



**BUSINESS OF THE CITY COUNCIL
CITY OF MERCER ISLAND, WA**

**AB 5561
May 21, 2019
Special Business**

NATIONAL SAFE BOATING & PADDLING WEEK	Action: Proclaim May 25-30, 2019 as National Safe Boating & Paddling Week in the City of Mercer Island.	<input type="checkbox"/> Discussion Only <input type="checkbox"/> Action Needed: <input type="checkbox"/> Motion <input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution
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DEPARTMENT OF	Police (Ed Holmes)
COUNCIL LIAISON	n/a
EXHIBITS	1. National Safe Boating & Paddling Week Proclamation
2019-2020 CITY COUNCIL PRIORITY	n/a
APPROVED BY CITY MANAGER	

AMOUNT OF EXPENDITURE	\$	n/a
AMOUNT BUDGETED	\$	n/a
APPROPRIATION REQUIRED	\$	n/a

SUMMARY

For nearly 90 million Americans, boating continues to be a popular recreational activity. From coast to coast, and everywhere in between, people are taking to the water and enjoying time together boating, sailing, paddling and fishing. During National Safe Boating Week, the U.S. Coast Guard, the Washington State Parks Boating Program, and the Mercer Island Police Marine Patrol encourage all boaters to explore and enjoy America’s beautiful waters responsibly.

Safe boating begins with preparation. The Coast Guard estimates that human error accounts for 70 percent of all boating accidents and that life jackets could prevent more than 80 percent of boating fatalities. Through basic boating safety procedures, that include carrying lifesaving emergency distress and communications equipment, wearing life jackets, attending safe boating courses, participating in free boat safety checks, and staying sober when navigating, we can help ensure boaters on America’s coastal, inland and offshore waters stay safe throughout the season.

National Safe Boating Week is observed to bring attention to important life-saving tips for recreational boaters so that they can have a safer, more fun experience out on the water throughout the year.

Mercer Island resident Carter Harrington will be at the meeting to accept the proclamation on behalf of the community. Carter has been a Mercer Island resident and member of the Mercer Island Beach Club for 28 years. Carter began boating on his family sailboat when he was 10 years old, and after many adventures, he and his brother became seasoned sailors, one time sailing a 14-foot Sailfish 26 miles to Catalina Island. After college Carter became a navy pilot and spent five years flying from aircraft carriers in The Pacific. His introduction to The Pacific Northwest came via a flight into Naval Air Station Whidbey Island. The scenery had a big impact on him, as he later decided to make this area home.

After his navy career Carter was a commercial pilot spanning 40 years for Flying Tigers and then FedEx, finally retiring in 2011. He now spends most of his time volunteering on various projects, and specifically with the Mercer Island Beach Club. For the last 10 years he has filled the role of Harbor Master at the Beach Club, with a focus on boater education and water safety, with a special emphasis on water safety for children. Carter and the Mercer Island Beach Club team up with the Mercer Island Marine Patrol every year in hosting a water safety presentation at the beginning of the boating season to emphasize the need to practice good seamanship, and how to be safe around the water.

RECOMMENDATION

Police Chief

Mayor presents the proclamation and proclaims May 25-30, 2019 as National Safe Boating & Paddling Week in the City of Mercer Island.



The City of Mercer Island, Washington

Proclamation

WHEREAS, on average, 700 people die each year in boating and paddle sports related accidents in the U.S., with the vast majority of those accidents caused by human error and poor judgment and not by the boat, equipment, or environmental factors; and

WHEREAS, a significant number of boaters and paddlers who lose their lives by drowning each year would be alive today had they worn their life jackets; and

WHEREAS, the City of Mercer Island is completely surrounded by Lake Washington; and

WHEREAS, many of Mercer Island's residents of all ages engage in recreational boating and paddle sports; and

WHEREAS, the mission of the Mercer Island Beach Club and the Mercer Island Marine Patrol is to promote and improve recreational boating and paddle sport safety by teaching boating safety courses, emphasizing water safety, and conducting vessel safety checks;

NOW, THEREFORE, I, Mayor Debbie Bertlin, do hereby proclaim May 25-30, 2019, as

SAFE BOATING & PADDLING WEEK

and encourage all of Mercer Island's residents to dedicate themselves to learning about and practicing safe boating and paddle sports, including wearing life jackets.

APPROVED, May 21, 2019



WEAR IT

A program of the National Safe Boating Council

Debbie Bertlin, Mayor

Proclamation No. 239

CERTIFICATION OF CLAIMS

I, the undersigned, do hereby certify under penalty of perjury that the materials have been furnished, the services rendered, or the labor performed as described herein, that any advance payment is due and payable pursuant to a contract or is available as an option for full or partial fulfillment of a contractual obligation, and that the claim is a just, due and unpaid obligation against the City of Mercer Island, and that I am authorized to authenticate and certify to said claim.

Charles L. Corder

Finance Director

I, the undersigned, do hereby certify that the City Council has reviewed the documentation supporting claims paid and approved all checks or warrants issued in payment of claims.

Mayor

Date

<u>Report</u>	<u>Warrants</u>	<u>Date</u>	<u>Amount</u>
Check Register	197998 -198145	5/2/2019	\$ 948,058.00
			\$ 948,058.00

Accounts Payable Report by Check Number

Check No	Check Date	Vendor Name/Description	PO #	Invoice #	Invoice Date	Check Amount
00197998	04/30/2019	KING COUNTY FINANCE WSDOT Lease NWR AA-1-10221	P0103238	OH011594	04/30/2019	7.70
00197999	05/02/2019	A.M. LEONARD INC INVENTORY PURCHASES	P0103260	CI19043312	03/29/2019	147.99
00198000	05/02/2019	ABEL, MILLER Gallery Sales - 75% - Sale of	P0103502	OH011600	04/23/2019	243.75
00198001	05/02/2019	ABLE, NANCY M Gallery sales 75% - sale of Th	P0103524	OH011601	04/23/2019	911.25
00198002	05/02/2019	ACCESS BLACK BOX PICK UP & DELIVERY,	P0103426	7404418	03/31/2019	471.76
00198003	05/02/2019	ADAMS, RONALD E LEOFF1 Retiree Medical Expense	P0103594	OH011622	04/30/2019	110.16
00198004	05/02/2019	AIRGAS USA LLC Oxygen/Fire	P0103459	9961123291	03/31/2019	233.22
00198005	05/02/2019	ALLIED PRODUCTS INVENTORY PURCHASES	P0103447	0515094IN	04/11/2019	422.00
00198006	05/02/2019	ALPINE PRODUCTS INC TUFF POSTS & BASES	P0103142	TM184044	04/01/2019	4,420.30
00198007	05/02/2019	AM TEST INC WATER QUALITY TESTING 109567	P0103274	109598	03/31/2019	390.00
00198008	05/02/2019	AML HOLDINGS LLC 1510-254 Refund water service	P0103512	1510254	04/23/2019	1,593.03
00198009	05/02/2019	ASPECT SOFTWARE INC Monthly Telestaff Maintenance/	P0103318	ASI049574	04/05/2019	165.00
00198010	05/02/2019	AT&T MOBILITY Cell Phone Service - Police -	P0103527	287287975489X419	04/11/2019	224.16
00198011	05/02/2019	AUTHENTIC CONNECTIONS Continuing work with High Achi	P0103450	1098	04/16/2019	6,000.00
00198012	05/02/2019	BEN'S CLEANER SALES INC CREDIT FOR INVOICES 295898 & 2	P0103233	302288/113497	03/28/2019	1,046.69
00198013	05/02/2019	BOOTH, GLENDON D LEOFF1 Retiree Medical Expense	P0103571	OH011617	04/29/2019	161.27
00198014	05/02/2019	CAIRNS, SCOTT FA-2998 completed. Returning d	P0103520	FA2998	04/23/2019	75.00
00198015	05/02/2019	CARLSON, JAMES A Gallery Sales 75% - sale of Ni	P0103525	OH011604	04/23/2019	337.50
00198016	05/02/2019	CARUCCIO'S Volunteer Appreciation - Cook	P0103425	1387	04/09/2019	220.00
00198017	05/02/2019	CASCADE DRILLING LP SOIL REMEDIATION	P0103256	11928569	03/31/2019	965.00
00198018	05/02/2019	CDW GOVERNMENT INC Adobe Acrobat Standard DC for	P0103364	RVR0936	04/11/2019	269.50
00198019	05/02/2019	CESSCO INC INVENTORY PURCHASES	P0103486	10570	04/05/2019	270.20
00198020	05/02/2019	CHOI, YUN-HEE withdrew from camp	P0103589	OH011623	04/30/2019	394.00
00198021	05/02/2019	CI ACCOUNTING INVENTORY PURCHASES	P0103446	T070405	04/10/2019	1,240.71
00198022	05/02/2019	CINTAS CORPORATION #460 2019 COVERALL SERVICES	P0102521	4019211756/40196	04/01/2019	1,659.56
00198023	05/02/2019	CLAFLIN, KEN Gallery Sales 75% - sale of Bo	P0103500	OH011603	04/23/2019	337.50

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00198024	05/02/2019	COMCAST CITY HALL HIGH SPEED INTERNET	P0102379	OH011635	04/12/2019	111.45
00198025	05/02/2019	COMCAST Internet Charges/Fire	P0102461	OH011634	04/11/2019	466.80
00198026	05/02/2019	COMCAST FIRE STATION 92 FIBER CIRCUIT	P0102380	79300116	04/01/2019	1,261.40
00198027	05/02/2019	COMMERCIAL LANDSC SUPPLY INC INVENTORY PURCHASES	P0103229	205653	03/27/2019	267.12
00198028	05/02/2019	CONSOLIDATED PRESS Aubrey Davis Park Open House #	P0103578	23383	04/12/2019	1,430.17
00198029	05/02/2019	CREATIVE LEARNING CENTER Preschool scholarship tuition	P0102990	OH011602	04/23/2019	480.00
00198030	05/02/2019	DAILY JOURNAL OF COMMERCE ATERIAL AND RESIDENTIAL STREET	P0103442	3346651	04/10/2019	533.40
00198031	05/02/2019	DATAQUEST LLC Pre-employment Background Chec	P0102671	8403	04/06/2019	533.50
00198032	05/02/2019	DAY MANAGEMENT CORP Portable Radio Repair	P0103209	481505	03/26/2019	310.49
00198033	05/02/2019	DEEDS, EDWARD G LEOFF1 Retiree Medical Expense	P0103572	OH011618	04/29/2019	314.96
00198034	05/02/2019	DEMARCHE CONSULTING GROUP INC Parks Maintenance & Operations	P0102839	19MER02	04/28/2019	13,000.00
00198035	05/02/2019	DEPT OF ENTERPRISE SERVICES Thrift Shop forms "SOLD" in	P0103398	73186894	04/08/2019	150.58
00198036	05/02/2019	DEPT OF TRANSPORTATION SAND AND SALT	P0103396	RE41JA6287L027	03/18/2019	2,139.90
00198037	05/02/2019	EARTHCORPS INC 2019-2020 Forest Restoration	P0102736	7352	03/31/2019	3,325.00
00198038	05/02/2019	EASTSIDE EXTERMINATORS CITY HALL EXTERMINATOR SERVICE	P0103271	435575	03/30/2019	464.62
00198039	05/02/2019	ELSOE, RONALD LEOFF1 Retiree Medical Expense	P0103509	OH011605	04/23/2019	33.62
00198040	05/02/2019	EPSCA MONTHLY RADIO ACCESS FEES 49 R	P0102405	9650	04/02/2019	2,542.48
00198041	05/02/2019	EXPLOSWING NW BASEBALL CLUB Returning extra rental fees	P0103521	OH011606	04/23/2019	824.00
00198042	05/02/2019	FASTSIGNS ISSAQUAH CITY HALL LOGO FRONT ENTRANCE	P0103389	I99060	04/12/2019	728.77
00198043	05/02/2019	FERGUSON ENTERPRISES LLC INVENTORY PURCHASES	P0103431	0755309/0755300	04/09/2019	6,265.91
00198044	05/02/2019	GOODYEAR TIRE & RUBBER CO, THE TIRE INVENTORY	P0103255	1951148814	03/27/2019	2,178.38
00198045	05/02/2019	GOTO, KELLY REPLACE WARRANT 194420		OH011624	04/30/2019	879.00
00198046	05/02/2019	GRAINGER INVENTORY PURCHASES	P0103337	9136780138	04/04/2019	2,005.80
00198047	05/02/2019	GRAND & BENEDICTS INC Operating supplies for the Thr	P0102239	1022083IN	03/22/2019	77.69
00198048	05/02/2019	GUARDIAN SECURITY AVIGILON 4C-ACC6-ENT LICENSE	P0103134	896057	03/28/2019	1,089.00
00198049	05/02/2019	H D FOWLER 7/8" CARBIDE HOLE SAW	P0103477	I5111561	04/15/2019	1,578.21

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00198050	05/02/2019	HAGSTROM, COLLIN S + JILLIAN J 1708-188 Refund water service	P0103507	1708188	04/23/2019	159.10
00198051	05/02/2019	HD SUPPLY CONST & INDSTRL- INVENTORY PURCHASES	P0103055	5001013380/43915	03/27/2019	1,354.45
00198052	05/02/2019	HEALTHFORCE PARTNERS LLC Immunization Interp Letter	P0103562	14644	03/31/2019	40.00
00198053	05/02/2019	HERC RENTALS INC 3) ASPHALT CUTTERS	P0103494	30679391/3064186	04/09/2019	260.75
00198054	05/02/2019	HOBBS, TRACY Instructor Payment for April P	P0103547	OH011614	04/25/2019	431.90
00198055	05/02/2019	HOME DEPOT CREDIT SERVICE RIDGID 115-VOLT SEWER & DRAIN	P0103474	6568245	03/28/2019	3,222.80
00198056	05/02/2019	HONEYWELL, MATTHEW V Professional Services - Public	P0103503	1095	04/16/2019	600.00
00198057	05/02/2019	HORIZON PARKS MOWER	P0103401	3M302023	04/03/2019	12,256.90
00198058	05/02/2019	INTL ASSOC OF ARSON INV 2019 Dues/Mair	P0103454	14025	04/05/2019	140.00
00198059	05/02/2019	ISSAQUAH CEDAR & LUMBER CO SPLIT RAIL FENCING & POSTS	P0103475	134819	04/16/2019	428.72
00198060	05/02/2019	ISSAQUAH, CITY OF CSPA Officer (Issaquah PD Offi	P0103529	19000286	04/02/2019	460.00
00198061	05/02/2019	JAYMARC MANOR LLC 1712-308 Refund water service	P0103506	1712308	04/23/2019	159.10
00198062	05/02/2019	JAYMARC SILVER LLC 1707-130 Refund water service	P0103511	1707130/1705110	04/23/2019	803.04
00198063	05/02/2019	JIM WEBBER TRAINING-CONS-INVES 2019 Anti-Harassment Training	P0103346	438	04/01/2019	6,024.36
00198064	05/02/2019	JOHNSON, CURTIS FRLEOFF1 Retiree Medical Expen	P0103508	OH011607	04/23/2019	391.49
00198065	05/02/2019	JON-DON INC ACRYLIC FINISH (4 GAL)	P0103556	3509004	04/12/2019	241.78
00198066	05/02/2019	KELLEY IMAGING SYSTEMS GIS PAPER	P0103380	IN510265	04/01/2019	638.53
00198067	05/02/2019	KIM, PETER Rental FA-2762 completed. Retu	P0103591	FA2762	04/30/2019	75.00
00198068	05/02/2019	KING COUNTY FINANCE MONTHLY SEWER JAN-DEC 2019	P0102378	30026832	04/01/2019	400,354.56
00198069	05/02/2019	KING COUNTY FINANCE I-NET MONTHLY SERVICES FROM	P0102965	11007962	03/31/2019	1,122.00
00198070	05/02/2019	KING COUNTY FINANCE Dept. of Adult and Juvenile	P0103290	3002353	03/11/2019	403.97
00198071	05/02/2019	KPG W MERCER WAY ELEMENTRY SPEED	P0103076	32919	04/09/2019	13,702.44
00198072	05/02/2019	KROESENS UNIFORM COMPANY Uniform/Rostov	P0103531	54753	04/04/2019	1,248.80
00198073	05/02/2019	LAKE FOREST PARK, CITY OF CSPA Officers (Lake Forest Par	P0103530	PD0403191	04/03/2019	652.50
00198074	05/02/2019	LIFE ASSIST INC Aid/Rig Supplies	P0103464	914030/914625/90	04/15/2019	781.49
00198075	05/02/2019	LYONS, STEVEN FRLEOFF1 Retiree Medical Expen	P0103510	OH011608	04/23/2019	1,108.08

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00198076	05/02/2019	MALLORY SAFETY SUPPLY INVENTORY PURCHASES	P0103066	4620004/4629626	03/27/2019	491.46
00198077	05/02/2019	MARTEN LAW Professional Services - Invoic	P0103323	44088440	04/04/2019	298.01
00198078	05/02/2019	MARYMOOR VELODROME ASSOC FA-2062 completed. Returning d	P0103479	FA2062	04/22/2019	400.00
00198079	05/02/2019	MCINTOSH, SUZANNE FA-2895 completed. Checked out	P0103518	FA2895	04/23/2019	25.00
00198080	05/02/2019	METROPRESORT ENVELOPES #10 DOUBLE WINDOW	P0103492	IN608392	04/17/2019	350.47
00198081	05/02/2019	MI HARDWARE - YFS Operating supplies for Tshop a	P0102232	140268	04/17/2019	26.72
00198082	05/02/2019	MI SISTER CITY ASSOCIATION KT Membership Fee	P0103473	OH011596	04/19/2019	25.00
00198083	05/02/2019	MI UTILITY BILLS PAYMENT OF UTILITY BILLS FOR W	P0103596	OH011625	04/30/2019	806.95
00198084	05/02/2019	MORGAN SOUND INC JuiSCV-10001 UPS for Media Equ	P0103522	MSI099463	04/15/2019	1,133.55
00198085	05/02/2019	MYERS, JAMES S LEOFF1 Retiree Medical Expense	P0103570	OH011620	04/29/2019	58.94
00198086	05/02/2019	NATIONAL SAFETY INC BW 4GAS 34L	P0103400	0537706IN	04/05/2019	187.00
00198087	05/02/2019	NEAL, BARBARA R refunding remaining punch pass	P0103587	OH011627	04/30/2019	31.20
00198088	05/02/2019	NORTH IDAHO POST & POLE Open space fence	P0103548	ID51938	04/24/2019	706.13
00198089	05/02/2019	NORTHERN SAFETY CO INC LIFT BUCKET & SLING	P0103241	903387545	03/27/2019	128.41
00198090	05/02/2019	NW LIFT & EQUIPMENT LLC SET OF 4 WIRELESS MOBILE LIFT	P0102058	1649	04/03/2019	49,697.66
00198091	05/02/2019	NW ROOFING SOLUTIONS LLC REPLACE WARRANT 196525		OH011626	04/30/2019	330.00
00198092	05/02/2019	OLYMPIC ENVIRONMENTAL RES 2019 ANNUAL RECYCLE EVENTS	P0103107	20190ER2	04/08/2019	10,407.34
00198093	05/02/2019	OVERLAKE OIL 2019 FUEL DELIVERY	P0102300	0192967IN/2866IN	04/09/2019	4,906.04
00198094	05/02/2019	OWEN EQUIPMENT COMPANY FL-0395 REPAIR PARTS	P0103472	00092806	04/02/2019	591.74
00198095	05/02/2019	PACIFIC AIR CONTROL INC CITY HALL MAIL ROOM UNIT	P0103554	19509	04/05/2019	14,729.90
00198096	05/02/2019	PAMF EXCAVATION LLC SE 22ND PL WATER SYSYEM IMPROV	P0103435	1	03/31/2019	245,108.38
00198097	05/02/2019	PARENTMAP Web e-newsletter - march	P0103286	201969504	03/31/2019	500.00
00198098	05/02/2019	PARKWAY CENTER MANAGEMENT GRP ST Long Term Parking - BP/Arco	P0103516	OH011609	04/23/2019	7,100.00
00198099	05/02/2019	PNBOA March's Rec Basketball Men's B	P0103480	1089	04/13/2019	1,437.50
00198100	05/02/2019	PND ENGINEERS INC Lincoln Landing Design Enginee	P0103543	1903160/1903006	03/05/2019	18,173.85
00198101	05/02/2019	PRAXAIR DISTRIBUTION INC 2019 ACETYLENE AND OXYGEN TANK	P0102659	88579127	03/31/2019	50.00

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Check No	Check Date	Vendor Name/Description	PO #	Invoice #	Invoice Date	Check Amount
00198102	05/02/2019	PUGET SOUND ENERGY Utility assistance for Emergen	P0102248	OH011610	04/23/2019	29.72
00198103	05/02/2019	RAINIER BUILDING SERVICES JANITORIAL SERVICE CITY BUILDS	P0103448	18694	04/01/2019	13,314.87
00198104	05/02/2019	RETIREMENT CONNECTIONS Rental FA-1874 completed. Retu	P0103588	FA1874	04/30/2019	400.00
00198105	05/02/2019	RICOH USA INC Cost Per Copy/Fire	P0103315	5056223596	03/25/2019	59.21
00198106	05/02/2019	RICOH USA INC (FIRE) Copier Rental/Fire	P0103460	101960565	04/05/2019	320.87
00198107	05/02/2019	RKK CONSTRUCTION 1807-195 Refund water service	P0103505	1807195	04/23/2019	306.19
00198108	05/02/2019	ROAN, JUDITH GAY Gallery Sales 75% - sale of Fl	P0103501	OH011612	04/23/2019	262.50
00198109	05/02/2019	RODDA PAINT CO PARKS OFFICE PAINT	P0103272	19906796	03/20/2019	267.04
00198110	05/02/2019	ROMAINE ELECTRIC CORP 3 Apparatus Batteries	P0103463	1180719	04/17/2019	569.81
00198111	05/02/2019	ROOT CAUSE LLC Retainage - Pioneer Park Veget	P0098275	OH011611	04/23/2019	4,778.55
00198112	05/02/2019	ROSENSTEIN, SUSIE Enhanced Fitness classes 4/3,	P0103481	OH011598	04/19/2019	1,102.50
00198113	05/02/2019	RRJ COMPANY LLC RETAINAGE	P0097678	OH011597	04/19/2019	11,950.12
00198114	05/02/2019	SCARFF FORD FL-0488 REPAIR PARTS	P0103469	72316	04/10/2019	184.43
00198115	05/02/2019	SCORE SCORE Jail Bill April 2019 -	P0103533	3718	04/10/2019	540.00
00198116	05/02/2019	SEA WESTERN INC Bunker Boots	P0103467	211787	04/10/2019	439.36
00198117	05/02/2019	SEATTLE BARREL COMPANY Anchor Forms - Invoice # 47230	P0103528	47230	04/16/2019	220.20
00198118	05/02/2019	SEATTLE THEATRE GROUP Arts Council Dance for PD Supp	P0103577	OH011621	04/30/2019	750.00
00198119	05/02/2019	SEATTLE, CITY OF Crime Stoppers Allocation - In	P0103538	SP1000787	03/29/2019	2,060.91
00198120	05/02/2019	SHAO, WANTING refunding 25 punch pass	P0103550	OH011616	04/25/2019	41.49
00198121	05/02/2019	SME SOLUTIONS LLC 3/21/19 FIRE STATION UNLEADED	P0103470	276268	03/31/2019	432.25
00198122	05/02/2019	SOREANO'S PLUMBING INC run line to coffee maker and h	P0103523	42257	04/09/2019	424.38
00198123	05/02/2019	SOUND PUBLISHING INC Ntc. 3/27 Boards & Commissions	P0103440	7908357	03/31/2019	316.21
00198124	05/02/2019	SOUND SAFETY PRODUCTS SAFETY BOOTS	P0103405	465345	04/11/2019	617.18
00198125	05/02/2019	STRIPE RITE INC REFLECTIVE POSTS	P0099303	OH011613	04/24/2019	5,969.33
00198126	05/02/2019	STRUM, MARUANNE Rental FA-2756 completed. Retu	P0103519	FA2756	04/23/2019	340.00
00198127	05/02/2019	SUPERION LLC ONESOLUTION ANNUAL MAINTENANCE	P0103490	233283	04/15/2019	11,206.88

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00198128	05/02/2019	SYSTEMS DESIGN WEST LLC February 2019 Xport Fees	P0103466	MIFD0319	03/29/2019	977.55
00198129	05/02/2019	T M G SERVICES INC 2) FOGROD WASTEWATER LEVEL	P0103496	0043542IN	04/11/2019	2,486.00
00198130	05/02/2019	T-MOBILE Monthly services for Boat Laun	P0102466	OH011632	04/09/2019	20.00
00198131	05/02/2019	T2 SYSTEMS CANADA INC Monthly charges for services t	P0102520	IRIS0000052822	03/25/2019	77.00
00198132	05/02/2019	TACOMA SCREW PRODUCTS INC NUTS & BOLTS FOR WATER METERS	P0103428	16278220	04/16/2019	109.36
00198133	05/02/2019	TACTICAL MEDICAL SOLUTIONS LLC Police first aid and medical	P0103526	INV102926	03/21/2019	1,644.48
00198134	05/02/2019	THOMSON REUTERS - WEST Investigative Services - Invoi	P0103534	840061906	04/01/2019	334.48
00198135	05/02/2019	TOKAY SOFTWARE MARCH WEB TEST REPORTS	P0103437	108380	04/08/2019	463.00
00198136	05/02/2019	TRAFFIC SAFETY SUPPLY STREET SIGNS	P0103379	INV012627	04/08/2019	367.87
00198137	05/02/2019	TUSCAN ENTERPRISES INC FL-0485 NUMBER AND LETTERING	P0103438	795836	04/03/2019	330.00
00198138	05/02/2019	VADLAMANNATI, SUSHAMA withdrew from camp	P0103590	OH011628	04/30/2019	199.00
00198139	05/02/2019	VERIZON WIRELESS Cell Charges/Fire	P0103355	9828746530	04/23/2019	763.29
00198140	05/02/2019	WALTER E NELSON CO Station/Grounds Stock Supplies	P0103320	696930/696933	03/29/2019	1,550.88
00198141	05/02/2019	WASHINGTON AWARDS INC Corporal Pritchard Distinguish	P0103535	67086	04/17/2019	167.75
00198142	05/02/2019	WATCHGUARD VIDEO Shipping Replacement Screen	P0103537	ADVREP155237	04/09/2019	116.88
00198143	05/02/2019	WEST COAST SIGNAL INC ELECTRICAL REPAIRS & SERVICES	P0098051	2683/682/636	02/04/2019	8,140.31
00198144	05/02/2019	XEROX CORPORATION 2019 BASE AND METER COPIER SER	P0102473	096552107	04/01/2019	989.67
00198145	05/02/2019	XEROX CORPORATION Print & copy charges for CM co	P0102331	096552106	04/01/2019	2,343.97
					Total	948,058.00

Accounts Payable Report by GL Key

PO #	Check #	Vendor:	Transaction Description	Check Amount
<i>Org Key: 001000 - General Fund-Admin Key</i>				
	00198045	GOTO, KELLY	REPLACE WARRANT 194420	879.00
P0103521	00198041	EXPLOSWING NW BASEBALL CLUB	Returning extra rental fees	824.00
P0103479	00198078	MARYMOOR VELODROME ASSOC	FA-2062 completed. Returning d	400.00
P0103588	00198104	RETIREMENT CONNECTIONS	Rental FA-1874 completed. Retu	400.00
P0103589	00198020	CHOI, YUN-HEE	withdrew from camp	394.00
P0103519	00198126	STRUM, MARUANNE	Rental FA-2756 completed. Retu	340.00
P0103590	00198138	VADLAMANNATI, SUSHAMA	withdrew from camp	199.00
P0103520	00198014	CAIRNS, SCOTT	FA-2998 completed. Returning d	75.00
P0103591	00198067	KIM, PETER	Rental FA-2762 completed. Retu	75.00
P0103550	00198120	SHAO, WANTING	refunding 25 punch pass	41.49
P0103587	00198087	NEAL, BARBARA R	refunding remaining punch pass	31.20
P0103518	00198079	MCINTOSH, SUZANNE	FA-2895 completed. Checked out	25.00
<i>Org Key: 402000 - Water Fund-Admin Key</i>				
P0103431	00198043	FERGUSON ENTERPRISES LLC	INVENTORY PURCHASES	6,265.91
P0103512	00198008	AMLA HOLDINGS LLC	1510-254 Refund water service	1,593.03
P0103055	00198051	HD SUPPLY CONST & INDSTR-L	INVENTORY PURCHASES	1,354.45
P0103446	00198021	CI ACCOUNTING	INVENTORY PURCHASES	1,240.71
P0103447	00198005	ALLIED PRODUCTS	INVENTORY PURCHASES	422.00
P0103066	00198076	MALLORY SAFETY SUPPLY	INVENTORY PURCHASES	491.46
P0103511	00198062	JAYMARC SILVER LLC	1707-130 Refund water service	401.52
P0103511	00198062	JAYMARC SILVER LLC	1705-110 Refund water service	401.52
P0103433	00198046	GRAINGER	INVENTORY PURCHASES	341.14
P0103505	00198107	RKK CONSTRUCTION	1807-195 Refund water service	306.19
P0103354	00198046	GRAINGER	INVENTORY PURCHASES	292.83
P0103486	00198019	CESSCO INC	INVENTORY PURCHASES	270.20
P0103229	00198027	COMMERCIAL LANDSC SUPPLY INC	INVENTORY PURCHASES	267.12
P0103261	00198046	GRAINGER	INVENTORY PURCHASES	214.17
P0103379	00198136	TRAFFIC SAFETY SUPPLY	INVENTORY PURCHASES	196.89
P0103507	00198050	HAGSTROM, COLLIN S + JILLIAN J	1708-188 Refund water service	159.10
P0103506	00198061	JAYMARC MANOR LLC	1712-308 Refund water service	159.10
P0103207	00198046	GRAINGER	INVENTORY PURCHASES	154.51
P0103382	00198046	GRAINGER	INVENTORY PURCHASES	149.68
P0103260	00197999	A.M. LEONARD INC	INVENTORY PURCHASES	147.99
P0103230	00198046	GRAINGER	INVENTORY PURCHASES	51.94
P0103376	00198046	GRAINGER	INVENTORY PURCHASES	12.82
<i>Org Key: CA1100 - Administration (CA)</i>				
P0103323	00198077	MARTEN LAW	Professional Services - Invoice	298.01
<i>Org Key: CA1200 - Prosecution & Criminal Mngmnt</i>				
P0103503	00198056	HONEYWELL, MATTHEW V	Professional Services - Public	600.00
<i>Org Key: CM1200 - City Clerk</i>				
P0103440	00198123	SOUND PUBLISHING INC	Ntc. 3/27 Boards & Commissions	212.25
<i>Org Key: CO6100 - City Council</i>				
P0103425	00198016	CARUCCIO'S	Volunteer Appreciation - Cook	55.00
<i>Org Key: CO6500 - Sister City Program</i>				
P0103473	00198082	MI SISTER CITY ASSOCIATION	KT Membership Fee	25.00

Accounts Payable Report by GL Key

PO #	Check #	Vendor:	Transaction Description	Check Amount
<i>Org Key: CR1100 - Human Resources</i>				
P0103346	00198063	JIM WEBBER TRAINING-CONS-INVES	2019 Anti-Harassment Training	6,024.36
P0103364	00198018	CDW GOVERNMENT INC	Adobe Acrobat Standard DC for	269.50
<i>Org Key: CT1100 - Municipal Court</i>				
P0103398	00198035	DEPT OF ENTERPRISE SERVICES	Dept of Enterprise, ref #17970	59.63
<i>Org Key: DS1100 - Administration (DS)</i>				
P0103263	00198031	DATAQUEST LLC	Pre-employment Background Chec	26.50
<i>Org Key: DS1200 - Bldg Plan Review & Inspection</i>				
P0103432	00198124	SOUND SAFETY PRODUCTS	SAFETY BOOTS	13.20
<i>Org Key: FN1100 - Administration (FN)</i>				
P0103194	00198080	METROPRESORT	ENVELOPES #10 DOUBLE WINDOW	145.30
P0103263	00198031	DATAQUEST LLC	Pre-employment Background Chec	26.50
<i>Org Key: FN2100 - Data Processing</i>				
P0103363	00198127	SUPERION LLC	ONESOLUTION ANNUAL	11,152.76
P0103492	00198080	METROPRESORT	2019 1 QUARTER B&O TAX STATEME	205.17
P0103490	00198127	SUPERION LLC	ONSOLUTION GLOBAL CORE ANNUAL	54.12
<i>Org Key: FR1100 - Administration (FR)</i>				
P0103320	00198140	WALTER E NELSON CO	Station/Grounds Stock Supplies	1,550.88
P0103466	00198128	SYSTEMS DESIGN WEST LLC	February 2019 Xport Fees	977.55
P0102380	00198026	COMCAST	FIRE STATION 92 FIBER CIRCUIT	412.25
P0103460	00198106	RICOH USA INC (FIRE)	Copier Rental/Fire	320.87
P0103318	00198009	ASPECT SOFTWARE INC	Monthly Telestaff Maintenance/	165.00
P0103557	00198025	COMCAST	Internet Charges/Fire	118.55
P0103558	00198025	COMCAST	Internet Charges/Fire	98.60
P0103468	00198025	COMCAST	Internet Charges/Fire	72.40
P0103315	00198105	RICOH USA INC	Cost Per Copy/Fire	59.21
P0103465	00198072	KROESENS UNIFORM COMPANY	Uniform/Rostov	28.05
P0103455	00198025	COMCAST	Internet Charges/Fire	11.47
<i>Org Key: FR2100 - Fire Operations</i>				
P0102405	00198040	EPSCA	MONTHLY RADIO ACCESS FEES 49 R	1,237.25
P0103463	00198110	ROMAINE ELECTRIC CORP	3 Apparatus Batteries	569.81
P0103467	00198116	SEA WESTERN INC	Bunker Boots	439.36
P0103209	00198032	DAY MANAGEMENT CORP	Portable Radio Repair	310.49
P0103465	00198072	KROESENS UNIFORM COMPANY	Uniforms Horschman	120.91
P0103461	00198139	VERIZON WIRELESS	Cell Charges/Fire	15.70
P0102405	00198040	EPSCA	QTLY ACCESS FEE REBATE FIRE	-216.09
<i>Org Key: FR2500 - Fire Emergency Medical Svcs</i>				
P0103464	00198074	LIFE ASSIST INC	Aid/Rig Supplies	1,186.07
P0103459	00198004	AIRGAS USA LLC	Oxygen/Fire	129.47
P0103316	00198004	AIRGAS USA LLC	Oxygen/Fire	103.75
P0103464	00198074	LIFE ASSIST INC	Credit Memo 905984	-404.58
<i>Org Key: FR4100 - Training</i>				
P0103562	00198052	HEALTHFORCE PARTNERS LLC	Immunization Interp Letter	40.00
<i>Org Key: FR5100 - Community Risk Reduction</i>				

Accounts Payable Report by GL Key

PO #	Check #	Vendor:	Transaction Description	Check Amount
P0103454	00198058	INTL ASSOC OF ARSON INV	2019 Dues/Mair	140.00
<i>Org Key: GGM001 - General Government-Misc</i>				
P0102380	00198026	COMCAST	CITY HALL BACKUP INTERNET	849.15
P0102379	00198024	COMCAST	CITY HALL HIGH SPEED INTERNET	111.45
<i>Org Key: GGM004 - Gen Govt-Office Support</i>				
P0103362	00198145	XEROX CORPORATION	Print & copy charges for CM co	917.96
P0103380	00198066	KELLEY IMAGING SYSTEMS	GIS PAPER	638.53
P0103362	00198145	XEROX CORPORATION	Print & copy charges for Mail	537.93
P0103362	00198145	XEROX CORPORATION	Print & copy charges for DSG c	179.67
<i>Org Key: GGM005 - Genera Govt-LI Retiree Costs</i>				
P0103542	00198075	LYONS, STEVEN	FRLEOFF1 Retiree Medical Expen	874.50
P0103508	00198064	JOHNSON, CURTIS	FRLEOFF1 Retiree Medical Expen	391.49
P0103572	00198033	DEEDS, EDWARD G	LEOFF1 Retiree Medical Expense	314.96
P0103510	00198075	LYONS, STEVEN	FRLEOFF1 Retiree Medical Expen	233.58
P0103571	00198013	BOOTH, GLENDON D	LEOFF1 Retiree Medical Expense	161.27
P0103594	00198003	ADAMS, RONALD E	LEOFF1 Retiree Medical Expense	110.16
P0103570	00198085	MYERS, JAMES S	LEOFF1 Retiree Medical Expense	58.94
P0103569	00198039	ELSOE, RONALD	LEOFF1 Retiree Medical Expense	18.72
P0103509	00198039	ELSOE, RONALD	LEOFF1 Retiree Medical Expense	14.90
<i>Org Key: IS2100 - IGS Network Administration</i>				
P0102965	00198069	KING COUNTY FINANCE	I-NET MONTHLY SERVICES FROM	1,122.00
P0103134	00198048	GUARDIAN SECURITY	AVIGILON 4C-ACC6-ENT LICENSE	1,089.00
P0103426	00198002	ACCESS	BLACK BOX PICK UP & DELIVERY,	471.76
<i>Org Key: MT2100 - Roadway Maintenance</i>				
P0098051	00198143	WEST COAST SIGNAL INC	ELECTRICAL REPAIRS & SERVICES	8,140.31
P0103402	00198006	ALPINE PRODUCTS INC	MARKER PADS & STREET MARKERS	3,652.00
P0103396	00198036	DEPT OF TRANSPORTATION	SAND AND SALT	2,139.90
P0103056	00198136	TRAFFIC SAFETY SUPPLY	STREET SIGNS	109.88
<i>Org Key: MT2300 - Planter Bed Maintenance</i>				
P0103596	00198083	MI UTILITY BILLS	PAYMENT OF UTILITY BILLS FOR W	218.86
<i>Org Key: MT3000 - Water Service Upsizes and New</i>				
P0103428	00198132	TACOMA SCREW PRODUCTS INC	NUTS & BOLTS FOR WATER METERS	109.36
<i>Org Key: MT3100 - Water Distribution</i>				
P0103430	00198049	H D FOWLER	1" METER TO 1-1/2" METER ADAPT	291.37
P0103494	00198053	HERC RENTALS INC	3) ASPHALT CUTTERS	161.66
P0103494	00198053	HERC RENTALS INC	CLAY SPADE RENTAL	99.09
P0103498	00198049	H D FOWLER	7/8" CARBIDE HOLE SAW	55.27
P0103228	00198046	GRAINGER	GREASE GUN	48.18
P0103353	00198046	GRAINGER	FULL BRIM HARDHAT (LIME)	10.67
P0103233	00198012	BEN'S CLEANER SALES INC	CREDIT FOR INVOICES 295898 & 2	-32.25
<i>Org Key: MT3150 - Water Quality Event</i>				
P0103437	00198135	TOKAY SOFTWARE	MARCH WEB TEST REPORTS	463.00
P0103277	00198007	AM TEST INC	WATER QUALITY TESTING 109567	300.00
P0103233	00198012	BEN'S CLEANER SALES INC	CREDIT FOR INVOICES 295898 & 2	-35.89

Accounts Payable Report by GL Key

PO #	Check #	Vendor:	Transaction Description	Check Amount
<i>Org Key: MT3300 - Water Associated Costs</i>				
P0103404	00198124	SOUND SAFETY PRODUCTS	MISC. WORK CLOTHES	379.41
P0103403	00198124	SOUND SAFETY PRODUCTS	MISC. WORK CLOTHES	167.38
<i>Org Key: MT3400 - Sewer Collection</i>				
P0103499	00198049	H D FOWLER	TAMMS SPEED PLUG	336.29
P0103427	00198046	GRAINGER	SIZE 11 CORKS (70 PK)	109.67
P0103241	00198089	NORTHERN SAFETY CO INC	LIFT BUCKET & SLING	128.41
<i>Org Key: MT3500 - Sewer Pumps</i>				
P0103496	00198129	T M G SERVICES INC	2) FOGROD WASTEWATER LEVEL	2,486.00
P0103259	00198046	GRAINGER	AIR FRESHENER REFILLS & DISPEN	229.45
P0103400	00198086	NATIONAL SAFETY INC	BW 4GAS 34L	187.00
P0103497	00198049	H D FOWLER	MERCURY SENSOR FLOAT	67.69
P0103596	00198083	MI UTILITY BILLS	PAYMENT OF UTILITY BILLS FOR W	36.48
<i>Org Key: MT3800 - Storm Drainage</i>				
P0103474	00198055	HOME DEPOT CREDIT SERVICE	RIDGID 115-VOLT SEWER & DRAIN	2,512.80
P0103476	00198049	H D FOWLER	10" PVC SEWER PIPE, FERNCO	711.34
P0103477	00198049	H D FOWLER	12" ADS SPLIT COUPLINGS	116.25
P0103274	00198007	AM TEST INC	DECAN FACILITY INV 109598	90.00
<i>Org Key: MT3810 - NPDES Phase 2 Prog Developmt</i>				
P0103474	00198055	HOME DEPOT CREDIT SERVICE	RIDGID 115-VOLT SEWER & DRAIN	710.00
<i>Org Key: MT4150 - Support Services - Clearing</i>				
P0102911	00198022	CINTAS CORPORATION #460	2019 COVERALL SERVICES	1,370.21
P0102711	00198144	XEROX CORPORATION	2019 BASE AND METER COPIER SER	482.04
P0103263	00198031	DATAQUEST LLC	Pre-employment Background Chec	41.50
P0102405	00198040	EPSCA	MONTHLY RADIO ACCESS FEES 1 RA	25.25
P0102405	00198040	EPSCA	QTLY ACCESS FEE REBATE PUBLIC	-4.41
<i>Org Key: MT4200 - Building Services</i>				
P0103448	00198103	RAINIER BUILDING SERVICES	JANITORIAL SERVICE CITY BUILDS	5,126.11
P0103487	00198095	PACIFIC AIR CONTROL INC	HVAC MAINT CITY HALL	2,335.85
P0103515	00198095	PACIFIC AIR CONTROL INC	HVAC MAINT FS92	771.93
P0103389	00198042	FASTSIGNS ISSAQUAH	CITY HALL LOGO FRONT ENTRANCE	728.77
P0103553	00198095	PACIFIC AIR CONTROL INC	FS92 FAILED PUMP	717.20
P0103596	00198083	MI UTILITY BILLS	PAYMENT OF UTILITY BILLS FOR W	551.61
P0103300	00198103	RAINIER BUILDING SERVICES	QUARTERLY FLOOR WAXING, CITY H	544.00
	00198091	NW ROOFING SOLUTIONS LLC	REPLACE WARRANT 196525	330.00
P0103384	00198095	PACIFIC AIR CONTROL INC	CITY HALL MAIL ROOM UNIT	262.42
P0103598	00198038	EASTSIDE EXTERMINATORS	CITY HALL EXTERMINATOR SERVICE	234.61
<i>Org Key: MT4300 - Fleet Services</i>				
P0102300	00198093	OVERLAKE OIL	2019 FUEL DELIVERY	4,906.04
P0103255	00198044	GOODYEAR TIRE & RUBBER CO, THE	TIRE INVENTORY	2,178.38
P0103472	00198094	OWEN EQUIPMENT COMPANY	FL-0395 REPAIR PARTS	591.74
P0103251	00198057	HORIZON	PARKS MOWER	547.17
P0103470	00198121	SME SOLUTIONS LLC	3/21/19 FIRE STATION UNLEADED	432.25
P0103438	00198137	TUSCAN ENTERPRISES INC	FL-0485 NUMBER AND LETTERING	330.00
P0103469	00198114	SCARFF FORD	FL-0488 REPAIR PARTS	184.43

Accounts Payable Report by GL Key

PO #	Check #	Vendor:	Transaction Description	Check Amount
P0102659	00198101	PRAXAIR DISTRIBUTION INC	2019 ACETYLENE AND OXYGEN TANK	50.00
<i>Org Key: MT4420 - Transportation Planner Eng</i>				
P0103440	00198123	SOUND PUBLISHING INC	Ntc 3/13 & 3/20 TIP Comment Pe	103.96
<i>Org Key: MT4450 - Cust Resp - Clearing Acct</i>				
P0103405	00198124	SOUND SAFETY PRODUCTS	MISC. WORK CLOTHES	57.19
<i>Org Key: MT4502 - Sewer Administration</i>				
P0102378	00198068	KING COUNTY FINANCE	MONTHLY SEWER JAN-DEC 2019	400,354.56
<i>Org Key: MT4900 - Solid Waste</i>				
P0103107	00198092	OLYMPIC ENVIRONMENTAL RES	2019 ANNUAL RECYCLE EVENTS	10,407.34
<i>Org Key: PO1100 - Administration (PO)</i>				
P0103527	00198010	AT&T MOBILITY	Cell Phone Service - Police -	224.16
P0103535	00198141	WASHINGTON AWARDS INC	Corporal Pritchard Distinguish	167.75
<i>Org Key: PO1350 - Police Emergency Management</i>				
P0102405	00198040	EPSCA	MONTHLY RADIO ACCESS FEES 13 R	328.25
P0103425	00198016	CARUCCIO'S	Volunteer Appreciation - Cook	55.00
P0102405	00198040	EPSCA	QTLY ACCESS FEE REBATE EMAC	-57.33
<i>Org Key: PO1650 - Regional Radio Operations</i>				
P0102405	00198040	EPSCA	MONTHLY RADIO ACCESS FEES 59 R	1,489.75
P0102405	00198040	EPSCA	QTLY ACCESS FEE REFUND POLICE	-260.19
<i>Org Key: PO1700 - Records and Property</i>				
P0103296	00198145	XEROX CORPORATION	Records Copier - Invoice # 096	208.70
<i>Org Key: PO1800 - Contract Dispatch Police</i>				
P0103538	00198119	SEATTLE, CITY OF	Crime Stoppers Allocation - In	2,060.91
<i>Org Key: PO1900 - Jail/Home Monitoring</i>				
P0103533	00198115	SCORE	SCORE Jail Bill April 2019 -	540.00
P0103290	00198070	KING COUNTY FINANCE	Dept. of Adult and Juvenile	403.97
<i>Org Key: PO2100 - Patrol Division</i>				
P0103526	00198133	TACTICAL MEDICAL SOLUTIONS LLC	Police first aid and medical	1,644.48
P0103531	00198072	KROESENS UNIFORM COMPANY	Corporal Canter - Ballistic Ve	1,099.84
P0103530	00198073	LAKE FOREST PARK, CITY OF	CSPA Officers (Lake Forest Par	652.50
P0103529	00198060	ISSAQUAH, CITY OF	CSPA Officer (Issaquah PD Offi	460.00
<i>Org Key: PO2200 - Marine Patrol</i>				
P0103528	00198117	SEATTLE BARREL COMPANY	Anchor Forms - Invoice # 47230	220.20
<i>Org Key: PO3100 - Investigation Division</i>				
P0103534	00198134	THOMSON REUTERS - WEST	Investigative Services - Invoi	334.48
<i>Org Key: PR0000 - Parks & Recreation-Revenue</i>				
P0103524	00198001	ABLE, NANCY M	Gallery sales 75% - sale of Th	911.25
P0103525	00198015	CARLSON, JAMES A	Gallery Sales 75% - sale of Ni	337.50
P0103500	00198023	CLAFLIN, KEN	Gallery Sales 75% - sale of Bo	337.50
P0103501	00198108	ROAN, JUDITH GAY	Gallery Sales 75% - sale of Fl	262.50
P0103502	00198000	ABEL, MILLER	Gallery Sa;es - 75% - Sale of	243.75

Accounts Payable Report by GL Key

PO #	Check #	Vendor:	Transaction Description	Check Amount
<i>Org Key: PR1100 - Administration (PR)</i>				
P0102839	00198034	DEMARCHE CONSULTING GROUP INC	Parks Maintenance & Operations	13,000.00
P0102331	00198145	XEROX CORPORATION	Lease and print/copy charges f	217.29
P0103355	00198139	VERIZON WIRELESS	P&R Monthly Cell phone bill -	99.21
<i>Org Key: PR2100 - Recreation Programs</i>				
P0103286	00198097	PARENTMAP	Web e-newsletter - march	500.00
P0103373	00198031	DATAQUEST LLC	Background checks for staff &	53.00
<i>Org Key: PR2101 - Youth and Teen Camps</i>				
P0103373	00198031	DATAQUEST LLC	Background checks for staff &	26.50
<i>Org Key: PR2104 - Special Events</i>				
P0103425	00198016	CARUCCIO'S	Volunteer Appreciation - Cook	55.00
<i>Org Key: PR2108 - Health and Fitness</i>				
P0103480	00198099	PNBOA	March's Rec Basketball Men's B	1,437.50
P0103481	00198112	ROSENSTEIN, SUSIE	4 personal training sessions f	862.50
P0103547	00198054	HOBBS, TRACY	Instructor Payment for April P	431.90
P0103544	00198112	ROSENSTEIN, SUSIE	Enhanced Fitness classes 4/3,	240.00
<i>Org Key: PR3500 - Senior Services</i>				
P0103373	00198031	DATAQUEST LLC	Background checks for staff &	106.00
P0103355	00198139	VERIZON WIRELESS	P&R Monthly Cell phone bill -	53.89
<i>Org Key: PR4100 - Community Center</i>				
P0103448	00198103	RAINIER BUILDING SERVICES	JANITORIAL SERVICE CITY BUILDS	2,496.77
P0103514	00198084	MORGAN SOUND INC	JuiSCV-10001 UPS for Media Equ	861.30
P0103351	00198095	PACIFIC AIR CONTROL INC	CHILLER RESTART	592.90
P0103300	00198103	RAINIER BUILDING SERVICES	QUARTERLY FLOOR WAXING, CITY H	540.00
P0103532	00198095	PACIFIC AIR CONTROL INC	CHILLER REPAIR	463.10
P0103523	00198122	SOREANO'S PLUMBING INC	run line to coffee maker and h	424.38
P0103522	00198084	MORGAN SOUND INC	service call 4/12/19. troubles	272.25
P0102473	00198144	XEROX CORPORATION	Monthly lease charges for colo	267.20
P0102473	00198144	XEROX CORPORATION	Use fee for 2-21-19 to 3-21-19	240.43
P0103271	00198038	EASTSIDE EXTERMINATORS	EXTERMINATOR SERVICE PEST CONT	230.01
P0103443	00198057	HORIZON	POP-UP IRRIGATION HEADS & FITT	200.00
P0102461	00198025	COMCAST	MICEC - High Speed Connection	165.78
P0103355	00198139	VERIZON WIRELESS	P&R Monthly Cell phone bill -	32.95
<i>Org Key: PR5300 - Community Arts Support</i>				
P0103577	00198118	SEATTLE THEATRE GROUP	Arts Council Dance for PD Supp	750.00
<i>Org Key: PR6100 - Park Maintenance</i>				
P0103233	00198012	BEN'S CLEANER SALES INC	PARTS FOR PRESSURE WASHER	1,114.83
P0103135	00198057	HORIZON	Organic fertilizer to be appli	825.00
P0103445	00198006	ALPINE PRODUCTS INC	TUFF POSTS & BASES	423.06
P0103443	00198057	HORIZON	POP-UP IRRIGATION HEADS & FITT	321.28
P0103355	00198139	VERIZON WIRELESS	P&R Monthly Cell phone bill -	172.43
P0102911	00198022	CINTAS CORPORATION #460	PARKS COVERALLS	135.60
P0103556	00198065	JON-DON INC	ACRYLIC FINISH (4 GAL)	82.20
P0103382	00198046	GRAINGER	223 BATTERIES, 6V	56.54

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PO #	Check #	Vendor:	Transaction Description	Check Amount
<i>Org Key: PR6200 - Athletic Field Maintenance</i>				
P0103135	00198057	HORIZON	Organic fertilizer to be appli	1,760.00
P0103355	00198139	VERIZON WIRELESS	P&R Monthly Cell phone bill -	114.46
<i>Org Key: PR6500 - Luther Burbank Park Maint.</i>				
P0103448	00198103	RAINIER BUILDING SERVICES	JANITORIAL SERVICE CITY BUILDS	2,151.25
P0103475	00198059	ISSAQUAH CEDAR & LUMBER CO	SPLIT RAIL FENCING & POSTS	428.72
P0103142	00198006	ALPINE PRODUCTS INC	Paint for parking lot at Luthe	345.24
P0103300	00198103	RAINIER BUILDING SERVICES	QUARTERLY FLOOR WAXING, CITY H	272.00
P0102521	00198022	CINTAS CORPORATION #460	Weekly floor mat cleaning at L	153.75
P0103355	00198139	VERIZON WIRELESS	P&R Monthly Cell phone bill -	129.70
P0103556	00198065	JON-DON INC	ACRYLIC FINISH (4 GAL)	79.79
P0103373	00198031	DATAQUEST LLC	Background checks for staff &	53.00
<i>Org Key: PR6600 - Park Maint-School Related</i>				
P0103135	00198057	HORIZON	Organic fertilizer to be appli	5,170.00
P0103355	00198139	VERIZON WIRELESS	P&R Monthly Cell phone bill -	15.25
<i>Org Key: PR6800 - Trails Maintenance</i>				
P0103373	00198031	DATAQUEST LLC	Background checks for staff &	26.50
<i>Org Key: PR6900 - Aubrey Davis Park Maintenance</i>				
P0103135	00198057	HORIZON	Organic fertilizer to be appli	2,475.33
P0103443	00198057	HORIZON	POP-UP IRRIGATION HEADS & FITT	600.00
P0103355	00198139	VERIZON WIRELESS	P&R Monthly Cell phone bill -	129.70
P0102520	00198131	T2 SYSTEMS CANADA INC	Monthly charges for services t	77.00
P0103556	00198065	JON-DON INC	ACRYLIC FINISH (4 GAL)	79.79
P0103373	00198031	DATAQUEST LLC	Background checks for staff &	68.00
P0102466	00198130	T-MOBILE	Monthly services for Boat Laun	20.00
P0103238	00197998	KING COUNTY FINANCE	WSDOT Lease NWR AA-1-10221	7.70
<i>Org Key: ST0001 - ST Traffic Safety Enhancements</i>				
P0103076	00198071	KPG	W MERCER WAY ELEMENTRY SPEED	4,096.02
<i>Org Key: ST0020 - ST Long Term Parking</i>				
P0103516	00198098	PARKWAY CENTER MANAGEMENT GRP	ST Long Term Parking - BP/Arco	7,100.00
<i>Org Key: WG101R - City Hall Building Repairs</i>				
P0103554	00198095	PACIFIC AIR CONTROL INC	REPLACE EXHAUST FAN IN POLICE	3,110.80
<i>Org Key: WG102R - Maintenance Building Repairs</i>				
P0103272	00198109	RODDA PAINT CO	PARKS OFFICE PAINT	267.04
<i>Org Key: WG105R - Community Center Bldg Repairs</i>				
P0103555	00198095	PACIFIC AIR CONTROL INC	DUCT & INSULATION REPAIR ON ME	6,475.70
<i>Org Key: WG130E - Equipment Rental Vehicle Repl</i>				
P0102058	00198090	NW LIFT & EQUIPMENT LLC	SET OF 4 WIRELESS MOBILE LIFT	45,968.97
P0102058	00198090	NW LIFT & EQUIPMENT LLC	SET OF 4 MOBILE JACK STANDS	3,728.69
<i>Org Key: WG317T - Police In-Car Video System</i>				
P0103536	00198142	WATCHGUARD VIDEO	Shipping Replacement Screen	58.44
P0103537	00198142	WATCHGUARD VIDEO	Shipping Replacement Screen	58.44

Accounts Payable Report by GL Key

PO #	Check #	Vendor:	Transaction Description	Check Amount
<i>Org Key: WG550R - Fuel Clean Up</i>				
P0103256	00198017	CASCADE DRILLING LP	SOIL REMEDIATION	965.00
<i>Org Key: WP122P - Open Space - Pioneer/Engstrom</i>				
P0098275	00198111	ROOT CAUSE LLC	Retainage - Pioneer Park Veget	4,778.55
P0102736	00198037	EARTHCORPS INC	2019-2020 Forest Restoration	1,108.00
P0103548	00198088	NORTH IDAHO POST & POLE	Open space fence	706.13
<i>Org Key: WP122R - Vegetation Management</i>				
P0102736	00198037	EARTHCORPS INC	2019-2020 Forest Restoration	2,217.00
P0103373	00198031	DATAQUEST LLC	Background checks for staff &	26.50
<i>Org Key: WP700P - Aubrey Davis Multiuse Corridor</i>				
P0103578	00198028	CONSOLIDATED PRESS	Aubrey Davis Park Open House #	1,430.17
<i>Org Key: WP710C - Street End - Lincoln Landing</i>				
P0095391	00198100	PND ENGINEERS INC	Lincoln Landing Design Enginee	2,986.75
<i>Org Key: WP720R - Recurring Park Projects</i>				
P0103401	00198057	HORIZON	POP-UP SPRINKLERS & STRIP NOZZ	358.12
P0103337	00198046	GRAINGER	"FIRE LANE" SIGNS	334.20
P0103379	00198136	TRAFFIC SAFETY SUPPLY	BAND-IT FLARED LEG BRACKET	61.10
<i>Org Key: WR101R - Residential Street Improvement</i>				
P0103442	00198030	DAILY JOURNAL OF COMMERCE	ATERIAL AND RESIDENTIAL STREET	266.70
<i>Org Key: WR111R - Pavement Markings</i>				
P0099303	00198125	STRIPE RITE INC	10% Retainage	4,554.15
<i>Org Key: WR140C - Pedestrian & Bicycle Facility</i>				
P0103048	00198125	STRIPE RITE INC	REFLECTIVE POSTS	1,415.18
<i>Org Key: WR919R - EMW Resurface 4300 to SE 53rd</i>				
P0103442	00198030	DAILY JOURNAL OF COMMERCE	ATERIAL AND RESIDENTIAL STREET	266.70
<i>Org Key: WS714C - Lincoln Landing Construction</i>				
P0103543	00198100	PND ENGINEERS INC	Lincoln Landing Sewer Engineer	15,187.10
<i>Org Key: WW717R - Main SE 22nd Street</i>				
P0103435	00198096	PAMF EXCAVATION LLC	SE 22ND PL WATER SYSYEM IMPROV	245,108.38
<i>Org Key: XR310R - EMW Shoulders - Ph 8-11</i>				
P0097678	00198113	RRJ COMPANY LLC	RETAINAGE	8,770.47
P0097678	00198113	RRJ COMPANY LLC	SCHEDULE A RETAINAGE	3,179.65
<i>Org Key: XR810R - SE 36th and NMW Crosswalk</i>				
P0103076	00198071	KPG	NMW & SE 36TH PED EXING	9,606.42
<i>Org Key: YF1100 - YFS General Services</i>				
P0102331	00198145	XEROX CORPORATION	Lease and print/copy charges f	282.42
P0102671	00198031	DATAQUEST LLC	Background checks for all YFS	79.50
P0103425	00198016	CARUCCIO'S	Volunteer Appreciation - Cook	55.00
P0102232	00198081	MI HARDWARE - YFS	Operating supplies for Tshop a	26.72
<i>Org Key: YF1200 - Thrift Shop</i>				

Accounts Payable Report by GL Key

PO #	Check #	Vendor:	Transaction Description	Check Amount
P0103448	00198103	RAINIER BUILDING SERVICES	JANITORIAL SERVICE CITY BUILDS	2,184.74
P0103264	00198035	DEPT OF ENTERPRISE SERVICES	Thrift Shop forms "SOLD" in	90.95
P0102239	00198047	GRAND & BENEDICTS INC	Operating supplies for the Thr	77.69
<i>Org Key: YF2600 - Family Assistance</i>				
P0102990	00198029	CREATIVE LEARNING CENTER	Preschool scholarship tuition	480.00
P0102248	00198102	PUGET SOUND ENERGY	Utility assistance for Emergen	29.72
<i>Org Key: YF2800 - Fed Drug Free Communities Gran</i>				
P0103450	00198011	AUTHENTIC CONNECTIONS	Continuing work with High Achi	6,000.00
Total				948,058.00

CERTIFICATION OF CLAIMS

I, the undersigned, do hereby certify under penalty of perjury that the materials have been furnished, the services rendered, or the labor performed as described herein, that any advance payment is due and payable pursuant to a contract or is available as an option for full or partial fulfillment of a contractual obligation, and that the claim is a just, due and unpaid obligation against the City of Mercer Island, and that I am authorized to authenticate and certify to said claim.

Charles L. Corder
Finance Director

I, the undersigned, do hereby certify that the City Council has reviewed the documentation supporting claims paid and approved all checks or warrants issued in payment of claims.

Mayor

Date

<u>Report</u>	<u>Warrants</u>	<u>Date</u>	<u>Amount</u>
Check Register	198146 -198226	5/9/2019	\$ 315,100.15 \$ 315,100.15

Accounts Payable Report by Check Number

Check No	Check Date	Vendor Name/Description	PO #	Invoice #	Invoice Date	Check Amount
00198146	05/06/2019	RAINIER ASPHALT & CONCRETE 2019 UTILITY ASPHALT PH 2	P0102613	10885	03/25/2019	79,190.54
00198147	05/09/2019	NATIONAL TRUCK & PAINT SPECIAL FL-0437 REPAIRS	P0103619	29020	04/09/2019	22,080.05
00198148	05/09/2019	A.M. LEONARD INC INVENTORY PURCHASES	P0103583	CI1907022	04/24/2019	242.59
00198149	05/09/2019	AIRGAS USA LLC Oxygen/Fire	P0103561	9087893991	04/19/2019	35.00
00198150	05/09/2019	AMICI, DOMINIC SWAT SCHOOL EXPENSES		OH011639	04/24/2019	2,511.34
00198151	05/09/2019	BASSETT, NANETTE THRIFT STORE EXPENSES		OH011641	04/25/2019	80.22
00198152	05/09/2019	BLUETARP CREDIT SERVICES SPYKER ELECTRIC 120 LB SPREADE	P0103580	42437702	04/21/2019	1,333.14
00198153	05/09/2019	CADMAN INC 1 YARD OF CONCRETE FOR MARINE	P0103600	1667834	04/22/2019	502.10
00198154	05/09/2019	CDW GOVERNMENT INC Adobe Creative Cloud for Teams	P0103513	RZN1893	04/23/2019	2,029.32
00198155	05/09/2019	CEDAR GROVE COMPOSTING INC Organic Waste Service 4/2019 L	P0103625	0000452634	04/30/2019	263.77
00198156	05/09/2019	CENTURYLINK PHONE USEAGE APR 2019		OH011644	05/01/2019	4,601.52
00198157	05/09/2019	CLERK OF COURT PAYROLL EARLY WARRANTS		OH011649	05/10/2019	565.25
00198158	05/09/2019	CM DESIGN GROUP RESIDENTIAL STREET OVERLAY	P0102618	19011	04/12/2019	71,083.83
00198159	05/09/2019	DANIEL, KAMARIA MITV Council Mtg 4/2/19	P0103610	026	04/30/2019	1,590.00
00198160	05/09/2019	DEPT OF ENTERPRISE SERVICES Envelopes (custom) order #1395	P0103504	73187112	04/18/2019	160.56
00198161	05/09/2019	DEPT OF ENTERPRISES SERVICES WINDOW ENVELOPES PRINTING		73186792	04/08/2019	389.97
00198162	05/09/2019	DEPT OF TRANSPORTATION SAND AND SALT DECEMBER 2018	P0103545	RE41JA6287L028	04/15/2019	3,291.89
00198163	05/09/2019	EFFICIENCY INC FTR Renewal Council Chambers	P0103576	614618	04/27/2019	1,255.10
00198164	05/09/2019	EMEDCO "KEEP AREA CLEAR" 3" ADHESIVE	P0103582	9339990465	04/22/2019	94.97
00198165	05/09/2019	EPSCA MONTHLY RADIO ACCESS FEES 49 R	P0102405	9679	05/01/2019	2,567.73
00198166	05/09/2019	EXCEL SUPPLY COMPANY INVENTORY PURCHASES	P0103551	104536	04/23/2019	423.96
00198167	05/09/2019	FARALLON CONSULTING LLC PHASE 3 TECHNICAL SERVICES FOR	P0099477	0032355	04/19/2019	5,425.70
00198168	05/09/2019	FENHAUS, JACOB REGISTRATION & EXAM EXPENSE		OH011646	05/06/2019	188.74
00198169	05/09/2019	GEHRKE, STORM PER DIEM REIMB BML TRAINING		OH011667	04/29/2019	819.50
00198170	05/09/2019	GET Washington PAYROLL EARLY WARRANTS		OH011651	05/10/2019	250.00
00198171	05/09/2019	GRAINGER INVENTORY PURCHASES	P0103488	9151538643	04/19/2019	922.87

Accounts Payable Report by Check Number

Check No	Check Date	Vendor Name/Description	PO #	Invoice #	Invoice Date	Check Amount
00198172	05/09/2019	GRAND & BENEDICTS INC Operating supplies for the Thr	P0102239	1017293IN	02/21/2019	89.81
00198173	05/09/2019	HABITAT RESTORATION SPEC LLC 10% RETAINAGE	P0101184	46	03/26/2019	1,155.60
00198174	05/09/2019	HAMMER, SAMANTHA PER DIEM REIMB		OH011652	05/03/2019	390.50
00198175	05/09/2019	HOME DEPOT CREDIT SERVICE INVENTORY PURCHASES	P0103601	0013152263005	05/01/2019	274.44
00198176	05/09/2019	HORIZON LATE CHARGE		418251SC	04/30/2019	161.66
00198177	05/09/2019	INTERCOM LANGUAGE SERVICES INC Intercom invoice #19-141;	P0103605	19141	05/01/2019	260.00
00198178	05/09/2019	KCDA PURCHASING COOPERATIVE Replacement playground pieces	P0102906	44018	04/19/2019	816.86
00198179	05/09/2019	KROESENS UNIFORM COMPANY Maltese Service Crosses	P0103563	55049	04/24/2019	111.98
00198180	05/09/2019	LAKESIDE INDUSTRIES CLASS B ASPHALT (2.52 TONS)	P0103597	83811/82420	04/06/2019	425.19
00198181	05/09/2019	LEICHTY, CARROLL SUPPLIES		OH011653	05/01/2019	108.62
00198182	05/09/2019	LN CURTIS & SONS 100' 4" Hose/New Engine	P0102874	INV275405	04/18/2019	6,711.58
00198183	05/09/2019	MACKENZIE, ALAN P OVERPAYMENT REFUND		OH011655	04/24/2019	284.06
00198184	05/09/2019	MAGNAS LLC MONTHLY LONG DISTANCE JAN-DEC	P0102376	OH011673	04/30/2019	218.31
00198185	05/09/2019	MANAGEMENT PARTNERS Fiscal Sustainability Plan -	P0103491	INV07205	04/19/2019	18,300.00
00198186	05/09/2019	MCDANIEL, BRIAN TRAINING WORKSHOP		OH011654	05/06/2019	400.00
00198187	05/09/2019	MERCER ISLAND CHEVRON fuel	P0103574	307166	03/10/2019	21.58
00198188	05/09/2019	METROPRESORT APRIL 2019 PRINTING AND MAILIN	P0103098	393/544/708/862	04/17/2019	1,948.75
00198189	05/09/2019	MI CHAMBER OF COMMERCE MONTHLY BILLING FOR SERVICES	P0102377	OH011671	04/30/2019	1,200.00
00198190	05/09/2019	MI EMPLOYEES ASSOC PAYROLL EARLY WARRANTS		OH011642	05/10/2019	315.00
00198191	05/09/2019	MI SCHOOL DISTRICT #400 MI Pool Operation Subsidy	P0102579	OH011669	05/01/2019	11,611.88
00198192	05/09/2019	MI UTILITY BILLS PAYMENT OF UTILITY BILLS FOR W	P0103614	OH011672	04/30/2019	8,490.12
00198193	05/09/2019	MORENO, ALFREDO PER DIEM REIMB		OH011656	04/29/2019	114.00
00198194	05/09/2019	MORGAN SOUND INC Service Call, Deliver and Repl	P0103603	MSI099567	04/23/2019	123.75
00198195	05/09/2019	NAPA AUTO PARTS 2019 REAPIR PARTS/INVENTORY	P0102624	OH011675	04/30/2019	497.85
00198196	05/09/2019	NETWORK COMPUTING ARCHITECTS Cisco AnyConnect Client Annual	P0103493	53336	04/24/2019	349.80
00198197	05/09/2019	ORMSBY, ANNA MANUAL FOR CAR SEAT CHECKS		OH011657	04/29/2019	40.48

Accounts Payable Report by Check Number

Check No	Check Date	Vendor Name/Description	PO #	Invoice #	Invoice Date	Check Amount
00198198	05/09/2019	OVERLAKE OIL 2019 FUEL DELIVERY	P0102300	0193069IN/3161	04/23/2019	4,649.13
00198199	05/09/2019	PACIFIC RUBBER FLEET REPAIR PARTS	P0103575	R021405	04/22/2019	105.94
00198200	05/09/2019	PARK, BIO PARKING & MILEAGE		OH011658	05/06/2019	41.34
00198201	05/09/2019	PUGET SOUND ENERGY ENERGY USE MAY 2019		OH011661	04/24/2019	28,976.87
00198202	05/09/2019	REPUBLIC SERVICES #172 2019 ROW DISPOSAL/RECYCLING SE	P0102454	0172007803455	03/31/2019	4,740.63
00198203	05/09/2019	ROGGENKAMP, TODD FUEL FOR VEHICLE 505		OH011664	04/25/2019	41.87
00198204	05/09/2019	RUTTER, ALEX PER DIEM REIMB		OH011663	04/24/2019	557.68
00198205	05/09/2019	SCHMALHOFER, GEORGE F PER DIEM REIMB		OH011666	05/07/2019	390.50
00198206	05/09/2019	SHERWIN-WILLIAMS CO, THE FIELD PAINT (BLUE & RED)	P0103595	89642	04/26/2019	978.78
00198207	05/09/2019	SKYLINE COMMUNICATIONS INC EOC INTERNET SERVICE	P0103615	IN44730	05/01/2019	206.55
00198208	05/09/2019	STANLEY, PAULINA & MICHAEL OVERPAYMENT REFUND		OH011665	04/24/2019	179.89
00198209	05/09/2019	STRANGER, THE Thrift Shop Advertising for 20	P0102249	419C28D3/EB0FF	04/11/2019	800.00
00198210	05/09/2019	SUMMIT LAW GROUP Legal Services; Inv#:103024	P0103568	102025/103024	03/22/2010	5,100.00
00198211	05/09/2019	SUPPLY SOURCE INC,THE INVENTORY PURCHASES	P0103581	1902035	04/24/2019	1,338.45
00198212	05/09/2019	SUPPRESSION SYSTEMS INC RETAINAGE	P0101999	17494RET	05/03/2019	1,431.60
00198213	05/09/2019	SYSTEMS DESIGN WEST LLC Transport Billing Fees - March	P0103559	20190052	04/22/2019	1,098.60
00198214	05/09/2019	T2 SYSTEMS CANADA INC Monthly charges for services t	P0102520	IRIS0000054264	04/23/2019	77.00
00198215	05/09/2019	TACOMA SCREW PRODUCTS INC STEEL WEDGE ANCHORS	P0103485	30027332	04/19/2019	45.55
00198216	05/09/2019	UNITED STATES TREASURY PAYROLL EARLY WARRANTS		OH011650	05/10/2019	453.44
00198217	05/09/2019	UNITED WAY OF KING CO PAYROLL EARLY WARRANTS		OH011648	05/10/2019	80.00
00198218	05/09/2019	UTILITIES UNDERGROUND LOCATION 2019 UTILITY LOCATE SERVICES	P0102658	9040186	04/30/2019	321.21
00198219	05/09/2019	VERIZON WIRELESS 2019 VERIZON WIRELESS	P0102717	9826765606	03/23/2019	3,043.73
00198220	05/09/2019	VERIZON WIRELESS CITYWORKS IPAD FOR JEEP	P0103616	9828746535	04/23/2019	240.08
00198221	05/09/2019	WALTER E NELSON CO INVENTORY PURCHASES	P0103552	700937	04/25/2019	1,703.35
00198222	05/09/2019	WESTHILL ELECTRONICS PSERN Inventory Requirements	P0103560	2638	04/20/2019	1,280.40
00198223	05/09/2019	WILBORN, DAVID Artists reception background m	P0103593	2715	04/29/2019	250.00

Accounts Payable Report by Check Number

Check No	Check Date	Vendor Name/Description	PO #	Invoice #	Invoice Date	Check Amount
00198224	05/09/2019	XEROX CORPORATION Lease and billable prints/copi	P0102593	096663277	04/20/2019	183.32
00198225	05/09/2019	XEROX CORPORATION Xerox invoice #096663279	P0103586	096663279	04/20/2019	156.31
00198226	05/09/2019	ZEE MEDICAL Medical supply cabinet refill	P0103607	68372705	02/27/2019	306.45
					Total	<u>315,100.15</u>

Accounts Payable Report by GL Key

PO #	Check #	Vendor:	Transaction Description	Check Amount
<i>Org Key: 402000 - Water Fund-Admin Key</i>				
P0103552	00198221	WALTER E NELSON CO	INVENTORY PURCHASES	1,703.35
P0103581	00198211	SUPPLY SOURCE INC,THE	INVENTORY PURCHASES	1,338.45
P0103551	00198166	EXCEL SUPPLY COMPANY	INVENTORY PURCHASES	423.96
P0103517	00198171	GRAINGER	INVENTORY PURCHASES	322.94
	00198183	MACKENZIE, ALAN P	OVERPAYMENT REFUND	284.06
P0103583	00198148	A.M. LEONARD INC	INVENTORY PURCHASES	242.59
P0103601	00198175	HOME DEPOT CREDIT SERVICE	INVENTORY PURCHASES	210.69
	00198208	STANLEY, PAULINA & MICHAEL	OVERPAYMENT REFUND	179.89
<i>Org Key: 814072 - United Way</i>				
	00198217	UNITED WAY OF KING CO	PAYROLL EARLY WARRANTS	80.00
<i>Org Key: 814074 - Garnishments</i>				
	00198157	CLERK OF COURT	PAYROLL EARLY WARRANTS	565.25
	00198216	UNITED STATES TREASURY	PAYROLL EARLY WARRANTS	453.44
<i>Org Key: 814075 - Mercer Island Emp Association</i>				
	00198190	MI EMPLOYEES ASSOC	PAYROLL EARLY WARRANTS	315.00
<i>Org Key: 814085 - GET Program Deductions</i>				
	00198170	GET Washington	PAYROLL EARLY WARRANTS	250.00
<i>Org Key: CA1100 - Administration (CA)</i>				
	00198200	PARK, BIO	PARKING & MILEAGE	41.34
<i>Org Key: CM1300 - Sustainability</i>				
P0103625	00198155	CEDAR GROVE COMPOSTING INC	Organic Waste 2 addtnl Bins (C	184.84
P0103625	00198155	CEDAR GROVE COMPOSTING INC	Organic Waste Service 4/2019 C	50.23
P0103625	00198155	CEDAR GROVE COMPOSTING INC	Organic Waste Service 4/2019 L	28.70
<i>Org Key: CM1400 - Communications</i>				
P0103513	00198154	CDW GOVERNMENT INC	Adobe Creative Cloud for Teams	1,014.66
<i>Org Key: CO6100 - City Council</i>				
P0103610	00198159	DANIEL, KAMARIA	MITV Council Mtg 4/16/19	390.00
P0103610	00198159	DANIEL, KAMARIA	MITV Council Mtg 4/30/19	390.00
P0103610	00198159	DANIEL, KAMARIA	MITV Council Mtg 4/2/19	330.00
P0103610	00198159	DANIEL, KAMARIA	MITV MISD Board Mtg 4/4/19	240.00
P0103610	00198159	DANIEL, KAMARIA	MITV MISD Mtg 4/25/19	240.00
P0103603	00198194	MORGAN SOUND INC	Service Call, Deliver and Repl	123.75
<i>Org Key: CT1100 - Municipal Court</i>				
P0103605	00198177	INTERCOM LANGUAGE SERVICES INC	Intercom invoice #19-141;	260.00
P0103586	00198225	XEROX CORPORATION	Xerox invoice #096663279	156.31
P0103504	00198160	DEPT OF ENTERPRISE SERVICES	Envelopes (custom) order #1395	160.56
<i>Org Key: DS1300 - Land Use Planning Svc</i>				
P0103601	00198175	HOME DEPOT CREDIT SERVICE	4' WOODEN STAKES	63.75
<i>Org Key: FN1100 - Administration (FN)</i>				
	00198176	HORIZON	LATE CHARGE	161.66
<i>Org Key: FN2100 - Data Processing</i>				

Accounts Payable Report by GL Key

PO #	Check #	Vendor:	Transaction Description	Check Amount
P0102377	00198189	MI CHAMBER OF COMMERCE	MONTHLY BILLING FOR SERVICES	1,200.00
<i>Org Key: FN4501 - Utility Billing (Water)</i>				
P0103098	00198188	METROPRESORT	APRIL 2019 PRINTING AND MAILIN	350.64
P0103098	00198188	METROPRESORT	APRIL 2019 PRINTING AND MAILIN	298.95
P0103617	00198220	VERIZON WIRELESS	CITYWORKS IPAD FOR JEEP	40.01
<i>Org Key: FN4502 - Utility Billing (Sewer)</i>				
P0103098	00198188	METROPRESORT	APRIL 2019 PRINTING AND MAILIN	350.64
P0103098	00198188	METROPRESORT	APRIL 2019 PRINTING AND MAILIN	298.95
<i>Org Key: FN4503 - Utility Billing (Storm)</i>				
P0103098	00198188	METROPRESORT	APRIL 2019 PRINTING AND MAILIN	350.63
P0103098	00198188	METROPRESORT	APRIL 2019 PRINTING AND MAILIN	298.94
<i>Org Key: FR1100 - Administration (FR)</i>				
P0103559	00198213	SYSTEMS DESIGN WEST LLC	Transport Billing Fees - March	1,098.60
	00198156	CENTURYLINK	PHONE USEAGE APR 2019	415.44
	00198156	CENTURYLINK	PHONE USEAGE MAY 2019	164.50
<i>Org Key: FR2100 - Fire Operations</i>				
P0103560	00198222	WESTHILL ELECTRONICS	PSERN Inventory Requirements	1,280.40
P0102405	00198165	EPSCA	MONTHLY RADIO ACCESS FEES 49 R	1,237.25
P0103563	00198179	KROESENS UNIFORM COMPANY	Maltese Service Crosses	111.98
P0102405	00198165	EPSCA	QTLY ACCESS FEE REBATE FIRE	-216.09
<i>Org Key: FR2400 - Fire Suppression</i>				
P0102874	00198182	LN CURTIS & SONS	100' 4" Hose/New Engine	5,058.13
P0102874	00198182	LN CURTIS & SONS	50' 4" Hose/New Engine	911.79
P0102874	00198182	LN CURTIS & SONS	25' 4" Hose/New Engine	741.66
<i>Org Key: FR2500 - Fire Emergency Medical Svcs</i>				
P0103561	00198149	AIRGAS USA LLC	Oxygen/Fire	35.00
<i>Org Key: GGM001 - General Government-Misc</i>				
P0103491	00198185	MANAGEMENT PARTNERS	Fiscal Sustainability Plan -	18,300.00
P0103568	00198210	SUMMIT LAW GROUP	Legal Services; Inv#:103024	5,100.00
P0103576	00198163	EFFICIENCY INC	FTR Renewal Council Chambers	1,255.10
P0103606	00198226	ZEE MEDICAL	Medical supply cabinet refill	240.37
P0103607	00198226	ZEE MEDICAL	Medical Supplies for vehicles	66.08
<i>Org Key: GGM004 - Gen Govt-Office Support</i>				
	00198161	DEPT OF ENTERPRISES SERVICES	WINDOW ENVELOPES PRINTING	201.89
	00198161	DEPT OF ENTERPRISES SERVICES	REG ENVELOPE PRINTING	188.08
<i>Org Key: IGV012 - MW Pool Operation Subsidy</i>				
P0102579	00198191	MI SCHOOL DISTRICT #400	MI Pool Operation Subsidy	11,611.88
<i>Org Key: IS2100 - IGS Network Administration</i>				
	00198156	CENTURYLINK	PHONE USEAGE APR 2019	2,071.07
	00198156	CENTURYLINK	PHONE USEAGE MAY 2019	546.31
P0103493	00198196	NETWORK COMPUTING ARCHITECTS	Cisco AnyConnect Client Annual	349.80
P0102376	00198184	MAGNAS LLC	MONTHLY LONG DISTANCE JAN-DEC	218.31
P0103616	00198220	VERIZON WIRELESS	IGS WIFI, LOANER, MDC1, FODEM	200.07

Accounts Payable Report by GL Key

PO #	Check #	Vendor:	Transaction Description	Check Amount
	00198193	MORENO, ALFREDO	PER DIEM REIMB	114.00
	00198156	CENTURYLINK	PHONE USEAGE MAY 2019	113.37
<i>Org Key: MT2100 - Roadway Maintenance</i>				
P0102613	00198146	RAINIER ASPHALT & CONCRETE	2019 UTILITY ASPHALT PH 2	32,570.49
	00198201	PUGET SOUND ENERGY	ENERGY USE MAY 2019	2,844.84
P0103545	00198162	DEPT OF TRANSPORTATION	SAND AND SALT	2,832.02
	00198201	PUGET SOUND ENERGY	ENERGY USE APRIL 2019	2,338.71
P0103573	00198162	DEPT OF TRANSPORTATION	SAND AND SALT DECEMBER 2018	459.87
P0103597	00198180	LAKESIDE INDUSTRIES	CLASS B ASPHALT (2.52 TONS)	213.44
	00198201	PUGET SOUND ENERGY	ENERGY USE MAY 2019	14.37
<i>Org Key: MT2255 - Urban Forest Management (ROW)</i>				
P0101184	00198173	HABITAT RESTORATION SPEC LLC	2018-19 RIGHT OF WAY PLANTING	875.40
P0101184	00198173	HABITAT RESTORATION SPEC LLC	10% RETAINAGE	280.20
<i>Org Key: MT2300 - Planter Bed Maintenance</i>				
	00198201	PUGET SOUND ENERGY	ENERGY USE APRIL 2019	13.94
<i>Org Key: MT2500 - ROW Administration</i>				
P0102454	00198202	REPUBLIC SERVICES #172	2019 ROW DISPOSAL/RECYCLING SE	2,118.15
<i>Org Key: MT3000 - Water Service Upsizes and New</i>				
P0102613	00198146	RAINIER ASPHALT & CONCRETE	2019 UTILITY ASHALT PH 2	15,041.38
<i>Org Key: MT3100 - Water Distribution</i>				
P0102613	00198146	RAINIER ASPHALT & CONCRETE	2019 UTILITY ASPHALT PH 2	6,270.79
P0103484	00198171	GRAINGER	TAPS, RATCHET & PIPE WRENCHES	400.37
	00198168	FENHAUS, JACOB	REGISTRATION & EXAM EXPENSE	188.74
P0103495	00198171	GRAINGER	TUBE CUTTING WHEELS	99.00
<i>Org Key: MT3200 - Water Pumps</i>				
	00198201	PUGET SOUND ENERGY	ENERGY USE APRIL 2019	2,659.58
	00198156	CENTURYLINK	PHONE USEAGE APR 2019	59.69
<i>Org Key: MT3300 - Water Associated Costs</i>				
P0102454	00198202	REPUBLIC SERVICES #172	2019 SEWER DISPOSAL/RECYCLING	235.35
<i>Org Key: MT3400 - Sewer Collection</i>				
P0103485	00198215	TACOMA SCREW PRODUCTS INC	STEEL WEDGE ANCHORS	45.55
<i>Org Key: MT3500 - Sewer Pumps</i>				
	00198201	PUGET SOUND ENERGY	ENERGY USE APRIL 2019	3,155.31
	00198156	CENTURYLINK	PHONE USEAGE APR 2019	505.01
<i>Org Key: MT3600 - Sewer Associated Costs</i>				
P0102454	00198202	REPUBLIC SERVICES #172	2019 WATER DISPOSAL/RECYCLING	235.35
<i>Org Key: MT3800 - Storm Drainage</i>				
P0102613	00198146	RAINIER ASPHALT & CONCRETE	2019 UTILITY ASPHALT PH 2	25,307.88
P0103597	00198180	LAKESIDE INDUSTRIES	CLASS B ASPHALT (2.5 TONS)	211.75
<i>Org Key: MT4150 - Support Services - Clearing</i>				
P0102717	00198219	VERIZON WIRELESS	2019 VERIZON WIRELESS	3,043.73
P0102658	00198218	UTILITIES UNDERGROUND LOCATION	2019 UTILITY LOCATE SERVICES	321.21

Accounts Payable Report by GL Key

PO #	Check #	Vendor:	Transaction Description	Check Amount
P0102405	00198165	EPSCA	MONTHLY RADIO ACCESS FEES 1 RA	25.25
P0102405	00198165	EPSCA	QTLY ACCESS FEE REBATE PUBLIC	-4.41
<i>Org Key: MT4200 - Building Services</i>				
	00198201	PUGET SOUND ENERGY	ENERGY USE APRIL 2019	6,637.39
	00198201	PUGET SOUND ENERGY	ENERGY USE APRIL 2019	2,579.02
<i>Org Key: MT4210 - Building Landscaping</i>				
P0102454	00198202	REPUBLIC SERVICES #172	2019 FACILITIES DISPOSAL/RECYC	235.34
<i>Org Key: MT4300 - Fleet Services</i>				
P0103619	00198147	NATIONAL TRUCK & PAINT SPECIAL	FL-0437 REPAIRS	22,080.05
P0102300	00198198	OVERLAKE OIL	2019 FUEL DELIVERY	4,649.13
P0102624	00198195	NAPA AUTO PARTS	2019 REAPIR PARTS/INVENTORY	497.85
P0103575	00198199	PACIFIC RUBBER	FLEET REPAIR PARTS	105.94
P0103488	00198171	GRAINGER	SNOWPLOW MARKER GUIDE (2PK)	100.56
P0103574	00198187	MERCER ISLAND CHEVRON	fuel	21.58
<i>Org Key: MT4501 - Water Administration</i>				
	00198156	CENTURYLINK	PHONE USEAGE APR 2019	54.81
<i>Org Key: PO1350 - Police Emergency Management</i>				
P0102405	00198165	EPSCA	MONTHLY RADIO ACCESS FEES 13 R	328.25
P0103615	00198207	SKYLINE COMMUNICATIONS INC	EOC INTERNET SERVICE	206.55
P0102405	00198165	EPSCA	QTLY ACCESS FEE REBATE EMAC	-57.33
<i>Org Key: PO1650 - Regional Radio Operations</i>				
P0102405	00198165	EPSCA	MONTHLY RADIO ACCESS FEES 59 R	1,515.00
P0102405	00198165	EPSCA	QTLY ACCESS FEE REFUND POLICE	-260.19
<i>Org Key: PO2100 - Patrol Division</i>				
	00198203	ROGGENKAMP, TODD	FUEL FOR VEHICLE 505	41.87
	00198197	ORMSBY, ANNA	MANUAL FOR CAR SEAT CHECKS	40.48
<i>Org Key: PO2200 - Marine Patrol</i>				
P0103600	00198153	CADMAN INC	1 YARD OF CONCRETE FOR MARINE	502.10
	00198169	GEHRKE, STORM	PER DIEM REIMB BML TRAINING	390.50
	00198174	HAMMER, SAMANTHA	PER DIEM REIMB	390.50
	00198205	SCHMALHOFER, GEORGE F	PER DIEM REIMB	390.50
<i>Org Key: PO2450 - Special Operations Team</i>				
	00198150	AMICI, DOMINIC	SWAT SCHOOL EXPENSES	2,082.34
	00198150	AMICI, DOMINIC	PER DIEM REIMB	429.00
	00198169	GEHRKE, STORM	PER DIEM REIMB SWAT SCHOOL	429.00
	00198204	RUTTER, ALEX	PER DIEM REIMB	429.00
	00198204	RUTTER, ALEX	FUEL FOR SWAT SCHOOL	128.68
	00198151	BASSETT, NANETTE	THRIFT STORE EXPENSES	61.30
<i>Org Key: PR1100 - Administration (PR)</i>				
P0103513	00198154	CDW GOVERNMENT INC	Adobe Creative Cloud for Teams	1,014.66
	00198156	CENTURYLINK	PHONE USEAGE MAY 2019	52.45
<i>Org Key: PR4100 - Community Center</i>				
	00198201	PUGET SOUND ENERGY	ENERGY USE MAY 2019	3,847.07

Accounts Payable Report by GL Key

PO #	Check #	Vendor:	Transaction Description	Check Amount
	00198201	PUGET SOUND ENERGY	ENERGY USE APRIL 2019	799.85
	00198156	CENTURYLINK	PHONE USEAGE APR 2019	52.45
P0103613	00198202	REPUBLIC SERVICES #172	Pickup Service for 2019	33.64
<i>Org Key: PR5400 - Gallery Program</i>				
P0103593	00198223	WILBORN, DAVID	Artists reception background m	250.00
<i>Org Key: PR6100 - Park Maintenance</i>				
	00198201	PUGET SOUND ENERGY	ENERGY USE APRIL 2019	1,750.51
P0103614	00198192	MI UTILITY BILLS	PAYMENT OF UTILITY BILLS FOR W	1,672.07
P0102454	00198202	REPUBLIC SERVICES #172	2019 PARKS DISPOSAL/RECYCLING	941.40
P0102906	00198178	KCDA PURCHASING COOPERATIVE	Replacement playground pieces	408.43
<i>Org Key: PR6200 - Athletic Field Maintenance</i>				
P0103614	00198192	MI UTILITY BILLS	PAYMENT OF UTILITY BILLS FOR W	588.30
P0103595	00198206	SHERWIN-WILLIAMS CO, THE	FIELD PAINT (BLUE & RED)	489.39
	00198156	CENTURYLINK	PHONE USEAGE APR 2019	92.12
	00198156	CENTURYLINK	PHONE USEAGE MAY 2019	86.34
<i>Org Key: PR6500 - Luther Burbank Park Maint.</i>				
P0103614	00198192	MI UTILITY BILLS	PAYMENT OF UTILITY BILLS FOR W	2,634.36
	00198201	PUGET SOUND ENERGY	ENERGY USE APRIL 2019	1,121.04
	00198156	CENTURYLINK	PHONE USEAGE APR 2019	215.80
<i>Org Key: PR6600 - Park Maint-School Related</i>				
	00198201	PUGET SOUND ENERGY	ENERGY USE APRIL 2019	499.47
P0103595	00198206	SHERWIN-WILLIAMS CO, THE	FIELD PAINT (BLUE & RED)	489.39
P0103580	00198152	BLUETARP CREDIT SERVICES	SPYKER ELECTRIC 120 LB SPREADE	333.28
<i>Org Key: PR6900 - Aubrey Davis Park Maintenance</i>				
P0103614	00198192	MI UTILITY BILLS	PAYMENT OF UTILITY BILLS FOR W	3,595.39
P0102454	00198202	REPUBLIC SERVICES #172	2019 PARKS DISPOSAL/RECYCLING	941.40
P0103580	00198152	BLUETARP CREDIT SERVICES	SPYKER ELECTRIC 120 LB SPREADE	999.86
P0102906	00198178	KCDA PURCHASING COOPERATIVE	Replacement playground pieces	408.43
	00198201	PUGET SOUND ENERGY	ENERGY USE APRIL 2019	172.01
P0102520	00198214	T2 SYSTEMS CANADA INC	Monthly charges for services t	77.00
<i>Org Key: WG101R - City Hall Building Repairs</i>				
P0101999	00198212	SUPPRESSION SYSTEMS INC	RETAINAGE	1,431.60
<i>Org Key: WG550R - Fuel Clean Up</i>				
P0099477	00198167	FARALLON CONSULTING LLC	PHASE 3 TECHNICAL SERVICES FOR	5,425.70
<i>Org Key: WR101R - Residential Street Improvement</i>				
P0102618	00198158	CM DESIGN GROUP	RESIDENTIAL STREET OVERLAY	41,083.83
<i>Org Key: WR919R - EMW Resurface 4300 to SE 53rd</i>				
P0102618	00198158	CM DESIGN GROUP	EMW OVERLAY	30,000.00
<i>Org Key: WW713T - SCADA System Upgrade</i>				
	00198186	MCDANIEL, BRIAN	TRAINING WORKSHOP	400.00
<i>Org Key: YF1100 - YFS General Services</i>				
P0102593	00198224	XEROX CORPORATION	Lease and billable prints/copi	183.32

Accounts Payable Report by GL Key

PO #	Check #	Vendor:	Transaction Description	Check Amount
<i>Org Key: YF1200 - Thrift Shop</i>				
P0102249	00198209	STRANGER, THE	Thrift Shop Advertising for 20	800.00
	00198201	PUGET SOUND ENERGY	ENERGY USE APRIL 2019	543.76
	00198156	CENTURYLINK	PHONE USEAGE MAY 2019	172.16
	00198181	LEICHTY, CARROLL	SUPPLIES	108.62
P0102239	00198172	GRAND & BENEDICTS INC	Operating supplies for the Thr	89.81
P0103582	00198164	EMEDCO	"KEEP AREA CLEAR" 3" ADHESIVE	94.97
	00198151	BASSETT, NANETTE	WATCHMAKER TOOLS	18.92
Total				<u>315,100.15</u>



CITY OF MERCER ISLAND CERTIFICATION OF PAYROLL

PAYROLL PERIOD ENDING

5.3.2019

PAYROLL DATED

5.10.2019

Net Cash	\$	626,510.72
Net Voids/Manuals	\$	17,414.19
Net Total	\$	643,924.91
Federal Tax Deposit - Key Bank	\$	108,640.28
Social Security and Medicare Taxes	\$	57,292.34
Medicare Taxes Only (Fire Fighter Employees)	\$	2,737.81
State Tax (Oregon)	\$	200.33
Public Employees Retirement System 1 (PERS 1)	\$	-
Public Employees Retirement System 2 (PERS 2)	\$	32,667.37
Public Employees Retirement System 3 (PERS 3)	\$	8,443.20
Public Employees Retirement System (PERSJM)	\$	792.58
Public Safety Employees Retirement System (PSERS)	\$	205.86
Law Enforc. & Fire fighters System 2 (LEOFF 2)	\$	27,248.30
Regence & LEOFF Trust - Medical Insurance	\$	13,144.22
Domestic Partner/Overage Dependant - Insurance	\$	1,942.03
Group Health Medical Insurance	\$	981.62
Health Care - Flexible Spending Accounts	\$	2,304.27
Dependent Care - Flexible Spending Accounts	\$	1,576.94
United Way	\$	80.00
ICMA Deferred Compensation	\$	35,860.13
Fire 457 Nationwide	\$	16,006.42
Roth - ICMA	\$	310.00
Roth - Nationwide	\$	819.36
401K Deferred Comp	\$	-
Garnishments (Chapter 13)	\$	565.25
Tax Levy	\$	453.44
Child Support	\$	599.99
Mercer Island Employee Association	\$	315.00
Cities & Towns/AFSCME Union Dues	\$	-
Police Union Dues	\$	-
Fire Union Dues	\$	1,882.47
Fire Union - Supplemental Dues	\$	148.00
Standard - Supplemental Life Insurance	\$	-
Unum - Long Term Care Insurance	\$	542.45
AFLAC - Supplemental Insurance Plans	\$	636.51
Coffee Fund	\$	160.00
Transportation	\$	137.08
HRA - VEBA	\$	4,199.13
Miscellaneous	\$	-
Nationwide Extra	\$	-
GET	\$	250.00
Oregon Transit Tax and Oregon Benefit Tax	\$	3.54
Tax & Benefit Obligations Total	\$	321,145.92

TOTAL GROSS PAYROLL	\$ 965,070.83
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I, the undersigned, do hereby certify under penalty of perjury that the materials have been furnished, the services rendered or the labor performed as described herein, that any advance payment is due and payable pursuant to a contract or is available as an option for full or partial fulfillment of a contractual obligation, and that the claim is a just, due and unpaid obligation against the City of Mercer Island, and that I am authorized to authenticate and certify to said claim.

Charles L. Conder

Finance Director

I, the undersigned, do hereby certify that the City Council has reviewed the documentation supporting claims paid and approved all checks or warrants issued in payment of claims.

Mayor

Date



CITY COUNCIL MINUTES SPECIAL MEETING APRIL 30, 2019

CALL TO ORDER & ROLL CALL

Mayor Debbie Bertlin called the meeting to order at 5:01 pm in the Council Chambers of City Hall, 9611 SE 36th Street, Mercer Island, Washington.

Mayor Debbie Bertlin, Deputy Mayor Salim Nice, and Councilmembers Lisa Anderl, Bruce Bassett, Wendy Weiker, and Benson Wong were present. Councilmember David Wisenteiner was absent.

AGENDA APPROVAL

It was moved by Nice; seconded by Wong to:

Approve the agenda as presented.

Passed: 6-0

FOR: 6 (Anderl, Bassett, Bertlin, Nice, Weiker, and Wong)

ABSENT: 1 (Wisenteiner)

EXECUTIVE SESSION

At 5:02 pm, Mayor Bertlin convened the Executive Session to discuss pending or potential litigation with legal counsel pursuant to RCW 42.30.110(1)(l) for approximately 60 minutes.

At 5:49 pm, Mayor Bertlin adjourned the Executive Session and Council took a brief break.

Mayor Bertlin convened the Regular Meeting at 6:00 pm.

STUDY SESSION

AB 5547: Mercer Island Transit Interchange and King County Metro Concurrence with ST Settlement Agreement

Senior Project Manager Kirsten Taylor, Assistant City Engineer Anne Tonella-Howe, and Michael Lapham of KPG, the City's on-call traffic engineering firm, provided analysis of Sound Transit's Mercer Island Transit Interchange Operational and Configuration Study, the 77th Avenue SE and North Mercer Way roundabout design, and recommendations for pedestrian and bicycle improvements to enhance safety and access to the light rail station.

Mr. Lapham also reviewed the potential southbound 80th Avenue SE local bus stop, explaining that the bus stop could be included initially and later removed or simply added later. He also explained that the Study did not identify safety issues with design of the roundabout or new bus layover spaces on North Mercer Way and recommended restricting northbound left turns when the pedestrian crossing phase is activated as this will reduce the potential for vehicle-pedestrian collisions.

Council asked several questions and reached consensus that Mayor Bertlin, Deputy Mayor Nice, and Councilmember Anderl would consult with City Manager Underwood and Senior Project Manager Taylor to respond to Council questions at its Regular Meeting on May 7.

APPEARANCES

Jackie Dunbar, Mercer Island, spoke about keeping the budget surplus in the reserves for future use and encouraged Council to fund lifeguards with some of the surplus.

Tom Acker, Mercer Island, does not support a counselor only levy as he believes it should be priority in the City budget, but he does support a parks levy for capital infrastructure needs. He supports the Council decision to review the Mercer Island Transit Interchange further before making a decision.

Ira Appelman asked why mental health counselors are in each school, all day long. He believes the program is too large and that two elementary schools should share a counselor.

Gary Robinson spoke about misgivings with Sound Transit and that Mercer Island needs a proactive plan for the Transit Interchange.

SPECIAL BUSINESS

AB 5553: Youth & Family Services (YFS) Department Funding History & Proposed Budget Adjustments to 2019-2020 YFS Fund Budget

Youth and Family Services Director Cindy Goodwin outlined the history of YFS and its funding configuration. She also provided an overview of the Thrift Shop, its business practices, sales, and volunteerism and staffing history. YFS Director Goodwin then outlined the 2019-2020 Budget reductions and restorations, the 2020 deficit spending reductions, and the school counseling fees pilot project.

Council asked staff if the revenue that is needed for 2020 could be generated by the Thrift Shop. Thrift Shop Business Coordinator Suzanne Philen noted that adding an apparel position and donation attendant position would generate close to that amount, by capturing the value coming in the door instead of sending it to Goodwill. Council directed staff to come back with the next phase of the Thrift Shop staffing model to generate \$109,000 in revenue for 2020 needs.

Jody Kris, MIYFS Foundation President, spoke about the MIYFS & MISD Foundations deep desire to keep full time mental health counselors in the schools. She noted that when they heard that the City may have funds to cover the costs, they decided that they would rather set those funds aside to help in the future when the cuts are deeper. She also noted that the Mercer Island Coalition is a community group and that staff has not been attending meeting, but rather have only been providing data and information to guide their work.

It was moved by Weiker; seconded by Wong to:

Decline the \$87,000 generous donation from the Mercer Island Youth and Family Services Foundation and the Mercer Island Schools Foundation restore the Elementary School Mental Health Counselors

Passed: 6-0

FOR: 6 (Anderl, Bassett, Bertlin, Nice, Weiker, and Wong)

ABSENT: 1 (Wisenteiner)

It was moved by Weiker; seconded by Bassett to:

Approve the proposed YFS Fund deficit spending reductions in the amount of \$315,307 for 2020 by:

- 1. Increasing community-based counseling fees**
- 2. Generating revenue from the proposed school counseling fees (pilot project)**
- 3. Eliminating the Administrative Coordinator position (1.0 FTE)**
- 4. Eliminating the pay-for-performance program**
- 5. Adding back the Administrative Assistant (0.5 FTE) for 2020**
- 6. Using \$61,360 in 2019 salary savings**

Passed: 5-1

FOR: 5 (Anderl, Bassett, Bertlin, Nice, and Weiker)

AGAINST: 1 (Wong)

ABSENT: 1 (Wisenteiner)

It was moved by Bassett; seconded by Wong to:

Prepare budget adjustments as part of the First Quarter 2019 Financial Status Report to appropriate \$170,000 from 2018 YFS Fund Budget Savings or from Thrift Shop sales to fully fund the Elementary School Counselors and Administrative Support in 2019 and 2020.

Passed 6-0

FOR: 6 (Anderl, Bassett, Bertlin, Nice, Weiker, and Wong)

ABSENT: 1 (Wisenteiner)

It was moved by Nice; seconded by Wong to:

Set aside \$109,000 from the 2018 General Fund Budget Savings or from additional Thrift Shop revenues should the school counseling fees pilot project not come to fruition. Before General Fu

Failed: 0-6

AGAINST: 6 (Anderl, Bassett, Bertlin, Nice, Weiker, and Wong)

ABSENT: 1 (Wisenteiner)

It was moved by Bertlin; seconded by Nice:

Motion to Amend: Set aside \$109,000 from the 2018 General Fund Budget Savings or from additional YFS revenues should the school counseling fees pilot project not come to fruition.

Failed 0-6

AGAINST: 6 (Anderl, Bassett, Bertlin, Nice, Weiker, and Wong)

ABSENT: 1 (Wisenteiner)

It was moved by Bassett; seconded by Weiker:

Set aside \$109,000 from the 2018 General Fund Budget Savings should the school counseling fees pilot project not come to fruition.

Passed 5-1 (Anderl dissented)

Absent 1 (Wisenteiner)

It was agreed that City Manager Underwood would coordinate Thrift Shop tours for Councilmembers.

AB 5554: Planning Commission's Recommendation for Code Cleanup Amendments (1st Reading)

Community Planning and Development (CPD) Director Evan Maxim and CPD Planner Andrew Leon reviewed the proposed amendments with Council as follows:

- Clarifying Amendments
 - Amendments to MICC 19.01, 19.02, 19.04, and 19.16
- Noticing Amendment – proposes to revert the noticing requirements for major single-family dwelling building permits to the requirements under Ordinance 17C-12
- Department Name Amendments
 - Name change from “Development Services Group” to “Community Planning and Development Department”

The City Council provided further direction on the amendments, particularly surrounding railings on rooftop decks. Staff will incorporate the City Council’s direction in the draft development regulations prior to adoption on the May 21 agenda.

It was moved by Bassett; seconded by Wong to:

Set Ordinance No. 19C-04 for second reading and adoption on the May 21, 2019 Consent Calendar.

Passed: 6-0

FOR: 6 (Anderl, Bassett, Bertlin, Nice, Weiker, Wisenteiner, and Wong)

ABSENT: 1 (Wisenteiner)

OTHER BUSINESS

Councilmember Absences

Councilmember Wisenteiner's absence was excused.

Mayor Bertlin will be absent June 4.

Planning Schedule

Assistant to the City Manager Ali Spietz reviewed the Planning Schedule and upcoming meetings:

- TBD - Study Session with Mercer Island Coalition
- July 17: Special Joint Meeting with Planning Commission

- August 20: Potentially Canceled
- September 3: Cancel or move (9/10) due to Labor Day?
- September 10: Special meeting (rescheduled 9/3)?
- October 1: Cancel? Rosh Hashanah is 9/29-10/1. Meeting cannot move to October 8 as Yom Kippur is 10/8-10/9
- October 15: Joint Meeting with MISD Board, 6-7pm?
- November 5: Cancel or move (11/12) due to Election Day (
- November 12: Special meeting (rescheduled 11/5)?

Council will make decisions on these proposed changes later in the summer.

Board Appointments

Mayor Bertlin noted that Boards and Commissions applications are still being accepted.

Councilmember Reports

Councilmember Bassett spoke about the climate bill signing by the Governor on May 7 in Seattle.

ADJOURNMENT

The Regular Meeting adjourned at 10:19 pm.

Debbie Bertlin, Mayor

Attest:

Deborah A. Estrada, City Clerk



CITY COUNCIL MINUTES REGULAR MEETING MAY 7, 2019

CALL TO ORDER & ROLL CALL

Mayor Debbie Bertlin called the meeting to order at 6:00 pm in the Council Chambers of City Hall, 9611 SE 36th Street, Mercer Island, Washington.

Mayor Debbie Bertlin, Deputy Mayor Salim Nice, and Councilmembers Lisa Anderl (arrived 6:02 pm), Bruce Bassett, Wendy Weiker (arrived 6:02 pm), David Wisenteiner, and Benson Wong were present.

AGENDA APPROVAL

It was moved by Bassett; seconded by Nice to:

Approve the agenda as presented.

Passed: 5-0

FOR: 5 (Bassett, Bertlin, Nice, Wisenteiner, and Wong)

ABSENT: 2 (Anderl, Weiker)

STUDY SESSION

AB 5558: ARCH Operations and Management

Lindsay Masters, Executive Manager for A Regional Coalition of Housing (ARCH) presented an overview of ARCH including the governance and organizational structure, the budget and work plan, and Housing Trust Fund allocations. She explained that ARCH works directly with private developers, financial institutions, non-profit corporations, and other public entities to assist in the implementation of affordable housing projects. She also spoke about the Housing Trust Fund parity goals and member contributions.

She reviewed ARCH's work in housing policy and planning, housing program administration and stewardship, and education and public outreach. She provided information about low- and moderate-income affordable units created through City incentive programs for all ARCH cities from 1992 to 2018.

Ms. Masters presented the ARCH 2019 Work Program priority objects for 2019:

- Strengthen program administration and monitoring functions.
- Coordinate and facilitate transit-oriented development projects on public land.
- Develop proposals for dedicated revenue sources for affordable housing.
- Pursue Strategies to increase access to housing by underserved communities.

She also presented the City of Mercer Island Work Program Activities:

- Assist with review of the City's MFTE program and evaluating options for a fee-in-lieu alternative to land use requirements.
- Assist City with a Housing Strategy Plan.
- As needed, assist City staff with components of residential development standards review that are associated with housing stock diversity.
- As needed, assist City staff with administering affordable housing provisions associated with the land use incentive and tax exemption programs for Town Center.
- Provide project support for Town Center development projects that include affordable housing.

Ms. Masters spoke about the recent new reports about homeowners living in affordable homes administered by ARCH that were not in compliance with program rules, mainly that owners were not using the units as their principle residence, are mandated in agreements signed by the buyers. She stated that staff are directly addressing all the violations that were brought to light and auditing the program by reviewing every single unit

against different data sets and responding to any information received about owners not in compliance with the program. She also spoke about needing to step back and determine how the program got to this place and what are the practices and policies that need to be reviewed to prevent it from happening in the future. She explained that the ARCH Executive Board contracted with a consultant to review the program, who will provide a series of recommendations to the Board to implement. These recommendations will go to the City Councils of member cities for review and prioritization.

The Council requested that the ARCH 2019 Administrative Budget and Work Program and ARCH 2018 Trust Fund Approval agenda items be placed under Regular Business on the May 21 agenda.

CITY MANAGER REPORT

City Manager Julie Underwood thanked City Attorney Kari Sand for her service to Mercer Island and spoke about her accomplishments during her tenure at the City. Her last day is May 10. Councilmembers thanked Kari for her guidance, professionalism, hard work, and dedication.

City Manager Julie Underwood reported on the following:

- Congratulations to the MIYFS team for successfully securing a \$50,000 Health Care Authority Transformational Enhancement Grant!
- Congratulations to the Parks & Rec team for securing a \$20,000 Get Active Stay Active Grant from King County Councilmember Claudia Balducci!
- \$500,000 allocated from the State's Capital Budget for our Aubrey Davis Park Trail Upgrade project!
- Help shape the future of Aubrey Davis Park by participating in the City's online survey by visiting: Letstalk.mercergov.org/Aubreydavis available through June 7
- Vision 2050 Process Update: City submitted comments before the comment period closed, supporting "Staying the Course"
- Neighbors in Motion First Aid Class on Saturday, Jun. 1, 9:00am-1:00pm at Mercer Island Fire Station No. 91 (Town Center)

City Manager Underwood also announced her resignation and that her last day with the City will be June 7. She stated that while she has served for nearly two and a half years, and there is yet more work to be done, the role of City Manager in this community is calling for a style of management that is different from her leadership vision.

Mayor Bertlin noted that the Council has regrettably accepted Julie's resignation. She explained that she, the Deputy Mayor, and City staff will be meeting soon to talk about appointing an interim City Manager and that the goal is to name someone before Julie's departure on June 7. She explained that they will bring back the authorization to appoint or hire an interim at the May 21 or June 4 Council meeting and that once an interim City Manager is in place, they will work on the timeline for a permanent hire.

APPEARANCES

Eric Radman, Mercer Island, spoke to the Council about banning fireworks on Mercer Island. He noted that one of the largest and most devastating wildfires in the Northwest was caused by a firework. He asked that if the Council would not ban fireworks to at least ban sparklers due to the high burn heat.

George Wittman, Mercer Island, wanted the Council to hear a positive viewpoint about the importance and uniqueness of ARCH. He encouraged the Council to continue to support ARCH.

Lucia Pirzio-Biroli, Mercer Island, spoke about housing and homelessness issues in the greater Seattle area. She encouraged the Council to maintain support of ARCH as it makes good economic sense in the City's current financial situation.

Ira Appelman, Mercer Island, is unsatisfied with the ARCH presentation at the Study Session. He is concerned about the oversight of the program and that no action has been taken in response to the recent allegations in the news. He acknowledged that ARCH fulfills an important mission, but that something must change in oversight. He also spoke about upzoning in the Seattle area destroying affordable housing.

Matthew Goldbach, Mercer Island, spoke about the recommendation to suspend the Rules of Procedure for a second reading of an ordinance regarding the 2018 year end report. He also asked if there was a staff report regarding the Mercer Island Transit Interchange. He also noted that there was nothing in the TIP about the intersection in front of the Stroum Jewish Community Center.

CONSENT CALENDAR

Deputy Mayor Salim Nice requested the removal of AB 5562: Soil Remediation Appropriation Request from the Consent Calendar. Mayor Bertlin moved it to the first item of Regular Business.

Payables: \$178,094.16 (04/18/2019) & \$526,536.24 (04/25/2019)

Recommendation: Certify that the materials or services hereinbefore specified have been received and that all warrant numbers listed are approved for payment.

Payroll: \$871,572.46 (04/26/2019)

Recommendation: Certify that the materials or services specified have been received and that all fund warrants are approved for payment.

Minutes: April 16, 2019 Regular Meeting

Recommendation: Adopt the April 16, 2019 Regular Meeting minutes as written.

AB 5557: 2019 Arterial and Residential Street Overlays

Recommendation: Award Schedules 'A', 'B', 'C', and 'D' of the 2019 Arterial and Residential Street Overlays project to Lakeside Industries in the amount of \$1,668,155. Set the total project budget to \$1,973,607.00 and direct the City Manager to execute the construction contract.

It was moved by Nice; seconded by Wong to:

Approve the Consent Calendar and the recommendations contained therein.

Passed 7-0

FOR: 7 (Anderl, Bassett, Bertlin, Nice, Weiker, Wisenteiner, and Wong)

Councilmember Bassett acknowledged the work that goes into the annual arterial and residential street overlay project and thanked staff for this work to make the roads safe.

PUBLIC HEARING

AB 5556: 2020-2025 Six-Year Transportation Improvement Program (TIP) Public Hearing & Review

Mayor Bertlin opened the public hearing at 7:44 pm.

Roberta Lewandowski, Mercer Island, thanked staff for the tool to look at a map and see what was being proposed. She spoke about making the Town Center pedestrian friendly. She supports Neighbors In Motion's request to finish the north-south bike route. She stated that Island Vision thinks it is important to update the Pedestrian and Bicycle Facilities Plan sooner rather than later.

Kirk Griffin, Mercer Island, member of Neighbors In Motion, urged Council to support the following project: paving the East and West Mercer Ways shoulder sections, the north-south bike route, Safe Routes to School for kids to ride bikes to school, and the Aubrey Davis Master Plan.

Trever Reed, Mercer Island, encouraged the City to adopt the National Association of City Transportation Officials' Ages & Abilities criteria for selecting and implementing bike facilities.

Jim Stanton, Mercer Island, spoke about a post on NextDoor about someone's experience with e-bikes and comments about the difficulty to move around the Island on a bike. He asked the Council to move up the north-south bike route project before light rail comes in 2023.

Mayor Bertlin closed the public hearing at 8:01 pm.

City Engineer Patrick Yamashita presented the 2020-2025 Transportation Improvement Program (TIP). He reviewed the program elements including project descriptions, project maps, public comments, Street Fund balance and new projects/changes from previous TIP.

He noted that TIP priorities are established in the Comprehensive Plan & CIP Budget Policies and focus on “reinvestment” (maintaining existing facilities) over constructing new facilities. He also reminded Council that TIP funds are limited. He spoke about Initiative 976 which could repeal City authority to use Transportation Benefit Districts as revenue source resulting in a loss of ~\$375K/year for Mercer Island.

He noted that the TIP public comment period of 30 days was advertised on City website, Let’s Talk, MI Weekly, and MI Reporter and that most of the comments were related to pedestrian & bicycle facilities (PBF). He spoke about preservation projects versus new construction projects and reviewed a few notable projects: Mercer Way Shoulder Development, Town Center Sidewalk Replacement Pilot Project, and North-South Bike Route on Island Crest Way.

Senior Project Manager Kirsten Taylor presented information for the Council to continue their discussion of the goals and criteria for selecting projects and programs using ST settlement funds. The Council affirmed the ST Settlement fund goals as follows:

1. Mitigate the loss of access from closure of the center roadway.
2. Improve access to transit and maximize the largest number of residents using transit.
3. Improve vehicular circulation as well as pedestrian and bicycle safety near the light rail station.
4. Leverage partnerships to share costs and resources and use settlement funds effectively.

Ms. Taylor then reviewed the criteria categories for selecting projects and programs, which the Council confirmed, as follows:

1. General
2. Pedestrian, Bicycle, and Vehicular Improvements
3. On Time, On Budget
4. Sustainability and Innovation

Councilmember Bassett requested permission from the Council to have conversations with Sound Transit, as an individual Councilmember, regarding possible future programs for first/last miles solutions on Mercer Island. Council concurred.

City Engineer Yamashita noted that adoption of the 2020-2025 Transportation Improvement Plan is scheduled for June 4. The Council asked questions about specific projects but made no substantive changes.

REGULAR BUSINESS

AB 5562: Soil Remediation Appropriation Request

Deputy Mayor Salim Nice asked for Council support to change the funding ratio to include water, sewer, and stormwater funds.

It was moved by Nice; seconded by Wong to:

Appropriate \$152,399 for soil remediation at the 9555 Site with approximately 74% from the 2018 General Fund expenditure savings and approximately 26% allocated across the Utility Funds based on budgeted fleet M&O costs in 2019.

Passed 7-0

FOR: 7 (Anderl, Bassett, Bertlin, Nice, Weiker, Wisenteiner, and Wong)

AB 5564: 2018 Year-end Financial Status Report & 2019 Budget Adjustments

Assistant City Manager and Finance Director Chip Corder presented the 2018 Year-End Financial Status Report. He reported on the 2108 General Fund budget to actuals and fund balance of \$1,432,149 due to surplus savings of one-time reimbursements/refunds from the Department of Labor & Industries and Recology, and budget savings mostly due to position vacancies and unspent budget in contracted services.

He noted that staff will return in the fall of 2019 for disposition of the funds.

Director Corder also spoke about real estate excise tax (REET) and noted that it was down 32% from 2017 to 2018. He presented an ordinance to amend the 2019-2020 budget including previously approved, but not formally adopted carryovers and adjustments as well as two new requests for accepting a grant and a rate study carryover.

It was moved by Bassett; seconded by Wong to:

Suspend the City Council Rules of Procedure 6.3, requiring a second reading for an ordinance.

Passed 7-0

FOR: 7 (Anderl, Bassett, Bertlin, Nice, Weiker, Wisenteiner, Wong)

It was moved by Bassett; seconded by Wong to:

Adopt Ordinance No. 19-08, amending the 2019-2020 Budget.

Passed 7-0

FOR: 7 (Anderl, Bassett, Bertlin, Nice, Weiker, Wisenteiner, Wong)

No AB: Continued Discussion on the Mercer Island Transit Interchange

City Manager Underwood explained that this item was added to the agenda to obtain clarity about how the Council wants to move forward with making the decision on the Mercer Island Transit Interchange configuration. Senior Project Manager Kirsten Taylor outlined the next steps for the process for making a decision.

Mayor Bertlin stated that this discussion is to determine the process for deciding on the Improved or Optimal configuration for the Mercer Island Transit Interchange. Following Council discussion:

1. The Council confirmed that staff has received final remaining questions and requests for information from Council regarding bus/rail integration.
2. Mayor Bertlin, Deputy Mayor Nice, and Councilmember Anderl will consult with the City Attorney to determine if any of the questions/requests are outside the scope of the Settlement Agreement, and if so, they will be removed from the list.
3. Staff will send the list of questions to ST/Metro once finalized.
4. Staff will schedule small group meetings for Council with Sound Transit and Metro staff to discuss the list of remaining questions.
5. Council will share what they have learned from the small group meetings at a future Council meeting.
6. The expectation is that staff will bring this back for Council decision no later than June 2019.

OTHER BUSINESS

Councilmember Absences

Mayor Bertlin will be absent June 4 and possibly June 21.

Planning Schedule

City Manager Underwood noted the following:

- The Study Session with the Mercer Island Coalition will be postponed.
- YFS Director Cindy Goodwin will bring back the next phase of the Thrift Shop staffing model changes on June 4.
- A Study Session has been added to June 4 regarding a potential pilot project for short term commuter parking.
- The Interim City Manager recommendation will come back on May 21 or June 4.

Board Appointments

There were no appointments.

Councilmember Reports

Councilmember Bassett spoke about attending the signing of clean energy bills and getting a tour of the Cedar Grove facilities.

Mayor Bertlin spoke about the upcoming ETP meeting presentation regarding water transportation initiatives.

ADJOURNMENT

The Regular Meeting adjourned at 11:02 pm.

Debbie Bertlin, Mayor

Attest:

Allison Spietz, Assistant to the City Manager



BUSINESS OF THE CITY COUNCIL
CITY OF MERCER ISLAND, WA

AB 5568
May 21, 2019
Consent Calendar

Table with 3 columns: Planning Commission's Recommendation for Code Cleanup Amendments (2nd Reading & Adoption), Action: Adopt Ordinance No. 19C-04, and checkboxes for Discussion Only, Action Needed (Motion, Ordinance, Resolution).

Table with 2 columns: Department of (Community Planning and Development), Council Liaison (n/a), Exhibits (1. Ordinance No. 19C-04 with Attachment A), 2019-2020 City Council Priority (n/a), and Approved by City Manager.

Table with 3 columns: Amount of Expenditure, Amount Budgeted, and Appropriation Required, all with values in dollars and n/a.

SUMMARY

At the April 30, 2019 Council meeting, staff presented the Planning Commission's recommended code amendments to development standards within the MICC that are unclear, internally inconsistent, or conflict with recent updates (see AB 5554). The non-substantive amendments associated with Ordinance No. 19C-04 fall into three categories:

- A. Clarifying Amendments: These edits are intended to clarify the existing standards and definitions and involve minor edits to the code, to improve consistency and correct errors.
B. Noticing Amendment: The proposed noticing amendment corrects the "doubling" of noticing, by only requiring an NOA for a "Major Single-Family Dwelling" building permit.
C. Department Name Amendments: These amendments changed the name of the then "Development Services Group" to the "Community Planning and Development Department" throughout the MICC.

The City Council provided further direction on the amendments, particularly surrounding railings on rooftop decks. Staff has incorporated the City Council's direction in the draft development regulations, shown with yellow highlighting in Exhibit 1.

RECOMMENDATION

Planning Commission, Planner, and CPD Director

MOVE TO: Adopt Ordinance No. 19C-04 amending Title 19 MICC to clarify development standards and rename the Development Services Group to the Community Planning and Development Department.

**CITY OF MERCER ISLAND
ORDINANCE NO. 19C-04**

**AN ORDINANCE OF THE CITY OF MERCER ISLAND AMENDING
TITLE 19 MICC TO CLARIFY DEVELOPMENT STANDARDS AND
RENAME THE DEVELOPMENT SERVICES GROUP TO THE
COMMUNITY PLANNING AND DEVELOPMENT DEPARTMENT.**

WHEREAS, the Mercer Island City Code (MICC) establishes development regulations that are intended to implement the Mercer Island Comprehensive Plan pursuant to RCW 36.70A.040; and

WHEREAS, the Mercer Island City Council determined that amendments to the development regulations were necessary to ensure that residential development was occurring consistent with the provisions of the Mercer Island Comprehensive Plan; and

WHEREAS, the Mercer Island City Council directed the Planning Commission to periodically review Title 19 of the Mercer Island City Code and recommend amendments to clarify the regulations to the City Council; and

WHEREAS, the Mercer Island Planning Commission held two public meetings on October 17, 2018 and December 5, 2018 and held a public hearing on March 20, 2019 to consider clarifying amendments to the development standards; and

WHEREAS, the City seeks to emphasize that the focus of the Development Services Group department should be primarily on community planning and consequently has determined that the “Development Services Group” department should be renamed the “Community Planning and Development Department”; and

WHEREAS, the MICC contains numerous references to the “Development Services Group”; and

WHEREAS, a SEPA Determination of Non Significance was issued by the City on February 19, 2019; and

WHEREAS, the Washington Department of Commerce granted expedited review of the proposed amendments to the development regulations on April 24, 2019;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MERCER ISLAND, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1: **Adoption of amendments to Title 19 of the Mercer Island City Code.** The amendments to the Mercer Island City Code as set forth in Attachment “A” to this ordinance are hereby adopted.

Section 2: **Adoption of department name change in the Mercer Island City Code.** Whenever the term “Development Services Group” or “DSG” is used in the

Mercer Island City Code or any ordinance or resolution, it shall in the future be referred to as the “Community Planning and Development Department” or “CPD”

Section 3: **Codification of the regulations.** The City Council authorizes the Community Planning and Development Director and the City Clerk to correct scrivener’s errors in Attachment A, codify the regulatory provisions of the amendment into Title 19 of the Mercer Island City Code, and publish the amended code.

Section 4: **Interpretation Authorized.** The City Council authorizes the Community Planning and Development Director to adopt administrative rules, interpret, and administer the amended code as necessary to implement the legislative intent of the City Council.

Section 5: **Severability.** If any section, sentence, clause or phrase of this Ordinance or any Mercer Island City Code section amended hereby should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of any other section, sentence, clause or phrase of this Ordinance or the amended code section.

Section 6: **Ratification.** Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.

Section 7: **Effective Date.** This Ordinance shall take effect and be in force on 5 days after its passage and publication.

PASSED by the City Council of the City of Mercer Island, Washington at its regular meeting on the _____ day of _____ 2019 and signed in authentication of its passage.

CITY OF MERCER ISLAND

Debbie Bertlin, Mayor

Approved as to Form:

ATTEST:

Bio F. Park, Interim City Attorney

Deborah A. Estrada, City Clerk

Date of Publication: _____

1 **PLANNING COMMISSION – RECOMMENDATION DRAFT**
2 **Draft Zoning Text Amendments**
3 **2018 Code Cleanup**
4
5

6 19.01.050 Nonconforming structures, sites, lots and uses.
7 ...

8 D. Exterior Alteration or Enlargement of Nonconforming Structures.

9 1. Detached Single-Family Residential Structures.
10 ...

11 b. Intentional Exterior Alteration or Enlargement.

12 i. Detached Single-Family Dwelling. A legally nonconforming detached single-
13 family dwelling may be intentionally altered or enlarged without losing its legal
14 nonconforming status as long as no more than 40 percent of the length of the
15 dwelling's existing exterior walls, excluding attached accessory buildings, are
16 structurally altered. Any portion of the length of existing walls that are
17 structurally altered shall be included in calculating the 40-percent threshold. In
18 no event shall the alteration or enlargement increase any existing
19 nonconforming aspect of the dwelling or create any new nonconformance.
20 Legal nonconforming status shall be lost, and the structure shall be required to
21 come into conformance with current code requirements, if the 40-percent
22 threshold is exceeded. An increase in height of that portion of a structure that is
23 legally nonconforming because it intrudes into a required yard is an increase in
24 the nonconformity and is not allowed unless the additional height meets the
25 current yard requirements of MICC 19.02.020(C)(1) except:

26 ...
27 ii. Accessory Buildings or Structures. A legally nonconforming attached or
28 detached accessory building or structure, including but not limited to a carport,
29 garage, shed, gazebo, deck or fence, may be altered or enlarged without losing
30 its legal nonconforming status as long as no more than 40 percent of its existing
31 exterior perimeter (or length in the case of a fence) is structurally altered. A wall
32 that is shared with the main dwelling shall not be included in the calculation for
33 the attached accessory building. In no event shall any alteration or enlargement
34 increase any existing nonconforming aspect of the building or structure or
35 create any new nonconformance. Legal nonconforming status shall be lost, and
36 the structure shall be required to come into conformance with current code
37 requirements, if the 40-percent threshold is exceeded.

38 iii. Structural Alteration Calculation. For the purposes of determining the
39 percentage of exterior walls of a nonconforming structure that is being
40 structurally altered, the following calculation applies:

41
42 Formula: Percentage of exterior walls altered = (sum of the length of
43 existing exterior walls to be structurally altered) ÷ (sum of the
44 length of existing exterior walls)

45
46 Where:

47 (A) The “sum of the length of existing exterior walls to be structurally
48 altered” is the sum of each wall segment that is completely demolished.

1 (B) The “sum of the length of exterior walls” is the sum of the lengths of
2 each exterior wall segment of a structure or building.

3 (C) For the purposes of this subsection, a wall segment is “completely
4 demolished” when any portion of the wall is completely removed, such
5 that no structural elements remain.

6 (D) For the purposes of this subsection, the “wall segment” is the
7 horizontal length of each continuous exterior wall plane or façade,
8 provided that each building modulation (e.g. a bay window bump-out)
9 shall be accounted for as a separate exterior wall plane. For example,
10 the sum of the length of the exterior wall segments for a building that is
11 a perfect cube with a dimension of 50 horizontal feet on each side of
12 the house, is 200 feet. The same building with a second story bay
13 window bump out dimensioned 2 feet by 10 feet by 2 feet, has a sum of
14 214 feet.

15
16 iv. Roof Repair and Replacement. The roof of a nonconforming structure may be
17 repaired, including total replacement, provided that there is no expansion of
18 any existing nonconformity. Repair or replacement of a roof does not constitute
19 structural alteration of exterior walls.

20 v. Cumulative Time Limit. The maximum cumulative structural alteration of a
21 legally nonconforming structure, as described in subsections (i) and (ii) above, is
22 40 percent within any five-year period. The five-year period includes the
23 cumulative total of the work authorized by a permit application, and the work
24 conducted within the five years immediately prior to demolition or construction
25 authorized by the permit application. Legal nonconforming status shall be lost,
26 and the structure shall be required to come into conformance with current code
27 requirements, if the cumulative 40-percent threshold is exceeded within the
28 five-year time limit.

29 ...
30 F. Nonconforming Sites.

31 ...
32 3. Landscaping, Open Space and Buffer Requirements.
33 ...

34 b. Lot Coverage – Single-Family Dwellings. A site developed with a single-family dwelling
35 that is legally nonconforming because the required landscaping area pursuant to
36 Chapter 19.02 MICC has not been provided, or because maximum allowable hardscape
37 has been exceeded, can be increased in height and gross floor area (up to the maximum
38 height and gross floor area permitted). No new hardscape or further reduction in
39 landscaping area is permitted unless:

- 40 i. The site is either brought into conformance with all applicable lot coverage
41 requirements of MICC 19.02.020; or
42 ii. For lots where the ~~minimum~~-maximum hardscape is exceeded, two square
43 feet of legally existing hardscape are removed for every one square foot of new
44 hardscape; or
45 iii. For lots where the maximum lot coverage is exceeded, two square feet of
46 landscaping area are provided for every one square foot of additional
47 nonlandscaping area.

1
2 19.02.010 Single-family.
3 A. Uses Permitted in Zones R-8.4, R-9.6, R-12, and R-15.

4 ...
5 13. Open Space.
6 ...

7 19.02.020 Development standards.
8 ...
9 C. Yard Requirements.

10 ...
11 2. Yard Determination.

12 a. Front Yard. ~~The front yard is the yard abutting an improved street from which the lot~~
13 ~~gains primary access or the yard abutting the entrance to a building and extending the~~
14 ~~full width of the lot. If this definition does not establish a front yard setback, the code~~
15 ~~official shall establish the front yard based upon orientation of the lot to surrounding~~
16 ~~lots and the means of access to the lot.~~

17 i. Front Yard – General. For lots that are not corner lots or waterfront lots, the
18 front yard shall extend the full width of the lot and is determined using the
19 following sequential approach, in descending order of preference, until a front
20 yard is established:

21 (A) The yard abutting an improved street from which the lot gains
22 primary access.

23 (B) The yard abutting the primary entrance to a building.

24 (C) The orientation of buildings on the surrounding lots and the means
25 of access to the lot.

26 ii. Front Yard – Corner Lots. On corner lots the front yard shall be measured
27 from the narrowest dimension of the lot abutting a street. The yard adjacent to
28 the widest dimension of the lot abutting a street shall be a side yard, provided:-

29 (A) If a setback equivalent to or greater than required for a front yard is
30 provided along the property lines abutting both streets, then only one
31 of the remaining setbacks must be a rear yard.

32 iii. Front Yard – Waterfront Lots. On a waterfront lot, regardless of the location
33 of access to the lot, the front yard may be measured from the property line
34 opposite and generally parallel to the ordinary high water line.

35 iv. This code section shall apply except as provided for in MICC 19.08.030(F)(1).

36 b. Rear Yard. Except as allowed in subsections (a)(ii) and (iii) above, ~~T~~he rear yard is the
37 yard opposite the front yard. The rear yard shall extend across the full width of the rear
38 of the lot, and shall be measured between the rear line of the lot and the nearest point
39 of the main building including an enclosed or covered porch. If this definition does not
40 establish a rear yard setback for irregularly shaped lots, the code official ~~may~~ shall
41 establish the rear yard based on the following method: The rear yard shall be measured
42 from a line or lines drawn from side lot line(s) to side lot line(s), at least 10 feet in
43 length, parallel to and at a maximum distance from the front lot line.

44 ~~c. Corner Lots. On corner lots the front yard shall be measured from the narrowest~~
45 ~~dimension of the lot abutting a street. The yard adjacent to the widest dimension of the~~
46 ~~lot abutting a street shall be a side yard. If a setback equivalent to or greater than~~
47 ~~required for a front yard is provided along the property lines abutting both streets, then~~

~~only one of the remaining setbacks must be a rear yard. This code section shall apply except as provided for in MICC 19.08.030(F)(1).~~

cd. Side Yard. Any yards not designated as a front or rear yard shall be defined as a side yard.

...
E. Building Height Limit.

...
3. Antennas, lightning rods, plumbing stacks, flagpoles, electrical service leads, chimneys and fireplaces, solar panels, and other similar appurtenances may extend to a maximum of five feet above the height allowed for the main structure in subsections (E)(1) and (2) of this section, provided:

a. Solar panels shall be designed to minimize their extension above the maximum allowed height, while still providing the optimum tilt angle for solar exposure.

b. Rooftop railings may not extend above the maximum allowed height for the main structure.

...
19.02.040 Garages, other accessory buildings and accessory structures.

...
D. Garages and Carports. Garages and carports may be built to within 10 feet of the ~~front~~ property line in the front yard provided: if the front yard of the lot

1. There is greater than four vertical feet measured between the elevation at the bottom of the wall of the building, and the ground elevation at the front yard property line where such the property line is closest to the building. The elevations of both the intersection of the building and the ground, and the point of the property line closest to the wall of the building, shall be measured using the lower of the existing and finished grade, measured at the midpoint of the wall of the garage closest to the front yard property line, is more than four feet above or below the existing grade or finished grade, whichever is lower, at the point on the front property line closest to the midpoint of the wall of the garage at its proposed location.; and,

2. The height of such garage or carport shall not exceed 12 feet from existing or finished grade, whichever is lower, for that portion built within the front yard.

...
19.02.050 Fences, retaining walls and rockeries.

...
C. Height Measurement.

1. Fences/Gates. The height of a fence or gate is measured from the top of the fence or gate, including posts, to the existing grade or finished grade, whichever is lower, directly below the section of the fence or gate being measured.

2. Retaining Walls and Rockeries. The height of a retaining wall or rockery is measured from the top of the retaining wall or rockery to the existing grade or finished grade, whichever is lower, directly below the retaining wall or rockery.

3. Multiple Retaining Walls. Retaining walls outside of required yard setbacks shall be stepped to meet a 1:1 ratio of separation with 45 degrees of grade to be considered separate. For example, two six-foot-tall retaining walls would need to be separated by at least six feet of horizontal distance measured from the toe of the upper wall to the top of the bottom wall, to be considered separate and not combined for maximum height calculations.

1 19.04.020 Commercial offices.

2 ...

3 B. Required Conditions.

4 ...

5 4. Not more than 60 percent of a lot may be covered by buildings, structures, and other
6 impervious surfaces, including outdoor storage areas, provided the exemptions for decks,
7 pavers, patios and walkways detailed in MICC ~~19.02.020(D)(2)~~ 19.02.060(C) shall apply. The
8 building footprint shall occupy no more than 35 percent of the gross lot area.

9 ...

10
11 19.15.030 Land use review types

12 ...

13 Table A. Land Use Review Type

Type I	Type II	Type III	Type IV
<ul style="list-style-type: none"> • Home business • Seasonal development limitation waiver • Nonmajor single-family dwelling permits • Tree removal permit • Right-of-way permit • Special needs group housing safety determination • Tenant improvement/change of use • Shoreline Exemption¹ • Critical areas determination (steep slope alteration) • Final short plat • Temporary commerce on public property • Site development permits • Transportation concurrency certificate 	<ul style="list-style-type: none"> • Modified wireless communication facilities (6409 per 47 CFR 1.40001) • Lot line revision • Setback deviations • Final plat ^{2,3} • Code official design review • Accessory dwelling unit • Parking variances (reviewed by city engineer) 	<ul style="list-style-type: none"> • New and modified wireless (non-6409) eligible facility • SEPA threshold determination • Critical areas determination (wetland/watercourse buffer averaging/reduction) • Temporary encampment⁴ • Short plat alteration and vacations • Preliminary short plat • Development code interpretations • Major single-family dwelling building permit⁵ • Shoreline substantial development permit¹ • Shoreline revision (substantial development)¹ 	<ul style="list-style-type: none"> • Preliminary long plat approval • Conditional use permit • Variance • Critical areas reasonable use exception • Long plat alteration and vacations • Parking variances (reviewed by design commission) • Variance from short plat acreage limitation • Wireless communication facility height variance • Planned unit development • Design commission design review • Shoreline conditional use permit (SCUP)^{5,6} • Shoreline variance^{5,6} • Shoreline revision (variance and SCUP)

14 ¹Appeal will be heard by the Shorelines Hearings Board.

15 ²Decision is made by city council after discussion at a public meeting.

16 ³A notice of decision will be issued for a final long plat.

1 ⁴A public meeting is required.

2 ⁵[Major single-family dwelling building permits are subject only to the notice of application process. A](#)
3 [notice of decision will be provided to parties of record.](#)

4 ⁵⁶Hearing examiner will forward a recommendation to the Washington State Department of Ecology for
5 Ecology's decision.

6 ...

7
8 19.16.010 Definitions

9

10 ...

11 [Finished Grade: The surface level at any point on the lot at the conclusion of development.](#)

12 ...

13
14 Gross Floor Area: The total square footage of floor area bounded by the exterior faces of the building.

15 1. The gross floor area of a single-family dwelling shall include:

16 ...

17 e. Decks that are attached to the second or third [story level](#) of a single-family dwelling
18 and are covered by a roof. For the purposes of calculating the gross floor area of
19 covered decks, the entire deck area covered by the roof shall be accounted for as floor
20 area, provided an 18-inch eave extending beyond the edge of the deck shall not be
21 included in the gross floor area.

22 ...

23 2. The gross floor area of a single-family dwelling does not include:

24 a. Second- or third-[story level](#) uncovered decks, or uncovered rooftop decks.

25 [b. First level covered decks and/or patios.](#)

26 ...

27 Hardscape: The solid, hard elements or structures that are incorporated into landscaping. The hardscape
28 includes, but is not limited to, structures other than buildings, paved areas other than driving surfaces,
29 stairs, walkways, decks, patios, and similar constructed elements. The hardscape within landscaping is
30 usually made up of materials that include, but are not limited to, wood, stone, concrete, gravel, [artificial](#)
31 [turf](#), and permeable pavements or pavers, and similar materials. Hardscape does not include solid, hard
32 elements or structures that are covered by a minimum of two feet of soil intended for softscape (for
33 example, a septic tank [or detention tank](#) covered with at least two feet of soil and planted shrubs is not
34 hardscape). Hardscape areas do not include driving surfaces or buildings.

35 ...

36 Kitchen: ~~Any room used, intended, or designed for cooking and/or preparation of food.~~ [An identifiable](#)
37 [area inside a building for the cooking, refrigeration and storage of food that includes, but is not limited](#)
38 [to, the following improvements:](#)

39 [1. Ventilation;](#)

40 [2. A sink;](#)

41 [3. A combination of appliances used to cook food including a stove, range, oven, or](#)
42 [microwave;](#)

43 [4. A refrigerator; and,](#)

44 ~~1-~~[5. A counter or cupboards.](#)

45 ...

46 [Open Space: Open space functions as protection of natural resources and biodiversity, recreation](#)
47 [spaces, development of neighborhood gathering spaces, and promotion of public health benefits. Open](#)

1 space areas are left predominantly in a vegetated state to create urban separators and greenbelts, and
2 that:

- 3 1. Sustain native ecosystems, connect and increase protective buffers for environmentally
4 critical areas; or,
- 5 2. Provide a visual contrast to continuous development, reinforce community identity and
6 aesthetics; or,
- 7 ~~1.~~3. Provide links between important environmental or recreational resources.

8 ...

9 Remodel: Interior or exterior alteration of a structure that includes, but is not limited to, the following:

- 10 1. Transforming the structure of any home or building;
- 11 2. Change in floor plan layout;
- 12 3. Combining rooms (removing walls); or,
- 13 ~~1.~~4. The addition or removal of the exterior or interior of any structure.

14 ...

15 Yard: An open, unoccupied space, unobstructed from the ground to the sky, except where specifically
16 provided by this code, on the lot on which a building is situated, required to be kept open by the yard
17 requirements prescribed herein. Except as otherwise specified, the edge of the yard is measured from a
18 fixed point or line on the lot such as the edge of an easement that affords or could be capable of
19 affording vehicular access, or from a property line. Determination of front, rear, and side yards are
20 established in MICC 19.02.020(C)(2).

- 21 ~~1. Front Yard: The front yard is the yard abutting an improved street from which the lot gains~~
22 ~~primary access or the yard abutting the entrance to a building and extending the full width of~~
23 ~~the lot. If this definition does not establish a front yard setback, the code official shall establish~~
24 ~~the front yard based upon orientation of the lot to surrounding lots and the means of access to~~
25 ~~the lot.~~
- 26 ~~2. Rear Yard: The yard opposite the front yard.~~
- 27 ~~3. Side Yard: Any yards not designated as a front or rear yard shall be defined as a side yard.~~

28 ...

1 **PLANNING COMMISSION – RECOMMENDATION DRAFT**
2 **Draft Zoning Text Amendments**
3 **2018 Code Cleanup**
4
5

6 19.01.050 Nonconforming structures, sites, lots and uses.
7 ...

8 D. Exterior Alteration or Enlargement of Nonconforming Structures.

9 1. Detached Single-Family Residential Structures.
10 ...

11 b. Intentional Exterior Alteration or Enlargement.

12 i. Detached Single-Family Dwelling. A legally nonconforming detached single-
13 family dwelling may be intentionally altered or enlarged without losing its legal
14 nonconforming status as long as no more than 40 percent of the length of the
15 dwelling’s existing exterior walls, excluding attached accessory buildings, are
16 structurally altered. Any portion of the length of existing walls that are
17 structurally altered shall be included in calculating the 40-percent threshold. In
18 no event shall the alteration or enlargement increase any existing
19 nonconforming aspect of the dwelling or create any new nonconformance.
20 Legal nonconforming status shall be lost, and the structure shall be required to
21 come into conformance with current code requirements, if the 40-percent
22 threshold is exceeded. An increase in height of that portion of a structure that is
23 legally nonconforming because it intrudes into a required yard is an increase in
24 the nonconformity and is not allowed unless the additional height meets the
25 current yard requirements of MICC 19.02.020(C)(1) except:
26 ...

27 ii. Accessory Buildings or Structures. A legally nonconforming attached or
28 detached accessory building or structure, including but not limited to a carport,
29 garage, shed, gazebo, deck or fence, may be altered or enlarged without losing
30 its legal nonconforming status as long as no more than 40 percent of its existing
31 exterior perimeter (or length in the case of a fence) is structurally altered. A wall
32 that is shared with the main dwelling shall not be included in the calculation for
33 the attached accessory building. In no event shall any alteration or enlargement
34 increase any existing nonconforming aspect of the building or structure or
35 create any new nonconformance. Legal nonconforming status shall be lost, and
36 the structure shall be required to come into conformance with current code
37 requirements, if the 40-percent threshold is exceeded.

38 iii. Structural Alteration Calculation. For the purposes of determining the
39 percentage of exterior walls of a nonconforming structure that is being
40 structurally altered, the following calculation applies:
41

42 Formula: Percentage of exterior walls altered = (sum of the length of
43 existing exterior walls to be structurally altered) ÷ (sum of the
44 length of existing exterior walls)
45

46 Where:

47 (A) The “sum of the length of existing exterior walls to be structurally
48 altered” is the sum of each wall segment that is completely demolished.

1 (B) The “sum of the length of exterior walls” is the sum of the lengths of
2 each exterior wall segment of a structure or building.

3 (C) For the purposes of this subsection, a wall segment is “completely
4 demolished” when any portion of the wall is completely removed, such
5 that no structural elements remain.

6 (D) For the purposes of this subsection, the “wall segment” is the
7 horizontal length of each continuous exterior wall plane or façade,
8 provided that each building modulation (e.g. a bay window bump-out)
9 shall be accounted for as a separate exterior wall plane. For example,
10 the sum of the length of the exterior wall segments for a building that is
11 a perfect cube with a dimension of 50 horizontal feet on each side of
12 the house, is 200 feet. The same building with a second story bay
13 window bump out dimensioned 2 feet by 10 feet by 2 feet, has a sum of
14 214 feet.

15
16 iv. Roof Repair and Replacement. The roof of a nonconforming structure may be
17 repaired, including total replacement, provided that there is no expansion of
18 any existing nonconformity. Repair or replacement of a roof does not constitute
19 structural alteration of exterior walls.

20 v. Cumulative Time Limit. The maximum cumulative structural alteration of a
21 legally nonconforming structure, as described in subsections (i) and (ii) above, is
22 40 percent within any five-year period. The five-year period includes the
23 cumulative total of the work authorized by a permit application, and the work
24 conducted within the five years immediately prior to demolition or construction
25 authorized by the permit application. Legal nonconforming status shall be lost,
26 and the structure shall be required to come into conformance with current code
27 requirements, if the cumulative 40-percent threshold is exceeded within the
28 five-year time limit.

29 ...
30 F. Nonconforming Sites.

31 ...
32 3. Landscaping, Open Space and Buffer Requirements.
33 ...

34 b. Lot Coverage – Single-Family Dwellings. A site developed with a single-family dwelling
35 that is legally nonconforming because the required landscaping area pursuant to
36 Chapter 19.02 MICC has not been provided, or because maximum allowable hardscape
37 has been exceeded, can be increased in height and gross floor area (up to the maximum
38 height and gross floor area permitted). No new hardscape or further reduction in
39 landscaping area is permitted unless:

40 i. The site is either brought into conformance with all applicable lot coverage
41 requirements of MICC 19.02.020; or

42 ii. For lots where the ~~minimum~~-maximum hardscape is exceeded, two square
43 feet of legally existing hardscape are removed for every one square foot of new
44 hardscape; or

45 iii. For lots where the maximum lot coverage is exceeded, two square feet of
46 landscaping area are provided for every one square foot of additional
47 nonlandscaping area.
48 ...

1
2 19.02.010 Single-family.
3 A. Uses Permitted in Zones R-8.4, R-9.6, R-12, and R-15.

4 ...
5 13. Open Space.
6 ...

7 19.02.020 Development standards.
8 ...
9 C. Yard Requirements.

10 ...
11 2. Yard Determination.

12 a. Front Yard. ~~The front yard is the yard abutting an improved street from which the lot~~
13 ~~gains primary access or the yard abutting the entrance to a building and extending the~~
14 ~~full width of the lot. If this definition does not establish a front yard setback, the code~~
15 ~~official shall establish the front yard based upon orientation of the lot to surrounding~~
16 ~~lots and the means of access to the lot.~~

17 i. Front Yard – General. For lots that are not corner lots or waterfront lots, the
18 front yard shall extend the full width of the lot and is determined using the
19 following sequential approach, in descending order of preference, until a front
20 yard is established:

21 (A) The yard abutting an improved street from which the lot gains
22 primary access.

23 (B) The yard abutting the primary entrance to a building.

24 (C) The orientation of buildings on the surrounding lots and the means
25 of access to the lot.

26 ii. Front Yard – Corner Lots. On corner lots the front yard shall be measured
27 from the narrowest dimension of the lot abutting a street. The yard adjacent to
28 the widest dimension of the lot abutting a street shall be a side yard, provided:-

29 (A) If a setback equivalent to or greater than required for a front yard is
30 provided along the property lines abutting both streets, then only one
31 of the remaining setbacks must be a rear yard.

32 iii. Front Yard – Waterfront Lots. On a waterfront lot, regardless of the location
33 of access to the lot, the front yard may be measured from the property line
34 opposite and generally parallel to the ordinary high water line.

35 iv. This code section shall apply except as provided for in MICC 19.08.030(F)(1).

36 b. Rear Yard. Except as allowed in subsections (a)(ii) and (iii) above, ~~T~~he rear yard is the
37 yard opposite the front yard. The rear yard shall extend across the full width of the rear
38 of the lot, and shall be measured between the rear line of the lot and the nearest point
39 of the main building including an enclosed or covered porch. If this definition does not
40 establish a rear yard setback for irregularly shaped lots, the code official ~~may~~ shall
41 establish the rear yard based on the following method: The rear yard shall be measured
42 from a line or lines drawn from side lot line(s) to side lot line(s), at least 10 feet in
43 length, parallel to and at a maximum distance from the front lot line.

44 ~~c. Corner Lots. On corner lots the front yard shall be measured from the narrowest~~
45 ~~dimension of the lot abutting a street. The yard adjacent to the widest dimension of the~~
46 ~~lot abutting a street shall be a side yard. If a setback equivalent to or greater than~~
47 ~~required for a front yard is provided along the property lines abutting both streets, then~~

~~only one of the remaining setbacks must be a rear yard. This code section shall apply except as provided for in MICC 19.08.030(F)(1).~~

cd. Side Yard. Any yards not designated as a front or rear yard shall be defined as a side yard.

...
E. Building Height Limit.

...
3. Antennas, lightning rods, plumbing stacks, flagpoles, electrical service leads, chimneys and fireplaces, solar panels, and other similar appurtenances may extend to a maximum of five feet above the height allowed for the main structure in subsections (E)(1) and (2) of this section, provided:

a. Solar panels shall be designed to minimize their extension above the maximum allowed height, while still providing the optimum tilt angle for solar exposure.

b. Rooftop railings may not extend above the maximum allowed height for the main structure.

...
19.02.040 Garages, other accessory buildings and accessory structures.

...
D. Garages and Carports. Garages and carports may be built to within 10 feet of the ~~front~~ property line in the front yard provided: if the front yard of the lot

1. There is greater than four vertical feet measured between the elevation at the bottom of the wall of the building, and the ground elevation at the front yard property line where such the property line is closest to the building. The elevations of both the intersection of the building and the ground, and the point of the property line closest to the wall of the building, shall be measured using the lower of the existing and finished grade, measured at the midpoint of the wall of the garage closest to the front yard property line, is more than four feet above or below the existing grade or finished grade, whichever is lower, at the point on the front property line closest to the midpoint of the wall of the garage at its proposed location.; and,

2. The height of such garage or carport shall not exceed 12 feet from existing or finished grade, whichever is lower, for that portion built within the front yard.

...
19.02.050 Fences, retaining walls and rockeries.

...
C. Height Measurement.

1. Fences/Gates. The height of a fence or gate is measured from the top of the fence or gate, including posts, to the existing grade or finished grade, whichever is lower, directly below the section of the fence or gate being measured.

2. Retaining Walls and Rockeries. The height of a retaining wall or rockery is measured from the top of the retaining wall or rockery to the existing grade or finished grade, whichever is lower, directly below the retaining wall or rockery.

3. Multiple Retaining Walls. Retaining walls outside of required yard setbacks shall be stepped to meet a 1:1 ratio of separation with 45 degrees of grade to be considered separate. For example, two six-foot-tall retaining walls would need to be separated by at least six feet of horizontal distance measured from the toe of the upper wall to the top of the bottom wall, to be considered separate and not combined for maximum height calculations.

1 19.04.020 Commercial offices.

2 ...

3 B. Required Conditions.

4 ...

5 4. Not more than 60 percent of a lot may be covered by buildings, structures, and other
6 impervious surfaces, including outdoor storage areas, provided the exemptions for decks,
7 pavers, patios and walkways detailed in MICC ~~19.02.020(D)(2)~~ 19.02.060(C) shall apply. The
8 building footprint shall occupy no more than 35 percent of the gross lot area.

9 ...

10

11 19.15.030 Land use review types

12 ...

13

Table A. Land Use Review Type

Type I	Type II	Type III	Type IV
<ul style="list-style-type: none"> • Home business • Seasonal development limitation waiver • Nonmajor single-family dwelling permits • Tree removal permit • Right-of-way permit • Special needs group housing safety determination • Tenant improvement/change of use • Shoreline Exemption¹ • Critical areas determination (steep slope alteration) • Final short plat • Temporary commerce on public property • Site development permits • Transportation concurrency certificate 	<ul style="list-style-type: none"> • Modified wireless communication facilities (6409 per 47 CFR 1.40001) • Lot line revision • Setback deviations • Final plat ^{2,3} • Code official design review • Accessory dwelling unit • Parking variances (reviewed by city engineer) 	<ul style="list-style-type: none"> • New and modified wireless (non-6409) eligible facility • SEPA threshold determination • Critical areas determination (wetland/watercourse buffer averaging/reduction) • Temporary encampment⁴ • Short plat alteration and vacations • Preliminary short plat • Development code interpretations • Major single-family dwelling building permit⁵ • Shoreline substantial development permit¹ • Shoreline revision (substantial development)¹ 	<ul style="list-style-type: none"> • Preliminary long plat approval • Conditional use permit • Variance • Critical areas reasonable use exception • Long plat alteration and vacations • Parking variances (reviewed by design commission) • Variance from short plat acreage limitation • Wireless communication facility height variance • Planned unit development • Design commission design review • Shoreline conditional use permit (SCUP)^{5,6} • Shoreline variance^{5,6} • Shoreline revision (variance and SCUP)

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19 covered decks, the entire deck area covered by the roof shall be accounted for as floor
20 area, provided an 18-inch eave extending beyond the edge of the deck shall not be
21 included in the gross floor area.

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42 microwave;

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6 aesthetics; or,
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9 Remodel: Interior or exterior alteration of a structure that includes, but is not limited to, the following:

- 10 1. Transforming the structure of any home or building;
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- 12 3. Combining rooms (removing walls); or,
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28 ...



BUSINESS OF THE CITY COUNCIL
CITY OF MERCER ISLAND, WA

AB 5559
May 21, 2019
Regular Business

ARCH 2019 ADMINISTRATIVE BUDGET AND WORK PROGRAM
Action: Review and approve 2019 ARCH Administrative Budget and Work Program.
Discussion Only, Action Needed: Motion, Ordinance, Resolution

Table with 2 columns: Item Name and Description. Rows include DEPARTMENT OF, COUNCIL LIAISON, EXHIBITS, 2019-2020 CITY COUNCIL PRIORITY, and APPROVED BY CITY MANAGER.

Table with 3 columns: Category, Amount, and Unit. Rows include AMOUNT OF EXPENDITURE, AMOUNT BUDGETED, and APPROPRIATION REQUIRED.

SUMMARY

At the May 7, 2019 Council Meeting, Lindsay Masters, Executive Manager of A Regional Coalition for Housing (ARCH), provided a presentation on ARCH's purpose, management and operations (see AB 5558). The purpose of this agenda bill is to provide a more detailed summary of the 2019 ARCH work program and budget for City Council approval.

ARCH 2019 Budget and Work Program
ARCH was created in 1993 by an Interlocal Agreement. Member jurisdictions include Beaux Arts Village, Bellevue, Bothell, Clyde Hill, Hunts Point, Issaquah, Kenmore, King County, Kirkland, Medina, Mercer Island, Newcastle, Redmond, Sammamish, Woodinville, and Yarrow Point.

Like other local government members, Mercer Island contributes annually to ARCH in order to provide administrative support for the organization's housing activities. The coordinated approach used by ARCH provides for an efficient use of resources in fulfilling each member city's obligations under the Washington State Growth Management Act (GMA) to make adequate provisions for the existing and projected housing needs of all economic segments of the population (RCW 36.70A.070(2)), as well as in sharing resources with regional partners in the provision and administration of affordable housing.

met internally, something that cannot currently be accommodated with existing staff capacity and skill sets, and would likely be more costly than the current approach.

Administrative Budget

Each year, the ARCH Executive Board develops and approves a work program and administrative budget that is advanced to member city councils for approval. The administrative budget supports the staffing and other costs associated with implementing the 2019 work program, summarized in the next section.

The 2019 administrative budget (see Exhibit 1) totaled \$724,219, a 3.5% increase over 2018. Each member city's share of the administrative budget is based on population. In 2019, Mercer Island's share of the operating budget is \$33,327 or 4.6% of the total. In 2019, the City budgeted \$33,000 for this expense.

Housing Trust Fund Budget

In addition to providing administrative support to ARCH, the City budgeted \$100,000 in the 2019-2020 Biennium Budget to contribute to the ARCH Housing Trust Fund (HTF). After contributing to the HTF through the regular City budget process, the City Council must also review and approve allocation of these funds to specific projects as recommended by the ARCH Executive Board.

The ARCH Executive Board elected not to allocate funds to any projects in the Fall 2018 funding round. Therefore, the City does not need to approve the allocation of HTF funds to projects at this time. Instead, HTF funds contributed in 2018, including Mercer Island's \$96,000, will be held in the HTF account for future allocation to projects (the HTF account is a centralized account at the City of Bellevue that earns interest). While it is unusual for ARCH to forgo allocating funds to any projects in a year, there was only one application in the last round and the project was ultimately withdrawn due to lack of readiness for funding.

A number of project applications are anticipated for the Fall 2019 funding round; funding will be allocated based on resource availability and quality of the proposals. Projects recommended for funding by the Executive Board will be brought back for City Council review and approval in 2020. The ARCH member cities together typically invest \$1.5 million - \$2 million annually in projects and the HTF currently has a balance of nearly \$4 million. Between 1993 and 2018, ARCH invested over \$62 million to create 3,645 units of East King County housing for families, seniors, homeless, and persons with special needs.

Work Program

The ARCH Work Program includes priorities established by the Executive Board and provides opportunities for each member city to identify activities that it requests ARCH's assistance with. The ARCH Work Program for 2019 (see Exhibit 2) is organized into five core areas:

- I. Project Assistance
Managing the HTF program, including providing technical assistance to prospective applicant projects and coordinating with other public and private funders.
- II. Housing Policy Planning
Assisting member cities with hosting policy and planning, including Housing Strategy Plans, as well as coordinating inter-local, regional and state planning and legislative activities.
- III. Housing Program Implementation
Monitoring and oversight of rental and homeownership housing, including improvements to these systems.
- IV. Education and Outreach
Hosting public events, providing information to the public and engaging communities in understanding and supporting affordable housing efforts.
- V. Administration
Maintaining cost effective administration of ARCH's programs and services.

ARCH will continue ongoing work within these five areas, with special priority placed on the following objectives:

- Strengthen program administration and monitoring functions (see Exhibit 2, section III.B).
- Coordinate and facilitate transit-oriented development projects on public land (see Exhibit 2, section I.B).
- Develop proposals for dedicated revenue sources for affordable housing (see Exhibit 2, section I.B).
- Pursue strategies to increase access to housing by underserved communities (see Exhibit 2, section IV.C).

The second section of the Work Program (titled Attachment A) provides details on housing policy and planning efforts with individual member cities. There are five items identified in the 2019 Work Program specific to Mercer Island (Exhibit 2, page 10):

- Assist with review of the City's Multi-Family Tax Exemption (MFTE) program and evaluating options for a fee-in-lieu alternative to land use requirements.
- Assist the City with a Housing Strategy Plan.
- As needed, assist City staff with components of residential development standards review that are associated with housing stock diversity.
- As needed, assist City staff with administering affordable housing provisions associated with the land use incentive and tax exemption programs for Town Center.
- Provide project support for Town Center development projects that include affordable housing.

Looking Ahead

Councilmember Wong inquired about [HB1406](#) – recently passed state legislation that authorizes cities and counties to recapture 0.01 percent sales tax from the state's currently assessed sales tax to generate revenue for acquiring, rehabilitating, or constructing affordable housing. ARCH staff are reviewing this legislation and will be bringing more information back to City Councils in the coming months.

At the May 7, 2019 City Council meeting, Lindsay Masters provided information about the audit ARCH is conducting on the Homeownership Program. ARCH is planning to convene the member cities later this summer for a briefing on the consultant findings and next steps. Staff will notify the Council as soon as more details are announced related to this event.

RECOMMENDATION

CPD Ombudsman and ARCH Executive Manager

MOVE TO: Approve the ARCH 2019 Administrative Budget and Work Program and authorize expenditure of \$33,327 for Mercer Island's contribution to the 2019 ARCH Administrative Budget.

2019 ARCH Administrative Budget

FINAL 12/13/18

I. ANNUAL OPERATING EXPENSES

Item	2018 Budget	2019 Budget	Change Budget	Percent Change
Staffing *				
Housing Mgr	\$ 124,152	\$ 122,301	\$ (1,851)	-1.49%
Benefits	\$ 41,083	\$ 40,904	\$ (179)	-0.44%
Housing Planner I	\$ 106,995	\$ 110,462	\$ 3,467	3.24%
Benefits	\$ 37,592	\$ 38,477	\$ 885	2.35%
Housing Planner II	\$ 92,203	\$ 104,531	\$ 12,328	13.37%
Benefits	\$ 34,581	\$ 37,261	\$ 2,680	7.75%
Clerk I	\$ 75,606	\$ 78,056	\$ 2,450	3.24%
Benefits	\$ 31,204	\$ 31,833	\$ 630	2.02%
Clerk II	\$ 57,999	\$ 62,872	\$ 4,873	8.40%
Benefits	\$ 27,621	\$ 28,721	\$ 1,100	3.98%
Sub-total	\$ 629,035	\$ 655,417	\$ 26,382	4.2%
Rent	\$ 23,700	\$ 24,293	\$ 593	3%
Utilities	Incl^	Incl^	Incl^	Incl^
Telephone	\$ 4,375	\$ 4,375	\$ -	0%
Operating				
Travel/Training	\$ 2,000	\$ 2,000	\$ -	0%
Auto Mileage	\$ 3,245	\$ 3,342	\$ 97	3%
Copier Costs	\$ 1,750	\$ 1,750	\$ -	0%
Office Supplies	\$ 2,800	\$ 2,800	\$ -	0%
Office Equipment Service	\$ 2,000	\$ 2,000	\$ -	0%
Fax/Postage	\$ 825	\$ 825	\$ -	0%
Periodical/Membership	\$ 3,914	\$ 3,992	\$ 78	2%
Misc. (e.g. events,etc.)	\$ 1,680	\$ 1,680	\$ -	0%
Insurance	\$ 9,900	\$ 10,310	\$ 410	4%
Equipment Replacement	\$ 2,000	\$ 2,000	\$ -	0%
Organization Admin**	\$ 12,100	\$ 9,615	\$ (2,485)	-21%
Sub-total	\$ 42,214	\$ 40,315	\$ (1,899)	-4%
TOTAL	\$ 699,324	\$ 724,400	\$ 25,076	3.59%

* Actual salary increases based on Bellevue's approved Cost of Living Adjustment

** Includes IT service fee to Bellevue

II. ARCH ADMINISTRATIVE BUDGET: 2019 IN-KIND CONTRIBUTIONS

Salary	Annual Cost	Value of In-Kind Contributions		Required Cash
			Bellevue	
Manager	\$ 122,301	\$	122,301	\$ -
Benefits	\$ 40,904	\$	40,904	\$ -
Associate Planner I	\$ 110,462			\$ 110,462.01
Benefits	\$ 38,477			\$ 38,476.71
Associate Planner II	\$ 104,531			\$ 104,531.16
Benefits	\$ 37,261			\$ 37,260.89
Clerk I	\$ 78,056			\$ 78,055.63
Benefits	\$ 31,833			\$ 31,833.41
Clerk II	\$ 62,872			\$ 62,872.09
Benefits	\$ 28,721			\$ 28,720.78
Sub-total	\$ 655,417	\$	163,204	\$ 492,212.68
Rent at Together Center	\$ 24,293			\$ 24,293.00
Utilities	Incl^			
Telephone	\$ 4,375			\$ 4,375.00
Travel/Training	\$ 2,000			\$ 2,000.00
Auto Mileage	\$ 3,342			\$ 3,342.35
Copier Costs	\$ 1,750			\$ 1,750.00
Office Supplies	\$ 2,800			\$ 2,800.00
Office Equipment	\$ 2,000			\$ 2,000.00
Fax/Postage	\$ 825			\$ 825.00
Periodical/Membership	\$ 3,992			\$ 3,992.28
Misc.	\$ 1,680			\$ 1,680.00
Insurance	\$ 10,310	\$	5,000	\$ 5,310.00
Equipment Replacement	\$ 2,000			\$ 2,000.00
Organization Admin	\$ 9,615	\$	9,615	\$ -
Sub-total	\$ 40,315	\$	14,615	\$ 25,699.63
TOTAL	\$ 724,400	\$	177,819	\$ 546,580.31

III. ARCH ADMINISTRATIVE BUDGET: RESOURCE DISTRIBUTION

A. Cash Contributions	2018	2019	Change	Percent Change
				3.55%
Bellevue	\$ -	\$ 8,085	\$ 8,085	
Bothell	\$ 56,795	\$ 58,811	\$ 2,016	
Issaquah	\$ 43,666	\$ 45,217	\$ 1,550	
King County	\$ 46,815	\$ 48,477	\$ 1,662	
Kirkland	\$ 111,075	\$ 115,019	\$ 3,943	
Mercer Island	\$ 32,185	\$ 33,327	\$ 1,143	
Newcastle	\$ 14,460	\$ 14,974	\$ 513	
Redmond	\$ 75,890	\$ 78,584	\$ 2,694	
Woodinville	\$ 14,936	\$ 15,466	\$ 530	
Beaux Arts Village	\$ 1,690	\$ 1,750	\$ 60	
Clyde Hill	\$ 4,050	\$ 4,193	\$ 144	
Hunts Point	\$ 1,690	\$ 1,750	\$ 60	
Medina	\$ 4,077	\$ 4,221	\$ 145	
Yarrow Point	\$ 1,690	\$ 1,750	\$ 60	
Sammamish	\$ 78,014	\$ 80,784	\$ 2,770	
Kenmore	\$ 28,771	\$ 29,793	\$ 1,021	
Other	\$ 4,200	\$ 4,200	\$ -	
TOTAL	\$ 520,004	\$ 546,400	\$ 26,396.06	
B. In-Kind Contributions	2018	2019	Change	Percent Change
Bellevue	\$ 179,531	\$ 177,819	\$ (1,712)	
TOTAL	\$ 167,943	\$ 177,819	\$ (1,712)	
C. Total Contributions	2018	2019	Change	Percent Change
Bellevue	\$ 179,531	\$ 185,904	\$ 6,373	3.55%
Bothell	\$ 56,795	\$ 58,811	\$ 2,016	3.55%
Issaquah	\$ 43,666	\$ 45,217	\$ 1,550	3.55%
King County	\$ 46,815	\$ 48,477	\$ 1,662	3.55%
Kirkland	\$ 111,075	\$ 115,019	\$ 3,943	3.55%
Mercer Island	\$ 32,185	\$ 33,327	\$ 1,143	3.55%
Newcastle	\$ 14,460	\$ 14,974	\$ 513	3.55%
Redmond	\$ 75,890	\$ 78,584	\$ 2,694	3.55%
Woodinville	\$ 14,936	\$ 15,466	\$ 530	3.55%
Beaux Arts Village	\$ 1,690	\$ 1,750	\$ 60	3.55%
Clyde Hill	\$ 4,050	\$ 4,193	\$ 144	3.55%
Hunts Point	\$ 1,690	\$ 1,750	\$ 60	3.55%
Medina	\$ 4,077	\$ 4,221	\$ 145	3.55%
Yarrow Point	\$ 1,690	\$ 1,750	\$ 60	3.55%
Sammamish	\$ 78,014	\$ 80,784	\$ 2,770	3.55%
Kenmore	\$ 28,771	\$ 29,793	\$ 1,021	3.55%
Other	\$ 4,200	\$ 4,200	\$ -	0.00%
TOTAL REVENUE	\$ 699,535	\$ 724,219	\$ 24,684.38	3.53%
TOTAL COSTS	\$ 699,324	\$ 724,400	\$ 25,075.64	3.59%
BALANCE	\$ 211	\$ (181)		

ARCH WORK PROGRAM: 2019

The ARCH work program is organized into five areas: I. [Project Assistance](#); II. [Housing Policy Planning](#); III. [Housing Program Implementation](#); IV. [Education and Outreach](#); and V. [Administration](#).

In 2019, ARCH will continue ongoing work in these five areas, with special priority placed on the following objectives:

- Strengthen program administration and monitoring functions (see Section III.B)
- Coordinate and facilitate transit-oriented development projects on public land (see Section I.B)
- Develop proposals for dedicated revenue sources for affordable housing (See Section I.B)
- Pursue strategies to increase access to housing by underserved communities (See Section IV.C)

I. PROJECT ASSISTANCE

A. Oversight of Local Monetary Assistance

ARCH Trust Fund. Review applications and make recommendations for requests of local monetary funds through the ARCH Housing Trust Fund (HTF) process. Collect input from member cities' staff and the Citizen Advisory Board (CAB). Coordinate the application process and use of funds for various programs. Develop final recommendations by the ARCH Executive Board and facilitate final funding allocations through member cities' councils.

Objective: Allocation of \$1,800,000 or more through the ARCH Housing Trust Fund Process to create or preserve a minimum of 75 units.

For the "Parity Program," provide updated annual information to members and achieve the base line goal for levels of direct assistance. Evaluate the appropriateness of updating goals under the Parity Program.

Provide a variety of types of affordable housing as well as meet other funding priorities as specified in the ARCH Trust Fund Criteria.

Public Funding Coordination. Work collaboratively with public funders at the State and local levels to promote shared affordable housing goals. Review and provide input to other funders for Eastside projects that apply for County (HOF, RAHP, HOME, TOD etc.) and State (Tax Credit, State Housing Trust Fund) funds. Provide input to the King County JRC Consortium on behalf of participating Eastside jurisdictions. Assist N/E consortium members with evaluating and making a recommendation to the County regarding CDBG allocations to affordable housing.

Objective: In consultation with County, local staff and housing providers, seek to have funds allocated by the County and State proportionately throughout the County including the ARCH Sphere of Influence.

Project Pipeline Management. Work with member cities and project sponsors to develop a robust pipeline of projects to be funded over the next five years (see related work on Transit Center sites,

below). Actively vet potential HTF projects, and lead funding policy and prioritization discussions with the ARCH Executive Board to facilitate planning and decision-making.

Objective: Maximize available opportunities for affordable housing development within the ARCH Sphere of Influence, leverage private and other public resources, and coordinate local efforts to advance priority projects that support regional goals, including an equitable geographic distribution of resources.

Centralized Trust Fund System. Administer and monitor HTF investments to provide updated information to members on ongoing financial activities, including:

- Produce regular monitoring reports for the ARCH Trust Fund account.
- Work with Administering Agency (Bellevue) to prepare contracts and distribute funds for awarded projects.
- Monitor funded projects including evaluating performance and tracking loan payments. Monitor for long term sustainability of previously funded projects.

Objective: Develop sustainable strategies for the HTF to meet local housing goals and preserve publicly assisted affordable housing.

B. Special Initiatives

Long-Term Funding/Dedicated Revenue Strategy. Continue work on a long-term funding strategy for the ARCH Trust Fund. Work toward implementing the revised Parity Goals established in 2018, including setting an aspirational goal. In addition, facilitate conversations with member cities on identifying and exploring dedicated sources of revenue for affordable housing at the local and regional level (e.g., REET, property tax levy, 0.1% sales tax, etc.). Provide relevant data and develop options for joint or individual revenue approaches across ARCH member cities and determine any shared state legislative priorities to authorize local options for funding.

Transit Center Sites. Assist cities with advancing and coordinating projects seeking King County TOD funds and work with Sound Transit and King County Housing staff to develop opportunities for affordable housing along transit corridors. Current opportunities include sites in Bel-Red, Overlake, Downtown Redmond, Issaquah, Kirkland, Bothell, and Kenmore.

Surplus Property/Underdeveloped Property. Assist as needed member cities' evaluation of potentially surplus public property or underutilized private property (e.g. faith community properties) for suitability of affordable housing.

Winter Shelter. Support efforts by Eastside shelter providers, Human Services Forum, and cities to develop an East King County sub-regional strategic approach to shelter and related services for homeless adults and families. For the women/family shelter, efforts are expected to focus around finalizing design documents, permitting and start of construction.

Preservation of At Risk Affordable Housing. Assist with responding to notices of sale of HUD assisted properties received by member cities, or other information indicating an impending loss of existing affordable housing. Work with member cities to facilitate acquisitions or other strategies to preserve existing housing where affordability is at risk of being lost.

II. HOUSING POLICY PLANNING

A. Local Planning Activities

ARCH provides assistance directly to member cities on a range of local planning efforts. Local planning efforts with individual member cities may be found in *Attachment A*.

General Assistance. On numerous occasions, members have requested support on issues not explicitly listed in the Work Program. Requests have ranged from technical clarifications to assisting with negotiating agreements for specific development proposals to more substantial assistance on unforeseen planning initiatives. ARCH sees this as a valuable service to its members and will continue to accommodate such requests to the extent they do not jeopardize active work program items.

Housing Elements / Housing Strategy Plans. ARCH staff works with members to update comprehensive plan housing elements and to prepare strategies for implementing housing elements. Cities with recently completed strategy plans include Bellevue, Issaquah, Kenmore, Bothell, Kirkland, and Redmond.

Other Local Housing Efforts. ARCH staff will continue to assist local staffs on land use and other code amendments in order to implement comprehensive policies. Examples of areas in which ARCH could provide support to member cities include implementation of impact fee waivers, and policies to assist households displaced by development activity.

B. Inter-local Planning Activities

Interlocal planning activities are coordinated by ARCH for the benefit of multiple members.

Housing Background Information. On an annual basis, ARCH provides housing and demographic data as available. This information is available to members for planning efforts and will be incorporated into ARCH education fliers and an updated Housing 101 report.

Accessory Dwelling Units (ADUs). Several ARCH members have expressed interest in evaluating current ADU regulations and exploring other ways to increase availability of ADUs. ARCH staff will complete the ADU study begun in 2018 by ARCH member cities to evaluate existing ADU regulations and other related issues (e.g. permitting costs, community awareness) that could impact the creation of ADUs.

Assistance with Private Sector Engagement. As opportunities arise, support efforts by ARCH member cities to engage employers and private sector entities in discussions around the need for more affordable housing and identifying options for public-private partnerships.

C. State Legislative Activities

ARCH staff will track state and federal legislative items that relate to affordable housing that could impact members' ability to address affordable housing. As needed, staff will report back to the Executive Board and members, and when directed coordinate with other organizations (e.g. AWC, SCA, WLIHA, HDC) to contact legislators regarding proposed legislation.

D. Regional/Countywide Planning Activities

King County Regional Affordable Housing Task Force. The County Council may adopt a regional affordable housing strategy in late 2018 or early 2019, with two roles for ARCH. First, ARCH staff may be called to participate on a work group to support a new housing committee of the Growth Management Planning Council (GMPC). Second, we would begin discussions with members and the Executive Board as needed to consider the actions recommended by the strategy.

All Home/ Eastside Homeless Advisory Committee (EHAC). Anticipated work of All Home in the coming year includes continued coordinated allocation of resources, and work on specific initiatives (e.g., coordinated entry and assessment for all populations). ARCH staff expect to continue participating in the All Home Funders group, and its efforts to coordinate funding and inform ARCH members and the general public of All Home/EHAC activities. Also continue to participate in efforts to implement homeless efforts within East King County through EHAC.

Objective: Keep member jurisdictions informed of significant regional issues and pending legislation that could affect efforts to provide housing in East King County.

Ensure that perspectives of communities in East King County are addressed in regional housing and homelessness planning.

III. HOUSING PROGRAM IMPLEMENTATION

A. Monitoring Activity

Monitoring Affordable Rental Housing. Administer ongoing compliance with affordability requirements in ARCH rental housing. This includes affordable rental housing created through direct assistance (e.g. Trust Fund allocation, land donations) from member jurisdictions, and through land use incentives. For Trust Fund projects, monitor project income and expenses to determine cash flow payments, and conduct long-term sustainability monitoring of projects and owners. Proactively problem-solve financial and/or organizational challenges in partnership with project owners and other funders.

Objective: Ensure projects follow affordability requirements and maintained as assets for residents, owners and broader community, which involves collecting annual reports from projects, screening information for compliance, and preparing summary reports for local staffs. To the extent possible this work will:

- Minimize efforts by both owners and public jurisdictions.
- Coordinate ARCH's monitoring efforts with efforts by other funders, such as using shared monitoring reports.
- Utilize similar documents and methods for monitoring developments throughout East King County.
- Establish working relationship with other public organizations that can help assess how well properties are maintained and operated (e.g. code compliance, police, and schools).

Monitoring Affordable Ownership Housing. Administer ongoing compliance with affordability requirements in ARCH ownership housing, including enforcement of resale restrictions and buyer income requirements. In addition, ARCH will continue to monitor general trends with ownership units, including enforcement of covenant provisions (e.g. leasing homes, foreclosure).

Objective: Oversee resale of affordable ownership homes. Address issues related to ongoing compliance with program requirements (e.g. leasing homes, foreclosures).

B. Program Improvements

Program Database Development. Work with City of Bellevue IT to scope the creation of a program database(s) to manage existing and to be collected program data and support other critical functions, including creation of program reports, project compliance monitoring, communication with program participants, and other functions.

Review Monitoring Policies and Procedures. Review and update compliance monitoring practices and procedures. Make adjustments as needed in both monitoring procedures and, as necessary, program agreements and covenants. This effort will include convening member planning and legal staff to review potential revisions, consulting with King County and other local ownership programs, and seeking input from Secondary Market lenders (e.g. FHA, Fannie Mae) on any potential revisions. In addition, ARCH will evaluate staff capacity to maintain or increase current levels of oversight as the number of ARCH homes continues to grow.

IV. EDUCATION AND OUTREACH

A. Housing 101

Plan a Housing 101 event to occur no later than 2020.

Objective: Develop education tools and conduct events to inform councils, staffs and the broader community of current housing conditions, and of successful housing programs. Continue to keep member jurisdictions and the broader community aware of local housing conditions to assist in their efforts to evaluate current and future efforts to meet local housing objectives.

Share media coverage on topics related to affordable housing in East King County, including work done by cities/ARCH.

B. Information for the Public

ARCH Website. Update on a regular basis information on the ARCH website, including information related to senior housing opportunities. Add new section to the website that provides information on all ARCH member affordable incentive programs and fair housing information.

Objective: Maintain the ARCH web site and update the community outreach portion by incorporating information from Housing 101 East King County, as well as updated annual information, and links to other sites with relevant housing information (e.g. All Home, HDC).

Assist Community Members Seeking Affordable Housing. Maintain lists of affordable housing in East King County (rental and ownership) and make that information available to people looking for affordable housing. Continue to maintain a list of households interested in affordable ownership housing. Work with member cities to develop appropriate referrals for other types of inquiries received by ARCH (e.g., landlord tenant issues, building code violations, fair housing complaints, etc.).

Objective: Maximize awareness of affordable housing opportunities in East King County through the ARCH web site, public flyers and other means to assist persons looking for affordable housing.

C. Engage Communities to Increase Support and Access

Build connections with community groups, faith communities, developers, nonprofits and others interested in housing issues. Explore strategies to broaden awareness of housing programs to increase access by underserved communities.

Objective: Increase awareness of existing housing programs by communities with less access.

Meet with multiple community organizations to grow support for and engagement in housing solutions.

Conduct a housing event to raise awareness of housing issues.

V. ADMINISTRATION

Administrative Procedures. Maintain administrative procedures that efficiently provide services to both members of ARCH and community organizations utilizing programs administered through ARCH.

Activities include:

- Prepare the Annual Budget and Work Program.
- Prepare quarterly budget performance and work program progress reports, including Trust Fund monitoring reports.
- Work with Executive Board to develop multi-year strategy for the ARCH Administrative Budget.
- Staff the Executive and Citizen Advisory Boards.

Objectives: Maintain a cost effective administrative budget for ARCH and keep expenses within budget.

Administrative costs should be equitably allocated among ARCH's members.

Maintain membership on the ARCH Citizen Advisory Board that includes broad geographic representation and a wide range of housing and community perspectives.

*Attachment A
Local Planning Efforts by City*

Bellevue

Assist City with implementation of Phase One tasks of Bellevue's Affordable Housing Strategy, including:

- Increase development potential on suitable land owned by public agencies, faith-based groups, and non-profits housing entities.
- Assist with items for Wilburton and East Main neighborhood plans, including affordable housing density incentives.
- Develop affordable housing on suitable public lands in proximity to transit hubs including 130th TOD parcels and TOD parcels at the OMFE.
- Advocate for legislative actions that expand state and local funding tools and other opportunities to increase affordable housing.

Assist City staff with contracting and administration for the City's land use incentive program and citywide Multifamily Tax Exemption program.

Assist in Neighborhood Planning to consider more affordable housing types on a neighborhood-by-neighborhood basis, such as small lot neighborhood infill and detached accessory dwelling units.

Bothell

Assist city with implementing its Housing Strategy Plan.

Assist city with evaluating and potentially implementing affordable housing provisions related to zoning and other code amendments.

Assist city staff with work related to affordable housing component of the city's LIFT program in their downtown areas. Includes assisting with any reporting requirements and potentially exploring additional opportunities for affordable housing on city owned properties in the downtown revitalization area.

Assist city staff with evaluating the updated state legislation regarding impact fee waivers for affordable housing and explore potential revisions to local regulations related to impact fee waivers for affordable housing.

Assist city with evaluating and implementing affordable housing strategies in its Canyon Park plan.

Clyde Hill

Assist City with rental of City's affordable rental unit.

Issaquah

Assist City with preparing the annual Affordable Housing Report Card/Analysis.

Assist City staff with evaluating and, as needed, implementing development standards and regulations related to the housing policies adopted in the Central Issaquah Plan and Central Issaquah Standards, including inclusionary zoning.

As needed, assist City staff with administration and/or revisions of the affordable housing provisions of local development agreements (e.g., Lakeside and Rowley).

Assist with evaluating and strategizing sequencing potential projects/opportunities such as those near transit facilities, including coordination with potentially utilizing the King County TOD funds.

Assist with initial work on high priority strategies identified in the Housing Strategy Work Plan including:

- Improving marketing and the understanding of ADUs and the development process.
- Facilitating development of a TOD.
- Beginning work to identify and seek out affordable multifamily projects for retention as affordable housing choices.
- Amending codes to increase allowed diverse housing types such as SROs and cottage housing.
- Supporting housing options and services to assist people experiencing housing insecurity and those with barriers to independent living.
- Lobbying the state to mitigate/offset condominium development deterrents.

Kenmore

Assist Planning Commission and Council in implementing a high priority item identified in the Housing Strategy Plan. Assist the Council in completing the Preservation of Affordable Housing/Mobile Home Park project started in 2018 including assistance with developing regulations to implement Council's 9/17/18 policy direction on land use and other strategies. Assist with review of current code provisions and permitting process for Accessory Dwelling Units (ADU's) is a potential 2019 work program item.

Continue to assist with technical questions and negotiating agreements where affordable housing is proposed including the TOD overlay.

Continue to assist with negotiating and administering the provision of affordable housing in developments required to provide affordable housing units pursuant to city regulations and/or using the multifamily tax exemption program.

Assist with review and developing options and opportunities for partnerships to incorporate affordable housing into transit projects including the siting of parking structures in Kenmore for the Sound Transit ST3 proposal.

Kirkland

Assist with the update to the City's Accessory Dwelling Unit (ADU) regulations and implementation of programs to encourage construction of more ADUs.

Assist with the development of Missing Middle housing policies and regulations as part of the City's neighborhood planning processes.

Participate with City and other agency staff to determine feasibility for Transit Oriented Development at the Kingsgate Park and Ride. Help develop regulations for TOD at the site, if appropriate.

Continue to assist with negotiating and administering the provision of affordable housing in developments required to provide affordable housing units pursuant to city regulations and/or using the optional multifamily tax exemption program.

Assist City staff with housing issues that come before Council Planning and Economic Development Committee and resulting initiatives.

Assist City staff with affordable housing preservation efforts and initiatives.

Mercer Island

Assist with review of the City's MFTE program and evaluating options for a fee-in-lieu alternative to land use requirements.

Assist City with a Housing Strategy Plan.

As needed, assist City staff with components of residential development standards review that are associated with housing stock diversity.

As needed, assist City staff with administering affordable housing provisions associated with the land use incentive and tax exemption programs for Town Center.

Provide project support for Town Center development projects that include affordable housing.

Newcastle

Assist City with a Housing Strategy Plan.

Assist with agreements for any project that would include an affordable housing requirement, including those related to the Community Business Center.

Assist staff with outreach effort related to ADUs.

Redmond

Continue to assist with negotiating and administering the provision of affordable housing in developments required to provide affordable housing units pursuant to city regulations.

Assist City staff with continuing to implement the multifamily property tax exemption program to incentivize affordable housing, as allowed under RCW 84.14.

Continue to assist with strategies to increase the level of affordability for new housing in Overlake and Southeast Redmond as part of the development of master plans and development agreements, including exploring ways to leverage other resources.

Assist with the promotion of affordable housing and other programs available to Redmond residents and developers, e.g., Accessory Dwelling Units (ADUs).

As follow-up to the City's adoption of Section 8 anti-discrimination ordinance, assist with education outreach efforts to landlords regarding the Section 8 program and potentially other initiatives to support use of this program in cooperation with other jurisdictions.

Assist with the implementation of other high priority items identified in the Strategic Housing Plan and the Affordable Housing Strategies Work Plan of June 2016, such as encouraging public/private partnerships to promote the development of affordable housing in urban centers.

Sammamish

Assist City in the finalization of their Housing Strategy Plan.

Assist City staff in finalizing resale requirements and other tasks related to the affordability provisions for site donated to Habitat.

Assist City staff with implementation of Town Center affordable housing provisions.

Support City in exploring impacts to and solutions for affordable housing related to code and policy updates during legislative review.

Work with the City to identify ways to promote available housing assistance and affordable housing programs to Sammamish's workforce and residents.

Woodinville

Assist City staff with a Housing Strategy Plan.

Assist with review and any update of affordable housing and accessory dwelling unit programs and regulations.

Assist City staff and Planning Commission with evaluating and developing incentives for affordable housing as provided for in the Downtown/Little Bear Creek Master Plan area.

As needed, assist City staff with components of residential development standards review that are associated with housing stock diversity.

Yarrow Point

Assist Planning Commission and Council with a review and potential update of current ADU regulations and assist with effort to increase public awareness of local provisions.

King County

Ongoing monitoring of affordable housing in the Northridge/Blakely Ridge and Redmond Ridge Phase II affordable housing development agreements.



**BUSINESS OF THE CITY COUNCIL
CITY OF MERCER ISLAND, WA**

**AB 5569
May 21, 2019
Regular Business**

FIRST QUARTER 2019 FINANCIAL STATUS REPORT & 2019-2020 BUDGET ADJUSTMENTS	Action: Receive report and adopt Ordinance No. 19-09.	<input type="checkbox"/> Discussion Only <input checked="" type="checkbox"/> Action Needed: <input checked="" type="checkbox"/> Motion <input checked="" type="checkbox"/> Ordinance <input type="checkbox"/> Resolution
--------------------------------------------------------------------------------------	-----------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

DEPARTMENT OF	Finance (Chip Corder)
COUNCIL LIAISON	n/a
EXHIBITS	1. First Quarter 2019 Financial Status Report 2. Ordinance No. 19-09 (amends 2019-2020 Budget)
2019-2020 CITY COUNCIL PRIORITY	n/a
APPROVED BY CITY MANAGER	

AMOUNT OF EXPENDITURE	\$ -907,503
AMOUNT BUDGETED	\$ n/a
APPROPRIATION REQUIRED	\$ -907,503

SUMMARY

The First Quarter 2019 Financial Status Report, which focuses on the General Fund and real estate excise tax (REET), is attached as Exhibit 1. An ordinance amending the 2019-2020 Budget is attached as Exhibit 2.

RECOMMENDATION

Finance Director

- MOVE TO:
1. Suspend the City Council Rules of Procedure 6.3, requiring a second reading for an ordinance.
 2. Adopt Ordinance No. 19-09, amending the 2019-2020 Budget.

City of Mercer Island
FINANCIAL STATUS REPORT
First Quarter 2019

FOREWORD

The Financial Status Report provides a summary budget to actual comparison of revenues and expenditures for the General Fund (four times a year) and all other funds (twice a year) through the end of the most recently completed fiscal quarter. Revenue and expenditure comparisons are also made to the same period in the prior year. In addition, a comprehensive progress update on the City's Capital Improvement Program (CIP) is included twice a year in the second and fourth quarter reports. A separate fund balance analysis for every fund is included annually in the fourth quarter report as well. Finally, if needed, budget adjustments are identified in a separate section of this report, along with a budget amending ordinance.

This report is comprised of the following three sections:

- General Fund
- Real Estate Excise Tax (REET)
- Budget Adjustments

It should be noted that, where significant, revenues are recognized when earned, regardless of when cash is received, and expenditures are recognized when a liability has been incurred or when resources have been transferred to another fund. Also, in the case of the General Fund, the budgeted beginning fund balance, which corresponds to the Council-approved "cash carryover" of net excess resources from a prior year, is separately identified.

GENERAL FUND

The General Fund ended the first quarter of 2019 with total revenues down 4.6 percent relative to the first quarter of 2018 and total expenditures slightly above (25.5 percent) the 25 percent budget threshold. It should be noted that the Beautification Fund was combined with the General Fund beginning in 2019. To ensure an “apples to apples” comparison between years, the Beautification Fund has been included in the General Fund’s 2018 fiscal year revenues and expenditures.

Revenues

Comparing total actual to total budgeted revenues through the first quarter of the year, the General Fund is 16.6 percent of budget in 2019 versus 17.6 percent of budget in 2018 (see table below).

**GENERAL FUND: Revenues
Through March 31, 2018 and 2019**

Revenue Category	Actual			Budget		% of Budget	
	3/31/2018*	3/31/19	% Chg	2018*	2019	2018	2019
Property Tax	920,436	976,727	6.1%	12,159,785	12,454,555	7.6%	7.8%
General Sales Tax (0.85%)	1,064,491	1,050,522	-1.3%	4,580,000	4,401,736	23.2%	23.9%
Utility Taxes	1,177,450	1,134,980	-3.6%	4,216,700	4,190,106	27.9%	27.1%
License, Permit & Zoning Fees	925,316	794,704	-14.1%	3,384,500	3,697,847	27.3%	21.5%
Recreation Program Fees	368,767	287,222	-22.1%	1,668,815	1,604,300	22.1%	17.9%
EMS Levy & Charge for Service	340,289	348,455	2.4%	1,323,578	1,363,488	25.7%	25.6%
Intergovernmental Revenues	108,991	103,331	-5.2%	1,119,259	1,166,215	9.7%	8.9%
Criminal Justice Sales Tax (0.10%)	172,183	177,098	2.9%	695,000	728,206	24.8%	24.3%
B&O Tax	8,853	20,226	128.5%	673,000	642,884	1.3%	3.1%
Utilities Overhead	116,026	113,469	-2.2%	464,106	453,876	25.0%	25.0%
Court Fines	92,327	70,299	-23.9%	415,000	346,604	22.2%	20.3%
CIP Administration	69,546	68,941	-0.9%	278,185	275,765	25.0%	25.0%
Misc General Government	107,193	72,767	-32.1%	224,700	226,700	47.7%	32.1%
Investment Interest	7,465	10,329	38.4%	6,000	25,604	124.4%	40.3%
Total Revenues	5,479,333	5,229,070	-4.6%	31,208,628	31,577,886	17.6%	16.6%
Beginning Fund Balance	1,276,830	-	-100.0%	1,276,830	-	100.0%	N/A
Interfund Transfers (One-Time):	-	-	N/A	-	-	N/A	N/A
Transfer from Contingency Fund	-	1,035,704	N/A	-	1,035,704	N/A	100.0%
Total Resources	6,756,163	6,264,774	-7.3%	32,485,458	32,613,590	20.8%	19.2%

* The 2018 actuals and budget include the Beautification Fund, which was combined with the General Fund in 2019.

Comparing 2019 to 2018, total revenues are down \$250,263, or 4.6 percent, through the first quarter of the year primarily due to the following:

- \$130,612, or 14.1 percent, decrease in license, permit & zoning fees;
- \$81,545, or 22.1 percent, decrease in recreation program fees; and
- \$42,470, or 3.6 percent, decrease in utility taxes.

A more in-depth analysis is provided for the following revenues:

- **Property tax is 7.8 percent of budget in 2019 compared to 7.6 percent of budget in 2018.** This is normal, reflecting King County’s practice of distributing property taxes to cities in April/May and October/November. Relative to 2018, actual revenue is up \$56,291, or 6.1 percent, in 2019. The magnitude of this percentage increase is temporary and will normalize after the property tax distributions in April/May 2019 to about 2.6 percent, which consists of the 1.0 percent voted increase by the Council plus new construction.
- **General sales tax (0.85% of 10.0% tax rate) is 23.9 percent of budget in 2019 compared to 23.2 percent of budget in 2018.** Relative to 2018, actual revenue is down \$13,969, or 1.3 percent, in 2019. The following two tables compare sales tax revenue, which is broken down by business sector, through the first quarter of 2017-2019.

2017-2019 Sales Tax Revenue

Business Sector	Revenue (Jan-Mar)			% Change		% of Total		
	2017	2018	2019	2018	2019	2017	2018	2019
Construction	494,204	415,274	401,602	-16.0%	-3.3%	47.2%	39.0%	38.2%
Retail & Wholesale Trade	282,511	299,143	310,760	5.9%	3.9%	27.0%	28.1%	29.6%
Admin & Support Services	47,941	70,689	78,106	47.4%	10.5%	4.6%	6.6%	7.4%
Food Services	52,194	52,455	53,897	0.5%	2.7%	5.0%	4.9%	5.1%
Finance/Insurance/Real Estate	28,295	33,577	37,738	18.7%	12.4%	2.7%	3.2%	3.6%
Prof, Scientific & Tech Services	27,748	27,447	36,379	-1.1%	32.5%	2.6%	2.6%	3.5%
Telecommunications	38,512	41,659	35,898	8.2%	-13.8%	3.7%	3.9%	3.4%
All Other Sectors	76,149	124,246	96,142	63.2%	-22.6%	7.3%	11.7%	9.2%
Total	1,047,554	1,064,491	1,050,522	1.6%	-1.3%	100.0%	100.0%	100.0%

The overall decrease of 1.3 percent was primarily driven by the following:

- \$28,104, or 22.6 percent, decrease in “all other sectors;” and
- \$13,672, or 3.3 percent, decrease in “construction.”

Note that the “construction” and “retail & wholesale trade” sectors comprise two-thirds of the City’s total sales tax receipts.

- **Utility taxes are 27.1 percent of budget in 2019 compared to 27.9 percent of budget in 2018.** The table below compares utility tax revenues, which are broken down by type of utility, through the first quarter of 2017-2019.

2017-2019 Utility Tax Revenue

Utility Tax	Revenue (Jan-Mar)			% Change		% of Total	
	2017	2018	2019	2018	2019	2018	2019
Electric/Gas	606,006	561,372	535,553	-7.4%	-4.6%	47.7%	47.2%
Water, Sewer & Stormwater	223,557	238,842	243,121	6.8%	1.8%	20.3%	21.4%
Cable TV	177,898	165,040	157,928	-7.2%	-4.3%	14.0%	13.9%
Garbage	71,531	71,934	73,787	0.6%	2.6%	6.1%	6.5%
Cellular	103,471	84,989	69,958	-17.9%	-17.7%	7.2%	6.2%
Long Distance	34,966	36,728	38,290	5.0%	4.3%	3.1%	3.4%
Telephone	20,098	18,545	16,341	-7.7%	-11.9%	1.6%	1.4%
Total	1,237,528	1,177,450	1,134,980	-4.9%	-3.6%	100.0%	100.0%

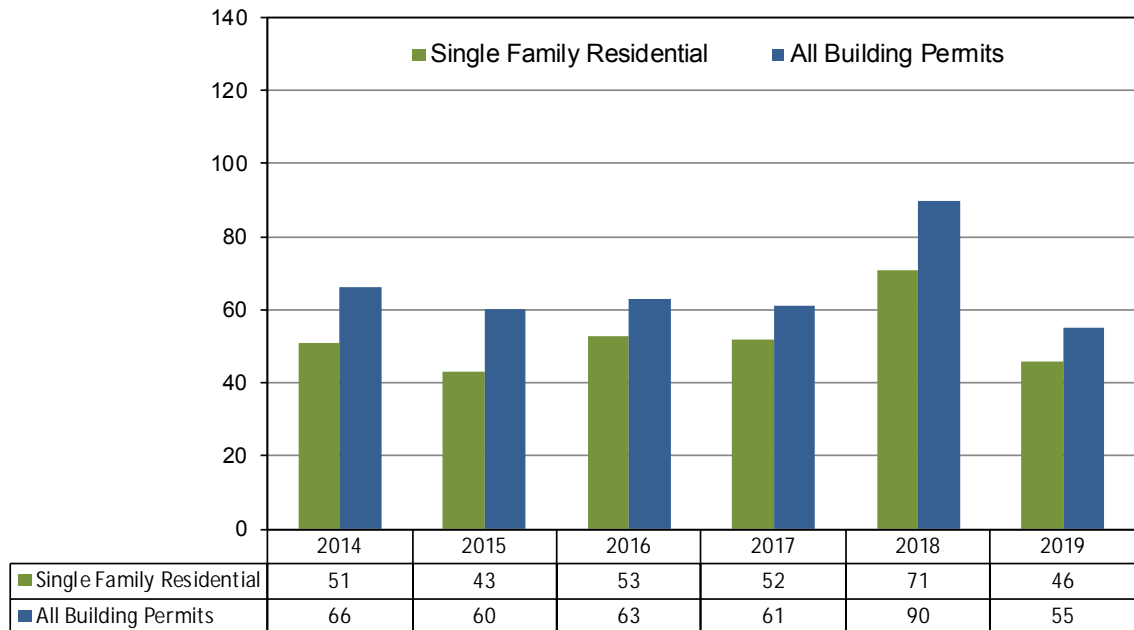
Relative to 2018, actual revenues are down \$42,470, or 3.6 percent, in 2019 primarily due to the following:

- \$25,819, or 4.6 percent, decrease in electric/gas utility tax;
 - \$15,031, or 17.7 percent, decrease in cellular utility tax, reflecting the ongoing downward trend that began in 2009 due to a highly competitive business environment, the popularity of texting over talking, and the exclusion of data plans from utility taxes; and
 - \$7,112, or 4.3 percent, decrease in cable utility tax, reflecting the growth of online streaming services as households opt to “cut the cable.”
- **License, permit, and zoning fees are 21.5 percent of budget in 2019 compared to 27.3 percent of budget in 2018.** Relative to 2018, actual revenues are down \$130,612, or 14.1 percent, in 2019. This revenue category consists of all fees related to development, business licensing, and a cable franchise. Development activity, as measured by the percentage change in the number of building permits issued and the total building valuation in the first quarter of 2019 versus the first quarter of 2018, is summarized in the table below.

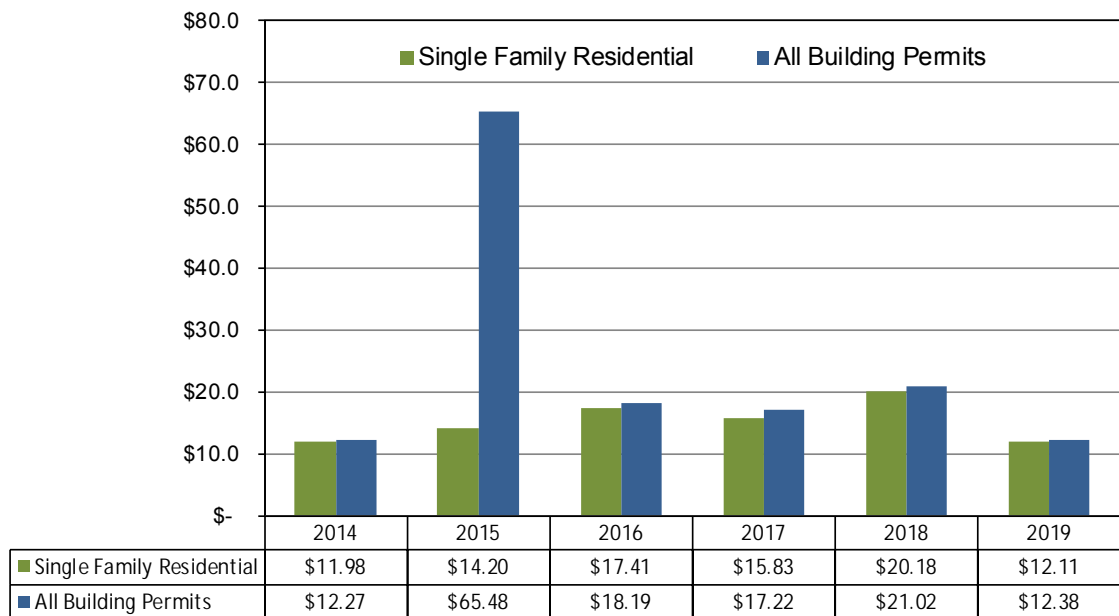
Building Permit Type	% Change: Q1 2019 vs. Q1 2018	
	# of Building Permits Issued	Total Building Valuation (\$)
Single family residential	-35.2%	-40.0%
All building permit types	-38.9%	-41.1%

The following two graphs show the total number of building permits issued and the total building valuation for single family residential versus all building permit types for the first quarter of 2014-2019.

Building Permits Issued: First Quarter 2014-2019



Building Valuation (\$Millions): First Quarter 2014-2019



Development activity in the first quarter of 2019 is similar to the first quarter of 2014-2015, in terms of the number of building permits issued, and to the first quarter of 2014, in terms of the total building valuation.

Finally, cable franchise fees are down 4.3 percent in 2019 compared to the prior year (\$112,834 in 2019 vs. \$117,886 in 2018), reflecting the growth of online streaming services.

- **Recreation program fees are 17.9 percent of budget in 2019 compared to 22.1 percent of budget in 2018.** Trailing the 25.0 percent budget threshold is typical for this revenue category and is mostly related to summer class registrations, which occur during the second quarter of the year. Relative to 2018, actual revenue is down \$81,545, or 22.1 percent, in 2019. This is deceiving and is directly related to the implementation of a new recreation system in 2018. Registration fees in the first quarter of 2018 were mistakenly booked as revenues before they were earned. This revenue recognition issue has been fixed going forward.
- **Intergovernmental revenues are 8.9 percent of budget in 2019 compared to 9.7 percent of budget in 2018.** This is typical for this revenue category at this point in the year. The major revenue sources include the liquor excise tax and liquor profits that are shared by the state, I-90 corridor landscape maintenance contract revenue from the Washington State Department of Transportation, vessel registration fees that are received from the state through King County, and marine patrol contract revenue from the City of Renton. The vessel registration fees and marine patrol contract revenue will not be received, or otherwise recognized, until December 2019.
- **B&O tax is 3.1 percent of budget in 2019 compared to 1.3 percent of budget in 2018.** This underage relative to the 25 percent budget threshold is normal, because 98 percent of the City's registered businesses file an annual, rather than a quarterly, B&O tax return that is not due until January 31st of the following year.

All other revenues are either within expected norms through the first quarter of the year or too insignificant to highlight.

Expenditures

Comparing total actual to total budgeted expenditures through the first quarter of the year, the General Fund is 25.5 percent of budget in 2019 versus 26.3 percent of budget in 2018. This modest overage relative to the 25 percent budget threshold is primarily due to there being 7 bi-weekly payroll periods through March 31, 2019 and March 31, 2018 (7 bi-weekly payroll periods / 26 total bi-weekly payroll periods = 26.9 percent). The following two tables compare actual to budgeted expenditures, first by category and then by department, through March 31, 2018 and 2019.

**GENERAL FUND: Expenditures by Category
Through March 31, 2018 and 2019**

Expenditure Category	Actual			Budget		% of Budget	
	3/31/2018*	3/31/19	% Chg	2018*	2019	2018	2019
Salaries & Wages	4,377,794	4,476,381	2.3%	16,462,198	16,835,870	26.6%	26.6%
Benefits	1,642,348	1,521,868	-7.3%	6,166,921	6,139,917	26.6%	24.8%
Contractual Services	282,822	261,482	-7.5%	2,179,335	2,565,653	13.0%	10.2%
Fleet & IT Internal Charges	362,319	412,513	13.9%	1,476,090	1,674,887	24.5%	24.6%
Intergovernmental Services	330,705	318,715	-3.6%	1,430,076	1,361,494	23.1%	23.4%
Utilities	103,137	95,891	-7.0%	829,731	929,947	12.4%	10.3%
Supplies	140,293	129,990	-7.3%	829,955	819,069	16.9%	15.9%
Insurance	601,169	774,249	28.8%	629,827	803,959	95.4%	96.3%
Other Services & Charges	145,971	122,253	-16.2%	408,602	474,615	35.7%	25.8%
Phone, Postage & Advertising	19,436	14,629	-24.7%	136,019	137,495	14.3%	10.6%
Interfund Transfers (Regular):							
To Youth & Family Services Fund	100,000	88,500	-11.5%	400,000	354,000	25.0%	25.0%
To Technology & Equipment Fund	85,500	80,000	-6.4%	342,000	320,000	25.0%	25.0%
To Water Fund	23,702	-	-100.0%	147,000	-	16.1%	N/A
To Computer Equipment Fund	102,526	-	-100.0%	102,526	-	100.0%	N/A
To Non-Voted Bond Fund	-	-	N/A	94,759	88,200	0.0%	0.0%
To Equipment Rental Fund	-	-	N/A	21,000	-	0.0%	N/A
Total Expenditures	8,317,722	8,296,471	-0.3%	31,656,039	32,505,106	26.3%	25.5%
Interfund Transfers (One-Time):							
To Youth & Family Services Fund	-	-	N/A	343,886	-	0.0%	N/A
To Capital Improvement Fund	-	-	N/A	150,000	-	0.0%	N/A
To Street Fund	-	-	N/A	68,000	-	0.0%	N/A
Total Expenditures & One-Time Interfund Transfers	8,317,722	8,296,471	-0.3%	32,217,925	32,505,106	25.8%	25.5%

* The 2018 actuals and budget include the Beautification Fund, which was combined with the General Fund in 2019.

**GENERAL FUND: Expenditures by Department
Through March 31, 2018 and 2019**

Department	Actual			Budget		% of Budget	
	3/31/2018*	3/31/19	% Chg	2018*	2019	2018	2019
Police	1,846,420	1,881,426	1.9%	7,040,341	7,412,861	26.2%	25.4%
Fire	1,712,728	1,729,095	1.0%	6,422,194	6,625,396	26.7%	26.1%
Parks & Recreation	1,252,710	1,194,103	-4.7%	5,801,670	5,995,915	21.6%	19.9%
Community Planning & Development	879,939	795,062	-9.6%	3,471,918	3,375,199	25.3%	23.6%
Non-Departmental	1,139,720	1,225,902	7.6%	3,688,210	3,142,577	30.9%	39.0%
Public Works	393,921	420,948	6.9%	1,878,267	1,911,645	21.0%	22.0%
City Manager's Office	348,234	319,839	-8.2%	1,063,645	1,114,758	32.7%	28.7%
Finance	244,714	250,476	2.4%	939,744	969,080	26.0%	25.8%
City Attorney's Office	193,032	187,332	-3.0%	743,275	783,463	26.0%	23.9%
Human Resources	179,232	161,904	-9.7%	609,219	634,417	29.4%	25.5%
Municipal Court	108,030	116,986	8.3%	494,611	479,765	21.8%	24.4%
City Council	19,042	13,398	-29.6%	64,831	60,030	29.4%	22.3%
Total Expenditures & One-Time Interfund Transfers	8,317,722	8,296,471	-0.3%	32,217,925	32,505,106	25.8%	25.5%

* The 2018 actuals and budget include the Beautification Fund, which was combined with the General Fund in 2019.

In reviewing **expenditures by category**, the following are noteworthy:

- **Salaries & wages, which total 52 percent of the 2019 General Fund budget, are 26.6 percent of budget in 2019 compared to 26.6 percent of budget in 2018.** This modest overage relative to the 25 percent budget threshold is due to the bi-weekly payroll issue noted above. Relative to 2018, actual expenditures are up \$98,587, or 2.3 percent, in 2019 due to the net effect of the following: 1) cost of living allowances for employees; 2) step increases for represented employees; 3) positions that were cut in the 2019-2020 budget; and 4) position vacancies.
- **Benefits, which total 19 percent of the 2019 General Fund budget, are 24.8 percent of budget in 2019 compared to 26.6 percent of budget in 2018.** Typically, benefits follow salaries & wages in terms of actual expenditures as a percentage of budget. However, medical premium increases in 2019 ended up being slightly less than what was budgeted for all employees, excluding Police and Fire. This differential will likely be absorbed in the second half of the year by higher than anticipated long-term care costs. Relative to 2018, actual expenditures are down \$120,480, or 7.3 percent, in 2019 due to the net effect of the following: 1) front-loaded VEBA contributions for Commissioned Police, Police Support, AFSCME, and non-represented employees in 2018 versus quarterly distributions in 2019; 2) positions that were cut in the 2019-2020 budget; and 3) position vacancies.
- **Contractual services, which total 8 percent of the 2019 General Fund budget, are 10.2 percent of budget in 2019 compared to 13.0 percent of budget in 2018.** This underage relative to the 25 percent budget threshold is typical, with contractual services occurring mostly in the second and third quarters of the year. This expenditure category includes outside legal counsel, software support, development and engineering support,

recreation instructors, repairs and maintenance, and other professional services. Relative to 2018, actual expenditures are down \$21,340, or 7.5 percent, in 2019, due to the variability in these expenditures from year to year.

- **Insurance, which totals 2 percent of the 2019 General Fund budget, is 96.3 percent of budget in 2019 compared to 95.4 percent of budget in 2018.** The City pays its annual insurance assessment to the Washington Cities Insurance Authority (WCIA) in the first quarter of each year. Relative to 2018, actual expenditures are up \$173,080, or 28.8 percent, in 2019. The City's liability insurance premiums are based on the total number of worker hours and the City's claims experience over the past five years.

In reviewing **expenditures by department**, the following are noteworthy:

- **Non-Departmental is 39.0 percent of budget in 2019 compared to 30.9 percent of budget in 2018.** This overage relative to the 25 percent budget threshold is normal and is due to the annual insurance payment to WCIA in the first quarter of the year.
- **City Manager's Office is 28.7 percent of budget in 2019 compared to 32.7 percent of budget in 2018.** This overage relative to the 25 percent budget threshold is due to King County general election costs in 2018, which were paid in the first quarter of 2019, and the bi-weekly payroll issue noted above.

All other expenditures are either within expected norms through the first quarter of the year or too insignificant to highlight.

REAL ESTATE EXCISE TAX

Real estate excise tax (REET) is the 0.5 percent tax paid by the seller in property transactions, and its use is restricted by state law for specific capital purposes. REET 1 (the 1st quarter of 1.0 percent of the sales price) may be used for streets, parks, facilities, or utilities. REET 2 (the 2nd quarter of 1.0 percent of the sales price) may be used for the same capital purposes as REET 1, except for facilities, which are specifically prohibited. Neither REET 1 nor REET 2 may be used for equipment or technology.

Prior to 2019, REET was split 50/50 between the Street Fund and Capital Improvement Fund, with 100 percent of REET 1 going to the Capital Improvement Fund and 100 percent of REET 2 going to the Street Fund. Beginning in 2019, the Council approved a staff recommended change in the allocation, with 45 percent of REET going to the Street Fund (i.e., 90 percent of REET 2) and 55 percent going to the Capital Improvement Fund (i.e., 100 percent of REET 1 + 10 percent of REET 2).

Through the first quarter of the year, REET is 18.0 percent of budget in 2019 compared to 23.2 percent of budget in 2018, as shown in the table below. Relative to 2018, revenue is down \$95,635, or 12.5 percent, in 2019.

REET Revenue: Actual vs. Budget Through March 31, 2018 and 2019

Actual			Budget		% of Budget	
3/31/18	3/31/19	% Change	2018	2019	2018	2019
\$762,266	\$666,631	-12.5%	\$3,284,000	\$3,706,000	23.2%	18.0%

The primary driver behind the 12.5 percent revenue decrease is the number of property sales, which is down 11.7 percent, as shown in the table below. The average sales price, which is up 2.9 percent, is \$1.55 million through the first quarter of 2019.

Home Sale Statistics Through March 31, 2018 and 2019

Number of Sales			Average Sales Price		
3/31/18	3/31/19	% Change	3/31/18	3/31/19	% Change
94	83	-11.7%	\$1,510,725	\$1,554,548	2.9%

In the following table, REET is broken down according to property sales (i.e., ≤\$5.0 million and >\$5.0 million) for the period 2009-2018. Also, the average property sales price and the number of sales are identified for those properties that sold for \$5.0 million or less.

2009-2018 REET Revenue (Dollars in Thousands)
Property Sales ≤\$5.0M and >\$5.0M

Property Sale Breakdown	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	Avg
Property Sales ≤\$5.0M:											
Average Sales Price	\$854	\$994	\$916	\$899	\$1,046	\$1,119	\$1,182	\$1,318	\$1,483	\$1,587	\$1,140
% Change in Avg Sales Price	-30.9%	16.3%	-7.8%	-1.9%	16.4%	7.0%	5.6%	11.5%	12.5%	7.0%	3.6%
Number of Property Sales	267	318	367	418	492	493	499	454	490	423	422
REET Revenue	\$1,129	\$1,565	\$1,665	\$1,860	\$2,548	\$2,742	\$2,919	\$2,955	\$3,597	\$3,307	\$2,429
Property Sales >\$5.0M:											
Number of Property Sales	3	3	5	6	2	9	10	7	14	13	7
REET Revenue	\$129	\$642	\$162	\$300	\$57	\$527	\$350	\$746	\$2,093	\$519	\$553
Total REET Revenue	\$1,258	\$2,207	\$1,827	\$2,160	\$2,605	\$3,269	\$3,269	\$3,701	\$5,690	\$3,826	\$2,981

During this 10-year period, the average annual number of sales is 422 for properties that sold for \$5.0 million or less.

BUDGET ADJUSTMENTS

In the interest of administrative ease, a budget amending ordinance is prepared and submitted to the Council quarterly, if needed, along with the Financial Status Report. Budget adjustments are divided into three groups: 1) those previously approved by the Council but not formally adopted via a budget amending ordinance; 2) new requests; and 3) carryover requests. The second category typically consists of financial housekeeping items, minor requests, and unanticipated expenditures that the City had to incur and was unable to absorb within the authorized budget. The third category requires Council action only when unspent budget is being moved from the prior biennium to the current biennium. No Council action is needed when budget is moved within the biennium and within the same fund.

Budget adjustments previously approved but not formally adopted via a budget amending ordinance by the Council are summarized in the following two tables: 1) Deficit Spending Reductions; and 2) Other Budget Adjustments.

Deficit Spending Reductions

Fund	Department	Description	Agenda Bill	Budget Year	Expenditure Adjustment	Revenue Adjustment
General	City Council	Reduce Sister City support in 2020	AB 5545, 4/2/19	2020	-\$6,000	
	City Manager's Office	Eliminate Senior Project Manager (0.58 FTE) in 2020	AB 5545, 4/2/19	2020	-\$28,732	
	Community Planning & Development	Revenue adjustment: Adjusted land use fees to 80% cost recovery level in 2019 (not reflected in adopted budget)	AB 5545, 4/2/19	2019 2020		\$60,000 \$60,000
		Combine two half-time Code Compliance positions into 1.0 FTE	AB 5545, 4/2/19	2019 2020	-\$4,311 -\$4,089	
	Finance	Reorganize department	AB 5545, 4/2/19	2019 2020	-\$12,000 -\$20,000	
		Revenue adjustment: Increase parking permit fees from \$5 per year to \$30 per year in 2020	AB 5545, 4/2/19	2020		\$18,535
	Fire	Restore Deputy Fire Chief (1.0 FTE), which was cut in 2020 in the adopted budget	AB 5545, 4/2/19	2020	\$215,030	
	Human Resources	Reduce employee service awards in 2020	AB 5545, 4/2/19	2020	-\$3,500	
	Information & Geographic Services	Eliminate IGS Helpdesk Technician (1.0 FTE) in 2019, reducing internal IT M&O rates	AB 5545, 4/2/19	2019 2020	-\$78,856 -\$78,405	

Fund	Department	Description	Agenda Bill	Budget Year	Expenditure Adjustment	Revenue Adjustment
General	Information & Geographic Services	Reclassify IGS Director to IGS Manager, reducing internal IT M&O rates (note: 2019 budget reduction includes position vacancy savings)	AB 5545, 4/2/19	2019 2020	-\$46,800 -\$39,000	
	Parks & Recreation	Eliminate Summer Celebration in 2019 (includes \$25,000 revenue loss per year)	AB 5545, 4/2/19	2019 2020	-\$93,500 -\$93,500	-\$25,000 -\$25,000
		Eliminate Parks Maintenance overtime related to Summer Celebration	AB 5545, 4/2/19	2019 2020	-\$23,046 -\$23,046	
		Eliminate Community Camp Out (includes \$1,900 revenue loss per year)	AB 5545, 4/2/19	2019 2020	-\$3,325 -\$3,325	-\$1,900 -\$1,900
		Eliminate Leap for Green	AB 5545, 4/2/19	2019 2020	-\$1,200 -\$1,200	
		Eliminate All-Island Track Meet	AB 5545, 4/2/19	2019 2020	-\$2,500 -\$2,500	
		Reduce MICEC customer service (casual labor)	AB 5545, 4/2/19	2019 2020	-\$24,668 -\$13,719	
		Eliminate MICEC Reservations Specialist (1.0 FTE) & increase casual labor by \$32,000 per year	AB 5545, 4/2/19	2019 2020	-\$45,793 -\$48,051	
		Police	Eliminate special events overtime	AB 5545, 4/2/19	2019 2020	-\$30,000 -\$30,000
	Public Works	Eliminate Right-of-Way Team overtime related to Summer Celebration	AB 5545, 4/2/19	2019 2020	-\$1,185 -\$1,185	
		Eliminate Christmas tree recycling by Right-of-Way Team, which will be provided by Recology instead	AB 5545, 4/2/19	2019 2020	-\$5,000 -\$5,000	
		Reduce City building repair & maintenance	AB 5545, 4/2/19	2019 2020	-\$10,000 -\$10,000	
	Non-Departmental	Eliminate pay-for-performance in 2020	AB 5545, 4/2/19	2020	-\$313,708	
		Eliminate interfund transfer from General Fund to YFS Fund in 2020	AB 5545, 4/2/19	2020	-\$309,000	

Fund	Department	Description	Agenda Bill	Budget Year	Expenditure Adjustment	Revenue Adjustment
General	Non-Departmental	Phase out Chamber of Commerce support beginning in 2020	AB 5545, 4/2/19	2020	-\$7,200	
		Eliminate Mountains to Sound Greenway support in 2020	AB 5545, 4/2/19	2020	-\$10,000	
		Reduce miscellaneous professional services	AB 5545, 4/2/19	2019 2020	-\$12,500 -\$25,000	
		Re-balance General Fund budget in 2019 by reducing one-time interfund transfer from Contingency Fund	AB 5545, 4/2/19	2019		-\$427,784 interfund transfer from Contingency Fund
		Re-balance General Fund budget in 2020 by eliminating fund balance used to balance budget	AB 5545, 4/2/19	2020		-\$790,798 appropriated fund balance
Youth & Family Services	YFS	Eliminate Administrative Coordinator (1.0 FTE) in 2020 & restore Administrative Assistant (0.5 FTE), which was cut in 2019, in 2020	AB 5553, 4/30/19	2020	-\$66,113	
		Eliminate pay-for-performance in 2020	AB 5553, 4/30/19	2020	-\$63,834	
		Revenue adjustment: Eliminate interfund transfer from General Fund to YFS Fund in 2020	AB 5553, 4/30/19	2020		-\$309,000
		Revenue adjustment: Increase community-based counseling fees in 2020	AB 5553, 4/30/19	2020		\$15,000
		Revenue adjustment: Institute school-based counseling fees at IMS and MIHS in 2020	AB 5553, 4/30/19	2020		\$54,000
		Revenue adjustment: Institute school-based counseling fees at elementary schools in 2020	AB 5553, 4/30/19	2020		\$55,000
		Re-balance YFS Fund budget in 2020 by appropriating available fund balance	AB 5553, 4/30/19	2020		\$55,053 unappropriated fund balance

Other Budget Adjustments

Fund	Department	Description	Agenda Bill	Budget Year	Amount	Funding Source
General	Non-Departmental	2018 expenditure savings disposition: Transfer 74.1% of additional soil remediation costs for 9555 SE 36 th St. site to Equipment Rental Fund	AB 5562, 5/7/19	2019	\$112,928	Unappropriated fund balance
Youth & Family Services	YFS	Restore Elementary School Counselor reductions (0.83 FTE in Sep 2019 – Dec 2020 & 0.83 FTE in Sep 2020 – Dec 2020), which amount to \$157,000, and Administrative Assistant reduction (0.5 FTE in Jul 2019 – Dec 2019), which amounts to \$16,460	AB 5553, 4/30/19	2019 2020	\$51,460 \$122,000	Unappropriated fund balance
Water	Public Works	Transfer 11.7% of additional soil remediation costs for 9555 SE 36 th St. site to Equipment Rental Fund	AB 5562, 5/7/19	2019	\$17,831	Unappropriated fund balance
Sewer	Public Works	Transfer 6.1% of additional soil remediation costs for 9555 SE 36 th St. site to Equipment Rental Fund	AB 5562, 5/7/19	2019	\$9,296	Unappropriated fund balance
Stormwater	Public Works	Transfer 8.1% of additional soil remediation costs for 9555 SE 36 th St. site to Equipment Rental Fund	AB 5562, 5/7/19	2019	\$12,344	Unappropriated fund balance
Equipment Rental	Public Works	Additional soil remediation work at 9555 SE 36 th St site	AB 5562, 5/7/19	2019	\$152,399	Interfund transfers from General Fund, Water Fund, Sewer Fund & Stormwater Fund

Two summary listings of the originally adopted 2019-2020 Budget (expenditures only), broken down by year, and all subsequent adjustments are presented on the following two pages.

**2019 Budget Adjustment Summary
Expenditures by Fund**

Fund Type / Fund Name	Original 2019 Budget	2019 Budget Adjustments				Amended 2019 Budget
		Q4 2018 FSR, 5/7/2019	Q1 2019 FSR, 5/21/2019			
General Purpose Funds:						
General	32,505,106	117,246	(281,756)			32,340,596
Self-Insurance	10,000					10,000
Youth Services Endowment	3,500					3,500
Special Revenue Funds:						
Street*	3,567,588	306,315				3,873,903
Contingency	1,035,704	304,838				1,340,542
1% for the Arts	15,000	13,521				28,521
Youth & Family Services	2,870,274	131,570	51,460			3,053,304
Debt Service Funds:						
Bond Redemption (Voted)	-					-
Bond Redemption (Non-Voted)	841,800					841,800
Capital Projects Funds:						
Town Center Parking Facilities*	139,930	2,340,630				2,480,560
Capital Improvement*	3,041,056	877,790				3,918,846
Technology & Equipment*	640,000	167,965				807,965
Capital Reserve*	-					-
Enterprise Funds:						
Water*	9,557,767	242,285	17,831			9,817,883
Sewer*	10,310,350	807,728	9,296			11,127,374
Stormwater*	2,680,563	500,654	12,344			3,193,561
Internal Service Funds:						
Equipment Rental*	1,537,942	225,354	152,399			1,915,695
Computer Equipment*	1,196,047					1,196,047
Trust Funds:						
Firemen's Pension	89,000					89,000
Total	70,041,627	6,035,896	(38,426)	-	-	76,039,097

* Capital Improvement Program (CIP) projects are accounted for in these funds.

**2020 Budget Adjustment Summary
Expenditures by Fund**

Fund Type / Fund Name	Original 2020 Budget	2020 Budget Adjustments				Amended 2020 Budget
		Q1 2019 FSR, 5/21/2019				
General Purpose Funds:						
General	32,741,117	(861,130)				31,879,987
Self-Insurance	10,000					10,000
Youth Services Endowment	3,500					3,500
Special Revenue Funds:						
Street*	3,210,098					3,210,098
Contingency	-					-
1% for the Arts	15,000					15,000
Youth & Family Services	2,844,145	(7,947)				2,836,198
Debt Service Funds:						
Bond Redemption (Voted)	-					-
Bond Redemption (Non-Voted)	839,700					839,700
Capital Projects Funds:						
Town Center Parking Facilities*	-					-
Capital Improvement*	2,549,045					2,549,045
Technology & Equipment*	287,000					287,000
Capital Reserve*	-					-
Enterprise Funds:						
Water*	11,797,813					11,797,813
Sewer*	12,081,909					12,081,909
Stormwater*	2,601,762					2,601,762
Internal Service Funds:						
Equipment Rental*	1,649,995					1,649,995
Computer Equipment*	1,339,994					1,339,994
Trust Funds:						
Firemen's Pension	94,000					94,000
Total	72,065,078	(869,077)	-	-	-	71,196,001

* Capital Improvement Program (CIP) projects are accounted for in these funds.

**CITY OF MERCER ISLAND
ORDINANCE NO. 19-09**

**AN ORDINANCE OF THE CITY OF MERCER ISLAND, WASHINGTON,
INCORPORATING CERTAIN BUDGET REVISIONS TO THE 2019-2020
BIENNIAL BUDGET AND AMENDING ORDINANCE NOS. 18-18 AND 19-08.**

WHEREAS, the City Council adopted the 2019-2020 Budget by Ordinance No. 18-18 on December 4, 2018, representing the total for the biennium of estimated resources and expenditures for each of the separate funds of the City; and

WHEREAS, budget adjustments are needed that have been previously approved by the City Council, as noted in the following tables;

Deficit Spending Reductions

Fund	Department	Description	Agenda Bill	Budget Year	Expenditure Adjustment	Revenue Adjustment
General	City Council	Reduce Sister City support in 2020	AB 5545, 4/2/19	2020	-\$6,000	
	City Manager's Office	Eliminate Senior Project Manager (0.58 FTE) in 2020	AB 5545, 4/2/19	2020	-\$28,732	
	Community Planning & Development	Revenue adjustment: Adjusted land use fees to 80% cost recovery level in 2019 (not reflected in adopted budget)	AB 5545, 4/2/19	2019 2020		\$60,000 \$60,000
		Combine two half-time Code Compliance positions into 1.0 FTE	AB 5545, 4/2/19	2019 2020	-\$4,311 -\$4,089	
	Finance	Reorganize department	AB 5545, 4/2/19	2019 2020	-\$12,000 -\$20,000	
		Revenue adjustment: Increase parking permit fees from \$5 per year to \$30 per year in 2020	AB 5545, 4/2/19	2020		\$18,535
	Fire	Restore Deputy Fire Chief (1.0 FTE), which was cut in 2020 in the adopted budget	AB 5545, 4/2/19	2020	\$215,030	
	Human Resources	Reduce employee service awards in 2020	AB 5545, 4/2/19	2020	-\$3,500	
	Information & Geographic Services	Eliminate IGS Helpdesk Technician (1.0 FTE) in 2019, reducing internal IT M&O rates	AB 5545, 4/2/19	2019 2020	-\$78,856 -\$78,405	

Fund	Department	Description	Agenda Bill	Budget Year	Expenditure Adjustment	Revenue Adjustment
General	Information & Geographic Services	Reclassify IGS Director to IGS Manager, reducing internal IT M&O rates (note: 2019 budget reduction includes position vacancy savings)	AB 5545, 4/2/19	2019 2020	-\$46,800 -\$39,000	
	Parks & Recreation	Eliminate Summer Celebration in 2019 (includes \$25,000 revenue loss per year)	AB 5545, 4/2/19	2019 2020	-\$93,500 -\$93,500	-\$25,000 -\$25,000
		Eliminate Parks Maintenance overtime related to Summer Celebration	AB 5545, 4/2/19	2019 2020	-\$23,046 -\$23,046	
		Eliminate Community Camp Out (includes \$1,900 revenue loss per year)	AB 5545, 4/2/19	2019 2020	-\$3,325 -\$3,325	-\$1,900 -\$1,900
		Eliminate Leap for Green	AB 5545, 4/2/19	2019 2020	-\$1,200 -\$1,200	
		Eliminate All-Island Track Meet	AB 5545, 4/2/19	2019 2020	-\$2,500 -\$2,500	
		Reduce MICEC customer service (casual labor)	AB 5545, 4/2/19	2019 2020	-\$24,668 -\$13,719	
		Eliminate MICEC Reservations Specialist (1.0 FTE) & increase casual labor by \$32,000 per year	AB 5545, 4/2/19	2019 2020	-\$45,793 -\$48,051	
		Police	Eliminate special events overtime	AB 5545, 4/2/19	2019 2020	-\$30,000 -\$30,000
	Public Works	Eliminate Right-of-Way Team overtime related to Summer Celebration	AB 5545, 4/2/19	2019 2020	-\$1,185 -\$1,185	
		Eliminate Christmas tree recycling by Right-of-Way Team, which will be provided by Recology instead	AB 5545, 4/2/19	2019 2020	-\$5,000 -\$5,000	
		Reduce City building repair & maintenance	AB 5545, 4/2/19	2019 2020	-\$10,000 -\$10,000	
	Non-Departmental	Eliminate pay-for-performance in 2020	AB 5545, 4/2/19	2020	-\$313,708	
		Eliminate interfund transfer from General Fund to YFS Fund in 2020	AB 5545, 4/2/19	2020	-\$309,000	

Fund	Department	Description	Agenda Bill	Budget Year	Expenditure Adjustment	Revenue Adjustment
General	Non-Departmental	Phase out Chamber of Commerce support beginning in 2020	AB 5545, 4/2/19	2020	-\$7,200	
		Eliminate Mountains to Sound Greenway support in 2020	AB 5545, 4/2/19	2020	-\$10,000	
		Reduce miscellaneous professional services	AB 5545, 4/2/19	2019 2020	-\$12,500 -\$25,000	
		Re-balance General Fund budget in 2019 by reducing one-time interfund transfer from Contingency Fund	AB 5545, 4/2/19	2019		-\$427,784 interfund transfer from Contingency Fund
		Re-balance General Fund budget in 2020 by eliminating fund balance used to balance budget	AB 5545, 4/2/19	2020		-\$790,798 appropriated fund balance
Youth & Family Services	YFS	Eliminate Administrative Coordinator (1.0 FTE) in 2020 & restore Administrative Assistant (0.5 FTE), which was cut in 2019, in 2020	AB 5553, 4/30/19	2020	-\$66,113	
		Eliminate pay-for-performance in 2020	AB 5553, 4/30/19	2020	-\$63,834	
		Revenue adjustment: Eliminate interfund transfer from General Fund to YFS Fund in 2020	AB 5553, 4/30/19	2020		-\$309,000
		Revenue adjustment: Increase community-based counseling fees in 2020	AB 5553, 4/30/19	2020		\$15,000
		Revenue adjustment: Institute school-based counseling fees at IMS and MIHS in 2020	AB 5553, 4/30/19	2020		\$54,000
		Revenue adjustment: Institute school-based counseling fees at elementary schools in 2020	AB 5553, 4/30/19	2020		\$55,000
		Re-balance YFS Fund budget in 2020 by appropriating available fund balance	AB 5553, 4/30/19	2020		\$55,053 unappropriated fund balance

Other Budget Adjustments

Fund	Department	Description	Agenda Bill	Budget Year	Amount	Funding Source
General	Non-Departmental	2018 expenditure savings disposition: Transfer 74.1% of additional soil remediation costs for 9555 SE 36 th St. site to Equipment Rental Fund	AB 5562, 5/7/19	2019	\$112,928	Unappropriated fund balance
Youth & Family Services	YFS	Restore Elementary School Counselor reductions (0.83 FTE in Sep 2019 – Dec 2020 & 0.83 FTE in Sep 2020 – Dec 2020), which amount to \$157,000, and Administrative Assistant reduction (0.5 FTE in Jul 2019 – Dec 2019), which amounts to \$16,460	AB 5553, 4/30/19	2019 2020	\$51,460 \$122,000	Unappropriated fund balance
Water	Public Works	Transfer 11.7% of additional soil remediation costs for 9555 SE 36 th St. site to Equipment Rental Fund	AB 5562, 5/7/19	2019	\$17,831	Unappropriated fund balance
Sewer	Public Works	Transfer 6.1% of additional soil remediation costs for 9555 SE 36 th St. site to Equipment Rental Fund	AB 5562, 5/7/19	2019	\$9,296	Unappropriated fund balance
Stormwater	Public Works	Transfer 8.1% of additional soil remediation costs for 9555 SE 36 th St. site to Equipment Rental Fund	AB 5562, 5/7/19	2019	\$12,344	Unappropriated fund balance
Equipment Rental	Public Works	Additional soil remediation work at 9555 SE 36 th St site	AB 5562, 5/7/19	2019	\$152,399	Interfund transfers from General Fund, Water Fund, Sewer Fund & Stormwater Fund

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MERCER ISLAND, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Amending the 2019-2020 Budget

The 2019-2020 Budget for the City of Mercer Island, as adopted in Ordinance No. 18-18 and amended by Ordinance No. 19-08, is hereby amended to incorporate increases and decreases in resources and expenditures in the following funds for the 2019-2020 biennium:

Fund No.	Fund Name	Resources	Expenditures
001	General	-\$1,020,919	-\$1,142,886
160	Youth & Family Services	\$43,513	\$43,513
402	Water	\$17,831	\$17,831
426	Sewer	\$9,296	\$9,296
432	Stormwater	\$12,344	\$12,344
503	Equipment Rental	\$152,399	\$152,399
Totals		-\$785,536	-\$907,503

Section 2. Amending Previously Adopted Budget Ordinances

City Ordinance Nos. 18-18 and 19-08, as previously adopted and as hereby amended, are hereby ratified, confirmed, and continued in full force and effect.

Section 3. Effective Date

This Ordinance shall take effect and be in force 5 days after passage and publication.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF MERCER ISLAND, WASHINGTON, AT ITS MEETING ON THE 21ST DAY OF MAY, 2019.

CITY OF MERCER ISLAND

Debbie Bertlin, Mayor

ATTEST:

Deborah A. Estrada, City Clerk
APPROVED AS TO FORM:

Kari L. Sand, City Attorney

Date of Publication: _____



**BUSINESS OF THE CITY COUNCIL
CITY OF MERCER ISLAND, WA**

**AB 5566
May 21, 2019
Regular Business**

PLANNING COMMISSION'S RECOMMENDATION FOR CRITICAL AREAS CODE, SHORELINE MASTER PROGRAM, SEPA, AND ANCILLARY AMENDMENTS (1ST READING)	Action: Conduct first reading of Ordinance Nos. 19C-05, 19C-06, and 19C-07, provide staff with any requested changes, and advance to second reading.	<input type="checkbox"/> Discussion Only <input checked="" type="checkbox"/> Action Needed: <input checked="" type="checkbox"/> Motion <input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution
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DEPARTMENT OF	Community Planning and Development (Robin Proebsting)
COUNCIL LIAISON	n/a
EXHIBITS	<ol style="list-style-type: none"> 1. Proposed ordinance No. 19C-05 with Attachments A and B 2. Proposed ordinance No. 19C-06 with Attachments A 3. Proposed ordinance No. 19C-07 with Attachments A 4. Memorandum to City Council regarding compliance with MICC 19.15.250 and MICC 19.15.260 (code amendment review processes) 5. Summary of code updates 6. Gap Analysis Matrix 7. Best Available Science reports 8. Written public comment 9. Determination of Initial Concurrence with Attachment 1 from the Washington Dept. of Ecology dated May 9, 2019
2018-2019 CITY COUNCIL GOAL	6. Update Outdated Codes, Policies and Practices
APPROVED BY CITY MANAGER	

AMOUNT OF EXPENDITURE	\$	n/a
AMOUNT BUDGETED	\$	n/a
APPROPRIATION REQUIRED	\$	n/a

SUMMARY

The City of Mercer Island is required by two acts of state legislation to adopt and periodically update two key portions of the Mercer Island City Code (currently located in [Chapter 19.07 MICC](#)): The Growth Management Act ([Chapter 36.70A RCW](#)), which establishes provisions for critical areas regulations; and 2) The Shoreline Management Act ([Chapter 90.58 RCW](#)), which requires adoption of a Shoreline Master Program.

COMMUNICATIONS AND OUTREACH

The City Council approved a scope of work encompassing the tasks needed to complete these updates at its February 6, 2018 meeting ([AB 5385](#)). In addition, the City Council and Planning Commission held a joint Study Session on December 11, 2018 ([AB 5513](#)) to review the Planning Commission's 2019 Work Plan,

which included this body of work. The Planning Commission reviewed the policies and regulations over the past 18 months during 16 public meetings. The Public Hearing was held on March 6, 2019 for the Planning Commission to consider public comment on the proposed amendments. In addition to informal public outreach, consisting of articles on social media and in the MI Weekly, staff established a dedicated page on "[Let's Talk Mercer Island](#)," the City's public engagement platform, with opportunities for residents to post comments, ask questions, review FAQs, and learn about the proposed code amendments.

Following the meetings, public hearing, and public comment, the Planning Commission presents their recommendation to the City Council on the Critical Areas Code update and Shoreline Master Program, together with ancillary changes that will provide internal consistency to the code.

PROPOSED CODE AMENDMENTS

The Planning Commission recommends that the City Council:

1. Update the Mercer Island City Code (MICC) critical area regulations and related code language (see Exhibit 1, Attachment A),
2. Update the Mercer Island Shoreline Master Program (SMP) and relocate the shoreline regulations into Chapter 19.13 MICC (see Exhibit 2, Attachment A), and
3. Relocate the SEPA regulations into Chapter 19.14 MICC (see Exhibit 3, Attachment A).

The SMP and SEPA regulations have been relocated to separate chapters to avoid confusion and conflation of the three sets of environmental standards. The Planning Commission's recommendation consists of proposed code amendments in four general topics areas, described below and summarized in Exhibits 5 and 6.

Critical Areas

Critical areas regulations are made up of a set of standards designed to protect the functions and values of critical areas, which include wetlands, watercourses, fish and wildlife habitat conservation areas, and geologically hazardous areas. When critical areas regulations are updated, state law requires that the Best Available Science (BAS) be taken into consideration. The Planning Commission has done this by reviewing scientific reports prepared by the City's consultant for this project, ESA, (see Exhibit 7) and incorporating this information, alongside the City's Comprehensive Plan policies and public comment, into its recommendation.

Most of the amendments to the standards related to the critical area regulations are a result of the changes to the BAS between 2005 and 2019; as such the City's discretion to modify the standards is limited. The City has also updated the process by which the critical areas regulations are administered; administrative practices are less affected by BAS and are more readily modified.

Shoreline Master Program

The City is required by state law to periodically update the SMP, with the next update due on June 30, 2019. The City's existing SMP was adopted in 2015, having undergone an extensive multiyear review prior to adoption. Since these regulations were recently reviewed and updated, the scope of this required periodic review was limited to: 1) changes needed to remain consistent with state law; 2) standards for public access piers, which are not addressed in the existing SMP; and 3) non-substantive, clarifying revisions to standardize code language. The SMP is also proposed to be moved from a section within Chapter 19.07 MICC to its own chapter (proposed Chapter 19.13 MICC) to improve usability and organization.

Following the City Council's adoption of the SMP, the City is required to obtain Department of Ecology's approval of the updated SMP (RCW 90.58, WAC 173-26). Because Department of Ecology approval is required, the City has little flexibility in many of the revised standards. To aid in updating the SMP and meeting the June 30, 2019 deadline, the City has engaged in the Department of Ecology's expedited review

process and has received a Determination of Initial Concurrence (see Exhibit 9), which identifies several amendments to the SMP that will need to be incorporated in the second reading of the SMP. Staff has reviewed these documents with the Department of Ecology and will be prepared to speak to this item further at the Council Meeting. In general, staff has worked with the Department of Ecology to identify modified language that will address the Department of Ecology concerns.

SEPA

The City's State Environmental Policy Act (SEPA) rules are currently housed within one section of chapter 19.07 MICC and are proposed to be moved to a new chapter 19.14 MICC to improve usability and organization. One substantive change is proposed in order to be consistent with state law, pertaining to the maximum volume of grading and filling allowed before triggering SEPA review.

Other Chapters

The Planning Commission's Recommendation also contains recommended updates to chapters 19.09 – Property Development, 19.10 – Trees, 19.15 – Administration, and 19.16 – Definitions MICC. These updates include changes to cross references and revised code language to mirror the updated standards across relevant sections, which are being made to ensure internal consistency within the City's code.

NEXT STEPS

Following the Planning Commission's recommendation and City Council review on May 21, 2019, staff will provide any necessary changes and place Ordinance Nos. 19C-05, 19C-06, and 19C-07 on the June 4, 2019 meeting agenda for second reading and adoption.

The City has recommended that the amendments contained within proposed Ordinance Nos. 19C-05, 19C-06, and 19C-07 take effect on June 30, 2019, rather than 5 days after publication (estimated, June 17, 2019). The additional two weeks in the effective date of the amendments will allow for additional time to train City staff, prepare revised forms and materials, and support citizens currently seeking a building permit application.

RECOMMENDATION

Planning Commission and Senior Planner

MOVE TO: Set Ordinance Nos. 19C-05, 19C-06, and 19C-07 for second reading and adoption on June 4, 2019.

**CITY OF MERCER ISLAND
ORDINANCE NO. 19C-05**

AN ORDINANCE OF THE CITY OF MERCER ISLAND AMENDING CRITICAL AREAS REGULATIONS IN TITLE 19 OF THE MERCER ISLAND CITY CODE; PERMITTING CORRECTION OF SCRIVENER'S ERRORS DURING CODIFICATION; AUTHORIZING ISSUANCE OF RULES TO ADMINISTER THE AMENDED CODE; PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the Mercer Island City Code (MICC) establishes development regulations that are intended to result in the implementation of the Mercer Island Comprehensive Plan and protection of environmentally critical areas pursuant to RCW 36.70A.040 and 36.70A.060; and,

WHEREAS, the Mercer Island City Council directed the Planning Commission to review the Best Available Science related to the protection of environmentally critical areas, and to further review the shoreline master program, and to provide a recommendation to the City Council; and,

WHEREAS, the Mercer Island Planning Commission reviewed the policies and regulations related to the protection of environmentally critical areas and the shoreline master program for approximately 18 months and over the course of 16 public meetings; and,

WHEREAS, in addition to informal public outreach, consisting of articles on social media, the establishment of a dedicated webpage on "LetsTalk", a formal notice of public hearing was provided in accordance with MICC 19.15.100;

WHEREAS, the Mercer Island Planning Commission held a public hearing on March 6, 2019 and considered public comment received prior to the close of the public hearing; and

WHEREAS, the Mercer Island Planning Commission unanimously recommended adoption of the proposed amendments to the critical area regulations, shoreline master program, SEPA standards, and related code amendments; and,

WHEREAS, the Mercer Island Comprehensive Plan Land Use Element establish numerous goals and policies that are implemented through the adoption of the revised critical areas code; and,

WHEREAS, a SEPA Determination of Non Significance was issued by the City on February 4, 2019; and,

WHEREAS, the Washington Department of Commerce granted review of the proposed amendments to the development regulations on February 21, 2019;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MERCER ISLAND, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1: **Adoption of Amendments to Title 19 of the Mercer Island City Code Related to Critical Areas Regulations.** Chapter 19.07 MICC is hereby amended as set forth in Attachment "A" to this ordinance.

Section 2: **Adoption of Additional Amendments to Title 19 of the Mercer Island City Code Necessitated by Amendments in Section 1.** Amendments to the Mercer Island City Code as set forth in Attachment “B” to this ordinance are hereby adopted.

Section 3: **Codification and Effective Date of the Regulations.** The City Council authorizes the Community Planning and Development Director and the City Clerk to correct scrivener’s errors in Attachment A, codify the regulatory provisions of the amendments into Title 19 of the Mercer Island City Code, and publish the amended code. Notwithstanding the effective date of this Ordinance set forth in Section 5, the effective date of the regulatory provisions in Attachments A and B shall be on and after June 30, 2019.

Section 4: **Interpretation.** The City Council authorizes the Community Planning and Development Director to adopt administrative rules and administer the amended code as necessary to implement the legislative intent of the City Council.

Section 5: **Severability.** If any section, sentence, clause or phrase of this ordinance or any municipal code section amended hereby should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of any other section, sentence, clause or phrase of this ordinance or the amended code section.

Section 6: **Publication and Effective Date.** A summary of this Ordinance consisting of its title shall be published in the official newspaper of the City. This Ordinance shall take effect and be in full force five days after the date of publication.

PASSED by the City Council of the City of Mercer Island, Washington at its regular meeting on June 4, 2019 and signed in authentication of its passage.

CITY OF MERCER ISLAND

Debbie Bertlin, Mayor

Approved as to Form:

ATTEST:

Bio Park, Interim City Attorney

Deborah Estrada, City Clerk

Date of Publication: _____

**Ordinance No. 19C-05
Attachment A**

1 Chapter 19.07

2 ENVIRONMENT

3 Sections:

4 19.07.010 Purpose.

5 19.07.020 Applicability

6 19.07.030 Relationship to Other Regulations

7 19.07.040 Critical Areas Rules

8 19.07.050 Fees

9 19.07.060 Critical Area Maps and Inventories

10 19.07.070 Disclosure and Notice on Title

11 19.07.080 General Provisions

12 19.07.090 Critical Area Reviews

13 19.07.100 Mitigation Sequencing

14 19.07.110 Critical Area Studies

15 19.07.120 Exemptions

16 19.07.130 Modifications

17 19.07.140 Reasonable Use Exception

18 19.07.150 Public Agency Exception

19 19.07.160 Geologically Hazardous Areas

20 19.07.170 Fish and Wildlife Habitat Conservation Areas

21 19.07.180 Watercourses

22 19.07.190 Wetlands

23 **19.07.010 Purpose**

24 These regulations are adopted for the following purposes:

25 A. To implement the goals and policies for the Growth Management Act chapter 36.70A RCW;

26 B. To maintain the functions and values of critical areas and enhance the quality of habitat to support
27 the sustenance of native plants and animals;

28 C. To balance property owner interests with the public interest;

29 D. To promote biodiversity within critical areas and buffers by encouraging planting with mostly native
30 vegetation;

31 E. To establish review criteria for land use reviews that maintain and improve the ecological health of
32 wetlands, watercourses and Lake Washington;

33 F. To establish standards for new development that avoid increasing the risk of harm to people,
34 property, and public infrastructure from natural hazards;

35 G. To protect the functions and value of fish and wildlife habitat conservation areas, including
36 wetlands, watercourses and habitat for priority species and species of local importance, through the
37 use of buffers;

38 H. To increase the safety of development within and adjacent to geologically hazardous areas through
39 the use of buffers;

40 I. To require mitigation measures when unavoidable impacts to critical areas are proposed;

41 J. To establish tools to ensure that protection and mitigation measures are applied and maintain
42 ecological value and function consistent with the provisions of this chapter;

- 1 K. To avoid impact to the critical areas where possible, and if avoidance is not reasonably possible,
2 minimize impacts to critical areas and buffers to the greatest extent feasible, and mitigate any
3 remaining impacts;
- 4 L. To encourage the restoration of existing compromised critical areas; and
- 5 M. To minimize negative impacts from the built environment on the functions and values of critical
6 areas.

7 **19.07.020 Applicability**

- 8 A. Except as specifically exempted by MICC 19.07.120 - Exemptions, these regulations apply to land
9 uses, development activity, and all structures and facilities within the City of Mercer Island that
10 contain any of the following critical areas and/or their buffers, as defined in 19.16 MICC:
 - 11 1. Geologically Hazardous Areas;
 - 12 2. Fish and Wildlife Habitat Conservation Areas;
 - 13 3. Watercourses; and
 - 14 4. Wetlands.
- 15 B. The city shall not approve any development proposal or otherwise issue any authorization to alter
16 the condition of any land, water or vegetation or to construct or alter any structure or improvement
17 without first assuring compliance with the requirements of this chapter or determining that this
18 chapter is not applicable to the development.
- 19 C. Approval of a development proposal pursuant to the provisions of this chapter does not discharge
20 the applicant of the obligation to comply with the provisions of this chapter.

21 **19.07.030 Relationship to other regulations**

- 22 A. If more than one regulation applies to a given property, then the regulation that provides the
23 greatest protection to critical areas shall apply.
- 24 B. Other Jurisdictions. Nothing in these regulations eliminates or otherwise affects the responsibility of
25 an applicant or property owner to comply with all other applicable local, state, and federal
26 regulations and required permits.
- 27 C. SEPA Compliance. Nothing in these regulations or the decisions made pursuant to these regulations
28 affects the authority of the city to review, condition, and deny projects under the State
29 Environmental Policy Act, chapter 43.21C RCW.

30 **19.07.040 Critical Areas Rules**

31 The city is authorized to adopt administrative rules and regulations as necessary and appropriate to
32 implement this chapter and to prepare and require the use of forms to facilitate its administration.

33 **19.07.050 Fees**

- 34 A. Unless otherwise indicated in this title, the applicant shall be responsible for the initiation,
35 preparation, submission, and expense of all required reports, assessments, studies, plans,
36 reconnaissances, or other work prepared in support of or necessary to review the application.
- 37 B. The applicant shall be responsible for all applicable fees as established in the city's fee schedule,
38 consultant review fees, and peer review fees.

39 **19.07.060 Critical Area Maps and Inventories**

40 Approximate locations of critical areas in the City of Mercer Island are depicted on citywide maps
41 displayed in the city's GIS database, as amended. Field verification and, if appropriate, evaluation and

1 mapping by a qualified professional of the location of critical areas will be required to determine the
2 location and type of critical area on a given site.

3 **19.07.070 Disclosure and notice on title**

- 4 A. The applicant shall disclose to the city the presence of critical areas on the development proposal
5 site and any mapped or identifiable critical areas within the distance equal to the largest potential
6 required buffer applicable to the development proposal on the development proposal site.
- 7 B. The owner of any property containing critical areas and/or buffers on which a development proposal
8 is submitted, except a public right-of-way or the site of a permanent public facility, shall file a notice
9 approved by the city with the records and elections division of King County. The notice shall inform
10 the public of the presence of critical areas, buffers and/or mitigation sites on the property, of the
11 application of the city's critical areas code to the property and that limitations on actions in or
12 affecting such critical areas and/or buffers may exist. The notice shall run with the land in
13 perpetuity.
- 14 C. The applicant shall submit proof to the city that the notice has been recorded prior to approval of a
15 development proposal for the property or, in the case of subdivisions, short subdivisions, and
16 binding site plans, at or before recording of the final subdivision, short subdivision, or binding site
17 plan.
- 18 D. Notices on title may be removed at a property owner's request if it is documented that the
19 information contained in an existing notice is no longer accurate, because a critical area has
20 changed, for example in its type or location, or if the notice is proposed to be replaced with a notice
21 containing updated information.

22 **19.07.080 General provisions**

- 23 A. Hold Harmless/Indemnification Agreement and Covenant Not to Sue, Performance Guarantees,
24 Performance Bonds, Insurance. An applicant for a permit within a critical area shall comply with the
25 requirements of MICC 19.01.060.
- 26 B. Timing. All alterations or mitigation to critical areas shall be completed prior to the final inspection
27 and occupancy of a project.
- 28 C. Maintenance and Monitoring.
- 29 1. Maintenance and monitoring shall be required for at least five years from the date of project
30 completion if the code official determines such condition is necessary to ensure mitigation
31 success and critical area protection.
- 32 2. A bond or assignment of funds pursuant to MICC 19.01.060(C) may be required to guarantee
33 that approved mitigation plans will be undertaken and completed to the city's satisfaction.
- 34 3. When monitoring is required, site visits and reporting shall be required two times per year for
35 each of the first two years and once every 12 months for the subsequent years of the
36 monitoring period.
- 37 4. Where monitoring reveals a significant difference from predicted impacts or a failure of
38 protection measures, the applicant shall be responsible for appropriate corrective action, which
39 may be subject to further monitoring.
- 40 D. Compliance with Mitigation Requirements. In cases where mitigation has been completed, but no
41 monitoring reports have been submitted to the city, the applicant shall submit as-built drawings and

1 yearly monitoring reports to the city until at least two consecutive annual reports document that all
2 performance standards from the approved mitigation plan have been met.

- 3 E. Seasonal Limitations. Land clearing, grading, filling, and foundation work may be limited to only
4 certain times of year, pursuant to MICC 19.07.160(F)(2).
- 5 F. Suspension of Work. If the alteration does not does not comply with the permit or applicable codes,
6 including controls for water quality, erosion and sedimentation, the city may suspend further work
7 on the site until such standards are met. Compliance with all requirements of this chapter is
8 required pursuant to MICC 19.15.210.
- 9 G. A critical area study completed over five years prior to application submittal date shall be field
10 verified by a qualified professional to determine whether the study accurately provides information
11 required by the code, and if not, the study shall be updated or completed according to the current
12 best available science.

13 **19.07.090 Critical Area Reviews**

14 This subsection describes the purpose and procedures by which the city will review and authorize
15 development and verify consistency with this chapter.

16 A. Critical Area Review 1

- 17 1. The purpose of a Critical Area Review 1 is to review:
 - 18 a. Activities listed as Modifications in MICC 19.07.130 - Modifications;
 - 19 b. Verification of the presence or absence of a critical area; or
 - 20 c. Verification of the delineation and/or type of wetland or watercourse.
- 21 2. Review timing and sequence
 - 22 a. If a building permit is required for the proposed scope of work associated with the Critical
23 Area Review 1, then the substance of the review shall take place concurrently with the
24 building permit review, and no separate land use review application is required.
 - 25 b. If no building permit is required for the proposed scope of work associated with the Critical
26 Area Review 1, then the review shall take place according to the procedures required for a
27 Type 1 land use review.
- 28 3. Requirements for a complete application
 - 29 a. Completed Development Application Coversheet
 - 30 b. Project narrative, describing the proposed scope of work.
 - 31 c. Scaled site plan showing the proposed work
 - 32 d. Any additional information required by the city to confirm compliance with this Title.

33 B. Critical Area Review 2

- 34 1. The purpose of a Critical Area Review 2 is to review critical area studies and mitigation plans in
35 support of proposed buffer averaging and reduction of wetland and watercourse buffers.
- 36 2. Review timing and sequence
 - 37 a. When development and/or activity within a wetland, watercourse, Fish and Wildlife Habitat
38 Conservation Area or buffer associated with these critical area types is proposed, a Critical
39 Area Review 2 is required to be reviewed and approved prior to construction authorization.
 - 40 b. When development and/or activity is proposed on a site containing only geologically
41 hazardous areas, an applicant has the option of either:

- 1 (1) Applying for a Critical Area Review 2 in advance of construction permits, using the
- 2 procedures required for a Type 3 land use review; or
- 3 (2) Requesting consolidation of the review of geologically hazardous areas together with
- 4 construction permit review.
- 5 c. When development and/or activity is proposed on a site containing geologically hazardous
- 6 areas and one or more of the critical area types listed in subsection (B)(2)(a) or the
- 7 associated buffer of one of those critical areas, a Critical Area Review 2 reviewing all critical
- 8 areas is required to be reviewed and approved prior to construction authorization, using the
- 9 procedures required for a Type 3 land use review.
- 10 3. Requirements for a complete application include:
- 11 a. A completed Development Application Coversheet;
- 12 b. A critical area study, meeting the requirements of MICC 19.07.110 - Critical Area Studies;
- 13 and
- 14 c. Additional information required by the city to confirm compliance with this title.
- 15 C. Reasonable Use Exceptions shall be reviewed using the criteria in MICC 19.07.140, using the
- 16 procedures required for a Type 4 land use review.
- 17 D. Public Agency Exceptions shall be reviewed using the criteria in MICC 19.07.150, using the
- 18 procedures required for a Type 3 land use review.

19 **19.07.100 Mitigation sequencing**

20 Except as otherwise provided in this chapter, an applicant for a development proposal or activity shall
21 implement the following sequential measures, listed below in order of preference, to avoid, minimize,
22 and mitigate impacts to environmentally critical areas and associated buffers. Applicants shall document
23 how each measure has been addressed before considering and incorporating the next measure in the
24 sequence:

- 25 A. Avoiding the impact altogether by not taking a certain action or parts of an action. The applicant
- 26 shall consider reasonable, affirmative steps and make best efforts to avoid critical area impacts.
- 27 However, avoidance shall not be construed to mean mandatory withdrawal or denial of the
- 28 development proposal or activity if the proposal or activity is an allowed, permitted, or conditional
- 29 use in this title. In determining the extent to which the proposal should be redesigned to avoid the
- 30 impact, the code official may consider the purpose, effectiveness, engineering feasibility,
- 31 commercial availability of technology, best management practices, safety and cost of the proposal
- 32 and identified changes to the proposal. Development proposals should seek to avoid, minimize and
- 33 mitigate overall impacts based on the functions and values of all of the relevant critical areas and
- 34 based on the recommendations of a critical area study. If impacts cannot be avoided through
- 35 redesign, use of a setback deviation pursuant to MICC 19.06.110(C), or because of site conditions or
- 36 project requirements, the applicant shall then proceed with the sequence of steps in subsections (B)
- 37 through (E) of this section;
- 38 B. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, using
- 39 a setback deviation pursuant to MICC 19.06.110(C), using appropriate technology, or by taking
- 40 affirmative steps to avoid or reduce impacts;
- 41 C. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;

- 1 D. Reducing or eliminating the impact over time by preservation and maintenance operations during
- 2 the life of the action;
- 3 E. Compensating for the impact by replacing, enhancing, or providing substitute resources or
- 4 environments; and/or
- 5 F. Monitoring the impact and taking appropriate corrective measures to maintain the integrity of
- 6 compensating measures.

7 **19.07.110 Critical Area Study**

- 8 A. A critical area study shall be required when a development proposal will result in an alteration to
- 9 one or more critical areas or critical area buffers or when required to determine the potential
- 10 impact to a critical area.
- 11 B. The critical area study shall be in the form of a written report supported by graphic information
- 12 prepared by a qualified professional using guidance based on the best available science consistent
- 13 with the standards in chapter 365-195 WAC and shall contain the following items, as applicable to
- 14 adequately evaluate the proposal, proposed alterations, and mitigation:
 - 15 1. Disclosure of the presence of critical areas, including a delineation and type or category of
 - 16 critical area, on the development proposal site and any mapped or identifiable critical areas on-
 - 17 or off-site within the distance equal to the largest potential required buffer applicable to the
 - 18 development proposal area on the applicant's property;
 - 19 2. A topographic and boundary survey;
 - 20 3. A statement specifying the accuracy of the report and all assumptions made and relied upon;
 - 21 4. A description of the methodologies used to conduct the critical area study, including references;
 - 22 5. A scale map of the development proposal site;
 - 23 6. Photographic records of the site before the proposed alteration occurs;
 - 24 7. An assessment of the probable effects to critical areas and associated buffers, including impacts
 - 25 caused by the development proposal and associated alterations to the subject property and
 - 26 impacts to other properties and any critical areas or buffers located on them resulting from the
 - 27 development of the site and the proposed development;
 - 28 8. A description of mitigation sequencing implementation described in MICC 19.07.100 including
 - 29 steps taken to avoid and minimize critical areas impacts to the greatest extent feasible;
 - 30 9. Detailed studies, as required by this chapter, for individual critical area types in order to ensure
 - 31 critical area protection;
 - 32 10. Assessment of potential impacts that may occur on adjacent site, such as sedimentation or
 - 33 erosion, where applicable; and
 - 34 11. A post-design memorandum prepared by a qualified professional confirming that the proposed
 - 35 improvements comply with the design recommendations.
- 36 C. The critical area study requirement may be waived or modified if the applicant demonstrates that
- 37 the development proposal will not have an impact on the critical area or its buffer in a manner
- 38 contrary to the purposes and requirements of this chapter.

39 **19.07.120 Exemptions**

- 40 A. Activities listed as exempt in this section do not require review for compliance with this chapter,
- 41 provided they are otherwise consistent with the provisions of other city, state, and federal laws and
- 42 requirements.

- 1 B. An exemption does not give permission to degrade a critical area or ignore risk from natural
2 hazards.
- 3 C. All temporary and permanent impacts to critical areas and buffers shall be mitigated.
- 4 D. The following activities are exempt from review and compliance with this chapter, provided, all
5 activities shall use reasonable methods to avoid, and if avoidance is not possible, minimize impacts
6 to critical areas and buffers to the greatest extent feasible consistent with MICC 19.07.100 –
7 Mitigation Sequencing:
- 8 1. Minor expansion of existing right of way improvements, including public streets, bike lanes,
9 shoulders, trails, sidewalks, and open space, following consultation with the code official;
 - 10 2. Minor expansion of public utility structures and conveyance systems and their associated
11 facilities including service lines, pipes, mains, poles, equipment and appurtenances, both above
12 and below ground, following consultation with the code official; and
 - 13 3. Site Investigative Work and Studies. Site investigative work and studies necessary for
14 development proposals, including geotechnical tests, water quality studies, wildlife studies,
15 surveys, soil logs, and critical area investigations within areas accessed by foot; provided the
16 following criteria are met:
 - 17 a. Impacts to critical areas and buffers shall be minimized; and
 - 18 b. Disturbed areas shall be restored with native vegetation as soon as the investigative work is
19 complete.
 - 20 4. Watercourse restoration and pipe extensions installed by a public agency, provided the steps in
21 19.07.100 – Mitigation Sequencing are addressed.
- 22 E. The following activities are exempt from city review and approval but must comply with the
23 standards of this chapter:
- 24 1. Repair and maintenance of existing right of way improvements. Repair, maintenance,
25 reconstruction and replacement of existing right of way improvements, including public streets,
26 bike lanes, shoulders, trails, sidewalks, and open space;
 - 27 2. Repair and maintenance of existing utility facilities. Repair, maintenance, reconstruction and
28 replacement of public utility structures and conveyance systems and their associated facilities,
29 including but not limited to service lines, pipes, mains, poles, equipment and appurtenances,
30 both above and below ground.
 - 31 3. Noxious weed removal. Removal of noxious weeds provided:
 - 32 a. All disturbed soils are stabilized and revegetated with appropriate native vegetation; and
 - 33 b. The area from which noxious weeds are removed is limited to 1,000 square feet.
 - 34 4. Maintenance of Existing Landscaping. Landscape maintenance of legally-established lawns and
35 gardens including mowing, pruning, weeding, and planting; provided, that such activities are
36 consistent with the following provisions:
 - 37 a. Landscaping is not expanded any further into critical areas or buffers;
 - 38 b. Erosion control measures are implemented when soils have been disturbed;
 - 39 c. Groundcover voids that result from the removal of noxious weeds shall be revegetated with
40 regional native plants;
 - 41 d. Removal of noxious weeds and other restoration work shall be undertaken with hand labor,
42 including handheld mechanical tools, unless the King County Noxious Weed Control Board

- 1 Best Management Practice specifically prescribe the use of riding mower, light mechanical
2 cultivating equipment, or herbicide or biological control methods;
- 3 e. Herbicide use is in accordance with federal and state law; and
 - 4 f. Landscaping does not include the removal of large or exceptional trees.
- 5 5. Survey and Boundary Markers. Placement or modification of survey and boundary markers.
- 6 6. Temporary alterations in response to emergencies that threaten the public health, safety, and
7 welfare or that pose an imminent risk of damage to private property, provided the following
8 criteria are met:
- 9 a. The person undertaking such an action shall notify the code official in writing within one
10 business day following commencement of the emergency activity;
 - 11 b. Within 15 calendar days of the commencement of the emergency activity, the person
12 undertaking such an action shall submit a complete application for all necessary approvals
13 to authorize the alterations made and proposed in response to the emergency. The code
14 official may allow additional time up to 180 calendar days for submittal of a complete
15 application if the applicant requests an extension for a specific period of time. The code
16 official may grant additional time extensions beyond 180 calendar days when multiple
17 property owners or litigation is involved and when requested by the applicant;
 - 18 c. The person undertaking such an action shall mitigate all impacts caused by the alteration
19 and associated restoration activities, including intentional or unintentional alterations to all
20 critical areas and buffers; and
 - 21 d. A qualified professional shall supervise all alterations made to critical areas.
- 22 7. Passive Outdoor Activities. When it can be demonstrated that there will be no undue adverse
23 effect, the following activities may be allowed within critical areas and their buffers: educational
24 activities, scientific research, and outdoor recreational activities, including but not limited to
25 interpretive field trips, bird watching, and beach access including water recreation-related
26 activities. This exemption does not authorize any construction.

27 **19.07.130 Modifications**

28 Activities of the following types may be authorized with approval of an application for a Critical Area
29 Review 1. The activities in this section are exempt from the development standards in subsequent
30 sections within this chapter, provided that additional measures to protect life and property or to protect
31 environmental quality may be required.

- 32 A. Addition to or reconstruction of an existing legally-established structure or building within a critical
33 area and/or buffer constructed on or before January 1, 2005 provided the following criteria are met:
 - 34 1. The seasonal limitations on land clearing, grading, filling, and foundation work described in
35 MICC 19.07.160(F)(2) shall apply.
 - 36 2. Additions shall be allowed if all of the following criteria are met:
 - 37 a. The structure is enlarged not more than a cumulative total of 200 square feet larger than its
38 footprint as of January 1, 2005;
 - 39 b. If the existing, legally-established structure is located over or within a wetland or
40 watercourse, no further expansion within the wetland or watercourse is allowed;
 - 41 c. If the existing legally established structure is located within a wetland or watercourse buffer,
42 the addition may be no closer to the wetland or watercourse than a distance equal to 75%

- 1 of the applicable standard buffer and must also be no closer to the watercourse or wetland
2 than the existing structure;
- 3 d. A critical area study approved by the city demonstrates that impacts have been avoided or
4 minimized and mitigated consistent with MICC 19.07.100 - Mitigation Sequencing;
- 5 e. If the modification or addition is proposed within a geologically hazardous area or
6 associated buffer, a qualified professional provides a statement of risk consistent with MICC
7 19.07.160(B)(3);
- 8 3. Reconstruction of legally established non-conforming structures shall meet the standards in
9 MICC 19.01.050. The code official may require a critical area study and mitigation plan
10 addressing temporary impacts to critical areas and buffers.
- 11 4. Demolition. Removal of structures in watercourse and wetland buffers and geologically
12 hazardous areas, provided:
- 13 a. Site disturbance is limited to the existing access and building footprint;
- 14 b. There is no site disturbance within or to wetlands or watercourses;
- 15 c. All soils are stabilized and the area is revegetated with appropriate native vegetation; and
16 d. Necessary building permits are obtained.
- 17 B. Restoration and enhancement activities involving site disturbance over 1,000 sq ft, provided the
18 following criteria are met:
- 19 1. Erosion control measures are implemented when soils have been disturbed;
- 20 2. Groundcover voids that result from the removal of noxious weeds shall be revegetated with
21 regional native plants;
- 22 3. Removal of noxious weeds and other restoration work shall be undertaken with hand labor,
23 including handheld mechanical tools, unless the King County Noxious Weed Control Board Best
24 Management Practice specifically prescribe the use of riding mower, light mechanical cultivating
25 equipment, or herbicide or biological control methods; and
26 4. Herbicide use is in accordance with federal and state law.
- 27 C. Stormwater retrofit facilities installed pursuant to the city's NPDES Phase II permit.
- 28 D. Any pruning shall not be detrimental to tree health and shall be consistent with International Society
29 of Arboriculture standards and completed under the supervision of a qualified arborist.

30 **19.07.140 Reasonable Use Exception**

- 31 A. If the application of this chapter will deny all reasonable use of the owner's property, then the
32 applicant may apply to the Community Planning and Development department for an exception
33 from the requirements of this chapter in accordance with the provisions for Type IV reviews in
34 chapter 19.15 MICC. The hearing examiner may approve the application for a reasonable use
35 exception only if the development proposal meets all of the following criteria:
- 36 1. The application of this chapter would deny all reasonable use of the property;
- 37 2. There is no other reasonable use with less impact on the critical area;
- 38 3. Any alteration to critical areas and associated buffers is the minimum necessary to allow for
39 reasonable use of the property;
- 40 4. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or
41 off the development proposal site;
- 42 5. The proposal is consistent with the purpose of this chapter and the public interest; and

1 6. The inability of the applicant to derive reasonable use of the property is not the result of actions
2 by the current or prior property owner.

- 3 B. The hearing examiner may approve, approve with conditions, or deny the request based on the
4 proposal's ability to comply with all of the above criteria. The applicant has the burden of proof in
5 demonstrating that the above criteria are met.

6 **19.07.150 Public Agency Exception**

7 If the application of this chapter would prohibit a development proposal by a public agency, the agency
8 may apply for an exception pursuant to this section:

- 9 A. The public agency shall provide project documents such information as needed for the code official
10 to issue a decision, including but not limited to, permit applications to other agencies, critical area
11 studies, SEPA documents, and other materials.
- 12 B. The code official may approve alterations to critical areas, buffers and critical area setbacks by an
13 agency or utility when those alterations are not otherwise able to meet all of the standards in this
14 chapter, and when the criteria in (B)(1) through (B)(3) of this section are demonstrated to be met.
- 15 1. The activity or proposed development is described in an adopted city plan or project list, or has
16 otherwise received city council approval;
 - 17 2. There is no other reasonable alternative to the activity or proposed development with less
18 impact on the critical area. In determining what is a reasonable alternative to a proposed
19 development, alteration or activity, the code official may consider the purpose, effectiveness,
20 engineering feasibility, commercial availability of technology, best management practices, safety
21 and cost of the alternative action or proposal. Reasonable alternatives are those that are
22 capable of being carried out, taking into consideration the overall project purposes, needs, and
23 objectives;
 - 24 3. The activity or development proposal is designed to avoid or minimize and mitigate the impact
25 on critical areas and associated buffers consistent with the avoidance and mitigation sequencing
26 requirements in 19.07.100 - Mitigation Sequencing;
 - 27 4. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or
28 off the development proposal site; and
 - 29 5. The proposal is consistent with other applicable regulations and standards.

30 **19.07.160 Geologically Hazardous Areas**

- 31 A. *Designation and Typing:* Geologically hazardous areas are lands that are susceptible to erosion,
32 landslides, seismic events, or other factors as identified by WAC 365-190-120. These areas may not
33 be suited for development activities because they may pose a threat to public health and safety.
34 Areas susceptible to one or more of the following types of hazards shall be designated as
35 geologically hazardous areas: landslide hazard areas, seismic hazard areas, and erosion hazard areas.
- 36 B. *General Review Requirements:* Alteration within geologically hazardous areas or associated buffers
37 is required to meet the standards in this section, unless the scope of work is exempt pursuant to
38 MICC 19.07.120 - Exemptions or a Critical Area Review 1 approval has been obtained pursuant to
39 MICC 19.07.090(A).
- 40 1. When an alteration within a landslide hazard area, seismic hazard area or buffer associated with
41 those hazards is proposed, the applicant must submit a critical area study concluding that the
42 proposal can effectively mitigate risks of the hazard. The study shall recommend appropriate

1 design and development measures to mitigate such hazards. The code official may waive the
2 requirement for a critical area study and the requirements of (B)(2) and (B)(3) of this section
3 when he or she determines that the proposed development is minor in nature and will not
4 increase the risk of landslide, erosion, or harm from seismic activity, or that the development
5 site does not meet the definition of a geologically hazardous area.

6 2. Alteration of landslide hazard areas and seismic hazard areas and associated buffers may occur
7 if the critical area study documents that the proposed alteration:

- 8 a. Will not adversely impact other critical areas;
- 9 b. Will not adversely impact the subject property or adjacent properties;
- 10 c. Will mitigate impacts to the geologically hazardous area consistent with best available
11 science to the maximum extent reasonably possible such that the site is determined to be
12 safe; and
- 13 d. Include the landscaping of all disturbed areas outside of building footprints and installation
14 of hardscape prior to final inspection.

15 3. Alteration of landslide hazard areas, seismic hazard areas and associated buffers may occur if
16 the conditions listed in subsection 2) are satisfied and the geotechnical professional provides a
17 statement of risk matching one of the following:

- 18 a. An evaluation of site-specific subsurface conditions demonstrates that the proposed
19 development is not located in a landslide hazard area or seismic hazard area;
- 20 b. The landslide hazard area or seismic hazard area will be modified or the development has
21 been designed so that the risk to the site and adjacent property is eliminated or mitigated
22 such that the site is determined to be safe;
- 23 c. Construction practices are proposed for the alteration that would render the development
24 as safe as if it were not located in a geologically hazardous area and do not adversely impact
25 adjacent properties; or
- 26 d. The development is so minor as not to pose a threat to the public health, safety and welfare.

27 C. *Development Standards – Landslide Hazard Areas*: Development is allowed within landslide hazard
28 areas and associated buffers, when the following standards are met:

- 29 1. A critical area study shall be required for any alteration of a landslide hazard area or associated
30 buffer;
- 31 2. Buffers shall be applied as follows. When more than one condition applies to a site, the largest
32 buffer shall be applied.
 - 33 a. Steep slopes. Buffer widths shall be equal to the height of a steep slope, but shall not more
34 than 75 feet, and applied to the top and toe of slopes;
 - 35 b. Shallow landslide hazard areas shall have minimum 25-foot buffers applied in all directions;
36 and
 - 37 c. Deep-seated landslide hazard areas shall have 75-foot buffers applied in all directions.

38 D. *Development Standards – Seismic Hazard Areas*: When development is proposed within a seismic
39 hazard area:

- 40 1. A critical area study shall be required and shall include an evaluation by a qualified professional
41 for seismic engineering and design, a determination of the magnitude of seismic settling that
42 could occur during a seismic event, and a demonstration that the risk associated with the

1 proposed alteration is within acceptable limits or that appropriate construction methods are
2 provided to mitigate the risk of seismic settlement such that there will be no significant impact
3 to life, health, safety, and property.

- 4 2. Identification of Seismic Hazard Areas: Seismic hazard areas shall be identified by a qualified
5 professional who references and interprets information in the U.S. Geological Survey Active
6 Faults Database, performs on-site evaluations, or applies other techniques according to best
7 available science.
- 8 3. When development is proposed on a site with an active fault, the follow provisions shall apply:
9 a. A 50-ft minimum buffer shall be applied from latest Quaternary, Holocene, or historical fault
10 rupture traces as identified by the United States Geological Survey or Washington
11 Geological Survey map databases or by site investigations by licensed geologic professionals
12 with specialized knowledge of fault trenching studies; or
13 b. Mitigation sequencing shall be incorporated into the development proposal as
14 recommended based on geotechnical analysis by a qualified professional to prevent
15 increased risk of harm to life and/or property.

16 E. *Development Standards – Erosion Hazard Areas:*

- 17 1. All development proposals shall demonstrate compliance with MICC Chapter 15.09 – Storm
18 Water Management Plan.
19 2. No development or activity within an Erosion Hazard Area may create a net increase in
20 geological instability on- or off- site.

21 F. *Development Standards – Additional Criteria for Specific Activities:*

- 22 1. Trail building within geologically hazardous areas shall be subject to the following:
23 a. Trail surfaces shall be constructed of pervious materials and may not be wider than five feet;
24 and
25 b. Trails shall be located to minimize the need for tree removal.
- 26 2. Land clearing, grading, filling, and foundation work within: 1) an erosion hazard area, when
27 2,000 sq ft or more of site disturbance is proposed, and/or 2) a landslide hazard area are not
28 permitted between October 1 and April 1.
29 a. The code official may grant a waiver to this seasonal development limitation if the applicant
30 provides a critical area study for the site concluding that:
31 (1) geotechnical slope stability concerns, erosion and sedimentation impacts can be
32 effectively controlled on-site consistent with adopted storm water standards; and
33 (2) the proposed construction work will not subject people or property, including areas off-
34 site, to an increased risk of associated impacts.
35 b. As a condition of the waiver, the code official may require erosion control measures,
36 restoration plans, an indemnification, a release agreement and/or performance bond.
37 c. If site activities result in erosion impacts or threaten water quality standards, the city may
38 suspend further work on the site and/or require remedial action.
39 d. Failure to comply with the conditions of an approved waiver shall subject the applicant to
40 code compliance pursuant to MICC Chapter 6.10 – Code Compliance, including but not
41 limited to civil penalties and permit suspension.

42 **19.07.170 Fish and Wildlife Habitat Conservation Areas**

- 1 A. *Designation and Typing*: Fish and wildlife habitat conservation areas include the following:
2 1. Areas where state or federally-listed endangered, threatened, sensitive, or candidate species, or
3 species of local importance, have primary association;
4 2. Priority habitats and areas associated with priority species identified by the Washington State
5 Department of Fish and Wildlife;
6 3. Areas used by bald eagles for foraging, nesting, and roosting, or within 660 feet of a bald eagle
7 nest;
8 4. Watercourses and wetlands and their buffers; and
9 5. Biodiversity areas.

10 B. *General Review Requirements*:

- 11 1. When development is proposed in the areas described in subsection A, the applicant shall,
12 unless the proposal is specifically exempt pursuant to MICC 19.07.120, submit a wildlife habitat
13 assessment in the form of a critical area study prepared by a qualified professional including the
14 following information:
15 a. Identification of the species referenced in subsection A. that have a primary association with
16 habitat on or in the vicinity of the site;
17 b. Extent of wildlife habitat areas, including acreage, and required buffers based on the
18 species;
19 c. Vegetative, faunal, and hydrologic characteristics;
20 d. Evaluation of direct and indirect potential impacts on habitat by the project, including
21 potential impacts to water quality;
22 e. A discussion of any federal, state, or local special management recommendations, including
23 Washington State Department of Fish and Wildlife habitat management recommendations
24 that have been developed for the species or habitats; and
25 f. A discussion of avoidance, minimization, and mitigation of impacts pursuant to section
26 19.07.100 of this chapter.

27 C. *Development Standards*:

- 28 1. Development proposals shall implement wildlife and habitat protection measures identified in
29 the wildlife habitat assessment.
30 2. Development proposals within areas used by bald eagles for foraging, nesting, or roosting, or
31 within 660 feet of a bald eagle nest as identified by a critical area study shall follow the
32 requirements of the US Fish and Wildlife's *National Bald Eagle Management Guidelines* (2007).

33 **19.07.180 Watercourses**

34 A. *Designation and Typing*: Watercourses shall be classified by the following types:

- 35 1. Type S (there are no known Type S watercourses on Mercer Island);
36 2. Type F;
37 3. Type Np;
38 4. Type Ns; and
39 5. Piped.

40 B. *General Review Requirements*

- 41 1. Development within watercourses and/or associated buffers is prohibited unless one of the
42 following conditions applies:

- 1 a. The proposed activity is specifically exempt pursuant to MICC 19.07.120;
- 2 b. A Critical Area Review 1 application is reviewed and approved for one of the modifications in
- 3 MICC 19.07.130; or
- 4 c. The proposed activity is permitted under subsection (D) Development Standards –
- 5 Additional Criteria for Specific Activities, below.

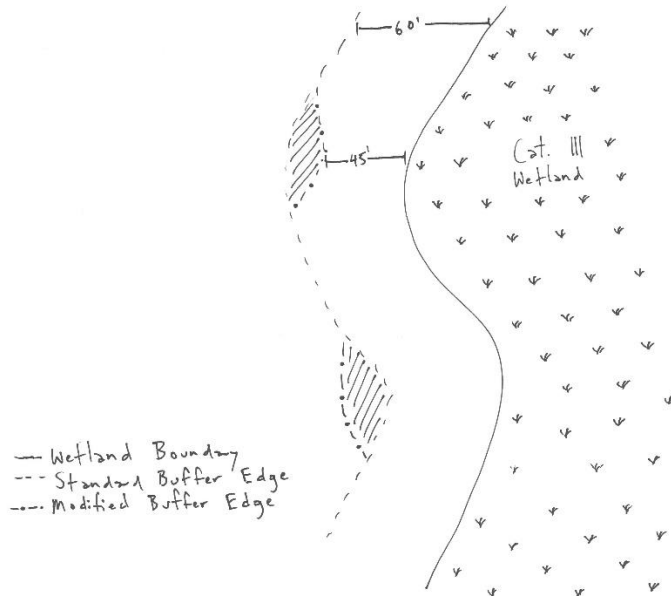
6 C. *Development Standards – Buffers*

- 7 1. The following minimum buffers shall be established from the ordinary high water mark or from
- 8 the top of the bank if the ordinary high water mark cannot be identified:

Watercourse Type	Standard Buffer
F	120 feet
Np	60 feet
Ns	60 feet
Piped	No buffer

- 9 2. Neither lot coverage nor hardscape shall be permitted within a watercourse or watercourse
- 10 buffer except as specifically provided in this chapter.
- 11 3. Any watercourse adjoined by a riparian wetland or other contiguous critical area shall have the
- 12 buffer required for the stream type involved or the buffer that applies to the wetland or other
- 13 critical area, whichever is greater.
- 14 4. Buffer Averaging. Buffer width averaging shall be allowed provided the following requirements
- 15 are met:
- 16 a. The applicant has demonstrated how impacts will be minimized and that avoidance has
- 17 been addressed consistent with MICC 19.07.100 – Mitigation Sequencing;
- 18 b. The applicant has demonstrated how all proposed impacts have been mitigated consistent
- 19 with subsection (E) - Mitigation Requirements of this section and will not result in a loss of
- 20 ecological function;
- 21 c. The proposed buffer width is not less than 75% of the standard buffer width at any point;
- 22 and

1 d. The proposed buffer averaging is not proposed in conjunction with buffer reduction.



2
3 *Figure 1: Example of buffering averaging*

4 5. Buffer Reduction. Buffer width reduction shall be allowed provided the following requirements
5 are met:

- 6 a. The applicant has demonstrated that buffer averaging would not feasibly allow
7 development;
- 8 b. The applicant has demonstrated how impacts will be minimized and that avoidance has
9 been addressed consistent with MICC 19.07.100 – Mitigation Sequencing;
- 10 c. The applicant has demonstrated how all proposed impacts have been mitigated consistent
11 with subsection (E) of this section and will not result in a loss of ecological function;
- 12 d. The proposed buffer width is not less than 75% of the standard buffer width at any point;
13 and
- 14 e. The proposed buffer reduction is not proposed in conjunction with buffer averaging.

15 6. Piped watercourse setbacks

- 16 a. The intent of applying setbacks to piped watercourses is to preserve the opportunity to
17 daylight watercourses that were previously piped, to provide incentives to property owners
18 to daylight and enhance previously piped watercourses, and to allow flexibility for
19 development where daylighting piped watercourses is demonstrated to be infeasible.
- 20 b. Setbacks shall be established 45 ft from the centerline of a piped watercourses.
- 21 c. Piped watercourses setback widths shall be reduced to a 15-foot buffer when the portion of
22 the piped watercourse on the applicant’s property is daylighted and where the watercourse
23 has been restored to an open channel, provided a restoration plan demonstrates:
 - 24 (1) The watercourse channel will be stable and is not expected to cause safety risks or
25 environmental damage; and
 - 26 (2) No additional impact nor encumbrance by watercourse buffer or critical area setback is
27 added to properties neighboring the applicant(s) property.

- d. Piped watercourse setback widths shall be reduced to: 1) 10 feet on lots with a lot width of 50 feet or more, and 2) 5 feet on lots with a width of less than 50 feet, when daylighting is determined by qualified professional(s) to result in one or more of the following outcomes:
 - (1) Increased risk of landslide or other potential hazard that cannot be mitigated;
 - (2) Increased risk of environmental damage (e.g., erosion, diminished water quality) that cannot be mitigated;
 - (3) The inability of a legally established existing lot to meet the vehicular access requirements of this title; or
 - (4) The inability of a legally established existing lot to meet the building pad standards in MICC 19.09.090.
7. Buildings and other structures shall be set back a minimum of 10 feet from the edges of a watercourse buffer. The distance may be reduced to five feet if:
 - a. The watercourse is Type Ns;
 - b. The buffer does not contain habitat for WDFW priority species.
 - c. A split-rail fence is installed along the perimeter of the buffer; and
 - d. Survey markers are installed along the perimeter of the buffer to establish its field location.

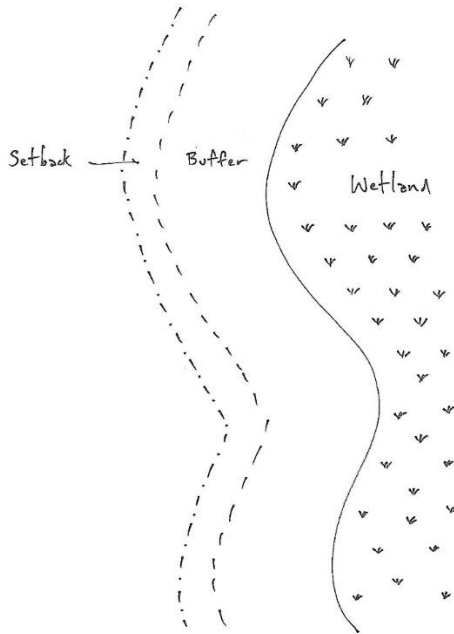


Figure 2 Example of critical area setback

8. The following may be allowed in the critical area setback, provided no structures nor building overhangs may be closer than five feet from the edge of a watercourse buffer:
 - a. Landscaping;
 - b. Uncovered decks less than 30 inches above existing or finished grade, whichever is lower;
 - c. Building overhangs if such overhangs do not extend more than 18 inches into the setback area;

- d. Hardscape and driveways; provided, that such improvements may be subject to requirements in Chapter 15.09 MICC – Storm Water Master Program;
- e. Split rail fences;
- f. Trails, consistent with the requirements of this chapter; and
- g. Subgrade components of foundations, provided that any temporary impacts to building setbacks shall be restored to their previous condition or better.

D. Development Standards – Additional Criteria for Specific Activities:

- 1. New watercourse crossings, such as bridges and culverts, may be permitted provided the standards in WAC 220-660-190 have been demonstrated to be met.
- 2. The construction of trails within watercourse buffers is allowed, subject to the following:
 - a. Trail surfaces shall be constructed of pervious materials and may not be wider than five feet;
 - b. Trails shall be located to minimize the need for tree removal; and
 - c. Trails shall be located only in the outer 25 percent of the buffer area.
- 3. The trail width shall be added to the buffer width applied to the watercourse (e.g., if a trail is three feet wide, the watercourse buffer for the portion of the watercourse where the trail is located shall be expanded by three feet); except that the trail width shall not be added to the buffer width when trails are being created for public access and contained within a public access easement or right-of-way.

E. Mitigation requirements: Mitigation measures shall achieve equivalent or greater ecological function including, but not limited to:

- 1. Habitat complexity, connectivity, and other biological functions;
- 2. Seasonal hydrological dynamics, water storage capacity and water quality; and
- 3. Geomorphic and habitat processes and functions

19.07.190 Wetlands

A. Designation and Typing: Wetlands shall be identified and their boundaries delineated in accordance with the approved federal delineation manual and applicable regional supplements described in WAC 173-22-035. Wetlands shall be rated according to the Washington State Rating System for Western Washington: 2014 Update (Hruby, 2014), or most current update.

B. General Review Requirements:

- 1. In addition to the critical area study requirements listed in MICC 19.07.110 – Critical Area Studies, critical area studies on wetlands shall also include:
 - a. Wetland rating forms and datasheets;
 - b. Discussion of landscape setting;
 - c. A functional analysis of the project demonstrating that there will be no loss of ecological function; and
 - d. A mitigation plan.
- 2. Wetland delineations are valid for five years.
- 3. Wetlands must be delineated and rated by a qualified professional.

C. Development Standards – Buffers:

- 1. The following minimum buffers shall be established from the wetland boundary:.

Wetland Category	Standard Buffer	
	With 3-5 habitat points	With 6-7 habitat points
Category I	75 ft	110 ft
Category II	75 ft	110 ft
Category III	60 ft	110 ft
Category IV	40 ft	

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2. Where a legally established and constructed street transects a wetland buffer, the department may approve a modification of the standard buffer width to the edge of the street if the isolated part of the buffer does not provide additional protection of the wetland and provides insignificant biological, geological or hydrological buffer functions relating to the wetland.
3. Prohibited activities: The following uses are prohibited within any wetland or associated buffer: removal, excavation, grading, or dredging of material; draining flooding or disturbing the wetland, water level or water table; construction, reconstruction, demolition, or expansion of any structure.
4. Neither lot coverage nor hardscape shall be permitted within a wetland or wetland buffer except as specifically provided in this chapter.
5. Buffer Averaging. Buffer width averaging shall be allowed provided the following requirements are met:
 - a. The applicant has demonstrated how impacts have been avoided consistent with MICC 19.07.100 – Mitigation Sequencing;
 - b. The applicant has demonstrated how all proposed impacts have been mitigated consistent with subsection (E) of this section and will not result in a loss of ecological function;
 - c. The proposed buffer width is not less than 75% of the standard buffer width at any point; and
 - d. The proposed buffer averaging is not proposed in conjunction with buffer reduction.
6. Buffer Reduction. Buffer width reduction shall be allowed provided the following requirements are met:
 - a. The applicant has demonstrated that buffer averaging would not feasibly allow development;
 - b. The applicant has demonstrated how impacts will be minimized and that avoidance has been addressed consistent with MICC 19.07.100 – Mitigation Sequencing;
 - c. The applicant has demonstrated how all proposed impacts have been mitigated consistent with subsection (E) of this section and will not result in a loss of ecological function;
 - d. The proposed buffer width is not less than 75% of the standard buffer width at any point; and
 - e. The proposed buffer reduction is not proposed in conjunction with buffer averaging.
7. Buildings and other structures shall be set back a minimum of 10 feet from the edges of a wetland buffer. The distance may be reduced to five feet if:
 - a. The wetland is:

- 1 (1) hydrologically isolated;
- 2 (2) Category III or IV;
- 3 (3) less than 1,000 square feet
- 4 (4) in an area that is not associated with riparian areas or buffers;
- 5 (5) not part of a wetland mosaic, and
- 6 (6) does not contain habitat for WDFW priority species.
- 7 b. A split-rail fence is installed along the perimeter of the buffer; and
- 8 c. Survey markers are installed along the perimeter of the buffer to establish its field location.
- 9 8. The following may be allowed in the critical area setback, provided no structures nor building
- 10 overhangs may be closer than five feet from the edge of a wetland buffer:
- 11 a. Landscaping;
- 12 b. Uncovered decks less than 30 inches above existing or finished grade, whichever is lower;
- 13 c. Building overhangs if such overhangs do not extend more than 18 inches into the setback
- 14 area;
- 15 d. Hardscape and driveways; provided, that such improvements may be subject to
- 16 requirements in Chapter 15.09 MICC – Storm Water Master Program;
- 17 e. Split rail fences;
- 18 f. Trails, consistent with the requirements of this chapter; and
- 19 g. Subgrade components of foundations, provided that any temporary impacts to building
- 20 setbacks shall be restored to their previous condition or better.
- 21 D. *Development Standards – Additional Criteria for Specific Activities:*
- 22 1. Alterations to wetlands are allowed when the applicant has demonstrated how mitigation
- 23 sequencing has been applied pursuant to MICC 19.07.100 – Mitigation Sequencing and when
- 24 the applicant has demonstrated that the wetland is:
- 25 a. All isolated Category IV wetlands less than 4,000 square feet that:
- 26 (1) Are not associated with riparian areas or their buffers
- 27 (2) Are not associated with shorelines of the state or their associated buffers
- 28 (3) Are not part of a wetland mosaic
- 29 (4) Do not score 5 or more points for habitat function based on the 2014 update to the
- 30 Washington State Wetland Rating System for Western Washington: 2014 Update
- 31 (Ecology Publication #14-06-029, or as revised and approved by Ecology)
- 32 (5) Do not contain a Priority Habitat or a Priority Area for a Priority Species identified by the
- 33 Washington Department of Fish and Wildlife, do not contain federally listed species or
- 34 their critical habitat, or species of local importance identified in MICC 19.07.180.
- 35 b. Wetlands less than 1,000 square feet that meet the above criteria and do not contain
- 36 federally listed species or their critical habitat are exempt from the buffer provisions
- 37 contained in this Chapter.
- 38 2. The construction of trails within wetland buffers is allowed, subject to the following
- 39 requirements:
- 40 a. Trail surfaces shall be constructed of pervious materials and may not be wider than five feet;
- 41 b. Trails shall be located to minimize the need for tree removal; and
- 42 c. Trails shall be located only in the outer 25 percent of the buffer area.

- 1 d. The trail width shall be added to the buffer width applied to the wetland (e.g., if a trail is
 2 three feet wide, the wetland buffer for the portion of the wetland where the trail is located
 3 shall be expanded by three feet); except that the trail width shall not be added to the buffer
 4 width when trails are being created for public access and contained within a public access
 5 easement or right-of-way.
- 6 3. Development proposals shall incorporate the following measures unless the applicant can
 7 demonstrate that they would result in no net environmental benefit or that they are not
 8 feasible.

Disturbance	Required Measures to Minimize Impacts
Lights	Direct lights away from wetland
Noise	Locate activity that generates noise away from wetland If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source For activities that generate relatively continuous, potentially disruptive noise, such as certain heavy industry or mining, establish an additional 10' heavily vegetated buffer strip immediately adjacent to the out wetland buffer
Toxic runoff	Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered Establish covenants requiring the use of integrated pest management techniques to limit the use of pesticides within 150 ft of wetland
Stormwater runoff	Retrofit stormwater detention and treatment for roads and existing adjacent development Prevent channelized flow from lawns that directly enters the buffer Use Low Impact Development techniques
Changes in water regime	Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns
Pets and human disturbance	Protect wetlands and associated buffers with conservation or native growth protection easements
Dust	Use best management practices to control dust
Disruption of corridors or connections	Maintain connections to offsite areas that are undisturbed Restore corridors or connections to offsite habitats by replanting

- 9
- 10 E. *Mitigation Requirements:* When mitigation for wetland and/or wetland buffer impacts is required,
 11 mitigation shall meet the requirements listed below:

1. Compensatory mitigation for alterations to wetlands shall be used only for impacts that cannot be avoided or minimized and shall achieve equivalent or greater biologic functions compared to pre-development conditions. Compensatory mitigation plans shall be consistent with Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans--Version 1, (Ecology Publication #06-06-011b, Olympia, WA, March 2006 as revised), and Selecting Wetland Mitigation Sites Using a Watershed Approach (Western Washington) (Publication #09-06-32, Olympia, WA, December 2009 as revised).
2. Mitigation for alterations to wetland(s) and/or wetland buffer(s) shall achieve equivalent or greater ecological function.
3. No Net Loss. Wetland mitigation actions shall not result in a net loss of wetland area.
4. Mitigation actions shall be in-kind and conducted within the same sub-basin and on the same site as the alteration except when the following apply:
 - a. There are no reasonable on-site opportunities for mitigation on-site opportunities do not have a high likelihood of success due to adjacent land uses;
 - b. On-site buffers or connectivity are inadequate;
 - c. Off-site mitigation has a greater likelihood of providing equal or improved wetland functions than the impacted wetland; and
 - d. Off-site locations have been identified and evaluated in the following order of preference:
 - (1) Within the same drainage sub-basin;
 - (2) Within the city limits;
 - (3) Within the Mercer Island service area for an approved mitigation bank program site within the WRIA 8 in accordance with the requirements in subsection (E)(5) below.
 - e. Where feasible, off-site mitigation projects shall be completed prior to activities that will disturb wetlands. In all other cases, mitigation shall be completed immediately following site disturbance and prior to use or occupancy of the activity or development. Construction of mitigation projects shall be timed to reduce impacts to existing wildlife and flora.
5. Mitigation Ratios:
 - a. The following ratios shall apply to required wetland mitigation. The first number specifies the acreage of replacement wetlands and the second specifies the acreage of wetlands altered.
 - b. Permanent Wetland Mitigation. The following ratios of area of mitigation to area of alteration apply to mitigation measures for permanent alterations.

Wetland Category	Creation	1:1 Wetland reestablishment or wetland creation (R/C) and wetland enhancement (E) Enhancement
Category I	4:1	1:1 R/C and 12:1
Category II	3:1	1:1 R/C and 8:1
Category III	2:1	1:1 R/C and 4:1
Category IV	1.5:1	1:1 R/C and 2:1

- 1 c. Temporary Wetland Mitigation. The following ratios of area of mitigation to area of
 2 alteration apply to mitigation measures for temporary alterations where wetlands will not
 3 be impacted by permanent fill material:

Wetland Category	Creation	Enhancement
Category I	1.5:1	3:1
Category II	0.75:1	1.5:1
Category III	0.5:1	1:1
Category IV	Not applicable	Not applicable

- 4 d. Wetland Buffer Replacement Ratio. Altered wetland buffer area shall be replaced at a
 5 minimum ratio of one-to-one; provided, that the replacement ratio may be increased if
 6 needed to replace lost functions and values.
- 7 e. Increased Mitigation Ratio. The code official may increase the ratios under the following
 8 circumstances:
- 9 (1) Uncertainty exists as to the probable success of the proposed restoration or creation; or
 - 10 (2) A significant period of time will elapse between impact and replication of wetland
 11 functions; or
 - 12 (3) Proposed mitigation will result in a lower category wetland or reduced functions relative
 13 to the wetland being impacted; or
 - 14 (4) The impact was an unauthorized impact.
- 15 f. Decreased Mitigation Ratio. The code official may decrease these ratios under the following
 16 circumstances:
- 17 (1) Documentation by a qualified professional demonstrates that the proposed mitigation
 18 actions have a very high likelihood of success. This documentation should specifically
 19 identify how the proposed mitigation actions are similar to other known mitigation
 20 projects with similar site-specific conditions and circumstances that have been shown to
 21 be successful; or
 - 22 (2) Documentation by a qualified professional demonstrates that the proposed mitigation
 23 actions will provide functions and values that are significantly greater than the wetland
 24 being impacted; or
 - 25 (3) The proposed mitigation actions are conducted in advance of the impact and have been
 26 shown to be successful over the course of at least one full year.
- 27 6. Wetland Banking.
- 28 a. Credits from a wetland mitigation bank may be approved for use as compensation for
 29 unavoidable impacts to wetlands when:
- 30 (1) The criteria in subsection (E)(4) are demonstrated to have been met;
 - 31 (2) The bank is certified under chapter 173-700 WAC;
 - 32 (3) A qualified professional has demonstrated that the wetland mitigation bank provides
 33 appropriate compensation for the authorized impacts;
 - 34 (4) The proposed use of credits is consistent with the terms and conditions of the bank's
 35 certification; and
 - 36 (5) The compensatory mitigation agreement occurs in advance of authorized impacts.

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- b. Replacement ratios for projects using bank credits shall be consistent with replacement ratios specified in the bank’s certification.
 - c. Credits from a certified wetland mitigation bank may be used to compensate for impacts located within the service area specified in the bank’s certification. In some cases, bank service areas may include portions of more than one adjacent drainage basin for specific wetland functions.
7. Preference of Mitigation Actions. Compensatory wetland mitigation shall occur in the following order of preference:
- a. Restoration
 - b. Creation
 - c. Enhancement
 - d. Preservation
8. Site protection: As a condition of any permit or land use approval, the code official may require permanent fencing and signage to be installed around the wetland or buffer. Fencing installed as part of a proposed activity or as required in this subsection shall be designed to not interfere with species migration, including fish runs, and shall be constructed in a manner that minimizes impacts to the wetland and associated habitat.

DRAFT

Ordinance No. 19C-05

Attachment B

1 19.09.090 Building Pad

2 [...]

3 2. Building pads shall not be located within:

- 4 a. Required front, rear, or side yard setbacks;
- 5 b. Streets or rights-of-way; and
- 6 c. Critical areas, buffers, or critical area setbacks; provided building pads may be located
- 7 within geohazard hazard areas and associated buffers and setbacks when all of the
- 8 following are met:

9 [...]

10 C. New buildings shall be located within the building pad established by subsection A or B of this

11 section. Legally established nonconforming portions of existing buildings and additions made pursuant

12 to 19.07.130 Modifications may be located outside of building pads.

13 19.10.050 - Tree removal – Not associated with a development proposal.

14 A. Tree removal that is not associated with a development proposal shall provide replacement trees

15 (MICC 19.10.070), but is exempt from tree retention (MICC 19.10.060), if the proposal is located

16 outside of wetlands, watercourses, landslide hazard areas and buffers associated with these critical

17 areas.

18 B. Tree removal that is not associated with a development proposal located within wetlands,

19 watercourses, landslide hazard areas and buffers associated with these critical area types shall be

20 permitted subject to the following standards:

21 1. One or more of the following criteria applies to the tree(s) proposed for removal:

- 22 a. The tree is documented to be a hazard tree by a TRAQ-qualified arborist;
- 23 b. The tree is documented by a qualified arborist to be diseased, in decline, or not viable for
- 24 retention; or
- 25 c. The removal of the tree will enhance ecosystem functions and values and/or promote slope
- 26 stability.

27 2. A restoration plan prepared by a qualified professional is submitted that contains the following:

- 28 a. Analysis demonstrating how the ecological functions and values including but not limited to
- 29 slope stabilization, hydrologic function, and habitat value, are being preserved by the
- 30 proposed plan.
- 31 b. Proposed removal of all noxious weeds, as defined in Chapter 19.16 MICC.
- 32 c. Removed trees shown as made into snags at a safe height, where feasible.

33 3. Implementation of approved restoration plans shall be completed by a qualified professional.

34 ~~B.C.~~ An application for tree removal that is not associated with a development proposal shall provide the

35 application information described under MICC 19.10.090(A) – General Information.

36 ~~C.D.~~ This section shall not be construed as an exemption to the tree retention and replacement

37 requirements of Chapter 19.07 MICC.

38 [...]

39 Chapter 19.15.030 – Land Use Review Types

Table A. Land Use Review Type

<ul style="list-style-type: none"> • Home business • Seasonal development limitation waiver • Nonmajor single-family dwelling building permits • Tree removal permit • Right-of-way permit • Special needs group housing safety determination • Tenant improvement/change of use • Shoreline exemption¹ • Critical areas determination (steep slope alteration) Critical Area Review 1 • Final short plat • Temporary commerce engineer) on public property • Site development permits • Transportation concurrency certificate 	<ul style="list-style-type: none"> • Modified wireless communication facilities (6409 per 47 CFR 1.40001) • Lot line revision • Setback deviations • Final plat^{2,3} • Code official design review • Accessory dwelling unit • Parking variances (reviewed by city) 	<ul style="list-style-type: none"> • New and modified wireless (non-6409) eligible facility • SEPA threshold determination • Critical areas determination (wetland/watercourse buffer averaging/reduction) Critical Area Review 2 • Public Agency Exception • Temporary encampment⁴ • Short plat alteration and vacations • Preliminary short plat • Development code interpretations • Major single-family dwelling building permit • Shoreline substantial development permit¹ • Shoreline revision (substantial development)¹ 	<ul style="list-style-type: none"> • Preliminary long plat approval • Conditional use permit • Variance • Critical areas reasonable use exception • Long plat alteration and vacations • Parking variances (reviewed by design commission) • Variance from short plat acreage limitation • Wireless communication facility height variance • Planned unit development • Design commission design review • Permanent commerce on public property • Shoreline conditional use permit (SCUP)⁵ • Shoreline variance⁵ • Shoreline revision
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Table A. Land Use Review Type

([variance](#) and SCUP)

1 19.15.050

2 [...]

3 C. Required Preapplication Meetings. Preapplication meetings are required for Type III and Type IV land
4 use reviews and for new development within landslide hazard areas. Preapplication meetings may be
5 held for any other development proposal at the request of the applicant. This requirement may be
6 waived by the code official.

7 Chapter 19.16

8 19.15.180 Additional procedures for shoreline review.

9 A. Open Record Public Hearing. An open record public hearing before the code official shall be
10 conducted on the shoreline substantial development permits, shoreline conditional use permits, and
11 shoreline variances when, within the 30-day comment period, 10 or more interested citizens file a
12 written request for a public hearing.

13 B. Ecology Filing. The applicant shall not begin construction until after 21 days from the date of receipt
14 filing by with the Department of Ecology and Attorney General and/or any appeals are concluded. The
15 applicant shall also comply with all applicable federal, state and city standards for construction.

16 C. Shoreline Substantial Development Permit Decisions. The city's action in approving, approving with
17 conditions, or denying any substantial development permit or shoreline exemption is final unless an
18 appeal is filed in accordance with applicable laws. The city shall send the shoreline permit and
19 documentation of final local decisions to the applicant, the Department of Ecology, the Washington
20 State Attorney General and to all other applicable local, state, or federal agencies. The decision shall be
21 sent to the Department of Ecology by return receipt requested mail or as regulated by WAC 173-27-130.

22 D. Shoreline Conditional Use Permits and Shoreline Variances. The final decision in approving,
23 approving with conditions, or denying a shoreline conditional use permit or shoreline variance is
24 rendered by the Department of Ecology in accordance with WAC 173-27-200, and all other applicable
25 local, state, or federal laws. The city shall send the shoreline permit and documentation of final local
26 decision to the applicant, the Department of Ecology, the Washington State Attorney General and to all
27 other applicable local, state, or federal agencies. The decision shall be sent to the Department of
28 Ecology by return receipt requested mail or as regulated by WAC 173-27-130.

1 DEFINITIONS Revised 8/18

2 Sections:

3 19.16.010 Definitions

4

5 [...] Alteration: Any human-induced action which ~~adversely~~ impacts the existing condition of the area,
6 including but not limited to grading, filling, dredging, draining, channeling and paving (including
7 construction and application of gravel). "Alteration" does not include walking, passive recreation,
8 fishing, or similar activities.

9 [...] Biodiversity Areas: Publicly-owned lands that consist of habitat that is valuable to fish or wildlife,
10 mostly comprised of native vegetation, and protected in City parks and open space, including but not
11 limited to Mercerdale Park and Hillside, Upper Luther Burbank Park, Gallagher Hill Open Space,
12 Southeast 53rd Open Space, Island Crest Park, Pioneer Park Open Space, and Ellis Pond.

13 [...] Buffer:- A designated area contiguous to a steep slope or landslide hazard area intended to protect
14 slope stability, attenuation of landslide hazards, or a designated area contiguous to a habitat
15 conservation area, stream or wetland intended to protect the ecological functions and values of the
16 habitat, stream or wetland and be an integral part of the habitat, stream or wetland ecosystem. A
17 designated area adjoining a critical area intended to protect the critical area from degradation.

18 [...] Clearing: The act of destroying or removing trees or groundcover from any undeveloped or partially
19 developed lot, public lands, or public right-of-way. ~~Clearing may only occur on these lots with approval~~
20 ~~by the city.~~

21 [...] Critical Area Review 1: An approval allowing one or more actions listed in MICC 19.07.140
22 Modifications within a critical area or buffer.

23 [...] ~~Critical Area Alteration~~ Review 2: An approval allowing reduction or averaging of a wetland or
24 watercourse buffer, or alteration of a geologically hazardous area.

25 -[...] Dock. A structure that floats on the surface of the water, without piling supports, but that is
26 attached to land. Typically used for boat moorage, swimming, public access, and other activities that
27 require access to deep water. This definition of docks shall also include "piers" for the purposes of Title
28 19.

29 Fish and Wildlife Habitat Conservation Areas: 1. Areas where state or federally-listed endangered,
30 threatened, sensitive, or candidate species, or species of local importance, have primary association; 2.
31 Priority habitats and areas associated with priority species identified by the Washington State
32 Department of Fish and Wildlife; 3. Areas used by bald eagles for foraging, nesting, and roosting, or
33 within 660 feet of a bald eagle nest; 4. Watercourses and wetlands and their buffers; and 5. Biodiversity
34 areas. Those areas the city council determines are necessary for maintaining species in suitable habitats
35 within their natural geographic distribution so that isolated subpopulations are not created consistent
36 with WAC Title 365.

37 [...] ~~Fish Use or Used by Fish:~~ Those areas within a watercourse where live fish normally exist for
38 spawning rearing and/or migration. "Fish use" may be presumed to occur in those reaches of

1 watercourses that have year round flow, are accessible from Lake Washington to juvenile salmonid fish
2 and have an average bed slope of less than 12 percent. "Fish use" shall not be presumed for (1)
3 intermittent or seasonal reaches; (2) for reaches with an average bed slope of 12 percent or greater; (3)
4 for reaches upstream from road culverts with a bottom slope of 10 percent or greater; or (4) reaches
5 with greater than a 12-inch drop from the downstream invert of the culvert to the downstream pool
6 elevation at ordinary high water. If the uppermost point of fish use cannot be identified with simple,
7 nontechnical observations, then the upper extent of fish use should be determined using the best
8 professional judgment of a qualified professional after considering actual conditions and the physical
9 abilities and capabilities of juvenile salmonid fish.

10 [...] Fish habitat: Habitat which is used by any fish at any life stage at any time of the year, including
11 potential habitat likely to be used by fish which could be recovered by restoration or management and
12 includes off-channel habitat.

13 [...] Geologically Hazardous Areas: Areas susceptible to erosion, sliding, earthquake, or other geological
14 events based on a combination of slope (gradient or aspect), soils, geologic material, hydrology,
15 vegetation, or alterations, including landslide hazard areas, erosion hazard areas and seismic hazard
16 areas.

17 [...] Landslide Hazard Area, Shallow: Landslide hazard area with a failure depth of 15 feet or less thick.

18 [...] Landslide Hazard Area, Deep-seated: Landslide hazard area with a failure depth more than 15 feet
19 thick.

20 [...] Noxious weed: Any plant which when established is highly destructive, competitive, or difficult to
21 control by cultural or chemical practices (see Chapter 5.10 RCW). The state noxious weed list in Chapter
22 16-750 WAC, as compiled by the State Noxious Weed Control Board, together with the King County
23 Noxious Weed and Weeds of Concern lists, is the officially adopted list of noxious weeds for the city.

24 [...] Lift Station (Boat Hoist): A structure or device used to raise a watercraft above the waterline for
25 secure moorage purposes.

26 [...] Pier. A structure that projects over and is raised above the water but is attached to land, and that is
27 used for boat moorage, swimming, fishing, public access, float plane moorage, or similar activities
28 requiring access to deep water.

29 [...] Public Access Pier or Boardwalk. A structure which is constructed waterward of the ordinary high
30 water mark and intended for public use.

31 [...] Qualified Professional: A person who performs studies, field investigations, and plans on critical
32 areas and has an educational background and/or relevant experience in the field, as determined by the
33 code official with experience, training and competence in the pertinent discipline. A qualified
34 professional must be licensed to practice in the State of Washington in the related professional field, if
35 such field is licensed. If not licensed, a qualified professional must have a national certification in the
36 pertinent field. If neither licensing nor national certification in the field exists, the minimum qualification
37 should be a bachelor's degree with 10 years of related professional work, or master's degree in the field
38 and three years of related professional work. Minimum qualifications for specific fields of practice shall
39 include but not be limited to the following:

- 1 A. Arborists must be qualified arborists as defined in MICC 19.16.010
2 B. Professional for geologic hazard areas must be licensed and endorsed in the State of Washington as
3 a geotechnical engineer or engineering geologist.
4 C. Professional for watercourses and other fish and wildlife habitat must have a degree in biology,
5 environmental planning, natural science, stream ecology or related field and the minimum years of
6 experience, listed above, related to the subject habitat or species.
7 D. Professionals for vegetation restoration planning where specific expertise for wetlands,
8 watercourses or other fish and wildlife habitat is not required must have a degree in botany,
9 environmental planning, natural science, ecology, landscape architecture or a related field and the
10 minimum years of experience, listed above, with an emphasis on restoration ecology and vegetation
11 management associated with critical areas and buffer. Professionals must demonstrate a minimum
12 of three years of experience with the type of critical area or buffer for which the critical area report
13 is being submitted.
14 E. Professionals for wetlands must be currently certified as a Professional Wetland Scientist (PWS) with
15 the Society of Wetland Scientists or meet the minimum education and years of experience, listed
16 above, as a wetlands professional.
17 F. Minimum qualifications of professionals for other disciplines shall be consistent with the minimum
18 qualifications defined above and specific to the discipline identified.

19 [...] Setback: The distance between a development and other feature such as a property line or critical
20 areas buffer.

21
22 Watercourses: A course or route, formed by nature and generally consisting of a channel with a bed,
23 banks, or sides throughout substantially all its length, along which surface waters, with some regularity
24 (annually in the rainy season), naturally and normally flow in draining from higher to lower lands. This
25 definition does not include irrigation and drainage ditches, grass-lined swales, canals, storm water
26 runoff devices, or other courses unless they are used by fish or to convey waters that were naturally
27 occurring prior to construction.

28 ~~Watercourses — Intermittent or Seasonal Flow: Those watercourses that go dry or exhibit zero surface~~
29 ~~discharge at any point during water years with normal rainfall as determined from climatological data~~
30 ~~published for the Seattle Tacoma International Airport by the National Oceanic and Atmospheric~~
31 ~~Administration or its successor agency.~~

32 ~~If the lowermost point of either year-round flow or intermittent or seasonal flow cannot be identified~~
33 ~~with simple, nontechnical observations, or if climatological data show that rainfall is significantly above~~
34 ~~normal for the water year, then the point of flow should be determined using the best professional~~
35 ~~judgment of a qualified professional after considering actual conditions and the climatological data.~~

36 ~~Watercourses — Year Round Flow: Those watercourses that do not go dry any time during water years~~
37 ~~with normal rainfall as determined from climatological data published for the Seattle Tacoma~~
38 ~~International Airport by the National Oceanic and Atmospheric Administration or its successor agency.~~
39 ~~For the purpose of watercourse typing, watercourses with year round flow may include intermittent or~~
40 ~~seasonal reaches below the uppermost point of year round flow during normal water years.~~

41 Watercourses shall be classified according to the following types:

- 1 A) Type S, which include all waters, within their bankfull width, as inventoried as "shorelines of the
2 state," which are regulated by the city's Shoreline Master Program pursuant to chapter 90.58 RCW.
- 3 B) Type F, which include segments of natural waters other than Type S Waters, which are within the
4 bankfull widths of defined channels and periodically inundated areas of their associated wetlands,
5 or within lakes, ponds, or impoundments having a surface area of 0.5 acre or greater at seasonal low
6 water and which in any case contain fish habitat.
- 7 C) Type Np, which include all segments of natural waters within the bankfull width of defined channels
8 that are perennial nonfish habitat streams. Perennial streams are flowing waters that do not go dry
9 any time of a year of normal rainfall and include the intermittent dry portions of the perennial
10 channel below the uppermost point of perennial flow.
- 11 D) Type Ns, which include all segments of natural waters within the bankfull width of the defined
12 channels that are not Type S, F, or Np Waters. These are seasonal, nonfish habitat streams in which
13 surface flow is not present for at least some portion of a year of normal rainfall and are not located
14 downstream from any stream reach that is a Type Np Water. Ns Waters must be physically
15 connected by an above-ground channel system to Type S, F, or Np Waters.
- 16 E) Piped Watercourses, which are pipes or other conveyances through which surface waters, with
17 some regularity (annually in the rainy season), naturally and normally flow in draining from higher to
18 lower lands. This definition does not include irrigation and drainage ditches, grass-lined swales,
19 canals, storm water runoff devices, or other courses unless they are used by fish or to convey waters
20 that were naturally occurring prior to construction.

21

22 Wetland Classification System: Those categories set forth in the Washington State Wetland Rating
23 System for Western Washington, Publication #04-06-02514-06-029 dated ~~August, 2004~~ October, 2014. A
24 summary of the classification system is provided below:

25 1. Category I. Category I wetlands are those that meet the following criteria:

- 26 a. Wetlands that are identified by scientists as high quality or high function wetlands;
27 b. Bogs larger than one-half acre;
28 c. Mature and old-growth forested wetlands larger than one acre; or
29 d. Wetlands that are undisturbed and contain ecological attributes that are impossible
30 to replace within a human lifetime.

31 2. Category II. Category II wetlands are not defined as Category I wetlands and meet the
32 following criteria:

- 33 a. Wetlands that are identified by scientists as containing "sensitive" plant species;
34 b. Bogs between one-quarter and one-half acre in size; or
35 c. Wetlands with a moderately high level of functions.

36 3. Category III. Category III wetlands do not satisfy Category I or II criteria, and have a moderate
37 level of functions. These wetlands generally have been disturbed in some ways, and are often
38 less diverse or more isolated from other natural resources than Category II wetlands.

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4. Category IV. Category IV wetlands do not satisfy Category I, II or III criteria; and have the lowest level of functions; and are often heavily disturbed.

Wetland Manual: Identification of wetlands and delineation of their boundaries shall be done in accordance with the most ~~currently~~ recently approved Army Corps of Engineers wetlands delineation manual and applicable regional supplements.

DRAFT

**CITY OF MERCER ISLAND
ORDINANCE NO. 19C-06**

AN ORDINANCE OF THE CITY OF MERCER ISLAND, WASHINGTON, REPEALING MICC 19.07.110 AND ADOPTING A NEW CHAPTER 19.13 MICC RELATED TO SHORELINE REGULATIONS; PERMITTING CORRECTION OF SCRIVENER'S ERRORS DURING CODIFICATION; AUTHORIZING ISSUANCE OF RULES TO ADMINISTER THE AMENDED CODE; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the Mercer Island City Code (MICC) contains a Shoreline Master Program, adopted pursuant to RCW 90.58.080; and,

WHEREAS, WAC 173-26-090 requires a review of the City's Shoreline Master Program by June 30, 2019; and,

WHEREAS, the Mercer Island City Council directed the Planning Commission to review the Shoreline Master Program to ensure compliance with applicable state rules and statute; and,

WHEREAS, the Mercer Island Planning Commission reviewed the policies and regulations related to the protection of environmentally critical areas and the shoreline master program for approximately 18 months and over the course of 16 public meetings; and,

WHEREAS, in addition to informal public outreach, consisting of articles on social media, the establishment of a dedicated webpage on "LetsTalk", a formal notice of public hearing was provided in accordance with MICC 19.15.100; and

WHEREAS, the Mercer Island Planning Commission held a public hearing on March 6, 2019 and considered public comment received prior to the close of the public hearing; and

WHEREAS, the Mercer Island Planning Commission unanimously recommended adoption of the proposed amendments to the critical area regulations, shoreline master program, SEPA standards, and related code amendments; and,

WHEREAS, the Mercer Island Comprehensive Plan Shoreline Element goals and policies are implemented through the adoption of the amended Shoreline Master Program; and,

WHEREAS, a SEPA Determination of Non Significance was issued by the City on February 4, 2019; and,

WHEREAS, the Washington Department of Commerce granted review of the proposed amendments to the development regulations on February 21, 2019;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MERCER ISLAND, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1: **Adoption of Amendments to Title 19 of the Mercer Island City Code.** Amendments to the Mercer Island City Code, repealing MICC 19.07.110 and adopting a new chapter 19.13 MICC, as set forth in Attachment “A” to this ordinance are hereby adopted.

Section 2: **Codification and Effective Date of the Regulations.** The City Council authorizes the Community Planning and Development Director and the City Clerk to correct scrivener’s errors in Attachment A, codify the regulatory provisions of the amendments into Title 19 of the Mercer Island City Code, and publish the amended code. Notwithstanding the effective date of this Ordinance set forth in Section 5, the effective date of the regulatory provisions in Attachment A shall be on and after June 30, 2019.

Section 3: **Interpretation.** The City Council authorizes the Development Services Group Director to adopt administrative rules and administer the amended code as necessary to implement the legislative intent of the City Council.

Section 4: **Severability.** If any section, sentence, clause or phrase of this ordinance or any municipal code section amended hereby should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of any other section, sentence, clause or phrase of this ordinance or the amended code section.

Section 5: **Publication and Effective Date.** A summary of this Ordinance consisting of its title shall be published in the official newspaper of the City. This Ordinance shall take effect and be in full force five days after the date of publication.

PASSED by the City Council of the City of Mercer Island, Washington at its regular meeting on June 4, 2019 and signed in authentication of its passage.

CITY OF MERCER ISLAND

Debbie Bertlin, Mayor

Approved as to Form:

ATTEST:

Bio Park, Interim City Attorney

Deborah Estrada, City Clerk

Date of Publication: _____

**Ordinance No. 19C-06
Attachment A**

- 1 19.07.11013 Shoreline master program.
- 2 19.13.010 Authority and Purpose
- 3 19.13.020 General Regulations
- 4 19.13.030 Shoreline Map and Designations
- 5 19.13.040 Use Regulations
- 6 19.13.050 Shoreland Development Standards

7 19.13.010A. Authority and Purpose.

- 8 A. ~~1~~-Authority. This section is adopted as part of the shoreline master program of the city. It is
9 adopted pursuant to the authority and requirements of Chapter 90.58 RCW and Chapter 173-26
10 WAC.
- 11 B. ~~2~~-Applicability. The requirements of this section apply to all uses, activities and development within
12 the shorelands, unless specifically exempted by Chapter 90.58 RCW or Chapter 173-27 WAC, or as
13 specified in subsection F), of this section. All proposed uses and development occurring within
14 shoreline jurisdiction must conform to Chapter 90.58 RCW, the Shoreline Management Act.
- 15 C. ~~3~~-Purpose and Intent. It is the purpose and intent of this section to achieve the shoreline master
16 program (SMP) mandates of the state of Washington and to adopt property development standards
17 within the shorelands that protect the health, safety, welfare, values and property interests of the
18 city of Mercer Island and its residents.
- 19 D. ~~4~~-Relationship with Other Mercer Island Codes and Ordinances. This section is an integrated
20 element of the city of Mercer Island Unified Land Development Code (MICC Title 19) and other
21 applicable development regulations contained in the Mercer Island City Code, including the storm
22 water management regulations in MICC Title 15, and building and construction regulations in MICC
23 Title 17. The provisions of the critical areas ordinance (MICC 19.07.010 through and including
24 19.07.090 as in effect on January 1, 2011) are hereby incorporated as specific regulations of the
25 shoreline master program. To the extent this section conflicts with any other section of the Mercer
26 Island City Code, the provisions of this section shall govern within the shorelands.
- 27 E. ~~5~~-Relationship with Other Federal and State Law. The provisions of this section shall not relieve any
28 responsibility to comply with other federal and state laws or permits. All work at or waterward of
29 the OHWM may require permits from one or all of the following: U.S. Army Corps of Engineers,
30 Washington Department of Fish and Wildlife, Washington Department of Natural Resources or
31 Washington Department of Ecology.
- 32 F. The following development is not required to obtain shoreline permits or local reviews:
 - 33 1. Remedial actions. Pursuant to RCW 90.58.355, any person conducting a remedial action at a
34 facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D
35 RCW, or to the department of ecology when it conducts a remedial action under chapter
36 70.105D RCW.
 - 37 2. Boatyard improvements to meet NPDES permit requirements. Pursuant to RCW 90.58.355, any
38 person installing site improvements for storm water treatment in an existing boatyard facility to
39 meet requirements of a national pollutant discharge elimination system storm water general
40 permit.
 - 41 3. WSDOT facility maintenance and safety improvements. Pursuant to RCW 90.58.356, Washington
42 State Department of Transportation projects and activities meeting the conditions of RCW

1 90.58.356 are not required to obtain a substantial development permit, conditional use permit,
2 variance, letter of exemption, or other local review.

3 4. Projects consistent with an environmental excellence program agreement pursuant to RCW
4 90.58.045.

5 4.5. Projects authorized through the Energy Facility Site Evaluation Council process, pursuant to
6 chapter 80.50 RCW.

7 19.13.B.020 General Regulations.

8 A. ~~1-~~Legal Nonconforming Uses and Structures May Continue. Overwater uses and structures, and
9 uses and structures 25 feet landward from the OHWM, which were legally created may be
10 maintained, repaired, renovated, remodeled and completely replaced to the extent that
11 nonconformance with the standards and regulations of this section is not increased.

12 B. Expansion of Legal Nonconforming Structures. Expansions of legal nonconforming overwater
13 structures and structures upland 25 feet from the OHWM are permitted; provided, that the
14 expanded portion of the structure is constructed in compliance with this section and all other
15 standards and provisions of the Mercer Island development regulations, including this chapter.

16 ~~B.C.2-~~No Net Loss Standard and Mitigation Sequencing. No development shall be approved unless the
17 applicant demonstrates to the code official's satisfaction that the shoreline development will not
18 create a net loss of ecological function in the shorelands.

19 1. ~~a-~~Standards Presumed to Meet No Net Loss. When all individual development standards that
20 apply to a development project do not explicitly require a determination of no net loss and the
21 project conforms with all such standards, there is a rebuttable presumption that the project
22 does not create a net loss of ecological function to the shorelands.

23 2. ~~b-~~No Net Loss Plan. Whenever an applicant seeks a variance or conditional use permit or an
24 applicable development standard explicitly requires a determination of no net loss of ecological
25 function, the applicant shall provide the city with a plan that demonstrates the proposed project
26 will not create a net loss in ecological function to the shorelands. The plan shall accomplish no
27 net loss of ecological function by avoiding adverse ecological impacts that are not reasonably
28 necessary to complete the project, minimizing adverse ecological impacts that are reasonably
29 necessary to complete the project, and mitigating or offsetting any adverse impacts to
30 ecological functions or ecosystem-wide processes caused by the project. The code official may
31 require the plan to include reports from qualified professionals with expertise in ecological
32 function. The plan's compliance with the no net loss requirement may be considered through
33 the SEPA process.

34 a) ~~i-~~Off-Site Mitigation Permitted. While on-site mitigation is preferred, off-site mitigation may
35 be permitted at the discretion of the code official.

36 b) ~~ii-~~Demonstration of No Net Loss Supported by a Qualified Professional. The code official
37 may require any applicant to provide reports by qualified professionals that demonstrate to
38 the code official's satisfaction that the applicant's proposed plan avoids a net loss in
39 ecological function.

40 ~~C. 3. Expansion of Legal Nonconforming Structures. Expansions of legal nonconforming overwater~~
41 ~~structures and structures upland 25 feet from the OHWM are permitted; provided, that the~~
42 ~~expanded structure is constructed in compliance with this section and all other standards and~~
43 ~~provisions of the Mercer Island development regulations.~~

1 D. 4-Shoreline Habitat and Natural Enhancements Held Harmless. In those instances where the OHWM
2 moves further landward as a result of any action required by this section, or in accordance with
3 permits involving a shoreline habitat and nature systems enhancement approved by the city, or a
4 state or federal agency, the shoreline setback shall be measured from the location of the OHWM
5 that existed immediately prior to the action or enhancement project.

6 E. The development of two or more dwelling units on a lot abutting the OHWM should provide joint
7 use or community dock facilities, when feasible, rather than allow individual docks for each lot.

8 F. New development should be located and designed to avoid the need for future shoreline
9 stabilization to the extent feasible. This future shoreline stabilization standard does not apply to
10 stabilization that occurs pursuant to subsection (B)(1) of this section. New structural stabilization
11 measures in support of new non-water-dependent development, including single-family residences,
12 shall only be allowed when all of the conditions below apply:

13 1) The erosion is not being caused by upland conditions, such as the loss of vegetation and
14 drainage.

15 2) Nonstructural measures, such as placing the development further from the shoreline, planting
16 vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.

17 3) The need to protect primary structures from damage due to erosion is demonstrated through a
18 geotechnical report, in compliance with subsection (B)(7) of this section. The damage must be
19 caused by natural processes, such as currents and waves.

20 4)The erosion control structure will not result in a net loss of shoreline ecological functions.

21 19.13.030 Shoreline Map and Designations. The shoreline environmental designations map, dated
22 March 3, 2011, as shown in Appendix F, is adopted as the official Mercer Island shoreline environmental
23 designations map. The digital map is available in the online version of the Mercer Island City Code at
24 <http://www.mercergov.org>. All shorelands within the city are designated. Different areas of the city's
25 shorelands have different natural characteristics and development patterns. As a result, two shoreline
26 designated environments are established to regulate developments and uses consistent with the specific
27 conditions of the designated environments and to protect resources of the Mercer Island shorelands.
28 They are:

29 A) 1-Urban Park Environment. This environment consists of shoreland areas designated for public
30 access and active and passive public recreation. The areas include, but are not limited to, parks,
31 street ends, public utilities and other publicly owned rights-of-way. The uses located in this
32 environment should be water-dependent and designed with no net loss to the ecological functions
33 of the shorelands. Restoration of ecological functions is planned for these areas and is strongly
34 encouraged. The preferred and priority use in the urban park environment is public access to, and
35 enjoyment of, Lake Washington.

36 B) 2-Urban Residential Environment. The purpose of the urban residential environment is to provide
37 for residential and recreational utilization of the shorelands, compatible with the existing residential
38 character in terms of bulk, scale, type of development and no net loss of ecological functions of the
39 shorelands. The preferred and priority use in the urban residential environment is single-family
40 residential use.

41 19.07.11013.040 D-Use Regulations. The following tables specify the shoreline uses and developments
42 which may take place or be conducted within the designated environments. The uses and developments
43 listed in the matrix are allowed only if they are not in conflict with more restrictive regulations of the

1 Mercer Island development code and are in compliance with the standards specified in subsection E of
 2 this section.

KEY:

CE: Permitted via shoreline categorically exempt

P: Permitted use

P-1: Uses permitted when authorized by a conditional use permit for the applicable zone shall also require a shoreline substantial development permit and a shoreline plan in compliance with MICC 19.07.110(B)(2)13.020(C)

SCUP: Shoreline conditional use permit

NP: Not a permitted use

3 The following regulations apply to all uses and development within the shorelands, whether or not that
 4 development is exempt from the permit requirements:

Table A – Shoreland Uses Landward of the Ordinary High Water Mark

SHORELAND USE LANDWARD OF THE OHWM	Urban Residential Environment	Urban Park Environment
Single-family dwelling including accessory uses and accessory structures	CE	NP
Accessory dwelling units	CE	NP
The use of a single-family dwelling as a bed and breakfast	P-1	NP
A state-licensed day care or preschool	P-1	NP
Government services, public facilities, and museums and art exhibitions	P-1	P
Public parks and open space	P	P
Private recreational areas	P	NP
Semi-private waterfront recreation areas for use by 10 or fewer families	P	NP
Semi-private waterfront recreation areas for use by more than 10 families	P-1	NP
Noncommercial recreational areas	P-1	P

Table A – Shoreland Uses Landward of the Ordinary High Water Mark

SHORELAND USE LANDWARD OF THE OHWM	Urban Residential Environment	Urban Park Environment
Commercial recreational areas	NP	NP
Places of worship	P-1	NP
Retirement homes located on property used primarily for a place of worship	P-1	NP
Special needs group housing	P	NP
Social service transitional housing	P	NP
Public schools accredited or approved by the state for compulsory school attendance	NP	NP
Private schools accredited or approved by the state for compulsory school attendance	NP	NP
Streets and parking	P	P
Transit facilities including light rail transit facilities, transit stops, and associated parking lots	P	NP
Wireless communications facilities	P	P
New hard structural shoreline stabilization	SCUP	SCUP
Soft structural shoreline stabilization	P	P
Shoreland surface modification	P	P
Restoration of ecological functions including shoreline habitat and natural systems enhancement	P	P
Boat ramp	P	P
Agriculture, aquaculture, forest practices and mining	NP	NP

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Table B – Shoreland Uses Waterward of the Ordinary High Water Mark

SHORELAND USE WATERWARD OF THE OHWM	Urban Residential Environment	Urban Park Environment
Moorage facilities and covered moorages 600 square feet or less	P	P
Covered moorage larger than 600 square feet	SCUP	SCUP
Floating platforms	P	P
Mooring piles, diving boards and diving platforms	P	P
Boat ramp	P	P
Boat houses	NP	NP
Floating homes	NP	NP
Public access pier, <u>dock</u> , or boardwalk	P	P
Utilities	P	P
Public transportation facilities including roads, bridges, and transit	P	P
Transit facilities including light rail transit facilities	P	NP
Dredging and dredge material disposal	P	P
Breakwaters, jetties, and groins (except those for restoration of ecological functions)	NP	NP
Restoration of ecological functions including shoreline habitat and natural systems enhancement	P	P
<p>Notes:</p> <p>A use not listed in this table is not permitted within shorelands.</p> <p>A use permitted by this table shall meet all other applicable regulations, including, but not limited to, being an allowed use in the applicable zone.</p>		

1 ~~19.07.11013.050 E~~ Shoreland Development Standards. All development within the shoreline
2 jurisdiction shall be in compliance with all development requirements specified in this section.

- 1 A. ~~1-~~Standards Landward of the OWHM. The standards in Table C shall apply to development located
 2 landward of the OWHM:

Table C. Requirements for Development Located Landward from the OWHM

Setbacks for All Structures (Including Fences over 48 Inches High) and Parking	A*	25 feet from the OWHM and all required setbacks of the development code, except <u>1) light rail transit facilities and 2) flatwork (e.g.) patios, walkways) and stairs less than 30 inches above the existing or finished grade, whichever is lower.</u> If a wetland is adjacent to the shoreline, measure the shoreline setback from the wetland’s boundary
Height Limits for All Structures	B	Shall be the same as height limits specified in the development code but shall not exceed a height of 35 feet above average building elevation, except light rail transit facilities
Maximum Impervious Surface <u>Hardscape and Lot Coverage</u>	C D	10%: between 0 and 25 feet from OWHM 30%: between 25 and 50 feet from OWHM
Minimum Land Area Requirements	E	All semi-private, commercial and noncommercial recreational tracts and areas shall have minimum land area: 200 square feet per family, but not less than 600 square feet, exclusive of driveways or parking areas. Screening of the boundaries with abutting properties
Shoreland Surface Modification	-	Alterations over 250 cubic yards — outside the building footprint requires SEPA
Height Limits for Light Rail Transit Facilities within the Existing I-90 Corridor		The trackway and overhead wires, support poles, and similar features necessary to operate light rail transit facilities may be erected upon and exceed the height of the existing I-90 bridges
*The letters in this column refer to the Plan View (A) and Section (A) diagrams.		



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B. ~~2-~~ Bulkheads and Shoreline Stabilization Structures.

1. ~~a-~~ An existing shoreline stabilization structure may be replaced with a similar structure if there is a demonstrated need to protect principal uses or structures from erosion caused by currents or waves, and the following conditions shall apply:

a) ~~i-~~ The replacement structure should be designed, located, sized, and constructed to assure no net loss of ecological functions.

b) ~~ii-~~ Replacement walls or bulkheads shall not encroach waterward of the ordinary high water mark or existing structure unless the primary structure was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shoreline stabilization structure. Soft shoreline

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- 1 stabilization measures that provide restoration of shoreline ecological functions may be
2 permitted waterward of the ordinary high water mark.
- 3 c) ~~iii~~-For purposes of this section standards on shoreline stabilization measures,
4 “replacement” means the construction of a new structure to perform a shoreline
5 stabilization function of an existing structure which can no longer adequately serve its
6 purpose. Additions to or increases in size of existing shoreline stabilization measures shall be
7 considered new structures.
- 8 d) ~~iv~~-Construction and maintenance of normal protective bulkhead common to single-family
9 dwellings requires only a shoreline exemption permit, unless a report is required by the
10 code official to ensure compliance with the above conditions; however, if the construction
11 of the bulkhead is undertaken wholly or in part on lands covered by water, such
12 construction shall comply with SEPA mitigation.
- 13 ~~2.~~ ~~b.~~ New Structures for Existing Primary Structures. New or enlarged structural shoreline
14 stabilization measures for an existing primary structure, including residences, are not allowed
15 unless there is conclusive evidence, documented by a geotechnical analysis, that the structure is
16 in danger from shoreline erosion caused by currents, or waves. Normal sloughing, erosion of
17 steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not
18 demonstration of need. The geotechnical analysis should evaluate on-site drainage issues and
19 address drainage problems away from the shoreline edge before considering structural
20 shoreline stabilization. New or enlarged erosion control structure shall not result in a net loss of
21 shoreline ecological functions.
- 22 ~~3.~~ ~~c.~~ New development should be located and designed to avoid the need for future shoreline
23 stabilization to the extent feasible. This future shoreline stabilization standard does not apply to
24 stabilization that occurs pursuant to subsection (E)(2)(a) of this section. New structural
25 stabilization measures in support of new non-water dependent development, including single-
26 family residences, shall only be allowed when all of the conditions below apply:
- 27 ~~4.~~ ~~i.~~ The erosion is not being caused by upland conditions, such as the loss of vegetation and
28 drainage.
- 29 ~~5.~~ ~~ii.~~ Nonstructural measures, such as placing the development further from the shoreline, planting
30 vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.
- 31 ~~6.~~ ~~iii.~~ The need to protect primary structures from damage due to erosion is demonstrated through
32 a geotechnical report, in compliance with subsection (E)(2)(h) of this section. The damage must
33 be caused by natural processes, such as currents and waves.
- 34 ~~7.2.~~ ~~iv.~~ The erosion control structure will not result in a net loss of shoreline ecological functions.
- 35 ~~8.3.~~ ~~d.~~ New development on steep slopes or bluffs shall be set back sufficiently to ensure that
36 shoreline stabilization is unlikely to be necessary during the life of the structure, as
37 demonstrated by a geotechnical analysis, in compliance with subsection (E)(2)(h)(B)(7) of this
38 section and building and construction codes.
- 39 ~~9.4.~~ New structural stabilization measures in support of water-dependent development shall only be
40 allowed when all of the conditions below apply:
- 41 a) ~~i.~~ The erosion is not being caused by upland conditions, such as the loss of vegetation and
42 drainage.
- 43 b) ~~ii.~~ Nonstructural measures, planting vegetation, or installing on-site drainage improvements,
44 are not feasible or not sufficient.

- 1 c) ~~iii~~-The need to protect primary structures from damage due to erosion is demonstrated
2 through a geotechnical report, in compliance with subsection ~~(E)(2)(h)(B)(7)~~ of this section
3 and building and construction codes.
- 4 d) ~~iv~~-The erosion control structure will not result in a net loss of shoreline ecological functions.
- 5 ~~10.5.~~ f-New structural stabilization measures to protect projects for the restoration of
6 ecological functions or hazardous substance remediation projects pursuant to Chapter 70.105D
7 RCW shall only be allowed when all of the conditions below apply:
- 8 a) ~~i~~-Nonstructural measures, planting vegetation, or installing on-site drainage improvements,
9 are not feasible or not sufficient.
- 10 b) ~~ii~~-The erosion control structure will not result in a net loss of shoreline ecological functions.
- 11 ~~11.6.~~ g-Bulkheads shall be located generally parallel to the natural shoreline. No filling may
12 be allowed waterward of the ordinary high water mark, unless there has been severe and
13 unusual erosion within two years immediately preceding the application for the bulkhead. In
14 this event the city may allow the placement of the bulkhead to recover the dry land area lost by
15 erosion.
- 16 ~~12.7.~~ h-Geotechnical reports pursuant to this section that address the need to prevent
17 potential damage to a primary structure shall address the necessity for shoreline stabilization by
18 estimating time frames and rates of erosion and report on the urgency associated with the
19 specific situation. As a general matter, hard armoring solutions should not be authorized except
20 when a report confirms that there is a significant possibility that such a structure will be
21 damaged within three years as a result of shoreline erosion in the absence of such hard
22 armoring measures, or where waiting until the need is that immediate would foreclose the
23 opportunity to use measures that avoid impacts on ecological functions. Thus, where the
24 geotechnical report confirms a need to prevent potential damage to a primary structure, but the
25 need is not as immediate as the three years, that report may still be used to justify more
26 immediate authorization to protect against erosion using soft measures.
- 27 ~~13.8.~~ i-When any structural shoreline stabilization measures are demonstrated to be
28 necessary, pursuant to above provisions, the following shall apply:
- 29 a) ~~i~~-Limit the size of stabilization measures to the minimum necessary. Use measures designed
30 to assure no net loss of shoreline ecological functions. Soft approaches shall be used unless
31 demonstrated not to be sufficient to protect primary structures, dwellings, and businesses.
- 32 b) ~~ii~~-Ensure that publicly financed or subsidized shoreline erosion control measures do not
33 permanently restrict appropriate public access to the shoreline except where such access is
34 determined to be infeasible because of incompatible uses, safety, security, or harm to
35 ecological functions. See public access provisions: WAC 173-26-221(4). Where feasible,
36 incorporate ecological restoration and public access improvements into the project.
- 37 c) ~~iii~~-Mitigate new erosion control measures, including replacement structures, on feeder
38 bluffs or other actions that affect beach sediment-producing areas to avoid and, if that is not
39 possible, to minimize adverse impacts to sediment conveyance systems. Where sediment
40 conveyance systems cross jurisdictional boundaries, local governments should coordinate
41 shoreline management efforts. If beach erosion is threatening existing development, local
42 governments should adopt master program provisions for a beach management district or
43 other institutional mechanism to provide comprehensive mitigation for the adverse impacts
44 of erosion control measures.

14. j. ~~The development of two or more dwelling units on a lot abutting the OHWM should provide joint use or community dock facilities, when feasible, rather than allow individual docks for each lot.~~

C. ~~3-~~Transportation and Parking.

1. ~~a-~~Shoreline circulation system planning shall include safe, reasonable, and adequate systems for pedestrian, bicycle, and public transportation where appropriate. Circulation planning and projects should support existing and proposed shoreline uses that are consistent with all regulations.
2. ~~b-~~Transportation and parking facilities shall be planned, located, and designed where routes will have the least possible adverse effect on unique or fragile shoreline features, and will not result in a net loss of shoreline ecological functions or adversely impact existing or planned water-dependent uses.
3. ~~c-~~Where other options are available and feasible, new roads or road expansions should not be built within shorelands.
4. ~~d-~~Parking facilities in shorelands shall be allowed only as necessary to support an authorized use.

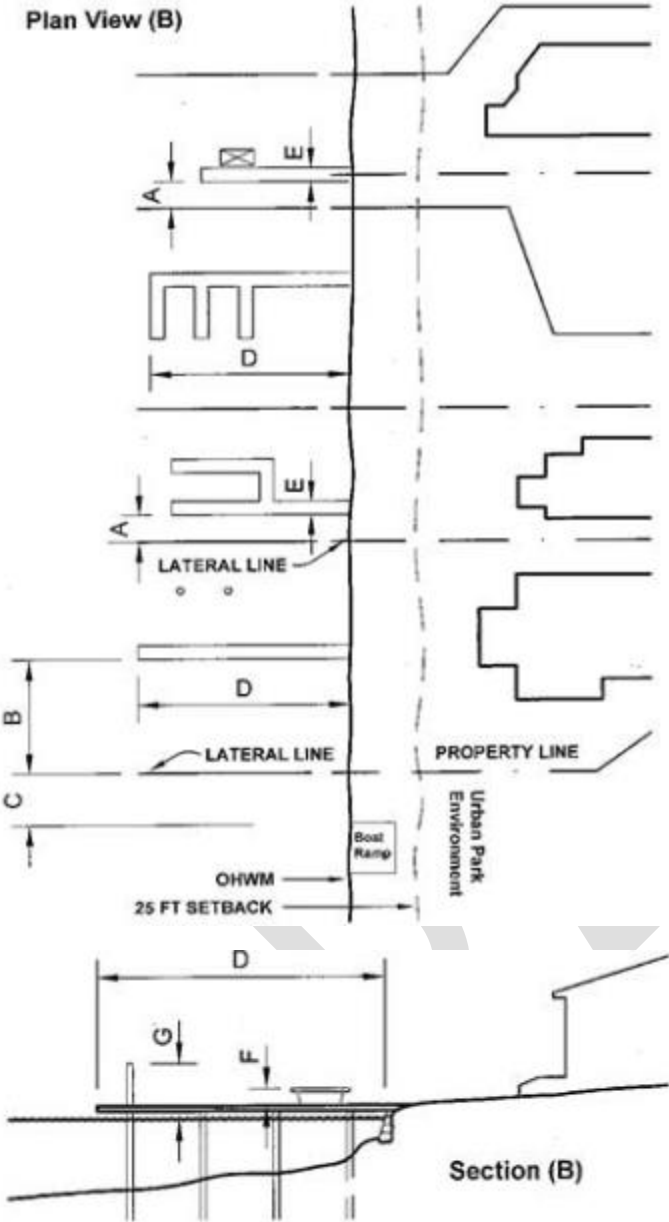
D. ~~4-~~Standards Waterward of the OHWM. Moorage facilities may be developed and used as an accessory to dwellings on shoreline lots. Only one noncommercial, residential moorage facility per upland residential waterfront lot authorized. The standards in Table D shall apply to development located waterward of the OHWM:

Table D. Requirements for Moorage Facilities and Development Located Waterward from the OHWM

Setbacks for All Moorage Facilities, Docks, Covered Moorage, and Floating Platforms	A*	10 feet from the lateral line (except where moorage facility is built pursuant to the agreement between <u>adjoining the owners of adjoining lots on the shoreline</u> as shown in Figure B below).
	B	Where a property shares a common boundary with the urban park environment, the setback shall be 50 feet from the lateral line or 50% of the water frontage of the property, whichever is less.
Setbacks for Boat Ramps and Other Facilities for Launching Boats by Auto or Hand, Including Parking and Maneuvering Space	C	25 feet from any adjacent private property line.
Length or Maximum Distance Waterward from the OHWM for Moorage Facilities, Docks, Covered Moorage, Boatlifts and Floating Platforms	D	Maximum 100 feet, but in cases where water depth is less than 11.85 feet below OHWM, length may extend up to 150 feet or to the point where water depth is 11.85 feet at OHWM, whichever is less.

Width of moorage facilities <u>docks</u> within 30 feet waterward from the OHWM	E	<p>Maximum 4 feet. Width may increase to 5 feet if one of the following is met:</p> <ol style="list-style-type: none"> 1) Water depth is 4.85 feet or more, as measured from the OHWM; or 2) A moorage facility is required to comply with Americans with Disabilities Act (ADA) requirements; or 3) A resident of the property has a documented permanent state disability as defined in WAC 308-96B-010(5); or 4) The proposed project includes mitigation option A, B or C listed in Table E; and for replacement actions, there is either a net reduction in overwater coverage within 30 feet waterward from the OHWM, or a site-specific report is prepared by a qualified professional demonstrating no net loss of ecological function of the shorelands. <p>Moorage facility width shall not include pilings, boat ramps and lift stations<u>boatlifts</u>.</p>
Width of moorage facilities more than 30 feet waterward from the OHWM	E	Maximum 6 feet wide. Moorage facility width shall not include pilings, boat ramps and boatlifts <u>lift stations</u> .
Height Limits for Walls, Handrails and Storage Containers Located on Piers	F	<p>3.5 feet above the surface of a dock or pier.</p> <p>4 feet for ramps and gangways designed to span the area 0 feet to 30 feet from the OHWM.</p>
Height Limits for Mooring Piles, Diving Boards and Diving Platforms	G	10 feet above the elevation of the OHWM.
Height Limits for Light Rail Transit Facilities within the Existing I-90 Corridor		The trackway and overhead wires, support poles, and similar features necessary to operate light rail transit facilities may be erected upon and exceed the height of the existing I-90 bridges.

*The letters in this column refer to the Plan View (B) and Section (B) diagrams.



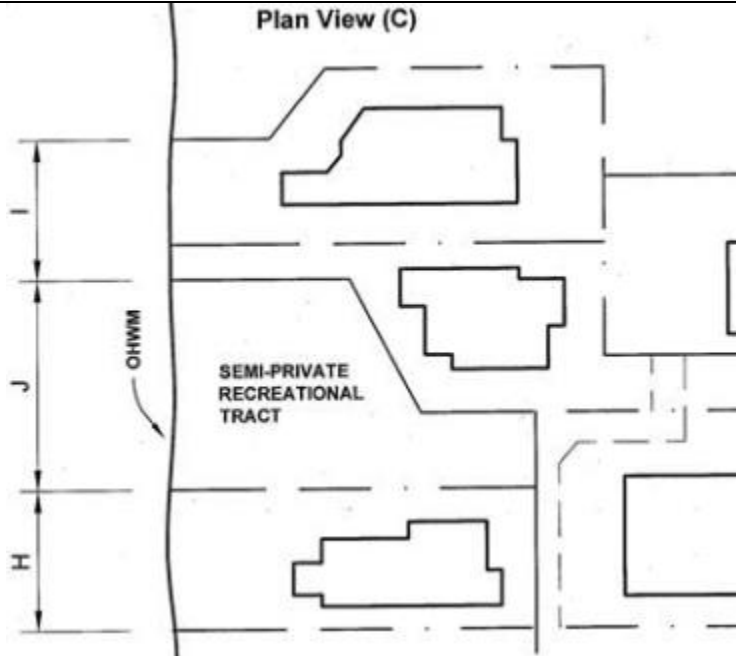
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Table D. Requirements for Moorage Facilities and Development Located Waterward from the OHWM (Continued)

Minimum Water Frontage for Docks/Moorage Facility	H*	Single-family lots: 40 feet.
	I	Shared – two adjoining lots <u>on the shoreline</u> : 40 feet combined.
	J	Semi-private recreational tracts: 2 families: 40 feet.

	<p>3 – 5 families: 40 feet plus 10 feet for each family more than 2.</p> <p>6 – 10 families: 70 feet plus 5 feet for each family more than 5.</p> <p>11 – 100 families: 95 feet plus 2 feet for each family more than 10.</p> <p>101+ families: 275 feet plus 1 foot for each family more than 100.</p>
Covered Moorage	<p>Permitted on single-family residential lots subject to the following:</p> <p>(a) Maximum height above the OHWM: 16 feet; 16 to 21 feet subject to criteria of MICC 19.07.110(E)(5)(a) <u>13.050(E)(1)</u>.</p> <p>(b) Location/area requirements: See Figure A for single-family lots and Figure B for shared moorage.</p> <p>(c) Building area: 600 square feet; however, a covered moorage may be built larger than 600 square feet within the triangle subject to a shoreline conditional use permit.</p> <p>(d) Covered moorage shall have open sides.</p> <p>(e) Prohibited in semi-private recreational tracts and noncommercial recreational areas.</p> <p>(f) Translucent canopies <u>coverings</u> are required.</p>

*The letters in this column refer to the Plan View (C).



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Table E. Dock Width Mitigation Options

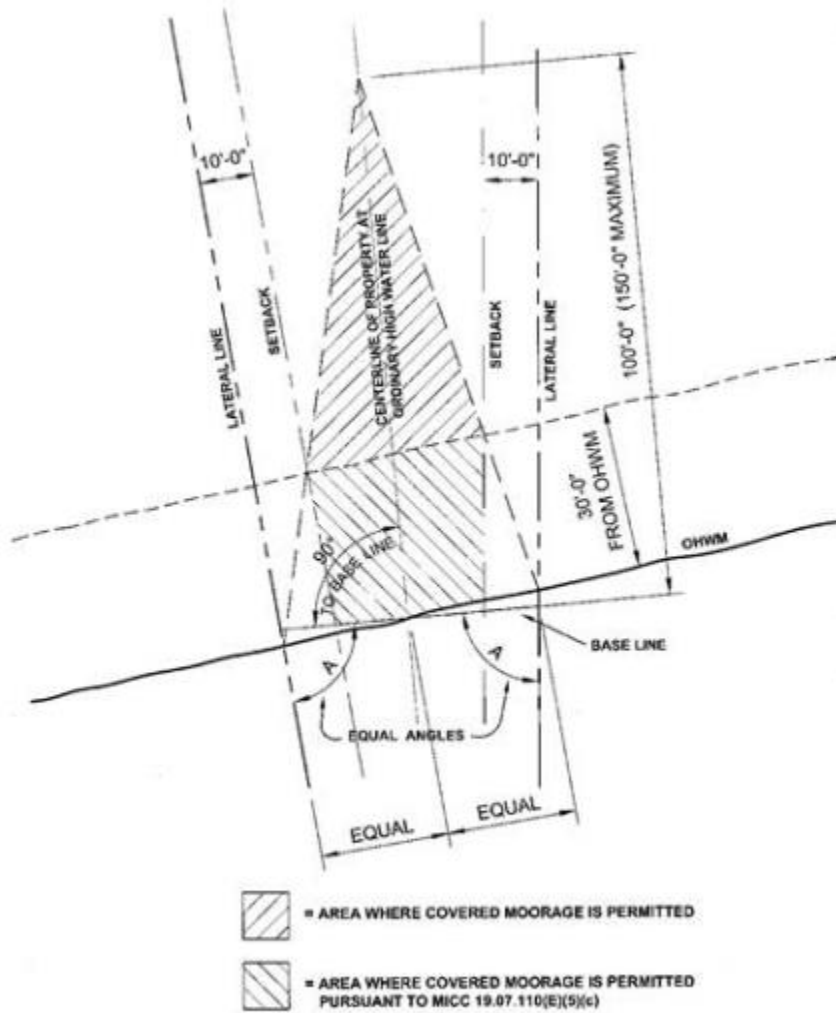
Option A	Option B	Option C
Includes at Least One of the Following:	Includes at Least Two of the Following:	Includes at Least Three of the Following:
1. Complete removal of existing bulkhead with shoreline restoration	1. Removal of 12 feet or 30% (lineal), whichever is greater, of existing bulkhead and creation of beach cove with shoreline restoration	1. Installation/Replacement of decking within the first 30 feet waterward from the OHWM that allows a minimum of 60% light transmittance.
2. Removal of an existing legally established boat house (A “boat house” is a covered moorage that includes walls and a roof to protect the vessel.)	2. Installation/Replacement of decking within the first 30 feet waterward from the OHWM that allows a minimum of 60% light transmittance.	2. Removal of all existing legally established piling treated with creosote or comparably toxic compounds
3. Replacement of two or more existing legally established individual moorage facilities docks with a single joint use moorage facility	3. Removal of an existing legally established covered moorage within the first 30 feet waterward from the OHWM	3. At least a 10% net reduction of existing legally established overwater coverage within the first 30 feet waterward from OHWM
		4. Removal of all legally established individual mooring piles within the first 30 feet waterward from the OHWM
		5. Removal of an existing legally established covered moorage within the first 30 feet waterward from the OHWM

1 E. ~~5-~~The covered portion of a moorage shall be restricted to the area lying within a triangle as
2 illustrated in Figure A, except as otherwise provided in subsection ~~(E)(5)(a)~~(E)(1) of this section. The
3 base of the triangle shall be a line drawn between the points of intersection of the property lateral
4 lines with the ordinary high water mark. The location of the covered moorage shall not extend more
5 than 100 feet from the center of the base line of such triangle. In cases where water depth is less
6 than 11.85 feet from OHWM, the location of the covered moorage may extend up to 150 feet from
7 the center of the base line or to the point where water depth is 11.85 feet at OHWM, whichever is

1 less. The required 10-foot setbacks from the side property lines shall be deducted from the triangle
2 area.

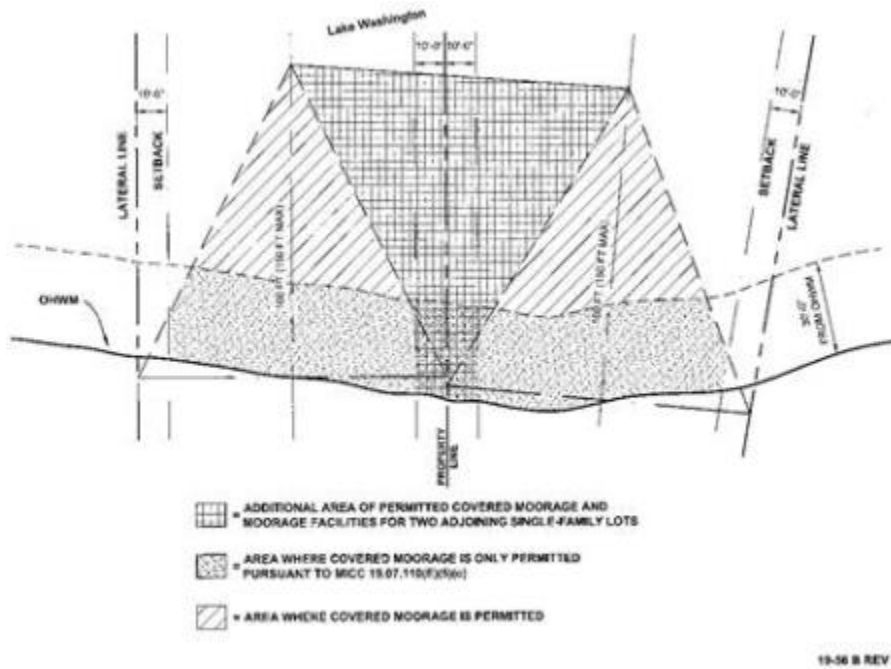
- 3 1. a- A covered moorage is allowed outside the triangle, or a canopy up to 21 feet in height, if the
4 covered moorage meets all other regulations and:
- 5 a) i- Will not constitute a hazard to the public health, welfare, and safety, or be injurious to
6 affected shoreline properties in the vicinity;
 - 7 b) ii- Will constitute a lower impact for abutting property owners; and
 - 8 c) iii- Is not in conflict with the general intent and purpose of the SMA, the shoreline master
9 program and the development code.

10 Figure A: Area of Permitted Covered Moorage, Individual Lots



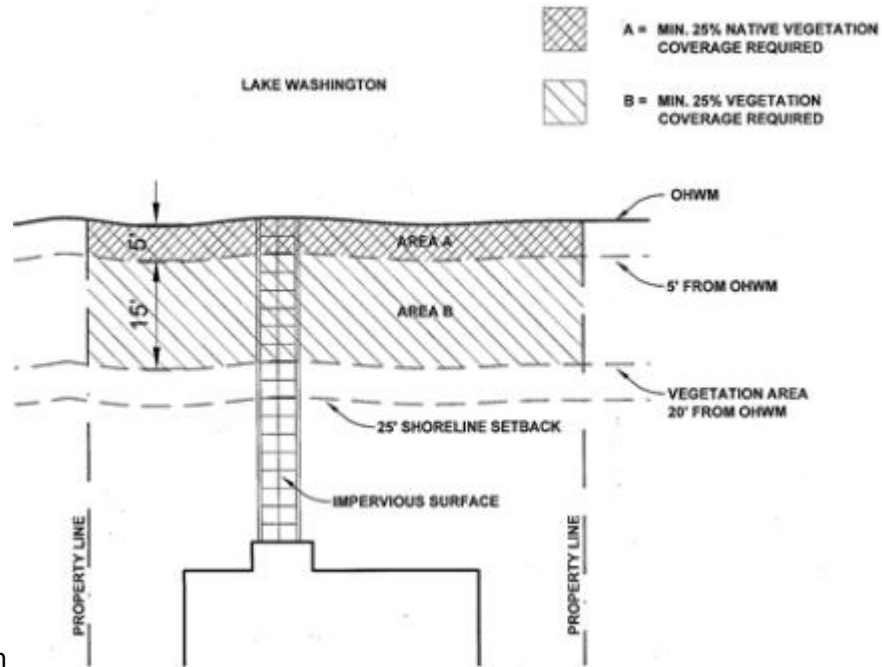
2. b- Where a covered moorage or moorage facility is built pursuant to the agreement of adjoining
owners of adjoining single-family lots located on the shoreline, the covered moorage area shall
be deemed to include, subject to limitations of such joint agreement, all of the combined areas
lying within the triangles extended upon each adjoining property and the inverted triangle
situated between the aforesaid triangles, as illustrated in Figure B below.

1 Figure B: Area of Permitted Covered Moorage and Moorage Facilities, Two Adjoining Single-Family Lots



- 2
- 3 3. ~~e~~-Covered moorage is not allowed within the first 30 feet from the OHWM unless the applicant:
- 4 a) ~~i~~-Demonstrates to the code official’s satisfaction that proposed project will not create a net
- 5 loss in ecological function of the shorelands; and
- 6 b) ~~ii~~-Provides the city with documentation of approval of the moorage facilities by both the
- 7 U.S. Army Corps of Engineers and the Washington Department of Fish and Wildlife.
- 8 F. ~~6~~-Moorage Facilities. All permits for new and expanded moorage facility, other than public access
- 9 piers or boardwalks, shall meet the following standards unless otherwise exempted. Moorage
- 10 facilities have the option of meeting either the development standards prescribed in subsections
- 11 ~~(E)(6)(a)(F)(1))~~ or ~~(2b)~~ of this section, or the “alternative development standards” in subsection
- 12 ~~(E)(6)(cF)(3)~~ of this section.
- 13 1. ~~a~~-Development Standards for New and Expanded Moorage Facilities. A proposed moorage
- 14 facility shall be presumed to not create a net loss of ecological functions pursuant to subsection
- 15 (B)(2) of this section if:
- 16 a) ~~i~~-The surface coverage area of the moorage facility is:
- 17 (1) ~~(A)~~-Four hundred eighty square feet or less for a single property owner;
- 18 (2) ~~(B)~~-Seven hundred square feet or less for two residential property owners (residential);
- 19 or
- 20 (3) ~~(C)~~-One thousand square feet or less for three or more residential property owners;
- 21 b) ~~ii~~-Piers, docks, and platform lifts must be fully grated with materials that allow a minimum
- 22 of 40 percent light transmittance;
- 23 c) ~~iii~~-Vegetation. The code official approves a vegetation plan that conforms to the following:
- 24 Vegetation must be planted as provided in Figure C and as follows: Within the 25-foot shoreline
- 25 setback, a 20-foot vegetation area shall be established, measured landward from the OHWM.
- 26 Twenty-five percent of the area shall contain vegetation coverage. The five feet nearest the
- 27 OHWM shall contain at least 25 percent native vegetation coverage. A shoreline vegetation plan

1 shall be submitted to the city for approval. The vegetation coverage shall consist of a variety of
 2 ground cover shrubs and trees, excluding nonnative grasses. No plants on the current King
 3 County noxious weed lists shall be planted within the shorelands.



4 Figure C: Vegetation Plan

- 5 d) ~~iv.~~ Only piers, docks, ramps, and lift stations/boatlifts may be within the first 30 feet from the
- 6 OHWM. No skirting is allowed on any structure;
- 7 e) ~~v.~~ The height above the OHWM for moorage facilities/docks, except floats, shall be a
- 8 minimum of one and one-half feet and a maximum of five feet;
- 9 f) ~~vi.~~ The first in-water (nearest the OHWM) set of pilings shall be steel, 10 inches in diameter
- 10 or less, and at least 18 feet from the OHWM. Piling sets beyond the first shall also be spaced
- 11 at least 18 feet apart and shall not be greater than 12 inches in diameter. Piles shall not be
- 12 treated with pentachlorophenol, creosote, CCA or comparably toxic compounds. If
- 13 ammoniacal copper zinc arsenate (ACZA) pilings are proposed, the applicant shall meet all of
- 14 the best management practices, including a post-treatment procedure, as outlined in the
- 15 amended Best Management Practices of the Western Wood Preservers. All piling sizes are in
- 16 nominal diameter;
- 17 g) ~~vii.~~ Any paint, stain or preservative applied to components of the overwater structure/dock
- 18 must be leach resistant, completely dried or cured prior to installation. Materials shall not
- 19 be treated with pentochlorophenol, creosote, CCA or comparably toxic compounds;
- 20 h) ~~viii.~~ No more than two mooring piles shall be installed per structure. Joint-use structures
- 21 may have up to four mooring piles. The limits include existing mooring piles. Moorage piling
- 22 shall not be installed within 30 feet of the OHWM. These piles shall be as far offshore as
- 23 possible;
- 24 i) ~~ix.~~ The applicant shall abide by the work windows for listed species established by the U.S.
- 25 Army Corps of Engineers and Washington Fish and Wildlife; and
- 26 j) ~~x.~~ Disturbance of bank vegetation shall be limited to the minimum amount necessary to
- 27 accomplish the project. Disturbed bank vegetation shall be replaced with native, locally

1 adapted herbaceous and/or woody vegetation. Herbaceous plantings shall occur within 48
2 hours of the completion of construction. Woody vegetation components shall be planted in
3 the fall or early winter, whichever occurs first. The applicant shall take appropriate
4 measures to ensure revegetation success.

5 2. ~~b.~~ Development Standards for Replacement, Repair and Maintenance of Overwater Structures,
6 Including Moorage Facilities. The maintenance, repair and complete replacement of legally
7 existing overwater structures is permitted; provided, that:

- 8 a) ~~i.~~ All permit requirements of federal and state agencies are met;
9 b) ~~ii.~~ The area, width, or length of the structure is not increased, but may be decreased;
10 c) ~~iii.~~ The height of any structure is not increased, but may be decreased; provided, that the
11 height above the OHWM may be increased as provided in subsection ~~(E)(6)(b)(ix)(BF)(2)(i)(2)~~
12 of this section;
13 d) ~~iv.~~ The location of any structure is not changed unless the applicant demonstrates to the
14 director's satisfaction that the proposed change in location results in: (A) a net gain in
15 ecological function, and (B) a higher degree of conformity with the location standards for a
16 new overwater structure;
17 e) ~~v.~~ Piles shall not be treated with pentachlorophenol, creosote, CCA or comparably toxic
18 compounds. If ammoniacal copper zinc arsenate (ACZA) pilings are proposed, the applicant
19 shall meet all of the best management practices, including a post-treatment procedure, as
20 outlined in the amended Best Management Practices of the Western Wood Preservers. All
21 piling sizes are in nominal diameter;
22 f) ~~vi.~~ Any paint, stain or preservative applied to components of the overwater structure must
23 be leach resistant, completely dried or cured prior to installation. Materials shall not be
24 treated with pentochlorophenol, creosote, CCA or comparably toxic compounds;
25 g) ~~vii.~~ The applicant shall abide by the work windows for listed species established by the U.S.
26 Army Corps of Engineers and Washington Fish and Wildlife;
27 h) ~~viii.~~ Disturbance of bank vegetation shall be limited to the minimum amount necessary to
28 accomplish the project. Disturbed bank vegetation shall be replaced with native, locally
29 adapted herbaceous and/or woody vegetation. Herbaceous plantings shall occur within 48
30 hours of the completion of construction. Woody vegetation components shall be planted in
31 the fall or early winter, whichever occurs first. The applicant shall take appropriate
32 measures to ensure revegetation success; and
33 i) ~~ix.~~ If the repair, replacement, or reconstruction of moorage facilities that results in the
34 repair, replacement, or reconstruction of more than 50 percent of either the structure's
35 exterior surface (including decking), or the structure's structural elements (including pilings)
36 within a five year period shall comply with the following standards: are replaced or
37 reconstructed during the five years immediately prior to any demolition for the replacement
38 or reconstruction, the replaced or reconstructed area of the structure must also comply
39 with the following standards:
40 (1) ~~(A)~~ Piers, docks, and platform lifts must be fully grated with materials that allow a
41 minimum of 40 percent light transmittance;
42 (2) ~~(B)~~ The height above the OHWM for moorage facilities, except floats, shall be a
43 minimum of one and one-half feet and a maximum of five feet; and
44 (3) ~~(C)~~ An existing moorage facility that is five feet wide or more within 30 feet waterward
45 from the OHWM shall be replaced or repaired with a moorage facility that complies with

1 the width of moorage facilities standards specified in subsection (E)(4) of this section
2 (Table D).

- 3 3. ~~Alternative Development Standards.~~ The code official shall approve moorage facilities not in
4 compliance with the development standards in subsection ~~(E)(6)(a)(1) or (b2)~~ of this section
5 subject to both U.S. Army Corps of Engineers and Washington Department of Fish and Wildlife
6 approval to an alternate project design. The following requirements and all other applicable
7 provisions in this chapter shall be met:
- 8 a) ~~i-~~The dock must be no larger than authorized through state and federal approval;
 - 9 b) ~~ii-~~The maximum width must comply with the width of moorage facilities standards specified
10 in subsection (E)(4) of this section (Table D);
 - 11 c) ~~iii-~~The minimum water depth must be no shallower than authorized through state and
12 federal approval;
 - 13 d) ~~iv-~~The applicant must demonstrate to the code official's satisfaction that the proposed
14 project will not create a net loss in ecological function of the shorelands; and
 - 15 e) ~~v-~~The applicant must provide the city with documentation of approval of the moorage
16 facilities by both the U.S. Army Corps of Engineers and the Washington Department of Fish
17 and Wildlife.

18 G. 7-Breakwaters, jetties, groins, and weirs. Breakwaters, jetties, groins, weirs, and similar structures
19 are prohibited, except for those structures installed to protect or restore ecological functions, such
20 as woody debris installed in streams. Breakwaters, jetties, groins, and weirs shall be designed to
21 protect critical areas and shall provide for mitigation according to the sequence defined in WAC 173-
22 26-201(2)(e).

23 H. Public Access Piers, Docks, or Boardwalk. New public access piers, docks, or boardwalks on public
24 lands shall comply with the following:

- 25 1. Public access piers, docks, or boardwalks shall be designed and constructed using WDFW-
26 approved methods and materials;
- 27 2. With the exception of the requirements for moorage facilities related to width and length,
28 public access piers, docks, or boardwalks shall comply with design standards required for
29 moorage facilities listed in Table D. Requirements for Moorage Facilities and Development
30 Located Waterward from OHWM;
- 31 3. There is no dock length or area limit for public access piers, docks, or boardwalks; however,
32 public access piers, docks, and boardwalks shall not interfere with navigation and shall be the
33 minimum size necessary to meet the needs of the proposed water-dependent use;
- 34 4. Public access piers, docks, or boardwalks may have a width of up to six feet in width subject to
35 Army Corps of Engineers and/or Washington Department of Fish and Wildlife approval;
- 36 5. Public access piers, docks, or boardwalks must be fully grated with materials that allow a
37 minimum of 40 percent light transmittance;
- 38 6. Minimum of one and one-half feet above ordinary high water to bottom of pier stringer, except
39 the floating section of a dock attached to a pier;
- 40 7. The first in-water (nearest the OHWM) set of pilings shall be steel, 10 inches in diameter or less,
41 and at least 18 feet from the OHWM. Piling sets beyond the first shall also be spaced at least 18
42 feet apart and shall not be greater than 12 inches in diameter. Piles shall not be treated with
43 pentachlorophenol, creosote, CCA or comparably toxic compounds. If ammoniacal copper zinc
44 arsenate (ACZA) pilings are proposed, the applicant shall meet all of the best management

1 practices, including a post-treatment procedure, as outlined in the amended Best Management
2 Practices of the Western Wood Preservers. All piling sizes are in nominal diameter;

3 8. Any paint, stain or preservative applied to components of the overwater structure must be leach
4 resistant, completely dried or cured prior to installation. Materials shall not be treated with
5 pentochlorophenol, creosote, CCA or comparably toxic compounds;

6 9. Disturbance of bank vegetation shall be limited to the minimum amount necessary to
7 accomplish the project. Disturbed bank vegetation shall be replaced with native, locally adapted
8 herbaceous and/or woody vegetation;

9 10. Construction of public access piers, docks, or boardwalks shall abide by the work windows for
10 listed species established by the U.S. Army Corps of Engineers and Washington Fish and Wildlife;
11 and,

12 4-11. A no net loss plan shall be prepared pursuant to Section 19.13.020 MICC demonstrating
13 that the proposed project will not create a net loss in ecological function of the shorelands.

14 G-I. Restoration of ecological functions. The code official may grant relief from shoreline master
15 program development standards and use regulations resulting from shoreline restoration projects
16 consistent with the criteria and procedures in WAC 173-27-215.

17 H-J. 8-Dredging.

18 1. ~~a-~~Dredging shall be permitted only if navigational access has been unduly restricted or other
19 extraordinary conditions in conjunction with water-dependent use; provided, that the use
20 meets all state and federal regulations.

21 2. ~~b-~~Dredging shall be the minimum necessary to accommodate the proposed use.

22 3. ~~c-~~Dredging shall utilize techniques that cause the least possible environmental and aesthetic
23 impact.

24 4. ~~d-~~Dredging is prohibited in the following locations:

25 a) ~~i-~~Fish spawning areas except when the applicant conclusively demonstrated that fish
26 habitat will be significantly improved as a result of the project.

27 b) ~~ii-~~In unique environments such as lake logging of the underwater forest.

28 5. ~~e-~~Dredging and the disposal of dredged material shall comply with Ecology water quality
29 certification process and U.S. Army Corps of Engineers permit requirements. The location and
30 manner of the disposal shall be approved by the city.

31 I-K. 9-General Requirements. The following requirements apply to the following types of activities that
32 may be waterward and/or landward of the OHWM:

33 1. ~~a-~~Critical Areas within the shorelands are regulated by MICC 19.07.010 through and including
34 19.07.090, as adopted in the MICC on January 1, 2011, except: MICC 19.07.030(B), Reasonable
35 Use Exception, and 19.07.040(C), Setback Deviation, and (D), Variances.

36 2. ~~b-~~Utilities.

37 a) ~~i-~~Utilities shall be placed underground and in common rights-of-way wherever economically
38 and technically practical.

39 b) ~~ii-~~Shoreline public access shall be encouraged on publicly owned utility rights-of-way, when
40 such access will not unduly interfere with utility operations or endanger public health and
41 safety. Utility easements on private property will not be used for public access, unless
42 otherwise provided for in such easement.

43 c) ~~iii-~~Restoration of the site is required upon completion of utility installation.

44 3. ~~c-~~Archaeological and Historic Resources.

- 1 a) ~~i~~-If archaeological resources are uncovered during excavation, the developer and property
2 owner shall immediately stop work and notify the city, the Office of Archaeology and
3 Historic Preservation, and affected Indian tribes.
- 4 b) ~~ii~~-In areas documented to contain archaeological resources by the Office of Archaeology
5 and Historic Preservation, a site inspection or evaluation is required by a professional
6 archaeologist in coordination with affected Indian tribes.
- 7 4. ~~d~~-New development ~~adding over~~ totaling 500 square feet or more of any combination of
8 additional gross floor area, lot coverage or hardscape or impervious surface, including the
9 primary structures and appurtenances, shall be required to provide native vegetation coverage
10 over 50 percent of the 20-foot vegetation area shown on Figure C. This ~~standard total~~ shall ~~apply~~
11 ~~to the total of~~ include all new gross floor area, lot coverage, and hardscape impervious surface
12 area added in the five years immediately prior to the ~~construction of the gross floor area or~~
13 ~~impervious surface addition~~ development proposal.
- 14 a) ~~i~~-New development ~~over~~ totaling 1,000 square feet or more of any combination of
15 additional gross floor area, lot coverage or hardscape or impervious surface, including the
16 primary structures and appurtenances, shall be required to provide native vegetation
17 coverage over 75 percent of the 20-foot vegetation area shown in Figure C.
- 18 b) ~~ii~~-A shoreline vegetation plan shall be submitted to the city for approval.
- 19 c) ~~iii~~-The vegetation coverage shall consist of a variety of ground cover shrubs and trees
20 indigenous to the central Puget Sound lowland ecoregion and suitable to the specific site
21 conditions. Existing mature trees and shrubs, but excluding noxious weeds, may be included
22 in the coverage requirement if located in the 20-foot vegetation area shown in Figure C.
- 23 ~~d~~ iv-No plants on the current King County noxious weed lists shall be planted within the
24 shorelands. (Ord. 15C-02 §§ 1, 2; Ord. 13C-12 § 2).
- 25

DRAFT

**CITY OF MERCER ISLAND
ORDINANCE NO. 19C-07**

AN ORDINANCE OF THE CITY OF MERCER ISLAND REPEALING MICC 19.07.120 AND ADOPTING A NEW CHAPTER 19.14 MICC RELATED TO SEPA; PERMITTING CORRECTION OF SCRIVENER'S ERRORS DURING CODIFICATION; AUTHORIZING ISSUANCE OF RULES TO ADMINISTER THE AMENDED CODE; PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the Mercer Island City Code (MICC) provides rules and guidelines intended to implement to State Environmental Policy Act (SEPA) pursuant to RCW 43.21C.135; and,

WHEREAS, the Mercer Island Planning Commission reviewed the policies and regulations related to the protection of environmentally critical areas, the shoreline master program, and SEPA for approximately 18 months and over the course of 16 public meetings; and,

WHEREAS, in addition to informal public outreach, consisting of articles on social media, the establishment of a dedicated webpage on "LetsTalk", a formal notice of public hearing was provided in accordance with MICC 19.15.100; and

WHEREAS, the Mercer Island Planning Commission held a public hearing on March 6, 2019 and considered public comment received prior to the close of the public hearing; and

WHEREAS, the Mercer Island Planning Commission has unanimously recommended adoption of the proposed amendments to the SEPA standards; and,

WHEREAS, a SEPA Determination of Non Significance was issued by the City on February 4, 2019; and,

WHEREAS, the Washington Department of Commerce granted expedited review of the proposed amendments to the development regulations on February 21, 2019;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MERCER ISLAND, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1: **Adoption of Amendments to Title 19 of the Mercer Island City Code.** Amendments to the Mercer Island City Code, repealing MICC 19.07.120 and adopting a new chapter 19.14 MICC, as set forth in Attachment "A" to this ordinance are hereby adopted.

Section 2: **Codification and Effective Date of the Regulations.** The City Council authorizes the Community Planning and Development Director and the City Clerk to correct scrivener's errors in Attachment A, codify the regulatory provisions of the amendments into Title 19 of the Mercer Island City Code, and publish the amended code. Notwithstanding the effective date of this Ordinance set forth in Section 5, the effective date of the regulatory provisions in Attachment A shall be on and after June 30, 2019.

Section 3: **Interpretation.** The City Council authorizes the Community Planning and Development Director to adopt administrative rules and administer the amended code as necessary to implement the legislative intent of the City Council.

Section 4: **Severability.** If any section, sentence, clause or phrase of this ordinance or any municipal code section amended hereby should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of any other section, sentence, clause or phrase of this ordinance or the amended code section.

Section 5: **Publication and Effective Date.** A summary of this Ordinance consisting of its title shall be published in the official newspaper of the City. This Ordinance shall take effect and be in full force five days after the date of publication.

PASSED by the City Council of the City of Mercer Island, Washington at its regular meeting on June 4, 2019 and signed in authentication of its passage.

CITY OF MERCER ISLAND

Debbie Bertlin, Mayor

Approved as to Form:

ATTEST:

Bio Park, Interim City Attorney

Deborah Estrada, City Clerk

Date of Publication: _____

Ordinance No. 19C-07

Attachment A

- 1 ~~19.07.12014~~ Environmental procedures.
- 2 19.14.010 Authority
- 3 19.14.020 Purpose
- 4 19.14.030 Scope and Coverage
- 5 19.14.040 Adoption by Reference
- 6 19.14.050 Abbreviations
- 7 19.14.060 Designation of Responsible Official
- 8 19.14.070 Responsible Official – Duties
- 9 19.14.080 Lead Agency Determination and Responsibilities
- 10 19.14.090 Timing of the Environmental Review Process
- 11 19.14.100 Determination of Categorical Exemption
- 12 19.14.110 Environmental Checklist
- 13 19.14.120 Threshold Determination
- 14 19.14.130 Early Notice of Threshold Determination and Mitigated DNS
- 15 19.14.140 Environmental Impact Statements
- 16 19.14.150 Internal Circulation of Environmental Documents
- 17 19.14.160 Emergencies
- 18 19.14.170 Public Notice
- 19 19.14.180 Fees
- 20 19.14.190 Authority to Condition or Deny Proposals (Substantive Authority)
- 21 19.14.200 Administrative Appeals
- 22 19.14.210 Notice – Statute of Limitations

23
24 ~~A-19.14.010~~ Authority. The city adopts the ordinance codified in this section under the State
25 Environmental Policy Act (SEPA), RCW 43.21C.120, and the SEPA rules, WAC 197-11-904. This section
26 contains this city’s SEPA procedures and policies. The SEPA rules, Chapter 197-11 WAC, must be used in
27 conjunction with this section.

28 ~~19.14.020 B-~~ Purpose. The purpose of these procedures is to implement the requirements of the State
29 Environmental Policy Act of 1971 (SEPA), Chapter 43.21C RCW, as amended, and the SEPA rules adopted
30 by the State Department of Ecology and the authority and function of the city as provided therein. These
31 procedures shall provide the city with principles, objectives, criteria and definitions to provide an
32 efficient overall city-wide approach for implementation of the State Environmental Policy Act and Rules.
33 These procedures shall also designate the responsible official, where applicable, and assign
34 responsibilities within the city under the National Environmental Policy Act (NEPA).

35 ~~19.14.030 C-~~ Scope and Coverage. It is the intent of the city that compliance with the requirements of
36 this section shall constitute procedural compliance with SEPA and the SEPA rules for all proposals. To
37 the fullest extent possible, the procedures required by this section shall be integrated with existing
38 planning and licensing procedures utilized by the city.

39 ~~19.14.040 D-~~ Adoption by Reference. The city adopts by reference as though fully set forth in this
40 section, the following sections and subsections of Chapter 197-11 WAC (the SEPA rules) as adopted by
41 the Department of Ecology of the state of Washington on January 26, 1984, and as the same may be
42 hereafter amended:

43 WAC

1	197-11-020	(3) Purpose
2	197-11-030	Policy
3	197-11-040	Definitions
4	197-11-050	Lead agency
5	197-11-055	Timing of the SEPA process
6	197-11-060	Content of environmental review
7	197-11-070	Limitations on actions during the SEPA process
8	197-11-080	Incomplete or unavailable information
9	197-11-090	Supporting documents
10	197-11-100	Information required of applicants
11	197-11-300	Purpose of this part (categorical exemptions and threshold determinations)
12	197-11-305	Categorical exemptions
13	197-11-310	Threshold determination required
14	197-11-315	Environmental checklist
15	197-11-330	Threshold determination process
16	197-11-335	Additional information
17	197-11-340	Determination of nonsignificance
18	197-11-350	Mitigated DNS
19	197-11-355	Optional DNS procedure
20	197-11-360	Determination of significance (DS)/initiation of scoping
21	197-11-390	Effect of threshold determination
22	197-11-400	Purpose of EIS
23	197-11-402	General requirements
24	197-11-405	EIS types
25	197-11-406	EIS timing
26	197-11-408	Scoping
27	197-11-410	Expanded scoping
28	197-11-420	EIS preparation
29	197-11-425	Style and size

1	197-11-430	Format
2	197-11-435	Cover letter or memo
3	197-11-440	EIS contents
4	197-11-442	EIS contents on nonproject proposals
5	197-11-443	EIS contents when prior nonproject EIS
6	197-11-444	Elements of the environment
7	197-11-448	Relationship of EIS to other considerations
8	197-11-450	Cost benefit analysis
9	197-11-455	Issuance of DEIS
10	197-11-460	Issuance of FEIS
11	197-11-500	Purpose of this part (commenting)
12	197-11-502	Inviting comments
13	197-11-504	Availability and cost of environmental documents
14	197-11-508	(2) SEPA register
15	197-11-535	Public hearings and meetings
16	197-11-545	Effect of no comment
17	197-11-550	Specificity of comments
18	197-11-560	FEIS response to comments
19	197-11-570	Consulted agency costs to assist lead agency
20	197-11-600	When to use existing environmental documents
21	197-11-610	Use of NEPA documents
22	197-11-620	Supplemental environmental impact statement – Procedures
23	197-11-625	Addenda – Procedures
24	197-11-630	Adoption – Procedures
25	197-11-635	Incorporation by reference – Procedures
26	197-11-640	Combining documents
27	197-11-650	Purpose of this part (SEPA and agency decisions)
28	197-11-655	Implementation
29	197-11-660	Substantive authority and mitigation

1 197-11-680 Appeals
2 197-11-700 Definitions
3 197-11-702 Act
4 197-11-704 Action
5 197-11-706 Addendum
6 197-11-708 Adoption
7 197-11-710 Affected tribe
8 197-11-712 Affecting
9 197-11-714 Agency
10 197-11-716 Applicant
11 197-11-718 Built environment
12 197-11-720 Categorical exemption
13 197-11-722 Consolidated appeal
14 197-11-724 Consulted agency
15 197-11-726 Cost benefit analysis
16 197-11-728 County/city
17 197-11-730 Decisionmaker
18 197-11-732 Department
19 197-11-734 Determination of nonsignificance (DNS)
20 197-11-736 Determination of significance (DS)
21 197-11-738 EIS
22 197-11-740 Environment
23 197-11-742 Environmental checklist
24 197-11-744 Environmental document
25 197-11-746 Environmental review
26 197-11-748 Environmentally sensitive area
27 197-11-750 Expanded scoping
28 197-11-752 Impacts
29 197-11-754 Incorporation by reference

- 1 197-11-756 Lands covered by water
- 2 197-11-758 Lead agency
- 3 197-11-760 License
- 4 197-11-762 Local agency
- 5 197-11-764 Major action
- 6 197-11-766 Mitigated DNS
- 7 197-11-768 Mitigation
- 8 197-11-770 Natural environment
- 9 197-11-772 NEPA
- 10 197-11-774 Nonproject
- 11 197-11-776 Phased review
- 12 197-11-778 Preparation
- 13 197-11-780 Private project
- 14 197-11-782 Probable
- 15 197-11-784 Proposal
- 16 197-11-786 Reasonable alternative
- 17 197-11-788 Responsible official
- 18 97-11-790 SEPA
- 19 197-11-792 Scope
- 20 197-11-793 Scoping
- 21 197-11-794 Significant
- 22 197-11-796 State agency
- 23 197-11-797 Threshold determination
- 24 197-11-799 Underlying governmental action
- 25 197-11-800 Categorical exemptions
- 26 197-11-880 Emergencies
- 27 197-11-890 Petitioning Department of Ecology to change exemptions
- 28 197-11-900 Purpose of this part (agency compliance)
- 29 197-11-902 Agency SEPA policies

- 1 197-11-904 Agency SEPA procedures
- 2 197-11-906 Content and consistency of agency procedures
- 3 197-11-910 Designation of responsible official
- 4 197-11-916 Application to ongoing actions
- 5 197-11-920 Agencies with environmental expertise
- 6 197-11-924 Determining the lead agency
- 7 197-11-926 Lead agency for governmental proposals
- 8 197-11-928 Lead agency for public and private proposals
- 9 197-11-930 Lead agency for private projects with one agency with jurisdiction
- 10 197-11-932 Lead agency for private projects requiring licenses from more than one agency, when one
- 11 of the agencies is a county/city
- 12 197-11-934 Lead agency for private projects requiring licenses from a local agency, not a county/city,
- 13 and one or more state agencies
- 14 197-11-936 Lead agency for private projects requiring licenses from more than one state agency
- 15 197-11-938 Lead agencies for specific proposals
- 16 197-11-942 Agreements on lead agency status
- 17 197-11-944 Agreements on division of lead agency duties
- 18 197-11-946 DOE resolution of lead agency disputes
- 19 197-11-948 Assumption of lead agency status
- 20 197-11-960 Environmental checklist
- 21 197-11-965 Adoption notice
- 22 197-11-970 Determination of nonsignificance (DNS)
- 23 197-11-980 Determination of significance and scoping notice (DS)
- 24 197-11-985 Notice of assumption of lead agency status
- 25 197-11-990 Notice of action

26 19.14.050 ~~E~~-Abbreviations. The following abbreviations are used in this section:

- 27 A. ~~1~~-DEIS: Draft Environmental Impact Statement.
- 28 B. ~~2~~-DNS: Determination of Nonsignificance.
- 29 C. ~~3~~-DS: Determination of Significance.
- 30 D. ~~4~~-EIS: Environmental Impact Statement.
- 31 E. ~~5~~-FEIS: Final Environmental Impact Statement.

1 F. ~~6~~-SEIS: Supplemental Environmental Impact Statement.

2 ~~F.19.14.060~~ Designation of Responsible Official. For those proposals for which the city is the lead
3 agency, the responsible official shall be the director of the development services group or a duly
4 authorized designee.

5 19.14.070 ~~G~~-Responsible Official – Duties. The responsible official shall:

- 6 A. ~~1~~-Perform all duties of the responsible official under SEPA and the SEPA rules, and this section.
7 B. ~~2~~-Perform all duties required to be performed by the city under NEPA, including the provision of
8 coordination with the appropriate federal agencies.
9 C. ~~3~~-Make the threshold determination on all proposals for which the city is the lead agency.
10 D. ~~4~~-Supervise scoping and the preparation of all draft and final environmental impact statements and
11 supplemental environmental impact statements, whether the same are prepared by the city or an
12 applicant.
13 E. ~~5~~-Establish procedures as needed for the preparation of environmental documents, including
14 environmental impact statements.
15 F. ~~6~~-Ensure that environmental factors are considered by city decisionmakers.
16 G. ~~7~~-Coordinate the response of the city when the city is a consulted agency, and prepare timely
17 written comments, which include data from all appropriate city departments, in response to
18 consultation requests prior to a threshold determination.
19 H. ~~8~~-Provide information to citizens, proposal sponsors and others concerning SEPA and this section.
20 I. ~~9~~-Retain all documents required by the SEPA rules (Chapter 197-11 WAC) and make them available
21 in accordance with Chapter 42.17 RCW.
22 J. ~~10~~-Perform any other function assigned to the lead agency or responsible official by those sections
23 of the SEPA rules that were adopted by reference in section MICC 19.14.040~~subsection D of this~~
24 ~~section~~.

25 19.14.080 ~~H~~-Lead Agency Determination and Responsibilities.

- 26 A. ~~1~~-The city department receiving an application for or initiating a proposal that involves a
27 nonexempt action shall ask the responsible official to determine the lead agency for that proposal
28 under WAC 197-11-050 and 197-11-922 through 197-11-940 unless the lead agency has been
29 previously determined.
30 B. ~~2~~-When the city is the lead agency for a proposal, the responsible official shall supervise compliance
31 with the threshold determination requirements, and if an EIS is necessary, shall supervise
32 preparation of the EIS.
33 C. ~~3~~-When the city is not the lead agency for a proposal, all city departments shall use and consider, as
34 appropriate, either the DNS or the final EIS of the lead agency in making decisions on the proposal.
35 No city department shall prepare or require preparation of a DNS or EIS in addition to that prepared
36 by the lead agency, unless required under WAC 197-11-600. In some cases, the city may conduct
37 supplemental environmental review under WAC 197-11-600.
38 D. ~~4~~-If the city or any city department receives a lead agency determination made by another agency
39 that appears inconsistent with the criteria of WAC 197-11-922 through 197-11-940, it may object to
40 the determination. Any objection must be made to the agency originally making the determination
41 and resolved within 15 days of receipt of the determination, or the city must petition the

1 Department of Ecology for a lead agency determination under WAC 197-11-946 within the 15-day
2 time period. Any such petition on behalf of the city must be initiated by the responsible official.

- 3 E. ~~5-~~City departments are authorized to make agreements as to lead agency status or shared lead
4 agency duties for a proposal under WAC 197-11-942 and 197-11-944; provided, the responsible
5 official and any city department that will incur responsibilities as the result of any such agreement
6 approve the agreement.

7 ~~19.14.090~~ ~~+~~Timing of the Environmental Review Process.

- 8 A. ~~1-~~The timing of the environmental review process shall be determined based on the criteria in the
9 SEPA rules and this part of this section.
- 10 B. ~~2-~~If the city's only action on a proposal is a decision on a building permit or other license that
11 requires detailed project plans and specifications as part of a complete application for such permit
12 or license, the applicant may request in writing that the city conduct environmental review prior to
13 submission of such detailed plans and specifications. A decision as to whether or not to do early
14 environmental review, prior to receiving a complete application, shall be at the discretion of the
15 responsible official.
- 16 C. ~~3-~~The responsible official may elect to do early environmental review if adequate information is
17 available to determine the size and scope of the proposed action, including dimensions and use of
18 all proposed structures, project timing, and the extent of clearing and grading.
- 19 D. ~~4-~~The city may initiate preliminary environmental review and have informal conferences with
20 applicants prior to receipt of a complete application. However, this review shall not be binding on
21 the city or the applicant (~~see also MICC 19.07.010(A)(1), Performance Standards for All~~
22 ~~Development~~).
- 23 E. ~~5-~~For city-initiated proposals, the initiating city department should contact the responsible official
24 as soon as a proposal is formulated to integrate environmental concerns into the decision-making
25 process as soon as possible.
- 26 F. ~~6-~~The procedural requirements of SEPA and this section shall be completed prior to the issuance of
27 a permit or final decision on a nonexempt proposal.

28 ~~+~~~~19.14.100~~ ~~-~~Determination of Categorical Exemption.

- 29 A. ~~1-~~Upon the receipt of an application for a proposal, the receiving city department shall, and for city
30 proposals, the initiating city department shall, determine whether the proposal is an action
31 potentially subject to SEPA and, if so, whether it is categorically exempt. This determination shall be
32 made based on the definition of action (WAC 197-11-704), and the process for determining
33 categorical exemption (WAC 197-11-305). As required, city departments shall ensure that the total
34 proposal is considered. If there is any question whether or not a proposal is exempt, then the
35 responsible official shall be consulted.
- 36 B. ~~2-~~If a proposal is exempt, none of the procedural requirements of this section apply to the proposal.
37 The city shall not require completion of an environmental checklist for an exempt proposal. The
38 determination that a proposal is exempt shall be final and not subject to administrative review.
- 39 C. ~~3-~~If the proposal is not categorically exempt, the city department making this determination (if
40 different from proponent) shall notify the proponent of the proposal that it must submit an
41 environmental checklist (or copies thereof) to the responsible official.
- 42 D. ~~4-~~If a proposal includes both exempt and nonexempt actions, the city may authorize exempt actions
43 prior to compliance with the procedural requirements of this chapter, except that:

1. ~~a-~~The city shall not give authorization for:
 - a. ~~i-~~Any nonexempt action;
 - b. ~~ii-~~Any action that would have an adverse environmental impact; or
 - c. ~~iii-~~Any action that would limit the choice of alternatives;
 2. ~~b-~~A city department may withhold approval of an exempt action that would lead to modification of the physical environment, when such modification would serve no purpose if nonexempt action(s) were not approved; and
 3. ~~c-~~A city department may withhold approval of exempt actions that would lead to substantial financial expenditures by a private applicant when the expenditures would serve no purpose if nonexempt actions were not approved.
- E. ~~5-~~The following types of construction shall be categorically exempt, except when undertaken wholly or partly on lands covered by water, or a rezone or any license governing emissions to the air or discharges to water is required:
1. ~~a-~~The construction or location of any residential structures of four or fewer dwelling units;
 2. ~~b-~~The construction of an office, school, commercial, recreational, service or storage building with 4,000 square feet or less of gross floor area and with associated parking facilities designed for 20 or fewer automobiles;
 3. ~~c-~~The construction of a parking lot designed for 20 or fewer automobiles;
 4. ~~d-~~Any landfill or excavation of 500 cubic yards or less throughout the total lifetime of the fill or excavation; and any fill or excavation classified as a Class I, II, or III forest practice under RCW 76.09.050 or regulations thereunder;
 5. ~~e-~~Pursuant to MICC 19.07.110(B)(3), projects in a shoreline area that involve alterations under 250 cubic yards outside the building footprint shall be exempt from review under the State Environmental Policy Act.

19.14.110 ~~K-~~Environmental Checklist.

- A. ~~1-~~A completed environmental checklist (or a copy), in the form provided in WAC 197-11-960, shall be filed at the same time as an application for a permit, license, certificate, or other approval not specifically exempted in this section; except, a checklist is not needed if the city and applicant agree an EIS is required, SEPA compliance has been completed, or SEPA compliance has been initiated by another agency.
- B. ~~2-~~For private proposals, the city will require the applicant to complete the environmental checklist, providing assistance as necessary. For city proposals, the city department initiating the proposal shall complete the checklist for that proposal.
- C. ~~3-~~The city may complete all or part of the environmental checklist for a private proposal, if either of the following occurs:
 1. ~~a-~~The city has technical information on a question or questions that is unavailable to the private applicant; or
 2. ~~b-~~The applicant has provided inaccurate information on previous proposals or on proposals currently under consideration.

19.14.120 ~~L-~~Threshold Determination. The responsible official shall make the threshold determination and issue a determination of nonsignificance (DNS) or significance (DS). The responsible official shall make such threshold determination in accordance with the procedures of Chapter 197-11 WAC, Part 3, as adopted by this section. The responsible official shall notify the applicant, the lead city department,

1 and (where a permit is involved) the permit-issuing city department of the threshold determination. The
2 decision of the responsible official to issue a determination of significance shall not be appealable. The
3 decision of the responsible official to issue a determination of nonsignificance shall be appealable
4 pursuant to ~~subsection~~ section MICC 19.14.200 ~~of this section.~~

5 19.14.130 ~~M~~-Early Notice of Threshold Determination and Mitigated DNS.

- 6 A. ~~1~~ As provided in this part of this section and in WAC 197-11-350, the responsible official may
7 issue a DNS based on conditions attached to the proposal by the responsible official or on
8 changes to, or clarifications of, the proposal made by the applicant.
- 9 B. ~~2~~ An applicant may request in writing early notice of whether a DS is likely under WAC 197-11-
10 350. The request must:
- 11 1. ~~a~~ Follow submission of a permit application and environmental checklist for a nonexempt
12 proposal for which the city department is lead agency; and
- 13 2. ~~b~~ Precede the city's actual threshold determination for the proposal.
- 14 C. ~~3~~ The responsible official should respond to the request for early notice within 10 working days.
15 The response shall:
- 16 1. ~~a~~ Be written;
- 17 2. ~~b~~ State whether the city currently considers issuance of a DS likely and, if so, indicate the
18 general or specific area(s) of concern that is/are leading the city to consider a DS; and
- 19 3. ~~c~~ State that the applicant may change or clarify the proposal to mitigate the indicated
20 impacts, revising the environmental checklist and/or permit application as necessary to
21 reflect the changes or clarifications.
- 22 D. ~~4~~ The city's written response under subsection MICC 19.14.130(B) ~~(M)(2)~~ ~~of this section~~ shall
23 not be construed as a determination of significance. In addition, preliminary discussion of
24 clarifications or changes to a proposal, as opposed to a written request for early notice, shall not
25 bind the city to consider the clarifications or changes in its threshold determination.
- 26 E. ~~5~~ As much as possible, the city should assist the applicant with identification of impacts to the
27 extent necessary to formulate mitigation measures.
- 28 F. ~~6~~ When an applicant submits a changed or clarified proposal, along with a revised or amended
29 environmental checklist, the city shall base its threshold determination on the changed or
30 clarified proposal and should make the determination within 15 days of receiving the changed
31 or clarified proposal:
- 32 1. ~~a~~ If the city indicated specific mitigation measures in its response to the request for early
33 notice, and the applicant changed or clarified the proposal to include those specific
34 mitigation measures, the city shall issue and circulate a DNS under WAC 197-11-340(2).
- 35 2. ~~b~~ If the city indicated areas of concern, but did not indicate specific mitigation measures,
36 the city shall make the threshold determination, issuing a DNS or DS as appropriate.
- 37 3. ~~c~~ The applicant's proposed mitigation measures (clarifications, changes or conditions) must
38 be in writing and must be specific and feasible. For example, proposals to "control noise" or
39 "prevent storm water runoff" are inadequate, whereas proposals to "muffle machinery to X
40 decibel" or "construct 200-foot storm water detention pond at Y location" are adequate.
- 41 4. ~~d~~ Mitigation measures which justify issuance of a mitigated DNS may be incorporated in the
42 DNS by reference to agency staff reports, studies or other documents.

- 1 G. ~~7~~-A proposal shall not be considered changed or clarified to permit the issuance of a mitigated
2 DNS under WAC 197-11-350 unless all license applications for the proposal are revised to
3 conform to the changes or other binding commitments made.
- 4 H. ~~8~~-If a mitigated DNS is issued, the aspects of the proposal that allowed a mitigated DNS to be
5 issued shall be included in any decision or recommendation of approval of the action. Mitigation
6 measures incorporated into the mitigated DNS shall be deemed conditions of approval of the
7 permit decision and may be enforced in the same manner as any term or condition of the
8 permit, or enforced in any manner specifically prescribed by the city.
- 9 I. ~~9~~-A mitigated DNS is issued under WAC 197-11-340(2), requiring a 14-day comment period and
10 public notice.
- 11 J. ~~10~~-If at any time the proposal (including associated mitigating measures) is substantially
12 changed, the responsible official shall reevaluate the threshold determination and, if necessary,
13 withdraw the mitigated DNS and issue a DS. Any questions regarding whether or not a change is
14 substantial shall be resolved by the responsible official.

15 19.14.140 ~~N~~-Environmental Impact Statements.

16 ~~1A~~. An environmental impact statement shall be required on any proposal determined to be a major
17 action having a probable significant, adverse environmental impact. If it is determined that an
18 environmental impact statement is required, the responsible official shall notify the applicant or
19 proposal sponsor, the lead city department and (where a permit is involved) the department responsible
20 for issuing the permit. The responsible official shall arrange for a meeting with the applicant or proposal
21 sponsor to schedule necessary events and give any guidance necessary in the preparation of the EIS.

22 ~~B2~~. For private proposals, an EIS shall be prepared by a private applicant or agent thereof or by the city.
23 For city proposals, the EIS shall be prepared by a consultant or by city staff. In all cases, the method of
24 preparation and the selection of the consultant shall be subject to the approval of the responsible
25 official. The responsible official shall assure that the EIS is prepared in a responsible and professional
26 manner and with appropriate methodology and consistent with SEPA rules. The responsible official shall
27 also direct the areas of research and examination to be undertaken as a result of the scoping process, as
28 well as the organization of the resulting document. The responsible official may retain the services of a
29 consultant to review all or portions of EIS prepared by an applicant, the applicant's agent, or the city, at
30 the applicant's expense. Services rendered by the responsible official and other city staff shall be subject
31 to collection of fees as described in the city's officially adopted land use and planning fee schedule.

32 ~~C3~~. The responsible official will coordinate any predraft consultation procedures and scoping procedures
33 so that the consultant preparing the EIS immediately receives all substantive information submitted by
34 consulted agencies or through the scoping process. The responsible official shall also attempt to obtain
35 any information needed by the consultant preparing the EIS which is on file with another agency or
36 federal agency.

37 ~~4D~~. An environmental impact statement is required to analyze those probable adverse environmental
38 impacts which are significant. Beneficial environmental impacts may be discussed. The responsible
39 official shall consult with agencies, affected tribes and the public to identify such impacts and limit the
40 scope of an environmental impact statement in accordance with the procedures set forth in subsection
41 MICC 19.14.140(E)-(N)(5) of this section. The purpose of the scoping process is to narrow the scope of

1 every EIS to the probable significant adverse impacts and reasonable alternatives, including mitigation
2 measures.

3 E5. Procedures for Scoping.

4 1a. The responsible official shall consult with agencies and the public to limit the scope of an
5 environmental impact statement by any or all of the following means. The specific method to be
6 followed shall be determined on a proposal-by-proposal basis by the responsible official, but at a
7 minimum shall include the following:

8 ai. The responsible official shall give notice that an EIS is to be prepared, which notice shall provide that
9 agencies, affected tribes and the public may submit written comments to identify significant impacts
10 and reasonable alternatives and limit the scope of the EIS. Comments must be submitted not later than
11 21 days from the date of issuance of the declaration of significance. Additionally, notice may be sent to
12 any community groups known by the responsible official to have a possible interest in the proposal.
13 Notice of the intent to prepare an EIS and the opportunity for commenting on the scope thereof may be
14 sent with other public notices concerning the project.

15 bii. Additionally, the responsible official may conduct a meeting to provide the opportunity for oral
16 comment on the scope of the EIS. Notice of such meeting shall be published in a newspaper of general
17 circulation at least five days prior to the date of the meeting. The scoping meeting may be combined
18 with other meetings or hearings concerning the proposal.

19 2b. The appendix to the EIS shall include an identification of the issues raised during the scoping process
20 and whether those issues have or have not been determined significant for analysis in the EIS. All
21 written comments regarding the scope of the EIS shall be included in the proposal file.

22 3e. The public and agency consulting process regarding the scope of the EIS shall normally occur within
23 30 days after the declaration of significance is issued, unless the responsible official and the applicant
24 agree on a later date.

25 4d. EIS preparation may begin during scoping.

26 F6. The following additional elements may, at the option of the responsible official, be considered part
27 of the environment for the purpose of EIS content, but do not add to the criteria for the threshold
28 determinations or perform any other function or purpose under these rules:

29 1a. Economy;

30 2b. Social policy analysis;

31 3e. Cost-benefit analysis.

32 7G. When a public hearing is held under WAC 197-11-535(2), such hearing shall be held before the
33 responsible official.

34 19.14.150 ~~Q~~-Internal Circulation of Environmental Documents. Environmental documents shall be
35 transmitted to decisionmakers and advisory bodies prior to their taking official action on proposals
36 subject to SEPA.

1 19.14.160 P—Emergencies. The responsible official shall designate when an action constitutes an
2 emergency under WAC 197-11-880.

3 19.14.170 Q—Public Notice.

- 4 A. ~~1~~—Whenever the city issues a DNS under WAC 197-11-340(2) or a DS under WAC 197-11-360(3),
5 the city shall give public notice of the DNS or DS by publishing notice in the city’s permit
6 information bulletin.
- 7 B. ~~2~~—Whenever the city issues a DS under WAC 197-11-360(3), the city shall state the scoping
8 procedure for the proposal in the DS as required in WAC 197-11-408 and in the public notice.
- 9 C. ~~3~~—Whenever the city issues a DEIS under WAC 197-11-455(5) or a SEIS under WAC 197-11-620,
10 notice of the availability of those documents shall be given by:
- 11 1. ~~a~~—Indicating the availability of the DEIS in any public notice required for a nonexempt
12 license; and
- 13 2. ~~b~~—Publishing notice in the city’s permit information bulletin.
- 14 D. ~~4~~—Whenever an EIS hearing is required, the hearing shall be combined with the hearing on the
15 underlying action and notice shall be provided in the manner specified in MICC 19.15.020.
- 16 E. ~~5~~—The city shall integrate the public notice required under this section with existing notice
17 procedures for the city’s nonexempt permit(s) or approval(s) required for the proposal.
- 18 F. ~~6~~—The responsible official may also elect to give notice by one or more of the other methods
19 specified in WAC 197-11-510.
- 20 G. ~~7~~—The city may require an applicant to complete the public notice requirements for the
21 applicant’s proposal at his or her expense.

22 19.14.180 R—Fees.

- 23 A. ~~1~~—Environmental Checklist. The city shall establish a fee for review of an environmental checklist
24 performed by the city when the city is the lead agency. The fee shall be identified in the city’s
25 officially adopted land use and planning fee schedule, and collected prior to undertaking a
26 threshold determination.
- 27 B. ~~2~~—Environmental Impact Statements. For all proposals when the city is the lead agency and the
28 responsible official determines that an EIS is required, the applicant shall be charged a fee for
29 the administrative costs of supervision and preparation of the draft and final EISs. This fee shall
30 be identified in the city’s officially adopted land use and planning fee schedule, and collected
31 prior to the initiation of work on the draft EIS.
- 32 C. ~~A.3~~—For private proposals, the cost of retaining consultants for assistance in EIS preparation shall
33 be borne by the applicant whether the consultant is retained directly by the applicant or by the
34 city.
- 35 D. ~~B.~~ 4—Consultant Agency Fees. No fees shall be collected by the city for performing its duty
36 as a consultant agency.
- 37 E. ~~C.~~ 5—Document Fees. The city may charge any person for copies of any documents prepared
38 pursuant to the requirements of this section and for mailing thereof, in a manner provided by
39 Chapter 42.17 RCW; provided, no charge shall be levied for circulation of documents as required
40 by this section to other agencies.

41 19.14.190 S—Authority to Condition or Deny Proposals (Substantive Authority).

- 1 A. ~~1-~~The policies and goals set forth in this section are supplementary to those in the existing
2 authorization of the city.
- 3 B. ~~2-~~The city may attach conditions to a permit or approval for a proposal so long as:
- 4 1. ~~a-~~Such conditions are necessary to mitigate specific probable adverse environmental
5 impacts identified in environmental documents prepared pursuant to this section; and
- 6 2. ~~b-~~Such conditions are in writing; and
- 7 3. ~~c-~~The mitigation measures included in such conditions are reasonable and capable of being
8 accomplished; and
- 9 4. ~~d-~~The city has considered whether other local, state or federal mitigation measures applied
10 to the proposal are sufficient to mitigate the identified impacts; and
- 11 5. ~~e-~~Such conditions are based on one or more policies in subsection ~~(S)(4)~~ MICC 19.14.190(D)
12 of this section and cited in the license or other decision document.
- 13 C. ~~3-~~The city may deny a permit or approval for a proposal on the basis of SEPA so long as:
- 14 1. ~~a-~~A finding is made that approving the proposal would result in probable significant adverse
15 environmental impacts that are identified in a FEIS or final SEIS prepared pursuant to this
16 section; and
- 17 2. ~~b-~~A finding is made that there are no reasonable mitigation measures capable of being
18 accomplished that are sufficient to mitigate the identified impact; and
- 19 3. ~~c-~~The denial is based on one or more policies identified in subsection ~~(S)(4)~~ MICC
20 19.14.190(D) of this section and identified in writing in the decision document.
- 21 D. ~~4-~~The city designates and adopts by reference the following policies as the basis for the city's
22 exercise of authority pursuant to this section:
- 23 1. ~~a-~~The city shall use all practicable means, consistent with other essential considerations of
24 state policy, to improve and coordinate plans, functions, programs, and resources to the end
25 that the state and its citizens may:
- 26 a. ~~i-~~Fulfill the responsibilities of each generation as trustee of the environment for
27 succeeding generations;
- 28 b. ~~ii-~~Assure for all people of Washington safe, healthful, productive, and aesthetically and
29 culturally pleasing surroundings;
- 30 c. ~~iii-~~Attain the widest range of beneficial uses of the environment without degradation,
31 risk to health or safety, or other undesirable and unintended consequences;
- 32 d. ~~iv-~~Preserve important historic, cultural, and natural aspects of our national heritage;
- 33 e. ~~v-~~Maintain, wherever possible, an environment which supports diversity and a variety
34 of individual choice;
- 35 f. ~~vi-~~Achieve a balance between population and resource use which will permit high
36 standards of living and a wide sharing of life's amenities;
- 37 g. ~~vii-~~Enhance the quality of renewable resources and approach the maximum attainable
38 recycling of depletable resources.
- 39 2. ~~b-~~The city recognizes that each person has a fundamental and inalienable right to a
40 healthful environment and that each person has a responsibility to contribute to the
41 preservation and enhancement of the environment.
- 42 3. ~~c-~~The city adopts by reference the policies in the following city codes, ordinances,
43 resolutions, and plans, as presently adopted or hereafter amended:
- 44 a. ~~i-~~The comprehensive plan of the city;

- b. ~~ii~~–The development code of the city;
 - c. ~~iii~~–The policies of the Mercer Island environmental procedures code, including the policies and objectives of SEPA (Chapter 43.21C RCW) as adopted by the city;
 - d. ~~iv~~–The parks and open space plan of the city;
 - e. ~~v~~–The community facilities plan of the city;
 - f. ~~vi~~–The design commission, Ordinance No. 297, and the design guidelines, Ordinance No. 491, of the city;
 - g. ~~vii~~–The city’s arterial plan, Ordinance No. 404;
 - h. ~~viii~~–The six-year comprehensive street improvement program;
 - i. ~~ix~~–1976 memorandum agreement regarding I-90, signed by the cities of Mercer Island, Bellevue and Seattle, and the Washington State Department of Transportation;
 - j. ~~x~~–Model Traffic Ordinance, Chapter 10.98 MICC;
 - k. ~~xi~~–Street improvement and maintenance guidelines, approved September 13, 1982;
 - l. ~~xii~~–Sewer rates and regulations, Chapter 15.06 MICC;
 - m. ~~xiii~~–Water system, Chapter 15.12 MICC;
 - n. ~~xiv~~–Minimum fire flow requirements, Resolution No. 778;
 - o. ~~xv~~–Comprehensive city water plan.
- E. ~~5~~–The responsibility for enforcing conditions under SEPA rests with the city department or official responsible for enforcing the decision on the underlying action.
- F. ~~6~~–This part of this section shall not be construed as a limitation on the authority of the city to approve, deny or condition a proposal for reasons based upon other statutes, ordinances or regulations.

19.14.200 ~~7~~–Administrative Appeals.

- A. ~~1~~–Except for SEPA procedural and substantive decisions related to permits, deviations and variances issued by the code official or hearing examiner under the shoreline management provisions or any legislative actions taken by the city council, the following shall be appealable to the hearing examiner under this section:
1. ~~a~~–The decision to issue a determination of nonsignificance rather than to require an EIS;
 2. ~~b~~–Mitigation measures and conditions that are required as part of a determination of nonsignificance;
 3. ~~c~~–The adequacy of an FEIS or an SEIS;
 4. ~~d~~–Any conditions or denials of the proposed action under the authority of SEPA.
- B. ~~2~~–How to Appeal. The appeal must be consolidated with any appeal that is filed on the proposal or action, and must conform to the requirements of MICC 19.15.020(J), Permit Review Procedures. The appeal may also contain whatever supplemental information the appellant wishes to include.
- C. ~~3~~–For any appeal under this subsection, the city shall provide for a record that shall consist of the following:
1. ~~a~~–Findings and conclusions;
 2. ~~b~~–Testimony under oath; and
 3. ~~c~~–A taped or written transcript.

- 1 D. ~~4~~-The procedural determination by the city’s responsible official shall carry substantial weight in
- 2 any appeal proceeding.
- 3 E. ~~5~~-The city shall give official notice under WAC 197-11-680(5) whenever it issues a permit or
- 4 approval for which a statute or ordinance establishes a time limit for commencing judicial
- 5 appeal.

6 19.14.210 ~~U~~-Notice – Statute of Limitations.

- 7 A. ~~1~~-The applicant for or proponent of an action of the city, when the action is one the city is
- 8 proposing, may publish notice of action pursuant to RCW 43.21C.080 for any action.
- 9 B. ~~2~~-The form of the notice shall be substantially in the form and manner set forth in RCW
- 10 43.21C.080. The notice may be published by the city for city projects or the applicant or
- 11 proponent for private projects.
- 12 C. ~~3~~-If there is a time period for appealing the underlying city action to court, the city shall give
- 13 notice stating the date and place for commencing an appeal of the underlying action and an
- 14 appeal under Chapter 43.21C RCW, the State Environmental Policy Act. Notice shall be given by
- 15 mailing notice to parties of record to the underlying action and may also be given by publication
- 16 in a newspaper of general circulation. (Ord. 17C-12 § 6; Ord. 10C-06 § 1; Ord. 08C-01 § 3; Ord.
- 17 05C-12 § 6; Ord. 03C-11 §§ 1, 2, 3; Ord. 99C-13 § 1. Formerly 19.07.100).

CITY OF MERCER ISLAND

COMMUNITY PLANNING & DEVELOPMENT

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CITY COUNCIL

To: City Council

From: Robin Proebsting, Senior Planner

Date: May 16, 2019

RE: AB 5566, Exhibit #4: CAO-SMP code update (ZTR18-002) compliance with MICC 19.15.250 and MICC 19.15.260

SUMMARY

Proposed code amendments are required to meet certain review criteria contained in the City's code in order to be adopted. This memo lists the relevant criteria and demonstrates how the code amendments proposed in Ordinances 19C.05, 19C-06, and 19C.07 fulfill these criteria.

BACKGROUND

Sections 19.15.250 and 19.15.260 Mercer Island City Code (MICC) establish the process and criteria for amending the City's code. Compliance with these code sections is detailed below.

MICC 19.15.250(D) - Criteria. The city may approve or approve with modifications a proposal to amend the text of this code if:

1. The amendment is consistent with the comprehensive plan; and

A key component of the Planning Commission's process during review of the CAO and SMP was to consider whether each potential policy direction under consideration was consistent with the City's comprehensive plan. The Planning Commission Recommendation fulfills the policy direction of Land Use goals 18 and 19 and associated policies of the comprehensive plan. The addition of standards for public access piers in the SMP fulfills Recreational Development Policy 1 of the Shoreline Element of the City's comprehensive plan.

2. The amendment bears a substantial relation to the public health, safety, or welfare; and

The proposed amendment aims to protect public health, safety and welfare by reducing risk of harm to life and property from geologic hazards (such as landslides and seismic events) by requiring review of development prior to alteration of geologically hazardous areas. This review is intended to identify potential risks and mitigate them, thereby preventing harm to the public.

The proposed amendment further protects public health, safety and welfare by disallowing the loss of ecological function of wetlands, watercourses, and fish and wildlife habitat due to proposed development. Ecosystem functions perform important services such as flood control, water filtration and purification, erosion control, and recreation. Codes that protect and even enhance these functions create a public benefit.

3. The amendment is in the best interest of the community as a whole.

This criterion was a central part of the Planning Commission's review of this code amendment. Each potential code change was reviewed for its impact on the community as a whole, and codes that would have a negative impact on the community were discarded. The proposed CAO amendment serves the public interest by: preventing loss of ecosystem functions; and by reviewing development in geologically hazardous areas increasing public safety and decreasing risk of harm to public, serving the interest of the community as a whole.

The proposed SMP amendment to provide standards for public access piers will enable the maintenance and construction of public amenities that serve the interest of the community as a whole.

MICC 19.15.260(A): The city shall issue a notice for comprehensive plan amendments, reclassifications of property, and zoning code text amendments as described in MICC 19.15.230, 19.15.240, and 19.15.250.

Noticing meeting these requirements was issued more than 30 days before the Planning Commission's public hearing, and contained the information listed in this code subsection, fulfilling the requirements of this section.

MICC 19.15.260(B) describes the required review procedure following completion of the open record public hearing.

1. Following the completion of the open record public hearing, the planning commission shall consider the proposed amendment for conformance with the criteria as listed in the applicable section, the comprehensive plan and other applicable development standards.

The planning commission followed the above procedures by deliberating on the proposed amendment for conformance with the applicable criteria, comprehensive plan and best available science at their March 6th, March 20th, and April 3rd meetings, making 39 amendments to the public hearing draft based on public comment and the applicable review criteria.

2. The planning commission shall make a written recommendation on the review to the city council.

The planning commission has completed this step by developing a written recommendation based on its review, located in the attachments to Ordinances 19C-05, 19C-06, and 19C-07.

3. The city council shall consider the planning commission's recommendation at a public meeting where it may adopt or reject the planning commission's recommendations or remand the review back to the planning commission.

The City Council's first reading of Ordinances 19C-05, 19C-06, and 19C-07 at its May 21, 2019 public meeting fulfills this criterion.

Ord. 19C-05, 19C-06, and 19C-07 Summary of Changes

Topic	Existing (2005) Code		Planning Commission Recommendation (2019)	
	Section	Summary of Standard	Section	Summary of Standard
Mitigation Sequencing	N/A	Mitigation Sequencing (the requirement to avoid impacts where possible, minimize impact, then mitigate unavoidable impacts) is implied in the existing code (e.g. through references to the “Best Available Science”) but does not articulate a requirement for applicants to demonstrate that mitigation sequencing has been applied.	MICC 19.07.100	Applicants are required to document how projects have avoided and minimized impacts, and how projects have mitigated unavoidable impacts
Public Agency Exception	N/A	N/A	MICC 19.07.150	Creates provision for public projects (e.g. City, King County, WSDOT) to alter critical areas and associated buffers if: <ul style="list-style-type: none"> • The project has received city council review and approval, • There is no reasonable alternative to the proposal; • Impacts have been avoided, minimized and mitigated; • The proposal does not pose an unreasonable threat to public health, safety and welfare; and • The proposal is consistent with standards other than those in the critical areas code.
Geologically Hazardous Areas	MICC 19.07.060	<ul style="list-style-type: none"> • No buffers applied to geologically hazardous areas • Geotechnical report required when alteration of a geologically hazardous area is proposed. Report must conclude that the proposal can effectively mitigate risks of the hazard. 	MICC 19.07.160	<ul style="list-style-type: none"> • Buffers applied to steep slopes, landslide hazard areas, and fault traces. • Geotechnical report required when alteration of a geologically hazardous area or associated buffer is proposed. Report must conclude that the

Ord. 19C-05, 19C-06, and 19C-07 Summary of Changes

Topic	Existing (2005) Code		Planning Commission Recommendation (2019)	
	Section	Summary of Standard	Section	Summary of Standard
				proposal can effectively mitigate risks of the hazard.
Fish and wildlife habitat conservation areas	MICC 19.07.090	<ul style="list-style-type: none"> Designates bald eagle habitat Requirement to comply with state and federal law when alteration is proposed Provision allowing imposition of seasonal restrictions when a species is susceptible to adverse impacts during certain times of year 	MICC 19.07.170	<ul style="list-style-type: none"> Designates bald eagle habitat; areas associated with endangered, threatened, sensitive, and candidate species; priority habitats and areas associated with priority species by Washington Dept. of Fish and Wildlife. Requirement to assess impacts to wildlife habitat, develop and implement mitigation measures.
Watercourses – designation and typing	MICC 19.07.070	<ul style="list-style-type: none"> Watercourses typed according to now-outdated numbering system 	MICC 19.07.180	<ul style="list-style-type: none"> Watercourses typed according to Washington Dept. of Natural Resources system, as recommended by state agencies.
Watercourses – buffers	MICC 19.07.070	<ul style="list-style-type: none"> Buffer widths range from 35-75 feet Buffer averaging and reduction allowed 	MICC 19.07.180	<ul style="list-style-type: none"> Buffer widths range from 60-120 feet. Buffer averaging and reduction allowed.
Watercourses – piped	MICC 19.07.070	<ul style="list-style-type: none"> Buffer width of 25 feet, which can be reduced; no minimum width is provided Unclear standards for determining appropriate reduction 	MICC 19.07.180	<ul style="list-style-type: none"> Setback of 45 feet established from piped watercourses. Setback may be converted to a 15-foot buffer if the watercourse is daylighted. Setback may be reduced to 5 or 10 feet, depending on lot width, when demonstrated that daylighting a piped watercourse would cause environmental damage, prevent vehicular access, or be inconsistent with building pad requirements.

Ord. 19C-05, 19C-06, and 19C-07 Summary of Changes

Topic	Existing (2005) Code		Planning Commission Recommendation (2019)	
	Section	Summary of Standard	Section	Summary of Standard
Wetlands – buffers	MICC 19.07.080	<ul style="list-style-type: none"> • Buffer widths range from 35-100 feet • Buffer averaging and reduction allowed 	MICC 19.07.190	<ul style="list-style-type: none"> • Buffer widths range from 40-110 ft. • Buffer averaging and reduction allowed.
Review processes	MICC 19.16 & MICC 19.07.030	<ul style="list-style-type: none"> • Separate land use review (Critical Areas Determination) required prior to building permit when steep slopes are proposed to be altered • No requirement to document compliance with projects falling within Allowed Alterations • No description of activities requiring approval of a Critical Areas Determination 	MICC 19.07.090	<ul style="list-style-type: none"> • New review processes (Critical Area Review) established: <ul style="list-style-type: none"> ○ Critical Area Review 1 required for smaller-scale projects, quick review; ○ Critical Area Review 2 required for more complex projects, longer review. • Land use review combined with building permit review when only Geologically Hazardous Areas on site.

Topic	Section	Existing (2015) Code	Section	Planning Commission Recommendation (2019)
Shoreline Master Program	MICC 19.07.110	--	MICC 19.07.110	<ul style="list-style-type: none"> • Added standards for public access piers • Clarified and standardized terms

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Topic	Section	Existing Code	Section	Planning Commission Recommendation (2019)
SEPA Rules	MICC 19.07.120	Projects within shoreline jurisdiction including grading under 250 cubic yards outside the building footprint are exempt from SEPA review.	MICC 19.07.110	Standard removed, grading threshold set by state administrative code (WAC 197-11-800)

**City of Mercer Island
Critical Areas Ordinance (CAO) Update
Best Available Science Review and Gap Analysis Matrix, Planning Commission Recommendation – May 21, 2019**

Existing CAO Provision MICC Chapter / Section	Recommendation for Update	Reason For Lack of BAS Consistency	Suggested Change	Basis for Suggested Change	Direction from City	Code Update Tracking
Global CAO Revisions						
	<input type="checkbox"/> Consistent w/ BAS <input type="checkbox"/> Inconsistent w/ BAS <input type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input type="checkbox"/> Clarity / Ease of use <input checked="" type="checkbox"/> Consistency of code sections		Consider standardizing subsection headings for each type of critical area, as much as feasible. Example: <ul style="list-style-type: none"> • Subsection A. Designation and Typing • Subsection B. General Review Requirements • Subsection C. Development Standards - Buffers • Subsection D. Development Standards – Additional Criteria for Specific Activities • Subsection E. Mitigation Requirements 	Internal consistency.		
19.07.010 Purpose.						
19.07.010 Purpose	<input type="checkbox"/> Consistent w/ BAS <input type="checkbox"/> Inconsistent w/ BAS <input type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input type="checkbox"/> Clarity / Ease of use <input checked="" type="checkbox"/> Consistency of code sections	Section could be better aligned with the policies and objectives in the Natural Environment Policies section of the City’s Comprehensive Plan.	Revise section to be more consistent with language used in the Comprehensive Plan.	Internal consistency.	Planning Commission recommendation: Follow consultant recommendation	Revised and expanded Purpose section to be more consistent with comprehensive plan policies and language, including 2018 comprehensive plan amendments
	<input type="checkbox"/> Consistent w/ BAS <input type="checkbox"/> Inconsistent w/ BAS <input checked="" type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input checked="" type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Section does not introduce the protection of buffers associated with critical areas; does not include statement that mitigation will be required for unavoidable impacts; and does not establish enforcement tools.	Revise section to include protection of buffers, mitigation requirements, and enforcement tools.	Commerce, 2018 (Chapters 1 and 3 - Structuring Critical Areas Regulations)	Planning Commission recommendation: Follow consultant recommendation	Statements added to purpose section noting use of buffers to protect critical areas and requirement of mitigation when unavoidable impacts are proposed. (Enforcement tools are discussed in MICC 6.10 and performance guarantees are discussed in MICC 19.01.060).
19.07.020 General provisions.						
New subsection – mitigation sequencing	<input type="checkbox"/> Consistent w/ BAS <input type="checkbox"/> Inconsistent w/ BAS <input checked="" type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input checked="" type="checkbox"/> Clarity / Ease of use	The current CAO does not state that mitigation sequencing is required for protection of all critical areas, including avoidance and minimization of impacts as initial actions. Provide	Provide statement “All development proposals, uses, and activities subject to this chapter shall utilize mitigation sequencing”; include reference to “mitigation” definition. Review “mitigation” definition to ensure sequencing order and language is consistent with Ecology guidance.	Commerce 2018 (Chapter 1)	Planning Commission recommendation: Follow consultant recommendation	Added statement regarding mitigation sequencing to General Provisions section. Added new “Mitigation Sequencing” section, describing

Existing CAO Provision MICC Chapter / Section	Recommendation for Update	Reason For Lack of BAS Consistency	Suggested Change	Basis for Suggested Change	Direction from City	Code Update Tracking
	<input type="checkbox"/> Consistency of code sections	statement and reference to “mitigation” definition.				steps applicants must take to demonstrate compliance.
New subsection – notice on title	<input type="checkbox"/> Consistent w/ BAS <input type="checkbox"/> Inconsistent w/ BAS <input checked="" type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input checked="" type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	The current CAO does not require notice on title or other mechanism to provide record of identified critical areas on existing lots.	Add notice on title subsection. See Lake Forest Park code for useful language (also include language on disclosure at time of application that could be considered)	Commerce, 2018 (Chapter 1)	Planning Commission recommendation: Follow consultant recommendation	Added new “Disclosure and Notice on Title” section of 19.07, incorporating the suggested change.
19.07.030 Allowed alterations and reasonable use exception.						
19.07.030(A) Allowed Alterations – Generally	<input type="checkbox"/> Consistent w/ BAS <input checked="" type="checkbox"/> Inconsistent w/ BAS <input type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Code does not include requirements for minimizing impacts to critical areas, and fully implementing mitigation sequencing.	Consider revising the introductory language to: “All allowed alteration activities <u>shall use reasonable methods to avoid, and if avoidance is not possible minimize impacts to critical areas and buffers to the greatest extent feasible. All necessary temporary and permanent impacts to critical areas and buffers shall be mitigated consistent with mitigation sequencing.</u> The following developments, activities, and associated uses shall be exempt from the requirements of this chapter, provided that they are otherwise consistent with the provisions of other local, state, and federal laws and requirements.”	Commerce, 2018 (Chapters 1 and 3)	Planning Commission recommendation: Follow consultant recommendation	The “Allowed Alterations” section was renamed “Exemptions”, and the suggested language was added to this section.
	<input type="checkbox"/> Consistent w/ BAS <input type="checkbox"/> Inconsistent w/ BAS <input checked="" type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Code does not mention regulation on normal and routine repair, maintenance and operation of existing retention/detention facilities and other stormwater management facilities, irrigation and drainage ditches, and fish ponds.	Provide allowance for maintenance of existing stormwater facilities and conveyance. In some environments, existing drainage ditches may be completely manmade, or may be streams that were historically straightened and ditched, both of which may provide fish habitat. Also, in some environments, manmade wetlands or ponds may provide fish habitat. If included as an allowed alteration, make sure to state that the facility cannot be altered if it meets criteria for being considered a fish and wildlife habitat area.	WAC 365-190	Planning Commission recommendation: Follow consultant recommendation	Definition of watercourse excludes drainage ditches, grass-lined swales, stormwater runoff devices, or other courses unless they are used by fish or to convey waters that were naturally occurring prior to construction.
19.07.030(A)(6) Allowed Alterations – New Streets, Driveways, and Pedestrian Facilities 19.07.030(A)(7) – New utility facilities	<input type="checkbox"/> Consistent w/ BAS <input type="checkbox"/> Inconsistent w/ BAS <input checked="" type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Current allowed alterations for new infrastructure facilities are in some cases inconsistent with BAS. For example, alteration allowance for new driveways likely too open-ended. That said, criteria requiring BMPs and mitigation such that no net loss is achieved, provide City with	Review subsections and consider moving some allowances from ‘Allowed Alterations’ to critical-areas specific sections. For new transportation and utility facilities, always require critical areas report submittal and mitigation plan.	Commerce, 2018 (Chapter 3)	Planning Commission recommendation: Follow consultant recommendation	Exemptions section now only allows repair and maintenance of existing right-of-way improvements (such as street, bike lanes, shoulders, and sidewalks). Minor expansion of existing right-of-way improvements is

Existing CAO Provision MICC Chapter / Section	Recommendation for Update	Reason For Lack of BAS Consistency	Suggested Change	Basis for Suggested Change	Direction from City	Code Update Tracking
		opportunity to review and further limit impacts and ensure mitigation.				allowed, provide the expansion incorporates mitigation sequencing. Trail construction was added to Critical-areas specific sections. A new “Public Agency Exception” section was added to address infrastructure facilities that cannot otherwise meet code standards.
19.07.030(A)(8) Allowed Alterations – Noxious Weeds	<input type="checkbox"/> Consistent w/ BAS <input type="checkbox"/> Inconsistent w/ BAS <input checked="" type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Removal of state-listed noxious weeds and invasive plant species restricted to hand removal in wetlands.	Consider adding section on invasive species removal to wetland section. Provide recommendations or resources for controlling state listed noxious weeds and invasive species. BAS provides suggestions for several strategies for controlling noxious weeds and invasive species.	Bunten et al., 2016; Washington State Noxious Weed Control Board	Planning Commission recommendation: Follow consultant recommendation	Standards regarding noxious weed removal revised based on best available science.
19.07.030(A)(10) Allowed Alterations – Existing single-family residences...	<input type="checkbox"/> Consistent w/ BAS <input type="checkbox"/> Inconsistent w/ BAS <input checked="" type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Allowance limits scale and potential impacts associated with small expansions of existing single family residences. Allowance however does not specify this is a one-time allowance.	Provide additional criteria for allowance to specific as a one-time allowance, limiting potential for incremental increases in intensity of adjoining development.	Commerce, 2018 (Chapter 4)	Planning Commission recommendation: Follow consultant recommendation	Revised standard allows a “cumulative total” of 200 square feet (replacing potentially multiple 200 square foot additions).
19.07.030(A)(13) Allowed Alterations – Wetlands	<input type="checkbox"/> Consistent w/ BAS <input checked="" type="checkbox"/> Inconsistent w/ BAS <input type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input checked="" type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	This section exempts small wetlands without requiring mitigation. BAS does not support exempting wetlands based on size or category alone without mitigation. Small wetlands may perform important functions. However, Ecology has developed a strategy for exempting small wetland when wetland functions are considered and mitigation is required.	Consider moving wetland related “Allowed Alterations” to wetland section. Limit exemption to hydrologically isolated Category III and IV wetlands less than 1,000 square feet in areas that are not associated with riparian areas or buffers, are not part of a wetland mosaic, and do not contain habitat for WDFW priority species.	Bunten et al., 2016; Granger et al., 2005	Planning Commission recommendation: Follow consultant recommendation	Code updated to be consistent with Dept. of Ecology standards referenced in consultant recommendation.
19.07.040 Review and construction requirements.						

Existing CAO Provision MICC Chapter / Section	Recommendation for Update	Reason For Lack of BAS Consistency	Suggested Change	Basis for Suggested Change	Direction from City	Code Update Tracking
19.07.040.C - Setbacks	<input type="checkbox"/> Consistent w/ BAS <input type="checkbox"/> Inconsistent w/ BAS <input checked="" type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	The current CAO does not require a building setback from the edge of required critical areas buffers. Building setbacks from buffer edges provide further separation of intensive construction activities and higher intensity uses from the retained native growth area. Building setbacks also allow for regular maintenance and repair of allowed improvements without reoccurring impacts to the outer buffer edge.	Update code to provide building setback from the outer edge of required critical areas buffers. Standard critical areas buffer building setback recommended to be 10 feet.	Commerce, 2018; WDFW, 2018 (Volume 2)	Planning Commission recommendation: Follow consultant recommendation	Building setback standard added to code, requiring a setback of 10 feet, which can be reduced to 5 feet under certain circumstances
19.07.050 Critical area study						
19.07.050 Critical area study	<input type="checkbox"/> Consistent w/ BAS <input type="checkbox"/> Inconsistent w/ BAS <input checked="" type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Additional detail could be added to strengthen reporting requirements in this section.	<p>Revise to include the following requirements:</p> <ul style="list-style-type: none"> -A statement specifying the accuracy of the report and all assumptions made and relied upon; -A description of the methodologies used to conduct the critical areas study, including references; -A description of mitigation sequencing implementation, including steps to avoid and minimize critical areas impacts to the greatest extents feasible; -An assessment of the probable cumulative effects to critical areas resulting from the development of the site and the proposed development 	Commerce, 2018 (Chapter 1); Bunten et al., 2016	Planning Commission recommendation: Follow consultant recommendation	Recommended statements added to Critical Areas Study section
19.07.070 Watercourses						
19.07.070 Watercourses	<input type="checkbox"/> Consistent w/ BAS <input type="checkbox"/> Inconsistent w/ BAS <input checked="" type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input checked="" type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Watercourses are regulated as Fish and Wildlife Habitat Conservation Areas (FWHCA) for protection as a critical area by the Growth Management Act (WAC 365-190-080[3]).	Consider revising to maintain consistency with the GMA by combining Watercourses and Wildlife Habitat Conservation Areas sections, regulating watercourses and associated buffers as FWHCAs.	Commerce, 2018 (Chapters 1 and 2)	Maintain existing separate sections Watercourse and Fish and Wildlife Habitat Conservation Areas to help prevent users from overlooking watercourse regulations	Separate Watercourse and Fish and Wildlife Habitat Conservation Areas sections maintained
	<input type="checkbox"/> Consistent w/ BAS <input type="checkbox"/> Inconsistent w/ BAS <input checked="" type="checkbox"/> Opportunity for improved BAS consistency	Section is not clear that watercourses within shoreline jurisdiction are regulated under the SMP.	Consider stating that development along Shorelines of the State is regulated under the SMP.	Consistency with SMP	Planning Commission recommendation: Follow consultant recommendation	The CAO is proposed to be adopted into the SMP, meaning that the CAO effectively is the SMP regulation.

Existing CAO Provision MICC Chapter / Section	Recommendation for Update	Reason For Lack of BAS Consistency	Suggested Change	Basis for Suggested Change	Direction from City	Code Update Tracking
	<input checked="" type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections					
	<input type="checkbox"/> Consistent w/ BAS <input type="checkbox"/> Inconsistent w/ BAS <input type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input checked="" type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Section does not reference a map or figure showing areas not regulated under the SMP.	Consider including a reference showing areas not regulated under the SMP.	Consistency with SMP	Planning Commission recommendation: Follow consultant recommendation	The CAO is proposed to be adopted into the SMP, meaning that the CAO effectively is the SMP regulation.
19.07.070(A) Watercourses – Designation and Typing	<input type="checkbox"/> Consistent w/ BAS <input checked="" type="checkbox"/> Inconsistent w/ BAS <input type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Section refers to the outdated numeric DNR Stream Typing System and classification is not completely consistent with State standards.	Revise watercourse classification system to include the Type S, F, Np, and Ns stream classes defined by DNR and moving Type S watercourse to SMP section. See Key Issue #1 for Watercourses for more detail.	The State stream typing system (WAC 222-16-030)	Planning Commission recommendation: Follow consultant recommendation	Watercourse classification system revised to be consistent with State stream typing system.
19.07.070(B) Watercourse Buffers	<input type="checkbox"/> Consistent w/ BAS <input checked="" type="checkbox"/> Inconsistent w/ BAS <input type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	BAS does not support the use of both reduction and averaging tools in conjunction.	Revise to explicitly state that buffer width may be averaged <u>or</u> reduced with an approved enhancement plan.	Granger et al., 2005	Planning Commission recommendation: Follow consultant recommendation	Watercourse section updated to clarify that buffer widths may be averaged or reduced, but not both.
19.07.070(B)(1) Watercourse Buffer Widths	<input type="checkbox"/> Consistent w/ BAS <input checked="" type="checkbox"/> Inconsistent w/ BAS <input type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	The City’s standard buffers range from 25 feet (piped/non-fish bearing streams) to 75 feet (fish-bearing streams). BAS suggests widths from 75 feet to well over 300 feet to protect a suite of ecological functions. Recent BAS suggests 100 foot minimum standard buffers for any stream with anadromous fish use and a 50-foot minimum standard buffer for other streams (Appendix L in Ecology, 2013).	Upper ranges (approaching and exceeding 150 feet) are not feasible given existing platting and development patterns on Mercer Island. Increase standard buffer widths for watercourses. Standard buffers to Type Np and Ns watercourses should be increased to 60 feet. Standard buffers for Type F watercourses providing salmonid habitat should be increased to 120 feet to be consistent with BAS for riparian buffers. Standard buffers for Type F watercourses providing non-salmonid fish habitat should be 80 feet. See Key Issue #2 for Watercourses for more detail.	Brennan et al., 2009; May, 2003; and Knutson and Naef, 1997	Planning Commission recommendation: Follow consultant recommendation	Watercourse buffer widths updated to be consistent with the best available science.
	<input type="checkbox"/> Consistent w/ BAS <input checked="" type="checkbox"/> Inconsistent w/ BAS	Stream buffer width reductions should be no greater than 25 percent.	Require buffer mitigation measures (e.g., enhancement plan and elements from Table XX.2 – see table at end of this matrix) for consistency with BAS and to achieve “no net loss.”	Bunten et al., 2016	Planning Commission recommendation: Follow consultant recommendation	Code updated to be consistent with this recommendation.

Existing CAO Provision MICC Chapter / Section	Recommendation for Update	Reason For Lack of BAS Consistency	Suggested Change	Basis for Suggested Change	Direction from City	Code Update Tracking
	<input type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections					
	<input type="checkbox"/> Consistent w/ BAS <input checked="" type="checkbox"/> Inconsistent w/ BAS <input type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input checked="" type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Current BAS does not provide regulatory recommendations for piped watercourses.	<p>Buffer areas surrounding the alignment of piped watercourses provide little to no ecological function in their current condition; however, aquatic habitat science and regional restoration objectives prioritize watercourse daylighting and channel restoration efforts, even where resulting in sub-standard buffers due to existing constraints. Maintaining watercourse setbacks along the alignment of piped segments provides opportunity for future restoration, and may be structured to incentivize daylighting or other restoration as mitigation for adjacent development.</p> <p>If standard buffer (or setback) for piped watercourses is intended to incentivize development proposals to consider opportunity for daylighting (or other opportunities for onsite or offsite mitigation), the rationale and criteria to achieve this intent should be added to section.</p> <p>See Key Issue #4 for Watercourses for more detail.</p>	Knight, 2009 (WDFW); Commerce, 2018 (incentives guidance provided in Chapters 4 and 6); WDFW, 2018 (Volume 2)	Planning Commission recommendation: Follow consultant recommendation	Code standards revised to: remove buffers around piped watercourses; and add setbacks in order to provide the opportunity for future restoration. Incentives for daylighting piped watercourses added to code consistent with consultant recommendation.
19.07.070(B)(2)/(3) Reduction of Buffer Widths/Averaging of Buffer Widths	<input type="checkbox"/> Consistent w/ BAS <input checked="" type="checkbox"/> Inconsistent w/ BAS <input type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Sections do not refer to mitigation sequencing requirements.	<p>Revise to provide requirements on how to reduce impacts when an alteration to a watercourse is proposed: avoid, minimize, rectify, reduce, compensate, monitor (clear direction for implementation of mitigation sequencing).</p> <p>See Key Issue #3 for Watercourses for more detail.</p>	Commerce, 2018; WAC 197-11-768	Planning Commission recommendation: Follow consultant recommendation	Code revised to include mitigation sequencing requirement.
	<input type="checkbox"/> Consistent w/ BAS <input type="checkbox"/> Inconsistent w/ BAS <input checked="" type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Sections do not present all steps to mitigation.	Revise to clearly present all steps to mitigation, give a list of preferred mitigation location and types (i.e. on-site in-kind, off-site in-kind), and other associated requirements such as monitoring, maintenance, contingency plans, and bond requirements. These recommendations could be included in general requirements of the CAO or under specific critical area sections.	Bunten et al., 2016	Planning Commission recommendation: Follow consultant recommendation	Code requirements added to General provisions section.
	<input type="checkbox"/> Consistent w/ BAS <input checked="" type="checkbox"/> Inconsistent w/ BAS	Section does not prioritize buffer averaging with enhancement over buffer reductions with enhancement. Buffer averaging results in the same	Revise to prioritize buffer averaging with enhancement over buffer reduction with enhancement by either providing	Bunten et al., 2016	Planning Commission recommendation: Follow consultant recommendation	Code revised to prioritize buffer averaging over buffer reduction

Existing CAO Provision MICC Chapter / Section	Recommendation for Update	Reason For Lack of BAS Consistency	Suggested Change	Basis for Suggested Change	Direction from City	Code Update Tracking
	<input type="checkbox"/> Opportunity for improved BAS consistency <input type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	amount of buffer area, while buffer reductions result in a net loss of area.	standards for buffer averaging only or stating that buffer averaging is preferred over buffer reduction.			
	<input type="checkbox"/> Consistent w/ BAS <input type="checkbox"/> Inconsistent w/ BAS <input checked="" type="checkbox"/> Opportunity for improved BAS consistency <input checked="" type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Mitigation options that the Code Official may consider for buffer modifications appear to be limiting and likely not relevant to all applications.	Consider including additional options reviewed on a project-by-project basis which may provide a larger functional lift. Also, consider updating existing list based on recommendations from BAS (Knight, 2009) to be more comprehensive.	Knight, 2009 (WDFW)	Planning Commission recommendation: Follow consultant recommendation	Specific mitigation tactics removed from Watercourse section, general guidance given for review on a project-by-project basis.
19.07.070(B)(4) Restoring Piped Watercourses	<input type="checkbox"/> Consistent w/ BAS <input type="checkbox"/> Inconsistent w/ BAS <input checked="" type="checkbox"/> Opportunity for improved BAS consistency <input type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Existing CAO states that City may deny request for stream daylighting where proposal would “result in buffers being adjusted and increased onto adjacent properties.” Current standard provides limited flexibility for beneficial restoration.	Section could be updated to provide limited buffer flexibility (beyond averaging and reduction with enhancement) intended to encourage daylighting while minimizing implications for existing lots and development. See BAS Report for additional details	Knight, 2009 (WDFW); WDFW, 2018 (Volume 2)	Planning Commission recommendation: Follow consultant recommendation	Watercourse section revised to incorporated consultant recommendation.
19.07.070(C) Impervious Surfaces	<input checked="" type="checkbox"/> Consistent w/ BAS <input type="checkbox"/> Inconsistent w/ BAS <input type="checkbox"/> Opportunity for improved BAS consistency <input checked="" type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections		Revise to include as a standard / criteria within updated Development Standards section for watercourses.		Planning Commission recommendation: Follow consultant recommendation	Watercourse section revised to incorporated consultant recommendation.
19.07.070(D) Development Standards	<input type="checkbox"/> Consistent w/ BAS <input checked="" type="checkbox"/> Inconsistent w/ BAS <input type="checkbox"/> Opportunity for improved BAS consistency <input type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Existing standard providing for relocation of intermittent / seasonal watercourses is inconsistent with BAS; does not account for temporary impacts. Existing culvert standards are generally consistent with BAS; however do not note State guidance.	Remove relocation allowance for intermittent / seasonal watercourses (Type Ns) and make consistent with criteria for Type F and Type Np watercourses. Update to provide reference to WDFW HPA requirements and stream crossing design guidelines.	Knight, 2009	Planning Commission recommendation: Follow consultant recommendation	Relocation allowance removed, provision for stream crossing added consistent with WDFW HPA requirements.
19.07.080 Wetlands						

Existing CAO Provision MICC Chapter / Section	Recommendation for Update	Reason For Lack of BAS Consistency	Suggested Change	Basis for Suggested Change	Direction from City	Code Update Tracking
19.07.080(A) Wetland Designation	<input type="checkbox"/> Consistent w/ BAS <input type="checkbox"/> Inconsistent w/ BAS <input checked="" type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input checked="" type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Additional detail could be added to strengthen reporting requirements specific to wetlands.	Revise section to include the following requirements: -Wetland rating forms and datasheets -Discussion of landscape setting	Commerce, 2018; Bunten et al., 2016	Planning Commission recommendation: Follow consultant recommendation	Requirement for wetland rating forms and datasheets and discussion of landscape setting added to Wetlands section.
	<input type="checkbox"/> Consistent w/ BAS <input checked="" type="checkbox"/> Inconsistent w/ BAS <input type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Section B does not specify how long a wetland delineation is valid.	Section B should be improved for consistency with BAS by specifying that wetland delineations are valid for five years.	Corps of Engineers Regulatory Guidance Letters RGL 05-02 and 08-02 set a five-year standard on wetland determinations.	Planning Commission recommendation: Follow consultant recommendation	Standard specifying that wetland delineations are valid for five years added to Wetlands section.
19.07.080(A)/(B) Wetland Designation/ Wetland Ratings	<input type="checkbox"/> Consistent w/ BAS <input type="checkbox"/> Inconsistent w/ BAS <input checked="" type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input checked="" type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Section does not explicitly state wetlands should be delineated and rated by a qualified professional.	Revise to explicitly state wetlands should be delineated and rated by a qualified professional. Ensure definition of qualified professional with relation to wetland delineation and assessment is consistent with Ecology guidance.	Bunten et al., 2016	Planning Commission recommendation: Follow consultant recommendation	Standard specifying that wetlands must be delineated and rated by a qualified professional added to Wetland section; definition of "qualified professional" revised to be consistent with Ecology guidance.
19.07.080(B) Wetland Ratings	<input type="checkbox"/> Consistent w/ BAS <input checked="" type="checkbox"/> Inconsistent w/ BAS <input type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Section B references outdated wetland rating manual.	Revise Section B to refer to the updated wetland scoring system using the Washington State Rating System for Western Washington: 2014 Update.	Compliance with federal and state requirements (WAC 365-190-090)	Planning Commission recommendation: Follow consultant recommendation	Correct wetland rating manual now referenced in code.
Prohibited Activities	<input type="checkbox"/> Consistent w/ BAS <input type="checkbox"/> Inconsistent w/ BAS <input checked="" type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Section should list uses and activities that are regulated under the wetlands CAO.	Revise to include regulated uses including: removal, excavation, grading, or dredging of material; draining flooding or disturbing the wetland, water level or water table; construction, reconstruction, demolition, or expansion of any structure.	Bunten et al., 2016	Planning Commission recommendation: Follow consultant recommendation	Code revised to include consultant-recommended list of prohibited activities.

Existing CAO Provision MICC Chapter / Section	Recommendation for Update	Reason For Lack of BAS Consistency	Suggested Change	Basis for Suggested Change	Direction from City	Code Update Tracking
19.07.080(C)(1) Standard Wetland Buffer Widths	<input type="checkbox"/> Consistent w/ BAS <input checked="" type="checkbox"/> Inconsistent w/ BAS <input type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Revise Section C(1) buffer widths and habitat scores refer to the previous wetland rating system scoring method. The rating system has been updated and scoring amounts have changed.	Revise Section C(1) to refer to the Washington State Rating System for Western Washington: 2014 Update and to reflect recent BAS updates to buffers; for example, as shown in Table XX.1 in Ecology’s guidance document (Bunten et al., 2012). Ecology’s example wetland buffer system contains provisions for increasing or decreasing buffer widths based on the number of habitat points received.	Hruby, 2014; Bunten et al., 2016	Planning Commission recommendation: Follow consultant recommendation	Buffer widths and habitat scores updated to be consistent with consultant recommendation.
19.07.080(C)(2)/(3) Reduction of Wetland Buffer Widths / Averaging of Wetland Buffer Widths	<input type="checkbox"/> Consistent w/ BAS <input type="checkbox"/> Inconsistent w/ BAS <input type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input checked="" type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Section refers to “Reduction of <i>Watercourse</i> Buffer Widths” and “Averaging <i>Watercourse</i> Buffer Widths” mitigation options.	Add a new section specific to wetland mitigation, further detailing criteria and objectives of required enhancement necessary to average or reduce wetland buffers. Criteria should be specific to functions associated with adjacent wetland.	Bunten et al., 2016	Planning Commission recommendation: Follow consultant recommendation	New subsections added specific to wetland mitigation.
	<input type="checkbox"/> Consistent w/ BAS <input checked="" type="checkbox"/> Inconsistent w/ BAS <input type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	BAS does not support the use of both reduction and averaging tools in conjunction.	Revise to explicitly state that buffer width may be averaged <u>or</u> if averaging is not feasible consistent with avoidance sequencing, reduced with an approved enhancement plan.	Granger et al., 2005	Planning Commission recommendation: Follow consultant recommendation	Wetlands section updated to clarify that buffer widths may be averaged or reduced, but not both.
	<input type="checkbox"/> Consistent w/ BAS <input type="checkbox"/> Inconsistent w/ BAS <input checked="" type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Section does not refer to mitigation sequencing requirements.	Revise to provide requirements on how to reduce impacts when an alteration to a wetland is proposed: avoid, minimize, rectify, reduce, compensate, monitor.	Bunten et al., 2016	Planning Commission recommendation: Follow consultant recommendation	Code revised to include mitigation sequencing requirement.
	<input type="checkbox"/> Consistent w/ BAS <input checked="" type="checkbox"/> Inconsistent w/ BAS <input type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Section does not prioritize buffer averaging with enhancement over buffer reductions with enhancement. Buffer averaging results in the same amount of buffer area, while buffer reductions result in a net loss of area.	Revise to prioritize buffer averaging with enhancement over buffer reduction with enhancement by either providing standards for buffer averaging only or stating that buffer averaging is preferred over buffer reduction.	Bunten et al., 2016	Planning Commission recommendation: Follow consultant recommendation	Code revised to prioritize buffer averaging over buffer reduction.

Existing CAO Provision MICC Chapter / Section	Recommendation for Update	Reason For Lack of BAS Consistency	Suggested Change	Basis for Suggested Change	Direction from City	Code Update Tracking
	<input type="checkbox"/> Consistent w/ BAS <input type="checkbox"/> Inconsistent w/ BAS <input checked="" type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Code does not specify using wetland mitigation site protection mechanisms (e.g., conservation easement, restrictive covenant). BAS indicates that these will minimize functional loss from degradation of wetlands and buffers.	Include site protection mechanisms. If permanent fencing is included as a form of wetland protection, it should be designed so it doesn't interfere with wildlife migration and should be constructed in a way that minimizes impacts to the wetland buffer and associated habitat.	Bunten et al., 2016	Planning Commission recommendation: Follow consultant recommendation	Requirement to record a notice of title when development is proposed, notifying public of the presence of critical areas, buffers and/or mitigation sites on the property, added to code. Requirement to install fencing around buffer and setback added in cases where setbacks are reduced to five feet.
	<input type="checkbox"/> Consistent w/ BAS <input checked="" type="checkbox"/> Inconsistent w/ BAS <input type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Section does not include impact minimization measures to further protect wetlands.	Include Ecology's Table XX.2 "Required measures to minimize impacts to wetlands" to achieve "no net loss".	Bunten et al., 2016	Planning Commission recommendation: Follow consultant recommendation	Contents of Ecology Table XX.2 added to Wetlands section.
	<input type="checkbox"/> Consistent w/ BAS <input checked="" type="checkbox"/> Inconsistent w/ BAS <input type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Minimum buffer modification restrictions are not consistent with BAS (Bunten et. al., 2016) which states that "the width of the buffer at any given point after averaging should be no smaller than 75% of the standard buffer," or a maximum reduction of 25%.	Update provisions for buffer reductions with enhancement and for buffer averaging with enhancement to be no greater than 25 percent of the standard buffer width.	Bunten et al., 2016	Planning Commission recommendation: Follow consultant recommendation	Code revised to specify that averaging and reduction cannot reduce buffer width more than 25% of the standard buffer width.
19.07.080(D) Alterations	<input type="checkbox"/> Consistent w/ BAS <input type="checkbox"/> Inconsistent w/ BAS <input checked="" type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Some alterations and or exceptions are specific to wetlands so it may be clearer to include them in this section, separately from 19.07.030.	Revise Section D to include alterations or exceptions specific to wetlands and their required buffers.	Bunten et al., 2016	Planning Commission recommendation: Follow consultant recommendation	Specific alterations described and added to Wetlands section.
	<input type="checkbox"/> Consistent w/ BAS <input checked="" type="checkbox"/> Inconsistent w/ BAS <input type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input type="checkbox"/> Clarity / Ease of use	Current code provides exemptions for Category III and IV wetland that are not supported by BAS.	Remove exemptions for Category III and IV wetlands under 2,500 square feet. Alternatively, exemptions for wetland could be removed altogether. If the former is chosen by the City, we recommend a clear definition of "isolated wetland" be included in the code.	Bunten et al., 2016	Planning Commission recommendation: Follow consultant recommendation	Modified to be consistent with 2018 BAS, added to wetlands section

Existing CAO Provision MICC Chapter / Section	Recommendation for Update	Reason For Lack of BAS Consistency	Suggested Change	Basis for Suggested Change	Direction from City	Code Update Tracking
	<input type="checkbox"/> Consistency of code sections					
Wetland Mitigation Requirements	<input type="checkbox"/> Consistent w/ BAS <input type="checkbox"/> Inconsistent w/ BAS <input checked="" type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input checked="" type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Section unclear about wetland mitigation requirements.	Include a section dedicated to wetland mitigation requirements.	Bunten et al., 2016	Planning Commission recommendation: Follow consultant recommendation	Added section dedicated to wetland mitigation requirements.
	<input type="checkbox"/> Consistent w/ BAS <input type="checkbox"/> Inconsistent w/ BAS <input checked="" type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input checked="" type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Section does not include standards for amount of wetland mitigation.	Section should include mitigation ratios such as Table XX.1 in the sample ordinance in Bunten et al., 2016 and/or provide allowance for use of Ecology’s Credit-Debit tool for establishing mitigation credit requirements. The code should clearly state that buffer mitigation should be performed at least at a 1:1 ratio.	Bunten et al., 2016	Planning Commission recommendation: Follow consultant recommendation	Mitigation ratios consistent with BAS added to Wetlands section.
	<input type="checkbox"/> Consistent w/ BAS <input checked="" type="checkbox"/> Inconsistent w/ BAS <input type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Section is inconsistent with current federal mitigation preference. BAS indicates that mitigation banks and ILF programs have a significantly greater likelihood of mitigation success, as opposed to permittee-responsible mitigation	Specify that wetland mitigation using banks or ILF programs is preferred over permittee-responsible mitigation, if the wetland alteration falls within the service area of an existing bank or ILF program. (1. Wetland Mitigation Banks, 2. In-Lieu Fee Mitigation, 3. Permittee-responsible mitigation).	<i>Compensatory Mitigation for Losses of Aquatic Resources. Final Rule. (Federal Register 73(70): 19594-1970)</i>	Planning Commission recommendation: Follow consultant recommendation	Order of preference for mitigation measures added to Wetlands section.
	<input type="checkbox"/> Consistent w/ BAS <input type="checkbox"/> Inconsistent w/ BAS <input type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input checked="" type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Lacks detail on the order of preference for compensatory mitigation.	Preference of Mitigation Actions. Compensatory wetland mitigation shall occur in the following order of preference: 1. Restoration a. Re-establishment b. Rehabilitation 2. Creation 3. Enhancement 4. Preservation	Bunten et al., 2016	Planning Commission recommendation: Follow consultant recommendation	Order of preference for mitigation measures added to Wetlands section.
	<input type="checkbox"/> Consistent w/ BAS <input checked="" type="checkbox"/> Inconsistent w/ BAS <input type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input type="checkbox"/> Clarity / Ease of use	Section lacks reference to BAS sources for compensatory mitigation.	Revise to include the following BAS references: <i>Wetland Mitigation in Washington State-Part 2: Developing Mitigation Plans-Version 1</i> (Ecology Publication #06-06-011b) and <i>Selecting Wetland Mitigation Sites Using a Watershed</i>	<i>Selecting Wetland Mitigation Sites Using a Watershed Approach, Western Washington</i>	Planning Commission recommendation: Follow consultant recommendation	Compensatory mitigation for alterations standards added to Wetlands section.

Existing CAO Provision MICC Chapter / Section	Recommendation for Update	Reason For Lack of BAS Consistency	Suggested Change	Basis for Suggested Change	Direction from City	Code Update Tracking
	<input type="checkbox"/> Consistency of code sections		<i>Approach, Western Washington</i> (Ecology Publication #09-06-32).	(Ecology Publication #09-06-32)		
	<input type="checkbox"/> Consistent w/ BAS <input type="checkbox"/> Inconsistent w/ BAS <input checked="" type="checkbox"/> Opportunity for improved BAS consistency	<p>Section does not include provision for a contingency plan.</p> <p>Section does not specify the use of BAS in evaluating performance standards.</p>	<p>Consider adding a mitigation subsection requiring the development of a contingency plan.</p> <p>Consider adding a subsection to require the use of BAS.</p>	Bunten et al., 2016	Planning Commission recommendation: Follow consultant recommendation	Contingency plan addressed in General Provisions section.
	<input type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections					
	<input type="checkbox"/> Consistent w/ BAS <input checked="" type="checkbox"/> Inconsistent w/ BAS <input type="checkbox"/> Opportunity for improved BAS consistency	Section does not include specific wetland mitigation monitoring requirements.	Add a subsection including monitoring requirements.	Bunten et al., 2016	Planning Commission recommendation: Follow consultant recommendation	Monitoring requirements added to General Provisions section.
	<input type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections					
19.07.090 Wildlife Habitat Conservation Areas						
19.07.090 Wildlife Habitat Conservation Areas	<input type="checkbox"/> Consistent w/ BAS <input type="checkbox"/> Inconsistent w/ BAS <input checked="" type="checkbox"/> Opportunity for improved BAS consistency	Watercourses are regulated as Fish and Wildlife Habitat Conservation Areas (FWHCA) for protection as a critical area by the Growth Management Act (WAC 365-190-080[3]).	Consider revising to maintain consistency with the GMA by combining Watercourses and Wildlife Habitat Conservation Areas sections.	Commerce, 2018	Planning Commission recommendation: Keep Watercourses and Fish and Wildlife Habitat Conservation Areas (FWHCA) separate to promote user-friendliness.	Watercourses and Fish and Wildlife Habitat Conservation Areas (FWHCA) sections kept separate.
	<input checked="" type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections					
	<input type="checkbox"/> Consistent w/ BAS <input type="checkbox"/> Inconsistent w/ BAS <input type="checkbox"/> Opportunity for improved BAS consistency	Requirements for wildlife habitat conservation areas for bald eagle are unclear.	Consider regulating habitats under FWHCA regulations; see BAS Report for additional discussion.	Commerce, 2018	Planning Commission recommendation: Follow consultant recommendation	Code updated to reference USFW management guidance for bald eagles.
	<input checked="" type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections					
19.07.060 Geologic Hazard Areas						

Existing CAO Provision MICC Chapter / Section	Recommendation for Update	Reason For Lack of BAS Consistency	Suggested Change	Basis for Suggested Change	Direction from City	Code Update Tracking
19.07.060 A Designation Definitions of Geologic Hazard Areas, Landslide Hazard Areas, Steep Slopes, Erosion Hazard Areas, and Seismic Hazard Areas included in MICC 19.16.010	<input type="checkbox"/> Consistent w/ BAS <input type="checkbox"/> Inconsistent w/ BAS <input checked="" type="checkbox"/> Opportunity for improved BAS consistency	Designation of Geologic Hazard Areas, and assessments by Troost and Wisner (2009) providing detailed inventory of potential hazard areas across the Island, are generally consistent with BAS.	Update landslide hazard assessment (inventory mapping) to integrated additional data from W. Grimm study (2018). See <i>BAS Report for details</i> . Update “Steep Slope” definition to only exclude “engineered slopes and rockeries”, and potentially areas of competent consolidated rock. Update assessments and designation criteria / definitions to provide consistency with Troost and Wisner (2009) methods for erosion hazard areas.	W. Grimm, 2018 Burns and Mickelson, 2016 Burns et al., 2012 Slaughter et al., 2017 Seattle Code 25.09.090.B.2.b. Medina Code 20.50.200.B Troost and Wisner, 2009	Planning Commission recommendation: Follow consultant recommendation	Designation of Geologic Hazard Areas updated to be consistent with BAS.
	<input type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Landslide hazard area assessment does not integrate recent additional LiDAR data from 2018 Grimm study, or new BAS protocols for landslide mapping and landslide hazard area delineation. Landslide hazard area designation criteria relies on definition of “Steep Slope”, which excludes artificially created slopes and rockeries, which is too broad and could include many slopes that do not meet modern code stability requirements. Definition and designation criteria for erosion hazard areas are inconsistent with Troost and Wisner 2009 data and methods.				
19.07.060 B Buffers	<input type="checkbox"/> Consistent w/ BAS <input checked="" type="checkbox"/> Inconsistent w/ BAS <input type="checkbox"/> Opportunity for improved BAS consistency	There are no standard buffers or setbacks provided for any geologic hazard areas per code, but setbacks are included in Mercer Island Landslide Hazard Map	Delineation of elevated landslide hazard areas per Grimm 2018, and erosion hazard area by Troost and Wisner, 2009. Include 25-foot setback for steep slopes up to 50 feet high and shallow landslide hazard areas, and 75-foot setback for slopes over 50 feet high and for deep-seated landslide hazard areas. Reduction or increase by geotechnical/geological professional, but not less than 10-foot setback for erosion hazard areas and shallow landslide hazard areas, and 50 feet for deep landslide hazard areas. See BAS Report for details on recommended updates for landslide hazard area development standards.	State Guidance (Berryman & Henigar, 2000; CTED, 2007) Troost and Wisner 2009 Landslide Hazard Assessment and Map Grimm, 2018 City of Bainbridge Island Code, City of Medina Code	Planning Commission recommendation: Follow consultant recommendation	Buffers added to landslide hazard areas.
	<input type="checkbox"/> Clarity / Ease of use <input checked="" type="checkbox"/> Consistency of code sections					
	<input type="checkbox"/> Consistent w/ BAS <input checked="" type="checkbox"/> Inconsistent w/ BAS <input type="checkbox"/> Opportunity for improved BAS consistency <input type="checkbox"/> Clarity / Ease of use	Development standards for seismic hazard areas should be updated to address hazard associated with Holocene fault ruptures, even though	No active faults have been identified or mapped with precision appropriate for site-specific hazards evaluation or designation within an inventory map. Aspect recommends standard be provided to require that applicants check the U.S. Geological Survey Quaternary Faults and Folds Database to check for new information regarding active faults	State Guidance (Berryman & Henigar, 2000; CTED, 2007) Seattle BAS 5.1.3	Planning Commission recommendation: Follow consultant recommendation	Development standards for hazards associated with Holocene fault ruptures added to code.

Existing CAO Provision MICC Chapter / Section	Recommendation for Update	Reason For Lack of BAS Consistency	Suggested Change	Basis for Suggested Change	Direction from City	Code Update Tracking
	<input checked="" type="checkbox"/> Consistency of code sections	none are currently mapped on Mercer Island.	https://usgs.maps.arcgis.com/apps/webappviewer/index.html?id=db287853794f4555b8e93e42290e9716 . If Holocene active (younger than 11,600 years before present) fault rupture surfaces are identified in hazards maps or from other studies, provide 50-foot minimum setback from rupture traces, or implement other structural or geotechnical strategies so that life safety risks are mitigated.	Regional Seismicity – Evidence for larger events in the Seattle Fault zone over the past 16,000 years Bainbridge 16.20.190 Definitions #71 Seismic Hazard Areas Medina 20.50.200.B.3 Seismic Hazard Areas U.S. Geological Survey Quaternary Faults and Folds Database: https://usgs.maps.arcgis.com/apps/webappviewer/index.html?id=db287853794f4555b8e93e42290e9716		
19.07.060 C Geotechnical Review	<input type="checkbox"/> Consistent w/ BAS <input checked="" type="checkbox"/> Inconsistent w/ BAS <input type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input checked="" type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Current code structure provides uniform standards across all geologic hazard areas, with no recognition of varying hazards and associated level of risk .	Expand code section to provide general Geotechnical Review requirements, as well as requirements specific to each geohazard type (landslide, erosion, and seismic). See BAS report Key Issues for specific recommendations.	State Guidance (Berryman & Henigar, 2000; CTED, 2007) Bainbridge, Medina, Edmonds, and other neighboring jurisdiction approaches.	Planning Commission recommendation: Follow consultant recommendation	Requirements specific to each geologic hazard type added to code.
19.07.060 D Site Development	<input type="checkbox"/> Consistent w/ BAS <input type="checkbox"/> Inconsistent w/ BAS <input checked="" type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	As with Subsection C, Site Development Standards are generally provided uniformly for all geologic hazard areas.	Expand code section to provide general Site Development requirements applicable to all geological hazard areas, as well as requirements specific to each geohazard type (landslide, erosion, and seismic). See BAS report Key Issues for specific recommendations.	State Guidance (Berryman & Henigar, 2000; CTED, 2007) Bainbridge, Medina, Edmonds, and other neighboring jurisdiction approaches.	Planning Commission recommendation: Follow consultant recommendation	Requirements specific to each geologic hazard type added to code.
NEW SECTION - Critical Aquifer Recharge Areas						

Existing CAO Provision MICC Chapter / Section	Recommendation for Update	Reason For Lack of BAS Consistency	Suggested Change	Basis for Suggested Change	Direction from City	Code Update Tracking
<p>N/A – No existing provisions</p>	<p><input type="checkbox"/> Consistent w/ BAS</p> <p><input checked="" type="checkbox"/> Inconsistent w/ BAS</p> <p><input type="checkbox"/> Opportunity for improved BAS consistency</p> <hr/> <p><input type="checkbox"/> Clarity / Ease of use</p> <p><input type="checkbox"/> Consistency of code sections</p>	<p>Critical aquifer recharge areas (CARAs) are not designated or protected in the current CAO.</p>	<p>Add section that designate and protect CARAs, pursuant to the GMA and its implementing regulations. Please see detailed recommendations for CARA provisions in the BAS Report.</p> <p>For CARA recommendation (in BAS Report) encouraging stormwater infiltration associated with stormwater infiltration restrictions per Ecology SWMWW where infiltration is not considered feasible in the following areas:</p> <ul style="list-style-type: none"> • Where land for bioretention is within area designated as an erosion hazard, or landslide hazard. • Within 50 feet from the top of slopes that are greater than 20 percent and over 10 feet of vertical relief. 	<p>Ecology 2005; Ecology guidance for protection of wellheads.</p> <p>Ecology, 2014 Stormwater Management Manual for Western Washington</p>	<p>Do not add CARA section to new code for the following reasons:</p> <ul style="list-style-type: none"> • Based on available data, no areas meeting CARAs exist on Mercer Island • Land uses on Mercer Island are almost entirely residential; these are generally non-polluting and do not pose a risk to aquifers 	<p>(No change made to code.)</p>

Table XX.2 from Ecology Guidance for Wetlands (Bunten et al., 2016; modified buffer guidance from July 2018)

Table XX.2 Required measures to minimize impacts to wetlands
 (All measures are required if applicable to a specific proposal)

Disturbance	Required Measures to Minimize Impacts
Lights	<ul style="list-style-type: none"> • Direct lights away from wetland
Noise	<ul style="list-style-type: none"> • Locate activity that generates noise away from wetland • If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source • For activities that generate relatively continuous, potentially disruptive noise, such as certain heavy industry or mining, establish an additional 10' heavily vegetated buffer strip immediately adjacent to the outer wetland buffer
Toxic runoff	<ul style="list-style-type: none"> • Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered • Establish covenants limiting use of pesticides within 150 ft of wetland • Apply integrated pest management
Stormwater runoff	<ul style="list-style-type: none"> • Retrofit stormwater detention and treatment for roads and existing adjacent development • Prevent channelized flow from lawns that directly enters the buffer • Use Low Intensity Development techniques (for more information refer to the drainage ordinance and manual)
Change in water regime	<ul style="list-style-type: none"> • Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns
Pets and human disturbance	<ul style="list-style-type: none"> • Use privacy fencing OR plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion • Place wetland and its buffer in a separate tract or protect with a conservation easement
Dust	<ul style="list-style-type: none"> • Use best management practices to control dust

CITY OF MERCER ISLAND CRITICAL AREAS ORDINANCE (CAO) UPDATE

2018 Best Available Science Report for Watercourses, Wetlands,
and Fish and Wildlife Habitat Conservation Areas

Prepared for
City of Mercer Island

October, 2018



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Best Available Science Review and Gap Analysis Matrix

ACRONYMS AND ABBREVIATIONS

BAS	Best Available Science
CAO	Critical Areas Ordinance
Corps	U.S. Army Corps of Engineers
Ecology	Washington State Department of Ecology
EPA	Environmental Protection Agency
FWHCA	Fish and Wildlife Habitat Conservation Area
GIS	Geographic Information System
GMA	Growth Management Act
ILF	In-lieu Fee
LIDAR	Light Detection and Ranging
MICC	Mercer Island City Code
NMFS	National Marine Fisheries Service
NRC	National Research Council
PHS	Priority Habitat and Species
RCW	Revised Code of Washington
SMA	Shoreline Management Act
SMP	Shoreline Master Program
USFWS	U.S. Fish and Wildlife Service
WAC	Washington Administrative Code
WDFW	Washington Department of Fish and Wildlife
WDNR	Washington Department of Natural Resources
WRIA	Water Resource Inventory Area

INTRODUCTION

The City of Mercer Island (City) is in the process of updating its Critical Areas Ordinance (CAO) in accordance with the requirements of the Growth Management Act (GMA) (RCW 36.70A). The CAO is adopted into the Mercer Island City Code (MICC) within Title 19 (Unified Land Development Code), chapter 19.07. The GMA requires the use of best available science (BAS) in the development of critical areas policies and regulations. The types of scientific literature and technical information that constitute the term “best available science” are defined in the Washington Administrative Code (WAC) Chapter 365-195-905. This report reviews the existing CAO, additions to BAS and regulatory changes since the last update, and recent changes to the Mercer Island setting in the context of updates to BAS since 2005.

Environmental Science Associates (ESA) has prepared this report to provide technical information to City staff regarding the efficacy of the City’s current critical areas protection measures, and to provide recommendations for CAO updates that improve consistency with BAS. This report focuses on the following critical areas: Wetlands, Watercourses (streams), and other Fish and Wildlife Habitat Conservation Areas.

Background

The City of Mercer Island is a 6.2-square mile island municipality in King County, Washington. The city includes approximately 14.7 miles of shoreline along Lake Washington. The nearest adjacent municipalities are Seattle to the west and Bellevue and Newcastle to the east. Interstate 90 (I-90) crosses the northern portion of the island. Approximately 88 percent of the land on Mercer Island is zoned as single family residential, 95 percent of which is developed in residential uses. Mercer Island has 472 acres of park and open space lands which range from small neighborhood parks to larger recreational areas such as Luther Burbank Park and Aubrey David Park. 115 acres of natural-forested land are set aside in Pioneer Park and an additional 150 acres of public open spaces are scattered across the community.

Since 2000, the City of Mercer Island has seen relatively low population growth compared to other areas of King County, increasing from 22,699 residents in 2010 according to the U.S. Census to an estimated 24,210 residents in 2017 (an average of approximately 240 new residents per year, or approximately 1 percent annually). The estimated growth in the last seven years has more than tripled relative to the population change between 2000 and 2010, during which time the City added approximately 66 residents annually (2000 and 2010 US Censuses). Even with the higher rate in recent years, the City’s overall population growth between 2000 and 2017 has been 9 percent, compared to approximately 17% across all of King County. Between 2006 and 2012 698 new housing units were constructed across the City in a mix of single-family and multi-family units, accommodating residential population growth and further reducing supply of vacant and sub-dividable properties across Mercer Island (City of Mercer Island 2015 Comprehensive Plan).

In 2005, the City reviewed the BAS and updated the CAO to comply with the GMA. The 2005 update to the CAO was comprehensive, with BAS documented in *Use of Best Available Science in the City of Mercer Island Critical Areas Regulation for Watercourses and Wetlands – Peer Review* (Adolfson Associates, 2005). The 2005 BAS review also included an update to the watercourse and wetland inventories. More recently, the City completed a comprehensive update to its Shoreline Master Program (SMP), which was approved by the Washington State Department of Ecology (Ecology) on March 4, 2015. The SMP incorporates the provisions in the current CAO by reference (MICC 19.07.110.E.9).

METHODS

State Guidance for Consideration of BAS

According to the Growth Management Act (RCW 36.70A), Washington’s counties and cities are required to continually review, evaluate, and update comprehensive land use plans and development regulations using BAS, with the intent of identifying, designating and protecting critical areas and giving special consideration to anadromous fisheries. Critical areas include the following elements: wetlands, critical aquifer recharge areas, fish and wildlife habitat conservation areas, frequently flooded areas, and geologically hazardous areas (RCW 36.70A.030).

BAS is defined as scientific information about critical areas, prepared by local, tribal, state, or federal natural resource agencies, or qualified scientific professionals that is consistent with the following criteria:

- Scientific information is produced through a valid scientific process that includes:
 - Peer review,
 - A discussion of methods used to gather information,
 - Logical conclusions,
 - Data analysis,
 - Information used in the appropriate context, and
 - References of literature and other sources of information used.
- Scientific information is obtained through a common source such as:
 - Research,
 - Monitoring,
 - Inventory,
 - Survey,
 - Modeling,
 - Assessment,
 - Synthesis, or
 - Expert opinion.

In the context of critical areas protection, a scientific process is one that produces reliable information useful in understanding the consequences of regulatory decisions, and in developing critical areas policies and regulations that are effective in protecting the functions and values of critical areas.

This report relies upon several regulatory guidance and BAS documents pertaining to critical areas. Current state guidance, including examples of effective regulatory language, pertaining to management of critical areas consistent with BAS and other GMA requirements can be found in *A Handbook for Reviewing Critical Areas Regulations* (Washington Department of Commerce, June 2018). This guidance is an update of the previous *Critical Areas Assistance Handbook: Protecting Critical Areas Within the Framework of the Washington Growth Management Act* (CTED, 2007). Scientific documents summarizing the BAS specific to each critical area are discussed in the following sections.

Report Structure and Gap Analysis Attachment

This report provides documentation of scientific literature and regulatory guidance for management of Mercer Island's watercourses, wetlands, and fish and wildlife habitat conservation areas. Focus is on relevant information and guidance updates since the City's 2005 comprehensive CAO review. Since that time new scientific findings have been published describing methods for improving the success of compensatory wetland mitigation and buffer effectiveness, among other topics.

For each critical areas type, this report provides summary and references to BAS updates and summary of the current CAO for purposes of identifying areas of inconsistency with agency guidance and BAS. We also focused on specific areas of BAS consistency (key update issues) identified by City staff during an in-person meeting on May 4, 2018 and during our independent assessment of BAS consistency.

To provide detailed assessment across all sections and subsections of the City's CAO, ESA completed a gap analysis matrix (attached to this report) to identify gaps and document consistency between CAO provisions and GMA regulations, relevant agency guidance, and BAS published since 2005. The gap analysis matrix provides an assessment of general consistency and the corresponding rationale and source for each gap identified. In addition to identifying provisions inconsistent with state law or recent science, our review identified several areas where the protection of critical areas could be improved by adding, removing, clarifying, and or rearranging sections and subsections of the code to make them clearer and easier to implement. We categorized our assessment as follows:

- **Gap or Missing protection.** New code provision should be added to ensure compliance with GMA and BAS.
- **Consistency with BAS.** Code provision either does or does not, in our opinion, meet best available science or state guidance. Existing provision would result in detrimental impacts to critical areas and their functions and values.
- **Clarity/ User friendliness.** Code provision is difficult to administer due to clarity, readability, and understandability.
- **Internal consistency.** Code provision is redundant (included in multiple sections) or is located in an inappropriate section.
- **Update to reflect current City procedures.** Code provision may not accurately reflect the current administrative procedures used by City staff in implementing the CAO.

The basis for each item identified is explained in the matrix and a citation is provided where applicable.

Consideration of Neighboring Jurisdiction Approaches

In addition to BAS, the ESA team also reviewed recently updated critical area codes from other neighboring jurisdictions to support City staff, Planning Commission, and City Council in considering key update issues. ESA did not independently assess BAS documentation and consideration from the other neighboring jurisdictions. For each key update issue, review of BAS consistency is provided, followed by a summary of neighboring jurisdiction approaches, and ESA's recommended for update options for City consideration. Our recommendations also reflect our professional judgment and experience assisting numerous cities and counties with code interpretation and administration.

Below is a list of CAOs from neighboring jurisdictions that we reviewed. We have focused on nearby Lake Washington and Puget Sound waterfront communities that have recently completed CAO updates. Though some of these jurisdictions are more developed than others, they all include significant areas of largely established residential use patterns occurring near lake or marine shorelines. We have picked these

jurisdictions based on similarities to Mercer Island including landscape patterns, community, presence of critical areas and sensitive species, geology, and land use. We believe that this combination will present a range of critical areas management strategies that will be useful to consider for Mercer Island’s update.

- Bainbridge Island ([CAO](#) most recently updated in 2018)
- Medina ([CAO](#) most recently updated in 2015)
- Edmonds ([CAO](#) most recently updated in 2016)
- Lake Forest Park ([CAO](#) most recently updated in 2017)
- Kirkland ([CAO](#) most recently updated in 2017)

WATERCOURSES

Watercourses (i.e., streams) and other “waters of the state” are considered Fish and Wildlife Habitat Conservation Areas as defined by the WAC. This section summarizes new scientific literature and regional policy concerning watercourse protection and management, provides an assessment of current CAO provisions, and summarizes recommendations for updates to ensure consistency with BAS. The current City CAO provides standards for protection of watercourses in MICC Section 19.07.070.

Updates to Scientific Literature

Updates to the scientific literature related to streams and watercourses have been undertaken by state agencies such as Washington Department of Fish and Wildlife (WDFW), Washington Department of Natural Resources (WDNR) and Washington Department of Ecology (Ecology). New scientific information is summarized below relating to stream typing, riparian buffers, protection of salmonid habitat, and stream restoration.

Stream Typing

State agencies such as WDFW and Ecology recommend use of the WDNR stream typing system in Title 222 WAC, the forest practices regulations. The latest stream typing by WDNR classifies streams into Type S (shoreline), Type F (fish-bearing), Type Np (non-fish-bearing, perennial flow) and Type Ns (non-fish-bearing, seasonal flow). The stream typing system codified in MICC 19.07.070 refers to the outdated numeric state stream typing, where streams are classified as Type 1 through 5 waters.

Riparian Buffers

Riparian buffers are the transition zone between streams and upland terrestrial habitat. Riparian buffers offer a variety of ecological functions, such as: 1) providing shade to the stream in summer, 2) stabilizing the stream bank, 3) providing nutrient input to aquatic organisms, 4) serving as a source of large woody debris to create in-stream habitat, 5) assisting with flood retention, 6) providing habitat and 7) allowing an area for stream channel migration (Knutson and Naef, 1997). When discussing BAS for buffers and buffer effectiveness for fish and wildlife habitat conservation areas, one must distinguish between stream/riparian buffers (those areas providing functions related to fish habitat and stream processes) and habitat buffers (areas including riparian buffers and the terrestrial areas adjacent to them which provide wildlife functions for a variety of species).

Recommendations for stream buffers have remained relatively similar since the City’s last CAO update. Recommendations for stream buffer widths vary from 75 feet to well over 300 feet to protect a suite of riparian ecological functions (Brennan et al., 2009; May, 2003; Knutson and Naef, 1997). Some of these riparian ecological functions (e.g., elk habitat, migratory corridors, and protections for specific priority

species) may not be applicable to the urban or suburban land use setting like Mercer Island. WDFW recommends riparian zones between 150 to 250 feet based upon the stream type, channel width, flow and the needs of wildlife in riparian areas (Knutson and Naef, 1997). Specific to salmonids, Ecology has published guidance on minimum riparian buffer widths for implementing riparian restoration or planting projects that use water quality-related state and federal pass-through grants or loans (Appendix L in Ecology, 2013). The buffer widths are recommended by the National Marine Fisheries Service (NMFS) to help protect and recover Washington's salmon populations. NMFS recommends a 100-foot minimum buffer for surface waters that are currently or historically accessed by anadromous or listed fish species and a 50-foot buffer for surfaces that do not have current or historical access.

WDFW has recently updated documentation of science relevant to understanding and implications for management of riparian ecosystems (*Riparian Ecosystems, Volume 1: Science Synthesis and Management Implications*, May 2018). The Volume 1 synthesis is organized around riparian functions, identifying studies and BAS for maintenance of these functions. Consistent with other BAS sources noted above and WDFW's previous guidance (Knutson and Naef, 1997), including review of much of the same scientific literature, this synthesis shows that buffers necessary to support all riparian functions vary significantly. Of note, WDFW highlights studies of riparian shading and maintenance of stream temperature which suggest that an intact riparian buffer must be a minimum of 110 feet wide to avoid water temperature increases when the surrounding landscape is highly disturbed (in the case of the studies referenced, clear-cut; see Figure 9.3).

Along with Volume 1, WDFW has released a public review draft version of Volume 2, provided as "an implementation manual for how to protect functions and values of riparian ecosystems... ..using best available science synthesized in Volume 1" (*Riparian Ecosystems, Volume 2: Management Recommendations*, Public Review Draft May 2018). The Volume 2 draft report acknowledges challenges associated with applying riparian BAS, which primarily is from studies focused on forestry and agricultural settings, into urban areas. The report highlights that ecological functions associated with riparian areas still apply within urban settings, and focuses on "consideration of current conditions when reviewing regulations with the ultimate goal of maintaining remaining functions through regulations and improving functions through voluntary restoration." Focus is on maintaining riparian vegetation and lateral connectivity that remains, and providing standards that prioritize and incentivize protection and restoration of areas closest to the stream. The report also recommends implementation of other management measures in addition to riparian buffer standards within urban settings, including effective stormwater management and use of low impact development (LID) approaches for surrounding development (see Section 3.10 in WDFW's *Riparian Ecosystems, Volume 2*).

Salmon and Fish Habitat and Biodiversity

State, federal, and tribal agencies have prepared many of the latest documents pertaining to fish and wildlife habitat conservation areas. Much of this science is related to protecting salmon and fish habitat. In March 2006, the U.S. Fish and Wildlife Service (USFWS) published the Nearshore Habitat Use by Juvenile Chinook Salmon in Lentic Systems of the Lake Washington Basin (Tabor et. al., 2006). The report summarized studies performed in 2003 and 2004 to better understand the movement of juvenile Chinook salmon in nearshore areas of Lake Washington. A total of three sites were surveyed between February and June of 2004 and were located on the east, north, and northwest sides of the island. Salmon densities at all three sites peaked in mid-May. Though no tributary study areas were established on Mercer Island, the report also highlights the importance of non-natal streams with a wide variety habitat features for the rearing and refuge of juvenile Chinook.

In 2009, the Washington Department of Fish and Wildlife (WDFW) published *Land Use Planning for Salmon, Steelhead and Trout: A Land Use Planner’s Guide to Salmonid Habitat Protection and Recovery* as part of an initiative to integrate local planning programs with salmon recovery efforts (Knight, 2009). The guidance provides science-based management recommendations in the form of model policies and regulations to be used by local jurisdictions during GMA and Shoreline Management Act SMA planning and periodic updates. Recommendations are organized by topic areas that include specialized management programs (e.g., stormwater) or habitat elements (e.g., nearshore areas) to protect salmonid habitat function from development impacts.

In September, 2017 the WRIA 8 Salmon Recovery Council published the *Lake Washington/Cedar/Sammamish Watershed (WRIA 8) Chinook Salmon Recovery Plan – 10-year Update* (2017 Plan). The 2017 Plan, updates the previous plan (WRIA 8 Salmon Recovery Council, 2005) by drawing on current science to develop new quantitative habitat goals and new strategies to meet these goals. Appendix E describes the 20 updated or revised recovery strategies; and Appendix F gives a list of site-specific projects. Four specific projects to improve rearing and refuge habitat were identified with the City. These include the following:

- Groveland Beach Park Restoration – proposed restoration activities include removal and replacement of existing docks, removal of shoreline armoring and wooden bulkhead, and installation of riparian vegetation along the shoreline.
- Clarke Beach Park Restoration – proposed restoration activities include the removal of 700 linear feet of bulkheads, a wavebreak, and a fill jetty; shoreline grading to create a shallow beach with gravels; placement of large woody debris; and the installation of native vegetation.
- Luther Burbank Shoreline Restoration – proposed restoration activities include a multi-phased project that will improve up to 4,000 linear feet through the removal of bulkheads and the installation of native vegetation. Initial work on two sections of this project has already been completed.

Current Watercourse Provisions and Key Update Issues

The watercourses section of the City’s CAO needs to be updated in a few key areas to improve its consistency with BAS and current agency guidelines. A summary of key issues and update recommendations for the watercourses section are provided below.

Key Issue #1 for Watercourses – Stream Typing System

Current Code and BAS Consistency

The City’s current typing system and watercourse definitions refer to an outdated state stream typing system (MICC 19.07.070.A; see Table 1 below). Generally, the outdated system types streams based on criteria consistent with the current DNR stream classification system, with differentiation between types based on use by fish, and for non-fish use streams whether or not the watercourse has year-round or seasonal flow. The City additionally includes ‘Restored Watercourse’ definition, for any reach of watercourse (whether Type 1, 2, or 3) created from the opening of a previously piped or channelized watercourse. See additional discussion on piped watercourse requirements in Key Issue #4 below. WDNR’s current stream typing system replaces numerical types with types S, F, Np, and Ns (Table 1). This system is required to be used by GMA, and provides a consistent system that maintains a basis in key physical and ecological differences across watercourses.

Neighboring jurisdiction approaches

Four of the five neighboring jurisdictions have updated CAOs to the WDNR forest practices water typing system. Medina maintains a numerical typing system that is consistent with Mercer Island’s current adopted standards.

Options for updates

ESA recommends implementation of the current WDNR forest practices water typing system. Consistency between the existing typing system and this updated system should minimize implications (Table 1). Additionally, ‘restored watercourse’ should be removed as a defined watercourse type, encouraging application of standard buffers are applied for all streams based on the updated typing system.

Table 1. Crosswalk between the City’s currently adopted watercourse typing system and the WDNR forest practices typing system with specific notes and recommendations.

Current City Typing with Definition	Proposed	State (WDNR) Definition and Notes
Not currently included in CAO (although all of Lake Washington shoreline is regulated by the City’s SMP)	Type S	<ul style="list-style-type: none"> Waterbodies that are designated “shorelines of the state” as defined by the SMA (90.58.030 RCW) and regulated in MICC 19.07.110.
Type 1 <i>Watercourses or reaches of watercourses used by fish, or are downstream of areas used by fish..</i>	Type F	<ul style="list-style-type: none"> Type F represents all waters (perennial or seasonal) that are known to be used by fish <u>OR</u> contain fish habitat as defined by DNR criteria Update to definition should include reference to DNR criteria for streams that contain fish habitat
Type 2 <i>Watercourses or reaches of watercourses with year-round flow, not used by fish..</i>	Type Np	<ul style="list-style-type: none"> Type Np represents perennial waters that do not contain fish or fish habitat. Definition between current Type 2 and proposed Type Np are generally consistent.
Type 3 <i>Watercourses or reaches of watercourses with intermittent or seasonal flow and not used by fish..</i>	Type Ns	<ul style="list-style-type: none"> Type Ns represents intermittent waters that do not contain fish or fish habitat and have intermittent flows Definition between current Type 3 and proposed Type Ns are generally consistent.
Restored Watercourse. <i>Any Type 1, 2 or 3 watercourses created from the opening of previously piped, channelized or culverted watercourses.</i>	<i>Remove as a separate type</i>	<ul style="list-style-type: none"> Defining ‘restored watercourse’ as a separate stream type is inconsistent with BAS, which supports implementation of standard buffer widths based on fish use / fish habitat and flow characteristics wherever feasible. As alternative to separate typing for restored watercourse, buffer allowances should be provided to encourage daylighting and stream restoration.

Key Issue #2 for Watercourses – Riparian Buffer Widths

Current Code and BAS consistency

The City’s current watercourse buffer widths are not consistent with the BAS and in general, are lower than the protection recommendations in the statewide guidance mentioned above (Brennan et al., 2009; May, 2003; Knutson and Naef, 1997; WDFW, 2018; Appendix L in Ecology, 2013,).

Neighboring jurisdiction approaches

Required watercourse buffers for the four neighboring jurisdictions that have revised their stream typing to current standards are presented in the table below.

Table 2. Watercourse Buffer Widths in Neighboring Jurisdictions

Stream Type	Mercer Island (current CAO)	Bainbridge Island	Medina	Edmonds	Lake Forest Park	Kirkland
	Watercourse Buffer Widths					
S	NA	NA	NA	150	NA	NA
F	75 (Type 1)	200	100 (Type 1)	75 – 100 ^a	115	100
Np	50 (Type 2)	100	75 (Type 2)	50	50	50
Ns	25 (Type 3)	50 – 75 ^b	50 (Type 3)	40	50	50

^a100-foot buffer if stream is anadromous fish bearing and adjacent to stream reaches with anadromous fish access; 75-feet if anadromous fish bearing and adjacent to reaches without anadromous fish access.

^b100 feet if stream is connected to a Type F stream; 50 feet if not connected to a Type F stream

Medina maintains the same stream typing as the City, however buffers for each type are 25 feet wider. Buffer widths are also generally wider for other neighboring jurisdictions, with a minimum 100-foot (and up to 200-foot) buffer provided for Type F streams providing salmonid habitat. Similar to current Mercer Island requirements, all buffer reduction proposals must include riparian and/or other functional enhancements.

Options for updates

- Increase watercourse buffer widths to reflect BAS guidance. At a minimum, we suggest buffers to Type Ns and Np streams be increased to 60 feet. Type F streams with anadromous fish habitat should be at least 120 feet to be consistent with the body of scientific literature protecting stream functions found in an urban setting (FEMAT 1993; Knutson and Naef, 1997; Appendix L in Ecology, 2013). Fish bearing streams that are not used by anadromous fish should be at least 80 feet.
- Buffer averaging with enhancement should be prioritized over buffer reductions with enhancement. Buffer averaging results in the same amount of buffer area, while buffer reductions result in an overall net loss of riparian area.
- Update provisions for buffer reductions with enhancement or for buffer averaging to be no greater than 25 percent of the standard buffer width and include the list of mitigation measures from Ecology’s Table XX.2 (Bunten et al., 2016) to further protect watercourses. We suggest that

buffer mitigation measures (e.g., enhancement plan and elements from Table XX.2) be required for consistency with BAS and to achieve “no net loss” of ecological function.

Key Issue #3 for Watercourses – Mitigation sequencing is not required to average or reduce watercourse buffers.

BAS consistency

The City’s current buffer modification requirements include several mitigation options but does not require mitigation sequencing. BAS and state and federal laws require applicants to avoid and minimize impacts whenever reasonable. When a modification to a critical area or buffer is proposed the modification shall be avoided, minimized, or compensated for, as outlines by WAC 197-11-768, in the following order of preference:

- (1) Avoiding the impact altogether by not taking a certain action or parts of an action;
- (2) Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;
- (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 during the life of the action;
- (5) Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and/or
- (6) Monitoring the impact and taking appropriate corrective measures.

Neighboring jurisdiction approaches

All five neighboring jurisdictions require mitigation sequencing in some way. Four of the five jurisdictions require development applications that propose to alter critical areas and/or their buffers to show the utilization of mitigation sequencing as listed above. The City of Edmonds requires a “discussion of efforts to avoid and minimize potential impacts to resources” as a requirement of the Critical Areas Report.

Options for updates

ESA recommends the City include a section requesting mitigation sequencing be utilized for all development proposals that would alter a critical area or its buffer. This section should clearly present all steps to mitigation, give a list of preferred mitigation location and types (i.e. on-site in-kind, off-site in-kind), and other associated requirements such as monitoring, maintenance, contingency plans, and bond requirements. These recommendations could be included in general requirements of the CAO or under specific critical area sections.

Furthermore, the list of mitigation options that the code official may consider for buffer modifications under MICC 19.07.070 appears to be limiting and likely not relevant to all applications. We recommend these options be removed as additional options reviewed on a project-by-project basis may provide a larger functional lift.

We also recommend that mitigation requirements for streams be distinct from mitigation requirements for wetlands and not references as currently in MICC 19.07.080.C.

Key Issue #4 for Watercourses – Requirements for Piped Watercourses

BAS consistency

Current BAS does not provide regulatory recommendations for piped watercourses. However, there is BAS supporting the restoration of piped streams in order to provide enhancement of fish and wildlife aquatic and riparian habitats (ELI et al., 2016). In order to maintain opportunity to implement and encourage restoration of piped watercourse segments consistent with this BAS, it could be reasonable for the City to require a standard buffer zone or building setback around the alignment of piped watercourses.

Neighboring jurisdiction approaches

None of the five neighboring jurisdictions apply buffers to piped watercourses. Kirkland encourages the daylighting of streams in their CAO and provides several provisions and requirements in Kirkland Zoning Code (KZC) 90.75 and KZC 90.80, including a Stream Daylighting Plan and reduced buffer allowance for daylighted streams.

Options for updates

Piped watercourses provide little to no ecological function. As such, requiring a vegetated buffer surrounding the alignment of an existing piped watercourse is of little ecological benefit. That said, maintaining piped watercourse alignments to be free from structures and other improvements provides opportunity for future daylighting and restoration. Therefore, we recommend replacing piped watercourse buffer requirements with a standard setback from the pipe alignment. No structures should be allowed in this standard setback.

Because BAS supports the daylighting of streams, and the City's intention is to protect piped watercourses to accommodate and incentivize future daylighting, we recommend the code be revised to include specific language clarifying this intention. Language regarding the daylighting and restoration of piped watercourses can be found in Section 2.2.3.2 of the City's 2005 BAS Report (Adolfson Associates, 2005). Because the piped portions of the stream are considered a critical area, we recommend that piped watercourses be regulated under the same typing as the portion of the watercourse upstream from the pipe. The standard buffer required for the upstream segment would be required as a building setback from the pipe alignment. If the entirety of the watercourse is piped up to the natural headwaters, regulation as a Type Np or Ns stream would be required.

We recommend that the updated CAO also establish a minimum setback width such that allowances for reduction do not exceed 25% of the standard setback. However, to incentivize daylighting, a new allowance should be provided for setback reduction beyond 25% when daylighting with channel and riparian restoration (or an ecologically equivalent or greater proposal) is provided. Opportunities to daylight existing piped watercourses should be encouraged to the greatest extent feasible; however, at no point within a daylighted stream segment should the minimum buffer be reduced to less than 15 feet of width.

Conclusions and Summary of Code Recommendations

Mercer Island is inconsistent with BAS for management of watercourses and associated buffers in several key areas described above. In order to improve consistency with BAS, we recommend the City revise the watercourse classification system, increase the standard buffers for watercourses, require mitigation sequencing when impacts to watercourses or their buffers are proposed, and either remove the standard buffer requirement for piped watercourses, or clearly define the intention of maintaining a buffer around piped watercourses (presumably to encourage and provide adequate room for future daylighting efforts).

WETLANDS

Wetlands are specifically identified for protection as a critical area by the Growth Management Act (WAC 365-190-080[3]). The current CAO provides standards for protection of wetlands in MICC Section 19.07.080. This section summarizes new scientific literature and regional policy concerning wetlands protection and management, provides an assessment of current CAO provisions, and summarizes recommendations for updates to ensure consistency with BAS.

Updates to Scientific Literature

In general, the latest documents in the record pertaining to wetlands have been prepared by state and federal agencies. Since the City's last major CAO update, new scientific findings have been published describing wetland delineation methods, wetland rating systems, methods for assessing wetlands on a watershed-based and landscape-scale, alternative mitigation strategies (mitigation banking and in-lieu fee programs), improving the success of compensatory mitigation, and buffer effectiveness. For example, the Washington Department of Ecology (Ecology) and Washington Department of Fish and Wildlife (WDFW) released a two-volume BAS document that is still the primary source of new information for wetland management: *Wetlands in Washington State – Vol. 1 A Synthesis of the Science* (Sheldon et al. 2005) and *Vol. 2 Guidance for Protecting and Managing Wetlands* (Granger et al. 2005).

Wetland Delineation Methods

In 2010, the U.S. Army Corps of Engineers released the *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coasts* (Corps, 2010). The regional supplement updates portions of the 1987 Corps' Wetland Delineation Manual and provides additional technical guidance and updated procedures for identifying and delineating wetlands. State law requiring the *Washington State Wetlands Identification and Delineation Manual* (Ecology, 1997) was repealed in 2011, and the state manual is no longer required or supported by Ecology. The Regional Supplement is now required by state law (WAC 173-22-035).

Wetland Rating Systems

Ecology released an update to their wetland rating system, *the Washington State Wetland Rating System for Western Washington: 2014 Update* (Hruby, 2014), that went into effect January 2015. While most of the concepts and specific function-specific rating questions in the 2014 updated manual remain the same as that in the 2004 manual, the 2014 system has some notable differences. The updated wetland rating manual includes a new scoring range (i.e., between 9 and 27 under the updated manual versus 1 to 100 in the 2004 manual) that is based on a qualitative scale of functions from high, medium, or low. The new approach to scoring wetland functions is more scientifically supportable (Hruby, 2014). The 2014 updated manual also includes new sections for assessing a wetland's potential to provide functions and values on a landscape-scale.

Mitigation for Wetland Impacts

One of the most significant changes in BAS since Mercer Island's last code update involves alternative mitigation strategies. According to the National Research Council (NRC), compensatory mitigation implemented in the past, particularly on-site mitigation installed by the permittee, has frequently been unsuccessful and has not achieved the national policy of "no net loss" of wetland area and functions (NRC, 2001). Traditionally, permit applicants have constructed mitigation projects to compensate for effects to aquatic resources (e.g., wetlands, streams, marine waters) with limited oversight and enforcement of mitigation requirements. This type of mitigation is referred to as "permittee-responsible" mitigation. Additionally, alternative forms of mitigation, such as mitigation banks and in-lieu fee (ILF) programs, and advance mitigation were not established uniformly across the country, or within individual

states, and there were numerous cases where alternative mitigation programs were operated unsuccessfully.

To address these mitigation deficiencies, in early 2008 the US Army Corps of Engineers (Corps) and Environmental Protection Agency (EPA) released revised regulations governing compensatory mitigation for authorized impacts to waters of the US, including wetlands. The Federal Rule, formally known as the Compensatory Mitigation for losses of Aquatic Resources; Final Rule, lays out criteria and performance standards designed to improve the success and quality of mitigation activities (Corps, 2008).

The Federal Rule emphasizes a watershed approach to mitigation as part of the planning, implementation, and management of mitigation projects. A watershed approach is an analytical process for making compensatory mitigation decisions that support the sustainability or improvement of aquatic resources in a watershed; it involves consideration of watershed needs, and how locations and types of compensatory mitigation projects address those needs.

Alternatives to permittee-responsible mitigation are increasingly implemented within Washington State and around the country to compensate for authorized effects to aquatic resources. Common forms of alternative mitigation include:

- *Mitigation Banks*—restoring, establishing, enhancing, and/or preserving aquatic resources through funds paid to a public or private Sponsor to satisfy compensatory mitigation requirements for Corps permits. At banks, the Sponsor has already secured a mitigation site and initiated mitigation activities before fees are accepted. Typically, mitigation banks exist at one location and the Corps does not have authority over bank expenditures.
- *In-Lieu Fee (ILF) Programs*—restoring, establishing, enhancing, and/or preserving aquatic resources through funds paid to a governmental or non-profit natural resources management entity to satisfy compensatory mitigation requirements for Corps permits. In-lieu fee programs accept mitigation fees before securing and implementing projects. These programs implement mitigation at multiple sites as funds become available and after the Corps approves project funding.
- *Consolidated Off-site Mitigation*—restoring, establishing, enhancing, and/or preserving aquatic resources through funds paid to a public or private entity Sponsor. Mitigation typically occurs at a single location in a phased approach; as compensatory mitigation fees are paid to the public or private entity by permit applicants, portions of the mitigation site are constructed.
- *Advance Mitigation*—restoring, establishing, enhancing, and/or preserving aquatic resources, undertaken by public or private permit applicants in advance of permitted impacts. This type of mitigation is considered permittee-responsible compensatory mitigation because only the permit applicant who implements the advance mitigation may use it to satisfy their compensatory mitigation obligations.

Alternative forms of mitigation do not change the requirements for permit applicants to follow the prescribed “mitigation sequence” of avoid, minimize, rectify, reduce, and compensate for impacts. These are step-wise requirements under federal and state laws that mandate permit applicants to demonstrate that avoidance and minimization measures have been taken before the remaining aquatic resource effects are determined unavoidable. Avoidance and minimization measures occur during project design and are intended to avoid and reduce a project’s effects prior to construction. Once a determination is made that project effects are unavoidable, compensatory mitigation is required. The above types of compensatory mitigation must be used, if available, instead of traditional on-site mitigation projects. In 2015, the Corps permit system was analyzed to determine how the 2008 Rule has affected the number or type of compensatory mitigation projects (IWR 2015). The report states that over the past 5 years, the Corps issued 56,400 permits or authorizations each year nationally, with only 10% of these authorizations

actually requiring compensatory mitigation. As a result of the 2008 rule, project impacts are being avoided and minimized with fewer projects requiring compensatory mitigation at banks.

Compensatory Mitigation

Where compensatory mitigation (permittee-responsible) is the best option for mitigating wetland impacts, recent guidance has been developed to improve mitigation success. Ecology, in coordination with the U.S. Army Corps of Engineers (Corps) and the U.S. Environmental Protection Agency (EPA), developed a two-part guidance document intended to improve the quality, consistency, and effectiveness of compensatory mitigation in Washington State.

Part 1 of the document, *Wetland Mitigation in Washington State—Part 1: Agency Policies and Guidance* (Ecology Publication #06-06-011a, March 2006a), provides regulatory background and outlines information that regulatory agencies use. Some of this information has been superseded by recent guidance discussed in the Alternative Mitigation section; however, wetland mitigation ratios listed in this document are the basis for many local jurisdictions' mitigation requirements. Part 2 of the document, *Wetland Mitigation in Washington State—Part 2: Developing Mitigation Plans* (Ecology Publication #06-06-011b, March 2006b) provides specific technical guidance on developing a compensatory wetland mitigation plan.

As an alternative to using mitigation ratios, Ecology developed *Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Western Washington* (Hruby, 2012) for estimating whether a project's compensatory mitigation plan adequately replaces lost wetland functions and values. Termed the "Credit-Debit Method," this manual uses a functions and values-based approach to score functions lost at the project site (i.e., "debits") compared to functions gained at a mitigation site (i.e., "credits"). A mitigation project is considered successful when the "credit" score for a compensatory mitigation project is higher than the "debit" score. Based on our local experience, the Corps and Ecology are increasingly relying on the Credit-Debit Method instead of mitigation ratios alone.

Wetland Buffers

Wetlands in Washington State – Vol. 1 A Synthesis of the Science (Sheldon et al., 2005) synthesizes literature related to wetland buffers and buffer effectiveness among other wetland-related topics. In 2013, Ecology published *Update on Wetland Buffers: The State of the Science, Final Report* which updated the 2005 synthesis with a literature review of scientific documents published between 2003 and 2012 (Hruby, 2013). The 2013 update reviewed each of the conclusions in the Sheldon et al. (2005) report and referenced 144 scientific articles.

Research indicates that uplands surrounding wetlands and streams can serve as critical habitat for some species, a concept that expands the notion of a buffer beyond simply protecting wetland and riparian functions to protecting aquatic-dependent species (Hruby, 2013; Semlitsch and Jensen, 2001). Several literature sources have suggested that these terrestrial areas adjacent to wetlands and streams be termed "core habitat." Studies on wetland-dependent species report that core habitat needs to extend between 1,000 feet to 0.6 miles from the wetland edge to be effective in supporting population survival; however, there is little information on how much connectivity is needed between a critical area and core habitat (Hruby, 2013). Research indicates that stream/riparian buffers alone will not be enough to protect certain species and that a broader approach to protecting wildlife is needed, especially in areas that are intensely developed (Hruby, 2013; Semlitsch and Jensen, 2001)

The updated buffer synthesis confirmed that buffers perform an important water quality functions by trapping pollutants before they reach a wetland. Generally, the wider the buffer, the more effective it is at protecting water quality; however, recent research reveals that several other factors contribute to the

effectiveness of buffers in protecting water quality functions. These factors include slope, type of vegetation, surface roughness, soil properties, and type and concentration of pollutants. Specifying only the width of a buffer as a means for protecting water quality functions can be complicated and may not address these other factors (Hruby, 2013). With respect to protecting habitat quality, research in the past decade reveals that wider buffers are needed to protect wetland-dependent species, many of which require larger areas of relatively undisturbed uplands for survival (Hruby, 2013). Previously, Sheldon et al. (2005) recommended buffer widths between 50 and 300 feet for the protection of wildlife habitat, depending on site specific factors. The more recent recommendations specify buffer widths that go beyond 300 feet for many wildlife species. The *Planner's Guide to Wetland Buffers for Local Governments* prepared by the Environmental Law Institute (42) recommends a range of 100–1000ft for wildlife, 30–100ft for sediment removal, 100-180ft for nitrogen removal, and 30-100ft for phosphorus removal.

State guidance on wetland buffer widths offer both a combined fixed-width and variable-width approach, with a minimum buffer prescribed based on a wetland's category and an additional buffer based on increasing habitat points (Bunten et al., 2016; "Table XX.1" revised July 2018). Ecology (Bunten et al., 2016) acknowledges that in urban communities standard buffer widths may be difficult to achieve due to existing structures. When a development project requests a reduction to a standard buffer width, Ecology suggests that the local jurisdiction require documentation to demonstrate that a smaller buffer will protect wetland functions and values. Ecology also suggests that, additional mitigation measures may be necessary to ensure "no net loss" of wetland functions and values (Granger et al., 2005). Mitigation measures that can be used to protect wetlands in these instances include requiring noise-generating activities be located away from wetland, routing toxic runoff away from wetlands, and planting dense native vegetation to discourage disturbance (Bunten et al., 2016; "Table XX.2" revised July 2018). The model code recommends that standard buffers should not be reduced below 25 percent of the standard buffer width (Bunten et al., 2016). Granger et al. (2005) notes that for some situations where the buffer is composed of non-native vegetation, and therefore providing limited functions and values, simply applying a fixed width buffer may fail to provide the necessary characteristics to protect a wetland's functions. In these cases, it can be better to restore the buffer through enhancement activities.

In July 18, 2018, Ecology revised buffer guidance on wetlands. The 2018 revisions to wetland buffer tables were released by Ecology via email on July 18, 2018. In previous versions of the wetland table, low habitat function was represented by a score of 3 or 4 points and moderate habitat function by a score of 5 to 7 points. Ecology conducted an analysis of habitat scores across over 200 reference sites and found that wetlands that scored 3,4, or 5 habitat points were more similarly distributed to those scoring less than 19 points in the 2004 version. In response, Ecology modified a low habitat score as earning 3, 4, or 5 habitat points, and moderate habitat score as earning 6 and 7 habitat points.

Overview of Current Wetland Provisions

The wetlands section of the CAO needs to be updated in a few key areas to improve its consistency with BAS and current agency guidelines, as detailed in the attached matrix. A summary of key recommendations follows:

Key Issue #1 for Wetlands – Update Wetland Rating to the 2014 State Rating System

Current Code and BAS Consistency

The City's current code references the outdated Washington State Wetland Rating System for Western Washington (2004) wetland rating manual (MICC 19.07.080.B.). The updated wetland rating manual

includes a new scoring range (i.e., between 9 and 27 under the updated 2014 manual versus 1 to 100 in the 2004 manual). Both wetland rating systems are based on a qualitative scale of functions from high, medium, or low (Table 3).

Neighboring jurisdiction approaches

All neighboring jurisdictions have updated CAOs to the updated wetland scoring system using the Washington State Wetland Rating System for Western Washington: 2014 Update (Hruby, 2014).

Options for updates

ESA recommends updating the City’s wetland classification system to the Washington State Wetland Rating System for Western Washington: 2014 Update. Consistency with Ecology’s updated system eliminates the need to rate wetlands according to multiple different standards.

Table 3. Comparison of the City’s currently adopted 2004 wetland rating system and the 2014 updated wetland rating system.

	2004 Rating System	2014 Rating System
Category I	(a) wetlands that are identified by scientists as high quality or high function wetlands; (b) bogs larger than one-half acre; (c) mature and old-growth forested wetlands larger than one acre; or (d) wetlands that are undisturbed and contain ecological attributes that are impossible to replace within a human lifetime.	(a) relatively undisturbed estuarine wetlands larger than one (1) acre (b) wetlands of high conservation value that are identified by scientists of the Washington Natural Heritage Program/DNR (c) bogs (d) mature and old-growth forested wetlands larger than one (1) acre (e) wetlands in coastal lagoons (f) interdunal wetlands that score eight (8) or nine (9) habitat points and are larger than one (1) acre (g) wetlands that perform many functions well (scoring 23 points or more)
Category II	(a) wetlands that are identified by scientists as containing “sensitive” plant species; (b) bogs between one-quarter and one-half acre in size; or (c) wetlands with a moderately high level of functions.	(a) estuarine wetlands smaller than one (1) acre, or disturbed estuarine wetlands larger than one (1) acre (b) interdunal wetlands larger than one (1) acre or those found in a mosaic of wetlands (c) wetlands with a moderately high level of functions (scoring between 20 – 22 points)
Category III	Wetlands that do not satisfy Category I or II criteria, and have a moderate level of functions.	(a) wetlands with a moderate level of functions (scoring between 16 and 19 points) (b) can often be adequately replaced with a well-planned mitigation project

		(c) interdunal wetlands between 0.1 and one (1) acre
Category IV	Wetlands that do not satisfy Category I, II or III criteria; and have the lowest level of functions; and are often heavily disturbed.	Wetlands that have the lowest levels of functions (scoring fewer than 16 points) and are often heavily disturbed.

Key Issue #2 for Wetlands – Update Wetland Buffer Widths

Current Code and BAS Consistency

The City’s current standard wetland buffer widths are not consistent with BAS and does not take habitat score into account when establishing buffer widths as recommended in Bunten et al. (2016), including the “July 2018 Modifications for Habitat Score Ranges” document provided by Ecology. Table 4 shows a comparison of current wetland buffers and buffers recommended in BAS.

Table 4. Comparison of the City’s current Standard Wetland Buffer Width requirements and the updated Standard Buffer Widths Consistent with Ecology Guidance.

Wetland Category	Current CAO Standard Buffer Widths (MICC 19.07.080)	Standard Buffer Widths Consistent with Ecology Guidance (Bunten et al., 2016, including July 2018 updates)*	
		With 3-5 habitat points	With 6-7 habitat points
Category I	100 ft	75 ft	110 ft
Category II	75 ft	75 ft	110 ft
Category III	50 ft	60 ft	110 ft
Category IV	35 ft	40 ft	

*All wetlands scoring 8-9 habitat points require a 225-foot standard buffer, regardless of Category; ESA anticipates there are very few, if any, wetlands in Mercer Island that would receive this habitat score.

Neighboring jurisdiction approaches

All neighboring jurisdictions have updated CAOs to reflect Ecology’s “Table XX.1” recommended buffer widths based on wetland category and habitat points. However, as mentioned above this table has since been revised and neighboring jurisdictions are now inconsistent with the guidance. Four out of five

jurisdictions require a 40-foot buffer for Category IV wetlands while the City of Medina requires a 50-foot buffer.

Options for updates

ESA recommends updating standard wetland buffer widths to be consistent with Ecology’s Guidance as seen in Table 4.

Key Issue #3 for Wetlands – Prioritize buffer averaging with enhancement over buffer reductions with enhancement.

BAS consistency

The City’s current code does not prioritize buffer averaging over buffer reduction which is not consistent with BAS (Bunten et al., 2016). Buffer averaging results in the same amount of buffer area, while buffer reductions result in a net loss of area.

Neighboring jurisdiction approaches

Lake Forest Park and Kirkland allow for buffer averaging only. Edmonds allows for buffer reduction but prioritizes buffer averaging. Medina and Bainbridge Island do not prioritize either buffer averaging or reduction. However, Bainbridge Island requires that the modification that results in the retention of the greatest buffer area is used.

Options for updates

ESA recommends prioritizing buffer averaging with enhancement over buffer reduction with enhancement by either providing standards for buffer averaging only or stating that buffer averaging is preferred over buffer reduction.

Key Issue #4 for Wetlands – Update provisions for buffer reductions and buffer averaging

Standards for wetland buffer reduction with enhancement and for buffer averaging to be no greater than 25 percent of the standard buffer width, and include the list of mitigation measures from Ecology’s Table “XX.2”.

BAS consistency

The current code allows wetland buffers to be reduced (either through reduction with enhancement, or through averaging) by up to 50% for Category I, II, and III wetlands, and by 10 feet below the 35-foot standard width for Category IV wetlands. These reduction allowances are not consistent with BAS (Bunten et al., 2016), which states that “the width of the buffer at any given point after averaging should be no smaller than 75% of the standard buffer,” or a maximum reduction of 25%.

Neighboring jurisdiction approaches

All neighboring jurisdictions reviewed for this effort have updated their CAO to meet BAS and allow a maximum buffer reduction of 25% when buffer averaging is proposed. Lake Forest Park further set limits by wetland category, requiring that the narrowest point of the buffer is never less than 75 feet for Category I and II wetlands, 50 feet for Category III wetlands, and 25-feet for Category IV wetlands.

Bainbridge Island, Medina, and Edmonds have maintained limited allowances for buffer reduction with enhancement consistent with Ecology’s established BAS. Both Lake Forest Park and Kirkland do not allow buffer reduction and all buffer modifications must be met using buffer averaging.

Options for updates

- ESA recommends updating provisions for buffer reductions with enhancement or for buffer averaging to be no greater than 25 percent of the standard buffer width and include the list of mitigation measures from Ecology’s Table XX.2 (Bunten et al., 2016) to further protect wetlands. We suggest that buffer mitigation measures (e.g., enhancement plan and elements from Table XX.2) be required for consistency with BAS and to achieve “no net loss.”
- Buffer averaging with enhancement should be prioritized over buffer reductions with enhancement. Buffer averaging results in the same amount of buffer area, while buffer reductions result in a net loss of area.
- Monitoring for at least five years for any buffer enhancement should also be included in the code revisions and enforced. Monitoring plans should be required for any buffer reduction or buffer averaging proposal and included specific requirements including performance standards, annual reporting, and contingency plans.

Key Issue #4 for Wetlands – Update wetland mitigation requirements to reflect BAS

Wetland mitigation requirements are inconsistent with Ecology guidance, including mitigation sequencing (in order of preference).

BAS consistency

The current code is not consistent with BAS regarding mitigation and only states that alterations are allowed to lower functioning wetlands (Category III and IV) if the wetland is restored, enhanced, or replaced with a no net loss of wetland area or function. Current BAS suggest specific guidance and mitigation ratios that should be applied when critical areas and their buffers are modified. In order to make up for the spatial and temporal loss of functions, a successful mitigation project often requires the amount of mitigation to be larger than the impact being mitigated for. The mitigation ratios in Table 5 are recommended by current BAS (Bunten et al, 2016; Ecology, 2016a).

Table 5. Suggested Wetland Mitigation Ratios based on BAS (Bunten et al., 2016).

Category and Type of Wetland	Creation or Establishment	Rehabilitation	Enhancement
Category I: Bog, Natural Heritage Site	Not considered possible	Case by case	Case by case
Category I: Mature Forest	6:1	12:1	24:1
Category I: Based on Functions	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

Neighboring jurisdiction approaches

All neighboring jurisdictions require the mitigation ratios I Table 6, as well as present requirements for mitigation sequencing and mitigation preference.

Options for updates

In addition to recommendations for mitigation sequencing for watercourses (Key Issue #3 for Watercourses), ESA recommends updating wetland mitigation requirements to reflect BAS regarding wetland mitigation guidance (e.g., compensatory mitigation technical guidance, watershed-based documents, and the Credit-Debit Method) and the mitigation preference sequence (federal- and state-approved mitigation banks, in lieu fee programs, then compensatory mitigation). We recommend the revised code include the suggested mitigation ratios suggested in Ecology guidance (Bunten et al., 2016) and summarized in Table 5. We also recommend the code clearly states that buffer mitigation should be performed at least at a 1:1 ratio.

Key Issue #5 for Wetlands – Current exemptions for Category III and IV wetlands

The current code provides exemptions for Category III and IV wetland that are not supported by BAS.

BAS consistency

The exemptions for Category III and IV wetland are not consistent with current BAS. The only exemptions for wetlands under current BAS (Bunten, et al., 2016) are the following:

- 1) Isolated, Category IV wetlands less than 4,000 square feet that:
 - Are not associated with riparian areas or their buffers,
 - Are not associated with shorelines of the state or their associated buffers.
 - Are not part of a wetland mosaic,
 - Do not score 5 or more points for habitat functions, and
 - Do not contain a WDFW priority habitat or species (PHS), do not contain federally listed species or critical habitat, or species of local importance.
- 2) Wetlands less than 1,000 square feet that meet the above criteria and do not contain federally listed species or their critical habitat.

Neighboring jurisdiction approaches

Three of the neighboring jurisdictions do not exempt wetlands from critical areas regulations under any circumstance and are more protective than BAS. Lake Forest Park and Kirkland allow exemptions to wetlands that meet the requirements listed above.

Options for updates

We recommend that current exemptions for Category III and IV under 2,500 square feet are removed during code revisions. ESA recommends revising exemptions to include language and requirements based on BAS. Alternatively, exemptions for wetland could be removed altogether. If the former is chosen by the City, we recommend a clear definition of “isolated wetland” be included in the code.

Conclusions and Summary of Code

Recommendations

Mercer Island is inconsistent with BAS in several key areas described above. In order to improve consistency with BAS, we recommend the City revise the required wetland rating system to the 2014 version, modify buffer width requirements to follow Ecology recommendations, include specific

mitigation ratios to offset impacts to wetlands, and remove exemptions for alterations to Category III and IV wetland unless they meet the criteria suggested by Ecology.

FISH AND WILDLIFE HABITAT CONSERVATION AREAS

Fish and wildlife habitat conservation areas are specifically identified for protection as a critical area by the Growth Management Act (WAC 365-190-080[3]). The current CAO provides standards for protection of fish and wildlife habitat conservation areas in MICC Section 19.07.090. This section summarizes new scientific literature and regional policy concerning wildlife habitat protection and management, provides an assessment of current CAO provisions, identifies potential additional priority species that could warrant protection, and summarizes recommendations for updates to ensure consistency with BAS.

Updates to Scientific Literature

The latest documents in the record pertaining to fish and wildlife habitat conservation areas have been prepared predominantly by state, federal, and tribal agencies. In 2009, WDFW, published *Landscape Planning for Washington's Wildlife: Managing for Biodiversity in Developing Areas*, which provides guidance for wildlife issues related to rural and urban residential development.

Fish and Wildlife Habitat Conservation Areas Model Code

The model code found in the *Critical Areas Assistance Handbook: Protecting Critical Areas Within the Framework of the Washington Growth Management Act* (CTED, 2007) is the most recent related to fish and wildlife habitat conservations areas; however, portions of *Wetlands Guidance for CAO Updates: Western Washington Version* (Bunten et al., 2016) are applicable or were referenced for code consistency.

Buffer Effectiveness

When discussing BAS for buffers and buffer effectiveness for fish and wildlife habitat conservation areas, one must distinguish between stream/riparian buffers (those areas providing functions related to fish habitat and stream processes) and habitat buffers (areas including riparian buffers and the terrestrial areas adjacent to them which provide wildlife functions for a variety of species).

Wildlife Habitat Connectivity

Research indicates that uplands surrounding wetlands and streams can serve as critical habitat for some species, a concept that expands the notion of a buffer beyond simply protecting wetland and riparian functions to protecting aquatic-dependent species (Hruby, 2013; Semlitsch and Jensen, 2001). Several literature sources have suggested that these terrestrial areas adjacent to wetlands and streams be termed “core habitat.” Studies on wetland-dependent species report that core habitat needs to extend between 1,000 feet to 0.6 mile from the wetland edge to be effective in supporting population survival; however, there is little information on how much connectivity is needed between a critical area and core habitat (Hruby, 2013). Research indicates that stream/riparian buffers alone will not be enough to protect certain species and that a broader approach to protecting wildlife is needed, especially in areas that are intensely developed (Hruby, 2013; Semlitsch and Jensen, 2001).

Research related to general wildlife habitat connectivity, however, indicates that connectivity is important for species to travel and carry out life processes. Small mammals, amphibians, and reptiles are generally more sensitive to changes and gaps in connectivity compared to larger mammals and birds (WDFW, 2009). Areas with less than 50 percent undisturbed land cover (i.e., developed urban environments) need

assistance to ensure that habitat connectivity is maintained (WDFW, 2009). In addition to using local critical areas inventory information and Priority Habitats and Species (PHS) data, WDFW recommends protecting large undeveloped habitat patches and open space areas as part of planning and building habitat corridors (WDFW, 2009). Habitat corridor widths greater than 1,000 feet generally provide the most benefit for the most species (WDFW, 2009).

Bald Eagle

Since the 2005 CAO revision, bald eagles were removed from the federal endangered species list in 2007, and from the state's list in 2017. Since then, many of the protective measures for this species have been eliminated. However, the USFWS still manages bald eagle under the Bald and Golden Eagle Protection Act and the Migratory Bird Treaty Act. The current BAS for bald eagle management is included in the *National Bald Eagle Management Guidelines* (USFWS, 2007). WDFW recommends that local governments comply with these federal guidelines if a proposed development has the potential to disturb eagles.

The National Bald Eagle Management Guidelines present specific guidance for minimizing impacts to nesting and foraging habitat for bald eagles.

Nesting Habitat: 1) establish a distance between the activity and the nest, 2) maintain preferably forested (or natural) areas between the activity and around nest trees, and 3) avoid certain activities during the breeding season. It is further recommended that a 660-foot buffer be established between a nest and construction activities if the activity will be visible from the nest. A 330-foot buffer is recommended if the activities will not be visible from the nest.

Foraging Habitat: 1) minimize potentially disruptive activities and development in the eagles' direct flight path between their nest and roost sites and important foraging areas, 2) locate long-term and permanent water-dependent facilities, such as boat ramps and marinas, away from important eagle foraging areas, 3) avoid recreational and commercial boating and fishing near critical eagle foraging areas during peak feeding times (usually early to mid-morning and late afternoon), except where eagles have demonstrated tolerance to such activity, 4) do not use explosives within ½ mile (or within 1 mile in open areas) of communal roosts when eagles are congregating, without prior coordination with the U.S. Fish and Wildlife Service and your state wildlife agency, and 5) locate aircraft corridors no closer than 1,000 feet vertical or horizontal distance from communal roost sites.

Though recovery has reduced the need for regulations, the taking of a bald eagle nest, still requires a federal permit. WDFW recommends that an applicant uses the [online permit recommendation tool](#) to determine if a permit is required for their specific activity. WDFW also recommends that local jurisdictions no longer require a written statement that “no permit is necessary” from USFWS.

Other Sources of Information

Other scientific sources have also generated relevant information, which we reviewed and have referenced in the gap analysis matrix and in the references section of this report.

Overview of Current Fish and Wildlife Habitat Conservation Areas Provisions

Key Issue #1 for FWHCAs – Unclear requirements for bald eagles

BAS consistency

The current code designates areas used by bald eagles for nesting, breeding, feeding, and survival as the only regulated habitat conservation areas located within the City. This designation seems somewhat more restrictive than just the nesting and foraging habitat that is the focus of the BAS for bald eagle management.

The City has developed an online mapping for [properties affected by bald eagles](#) (dated April 26, 2016) which show 330- and 660-foot buffers around nests known to occur within the City, in accordance with BAS. However, it is unclear what the source of the nest locations is and if they are still active. Furthermore, the map gives direction to contact WDFW and give firm documentation of a nest when observed. However, since the bald eagle has been removed from state listing, WDFW no longer takes individual reports of bald eagle sightings and/or nests, nor do they update their PHS maps with this information.

Neighboring jurisdiction approaches

All jurisdictions outside of Lake Forest Park include species of local importance under FWPCA regulations, but none of these jurisdictions provide what species have been designated as locally important. All jurisdictions require a habitat assessment if a modification to a FWPCA is proposed. However, none of the neighboring jurisdictions provide guidance for bald eagles outside of Bainbridge Island, which only requires compliance with the Bald and Golden Eagle Protection Act.

Options for updates

Similar to neighboring jurisdictions, ESA recommends the City consider regulating habitats under FWPCA regulations. A complete definition of what constitutes a FWPCA can be found in [WAC 365-190-130](#). To emphasize regulations on impacts to bald eagle, we recommend the City officially establish this species, and any other species seen necessary, as a species of local importance. All species or habitats that may be impacted by proposed actions would then need to go through an impact analysis, consideration of mitigation sequencing to avoid, minimize, and otherwise compensate for impacts, and critical areas reporting requirements.

Alternatively, if the City decides to keep bald eagle habitat as the only regulated habitat conservation area in the City, to be consistent with BAS, we recommend only nesting and foraging sites are regulated. We also recommend that the code be revised to include the requirements of the *National Bald Eagle Management Guidelines* (USFWS, 2007). A habitat impact analysis and critical areas reporting should also be required to demonstrate the minimization of adverse impacts.

Considerations for Additional FWPCAs Based on Planning Commission Input

After initial review of a draft version of this BAS Report, the City's Planning Commission decided to include specific priority habitats and species, relevant to Mercer Island, under FWPCA regulations. Information and management recommendations for these species are below.

Priority Species

The band-tailed pigeon, pileated woodpecker, and cavity-nesting ducks (including wood ducks) are species that may occur on Mercer Island and are currently on WDFW's Priority Habitat and Species (PHS) List (WDFW, 2008). WDFW provides science-based management recommendations for maintaining viable populations of priority species and functioning priority habitats. Species information and WDFW Management recommendations based on BAS for the band-tailed pigeon, pileated

woodpecker, and cavity-nesting ducks are detailed in *Management Recommendations for Washington's Priority Species Volume IV: Birds* (Larsen, et al., 2004) and summarized below.

In addition, at the end of this write-up on priority species, a table listing recent sightings of these bird species on Mercer Island is provided (sightings reported to the eBird citizen science website/organization - <https://ebird.org/home>). Of note, all reported sightings occurred at Ellis Pond, Luther Burbank Park, and Pioneer Park.

Band-tailed Pigeon

Range

Band-tailed pigeons reside mainly in western Washington and are typically located around mineral springs and seeps, with the highest densities occurring on the Olympic Peninsula and on Washington's southern coast. The breeding season occurs between April and September and the majority of the population stays below 1,000 feet in elevation during this time. In late summer they move to higher elevations and by late September most have moved to wintering grounds from south of Redding, California through Mexico. However, year-round residents are known to occur in the Puget Sound as far north of Seattle.

According to the Seattle Audubon Society, the band-tailed pigeon is fairly common and is becoming more common as a winter resident in many areas. After protection from over-hunting, the band-tailed pigeon made a good comeback from low numbers earlier in the 20th century. In recent decades, perhaps once again due to hunting, numbers have begun to drop again. Band-tailed pigeons are fairly common along the within the Puget Trough ecoregion from March through September (Seattle Audubon Society BirdWeb, accessed August 2018).

Habitat

Band-tailed pigeons are associated with large coniferous and deciduous trees, including but not limited to Douglas fir, red alder, western hemlock, bigleaf maple. Nests are placed in conifers and broad leafed trees, typically 15 – 40 feet off the ground. Abundant food and mineral sources are necessary during the breeding season for egg production and feeding their young. Mineral salts are primarily found in mineral springs and marine shorelines.

Band-tailed pigeons are herbivorous and feed on buds, blossoms, leave, fruits, and berries from a variety of native vegetation. Pacific red elderberry, blue elderberry, and cascara were determined to be important food resources in the region due to their high caloric, calcium, and protein content.

Land development and forest practices that degrade mineral springs and nesting habitat limit populations. Outbreaks of Trichomoniasis, a parasite transmitted through contaminated feed are urban bird feeders, is suspected in periodic large-scale mortalities.

Management Recommendations

Mineral sites should be a high priority for conservation. Removal of trees surrounding these sites should be avoided. The use of herbicides should also be avoided as they eliminate food producing shrubs and trees. Landowners are encouraged to use integrated pest management (IPM) strategies that target specific pests or weeds. IPM focused on long-term prevention of pests by managing the ecosystem through a combination of techniques such as biological control and habitat manipulation. Additionally, people maintaining bird feeders should regularly clean feeders.

Pileated Woodpecker

According to the Seattle Audubon Society, pileated woodpeckers play an important role within their ecosystems by excavating nesting and roosting cavities that are later used by many other birds and other animals. They are fairly adaptable, which offsets some of the impact from habitat loss, however, they are

currently a candidate species for endangered species listing by WDFW (Seattle Audubon Society BirdWeb, accessed August 2018).

Range

Pileated woodpeckers are year-round residents across a large range that includes the majority of Canada, the Pacific northwest south through central California, Idaho, Montana, eastern Kansas, the Gulf Coast, and Florida. The Washington range encompasses the majority of the forested areas of the state. The pileated woodpecker is considered to be fairly common throughout the Puget Trough Ecoregion year-round.

Habitat

Pileated woodpeckers inhabit mature and old-growth and second growth forests with large snags and fallen trees. Large snags and decaying trees are used for nesting and roosting which occurs from late March into early July. Roost trees in the Olympic Peninsula are primarily Pacific silver fir, western hemlock, and western red cedar, with an average diameter at breast height (dbh) of 59 inches. Foraging may occur in younger forests (less than 40 years) containing snags that support abundant insect prey associated with dead wood (ants, beetle larvae, termites, etc.).

In urban areas, pileated woodpeckers reside in areas where large trees are present (remnant patches of forests, parks, and green-belts). Pileated woodpeckers in urban and suburban areas forage on large and small diameter coniferous and deciduous trees and snags. They have also been observed feeding on suet feeders, utility poles, and fruit trees, though this is less common.

Management Recommendations

The amount of forest retained in an urbanizing environment will influence the degree to which an area is used by pileated woodpeckers. In urbanizing areas, the greatest negative influence to these birds is likely the clearing of remnant forest patches. Based on research in greater Seattle, it is recommended that planners retain the largest patches available (> 74 acres). Management activities for pileated woodpeckers should focus on providing and maintaining a sufficient number of appropriate large snags and large decaying trees. The creation of snags or decaying trees may benefit pileated woodpeckers in suburban areas. The suggested number of foraging snags to retain, based on size, is in Table 1 below. Because designated parks often contain the larger forested tracks, park managers should also consider pileated woodpecker requirements.

Table 6. Suggested number of foraging snags to retain

Size class	Foraging snags retained
10” – 20” dbh	≥ 7 snags/acre
20” – 30” dbh	≥ 8 snags/acre
>30” dbh	≥ 5 snags/acre

Cavity Nesting Ducks

Barrow’s Goldeneye (*Bucephala islandica*), Common Goldeneye (*Bucephala clangula*), Hooded Merganser (*Lophodytes cucullatus*), Bufflehead (*Bucephala albeola*), and Wood Duck (*Aix sponsa*) are five species of cavity-nesting ducks that occur in Washington. Cavity-nesting ducks provide recreation to hunters and bird watchers, and they are vulnerable to loss of nesting habitat. All but the wood duck exhibit low productivity and low population sizes, breed for the first time at an older age, and are poor pioneers of unoccupied habitats.

Barrow’s goldeneyes, hooded mergansers, and wood ducks are the only three species that breed in western Washington.

Range

The Barrow's goldeneye is widespread and breeds within the Cascades and in north-central Washington. Breeding areas for hooded mergansers and wood ducks are more widespread, primarily in the western part of the state, but they also breed in eastern Washington. Buffleheads are only known to breed south of Spokane on Turnbull National Wildlife Refuge and at Big Meadow Lake in Pend Oreille and the common goldeneye breeds in a few isolated areas in northeastern Washington.

All five species can be found in larger numbers during migration. Though wood ducks typically winter further south than Washington, significant wintering numbers can be found in the Yakima Valley and the Columbia River estuary. Goldeneyes and buffleheads winter in large numbers on Puget Sound and larger rivers. Hooded Mergansers are less common but winter in a wide variety of habitats.

Habitat

In Washington, cavity-nesting ducks nest throughout the summer primarily in late successional forests and riparian areas adjacent to low gradient rivers, sloughs, lakes, and beaver ponds. Tree cavities created by large woodpeckers provide protection from weather and predators and population levels can be related to the availability of nesting sites. Shallow wetlands within 0.5 mi of cavities provide optimal brood habitat for all cavity-nesting ducks.

These species feed primarily on aquatic insects, mollusks, crustaceans, and small fish. Wood ducks up to 6 weeks old depend on animal matter, while older ducklings and adult wood ducks feed on aquatic and emergent plants, acorns, grain, and other seeds.

Management Recommendations

An adequate supply of nest cavities is the key to supporting populations of cavity-nesting ducks in Washington. Snags and cavity trees, with a minimum diameter of 30 cm (12 in), near suitable wetlands should be preserved to achieve a minimum density of 5/acre. Large woody debris and downed logs should be present, as well as low islands for breeding and brood use. In areas supporting wood ducks, nut producing trees and shrubs, such as oaks (*Quercus garryana*) and hazelnuts (*Corylus cornuta*), should be maintained.

Table 7. Recent Sightings on Mercer Island

Species	Location	Count	Date
Band-tailed pigeon	Ellis Pond	1	September 2016
	Luther Burbank Park	1	June 2018
Pileated woodpecker	Ellis Pond	1	April 2017
	Luther Burbank Park	1	March 2018
	Pioneer Park	1	April 2018
Barrow's goldeneye	Luther Burbank Park	1	January 2018
Common goldeneye	Luther Burbank Park	2	March 2018
Bufflehead	Ellis Pond	2	January 2018
	Luther Burbank Park	5	May 2018
Hooded merganser	Ellis Pond	12	January 2018
	Luther Burbank Park	No count	February 2011
Wood duck	Ellis Pond	1	April 2016

(Source: <https://ebird.org/home>, 2018)

Priority Habitats

Priority habitats are habitat types or elements with unique or significant value to a diverse assemblage of species. A priority habitat may consist of a unique vegetation type or dominant plant species, a described

successional stage, or a specific habitat feature (WDFW, 2008). The majority of priority habitats on Mercer Island are riparian habitats and freshwater wetlands, and therefore are regulated under critical areas regulation for wetlands and watercourses. Additional priority habitats mapped by WDFW occurring on Mercer Island include Biodiversity Areas and Corridors.

WDFW maps six separate Biodiversity Areas and Corridors on Mercer Island. These include the Mercedale Park (and hillside), Upper Luther Burbank Park, Gallagher Hill, Southeast 53rd, Island Crest Park, and Pioneer Park Open Spaces. 12 additional Parks and Open Spaces occur on the Island that are not mapped as Biodiversity Areas and Corridors.

According to WDFW’s PHS List (WDFW, 2008), a biodiversity area is defined as,

“the area is within a city or an urban growth area (UGA) and contains habitat that is valuable to fish or wildlife and is mostly comprised of native vegetation. Relative to other vegetated areas in the same city or UGA, the mapped area is vertically diverse (e.g., multiple canopy layers, snags, or downed wood), horizontally diverse (e.g., contains a mosaic of native habitats), or supports a diverse community of species as identified by a qualified professional who has a degree in biology or closely related field and professional experience related to the habitats or species occurring in the biodiversity area. These areas may have more limited wildlife functions than other priority habitat areas due to the general nature and constraints of these sites in that they are often isolated or surrounded by highly urbanized lands.”

WDFW defines corridors as areas of relatively undisturbed and unbroken tracts of vegetation that connect fish and wildlife habitat conservation areas, priority habitats, areas identified as biologically diverse through a scientifically based assessment, or valuable habitats within a City.

Science-based guidelines and recommendations for management of Biodiversity Areas and Corridors are detailed in *Landscape Planning for Washington’s Wildlife: Managing for Biodiversity in Developing Areas* (WDFW, 2009). The goal of the document is to provide information to planners that can be used to minimize the impacts on wildlife caused by development and to conserve biodiversity. In general, the document states that wildlife is best served by:

- Keeping large, connected patches of undeveloped native vegetation intact,
- Encouraging and maintaining low zoning densities within and immediately surrounding high-value habitat areas and encouraging maintenance of native vegetation,
- Managing road systems to minimize the number of new roads and new barriers to important animal movement corridors,
- Planning open space to incorporate high-value habitat and corridors for animal movement, and
- Zoning for higher densities within urban and developed landscapes to avoid sprawl.

Snags

Birds, small mammals, and other wildlife use snags for nests, nurseries, storage areas, foraging, roosting, and perching. Large conifers such as cedar, fir, larch, and pine, tend to rot more slowly than do deciduous trees such as alder, birch, and cherry. However, large deciduous trees such as cottonwoods, big-leaf maples, and oaks can last many years as snags (WDFW, 2011).

Large snags more than 12 inches in diameter and 15 feet tall offer ideal hunting perches for hawks, eagles, and owls. Small snags may be used as song posts by bluebirds, hummingbirds, and other songbirds to attract mates and proclaim nesting territories. Black-capped chickadees nest in small tree

snags as little as six feet tall and four inches in diameter. Any snag you provide for wildlife will likely be used (WDFW, 2011).

In urban areas, tall snags are best located away from high activity areas, where they won't pose hazard if they fall. Trees that lean away or are downhill from structures and other areas of human activity present little or no risk (WDFW, 2011).

CRITICAL AREAS INVENTORY MAPPING

Currently the data that exists for the City's critical areas are as follows:

- Watercourses and buffers (based on inventory performed in 2005); and
- Location of bald eagle nests (source unknown, 2016)

This data is available as data layers on the City's [GIS Portal](#). The City also maintains detailed mapping of stormwater infrastructure. This dataset integrates natural flow pathways, such as streams, along with built conveyance features.

The City's current breadth of potential critical areas mapped is largely lacking. No City-wide wetland inventory maps exist. ESA developed a GIS layer containing the eight wetlands inventoried in 2005 that could be used as a basis, though more information has likely become available since then. Establishing an inventory of known wetland areas integrating the King County wetland inventory, the existing GIS layer of 8 wetlands, and wetlands identified within development proposals could support the City with implementation of CAO standards.

The current watercourse mapping was performed in 2005 using a comprehensive drainage study performed by the City in 2004 that used GIS analysis and King County LiDAR imagery. Streams were designated as Type 1, Type 2, or Type 3 per the MICC. Inventories were completed using observations from the public rights of way and other public properties. Watercourses that could not be observed due to lack of property access were considered "not rated," meaning that they could not be field verified. Per the report's recommendation, all "not rated" watercourses were assumed to be a Type III watercourse for planning purposes but should be field verified when evaluating development proposals to ensure accuracy. In several instances where field verification has occurred, no stream has been observed. This has taken time and resources away from applicants and City staff.

An updated stream analysis implementing a combination of remote sensing, updated drainage infrastructure review, and site inspection approaches could be used to update existing watercourse mapping (and update associated typing).

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CITY OF MERCER ISLAND CRITICAL AREAS ORDINANCE (CAO) UPDATE

2018 Best Available Science Report for Geologically Hazardous
Areas and Critical Aquifer Recharge Areas

Planning Commission Review Draft

Prepared for
City of Mercer Island

October 2018



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- Attachment C: Existing Mercer Island Geologic Map (2006), and Geologically Hazardous Areas Inventory Mapping (2009)

ACRONYMS AND ABBREVIATIONS

ARPA	Aquifer Recharge Protection Area
Aspect	Aspect Consulting
BAS	Best Available Science
BMP	Best Management Practice
CAO	Critical Areas Ordinance
CAR	Critical Areas Report
CARA	Critical Aquifer Recharge Area
City	City of Mercer Island
CTED	Washington State Department of Community, Trade and Economic Development
DOGAMI	Oregon Department of Geology and Mineral Industries
DOH	Washington State Department of Health
DPM	Deep Percolation Model
DRASTIC	Depth to water, Recharge, Aquifer media, Soil media, Topography, Impact of Vadose zone media, and hydraulic Conductivity
Ecology	Washington State Department of Ecology
EPA	U.S. Environmental Protection Agency
ESA	Environmental Science Associates
GIS	geographic information system
GMA	Growth Management Act
gpm	gallons per minute
I-90	Interstate 90
LiDAR	Light Detection and Ranging
MICC	Mercer Island City Code
NRCS	Natural Resources Conservation Service
RCW	Revised Code of Washington
SMP	Shoreline Master Program
SPU	Seattle Public Utilities
TOT	Time of Travel
USGS	U.S. Geological Survey
WAC	Washington Administrative Code
WDNR	Washington State Department of Natural Resources
WHPA	Wellhead Protection Area
WRE	Water Resources Explorer

INTRODUCTION

The City of Mercer Island (City) is in the process of updating its Critical Areas Ordinance (CAO) in accordance with the requirements of the Growth Management Act (GMA) (Revised Code of Washington [RCW] 36.70A). The CAO is adopted into the Mercer Island City Code (MICC) within Title 19 (Unified Land Development Code), Chapter 19.07. The GMA requires the use of Best Available Science (BAS) in the development of critical areas policies and regulations. The types of scientific literature and technical information that constitute the term “best available science” are defined in the Washington Administrative Code (WAC) Chapter 365-195-905. This 2018 BAS Report reviews the existing CAO, additions to BAS and regulatory changes since the last update, and recent changes to the Mercer Island setting in the context of updates to BAS since 2005.

Environmental Science Associates (ESA) and Aspect Consulting (Aspect) prepared this report to provide technical information to City staff regarding the efficacy of the City’s current critical areas protection measures, and to provide recommendations for CAO updates that would improve consistency with BAS. This report focuses on the following critical areas: Geologically Hazardous Areas and Critical Aquifer Recharge Areas (CARAs).

In 2005, the City reviewed the BAS and updated its CAO to comply with the GMA. The 2005 update to the CAO was comprehensive for geologically hazardous areas, with BAS documented in the Review of BAS and Recommendations for Critical Areas Regulations Report (City of Mercer Island, 2005). More recently, the City completed a comprehensive update to its Shoreline Master Program (SMP), which the Washington State Department of Ecology (Ecology) approved on March 4, 2015. The SMP incorporates the provisions in the current CAO by reference (MICC 19.07.110.E.9).

Background

The City of Mercer Island is a 6.2-square mile island municipality in King County, Washington. The city includes approximately 14.7 miles of shoreline along Lake Washington (Figure 1). The nearest adjacent municipalities are Seattle to the west and Bellevue and Newcastle to the east. Interstate 90 (I-90) crosses the north portion of the island. Approximately 88 percent of the land on Mercer Island is zoned as single-family residential, 95 percent of which is developed in residential uses. Within the existing pattern of residential development, hillside slopes and ravines extend across private properties especially in the outer portions of the island (generally following the East Mercer Way, West Mercer Way, and North Mercer way corridors).

Mercer Island has 472 acres of park and open space lands, which range from small neighborhood parks to larger recreational areas such as Luther Burbank Park and Aubrey David Park. Approximately 115 acres of natural-forested land are set aside in Pioneer Park, and an additional 150 acres of public open spaces are scattered across the community. Many of these parks and open space areas also include forested ravines and slopes that are characteristic of the Mercer Island landscape.

Since 2000, the City of Mercer Island has experienced relatively low population growth compared to other areas of King County, increasing from 22,699 residents in 2010 according to the U.S. Census to an estimated 24,210 residents in 2017 (an average of approximately 240 new residents per year, or approximately 1 percent annually). The estimated growth rate in the last 7 years has more than tripled relative to the population change between 2000 and 2010, during which time the City added approximately 66 residents annually (2000 and 2010 U.S. Censuses). Even with the higher rate in recent years, the City’s overall population growth between 2000 and 2017 has been 9 percent, compared to approximately 17 percent across all of King County. Between 2006 and 2012, 698 new housing units

were constructed across the city in a mix of single-family and multi-family units, accommodating residential population growth and further reducing the supply of vacant and sub-dividable properties across Mercer Island (City of Mercer Island, 2016).

METHODS

State Guidance for Consideration of BAS

The GMA (RCW 36.70A) requires Washington’s counties and cities to continually review, evaluate, and update comprehensive land use plans and development regulations using BAS, with the intent of identifying, designating, and protecting critical areas. Critical areas include the following elements: wetlands, critical aquifer recharge areas, fish and wildlife habitat conservation areas, frequently flooded areas, and geologically hazardous areas (RCW 36.70A.030).

BAS is defined as scientific information about critical areas, prepared by local, tribal, state, or federal natural resource agencies, or qualified scientific professionals that is consistent with the following criteria:

- Scientific information is produced through a valid scientific process that includes:
 - Peer review,
 - A discussion of methods used to gather information,
 - Logical conclusions,
 - Data analysis,
 - Information used in the appropriate context, and
 - References of literature and other sources of information used.
- Scientific information is obtained through a common source such as:
 - Research,
 - Monitoring,
 - Inventory,
 - Survey,
 - Modeling,
 - Assessment,
 - Synthesis, or
 - Expert opinion.

In the context of critical areas protection, a scientific process is one that produces reliable information useful in understanding the consequences of regulatory decisions, and in developing critical areas policies and regulations that are effective in protecting the functions and values of critical areas.

This report relies on several regulatory guidance and BAS documents pertaining to critical areas. Current state guidance, including examples of effective regulatory language, pertaining to management of critical areas consistent with BAS and other GMA requirements can be found in *A Handbook for Reviewing Critical Areas Regulations* (Commerce, 2018). This guidance is an update of the previous *Critical Areas Assistance Handbook: Protecting Critical Areas Within the Framework of the Washington Growth Management Act* (CTED, 2007). Scientific documents summarizing the BAS specific to each critical area are described in the following sections.

Report Structure and Regulatory Gap Analysis

This report provides documentation of scientific literature and regulatory guidance for the management of Mercer Island’s geologically hazardous areas and critical aquifer recharge areas. The focus is on relevant information and guidance updates since the City’s 2005 comprehensive CAO review. For additional detailed inventory of soils and geologically hazardous areas across Mercer Island, the 2005 Review of BAS & Recommendations for Critical Areas Regulations is provided as Attachment B.

For geologically hazardous areas, this report provides a summary and references to BAS updates and a summary of the current CAO for the purpose of identifying areas of inconsistency with agency guidance and BAS. We also focused on specific areas of BAS consistency for geologically hazardous areas during an independent assessment of recent BAS.

To provide a detailed assessment across all sections focused on geologically hazardous areas, Aspect Consulting prepared a Gap Analysis Matrix to identify regulatory gaps and document consistency between CAO provisions and GMA regulations, relevant agency guidance, and BAS published since 2005. The Gap Analysis Matrix (Attachment A) provides an assessment of general consistency and the corresponding rationale and source for each gap identified. In addition to identifying provisions inconsistent with state law or recent science, the review identifies several areas where the protection of critical areas on Mercer Island could be improved by adding, removing, clarifying, and or rearranging sections and subsections of the code to make them clearer and easier to implement. We categorized our assessment as follows:

- **Gap or Missing Protection.** A new code provision should be added to ensure compliance with GMA and BAS.
- **Consistency with BAS.** The code provision either does or does not, in our opinion, meet BAS or state guidance. The existing provision would result in detrimental impacts to critical areas and their functions and values.
- **Clarity/ User Friendliness.** The code provision is difficult to administer due to clarity, readability, or understandability.
- **Internal Consistency.** The code provision is redundant (included in multiple sections) or is located in an inappropriate section.

The Gap Analysis Matrix does not cover CARA standards, as the current CAO does not include this type of critical area. Alternatively, Aspect will provide recommended CARA standards and CARA inventory mapping as part of the CAO Update effort.

Consideration of Neighboring Jurisdiction Approaches

In addition to BAS, the ESA and the Aspect team reviewed recently updated critical area codes from neighboring jurisdictions to support City staff, Planning Commission, and City Council in considering key update issues. We did not independently assess BAS documentation completed in support of standards adopted by neighboring jurisdictions. For each key update issue, review of BAS consistency is provided, followed by a summary of neighboring jurisdiction approaches, and Aspect’s recommended for update options for City consideration. The recommendations also reflect our professional judgment and experience assisting numerous cities and counties with code interpretation and administration.

Below is a list of CAOs from neighboring jurisdictions that we reviewed. We focused on nearby Lake Washington and Puget Sound waterfront communities that have recently completed CAO updates.

Although some of these jurisdictions are more developed than others, they all include significant areas of largely established residential use patterns near lake or marine shorelines. We picked these jurisdictions based on similarities to Mercer Island, including landscape patterns, community, presence of critical areas, geology, and land use. We believe that this combination will present a range of critical areas management strategies that will be useful to consider for Mercer Island’s update.

- Bainbridge Island ([City of Bainbridge CAO](#), most recently updated in 2018).
- Medina ([CAO](#), most recently updated in 2015).
- Edmonds ([CAO](#), most recently updated in 2016).
- Lake Forest Park ([Lake Forest Park CAO](#), most recently updated in 2017).
- Kirkland ([City of Kirkland CAO](#), most recently updated in 2017).

We have also reviewed the City of Bellevue CAO and City of Seattle CAO to provide comparison regarding fault rupture hazards.

GEOLOGICALLY HAZARDOUS AREAS

Geologically hazardous areas are specifically identified as a critical area by GMA (WAC 365-190-120). Three geologic hazard areas are located in Mercer Island and defined by MICC Chapter 19.16 (the definitions chapter of the Unified Development Code): (1) landslide hazard areas, (2) erosion hazard areas, and (3) seismic hazard areas¹. The current CAO provides standards for protection of safety of citizens from geologically hazardous areas in MICC 19.07.060, which includes standards for identification, report requirements for geologic hazard areas, and development and mitigation standards for geologically hazardous areas.

Overview of Geologically Hazardous Areas on Mercer Island

The City of Mercer Island completed a 2005 Review of BAS and Recommendations for Critical Areas Regulations Report (City of Mercer Island, 2005), which was focused on “Geologically Hazardous Areas and Wildlife Habitat.” The 2005 BAS Report section on geologically hazardous areas was prepared with support from Lorilla Engineering, Inc. The 2005 BAS Report included a detailed inventory of soil conditions and geologic hazards across the island, highlighting the extent of known and/or potential erosion and landslide hazard areas both extending across approximately 50 percent of Mercer Island (by area). The large majority of these same areas are also designated as seismic hazard areas.

In addition to the 2005 BAS Report, the City contracted to complete inventory mapping and data for geologic conditions prepared in 2006 by K. Troost and A. Wisner (Geological Map of Mercer Island; Attachment C and [available on the City Website](#)). Using this mapping, K. Troost and A. Wisner additionally supported the City in preparing inventory maps for specific geologic hazards in 2009. These inventory maps include:

- Erosion Hazard Assessment – Attachment C and [available on the City Website](#).
- Landslide Hazard Assessment – Attachment C and [available on the City Website](#).
- Seismic Hazard Assessment – Attachment C and [available on the City Website](#).

¹ The current definition included in MICC 19.16 - *Geologic Hazard Areas: Areas susceptible to erosion, sliding, earthquake, or other geological events based on a combination of slope (gradient or aspect), soils, geologic material, hydrology, vegetation, or alterations, including landslide hazard areas, erosion hazard areas, and seismic hazard areas.*

These data are available on the City’s [GIS Portal](#).

Landslide hazard areas across Mercer Island are associated with several site characteristics, including steepness of slope and underlying geologic structure. Areas with these characteristics are well inventoried in the 2005 BAS Report (Attachment B) and 2009 mapping by Troost and Wisher (Attachment C). Inventory mapping designates 51% of the Mercer Island land area as ‘known or suspected’ landslide hazard area (affecting approximately 66% of existing parcels), including the large majority of the Lake Washington shoreline and slopes and ravines extending inland. The extent of landslide hazard areas across the Island increases the importance of effective hazard management standards, as many properties are affected.

The 2005 BAS report discusses approaches for managing risk from landslide hazard areas (as well as other geological hazards), and notes that risk can frequently be significantly mitigated through engineering, design, and/or modified construction and development techniques. That said, while some landslide hazard risk may be reduced through engineered mitigation measures, it is also important to emphasize that where possible avoidance is the best approach, with avoidance focused on locating structures (especially habitable structures) outside of identified landslide hazard areas. When mitigation alternatives cannot viably reduce risks to human health and safety to acceptable levels, modification and building in landslide hazard areas should not be permitted.

Erosion hazard areas are also extensive across Mercer Island, with soils identified with “severe” and “very severe” erosion hazard and other designated characteristics inventoried across 45% of land area (affecting approximately 64% of existing parcels). Compared to landslide hazard areas, where soil and rock movement occurs rapidly in mass events, erosion is a slow process. When not appropriately vegetated or otherwise stabilized, surface soils and rock become susceptible to transport from rain, runoff, and wind. Erosion hazard areas do not present acute human health and safety concerns, and as such are generally readily mitigated through construction best management practices (BMPs), engineered measures focused on stormwater, soil and vegetation retention, and appropriate landscaping.

Seismic hazard areas are those areas subject to severe risk of damage as a result of earthquake induced ground shaking, slope failure, settlement, soil liquefaction or surface faulting. Many of the steep slopes that are also designed as landslide hazard areas are included in the existing seismic hazard area inventory (Attachment C); for these areas, there is increased potential for slope failure and landslides to occur during an earthquake. Seismic hazard areas are inventoried across 73% of the Mercer Island land area, and in addition to steep slopes also include relatively level areas in central portions of the city. In these areas, mapped surface soil units are generally more saturated with groundwater and prone to liquefaction during earthquakes, with increased risk of structure foundations and footings to be compromised (unless appropriately engineered). Seismic hazard areas present significant risk to human health and safety, with mitigation primarily provided through engineering, design, and/or modified construction and building techniques. Where overlapping with landslide hazard areas where mitigation cannot reduce risk to acceptable levels, avoidance may also be appropriate.

Updates to Scientific Literature

This section summarizes the limited new scientific literature and regional policy concerning geologically hazardous areas that have emerged in the last 13 years, provides an assessment of current CAO mapping of geologically hazardous areas and standards, and summarizes our recommendations for updates to ensure consistency with BAS and risk management policies.

The City’s previous documentation of BAS relevant to geologically hazardous areas generally remains valid and consistent with (limited) subsequent updates to relevant BAS and guidance for management of

erosion, landslide, and seismic hazard areas. Further, geologic mapping and geologically hazardous areas maps completed by Troost and Wisher (2006 and 2009) provide excellent inventories and remain generally current to BAS.

Landslide Hazard Areas

Landslide hazard assessments from 2009 completed by Troost and Wisher included integration of LiDAR (light detection and ranging) imagery, which provides a high resolution means of identifying potential landslide hazard areas (steep slopes potentially subject to landslide). The Troost and Wisher (2009) Landslide Hazard Mapping is still considered relevant science for many factors affecting slope hazards including geologic units, the presence of groundwater seepage, and unfavorable geologic contacts that are landslide prone. Building on the Troost and Wisher hazards data is a recent new study of landslides hazards on Mercer Island completed by W. Grimm as part of his Earth and Space Sciences Applied Geosciences Master of Science degree work at the University of Washington (working under Troost). Grimm, now working for Aspect, provided this study and an overview of opportunities to improve landslide hazard mapping.

Recent LiDAR data show that Mercer Island has several historic (likely older than 150 years old), as well as abundant recent landslides. In 2009, Troost and Wisher used field mapping, geomorphic analysis, a geotechnical database, and geographic information system (GIS) to create a landslide inventory and hazard map of Mercer Island. The new Grimm (2018) study uses BAS-based delineation protocols adopted by the State of Oregon Department of Geology and Mineral Industries (DOGAMI), and landslide inventory methods slightly modified from DOGAMI by the Washington Department of Natural Resources (WDNR) to map landslide hazards on Mercer Island using GIS, geotechnical parameters, and field mapping.

The 2018 Grimm study and 2009 mapping by Troost and Wisher provide good correlation between areas that are modeled as “susceptible” to landslides and the locations of existing landslides on Mercer Island. The 2018 study includes improvements on landslide area mapping and hazard delineation including the use of newer (2016) high-resolution LiDAR topographic data and incorporation of soil geotechnical parameters to assess susceptibility to landslides. The Grimm study improvements include separate maps of shallow and deep landslide hazard areas, and identification of moderate and high hazard areas. This delineation of shallow vs. deep, and moderate vs. high hazard area will allow for more focused evaluation of areas with need for site-specific studies. Results of the Grimm study will more closely predict areas of landslides (95 percent of documented past slides fall within the moderate and high hazards areas predicted by the Grimm study, 87 percent fall within the hazard area defined by Troost and Wisher, and only 57 percent of slides occurred within the hazard zone that is based on the criteria of the current MICC). Based on the ability of the Grimm study to more accurately predict areas of elevated landslide hazards, it should be adopted as the new BAS landslide hazard area map for Mercer Island.

Erosion Hazard Areas

Troost and Wisher (2009) delineated erosion hazard areas using current BAS. The code indicates that the erosion hazard area is based on Natural Resources Conservation Service (NRCS) “severe” and “very severe” erosion hazard areas, but the Troost and Wisher (2009) data report that they used NRCS “severe” and “very severe” soil areas plus sandy geologic map units and LiDAR bases slope which combined was more accurate and predictive.

Seismic Hazard Areas

Numerous neotectonics studies associated with the seismic hazards of the Seattle fault have been completed since those detailed in the 2005 BAS Report, and all of Mercer Island lies within the Seattle Fault zone. Although none of these studies have identified “active” faults (meaning the fault strand has

potential to rupture again and is considered a hazard) on Mercer Island, this fault system has been shown elsewhere to be active, and advancements in the science suggest that evidence of Holocene fault ruptures will at some point be identified and mapped on Mercer Island.

The U.S. Geological Survey (USGS, 2018) has developed a database of active faults that is frequently updated with newly mapped faults. This resource shows faults ranging from regional approximations of fault trends, to closely located fault rupture traces based on local detailed studies. Geologic interpretation is therefore required to evaluate the relevance of mapped faults and determine whether they should be used to evaluate site-specific hazards.

Current Geologically Hazardous Areas Provisions and Key Update Issues

The geologically hazardous areas section of the City’s CAO needs to be updated in a few key areas to improve its consistency with BAS and current agency guidelines. A summary of key issues and recommendations for updates to the geologically hazardous areas section are provided below.

Key Issue #1 for Geologically Hazardous Areas – Landslide Hazard Area Development Limits, including Standard Setback / Buffer

Current Code and BAS Consistency

MICC 19.07.060 requires a geotechnical review for any development within geologically hazardous areas, but does not appear to have a specific setback requirement for development near landslide hazard areas. The Landslide Hazard Map of Mercer Island (Troost and Wisher, 2009) includes a 25- to 50-foot buffer beyond mapped steep slopes or landslides, so Mercer Island CAO code pertaining to landslide hazard areas does not appear to be consistent with the Troost and Wisher 2009 mapping. The Grimm 2018 study uses newer methods that more accurately identify elevated hazard areas that extend beyond existing landslide areas, so they include buffered hazard areas. Most regional municipal codes include some minimum setbacks. New landslides often result in expansion of the area of older slides, so the current code is not protective against new or expanding landslides.

Based on the new BAS, we recommend that the code be updated to include specification of a standard horizontal setbacks from the top and bottom of those steep slopes identified as landslide hazard areas as follows:

- 25 horizontal feet for slopes less than 50 feet high and all directions around shallow landslide hazard areas, and
- 75 feet for the top and bottom of slopes over 50 feet high, and all directions around deep-seated landslide hazard areas.

Setback reduction should be based on site-specific analysis by a qualified geotechnical or geological professional, with a minimum no-build setback for habitable structures of 10 feet in shallow landslide hazard areas and 50 feet in deep-seated landslide hazard areas.

For non-habitable structures, such as driveways, stairways, and similar property improvements, additional allowances for development within landslide hazard areas and standard setbacks are appropriate, provided that engineering is provided by a qualified professional. The City may also consider limited allowances for expansion of existing development occurring within landslide hazard areas and associated buffers.

Alternatively, the City could maintain landslide hazard standards similar to those currently provided, allowing for habitable structures and other development activities within identified landslide hazard areas and associated buffers where hazard risk to the property and adjacent properties is eliminated or mitigated

such that the site is determined to be safe. Currently, MICC 19.07.060 (D)2 provides this flexibility, with the City relying on geotechnical evaluation and resultant project engineering, verified through peer review, to ensure that proposals are consistent with criteria (personal communication with D. Cole, City Building Official, October 9, 2018). The 2005 BAS Report states that “there are actions that can reduce the rate of future slope failures and improve the stability of the slope with respect to shallow failures and surface erosion.” However, this same section continues “Deep-seated failures are more difficult to control” (page 12 of City of Mercer Island, 2005).

For any allowed development activities within identified landslide hazard areas, and especially for allowances providing opportunity for new and/or expanded habitable structures, we recommend that existing standards be augmented to further clarify geotechnical assessment expectations and risk reduction requirements. Updated criteria should clearly indicate avoidance as the preferred approach for reducing hazard risk, with engineered mitigation approaches only acceptable when avoidance is shown to be infeasible. Updated criteria could ensure adequate consideration of the type of landslide hazard (shallow vs. deep-seated), and/or could implement variable *factor of safety* requirements for any development activity proposed within a landslide hazard area or buffer, with the specific factor of safety tied to the type of development proposed (habitable structures; high-risk nonhabitable structures such as decks, patios, or driveways; or low-risk nonhabitable structures such as storage sheds, stairs, or pathways).

Factors of safety is a term describing the load carrying capability of a system beyond the expected or actual loads. Essentially, the factor of safety is how much stronger the system is than it needs to be for an intended load.

Except for permitted development, removal of existing vegetation from a landslide hazard area and standard setback should generally be prohibited. We recommend that minor vegetation management activities within landslide hazard areas and associated setbacks, that does not involve grading (such as the removal of invasive vegetation and replanting work) be allowed, provided it does not adversely impact slope stability or increase mass wasting hazards.

Neighboring Jurisdiction Approaches

The current approach on Mercer Island is not consistent with most other municipalities, which have some requirements for setback and/or buffers from the steep slope that are more protective of life safety and the environment, as summarized in the following table.

Landslide Hazard Area – Standard Setback / Buffer Width	Erosion Hazard Area – Standard Setback / Buffer Width (if any)	Notes
Bainbridge Island (CAO most recently updated in 2018)		
Varies based on use or activity: <ul style="list-style-type: none"> Habitable structures and high-risk nonhabitable structures – At top of slope buffer is the height of slope up to 75 feet; at the bottom of slope buffer is height of slope. Lower-risk nonhabitable structures or other structure buffer is height of slope up to 75 feet. 	No specific standard setback for erosion hazards areas, but the proposed activity cannot create a net increase in geological instability on- or off-site.	May also use a reduced setback as determined by a geological hazards assessment. The assessment must be conducted by a licensed geologist/geotechnical engineer and must be reviewed by a third-party geologist/geotechnical engineer. However, the absolute

Landslide Hazard Area – Standard Setback / Buffer Width	Erosion Hazard Area – Standard Setback / Buffer Width (if any)	Notes
<ul style="list-style-type: none"> • Tree / vegetation activities (pruning, etc.) – 25 feet from top of slope. 		minimum setback for habitable structures is 20 feet.
City of Medina (CAO most recently updated in 2015)		
<p>Recommendations for the minimum no-disturbance buffer and minimum building setback from any geologic hazard are based on a geotechnical analysis. The director may assign buffer and building setbacks based on this information.</p> <p>In addition, 50-foot buffer (which may be reduced to 10 feet when proven to be adequate by a qualified professional) is specified for landslide hazards that include steep slopes (40% or steeper and with a vertical relief of 10 or more feet)</p>	Same as landslide hazard areas.	<p>The size of the buffer shall be determined by the director to eliminate or minimize the risk of property damage, death, or injury resulting from erosion and landslides caused in whole or part by the development, based on review of a Critical Areas Report (CAR).</p> <p>Development may be allowed within landslide and erosion hazard areas, and any associated buffer, when maintaining long-term slope stability and meeting other criteria.</p> <p>Except for permitted development, removal of vegetation from an erosion or landslide hazard area or buffer is prohibited.</p>
City of Edmonds (CAO most recently updated in 2016)		
Buffer and setback requirements are determined by the director consistent with recommendations provided in the geotechnical report.	Same as landslide hazard areas.	Unless otherwise provided or as part of an approved alteration, removal of vegetation from an erosion or landslide hazard area or related buffer is prohibited.
City of Lake Forest Park (CAO most recently updated in 2017)		
50-foot standard buffer, which can be reduced to a minimum of 25 feet if consistent with recommendations provided in the geotechnical report.	None.	Vegetated buffer required unless permitted by critical areas permit.
City of Kirkland (CAO most recently updated in 2017)		
Buffer and setback requirements are determined by the director consistent with recommendations provided in the geotechnical report.	Same as landslide hazard areas.	

Key Issue #2 for Geologically Hazardous Areas – Exclusion for Artificially Created Slopes and Rockeries

Current Code and BAS Consistency

There is an exclusion in “steep slopes” for artificially created slopes and rockeries. Not all existing artificial slopes were engineered or permitted, and many non-engineered slopes will not meet modern code requirements for static or seismic stability. The Mercer Island code should be amended to exclude only “engineered slopes and rockeries.”

Neighboring Jurisdiction Approaches

- The City of Seattle excludes “engineered” slopes.
- The City of Bainbridge Island and City of Medina codes exclude only competent or consolidated rock slopes.
- The City of Edmonds excludes only “rockeries that have been engineered and approved by the engineer as having been built according to the engineered design,” and includes all other modified slopes.
- The other jurisdictions have no exclusions.

Key Issue #3 for Geologically Hazardous Areas – Erosion Hazard Areas Designation and Development Standards

Current Code and BAS Consistency

Criteria for the designation of erosion hazard areas included in MICC 19.07 should be revised to reference the Troost and Wisner (2009) criteria, including slopes of 15 percent and greater combined with the presence of sandy surface soil units, and/or within the NRCS “severe” and “very severe” erosion hazards areas.

Currently, MICC 19.07 provides consistent standards for protection of all geologically hazardous areas. This approach should be updated to differentiate between the variable risk associated with these areas, and the mitigation measures that are appropriate for each. Key Issue #1 details recommended updates for landslide hazard areas, and Key Issue #4 details recommended updates for seismic hazard areas. For erosion hazard areas, development standards should be updated to ensure that appropriate application of MICC Chapter 15.09 (Storm Water Management Program), including use of BMPs to minimize potential for erosion during construction and appropriate drainage for the developed site. The code should include a standard that any new development or activity occurring within an erosion hazard area cannot create a net increase in geological instability on- or off- site. Currently, MICC 19.07.060.D provides seasonal limitations on site construction, which are appropriate for land clearing and grading activities within erosion hazard areas. Applying a development setback or additional limits on development within erosion hazard areas are not necessary.

Neighboring Jurisdiction Approaches

Neighboring jurisdiction approaches for erosion hazard areas are summarized in the table above (under Key Issue #1). Several neighboring jurisdictions treat erosion hazard areas similarly to landslide hazard areas. That said, Bainbridge Island and Kirkland have updated their respective CAOs to primarily rely on stormwater management standards and other development standards to manage identified erosion hazard areas.

Key Issue #4 for Geologically Hazardous Areas – Seismic Hazard Areas Updates

Current Code and BAS Consistency

Currently, MICC 19.07.060 does not provide specific standards for development within seismic hazard areas. To provide consistency with BAS, the code should be updated to require study by a qualified

professional to evaluate the magnitude of seismically induced settlement that could occur during a seismic event for any project involving development within a seismic hazard area. Evaluation should be provided consistent with the International Building Code requirements for seismic engineering and design, either demonstrating that risk associated with the proposed development is within acceptable limits, or that appropriate construction methods are provided to mitigate the risk of seismic settlement such that there will be no significant impacts to life, health, safety and property.

MICC 19.07.060 should include a minimum setback from Holocene fault rupture traces; although none have been mapped on Mercer Island, faults will likely be identified on the island at some time in the near future. Regions that regulate or advise fault rupture setbacks generally recommend a minimum 50-foot setback and/or site-specific studies to assess hazards for reduced setback for some hazard settings, or other mitigation of hazards.

We recommend a change in the City code to include a recommendation for applicants to check for active faults as identified by the U.S. Geological Survey in its Active Faults Database. If Holocene fault rupture surfaces are identified through this source or other BAS, or by site-evaluations, a setback of 50 feet should be required, or other mitigation strategies implemented to meet design standards for the protection of life safety.

Neighboring Jurisdiction Approaches

- The City of Bellevue does not have defined seismic hazards or setbacks for faults.
- The City of Seattle includes seismic hazards as a geologic hazard, although only broadly defines them as liquefaction-prone areas and areas mapped as the Seattle Fault Zone (Seattle Municipal Code, Section 25.09.012.A.6.b). No fault rupture setback is defined.
- The City of Bainbridge Island defines fault rupture hazard areas within the definition of Seismic Hazards (Bainbridge Island Municipal Code, Section 16.20.190.71) and includes a minimum 50-foot setback from surface-deforming faults. Where fault hazards are located in a development area, analysis and mitigation are required to meet geologic hazards development standards.
- Medina broadly includes Seismic Hazard Areas in the Geologically Hazardous Areas section (Medina Municipal Code, Chapter 20.50.200.B.3), but has no specifics regarding setbacks from faults, although they do require faults within 200 feet of the project area to be shown on the site map, and that general Geologically Hazardous Areas General Development Standards be followed (20.50.200.I.10).

CRITICAL AQUIFER RECHARGE AREAS

Critical **aquifer** recharge areas (CARAs) are specifically identified for protection as a critical area by GMA (WAC 365-190-100). CARAs are those areas, as defined by the GMA, that have a critical recharging effect on aquifers used for potable water. Protection of CARAs is necessary to maintain both the quality and quantity of water withdrawn through drinking wells, and emerging from hillside seeps. The current Mercer Island CAO does not identify or address CARAs as critical areas, despite the fact that CARAs do occur on the island.

Aquifers are geologic formations that are permeable to subsurface water, and that are capable of yielding a significant

Relevant Scientific Literature and Guidance

The two basic components of a CARA ordinance are to define: (1) the mapped extent of critical aquifer recharge areas, and 2) development standards for land use within those areas. Critical aquifer recharge areas are typically defined by the following:

- **Susceptibility** of the aquifer to surface spills.
- Potential to impact known **sensitive or high-value groundwater sources**, such as wellhead protection areas.

Defining Susceptibility

Susceptibility may be determined based on soil types (for example, surface soils with high infiltration rates make underlying aquifers more susceptible to land use activities); surficial geologic conditions; depth to groundwater; topography; and other factors. As described further below, for purposes of Mercer Island, the initial approach suggested by Aspect is to develop a susceptibility map based on existing surficial soils, geologic mapping, and new mapping of depth to groundwater.

Sensitive/High Value Sources

CARA ordinances typically provide more protection to groundwater areas that are more sensitive. These include wellhead protection areas, sole source aquifers, and areas with higher concentrations of wells. The only identified sensitive sources on Mercer Island is the City's Emergency Well.

Although the City's source of drinking water (provided by Seattle Public Utilities [SPU] via two pipelines from Bellevue) is located in eastern King County in the headwaters of the Cedar River watershed, the City maintains and tests water quality at an Emergency Well. In the early 2000s, the need for an emergency alternate water supply source was determined to be substantial and unique because of the City's island characteristic and the absence of emergency connections with other systems. An Emergency Water Supply Feasibility Analysis (Phase I) study was completed in 2005 (Roth Hill et al., 2005). This study investigated the viability of an emergency groundwater supply system to support City residents during an interruption of primary SPU supply, and recommended two potential sites for locating this Emergency Well (or locating two wells, if deemed warranted). After drilling a test well in 2007 and coordinating with Ecology, the City chose Rotary Park for the location of the Emergency Well, with construction completed in 2010 (City of Mercer Island, 2018 – [City webpage link](#)).

In 2009, Robinson Noble supported the City with completion of a Wellhead Protection Plan for the Emergency Well, which provided an assessment of where the water produced (or that would be produced in the face of an emergency) by the City's Emergency Well comes from. Defined as a "wellhead protection area" (WHPA), the study identified those zones that contribute water to the well location in a given period of time. Typically, a WHPA assessment is provided for time-of-travel periods of 1/2, 1, 5,

and 10 years. Each of these WHPAs was defined as a fixed-radius zone surrounding the well (Robinson Noble, 2009). The Wellhead Protection Plan also assessed specific uses and federal and state databases to complete a contamination source inventory within the largest WHPA; this effort identified existing and potential contamination hazards to groundwater supplies (Robinson Noble, 2009).

The Emergency Well has a WHPA 10-year time of travel boundary that extends in a radius of 1,250 feet around the well location. Although it is not regularly used as a source of domestic water supply, the well is maintained to ensure ongoing potable water even in the face of a major disaster (e.g., earthquake or otherwise) that disrupts the two SPU water main pipelines that reach Mercer Island via crossings from Bellevue.

Neighboring Jurisdiction Approaches

Review of neighboring and nearby jurisdictions indicated a range of approaches to defining and managing CARAs. Results of the review are summarized in Table 2.

Peer Jurisdictions

The City of Bainbridge has defined the entire island as a critical aquifer recharge area. The island was designated as a sole source aquifer in 2013. New residential development activities are generally required to develop an Aquifer Recharge Protection Area (ARPA) to maintain 100 percent of the predevelopment aquifer recharge, with a general requirement that the ARPA maintain 65 percent of existing vegetation. A Critical Area Permit and hydrogeologic assessment are required for activities with potential sources of groundwater contamination. Typical of most CARA ordinances, land uses with potential for significant adverse impacts (for example, landfills and hazardous waste facilities) are prohibited within the CARA.

The City of Lake Forest Park has defined CARAs as those areas within the WHPA 10-year time of travel to the well for Group A water system² public supply wells, as well as those areas identified through susceptibility mapping. Development within the CARA is limited to uses allowed under single-family residential zoning. Other activities require a hydrogeologic assessment.

The Cities of Medina, Edmonds, and Kirkland do not have specific provisions for CARA in their CAOs.

King County

King County has developed an approach to CARA that defines categories for land use management. Susceptibility of aquifers to impact from overlying land uses is determined by hydrogeologic conditions. Sensitive or “high-value” areas such as WHPAs and sole source aquifers are also included in the CARA delineation. Three categories are classified for land management purposes. Category I is the highest risk and includes highly susceptible soils that overlie sole source aquifers (e.g., Vashon Island) or that are within WHPAs. Category I also includes all areas within a Group A WHPA 1-year time of travel to the well. Category II includes areas of lower risk such as areas of medium susceptibility overlying sole source aquifers or WHPAs, and highly susceptible areas not overlying sole source aquifers or WHPAs. Similar to Bainbridge Island and other CARA ordinances in the region, specific activities with a high potential for significant impacts to groundwater quality are excluded. Exceptions may be granted through a demonstration report.

² The Washington Department of Health (DOH) defines a Group A water system as having 15 or more service connections or having the ability to serve 25 or more people, 60 or more days a year.

Table 2. Neighboring Jurisdiction Approaches to Regulating CARAs

Recharge/Sensitive Areas Delineation	Recharge Area Classification Strategy	Development Requirements
City of Bainbridge Island (Bainbridge Island Municipal Code, Chapter 16.20.100)		
Entire Island	Based on criteria listed in WAC 365-190-100. Entire island functions as recharge area.	Critical area permit generally required for non-residential activities with potential to impact groundwater. Prohibits specific activities due to potential impact. 2 acres of denser residential zoning shall maintain 100% annual average recharge through designation as an ARPA. ARPA general requirement is to maintain 65% of site area as existing native vegetation.
City of Medina		
No CARA ordinance		
City of Edmonds (Edmonds City Code and Community Development Code, Chapter 23.60)		
No areas meeting criteria for CARAs exist in vicinity of the City of Edmonds. No specific provisions for CARA provided in CAO.		
City of Lake Forest Park (Lake Forest Park Municipal Code, Chapter 16.16.410-440)		
Areas within 10-year time of travel (TOT) for Group A public supply wells, and additional areas defined through susceptibility mapping.	WHPA 10-year TOT and susceptibility mapping.	Development limited to uses allowed under single-family residential zoning. Other activities (regulated activities) require hydrogeologic assessment.
City of Kirkland		
No CARAs have not been documented and are not included in CAO (The Watershed Company, 2016).		
King County (King County Code, Section 21A.24.311-314)		
Recharge areas mapped as highly susceptible to contamination based on hydrogeology. Incorporates high-value areas such as WHPA and sole source aquifers.	<p>Category I: highly susceptible areas overlying sole source aquifer or WHPA.</p> <p>Areas within WHPA 1-year TOT for Group A.</p> <p>Category II: medium susceptible areas overlying sole source aquifer or WHPA.</p> <p>Highly susceptible and not overlying sole source or WHPA.</p> <p>Category III: low susceptibility areas on marine islands.</p>	<p>Restricts specific development activities with potential to contaminate Category I, II, and III areas.</p> <p>Exceptions to restrictions may be approved through critical areas report demonstration.</p> <p>New residential development incorporate best management practices (BMPs) to maximize stormwater infiltration</p>

Summary of Groundwater Use on Mercer Island

Groundwater use on Mercer Island is fairly limited. Groundwater use was identified from the following sources:

- Listing of lots served by groundwater provided by the City.
- Washington State Department of Health (DOH) database for wellhead protection areas.
- DOH database for groundwater-sourced water systems.
- Ecology’s Water Resources Explorer (WRE) database (for permitted and certificated groundwater rights).
- Ecology’s well log database.

The locations of active water supply wells (domestic and irrigation) from the above search efforts are presented on Figure 2. Other active wells may be present on Mercer Island. Well locations were not field checked and rely on the accuracy of the data source (i.e., the parcel for City-identified wells and generally ¼, ¼ Section location for other sources). The City’s Emergency Well was the only WHPA identified. The DOH database for groundwater-sourced water supply systems listed the Shore Ridge Water Cooperative and the City’s Emergency Well. The City’s listing of lots served by wells indicated that 10 lots are served by individual wells. A search of the WRE database for groundwater rights on Mercer Island identified 10 certificates, one permit (held by the City), and approximately 50 claims. The sum of all certificated quantities is 1,285 gallons per minute (gpm) and 1,030 acre-feet per year, but the extent of water right claims was not evaluated, and many claims have likely been vacated and/or absorbed within the City’s water service area. With the exception of one irrigation well, no wells were identified in Ecology’s well log database that were not identified in other sources (several logs were found in Ecology’s database that the City indicated as no longer in use). Liesch et al. (1963) identified several wells on Mercer Island, but these wells are assumed to be no longer in use unless identified by the above process. In some cases, conflicting information on points of withdrawal were found between various sources. These discrepancies were resolved in the following hierarchy: specific addresses provided by the City, WRE database, and DOH database.

Development of CARA Protection Areas

A common approach to developing CARA is to categorize areas by combined risk of susceptibility and sensitive source criteria to define Category I and II CARA protection areas, similar to the process adopted by King County. For example, a Category I CARA may be an area where permeable soils such as Advance Glacial Outwash are exposed at ground surface with no intervening **aquitard** between ground surface and a relatively shallow water table (high susceptibility) and also within a 10-year time of travel in a WHPA. A Category II example may be an area with the same hydrogeologic conditions (Advance Outwash at surface) but that is outside the WHPA.

An **aquitard** is a zone within the Earth that restricts the flow of groundwater from one aquifer to another.

Critical Aquifer Recharge Area Guidance Document

Ecology has published guidance to assist local jurisdictions with developing protection measures in their CAO that includes an eight-step process for identifying, characterizing, and managing groundwater withdrawals and recharge impacts (Ecology, 2005). The guidance also includes BAS sources for protecting CARAs, and is considered current BAS for designating critical aquifer recharge areas and recommending strategies for their protection. This guidance document helps local jurisdictions and the public understand what is required for the protection of local groundwater resources under the GMA.

The eight-step process outlined by Ecology (2005) provides guidance for identifying where groundwater resources are important to the community (Steps 1–5) and how to protect them (Steps 6–8), as follows:

- **Step One:** Identify where groundwater resources are located.
- **Step Two:** Analyze the susceptibility of the natural setting where groundwater occurs.
- **Step Three:** Inventory existing potential sources of groundwater contamination.
- **Step Four:** Classify the relative vulnerability of groundwater to contamination events.
- **Step Five:** Designate areas that are most at risk to contamination events.
- **Step Six:** Protect by minimizing activities and conditions that pose contamination risks.
- **Step Seven:** Ensure that contamination prevention plans and BMPs are followed.
- **Step Eight:** Manage groundwater withdrawals and recharge.

An overview of hydrogeologic conditions is presented below, followed by a discussion of approaches to developing a CARA following Ecology’s (2005) guidance. Specific recommendations for CARA development are presented at the end of this section.

Hydrogeologic Considerations for Mercer Island CARA

Step 1 of Ecology’s guidance is to identify the locations of groundwater resources. BAS as it pertains to CARAs includes documenting the occurrence and movement of groundwater (Ecology, 2005). Occurrence and movement of groundwater are characterized by the *hydrostratigraphic units* associated with underlying geologic conditions.

A hydrostratigraphic unit is defined as a geologic unit or group of geologic units with similar hydraulic characteristics.

Hydrostratigraphic units may be broadly divided into:

- aquifers and
- aquitards (a low permeability unit that retards groundwater flow). A surficial geologic map is provided on Figure 3.

An overview of the five principal hydrostratigraphic units identified by Roth Hill et al. (2005) or Liesch et al. (1963) underlying Mercer Island are presented below, followed by a summary of groundwater flow.

Recessional Outwash (Qvr) is mapped on the interior portions of Mercer Island. Liesch et al. (1963) reports one well that was completed in the Qvr sediments at a depth of 60 feet with a capacity of 600 gpm. The Qvr was not considered a major hydrostratigraphic unit by Roth Hill (2005), and it may, therefore, have limited extent on Mercer Island.

Vashon Till (Qvt) – typically acts as an aquitard, retarding groundwater flow. Aquifers underlying till mantled areas are generally less susceptible to impacts from land use activities.

Vashon Advance Outwash (Qva) – where saturated, this unit serves as a shallow aquifer likely providing water to most shallow wells on the island. Precipitation can directly recharge the Qva aquifer where it is exposed at land surface. While some recharge from this unit seeps vertically into underlying units, the probable predominant discharge from this unit is through perennial springs.

Lawton Clay (Qv1c)/Pre-Fraser Fine-grained Deposits – low permeability deposits that act as an aquitard, retarding the downward vertical flow of groundwater.

Pre-Fraser Deposits – these older, undifferentiated deposits were deposited in a range of depositional environments and, therefore, include both aquitards and aquifers. The City’s Emergency Well is completed at a depth of 505 to 540 feet in Pre-Fraser deposits. Where coarse-grained deposits of this unit are exposed at land surface, direct recharge may occur, resulting in high susceptibility of contamination for any contaminants released.

Recharge to Mercer Island’s aquifers occurs from direct precipitation on the land surface and, for deeper wells, from a possible hydraulic connection with Lake Washington (Roth Hill, 2005). Precipitation may directly infiltrate into the Qva aquifer and provide recharge, while precipitation upon lower permeability glacial till is more likely to run off but may become recharge where topography and engineered stormwater systems permit. The predominant groundwater flow path is likely from upland areas toward the shorelines where discharge to Lake Washington occurs via springs and seeps. The majority of discharge from the shallow Qva aquifer may occur to the island’s many perennial springs and streams. Groundwater also moves vertically downward with seepage into deeper soil units (Roth Hill, 2005).

Approach to Developing Critical Aquifer Recharge Areas Provisions

An entirely new CARA section is needed for the City’s CAO, with standards provided consistent with BAS and current agency guidelines. The recommended approach consistent with BAS is to:

- Develop an aquifer **susceptibility map**.
- Identify **sensitive/high value areas**.
- **Categorize and map CARAs** by combining susceptibility mapping with sensitive/high value areas.
- Develop **land use policies** consistent with CARA designations.

This approach recognizes that aquifer susceptibility varies spatially and targets the most susceptible areas for protection. Each of these tasks are discussed below.

Susceptibility Mapping

Step 2 of Ecology’s guidance is to analyze the susceptibility of the natural setting where groundwater occurs. Aquifer susceptibility refers to the natural condition while vulnerability is the risk from natural susceptibility and contamination sources. The U.S. Environmental Protection Agency (EPA) (1985) developed a method referred to as DRASTIC (Depth to water, Recharge, Aquifer media, Soil media, Topography, Impact of Vadose zone media, and hydraulic Conductivity) to evaluate the susceptibility of groundwater resources to contaminants based on hydrogeologic parameters. The model presents a relatively straightforward method for evaluating aquifer vulnerability based on readily available data (King County 2004). Parameters considered in the model are:

- D-Depth to groundwater
- R-Net recharge
- A-Aquifer media
- S-Soil media
- T-Topography/slope
- I- Vadose zone media
- C-Aquifer hydraulic conductivity

Parameters are assigned a rating and a weighting factor. For example, a gravel soil medium with high infiltration capacity would receive a higher rating than an area of clay soil. Each of the parameters is weighted based on predetermined weights provided in the method. Some studies have evaluated the validity of DRASTIC method and evaluated the predetermined weighting criteria to better predict aquifer susceptibility (for example Jang et al., 2017). The DRASTIC model can be performed using GIS tools.

Various modifications of the DRASTIC method have been used to determine aquifer susceptibility. For example, King County's susceptibility map uses the parameters depth to groundwater (D), soil media (S), and Vadose zone media (I) (King County, 2004). As described below, the approach to determining aquifer susceptibility on Mercer Island would rely on soils and surficial geologic mapping, depth to groundwater, and slope.

Ecology (2000) developed a rating system based on the following parameters:

- Overall permeability of Vadose zone material (surficial soil and underlying, unsaturated geologic strata).
- Thickness of Vadose zone material (depth to groundwater).
- Available recharge.

The Ecology (2000) model is now superseded by more general guidance provided in Ecology (2005), which does not preclude the use of existing rating systems. Island County used the Ecology (2000) model for development of a susceptibility map (Island County, 2005). The Lake Forest Park Water District recently performed a susceptibility evaluation using the Ecology (2000) rating system that was adopted into the City's CARA ordinance (AESI, 2016).

The U.S. Geological Survey (USGS) (Bauer and Vaccaro, 1987; Bauer and Mastin, 1997; Vaccaro, 2007) has developed a deep percolation model (DPM) to identify areas of recharge. The DPM identifies a daily water budget for estimating groundwater recharge from precipitation and irrigation. The model computes water passing beneath the root zone based on precipitation, evapotranspiration, direct runoff, and changes in soil moisture. The model is developed by dividing the land into cells and computing recharge for the individual cells. While this model has been used extensively for computing groundwater recharge for numerical groundwater models, we are not aware of widespread use of this model in developing susceptibility maps. Island County incorporated results of a previous DPM model by USGS to estimate groundwater recharge for the recharge component of its susceptibility mapping using the Ecology (2000) model (Island County, 2005).

Identify Sensitive/High Value Areas

Steps 3, 4, and 5 of the Ecology (2005) guidance include the identification of potential contaminant sources and assessing aquifer vulnerability to existing contaminant sources to identify the groundwater sources most at risk. Priorities and risks are also set in these steps and include items such as WHPAs and densely populated areas that rely on groundwater. For Mercer Island, a recommended priority would be the protection of the WHPAs for Group A systems (i.e., the City's Emergency Well).

Categorize and Map CARAs

Susceptibility mapping will be combined with the identification of sensitive/high value areas to determine the final CARAs for management. Categories of CARA areas ranked by risk would be determined at this stage.

Develop Land Use Policies

Step 6 of Ecology’s guidance includes the jurisdiction making decisions regarding land use within a designated CARA, which may include defining prohibited and conditioned uses for high-risk activities (for example, landfills, tank farms, and hazardous waste facilities). Since most of Mercer Island is built-out, primarily with residential uses that do not include these high risk activities, the new CARA land use standards are not anticipated to have significant implications on predominant uses and activities across the city. In fact, evaluation of uses and activities allowed within residential zones across Mercer Island does not include any activities that would warrant hydrogeologic evaluation.

Hydrogeologic reports may be required for non-residential activities in higher risk areas (e.g., Category I and II areas) or determined on a case-by-case basis. Hydrogeologic reports typically include a characterization of the area’s hydrogeology and water use, expected impacts from the proposed project, and recommendations for BMPs and/or other mitigating measures. These reports are submitted to the governing agency for review. CARA ordinances may also allow for an applicant to declassify an area through a supporting technical analysis. This is generally allowed because of the regional approach taken in development of the CARAs. Some CARA ordinances restrict certain activities that are high risk within a Category I CARA, although a waiver process may be incorporated that considers potential impacts from the proposed action.

Step 7 is ensuring that contamination prevention plans and practices are implemented.

Step 8 of Ecology’s guidance includes managing aquifer recharge areas to maintain drinking water sources and stream base flow, particularly for salmon-bearing streams. Effectively, this would be incorporated into land use decisions by encouraging methods that will maintain recharge, such as low impact development and rain gardens.

Summary of Recommendations for Development of City of Mercer Island CARAs

1. Determine aquifer susceptibility based on a modified DRASTIC approach that considers depth to groundwater, surficial soils and geology, Vadose zone characteristics, and slope. The approach is similar to that of Ecology (2000) but would also incorporate slopes, which can have a significant effect on runoff and recharge. Existing soils and geologic mapping would be incorporated. A depth to groundwater map would need to be developed. Consideration would also be given to existing infiltration mapping (Herrera, 2010). This approach makes use of the best available data for determining aquifer susceptibility.
2. Overlay high-value wellhead protection areas (e.g., the City’s Emergency Well WHPA and any other WHPAs provided by DOH for private water systems) onto susceptibility maps.
3. Develop categories for aquifer protection based on susceptibility and wellhead protection area.
4. Develop CARA standards so that future development is consistent with the CARA designation. This may include the following:

- Restrict development activities with the potential for significant contamination within high susceptibility CARAs and WHPAs. This may be accomplished by limiting land use to residential activities within designated CARAs.
 - Provide for non-residential activities with the potential to contaminate or adversely affect recharge through submittal of an approved demonstration of site conditions and adequate mitigation through a hydrogeologic report. Activities with the potential to contaminate may be designated based on Appendix A of Ecology’s Critical Aquifer recharge document (Ecology, 2005³) or other system, similar to the Bainbridge Island CARA ordinance. Non-residential activities included in Appendix A that may occur in Mercer Island include, but are not limited to: above-ground and underground storage tanks, automobile body shops and repair shops, dry cleaners, manufacturing facilities, bus facilities and other fleet operations facilities, funeral services, taxidermy services, furniture repair and manufacturing, medical and veterinary offices, office developments, retail developments, photo processing and printing services, gas main pipelines, and utility facilities.
- Include an allowance to declassify a designated CARA through an approved hydrogeologic assessment.
- Encourage residential development within CARAs to employ BMPs to maximize stormwater infiltration and manage household hazardous waste. Infiltration should be performed in accordance with provisions for geologic hazard areas. Ecology guidelines include restrictions on areas where stormwater infiltration is considered infeasible (Ecology, 2014), including within landslide hazard and erosion hazard areas, and within 50 feet of slopes greater than 20 percent and over 10 feet high.

³ Ecology’s 2005 CARA Guidance, including Appendix A available:
<https://fortress.wa.gov/ecy/publications/documents/0510028.pdf>

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Public Comment Received on CAO/SMP update through March 6, 2019

Exhibit Number	Date Received	First Name	Last Name	Organization	Comment Topic	Staff Response
1	5/2/2018	Ira	Appelman		* Concerns about timing of CAO update	* The CAO and SMP updates are being completed as quickly as possible
2	6/1/2018	Rita	Moore		* Suggest involving Parks Dept. staff with knowledge of native plants in code update process	* Planning staff coordinated with Parks staff throughout the code update process regarding standards to encourage native vegetation.
3	7/18/2018	Judy	Roan		* Support comprehensive plan amendments pertaining to wildlife	* Comprehensive plan amendments pertaining to wildlife were adopted
4	8/30/2018	George	Steirer	Plan to Permit	* Request to be party of record	* Commenter made party of record
5	10/4/2018	Ted	Burns	Seaborn Pile Driving Company	* Suggested change to SMP pier/dock dimensional standards	* Planning Commission opted to not make substantive changes to pier/dock dimensional standards in MICC 19.13.025 Table D
6	12/3/2018	Gardner	Morelli	MI Beach Club	* Request to be added to email notification list	* Commenter added to email notification list
7	2/15/2019	Doug	Gresham	Washington State Department of Ecology	* Various comments on Wetland section of CAO.	* Amendments made to wetland section of CAO in response to comments. Changes include: 1) Addition of review criteria to Public Agency Exception section (MICC 19.07.150(B)) 2) Replacement of term "Ordinary High Water Mark" with "Boundary" in MICC 19.07.210 - Wetlands 3) Revision of review criteria for alteration of wetlands in MICC 19.07.210(D)(1) 4) Revision of wetland re-establishment/creation and enhancement ratios (MICC 19.07.210(E)(5)) 5) Revision of standards for modification of existing development within wetland and watercourse buffers in MICC 19.07.130(2)(c) Changes were not made in response the following comments: 1) Wetland buffer reduction (MICC 19.07.210(6)(c)) 2) Allowing flexibility for measures to minimize impacts (MICC 19.07.210(D)(3))
8	2/20/2019	Donna	Bunten	Washington State Department of Ecology	* Request to be added to email notification list	* Commenter added to email notification list
9	2/20/2019	Mattew	Baerwalde	Snoqualmie Indian Tribe Environmental & Natural Resources Dept.	* Recommend that the City undertake a new effort to map streams and stream types * Recommend updating definition of "fish use or used by fish" in code; adding "fish habitat" as defined in WAC instead	* Amendment made in response to comments: Term "Fish use or used by fish" replaced with term "fish habitat" as defined in WAC for definitions of "fish habitat" and "Type F watercourse" in MICC 19.16. * New project to update mapped GIS data on wetlands and watercourses underway, with estimated completion date in July 2019.
10	2/28/2019	Alexandra	Boyle		* Request for second Planning Commission hearing and comment period extension	* Comment noted

Public Comment Received on CAO/SMP update through March 6, 2019

11	3/3/2019	Dirk	Giseburt		* Pileated Woodpecker sighted	* Comment noted
12	3/6/2019	Peter	Struck		* Question about the term "Qualified Professional" * Suggested changes to wording of 19.07.050(B) - Fees, 19.07.080(A) - General Provisions * Question regarding Public Agency Exceptions 19.07.150 * Question regarding Frequently Flooded Areas (19.07.060) * Question about liability concerns in Geologically Hazardous Areas (19.07.170) * Concern about watercourse and wetland standards (19.07.200 & 19.07.210)	* The Planning Commission examined and considered these questions and concerns and determined either that the questions could be satisfactorily answered by the existing code or that the existing code language was preferable to alternatives.
13	3/6/2019	Ryan	Thomas	Citizens for Reasonable Shoreline Policies	* Suggest modifications to MICC 19.07.110(E)(6)(b)(ix) pertaining to repair of existing piers	* Planning Commission opted to not make substantive changes to pier/dock dimensional standards. Standard remains unchanged, located in Public Hearing Draft in MICC 19.13.025 (F)(2)
14	3/6/2019	Ben	Peterson	King County Noxious Weed Control Program	* Suggest wording changes regarding noxious weed control	* Amendment made in response to comments: Standards pertaining to noxious weed control incorporated public comment. Changes made in MICC 19.07.120 - Exemptions and MICC 19.07.130 - Modifications
15	3/6/2019	Karen	Walter	Muckleshoot Tribe	* Suggest downloading culvert data from WDFW	* The City plans to download and utilize culvert data from WDFW, consistent with this suggestion.
(Oral comment at SMP Public Hearing)	3/6/2019	Ryan	Thomas	Citizens for Reasonable Shoreline Policies	* Request to reconsider dock width standards in existing SMP	* Planning Commission opted to not make substantive changes to pier/dock dimensional standards. Standard remains unchanged, located in Public Hearing Draft in MICC 19.13.025 (F)(2)
(Oral comment at SMP Public Hearing)	3/6/2019	Emmet	Maloof		* Request to reconsider dock width standards in existing SMP.	* Planning Commission opted to not make substantive changes to pier/dock dimensional standards. Standard remains unchanged, located in Public Hearing Draft in MICC 19.13.025 (F)(2)
(Oral comment at SMP Public Hearing)	3/6/2019	Dan	Thompson		* Request that the Planning Commission consider how much discretion is given to the code official * Support the new regulations generally	* Comment noted

Public Comment Received on CAO/SMP update through March 6, 2019

(Oral comment at SMP Public Hearing)	3/6/2019	Josh	Nop		<p>* Concerned that thru-flow decking currently in use to be consistent with the existing SMP standard regarding light transmittance for docks is difficult on bare feet.</p> <p>* Complaint about requirement in existing SMP regarding required dock width when more than 50% of decking or structural elements are being replaced.</p>	* Planning Commission opted to not make substantive changes to pier/dock dimensional standards. Standard remains unchanged, located in Public Hearing Draft in MICC 19.13.025 (F)(2)
(Oral comment at SMP Public Hearing)	3/6/2019	Alexandra	Boyle		* Would like more time to understand how the code will affect a project in development	* Comment noted
(Oral comment at CAO Public Hearing)	3/6/2019	Ira	Appelman		<p>* Concerned about number of references to the "code official" and that this may give too much discretion to staff</p> <p>* Concerned the critical areas code will not be significantly strict</p>	* Amendment made in response to comments: Removed references to the code official where possible
(Oral comment at CAO Public Hearing)	3/6/2019	Alexandra	Boyle		* Would like more time to understand how the code will affect a project in development	* Comment noted
(Oral comment at CAO Public Hearing)	3/6/2019	Dan	Thompson		<p>* Light transmittance standard makes good sense.</p> <p>* Dock widths have been a contentious issue.</p>	* Comment noted

**Mercer Island Planning Commission
May 2, 2018
Critical Areas Ordinance Update**

Ira Appelman
9039 E. Shorewood Drive

I am aggrieved that the City continues to violate state law by not yet passing an updated Critical Areas Ordinance, and I am concerned, based on the Planning Commission minutes of last meeting that you aren't going to do the job right.

The City Attorney admitted at a City Council meeting over a year ago that the City was past the deadline for completing a Critical Areas Ordinance Update. Based on the City Council Planning Schedule, the City Council won't complete the Critical Areas Ordinance Update this year.

Both the City Attorney and the Development Services Director indicated at a previous City Council meeting that the Critical Areas Ordinance Update will be significantly stricter on development than the current ordinance.

Environmental damage is occurring or threatened all over the Island. Landslides have taken place and recently Sustainability Manager Ross Freeman sent out an Island-wide email warning of the possibility of more landslides. The bioswales on East and West Mercer Ways have been black-topped over, and further bioswales are threatened. Watercourse buffers are routinely invaded and wetlands are threatened with the official sanction of the City. In the most egregious example in recent memory, the Mercer Island Center for the Arts (MICA) has claimed you can improve a wetland by putting a building in it; the City Council majority has promoted this type of environmental damage.

It's been clear from the City Council discussions that the reason the City has been dragging its feet on getting the Update done is that the Council majority is afraid that the stricter development regulations of the Update will interfere with siting MICA in one of the most environmentally sensitive locations near the Town Center, that is, Mercerdale Park.

I am concerned that Planning Commissioners who are supporters of MICA may resist recommending a proper Update that may preclude the siting of MICA in Mercerdale Park. I call on those Planning Commissioners who have declared their support for MICA or who otherwise support MICA to recuse themselves from further consideration of the Critical Areas Ordinance.

I submit my comments in writing to staff for the record.

Date: Thu, May 31, 2018, 10:30 AM
Subject: Participation in CAO and SMP updates
To: <caoupdates@mercergov.org>

I am very interested in both of these ordinances and want to actively participate. Is there someone on the Planning Commission with knowledge of native vegetation? Will people like Paul West or Alaine Sommargren be members of the staff working on the updates.

The last time the SMP was updated there was no one on the Planning Commission with any landscaping or Native Plant knowledge. Also they presented a plan, the City Council passed but one that they knew would not be accepted by the state. They wanted to be able to say to residents that "the state made us make these additional changes, we did not want them" so residents could not blame the Planning Commission or the City Council for some of the changes. I don't want to see this happen again. They need to produce plans that save and improve our Mercer Island environment.

There should be 17 hardcover copies I gave to each member of the Planning Commission that belong to the city. This should be required reading by Planning Commission members and City Council members

Bringing Nature Home: How You Can Sustain Wildlife with Native Plants

By Douglas1 Tolley

Please let me know how I can be part of this process.

Thank you.

Rita

Rita A. Moore
4509 Ferncroft Rd.
Mercer Island, WA 98040
cell: 206 679-3375

From: [Evan Maxim](#)
Cc: [Andrea Larson](#); jroan@fhcrc.org
Subject: FW: Habitat protection----
Date: Wednesday, July 18, 2018 3:37:40 PM

Dear Planning Commissioners,

Please see the public comment, below.

Regards,

Evan Maxim

Interim Director of Development Services
City of Mercer Island Development Services
9611 SE 36th Street, Mercer Island, WA 98040
p: 206.275.7732
f: 206.275.7726

If you would like a public record, please fill out a public records request at <https://mercerisland.nextrequest.com/>.

From: Judy Roan <jroan@fhcrc.org>
Sent: Wednesday, July 18, 2018 3:04 PM
To: Evan Maxim <evan.maxim@mercergov.org>
Cc: Carolyn Boatsman <c.boatsman@comcast.net>
Subject: Habitat protection----

I am writing in support of the “Habitat protection and enhancement policies for consideration by the Planning Commission” that was drafted and submitted by Carolyn Boatsman on July 12, 2018. I have reviewed this document and concur with the 20 points that she makes. I feel that implementation of these, or some of these points would make Mercer Island a better place to live. We would be encouraging the protection of native plants, and animals. Basically, it all comes down to good habitat in order to preserve flora and fauna. One thing that she does not mention is the use of pesticides and fertilizers. The city needs clear guidelines for management of lawns, open space, roadways, etc. Broad use of pesticides is inappropriate where other methods of maintenance are possible. Lots of people are concerned about the use of Roundup by the Parks and Rec. Department. It has long been known that Roundup kills amphibians.

I cheer the commission on in their task of keeping Mercer Island a safe and beautiful island.

Thank you,
Judith Roan
206-236-0511

Judith Roan
jroan@fhcrc.org

From: George Steirer
To: [Robin Proebsting](#)
Subject: CAO Update - Geologic Hazardous Area
Date: Thursday, August 30, 2018 2:32:10 PM

Good afternoon Robin:

Is the proposed CAO update anticipated to include updates to the geologic hazard requirements? If so, could you please send me a copy of the latest publicly available information for the section? I reviewed the packet that went to the Planning Commission, and did not see anything on geologic hazards.

Also, please include me as a party of record for the Critical Areas Ordinance update. Thanks Robbin.

George Steirer
Plan to Permit, LLC
206-909-2893
George@PlanToPermit.com
www.PlanToPermit.com

WATERCOURSE BUFFER

The proposal is inconsistent with federal and state goals for the ecological enhancement of the shoreline of Lake Washington to create a natural shoreline.

The federal and state goals for the shores of Lake Washington are partial to full removal of existing “hard” shorelines consisting of timbers, concrete and rocks; and construction of a native shoreline with reduced “hard” structures and increased “soft” structures consisting of spawning gravel and beaches with native shoreline vegetation planted behind.

DOCK HEIGHTS

The current code that the bottom of the dock be 18” above the high water line presents a safety issue. The Lake level is controlled by the Corps of Engineers at the locks and varies 22”. Thus, at low lake level in August the lake level is 40” below the bottom of the dock allowing a typical ski boat to slide under the dock. This creates a serious safety issue where we’ve had a dogs paws permanently damaged while placed on the boat gunnel when the boat slid under the edge of the dock in late August.

We understand Dept of Ecology recommends the bottom of the dock be 18” above the HIGH water line to be consistent with the suggested federal permit (key word is “suggested” – this is not required at the state or federal level for existing structure repair or reconfiguration).

No other local jurisdiction on Lake Washington requires dock repair and rebuild permits include changing the elevation of the docks.

INSHORE DOCK WIDTH

The perception by the homeowner is that the reduced width is a safety issue for families with adolescent children who run and play from the yard onto the dock. The preference is that dock repair and rebuild be completed without changing the width of the first 30’.

Docks on the west side of the island have historically been constructed smaller and with less length as the water becomes deep quickly. This results in a dock measuring 40' overall. The "platform" at the end of the dock starts in 7' of water and 20' – 25' from shore. Under the current code, the dock is unable to be rebuilt without removing the platform and even all other parts of the dock leaving the homeowner with only a 4' wide walkway for a dock for water recreational activities.

No other local jurisdiction on Lake Washington requires we reduce the dock width for the first 30' from shore.

TRANSLUCENT CANOPY

The current code states that all moorage covers include a "translucent canopy". This is consistent with federal and state requirements for fabric canopies. However, the code doesn't differentiate between a canvas canopy and a fixed beam structure. Both are allowed on Mercer Island.

It would be consistent and clearer to note that a fixed beam structure requires a cover consisting of "light penetrating materials", and a canopy over a boat consist of a "translucent" material.

From: Gardner Morelli
To: [CA Update](#)
Subject: Would like to be out on mailing list
Date: Thursday, December 13, 2018 3:09:39 PM

Hello,

Can you please add me to the email notification list for all meetings for the Critical Area Ordinance review.

Thank you,

Gardner Morelli

From: Gresham, Doug (ECY)
To: [Robin Proebsting](#)
Cc: [Sandercock, Maria \(ECY\)](#); [Bunten, Donna \(ECY\)](#)
Subject: RE: City of Mercer Island CAO Review
Date: Friday, February 15, 2019 2:24:08 PM
Attachments: [Ecology comments CAO - Public Hearing Draft 2-4-19.docx](#)

Robin,

Thanks for sending this draft version of the Mercer Island CAO. We have reviewed this and inserted some comments into the Word version. I look forward to talking with you next Tuesday at 3 pm.

Doug Gresham, Wetland Specialist
 Washington State Department of Ecology
 3190 - 160th Ave. SE
 Bellevue, WA 98008
 Phone: (425) 649-7199
 Email: Doug.Gresham@ecy.wa.gov

From: Robin Proebsting [mailto:robin.proebsting@mercergov.org]
Sent: Thursday, February 07, 2019 2:11 PM
To: Bunten, Donna (ECY) <DBUN461@ECY.WA.GOV>
Cc: Gresham, Doug (ECY) <DGRE461@ECY.WA.GOV>; Evan Maxim <evan.maxim@mercergov.org>
Subject: RE: City of Mercer Island CAO Review

Greetings Donna,

Thank you for your email. The draft CAO is a rewrite of Mercer Island's current CAO, which was adopted in 2005. Since the changes to the code language were extensive, I did not create an underline/strikethrough document, figuring nearly everything would need to be modified or moved. I've attached the draft CAO in Word form. In case it is helpful to have as reference, I've also attached the current CAO.

Thank you also for letting me know an ETA if it ends up not being possible to grant expedited review.

Much appreciated,
 Robin

Robin Proebsting, Senior Planner
 City of Mercer Island Community Planning and Development Department
 9611 SE 36th Street, Mercer Island, WA 98040
 Direct: 206-275-7717
robin.proebsting@mercergov.org

From: Bunten, Donna (ECY) <DBUN461@ECY.WA.GOV>
Sent: Thursday, February 7, 2019 9:24 AM

To: Robin Proebsting <robin.proebsting@mercergov.org>

Cc: Gresham, Doug (ECY) <DGRE461@ECY.WA.GOV>

Subject: City of Mercer Island CAO Review

Hi, Robin,

I received your request for expedited review of your CAO from the Department of Commerce. I understand that you've already been working with Maria Sandercock on the SMP update. Doug Gresham and I will be reviewing the CAO. I'm not sure that our workload will allow us to comment in 14 days, as we are working on CAOs from other jurisdictions that have already been in our queue.

Does the CAO contain substantive changes from your last update? If you could send us a Word version of the CAO draft, preferably indicating these changes, it would speed things up for us and we can then determine whether or not we can get to it by February 20. If we have to deny the expedited review request, we'll give you our best estimate as to when we'll have comments done.

Donna J. Bunten

Critical Areas Ordinances Specialist

Shorelands and Environmental Assistance Program

Department of Ecology

PO Box 47600

Olympia, WA 98504

360-407-7172

- 1 Chapter 19.07
- 2 ENVIRONMENT
- 3 Sections:
- 4 19.07.010 Purpose.
- 5 19.07.020 Applicability
- 6 19.07.030 Relationship to Other Regulations
- 7 19.07.040 Critical Areas Rules
- 8 19.07.050 Fees
- 9 19.07.060 Critical Area Maps and Inventories
- 10 19.07.070 Disclosure and Notice on Title
- 11 19.07.080 General Provisions
- 12 19.07.090 Critical Area Reviews
- 13 19.07.100 Mitigation Sequencing
- 14 19.07.110 Critical Area Studies
- 15 19.07.120 Exemptions
- 16 19.07.130 Modifications
- 17 19.07.140 Reasonable Use Exception
- 18 19.07.150 Public Agency Exception
- 19 19.07.160 Frequently Flooded Areas
- 20 19.07.170 Geologically Hazardous Areas
- 21 19.07.180 Critical Aquifer Recharge Areas
- 22 19.07.190 Fish and Wildlife Habitat Conservation Areas
- 23 19.07.200 Watercourses
- 24 19.07.210 Wetlands

25 **19.07.010 Purpose**

26 These regulations are adopted for the following purposes:

- 27 A. To implement the goals and policies for the Growth Management Act chapter 36.70A RCW;
- 28 B. To maintain the functions and values of critical areas and enhance the quality of habitat to support
- 29 the sustenance of native plants and animals;
- 30 C. To balance property owner interests with the public interest;
- 31 D. To promote biodiversity within critical areas and buffers by encouraging planting with mostly native
- 32 and climate-resilient vegetation;
- 33 E. To establish review criteria for land use reviews that maintain and improve the ecological health of
- 34 wetlands, watercourses and Lake Washington;
- 35 F. To establish standards for new development that avoid increasing the risk of harm to people,
- 36 property, and public infrastructure from natural hazards;
- 37 G. To protect the functions and value of fish and wildlife habitat conservation areas, including
- 38 wetlands, watercourses and habitat for priority species and species of local importance, through the
- 39 use of buffers;
- 40 H. To increase the safety of development within and adjacent to geologically hazardous areas through
- 41 the use of buffers;
- 42 I. To require mitigation measures when unavoidable impacts to critical areas are proposed;

- 1 J. To establish tools to ensure that protection and mitigation measures are applied and maintain
- 2 ecological value and function consistent with the provisions of this chapter;
- 3 K. To avoid impact to the critical areas where possible, and if avoidance is not possible, minimize
- 4 impacts to critical areas and buffers to the greatest extent feasible, and mitigate any remaining
- 5 impacts;
- 6 L. To encourage the restoration of existing compromised critical areas; and
- 7 M. To minimize negative impacts from the built environment on the functions and values of critical
- 8 areas.

9 **19.07.020 Applicability**

- 10 A. Except as specifically exempted by MICC 19.07.120 - Exemptions, these regulations apply to land
- 11 uses, development activity, and all structures and facilities within the City of Mercer Island that
- 12 contain any of the following critical areas and/or their buffers, as defined in 19.16 MICC:
- 13 1. Wetlands;
- 14 2. Fish and Wildlife Habitat Conservation Areas (including watercourses);
- 15 3. Geologically Hazardous Areas;
- 16 4. Critical Aquifer Recharge Areas; and
- 17 5. Frequently Flooded Areas.
- 18 B. The city shall not approve any development proposal or otherwise issue any authorization to alter
- 19 the condition of any land, water or vegetation or to construct or alter any structure or improvement
- 20 without first assuring compliance with the requirements of this chapter or determining that this
- 21 chapter is not applicable to the development.
- 22 C. Approval of a development proposal pursuant to the provisions of this chapter does not discharge
- 23 the applicant of the obligation to comply with the provisions of this chapter.

24 **19.07.030 Relationship to other regulations**

- 25 A. If more than one regulation applies to a given property, then the regulation that provides the
- 26 greatest protection to critical areas shall apply.
- 27 B. Other Jurisdictions. Nothing in these regulations eliminates or otherwise affects the responsibility of
- 28 an applicant or property owner to comply with all other applicable local, state, and federal
- 29 regulations and required permits.
- 30 C. SEPA Compliance. Nothing in these regulations or the decisions made pursuant to these regulations
- 31 affects the authority of the city to review, condition, and deny projects under the State
- 32 Environmental Policy Act, chapter 43.21C RCW.

33 **19.07.040 Critical Areas Rules**

34 The city is authorized to adopt administrative rules and regulations as necessary and appropriate to

35 implement this chapter and to prepare and require the use of forms to facilitate its administration.

36 **19.07.050 Fees**

- 37 A. Unless otherwise indicated in this title, the applicant shall be responsible for the initiation,
- 38 preparation, submission, and expense of all required reports, assessments, studies, plans,
- 39 reconnaissances, or other work prepared in support of or necessary to review the application.
- 40 B. The applicant shall be responsible for all applicable fees as established in the city's fee schedule,
- 41 consultant review fees, and peer review fees.

42 **19.07.060 Critical Area Maps and Inventories**

1 Approximate locations of critical areas in the City of Mercer Island are depicted on citywide maps
 2 displayed in the city’s GIS database, as amended. Field verification and, if appropriate, evaluation and
 3 mapping by a qualified professional of the location of critical areas will be required to determine the
 4 location and type of critical area on a given site.

5 **19.07.070 Disclosure and notice on title**

- 6 A. The applicant shall disclose to the city the presence of critical areas on the development proposal
 7 site and any mapped or identifiable critical areas within the distance equal to the largest potential
 8 required buffer applicable to the development proposal on the development proposal site.
- 9 B. The owner of any property containing critical areas and/or buffers on which a development proposal
 10 is submitted, except a public right-of-way or the site of a permanent public facility, shall file a notice
 11 approved by the city with the records and elections division of King County. The required contents
 12 and form of the notice shall be determined by the code official. The notice shall inform the public of
 13 the presence of critical areas, buffers and/or mitigation sites on the property, of the application of
 14 the city’s critical areas code to the property and that limitations on actions in or affecting such
 15 critical areas and/or buffers may exist. The notice shall run with the land in perpetuity.
- 16 C. The applicant shall submit proof to the city that the notice has been recorded prior to approval of a
 17 development proposal for the property or, in the case of subdivisions, short subdivisions, and
 18 binding site plans, at or before recording of the final subdivision, short subdivision, or binding site
 19 plan.
- 20 D. Notices on title may be removed at a property owner’s request if documented to the code official
 21 that the information contained in an existing notice is no longer accurate, because a critical area has
 22 changed, for example in its type or location, or if the notice is proposed to be replaced with a notice
 23 containing updated information.

24 **19.07.080 General provisions**

- 25 A. Hold Harmless/Indemnification Agreement and Covenant Not to Sue, Performance Guarantees,
 26 Performance Bonds, Insurance. An applicant for a permit within a critical area shall comply with the
 27 requirements of MICC 19.01.060, if required by the code official.
- 28 B. Timing. All alterations or mitigation to critical areas shall be completed prior to the final inspection
 29 and occupancy of a project.
- 30 C. Maintenance and Monitoring.
 - 31 1. Maintenance and monitoring shall be required for at least five years from the date of project
 32 completion if the code official determines such condition is necessary to ensure mitigation
 33 success and critical area protection.
 - 34 2. A bond or assignment of funds pursuant to MICC 19.01.060(C) may be required to guarantee
 35 that approved mitigation plans will be undertaken and completed to the city’s satisfaction.
 - 36 3. When monitoring is required, site visits and reporting shall be required two times per year for
 37 each of the first two years and once every 12 months for the subsequent years of the
 38 monitoring period.
 - 39 4. Where monitoring reveals a significant difference from predicted impacts or a failure of
 40 protection measures, the applicant shall be responsible for appropriate corrective action, which
 41 may be subject to further monitoring.

- 1 D. Compliance with Mitigation Requirements. In cases where mitigation has been completed, but no
- 2 monitoring reports have been submitted to the city, the applicant shall submit as-built drawings and
- 3 yearly monitoring reports to the city until at least two consecutive annual reports document to the
- 4 code official's satisfaction that all performance standards from the approved mitigation plan have
- 5 been met.
- 6 E. Seasonal Limitations. Land clearing, grading, filling, and foundation work may be limited to only
- 7 certain times of year, pursuant to MICC 19.07.170(F)(2).
- 8 F. Suspension of Work. If the alteration does not meet city standards established by permit condition
- 9 or applicable codes, including controls for water quality, erosion and sedimentation, the city may
- 10 suspend further work on the site until such standards are met. Compliance with all requirements of
- 11 this chapter is required pursuant to MICC 19.15.210.
- 12 G. A critical area study completed over five years prior to application submittal date shall be field
- 13 verified by a qualified professional to determine whether the study is still accurate, and if not, the
- 14 study shall be completed according to the current best available science.

15 **19.07.090 Critical Area Reviews**

16 This subsection describes the purpose and procedures by which the city will review and authorize
 17 development and verify consistency with this chapter.

18 A. Critical Area Review 1

- 19 1. The purpose of a Critical Area Review 1 is to review:
 - 20 a. Activities listed as Modifications in MICC 19.07.130 - Modifications;
 - 21 b. Verification of the presence or absence of a critical area; or
 - 22 c. Verification of the delineation and/or type of wetland or watercourse.
- 23 2. Review timing and sequence
 - 24 a. If a building permit is required for the proposed scope of work associated with the Critical
 - 25 Area Review 1, then the substance of the review shall take place concurrently with the
 - 26 building permit review, and no separate land use review application is required.
 - 27 b. If no building permit is required for the proposed scope of work associated with the Critical
 - 28 Area Review 1, then the review shall take place according to the procedures required for a
 - 29 Type 1 land use review.
- 30 3. Requirements for a complete application
 - 31 a. Completed Development Application Coversheet
 - 32 b. Project narrative, describing the proposed scope of work.
 - 33 c. Scaled site plan showing the proposed work
 - 34 d. Any additional information required by the city to confirm compliance with this Title.

35 B. Critical Area Review 2

- 36 1. The purpose of a Critical Area Review 2 is to review:
 - 37 a. Critical area studies and mitigation plans in support of proposed buffer averaging and
 - 38 reduction of wetland and watercourse buffers.
 - 39 b. Critical area studies submitted when a use listed in MICC 19.07.180(B)(1) is proposed within
 - 40 a critical aquifer recharge area.
- 41 2. Review timing and sequence

- 1 a. When development and/or activity within a wetland, watercourse, Fish and Wildlife Habitat
- 2 Conservation Area or buffer associated with these critical area types is proposed, a Critical
- 3 Area Review 2 is required to be reviewed and approved prior to construction authorization.
- 4 b. When development and/or activity is proposed on a site containing only geologically
- 5 hazardous areas, an applicant has the option of either:
- 6 (1) Applying for a Critical Area Review 2 in advance of construction permits, using the
- 7 procedures required for a Type 3 land use review; or
- 8 (2) Requesting consolidation of the review of geologically hazardous areas together with
- 9 construction permit review.
- 10 c. When development and/or activity is proposed on a site containing geologically hazardous
- 11 areas and one or more of the critical area types listed in subsection (B)(2)(a) or the
- 12 associated buffer of one of those critical areas, a Critical Area Review 2 reviewing all critical
- 13 areas is required to be reviewed and approved prior to construction authorization, using the
- 14 procedures required for a Type 3 land use review.
- 15 3. Requirements for a complete application include:
- 16 a. A completed Development Application Coversheet;
- 17 b. A critical area study, meeting the requirements of MICC 19.07.110 - Critical Area Studies;
- 18 and
- 19 c. Additional information required by the city to confirm compliance with this title.
- 20 C. Reasonable Use Exceptions shall be reviewed using the criteria in MICC 19.07.140, using the
- 21 procedures required for a Type 4 land use review.
- 22 D. Public Agency Exceptions shall be reviewed using the criteria in MICC 19.07.150, using the
- 23 procedures required for a Type 3 land use review.

24 **19.07.100 Mitigation sequencing**

25 Except as otherwise provided in this chapter, an applicant for a development proposal, activity, or
 26 modification shall implement the following sequential measures, listed below in order of preference, to
 27 avoid, minimize, and mitigate impacts to environmentally critical areas and associated buffers.
 28 Applicants shall document how each measure has been addressed before considering and incorporating
 29 the next measure in the sequence:

- 30 A. Avoiding the impact altogether by not taking a certain action or parts of an action. The applicant
- 31 shall consider reasonable, affirmative steps and make best efforts to avoid critical area impacts.
- 32 However, avoidance shall not be construed to mean mandatory withdrawal or denial of the
- 33 development proposal or activity if the proposal or activity is an allowed, permitted, or conditional
- 34 in this title. In determining the extent to which the proposal should be redesigned to avoid the
- 35 impact, the code official may consider the purpose, effectiveness, engineering feasibility,
- 36 commercial availability of technology, best management practices, safety and cost of the proposal
- 37 and identified changes to the proposal. Development proposals should seek to avoid, minimize and
- 38 mitigate overall impacts based on the functions and values of all of the relevant critical areas and
- 39 based on the recommendations of a critical area study. If impacts cannot be avoided through
- 40 redesign, use of a setback deviation pursuant to MICC 19.06.110(C), or because of site conditions or
- 41 project requirements, the applicant shall then proceed with the sequence of steps in subsections (B)
- 42 through (E) of this section;

- 1 B. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, using
- 2 a setback deviation pursuant to MICC 19.06.110(C), using appropriate technology, or by taking
- 3 affirmative steps to avoid or reduce impacts;
- 4 C. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
- 5 D. Reducing or eliminating the impact over time by preservation and maintenance operations during
- 6 the life of the action;
- 7 E. Compensating for the impact by replacing, enhancing, or providing substitute resources or
- 8 environments; and/or
- 9 F. Monitoring the impact and taking appropriate corrective measures to maintain the integrity of
- 10 compensating measures.

11 **19.07.110 Critical Area Study**

- 12 A. A critical area study shall be required when a development proposal will result in an alteration to
- 13 one or more critical areas or critical area buffers or when required by the code official to determine
- 14 the potential impact to a critical area.
- 15 B. The critical area study shall be in the form of a written report supported by graphic information
- 16 prepared by a qualified professional using guidance based on the best available science consistent
- 17 with the standards in chapter 365-195 WAC and shall contain the following items, as applicable to
- 18 adequately evaluate the proposal, proposed alterations, and mitigation:
 - 19 1. Disclosure of the presence of critical areas, including a delineation and type or category of
 - 20 critical area, on the development proposal site and any mapped or identifiable critical areas on-
 - 21 or off-site within the distance equal to the largest potential required buffer applicable to the
 - 22 development proposal area on the applicant's property;
 - 23 2. A topographic and boundary survey;
 - 24 3. A statement specifying the accuracy of the report and all assumptions made and relied upon;
 - 25 4. A description of the methodologies used to conduct the critical area study, including references;
 - 26 5. A scale map of the development proposal site;
 - 27 6. Photographic records of the site before the proposed alteration occurs;
 - 28 7. An assessment of the probable effects to critical areas and associated buffers, including impacts
 - 29 caused by the development proposal and associated alterations to the subject property and
 - 30 impacts to other properties and any critical areas or buffers located on them resulting from the
 - 31 development of the site and the proposed development;
 - 32 8. A description of mitigation sequencing implementation described in MICC 19.07.100 including
 - 33 steps taken to avoid and minimize critical areas impacts to the greatest extent feasible;
 - 34 9. Detailed studies, as required by this chapter, for individual critical area types in order to ensure
 - 35 critical area protection;
 - 36 10. Assessment of potential impacts that may occur on adjacent site, such as sedimentation or
 - 37 erosion, where applicable; and
 - 38 11. A post-design memorandum prepared by a qualified professional confirming that the proposed
 - 39 improvements comply with the qualified professional's design recommendations.
- 40 C. The critical area study requirement may be waived or modified if the applicant demonstrates to the
- 41 code official's satisfaction that the development proposal will not have an impact on the critical area
- 42 or its buffer in a manner contrary to the purposes and requirements of this chapter.

19.07.120 Exemptions

- A. Activities listed as exempt in this section do not require review for compliance with this chapter, provided they are otherwise consistent with the provisions of other city, state, and federal laws and requirements.
- B. An exemption does not give permission to degrade a critical area or ignore risk from natural hazards.
- C. All temporary and permanent impacts to critical areas and buffers shall be mitigated.
- D. The following activities are exempt from review and compliance with this chapter, provided, all activities shall use reasonable methods to avoid, and if avoidance is not possible, minimize impacts to critical areas and buffers to the greatest extent feasible consistent with MICC 19.07.100 – Mitigation Sequencing:
 - 1. Minor expansion of existing right of way improvements, including public streets, bike lanes, shoulders, trails, sidewalks, and open space, following consultation with the code official;
 - 2. Minor expansion of public utility structures and conveyance systems and their associated facilities including service lines, pipes, mains, poles, equipment and appurtenances, both above and below ground, following consultation with the code official; and
 - 3. Site Investigative Work and Studies. Site investigative work and studies necessary for development proposals, including geotechnical tests, water quality studies, wildlife studies, surveys, soil logs, and critical area investigations within areas accessed by foot; provided the following criteria are met:
 - a. Impacts to critical areas and buffers shall be minimized; and
 - b. Disturbed areas shall be restored with native vegetation as soon as the investigative work is complete.
 - 4. Watercourse restoration and pipe extensions installed by a public agency, provided the steps in 19.07.100 – Mitigation Sequencing are addressed.
- E. The following activities are exempt from city review and approval:
 - 1. Repair and maintenance of existing right of way improvements. Repair, maintenance, reconstruction and replacement of existing right of way improvements, including public streets, bike lanes, shoulders, trails, sidewalks, and open space;
 - 2. Repair and maintenance of existing utility facilities. Repair, maintenance, reconstruction and replacement of public utility structures and conveyance systems and their associated facilities, including but not limited to service lines, pipes, mains, poles, equipment and appurtenances, both above and below ground.
 - 3. Demolition. Removal of structures in watercourse and wetland buffers and geologically hazardous areas, provided:
 - a. Site disturbance is limited to the existing access and building footprint;
 - b. There is no site disturbance within or to wetlands or watercourses;
 - c. All soils are stabilized and the area is revegetated with appropriate native vegetation; and
 - d. Necessary building permits are obtained.
 - 4. Noxious weed removal. Removal of noxious weeds provided:
 - a. All disturbed soils are stabilized and revegetated with appropriate native vegetation; and
 - b. The area from which noxious weeds are removed is limited to 1,000 square feet.

Commented [BD(1)]: You might want to define what is a minor action in 1 and 2?

- 1 5. Maintenance of Existing Landscaping. Landscape maintenance of legally-established lawns and
 2 gardens including mowing, pruning, weeding, and planting; provided, that such activities do not:
 3 a. Expand any further into critical areas or buffers; or
 4 b. Include the removal of significant trees.
- 5 6. Survey and Boundary Markers. Construction or modification of survey and boundary markers.
- 6 7. Temporary alterations in response to emergencies that threaten the public health, safety, and
 7 welfare or that pose an imminent risk of damage to private property, provided the following
 8 criteria are met:
 9 a. The person undertaking such an action shall notify the code official in writing within one
 10 business day following commencement of the emergency activity;
 11 b. Within 15 calendar days of the commencement of the emergency activity, the person
 12 undertaking such an action shall submit a complete application for all necessary approvals
 13 to authorize the alterations made and proposed in response to the emergency. The code
 14 official may allow additional time up to 180 calendar days for submittal of a complete
 15 application if the applicant requests an extension for a specific period of time. The code
 16 official may grant additional time extensions beyond 180 calendar days when multiple
 17 property owners or litigation is involved and when requested by the applicant;
 18 c. The person undertaking such an action shall mitigate all impacts caused by the alteration
 19 and associated restoration activities, including intentional or unintentional alterations to all
 20 critical areas and buffers; and
 21 d. A qualified professional shall supervise all alterations made to critical areas.
- 22 8. Passive Outdoor Activities. When it can be demonstrated that there will be no undue adverse
 23 effect, the following activities may be allowed within critical areas and their buffers: educational
 24 activities, scientific research, and outdoor recreational activities, including but not limited to
 25 interpretive field trips, bird watching, and beach access including water recreation-related
 26 activities. This exemption does not authorize any construction.

27 **19.07.130 Modifications**

28 Activities of the following types may be authorized by the code official with approval of an application
 29 for a Critical Area Review 1. The activities in this section are exempt from the development standards in
 30 subsequent sections within this chapter, provided the code official may require measures to protect life
 31 and property or to protect environmental quality.

- 32 A. Addition to or reconstruction of an existing legally-established structure or building within a critical
 33 area and/or buffer constructed on or before January 1, 2005 provided the following criteria are met:
 34 1. The seasonal limitations on land clearing, grading, filling, and foundation work described in
 35 MICC 19.07.170(F)(2) shall apply.
 36 2. Additions shall be allowed if all of the following criteria are met:
 37 a. The structure is enlarged not more than a cumulative total of 200 square feet larger than its
 38 footprint as of January 1, 2005;
 39 b. If the existing, legally-established structure is located over or within a wetland or
 40 watercourse, no further expansion within the wetland or watercourse is allowed;

- 1 c. If the existing legally established structure is located within a wetland or watercourse buffer,
- 2 the addition may be no closer to the wetland or watercourse than a distance equal to 75%
- 3 of the applicable standard **buffer**;
- 4 d. A critical area study approved by the city demonstrates that impacts have been avoided or
- 5 minimized and mitigated consistent with MICC 19.07.100 - Mitigation Sequencing;
- 6 e. If the modification or addition is proposed within a geologically hazardous area or
- 7 associated buffer, a qualified professional provides a statement of risk consistent with MICC
- 8 19.07.170(B)(3);

Commented [BD(2): We usually recommend that any expansion be limited to the upland side of the existing structure.

9 3. Reconstruction of legally established non-conforming structures shall meet the standards in
 10 MICC 19.01.050. The code official may require a critical area study and mitigation plan
 11 addressing temporary impacts to critical areas and buffers.

12 B. Restoration and enhancement activities involving site disturbance over 1,000 sq ft, provided the
 13 following criteria are met:

- 14 1. Activities are limited to the removal of noxious weeds and planting of native and/or climate-
- 15 resilient species;
- 16 2. The entire area cleared of noxious weeds shall be revegetated with appropriate native and/or
- 17 climate-resilient vegetation;
- 18 3. Erosion control measures appropriate for the subject site shall be used; and
- 19 4. Removal of noxious weeds and other restoration work shall be restricted to work by hand tools,
- 20 including use of handheld gas or electric equipment.

21 C. Stormwater retrofit facilities installed pursuant to the city's NPDES Phase II **permit**.

Commented [BD(3): Will mitigation be required for any wetland impacts?

22 **19.07.140 Reasonable Use Exception**

23 A. If the application of this chapter will deny all reasonable use of the owner's property, then the
 24 applicant may apply to the Community Planning and Development department for an exception
 25 from the requirements of this chapter in accordance with the provisions for Type IV reviews in
 26 chapter 19.15 MICC. The hearing examiner may approve the application for a reasonable use
 27 exception only if the development proposal meets all of the following criteria:

- 28 1. The application of this chapter would deny all reasonable use of the property;
- 29 2. There is no other reasonable use with less impact on the critical area;
- 30 3. Any alteration to critical areas and associated buffers is the minimum necessary to allow for
- 31 reasonable use of the property;
- 32 4. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or
- 33 off the development proposal site and is consistent with the general purpose of this chapter and
- 34 the public interest; and
- 35 5. The inability of the applicant to derive reasonable use of the property is not the result of actions
- 36 by the current or prior property owner.

37 B. The hearing examiner may approve, approve with conditions, or deny the request based on the
 38 proposal's ability to comply with all of the above criteria. The applicant has the burden of proof in
 39 demonstrating that the above criteria are met.

40 **19.07.150 Public Agency Exception**

41 If the application of this chapter would prohibit a development proposal by a public agency, the agency
 42 may apply for an exception pursuant to this section:

- 1 A. The public agency shall provide project documents such information as needed for the code official
 2 to issue a decision, including but not limited to, permit applications to other agencies, critical area
 3 studies, SEPA documents, and other materials.
- 4 B. The code official may approve alterations to critical areas, buffers and critical area setbacks by an
 5 agency or utility when those alterations are not otherwise able to meet all of the standards in this
 6 chapter, and when the criteria in (B)(1) through (B)(3) of this section are demonstrated to be met.
- 7 1. The activity or proposed development is described in an adopted city plan or project list, or has
 8 otherwise received city council approval;
- 9 2. There is no other reasonable alternative to the activity or proposed development with less
 10 impact on the critical area. In determining what is a reasonable alternative to a proposed
 11 development, alteration or activity, the code official may consider the purpose, effectiveness,
 12 engineering feasibility, commercial availability of technology, best management practices, safety
 13 and cost of the alternative action or proposal. Reasonable alternatives are those that are
 14 capable of being carried out, taking into consideration the overall project purposes, needs, and
 15 objectives; and
- 16 3. The activity or development proposal is designed to avoid or minimize and mitigate the impact
 17 on critical areas and associated buffers consistent with the best available science and avoidance
 18 and mitigation sequencing requirements in 19.07.100 - Mitigation Sequencing.

19 **19.07.160 Frequently Flooded Areas**

20 Frequently flooded areas are floodplains and other areas subject to flooding, including the 100-year
 21 flood plain designations of the Federal Emergency Management Agency and the National Flood
 22 Insurance Program. There are currently no areas meeting this definition on Mercer Island; therefore,
 23 additional specific provisions for protecting frequently flooded areas are not provided within this
 24 chapter.

25 **19.07.170 Geologically Hazardous Areas**

- 26 A. *Designation and Typing:* Geologically hazardous areas are lands that are susceptible to erosion,
 27 landslides, seismic events, or other factors as identified by WAC 365-190-120. These areas may not
 28 be suited for development activities because they may pose a threat to public health and safety.
 29 Areas susceptible to one or more of the following types of hazards shall be designated as
 30 geologically hazardous areas: landslide hazard areas, seismic hazard areas, and erosion hazard areas.
- 31 B. *General Review Requirements:* Alteration within geologically hazardous areas or associated buffers
 32 is required to meet the standards in this section, unless the scope of work is exempt pursuant to
 33 MICC 19.07.120 - Exemptions or a Critical Area Review 1 approval has been obtained pursuant to
 34 MICC 19.07.090(A).
- 35 1. When an alteration within a landslide hazard area, seismic hazard area or buffer associated with
 36 those hazards is proposed, the applicant must submit a critical area study concluding that the
 37 proposal can effectively mitigate risks of the hazard. The study shall recommend appropriate
 38 design and development measures to mitigate such hazards. The code official may waive the
 39 requirement for a critical area study and the requirements of (B)(2) and (B)(3) of this section
 40 when he or she determines that the proposed development is minor in nature and will not
 41 increase the risk of landslide, erosion, or harm from seismic activity, or that the development
 42 site does not meet the definition of a geologically hazardous area.

Commented [BD(4): We recommend adding other criteria from Commerce's CAO handbook:

- The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site
- The proposal is consistent with other applicable regulations and standards

- 1 2. Alteration of landslide hazard areas and seismic hazard areas and associated buffers may occur
 2 if the critical area study documents to the code official's satisfaction that the proposed
 3 alteration:
 4 a. Will not adversely impact other critical areas;
 5 b. Will not adversely impact the subject property or adjacent properties;
 6 c. Will mitigate impacts to the geologically hazardous area consistent with best available
 7 science to the maximum extent reasonably possible such that the site is determined to be
 8 safe; and
 9 d. Include the landscaping of all disturbed areas outside of building footprints and installation
 10 of hardscape prior to final inspection.
- 11 3. Alteration of landslide hazard areas, seismic hazard areas and associated buffers may occur if
 12 the conditions listed in subsection 2) are satisfied and the geotechnical professional provides a
 13 statement of risk matching one of the following:
 14 a. An evaluation of site-specific subsurface conditions demonstrates that the proposed
 15 development is not located in a landslide hazard area or seismic hazard area;
 16 b. The landslide hazard area or seismic hazard area will be modified or the development has
 17 been designed so that the risk to the site and adjacent property is eliminated or mitigated
 18 such that the site is determined to be safe;
 19 c. Construction practices are proposed for the alteration that would render the development
 20 as safe as if it were not located in a geologically hazardous area and do not adversely impact
 21 adjacent properties; or
 22 d. The development is so minor as not to pose a threat to the public health, safety and welfare.
- 23 C. *Development Standards – Landslide Hazard Areas:* Development is allowed within landslide hazard
 24 areas and associated buffers, when the following standards are met:
 25 1. A critical area study shall be required for any alteration of a landslide hazard area or associated
 26 buffer;
 27 2. Buffers shall be applied as follows. When more than one condition applies to a site, the largest
 28 buffer shall be applied.
 29 a. Steep slopes. Buffer widths shall be equal to the height of a steep slope, but shall not more
 30 than 75 feet, and applied to the top and toe of slopes;
 31 b. Shallow landslide hazard areas shall have minimum 25-foot buffers applied in all directions;
 32 and
 33 c. Deep-seated landslide hazard areas shall have 75-foot buffers applied in all directions.
- 34 D. *Development Standards – Seismic Hazard Areas:* When development is proposed within a seismic
 35 hazard area:
 36 1. A 50-ft minimum buffer shall be applied from latest Quaternary, Holocene, or historical fault
 37 rupture traces as identified by the United States Geological Survey or Washington Geological
 38 Survey map databases or by site investigations by licensed geologic professionals with
 39 specialized knowledge of fault trenching studies; or
 40 2. Mitigation sequencing shall be incorporated into the development proposal as recommended
 41 based on geotechnical analysis by a qualified professional to prevent increased risk of harm to
 42 life and/or property.

1 E. *Development Standards – Erosion Hazard Areas:*

- 2 1. All development proposals shall demonstrate compliance with MICC Chapter 15.09 – Storm
 3 Water Management Plan.
 4 2. No development or activity within an Erosion Hazard Area may create a net increase in
 5 geological instability on- or off- site.

6 F. *Development Standards – Additional Criteria for Specific Activities:*

- 7 1. Trail building within geologically hazardous areas shall be subject to the following:
 8 a. Trail surfaces shall be constructed of pervious materials and may not be wider than five feet;
 9 and
 10 b. Trails shall be located to minimize the need for tree removal.
 11 2. Land clearing, grading, filling, and foundation work within: 1) an erosion hazard area, when
 12 2,000 sq ft or more of site disturbance is proposed, and/or 2) a landslide hazard area are not
 13 permitted between October 1 and April 1.
 14 a. The code official may grant a waiver to this seasonal development limitation if the applicant
 15 provides a critical area study for the site concluding that:
 16 (1) geotechnical slope stability concerns, erosion and sedimentation impacts can be
 17 effectively controlled on-site consistent with adopted storm water standards; and
 18 (2) the proposed construction work will not subject people or property, including areas off-
 19 site, to an increased risk of associated impacts.
 20 b. As a condition of the waiver, the code official may require erosion control measures,
 21 restoration plans, an indemnification, a release agreement and/or performance bond.
 22 c. If site activities result in erosion impacts or threaten water quality standards, the city may
 23 suspend further work on the site and/or require remedial action.
 24 d. Failure to comply with the conditions of an approved waiver shall subject the applicant to
 25 code compliance pursuant to MICC Chapter 6.10 – Code Compliance, including but not
 26 limited to civil penalties and permit suspension.

27 **19.07.180 Critical Aquifer Recharge Areas**

28 A. *Designation and Typing:* Critical aquifer recharge areas are designated as: 1) areas within the
 29 wellhead protection area of the city’s emergency well(s); and 2) the sanitary control areas of Group
 30 B public water systems.

31 B. *Development Standards:*

- 32 1. The following uses and activities are prohibited within critical aquifer recharge areas unless
 33 studies are submitted pursuant to subsection (B)(2) of this section.
 34 a. Automobile repair shops
 35 b. Boat repair
 36 c. Dry cleaners
 37 d. Bus and truck terminals
 38 e. Funeral services and taxidermy
 39 f. Gas stations
 40 g. Graveyards/cemeteries
 41 h. Hardware and lumber stores
 42 i. Landfills

- 1 j. Medical & veterinary offices
- 2 k. Office and retail buildings
- 3 l. Petroleum transmission lines
- 4 m. Photo processors
- 5 n. Sewer lines
- 6 o. Wastewater treatment facilities
- 7 p. Activities that would significantly reduce the recharge to aquifers currently or potentially
- 8 used as a potable water source; and
- 9 q. Activities that would significantly reduce the recharge to aquifers that are a source of
- 10 significant baseflow to a stream.
- 11 2. Approval of regulated activities within a critical aquifer recharge area shall require a critical area
- 12 study that satisfies the requirements of MICC 19.07.110 – Critical Area Studies demonstrating
- 13 that the potential impacts will be mitigated.

14 **19.07.190 Fish and Wildlife Habitat Conservation Areas**

15 A. *Designation and Typing:* Fish and wildlife habitat conservation areas include the following:

- 16 1. Watercourses.
- 17 2. Priority Habitats and areas associated with Priority Species, as listed in the Washington State
- 18 Department of Fish and Wildlife’s Priority Habitats and Species list, as amended. Priority habitats
- 19 and species known to be identified and mapped by the Washington State Department of Fish
- 20 and Wildlife in the city include, but are not limited to, the following: band-tailed pigeon, pileated
- 21 woodpecker, cavity-nesting ducks, and biodiversity areas and corridors as mapped within
- 22 Mercedale Park (and hillside), Upper Luther Burbank Park, Gallagher Hill Open Space, Southeast
- 23 53rd Open Space, Island Crest Park, and Pioneer Park Open Space.
- 24 3. Areas used by bald eagles for foraging, nesting, and roosting.

25 B. *General Review Requirements:*

- 26 1. Development proposals, unless specifically exempt pursuant to MICC 19.07.120, within Priority
- 27 Habitats or areas used by bald eagles for foraging, nesting and/or roosting shall submit a wildlife
- 28 habitat assessment in the form of a critical area study prepared by a qualified professional
- 29 including the following information:
- 30 a. Identification of state priority species, or state or federally listed endangered, threatened or
- 31 sensitive species that have a primary association with habitat on or in the vicinity of the site;
- 32 b. Extent of wildlife habitat areas, including acreage, and required buffers based on the
- 33 species;
- 34 c. Vegetative, faunal, and hydrologic characteristics;
- 35 d. Evaluation of direct and indirect potential impacts on habitat by the project, including
- 36 potential impacts to water quality; and
- 37 e. A discussion of any federal, state, or local special management recommendations, including
- 38 Washington State Department of Fish and Wildlife habitat management recommendations
- 39 that have been developed for the species or habitats.
- 40 2. Development proposals within areas used by bald eagles for foraging or within 660 feet of a bald
- 41 eagle nest as identified by a critical area study shall follow the requirements of the US Fish and
- 42 Wildlife’s *National Bald Eagle Management Guidelines* (2007 or as amended).

3. Development proposals within areas meeting the definition of both 1) wetlands, watercourses or associated buffers and 2) fish and wildlife habitat conservation areas shall submit a wildlife habitat assessment and mitigation plan demonstrating that the proposal will cause no net loss of ecological function.

19.07.200 Watercourses

A. Designation and Typing: Watercourses shall be classified by the following types:

1. Type S (there are no known Type S watercourses on Mercer Island);
2. Type F;
3. Type Np;
4. Type Ns; and
5. Piped.

B. General Review Requirements

1. Development within watercourses and/or associated buffers is prohibited unless one of the following conditions applies:
 - a. The proposed activity is specifically exempt pursuant to MICC 19.07.120;
 - b. A Critical Area Review 1 application is reviewed and approved for one of the modifications in MICC 19.07.130; or
 - c. The proposed activity is permitted under subsection (D) Development Standards – Additional Criteria for Specific Activities, below.

C. Development Standards – Buffers

1. Development proposals and other alterations on sites containing streams or buffers shall comply with the following standards:
2. The following minimum buffers shall be established from the ordinary high water mark or from the top of the bank if the ordinary high water mark cannot be identified:

Watercourse Type	Standard Buffer
F	120 feet
Np	60 feet
Ns	60 feet
Piped	No buffer

3. Neither lot coverage nor hardscape shall be permitted within a watercourse or watercourse buffer except as specifically provided in this chapter.
4. Any watercourse adjoined by a riparian wetland or other contiguous critical area shall have the buffer required for the stream type involved or the buffer that applies to the wetland or other critical area, whichever is greater.
5. Buffer Averaging. Buffer width averaging shall be allowed by the code official provided the following requirements are met:
 - a. The applicant has demonstrated how impacts will be minimized and that avoidance has been addressed consistent with MICC 19.07.100 – Mitigation Sequencing;
 - b. The applicant has demonstrated how all proposed impacts have been mitigated consistent with subsection (E) - Mitigation Requirements of this section and will not result in a loss of ecological function;

- 1 c. The proposed buffer width is not less than 75% of the standard buffer width at any point;
- 2 and
- 3 d. The proposed buffer averaging is not proposed in conjunction with buffer reduction.
- 4 6. Buffer Reduction. Buffer width reduction shall be allowed by the code official provided the
- 5 following requirements are met:
- 6 a. The applicant has demonstrated that buffer averaging would not feasibly allow
- 7 development;
- 8 b. The applicant has demonstrated how impacts will be minimized and that avoidance has
- 9 been addressed consistent with MICC 19.07.100 – Mitigation Sequencing;
- 10 c. The applicant has demonstrated how all proposed impacts have been mitigated consistent
- 11 with subsection (E) of this section and will not result in a loss of ecological function;
- 12 d. The proposed buffer width is not less than 75% of the standard buffer width at any point;
- 13 and
- 14 e. The proposed buffer reduction is not proposed in conjunction with buffer averaging.
- 15 7. Piped watercourse setbacks
- 16 a. The intent of applying setbacks to piped watercourses is to preserve the opportunity to
- 17 daylight watercourses that were previously piped, to provide incentives to property owners
- 18 to daylight and enhance previously piped watercourses, and to allow flexibility for
- 19 development where daylighting piped watercourses is demonstrated to be infeasible.
- 20 b. Setbacks shall be established 45 ft from the centerline of a piped watercourses.
- 21 c. Piped watercourses setback widths shall be reduced by the code official to a 15-foot buffer
- 22 when the portion of the piped watercourse on the applicant’s property is daylighted and
- 23 where the watercourse has been restored to an open channel, provided a restoration plan
- 24 demonstrates:
- 25 (1) The watercourse channel will be stable and is not expected to cause safety risks or
- 26 environmental damage; and
- 27 (2) No additional impact nor encumbrance by watercourse buffer or critical area setback is
- 28 added to properties neighboring the applicant(s) property.
- 29 d. Piped watercourse setback widths shall be reduced by the code official to: 1) 10 feet on lots
- 30 with a lot width of 50 feet or more, and 2) 5 feet on lots with a width of less than 50 feet,
- 31 when daylighting is determined by qualified professional(s) to result in one or more of the
- 32 following outcomes:
- 33 (1) Increased risk of landslide or other potential hazard that cannot be mitigated;
- 34 (2) Increased risk of environmental damage (e.g., erosion, diminished water quality) that
- 35 cannot be mitigated;
- 36 (3) The inability of a legally established existing lot to meet the vehicular access
- 37 requirements of this title; or
- 38 (4) The inability of a legally established existing lot to meet the building pad standards in
- 39 MICC 19.09.090.
- 40 8. Buildings and other structures shall be set back a minimum of 10 feet from the edges of a
- 41 watercourse buffer. The distance may be reduced to five feet if:
- 42 a. The watercourse is Type Ns;

- b. The buffer does not contain habitat for WDFW priority species.
 - c. A split-rail fence is installed along the perimeter of the buffer; and
 - d. Survey markers are installed along the perimeter of the buffer to establish its field location.
9. The following may be allowed in the critical area setback, provided no structures nor building overhangs may be closer than five feet from the edge of a watercourse buffer:
- a. Landscaping;
 - b. Uncovered decks less than 30 inches above existing or finished grade, whichever is lower;
 - c. Building overhangs if such overhangs do not extend more than 18 inches into the setback area;
 - d. Hardscape and driveways; provided, that such improvements may be subject to requirements in Chapter 15.09 MICC – Storm Water Master Program;
 - e. Split rail fences;
 - f. Trails, consistent with the requirements of this chapter; and
 - g. Subgrade components of foundations, provided that any temporary impacts to building setbacks shall be restored to their previous condition or better.

D. Development Standards – Additional Criteria for Specific Activities:

- 1. New watercourse crossings, such as bridges and culverts, may be permitted provided the standards in WAC 220-660-190 have been demonstrated to be met.
- 2. The construction of trails within watercourse buffers is allowed, subject to the following:
 - a. Trail surfaces shall be constructed of pervious materials and may not be wider than five feet;
 - b. Trails shall be located to minimize the need for tree removal; and
 - c. Trails shall be located only in the outer 25 percent of the buffer area.
- 3. The trail width shall be added to the buffer width applied to the watercourse (e.g., if a trail is three feet wide, the watercourse buffer for the portion of the watercourse where the trail is located shall be expanded by three feet); except that the trail width shall not be added to the buffer width when trails are being created for public access and contained within a public access easement or right-of-way.

E. Mitigation requirements: Mitigation measures shall achieve equivalent or greater ecological function including, but not limited to:

- 1. Habitat complexity, connectivity, and other biological functions;
- 2. Seasonal hydrological dynamics, water storage capacity and water quality; and
- 3. Geomorphic and habitat processes and functions

19.07.210 Wetlands

A. *Designation and Typing:* Wetlands shall be ~~identified and their boundaries delineated~~ rated in accordance with the approved federal delineation manual and applicable regional supplements described in WAC 173-22-035. ~~Wetlands shall be rated according to t and based on field investigation and a survey and using the Washington State Rating System for Western Washington: 2014 Update (Hruby, 2014), or most current update.~~

B. General Review Requirements:

- 1. In addition to the critical area study requirements listed in MICC 19.07.110 – Critical Area Studies, critical area studies on wetlands shall also include:
 - a. Wetland rating forms, figures, and datasheets;

Commented [BD(5): We recommend clarifying the difference between delineations and ratings

- b. Discussion of landscape setting;
 - c. A functional analysis of the project demonstrating that there will be no loss of ecological function; and
 - d. A mitigation plan.
2. Wetland delineations are valid for five years.
 3. Wetlands must be delineated and rated by a qualified professional.

C. *Development Standards – Buffers:*

1. The following minimum buffers shall be established from the ordinary high water mark:

Wetland Category	Standard Buffer	
	With 3-5 habitat points	With 6-7 habitat points
Category I	75 ft	110 ft
Category II	75 ft	110 ft
Category III	60 ft	110 ft
Category IV	40 ft	

Commented [GD(6): We recommend measuring the buffer width from the wetland boundary not the OHWM.

Commented [GD(7): Are there any wetlands within Mercer Island that have habitat scores higher than 7? If there are, then another column should be inserted for scores >7.

2. Where a legally established and constructed street transects a wetland buffer, the department may approve a modification of the standard buffer width to the edge of the street if the isolated part of the buffer does not provide additional protection of the wetland and provides insignificant biological, geological or hydrological buffer functions relating to the wetland.
3. Prohibited activities: The following uses are prohibited within any wetland or associated buffer: removal, excavation, grading, or dredging of material; draining flooding or disturbing the wetland, water level or water table; construction, reconstruction, demolition, or expansion of any structure.
4. Neither lot coverage nor hardscape shall be permitted within a wetland or wetland buffer except as specifically provided in this chapter.
5. Buffer Averaging. Buffer width averaging shall be allowed by the code official provided the following requirements are met:
 - a. The applicant has demonstrated how impacts have been avoided consistent with MICC 19.07.100 – Mitigation Sequencing;
 - b. The applicant has demonstrated how all proposed impacts have been mitigated consistent with subsection (E) of this section and will not result in a loss of ecological function;
 - c. The proposed buffer width is not less than 75% of the standard buffer width at any point and the total area is equal to the area required without averaging; and
 - d. The proposed buffer averaging is not proposed in conjunction with buffer reduction.
6. Buffer Reduction. Buffer width reduction shall be allowed by the code official provided the following requirements are met:
 - a. The applicant has demonstrated that buffer averaging would not feasibly allow development;
 - b. The applicant has demonstrated how impacts will be minimized and that avoidance has been addressed consistent with MICC 19.07.100 – Mitigation Sequencing;

Commented [GD(8): We recommend that buffer averaging be allowed only when the wetland has significant differences in characteristics that affect its habitat functions.

Commented [GD(9): We do not believe buffer reduction is consistent with best available science such as *Update on Wetland Buffers: The State of the Science, Final Report*, October 2013. Washington State Department of Ecology Publication #13-06-11.

- c. The applicant has demonstrated how all proposed impacts have been mitigated consistent with subsection (E) of this section and will not result in a loss of ecological function;
 - d. The proposed buffer width is not less than 75% of the standard buffer width at any point; and
 - e. The proposed buffer reduction is not proposed in conjunction with buffer averaging.
7. Buildings and other structures shall be set back a minimum of 10 feet from the edges of a wetland buffer. The distance may be reduced to five feet if:
- a. The wetland is:
 - (1) hydrologically isolated;
 - (2) Category III or IV;
 - (3) less than 1,000 square feet
 - (4) in an area that is not associated with riparian areas or buffers;
 - (5) not part of a wetland mosaic, and
 - (6) does not contain habitat for WDFW priority species.
 - b. A split-rail fence is installed along the perimeter of the buffer; and
 - c. Survey markers are installed along the perimeter of the buffer to establish its field location.
8. The following may be allowed in the critical area setback, provided no structures nor building overhangs may be closer than five feet from the edge of a wetland buffer:
- a. Landscaping;
 - b. Uncovered decks less than 30 inches above existing or finished grade, whichever is lower;
 - c. Building overhangs if such overhangs do not extend more than 18 inches into the setback area;
 - d. Hardscape and driveways; provided, that such improvements may be subject to requirements in Chapter 15.09 MICC – Storm Water Master Program;
 - e. Split rail fences;
 - f. Trails, consistent with the requirements of this chapter; and
 - g. Subgrade components of foundations, provided that any temporary impacts to building setbacks shall be restored to their previous condition or better.
- D. *Development Standards – Additional Criteria for Specific Activities:*
1. Alterations to wetlands are allowed when the applicant has demonstrated how mitigation sequencing has been applied pursuant to MICC 19.07.100 – Mitigation Sequencing and when the applicant has demonstrated that the wetland is:
 - a. hydrologically isolated;
 - b. Category III or IV;
 - c. less than 1,000 square feet
 - d. in an area that is not associated with riparian areas or buffers;
 - e. not part of a wetland mosaic, and
 - f. does not contain habitat for WDFW priority species.
 2. The construction of trails within wetland buffers is allowed, subject to the following requirements:
 - a. Trail surfaces shall be constructed of pervious materials and may not be wider than five feet;
 - b. Trails shall be located to minimize the need for tree removal; and

Commented [BD(10): The standard buffers the city is proposing are already the minimum width that can be justified by best available science. Allowing a 25% reduction from this standard buffer is not supported by the literature.

Commented [BD(11): This language is similar to our old small cities guidance. It's been replaced by the following from page 24
<https://fortress.wa.gov/ecy/publications/documents/1606001.pdf>:

1. All isolated Category IV wetlands less than 4,000 square feet that:
 - a. Are not associated with riparian areas or their buffers
 - b. Are not associated with shorelines of the state or their associated buffers
 - c. Are not part of a wetland mosaic
 - d. Do not score 5 or more points for habitat function based on the 2014 update to the *Washington State Wetland Rating System for Western Washington: 2014 Update* (Ecology Publication #14-06-029, or as revised and approved by Ecology)
 - e. Do not contain a Priority Habitat or a Priority Area¹ for a Priority Species identified by the Washington Department of Fish and Wildlife, do not contain federally listed species or their critical habitat, or species of local importance identified in Chapter XX.XX.
2. Wetlands less than 1,000 square feet that meet the above criteria and do not contain federally listed species or their critical habitat are exempt from the buffer provisions contained in this Chapter.

- c. Trails shall be located only in the outer 25 percent of the buffer area.
 - d. The trail width shall be added to the buffer width applied to the wetland (e.g., if a trail is three feet wide, the wetland buffer for the portion of the wetland where the trail is located shall be expanded by three feet); except that the trail width shall not be added to the buffer width when trails are being created for public access and contained within a public access easement or right-of-way.
3. Development proposals shall incorporate the following measures where their application would result in a net environmental benefit, and where site conditions would feasibly allow the following:

Disturbance	Required Measures to Minimize Impacts
Lights	Direct lights away from wetland
Noise	Locate activity that generates noise away from wetland If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source For activities that generate relatively continuous, potentially disruptive noise, such as certain heavy industry or mining, establish an additional 10' heavily vegetated buffer strip immediately adjacent to the out wetland buffer
Toxic runoff	Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered Establish covenants limiting use of pesticides within 150 ft of wetland Apply integrated pest management
Stormwater runoff	Retrofit stormwater detention and treatment for roads and existing adjacent development Prevent channelized flow from lawns that directly enters the buffer Use Low Impact Development techniques
Changes in water regime	Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns
Pets and human disturbance	Protect wetlands and associated buffers with conservation or native growth protection easements
Dust	Use best management practices to control dust
Disruption of corridors or connections	Maintain connections to offsite areas that are undisturbed Restore corridors or connections to offsite habitats by replanting

Commented [BD(12): Ecology's buffer recommendations require the use of these minimizing measures when using a standard buffer. If the applicant chooses not to implement these mitigating measures, then the buffer width should be increased 33%. We recommend moving this table closer to the standard buffer table and clarifying the text description. You could also insert a table showing the larger buffer widths so there is an incentive to follow these mitigating measures. See example in Appendix A of *Wetland Guidance for CAO Updates, Western Washington Version* Washington State Department of Ecology Publication #16-06-001.

- E. *Mitigation Requirements:* When mitigation for wetland and/or wetland buffer impacts is required, mitigation shall meet the requirements listed below:

1. Compensatory mitigation for alterations to wetlands shall be used only for impacts that cannot be avoided or minimized and shall achieve equivalent or greater biologic functions compared to pre-development conditions. Compensatory mitigation plans shall be consistent with Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans--Version 1, (Ecology Publication #06-06-011b, Olympia, WA, March 2006 as revised), and Selecting Wetland Mitigation Sites Using a Watershed Approach (Western Washington) (Publication #09-06-32, Olympia, WA, December 2009 as revised).
2. Mitigation for alterations to wetland(s) and/or wetland buffer(s) shall achieve equivalent or greater ecological function.
3. No Net Loss. Wetland mitigation actions shall not result in a net loss of wetland area.
4. Mitigation actions shall be in-kind and conducted within the same sub-basin and on the same site as the alteration except when the following apply:
 - a. There are no reasonable on-site opportunities for mitigation on-site opportunities do not have a high likelihood of success due to adjacent land uses;
 - b. On-site buffers or connectivity are inadequate;
 - c. Off-site mitigation has a greater likelihood of providing equal or improved wetland functions than the impacted wetland; and
 - d. Off-site locations have been identified and evaluated in the following order of preference:
 - (1) Within the same drainage sub-basin;
 - (2) Within the city limits;
 - (3) Within the Mercer Island service area for an approved mitigation bank program site within the WRIA 8 in accordance with the requirements in subsection (E)(5) below.
 - e. Where feasible, off-site mitigation projects shall be completed prior to activities that will disturb wetlands. In all other cases, mitigation shall be completed immediately following site disturbance and prior to use or occupancy of the activity or development. Construction of mitigation projects shall be timed to reduce impacts to existing wildlife and flora.
5. Mitigation Ratios:
 - a. The following ratios shall apply to required wetland mitigation. The first number specifies the acreage of replacement wetlands and the second specifies the acreage of wetlands altered.
 - b. Permanent Wetland Mitigation. The following ratios of area of mitigation to area of alteration apply to mitigation measures for permanent alterations.

Wetland Category	Creation	1:1 Wetland reestablishment or wetland creation (R/C) and wetland enhancement (E) Enhancement
Category I	4:1	1:1 R/C and 16:1
Category II	3:1	1:1 R/C and 12:1
Category III	2:1	1:1 R/C and 8:1
Category IV	1.5:1	1:1 R/C and 6:1

Commented [BD(13)]: This is not consistent with the replacement ratios in the *Wetland Mitigation in Washington State--Part 1: Agency Policies and Guidance*. Washington State Department of Ecology Publication #06-06-011a. See Table 1a where: Category I =12:1, Category II=8:1, Category III=4:1, and Category IV=2:1.

- 1 c. Temporary Wetland Mitigation. The following ratios of area of mitigation to area of
 2 alteration apply to mitigation measures for temporary alterations where wetlands will not
 3 be impacted by permanent fill material:

Wetland Category	Creation	Enhancement
Category I	1.5:1	3:1
Category II	0.75:1	1.5:1
Category III	0.5:1	1:1
Category IV	Not applicable	Not applicable

Commented [GD(14): We recommend clarifying this compensates for temporary construction impacts. We don't have any published guidance to support these replacement ratios but they seem reasonable.

- 4 d. Wetland Buffer Replacement Ratio. Altered wetland buffer area shall be replaced at a
 5 minimum ratio of one-to-one; provided, that the replacement ratio may be increased if
 6 needed to replace lost functions and values.
- 7 e. Increased Mitigation Ratio. The code official may increase the ratios under the following
 8 circumstances:
- 9 (1) Uncertainty exists as to the probable success of the proposed restoration or creation; or
 - 10 (2) A significant period of time will elapse between impact and replication of wetland
 11 functions; or
 - 12 (3) Proposed mitigation will result in a lower category wetland or reduced functions relative
 13 to the wetland being impacted; or
 - 14 (4) The impact was an unauthorized impact.
- 15 f. Decreased Mitigation Ratio. The code official may decrease these ratios under the following
 16 circumstances:
- 17 (1) Documentation by a qualified professional demonstrates that the proposed mitigation
 18 actions have a very high likelihood of success. This documentation should specifically
 19 identify how the proposed mitigation actions are similar to other known mitigation
 20 projects with similar site-specific conditions and circumstances that have been shown to
 21 be successful; or
 - 22 (2) Documentation by a qualified professional demonstrates that the proposed mitigation
 23 actions will provide functions and values that are significantly greater than the wetland
 24 being impacted; or
 - 25 (3) The proposed mitigation actions are conducted in advance of the impact and have been
 26 shown to be successful over the course of at least one full year.
- 27 6. Wetland Banking.
- 28 a. Credits from a wetland mitigation bank may be approved for use as compensation for
 29 unavoidable impacts to wetlands when:
- 30 (1) The criteria in subsection (E)(4) are demonstrated to have been met;
 - 31 (2) The bank is certified under chapter 173-700 WAC;
 - 32 (3) A qualified professional has demonstrated that the wetland mitigation bank provides
 33 appropriate compensation for the authorized impacts;
 - 34 (4) The proposed use of credits is consistent with the terms and conditions of the bank's
 35 certification; and
 - 36 (5) The compensatory mitigation agreement occurs in advance of authorized impacts.

- 1 b. Replacement ratios for projects using bank credits shall be consistent with replacement
- 2 ratios specified in the bank's certification.
- 3 c. Credits from a certified wetland mitigation bank may be used to compensate for impacts
- 4 located within the service area specified in the bank's certification. In some cases, bank
- 5 service areas may include portions of more than one adjacent drainage basin for specific
- 6 wetland functions.
- 7 7. Preference of Mitigation Actions. Compensatory wetland mitigation shall occur in the following
- 8 order of preference:
- 9 a. Restoration
- 10 b. Creation
- 11 c. Enhancement
- 12 d. Preservation
- 13 8. Site protection: As a condition of any permit or land use approval, the code official may require
- 14 permanent fencing and signage to be installed around the wetland or buffer. Fencing installed as
- 15 part of a proposed activity or as required in this subsection shall be designed to not interfere
- 16 with species migration, including fish runs, and shall be constructed in a manner that minimizes
- 17 impacts to the wetland and associated habitat.

DRAFT

- 1 Chapter 19.07
- 2 ENVIRONMENT
- 3 Sections:
- 4 19.07.010 Purpose.
- 5 19.07.020 Applicability
- 6 19.07.030 Relationship to Other Regulations
- 7 19.07.040 Critical Areas Rules
- 8 19.07.050 Fees
- 9 19.07.060 Critical Area Maps and Inventories
- 10 19.07.070 Disclosure and Notice on Title
- 11 19.07.080 General Provisions
- 12 19.07.090 Critical Area Reviews
- 13 19.07.100 Mitigation Sequencing
- 14 19.07.110 Critical Area Studies
- 15 19.07.120 Exemptions
- 16 19.07.130 Modifications
- 17 19.07.140 Reasonable Use Exception
- 18 19.07.150 Public Agency Exception
- 19 19.07.160 Frequently Flooded Areas
- 20 19.07.170 Geologically Hazardous Areas
- 21 19.07.180 Critical Aquifer Recharge Areas
- 22 19.07.190 Fish and Wildlife Habitat Conservation Areas
- 23 19.07.200 Watercourses
- 24 19.07.210 Wetlands

25 **19.07.010 Purpose**

26 These regulations are adopted for the following purposes:

- 27 A. To implement the goals and policies for the Growth Management Act chapter 36.70A RCW;
- 28 B. To maintain the functions and values of critical areas and enhance the quality of habitat to support
- 29 the sustenance of native plants and animals;
- 30 C. To balance property owner interests with the public interest;
- 31 D. To promote biodiversity within critical areas and buffers by encouraging planting with mostly native
- 32 and climate-resilient vegetation;
- 33 E. To establish review criteria for land use reviews that maintain and improve the ecological health of
- 34 wetlands, watercourses and Lake Washington;
- 35 F. To establish standards for new development that avoid increasing the risk of harm to people,
- 36 property, and public infrastructure from natural hazards;
- 37 G. To protect the functions and value of fish and wildlife habitat conservation areas, including
- 38 wetlands, watercourses and habitat for priority species and species of local importance, through the
- 39 use of buffers;
- 40 H. To increase the safety of development within and adjacent to geologically hazardous areas through
- 41 the use of buffers;
- 42 I. To require mitigation measures when unavoidable impacts to critical areas are proposed;

- 1 J. To establish tools to ensure that protection and mitigation measures are applied and maintain
- 2 ecological value and function consistent with the provisions of this chapter;
- 3 K. To avoid impact to the critical areas where possible, and if avoidance is not possible, minimize
- 4 impacts to critical areas and buffers to the greatest extent feasible, and mitigate any remaining
- 5 impacts;
- 6 L. To encourage the restoration of existing compromised critical areas; and
- 7 M. To minimize negative impacts from the built environment on the functions and values of critical
- 8 areas.

9 **19.07.020 Applicability**

- 10 A. Except as specifically exempted by MICC 19.07.120 - Exemptions, these regulations apply to land
- 11 uses, development activity, and all structures and facilities within the City of Mercer Island that
- 12 contain any of the following critical areas and/or their buffers, as defined in 19.16 MICC:
- 13 1. Wetlands;
- 14 2. Fish and Wildlife Habitat Conservation Areas (including watercourses);
- 15 3. Geologically Hazardous Areas;
- 16 4. Critical Aquifer Recharge Areas; and
- 17 5. Frequently Flooded Areas.
- 18 B. The city shall not approve any development proposal or otherwise issue any authorization to alter
- 19 the condition of any land, water or vegetation or to construct or alter any structure or improvement
- 20 without first assuring compliance with the requirements of this chapter or determining that this
- 21 chapter is not applicable to the development.
- 22 C. Approval of a development proposal pursuant to the provisions of this chapter does not discharge
- 23 the applicant of the obligation to comply with the provisions of this chapter.

24 **19.07.030 Relationship to other regulations**

- 25 A. If more than one regulation applies to a given property, then the regulation that provides the
- 26 greatest protection to critical areas shall apply.
- 27 B. Other Jurisdictions. Nothing in these regulations eliminates or otherwise affects the responsibility of
- 28 an applicant or property owner to comply with all other applicable local, state, and federal
- 29 regulations and required permits.
- 30 C. SEPA Compliance. Nothing in these regulations or the decisions made pursuant to these regulations
- 31 affects the authority of the city to review, condition, and deny projects under the State
- 32 Environmental Policy Act, chapter 43.21C RCW.

33 **19.07.040 Critical Areas Rules**

34 The city is authorized to adopt administrative rules and regulations as necessary and appropriate to

35 implement this chapter and to prepare and require the use of forms to facilitate its administration.

36 **19.07.050 Fees**

- 37 A. Unless otherwise indicated in this title, the applicant shall be responsible for the initiation,
- 38 preparation, submission, and expense of all required reports, assessments, studies, plans,
- 39 reconnaissances, or other work prepared in support of or necessary to review the application.
- 40 B. The applicant shall be responsible for all applicable fees as established in the city's fee schedule,
- 41 consultant review fees, and peer review fees.

42 **19.07.060 Critical Area Maps and Inventories**

1 Approximate locations of critical areas in the City of Mercer Island are depicted on citywide maps
 2 displayed in the city’s GIS database, as amended. Field verification and, if appropriate, evaluation and
 3 mapping by a qualified professional of the location of critical areas will be required to determine the
 4 location and type of critical area on a given site.

5 **19.07.070 Disclosure and notice on title**

- 6 A. The applicant shall disclose to the city the presence of critical areas on the development proposal
 7 site and any mapped or identifiable critical areas within the distance equal to the largest potential
 8 required buffer applicable to the development proposal on the development proposal site.
- 9 B. The owner of any property containing critical areas and/or buffers on which a development proposal
 10 is submitted, except a public right-of-way or the site of a permanent public facility, shall file a notice
 11 approved by the city with the records and elections division of King County. The required contents
 12 and form of the notice shall be determined by the code official. The notice shall inform the public of
 13 the presence of critical areas, buffers and/or mitigation sites on the property, of the application of
 14 the city’s critical areas code to the property and that limitations on actions in or affecting such
 15 critical areas and/or buffers may exist. The notice shall run with the land in perpetuity.
- 16 C. The applicant shall submit proof to the city that the notice has been recorded prior to approval of a
 17 development proposal for the property or, in the case of subdivisions, short subdivisions, and
 18 binding site plans, at or before recording of the final subdivision, short subdivision, or binding site
 19 plan.
- 20 D. Notices on title may be removed at a property owner’s request if documented to the code official
 21 that the information contained in an existing notice is no longer accurate, because a critical area has
 22 changed, for example in its type or location, or if the notice is proposed to be replaced with a notice
 23 containing updated information.

24 **19.07.080 General provisions**

- 25 A. Hold Harmless/Indemnification Agreement and Covenant Not to Sue, Performance Guarantees,
 26 Performance Bonds, Insurance. An applicant for a permit within a critical area shall comply with the
 27 requirements of MICC 19.01.060, if required by the code official.
- 28 B. Timing. All alterations or mitigation to critical areas shall be completed prior to the final inspection
 29 and occupancy of a project.
- 30 C. Maintenance and Monitoring.
 - 31 1. Maintenance and monitoring shall be required for at least five years from the date of project
 32 completion if the code official determines such condition is necessary to ensure mitigation
 33 success and critical area protection.
 - 34 2. A bond or assignment of funds pursuant to MICC 19.01.060(C) may be required to guarantee
 35 that approved mitigation plans will be undertaken and completed to the city’s satisfaction.
 - 36 3. When monitoring is required, site visits and reporting shall be required two times per year for
 37 each of the first two years and once every 12 months for the subsequent years of the
 38 monitoring period.
 - 39 4. Where monitoring reveals a significant difference from predicted impacts or a failure of
 40 protection measures, the applicant shall be responsible for appropriate corrective action, which
 41 may be subject to further monitoring.

- 1 D. Compliance with Mitigation Requirements. In cases where mitigation has been completed, but no
- 2 monitoring reports have been submitted to the city, the applicant shall submit as-built drawings and
- 3 yearly monitoring reports to the city until at least two consecutive annual reports document to the
- 4 code official's satisfaction that all performance standards from the approved mitigation plan have
- 5 been met.
- 6 E. Seasonal Limitations. Land clearing, grading, filling, and foundation work may be limited to only
- 7 certain times of year, pursuant to MICC 19.07.170(F)(2).
- 8 F. Suspension of Work. If the alteration does not meet city standards established by permit condition
- 9 or applicable codes, including controls for water quality, erosion and sedimentation, the city may
- 10 suspend further work on the site until such standards are met. Compliance with all requirements of
- 11 this chapter is required pursuant to MICC 19.15.210.
- 12 G. A critical area study completed over five years prior to application submittal date shall be field
- 13 verified by a qualified professional to determine whether the study is still accurate, and if not, the
- 14 study shall be completed according to the current best available science.

15 **19.07.090 Critical Area Reviews**

16 This subsection describes the purpose and procedures by which the city will review and authorize
 17 development and verify consistency with this chapter.

18 A. Critical Area Review 1

- 19 1. The purpose of a Critical Area Review 1 is to review:
 - 20 a. Activities listed as Modifications in MICC 19.07.130 - Modifications;
 - 21 b. Verification of the presence or absence of a critical area; or
 - 22 c. Verification of the delineation and/or type of wetland or watercourse.
- 23 2. Review timing and sequence
 - 24 a. If a building permit is required for the proposed scope of work associated with the Critical
 - 25 Area Review 1, then the substance of the review shall take place concurrently with the
 - 26 building permit review, and no separate land use review application is required.
 - 27 b. If no building permit is required for the proposed scope of work associated with the Critical
 - 28 Area Review 1, then the review shall take place according to the procedures required for a
 - 29 Type 1 land use review.
- 30 3. Requirements for a complete application
 - 31 a. Completed Development Application Coversheet
 - 32 b. Project narrative, describing the proposed scope of work.
 - 33 c. Scaled site plan showing the proposed work
 - 34 d. Any additional information required by the city to confirm compliance with this Title.

35 B. Critical Area Review 2

- 36 1. The purpose of a Critical Area Review 2 is to review:
 - 37 a. Critical area studies and mitigation plans in support of proposed buffer averaging and
 - 38 reduction of wetland and watercourse buffers.
 - 39 b. Critical area studies submitted when a use listed in MICC 19.07.180(B)(1) is proposed within
 - 40 a critical aquifer recharge area.
- 41 2. Review timing and sequence

- 1 a. When development and/or activity within a wetland, watercourse, Fish and Wildlife Habitat
- 2 Conservation Area or buffer associated with these critical area types is proposed, a Critical
- 3 Area Review 2 is required to be reviewed and approved prior to construction authorization.
- 4 b. When development and/or activity is proposed on a site containing only geologically
- 5 hazardous areas, an applicant has the option of either:
- 6 (1) Applying for a Critical Area Review 2 in advance of construction permits, using the
- 7 procedures required for a Type 3 land use review; or
- 8 (2) Requesting consolidation of the review of geologically hazardous areas together with
- 9 construction permit review.
- 10 c. When development and/or activity is proposed on a site containing geologically hazardous
- 11 areas and one or more of the critical area types listed in subsection (B)(2)(a) or the
- 12 associated buffer of one of those critical areas, a Critical Area Review 2 reviewing all critical
- 13 areas is required to be reviewed and approved prior to construction authorization, using the
- 14 procedures required for a Type 3 land use review.
- 15 3. Requirements for a complete application include:
- 16 a. A completed Development Application Coversheet;
- 17 b. A critical area study, meeting the requirements of MICC 19.07.110 - Critical Area Studies;
- 18 and
- 19 c. Additional information required by the city to confirm compliance with this title.
- 20 C. Reasonable Use Exceptions shall be reviewed using the criteria in MICC 19.07.140, using the
- 21 procedures required for a Type 4 land use review.
- 22 D. Public Agency Exceptions shall be reviewed using the criteria in MICC 19.07.150, using the
- 23 procedures required for a Type 3 land use review.

24 **19.07.100 Mitigation sequencing**

25 Except as otherwise provided in this chapter, an applicant for a development proposal, activity, or
 26 modification shall implement the following sequential measures, listed below in order of preference, to
 27 avoid, minimize, and mitigate impacts to environmentally critical areas and associated buffers.
 28 Applicants shall document how each measure has been addressed before considering and incorporating
 29 the next measure in the sequence:

- 30 A. Avoiding the impact altogether by not taking a certain action or parts of an action. The applicant
- 31 shall consider reasonable, affirmative steps and make best efforts to avoid critical area impacts.
- 32 However, avoidance shall not be construed to mean mandatory withdrawal or denial of the
- 33 development proposal or activity if the proposal or activity is an allowed, permitted, or conditional
- 34 in this title. In determining the extent to which the proposal should be redesigned to avoid the
- 35 impact, the code official may consider the purpose, effectiveness, engineering feasibility,
- 36 commercial availability of technology, best management practices, safety and cost of the proposal
- 37 and identified changes to the proposal. Development proposals should seek to avoid, minimize and
- 38 mitigate overall impacts based on the functions and values of all of the relevant critical areas and
- 39 based on the recommendations of a critical area study. If impacts cannot be avoided through
- 40 redesign, use of a setback deviation pursuant to MICC 19.06.110(C), or because of site conditions or
- 41 project requirements, the applicant shall then proceed with the sequence of steps in subsections (B)
- 42 through (E) of this section;

- 1 B. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, using
- 2 a setback deviation pursuant to MICC 19.06.110(C), using appropriate technology, or by taking
- 3 affirmative steps to avoid or reduce impacts;
- 4 C. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
- 5 D. Reducing or eliminating the impact over time by preservation and maintenance operations during
- 6 the life of the action;
- 7 E. Compensating for the impact by replacing, enhancing, or providing substitute resources or
- 8 environments; and/or
- 9 F. Monitoring the impact and taking appropriate corrective measures to maintain the integrity of
- 10 compensating measures.

11 **19.07.110 Critical Area Study**

- 12 A. A critical area study shall be required when a development proposal will result in an alteration to
- 13 one or more critical areas or critical area buffers or when required by the code official to determine
- 14 the potential impact to a critical area.
- 15 B. The critical area study shall be in the form of a written report supported by graphic information
- 16 prepared by a qualified professional using guidance based on the best available science consistent
- 17 with the standards in chapter 365-195 WAC and shall contain the following items, as applicable to
- 18 adequately evaluate the proposal, proposed alterations, and mitigation:
 - 19 1. Disclosure of the presence of critical areas, including a delineation and type or category of
 - 20 critical area, on the development proposal site and any mapped or identifiable critical areas on-
 - 21 or off-site within the distance equal to the largest potential required buffer applicable to the
 - 22 development proposal area on the applicant's property;
 - 23 2. A topographic and boundary survey;
 - 24 3. A statement specifying the accuracy of the report and all assumptions made and relied upon;
 - 25 4. A description of the methodologies used to conduct the critical area study, including references;
 - 26 5. A scale map of the development proposal site;
 - 27 6. Photographic records of the site before the proposed alteration occurs;
 - 28 7. An assessment of the probable effects to critical areas and associated buffers, including impacts
 - 29 caused by the development proposal and associated alterations to the subject property and
 - 30 impacts to other properties and any critical areas or buffers located on them resulting from the
 - 31 development of the site and the proposed development;
 - 32 8. A description of mitigation sequencing implementation described in MICC 19.07.100 including
 - 33 steps taken to avoid and minimize critical areas impacts to the greatest extent feasible;
 - 34 9. Detailed studies, as required by this chapter, for individual critical area types in order to ensure
 - 35 critical area protection;
 - 36 10. Assessment of potential impacts that may occur on adjacent site, such as sedimentation or
 - 37 erosion, where applicable; and
 - 38 11. A post-design memorandum prepared by a qualified professional confirming that the proposed
 - 39 improvements comply with the qualified professional's design recommendations.
- 40 C. The critical area study requirement may be waived or modified if the applicant demonstrates to the
- 41 code official's satisfaction that the development proposal will not have an impact on the critical area
- 42 or its buffer in a manner contrary to the purposes and requirements of this chapter.

1 **19.07.120 Exemptions**

- 2 A. Activities listed as exempt in this section do not require review for compliance with this chapter,
 3 provided they are otherwise consistent with the provisions of other city, state, and federal laws and
 4 requirements.
- 5 B. An exemption does not give permission to degrade a critical area or ignore risk from natural
 6 hazards.
- 7 C. All temporary and permanent impacts to critical areas and buffers shall be mitigated.
- 8 D. The following activities are exempt from review and compliance with this chapter, provided, all
 9 activities shall use reasonable methods to avoid, and if avoidance is not possible, minimize impacts
 10 to critical areas and buffers to the greatest extent feasible consistent with MICC 19.07.100 –
 11 Mitigation Sequencing:
- 12 1. Minor expansion of existing right of way improvements, including public streets, bike lanes,
 13 shoulders, trails, sidewalks, and open space, following consultation with the code official;
 - 14 2. Minor expansion of public utility structures and conveyance systems and their associated
 15 facilities including service lines, pipes, mains, poles, equipment and appurtenances, both above
 16 and below ground, following consultation with the code official; and
 - 17 3. Site Investigative Work and Studies. Site investigative work and studies necessary for
 18 development proposals, including geotechnical tests, water quality studies, wildlife studies,
 19 surveys, soil logs, and critical area investigations within areas accessed by foot; provided the
 20 following criteria are met:
 - 21 a. Impacts to critical areas and buffers shall be minimized; and
 - 22 b. Disturbed areas shall be restored with native vegetation as soon as the investigative work is
 23 complete.
 - 24 4. Watercourse restoration and pipe extensions installed by a public agency, provided the steps in
 25 19.07.100 – Mitigation Sequencing are addressed.
- 26 E. The following activities are exempt from city review and approval:
- 27 1. Repair and maintenance of existing right of way improvements. Repair, maintenance,
 28 reconstruction and replacement of existing right of way improvements, including public streets,
 29 bike lanes, shoulders, trails, sidewalks, and open space;
 - 30 2. Repair and maintenance of existing utility facilities. Repair, maintenance, reconstruction and
 31 replacement of public utility structures and conveyance systems and their associated facilities,
 32 including but not limited to service lines, pipes, mains, poles, equipment and appurtenances,
 33 both above and below ground.
 - 34 3. Demolition. Removal of structures in watercourse and wetland buffers and geologically
 35 hazardous areas, provided:
 - 36 a. Site disturbance is limited to the existing access and building footprint;
 - 37 b. There is no site disturbance within or to wetlands or watercourses;
 - 38 c. All soils are stabilized and the area is revegetated with appropriate native vegetation; and
 - 39 d. Necessary building permits are obtained.
 - 40 4. Noxious weed removal. Removal of noxious weeds provided:
 - 41 a. All disturbed soils are stabilized and revegetated with appropriate native vegetation; and
 - 42 b. The area from which noxious weeds are removed is limited to 1,000 square feet.

Commented [BD(1)]: You might want to define what is a minor action in 1 and 2?

- 1 5. Maintenance of Existing Landscaping. Landscape maintenance of legally-established lawns and
 2 gardens including mowing, pruning, weeding, and planting; provided, that such activities do not:
 3 a. Expand any further into critical areas or buffers; or
 4 b. Include the removal of significant trees.
- 5 6. Survey and Boundary Markers. Construction or modification of survey and boundary markers.
- 6 7. Temporary alterations in response to emergencies that threaten the public health, safety, and
 7 welfare or that pose an imminent risk of damage to private property, provided the following
 8 criteria are met:
 9 a. The person undertaking such an action shall notify the code official in writing within one
 10 business day following commencement of the emergency activity;
 11 b. Within 15 calendar days of the commencement of the emergency activity, the person
 12 undertaking such an action shall submit a complete application for all necessary approvals
 13 to authorize the alterations made and proposed in response to the emergency. The code
 14 official may allow additional time up to 180 calendar days for submittal of a complete
 15 application if the applicant requests an extension for a specific period of time. The code
 16 official may grant additional time extensions beyond 180 calendar days when multiple
 17 property owners or litigation is involved and when requested by the applicant;
 18 c. The person undertaking such an action shall mitigate all impacts caused by the alteration
 19 and associated restoration activities, including intentional or unintentional alterations to all
 20 critical areas and buffers; and
 21 d. A qualified professional shall supervise all alterations made to critical areas.
- 22 8. Passive Outdoor Activities. When it can be demonstrated that there will be no undue adverse
 23 effect, the following activities may be allowed within critical areas and their buffers: educational
 24 activities, scientific research, and outdoor recreational activities, including but not limited to
 25 interpretive field trips, bird watching, and beach access including water recreation-related
 26 activities. This exemption does not authorize any construction.

27 **19.07.130 Modifications**

28 Activities of the following types may be authorized by the code official with approval of an application
 29 for a Critical Area Review 1. The activities in this section are exempt from the development standards in
 30 subsequent sections within this chapter, provided the code official may require measures to protect life
 31 and property or to protect environmental quality.

- 32 A. Addition to or reconstruction of an existing legally-established structure or building within a critical
 33 area and/or buffer constructed on or before January 1, 2005 provided the following criteria are met:
 34 1. The seasonal limitations on land clearing, grading, filling, and foundation work described in
 35 MICC 19.07.170(F)(2) shall apply.
 36 2. Additions shall be allowed if all of the following criteria are met:
 37 a. The structure is enlarged not more than a cumulative total of 200 square feet larger than its
 38 footprint as of January 1, 2005;
 39 b. If the existing, legally-established structure is located over or within a wetland or
 40 watercourse, no further expansion within the wetland or watercourse is allowed;

- 1 c. If the existing legally established structure is located within a wetland or watercourse buffer,
- 2 the addition may be no closer to the wetland or watercourse than a distance equal to 75%
- 3 of the applicable standard **buffer;**
- 4 d. A critical area study approved by the city demonstrates that impacts have been avoided or
- 5 minimized and mitigated consistent with MICC 19.07.100 - Mitigation Sequencing;
- 6 e. If the modification or addition is proposed within a geologically hazardous area or
- 7 associated buffer, a qualified professional provides a statement of risk consistent with MICC
- 8 19.07.170(B)(3);

Commented [BD(2): We usually recommend that any expansion be limited to the upland side of the existing structure.

9 3. Reconstruction of legally established non-conforming structures shall meet the standards in
 10 MICC 19.01.050. The code official may require a critical area study and mitigation plan
 11 addressing temporary impacts to critical areas and buffers.

12 B. Restoration and enhancement activities involving site disturbance over 1,000 sq ft, provided the
 13 following criteria are met:

- 14 1. Activities are limited to the removal of noxious weeds and planting of native and/or climate-
- 15 resilient species;
- 16 2. The entire area cleared of noxious weeds shall be revegetated with appropriate native and/or
- 17 climate-resilient vegetation;
- 18 3. Erosion control measures appropriate for the subject site shall be used; and
- 19 4. Removal of noxious weeds and other restoration work shall be restricted to work by hand tools,
- 20 including use of handheld gas or electric equipment.

21 C. Stormwater retrofit facilities installed pursuant to the city's NPDES Phase II **permit.**

Commented [BD(3): Will mitigation be required for any wetland impacts?

22 **19.07.140 Reasonable Use Exception**

23 A. If the application of this chapter will deny all reasonable use of the owner's property, then the
 24 applicant may apply to the Community Planning and Development department for an exception
 25 from the requirements of this chapter in accordance with the provisions for Type IV reviews in
 26 chapter 19.15 MICC. The hearing examiner may approve the application for a reasonable use
 27 exception only if the development proposal meets all of the following criteria:

- 28 1. The application of this chapter would deny all reasonable use of the property;
- 29 2. There is no other reasonable use with less impact on the critical area;
- 30 3. Any alteration to critical areas and associated buffers is the minimum necessary to allow for
- 31 reasonable use of the property;
- 32 4. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or
- 33 off the development proposal site and is consistent with the general purpose of this chapter and
- 34 the public interest; and
- 35 5. The inability of the applicant to derive reasonable use of the property is not the result of actions
- 36 by the current or prior property owner.

37 B. The hearing examiner may approve, approve with conditions, or deny the request based on the
 38 proposal's ability to comply with all of the above criteria. The applicant has the burden of proof in
 39 demonstrating that the above criteria are met.

40 **19.07.150 Public Agency Exception**

41 If the application of this chapter would prohibit a development proposal by a public agency, the agency
 42 may apply for an exception pursuant to this section:

- 1 A. The public agency shall provide project documents such information as needed for the code official
- 2 to issue a decision, including but not limited to, permit applications to other agencies, critical area
- 3 studies, SEPA documents, and other materials.
- 4 B. The code official may approve alterations to critical areas, buffers and critical area setbacks by an
- 5 agency or utility when those alterations are not otherwise able to meet all of the standards in this
- 6 chapter, and when the criteria in (B)(1) through (B)(3) of this section are demonstrated to be met.
- 7 1. The activity or proposed development is described in an adopted city plan or project list, or has
- 8 otherwise received city council approval;
- 9 2. There is no other reasonable alternative to the activity or proposed development with less
- 10 impact on the critical area. In determining what is a reasonable alternative to a proposed
- 11 development, alteration or activity, the code official may consider the purpose, effectiveness,
- 12 engineering feasibility, commercial availability of technology, best management practices, safety
- 13 and cost of the alternative action or proposal. Reasonable alternatives are those that are
- 14 capable of being carried out, taking into consideration the overall project purposes, needs, and
- 15 objectives; and
- 16 3. The activity or development proposal is designed to avoid or minimize and mitigate the impact
- 17 on critical areas and associated buffers consistent with the best available science and avoidance
- 18 and mitigation sequencing requirements in 19.07.100 - Mitigation Sequencing.

19 **19.07.160 Frequently Flooded Areas**

20 Frequently flooded areas are floodplains and other areas subject to flooding, including the 100-year
21 flood plain designations of the Federal Emergency Management Agency and the National Flood
22 Insurance Program. There are currently no areas meeting this definition on Mercer Island; therefore,
23 additional specific provisions for protecting frequently flooded areas are not provided within this
24 chapter.

25 **19.07.170 Geologically Hazardous Areas**

- 26 A. *Designation and Typing:* Geologically hazardous areas are lands that are susceptible to erosion,
- 27 landslides, seismic events, or other factors as identified by WAC 365-190-120. These areas may not
- 28 be suited for development activities because they may pose a threat to public health and safety.
- 29 Areas susceptible to one or more of the following types of hazards shall be designated as
- 30 geologically hazardous areas: landslide hazard areas, seismic hazard areas, and erosion hazard areas.
- 31 B. *General Review Requirements:* Alteration within geologically hazardous areas or associated buffers
- 32 is required to meet the standards in this section, unless the scope of work is exempt pursuant to
- 33 MICC 19.07.120 - Exemptions or a Critical Area Review 1 approval has been obtained pursuant to
- 34 MICC 19.07.090(A).
- 35 1. When an alteration within a landslide hazard area, seismic hazard area or buffer associated with
- 36 those hazards is proposed, the applicant must submit a critical area study concluding that the
- 37 proposal can effectively mitigate risks of the hazard. The study shall recommend appropriate
- 38 design and development measures to mitigate such hazards. The code official may waive the
- 39 requirement for a critical area study and the requirements of (B)(2) and (B)(3) of this section
- 40 when he or she determines that the proposed development is minor in nature and will not
- 41 increase the risk of landslide, erosion, or harm from seismic activity, or that the development
- 42 site does not meet the definition of a geologically hazardous area.

Commented [BD(4): We recommend adding other criteria from Commerce’s CAO handbook:

- The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site
- The proposal is consistent with other applicable regulations and standards

- 1 2. Alteration of landslide hazard areas and seismic hazard areas and associated buffers may occur
 2 if the critical area study documents to the code official's satisfaction that the proposed
 3 alteration:
 4 a. Will not adversely impact other critical areas;
 5 b. Will not adversely impact the subject property or adjacent properties;
 6 c. Will mitigate impacts to the geologically hazardous area consistent with best available
 7 science to the maximum extent reasonably possible such that the site is determined to be
 8 safe; and
 9 d. Include the landscaping of all disturbed areas outside of building footprints and installation
 10 of hardscape prior to final inspection.
- 11 3. Alteration of landslide hazard areas, seismic hazard areas and associated buffers may occur if
 12 the conditions listed in subsection 2) are satisfied and the geotechnical professional provides a
 13 statement of risk matching one of the following:
 14 a. An evaluation of site-specific subsurface conditions demonstrates that the proposed
 15 development is not located in a landslide hazard area or seismic hazard area;
 16 b. The landslide hazard area or seismic hazard area will be modified or the development has
 17 been designed so that the risk to the site and adjacent property is eliminated or mitigated
 18 such that the site is determined to be safe;
 19 c. Construction practices are proposed for the alteration that would render the development
 20 as safe as if it were not located in a geologically hazardous area and do not adversely impact
 21 adjacent properties; or
 22 d. The development is so minor as not to pose a threat to the public health, safety and welfare.
- 23 C. *Development Standards – Landslide Hazard Areas:* Development is allowed within landslide hazard
 24 areas and associated buffers, when the following standards are met:
 25 1. A critical area study shall be required for any alteration of a landslide hazard area or associated
 26 buffer;
 27 2. Buffers shall be applied as follows. When more than one condition applies to a site, the largest
 28 buffer shall be applied.
 29 a. Steep slopes. Buffer widths shall be equal to the height of a steep slope, but shall not more
 30 than 75 feet, and applied to the top and toe of slopes;
 31 b. Shallow landslide hazard areas shall have minimum 25-foot buffers applied in all directions;
 32 and
 33 c. Deep-seated landslide hazard areas shall have 75-foot buffers applied in all directions.
- 34 D. *Development Standards – Seismic Hazard Areas:* When development is proposed within a seismic
 35 hazard area:
 36 1. A 50-ft minimum buffer shall be applied from latest Quaternary, Holocene, or historical fault
 37 rupture traces as identified by the United States Geological Survey or Washington Geological
 38 Survey map databases or by site investigations by licensed geologic professionals with
 39 specialized knowledge of fault trenching studies; or
 40 2. Mitigation sequencing shall be incorporated into the development proposal as recommended
 41 based on geotechnical analysis by a qualified professional to prevent increased risk of harm to
 42 life and/or property.

1 E. *Development Standards – Erosion Hazard Areas:*

- 2 1. All development proposals shall demonstrate compliance with MICC Chapter 15.09 – Storm
 3 Water Management Plan.
 4 2. No development or activity within an Erosion Hazard Area may create a net increase in
 5 geological instability on- or off- site.

6 F. *Development Standards – Additional Criteria for Specific Activities:*

- 7 1. Trail building within geologically hazardous areas shall be subject to the following:
 8 a. Trail surfaces shall be constructed of pervious materials and may not be wider than five feet;
 9 and
 10 b. Trails shall be located to minimize the need for tree removal.
 11 2. Land clearing, grading, filling, and foundation work within: 1) an erosion hazard area, when
 12 2,000 sq ft or more of site disturbance is proposed, and/or 2) a landslide hazard area are not
 13 permitted between October 1 and April 1.
 14 a. The code official may grant a waiver to this seasonal development limitation if the applicant
 15 provides a critical area study for the site concluding that:
 16 (1) geotechnical slope stability concerns, erosion and sedimentation impacts can be
 17 effectively controlled on-site consistent with adopted storm water standards; and
 18 (2) the proposed construction work will not subject people or property, including areas off-
 19 site, to an increased risk of associated impacts.
 20 b. As a condition of the waiver, the code official may require erosion control measures,
 21 restoration plans, an indemnification, a release agreement and/or performance bond.
 22 c. If site activities result in erosion impacts or threaten water quality standards, the city may
 23 suspend further work on the site and/or require remedial action.
 24 d. Failure to comply with the conditions of an approved waiver shall subject the applicant to
 25 code compliance pursuant to MICC Chapter 6.10 – Code Compliance, including but not
 26 limited to civil penalties and permit suspension.

27 **19.07.180 Critical Aquifer Recharge Areas**

28 A. *Designation and Typing:* Critical aquifer recharge areas are designated as: 1) areas within the
 29 wellhead protection area of the city’s emergency well(s); and 2) the sanitary control areas of Group
 30 B public water systems.

31 B. *Development Standards:*

- 32 1. The following uses and activities are prohibited within critical aquifer recharge areas unless
 33 studies are submitted pursuant to subsection (B)(2) of this section.
 34 a. Automobile repair shops
 35 b. Boat repair
 36 c. Dry cleaners
 37 d. Bus and truck terminals
 38 e. Funeral services and taxidermy
 39 f. Gas stations
 40 g. Graveyards/cemeteries
 41 h. Hardware and lumber stores
 42 i. Landfills

- 1 j. Medical & veterinary offices
- 2 k. Office and retail buildings
- 3 l. Petroleum transmission lines
- 4 m. Photo processors
- 5 n. Sewer lines
- 6 o. Wastewater treatment facilities
- 7 p. Activities that would significantly reduce the recharge to aquifers currently or potentially
- 8 used as a potable water source; and
- 9 q. Activities that would significantly reduce the recharge to aquifers that are a source of
- 10 significant baseflow to a stream.
- 11 2. Approval of regulated activities within a critical aquifer recharge area shall require a critical area
- 12 study that satisfies the requirements of MICC 19.07.110 – Critical Area Studies demonstrating
- 13 that the potential impacts will be mitigated.

14 **19.07.190 Fish and Wildlife Habitat Conservation Areas**

15 A. *Designation and Typing:* Fish and wildlife habitat conservation areas include the following:

- 16 1. Watercourses.
- 17 2. Priority Habitats and areas associated with Priority Species, as listed in the Washington State
- 18 Department of Fish and Wildlife’s Priority Habitats and Species list, as amended. Priority habitats
- 19 and species known to be identified and mapped by the Washington State Department of Fish
- 20 and Wildlife in the city include, but are not limited to, the following: band-tailed pigeon, pileated
- 21 woodpecker, cavity-nesting ducks, and biodiversity areas and corridors as mapped within
- 22 Mercedale Park (and hillside), Upper Luther Burbank Park, Gallagher Hill Open Space, Southeast
- 23 53rd Open Space, Island Crest Park, and Pioneer Park Open Space.
- 24 3. Areas used by bald eagles for foraging, nesting, and roosting.

25 B. *General Review Requirements:*

- 26 1. Development proposals, unless specifically exempt pursuant to MICC 19.07.120, within Priority
- 27 Habitats or areas used by bald eagles for foraging, nesting and/or roosting shall submit a wildlife
- 28 habitat assessment in the form of a critical area study prepared by a qualified professional
- 29 including the following information:
- 30 a. Identification of state priority species, or state or federally listed endangered, threatened or
- 31 sensitive species that have a primary association with habitat on or in the vicinity of the site;
- 32 b. Extent of wildlife habitat areas, including acreage, and required buffers based on the
- 33 species;
- 34 c. Vegetative, faunal, and hydrologic characteristics;
- 35 d. Evaluation of direct and indirect potential impacts on habitat by the project, including
- 36 potential impacts to water quality; and
- 37 e. A discussion of any federal, state, or local special management recommendations, including
- 38 Washington State Department of Fish and Wildlife habitat management recommendations
- 39 that have been developed for the species or habitats.
- 40 2. Development proposals within areas used by bald eagles for foraging or within 660 feet of a bald
- 41 eagle nest as identified by a critical area study shall follow the requirements of the US Fish and
- 42 Wildlife’s *National Bald Eagle Management Guidelines* (2007 or as amended).

3. Development proposals within areas meeting the definition of both 1) wetlands, watercourses or associated buffers and 2) fish and wildlife habitat conservation areas shall submit a wildlife habitat assessment and mitigation plan demonstrating that the proposal will cause no net loss of ecological function.

19.07.200 Watercourses

A. Designation and Typing: Watercourses shall be classified by the following types:

1. Type S (there are no known Type S watercourses on Mercer Island);
2. Type F;
3. Type Np;
4. Type Ns; and
5. Piped.

B. General Review Requirements

1. Development within watercourses and/or associated buffers is prohibited unless one of the following conditions applies:
 - a. The proposed activity is specifically exempt pursuant to MICC 19.07.120;
 - b. A Critical Area Review 1 application is reviewed and approved for one of the modifications in MICC 19.07.130; or
 - c. The proposed activity is permitted under subsection (D) Development Standards – Additional Criteria for Specific Activities, below.

C. Development Standards – Buffers

1. Development proposals and other alterations on sites containing streams or buffers shall comply with the following standards:
2. The following minimum buffers shall be established from the ordinary high water mark or from the top of the bank if the ordinary high water mark cannot be identified:

Watercourse Type	Standard Buffer
F	120 feet
Np	60 feet
Ns	60 feet
Piped	No buffer

3. Neither lot coverage nor hardscape shall be permitted within a watercourse or watercourse buffer except as specifically provided in this chapter.
4. Any watercourse adjoined by a riparian wetland or other contiguous critical area shall have the buffer required for the stream type involved or the buffer that applies to the wetland or other critical area, whichever is greater.
5. Buffer Averaging. Buffer width averaging shall be allowed by the code official provided the following requirements are met:
 - a. The applicant has demonstrated how impacts will be minimized and that avoidance has been addressed consistent with MICC 19.07.100 – Mitigation Sequencing;
 - b. The applicant has demonstrated how all proposed impacts have been mitigated consistent with subsection (E) - Mitigation Requirements of this section and will not result in a loss of ecological function;

- 1 c. The proposed buffer width is not less than 75% of the standard buffer width at any point;
- 2 and
- 3 d. The proposed buffer averaging is not proposed in conjunction with buffer reduction.
- 4 6. Buffer Reduction. Buffer width reduction shall be allowed by the code official provided the
- 5 following requirements are met:
- 6 a. The applicant has demonstrated that buffer averaging would not feasibly allow
- 7 development;
- 8 b. The applicant has demonstrated how impacts will be minimized and that avoidance has
- 9 been addressed consistent with MICC 19.07.100 – Mitigation Sequencing;
- 10 c. The applicant has demonstrated how all proposed impacts have been mitigated consistent
- 11 with subsection (E) of this section and will not result in a loss of ecological function;
- 12 d. The proposed buffer width is not less than 75% of the standard buffer width at any point;
- 13 and
- 14 e. The proposed buffer reduction is not proposed in conjunction with buffer averaging.
- 15 7. Piped watercourse setbacks
- 16 a. The intent of applying setbacks to piped watercourses is to preserve the opportunity to
- 17 daylight watercourses that were previously piped, to provide incentives to property owners
- 18 to daylight and enhance previously piped watercourses, and to allow flexibility for
- 19 development where daylighting piped watercourses is demonstrated to be infeasible.
- 20 b. Setbacks shall be established 45 ft from the centerline of a piped watercourses.
- 21 c. Piped watercourses setback widths shall be reduced by the code official to a 15-foot buffer
- 22 when the portion of the piped watercourse on the applicant’s property is daylighted and
- 23 where the watercourse has been restored to an open channel, provided a restoration plan
- 24 demonstrates:
- 25 (1) The watercourse channel will be stable and is not expected to cause safety risks or
- 26 environmental damage; and
- 27 (2) No additional impact nor encumbrance by watercourse buffer or critical area setback is
- 28 added to properties neighboring the applicant(s) property.
- 29 d. Piped watercourse setback widths shall be reduced by the code official to: 1) 10 feet on lots
- 30 with a lot width of 50 feet or more, and 2) 5 feet on lots with a width of less than 50 feet,
- 31 when daylighting is determined by qualified professional(s) to result in one or more of the
- 32 following outcomes:
- 33 (1) Increased risk of landslide or other potential hazard that cannot be mitigated;
- 34 (2) Increased risk of environmental damage (e.g., erosion, diminished water quality) that
- 35 cannot be mitigated;
- 36 (3) The inability of a legally established existing lot to meet the vehicular access
- 37 requirements of this title; or
- 38 (4) The inability of a legally established existing lot to meet the building pad standards in
- 39 MICC 19.09.090.
- 40 8. Buildings and other structures shall be set back a minimum of 10 feet from the edges of a
- 41 watercourse buffer. The distance may be reduced to five feet if:
- 42 a. The watercourse is Type Ns;

- b. The buffer does not contain habitat for WDFW priority species.
 - c. A split-rail fence is installed along the perimeter of the buffer; and
 - d. Survey markers are installed along the perimeter of the buffer to establish its field location.
9. The following may be allowed in the critical area setback, provided no structures nor building overhangs may be closer than five feet from the edge of a watercourse buffer:
- a. Landscaping;
 - b. Uncovered decks less than 30 inches above existing or finished grade, whichever is lower;
 - c. Building overhangs if such overhangs do not extend more than 18 inches into the setback area;
 - d. Hardscape and driveways; provided, that such improvements may be subject to requirements in Chapter 15.09 MICC – Storm Water Master Program;
 - e. Split rail fences;
 - f. Trails, consistent with the requirements of this chapter; and
 - g. Subgrade components of foundations, provided that any temporary impacts to building setbacks shall be restored to their previous condition or better.

D. Development Standards – Additional Criteria for Specific Activities:

- 1. New watercourse crossings, such as bridges and culverts, may be permitted provided the standards in WAC 220-660-190 have been demonstrated to be met.
- 2. The construction of trails within watercourse buffers is allowed, subject to the following:
 - a. Trail surfaces shall be constructed of pervious materials and may not be wider than five feet;
 - b. Trails shall be located to minimize the need for tree removal; and
 - c. Trails shall be located only in the outer 25 percent of the buffer area.
- 3. The trail width shall be added to the buffer width applied to the watercourse (e.g., if a trail is three feet wide, the watercourse buffer for the portion of the watercourse where the trail is located shall be expanded by three feet); except that the trail width shall not be added to the buffer width when trails are being created for public access and contained within a public access easement or right-of-way.

E. Mitigation requirements: Mitigation measures shall achieve equivalent or greater ecological function including, but not limited to:

- 1. Habitat complexity, connectivity, and other biological functions;
- 2. Seasonal hydrological dynamics, water storage capacity and water quality; and
- 3. Geomorphic and habitat processes and functions

19.07.210 Wetlands

A. *Designation and Typing:* Wetlands shall be ~~identified and their boundaries delineated~~ rated in accordance with the approved federal delineation manual and applicable regional supplements described in WAC 173-22-035. ~~Wetlands shall be rated according to t and based on field investigation and a survey and using the Washington State Rating System for Western Washington: 2014 Update (Hruby, 2014), or most current update.~~

B. General Review Requirements:

- 1. In addition to the critical area study requirements listed in MICC 19.07.110 – Critical Area Studies, critical area studies on wetlands shall also include:
 - a. Wetland rating forms, figures, and datasheets;

Commented [BD(5): We recommend clarifying the difference between delineations and ratings

- b. Discussion of landscape setting;
 - c. A functional analysis of the project demonstrating that there will be no loss of ecological function; and
 - d. A mitigation plan.
2. Wetland delineations are valid for five years.
 3. Wetlands must be delineated and rated by a qualified professional.

C. *Development Standards – Buffers:*

1. The following minimum buffers shall be established from the ordinary high water mark:

Wetland Category	Standard Buffer	
	With 3-5 habitat points	With 6-7 habitat points
Category I	75 ft	110 ft
Category II	75 ft	110 ft
Category III	60 ft	110 ft
Category IV	40 ft	

Commented [GD(6): We recommend measuring the buffer width from the wetland boundary not the OHWM.

Commented [GD(7): Are there any wetlands within Mercer Island that have habitat scores higher than 7? If there are, then another column should be inserted for scores >7.

2. Where a legally established and constructed street transects a wetland buffer, the department may approve a modification of the standard buffer width to the edge of the street if the isolated part of the buffer does not provide additional protection of the wetland and provides insignificant biological, geological or hydrological buffer functions relating to the wetland.
3. Prohibited activities: The following uses are prohibited within any wetland or associated buffer: removal, excavation, grading, or dredging of material; draining flooding or disturbing the wetland, water level or water table; construction, reconstruction, demolition, or expansion of any structure.
4. Neither lot coverage nor hardscape shall be permitted within a wetland or wetland buffer except as specifically provided in this chapter.
5. Buffer Averaging. Buffer width averaging shall be allowed by the code official provided the following requirements are met:
 - a. The applicant has demonstrated how impacts have been avoided consistent with MICC 19.07.100 – Mitigation Sequencing;
 - b. The applicant has demonstrated how all proposed impacts have been mitigated consistent with subsection (E) of this section and will not result in a loss of ecological function;
 - c. The proposed buffer width is not less than 75% of the standard buffer width at any point and the total area is equal to the area required without averaging; and
 - d. The proposed buffer averaging is not proposed in conjunction with buffer reduction.
6. Buffer Reduction. Buffer width reduction shall be allowed by the code official provided the following requirements are met:
 - a. The applicant has demonstrated that buffer averaging would not feasibly allow development;
 - b. The applicant has demonstrated how impacts will be minimized and that avoidance has been addressed consistent with MICC 19.07.100 – Mitigation Sequencing;

Commented [GD(8): We recommend that buffer averaging be allowed only when the wetland has significant differences in characteristics that affect its habitat functions.

Commented [GD(9): We do not believe buffer reduction is consistent with best available science such as *Update on Wetland Buffers: The State of the Science, Final Report*, October 2013. Washington State Department of Ecology Publication #13-06-11.

- 1 c. The applicant has demonstrated how all proposed impacts have been mitigated consistent
- 2 with subsection (E) of this section and will not result in a loss of ecological function;
- 3 d. The proposed buffer width is not less than 75% of the standard buffer width at any point;
- 4 and
- 5 e. The proposed buffer reduction is not proposed in conjunction with buffer averaging.
- 6 7. Buildings and other structures shall be set back a minimum of 10 feet from the edges of a
- 7 wetland buffer. The distance may be reduced to five feet if:
- 8 a. The wetland is:
- 9 (1) hydrologically isolated;
- 10 (2) Category III or IV;
- 11 (3) less than 1,000 square feet
- 12 (4) in an area that is not associated with riparian areas or buffers;
- 13 (5) not part of a wetland mosaic, and
- 14 (6) does not contain habitat for WDFW priority species.
- 15 b. A split-rail fence is installed along the perimeter of the buffer; and
- 16 c. Survey markers are installed along the perimeter of the buffer to establish its field location.
- 17 8. The following may be allowed in the critical area setback, provided no structures nor building
- 18 overhangs may be closer than five feet from the edge of a wetland buffer:
- 19 a. Landscaping;
- 20 b. Uncovered decks less than 30 inches above existing or finished grade, whichever is lower;
- 21 c. Building overhangs if such overhangs do not extend more than 18 inches into the setback
- 22 area;
- 23 d. Hardscape and driveways; provided, that such improvements may be subject to
- 24 requirements in Chapter 15.09 MICC – Storm Water Master Program;
- 25 e. Split rail fences;
- 26 f. Trails, consistent with the requirements of this chapter; and
- 27 g. Subgrade components of foundations, provided that any temporary impacts to building
- 28 setbacks shall be restored to their previous condition or better.
- 29 D. *Development Standards – Additional Criteria for Specific Activities:*
- 30 1. Alterations to wetlands are allowed when the applicant has demonstrated how mitigation
- 31 sequencing has been applied pursuant to MICC 19.07.100 – Mitigation Sequencing and when
- 32 the applicant has demonstrated that the wetland is:
- 33 a. hydrologically isolated;
- 34 b. Category III or IV;
- 35 c. less than 1,000 square feet
- 36 d. in an area that is not associated with riparian areas or buffers;
- 37 e. not part of a wetland mosaic, and
- 38 f. does not contain habitat for WDFW priority species.
- 39 2. The construction of trails within wetland buffers is allowed, subject to the following
- 40 requirements:
- 41 a. Trail surfaces shall be constructed of pervious materials and may not be wider than five feet;
- 42 b. Trails shall be located to minimize the need for tree removal; and

Commented [BD(10): The standard buffers the city is proposing are already the minimum width that can be justified by best available science. Allowing a 25% reduction from this standard buffer is not supported by the literature.

Commented [BD(11): This language is similar to our old small cities guidance. It's been replaced by the following from page 24
<https://fortress.wa.gov/ecy/publications/documents/1606001.pdf>:

- 1. All isolated Category IV wetlands less than 4,000 square feet that:
 - a. Are not associated with riparian areas or their buffers
 - b. Are not associated with shorelines of the state or their associated buffers
 - c. Are not part of a wetland mosaic
 - d. Do not score 5 or more points for habitat function based on the 2014 update to the *Washington State Wetland Rating System for Western Washington: 2014 Update* (Ecology Publication #14-06-029, or as revised and approved by Ecology)
 - e. Do not contain a Priority Habitat or a Priority Area¹ for a Priority Species identified by the Washington Department of Fish and Wildlife, do not contain federally listed species or their critical habitat, or species of local importance identified in Chapter XX.XX.
- 2. Wetlands less than 1,000 square feet that meet the above criteria and do not contain federally listed species or their critical habitat are exempt from the buffer provisions contained in this Chapter.

- c. Trails shall be located only in the outer 25 percent of the buffer area.
 - d. The trail width shall be added to the buffer width applied to the wetland (e.g., if a trail is three feet wide, the wetland buffer for the portion of the wetland where the trail is located shall be expanded by three feet); except that the trail width shall not be added to the buffer width when trails are being created for public access and contained within a public access easement or right-of-way.
3. Development proposals shall incorporate the following measures where their application would result in a net environmental benefit, and where site conditions would feasibly allow the following:

Disturbance	Required Measures to Minimize Impacts
Lights	Direct lights away from wetland
Noise	Locate activity that generates noise away from wetland If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source For activities that generate relatively continuous, potentially disruptive noise, such as certain heavy industry or mining, establish an additional 10' heavily vegetated buffer strip immediately adjacent to the out wetland buffer
Toxic runoff	Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered Establish covenants limiting use of pesticides within 150 ft of wetland Apply integrated pest management
Stormwater runoff	Retrofit stormwater detention and treatment for roads and existing adjacent development Prevent channelized flow from lawns that directly enters the buffer Use Low Impact Development techniques
Changes in water regime	Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns
Pets and human disturbance	Protect wetlands and associated buffers with conservation or native growth protection easements
Dust	Use best management practices to control dust
Disruption of corridors or connections	Maintain connections to offsite areas that are undisturbed Restore corridors or connections to offsite habitats by replanting

Commented [BD(12): Ecology's buffer recommendations require the use of these minimizing measures when using a standard buffer. If the applicant chooses not to implement these mitigating measures, then the buffer width should be increased 33%. We recommend moving this table closer to the standard buffer table and clarifying the text description. You could also insert a table showing the larger buffer widths so there is an incentive to follow these mitigating measures. See example in Appendix A of *Wetland Guidance for CAO Updates, Western Washington Version* Washington State Department of Ecology Publication #16-06-001.

- E. *Mitigation Requirements:* When mitigation for wetland and/or wetland buffer impacts is required, mitigation shall meet the requirements listed below:

1. Compensatory mitigation for alterations to wetlands shall be used only for impacts that cannot be avoided or minimized and shall achieve equivalent or greater biologic functions compared to pre-development conditions. Compensatory mitigation plans shall be consistent with Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans--Version 1, (Ecology Publication #06-06-011b, Olympia, WA, March 2006 as revised), and Selecting Wetland Mitigation Sites Using a Watershed Approach (Western Washington) (Publication #09-06-32, Olympia, WA, December 2009 as revised).
2. Mitigation for alterations to wetland(s) and/or wetland buffer(s) shall achieve equivalent or greater ecological function.
3. No Net Loss. Wetland mitigation actions shall not result in a net loss of wetland area.
4. Mitigation actions shall be in-kind and conducted within the same sub-basin and on the same site as the alteration except when the following apply:
 - a. There are no reasonable on-site opportunities for mitigation on-site opportunities do not have a high likelihood of success due to adjacent land uses;
 - b. On-site buffers or connectivity are inadequate;
 - c. Off-site mitigation has a greater likelihood of providing equal or improved wetland functions than the impacted wetland; and
 - d. Off-site locations have been identified and evaluated in the following order of preference:
 - (1) Within the same drainage sub-basin;
 - (2) Within the city limits;
 - (3) Within the Mercer Island service area for an approved mitigation bank program site within the WRIA 8 in accordance with the requirements in subsection (E)(5) below.
 - e. Where feasible, off-site mitigation projects shall be completed prior to activities that will disturb wetlands. In all other cases, mitigation shall be completed immediately following site disturbance and prior to use or occupancy of the activity or development. Construction of mitigation projects shall be timed to reduce impacts to existing wildlife and flora.
5. Mitigation Ratios:
 - a. The following ratios shall apply to required wetland mitigation. The first number specifies the acreage of replacement wetlands and the second specifies the acreage of wetlands altered.
 - b. Permanent Wetland Mitigation. The following ratios of area of mitigation to area of alteration apply to mitigation measures for permanent alterations.

Wetland Category	Creation	1:1 Wetland reestablishment or wetland creation (R/C) and wetland enhancement (E) Enhancement
Category I	4:1	1:1 R/C and 16:1
Category II	3:1	1:1 R/C and 12:1
Category III	2:1	1:1 R/C and 8:1
Category IV	1.5:1	1:1 R/C and 6:1

Commented [BD(13)]: This is not consistent with the replacement ratios in the *Wetland Mitigation in Washington State--Part 1: Agency Policies and Guidance*. Washington State Department of Ecology Publication #06-06-011a. See Table 1a where: Category I =12:1, Category II=8:1, Category III=4:1, and Category IV=2:1.

- 1 c. Temporary Wetland Mitigation. The following ratios of area of mitigation to area of
 2 alteration apply to mitigation measures for temporary alterations where wetlands will not
 3 be impacted by permanent fill material:

Wetland Category	Creation	Enhancement
Category I	1.5:1	3:1
Category II	0.75:1	1.5:1
Category III	0.5:1	1:1
Category IV	Not applicable	Not applicable

Commented [GD(14): We recommend clarifying this compensates for temporary construction impacts. We don't have any published guidance to support these replacement ratios but they seem reasonable.

- 4 d. Wetland Buffer Replacement Ratio. Altered wetland buffer area shall be replaced at a
 5 minimum ratio of one-to-one; provided, that the replacement ratio may be increased if
 6 needed to replace lost functions and values.
- 7 e. Increased Mitigation Ratio. The code official may increase the ratios under the following
 8 circumstances:
- 9 (1) Uncertainty exists as to the probable success of the proposed restoration or creation; or
 - 10 (2) A significant period of time will elapse between impact and replication of wetland
 11 functions; or
 - 12 (3) Proposed mitigation will result in a lower category wetland or reduced functions relative
 13 to the wetland being impacted; or
 - 14 (4) The impact was an unauthorized impact.
- 15 f. Decreased Mitigation Ratio. The code official may decrease these ratios under the following
 16 circumstances:
- 17 (1) Documentation by a qualified professional demonstrates that the proposed mitigation
 18 actions have a very high likelihood of success. This documentation should specifically
 19 identify how the proposed mitigation actions are similar to other known mitigation
 20 projects with similar site-specific conditions and circumstances that have been shown to
 21 be successful; or
 - 22 (2) Documentation by a qualified professional demonstrates that the proposed mitigation
 23 actions will provide functions and values that are significantly greater than the wetland
 24 being impacted; or
 - 25 (3) The proposed mitigation actions are conducted in advance of the impact and have been
 26 shown to be successful over the course of at least one full year.
- 27 6. Wetland Banking.
- 28 a. Credits from a wetland mitigation bank may be approved for use as compensation for
 29 unavoidable impacts to wetlands when:
- 30 (1) The criteria in subsection (E)(4) are demonstrated to have been met;
 - 31 (2) The bank is certified under chapter 173-700 WAC;
 - 32 (3) A qualified professional has demonstrated that the wetland mitigation bank provides
 33 appropriate compensation for the authorized impacts;
 - 34 (4) The proposed use of credits is consistent with the terms and conditions of the bank's
 35 certification; and
 - 36 (5) The compensatory mitigation agreement occurs in advance of authorized impacts.

- 1 b. Replacement ratios for projects using bank credits shall be consistent with replacement
- 2 ratios specified in the bank's certification.
- 3 c. Credits from a certified wetland mitigation bank may be used to compensate for impacts
- 4 located within the service area specified in the bank's certification. In some cases, bank
- 5 service areas may include portions of more than one adjacent drainage basin for specific
- 6 wetland functions.
- 7 7. Preference of Mitigation Actions. Compensatory wetland mitigation shall occur in the following
- 8 order of preference:
- 9 a. Restoration
- 10 b. Creation
- 11 c. Enhancement
- 12 d. Preservation
- 13 8. Site protection: As a condition of any permit or land use approval, the code official may require
- 14 permanent fencing and signage to be installed around the wetland or buffer. Fencing installed as
- 15 part of a proposed activity or as required in this subsection shall be designed to not interfere
- 16 with species migration, including fish runs, and shall be constructed in a manner that minimizes
- 17 impacts to the wetland and associated habitat.

DRAFT

From: Bunten, Donna (ECY)
To: [Robin Proebsting](#)
Subject: RE: City of Mercer Island CAO Review
Date: Wednesday, February 20, 2019 9:20:25 AM

Hi, Robin,

I understand you had a phone conversation with Doug Gresham yesterday about Ecology's comments, and that you are trying to get a draft ready for your March 6 planning commission meeting. Would you be able to add me to your distribution list for future notices and/or drafts?

Thanks!

Donna J. Bunten

*Critical Areas Ordinances Specialist
Shorelands and Environmental Assistance Program
Department of Ecology
PO Box 47600
Olympia, WA 98504
360-407-7172*

From: Robin Proebsting [mailto:robin.proebsting@mercergov.org]
Sent: Thursday, February 07, 2019 2:11 PM
To: Bunten, Donna (ECY) <DBUN461@ECY.WA.GOV>
Cc: Gresham, Doug (ECY) <DGRE461@ECY.WA.GOV>; Evan Maxim <evan.maxim@mercergov.org>
Subject: RE: City of Mercer Island CAO Review

Greetings Donna,

Thank you for your email. The draft CAO is a rewrite of Mercer Island's current CAO, which was adopted in 2005. Since the changes to the code language were extensive, I did not create an underline/strikethrough document, figuring nearly everything would need to be modified or moved. I've attached the draft CAO in Word form. In case it is helpful to have as reference, I've also attached the current CAO.

Thank you also for letting me know an ETA if it ends up not being possible to grant expedited review.

Much appreciated,
Robin

Robin Proebsting, Senior Planner
City of Mercer Island Community Planning and Development Department
9611 SE 36th Street, Mercer Island, WA 98040
Direct: 206-275-7717
robin.proebsting@mercergov.org

From: Bunten, Donna (ECY) <DBUN461@ECY.WA.GOV>
Sent: Thursday, February 7, 2019 9:24 AM
To: Robin Proebsting <robin.proebsting@mercergov.org>
Cc: Gresham, Doug (ECY) <DGRE461@ECY.WA.GOV>
Subject: City of Mercer Island CAO Review

Hi, Robin,

I received your request for expedited review of your CAO from the Department of Commerce. I understand that you've already been working with Maria Sandercock on the SMP update. Doug Gresham and I will be reviewing the CAO. I'm not sure that our workload will allow us to comment in 14 days, as we are working on CAOs from other jurisdictions that have already been in our queue.

Does the CAO contain substantive changes from your last update? If you could send us a Word version of the CAO draft, preferably indicating these changes, it would speed things up for us and we can then determine whether or not we can get to it by February 20. If we have to deny the expedited review request, we'll give you our best estimate as to when we'll have comments done.

Donna J. Bunten

*Critical Areas Ordinances Specialist
Shorelands and Environmental Assistance Program
Department of Ecology
PO Box 47600
Olympia, WA 98504
360-407-7172*



Robin Proebsting, Senior Planner
Mercer Island Community Planning and Development
9611 SE 36th Street
Mercer Island, WA 98040

Via email to: Robin.Proebsting@mercergov.org

Re: City of Mercer Island Critical Areas Code update

Dear Ms. Proebsting,

Please accept the following comments from the Snoqualmie Indian Tribe (Tribe) Environmental and Natural Resources Department regarding the City of Mercer Island's (City's) 2019 Critical Areas Code update. Thank you for the opportunity to provide comments.

In the course of the Tribe's review of various development proposals and permits with potential to affect resources within the Tribe's ceded lands, on more than one occasion we have encountered confusion on the City's behalf as to the correct classification of various streams and stream segments. If the City wishes to follow up, we can provide more details on the specific instances, but through our review and request for information, it is apparent that the City needs to update its information regarding the location and presence of fish habitat and potential fish habitat. We have requested from the City, but the City has not been able to produce (due to lost or missing documents and reports), all of the foundational data upon which it bases its current map of the location of watercourses and fish habitat within those watercourses, which is extremely concerning to the Tribe.

As the City undertakes this CAO/SMP update, we urge the City to refer to the Washington Department of Commerce (Commerce) Growth Management Critical Areas guidance (<https://www.commerce.wa.gov/serving-communities/growth-management/growth-management-topics/critical-areas/>). In the 2018 update to Commerce's Critical Areas Handbook, on page 12 of Chapter 2 there begins a relevant section regarding stream mapping and stream typing. From page 13 within that section: "Local governments should field-verify stream presence/locations and, if the stream is shown as non-fish bearing (i.e., Type Np or Ns), this should also be field-verified. WDFW habitat biologists are able to help with stream typing (this is the preferred way to verify stream types); alternatively, a qualified biologist can apply WDNR's current stream classification methodology."



We recommend that the City undertake, perhaps in partnership with ECY, a new effort to map streams and stream types within the City using the National Hydrography Dataset along with setting up a robust internal process for field verification; this is especially critical given that due to missing documentation, the City cannot fully demonstrate that its current stream typing maps and categorizations meet standards of Best Available Science.

In the course of this review and update, we suggest that City code should clarify that “fish habitat,” per WAC 222-16-030 “means habitat which is used by any fish at any life stage at any time of the year, including potential habitat likely to be used by fish which could be recovered by restoration or management and includes off-channel habitat.” Additionally, we note that while special consideration for salmonids is appropriate per the GMA, we wish to emphasize that all “fish habitat” must be protected and that this is much more extensive than only salmonid habitat, and includes “potential habitat” as cited above.

Also, please note that the City’s current definition of “Fish Use or Used by Fish” at MICC 19.16 is in conflict with the definition of “fish habitat” per WAC 222-16-030. To comply with state law, the City should update its definitions of fish habitat to include habitat which is used by any fish at any life stage at any time of the year, including potential habitat likely to be used by fish which could be recovered by restoration or management and includes off-channel habitat. Also notable is that “potential habitat likely to be used by fish which could be recovered by restoration or management” means that stream reaches which contain fish habitat per the state rules, but which are blocked to fish passage by manmade barriers downstream, regardless of who owns the barrier, must be considered fish habitat, since barrier removal and fish passage restoration and use of the potential habitat could be achieved at such locations.

Thank you for the opportunity to comment. We look forward to continuing to work with the City to update its inventory of where fish habitat exists in the City, and to update its definition of fish habitat to comply with state law. If you have any questions please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Matt Baerwalde", with a long horizontal line extending to the right.

Matt Baerwalde
Water Quality Manager
Snoqualmie Indian Tribe
425-363-2008

From: feretsoie2001@yahoo.com
To: [Robin Proebsting](#)
Cc: [Planning Commission](#); [Lisa Anderl](#); [Bruce Bassett](#); [Debbie Bertlin](#); [Salim Nice](#); [Wendy Weiker](#); [David Wisenteiner](#); [Benson Wong](#); [Julie Underwood](#); [Deborah Estrada](#); [Kari Sand](#)
Subject: Comment on the Proposed Critical Areas Ordinance and Shoreline Master Program Amendment
Date: Thursday, February 28, 2019 5:27:14 PM

Dear Ms. Proebsting and Members of the Mercer Island Planning Commission,

We are writing to comment on the proposed Critical Areas Ordinance/Code Update to Chapter 19.07 of the Mercer Island City Code and the proposed Shoreline Master Program Amendment (Project Number ZTR18-002).

We are property owners and residents of Mercer Island, and we are planning to build our permanent home on a property we purchased. We have been in the process of designing a home for our property for about 18 months. We have undertaken careful site planning to accommodate critical areas on and adjacent to our property, and their associated buffers. All this planning has occurred under the City's adopted CAO.

We never received any notice of the proposed changes to the code regarding critical areas and the associated Shoreline Master Program amendment from the City of Mercer Island and had not seen any announcements, alerts, etc. that code changes and amendments were being proposed. We have just learned of the proposed CAO changes and understand the only hearing scheduled on them is set to occur before the Planning Commission on March 6, less than a week away.

We don't know how these code changes will impact our ability to build our house. As constituents, we need time to study the proposed code changes and amendments, and to make additional comments before the City acts. By looking at City maps we can see that there are many other Mercer Island properties that will be impacted by CAO amendments, whose owners may be similarly surprised to learn of the proposed changes. We hear that the proposed update could have significant impacts associated with classification changes for streams, wetlands, and geologic hazard areas, new proposed buffer widths, as well as changes to the ways in which the City may apply accommodations such as buffer averaging.

We respectfully request that the City re-notice and hold a second Planning Commission hearing, and extend the comment period by at least an additional 30 days. This would allow more constituents an opportunity to understand and comment on this significant legislation, before the Planning Commission makes a recommendation.

Thank you for your consideration in this matter.

Sincerely yours,
Alexandra Boyle and Charles Lee
7929 SE 37th Street
Mercer Island, WA 98040
And
4150 Boulevard Place
Mercer Island, WA 98040

cc: Mercer Island City Council

Comment Letter to City of Mercer Island

page 1

Sent from my iPhone

From: Giseburt, Dirk
To: [CA Update](#)
Subject: CAO and SMP Comments
Date: Sunday, March 3, 2019 4:49:21 PM

Regarding wildlife section of the consultants' report, you may add a pileated woodpecker siting of today, number is 2, at the south end of First Hill. One bird opposite 7385 SE 38th; the other about 20 m east. Feeding. It appears these spaces have been marked out for potential development, signified by blue and pink ribbon.

Dirk
Giseburt
2750 72nd Ave SE

**Public Hearing Comment Submitted to
the City of Mercer Island Planning Commission**

On (or before) March 6, 2019

By Peter L Struck

9130 SE 54th Street

With respect to:

Agenda Item #1: ZTR18-002 Critical Areas & Shoreline Master Program Code Amendments

In reviewing the draft code amendments, I have the following comments and suggestions:

General Comments

- The term “qualified professional” is used throughout the document without an apparent definition. For clarity and guidance, should the term be described and then become a defined term?

Specific Comments

- Section 19.07.050 Fees (add italicized phrase)
 - Part B “The applicant shall be responsible for all applicable fees as established in the city’s fee schedule, consultant review fees, and peer review fees”, *and any other relevant or pertinent fee not contained in the above description.*
- Section 19.070.080 General Provisions (replace if)
 - Part A “An applicant for a permit within a critical area shall comply with the requirements of MICC 19.01.060, **if** *as* required by the code official.
- Section 19.07.150 Public Agency Exception
 - It is unclear in this section if there are sufficient safeguards, as these exceptions have one public entity ruling on another one, and whether such entities can be truly independent or objective as in many cases, one is dependent upon another for various services, etc.

- *Would recommend that there be explicit City Council approval on the application and/or exception.*
- 19.07.160 Frequently Flooded Areas
 - While the section states no identified flood areas, I wonder if there should be some ability to take account of global warming/climate change issues and how to handle a changing environment and the impact on critical areas.
- 19.07.170 Geologically Hazardous Areas
 - In this section, there is no discussion of liability concerns. If the City Code permits development in these areas and there is a subsequent event, e.g., landslide, it's most likely that the City will be held responsible along with the applicant, etc. Does the City take this financial concern into account in its fees, its insurance requirements, etc?
- Section 19.07.200 Watercourses & 19.70.210 Wetlands
 - These two sections consume about 35% of the 22-page document. There are a material number of mitigation avenues available for the applicant and code official. I raise the general concern if these sections are too liberal in their ability to modify existing watercourses and wetlands. I look to the citizen representatives on the Planning Commission to ensure there are sufficient safeguards and guardrails.



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March 6, 2019

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Via e-mail to: robin.proebsting@mercergov.org

Mercer Island Planning Commission
Attn: Robin Proebsting, Senior Planner
9611 SE 36th Street
Mercer Island, WA 98040

Re: Comments on the Shoreline Master Program Update

Dear Planning Commission:

We represent Citizens for Reasonable Shoreline Policies (“CRSP”), a Washington nonprofit corporation, with respect to its efforts to promote reasonable and prudent shoreline regulations on Mercer Island. CRSP is comprised of individual residents and voters who live on the island, as well as businesses that operate on the island. Each member hopes that by joining together in a common interest and with a common voice that the City of Mercer Island (“City”) will enact thoughtful, reasonable, and effective shoreline policies.

To that end, CRSP believes that some recent elements of the existing Shoreline Master Program (“SMP”)¹ are harmful to the environment and disincentivize voluntary environmental upgrades. Specifically, the nonconforming moorage facilities Provision² disincentivizes voluntary upgrades by requiring environmentally intrusive and costly in-water work *even if* only above-water work is proposed. Residents are penalized for voluntarily removing pilings with harmful creosote coatings, or for replacing solid decking with transparent decking. The Provision is counterproductive; instead of encouraging environmentally beneficial actions, it encourages residents to put off upgrades or piecemeal work.

CRSP asks the City to amend the Provision to encourage environmentally-beneficial voluntary upgrades, and to create a nexus between the planned work and required abatement. In this letter, CRSP shows how the Provision is counterproductive and overbroad, and provides examples of reasonable code provisions from the cities of Bellevue, Medina, and Kirkland. CRSP proposes a solution to the problematic status quo by providing code amendment language that borrows from other cities on Lake Washington. Replacing the Provision with the proposed amendment would accomplish the City’s goal of conservation in a reasonable manner.

¹ Mercer Island City Code (“MICC”) 19.07.110.

² MICC 19.07.110.E.6.b.ix (the “Provision”).

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CRSP respectfully asks the City to analyze closely the effect of the Provision and adopt the proposed amendment language in Section E below.

A. Goals of the SMA

The Provision is part of the City’s SMP, which is the local implementation of the Shoreline Management Act, Chapter 90.58 RCW (“SMA”). The SMA recognizes the value and fragility of the shorelines of the state, and is designed to protect against “adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life....”³ The SMA recognizes that because much of the state’s shoreline is privately owned, coordinated planning is required to promote the public interest “while, at the same time, recognizing and protecting private property rights consistent with the public interest.”⁴ Uses of the shoreline are to be “designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area....”⁵ Put simply, the SMA’s goal is to protect the shoreline by implementing policies that minimize environmental harm while preserving private property rights.

B. The Provision

The Provision, in what we assume was an effort toward environmental protection, created a confusing section of code with counterproductive effect. In fact, the Provision was the subject of a 2018 code interpretation,⁶ and the City appears now to be planning to amend the Provision to align with its code interpretation. The Provision, in its entirety, reads as follows:

ix. If more than 50 percent of the structure’s exterior surface (including decking) or structural elements (including pilings) are replaced or reconstructed during the five years immediately prior to any demolition for the replacement or reconstruction, the replaced or reconstructed area of the structure must also comply with the following standards:

(A) Piers, docks, and platform lifts must be fully grated with materials that allow a minimum of 40 percent light transmittance;

³ RCW 90.58.020.

⁴ *Id.*

⁵ *Id.*

⁶ Development Code Interpretation #18-002 (Nov. 5, 2018).

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(B) The height above the OHWM for moorage facilities, except floats, shall be a minimum of one and one-half feet and a maximum of five feet; and

(C) An existing moorage facility that is five feet wide or more within 30 feet waterward from the OHWM shall be replaced or repaired with a moorage facility that complies with the width of moorage facilities standards specified in subsection (E)(4) of this section (Table D).

While CRSP does not doubt that the intent of the City was good when it adopted the Provision, CRSP sincerely believes that the Provision does not accomplish the environmental benefits it was intended to yield. Instead, the Provision discourages voluntary environmental upgrades, promotes piecemeal work, is overbroad, and is counter to the City's goals of mitigating ecological degradation through shoreline development, as discussed in this letter.

The Provision goes well beyond the SMA's default provisions addressing repair and replacement of existing nonconforming structures.⁷ The SMA allows for the repair and replacement in kind *without* imposing abatement or mitigation requirements. Existing structures may be "maintained and repaired," and may even be "enlarged or expanded provided that said enlargement meets the applicable provisions of the master program" so long as the extent of the nonconformity is not increased.⁸ The SMA generally preserves the right to repair and maintain legal nonconformities. And while the City may adopt a nonconforming structure provision that differs from the SMA, the breadth of the Provision raises questions about its enforceability.

The Provision requires abatement of nonconformities unrelated to proposed work (i.e., work on decking triggers piling replacements), and the lack of nexus and low threshold for abatement raises concerns that the Provision is overbroad or may constitute an uncompensated governmental taking.⁹

⁷ Washington Administrative Code 173-27-080.

⁸ *Id.*

⁹ *See, e.g.,* Nollan v. Cal. Coastal Comm'n, 483 U.S. 825 (1987) (analyzing nexus of building permit to stated governmental goals); Penn. Central Transp. Co. v. New York City, 438 U.S. 104 (1978) (describing test for determining when a regulatory taking has occurred).

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C. The Provision does not promote light transmittance

Light transmittance is essential for the health and safety of juvenile Chinook salmon.¹⁰ In 2006, two researchers from the National Oceanic and Atmospheric Administration (“NOAA”) performed a study of the impact on juvenile Chinook of light transmittance of piers in Lake Washington.¹¹ The NOAA researchers noted that

Primary concerns for juvenile Chinook salmon regarding new and remodeled piers in Lake Washington include habitat changes in the nearshore from pier shade and structure, shoreline modifications to build and access the piers, and degradation of water quality from pier construction and use. Shade from piers is caused by the decking, pilings and support structures and attached floats and may provide predatory fish some advantage in capturing prey.... Abrupt transitions from light to dark can cause juvenile Chinook salmon to alter their migration pathway from the nearshore to deeper water or avoid the pier altogether (Tabor *et al.* 2004). Migration through deeper water could expose juvenile Chinook salmon to more predation in addition to lengthening the migration period.¹²

Based on their study, and the significant risk posed to juvenile Chinook salmon by the shading under piers, the NOAA researchers recommended maximizing the amount of open decking and light transmittance to minimize the amount of shading caused by solid decking. They also recommended (a) reducing the overall footprint of docks and walkways and (b) minimizing the size and maximizing the spacing of pilings. CRSP’s proposed amendment to the Provision incorporates all of these recommendations in a reasonable manner that encourages voluntary upgrades, which should accelerate the reduction of light-blocking surfaces and structures.

In light of the NOAA researchers’ study, an example illustrates how the Provision is counter to their recommendations and is counterproductive to environmental goals. Owner A owns a dock with traditional solid wood decking, letting little to no light penetrate the water below her dock. Juvenile Chinook salmon tend to swim around her dock, into deeper water where predators threaten the salmon, or they pass under the dock without the ability to see predators waiting.

¹⁰ Gayaldo, P.F. and K. Nelson, *Preliminary results of light transmission under residential piers in Lake Washington, King County, Washington: A comparison between prisms and grating*, LAKE AND RESERV. MANAGE. 22(3):245-49 (2006).

¹¹ *Id.*

¹² *Id.* at 246-47.

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Owner A is aware of the adverse environmental impacts of the shade below her dock and wants to replace all of her solid decking with new grating that allows for 50 percent light transmittance.

Owner A applies to the City for a permit to perform the voluntary decking replacement, and is told that because of the Provision, in order to voluntarily replace her decking, she also has to remove the pilings within 30 feet of the shoreline and place them closer together in order to reduce the walkway width to four feet; her walkway is currently five feet. This additional pier work will require in-water work to remove the pilings or cut them off, either of which will disrupt the fragile benthic layer. And, the cost of the additional work will be thousands or tens of thousands of dollars. Owner A reluctantly decides to forgo the decking upgrade due to the added environmental disturbance and cost.

This example illustrates the counterproductive results caused by the Provision. It prevents Owner A, like many City residents and CRSP members, from performing voluntary upgrades to docks that would benefit the environment and juvenile Chinook salmon. Owner A may wait for her dock to degrade substantially and then replace portions on an ad hoc basis. But the benefit of her voluntary upgrade to high-transmittance decking is precluded by the Provision.

It is important that the City properly encourage its residents to behave in a manner that is in line with the City's environmental goals. But the Provision does the opposite. The next part of this letter provides examples from other cities on Lake Washington, offering models to the City. CRSP borrowed from other cities' code when it prepared the proposed amendment in Section E.

D. Other Cities on Lake Washington Provide Reasonable Models

Other cities on Lake Washington provide the City with good examples of provisions that encourage voluntary upgrades with environmental benefits. CRSP asks the City to look at these jurisdictions and consider how the Provision could be amended to incorporate some of these simple and environmentally-aligned provisions.

1. Kirkland

The City of Kirkland ("Kirkland") has a nexus between the type of work performed and the type of abatement required. Unlike the City, it does not impose pier width reduction if an owner wishes to replace only decking. "Repair proposals that replace only decking or decking substructure and less than 50 percent of the existing pier-support piles must comply with the following regulations:"¹³

¹³ Kirkland Zoning Code ("KZC") 83.270(8).

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Minor Repair of Existing Pier or Dock for Detached Dwelling Unit (Single-family)	Requirements
Replacement pilings or moorage piles	Must use materials as described under subsection (4) of this section Must minimize the size of pilings or moorage piles and maximize the spacing between pilings to the extent allowed by site-specific engineering or design considerations
Replacement of 50 percent or more of the decking OR 50 percent or more of decking substructure	Must replace any solid decking surface of the pier or dock located within 30 feet of the OHWM with a grated surface material that allows a minimum of 40 percent light transmittance through the material

This provision requires decking replacement with transparent decking at a 50 percent threshold, but unlike the City, decking replacement does not trigger pier replacement. Kirkland’s provision does not require in-water pier work simply because an owner wishes to replace the decking. Instead, it imposes reasonable requirements: if more than 50 percent of the decking is replaced, it must be replaced with transparent grating. If more than 50 percent of the pilings and substructure are replaced, then the existing code must be complied with and abatement must be performed.¹⁴

This simple approach requires abatement with a nexus to the planned work. If decking is to be replaced, it must be transparent. If pilings are to be replaced, the replacements must meet code. Kirkland’s repair and replacement provisions provide the City with a helpful model for re-writing its nonconforming dock provisions.

2. Bellevue

The City of Bellevue (“Bellevue”) provides another example of a reasonable shoreline policy that encourages voluntary upgrades. Its provision provides that existing docks may be repaired or replaced in their existing configuration if the following conditions are met:

¹⁴ KZC 83.270(6).

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- Materials used for the dock repairs meeting code requirements for new dock materials;
- Any decking that is replaced must be grated for light transmission;
- Any piles that are replaced must be the minimum diameter and the maximum spacing feasible to support the dock configuration; and
- Projects that replace 75 percent or more of the support piles near the shore area within a 5-year period shall meet the requirements of new or reconfigured docks.¹⁵

This straightforward provision is progressive and reasonable in its decking replacement requirements: any decking replacement must be grated to allow light transmission, an environmental benefit. And if 75 percent of piles are replaced, they must meet the requirements of new docks. This provision requires abatement with a nexus to the harm: if decking is replaced, it must be transparent; if pilings are replaced, the replacements must meet existing code standards. The City should keep Bellevue’s direct and logical provision in mind as it considers its SMP amendment.

3. Medina

The City of Medina (“Medina”) has dock-specific repair provisions that encourage voluntary repairs with environmental benefits.¹⁶ Medina allows an owner to make the following repairs to an existing nonconforming dock:

- Replacement of up to 75 percent of the existing piles during any consecutive 18-month period; or
- Repair of up to 100 percent of the existing piles, provided repair does not involve driving piles into the benthic; or
- Replacement of any structure treated with pentachlorophenol, creosote, or similar toxic compounds provided the replacement is a voluntary action to improve shoreline ecological functions and not to repair structurally hazardous conditions; or

¹⁵ Bellevue Land Use Code 20.25E.065.H.5.

¹⁶ Medina Municipal Code 20.65.060.

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- Replacement of any solid decking with materials, such as grating, that allow at least 40 percent light to transmit through the material, and where the repair work does not include replacement of substructure.¹⁷

Medina expressly allows replacing solid decking materials with transparent decking materials and does not impose additional requirements for doing so.¹⁸ This reflects an interest in promoting environmentally beneficial repair and replacement measures without imposing burdensome requirements that will cause docks to fall into disrepair. It is a simple regulation that promotes voluntary upgrades with environmental benefits.

Medina also permits repair of all existing pilings, provided that the repairs do not require driving into the most sensitive part of the lake, the benthic zone. This reflects the policy of minimizing the impact on the lake and promoting non-intrusive repairs. The City should consider incorporating Medina's decking replacement and piling repair provisions in order to protect the shoreline environment while requiring the least amount of impactful work.

E. Proposed Code Amendment Language

In light of the foregoing, CRSP proposes an amendment to the existing code for consideration by the City. The proposed amendment would promote the protection of the shoreline environment and encourage environmentally-beneficial voluntary upgrades. It would create a nexus between the intended dock work and the required abatement. It would accomplish the intent of the SMA and demonstrate the City's commitment to reasonable shoreline policies. The provision is straight-forward, and easy to interpret and apply.

CRSP requests the City to replace the existing MIC 19.07.110.E.6.b.ix with the following provision:

ix. Repair, replacement, or reconstruction of moorage facilities.

(1) Projects that repair, replace, or reconstruct more than 50 percent of a moorage facility's decking within a five-year period shall use materials that allow a minimum of 40 percent light transmittance.

¹⁷ *Id.*

¹⁸ *Id.*

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(2) Replacement of any structure treated with pentachlorophenol, creosote, or similar toxic compounds is permitted.

(3) Projects that replace more than 75 percent of the pilings on that portion of an existing moorage facility that is five feet wide or more within 30 feet waterward from the OHWM shall be required to (a) comply with the width of moorage facilities standards specified in subsection (E)(4) of this section (Table D), and (b) construct the moorage facility, except floats, such that its height above the OHWM is at least one and one-half feet and a maximum of five feet.

(4) Any piles that are replaced shall be the minimum diameter and at the maximum spacing feasible to support the existing moorage facility configuration.

F. Conclusion

CRSP appreciates the City's concern for its shoreline environment and strongly encourages the City to compare the intent behind the Provision to the actions it promotes. This review should help the City revise the Provision in a way that accomplishes its goals. CRSP's proposed amendment to the SMP aligns the City's intent with the right incentives. CRSP respectfully requests that the City revise the SMP to include the proposed amendment.

Please contact me with any questions or comments at (425) 635-1450 or RThomas@perkinscoie.com.

Very truly yours,



Ryan C. Thomas

Mercer Island CAO and SMP 2019 update comments – King County Noxious Weeds

What follows are the King County Noxious Weed Control Program's comments on the City of Mercer Island's 2019 CAO and SMP updates. Questions about these comments should be sent to:

Ben Peterson
 Aquatic Noxious Weed Specialist
 King County Noxious Weed Control Program
 (206) 477-4724
 ben.peterson@kingcounty.gov
www.kingcounty.gov/weeds

Comments on the City of Mercer Island's 2019 Critical Areas Ordinance (CAO) update (Chapter 19.07):

- Page 7, line 41: suggest rewording from
 - *"All disturbed soils are stabilized and revegetated with appropriate native vegetation; and"*
 - to *"All disturbed soils are stabilized and revegetation with appropriate native vegetation **is facilitated**; and"*
- Page 7, line 42: suggest that removal of plants on the King County Noxious Weed list is not limited to any square foot area. (i.e., remove line 42 on page 7).
- Page 9, line 16 and 17: suggest rewording from:
 - "The entire area cleared of noxious weeds shall be revegetated with appropriated native and/or climate-resistant vegetation;"
 - To **"Landscape and groundcover voids that result from the clearing** of noxious weeds shall be revegetated with appropriated native and/or climate-resistant vegetation;"
 - We think this is better because often when noxious weeds are removed from wildland places it is the case that one plant here or there (with minimal soil disturbance) occurs. Usually the remaining vegetation quickly moves in on its own to fill the void.
- Page 9, Line 19: suggest rewording from:
 - "Removal of noxious weeds and other restoration work shall be restricted to work by hand tools, including use of handheald gas or electric equipment"
 - To: **"Removal of noxious weeds and other restoration work shall be undertaken with hand labor, including handheald mechanical tools, unless the King County noxious weed control board Best Management Practices (BMP) documents otherwise prescribe the use of riding mowers, light mechanical cultivating equipment, or herbicides or biological control methods; herbicides use is in accordance with federal and state law."**
 - These changes are from King County's Critical Areas zoning 21A.24.045.D.23.b.(1) and (4) (page 214 of Title 21A Zoning – Updated: February 6, 2019)
- Page 19, table between lines 9 and 10: question: in the "Toxic Runoff" box, what does it mean *"Establish covenants limiting use of pesticide within 150 ft of wetland?"*
 - We feel that herbicides (which are a type of pesticide) are a useful tool when used according to the label (as required by law) and within the applicable state laws that

govern their use (by the WA State Department of Agriculture and WA State Department of Ecology). If the goal of this statement is to make sure pesticides are used safely maybe have a statement something like: "pesticide (or **herbicides**) use is in accordance with federal and state law."

Comments on the City of Mercer Island's 2019 Shoreline Master Program

- Page 1, line 14: it would be good to have an exemption to this need for removal of trees that are on the Noxious Weed list.
 - This comment might be for some other ordinance that came on the page just before the SMP update, but I thought I would comment on it.
- Page 6, Table A: "Restoration of ecological functions including shoreline habitat and natural systems enhancement" is considered a permitted use of "shoreland uses landward of the ordinary high water mark".
 - We would like to confirm that noxious weed control is included in this activity. It seems to us that it definitely would be as noxious weed removal is often the first step towards ecological restoration, but we wanted to make sure.
- Page 7, Table B: "Restoration of ecological functions including shoreline habitat and natural systems enhancement" is considered a permitted use of "shoreland uses waterward of the ordinary high water mark".
 - We would like to confirm that noxious weed control is included in this activity. It seems to us that it definitely would be as noxious weed removal is often the first step towards ecological restoration, but we wanted to make sure.
- Page 24, line 35: noxious weed definition looks good

From: Karen Walter
To: [Robin Proebsting](#)
Cc: [SEPA Unit](#); mari461@ecy.wa.gov; [Stewart Reinbold](#)
Subject: Re: SEPA Determination for Critical Areas Code & SMP update
Date: Wednesday, March 6, 2019 10:37:28 AM

Robin,

Thank you for sending us the SEPA documents and associated materials for the City of Mercer Island's proposed Critical Areas Code and SMP Update. This email is directly in response to the Critical Areas Code Update. If we have any comments to the SMP update, we will send those separately. We understand there is a relationship between the two where the City's Critical Areas Code applies to shoreline areas.

Best Available Science Report comments

The Best Available Science Report (BAS; ESA 2018) should have been sent to us in advance of SEPA so we could have provided comments to this important document sooner. That said, we'd like to note that the BAS report has failed to consider culvert assessment information from WDFW that is showing several barrier culverts in Mercer Island. See https://wdfw.wa.gov/conservation/habitat/fish_passage/data_maps.html

Please note that the GIS data from this map can be downloaded so the City can put it on its own maps and make available to others.

To be a barrier culvert, there must be available fish habitat above it. Available fish habitat above known artificial barriers are based on stream habitat conditions that meet the physical criteria from WAC 222-16-031 (WAC 222-16-030 is not official yet until the WA Forest Practices Board adopts maps, this is an oversight in the BAS document). The physical criteria for presumed fish habitat is based on thousands of data points collected in streams in Eastern and Western Washington where intensive electroshocking efforts for fish were conducted along with stream habitat conditions for bankfull widths and streambed gradients. From this data, the WA Forest Practices Board with the various participants in the "Timber, Fish, and Wildlife" process (i.e. timber industry, tribes, State agencies, Federal agencies, environmental groups, etc) developed criteria to provide a relatively simple method to determine stream classifications. Any stream meeting these criteria, including seasonal streams are deemed to be Type F waters. This is extremely important because as far as we know, known of the stream classification information used by the City of Mercer Island is based on this physical criteria. If we are mistaken, we would appreciate a copy of all of the available data to review it for accuracy and consistency.

The stream classification issue and current barrier culvert data collected by WDFW should be included in a revised version of the BAS report and the City's regulations to ensure that streams are properly protected with new and redevelopment projects both by private and public entities. This would affect both open channel and piped stream sections.

For piped streams, the BAS report is a start to ensure that there is an opportunity at some point to restore these stream sections; however, there should be requirements to do when projects are modifying sections of these piped streams for any reason. It may be acceptable to allow buffer reductions in these instances, but these should be considered carefully to avoid the continued degradation of streams and their buffers necessary to support salmon.

Finally, we encourage the City to review the codes and approaches of other jurisdictions in WRIA 8 around Lake Washington. This is the appropriate ecological/watershed setting to evaluate environmental impacts in the correct watershed and to provide any meaningful cumulative impacts analysis. We encourage the City to revise the BAS and potential its regulatory approaches accordingly.

We appreciate the opportunity to review this proposal and look forward to the City's responses and updated documents for the Critical Areas Code update.

Thank you,

Karen Walter
Watersheds and Land Use Team Leader

Muckleshoot Indian Tribe Fisheries Division
Habitat Program
39015 172nd Ave SE
Auburn, WA 98092
253-876-3116

From: Robin Proebsting <robin.proebsting@mercergov.org>
Sent: Monday, February 4, 2019 12:22 PM
To: separegister@ecy.wa.gov; SEPA Center; Casey.costello@dfw.wa.gov; Larry Fisher; Laura Murphy; Karen Walter; Matt Bennett; Suzanne Anderson; Valerie Garza; mari461@ecy.wa.gov; Dean Mack
Subject: SEPA Determination for Critical Areas Code & SMP update

Please see the attached DNS and SEPA Checklist for the City of Mercer Island's Critical Area Code and Shoreline Master Program update, issued today, February 4, 2019.

Please do not hesitate to contact me with any questions.

Best regards,

Robin

Lead agency contact information:

Robin Proebsting, Senior Planner
City of Mercer Island Community Planning and Development Department
9611 SE 36th Street, Mercer Island, WA 98040
Direct: 206-275-7717
robin.proebsting@mercergov.org<<mailto:robin.proebsting@mercergov.org>>

TO: Robin Proebsting, Senior Planner, City of Mercer Island
CC: Jackie Chandler, Shoreline Administrator, WA Department of Ecology; Evan Maxim, Director of Community Planning and Development, City of Mercer Island
FROM: Maria Sandercock, Shoreline Planner, WA Department of Ecology
Date: May 9, 2019
Subject: Initial Determination of Consistency
Sent via email to: robin.proebsting@mercergov.org

Brief Description of Proposed Amendment

The City of Mercer Island (City) has submitted Shoreline Master Program (SMP) amendments to Ecology for initial determination of concurrence to comply with periodic review requirements. Ecology is required under WAC 173-26-104(3)(b) to make an initial determination of consistency with applicable laws and rules.

FINDINGS OF FACT

Need for amendment

The City's comprehensive update to their SMP went into effect in 2015. The proposed amendments are needed to comply with the statutory deadline for a periodic review of the Mercer Island Shoreline Master Program pursuant to RCW 90.58.080(4). The City has also proposed SMP amendments to address changed local circumstances, new information and improved data. The City is also updating their Critical Areas Ordinance (CAO) and needs to incorporate changes into the SMP.

SMP provisions to be changed by the amendment as proposed

The City prepared a checklist and an analysis that documents proposed amendments. The amendments bring the SMP into compliance with requirements of the act or state rules that have been added or changed since the last SMP amendment, ensure the SMP remains consistent with amended comprehensive plans and regulations, and incorporate amendments deemed necessary to reflect changed circumstances, new information, or improved data.

The City currently has split the SMP policies and the regulations; the SMP policies are located in the shoreline element of the City's comprehensive plan and the SMP regulations are codified into Chapter 19.07.110 of the Mercer Island Municipal Code (MICC). Shoreline permitting procedures are located in Chapter 19.15.010 – 020, and definitions are located in Chapter 19.16.010. Critical areas regulations from the City's Critical Areas Ordinance (Chapter 19.07.010 – 090 as in effect on January 1, 2011) are incorporated by reference.

The City is proposing some reorganization of the municipal code that will result in renumbering of sections of the SMP regulations. The City proposes to renumber the regulations to Chapter 19.13.010 – 19.13.050.

The following sections of the City's SMP are proposed to be amended:

- 19.13.010(F) [formally 19.07.110(A)]: Add a section clarifying activities that are not required to obtain shoreline permits or local reviews.

- 19.13.050(A) Table C: amend structure setback requirements to allow “flatwork” and stairs less than 30 inches in height within shoreline setbacks.
- 19.13.050(F), Moorage Facilities standards. Amend text to exclude public access piers and boardwalks from these provisions.
- 19.13.050(F)(2)(i). Amend text to clarify language describing when repair, replacement, or reconstruction of moorage facilities must comply with additional standards.
- 19.13.050(H). Amend text to add section with standards for public access piers, docks and boardwalks.
- 19.15.180(B) Amend text regarding date of filing of shoreline permits with Ecology.
- 19.16.010 Definitions.
 - Amend text to add definitions for the following terms: Biodiversity Areas; Critical Area Review; Critical Area; Dock; Landslide Hazard Area, Shallow; Landslide Hazard Area, Deep-seated; Pier; Public Access Pier or Boardwalk; Setback
 - Amend text of existing definitions for the follow terms: Alteration; Buffer; Clearing; Fish and Wildlife Habitat Conservation Areas; Geologically Hazardous Areas; Noxious Weed; Qualified Professional; Watercourses; Wetland Classification System; Wetland Manual
 - Amend text to remove the following terms: Fish Use or Used by Fish
- The following additional edits were made throughout the SMP:
 - References to “moorage facilities” are changed to “docks.” “Lift stations” are changed to “boatlifts.” “Impervious surface” is changes to “hardscape and lot coverage.”
 - References to code sections are updated to reflect reorganization of SMP and other code chapters.
 - Text regarding adjoining lots is updated for clarification.

Critical Area Regulations (this list references proposed code numbering)

The following sections are proposed to be amended:

- 19.07.010 Purpose.
- 19.07.080 General Provisions
- 19.07.110 Critical Area Study
- New sections: 19.07.020 Applicability; 19.07.030 Relationship to other regulations; 19.07.040 Critical Area Rules; 19.07.050 Fees; 19.07.060 Critical Area Maps and Inventories; 19.07.070 Disclosure and notice on title; 19.07.090 Critical Area Reviews; 19.07.100 Mitigation sequencing; 19.07.150 Public Agency Exception; and 19.07.170 Fish and Wildlife Habitat Conservation Areas.
- Existing 19.07.030 Allowed alterations and reasonable use exception. This section is split into 19.07.120 Exemptions, 19.07.130 Modifications, and 19.07.140 Reasonable Use Exception.
- Deleted: Existing 19.07.040 Review and construction requirements.
- 19.07.160 Geologically Hazardous Areas. Amend text to add provisions regarding designation and typing, general review requirements, and development standards. New provisions include buffer requirements for landslide hazards (25 feet from shallow landslide hazards, and 75 feet from deep-seated landslide hazards), steep slopes (equal to the height of the slope but no more than 75 feet), and active faults (50 feet).
- 19.07.180 Watercourses. Amend text for designation and water typing system; required buffers for watercourses (increase buffer for Type F, Np, and Ns streams, and remove buffer requirement for piped watercourses); and provisions regarding buffer averaging, buffer reductions, and other development standards. Amend text to add required building setbacks from edge of buffers and from piped watercourses and add mitigation requirements.

- 19.07.190 Wetlands. Amend text to require wetlands be delineated using the U.S. Army Corps Delineation Manual with appropriate regional supplement. Amend text to require that wetlands be rated according to Ecology’s 2014 Rating Systems for Western Washington, or most current update. Amend development standards by increasing standard buffer widths for wetlands with low or moderate habitat scores (no buffer requirements for wetlands with high habitat scores) and by adding a requirement to implement impact minimizing measures. Amend text relating to buffer averaging and buffer reductions. Amend text to require a structural setback from the edge of buffers. Amend text regarding allowed alterations in certain low-functioning wetlands following mitigation sequencing. Amend text to allow trails within wetland buffers in certain circumstances. Amend text to add provisions on mitigation for impacts to wetlands.

Amendment History, Review Process

The City prepared a public participation program in accordance with WAC 173-26-090(3)(a) to inform, involve and encourage participation of interested persons and private entities, tribes, and applicable agencies having interests and responsibilities relating to shorelines.

The City used Ecology’s checklist of legislative and rule amendments to review amendments to chapter 90.58 RCW and department guidelines that have occurred since the master program was last amended, and determine if local amendments were needed to maintain compliance in accordance with WAC 173-26-090(3)(b)(i). The City also reviewed changes to the comprehensive plan and development regulations to determine if the shoreline master program policies and regulations remain consistent with them in accordance with WAC 173-26-090(3)(b)(ii). The City considered whether to incorporate any amendments needed to reflect changed circumstances, new information or improved data in accordance with WAC 173-26-090(3)(b)(iii). The City consulted with Ecology and solicited comments throughout the review process.

The City held a joint local/state comment period on the proposed amendments following procedures outlined in WAC 173-26-104. The comment period began on February 4, 2019 and continued through March 6, 2019. A public hearing before the Planning Commission was held on March 6, 2019.

The City provided notice to local parties, including a statement that the hearings were intended to address the periodic review in accordance with WAC 173-26-090(3)(c)(ii). Affidavits of publication provided by the City indicate notice of the hearing was published on January 20, 2019. Ecology distributed notice of the joint comment period to state interested parties on February 1, 2019.

Twenty-three (23) comments were submitted on the proposed amendments. The City submitted to Ecology its responses to issues raised during the comment period on April 12, 2019. Several citizen comments requested that the City reconsider dock standards; however the City has opted not to make substantive changes to these standards. The Snoqualmie Indian Tribe submitted comments recommending that the City undertake a new effort to map streams and stream types and that the City update the definition of “fish use or used by fish” and “fish habitat.” The City amended these definitions and has initiated a new project to update mapped wetlands and watercourses. The Muckleshoot Indian Tribe submitted comments recommending that the City include culvert data from the Washington Department of Fish and Wildlife in its Best Available Science Report (ESA 2018). The City plans to utilize culvert data from WDFW, consistent with this suggestion. A group, the Citizens for Reasonable Shoreline Policies, commented that the City should consider revising requirements that applicants bring docks into compliance with dock standards when greater than 50 percent of decking or structural elements are

replaced. The City opted not to change this requirement. The King County Noxious Weed Control Program commented with recommendations for text amendments related to noxious weed sections of the critical areas regulations. The City incorporated the recommended amendments.

Ecology commented on the critical areas regulations with several recommendations for amendments to wetland regulations based on Ecology's review of the most current, accurate, and complete scientific and technical information available. Ecology's comments included: (1) expansions of legally established structures within a wetland or watercourse buffer be on the upland side of the existing structure; (2) clarification between wetland delineations and ratings be added; (3) wetland buffers for wetlands with high habitat scores should be listed; (4) wetland averaging should be limited to situations where the wetland has significant differences in characteristics that affect its habitat functions; (5) allowing wetland buffer reductions is inconsistent with the most current, accurate, and complete scientific and technical information available; (6) provisions allowing alterations in certain wetlands are inconsistent with Ecology's latest guidance; (7) the measures to minimize impacts to wetlands must be implemented to protect wetlands when using the wetland buffers the City is proposing and if these are not implemented, wetland buffers should be 33 percent larger; (8) proposed mitigation ratios are inconsistent with Ecology's wetland mitigation guidance; and (9) temporary wetland mitigation ratios are reasonable. The City amended text to incorporate Ecology comments (1), (2), (6), and (8).

The proposed SMP amendments were received by Ecology on April 17, 2019 for initial state review and verified as complete on April 18, 2019.

Summary of Issues Identified by Ecology as Relevant to Its Decision

Ecology is required to review all SMPs to ensure consistency with the Shoreline Management Act (SMA) and implementing rules including WAC 173-26, State Master Program Approval/Amendment Procedures and Master Program Guidelines. WAC 173-26-186(11) specifies that Ecology "shall insure that the state's interest in shorelines is protected, including compliance with the policy and provisions of RCW 90.58.020."

Based on review of the proposed amendments to the SMP for consistency with applicable SMP Guidelines requirements and the Shoreline Management Act, and consideration of supporting materials in the record submitted by the City, the following issues remain relevant to Ecology's final decision on the proposed amendments to the City's SMP, with Findings specific to each issue identifying amendments needed for compliance with the SMA and applicable guidelines:

Integration of Critical Area Regulations

The City has chosen to incorporate critical areas regulations in MICC 19.07.010 – 19.07.090 in effect on January 1, 2011. The City is updating its Critical Areas Ordinance (CAO) and proposes to incorporate the updated regulations into the SMP. Ecology finds that revisions are needed to ensure the SMP is consistent with WAC 173-26-191(2)(b), which authorizes the incorporation of regulations by referencing a specific, dated edition.

As required by RCW 36.70A.480(3)(d), upon Ecology's approval of the current shoreline master program, "critical areas within shorelines of the state are protected under chapter 90.58 RCW and are not subject to the procedural and substantive requirements of this chapter...". This requirement means critical area reviews for activities in shoreline jurisdiction occur within the context of the SMP permitting procedures

and that administrative procedures of Critical Areas Ordinances are not applicable in shoreline jurisdiction. Ecology finds that revisions are needed to ensure that the SMP is consistent with the permitting requirements of the SMA.

WAC 173-26-201(2)(a) requires local jurisdictions to use the most current, accurate, and complete scientific and technical information available when constructing master program provisions. The statute states that *“Local governments should consult the technical assistance materials produced by the department. When relevant information is available and unless there is more current or specific information available, those technical assistance materials shall constitute an element of scientific and technical information as defined in these guidelines and the use of which is required by the act.”* Ecology has found that allowing buffer reductions is not consistent with the most current, accurate, and complete scientific and technical information available.^{1,2} Further, the City proposes to use buffer widths from Ecology’s recommended reduced wetland buffer table, which requires the use of minimizing measures and the preservation of a habitat corridor (XX.050 of Appendix A of Bunten et al. 2016, as revised in July 2018). Per Ecology’s sample language, *“The buffer widths in Table XX.1 and XX.3 assume that the buffer is vegetated with a native plant community appropriate for the ecoregion. If the existing buffer is unvegetated, sparsely vegetated, or vegetated with invasive species that do not perform needed functions, the buffer should either be planted to create the appropriate plant community or the buffer should be widened to ensure that adequate functions of the buffer are provided”* (XX.050.A.4). As such, allowing buffer reductions could result in a loss of ecological functions. Revisions are needed to ensure the SMP is consistent with WAC 173-26-201(2)(a) and WAC 173-26-221(2)(a)(ii).

The City has chosen to include allowances for wetland alterations found in Ecology’s guidance.¹ However, these allowances are not applicable for wetlands associated with shorelines of the state. Revisions are needed to ensure the SMP is consistent with WAC 173-26-201(2)(a) and WAC 173-26-221(2)(a)(ii).

The City has proposed a wetland buffer table to protect wetlands in shoreline jurisdiction in MICC 19.07.190.C.1. However, the buffers in this table are smaller than Ecology’s guidance recommends.¹ As currently proposed, the wetland buffers may not protect wetland values and functions and could result in a loss of ecological functions. Revisions are needed to ensure the SMP is consistent with WAC 173-26-201(2)(a) and WAC 173-26-221(2)(a)(ii).

Ecology has identified changes to the SMP to ensure the SMP and associated critical area provisions are implemented consistent with the requirements of the Act. These changes remove conflicting language (Attachment 1, Item Req-1).

Public Access Piers, Docks, or Boardwalks

The City is proposing to add separate standards for public access piers, docks, and boardwalks. The City should provide documentation that these proposed standards are consistent with WAC 173-26-221(4) and WAC 173-26-231(3)(b).

¹ Bunten et al. 2016. Wetland Guidance for CAO Updates: Western Washington Version. Washington Department of Ecology Publication No. 16-06-001. Available at:

<https://fortress.wa.gov/ecy/publications/summarypages/1606001.html>

² Hruby, T. 2013. Update on Wetland Buffers: The State of the Science. Washington Department of Ecology Publication No. 13-06-11. Available at: <https://fortress.wa.gov/ecy/publications/SummaryPages/1306011.html>

Shoreline Setbacks

The City proposes to clarify what structures are allowed within 25 feet of the ordinary high water mark (OHWM). Currently, MICC 19.07.110.E Table C limits allowed structures to just light rail facilities. The City would like to clarify that flat structures accessory to residential uses may be allowed in this zone, up to the existing limit of 10 percent hardscape.

Ecology finds that the proposed language is broad and does not include a preference for water-dependent and water-oriented uses. Ecology finds that revisions are necessary for consistency with the use preferences and policy goals of the Act in RCW 90.58.020. Ecology has identified changes to the SMP to ensure consistency (Attachment 1, Item Req-2).

Buffer Averaging

The City's critical area regulations allow buffer averaging, however a clear definition is not provided. Ecology has identified recommended changes that are consistent with the Act and the SMP Guidelines that would add clarity for implementation (Attachment 1, Items Rec-1 and Rec-2).

INITIAL DETERMINATION

After review by Ecology of the complete record submitted and all comments received, Ecology has determined that the City proposed amendments, subject to and including Ecology's required changes (itemized in Attachment 1), are consistent with the policy and standards of RCW 90.58.020 and RCW 90.58.090 and the applicable SMP guidelines (WAC 173-26-171 through 251 and .020 definitions).

Attachment 1:

Ecology DRAFT Required Changes

The changes in **red are required** for consistency with the SMA (RCW 90.58) and the SMP Guidelines (WAC 173-26, Part III). Changes in **blue are recommended** and consistent with SMA (RCW 90.58) policy and the SMP Guidelines (WAC 173-26, Part III)

AB 5566 | Exhibit 9 | Page 248

ITEM	SMP Submittal PROVISION (Cite)	TOPIC	BILL FORMAT CHANGES (underline = additions; strikethrough = deletions)	RATIONALE																
Req-1	MICC 19.13.010 Authority and Purpose	Critical Areas incorporation	<p>(D) Relationship with Other Mercer Island Codes and Ordinances. This section is an integrated element of the city of Mercer Island Unified Land Development Code (MICC Title 19) and other applicable development regulations contained in the Mercer Island City Code, including the storm water management regulations in MICC Title 15, and building and construction regulations in MICC Title 17. The provisions of the critical areas ordinance (MICC 19.07.010 through and including 19.07.090190, <u>Ordinance # _____</u> as in effect on January 1, 2011) are hereby incorporated as specific regulations of the shoreline master program, <u>with the exceptions listed below</u>. To the extent this section conflicts with any other section of the Mercer Island City Code, the provisions of this section shall govern within the shorelands. <u>In general, provisions related to administration and reasonable use do not apply in shoreline jurisdiction.</u></p> <p><u>(1) 19.07.090 Critical Area Reviews is excluded from this shoreline master program. Activities in shoreline jurisdiction must follow the procedures and permitting requirements of this shoreline master program.</u></p> <p><u>(2) MICC 19.07.120 Exemptions is excluded from this shoreline master program. Exemptions and exceptions within shoreline jurisdiction are found in WAC 173-27-040, WAC 173-27-044, and WAC 173-27-045.</u></p> <p><u>(3) 19.07.130 Modifications is excluded from this shoreline master program.</u></p> <p><u>(4) MICC 19.07.140 Reasonable Use Exception and MICC 19.07.150 Public Agency Exception are excluded from this shoreline master program and shall not apply in shoreline jurisdiction.</u></p> <p><u>(5) MICC 19.07.180(C)(5) and MICC 19.07.190(C)(6), pertaining to buffer reductions, are excluded from the shoreline master program.</u></p> <p><u>(6) MICC 19.07.190(D)(1) is excluded from this master program.</u></p> <p><u>(7) In order to use the wetland buffer table in MICC 19.07.190.C, all of the applicable minimizing measures listed in MICC 19.07.190.D.3 must be implemented. For wetlands with a habitat score of 6 or more, if a protected corridor of relatively undisturbed vegetation exists between the wetland and a nearby Priority Habitat, the portion on the subject property must be protected. Otherwise the following buffers shall be established from the wetland boundary within shoreline jurisdiction:</u></p> <table border="1" data-bbox="720 1263 1822 1396"> <thead> <tr> <th></th> <th colspan="3">Habitat Score</th> </tr> <tr> <th>Wetland Category</th> <th>3-5</th> <th>6-7</th> <th>8-9</th> </tr> </thead> <tbody> <tr> <td>Category I</td> <td><u>100 ft</u></td> <td><u>150 ft</u></td> <td><u>300 ft</u></td> </tr> <tr> <td>Category II</td> <td><u>100 ft</u></td> <td><u>150 ft</u></td> <td><u>300 ft</u></td> </tr> </tbody> </table>		Habitat Score			Wetland Category	3-5	6-7	8-9	Category I	<u>100 ft</u>	<u>150 ft</u>	<u>300 ft</u>	Category II	<u>100 ft</u>	<u>150 ft</u>	<u>300 ft</u>	<ul style="list-style-type: none"> The first change is for consistency with WAC 173-26-191(2)(b), which authorizes the incorporation of regulations by referencing a specific, dated edition. Blanks can be filled in prior to final local adoption. The first four exclusions ensure consistency with the procedural requirements for permitting in the Shoreline Management Act and Chapter 173-27 WAC when implementing critical area regulations within shoreline jurisdiction and for consistency with RCW 90.58.610 and RCW 36.70A.480(3)(d), which establish the authority to regulate critical areas within shoreline jurisdiction solely under the SMA. The SMP still includes allowances for reasonable use of property but under the SMA those considerations are addressed through the shoreline variance process. Buffer reductions are inconsistent with the no net loss requirements of the SMA found in WAC 173-26-186(8)(b) and WAC 173-26-221(2)(a)(ii). The added subsection (4) is necessary for consistency with these statutes. Further, the proposed wetland buffers in the MICC come from Ecology’s wetland guidance and use the suggested “reduced” buffer widths if the minimizing measures are required. Allowing further reductions beyond this is not supported by “the most current, accurate, and complete scientific information.” Ecology guidance on allowed alterations to wetlands limits these to wetlands not associated with shorelines. The 6th item is necessary for consistency with WAC 173-26-201(2)(a) and WAC 173-26-221(2)(a)(ii). The City proposes wetland buffers that are smaller than recommended by Ecology guidance. The final item is necessary for consistency with WAC 173-26-201(2)(a) and WAC 173-26-221(2)(a)(ii).
	Habitat Score																			
Wetland Category	3-5	6-7	8-9																	
Category I	<u>100 ft</u>	<u>150 ft</u>	<u>300 ft</u>																	
Category II	<u>100 ft</u>	<u>150 ft</u>	<u>300 ft</u>																	

			Category III	100 ft	150 ft	300 ft	
			Category IV	100 ft	150 ft	300 ft	
Req-2	MICC 19.13.050 Table C	Requirements for Development Located Landward of the OHWM	A. 25 feet from the OHWM and all required setbacks of the development code, except 1) light rail transit facilities and 2) flatwork (e.g.) patios, walkways) and stairs <u>shore access structures</u> less than 30 inches above the existing or finished grade, whichever is lower. If a wetland is adjacent to the shoreline, measure the shoreline setback from the wetland's boundary				The area closest to the OHWM is the most important for maintaining shoreline ecological functions. Only water-dependent structures, such as shore access paths, should be allowed in the 0-25 foot shoreline setback. The required change is necessary for consistency with the use preferences and policy goals of the act (RCW 90.58.020).
Rec-1	MICC 19.07.180.C.4	Buffer Averaging (Watercourses)	4. Buffer Averaging. Buffer width averaging shall be allowed provided the following requirements are met: <u>d. The total area of the buffer is equal to the area required without averaging.</u>				The recommended change is consistent with the Shoreline Management Act and SMP Guidelines and would add clarity for implementation since a definition for buffer averaging is not provided.
Rec-2	MICC 19.07.190.C.5	Buffer Averaging (Wetlands)	5. Buffer Averaging. Buffer width averaging shall be allowed provided the following requirements are met: <u>e. The total area of the buffer is equal to the area required without averaging.</u>				The recommended change is consistent with the Shoreline Management Act and SMP Guidelines and would add clarity for implementation since a definition for buffer averaging is not provided.



BUSINESS OF THE CITY COUNCIL
CITY OF MERCER ISLAND, WA

AB 5572
May 21, 2019
Regular Business

Table with 3 columns: INTERIM CITY MANAGER APPOINTMENT TIMELINE AND PROCESS, Action: Appoint Interim City Manager and direct negotiations of agreement., and checkboxes for Discussion Only, Action Needed, Motion, Ordinance, Resolution.

Table with 2 columns: DEPARTMENT OF, COUNCIL LIAISON, EXHIBITS, 2019-2020 CITY COUNCIL PRIORITY, APPROVED BY CITY MANAGER. Values include City Council (Mayor Debbie Bertlin & Deputy Mayor Salim Nice) & Human Resources (Kryss Segle), n/a, n/a, n/a.

Table with 3 columns: AMOUNT OF EXPENDITURE, AMOUNT BUDGETED, APPROPRIATION REQUIRED, \$, n/a.

SUMMARY

On May 7, 2019, City Manager Julie Underwood announced her resignation effective June 7, 2019, after serving as City Manager since January 2017. At the May 7 City Council Meeting, Mayor Debbie Bertlin announced that she, the Deputy Mayor Salim Nice, and City staff would be meeting to discuss the process for appointing an interim City Manager.

Mercer Island has the Council-Manager form of government, and as such, all legislative and policy powers are vested in the City Council. The Council employs a professionally trained administrator to carry out the policies the Council develops. The City Manager is the executive over the administrative branch of government. This is the only administrative position the City Council is responsible for filling.

There are two options available to the Council for filling the Interim City Manager position. The following information provides details including the estimated duration of each option:

Option 1 – Appointment of an Internal City Employee
Estimated Timeline: Less than 1 Month

The Council may appoint a qualified internal candidate with or without an interview process. Process elements for this option include an examination of an employee’s skills, experience, and education, which may be conducted through an interview process. Generally, an employee in this circumstance has

successfully demonstrated his/her skills, abilities and experience in the performance of his/her current job. Therefore, the interview process may not be necessary especially when one clear internal candidate has been identified. The appointment of an internal candidate would provide continuity and stability within the organization. It is expected that such an appointment would be in place until a permanent City Manager is appointed.

Option 2 – Appointment of an External Candidate

Estimated Timeline: 2 – 4 Months

The Council may choose to engage in a process to find an external candidate for Interim City Manager. The City's Human Resources Director would manage such a process. Process elements generally include:

- Reaching out to known available candidates, if any.
- Contacting staffing firms that provide interim candidate options for executive level positions.
- Advertising for interim candidates.
- Developing the interview process and scheduling interviews for qualified candidates.
- Arranging accommodations for out-of-state candidates.
- Facilitating interview processes, interview debriefing, and selection process.
- Conducting reference and background checks.

MAYOR & DEPUTY MAYOR RECOMMENDATION

To provide continuity, stability, and sufficient time for the transition between the current City Manager and an Interim City Manager, Mayor Bertlin and Deputy Mayor Nice considered internal candidates for the interim position. They identified Jessi Bon, Parks & Recreation Director, as a qualified and experienced internal candidate. After an initial discussion with Ms. Bon, she was willing to be considered for the Interim City Manager position. On Friday, May 10, 2019, Mayor Bertlin and Deputy Mayor Nice immediately appointed Jessi Bon as *Acting* Interim City Manager.

Provided the Council agrees with the appointment of Jessi Bon as Acting Interim City Manager until the subsequent appointment as Interim City Manager can be made by the Council (expected to occur on June 4), the recommended motions are below. Following the Council's concurrence, the Mayor and Deputy Mayor will enter into negotiations to determine the terms of the agreement with Jessi Bon. The agreement will be brought back to Council on June 4 for final approval and formal appointment.

If the Council prefers an external candidate for the interim role, staff would need this direction immediately. The process for appointing an external candidate could take approximately 2-4 months to execute the steps listed in Option 2 above.

Regardless, the Council would need to appoint an "interim" Interim City Manager.

TIMELINE AND PROCESS

On May 8, 2019, Mayor Bertlin and Deputy Mayor Nice met with Human Resource Director Kryss Segle and Assistant to the City Manager Ali Spietz to develop an appointment process and timeline for identifying and naming an Interim City Manager candidate to advance to the City Council for final approval.

The timeline for appointing an internal interim candidate is as follows:

DATE	ACTION
5/7/2019	Current City Manager resigned (last day is June 7, 2019)
5/8/2019	Mayor & Deputy Mayor worked with staff (Human Resources, City Manager's Office) to identify internal candidate(s). The Mayor reached out to potential internal candidates to identify a single candidate.
5/9/2019	Mayor and Deputy Mayor met with internal candidate and outgoing City Manager to announce Acting Interim City Manager selection and appointment.
5/10/2019	Outgoing City Manager notified City staff of Acting Interim City Manager appointment and timeline for Council confirmation of Interim City Manager.
5/16/2019	AB distributed to Council recommending internal Interim City Manager: <ol style="list-style-type: none"> 1. Affirm appointment of Acting Interim City Manager by the Mayor and Deputy Mayor. 2. Direct Mayor and Deputy Mayor to enter into contract negotiations with single internal candidate for Interim City Manager position.
5/21/2019	AB to be presented with the recommendations (listed above)
	Executive Session to evaluate the qualifications of an applicant for public employment for approximately 60 minutes pursuant to RCW 42.30.110(1)(g)
5/22/2019 - 5/27/2019	Mayor and Deputy Mayor work with Human Resources, the City Attorney's Office, and the Acting Interim City Manager to finalize the Interim City Manager agreement.
6/04/2019	Council formally approves Interim City Manager's agreement.
6/07/2019	Current City Manager's last day and Interim City Manager's first day

APPOINTING A PERMANENT CITY MANAGER

Finally, given that Deputy Mayor Nice and Councilmember Wong are the two councilmembers whose terms carry into 2020, the Mayor recommends that they lead the process for appointing a permanent City Manager. Together with staff, they will bring a proposal for a process and timeline to Council in early fall.

RECOMMENDATION

Mayor & Deputy Mayor

- MOVE TO:
1. Affirm the appointment of Parks & Recreation Jessi Bon as Acting Interim City Manager by the Mayor and Deputy Mayor.
 2. Direct the Mayor and Deputy Mayor to enter into agreement negotiations with Jessi Bon for the Interim City Manager position.