish and wildlife species diversity.
    - iii. Important fish and wildlife breeding habitat.
    - iv. Important fish and wildlife seasonal ranges.
    - v. Important fish and wildlife movement corridors.
    - vi. Limited availability.
    - vii. High vulnerability to habitat alteration.
    - viii. Unique or dependent species.
  - d. Discuss any relevant federal, state, or local special management recommendations for species or habitats located on or near the project area. For projects near eagle habitat, analysis of compliance with the federal Bald and Golden Eagle Protection Act and the Migratory Bird Treaty Act is required.
  - e. Assess the direct and indirect potential project impacts on habitat or water quality.
  - f. Review how the proposed activity complies with mitigation sequencing requirements.
  - g. Make recommendations for mitigation, management, monitoring, and maintenance measures, including any buffers or revegetation necessary to protect the integrity, functions and values of the affected habitat.
  - h. Contain a clear finding that if recommendations are followed, the development activity will not result in any loss of ecological function for the fish and wildlife conservation area.
- D. Monitoring program. When mitigation measures are required to ensure not net loss, a monitoring program must be established. The program must provide for at least five years of monitoring to ensure the mitigation performance standards are met. Monitoring programs must include:
  1. Performance standards.
  2. Metrics that will be reviewed in monitoring reports.
  3. Remediation measures if metrics aren't met.
  4. Schedule for submitting annual reports.

- E. Sureties. When mitigation measures are needed, an acceptable surety device must be put in place to ensure both performance and maintenance of the required mitigation.
  - 1. Performance surety. Mitigation must be installed prior to occupancy or final inspection. A performance surety equal 150% of the cost of the mitigation project may be used to defer the timeline for installation by up to six months.
  - 2. Maintenance surety. A maintenance surety is required on all mitigation projects to ensure that the improvements survive for the established monitoring period. The surety must equal 15% of the cost of the mitigation project and reflect the term of the monitoring program.

**17.52C.040 Standards for all fish and wildlife habitat conservation areas.**

- A. Performance standards. Applicants must specifically address how each of the following performance measures were addressed, or why they were not considered applicable or feasible:
  - 1. Consider habitat in site planning and design.
  - 2. Locate buildings and structures in a manner that minimizes impacts.
  - 3. Integrate retained habitat areas into open space or landscaping.
  - 4. Consolidate habitat and vegetated open space in contiguous blocks.
  - 5. Locate habitat contiguous to other habitat areas, open space, or landscaping to create corridors.
  - 6. Use native species in any on-site landscaping or replanting areas.
  - 7. Emphasize heterogeneity and structural diversity of vegetation in landscaping.
  - 8. Remove or control any nonnative or undesirable species of plants and animals on site.
  - 9. Preserve significant trees, preferably in groups.
  - 10. Locate mitigation to create and maintain contiguous habitat corridors.
- B. Mitigation. Any impacts to fish and wildlife habitat conservation areas must be mitigated at a one-to-one ratio to restore and preserve original functions. Mitigation measures must be in place prior to occupancy.

**17.52C.050 Additional development standards for streams.**

- A. General. Except as otherwise specified or allowed, streams must be retained in an undisturbed condition.
- B. Allowed activities. The director may authorize the following activities when a report prepared by a qualified professional contains clear findings that there will be no net loss of stream functions or habitat value:
  - 1. Restoration activities. Restoration and enhancement activities to restore stream functions, provided a hydraulic project approval (HPA) is obtained from the Washington Department of Fish and Wildlife.

2. Relocation. Stream relocation that is part of an approved mitigation or rehabilitation plan that has demonstrated that it will result in equal or better habitat and water quality and equivalent flow capacity.
3. Culverts. Culverts for street and driveway crossings when fish passage will not be impaired and all of the following design criteria are met:
  - a. A hydraulic project approval (HPA) is obtained from the Washington Department of Fish and Wildlife.
  - b. Culvert exceeds diameter needed to accommodate flow.
  - c. Culvert includes gradient controls and creation of pools.
  - d. Gravel substrate at least one foot deep is placed in bottom of culvert.
- C. Additional protections for anadromous fish.
  1. Work window limitations. All activities in streams used by anadromous fish must comply with the work windows designated by the Washington Department of Fish and Wildlife for the applicable species.
  2. Erosion control. Bioengineering methods or soft armoring techniques are required.
  3. Barriers prohibited. Structures that prevent the migration of salmonids are not allowed in water bodies currently or historically used by anadromous fish. Fish bypass facilities must be provided and designed to allow the upstream migration of adult fish and prevent harm to fry and juveniles migrating downstream.
  4. Fill restrictions. Fill is only allowed for water-dependent uses where all impacts can be properly mitigated.

**17.52C.060 Additional development standards for riparian management zones.**

- A. General. Except as otherwise specified or allowed, riparian management zones must be retained in an undisturbed condition.
- B. Allowed activities. The director may authorize the following activities when a report prepared by a qualified professional contains clear findings that there will be no net loss of stream functions or habitat value:
  1. Pedestrian trails, bridges, viewing platforms, and interpretative signage located to minimize disruption and avoid significant trees where feasible.
  2. Stormwater recharge facilities that benefit the habitat.
  3. Utility easements and underground utilities.
  4. Stormwater management facilities when no other location is feasible.
- C. Riparian management zone reductions.
  1. Obstructions. When a road or structure falls within an established RMZ and completely obstructs all ecosystem functions and values, the RMZ width may be modified to be the edge of the road or structure.
  2. Averaging with enhancements. RMZs may be reduced by up to 20% when:
    - a. The total amount of riparian habitat area on site remains unchanged.
    - b. No portion of the RMZ is less than 100 feet.

- c. Significant enhancements (e.g., revegetating all on-site portions of a degraded RMZ to meet or exceed 80% native vegetation coverage, daylighting a stream, or removing a fish barrier to restore accessibility to resident or anadromous fish) are proposed.
  - d. A report prepared by a qualified professional contains clear findings that the end result of the reduced areas and enhancements will provide equal or better protection of critical area functions and values than the standard zone width.
- D. Work window limitations. Any authorized work in a RMZ associated with a stream used by anadromous fish must comply with the work windows designated by the Washington Department of Fish and Wildlife for the applicable species.

## Chapter 17.52D – FLOOD HAZARD AREAS

### What is changing

This chapter represents a large consolidation effort. We are moving the flood hazard regulations from Chapter 15.12 to this chapter so that all critical areas regulations are located together. MMC 15.12 will be repealed, with relevant standards captured in 17.52D.

There are some substantive changes:

- **Alignment with National Marine Fisheries Services' 2008 Biological Opinion.** The new standards require habitat assessments for all projects that need a floodplain permit unless they are beneath the established thresholds.
- **Increased standard to two feet above BFE.** As drafted, this code requires all habitable spaces to be two feet above Base Flood Elevation (BFE). This is an increase over our current standards. See policy discussion below.

[Click here to see annotated version of existing Chapter 17.52D](#)

### Key policy decision

#### **Should the city require habitable spaces to be one or two feet above BFE?**

As drafted, this code requires all habitable spaces to be two feet above Base Flood Elevation (BFE). This is an increase over our current standards which only require new construction to be one foot above BFE. State environmental regulations and climate resilience requirements continue to change and evolve.

We believe adopting this more rigorous standard now will better position the City of Mukilteo for upcoming sea level rise risk assessment planning. It is also consistent with our Comp Plan policies:

- CC.2.1: Plan for sea-level rise and other climate hazards when developing near shorelines.
- CC.3.3: Use the best available science to manage and regulate development near critical areas and shorelines in a way that allows appropriate uses, mitigates adverse effects, and maximizes the climate resilience benefits they provide.



## Proposed amendments

### **Repeal MMC Chapter 15.12.**

### **Repeal and replace MMC Chapter 17.52D with the following**

#### **Chapter 17.52D FLOOD HAZARD AREAS**

##### Sections:

17.52D.010 Purpose.

17.52D.020 Applicability.

17.52D.030 Floodplain development permits and habitat assessments.

17.52D.040 Development standards.

17.52D.050 Administration.

##### **17.52D.010 Purpose.**

The purpose of this chapter is to protect public health, safety, and property by managing development in flood hazard areas. These regulations are intended to:

- Minimize flood-related risks and costs
- Protect life, property, and public infrastructure
- Maintain natural floodplain functions
- Ensure community eligibility for flood insurance and disaster relief programs.

##### **17.52D.020 Applicability.**

- A. New development. This chapter applies to all new development fully or partially within a frequently flooded area (identified by the 100-year flood plain designations of the Federal Emergency Management Agency and the National Flood Insurance Program), unless specifically exempted in Chapter 17.52.
- B. Substantial improvements. This chapter applies to any substantial improvements to existing structures – including repairs of substantial damage or any combination of repairs, reconstruction, rehabilitation, addition, or other improvements taking place within a ten year period – the cost of which equals or exceeds 50% of the market value of the structure before the work is started.
- C. Reliance on maps. Flood Insurance Rate Maps (FIRMs) are used to delineate the boundaries of frequently flooded areas. Where there is a conflict between the boundary mapped on the FIRM and actual field conditions, a letter of map change can be applied for with FEMA. FIRMs govern unless a map change is officially approved by FEMA.

#### **17.52D.030 Floodplain development permits and habitat assessments.**

- A. Required permits. Floodplain development permits are required prior to making any manmade changes to structures or property, unless specifically exempted in Chapter 17.52 or allowed as part of an emergency activity.
- B. Exception for emergency activities. When emergencies occur that pose an imminent threat to public health, safety, or the environment and that require action in a time frame too short to allow for permitting, those actions can proceed as long as:
  - 1. The floodplain administrator is notified in writing within 72 hours (of the start of the emergency development activity. Where notification timeline ends outside of business hours, notification the next business day will be considered timely.
  - 2. The emergency development activity is documented, including timing, cause, description of activities completed, inventory of materials used, and quantities of any grade or fill.
  - 3. An application for a floodplain development permit is submitted within 14 calendar days of the emergency activity, or as soon as reasonably feasible thereafter. The permit approval may be conditioned to require all work to come into compliance with the standards of this chapter and to ensure full restoration of the flood hazard area.
- C. Types of permits.
  - 1. Programmatic floodplain development permit. Programmatic floodplain permits may be issued to public agencies and utility providers to eliminate the need for individual permits for ongoing, routine development activities that are unlikely to cause an adverse cumulative impact to the area of special flood hazard.
  - 2. Floodplain development permit. A floodplain development permit is required for all development that does not qualify for a programmatic floodplain development permit.
    - a. Timing. Floodplain development permits must be issued together with any associated land use or development permits. Advanced issuance of a floodplain development permit is not allowed.
    - b. Application materials. All studies and plans needed to review a project for compliance with these standards must be prepared by a qualified professional. The city may require third party review of materials at the applicant's expense.
- D. Habitat assessments.
  - 1. Required. To comply with the National Marine Fisheries Services' 2008 Biological Opinion, the city requires habitat assessments for all projects that need a floodplain permit unless they are beneath the thresholds below.
  - 2. Thresholds. The following actions do not require a habitat assessment:
    - a. Normal maintenance, repairs, or remodeling of existing structures when work is less than 50% of the market value of the structure.
    - b. Structural expansions less than 10% of existing footprint.

- c. Activities with the sole purpose of creating, restoring, or enhancing the natural functions that comply with federal and state standards and do not include structures, grading, filling, or impervious surfaces.
  - d. Development of open space and recreational facilities that do not include structures, fill, impervious surfaces, or removal of more than 5% of the native vegetation on the portion of the property in the floodplain.
  - e. Repair of onsite septic systems when ground disturbance is the minimal necessary and BMPs are used to prevent stormwater runoff and soil erosion.
  - f. Projects that have already received concurrence under another permit or consultation (e.g., through Section 7, Section 4d, or Section 10 of the Endangered Species Act (ESA) or as an Army Corps 404 permit).
  - g. Repair of an existing, functional bulkhead in the same location and footprint with the same materials when the Ordinary High Water Mark (OHWM) is outside of the face of the bulkhead and the work qualifies for a Corps exemption from Section 404 coverage.
3. Report contents. The report must include:
- a. Description of project area and methods of work.
  - b. Relevant maps and site plans.
  - c. Consideration of direct and indirect impacts of the project as well as the cumulative impacts for reasonable foreseeable projects beyond the subject proposal.
  - d. Explanation of how the project avoids adverse impacts including, but not limited to: water quantity/quality, flood velocities/volumes, flood storage capacity, riparian vegetation, habitat forming processes, or spawning substrate.
4. Report findings. The habitat assessment must show that the proposal will result in no likely adverse effects on floodplain functions, salmonid species, or orcas.

#### **17.52D.040 Development standards.**

- A. Compliance with American Society of Civil Engineers (ASCE) Standards. All development activity must comply with the standards in:
  - 1. ASCE 24: Flood Resistant Design and Construction; and
  - 2. ASCE 7: Minimum Design Loads and Associated Criteria for Buildings and Other Structures.
- B. Compliance with Building Code. All residential structures must comply with the standards in Section R322 of the Building Code.
- C. Minimum standards.
  - 1. Two feet above BFE. All habitable spaces must be two feet above Base Flood Elevation (BFE).
  - 2. Size limitations for accessory structures. Accessory structures within flood hazard areas are limited to 650 square feet and must be adequately anchored to prevent flotation, collapse, and lateral movement.

3. Special requirements for critical facilities. New schools, hospitals, and emergency response facilities are only allowed in flood hazard areas when no other feasible alternative site is available. Applicants must demonstrate that there is a community need for the facility and submit a summary of alternative sites reviewed and reasons those sites are not feasible. When allowed in flood hazard areas, these facilities must have the lowest floor and ingress and egress points elevated either three feet above BFE or to the height of the five-hundred-year flood, whichever is higher.
4. Habitat assessments. Projects requiring a habitat assessment must demonstrate compliance with the following minimum standards or explain why they don't apply to the project.
  - a. New structures are located in the least impactful practical location.
  - b. Any removed large woody debris is replaced consistent with WDFW Aquatic Habitat guidelines.
  - c. Bank armoring/stabilization proposals include a needs and alternatives analysis and are consistent with WDFW Marine Shorelines Design Guidelines or the Integrated Streambank Protection Guidelines.
  - d. The project is either designed to avoid adverse impacts on floodplain functions or compensatory mitigation is provided so there are no adverse impacts on floodplain functions that support ESA listed species.
  - e. Prior to permit issuance, the applicant has recorded a notice on the property title that the property is within the Riparian Buffer Zone and/or the 100-year floodplain

#### **17.52D.050 Administration.**

- A. Maps adopted by reference. To facilitate the administration of this chapter, the city hereby adopts and incorporates the following maps into this chapter as if set forth in full:
  1. Areas of special flood hazard identified in the Federal Emergency Management Agency's "Flood Insurance Study for Snohomish County, Washington, and Incorporated Areas," effective June 19, 2020.
  2. Areas of special flood hazard identified on the Federal Emergency Management Agency's "Flood Insurance Rate Maps (FIRMs)," effective June 19, 2020 including including maps 53061C1010F, 53061C1015F, 53061C1020F, and 53061C1310F.
- B. Guidance documents adopted by reference. To facilitate the administration of this chapter, the city hereby adopts and incorporates the following guidance documents from the Federal Emergency Management Agency (FEMA) and American Society of Civil Engineers (ASCE), including updates and amendments, into this chapter as if set forth in full:
  1. FEMA's "Elevation Certificate and Instructions"
  2. FEMA's "Floodproofing Certificate for Non-Residential Structures"
  3. FEMA's "NFIP Technical Bulletins"
  4. FEMA's "P-758: Substantial Improvement/Substantial Damage Desk Reference"
  5. ASCE 24: Flood Resistant Design and Construction

6. ASCE 7: Minimum Design Loads and Associated Criteria for Buildings and Other Structures
- C. Floodplain administrator. The director, or their designee, is appointed as the floodplain administrator. The floodplain administrator is responsible for determining whether the proposal will be reasonably safe from flooding and for administering, implementing, and enforcing the regulations in this chapter.
1. Permit review. The floodplain administrator may approve or conditionally approve applications when all the requirements of this chapter have been satisfied, all other required permits have been obtained, and the project is reasonably safe from flooding. Permits may be denied when these standards are not met.
  2. Records management. The floodplain administrator must keep all records pertaining to the provisions of this chapter in perpetuity and make them available for public inspection. This includes BFE data, as-built elevations, substantial improvement and damage calculations, elevation and floodproofing certificates, details on whether structures contain basements, and lowest horizontal structural member documentation for structures in the VE zone.
  3. Required notifications.
    - a. Annexations. When annexing land with areas of special flood hazard, the floodplain administrator must provide written notification to the Federal Insurance Administrator and FEMA Region X.
    - b. Watercourse alterations. When a watercourse is to be altered or relocated, the floodplain administrator must first notify adjacent communities and the Department of Ecology. Evidence of that notification must be sent to the Federal Insurance Administrator and FEMA Region X.
  4. Interpretation of FIRM boundaries. The floodplain administrator may not interpret the boundaries of the areas of special flood hazard shown on the FIRM. However, when BFE data has not been provided on FIRMs, the floodplain administrator may obtain and review the best BFE data available from a reputable source in order to administer the provisions of this chapter.

## Chapter 17.08 – DEFINITIONS

### What is changing

Some of the updated regulations and best available science standards require us to add new terms (e.g., riparian management zone) or refine how we define existing terms (e.g., geologically hazardous areas).

In addition to required changes, we also used this as an opportunity to:

- Delete unused terms
- Consolidate duplicative terms
- Remove regulatory language from definitions

Staff notes and explanations for the changes are incorporated in the proposed amendments but will be removed before adoption.

## Proposed amendments

### Amend Section 17.08.020 as follows:

“Agriculture” means tilling of the soil, the raising of crops, horticulture, viticulture, the harboring of livestock, pasturing, grazing, dairying, and/or animal husbandry including all uses customarily incidental thereto, except the following:

1. Animal shelter buildings for horses and barns;
2. Beekeeping;
3. Harboring of chickens;
4. Noncommercial individual or collective gardens;
5. Medical cannabis collective gardens; and
6. Any type of kennel, animal services facility or research facility using animals.

~~Forest practices are not included in this definition. An operation ceases to be an ongoing agricultural use when the area is proposed for conversion to a nonagricultural use or when the land has lain idle for more than five years without being registered in a soil conservation program.~~  
[amended in response to Department of Ecology feedback]

~~“Approve” or “approval” means the decision or determination of the director that an action conforms to the city’s requirements.~~ [common use is adequate]

“Best available science” means ~~current scientific information consistent with WAC 365-195-900 through 925 that was derived from a sound scientific process that included critical peer review by qualified scientific experts in the relevant discipline, clearly stated and replicable methods, quantitative analysis, and logical conclusions. using the most current, widely accepted scientific data, research, studies and/or reports in making land use and policy decisions when designating and protecting environmentally sensitive areas. See WAC 365-195-900.~~

“Best management practices” ~~or “BMP”~~ means the schedules of activities, prohibitions of practices, maintenance procedures, pollution prevention and educational practices, and structural and/or managerial practices approved by the director that, when used singly or in combination, prevent or reduce the release of pollutants and other adverse impacts to waters of Washington State.

~~“BMP” means best management practice.~~ [incorporated in best management practices definition above.]

“Buffer” means a ~~vegetated~~ area, typically adjacent or otherwise associated with an environmentally sensitive feature, ~~which is retained in its natural state. No clearing, grading, or filling is permitted within a buffer (unless specifically conditioned otherwise).~~ [regulatory language removed]



~~“CAMP” means Mukilteo’s critical areas mitigation program, which identifies potential sites for wetland, stream, and buffer mitigation following a watershed approach. [Definition not needed. CAMP will be dissolved as part of CAO update]~~

~~“Category I wetlands” means those wetlands which meet any of the following criteria:~~

- ~~1.— Relatively undisturbed estuarine wetlands larger than one acre;~~
- ~~2.— Wetlands that are identified by scientists of the Washington Natural Heritage Program/DNR as high quality wetlands;~~
- ~~3.— Bogs larger than one-half acre;~~
- ~~4.— Mature and old-growth forested wetlands larger than one acre; or~~
- ~~5.— Wetlands in coastal lagoons; and wetlands that perform many functions well (scoring seventy points or more). These wetlands: (a) represent unique or rare wetland types; (b) are more sensitive to disturbance than most wetlands; (c) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or (d) provide a high level of functions.~~

~~“Category II wetlands” means those wetlands which meet any of the following criteria:~~

- ~~1.— Estuarine wetlands smaller than one acre, or disturbed estuarine wetlands larger than one acre;~~
- ~~2.— Interdunal wetlands larger than one acre; or~~
- ~~3.— Wetlands with a moderately high level of functions (scoring between fifty-one and sixty-nine points);~~

~~“Category III wetlands” means those wetlands which meet any of the following criteria:~~

- ~~1.— Wetlands with a moderate level of functions (scoring between thirty and fifty points);~~
- ~~2.— Interdunal wetlands between one-tenth and one acre. Wetlands scoring between thirty and fifty 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.~~

~~“Category IV wetlands” means wetlands which have the lowest levels of functions (scores less than thirty points) and are often heavily disturbed. These are wetlands that we should be able to replace, and in some cases be able to improve. However, experience has shown that replacement cannot be guaranteed in any specific case. These wetlands may provide some important functions, and also need to be protected to some degree. [replaced with wetland definition from RCW 36.70A.030 and typing instructions in wetland chapter]~~

~~“Channel Migration Zone” means the area within which a river channel is likely to move laterally over 100 years. [definition recommended by WDFW]~~

~~“Contouring” means a change of the ground surface to conform to a desired configuration. [term not used in this way in zoning code]~~

“Critical areas” mean the following areas and ecosystems found within city limits:

- Wetlands
- Fish and wildlife habitat conservation area
- Frequently flooded areas
- Geologically hazardous areas [Aligned with RCW 36.70A.030 (12), tailored to city (which does not have aquifer protection/critical aquifer recharge areas.)]

“Development” means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, storage of equipment or materials, subdivision of land, removal of more than 5% of the native vegetation on the property, or alteration of natural site characteristics. construction or exterior alteration of structures; grading, dredging, drilling, dumping, filling; removal of sand, gravel, or minerals; bulk heading; driving of pilings; placing of obstructions; or any project of a temporary or permanent nature which modifies structures, land, or shorelines and which does not fall within the allowable exemptions contained in the Mukilteo Municipal Code. [amended to comply with model ordinance language so that this definition can apply within floodplains and be compliant with BiOp.]

“Ecosystem functions” means the products, physical and biological conditions, and environmental qualities of an ecosystem that result from interactions among ecosystem processes and ecosystem structures. Ecosystem functions include, but are not limited to, sequestered carbon, attenuated peak streamflow, aquifer water level, reduced pollutant concentrations in surface and ground waters, cool summer in-stream water temperatures, and fish and wildlife habitat functions. [definition recommended by WDFW]

“Ecosystem values” means the cultural, social, economic, and ecological benefits attributed to ecosystem functions. [definition recommended by WDFW]

“Enhancement” means:

1. For wetlands, the improvement of an existing viable wetland or buffer, such as by increasing plant diversity, increasing wildlife habitat, installing environmentally compatible erosion controls or removing nonindigenous plant or animal species; or
2. For streams and wildlife habitat, the improvement of an existing habitat or an existing stream or associated buffer such as by increasing plant density or structural diversity; installing environmentally compatible erosion controls; or by removing nonindigenous or noxious species. [common use definition is superior since this limits to wetland and stream context but actual usage in code is broader (e.g., shorelines and stormwater)]

“Fish and wildlife habitat conservation areas (HCAs)” means areas that serve a critical role in sustaining needed habitats and species for the functional integrity of the ecosystem, and which, if altered, may reduce the likelihood that the species will persist over the long term. These areas may include, but are not limited to, rare or vulnerable ecological systems, communities, and habitat or habitat elements including seasonal ranges, breeding habitat, winter range, and movement corridors; and areas with high relative population density or species richness. This definition excludes such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of and are

maintained by a port district or an irrigation district or company [language from WAC 365-190-030 (6) and RCW 36.70A.030 (12)] necessary for maintaining species in suitable habitats within their natural geographic distribution so that isolated sub-populations are not created as designated by WAC 365-190-080(5). These areas include: but includes:

9. Streams;
10. Riparian management zones;
11. Areas where species that are listed as endangered, threatened, or sensitive by a federal or state agency have a primary association;
12. Areas identified by the Washington State Department of Natural Resources' Natural Heritage Program as having rare plant species and high-quality ecosystems;
13. Commercial and recreational shellfish areas;
14. Kelp and eelgrass beds; herring, smelt, and other forage fish spawning areas;
15. Naturally occurring ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat;
16. Waters of the state;
17. Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity;  
and
18. State natural area preserves, natural resource conservation areas, and state wildlife areas.

[List from WAC 365-190-030(2)]

- ~~1. Areas with which state or federally designated endangered, threatened, and sensitive species have a primary association;~~
- ~~2. Habitats of local importance, including but not limited to areas designated as priority habitat by the Department of Fish and Wildlife;~~
- ~~3. Commercial and recreational shellfish areas;~~
- ~~4. Kelp and eelgrass beds; forage fish (sandlance, surf smelt and herring) spawning areas;~~
- ~~5. Naturally occurring ponds under twenty acres and their submerged aquatic beds that provide fish or wildlife habitat, including those artificial ponds intentionally created from dry areas in order to mitigate impacts to ponds;~~
- ~~6. Waters of the state, including lakes, rivers, ponds, streams, inland waters, underground waters, salt waters, and all other surface waters and watercourses within the jurisdiction of the state of Washington;~~
- ~~7. Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity;~~
- ~~8. State natural area preserves and natural resource conservation areas; and~~
- ~~9. Land essential for preserving connections between habitat blocks and open spaces.~~

"Fish habitat" or "habitat that supports fish life" means habitat, which is used by fish life at any life stage at any time of the year including potential habitat likely to be used by fish life, which could reasonably be recovered by restoration or management and includes off-channel habitat.

[definition recommended by WDFW]

~~“Flood hazard area” means land in the floodplain within the city subject to a one percent or greater chance of flooding in any given year.~~ [deleted in favor of “frequently flooded areas” definition that aligns with WAC and keeps terminology consistent]

~~“Frequently flooded areas” means areas within the 100-year flood plain designations of the Federal Emergency Management Agency and the National Flood Insurance Program, meaning that there is at least a one percent or greater chance of flooding in any given year.~~ [consistent with minimum requirements of WAC 365-190-110 and language in WAC 365-190-030(8)]

~~“Geologically sensitive hazardous areas” means areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns.~~ [Language from RCW 36.70A.030 (22) and WAC 365-190-030(9)] ~~This includes:~~

- ~~• Erosion hazard areas. Areas likely to become unstable, such as bluffs, steep slopes, and areas with unconsolidated soils.~~ [Language from WAC 365-190-120(5)]
- ~~• Landslide hazard areas. Areas at risk of mass movement due to a combination of geologic, topographic, and hydrologic factors. These areas are defined in more detail in this chapter.~~ [Language from WAC 365-190-030(10)]
- ~~• Seismic hazard areas. Areas subject to severe risk of damage as a result of earthquake induced ground shaking, slope failure, settlement, soil liquefaction, debris flows, lahars, or tsunamis.~~ [aligned with language from WAC 365-190-120(7) and WAC 365-190-030(18)]
- ~~• Areas subject to other geological events such as coal mine hazards and volcanic hazards including: Mass wasting, debris flows, rock falls, and differential settlement.~~ [Language from WAC 365-190-120(8)]

~~within the city that are:~~

- ~~1.— Affected by, contain, or exhibit unstable or potentially unstable soil types, steep slopes, erosion, earth movement, slides, surface water runoff, ground water, liquefaction, within the one-hundred-year floodplain, or within a tsunami hazard area.~~
- ~~2.— Within the designated geologic sensitive area as shown on the city’s “geologic sensitive areas” map (see Attachment A at the end of Chapter 17.52A).~~
- ~~3.— Areas that may not be suited to development consistent with public health, safety, or environmental standards, because of their susceptibility to erosion, sliding, earthquake, or other geological events as designated by WAC 365-190-080(4).~~

~~“Habitat” or “wildlife habitat” means areas that provide food, protective cover, nesting, breeding or movement for fish and wildlife and with which individual species have a primary association. Wildlife habitat also includes ponds that meet the definition(s) of critical or secondary habitat in these regulations.~~ [definition not needed. More targeted and precise definition in “fish and wildlife habitat conservation area.” Otherwise, common use and context are adequate.]

~~“Habitat buffer” means an area surrounding a defined wildlife habitat or wetland, which reduces adverse impacts to habitat/wetland functions from adjacent development; the area between a~~

~~wildlife habitat or wetland and the upland which serves as a transition zone.~~ [duplicative of “buffer” definition]

~~“Habitat management” means management of land to maintain species in suitable habitats within their natural geographic distribution so that isolated subpopulations (i.e., genetically isolated and unable to interbreed with adjacent populations of the same species) are not created. This does not imply maintaining all habitat or individuals of all species in all cases.~~ [Definition not needed. Term only used in the context of “habitat management plan” in regulation, which includes details for what needs to be included/analyzed.]

~~“Habitat map” means maps of plant cover types/communities used to indicate the potential presence of wildlife species. Over time, the city intends to integrate available habitat maps and information into a database that will be available to applicants, agencies and the general public.~~ [definition not needed; new regs explain generalized maps for information not delineation purposes]

~~“Hazard areas” means areas designated as frequently flooded areas or geologic sensitive areas due to potential for erosion, landslide, seismic activity, mine collapse, or other geological condition.~~ [covered by other critical area definitions]

~~“Hazard tree” means a tree that a qualified arborist considers a threat to life, property, or public safety that cannot be made non-hazardous through allowed pruning, thinning, or bracing methods.~~ [definition recommended by WDFW]

~~“Landslide hazard areas” means areas that are potentially subject to risk of mass movement due to a combination of geologic, topographic, and hydrologic factors. These areas are typically susceptible to landslides because of a combination of factors including: bedrock, soil, slope gradient, slope aspect, geologic structure, ground water, or other factors. subject to landslides based on a combination of geologic, topographic, and hydrologic factors. Areas include, at a minimum:~~

1. ~~Areas of historic failures, such as:~~
  - ~~Those areas delineated by the United States Department of Agriculture Natural Resources Conservation Service as having a significant limitation for building site development;~~
  - ~~Those coastal areas mapped as class u (unstable), uos (unstable old slides), and urs (unstable recent slides) in the department of ecology Washington coastal atlas; or~~
  - ~~Areas designated as quaternary slumps, earthflows, mudflows, lahars, or landslides on maps published by the United States Geological Survey or Washington Department of Natural Resources.~~
2. ~~Areas with all three of the following characteristics:~~
  - ~~Slopes steeper than 15 percent;~~
  - ~~Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and~~
  - ~~Springs or groundwater seepage.~~
3. ~~Areas that have shown movement during the holocene epoch (from 10,000 years ago to the present) or which are underlain or covered by mass wastage debris of this epoch;~~

4. Slopes that are parallel or subparallel to planes of weakness (such as bedding planes, joint systems, and fault planes) in subsurface materials;
5. Slopes having gradients steeper than 80 percent subject to rockfall during seismic shaking;
6. Areas potentially unstable as a result of rapid stream incision, stream bank erosion, and undercutting by wave action, including stream channel migration zones;
7. Areas that show evidence of, or are at risk from snow avalanches;
8. Areas located in a canyon or on an active alluvial fan, presently or potentially subject to inundation by debris flows or catastrophic flooding; and
9. Any area with a slope of 40 percent or steeper and with a vertical relief of 10 or more feet except areas composed of bedrock. A slope is delineated by establishing its toe and top and measured by averaging the inclination over at least 10 feet of vertical relief. [Language from WAC 365-190-120(6)]

“Land Use Impact” means the level of impact from a proposed land use on a wetland. Land use intensity, when not specified below, is determined by the Director.

- High impact land uses include:
  - Commercial
  - Urban
  - Industrial
  - Institutional
  - Mixed-use developments
  - Residential (more than 1 unit/acre)
  - Roads: federal and state highways, including on-ramps and exits, state routes, and other roads associated with high-impact land uses
  - Railroads
  - Open/recreational space with high-intensity uses (golf courses, ball fields, etc.)
- Moderate impact land uses include:
  - Residential (1 unit/acre or less)
  - Roads: Forest Service roads and roads associated with moderate-impact land uses
  - Open/recreational space with moderate-intensity uses (parks with paved trails or playgrounds, biking, jogging, etc.)
  - Utility corridor or right-of-way used by one or more utilities and including access/maintenance road
- Low impact land uses include:
  - Natural resource lands (forestry/silviculture—cutting of trees only, not land clearing and removing stumps)
  - Open/recreational space with low-intensity uses (unpaved trails, hiking, birdwatching, etc.)
  - Utility corridor without a maintenance road and little or no vegetation management
  - Cell tower

~~“Leveling” means a change of the ground surface generally to reduce the slope or eliminate small bumps or dips.~~ [common use is adequate]

~~“Licensed professional” means a professional civil engineer that specializes in geotechnical engineering or an engineering geologist, licensed to practice in the state of Washington in accordance with either Chapter 18.43 or 18.220 RCW.~~ [replaced with “Qualified professional” definition]

~~“MHR” or “Mukilteo habitat reserve” means a component of the Mukilteo CAMP. The MHR identifies potential sites for off-site buffer mitigation for projects that do not have feasible on-site mitigation options. The MHR sites were chosen for their highly functional ecological conditions, which would be preserved through establishment of permanent conservation easements.~~ [Term not needed. CAMP will be dissolved as part of CAO update]

“Mitigate” or “mitigation” means and includes, in order of preference:

1. Avoiding the impact altogether by not taking a certain action or parts of actions;
2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation;
3. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
4. Reducing or eliminating the impact over time by preservation and maintenance operations pursuant to activities undertaken during the life of the action;
5. Compensating for the impact by replacing or providing substitute resources or environments; and/or
6. Monitoring the impact and taking remedial action when necessary. [amended to include all phases of the mitigation sequence]

While monitoring without additional actions is not considered mitigation for the purposes of these regulations, it may be a part of a comprehensive mitigation program.

~~“Native growth protection area” means a protected area corridor vegetated with native trees, shrubs and groundcover that connects critical areas or permanently preserves critical areas. d natural areas within or adjacent to and across the project site. The corridor should be maintained to exclude nonnative, invasive species.~~

“Native vegetation” means plant species, other than noxious weeds, that are indigenous to the area in question and which reasonably could have been expected to naturally occur before settlements. [reworked for Mukilteo from ecology definition.]

~~“New development” means land-disturbing activities, including Class IV—general forest practices that are conversions from timberland to other uses; structural development, including construction or installation of a building or other structure; creation of impervious surfaces; and subdivision, short subdivision and binding site plans, as defined and applied in Chapter 58.17 RCW. Projects meeting the definition of redevelopment shall not be considered new development.~~



[definition deleted in favor of “development” definition which has been revised to comply with model ordinance language so that it is compliant with floodplain BiOp.]

“No Net Loss of Critical Areas” means no overall reduction in existing ecosystem functions and values. This may involve fully offsetting any unavoidable impacts to critical area functions and values pursuant to WAC 365-196- 830 ‘Protection of critical areas,’ or as amended. [definition recommended by WDFW]

“Overstory” means vegetation above ten feet in height. [only used in 15.16.060 and defined there in context]

“Priority habitat” means a habitat type with unique or significant value to many species. An area identified and mapped as priority habitat has one or more of the following attributes: (1) comparatively high fish and wildlife density; (2) comparatively high fish and wildlife species diversity; (3) important fish and wildlife breeding habitat; (4) important fish and wildlife seasonal ranges; (5) important fish and wildlife movement corridors; (6) limited availability; (7) high vulnerability to habitat alteration; and (8) unique or dependent species.

A priority habitat may be described by a unique vegetation type or by a dominant plant species that is of primary importance to fish and wildlife (e.g., oak woodlands, juniper savannah). A priority habitat may also be described by a successional stage (e.g., old growth and mature forests). Alternatively, a priority habitat may consist of specific habitat features (e.g., talus slopes, caves, snags) of key value to fish and wildlife. [amended to align with WDFW recommended definition]

“Priority species” means fish and wildlife species requiring protective measures and/or management actions to ensure their survival. A species identified and mapped as priority species fit one or more of the following criteria: State-listed candidate species, vulnerable aggregations, and Species of recreational, commercial, and/or Tribal importance. fish and wildlife species requiring protective measures and/or management actions to ensure their survival. A species identified and mapped as priority species fits one or more of the following criteria:

- 1.— Criterion 1—State-Listed and Candidate Species. State-listed species are native fish and wildlife species legally designated as endangered (WAC 232-12-014), threatened (WAC 232-12-011), or sensitive (WAC 232-12-011). State candidate species are fish and wildlife species that will be reviewed by the department (POL-M-6001) for possible listing as endangered, threatened, or sensitive according to the process and criteria defined in WAC 232-12-297.
- 2.— Criterion 2—Vulnerable Aggregations. Vulnerable aggregations include species or groups of animals susceptible to significant population declines, within a specific area or statewide, by virtue of their inclination to aggregate. Examples include heron rookeries, seabird concentrations, marine mammal haulouts, shellfish beds, and fish spawning and rearing areas.
- 3.— Criterion 3—Species of Recreational, Commercial, and/or Tribal Importance. Native and nonnative fish and wildlife species of recreational or commercial importance, and recognized species used for tribal ceremonial and subsistence purposes, whose biological or ecological characteristics make them vulnerable to decline in Washington or that are dependent on habitats that are highly vulnerable or are in limited availability. [amended to align with WDFW recommended definition]



~~“Program” means the surface water management program described in Chapter 13.12.~~ [context is adequate]

~~“Project” means a proposal for development.~~ [context is adequate]

~~“Qualified consultant” means a professionally trained and/or certified wildlife or stream biologist or ecologist or other professional with expertise in the scientific disciplines necessary to identify, evaluate and manage habitat and/or streams.~~ [replaced with “Qualified professional” definition]

~~“Qualified wetland specialist” means a professionally trained and/or certified wetlands biologist or wetlands ecologist.~~ [replaced with “Qualified professional” definition]

~~“Qualified professional” means a person who possesses the appropriate professional license, registration, certification, and training in the scientific or technical discipline necessary to make the professional judgments, reports, or findings required. Examples include, but are not limited to, licensed engineers, registered architects or surveyors, certified biologists, each qualified within their respective fields in accordance with state law.~~

- ~~• For fish and wildlife habitat conservation areas, this means a professional biologist with a degree in biology or a related field and experience preparing reports for the relevant type of species.~~
- ~~• For geologically hazardous area, this means a professional engineer or geologist licensed in the state of Washington.~~
- ~~• For trees, this means an ISA certified arborist.~~
- ~~• For wetlands, this means a certified Professional Wetland Scientist through the Society of Wetland Scientists with at least two years of professional experience delineating wetlands, preparing wetland reports, conducting function assessments, or developing and implementing mitigation plans may substitute for a degree.~~

[added new, consolidated definition to replace qualified consultant, qualified wetland specialist, licensed professional, registered professional. Incorporated specific qualification standards in response to DNR and Ecology feedback.]

~~“Registered professional” means a person currently licensed by the state to practice in engineering, architecture, landscape architecture, and/or surveying.~~ [replaced with “Qualified professional” definition]

~~“Rehabilitation” means the reestablishment of a viable stream from a previously filled or degraded stream reach.~~ [common use definition is superior since this limits to stream context but actual usage in code is broader (e.g., shorelines, flood areas, nonconforming uses, stormwater)]

~~“Restoration” means the reestablishment of a viable wetland from a previously filled or degraded wetland site.~~ [common use definition is superior since this limits to wetland context but actual usage in code is broader (e.g., shorelines, flood areas, nonconforming uses)]

~~“Riparian management zone” means the designated area adjacent to streams and other water bodies that is managed to protect water quality and fish and wildlife habitat. The zone is measured horizontally from the OHWM or the outer edge of the channel migration zone, whichever is greater. The top of bank may be used in situations where the OHWM cannot be identified.~~

~~“Secondary habitat” means habitat areas that offer less diversity of animal and plant species than critical habitat but that are known to support species survivability. Secondary habitat areas do not satisfy the definition for critical or tertiary habitat, and meet one of the following criteria:~~

~~1.— Priority habitat as identified by the Washington Department of Wildlife Priority Habitat lists prepared in compliance with WAC 365-190-080;~~

~~2.— Naturally occurring ponds of less than twenty acres but greater than one acre in area including all of the following attributes: not stocked with salmonids or game fish by tribal or government entities; impounded water of less than twenty acres; cover of submerged aquatic vegetation, shrubs or trees not exceeding fifty percent of the total area of surface water; and seasonally or permanently submerged and having little or no flow of water; or~~

~~3.— Fish and wildlife habitats with significant functions and values that may not be adequately replicated through creation or restoration as measured according to the following attributes: habitat diversity; wildlife density; wildlife species richness; documented wildlife breeding or spawning habitat; documented wildlife seasonal ranges; documented significant movement corridors; areas with limited availability; areas with high vulnerability; and Class II streams as defined in these regulations. [this term is not used outside of definitions chapter]~~

While not regulated by these regulations, priority habitat may be regulated by other governmental agencies.

~~“Sensitive areas” means those portions of the shoreline which: (1) contain or substantially contribute to the maintenance of endangered or valuable forms of life; (2) contain steep slopes, marshes, or other areas having unstable or potentially hazardous topographic, geologic, or hydrologic features; or (3) have significant historical, cultural, scientific or educational value. [this term is not used in this way in the municipal code]~~

~~“Sensitive lands” means lands possessing slopes in excess of twenty-five percent on unstable soil, natural drainage, geological or vegetative characteristics which pose potentially hazardous impacts for occupants of the land or its neighbors. [conflicts with geologically hazardous areas definitions]~~

~~“Stage” means a defined increment of work. [common use is adequate]~~

~~“Steep slopes” means a naturally occurring slopes that is at least ten feet tall and rises ten feet or more for every twenty-five feet horizontal (i.e., 40% forty percent or greater, also represented as a twenty-two degree angle). A slope is delineated by establishing its toe and top. The toe is the lower limit of the area where the ground surface rises ten feet or more vertically within a horizontal distance of twenty-five feet. The top of slope is the distinct break in slope separating the areas sloped over 40% from portions of the site with lesser slopes. Where no distinct break exists, the top is the uppermost limit before the ground drops vertically within a horizontal distance of twenty-five feet. Existing slopes modified with engineering oversight or in accordance with standard construction industry techniques are not considered steep slopes. [consolidated with toe and top of steep slope definitions]~~

~~“Stream” means water contained within a channel, either perennial or intermittent, and classified according to WAC 222-16-030 and as listed under water typing system. Streams also include open~~

~~natural watercourses modified by man.~~ Streams do not include irrigation ditches, waste ways, drains, outfalls, operational spillways, channels, stormwater runoff facilities or other wholly artificial watercourses, except those that directly result from the modification to a natural watercourse.

~~“Stream buffer area” means a naturally vegetated and undisturbed, enhanced or revegetated zone surrounding a natural, restored or newly created stream that is an integral part of a stream ecosystem, and protects a stream from adverse impacts to the integrity and value of a stream.~~  
[replaced by “riparian management zone” definition]

~~“Stream report” means a report, prepared by a qualified consultant, that evaluates stream functions and values, consistent with the format and requirements established by this chapter.~~  
[report requirements covered in text of new code]

~~“Structural diversity” means the relative degree of diversity or complexity of vegetation in a habitat area as indicated by the stratification or layering of different plant communities (e.g., ground cover, shrub layer and tree canopy); the variety of plant species; and the spacing or pattern of vegetation.~~  
[definition not needed. Standard incorporated in FWHCA site design development standards]

~~“Subject property” means the tract of land which is the subject of the permit and/or approval action, as defined by the full legal description of all parcels involved in the proposed development.~~  
[common use/context is adequate]

~~“Substrate” means the soil, sediment, decomposing organic matter or combination of those located on the bottom surface of the wetland.~~ [common use definition is superior since this limits to wetland context but actual usage in code is related to streams and shorelines]

~~“Tertiary habitat” means habitat that supports some wildlife; does not satisfy the definition(s) of critical habitat or secondary habitat of these regulations; does not contain and has no documented use by threatened, endangered or sensitive species; does not currently possess essential characteristics necessary to support a diverse wildlife community; and does not contain essential characteristics that, if altered, would jeopardize the continued existence of wildlife. Tertiary habitat also includes habitat which has been created purposefully by human actions to serve other or multiple purposes, such as open space areas, landscape amenities, detention facilities and grass-lined swales. Tertiary habitat meets any of the following criteria:~~

- ~~1. Class III streams; or~~
- ~~2. Habitat that is less than one acre in area, with one vegetation class (e.g., herb, shrub, forest) and dominated by native plant species; or less than two acres, with one vegetation class, and dominated by at least fifty percent of total plant cover of invasive, ornamental, and/or exotic species.~~ [term not used in regulations]

~~“Theater” means a place of public assembly intended and expressly designed for the presentation of motion pictures, other than an adult theater.~~

~~“Threatened species” means a species that is listed as threatened under the Endangered Species Act.~~ [common use and context are adequate]

“Tidelands” means those areas lying between the water’s edge or ordinary high water mark (OHWM) and the line of extreme low water. See Diagram A under “ordinary high water mark.”

~~“Toe of steep slope” means the lower limit of the area where the ground surface rises ten feet or more vertically within a horizontal distance of twenty-five feet.~~ [consolidated with steep slope definition]

~~“Top of steep slope” means a distinct break in slope, which separates slopes inclined less than forty percent from slopes greater than or equal to forty percent. Where no distinct break exists, the top is the uppermost limit where the ground drops vertically within a horizontal distance of twenty-five feet.~~ [consolidated with steep slope definition]

~~“Tsunami hazard areas” means coastal areas and large lake shoreline areas susceptible to flooding and inundation as a result of excessive wave action derived from seismic or other geologic events.~~ [tsunami hazard areas now included in seismic hazard bullet of geologically hazardous areas definition]

~~“Uncontaminated water” means unpolluted water that is comprised entirely of ground water and/or rain water.~~ [common use/context is adequate]

~~“Undergrounded areas” means public rights-of-way in which wireline utilities have been located or relocated underground.~~ [common use/context is adequate]

~~“Understory” means vegetation four feet to ten feet in height.~~ [defined in context in 15.16.060]

“Upland” means those dry land areas not included in the definition of “shoreline.”

~~“Usable land area” means total land area, less areas which are demonstrated to be undevelopable after application of other ordinances and policies, including, by way of example, and not limitation, Chapters 17.52 through 17.52E.~~ [only used once in shoreline regs; definition not needed]

~~“Vegetation” means all organic plant life growing on the surface of the earth.~~ [common use is adequate]

~~“View” means a sight (as of a landscape) regarded for its pictorial quality.~~ [common use is adequate]

“Wetland” or “wetlands” means areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including but not limited to irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created to mitigate conversion of wetlands. [Existing language matches required language in RCW 36.70A.030 (52)]

~~“Wetland buffer area” means a naturally vegetated and undisturbed, enhanced or revegetated zone surrounding a natural, restored or newly created wetland that is an integral part of a wetland~~

~~ecosystem, and protects a wetland from adverse impacts to the integrity and value of a wetland. Wetland buffers serve to moderate runoff volume and flow rates; reduce sediment, chemical nutrient and toxic pollutants; provide shading to maintain desirable water temperatures; provide habitat for wildlife; and protect wetland resources from harmful intrusion.~~ [addressed in “buffers”]

“Wetland category” means ~~the category ranking (Category 1, 2, 3, or 4) according to a description of a wetland system based on the classification system used in the most current edition of the Washington State Wetland Rating System for Western Washington~~ Washington State Wetlands Rating System—Western Washington, prepared by the Washington State Department of Ecology.

~~“Wetland classification” means “wetland category” for the purposes of these regulations.~~

~~“Wetland creation” means an action to intentionally establish a wetland or a portion of a wetland where one did not formerly exist.~~ [common understanding. Wetland regs identify this in mitigation ratios in 17.52B]

“Wetland delineation” means the method used to establish the existence (location) and physical limits (size) of a wetland for purposes of federal, state, and local regulations. Wetlands are delineated using the approved federal wetland delineation manual and applicable regional supplements in accordance with WAC 173-22-035.~~means identification of wetlands and delineation of their boundaries pursuant to this chapter, done in accordance with the approved federal wetland delineation manual and applicable regional supplements. All areas within the city meeting the wetland designation criteria in that procedure are hereby designated critical areas and are subject to the provisions of Chapter 17.52B.~~ [updated to meet Ecology CAO Guidance, CAO checklist, and eliminate “hereby designated” since Chapter 17.52 already designates all these areas as Critical Areas]

~~“Wetland determination” means a report prepared by a qualified wetland specialist or city staff that identifies and characterizes wetlands consistent with applicable provisions of this chapter. A determination does not include a formal delineation.~~ [don’t need this definition. New 17.52 authorizes reconnaissance for all critical areas, not just wetlands.]

~~“Wetland enhancement” means the alteration of an existing wetland or habitat to improve or increase its characteristics and processes without degrading other existing functions. Enhancements are to be distinguished from wetland creation or restoration projects.~~ [Wetland regs identify this in mitigation ratios in 17.52B]

~~“Wetland functions and values” means the beneficial biological, physical, and other purposes generally served by wetlands, including but not limited to helping to maintain water quality, storing and conveying stormwater and floodwater, recharging ground water, providing wildlife habitat, and service as areas for recreation, education, scientific study and aesthetic enjoyment.~~ [this is a repeat of the wetland purpose statement]

~~“Wetland impacts” means the effect of any human-induced alteration to the wetland and surrounding buffer, and includes impacts on any downstream anadromous fish.~~ [low, medium, high impacts are identified in “land use impact”]

~~“Wetland off-site compensatory mitigation” means to mitigate impacts to critical areas wetlands away from the site on which a critical area wetland has been impacted. adversely impacted by a regulated activity.~~ [matching Ecology CAO Guidance]

~~“Wetland on-site compensatory mitigation” means to mitigate impacts to critical areas wetlands at or adjacent to the site on which a critical area wetland has been adversely impacted. by a regulated activity within the same watershed.~~ [matching Ecology CAO Guidance]

~~“Wetland restoration” is the action to reestablish a wetland in an area which was historically wetland but which does not now provide or contain the necessary functional characteristics.~~ [re-establish is identified within the wetland mitigation ratios]

~~“Wetlands specialist” is a person who has earned a minimum of a bachelor’s degree in biology, natural resources, or physical sciences with specific or related course work in wetland ecology, botany, or soils science from an accredited college or university, and two years professional experience in wetland delineation, wetland functional assessment and mitigation techniques or equivalent experience; or any person certified by the U.S. Army Corp of Engineers or Society of Wetland Scientists.~~ [combined term with qualified professional]

“Wholesale” means the sale of goods in relatively large quantities at a reduced price to retailers.

~~“Wildlife report” means a report, prepared by a qualified consultant, that evaluates plant communities and wildlife functions and values on a site, consistent with the format and requirements established by this chapter.~~ [term not used]

## Chapter 17.08

### DEFINITIONS

#### Amend Section 17.08.020 as follows:

##### **17.08.020 Definitions.**

“Accessory building” means a detached, subordinate building, the use of which is incidental to the use of the main building on the same lot.

“Accessory use” means a use incidental and subordinate to the principal use and located on the same lot or in the same building as the principal use.

“Adequate transportation facilities” means transportation facilities that have the capacity to serve development without decreasing levels of service below the city’s adopted minimum standards.

“Adult entertainment business” means a commercial establishment featuring exhibitions, performances, printed materials, and visual materials characterized by a predominant emphasis on specific anatomical areas (including less than completely and opaquely covered human genitals, pubic region, anus, buttocks, or female breast below the top of the areola) or sex acts (including actual and simulated erotic touching of specific anatomical areas, intercourse, or masturbation). This term includes businesses where more than fifty percent of the sales come from materials featuring, or devices used in connection with, sexual activities.

“Adult family home” means a residential home in which a person or persons provide personal and special care, along with room and board, to up to eight unrelated adults.

“Agriculture” means tilling of the soil, the raising of crops, horticulture, viticulture, the harboring of livestock, pasturing, grazing, dairying, and/or animal husbandry including all uses customarily incidental thereto, except the following:

1. Animal shelter buildings for horses and barns;
2. Beekeeping;
3. Harboring of chickens;
4. Noncommercial individual or collective gardens;
5. Medical cannabis collective gardens; and
6. Any type of kennel, animal services facility or research facility using animals.

“Airport influence area” means the area within fourteen thousand feet of the Paine Field runway 16R-34L centerline between runway thresholds.



“AKART” means all known, available, and reasonable methods of prevention, control, and treatment. See also the State Water Pollution Control Act, RCW 90.48.010 and 90.48.520.

“Alley” means a passageway open to public travel designed to serve as secondary access to the side or rear of those properties whose principal frontage is on a dedicated street.

“Alterations” means any construction or renovation to an existing structure that does not expand or increase the height of the structure.

“Amusement facility” means commercial establishments, including theaters, dance halls, bowling alleys, skating rinks, miniature golf courses, arcades, waterslides, and other similar uses.

“Animal services” means providing commercial care, training, grooming, or any other similar activity for animals. This term does not include kennels of any type or facilities that provide housing or boarding of animals not receiving medical treatment.

“Animal shelter building” means a barn or other building used primarily for the shelter of animals with at least three walls and a roof. A building to provide shelter primarily or exclusively for human habitation is not an animal shelter building.

“Antenna” means any exterior apparatus designed for telephonic, radio, data, internet or other communications through the sending and/or receiving of radio frequency signals including, but not limited to, equipment attached to a tower, pole, light standard, building or other structure for the purpose of providing wireless services.

“Antenna equipment” means equipment, switches, wiring, cabling, power sources, shelters or cabinets associated with an antenna, located at the same fixed location as the antenna, and, when collocated on a structure, is mounted or installed at the same time as such antenna.

“Antenna facility” means an antenna and associated antenna equipment.

“Antenna height” means the vertical distance measured from average building elevation to the highest point of the antenna, or if on a rooftop or other structure, from the top of the roof or structure to the highest point of the antenna. For replacement structures, antenna height is measured from the top of the existing structure to the highest point of the antenna or new structure, whichever is greater.

“Applicant” means the person, party, firm, corporation, or other entity that proposes any activity or applies for permits or approvals.

“Approach area” means the area under an imaginary approach surface of Paine Field as described in 14 CFR Part 77.19(d).

~~“Approve” or “approval” means the decision or determination of the director that an action conforms to the city’s requirements.~~ [common use is adequate]

“Art, artwork” means a device, element, or feature with the primary purpose to express, enhance, or illustrate an aesthetic quality, feeling, physical entity, idea, local condition, historical or cultural occurrence, or cultural or social value that does not contain figures, symbols, logos, trademarks, graphics, or written copy to promote products or services.

“As-built” means a final drawing that shows the exact location and size of installed streets, structures, and infrastructure.



“As-graded” means the surface condition after the completion of grading.

“Automobile repair, major” means property devoted to the storage and repair of trucks and automobiles, including body and fender works and painting. The term does not encompass the business of wrecking automobiles or impound car lots when conducted outside of a structure.

“Automobile repair, minor” means general motor repair and replacement of parts to passenger cars and trucks not exceeding one and one-half tons capacity but not including collision repair or auto painting.

“Automobile towing” means the business of wrecking automobiles or impound car lots when conducted outside of a structure.

“Average slope of property” means the highest land elevation on the property minus the lowest land elevation on the property (i.e., the elevation change on the property) divided by the horizontal distance between the highest and lowest elevation on the property, expressed as a percentage.

“Background traffic” means the volume of traffic that is projected to occur on the street system as of the anticipated date of occupancy of any development.

“Base station” means a structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined herein nor any equipment associated with a tower. Base station includes, without limitation:

1. Equipment associated with wireless communications services as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
2. Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including distributed antenna systems (“DAS”) and small cell networks).
3. Any structure other than a tower that, at the time the relevant application is filed with the city under this section, supports or houses equipment described in subsections (1) and (2) of this definition that has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing that support.
4. The term does not include any structure that, at the time the relevant application is filed with the city under this section, does not support or house equipment described in subsections (1) and (2) of this definition.

“Basin plan” means a plan that assesses, evaluates, and proposes solutions to existing and potential future impacts to the beneficial uses of, and the physical, chemical, and biological properties of, waters of the state within a basin.

“Bay window” means a window that protrudes from the main exterior wall. To qualify as a bay, the bay must contain a window pane which extends at least sixty percent of the length and thirty-five percent of the height of the surface of the bay which lies parallel to the exterior wall.

“Bed and breakfast” means an owner-occupied residence with no more than six guest rooms providing short-term lodging and a shared dining area for paying guests.

“Bench” means a relatively level step excavated into earth material on which fill is to be placed.

“Best available science” means current scientific information consistent with WAC 365-195-900 through 925 that was derived from a sound scientific process that included critical peer review by qualified scientific experts in the relevant discipline, clearly stated and replicable methods, quantitative analysis, and logical conclusions. ~~using the most current, widely accepted scientific data, research, studies and/or reports in making land use and policy decisions when designating and protecting environmentally sensitive areas. See WAC 365-195-900.~~

“Best management practices” or “BMP” means the schedules of activities, prohibitions of practices, maintenance procedures, pollution prevention and educational practices, and structural and/or managerial practices approved by the director that, when used singly or in combination, prevent or reduce the release of pollutants and other adverse impacts to waters of Washington State.

“Binding site plan” means a scaled drawing which:

1. Identifies and shows the areas and locations of all streets, roads, improvements, utilities, open spaces, and any other such matters specified by local regulations;
2. Contains inscriptions or attachments setting forth such appropriate limitations and conditions for the use of the land; and
3. Contains provisions making any development be in conformity with the site plan.

“Blank walls” means walls that meet the following criteria:

1. Any wall or portion of a wall that has a surface area of four hundred square feet of vertical surface without a window, or building modulation or other architectural feature.
2. Any ground level wall surface or section of a wall over four feet in height at ground level that is longer than fifteen feet as measured horizontally without having a ground level or window lying wholly or in part within that fifteen-foot section.

~~“BMP” means best management practice.~~ [incorporated in best management practices definition above.]

“Boathouse” means a structure specifically designed or used for storage of boats.

“Boat launching facility” means a facility used for launching of boats by auto or hand including ramps and other devices, along with adequate parking and maneuvering space.

“Buffer” means a vegetated area, typically adjacent or otherwise associated with an environmentally sensitive feature, ~~which is retained in its natural state. No clearing, grading, or filling is permitted within a buffer (unless specifically conditioned otherwise).~~ [regulatory language removed]

“Buildable area” means that portion of a lot outside of required setbacks and excluding open space tracts, native growth protection areas, drainage facilities, easements, or other similarly restricted.

“Building” means any structure having a roof, but excluding all forms of vehicles even though immobilized. When a use is required to be within a building, or where special authority granted pursuant to this chapter requires that a use shall be within an entirely enclosed building, then the term “building” means one so designed and constructed that all exterior walls of the structure are solid from the ground to the roofline, and shall contain no openings except for windows and doors which are designed so that they may be enclosed.

“Building contractor yard” means a facility where a person or company that does plumbing, electrical, structural, finish, or other construction work, stores, or maintains their equipment or supplies.

“Building height” means the vertical distance from the mean ground level to the highest point of the roof.

“Building line” means a line parallel to the lot line which touches the building wall nearest to the property line.

“Building, main” means the principal building or other structure on a lot or building site designed or used to accommodate the primary use to which the premises are devoted.

~~“CAMP” means Mukilteo’s critical areas mitigation program, which identifies potential sites for wetland, stream, and buffer mitigation following a watershed approach.~~ [Definition not needed. CAMP will be dissolved as part of CAO update]

“Camping” means pitching, using, or occupying camp facilities, such as tents, huts, temporary shelters, or vehicles (if said vehicle is being used as a temporary living quarters for the purposes of habitation), as evidenced by the use of camp paraphernalia such as tarpaulins, cots, beds, sleeping bags, blankets, mattresses, hammocks or portable cooking facilities and similar equipment.

“Capacity” means the number of vehicles that may pass over a section of a transportation facility in a given time period under the prevailing roadway conditions. The calculation of capacity for any given transportation facility will be done according to the most recent edition of the Highway Capacity Manual (HCM) or by alternative methods approved by the public works director.

“Caretaker’s quarters” means a dwelling unit with a floor area no greater than one thousand square feet located on the same lot as a principal industrial use to be used by a person or persons employed on the premises.

“Carport” means a structure to house or protect motor vehicles owned or operated by the occupants of the main building and which has at least forty-five percent of the total area of its sides open to the weather.

~~“Category I wetlands” means those wetlands which meet any of the following criteria:~~

- ~~1.— Relatively undisturbed estuarine wetlands larger than one acre;~~
- ~~2.— Wetlands that are identified by scientists of the Washington Natural Heritage Program/DNR as high quality wetlands;~~
- ~~3.— Bogs larger than one-half acre;~~
- ~~4.— Mature and old-growth forested wetlands larger than one acre; or~~
- ~~5.— Wetlands in coastal lagoons; and wetlands that perform many functions well (scoring seventy points or more). These wetlands: (a) represent unique or rare wetland types; (b) are more sensitive to disturbance than most wetlands; (c) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or (d) provide a high level of functions.~~

~~“Category II wetlands” means those wetlands which meet any of the following criteria:~~

- ~~1.— Estuarine wetlands smaller than one acre, or disturbed estuarine wetlands larger than one acre;~~
- ~~2.— Interdunal wetlands larger than one acre; or~~

~~3.—Wetlands with a moderately high level of functions (scoring between fifty one and sixty nine points).~~

~~“Category III wetlands” means those wetlands which meet any of the following criteria:~~

~~1.—Wetlands with a moderate level of functions (scoring between thirty and fifty points).~~

~~2.—Interdunal wetlands between one tenth and one acre. Wetlands scoring between thirty and fifty 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.~~

~~“Category IV wetlands” means wetlands which have the lowest levels of functions (scores less than thirty points) and are often heavily disturbed. These are wetlands that we should be able to replace, and in some cases be able to improve. However, experience has shown that replacement cannot be guaranteed in any specific case. These wetlands may provide some important functions, and also need to be protected to some degree.~~ [replaced with wetland definition from RCW 36.70A.030 and typing instructions in wetland chapter]

“Certificate of concurrency” means a written document prepared by the public works director stating that a particular development meets the concurrency requirements of Chapter 17.15.

“City” means the city of Mukilteo.

“City clerk” means the city clerk of Mukilteo or designee.

“Civil engineer” means a professional engineer licensed in the state of Washington in civil engineering.

“Civil engineering” means the application of knowledge of the forces of nature, principles of mechanics and the properties of materials to the evaluation, design and construction of civil works for the beneficial uses of mankind.

“Clearing” means the removal of trees, brush, grass, ground cover or other vegetative matter which may or may not change the conditions of the earth’s surface, but which does not change the ground contours.

“Clearing and grading permit” means the written permission of the permit authority to the permittee to proceed with the act of clearing, grading and land development within the provisions of Title 15.

“Clinic” means a building designed and used for the diagnosis and medical, dental, or emotional treatment or counseling of outpatients which does not include overnight care facilities.

“Club” means an association of persons organized for a social, fraternal, athletic, recreational, educational, literary, political, civic or quasi-municipal interests or charitable purpose.

“Co-living housing” means a shared multifamily dwelling with communal kitchen facilities and lockable units providing sleeping and living space that can be independently rented for a minimum of thirty days.

“Collocation” means mounting or installing an antenna facility on a pre-existing structure, and/or modifying a structure for the purpose of mounting or installing an antenna facility on that structure. Provided that, for purposes of eligible facilities requests, “collocation” means the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

“Commercial use” means the providing of goods, merchandise or services for compensation.

“Commission” means the planning commission of the city.

“Concealment elements” means transmission facilities designed to look like some feature other than a wireless tower or base station or which minimize the visual impact of an antenna by use of nonreflective materials, appropriate colors and/or a concealment canister.

“Concurrency” or “concurrent with the development” means that adequate transportation facilities or strategies needed to maintain the city’s adopted level of service standards during the p.m. peak hour on any roadway or on any critical roadway segment, or at any intersection, are available when the impacts of development occur, or that a financial commitment is in place to complete the facilities or strategies within six years. This definition includes the two concepts of “adequate transportation facilities” and “available transportation facilities” as defined in this section.

“Concurrency test” means the determination of a proposed development’s impact on transportation facilities by a comparison of the level of service (LOS) of the affected roadways, critical roadway segments, and intersections during the p.m. peak hour after testing for the impact of the proposed development, to the level of service standard that is set for those roadways or intersections.

“Conditional use” means a use which, because of size, technological processes or equipment, location in relation to improvements, aesthetic or physical impacts upon surrounding properties, or demands upon public facilities, requires a special degree of control to make such use consistent with and compatible to other existing or permissible uses in the same zone.

“Conditional use permit” means a permit issued by the city to locate a conditional use at a particular location.

“Conforming use” means an activity, the nature and type of which is permitted in the zone in which it is established.

~~“Contouring” means a change of the ground surface to conform to a desired configuration.~~ [term not used in this way in zoning code]

“Council” means the city council.

“Courtyard” means landscaped space enclosed on at least two sides by a single structure.

“Critical areas” mean the following areas and ecosystems found within city limits:

- Wetlands
- Fish and wildlife habitat conservation area
- Frequently flooded areas
- Geologically hazardous areas [Aligned with RCW 36.70A.030 (12), tailored to city (which does not have aquifer protection areas.)]

“Critical root zone” means the area occupied by the root system of a tree and considered a zone of high sensitivity to disturbance such that damage from excavation, soil compaction or other means will likely lead to declining health and/or stability of the tree. The critical root zone is measured as seven times the root flare diameter.

“Curblin” means the line at the face of the curb nearest to the street or roadway. In the absence of a curb, the curblin is the edge of the traveled way.

“Day care, commercial” means licensed care of children away from their own home a substantial portion of the day within a nonresidential building.

“Day care, family” means licensed care of children away from their own home a substantial portion of the day in a residential dwelling.

“Deck” means an outdoor space built as an above-ground platform projecting from the wall of a building, typically connected to the ground by structural supports.

“Density” means a measure of housing units or lots allowed in a land area, expressed as a ratio (e.g., four dwelling units per acre).

“Department” means the city of Mukilteo community development department, or their designee, within Titles 15, 16, 17 and 18, and the public works department, or their designee, within Titles 10, 12, and 13.

“Detention” means the temporary storage of surface water in a stormwater facility before release to the stormwater system at a rate slower than that at which it is collected.

“Detention facility” means an above or below ground stormwater facility, such as a pond or tank, that temporarily stores surface water and subsequently releases it at a slower rate than it is collected by the drainage facility system.

“Development” means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, storage of equipment or materials, subdivision of land, removal of more than 5% of the native vegetation on the property, or alteration of natural site characteristics. ~~construction or exterior alteration of structures; grading, dredging, drilling, dumping, filling; removal of sand, gravel, or minerals; bulk heading; driving of pilings; placing of obstructions; or any project of a temporary or permanent nature which modifies structures, land, or shorelines and which does not fall within the allowable exemptions contained in the Mukilteo Municipal Code.~~ [amended to comply with model ordinance language so that this definition can apply within floodplains and be compliant with BiOp.]

Development: any man-made change to improved or unimproved real estate in the Regulatory Floodplain, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, storage of equipment or materials, subdivision of land, removal of more than 5% of the native vegetation on the property, or alteration of natural site characteristics

“Development,” for the purposes of Chapter 17.15, means any construction or expansion of any building, structure or use, or any change in the use of any building, structure or land, where the construction, expansion, or change will result in additional vehicle traffic on the transportation facilities within the city.

“Development agreement” means an agreement approved by an ordinance enacted by the Mukilteo city council, after a public hearing, that sets forth the development standards and other provisions that apply to and govern and vest the development, use, and mitigation of the development of real property for the duration of the agreement.

“Development approval” means any authorization issued by the city that approves any development.

“Development permit” means any written authorization of the city which authorizes commencement of development.

“Development regulations” means the controls placed on development or land use activities by the city, including, but not limited to, zoning ordinances, critical areas ordinances, shoreline master programs,

planned unit development ordinances, subdivision ordinances, and binding site plan ordinances together with any amendments thereto.

“Development standards” means the most recent engineering standards, drawings, plans and specifications for street standards, drainage, erosion, clearing, grading, subdivisions, landscaping, and connections to municipal water, sanitary sewer, and stormwater. Engineering standards are adopted by the public works director, which include the minimum requirements for design and construction, as approved by the city council.

“Diameter-breast-height (DBH)” means the diameter of any tree trunk, measured at four and one-half feet above average grade. Trees with multiple trunks that fork near DBH are measured at the narrowest part of the main stem below the fork. If the tree splits into several trunks close to ground level, the DBH for the whole tree is then found by taking the square root of the sum of all squared trunk stem DBHs.

“Director” means the director of community development, or their designee, within Titles 15, 16, 17 and 18, and the director of public works/city engineer, or their designee, within Titles 10, 12, and 13.

“Distillery” means a facility where distillation spirits for consumption are produced, the sales and distribution of which are subject to regulation by the Washington State Liquor and Cannabis Board.

“Dock” means any facility for the moorage of boats, including but not limited to piers, wharves, and quays.

“Drainage basin” means a geographic and hydrologic subunit of a watershed.

“Drainage plan” means a plan for the collection, transport, treatment and discharge or recycle of water within the subject property.

“Drainage system” means the system comprised of all natural and artificial elements that collects, conveys, contains, and discharges surface and stormwater within, through or outside the city. The drainage system includes the stormwater system in the city and all receiving or discharging waters or channels outside the city.

“Dredging” means removal of earth from the bottom of a body of water usually for the purpose of deepening a navigational channel or obtaining bottom materials.

“Drive aisle” means part of an internal vehicle circulation system of accessways which provides access and maneuvering space for vehicles within a development.

“Driveway” means a connection which provides access for vehicles from a public street, alley, private road, access easement, drive aisle or fire lane to a residential dwelling. A driveway begins at the property line or edge of the public right-of-way, access easement or drive aisle.

“Driveway, common” or “driveway, joint-use” means a driveway that provides vehicle access to two single-family lots that is in a shared tract or easement.

“Dwelling unit” means a single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation. Dwelling units can be arranged into the housing types identified below:

1. “Accessory dwelling unit” means an attached or detached dwelling unit on a single-family residential lot with one thousand square feet or less of habitable space that is separate and

independent of the primary dwelling (or could be made separate and independent by installation of a single door).

2. “Apartment” means a multifamily dwelling with three or more dwelling units arranged in a manner that does not meet the definition of “Townhouse.”
3. “Cottage housing” means small-scale single-family residential dwelling units with a centrally located common open space developed in accordance with the city’s cottage housing standards.
4. “Duplex” means a detached building with two dwelling units where each unit is larger than one thousand square feet.
5. “Multifamily dwelling” means a building with two or more dwelling units (e.g., duplexes, townhouses, apartments, and co-living housing).
6. “Single-family dwelling” means a detached building containing a single dwelling unit, excluding dwelling unit types more specifically defined (e.g., cottage, ADU, mobile homes).
7. “Townhouse” means a building with three or more dwelling units vertically separated by a wall that runs from foundation to roof, with a yard or public way on two or more sides of each unit.

“Ecology Manual” means the Stormwater Management Manual for Western Washington, published by the Washington State Department of Ecology. The version in effect, including any administrative changes or amendments as necessary or appropriate to conform to local circumstances, is the most recent version that has been approved for city use by the director.

“Eligible facilities request” is any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving:

1. Collocation of new transmission equipment;
2. Removal of transmission equipment; or
3. Replacement of transmission equipment.

“Eligible support structure” is any tower or base station as defined in this section; provided, that it is existing at the time the relevant application is filed with the city.

“Emergency” means any natural or human-caused event or set of circumstances that disrupts or threatens to disrupt, or endangers or threatens to endanger, the operation, structural integrity or safety of the stormwater system, or endangers or threatens to endanger the health and safety of the public, or otherwise requires immediate action by the utility.

“Emergency housing” means temporary indoor accommodations for individuals and families who are homeless, or at imminent risk of homelessness, that addresses basic needs such as health, food, clothing, and hygiene.

“Emergency shelter” means a temporary daytime shelter or warming center for individuals and families who are homeless that does not provide overnight accommodations.

“Endangered species” means a species which is listed as endangered under the Endangered Species Act.

“Engineering geologist” means a geologist experienced and knowledgeable in engineering geology.



“Engineering geology” means the application of geologic knowledge and principles in the investigation and evaluation of naturally occurring rock and soil for use in the design of civil works.

~~“Enhancement” means:~~

~~1.— For wetlands, the improvement of an existing viable wetland or buffer, such as by increasing plant diversity, increasing wildlife habitat, installing environmentally compatible erosion controls or removing nonindigenous plant or animal species; or~~

~~2.— For streams and wildlife habitat, the improvement of an existing habitat or an existing stream or associated buffer such as by increasing plant density or structural diversity, installing environmentally compatible erosion controls, or by removing nonindigenous or noxious species.~~

[common use definition is superior since this limits to wetland and stream context but actual usage in code is broader (e.g., shorelines and stormwater)]

“Equipment facility” means any structure used to contain ancillary equipment for a wireless communications facility which includes cabinets, shelters, a buildout of an existing structure, pedestals, and other similar structures.

“Equipment structure” means a facility, shelter, cabinet or vault used to house and protect electronic or other associated equipment necessary for processing wireless communications signals. “Associated equipment” may include, for example, air conditioning, backup power supplies and emergency generators.

“Erosion” means the wearing away, detachment or movement of soil or the land surface by running water, wind, ice, gravity or other geological agents, including without limitation such processes as gravitational creep.

“Essential public facility (EPF)” means a facility that is typically difficult to site, such as an airport, a state education facility, a state or regional transportation facility as defined in RCW 47.06.140, a state or local correctional facility, a solid waste handling facility, or an inpatient facility, including substance abuse facilities, mental health facilities, group homes, and secure community transition facilities as defined in RCW 71.09.020. The term “essential public facility” includes all facilities listed in RCW 36.70A.200, all facilities that appear on the list maintained by the State Office of Financial Management pursuant to RCW 36.70A.200(4), and all facilities listed as essential public facilities in the Mukilteo comprehensive plan.

“Essential public facility, local” means an EPF that is owned, operated, or sponsored (via contract) by the city of Mukilteo, a special purpose district, Snohomish County, or another unit of local government that provides service to the countywide population.

“Essential public facility, regional” means an EPF that is owned, operated, or sponsored (via contract) by Snohomish County or another regional agency whose boundaries encompass the city that serves an area that is greater than the county.

“Essential public facility, state” means an EPF that is owned, operated, or sponsored by the state of Washington.

“Excavation” means the physical removal or movement of soil, rock, organic or other manmade or naturally occurring materials from their original position.

“Existing grade” means the land elevation prior to grading.

“Exotic” means any species of plant or animal that is foreign (i.e., not native) to the Puget Sound area, not including commonly domesticated dogs, cats, or birds.

“Explosives” means any chemical compound, mixture or device, the primary purpose of which is to function by explosion. The term includes all items contained in the explosives list published annually in the Federal Register. The following shall not be considered explosives if they fall beneath the thresholds in RCW 70.74.010: small arms ammunitions, small arms ammunitions primers, smokeless powder, and black powder.

“External illumination” means the method of illuminating a sign where the light source is separated from, and is external to the sign structure by using a floodlight or by being back-lit.

“Facade” means the entire building frontage or street wall face, including the area from finished grade at the point of contact with the building to the top of the parapet, or eaves and the entire width of the building elevation. Towers, cupolas, parapets, pitched roofs, trusses, poles, chimneys and other architectural, artistic or mechanical features shall not be counted towards the facade area.

“Fence(s)” means an artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land.

“Fill” or “filling” means the deposit, by artificial means, of soil, rock, organic or other manmade or naturally occurring materials which increases the ground surface elevation in a location other than the place from which it is excavated.

“Financial institutions” means businesses dealing with financial transactions, to include, but not be limited to, banks, savings and loan institutions, mutual savings banks or their branches, and mortgage or finance companies or their branches.

“Finished grade” means the grade of the site after alterations are completed.

“Fire lane” means an emergency vehicle access in accordance with the International Fire Code as adopted by the Mukilteo Municipal Code and authorized under Chapter 8.20 as is now and may be amended. Fire lanes may be used to provide access to other than emergency vehicles.

“Fish and wildlife habitat conservation areas (HCAs)” means areas that serve a critical role in sustaining needed habitats and species for the functional integrity of the ecosystem, and which, if altered, may reduce the likelihood that the species will persist over the long term. These areas may include, but are not limited to, rare or vulnerable ecological systems, communities, and habitat or habitat elements including seasonal ranges, breeding habitat, winter range, and movement corridors; and areas with high relative population density or species richness. This definition excludes such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of and are maintained by a port district or an irrigation district or company~~[language from WAC 365-190-030 (6) and RCW 36.70A.030 (12)] necessary for maintaining species in suitable habitats within their natural geographic distribution so that isolated sub-populations are not created as designated by WAC 365-190-080(5). These areas include: but includes:~~

19. Streams;
20. Riparian management zones;
21. Areas where species that are listed as endangered, threatened, or sensitive by a federal or state agency have a primary association;
22. Areas identified by the Washington State Department of Natural Resources’ Natural Heritage Program as having rare plant species and high-quality ecosystems;

23. Commercial and recreational shellfish areas;
24. Kelp and eelgrass beds; herring, smelt, and other forage fish spawning areas;
25. Naturally occurring ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat;
26. Waters of the state;
27. Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity; and
28. State natural area preserves, natural resource conservation areas, and state wildlife areas.

[List from WAC 365-190-030(2)]

- ~~1.— Areas with which state or federally designated endangered, threatened, and sensitive species have a primary association;~~
- ~~2.— Habitats of local importance, including but not limited to areas designated as priority habitat by the Department of Fish and Wildlife;~~
- ~~3.— Commercial and recreational shellfish areas;~~
- ~~4.— Kelp and eelgrass beds; forage fish (sandlance, surf smelt and herring) spawning areas;~~
- ~~5.— Naturally occurring ponds under twenty acres and their submerged aquatic beds that provide fish or wildlife habitat, including those artificial ponds intentionally created from dry areas in order to mitigate impacts to ponds;~~
- ~~6.— Waters of the state, including lakes, rivers, ponds, streams, inland waters, underground waters, salt waters, and all other surface waters and watercourses within the jurisdiction of the state of Washington;~~
- ~~7.— Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity;~~
- ~~8.— State natural area preserves and natural resource conservation areas; and~~
- ~~9.— Land essential for preserving connections between habitat blocks and open spaces.~~

“Flag” means any fabric or bunting containing distinctive colors, patterns, or symbols, left loose to fly in the breeze attached to a freestanding vertical pole or to a pole attached to a building.

~~“Flood hazard area” means land in the floodplain within the city subject to a one percent or greater chance of flooding in any given year.~~ [deleted in favor of “frequently flooded areas” definition that aligns with WAC and keeps terminology consistent]

“Floor area” means the sum of the gross horizontal areas of the floors of a building or buildings, measured from the exterior faces of exterior walls and from the centerline of division walls. Floor area includes: basement space, elevator shafts and stairwells at each floor, mechanical equipment rooms or attic spaces with headroom of more than seven feet, exterior steps or stairs, terraces and breezeways.

“Food truck” is a licensed and readily movable vehicle or trailer from which food intended for individual portion service is prepared and/or sold, with workers staying inside the vehicle but customers staying outside. This definition does not include businesses providing scheduled delivery of food products to individual businesses or residences.

“Forest practice” means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting or processing timber, including but not limited to road and trail construction;

harvesting, final and intermediate; precommercial thinning; reforestation; fertilization; prevention and suppression of diseases and insects; and salvage of trees and brush control.

“Frequently flooded areas” means areas within the 100-year flood plain designations of the Federal Emergency Management Agency and the National Flood Insurance Program, meaning that there is at least a one percent or greater chance of flooding in any given year. [consistent with minimum requirements of WAC 365-190-110 and language in WAC 365-190-030(8)]

“Garage” means a building or a portion of a building designed or used primarily for shelter or storage of vehicles or boats, but not airplanes.

“Geologically sensitive hazardous areas” means areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns. [Language from RCW 36.70A.030 (22) and WAC 365-190-030(9)] This includes:

- Erosion hazard areas. Areas likely to become unstable, such as bluffs, steep slopes, and areas with unconsolidated soils. [Language from WAC 365-190-120(5)]
- Landslide hazard areas. Areas at risk of mass movement due to a combination of geologic, topographic, and hydrologic factors. These areas are defined in more detail in this chapter. [Language from WAC 365-190-030(10)]
- Seismic hazard areas. Areas subject to severe risk of damage as a result of earthquake induced ground shaking, slope failure, settlement, soil liquefaction, debris flows, lahars, or tsunamis. [aligned with language from WAC 365-190-120(7) and WAC 365-190-030(18)]
- Areas subject to other geological events such as coal mine hazards and volcanic hazards including: Mass wasting, debris flows, rock falls, and differential settlement. [Language from WAC 365-190-120(8)]

~~within the city that are:~~

- ~~1.— Affected by, contain, or exhibit unstable or potentially unstable soil types, steep slopes, erosion, earth movement, slides, surface water runoff, ground water, liquefaction, within the one hundred-year floodplain, or within a tsunami hazard area.~~
- ~~2.— Within the designated geologic sensitive area as shown on the city’s “geologic sensitive areas” map (see Attachment A at the end of Chapter 17.52A).~~
- ~~3.— Areas that may not be suited to development consistent with public health, safety, or environmental standards, because of their susceptibility to erosion, sliding, earthquake, or other geological events as designated by WAC 365-190-080(4).~~

“Governmental structures or facilities” means any facility owned or operated by a government or special purpose district.

“Grade” means the vertical elevation of the ground surface.

“Grading” means any excavating, filling, leveling, or contouring of the ground surface or alteration of the earth materials’ physical properties by human or mechanical means.

“Gross floor area” means the sum of the gross horizontal areas of the floors of a building or buildings, measured from exterior faces of exterior walls, and from the centerline of common walls.

1. Gross floor area includes: basement spaces over seven feet in height, elevator shafts and stairwell at each floor, mechanical equipment rooms or attic spaces with headroom of seven feet, six inches or more, penthouse floors, interior balconies and mezzanines, and enclosed porches.
2. Gross floor area shall not include: accessory water tanks and cooling towers, mechanical equipment rooms or attic spaces with headroom of less than seven feet, six inches, exterior steps or stairs, terraces, breezeways, and open spaces.

“Ground cover” means root vegetation normally less than one foot in height.

“Ground water” means water in a saturated zone or stratum beneath the surface of land or below a surface water body.

“Ground water seepage” means the emergence of water at the ground surface (also called a spring) resulting from the ground water table intersection with the ground surface. Ground water seepage can either be continuous or intermittent and seasonal.

“Grubbing” means the removal of organic material from the ground surface such as sod, stumps, roots, or buried logs which may lower the ground surface but does not change the ground contours relative to each other.

~~“Habitat” or “wildlife habitat” means areas that provide food, protective cover, nesting, breeding or movement for fish and wildlife and with which individual species have a primary association. Wildlife habitat also includes ponds that meet the definition(s) of critical or secondary habitat in these regulations.~~ [definition not needed. More targeted and precise definition in “fish and wildlife habitat conservation area.” Otherwise, common use and context are adequate.]

~~“Habitat buffer” means an area surrounding a defined wildlife habitat or wetland, which reduces adverse impacts to habitat/wetland functions from adjacent development; the area between a wildlife habitat or wetland and the upland which serves as a transition zone.~~ [duplicative of “buffer” definition]

~~“Habitat management” means management of land to maintain species in suitable habitats within their natural geographic distribution so that isolated subpopulations (i.e., genetically isolated and unable to interbreed with adjacent populations of the same species) are not created. This does not imply maintaining all habitat or individuals of all species in all cases.~~ [Definition not needed. Term only used in the context of “habitat management plan” in regulation, which includes details for what needs to be included/analyzed.]

~~“Habitat map” means maps of plant cover types/communities used to indicate the potential presence of wildlife species. Over time, the city intends to integrate available habitat maps and information into a database that will be available to applicants, agencies and the general public.~~ [definition not needed; new regs explain generalized maps for information not delineation purposes]

“Hard surface” means an impervious surface, a permeable pavement, a deck, or a vegetated roof.

~~“Hazard areas” means areas designated as frequently flooded areas or geologic sensitive areas due to potential for erosion, landslide, seismic activity, mine collapse, or other geological condition.~~ [covered by other critical area definitions]

“Hazardous materials” means any material, including any substance, waste, or combination thereof, which because of its characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

“Health club” means gymnasiums, private clubs, athletic, health, or recreational establishments.

“Hedges” means a dense row of shrubs or trees.

“Home occupation” means any use customarily conducted entirely within a dwelling and carried on by the inhabitants thereof, which use is clearly incidental and secondary to the use of the dwelling purposes and does not change the character thereof.

“Horse paddock” means a fenced area for confining, exercising or grazing of horses or ponies.

“Horse shelter building” means a building used partially or exclusively for the shelter of horses or ponies with at least three walls and a roof, including a door opening properly shielded from the wind and rain, commensurate to the size of the inhabiting animal and a fenced area for confining, grazing or exercising horses or ponies.

“Hospital” means an institution with overnight care facilities that is licensed by the state to provide medical, surgical, and emergency care needed to diagnose, treat, or rehabilitate individuals with acute or chronic illnesses, injuries, or medical conditions.

“Hospital, animal” means a building or premises for the medical or surgical treatment of animals, including dog, cat and veterinary hospitals.

“Hotel” means a commercial building providing short-term lodging for paying guests. Hotels can provide a central kitchen, dining room, private toilets, and shops serving the public.

“Hydrologist” means a professional who has experience or specialized training in hydrology.

“Hyperchlorinated” means water that contains more than ten mg/liter chlorine.

“Illicit connection” means any manmade conveyance that is connected to a municipal separate storm sewer without a permit, excluding roof drains and other similar type connections. Examples include sanitary sewer connections, floor drains, channels, pipelines, conduits, inlets, or outlets that are connected directly to the municipal separate storm sewer system.

“Illicit discharge” means any direct or indirect nonstormwater discharge to the city’s storm drain system, except as expressly allowed in Title 13.

“Impervious surface” means a nonvegetated surface area that either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development or causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam or other surfaces that similarly impede the natural infiltration of stormwater. Open, uncovered retention/detention facilities shall not be considered as impervious surfaces for the purposes of determining whether the thresholds for application of minimum requirements are exceeded. Open, uncovered retention/detention facilities shall be considered impervious surfaces for purposes of runoff modeling.

“Infiltration” means the downward movement of water from the surface to the subsoil.

“Infiltration facility” means a drainage facility designed to use the hydrologic process of surface and stormwater runoff soaking into the ground, commonly referred to as percolation, to dispose of surface and stormwater runoff.



“Jetty” means an artificial barrier used to change the natural littoral drift to protect inlet entrances from clogging by excessive sediment.

“Kennel” means any commercial facility housing, boarding, and/or breeding dogs, cats, or other animals. This includes veterinary offices and animal hospitals housing, boarding or breeding of animals not receiving medical treatment.

“Kennel, hobby” means any facility at a private residence in a single-family residential zoning district where fewer than four adult dogs or cats, or a combination thereof, are bred or kept; provided, that dog and cat reproduction is limited to no more than two litters of puppies and/or kittens in any calendar year.

“Laboratory” means a building or group of buildings in which are located facilities for scientific research, investigation, testing, or experimentation, but not facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory.

“Land-disturbing activity” means any activity that results in a change in the existing soil cover (both vegetative and nonvegetative) and/or the existing soil topography. Land-disturbing activities include but are not limited to demolition, construction, clearing, grading, filling and excavation.

“Landscaping” means the placement, preservation, or replacement of trees, grass, shrubs, plants, flowers, and other vegetative materials in accordance with an approved landscaping plan meeting adopted landscaping plan, design, and installation standards. Artificial plants, shrubs, bushes, flowers, and materials in movable containers shall not be considered “landscaping” for purposes of this title. Vegetation planted as part of LID BMPs shall be considered “landscaping” for purposes of this title where all landscape requirements in this title are met.

“Landslide hazard areas” means areas ~~that are potentially subject to risk of mass movement due to a combination of geologic, topographic, and hydrologic factors. These areas are typically susceptible to landslides because of a combination of factors including: bedrock, soil, slope gradient, slope aspect, geologic structure, ground water, or other factors. subject to landslides based on a combination of geologic, topographic, and hydrologic factors. Areas include, at a minimum:~~

10. Areas of historic failures, such as:

- Those areas delineated by the United States Department of Agriculture Natural Resources Conservation Service as having a significant limitation for building site development;
- Those coastal areas mapped as class u (unstable), uos (unstable old slides), and urs (unstable recent slides) in the department of ecology Washington coastal atlas; or
- Areas designated as quaternary slumps, earthflows, mudflows, lahars, or landslides on maps published by the United States Geological Survey or Washington department of natural resources.

11. Areas with all three of the following characteristics:

- Slopes steeper than 15 percent;
- Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and
- Springs or groundwater seepage.

12. Areas that have shown movement during the holocene epoch (from 10,000 years ago to the present) or which are underlain or covered by mass wastage debris of this epoch;

13. Slopes that are parallel or subparallel to planes of weakness (such as bedding planes, joint systems, and fault planes) in subsurface materials;

14. Slopes having gradients steeper than 80 percent subject to rockfall during seismic shaking;
15. Areas potentially unstable as a result of rapid stream incision, stream bank erosion, and undercutting by wave action, including stream channel migration zones;
16. Areas that show evidence of, or are at risk from snow avalanches;
17. Areas located in a canyon or on an active alluvial fan, presently or potentially subject to inundation by debris flows or catastrophic flooding; and
18. Any area with a slope of 40 percent or steeper and with a vertical relief of 10 or more feet except areas composed of bedrock. A slope is delineated by establishing its toe and top and measured by averaging the inclination over at least 10 feet of vertical relief. [Language from WAC 365-190-120(6)]

“Land Use Impact” means the level of impact from a proposed land use on a wetland. Land use intensity, when not specified below, is determined by the Director.

- High impact land uses include:
  - Commercial
  - Urban
  - Industrial
  - Institutional
  - Mixed-use developments
  - Residential (more than 1 unit/acre)
  - Roads: federal and state highways, including on-ramps and exits, state routes, and other roads associated with high-impact land uses
  - Railroads
  - Open/recreational space with high-intensity uses (golf courses, ball fields, etc.)
- Moderate impact land uses include:
  - Residential (1 unit/acre or less)
  - Roads: Forest Service roads and roads associated with moderate-impact land uses
  - Open/recreational space with moderate-intensity uses (parks with paved trails or playgrounds, biking, jogging, etc.)
  - Utility corridor or right-of-way used by one or more utilities and including access/maintenance road
- Low impact land uses include:
  - Natural resource lands (forestry/silviculture—cutting of trees only, not land clearing and removing stumps)
  - Open/recreational space with low-intensity uses (unpaved trails, hiking, birdwatching, etc.)
  - Utility corridor without a maintenance road and little or no vegetation management
  - Cell tower

“Latecomer’s agreement” means a contract which provides for the reimbursement of persons who construct a public stormwater facility or system extension.

“Level of service (LOS),” used in the context of traffic and transportation analysis, means a measure that describes the operational condition of the transportation system and acceptable adequacy requirements. Mukilteo’s transportation levels of service are set forth in the transportation element of the Mukilteo comprehensive plan and consist of six alphabetical categories corresponding to the amount of average



delay per vehicle at signalized and unsignalized intersections, and average travel speed for urban street segments as defined in the most current version of the Highway Capacity Manual (HCM).

~~“Leveling” means a change of the ground surface generally to reduce the slope or eliminate small bumps or dips.~~ [common use is adequate]

“Library” means an organized collection of resources made accessible to the public for reference or borrowing supported with money derived from taxation.

~~“Licensed professional” means a professional civil engineer that specializes in geotechnical engineering or an engineering geologist, licensed to practice in the state of Washington in accordance with either Chapter 18.43 or 18.220 RCW.~~ [replaced with “Qualified professional” definition]

“Lot” means a single tract of land, no matter how legally described, whether by metes and bounds and/or by lot or lots and block designation as in a recorded plat, which at the time of applying for a building permit is designated by its owner or developer as the tract to be used, developed or built upon as a unit of land and assigned to the particular use for which the building permit is being secured and having frontage on or access to a public street or private road.

“Lot area” means the total horizontal area within the boundary lines of a lot. Where public right-of-way easements are located within or bordering a parcel, lot area computation shall not include that area contained within the easement.

“Lot, corner” means a lot at the junction of and fronting on two or more intersecting streets or private roads.

“Lot coverage” means the amount of above-grade land area on a lot which may be covered by a building or structure.

“Lot depth” means the average dimension of the lot from the front street line to the rear line, as measured along three parallel lines (one on each side setback and one in the middle of the lot).

“Lot, interior” means a lot fronting on one street.

“Lot, legal nonconforming” means any lot that was legally created but fails to meet current minimum standards due to amendments made in the municipal code since the lot’s creation.

“Lot line, front” means the lot line separating the lot from the street; or, in the case of a panhandle lot, the lot line chosen by the owner which separates the access corridor from the remainder of the lot; and in the case of a corner lot, the street frontage designated by the owner as the front lot line.

“Lot of record” means a lot which is a part of plat and/or subdivision as recorded by state law and has direct legal access to the public right-of-way or an easement approved by the city.

“Lot, pipestem” means an irregularly shaped lot which has a narrow access corridor leading to the section of the lot that meets dimension requirements.

“Lot, through” means a lot fronting on two streets that do not intersect on the parcel’s lot lines.

“Lot width” means the distance between the side lot lines as measured along the front lot line or along a line generally parallel to the front lot line at a distance equal to the front setback.

“Low impact development (LID)” means a stormwater and land use management strategy that strives to mimic pre-disturbance hydrologic processes of infiltration, filtration, storage, evaporation and transpiration by emphasizing conservation, use of on-site natural features, site planning, and distributed stormwater management practices that are integrated into a project design.

“Low impact development (LID) best management practices (BMPs)” means distributed stormwater management practices, integrated into a project design, that emphasize pre-disturbance hydrologic processes of infiltration, filtration, storage, evaporation and transpiration. LID BMPs include, but are not limited to: bioretention, rain gardens, permeable pavements, roof downspout controls, dispersion, soil quality and depth, minimum excavation foundations, vegetated roofs, and water reuse.

“Low impact development (LID) principles” means land use management strategies that emphasize conservation, use of on-site natural features, and site planning to minimize impervious surfaces, native vegetation loss, and stormwater runoff.

“Low-income household” means a single person, family, or unrelated persons living together whose adjusted income is less than eighty percent of Snohomish County’s median family income (adjusted for household size).

“Maintenance standards” means utility maintenance standards, if any, which may include but are not limited to minimum requirements for maintaining stormwater facilities so they function as intended, as adopted by the city’s public works director.

“Major aboveground utility facility” means a structure or improvement installed aboveground and outside public right-of-way, including electrical substations; water towers and site development including garages and storage buildings; sewer lift station; natural gas regulating stations containing aboveground structures; and man-made regional detention or retention facilities.

“Major transit stop” means the Sounder commuter rail stop, stops on any future bus rapid transit routes (starting at time of construction), and any other stop qualifying under current RCW provisions. This definition excludes ferry terminals.

“Managing agency” means an organization that organizes and manages or sponsors a temporary encampment.

“Manufacturing” means a use engaged in the mechanical, physical, or chemical transformation of materials, substances, or components into new products.

1. “Heavy manufacturing” includes processing, generation, or storage of materials that can constitute a physical or health hazard, including those listed as a Group H (high hazard) occupancy by the International Code Council as well as uses excluded from the light industrial definition below.
2. “Light manufacturing” includes assembling, disassembling, fabricating, finishing, packaging, and repair or processing operations listed as Group F-2 (low-hazard factory industrial) or Group F-1 (moderate-hazard factory industrial) occupancies by the International Code Council with the exception of the following uses that are considered heavy manufacturing: electric generation plants, energy storage systems, metal foundries, and refuse incineration.

“Marijuana” or “cannabis” means all parts of the plant cannabis, whether growing or not.

“Marijuana facility” means a state-licensed marijuana production, processing, or retail facility or a medical cannabis collective garden. Marijuana facilities shall not be a home occupation as defined in this chapter.

“Marijuana processing facility” means an entity licensed by the state of Washington to process, package, and label usable marijuana and marijuana-infused products for sale at wholesale to marijuana retailers. A marijuana processing facility shall not be a home occupation as defined in this chapter.

“Marijuana production facility” means an entity licensed by the state of Washington to produce marijuana for sale at wholesale to marijuana processor licensees and to other marijuana producers. A marijuana production facility shall not be a home occupation as defined in this chapter.

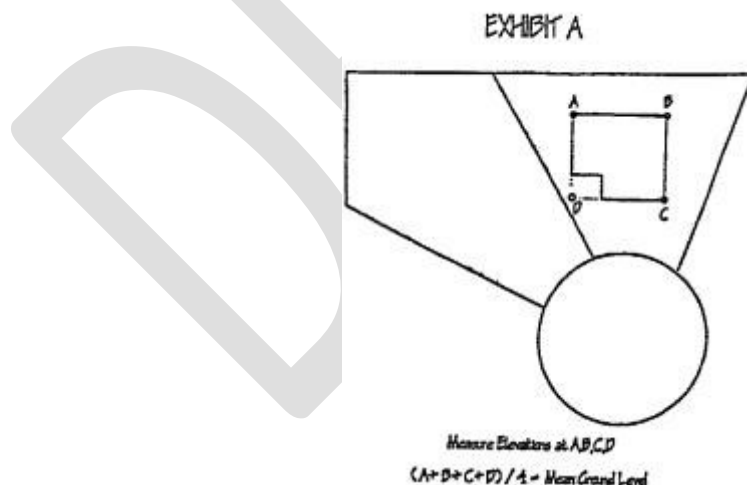
“Marijuana retail facility” means an entity licensed by the state of Washington to sell only usable marijuana, marijuana-infused products and marijuana paraphernalia to persons twenty-one years of age and older. A marijuana retail facility shall not be a home occupation as defined in this chapter.

“Marina” means a facility providing for the rental or public use of moorage for pleasure craft and which may include accessory facilities such as sales, rentals, and servicing of these craft.

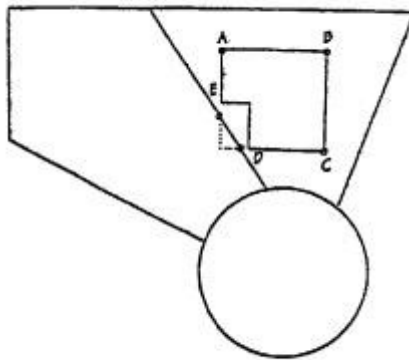
“Mean ground level” means the average grade of the four corners of the smallest rectangle which will enclose the proposed building walls.

1. For structures on properties with an approved grading plan associated with a plat or subdivision: the average grade is measured from the finished grade.
2. For all other structures: the average grade is measured from existing grade prior to development, or the lowest finished grade after development, whichever is lower.

If a corner of the smallest rectangle that can enclose the building extends beyond the property boundary, the elevation of the off-site corner shall be calculated based on the average elevation where the two sides of the rectangle cross the property line. See illustrations below.



# EXHIBIT B



Measure Elevations at A,B,C,D, E  
 $(A+B+C+[(D+E)/2])/4 = \text{Mean Ground Level}$

~~“MHR” or “Mukilteo habitat reserve” means a component of the Mukilteo CAMP. The MHR identifies potential sites for off-site buffer mitigation for projects that do not have feasible on-site mitigation options. The MHR sites were chosen for their highly functional ecological conditions, which would be preserved through establishment of permanent conservation easements.~~ [Term not needed. CAMP will be dissolved as part of CAO update]

“Microcell” means a wireless communication facility consisting of an antenna that is either: (1) four feet in height and with an area of not more than five hundred eighty square inches; or (2) if a tubular antenna, no more than four inches in diameter and no more than six feet in length.

“Middle housing” means dwellings that are compatible in scale, form, and character with single-family houses. Middle housing includes accessory dwelling units (ADUs), duplexes, townhouses, cottages, and apartments.

“Mini-self storage facility” means a building or group of buildings consisting of individual, small, self-contained units that are leased or owned for the storage of business, household goods, and/or contractors supplies.

“Mitigate” or “mitigation” means and includes, in order of preference:

1. Avoiding the impact altogether by not taking a certain action or parts of actions;
2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation;
3. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
4. Reducing or eliminating the impact over time by preservation and maintenance operations pursuant to activities undertaken during the life of the action;
5. Compensating for the impact by replacing or providing substitute resources or environments.

While monitoring without additional actions is not considered mitigation for the purposes of these regulations, it may be a part of a comprehensive mitigation program.

“Mixed-use development” means the development of a building or site with a mix of residential and commercial uses where the nonresidential spaces are designed to be separately leasable from the residential spaces.

“Mobile home” means a transportable dwelling unit not permanently attached to a foundation, meeting Mobile Home Construction and Safety Standards Act of 1974 as adopted by Chapter 43.22 RCW if applicable.

“Modulation” means the stepping back or projecting forward of portions of a building facade within specified intervals of building width and depth, as a means of breaking up the apparent bulk of a structure’s continuous exterior walls.

“Moorage” means any device or structure used to secure a vessel for temporary anchorage, but which is not attached to the vessel (such as a pier or buoy).

“Motor vehicle fuel” means gasoline and any other inflammable gas or liquid, by whatsoever name the gasoline, gas, or liquid may be known or sold, the chief use of which is as fuel for the propulsion of motor vehicles or motorboats.

“Multi-modal facility” or “intermodal” means a facility or terminal that is a hub which links transportation services which could include: local transit, inter-city buses, carpools, vanpools, ferries, commuter rail, pedestrian and bicycle access, taxis and airport shuttles.

“Multiple-building (multi-tenant) complex” means a group of structures housing at least one retail business, office, commercial venture or multifamily dwelling; or a single structure containing more than one business or multifamily dwelling with separating walls and at least one outside access for each unit.

“National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit” means a permit issued by the Environmental Protection Agency (EPA) (or by the Washington Department of Ecology under authority delegated pursuant to 33 USC Section 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

“Native growth protection area” means a protected ~~area corridor~~ vegetated with native trees, shrubs and groundcover that connects ~~critical areas~~ or permanently ~~preserves critical areas. d-natural areas within or adjacent to and across the project site. The corridor should be maintained to exclude nonnative, invasive species.~~

“Native vegetation” means plant species, other than noxious weeds, that are indigenous to the area in question and which ~~reasonably~~ could have been expected to naturally occur ~~before settlements.~~ [reworked for Mukilteo from ecology definition.]

~~“New development” means land disturbing activities, including Class IV—general forest practices that are conversions from timberland to other uses; structural development, including construction or installation of a building or other structure; creation of impervious surfaces; and subdivision, short subdivision and binding site plans, as defined and applied in Chapter 58.17 RCW. Projects meeting the definition of redevelopment shall not be considered new development.~~ [definition deleted in favor of “development” definition which has been revised to comply with model ordinance language so that it is compliant with floodplain BiOp.]

“Nonconforming structure” means a structure which was legally constructed prior to the effective date of the ordinance codified in this chapter but which would not be permitted as a new structure under the terms of this title because such structure is not in conformance with the setback, height, lot coverage, or open space requirements of the zone in which it is located.

“Nonconforming use” means a use which lawfully occupied a building or land at the time this title became effective, but which use, because of the passage or application of this title, or amendment thereof, does not conform with the use regulations of the district in which it is located.

“Nonstormwater discharge” means any discharge to the storm drain system that is not composed entirely of stormwater.

“Nursing home” means a facility providing twenty-four-hour skilled nursing care, supervision, and assistance with activities of daily living to elderly and/or persons with disabilities who are unable to care for themselves independently

“Off-street parking” means parking facilities with at least one hundred sixty square feet per motor vehicle located outside public streets or alleys.

“One-hundred-year, twenty-four-hour storm” means a storm with a twenty-four-hour duration with a one-one hundredth probability of occurring in any twelve-month period.

“Open space, active” means all common space designated and intended for the purposes of recreation and active use, such as parks, plazas, playgrounds, and sport courts.

“Open space, land use” as a use in Chapter 17.16 means those uses such as public parks, private parks, NGPAs, stormwater detention facilities or similar uses that provide wildlife and critical habitat, passive recreational uses, and environmental education activities that are generally free and clear of buildings, structures and paved areas used for automobile parking or vehicular access and to remain open and unobstructed from the ground to the sky.

“Open space, passive” means all common open space not meeting the definition of active recreational open space, including, but not limited to, critical areas and their associated buffers, and LID facilities.

“Operate,” for purposes of the public stormwater system, means to manage on a full-time basis a stormwater facility or the flow of water through any portion of the stormwater system.

“Ordinary high water mark—streams (OHWM-Streams)” means the mark that will be found by examining the bed and banks of a stream and ascertaining where the presence and action of waters are so common and usual, and so long maintained in ordinary years, as to mark upon the soil a vegetative character distinct from that of the abutting upland. In any area where the ordinary high water mark cannot be found, the line of mean high water shall substitute. In any area where neither can be found, the top of the channel bank shall be substituted.

~~“Overstory” means vegetation above ten feet in height.~~ [only used in 15.16.060 and defined there in context]

“Overwater structure” means a structure extending on or over the surface of the water which has one or more walls, with or without a roof.

“Parapet” means that part of the wall which extends above the roof.

“Park and ride lot” means a parking lot designed to park vehicles and designated as a parking facility specifically intended for use by public transportation and ridesharing patrons from that location.

“Park, public” means a parcel maintained for purposes of pleasure, exercise, amusement or ornament, being owned by and opened to the public. Uses include, but are not limited to, trails, tot lots/playground, and small-scale sports courts and gathering areas.

“Parking garage” means a structure that is built to provide the parking of vehicles above or below ground. This is not the same as a “garage” used to park a car or truck (equal to or less than ten thousand GTW) for residential use.

“Parking lots, commercial” means a lot designed for the parking of more than two vehicles, which is within or adjacent to a commercial or industrial district and for which there is an hourly, daily, weekly or monthly charge for the parking of a private vehicle.

“Parking structures, commercial” means a parking structure designed for the parking of more than nine vehicles and for which there is an hourly, daily, weekly or monthly charge for the parking of a private vehicle.

“Pedestrian-oriented space” means an area between a building and a street, access road, or along a pedestrian path which promotes visual and pedestrian access onto the site and which provides pedestrian-oriented amenities and landscaping to enhance the public’s use of the space for passive activities such as resting, reading, picnicking, etc.

“Permanent supportive housing” means subsidized, lease-based dwelling units with no limit on length of stay that prioritize individuals with complex health conditions, those who were previously homeless, or those at risk of homelessness. This use includes comprehensive support services to help tenants maintain housing, improve their health, and connect with community services.

“Permit authority” means the administrative staff or hearing body designated by the city under Chapter 17.13, Land Use and Development Review Procedures, to approve, approve with conditions, or deny all applications, appeals, or legislative actions.

“Permitted use” means a use that is allowed in a district as a matter of right and which is not subject to the special conditions of a conditional use or an accessory use.

“Permittee” means the person(s) or entity to whom a permit is issued.

“Person” means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner of a premises or as the owner’s agent.

“Personal service shops” means a facility used for administering personal services including, but not limited to, beauty shops, barber shops, tanning salons, tailoring, shoe repairing and other similar uses, excluding uses such as massage parlors, body painting studios and other uses otherwise expressly provided for.

“Personal wireless service facilities” means facilities for the provision of personal wireless services.

“Personal wireless services” means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services, as defined by federal laws and regulations.

“Places of worship” means an establishment, the principal purpose of which is religious worship and for which the principal building or other structure contains the sanctuary or principal place of worship, and including accessory uses in the main building or in separate buildings or structures, including Sunday school rooms and religious education classrooms, assembly rooms, kitchen, library room or reading room, recreation hall, a one-family dwelling unit and residences on the site for nuns and clergy, but excluding facilities for training for religious orders.

“Playground” means a public outdoor recreation area for children, usually equipped with swings, slides, and other playground equipment.

“P.M. peak-hour traffic” means the total number of vehicle trips traveling to or from a development project during the consecutive sixty-minute period between two-thirty p.m. and six-thirty p.m. which experiences the highest number of vehicle trips traveling to and from the development project.

“Pollutant” means anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; nonhazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects and accumulation, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

“Pollution” means contamination, pollution, or other alteration of the physical, chemical, or biological properties of the stormwater system or waters of the state (as defined in RCW 90.48.020), including without limitation change in temperature, taste, color, turbidity, or odor of the water, or the discharge of any liquid, gaseous, solid, radioactive or other substance into any waters of the state as will or is likely to create a nuisance or render such waters harmful, detrimental or injurious to the public health, safety, or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life.

“Pond” means a naturally existing body of standing water which exists on a year-round basis and occurs in a depression of land or expanded portion of a stream. Ponds subject to these regulations must be greater than one acre in area and otherwise meet the definition of critical habitat.

“Premises” means any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips.

~~“Priority habitat” means a habitat type with unique or significant value to many species. An area identified and mapped as priority habitat has one or more of the following attributes: (1) comparatively high fish and wildlife density; (2) comparatively high fish and wildlife species diversity; (3) important fish and wildlife breeding habitat; (4) important fish and wildlife seasonal ranges; (5) important fish and wildlife movement corridors; (6) limited availability; (7) high vulnerability to habitat alteration; and (8) unique or dependent species.~~

~~A priority habitat may be described by a unique vegetation type or by a dominant plant species that is of primary importance to fish and wildlife (e.g., oak woodlands, juniper savannah). A priority habitat may also be described by a successional stage (e.g., old growth and mature forests). Alternatively, a priority habitat may consist of specific habitat features (e.g., talus slopes, caves, snags) of key value to fish and wildlife. [covered in the bio/habitat assessment report requirements in the regs]~~

~~“Priority species” means fish and wildlife species requiring protective measures and/or management actions to ensure their survival. A species identified and mapped as priority species fits one or more of the following criteria:~~

~~1. Criterion 1—State Listed and Candidate Species. State listed species are native fish and wildlife species legally designated as endangered (WAC 232-12-014), threatened (WAC 232-12-011), or sensitive (WAC 232-12-011). State candidate species are fish and wildlife species that will be reviewed by the department (POL-M-6001) for possible listing as endangered, threatened, or sensitive according to the process and criteria defined in WAC 232-12-297.~~



~~2.— Criterion 2—Vulnerable Aggregations. Vulnerable aggregations include species or groups of animals susceptible to significant population declines, within a specific area or statewide, by virtue of their inclination to aggregate. Examples include heron rookeries, seabird concentrations, marine mammal haulouts, shellfish beds, and fish spawning and rearing areas.~~

~~3.— Criterion 3—Species of Recreational, Commercial, and/or Tribal Importance. Native and nonnative fish and wildlife species of recreational or commercial importance, and recognized species used for tribal ceremonial and subsistence purposes, whose biological or ecological characteristics make them vulnerable to decline in Washington or that are dependent on habitats that are highly vulnerable or are in limited availability.~~ [covered in the definition of FWHCA and in the bio/habitat assessment report requirements in the regs]

“Private open space” means decks, lanais and yard spaces for the exclusive use of dwelling occupants.

“Private stormwater facility” means any stormwater facility or portion of the stormwater facility which is not a public stormwater facility.

~~“Program” means the surface water management program described in Chapter 13.12.~~ [context is adequate]

~~“Project” means a proposal for development.~~ [context is adequate]

“Property owner” means any person that owns or has a legal interest in property or has been authorized by such person to act on its behalf.

“Public facilities” means all municipal, county or state-owned facilities, including but not limited to governmental administration offices, libraries, fire stations, police stations, municipal garages and yards, refuse disposal or transfer facilities, cemeteries, water, sewer, gas, steam or electrical distribution systems, pumping or regulation stations and transformer stations with service yards.

“Public place” means any area generally visible to public view and includes but is not limited to streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots and automobiles whether moving or not.

“Public right-of-way” means a strip of land acquired by reservation, dedication, forced dedication, prescription or condemnation and intended to be utilized as a road, sidewalk or crosswalk, railroad, electric transmission lines, oil or gas pipeline, water line, sanitary storm sewer or other public use.

“Public stormwater facility” means those elements of the stormwater facility which are operated by the utility, and are either (1) located on property owned by the city or in a public right-of-way, or (2) if located on private property, the city has formally accepted and documented by deed, easement or similar instrument the obligation to operate that portion of the stormwater system.

“Public utility installations” are aboveground structures, facilities or equipment used by a utilities agency to provide public services such as electricity, gas, water, sewer, transportation, communications or storm drainage.

“Public works department” means the city of Mukilteo department of public works.

~~“Qualified consultant” means a professionally trained and/or certified wildlife or stream biologist or ecologist or other professional with expertise in the scientific disciplines necessary to identify, evaluate and manage habitat and/or streams.~~ [replaced with “Qualified professional” definition]

~~“Qualified wetland specialist” means a professionally trained and/or certified wetlands biologist or wetlands ecologist.~~ [replaced with “Qualified professional” definition]

“Qualified professional” means a person who possesses the appropriate professional license, registration, certification, and training in the scientific or technical discipline necessary to make the professional judgments, reports, or findings required. Examples include, but are not limited to, licensed engineers, registered architects or surveyors, certified biologists, each qualified within their respective fields in accordance with state law. [added new, consolidated definition to replace qualified consultant, qualified wetland specialist, licensed professional, registered professional.]

“Rain garden” means a nonengineered shallow, landscaped depression, with compost-amended native soils and adapted plants. The depression is designed to pond and temporarily store stormwater runoff from adjacent areas, and to allow stormwater to pass through the amended soil profile.

“Reasonable use” means the minimum use a property owner is entitled to by virtue of the due process and takings clauses of the state and federal constitutions.

“Recreation center or facility” means a supervised center that provides a broad range of activities and events including programming for persons under twenty-one years of age, owned or managed by a charitable nonprofit organization or government agency. Examples include, but are not limited to, the Mukilteo YMCA and Mukilteo Boys and Girls Club.

“Recreational uses not otherwise listed” means uses of an active recreational nature which are not covered under the definitions of “open space, public” or “parks, public” which may include, but are not limited to, sports and athletic fields (as principal uses), and large outdoor amphitheaters or gathering areas.

“Recreational vehicle” means any wheeled or motorized vehicle that provides self-contained, temporary living quarters for recreational, camping, or travel uses.

“Redevelopment” means, on an already substantially developed site (i.e., has thirty-five percent or more of existing impervious surface coverage), the creation or addition of impervious surfaces; the expansion of a building footprint or addition or replacement of a structure; structural development, including but not limited to construction, installation, or expansion of a building or other structure and/or replacement of impervious surface that is not part of a routine maintenance activity; land-disturbing activities associated with structural or impervious surface development; and any change in use that has the potential of releasing pollutants from the site.

~~“Registered professional” means a person currently licensed by the state to practice in engineering, architecture, landscape architecture, and/or surveying.~~ [replaced with “Qualified professional” definition]

“Regulated activity” means activities occurring in or near and/or potentially affecting wetlands or wetland buffers, or critical wildlife habitat or buffer, or a stream or stream buffer that are subject to the provisions of this chapter. Regulated activities generally include but are not limited to any filling, dredging, dumping or stockpiling, draining, excavation, flooding, construction or reconstruction, driving pilings, obstructing, shading, clearing or harvesting.

~~“Rehabilitation” means the reestablishment of a viable stream from a previously filled or degraded stream reach.~~ [common use definition is superior since this limits to stream context but actual usage in code is broader (e.g., shorelines, flood areas, nonconforming uses, stormwater)]

“Religious organization” means the federally protected practice of a recognized religious assembly, school, or institution that owns or controls real property.

“Residence” means a building or structure, or portion thereof, which is designed for and used to provide a place of abode for human beings.

~~“Restoration” means the reestablishment of a viable wetland from a previously filled or degraded wetland site.~~ [common use definition is superior since this limits to wetland context but actual usage in code is broader (e.g., shorelines, flood areas, nonconforming uses)]

“Retail” means a use which dispenses commodities to the consuming public at retail, excluding printing, publishing and binding establishments, public utility facilities and offices, contractor’s offices, repair shops for household appliances and the like, business and professional offices, real estate offices, financial institutions, personal service shops, hotels, offices for licensed practitioners, and hospitals.

“Retain” or “retention” means the storage of stormwater for a considerable length of time with no surface outflow (i.e., release occurs only through evaporation, plant transpiration, or infiltration).

“Retention/detention (R/D) facilities” means a type of drainage facility designed either to hold water for a considerable length of time and then release it by evaporation, plant transpiration, and/or infiltration into the ground; or to hold surface and stormwater runoff for a short period of time and then release it to the surface and stormwater management system.

“Riparian management zone” means the designated area adjacent to streams and other water bodies that is managed to protect water quality and fish and wildlife habitat. The zone is measured horizontally from the OHWM or the outer edge of the channel migration zone, whichever is greater. The top of bank may be used in situations where the OHWM cannot be identified.

“Road, private” or “private street” means an established easement owned and maintained by one or more private individuals, which provides vehicular access from private property to a public right-of-way.

“Roadway” means any type of improved vehicular access. Types of private roadways are driveways, common driveways, drive aisles and private roads. Types of public roadways include, but are not necessarily limited to, public streets and alleys.

“Roofline” means the top edge of a roof or parapet or the top line of a building silhouette.

“Rough grade” means the stage of construction at which the ground elevations are near the finished elevations planned.

“Runway protection zone” means a trapezoidal area at ground level off the end of the Paine Field runway, the dimensions of which are defined by the Federal Aviation Administration to enhance the safety and protection of people and property on the ground.

“Scale, architectural” means the perceived relative height and bulk of a building relative to that of neighboring buildings. A building’s apparent height and bulk may be reduced by modulating facades and having pitched roofs or setback building walls above two stories.

“Scale, human” means the perceived size of a building relative to a human being. A building is considered to have “good” human scale if there is an expression of human activity or use that indicates the building’s size. For example, traditionally sized doors, windows, and balconies are elements that respond to the size of the human body, so these elements in a building indicate a building’s overall size.

“School” means an institution of learning recognized by the Washington State Superintendent of Public Instruction. Definition includes public, private, and parochial schools educating children from preschool through high school.

~~“Secondary habitat” means habitat areas that offer less diversity of animal and plant species than critical habitat but that are known to support species survivability. Secondary habitat areas do not satisfy the definition for critical or tertiary habitat, and meet one of the following criteria:~~

- ~~1.— Priority habitat as identified by the Washington Department of Wildlife Priority Habitat lists prepared in compliance with WAC 365-190-080;~~
- ~~2.— Naturally occurring ponds of less than twenty acres but greater than one acre in area including all of the following attributes: not stocked with salmonids or game fish by tribal or government entities; impounded water of less than twenty acres; cover of submerged aquatic vegetation, shrubs or trees not exceeding fifty percent of the total area of surface water; and seasonally or permanently submerged and having little or no flow of water; or~~
- ~~3.— Fish and wildlife habitats with significant functions and values that may not be adequately replicated through creation or restoration as measured according to the following attributes: habitat diversity; wildlife density; wildlife species richness; documented wildlife breeding or spawning habitat; documented wildlife seasonal ranges; documented significant movement corridors; areas with limited availability; areas with high vulnerability; and Class II streams as defined in these regulations. [this term is not used outside of definitions chapter]~~

While not regulated by these regulations, priority habitat may be regulated by other governmental agencies.

“Sediment” means waterborne particles, graded or undefined, occurring by erosive action.

“Sedimentation” means the process of deposition of soil and organic particles displaced, transported, and deposited by water or wind.

“Seeps” means spots where water emanates from the earth, often forming the source of a small stream.

“Senior housing” means multifamily dwelling units designed and designated for residents aged sixty-two years or older.

~~“Sensitive areas” means those portions of the shoreline which: (1) contain or substantially contribute to the maintenance of endangered or valuable forms of life; (2) contain steep slopes, marshes, or other areas having unstable or potentially hazardous topographic, geologic, or hydrologic features; or (3) have significant historical, cultural, scientific or educational value. [this term is not used in this way in the municipal code]~~

~~“Sensitive lands” means lands possessing slopes in excess of twenty five percent on unstable soil, natural drainage, geological or vegetative characteristics which pose potentially hazardous impacts for occupants of the land or its neighbors. [conflicts with geologically hazardous areas definitions]~~

“Service provider” means as defined in accord with RCW 35.99.010(6). “Service provider” shall include those infrastructure companies that provide telecommunications services or equipment to enable the deployment of personal wireless services.

“Service station” means land or buildings used for the sale of motor fuels, oils, lubricants, and auto accessories. Use may include accessory minor repair and car washing services but excludes major automobile repair, stripping vehicles for parts, and on-site vehicle storage.

“Setback” or “yard requirements” means the required open space distance that buildings, uses or structures must be removed from their lot lines.

“Setback line” means a line parallel to the property line and located at the minimum distance required by the code or ordinance between a building wall and a property line or other reference.

“Ship” means a vessel of twenty tons or upward; or a vessel of less than twenty tons if registered, enrolled, or documented under the laws of the United States, but does not include private noncommercial pleasure craft.

“Short-term rental” means a residential dwelling unit offered for rent for a period of thirty days or fewer. This definition excludes licensed hotels and bed and breakfasts.

“Sign” means any device, structure, fixture, painting, or placard that uses graphics, symbols, or written copy and is used or intended to attract attention to the subject matter for commercial or noncommercial purposes.

1. “A-frame sign” means a freestanding, two-panel, foldable, portable sign made of rigid material.
2. “Banner” means any sign of flexible material, such as fabric, pliable plastic, or other similar nonrigid material, with no enclosing framework or electrical components and that is supported or anchored on two or more edges or at all four corners, or along either one edge or two corners with weights installed that reduce the reaction of the sign to wind.
3. “Billboard” means a permanent outdoor advertising off-site sign containing a message, commercial or otherwise, unrelated to any use or activity on the subject property on which the sign is located, excluding civic events signs, government signs, and instructional signs.
4. “Changeable copy sign” means a sign with copy that can be changed or altered by manual means and without changing or altering the sign frame, sign supports, or electrical parts.
5. “Commercial sign” means a sign that bears or contains statements, words or pictures that are defined as commercial speech under the prevailing statutes or applicable case law. This generally includes signs designed, intended or used for a business transaction or that advertises the exchange of goods and services.
6. “Copy area” means the graphic content of a sign surface, including, but not limited to, graphics, letters, numbers, figures, symbols, and trademarks.
7. “Directional sign” means a sign that is primarily designed to safely guide or direct pedestrian or vehicular traffic to an area, business, place, or convenience.
8. “Freestanding sign” means a sign on a frame, pole, or other support structure that is not attached to a building or fence.
9. “Monument sign” means a two-sided freestanding sign having the appearance of a solid base equal to or greater in width than the width of the sign copy area above the base.
10. “Neighborhood” or “community identification sign” means a permanent sign designed to identify the name of a subdivision, neighborhood, community, community center, city facility, city entrance or school.
11. “Noncommercial sign” means a sign that does not meet the definition of a commercial sign.

12. “Pole/pylon sign” means any freestanding sign that does not meet the definition of a monument or portable sign. These signs are composed of the sign cabinet or base and a pole or pylon structure which is placed on or anchored in the ground.
13. “Projecting sign” means a sign, other than a wall sign, which is attached to and projects from a building wall or other structure not specifically designed to support the sign.
14. “Roof sign” means a sign mounted on a roof or mounted in a way that makes the sign extend higher than the building roof line.
15. “Sign area” means the entire area of a sign on which copy is placed, excluding the sign’s structure, architectural embellishments, and framework.
16. “Suspended sign” means a sign that is suspended from, and generally perpendicular to, a structure or awning and intended to be seen from a public sidewalk or other pedestrian corridor.
17. “Temporary sign” means any sign intended to be displayed for a limited time only and not permanently attached to the ground or a structure.
18. “Wall sign” means any sign painted on, or attached directly to, a building wall or awning where the sign is parallel to (and projects less than eighteen inches from) the wall or facade.
19. “Window sign” means any sign applied to or mounted on a window that is visible to the general public.

“Sign structure” means any structure that supports or is capable of supporting any sign as defined in this chapter. A sign structure may be either incorporated into the building structure(s) or maintained as a separate entity. Structures that perform a separate use, such as a telephone booth, bus shelter, Goodwill container, etc., are not considered sign structures.

“Siltation” means deposition of fine textured sediment in streams and surface waters.

“Site” means any parcel or combination of contiguous parcels or lots. For road projects, the length of the project site and the right-of-way boundaries define the site.

“Site assessment” means a complete land use analysis consisting of a geotechnical report prepared by a registered professional engineer licensed in the state of Washington, a grading and temporary erosion control plan, and a landscape/re-vegetation plan describing a development proposal and its environmental characteristics and impacts.

“Site wireless communication facility” means towers other than towers in the public rights-of-way, the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site, and, for other eligible support structures, further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground.

“Slope” means an inclined earth surface; the inclination of which is expressed as the ratio of horizontal run to vertical rise, expressed as the vertical rise divided by the horizontal run multiplied by one hundred percent.

“Small cell facility” means a personal wireless services facility that meets both of the following qualifications:

1. Each antenna is located inside an antenna enclosure of no more than three cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than three cubic feet; and
2. Primary equipment enclosures are no larger than seventeen cubic feet in volume. The following associated equipment may be located outside the primary equipment enclosure and if so located, are not included in the calculation of equipment volume: Electric meter, concealment, telecom demarcation box, ground-based enclosures, battery backup power systems, grounding equipment, power transfer switch, and cut-off switch.

“Small wireless facility” has the same meaning as defined in 47 CFR 1.6002.

“Soil” means unconsolidated mineral and organic material on the immediate surface of the earth that serves as a natural medium for the growth of land plants.

“Soils engineering” means the application of the principles of soils mechanics in the investigation, evaluation and design of civil works involving the use of earth materials and the inspection and/or testing of the construction thereof.

“Sponsor” means a local place of worship or other local, community-based organization that has an agreement with the managing agency to provide basic services and support for the residents of a temporary encampment and liaison with the surrounding community and joins with the managing agency in an application for a temporary use permit. A “sponsor” may be the same entity as the managing agency.

~~“Stage” means a defined increment of work.~~ [common use is adequate]

“Steep slopes” means a naturally occurring slopes that is at least ten feet tall and rises ten feet or more for every twenty-five feet horizontal (i.e., 40% forty percent or greater, also represented as a twenty-two degree angle). A slope is delineated by establishing its toe and top. The toe is the lower limit of the area where the ground surface rises ten feet or more vertically within a horizontal distance of twenty-five feet. The top of slope is the distinct break in slope separating the areas sloped over 40% from portions of the site with lesser slopes. Where no distinct break exists, the top is the uppermost limit before the ground drops vertically within a horizontal distance of twenty-five feet. Existing slopes modified with engineering oversight or in accordance with standard construction industry techniques are not considered steep slopes. [consolidated with toe and top of steep slope definitions]

“Storm drainage study, adopted” means a detailed analysis for each drainage basin which compares the capabilities and needs for runoff accommodation due to various combinations of development, land use, structural and nonstructural management alternatives. The study recommends the form, location and extent of quantity and quality control measures which optimally would meet the legal constraints, water quality standards and community standards, as well as identifying the institutional and funding requirements for plan implementation.

“Stormwater” means that portion of precipitation that does not naturally percolate into the ground or evaporate, but flows via overland flow, interflow, pipes and other features of a stormwater drainage system into a defined surface water body, or a constructed infiltration facility.

“Stormwater detention facility” means a manmade open-air facility designed to hold runoff stormwater for a considerable length of time while gradually releasing it at a predetermined maximum rate or consuming it by evaporation, plant transpiration or infiltration into the soil.



“Stormwater drainage system” or “stormwater system” means constructed and natural features which function together as a system to collect, convey, channel, hold, inhibit, retain, detain, infiltrate, divert, treat or filter stormwater.

“Stormwater facility” means a constructed component of a stormwater drainage system designed or constructed to perform a particular function, or multiple functions. Stormwater facilities include, but are not limited to, pipes, swales, ditches, culverts, street gutters, detention ponds, retention ponds, constructed wetlands, infiltration devices, catch basins, oil/water separators, and biofiltration swales.

“Stormwater minimum requirements” means the minimum technical requirements for new development and redevelopment as found in Appendix I of the NPDES Phase II Municipal Stormwater Permit, the Ecology Manual and the development standards.

“Stormwater permit” means the permit required to construct stormwater facilities and/or to make any additions, repairs or connections to the stormwater system. The permit shall consist of the approved construction plans signed by the director.

“Stormwater pollution prevention plan (SWPPP)” means a document which describes the BMPs and activities to be implemented to identify sources of pollution or contamination at a premises and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable. An SWPPP will contain a narrative and drawings. The narrative contains concise information concerning existing site conditions, construction schedules, and other pertinent items that are not contained on the drawings. The drawings and notes describe where best management practices (BMPs) should be installed, the performance BMPs are expected to achieve, and actions to be taken if the performance goals are not achieved.

“Stormwater site plan” means a comprehensive report containing all of the technical information and analyses necessary for the city to evaluate a proposed new development or redevelopment project for compliance with stormwater requirements. Contents of the stormwater site plan will vary with the type and size of the project, and individual site characteristics. It includes a construction stormwater pollution prevention plan (construction SWPPP), and a permanent stormwater control plan (PSCPlan).

“Story” means that portion of a building included between the surface of any floor and the surface of the floor next above it. If there is no floor above it, then the space between the floor and the ceiling next above it is considered a story. If the finished floor level directly above the basement or cellar is more than six feet above mean ground level, the basement or cellar is considered a story.

“Stream” means water contained within a channel, either perennial or intermittent, and classified according to WAC 222-16-030 ~~and as listed under water typing system. Streams also include open natural watercourses modified by man.~~ Streams do not include irrigation ditches, waste ways, drains, outfalls, operational spillways, channels, stormwater runoff facilities or other wholly artificial watercourses, except those that directly result from the modification to a natural watercourse.

~~“Stream buffer area” means a naturally vegetated and undisturbed, enhanced or revegetated zone surrounding a natural, restored or newly created stream that is an integral part of a stream ecosystem, and protects a stream from adverse impacts to the integrity and value of a stream.~~ [replaced by “riparian management zone” definition]

~~“Stream report” means a report, prepared by a qualified consultant, that evaluates stream functions and values, consistent with the format and requirements established by this chapter.~~ [report requirements covered in text of new code]



“Street” means a public thoroughfare which affords the principal means of access to abutting properties.

“Street frontage” means the linear distance along the front lot line of a zone lot.

“Streetscape” means the visual character of a street as determined by various elements such as structures, greenery, open space, views, storm drainage facilities, etc.

“Structural alterations” means any change in load or stress of the loaded or stressed members of a building or structure.

~~“Structural diversity” means the relative degree of diversity or complexity of vegetation in a habitat area as indicated by the stratification or layering of different plant communities (e.g., ground cover, shrub layer and tree canopy); the variety of plant species; and the spacing or pattern of vegetation.~~ [definition not needed. Standard incorporated in FWHCA site design development standards]

“Structure” means a combination of materials constructed or erected on the ground or water, or attached to something having a location on the ground or water. For the purposes of Chapter 17.17, Wireless Communication Facilities (WCF) Attached and Detached, “structure” is a pole, tower, base station, or other building, whether or not it has an existing antenna facility, that is used or to be used for the provision of personal wireless service (whether on its own or commingled with other types of services).

~~“Subject property” means the tract of land which is the subject of the permit and/or approval action, as defined by the full legal description of all parcels involved in the proposed development.~~ [common use/context is adequate]

“Substantial change” means a modification that substantially changes the physical dimensions of an eligible support structure if it meets any of the following criteria:

1. For towers other than towers in the public rights-of-way, it increases the height of the tower by more than ten percent or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than ten percent or more than ten feet, whichever is greater;
2. For towers other than towers in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet;
3. For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or, for towers in the public rights-of-way and base stations, it involves installation of any new equipment cabinets on the ground if there are no preexisting ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than ten percent larger in height or overall volume than any other ground cabinets associated with the structure;
4. It entails any excavation or deployment outside the current site;
5. It would defeat the concealment elements of the eligible support structure; or
6. It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment; provided, however, that this

limitation does not apply to any modification that is noncompliant only in a manner that would not exceed the thresholds identified above.

~~“Substrate” means the soil, sediment, decomposing organic matter or combination of those located on the bottom surface of the wetland.~~ [common use definition is superior since this limits to wetland context but actual usage in code is related to streams and shorelines]

“Surface and stormwater” means water originating from rainfall and other precipitation that is found in drainage facilities, rivers, streams, springs, seeps, ponds, lakes, and wetlands as well as shallow ground water.

“Surface waters” means water bodies exposing a free water surface, with or without movement, such as streams, lakes, bogs, and ponds.

“Tavern” means an establishment where alcoholic beverages of any kind are dispensed or sold for consumption on the premises. This term shall include beer parlors, bars, cabarets, and other similar places.

“Telecommunications service” means the transmission of information by wire, radio, optical cable, electromagnetic, or other similar means for hire, sale, or resale to the general public. For the purpose of this subsection, “information” means knowledge or intelligence represented by any form of writing, signs, signals, pictures, sounds, or any other symbols. For the purpose of this chapter, telecommunications service excludes the over-the-air transmission of broadcast television or broadcast radio signals.

“Temporary building” or “temporary structure” means a structure not having or requiring permanent attachment to the ground or involving structures which have no required permanent attachment to the ground.

“Temporary emergency use or structure” means a structure normally requiring a conditional or special use permit where immediate action is necessary or time constraints prevent regular permit processing, to avoid imminent danger to properties, or to prevent a serious threat of environmental degradation.

“Temporary encampment” means a temporary outdoor community managed by a sponsor or agency, featuring portable shelters such as tents. It may include shared areas for food, living, and sanitation services for those staying in the encampment.

“Tent” means a temporary structure, enclosure or shelter constructed of fabric or pliable material supported by any manner except by air or the contents that it protects.

“Terrace” means a relatively level step constructed in the face of a graded slope surface for drainage and maintenance purposes.

~~“Tertiary habitat” means habitat that supports some wildlife; does not satisfy the definition(s) of critical habitat or secondary habitat of these regulations; does not contain and has no documented use by threatened, endangered or sensitive species; does not currently possess essential characteristics necessary to support a diverse wildlife community; and does not contain essential characteristics that, if altered, would jeopardize the continued existence of wildlife. Tertiary habitat also includes habitat which has been created purposefully by human actions to serve other or multiple purposes, such as open space areas, landscape amenities, detention facilities and grass-lined swales. Tertiary habitat meets any of the following criteria:~~

~~1.—Class III streams; or~~

~~2.—Habitat that is less than one acre in area, with one vegetation class (e.g., herb, shrub, forest) and dominated by native plant species; or less than two acres, with one vegetation class, and dominated by at least fifty percent of total plant cover of invasive, ornamental, and/or exotic species. [term not used in regulations]~~

“Theater” means a place of public assembly intended and expressly designed for the presentation of motion pictures, other than an adult theater.

~~“Threatened species” means a species that is listed as threatened under the Endangered Species Act. [common use and context are adequate]~~

“Tidelands” means those areas lying between the water’s edge or ordinary high water mark (OHWM) and the line of extreme low water. See Diagram A under “ordinary high water mark.”

~~“Toe of steep slope” means the lower limit of the area where the ground surface rises ten feet or more vertically within a horizontal distance of twenty-five feet. [consolidated with steep slope definition]~~

~~“Top of steep slope” means a distinct break in slope, which separates slopes inclined less than forty percent from slopes greater than or equal to forty percent. Where no distinct break exists, the top is the uppermost limit where the ground drops vertically within a horizontal distance of twenty-five feet. [consolidated with steep slope definition]~~

“Tower” means any structure built for the sole or primary purpose of supporting any FCC-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul and the associated site.

“Transit center” means a dedicated transit facility located outside of the public right-of-way where several transit routes converge. A transit center is designed to accommodate several buses or multiple modes of transit that allows users to easily transfer between transit routes or modes. A transit center may provide transit passenger covered shelters and waiting areas, restrooms, and access for transit modes including buses, taxis and drop-off, but does not include spaces for transit passenger automobile parking (see “park and ride”).

“Transitional area” means the area under an imaginary transitional surface of Paine Field as described in 14 CFR Part 77.19(e).

“Transitional housing” means dwelling units that provide supportive services to unhoused individuals and families for up to two years to help transition them to long-term stable housing.

“Transmission equipment” means equipment that facilitates transmission for any FCC-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

“Transportation facilities” means and includes capital facilities related to air, water, or land transportation.

“Tree” means a woody perennial plant with one or more main stem(s) or trunk(s) which develop branches.

“Tree dripline” means the outermost circumference of a tree canopy or shrub where water drips from.

“Tree, significant” means evergreen trees eight inches or greater in diameter as measured at least four feet above existing grade, and deciduous trees twelve inches or greater in diameter as measured at least four feet above existing grade.

“Tree topping” means the full removal of the top third or more of a tree’s canopy.

~~“Tsunami hazard areas” means coastal areas and large lake shoreline areas susceptible to flooding and inundation as a result of excessive wave action derived from seismic or other geologic events.~~ [tsunami hazard areas now included in seismic hazard bullet of geologically hazardous areas definition]

~~“Uncontaminated water” means unpolluted water that is comprised entirely of ground water and/or rain water.~~ [common use/context is adequate]

~~“Undergrounded areas” means public rights-of-way in which wireline utilities have been located or relocated underground.~~ [common use/context is adequate]

~~“Understory” means vegetation four feet to ten feet in height.~~ [defined in context in 15.16.060]

“Upland” means those dry land areas not included in the definition of “shoreline.”

~~“Usable land area” means total land area, less areas which are demonstrated to be undevelopable after application of other ordinances and policies, including, by way of example, and not limitation, Chapters 17.52 through 17.52E.~~ [only used once in shoreline regs; definition not needed]

“Use” means the purpose for which land, buildings or structures now serve or for which they are occupied, maintained, arranged, designed, or intended.

“Utility” means an entity whose principal purpose is to provide electricity, water, sewer, storm drainage, gas, radio, television, telephone and/or other forms of communication utilizing electromagnetic spectrum to the public. “Utility” can specifically mean the city of Mukilteo surface water utility established pursuant to Chapter 13.16.

“Utility pole” means a structure designed and used primarily for the support of electrical wires, telephone wires, television cable, traffic signals, or lighting for streets, parking areas, or pedestrian paths.

“Variance” means the means by which an adjustment is made in the application of the specific regulations of this title to a particular piece of property.

~~“Vegetation” means all organic plant life growing on the surface of the earth.~~ [common use is adequate]

~~“View” means a sight (as of a landscape) regarded for its pictorial quality.~~ [common use is adequate]

“View corridor/vista” means a distant view through or along a street or openings between structures.

“Warehousing” means a use engaged in storage, wholesale, and distribution of manufactured products, supplies, and equipment, but excluding bulk storage of materials that are flammable, explosive, or that create hazardous or commonly recognized offensive conditions.

“Water body” means surface waters of the state, including but not limited to rivers, streams, lakes, marine waters, estuaries and wetlands.

“Water courses/streams” means the areas to which surface and subsurface waters naturally flow and which form a continuous channel through which water descends to natural outlets.

“Water-dependent uses” means activities for which direct accessibility to deep water is required because of the nature of their product and/or process (i.e., shipbuilding, marine repair and construction, tug and barge operations, log rafting, commercial fishing, public and private marina, terminal facilities).

“Water enjoyment use” means a recreational use, or other use facilitating public access to the shoreline; or uses that cater to recreational, cultural, educational, tourism, food and drink services, hotel, and water-related retail promoting the recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use.

“Waterfront area” means all areas of tidelands and uplands lying above and within two hundred feet of the line of ordinary high tide. In the OS, DB and WMU zones the waterfront area is further defined as lying between the Burlington Northern’s railroad tracks and line of extreme low tide, extending south to the southern boundary of Mukilteo Lighthouse Park and extending east to the east boundary of the city.

“Water’s edge” means the line of the ordinary high water mark (OHWM).

“Wetland” or “wetlands” means areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including but not limited to irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created to mitigate conversion of wetlands. [Existing language matches required language in RCW [36.70A.030](#) (52)]

~~“Wetland buffer area” means a naturally vegetated and undisturbed, enhanced or revegetated zone surrounding a natural, restored or newly created wetland that is an integral part of a wetland ecosystem, and protects a wetland from adverse impacts to the integrity and value of a wetland. Wetland buffers serve to moderate runoff volume and flow rates; reduce sediment, chemical nutrient and toxic pollutants; provide shading to maintain desirable water temperatures; provide habitat for wildlife; and protect wetland resources from harmful intrusion. [addressed in “buffers”]~~

“Wetland category” means ~~the category ranking (Category 1, 2, 3, or 4) according to a description of a wetland system based on the classification system used in~~ the most current edition of the Washington State Wetland Rating System for Western Washington ~~Washington State Wetlands Rating System—Western Washington~~, prepared by the Washington State Department of Ecology.

~~“Wetland classification” means “wetland category” for the purposes of these regulations.~~

~~“Wetland creation” means an action to intentionally establish a wetland or a portion of a wetland where one did not formerly exist.~~ [common understanding. Wetland regs identify this in mitigation ratios in 17.52B]

~~“Wetland delineation” means the method used to establish the existence (location) and physical limits (size) of a wetland for purposes of federal, state, and local regulations. Wetlands are delineated using the approved federal wetland delineation manual and applicable regional supplements in accordance with WAC 173-22-035.~~ means identification of wetlands and delineation of their boundaries pursuant to this

~~chapter, done in accordance with the approved federal wetland delineation manual and applicable regional supplements. All areas within the city meeting the wetland designation criteria in that procedure are hereby designated critical areas and are subject to the provisions of Chapter 17.52B.~~ [updated to meet Ecology CAO Guidance, CAO checklist, and eliminate “hereby designated” since Chapter 17.52 already designates all these areas as Critical Areas]

~~“Wetland determination” means a report prepared by a qualified wetland specialist or city staff that identifies and characterizes wetlands consistent with applicable provisions of this chapter. A determination does not include a formal delineation.~~ [don’t need this definition. New 17.52 authorizes reconnaissance for all critical areas, not just wetlands.]

~~“Wetland enhancement” means the alteration of an existing wetland or habitat to improve or increase its characteristics and processes without degrading other existing functions. Enhancements are to be distinguished from wetland creation or restoration projects.~~ [Wetland regs identify this in mitigation ratios in 17.52B]

~~“Wetland functions and values” means the beneficial biological, physical, and other purposes generally served by wetlands, including but not limited to helping to maintain water quality, storing and conveying stormwater and floodwater, recharging ground water, providing wildlife habitat, and service as areas for recreation, education, scientific study and aesthetic enjoyment.~~ [this is a repeat of the wetland purpose statement]

~~“Wetland impacts” means the effect of any human induced alteration to the wetland and surrounding buffer, and includes impacts on any downstream anadromous fish.~~ [low, medium, high impacts are identified in “land use impact”]

~~“Wetland off-site compensatory mitigation” means to mitigate impacts to critical areas wetlands away from the site on which a critical area wetland has been impacted. adversely impacted by a regulated activity.~~ [matching Ecology CAO Guidance]

~~“Wetland on-site compensatory mitigation” means to mitigate impacts to critical areas wetlands at or adjacent to the site on which a critical area wetland has been adversely impacted. by a regulated activity within the same watershed.~~ [matching Ecology CAO Guidance]

~~“Wetland restoration” is the action to reestablish a wetland in an area which was historically wetland but which does not now provide or contain the necessary functional characteristics.~~ [re-establish is identified within the wetland mitigation ratios]

~~“Wetlands specialist” is a person who has earned a minimum of a bachelor’s degree in biology, natural resources, or physical sciences with specific or related course work in wetland ecology, botany, or soils science from an accredited college or university, and two years professional experience in wetland delineation, wetland functional assessment and mitigation techniques or equivalent experience; or any person certified by the U.S. Army Corp of Engineers or Society of Wetland Scientists.~~ [combined term with qualified professional]

“Wholesale” means the sale of goods in relatively large quantities at a reduced price to retailers.

~~“Wildlife report” means a report, prepared by a qualified consultant, that evaluates plant communities and wildlife functions and values on a site, consistent with the format and requirements established by this chapter.~~ [term not used]



“Wireless communication antenna array” means one or more rods, panels, discs or similar devices used for the transmission or reception of radio frequency signals through electromagnetic energy, which may include omni-directional antenna (whip), directional antenna (panel), and parabolic antenna (dish).

“Wireless communication facility” or “WCF” means any unstaffed facility for the transmission and/or reception of wireless communications services, usually consisting of an antenna array, transmission cables, equipment facilities, and support structure.

“Wireless communication facility, attached” means a wireless communication facility that is affixed to an existing structure, utility pole, traffic light, or water tower.

“Wireless communication facility, detached” means any wireless communication facility that is independent of any existing structure, utility pole, traffic light, or water tower.

“Wireless communication facility, temporary” means a nonpermanent facility installed on a short-term basis, for the purpose of evaluating the technical feasibility of a particular site for placement of a WCF or for providing emergency communications during a natural disaster or other emergency. Examples of temporary WCFs include, but are not limited to, placement of an antenna upon a fully extended bucket truck, crane, or other device capable of reaching the height necessary to evaluate the site for placement of a WCF.

“Wireless communication support structure” means a structure designed and constructed specifically to support an antenna array, and may include a monopole, self-supporting tower, guy-wire support tower, and other similar structures.

“Wireless communications” means any personal wireless services as designated in the Federal Telecommunications Act of 1996, which includes FCC-licensed commercial wireless telecommunications services including cellular, personal communications services, specialized mobile radio, enhanced specialized mobile radio, paging, and similar services that currently exist or that may in the future be developed.

“Yard” means the required open space in front, rear, or side on the same lot with a building or proposed building.

“Yard, front” means the required open space extending from the principal street line to the building line and including the full width of the lot to its side lines. On corner lots the front yard is the yard upon which the principal building fronts.

“Yard, rear” means the required open space extending from the rear lot line to the main building line and including the full width of the lot to its side lines.

“Yard, side” means the required open space extending from the front yard to the rear yard and from the main building to the side lot line.

“Zone” means an area accurately defined as to boundaries and locations on the official zoning map and within which area only certain types of land uses are permitted.