



Anacortes City Council
Municipal Building Council Chambers
904 6th Street

TUESDAY, February 18, 2020
6:00 p.m.

PRELIMINARY AGENDA

[Packet Materials](#) / [Watch Meeting](#)

1. **Call to Order**
2. **Pledge of Allegiance**
3. **Executive Session (20 Minutes)**
 - a. Potential Litigation or Litigation per RCW 42.30.110 (i)
4. **Announcements and Committee Reports**
 - a. Public Works Committee
 - b. Traffic Safety Committee
5. **Public Comment**
6. **Consent Agenda (Action)**
 - a. Minutes of February 10, 2020
 - b. Approval of Claims in the amount of: \$513,932.85
 - c. Resolution 2076: Waiving the State Competitive Bidding Requirements for the Purchase of a Cummins Mobile Generator
 - d. Resolution 2077: Declaration of Emergency for Longview Avenue Repairs
7. **Public Hearings**
8. **Other Business**
 - a. * Appointment: Parks and Recreation Advisory Commission (Action)
 - b. Contract Award: 2020 Waterline Replacements #20-010-WTR-001 (Action)
 - c. * Resolution 2078: Updating the Unified Fee Schedule for Fiber Static IP Addresses (Action)
 - d. Critical Areas Regulations - Planning Commission Recommendation (Discussion)
9. **Adjournment**

Per Resolution 2044, citizens wishing to comment on items not on the agenda may do so under the Public Comment portion of the agenda. Citizens wishing to comment on agenda items indicated with an asterisk () may do so as those items are considered by Council during the course of the meeting. Citizens wishing to speak will please sign in at the back of the Council Chambers prior to the start of the meeting. The Mayor may limit comments to those who have signed in, and may limit the time allotted to each speaker to facilitate the orderly progress of the meeting.*

The City of Anacortes is committed to making public meetings available and accessible to all members of the community.
For assistance with special needs, please contact the City Clerk at 360-299-1960 in advance of the meeting.



Anacortes City Council

Proposed Agenda Items for the Next Eight Weeks Beginning February 21, 2020

Subjects listed below have been tentatively suggested for consideration by the Anacortes City Council on the dates indicated. Items may be added to, removed from or rearranged on this list. Routine business such as approval of minutes and vouchers are not included. The complete Preliminary Agenda for each meeting is published at 3:00 on the Wednesday prior to the meeting. Published Agendas are subject to change and may be updated following the posting period. For additional information on agenda topics, please contact the City Clerk's office at 360-299-1960 to be directed to the sponsoring staff member.

February 21, 2020

Special Meeting, 8:30 a.m. to 4:00 p.m.

2020 City Council Retreat, Anacortes Education Service District (1601 R Avenue)

February 24, 2020

- Interlocal Agreements #20-036-AFD-001, #20-036-AFD-002, #20-036-AFD-003 for Medical Grade Oxygen Cylinder Exchange Program (Consent)
- Public Hearing: Approval of a Master Permit for Telecommunications Use of Right of Way for City of Anacortes/ACCESS Anacortes Fiber Internet Installation in accordance with AMC Chapter 5.38.040 (Discussion/Possible Action)
- Port of Anacortes Northwest Basin Redevelopment Plan Presentation (Discussion)

March 2, 2020

- Public Works GIS Demonstration (Discussion)
- Executive Session (30 Minutes) beginning 6:00 p.m. : Potential Litigation or Litigation per RCW 42.30.110 (i)

March 9, 2020

March 16, 2020

March 23, 2020

- Sewer Capital Facility Plan Update (Discussion/Possible Action)

April 6, 2020

April 13, 2020

April 20, 2020

Upcoming City Council Committee Meetings

The public is welcome to attend City Council Committee Meetings.

- Public Works, Tuesday, Feb 18, 2020, 5:00 PM, Main Conference Room, City Hall
- Traffic Safety, Tuesday, Feb 18, 2020, 9:00 AM, Operations Shop
- Parks & Recreation, Thursday, Feb 20, 2020, 6:00 PM, Main Conference Room, City Hall
- Community Center/Pool, Thursday, Feb 20, 2020, 3:30 PM, Third Floor Conference Room, City Hall
- Planning, Monday, Feb 24, 2020, 5:00 PM, Main Conference Room, City Hall
- Finance, Wednesday, Feb 26, 2020, 5:00 PM, Main Conference Room, City Hall
- Access - Anacortes Fiber Internet, Wednesday, Feb 26, 2020, 4:00 PM, Third Floor Conference Room, City Hall
- Public Works, Monday, Mar 2, 2020, 5:00 PM, Main Conference Room, City Hall
- Port/City Liaison, Tuesday, Mar 3, 2020, 8:30 AM, Port of Anacortes
- Housing Affordability & Community Services, Thursday, Mar 5, 2020, 1:30 PM, Planning Director's Office, City Hall
- Community Center/Pool, Thursday, Mar 5, 2020, 3:30 PM, Third Floor Conference Room, City Hall

City Council Minutes – February 10, 2020

Mayor Laurie Gere called to order the Anacortes City Council meeting of February 10, 2020 at 6:00 p.m. Councilmembers Jeremy Carter, Anthony Young, Christine Cleland-McGrath, Carolyn Moulton and Matt Miller were present. Councilmember Ryan Walters participated in the meeting via telephone. Councilmember Bruce McDougall was absent.

The assembly joined in the Pledge of Allegiance.

Executive Session

Ms. Moulton moved, seconded by Mr. Young, to suspend, for the duration of the executive session, paragraph 4.3(d) of the City Council Rules of Procedure adopted by Resolution 2044. The suspension was moved to allow both Mr. Walters and Mr. McDougall to participate in the executive session in absentia. The motion carried unanimously by voice vote.

Mayor Gere announced that City Council and the City Attorney would convene in Executive Session per RCW 42.30.110(a)(ii) for approximately 30 minutes to discuss infrastructure and security of the city computer network. The mayor advised that the regular meeting would then resume with no action having been taken. Councilmembers Jeremy Carter, Anthony Young, Christine Cleland-McGrath, Carolyn Moulton and Matt Miller attended the executive session. Councilmembers Ryan Walters and Bruce McDougall participated in the executive session via telephone.

At approximately 6:38 p.m. Mayor Gere reconvened the regular meeting. No action was taken in the Executive Session.

Announcements and Committee Reports

Public Safety Committee: Mr. Carter reported from the committee meeting the prior Tuesday. He elaborated on topics discussed including lost time by Fire Department staff, FEMA grants, cooperative efforts with Mount Vernon to develop a safety plan for the Boys and Girls Club, and citizen volunteer opportunities on an APD committee to address police shootings.

Port/City Liaison Committee: Ms. Cleland-McGrath reported from the committee meeting the prior Tuesday. She summarized topics discussed including the Depot restroom project, the Critical Areas Ordinance update, the Shoreline Master Program update timeline, mutual interest in the Guemes Channel Trail, legislative priorities for both bodies, the northwest basin redevelopment plan which the Port planned to present to City Council on February 24, 2020, and planning for the new Combined Sewer Overflow outfall project. Ms. Cleland-McGrath also announced the Skagit County Maritime Symposium coming up on March 25, 2020.

Housing Affordability & Community Services Committee: Ms. Cleland-McGrath reported from the committee meeting the prior week. She advised that the group heard a presentation from Habitat for Humanity, discussed the Affordable Housing Strategic Plan implementation, and explored adding a human services line item in the budget.

Community Center/Pool Committee: Mr. Carter reported from the committee meeting the prior week at which those present discussed funding apportionment. Mayor Gere added that the discussion included identifying space requirements for desired features to inform cost estimates to be prepared by a professional consultant.

Planning Committee: Ms. Moulton reported from the committee meeting earlier in the evening. She advised that those present discussed the CAO update which had been recommended by the Planning Commission and would

be presented to Council by staff on February 18, 2020. Ms. Moulton said Council would determine at that point additional opportunities for public comment. She also announced that the Planning Department would host an open house for the Shoreline Master Program update in March. Ms. Cleland-McGrath added that a planning meeting on the R4 bonus height moratorium would be held on February 25, 2020.

Mayor Gere reported from the staff visit to Legislative Day in Olympia the prior Wednesday to present and discuss the city's legislative priorities adopted by Council on February 3, 2020. The mayor added that the delegation also met with staff in the governor's office. She reported that the city's shared priorities list had been very well received.

Public Comment

Bill Perkins reiterated his comments from the January 6, 2020 City Council meeting regarding the poor condition of city streets. He mentioned the recent storm damage on Longview Avenue over the weekend. Mr. Perkins urged using budget surplus on streets sooner rather than later to avoid additional costs in the future. Mr. Perkins also warned that the temporary striping at the south end of Commercial Avenue needed to be made permanent in the correct color.

Mayor Gere assured Mr. Perkins that the Public Works department was looking for solutions for the most problematic streets. She referred the public to the recent budget issue of the *A-Town Is Our Town* magazine for more on this topic.

Doug Thurber reported a citizen complaint that Senior Center Administrator Sally Hill's name had appeared on a flyer supporting the affordable housing tax. Mr. Thurber noted that several city councilmembers were also listed as individual supporters of the ballot measure. Mr. Thurber argued that civil servants should not promote specific ballot measures. He said that Port and City officials have the right to free speech but that using their names to foster an election outcome does not fit with the non-partisan image of city offices.

Consent Agenda

Mr. Miller moved, seconded by Mr. Young, to approve the following Consent Agenda items. The motion carried unanimously by voice vote.

- a. Minutes of February 3, 2020
- b. Approval of Claims in the amount of: \$335,115.02
- c. Resolution 2075: Waiving the State Competitive Bidding Requirements for the Purchase and or Replacement of Flygt Pumps and Accessories
- d. Street Fair Application: Shipwreck Day 2020
- e. Interlocal Amendment 2: BLS OTEP Training Course for AFD Training Hub #IL267

The following vouchers/checks were approved for payment:
EFT numbers: 96195 through 96250, total \$151,575.08
Check numbers: 96194 and 96251 through 96275, total \$149,093.06
Wire transfer numbers: 263320 through 263582, total \$6,361.32

OTHER BUSINESS

State Auditor Presentation on Infrastructure and Security of City Computer Network

Administrative Services Director Emily Schuh introduced Michael Hjermstad from the Washington State Auditor's Office to provide a report on the city-requested audit of Information Technology security systems.

Mr. Hjermstad reported to Council on the widespread importance of and increasing risks to IT security across the country. He explained that back in 2017 the city had requested an IT security performance audit as part of the State Auditor's program established by Initiative 900, which provides this service to local jurisdictions at no charge. He said the auditors' primary field work was performed in 2019. Mr. Hjermstad outlined the audit processes and topics investigated: vulnerabilities in the IT environment that could lead to increased vulnerability from internal and external threats and alignment of city security practices with selected leading security controls. He said that due to the sensitive nature of the results he would not discuss them in detail in open session but that the city was found to be partially aligned with industry leading practices, had already addressed many of the issues identified and was continuing to improve. Mr. Hjermstad thanked IT Manager Jose Cervantes who was immensely helpful during the audit process.

Mayor Gere invited members of the audience to comment on this agenda item. No one present wished to address the Council.

Mr. Miller suggested that the city pursue, and that Council review, regular external audits of information technology security and that the city take whatever action it can to protect against such threats. Mr. Walters concurred on the value of independent external cybersecurity monitoring and urged investigating the cost of such a service. He requested additional consideration of this topic at a Council meeting in the near future. Mr. Walters and Mr. Miller both urged adopting security controls policy.

Access - Anacortes Municipal Fiber Update (Discussion)

Municipal Broadband Business Manager Jim Lemberg presented the monthly update to Council on the Municipal Fiber network. Mr. Lemberg's slide presentation was added to the packet materials for the meeting. He reported up to the minute statistics on customers installed and activated and ongoing service discussions with non-GPON customers. Mr. Lemberg then introduced a pricing proposal for static IP address service which would come back to Council for consideration and action at its regular meeting on February 18, 2020.

Mayor Gere invited members of the audience to comment on this agenda item. No one present wished to address the Council.

There being no further business, at approximately 7:35 p.m. the Anacortes City Council meeting of February 10, 2020 was adjourned.

The following claims against the City of Anacortes have been preaudited and certified by the Clerk-Treasurer as ready for City Council approval at the February 18, 2020 City Council meeting:

[Download this file in OpenDocument spreadsheet format.](#)

Invoice Doc #	Transaction Date	Invoice #	Vendor Full Name	Description	Total Amount	Approval Queue
263924	7/22/2019	59493154	MCKESSON MEDICAL-SURGICAL	I-GEL SUPRAGLOTTIC AIRWAY (CASE)	\$ 187.20	medic
263645	8/22/2019	97704	VECA ELECTRIC & TECHNOLOGIES	WTP LIGHT FIXTURES INSTALLATION	\$ 1,259.49	pwfac
262697	12/3/2019	83433303	BOUND TREE MEDICAL, LLC	PHARMACEUTICALS	\$ 110.75	medic
263642	12/22/2019	97259	VECA ELECTRIC & TECHNOLOGIES	ELECTRICAL FOR ASAC	\$ 539.42	pwfac
263729	12/31/2019	48436162	UNIVAR USA INC	CAUSTIC SODA	\$ 4,342.51	dwtp
263643	1/1/2020	119765	VENTEK INTERNATIONAL	MONTHLY SERVER HOSTING & CARRIER FEES - DEC	\$ 135.00	parks1
264039	1/8/2020	144540	COMPULINK MANAGEMENT CENTER, D/B/A LASERFICHE	LASERFICHE RIO 20 USER LICENSES	\$ 16,832.12	legal
264010	1/10/2020	001-455378	PISTON SERVICE OF ANACORTES	HYDRAULIC FITTINGS- #511	\$ 77.87	dshop
262927	1/13/2020	1997027	WASHINGTON TRACTOR, INC	BRUSHCUTTER	\$ 565.20	dshop
263741	1/14/2020	19-48448	EDGE ANALYTICAL, INC	LAB TESTING	\$ 197.95	dwwtp
263549	1/14/2020	97539M	VECA ELECTRIC & TECHNOLOGIES	LIBRARY IN LINE T8 LAMP INSTALL	\$ 19,919.28	pw1
263908	1/15/2020	19216i	BEAVER EQUIPMENT SPECIALTY	BATTERY BACKUP FOR ROTORK	\$ 4,279.24	dwtp
263634	1/17/2020	336958	INTERNATIONAL BELT & RUBBER	MAINTENANCE SUPPLIES	\$ 2,597.61	dwwtp
263734	1/20/2020	JARS JAN20	JULIE C. WALTERS	PUB DEF COVER	\$ 212.50	court
263905	1/20/2020	549770285	SIGMA-ALDRICH, INC.	LAB SAMPLES FOR ACCREDITATION	\$ 287.82	dwtp
263910	1/21/2020	1003151223	CLEAN HARBORS	DRUMS FOR FLUORIDE WASTE X 4	\$ 526.34	dwtp
263647	1/22/2020	23782	COMMERCIAL FIRE PROTECTION INC	ANNUAL FIRE ALARM SYSTEM CONFIDENCE TEST	\$ 2,778.75	pwfac
263893	1/22/2020	41562	EVERGREEN RURAL WATER OF WA	WATER CONFERENCE - MARIO, CAMERON F, CAMERON JS. CHAD. MIKE H	\$ 1,425.00	dwtp
263733	1/22/2020	11802886	HACH COMPANY	TURB WIPERS X 8	\$ 341.90	dwtp
263897	1/24/2020	11809230	HACH COMPANY	FLUORIDE ELECTRODE, TIP	\$ 2,308.19	dwtp
263816	1/24/2020	165859	INFOSEND, INC.	JANUARY 2020 PROCESSING	\$ 3,340.22	finance
263644	1/24/2020	1766714	MILES SAND & GRAVEL CO.	GRAVEL - :PICKET POCKET PARK	\$ 1,003.84	parks1
263722	1/26/2020	5005393682	FERRELLGAS, LP	JAN PROPANE INVOICE - AUTOGAS ACCOUNT	\$ 141.24	finance
263728	1/26/2020	9847197795	VERIZON WIRELESS	WTP SCADA MODEM 12/27-1/26/20	\$ 508.19	dwtp
263746	1/27/2020	AN 70777	CENTRAL WELDING SUPPLY CO, INC	O2 FOR AMBULANCE	\$ 82.81	medic
263735	1/27/2020	17116341	LEXISNEXIS MATTHEW BENDER	PUB DEF LIBR	\$ 196.20	court
263821	1/28/2020	2740253	FOSTER GARVEY PC	GENERAL LEGAL MATTERS NO. 1	\$ 290.25	legal
263823	1/28/2020	2740254	FOSTER GARVEY PC	CLEAN WATER ACT MATTER NO. 103	\$ 11,849.00	legal
263654	1/28/2020	9314305127	GRAYBAR ELECTRIC COMPANY, INC	SFP FOR NETWORK	\$ 2,703.52	fiber
263742	1/29/2020	20-01894	EDGE ANALYTICAL, INC	LAB TESTING	\$ 104.55	dwwtp
263743	1/29/2020	PSWO134534	N C POWER SYSTEMS CO	RADIATOR REPAIR #6-935	\$ 6,744.84	dshop
263918	1/29/2020	116539563	ULINE, INC.	PACKING MATERIAL FOR PLC SHIPMENT	\$ 74.27	dwwtp

Invoice Doc #	Transaction Date	Invoice #	Vendor Full Name	Description	Total Amount	Approval Queue
263739	1/30/2020	SLT-322760	LTi, INC.	SNOW ICE SUPPLIES - ROAD SALT CONTRACT 02714	\$ 4,505.23	dshop
264047	1/30/2020	0153047-IN	PUMPTech, INC	FLOW METER	\$ 781.21	dwtp
263906	1/30/2020	549861884	SIGMA-ALDRICH, INC.	LAB SAMPLES FOR ACCREDITATION	\$ 73.38	dwtp
263920	1/31/2020	94699863	150-PRAXAIR DISTRIBUTION INC	CYLINDER RENTAL	\$ 229.34	dwwtp
264026	1/31/2020	253	BUBBA SUDZ CAR WASH, INC.	JANUARY CAR WASHES- 2	\$ 18.00	dshop
263426	1/31/2020	768596	CASCADE COLUMBIA DISTRIBUTION	1 PALLET NACLEAR FILTER AID POLY	\$ 7,913.50	dwtp
263747	1/31/2020	AN 70898	CENTRAL WELDING SUPPLY CO, INC	O2 FOR AMBULANCES	\$ 62.64	medic
263914	1/31/2020	10371838824	DELL MARKETING LP	OPTIPLEX 7070 CK	\$ 12,944.76	infosys
263934	1/31/2020	43802791	INGRAM LIBRARY SERVICES, LLC	REPLACEMENT BOOKS	\$ 285.59	publib
263935	1/31/2020	43802790	INGRAM LIBRARY SERVICES, LLC	ADULT BOOKS	\$ 811.46	publib
263900	1/31/2020	812532	JCI JONES CHEMICALS INC	HYPOCHLORITE SOLUTION	\$ 3,936.90	dwtp
263899	1/31/2020	30658	PACIFIC SECURITY	SECURITY DETAIL JANUARY 2020	\$ 630.00	court
263923	1/31/2020	1415	SKAGIT CONSERVATION DISTRICT	NPDES II OUTREACH & EDUCATION - JANUARY 2020	\$ 870.12	pw1
263635	1/31/2020	INV00575606	SMARSH, INC	ARCHIVING PLATFORM 1/1-6/30/20	\$ 155.15	infosys
264030	1/31/2020	1616572	STANTEC CONSULTING SERVICES	SK PUD FIDALGO ISLAND SYSTEM ACQUISITION FEASIBILITY ANALYSIS REPORT ADDENDUM	\$ 3,952.25	pw1
263817	1/31/2020	0010119	UTILITIES UNDERGROUND LOCATION	JANUARY LOCATE TICKETS	\$ 163.83	dshop
263819	2/1/2020	052-0010-00	CITY OF ANACORTES	OPS W/S/G 1/1-1/31/20	\$ 1,323.04	dshop
263926	2/1/2020	190-1840-00	CITY OF ANACORTES	UTILITY SERVICE WSG 1/1-1/31/20	\$ 5,982.59	dwwtp
263802	2/1/2020	MV200258	DICK'S TOWING	TOWING; APD CASE 20-A00769	\$ 125.01	apd
264043	2/1/2020	200000666863	PUGET SOUND ENERGY INC	LIBRARY 10TH STREET LED 1/3-1/31/20	\$ 6.60	publib
264045	2/1/2020	200000667218	PUGET SOUND ENERGY INC	LIBRARY 10TH & M ST 1/3-1/31/20	\$ 20.62	publib
263655	2/1/2020	5058756951	RICOH USA, INC	S/N C86111692 ENG 11/1/19-1/31/20	\$ 53.55	finance
263656	2/1/2020	5058756987	RICOH USA, INC	S/N C86152062 HR COPIES 1/1-1/31/20	\$ 11.88	finance
263657	2/1/2020	5058757030	RICOH USA, INC	S/N C86180481 PARKS 11/1/19-1/31/20	\$ 29.96	finance
263658	2/1/2020	5058757037	RICOH USA, INC	S/N C86078755 LIBRARY FL2 ADMIN COPIER 11/1/19-1/31/20	\$ 12.24	finance
263659	2/1/2020	5058757044	RICOH USA, INC	S/N C86078711 LIBRARY FL1 STAFF COPIER 11/1/19-1/31/20	\$ 997.99	finance
263803	2/1/2020	5058756822	RICOH USA, INC	S/N C86138599 APD FRONT OFFICE COPIES 1/1-1/31/20	\$ 26.62	apd
263818	2/1/2020	1391408-0043-8	WASTE MANAGEMENT	JANUARY 2020 CONTRACTED SERVICES	\$ 112,629.50	finance
263637	2/2/2020	8498 30 017 0319913	COMCAST	LIBRARY INTERNET ACCESS 2/9-3/8/20	\$ 182.09	fiber
263661	2/3/2020	9314399343	GRAYBAR ELECTRIC COMPANY, INC	SUPPORT CONTRACT FOR JUNIPER EQUIPMENT	\$ 276.17	fiber
263930	2/3/2020	9314399342	GRAYBAR ELECTRIC COMPANY, INC	MATERIALS FOR FIBER NETWORK LIBRARY TO MSTs - ITEMS 17 AND 18	\$ 4,455.40	fiber
263933	2/3/2020	43822661	INGRAM LIBRARY SERVICES, LLC	YA REPLACEMENT BOOKS	\$ 245.72	publib
263896	2/3/2020	200012505505	PUGET SOUND ENERGY INC	WTP 1/1/20-1/31/20	\$ 63,337.96	dwtp

Invoice Doc #	Transaction Date	Invoice #	Vendor Full Name	Description	Total Amount	Approval Queue
264012	2/3/2020	300000290043	PUGET SOUND ENERGY INC	STREET LIGHTS 12/04/19- 01/02/2020	\$ 18,428.82	dshop
264013	2/3/2020	300000325005	PUGET SOUND ENERGY INC	ELECTRICITY 12/8/19 - 1/8/2020	\$ 95.17	dshop
264015	2/3/2020	300000340004	PUGET SOUND ENERGY INC	OPS 12/31/19 - 1/29/20	\$ 65.37	dshop
264016	2/3/2020	300000006951	PUGET SOUND ENERGY INC	STREET LIGHTS 12/31/19 - 1/29/20	\$ 167.91	dshop
263745	2/3/2020	0241831-IN	QUALITY CHAIN CORP	TIRE CHAINS #90013	\$ 3,586.17	dshop
263809	2/3/2020	396002	SUN BADGE CO.	2 OFFICER BADGES AND 1 FOR K9 T-BONE	\$ 333.00	apd
263607	2/4/2020	275133	BAY CITY SUPPLY	FACILITY SUPPLIES	\$ 72.79	pwfac
263662	2/4/2020	210752-5	BIRCH EQUIPMENT CO., INC	BOOM LIFT RENTAL	\$ 3,372.04	fiber
263927	2/4/2020	83496875	BOUND TREE MEDICAL, LLC	PHARMACEUTICALS	\$ 139.90	medic
263651	2/4/2020	L870925	CORE & MAIN LP	WATER INVENTORY PARTS	\$ 2,302.03	wdist
263726	2/4/2020	20-02901	EDGE ANALYTICAL, INC	BACT ANALYSIS RAW	\$ 49.00	dwtp
263727	2/4/2020	20-03821	EDGE ANALYTICAL, INC	BACT ANALYSIS FINISHED	\$ 15.00	dwtp
263660	2/4/2020	9314420868	GRAYBAR ELECTRIC COMPANY, INC	DROP CABLE SLITTERS	\$ 138.57	fiber
263925	2/4/2020	062020	KUHNLEIN, LISA	HEADSHOTS	\$ 325.01	executive
263724	2/4/2020	171839	OASYS INC	BASE RATE CHARGE 2/9/20-3/8/20; OVERAGE 1/9/20-2/8/20	\$ 110.05	pw1
263650	2/4/2020	001-457144	PISTON SERVICE OF ANACORTES	OIL FILTERS FOR STOCK	\$ 219.87	dshop
263649	2/4/2020	331 0503128	UNIFIRST CORPORATION	WATER CREW LAUNDRY	\$ 64.18	wdist
263800	2/5/2020	INV03906	BLUE CARD	TRAINING SUBCRIPTION RENEWAL	\$ 1,988.80	medic
264024	2/5/2020	3355484	DAILY JOURNAL OF COMMERCE	LEGAL NOTICE - SKAGIT RIVER RAW WATER PIPEINE AND CLEARWELL 20-048-WTR-001	\$ 134.40	pw1
263725	2/5/2020	20-04068	EDGE ANALYTICAL, INC	TCR ANALYSIS BOOSTERS	\$ 165.00	dwtp
263931	2/5/2020	43861214	INGRAM LIBRARY SERVICES, LLC	ADULT BOOKS	\$ 757.45	publib
263799	2/5/2020	972103	LIFE ASSIST, INC	2911 ALS KIT: LARYNGOSCOPES, BLADES, PELICAN CASE, AIRWAY KITS, RESPONDER BAG, V	\$ 1,060.75	medic
263652	2/5/2020	Ref000263652	MILES, HARLON	Refund per Don Measamer	\$ 713.22	bldg
264019	2/5/2020	51399	SKAGIT COUNTY GOVERNMENT	SPELLMAN; QTR 4 2019	\$ 10,045.44	apd
263932	2/5/2020	1198824	SKAGIT PUBLISHING LLC	PUBLISH AA-1980206 AA-1990253	\$ 198.94	finance
264031	2/5/2020	INV023222	TRAFFIC SAFETY SUPPLY CO. INC	READER BOARDS PURCHASE	\$ 65,628.05	pw1
263731	2/5/2020	331 0503287	UNIFIRST CORPORATION	WTP LAUNDRY SERVICE	\$ 91.91	dwtp
263898	2/5/2020	48471439	UNIVAR USA INC	CAUSTIC SODA	\$ 4,700.47	dwtp
263638	2/5/2020	20004454	WASHINGTON STATE PATROL	SR CENTER BACKGROUND CHECKS	\$ 33.00	parks1
263804	2/5/2020	20004961	WASHINGTON STATE PATROL	BACKGROUND CHECKS; JAN 2020	\$ 238.50	apd
263808	2/6/2020	1991619214	ARAMARK	APD NYLON MATS CLEANED	\$ 16.31	apd
263814	2/6/2020	1991619223	ARAMARK	OPS: MAT CLEANING 02/06/2020	\$ 41.63	dshop
263815	2/6/2020	1991619222	ARAMARK	OPS & PARKS LAUNDRY SVC FOR	\$ 77.76	finance
263801	2/6/2020	275412	BAY CITY SUPPLY	FACILITY SUPPLIES	\$ 584.27	pwfac
263721	2/6/2020	cpls	DEPARTMENT OF LICENSING	CPLS TO D.O.L.; JAN 2020	\$ 546.00	apd
264011	2/6/2020	W200158	INSTRUMENT TECHNOLOGIES, INC.	SCALE CALIBRATION AND MAINTENANCE	\$ 360.00	dwtp
263723	2/6/2020	PettyCashKnapp	PETTY CASH FUND	REIMBURSE FOR JAN PETTY CASH	\$ 94.85	finance

Invoice Doc #	Transaction Date	Invoice #	Vendor Full Name	Description	Total Amount	Approval Queue
263807	2/6/2020	010135-5415	POLICEONE	SUBSCRIPTION FOR POLICE ONE (5/1/20-4/30/21)	\$ 2,473.50	apd
263915	2/6/2020	220013286525	PUGET SOUND ENERGY INC	HEART OF ANACORTES 1/8-2/5/20	\$ 45.80	finance
263916	2/6/2020	220015523313	PUGET SOUND ENERGY INC	CAR CHARGING STATION 1/8-2/5/20	\$ 73.03	dshop
264023	2/6/2020	220013286491	PUGET SOUND ENERGY INC	APD 1/8-2/5/20	\$ 1,648.39	apd
264029	2/6/2020	P1829-3	QCC QUALITY CONTROLS CORP.	TELEMETRY RTU FOR WWTP SYSTEMS GENERATOR MONITORING	\$ 8,225.00	dwwtp
264014	2/6/2020	760	SKAGIT COUNTY PUBLIC HEALTH	4TH QTR CITY SHARE OF LIQUOR TAX	\$ 5,798.18	finance
263736	2/6/2020	S20205111	SUPERIOR SYSTEMS, INC	INSPECT PUMP COMPONENTS AND	\$ 754.18	dwwtp
263737	2/6/2020	S20205096	SUPERIOR SYSTEMS, INC	INFLUENT WETWELL SENSOR MAINTENANCE	\$ 157.76	dwwtp
263748	2/6/2020	111824	WALTON BEVERAGE COMPANY, INC	CITY HALL BREAK ROOM SUPPLIES	\$ 210.00	finance
263813	2/6/2020	111825	WALTON BEVERAGE COMPANY, INC	OPS: BREAKROOM SUPPLIES	\$ 175.00	dshop
264022	2/7/2020	4377	ANACORTES TOWING, LLC	TOWING; APD CASE 20-A00889	\$ 163.05	apd
263901	2/7/2020	92828468	CHEMTRADE CHEMICALS US LLC	ALUMINUM SULFATE	\$ 4,862.26	dwwtp
263911	2/7/2020	92831216	CHEMTRADE CHEMICALS US LLC	ALUMINUM SULFATE	\$ 4,898.73	dwwtp
264038	2/7/2020	144544	COMPULINK MANAGEMENT CENTER, D/B/A LASERFICHE	LASERFICHE SUPPORT 3/1/20-2/28/21	\$ 26,566.28	legal
263921	2/7/2020	20-01927	EDGE ANALYTICAL, INC	EFFLUENT TESTING	\$ 201.41	dwwtp
263812	2/7/2020	ReimbFuller	FULLER, CHRISTIAN	REIMB PER DIEM; FBI NATL ACADEMY-SCHOOL SHOOTING PREVEN - FULLER	\$ 114.00	apd
264020	2/7/2020	014961252	GALLS, LLC.	VEST AND CARRIER; NEW OFC SCHOLTEN	\$ 1,197.03	apd
264042	2/7/2020	U2016005468	HB JAEGER	LINK SEALS	\$ 256.97	dwwtp
263907	2/7/2020	6001900140	NORTHWEST EDUCATIONAL SERVICE	COUNCIL RETREAT SPACE	\$ 275.00	executive
264046	2/7/2020	23512829	PARTS MASTER	SHOP SUPPLIES	\$ 693.26	dshop
263738	2/7/2020	111823	WALTON BEVERAGE COMPANY, INC	WWTP BREAKROOM SUPPLIES	\$ 52.50	dwwtp
263919	2/10/2020	1991622938	ARAMARK	LAUNDRY SERVICE FOR WWTP	\$ 76.31	dwwtp
263936	2/10/2020	39560	DIMENSIONAL COMMUNICATIONS INC	TROUBLESHOOTING TECHNICAL	\$ 119.57	publib
264025	2/10/2020	INV-8501	MACLEOD RECKORD PLLC	GUEMES TRAIL DESIGN - PHASE 6 - JANUARY 2020	\$ 166.96	pw1
264027	2/10/2020	INV-8502	MACLEOD RECKORD PLLC	GUEMES CHANNEL TRAIL 30% DESIGN - PHASE II - JANUARY 2020	\$ 7,710.97	pw1
264044	2/10/2020	200000667101	PUGET SOUND ENERGY INC	LIBRARY 1220 10TH 1/9-2/6/20	\$ 2,317.11	publib
264052	2/10/2020	20200241	SYSTEMS DESIGN WEST, LLC	AMBULANCE SERVICE BILLING 012020	\$ 3,403.40	finance
263913	2/10/2020	386000156	US BANK NA - CUSTODY TREAS DIV	INVESTMENT FEES 1/1/20 - 1/31/20	\$ 56.00	finance
264037	2/11/2020	19-119-SEW-0011	ALLIED TRENCHLESS	RETAINAGE RELEASE	\$ 9,990.00	pw1
264021	2/11/2020	ReimbNations	NATIONS, JACQUELINE	UNIFORM BOOTS; DET SGT NATIONS	\$ 215.80	apd
264035	2/28/2020	19-135-SEW-0011	VECA ELECTRIC & TECHNOLOGIES	RETAINAGE RELEASE	\$ 1,060.40	pw1

Total **\$513,932.85**



City Council Contract Agenda Bill

Meeting Date: 2/18/2020 **Agenda Item:** 6c

Subject: Resolution 2076 – Waiving the State Competitive Bidding Requirements for the Purchase of a Cummins Mobile Generator

Staff Contact: Fred Buckenmeyer

Approved for Submittal to Council by:
Darcy Swetnam, City Attorney

Action Type: Resolution

Summary Statement: City staff seeks City Council approval of Resolution 2076 to waive the state competitive bidding requirements for the purchase a Cummins mobile generator for use at the Public Safety Building.

Background:

- RCW 39.04.280 provides that the City, by resolution, may waive competitive bidding requirements when a purchase is clearly and legitimately limited to a single source of supply, or when the purchase involves special facilities or market conditions.
- The generator at the City of Anacortes Public Safety Building, which includes the City's Emergency Operation Center, is in need of repair and is not currently operational.
- The quote to repair the generator is \$49,799.98 and the estimated price for a new generator is between \$90,000.00-\$100,000.00.
- The City's Fleet Services Supervisor found a previously used 2000 Cummins 250DQAB-359 - 250kw mobile generator with trailer that would meet the needs of the City posted on ebay.com by Fetting Power Inc. for a cost of \$34,600.00.
- Fetting Power Inc. indicated that this deal was only available for a short period of time and would be sold to the first purchaser.
- The Public Works Director believed the price for this used mobile generator is a highly favorable price and would be sold to another party before the City had the time to comply with formal bidding requirements.

Previous Council/Committee Action: N/A

Competing Viewpoints Considered: N/A

Recommended Motion: I move that the Resolution 2076 be approved waiving the state competitive bidding requirements for the purchase of this Cummins mobile generator for use by the City of Anacortes Public Safety Building and authorizing sole source purchasing from Fetting Power Inc.

Alternative Actions: N/A

Attachments: Resolution 2076

RESOLUTION 2076

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ANACORTES, WASHINGTON, authorizing the purchase of a Cummins mobile generator for the City's Public Safety Building from Fetting Power Inc., and waiving the competitive bidding requirement due to a sole source purchase and special market conditions, pursuant to RCW 39.04.280.

WHEREAS, RCW 39.04.280 provides that the City, by resolution, may waive competitive bidding requirements when a purchase is clearly and legitimately limited to a single source of supply, or when the purchase involves special facilities or market conditions.

WHEREAS, the generator at the City of Anacortes Public Safety Building, which includes the City's Emergency Operation Center, is in need of repair and is not currently operational; and

WHEREAS, the quote to repair the generator is \$49,799.98 and the estimated price for a new generator is between \$90,000.00-\$100,000.00; and

WHEREAS, the City's Fleet Services Supervisor found a previously used 2000 Cummins 250DQAB-359 - 250kw mobile generator with trailer that would meet the needs of the City posted on ebay.com by Fetting Power Inc. for a cost of \$34,600.00; and

WHEREAS, Fetting Power Inc. indicated that this deal was only available for a short period of time and would be sold to the first purchaser; and

WHEREAS, the Public Works Director believed the price for this used mobile generator is a highly favorable price and would be sold to another party before the City had the time to comply with formal bidding requirements.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Anacortes, Washington, as follows:

Section 1. The City Council of the City of Anacortes, Washington, finds that the purchase of this Cummins mobile generator clearly limits the City of Anacortes to a single source of supply and special market conditions, justifying the waiver of competitive bidding requirements.

Section 2. The City Council of the City of Anacortes, Washington, hereby waives the bidding requirements for the purchase of this Cummins mobile generator for use by the City of Anacortes Public Safety Building and authorizes sole source purchasing from Fetting Power Inc.

Section 3. Any actions of the City or its officers prior to the date hereof and consistent with the terms of this Resolution are ratified and confirmed.

Section 4. This Resolution shall be in full force and effect from the after its adoption and approval.

The foregoing resolution was ADOPTED by the City Council of the City of Anacortes, Washington, at a regular, open public meeting thereof this 18th day of February, 2020.

Laurie Gere, Mayor

ATTEST:

Steven D. Hoglund, City Clerk/Treasurer

APPROVED AS TO FORM:

Darcy Swetnam, City Attorney



City Council Contract Agenda Bill

Meeting Date: 2/18/2020 **Agenda Item:** 6d

Subject: Resolution 2077 – Declaring an Emergency and Waiving State Competitive Bidding Requirements for the Repair of Longview Avenue

Staff Contact: Fred Buckenmeyer

Approved for Submittal to Council by:
Darcy Swetnam, City Attorney

Action Type: Resolution

Summary Statement: City staff seeks City Council approval of Resolution 2077 to declare an emergency and waive state competitive bidding requirements for the repair of Longview Avenue.

Background:

- RCW 39.04.280 provides that the City, by resolution, may waive competitive bidding requirements for public works in the event of an emergency. For purposes of RCW 39.04.280, an “emergency” is any unforeseen circumstance beyond the control of the municipality that either (a) presents a real, immediate threat to the proper performance of essential functions; or (b) will likely result in material loss or damage to property, bodily injury, or loss of life if immediate action is not taken.
- On February 8, 2020 a large sink hole formed on Longview Avenue over the 36” storm water pipe crossing. The storm water pipe appears to have failed catastrophically due to high water flows and saturated ground resulting from recent intense rainfall. The existing 16" asbestos-cement (AC) water main is being undermined and is at risk of failing.
- This portion of Longview Avenue and the AC water main is in a state of imminent potential for total failure causing property damage and becoming a risk to human health.
- Repair of the road and pipes is “public work” as defined by RCW 39.04.010(4).

Previous Council/Committee Action: N/A

Competing Viewpoints Considered: N/A

Recommended Motion: I move that the Resolution 2077 be approved declaring an emergency and waiving state competitive bidding requirements for the repair of Longview Avenue, pursuant to RCW 39.04.280.

Alternative Actions: N/A

Attachments: Resolution 2077

RESOLUTION 2077

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ANACORTES, WASHINGTON, declaring an emergency and waiving state competitive bidding requirements for the repair of Longview Avenue, pursuant to RCW 39.04.280.

WHEREAS, RCW 39.04.280 provides that the City, by resolution, may waive competitive bidding requirements for public works in the event of an emergency. For purposes of RCW 39.04.280, an “emergency” is any unforeseen circumstance beyond the control of the municipality that either (a) presents a real, immediate threat to the proper performance of essential functions; or (b) will likely result in material loss or damage to property, bodily injury, or loss of life if immediate action is not taken; and

WHEREAS, on February 8, 2020 a large sink hole formed on Longview Avenue over the 36” storm water pipe crossing. The storm water pipe appears to have failed catastrophically due to high water flows and saturated ground resulting from recent intense rainfall. The existing 16" asbestos-cement (AC) water main is being undermined and is at risk of failing; and

WHEREAS, this portion of Longview Avenue and the AC water main is in a state of imminent potential for total failure causing property damage and becoming a risk to human health.; and

WHEREAS, repair of the road and pipes is “public work” as defined by RCW 39.04.010(4).

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Anacortes, Washington as follows:

Section 1. The City Council of the City of Anacortes, Washington finds that the facts set forth in the recitals of this resolution are true and that the failure of Longview Avenue and underlying pipes constitutes an emergency under RCW 39.04.280. Pursuant to RCW 39.04.280, the City Council hereby declares and certifies that an emergency exists requiring immediate repair and reconstruction of the road and underlying pipes on Longview Avenue.

Section 2. The City Council of the City of Anacortes, Washington hereby waives the bidding requirements and authorizes staff to contract without solicitation of bids for the public work project titled Longview Avenue Repairs, and to take such actions as necessary to carry out the intent and direction of this Resolution.

Section 3. Any actions of the City or its officers prior to the date hereof and consistent with the terms of this Resolution are ratified and confirmed.

Section 4. This Resolution shall be in full force and effect from the after its adoption and approval.

The foregoing resolution was ADOPTED by the City Council of the City of Anacortes, Washington, at a regular, open public meeting thereof this 18th day of February, 2020.

Laurie Gere, Mayor

ATTEST:

Steven D. Hoglund, City Clerk/Treasurer

APPROVED AS TO FORM:

Darcy Swetnam, City Attorney



Laurie Gere, Mayor

CITY OF ANACORTES

904 6th Street Anacortes, WA 98221

Office: 360-299-1950

laurieg@cityofanacortes.org

www.anacorteswa.gov

City Council Memo

TO: Anacortes City Council
FROM: Laurie Gere, Mayor
DATE: February 10, 2020
RE: Appointment and Confirmation of Brad Adams to the Parks and Recreation
Advisory Commission

Summary Statement:

The following appointment to the Parks and Recreation Advisory Commission is being presented at the regular City Council meeting on February 18, 2020. I appreciate the contributions former Council Member Brad Adams and his willingness to serve our community. If you have any questions or feedback you wish to provide, please contact me prior to the meeting.

Board or Commission Member Appointed by the Mayor Requiring Confirmation by the City Council.

Parks and Recreation Advisory Commission

1. Brad Adams (effective February 18, 2020 until October 31, 2022)

Recommended Motion: I recommend that Brad Adams be confirmed as a member of the City of Anacortes Parks and Recreation Advisory Commission.

From: noreply@civicplus.com
To: coa.mayor
Subject: Online Form Submittal: Talent Bank Application for Public Involvement
Date: Saturday, February 1, 2020 4:47:04 PM

Talent Bank Application for Public Involvement

The City of Anacortes strives to build a productive working relationship between community members and city departments. Community members who serve on boards and commissions help to enhance diversity and ensure quality services to meet the needs of our city. We invite you to learn more about the community members who comprise these groups as they represent the voice of the community. If you would like to become an active part of any of the boards and commissions that the City of Anacortes offers please complete the talent bank application form or contact us with any questions you might have. If you're not selected right away, remember that many people apply and that there are not always openings available. The city keeps all letters of application on file for two years and reviews them whenever there is an opening. Most appointments are made by the Mayor and confirmed by the City Council. Thank you for your interest.

What position(s) are you interested in being considered for?	Parks and Recreation Board
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First Name	Brad
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Last Name	Adams
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Address	2201 30th Street
---------	------------------

City	Anacortes
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State	WA
-------	----

Zip Code	98221
----------	-------

Home Phone Number	<i>Field not completed.</i>
-------------------	-----------------------------

Cell Phone Number	3603919771
-------------------	------------

Email Address	adamscitycouncil@yahoo.com
---------------	----------------------------

Biography / Resume attached?	<i>Field not completed.</i>
------------------------------	-----------------------------

Uploaded Biography / Resume	Talent Bank.docx
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Skills / Training	
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Please describe your reasons for wanting to volunteer with the City of Anacortes	I am requesting to be appointed to the Parks and Recreation board as a way to use my previous and current experiences to make a positive impact to our community.
Please summarize your job-related skills, specialized training, or volunteer experience	I have a BA degree from Western Washington University and I previously served on the board from 1996-2003. I served on the Anacortes City Council from 2004-2019. I currently work as a Program Manager at Hexcel Corporation. Within this role, I work as the communication link between Hexcel and our customers to ensure that programs and projects remain on schedule by managing work flow and identifying and solving constraints.
List professional, trade, business, or civic associations and any offices held	Anacortes Parks and Recreation Board 1996-2003, Anacortes City Council 2004-2019
List any additional information you would like us to consider	If appointed, I look forward to serving on the board and doing what I can to make Anacortes a great place for generations to come.
References <i>Give the name and telephone number of two references who are knowledgeable about your qualifications and skills relative to volunteering at the City.</i>	
First Name	Dustin
Last Name	South
Organization	City of Anacortes
Title	Recreation Manager
Work Phone Number	3602931918
Other Phone Number	<i>Field not completed.</i>
First Name	Eric
Last Name	Johnson
Organization	retired, previous Councilmember
Title	<i>Field not completed.</i>
Work Phone Number	3608405415
Other Phone Number	<i>Field not completed.</i>

Acknowledgements

My signature affirms that all information contained herein is true to the best of my knowledge, and I understand that any misstatement of fact or misrepresentation of credentials may result in this application being disqualified from further consideration.

E-Signature

Brad Adams

Date

2/1/2020

Email not displaying correctly? [View it in your browser.](#)

February 1, 2020

Dear Mayor, Parks & Recreation Director & City Council,

It has recently come to my attention that there is a vacancy on the Parks & Recreation Advisory Commission. After thoughtful consideration, I would like to express my interest becoming a member.

As part of my background, I graduated with a BA Degree in Parks & Recreation from Western Washington University 1997, previously served on the Anacortes Parks and Recreation Advisory Commission from 1996-2003, and on the Anacortes City Council from 2004-2019. Currently, I am employed by Hexcel Corporation as a Program Manager and have held various positions at Hexcel since 1990.

A quality Park system with opportunities to participate Recreational activities is an important aspect of a vibrant and healthy community. In municipal government, it is the Parks and Recreation Department that has the primary responsibility to provide these opportunities, and to provide them to as many user groups as possible.

If appointed to the Board, I believe I can do my part within this role to provide a positive impact to Parks & Recreation in Anacortes. I look forward to working with board members in providing sound advice to the Parks & Recreation Department by working as a team to study issues, actively participate in meetings, and move recommendations forward.

Please consider my request to be appointed to the Board.

Sincerely,
Brad Adams



City Council Contract Agenda Bill

Meeting Date: 2/18/2020 **Agenda Item:** 8b

Subject: Contract Award – 2020 Waterline Replacements 20-010-WTR-001

Staff Contact: Fred Buckenmeyer

Approved for Submittal to Council by:
Darcy Swetnam, City Attorney

Action Type: Contract Award

Summary Statement: City staff seeks City Council consent to award a contract in the amount of \$1,208,145.62 to SummitX Contractors, Inc. to perform the 2020 Waterline Replacements. The work provided for this project will include all materials, equipment, labor and related items necessary to install approximately 2490 LF of 8" ductile iron water main, 1574 LF of 12" ductile iron water main, 600 LF of 2" Rehau Municipex, make tie-ins to the existing water system, install new fire hydrants, renew/reconnect existing water services, fine grading and removing and replacing asphalt on Bay Place, Castle Court, Oaks Avenue, Dakota Avenue, 30th St, 31st St, 15th St, Fidalgo Bay Road, and Whistle Lake Road.

Background:

1. **History:** The City continues to make ongoing investments in its water system to maintain the integrity of the system and assure the delivery of safe drinking water to the public. This includes the replacement of aging distribution piping before it reaches the point of possible failure, improving available water pressure within areas, and creating redundancy within the water system. This project will replace old distribution piping on Bay Place, Castle Court, Oaks and Dakota Avenue, on 15th Street from "I" to "K" Avenue, and on "M" Avenue at 30th and 31st Street. Additionally, a new 8" watermain will be installed on Fidalgo Bay Road from 35th Street to Mansfield Court. This new watermain will serve as a replacement for a failing section of watermain that travels east at Haddon Road, is routed underneath SR 20 and ties in to an existing watermain near the Fidalgo Bay RV Park. On Whistle Lake Road, a new 8" watermain on will be installed from Haddon Road, south to Dow Lane. This will provide fire protection along that corridor as well as increased water pressure in this area.
2. **Key Terms:**
 - Contract is for a fixed price of \$1,208,145.62.
 - All physical construction activities shall be completed by November 30, 2020
3. **Competitive Bidding:** On January 15, 2020 the City [solicited bids](#) for the subject project and on February 11, 2020 a bid opening was conducted and 9 bids were received. SummitX Contractors, Inc. was determined to be the lowest responsible bidder. The Engineer's Estimate for this project was \$1,250,000. Bid results are provided as an attachment hereto.

Previous Council/Committee Action: N/A

Competing Viewpoints Considered: N/A

Recommended Motion: I move that City Council authorize the Mayor to sign contract 20-010-WTR-001 with SummitX Contractors, Inc. in the amount of \$1,208,145.62 to perform the 2020 Waterline Replacements.

Alternative Actions: Not award the contract

Attachments: Bid Results, Vicinity Maps, Contract 20-010-WTR-001

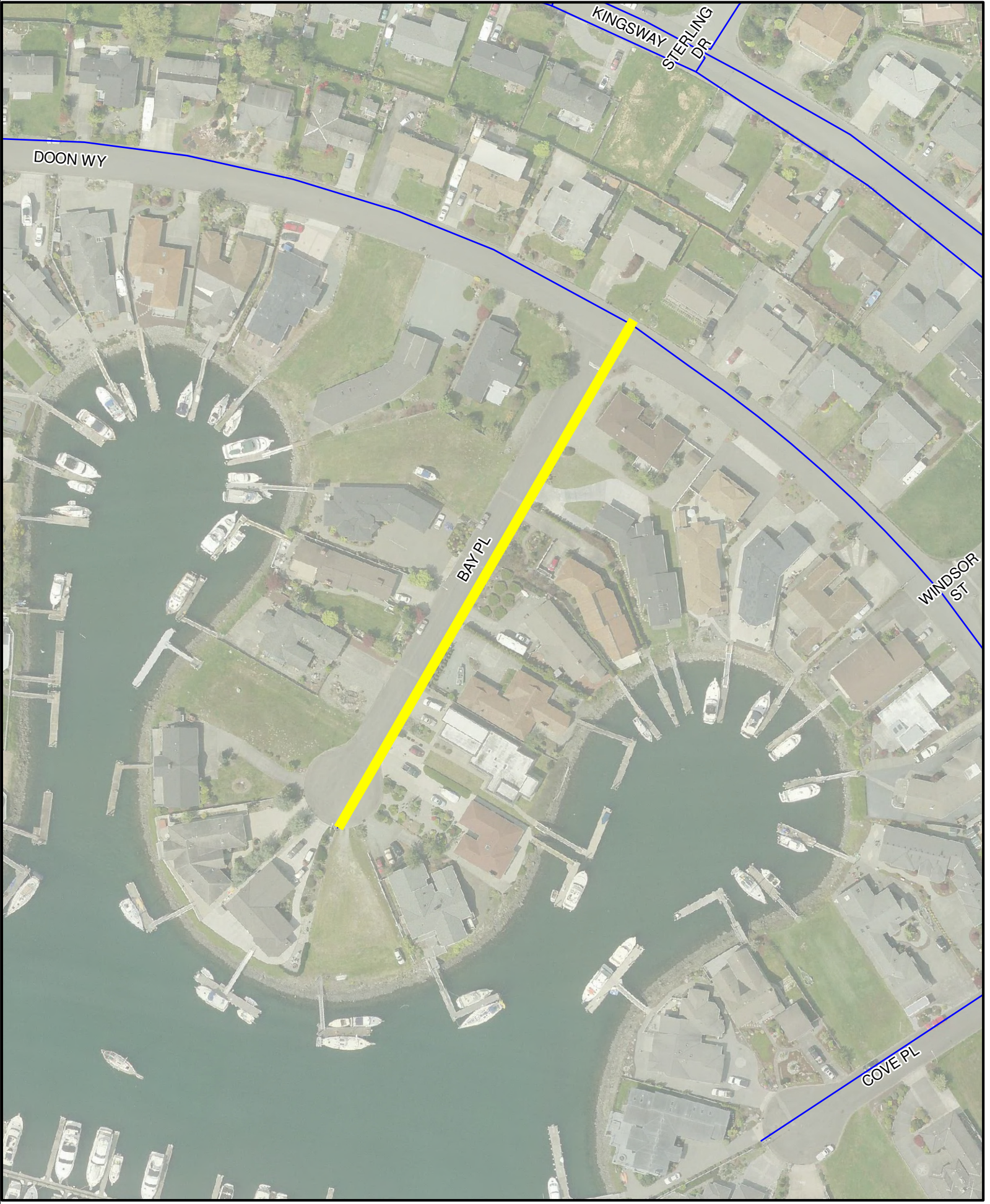
Contractor	SummitX Contractors, Inc.
Contract Amount	\$1,208,145.62
Earmarked Funds	\$1,295,000.00
BARS #	401.000.594.34.63
Budget Amendment Required?	No
Start Date	Notice to Proceed
End Date	11/30/20

2020 Waterline Replacements
BID OPENING DATE: February 11, 2020

			C. JOHNSON CONSTRUCTION		SUMMIT X CONTRACTORS		FABER CONSTRUCTION		D & G BACKHOE INC.		SRV CONSTRUCTION		
Item No.	Qty	Unit	Description	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount
Schedule A													
1	1	MC	Minor Changes	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00
2	1	LS	Mobilization	\$ 90,000.00	\$ 90,000.00	\$ 100,000.00	\$ 100,000.00	\$ 84,494.00	\$ 84,494.00	\$ 89,840.00	\$ 89,840.00	\$ 50,715.00	\$ 50,715.00
3	1	LS	Temporary Erosion/Water Pollution	\$ 3,060.00	\$ 3,060.00	\$ 800.00	\$ 800.00	\$ 23,417.00	\$ 23,417.00	\$ 1,500.00	\$ 1,500.00	\$ 8,225.00	\$ 8,225.00
4	1	LS	SPCC Plan	\$ 86.50	\$ 86.50	\$ 800.00	\$ 800.00	\$ 965.00	\$ 965.00	\$ 500.00	\$ 500.00	\$ 500.00	\$ 500.00
5	25	CY	Controlled Density Fill	\$ 117.00	\$ 2,925.00	\$ 135.00	\$ 3,375.00	\$ 268.00	\$ 6,700.00	\$ 110.00	\$ 2,750.00	\$ 195.00	\$ 4,875.00
6	25	TN	Asphalt Patching Material (Cold Mix)	\$ 169.00	\$ 4,225.00	\$ 250.00	\$ 6,250.00	\$ 321.00	\$ 8,025.00	\$ 152.00	\$ 3,800.00	\$ 230.00	\$ 5,750.00
7	25	EA	Pot Hole Existing Underground Utilities	\$ 492.00	\$ 12,300.00	\$ 200.00	\$ 5,000.00	\$ 611.00	\$ 15,275.00	\$ 250.00	\$ 6,250.00	\$ 250.00	\$ 6,250.00
8	1	LS	Fine Grading	\$ 2,360.00	\$ 2,360.00	\$ 50,000.00	\$ 50,000.00	\$ 12,486.00	\$ 12,486.00	\$ 4,500.00	\$ 4,500.00	\$ 22,000.00	\$ 22,000.00
9	1	LS	Customer Notification	\$ 291.00	\$ 291.00	\$ 500.00	\$ 500.00	\$ 3,218.00	\$ 3,218.00	\$ 1,000.00	\$ 1,000.00	\$ 1,600.00	\$ 1,600.00
SCHEDULE A SUBTOTAL					\$ 140,247.50		\$ 191,725.00		\$ 179,580.00		\$ 135,140.00		\$ 124,915.00
Schedule B - Bay Place													
10	1	LS	Temporary Traffic Control	\$ 674.00	\$ 674.00	\$ 200.00	\$ 200.00	\$ 6,324.00	\$ 6,324.00	\$ 4,000.00	\$ 4,000.00	\$ 4,800.00	\$ 4,800.00
11	1300	LF	Sawcutting Asphalt	\$ 0.50	\$ 650.00	\$ 1.30	\$ 1,690.00	\$ 3.00	\$ 3,900.00	\$ 2.00	\$ 2,600.00	\$ 0.15	\$ 195.00
12	2900	SF	Roadway Excavation W/Haul	\$ 0.25	\$ 725.00	\$ 0.50	\$ 1,450.00	\$ 1.00	\$ 2,900.00	\$ 0.55	\$ 1,595.00	\$ 0.20	\$ 580.00
13	250	TN	Crushed Surfacing Top Course	\$ 32.40	\$ 8,100.00	\$ 42.80	\$ 10,700.00	\$ 19.00	\$ 4,750.00	\$ 34.00	\$ 8,500.00	\$ 55.00	\$ 13,750.00
14	20	LF	Ductile Iron Pipe for Water Main 6 In. Diam	\$ 62.00	\$ 1,240.00	\$ 44.07	\$ 881.40	\$ 47.00	\$ 940.00	\$ 65.86	\$ 1,317.20	\$ 67.50	\$ 1,350.00
15	570	LF	Ductile Iron Pipe for Water Main 8 In. Diam	\$ 57.00	\$ 32,490.00	\$ 58.63	\$ 33,419.10	\$ 56.00	\$ 31,920.00	\$ 76.62	\$ 43,673.40	\$ 63.00	\$ 35,910.00
16	1	LS	Connection as Described in Water Note 4	\$ 6,520.00	\$ 6,520.00	\$ 5,670.24	\$ 5,670.24	\$ 4,173.00	\$ 4,173.00	\$ 5,888.00	\$ 5,888.00	\$ 5,500.00	\$ 5,500.00
17	1	LS	Hydrant Assembly as Described in Water Note 5	\$ 6,130.00	\$ 6,130.00	\$ 4,584.83	\$ 4,584.83	\$ 4,888.00	\$ 4,888.00	\$ 5,250.00	\$ 5,250.00	\$ 6,400.00	\$ 6,400.00
18	1	EA	Reconnect Existing Long Side Water Service Lines as Described in Water Note 6	\$ 960.00	\$ 960.00	\$ 928.43	\$ 928.43	\$ 903.00	\$ 903.00	\$ 1,500.00	\$ 1,500.00	\$ 760.00	\$ 760.00
19	4	EA	Replace Existing Short Side Water Service Lines as Described in Water Note 7	\$ 1,220.00	\$ 4,880.00	\$ 1,097.35	\$ 4,389.40	\$ 1,087.00	\$ 4,348.00	\$ 1,500.00	\$ 6,000.00	\$ 2,000.00	\$ 8,000.00
20	4	EA	Replace Existing Long Side Water Service Lines as Described in Water Note 8	\$ 1,390.00	\$ 5,560.00	\$ 1,556.12	\$ 6,224.48	\$ 1,501.00	\$ 6,004.00	\$ 1,500.00	\$ 6,000.00	\$ 2,460.00	\$ 9,840.00
21	5	TN	(3-inches) HMA CL 1/2-inch PG64-22 Asphalt Patching	\$ 285.00	\$ 1,425.00	\$ 170.00	\$ 850.00	\$ 184.00	\$ 920.00	\$ 225.00	\$ 1,125.00	\$ 180.00	\$ 900.00
22	2300	SY	Planning Bituminous Pavement (5-inch Depth)	\$ 4.35	\$ 10,005.00	\$ 2.52	\$ 5,796.00	\$ 3.00	\$ 6,900.00	\$ 5.50	\$ 12,650.00	\$ 4.90	\$ 11,270.00
23	110	LF	Cement Conc. Traffic Curb and Gutter	\$ 32.10	\$ 3,531.00	\$ 50.00	\$ 5,500.00	\$ 46.00	\$ 5,060.00	\$ 50.00	\$ 5,500.00	\$ 63.40	\$ 6,974.00
24	400	TN	3-INCH HMA CL 1/2-inch PG64-22	\$ 119.00	\$ 47,600.00	\$ 109.51	\$ 43,804.00	\$ 117.00	\$ 46,800.00	\$ 126.50	\$ 50,600.00	\$ 114.00	\$ 45,600.00
25	4	EA	Adjust Catch Basin	\$ 111.00	\$ 444.00	\$ 200.00	\$ 800.00	\$ 251.00	\$ 1,004.00	\$ 250.00	\$ 1,000.00	\$ 855.00	\$ 3,420.00
26	2	EA	Adjust Manhole	\$ 111.00	\$ 222.00	\$ 200.00	\$ 400.00	\$ 1,109.00	\$ 2,218.00	\$ 250.00	\$ 500.00	\$ 925.00	\$ 1,850.00
27	1	EA	Adjust Monument	\$ 366.00	\$ 366.00	\$ 200.00	\$ 200.00	\$ 1,717.00	\$ 1,717.00	\$ 250.00	\$ 250.00	\$ 385.00	\$ 385.00
28	20	SF	Plastic Stop Line	\$ 7.45	\$ 149.00	\$ 20.00	\$ 400.00	\$ 29.00	\$ 580.00	\$ 12.50	\$ 250.00	\$ 45.00	\$ 900.00
SCHEDULE B SUBTOTAL					\$ 131,671.00		\$ 127,887.88		\$ 136,249.00		\$ 158,198.60		\$ 158,384.00
Schedule C - Castle Court													
29	1	LS	Temporary Traffic Control	\$ 674.00	\$ 674.00	\$ 100.00	\$ 100.00	\$ 2,530.00	\$ 2,530.00	\$ 3,120.00	\$ 3,120.00	\$ 3,600.00	\$ 3,600.00
30	400	LF	Sawcutting Asphalt	\$ 0.50	\$ 200.00	\$ 1.30	\$ 520.00	\$ 3.00	\$ 1,200.00	\$ 2.00	\$ 800.00	\$ 2.00	\$ 800.00
31	800	SF	Roadway Excavation W/Haul	\$ 0.25	\$ 200.00	\$ 0.50	\$ 400.00	\$ 1.00	\$ 800.00	\$ 0.55	\$ 440.00	\$ 0.20	\$ 160.00
32	200	LF	Rehau Munipecx for Water Main 2 In. Diam	\$ 36.60	\$ 7,320.00	\$ 44.90	\$ 8,980.00	\$ 32.00	\$ 6,400.00	\$ 56.82	\$ 11,364.00	\$ 55.00	\$ 11,000.00
33	1	LS	Connection as Described in Water Note 12	\$ 1,230.00	\$ 1,230.00	\$ 3,073.20	\$ 3,073.20	\$ 833.00	\$ 833.00	\$ 1,700.00	\$ 1,700.00	\$ 1,700.00	\$ 1,700.00
34	1	LS	Connection as Described in Water Note 13	\$ 1,230.00	\$ 1,230.00	\$ 2,973.88	\$ 2,973.88	\$ 713.00	\$ 713.00	\$ 1,700.00	\$ 1,700.00	\$ 1,075.00	\$ 1,075.00
35	1	EA	Replace Existing Short Side Water Service Lines as Described in Water Note 14	\$ 1,030.00	\$ 1,030.00	\$ 1,029.09	\$ 1,029.09	\$ 1,001.00	\$ 1,001.00	\$ 1,500.00	\$ 1,500.00	\$ 1,900.00	\$ 1,900.00
36	2	EA	Replace Existing Long Side Water Service Lines as Described in Water Note 15	\$ 1,130.00	\$ 2,260.00	\$ 1,021.88	\$ 2,043.76	\$ 1,381.00	\$ 2,762.00	\$ 1,500.00	\$ 3,000.00	\$ 1,850.00	\$ 3,700.00
37	20	TN	HMA CL 1/2-inch PG64-22 (3-inches) Asphalt Patching	\$ 335.00	\$ 6,700.00	\$ 169.00	\$ 3,380.00	\$ 184.00	\$ 3,680.00	\$ 225.00	\$ 4,500.00	\$ 180.00	\$ 3,600.00
SCHEDULE C SUBTOTAL					\$ 20,844.00		\$ 22,499.93		\$ 19,919.00		\$ 28,124.00		\$ 27,535.00
Schedule D - Oakes Avenue													
38	1	LS	Temporary Traffic Control	\$ 7,280.00	\$ 7,280.00	\$ 10,000.00	\$ 10,000.00	\$ 11,383.00	\$ 11,383.00	\$ 18,900.00	\$ 18,900.00	\$ 33,850.00	\$ 33,850.00
39	1000	LF	Sawcutting Asphalt	\$ 2.50	\$ 2,500.00	\$ 1.30	\$ 1,300.00	\$ 3.00	\$ 3,000.00	\$ 2.00	\$ 2,000.00	\$ 3.50	\$ 3,500.00
40	6312	SF	Roadway Excavation W/Haul	\$ 0.60	\$ 3,787.20	\$ 0.50	\$ 3,156.00	\$ 1.00	\$ 6,312.00	\$ 0.75	\$ 4,734.00	\$ 0.40	\$ 2,524.80
41	1574	LF	Ductile Iron Pipe for Water Main 12 In. Diam	\$ 86.00	\$ 135,364.00	\$ 72.87	\$ 114,697.38	\$ 73.00	\$ 114,902.00	\$ 93.26	\$ 146,791.24	\$ 82.50	\$ 129,855.00
42	2	EA	12-inch Butterfly Valves	\$ 3,840.00	\$ 7,680.00	\$ 2,125.28	\$ 4,250.56	\$ 3,153.00	\$ 6,306.00	\$ 2,500.00	\$ 5,000.00	\$ 1,950.00	\$ 3,900.00
43	1	LS	Connection as Described in Water Note 18	\$ 9,670.00	\$ 9,670.00	\$ 7,457.31	\$ 7,457.31	\$ 6,199.00	\$ 6,199.00	\$ 6,200.00	\$ 6,200.00	\$ 8,500.00	\$ 8,500.00
44	2	EA	Hydrant Assembly as Described in Water Note 19	\$ 6,830.00	\$ 13,660.00	\$ 3,970.35	\$ 7,940.70	\$ 7,458.00	\$ 14,916.00	\$ 5,225.000			

2020 Waterline Replacements
BID OPENING DATE: February 11, 2020

			FISHER CONSTRUCTION		LARRY BROWN CONSTRUCTION		KONNER UP CONSTRUCTION		TRICO		
No.	Qty	Unit	Description	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount
Schedule A											
1	1	MC	Minor Changes	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00
2	1	LS	Mobilization	\$ 92,447.00	\$ 92,447.00	\$ 124,400.00	\$ 124,400.00	\$ 100,000.00	\$ 100,000.00	\$ 109,000.00	\$ 109,000.00
3	1	LS	Temporary Erosion/Water Pollution	\$ 10,176.00	\$ 10,176.00	\$ 3,660.00	\$ 3,660.00	\$ 10,000.00	\$ 10,000.00	\$ 17,850.00	\$ 17,850.00
4	1	LS	SPCC Plan	\$ 265.00	\$ 265.00	\$ 700.00	\$ 700.00	\$ 1,000.00	\$ 1,000.00	\$ 1,760.00	\$ 1,760.00
5	25	CY	Controlled Density Fill	\$ 116.18	\$ 2,904.50	\$ 120.00	\$ 3,000.00	\$ 125.00	\$ 3,125.00	\$ 148.00	\$ 3,700.00
6	25	TN	Asphalt Patching Material (Cold Mix)	\$ 121.05	\$ 3,026.25	\$ 220.00	\$ 5,500.00	\$ 170.00	\$ 4,250.00	\$ 210.00	\$ 5,250.00
7	25	EA	Pot Hole Existing Underground Utilities	\$ 185.50	\$ 4,637.50	\$ 280.00	\$ 7,000.00	\$ 400.00	\$ 10,000.00	\$ 388.00	\$ 9,700.00
8	1	LS	Fine Grading	\$ 14,840.00	\$ 14,840.00	\$ 9,940.00	\$ 9,940.00	\$ 5,000.00	\$ 5,000.00	\$ 4,250.00	\$ 4,250.00
9	1	LS	Customer Notification	\$ 318.00	\$ 318.00	\$ 985.00	\$ 985.00	\$ 1,000.00	\$ 1,000.00	\$ 2,500.00	\$ 2,500.00
SCHEDULE A SUBTOTAL					\$ 153,614.25		\$ 180,185.00		\$ 159,375.00		\$ 179,010.00
Schedule B - Bay Place											
10	1	LS	Temporary Traffic Control	\$ 1,802.00	\$ 1,802.00	\$ 2,590.00	\$ 2,590.00	\$ 50,000.00	\$ 50,000.00	\$ 2,700.00	\$ 2,700.00
11	1300	LF	Sawcutting Asphalt	\$ 3.18	\$ 4,134.00	\$ 0.70	\$ 910.00	\$ 3.00	\$ 3,900.00	\$ 3.25	\$ 4,225.00
12	2900	SF	Roadway Excavation W/Haul	\$ 0.50	\$ 1,450.00	\$ 1.10	\$ 3,190.00	\$ 10.00	\$ 29,000.00	\$ 2.00	\$ 5,800.00
13	250	TN	Crushed Surfacing Top Course	\$ 27.19	\$ 6,797.50	\$ 33.90	\$ 8,475.00	\$ 30.00	\$ 7,500.00	\$ 25.00	\$ 6,250.00
14	20	LF	Ductile Iron Pipe for Water Main 6 In. Diam	\$ 16.34	\$ 326.80	\$ 69.45	\$ 1,389.00	\$ 80.00	\$ 1,600.00	\$ 67.00	\$ 1,340.00
15	570	LF	Ductile Iron Pipe for Water Main 8 In. Diam	\$ 63.12	\$ 35,978.40	\$ 60.00	\$ 34,200.00	\$ 65.00	\$ 37,050.00	\$ 71.00	\$ 40,470.00
16	1	LS	Connection as Described in Water Note 4	\$ 4,896.00	\$ 4,896.00	\$ 7,000.00	\$ 7,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,750.00	\$ 5,750.00
17	1	LS	Hydrant Assembly as Described in Water Note 5	\$ 4,305.00	\$ 4,305.00	\$ 5,600.00	\$ 5,600.00	\$ 5,500.00	\$ 5,500.00	\$ 5,750.00	\$ 5,750.00
18	1	EA	Reconnect Existing Long Side Water Service Lines as Described in Water Note 6	\$ 873.00	\$ 873.00	\$ 805.00	\$ 805.00	\$ 1,200.00	\$ 1,200.00	\$ 830.00	\$ 830.00
19	4	EA	Replace Existing Short Side Water Service Lines as Described in Water Note 7	\$ 892.06	\$ 3,568.24	\$ 1,500.00	\$ 6,000.00	\$ 1,000.00	\$ 4,000.00	\$ 890.00	\$ 3,560.00
20	4	EA	Replace Existing Long Side Water Service Lines as Described in Water Note 8	\$ 752.32	\$ 3,009.28	\$ 1,525.00	\$ 6,100.00	\$ 1,200.00	\$ 4,800.00	\$ 1,350.00	\$ 5,400.00
21	5	TN	(3-inches) HMA CL 1/2-inch PG64-22 Asphalt Patching	\$ 170.66	\$ 853.30	\$ 315.00	\$ 1,575.00	\$ 130.00	\$ 650.00	\$ 270.00	\$ 1,350.00
22	2300	SY	Planning Bituminous Pavement (5-inch Depth)	\$ 8.66	\$ 19,918.00	\$ 6.95	\$ 15,985.00	\$ 8.00	\$ 18,400.00	\$ 9.70	\$ 22,310.00
23	110	LF	Cement Conc. Traffic Curb and Gutter	\$ 79.26	\$ 8,718.60	\$ 49.15	\$ 5,406.50	\$ 25.00	\$ 2,750.00	\$ 55.00	\$ 6,050.00
24	400	TN	3-INCH HMA CL 1/2-inch PG64-22	\$ 108.12	\$ 43,248.00	\$ 107.00	\$ 42,800.00	\$ 130.00	\$ 52,000.00	\$ 120.00	\$ 48,000.00
25	4	EA	Adjust Catch Basin	\$ 386.90	\$ 1,547.60	\$ 235.00	\$ 940.00	\$ 300.00	\$ 1,200.00	\$ 625.00	\$ 2,500.00
26	2	EA	Adjust Manhole	\$ 386.90	\$ 773.80	\$ 645.00	\$ 1,290.00	\$ 300.00	\$ 600.00	\$ 625.00	\$ 1,250.00
27	1	EA	Adjust Monument	\$ 3,222.00	\$ 3,222.00	\$ 440.00	\$ 440.00	\$ 1,500.00	\$ 1,500.00	\$ 554.00	\$ 554.00
28	20	SF	Plastic Stop Line	\$ 21.20	\$ 424.00	\$ 21.00	\$ 420.00	\$ 30.00	\$ 600.00	\$ 18.00	\$ 360.00
SCHEDULE B SUBTOTAL					\$ 145,845.52		\$ 145,115.50		\$ 227,250.00		\$ 164,449.00
Schedule C - Castle Court											
29	1	LS	Temporary Traffic Control	\$ 1,283.00	\$ 1,283.00	\$ 2,110.00	\$ 2,110.00	\$ 10,000.00	\$ 10,000.00	\$ 2,700.00	\$ 2,700.00
30	400	LF	Sawcutting Asphalt	\$ 3.18	\$ 1,272.00	\$ 1.20	\$ 480.00	\$ 3.00	\$ 1,200.00	\$ 3.25	\$ 1,300.00
31	800	SF	Roadway Excavation W/Haul	\$ 0.90	\$ 720.00	\$ 0.80	\$ 640.00	\$ 10.00	\$ 8,000.00	\$ 2.00	\$ 1,600.00
32	200	LF	Rehau Municipex for Water Main 2 In. Diam	\$ 58.38	\$ 11,676.00	\$ 41.60	\$ 8,320.00	\$ 40.00	\$ 8,000.00	\$ 25.00	\$ 5,000.00
33	1	LS	Connection as Described in Water Note 12	\$ 703.00	\$ 703.00	\$ 2,500.00	\$ 2,500.00	\$ 1,200.00	\$ 1,200.00	\$ 1,100.00	\$ 1,100.00
34	1	LS	Connection as Described in Water Note 13	\$ 590.00	\$ 590.00	\$ 1,585.00	\$ 1,585.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00
35	1	EA	Replace Existing Short Side Water Service Lines as Described in Water Note 14	\$ 976.00	\$ 976.00	\$ 1,420.00	\$ 1,420.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00
36	2	EA	Replace Existing Long Side Water Service Lines as Described in Water Note 15	\$ 804.00	\$ 1,608.00	\$ 1,410.00	\$ 2,820.00	\$ 1,000.00	\$ 2,000.00	\$ 1,000.00	\$ 2,000.00
37	20	TN	HMA CL 1/2-inch PG64-22 (3-inches) Asphalt Patching	\$ 170.66	\$ 3,413.20	\$ 220.00	\$ 4,400.00	\$ 130.00	\$ 2,600.00	\$ 200.00	\$ 4,000.00
SCHEDULE C SUBTOTAL					\$ 22,241.20		\$ 24,275.00		\$ 35,000.00		\$ 19,700.00
Schedule D - Oakes Avenue											
38	1	LS	Temporary Traffic Control	\$ 12,826.00	\$ 12,826.00	\$ 28,540.00	\$ 28,540.00	\$ 15,000.00	\$ 15,000.00	\$ 12,000.00	\$ 12,000.00
39	1000	LF	Sawcutting Asphalt	\$ 3.18	\$ 3,180.00	\$ 2.50	\$ 2,500.00	\$ 3.00	\$ 3,000.00	\$ 4.25	\$ 4,250.00
40	6312	SF	Roadway Excavation W/Haul	\$ 0.80	\$ 5,049.60	\$ 1.00	\$ 6,312.00	\$ 10.00	\$ 63,120.00	\$ 3.00	\$ 18,936.00
41	1574	LF	Ductile Iron Pipe for Water Main12 In. Diam	\$ 78.62	\$ 123,747.88	\$ 91.20	\$ 143,548.80	\$ 85.00	\$ 133,790.00	\$ 108.00	\$ 169,992.00
42	2	EA	12-inch Butterfly Valves	\$ 1,639.08	\$ 3,278.16	\$ 2,600.00	\$ 5,200.00	\$ 2,000.00	\$ 4,000.00	\$ 2,600.00	\$ 5,200.00
43	1	LS	Connection as Described in Water Note 18	\$ 6,264.00	\$ 6,264.00	\$ 7,000.00	\$ 7,000.00	\$ 6,000.00	\$ 6,000.00	\$ 7,900.00	\$ 7,900.00
44	2	EA	Hydrant Assembly as Described in Water Note 19	\$ 3,713.24	\$ 7,426.48	\$ 4,700.00	\$ 9,400.00	\$ 4,500.00	\$ 9,000.00	\$ 5,800.00	\$ 11,600.00
45	1	LS	Reconnect Water Service 3022 Oakes Avenue Water Note 20	\$ 2,510.00	\$ 2,510.00	\$ 2,300.00	\$ 2,300.00	\$ 2,000.00	\$ 2,000.00	\$ 3,100.00	\$ 3,100.00
46	1	LS	Connection as Described in Water Note 21	\$ 4,300.00	\$ 4,300.00	\$ 4,400.00	\$ 4,400.00	\$ 3,000.00	\$ 3,000.00	\$ 5,000.00	\$ 5,000.00
47	1	LS	Connection as Described in Water Note 22	\$ 5,408.00	\$ 5,408.00	\$ 7,100.00	\$ 7,100.00	\$ 5,000.00	\$ 5,000.00	\$ 6,700.00	\$ 6,700.00
48	2	EA	Reconnect Existing Short Side Water Service Lines as Described in Water Note 23	\$ 601.66	\$ 1,203.32	\$ 735.00	\$ 1,470.00	\$ 2.00	\$ 4.00	\$ 1,200.00	\$ 2,400.00
49	10	EA	Replace Existing Short Side Water Service Lines as Described in Water Note 24	\$ 2,587.26	\$ 25,872.60	\$ 1,435.00	\$ 14,350.00	\$ 600.00	\$ 6,000.00	\$ 1,222.00	\$ 12,220.00
50	12	EA	Replace Existing Long Side Water Service Lines as Described in Water Note 25	\$ 2,686.54	\$ 32,238.48	\$ 1,600.00	\$ 19,200.00	\$ 600.00	\$ 7,200.00	\$ 1,700.00	\$ 20,400.00
51	130	TN	HMA CL 1/2-inch PG64-22 (3-inches) Asphalt Patching	\$ 170.66	\$ 22,185.80	\$ 208.00	\$ 27,040.00	\$ 130.00	\$ 16,900.00	\$ 205.00	\$ 26,650.00
SCHEDULE D SUBTOTAL					\$ 255,490.32		\$ 278,360.80		\$ 274,014.00		\$ 306,348.00
Schedule E - Dakota Avenue											
52	1	LS	Temporary Traffic Control	\$ 3,604.00	\$ 3,604.00	\$ 6,710.00	\$ 6,710.00	\$ 15,000.00	\$ 15,000.00	\$ 8,250.00	\$ 8,250.00
53	700	LF	Sawcutting Asphalt	\$ 3.18	\$ 2,226.00	\$ 1.80	\$ 1,260.00	\$ 3.00	\$ 2,100.00	\$ 2.00	\$ 1,400.00
54	1300	SF	Roadway Excavation W/Haul	\$ 0.56	\$ 728.00	\$ 1.20	\$ 1,560.00	\$ 10.00	\$ 13,000.00	\$ 2.00	\$ 2,600.00
55	240	LF	Ductile Iron Pipe for Water Main 8 In. Diam	\$ 69.99	\$ 16,797.60	\$ 84.85	\$ 20,364.00	\$ 100.00	\$ 24,000.00	\$ 78.00	\$ 18,720.00
56	1	LS	Hydrant Assembly as Described in Water Note 28	\$ 5,099.00	\$ 5,099.00	\$ 7,5					



2020 Waterline Replacements
20-010-WTR Bay Place 6" DI





2020 Waterline Replacements
20-010-WTR Castle Court 6" DI





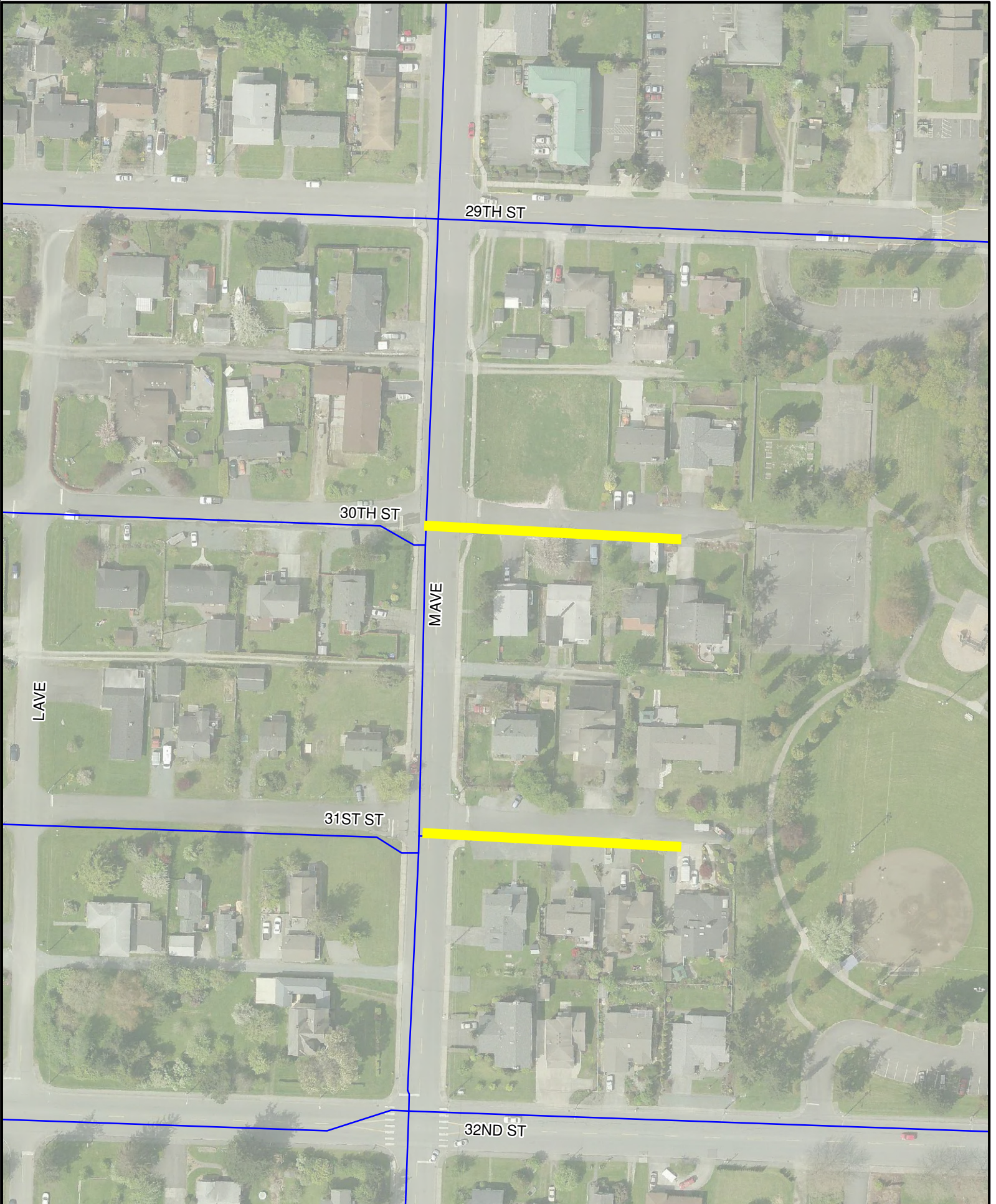
2020 Waterline Replacements
20-010-WTR Oakes Avenue





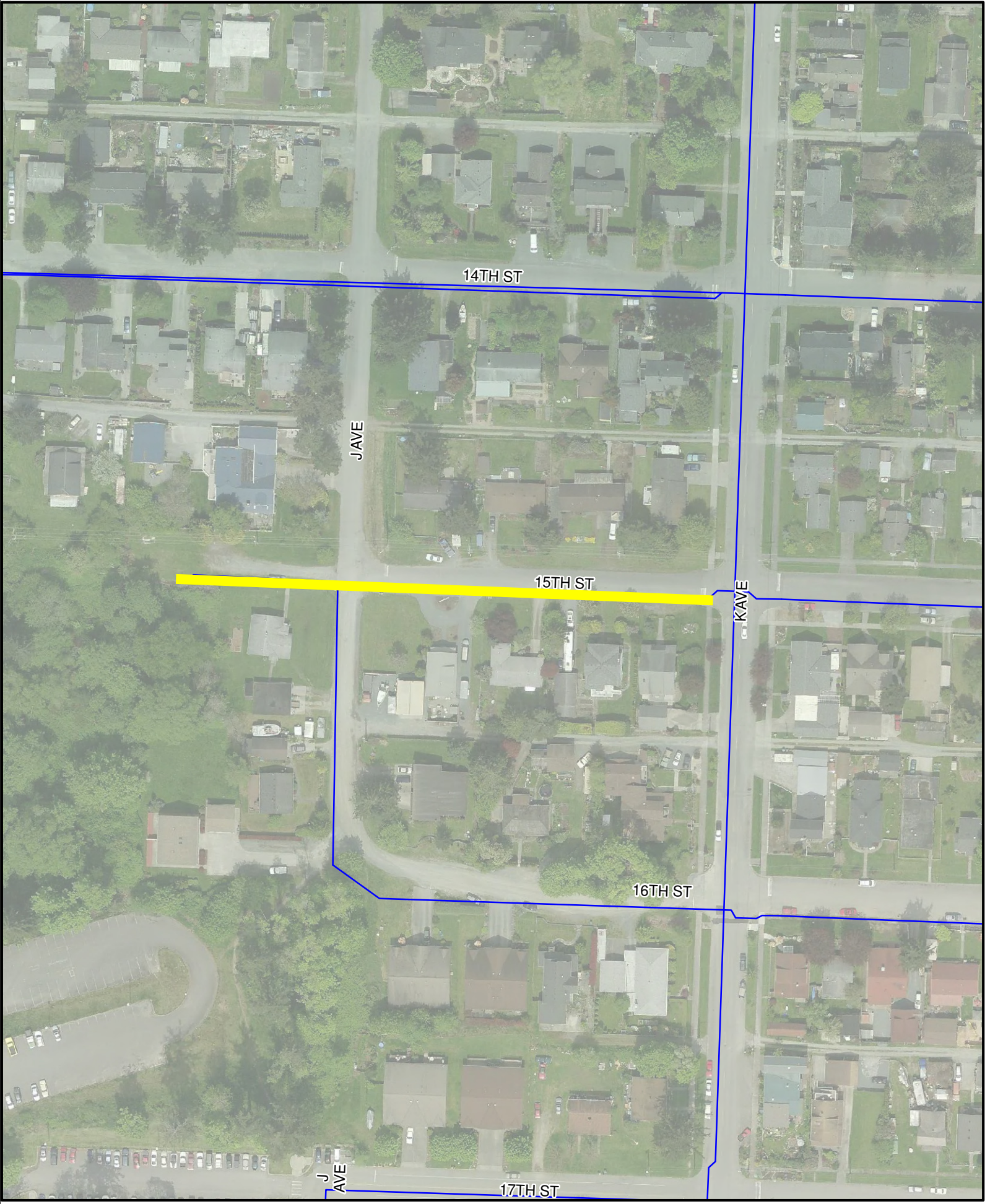
2020 Waterline Replacements
20-010-WTR Dakota Avenue





2020 Waterline Replacements
20-010-WTR 30th & 31st Street 6" DI





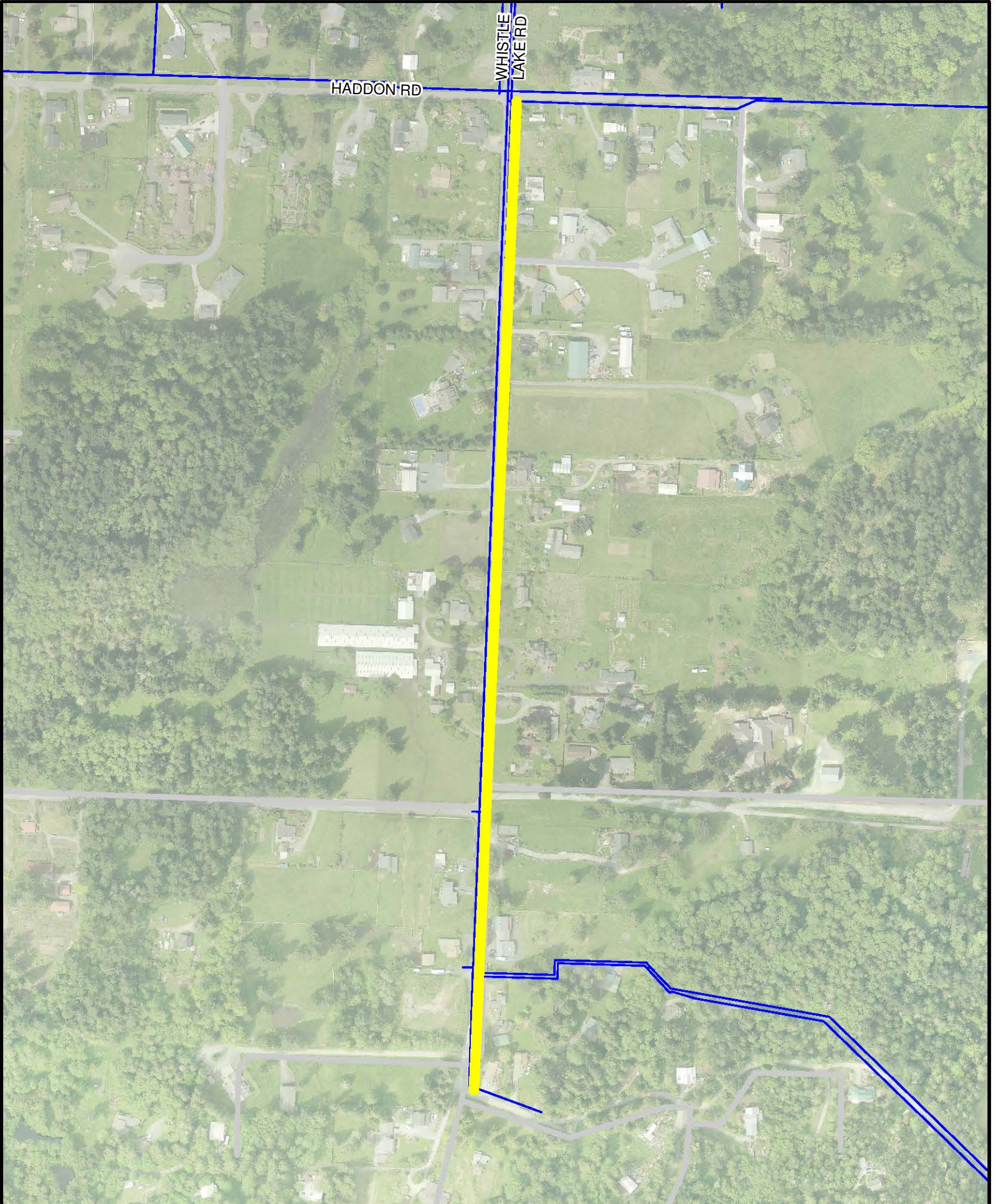
2020 Waterline Replacements
20-010-WTR 15th Street 6" DI





2020 Waterline Replacements
20-010-WTR Fidalgo Bay Road





**2020 Waterline Replacements
20-010-WTR Whistle Lake Road**





This Contract is between the City of Anacortes, Washington, a Municipal Corporation (herein after referred to as "City") and SummitX Contractors, Inc. a private contractor at PO Box 319, Anacortes, WA 98221 (herein after referred to as "Contractor").

WITNESSETH:

That in consideration of the terms and conditions contained herein and attached and made a part of this agreement, the parties hereto covenant and agree as follows:

I. **WORK.** The Contractor shall do all work and furnish all tools, materials, equipment, and transportation required for the **2020 Waterline Replacements**, in accordance with and as described in the Invitation for Bid entitled the same and dated January 15, 2020, Project No. PW-20-010-WTR-001. Incorporated by reference, and made a part hereof, are the Invitation for Bid aforementioned, current Washington State Department of Transportation *Standard Specifications for Road, Bridge, and Municipal Construction M 41-10* and Amendments, except as modified by the Special Provisions included in this Invitation to Bid. Any changes to the work contracted herein shall be subject to contract modification signed by the Parties.

The City hereby promises and agrees with the Contractor to retain and does retain the Contractor to provide the materials and to do and cause to be done the above-described work and to complete and finish the same according to the attached plans and specifications and the terms and conditions herein contained, and hereby contracts to pay for the same according to the attached specifications and the schedule of prices bid and hereto attached, at the time and in the manner and upon the conditions provided for in this contract.

The Contractor for himself/herself, and for his/her heirs, executors, administrators, successors, and assigns, does hereby agree to full performance of all covenants required of the Contractor in the contract.

II. **PRICE.** The Total Contract Price is **One Million Two Hundred Eight Thousand One Hundred Forty-Five Dollars and Sixty-Two Cents (\$1,208,145.62)**. The Contractor's bid schedule is incorporated by reference and attached hereto as Exhibit A.

III. **TIME.** Unless otherwise stated in the Invitation for Bid, all physical construction activities shall be completed **by November 30, 2020**. The Contractor shall supply the materials within the specified period of time after Notice to Proceed has been issued by the City.

IV. **LIQUIDATED DAMAGES.** Under 1-08.9 of the current WSDOT *Standard Specifications for Road, Bridge, and Municipal Construction*, the City is entitled to liquidated damages for each and every calendar day said work remains uncompleted after expiration of the specified time. However, rather than using the Liquidated Damages Formula, the Contractor agrees to pay the City \$500.00 per day for each and every calendar day said work remains uncompleted. All other terms of WSDOT 1-08.9 remain unchanged.

V. **INDEMNIFICATION/HOLD HARMLESS.**

The Contractor shall defend, indemnify and hold the City, its appointed and elective officers, officials, employees and volunteers harmless from any and all claims, injuries, including death at any time resulting there from, damages, losses or suits including attorney fees, to the extent caused by negligent acts, errors or omissions of the Contractor in performance of this Agreement, except for injuries and damages caused by the sole negligence of the City.

Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Contractor and the City, its officers, officials, employees, and volunteers, the Contractor's liability hereunder shall be only to the extent of the Contractor's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Contractor's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this Clause shall survive the expiration or termination of this Agreement.

- VI. **INSURANCE.** The Contractor shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, their agents, representatives, employees or subcontractors.

Contractor's maintenance of insurance, its scope of coverage and limits as required herein shall not be construed to limit the liability of the Contractor to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

The parties acknowledge that there has been an opportunity to negotiate the terms and conditions of this Agreement and agree to each bind itself, its partners, successors, assigns, and legal representatives to the other party hereto, in respect of all covenants, agreements, and obligations contained in the Contract Documents. Each of the persons signing below on behalf of any party hereby represents and warrants that s/he or it is signing with full and complete authority to bind the party on whose behalf of whom s/he or it is signing, to each and every term of this Agreement.

Owner:

City of Anacortes

Laurie Gere

Date

Contractor:

SummitX Contractors, Inc.

Title

Date



City Council Agenda Bill

Meeting Date: 2/18/2020

Agenda Item: 8c

Subject: Update of the Unified Fee Schedule for fiber services

Staff Contact: Steve Hoglund, Jim Lemberg

Approved for Submittal to Council by	
	Laurie Gere, Mayor
X	Steve Hoglund, Finance Director
X	Darcy Swetnam, City Attorney

Action Type	
	Ordinance No.
	Code Revision?
X	Resolution No. 2078
	Contract
	Public Hearing
	Staff Report

Summary Statement: Some fiber customers require a static IP address.

Background: Proposed pricing for static IP addresses was presented to City Council on [February 10th](#) with the understanding that it would be brought back to the Council meeting on February 18th for adoption. This will allow us to continue with installations for the businesses that are reliant on a static IP address.

Budget Impact	
Amount Budgeted	
Budget Account (BARS)	
Proposed Expenditure	
Budget Amendment Required?	
Revenue Source	

Proposed Contract	
Contractor	
Amount	
Start Date	
End Date	

Previous Council/Committee Action: N/A

Competing Viewpoints Considered: N/A

Recommended Motion: I move to adopt Resolution 2078.

Alternative Actions: Do not approve the Resolution.

Attachments (listed in order presented): Resolution 2078

RESOLUTION NO. 2078

A RESOLUTION UPDATING THE UNIFIED FEE SCHEDULE TO UPDATE FIBER RATES

WHEREAS, the City would like to collect fees to cover all costs incurred.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Anacortes, Washington, that:

Section 1.

1. The Unified Fee Schedule currently in effect will be updated to include new fiber rates as follows:

City of Anacortes Fiber Internet				
Service	Long Term Contract Required	Monthly Service	Monthly Add On for Optional City Managed WiFi	Installation Charge
Residential, 100 Mbps	No	\$ 39	\$ 10	\$ 100
Residential, 1 Gbps	No	\$ 69	\$ 10	\$ 100
Business, 100 Mbps	Yes	\$ 89	\$ 10	\$ 100
Business, 1 Gbps	Yes	\$ 149	\$ 10	\$ 100
Static IP addresses				
IPv6		No Charge		
IPv4, 1 usable address		\$ 9		
IPv4, 5 usable addresses		\$ 20		
IPv4, more than 5 usable addresses to be negotiated on an individual case basis				

PASSED and APPROVED on this 18th day of February, 2020.

AYES_____

NAYS_____

ABSENT_____

CITY OF ANACORTES:

BY: _____
LAURIE M. GERE, MAYOR

ATTEST:

APPROVED AS TO FORM:

Steven D. Hoglund
City Clerk Treasurer

Darcy J. Swetnam, WSBA # 40530
City Attorney



City Council Agenda Bill

Meeting Date: 2/18/2020 **Agenda Item:** 8d

Subject: Draft Critical Areas Regulations Update: City Council Discussion

Staff Contact: Don Measamer, Tess Cooper

Approved for Submittal to Council by	
	Laurie Gere, Mayor
	Steve Hoglund, Finance Director
	Darcy Swetnam, City Attorney
X	Don Measamer

Action Type	
X	Ordinance No. 3064
X	Code Revision?
	Resolution No.
	Contract
	Public Hearing
	Staff Report

Summary Statement: Staff will present an introduction to the 2016 critical areas regulations update, as required under the periodic update requirements of the Growth Management Act. The attached second draft document with list of Planning Commission's recommended changes, is provided to allow opportunity for City Council feedback to inform the finalization of this document.

Background: Additional project background information can be viewed on the [project website](https://www.anacorteswa.gov/201/Critical-Areas-Regulations-Update). (<https://www.anacorteswa.gov/201/Critical-Areas-Regulations-Update>)

Previous Council/Committee Action: None.

Competing Viewpoints Considered: Written public comment and project team responses for Draft 2 can be viewed [here](#).

Recommended Motion: N/A discussion only.

Alternative Actions: N/A

Attachments (listed in order presented):

- A - Findings of Fact and Planning Commission Recommendation
- B – Draft 2 Critical Area Ordinance
- C – List of Planning Commission recommended changes
- D – Suggested list of: additional changes and additional public comment needed
- E – Summary of Public Comments received
- F – Parties of Record
- G – Crosswalk guide to changes from Current to Draft 1 to Draft 2 (in lieu of track change document)
- H – SEPA Checklist (as proposed to be revised)

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**Anacortes Planning Commission
Recorded Motion Regarding Amendments to the
Critical Area Regulations**

Proposal Description:	The proposed non-project legislative action is to amend the Critical Area regulations in accordance with the Growth Management Act requirements. The critical areas ordinance regulates certain activities and development in and near wetlands, streams, fish & wildlife habitat conservation areas, geologically hazardous areas, frequently flooded areas, and critical aquifer recharge areas. The draft includes updates in accordance with state law and best available science, reorganization, and functional changes to certain requirements.
File Number:	PLN-2019-0010
Documents available at:	https://www.anacorteswa.gov/201/Critical-Areas-Regulations-Update
Public hearing body:	Anacortes Planning Commission
Public hearing date:	December 18, 2019
PC deliberations:	January 8, 2020 and January 22, 2020

After considering the written and spoken comments and considering the record before it, the Planning Commission enters the following findings of fact, reasons for action, and recommendations to the Anacortes City Council.

A. Findings of Fact

Procedural & Public Engagement

1. The proposed amendments to the critical area ordinance was initiated by the City in accordance the requirements of the Growth Management Act {RCW 36.70A.130} as required on a reoccurring basis, and with AMC 19.16.030(B), subsequent to the adoption of the 2016 Anacortes Comprehensive Plan.
2. A dedicated project website was created, and project-related documents, including staff reports, drafts, and public comments, were posted for public review. An email distribution list was created, people signed up to receive regular email updates on the process.
3. The Planning Commission held work sessions to review the proposed amendments on October 23, 2019, November 13, 2019, and November 20, 2019, and December 4, 2019. Public input was taken at all the work sessions. All meetings were broadcast on Channel 10 and streamed live on the City's website.
4. The proposed amendments were transmitted to the Washington State Department of Commerce for state agency review in accordance with RCW 36.70A.106 on October 29, 2019.
5. A State Environmental Policy Act (SEPA) Determination of Non-Significance (DNS) was issued for the proposal on November 27, 2019. The SEPA public comment and appeal deadline was December 11, 2019. One appeal of the DNS was filed. The parties are currently discussing settlement options for the appeal.
6. Timely and sufficient notice of public hearings and written comment periods was provided in accordance with AMC 19.16.070, including publishing notice on the project website on November 27, 2018, and publishing a paid notice in the November 27, 2018 Anacortes American. The notice was also posted in City Hall, and the Public Library.
7. A Public hearing was held before the Planning Commission on December 18, 2019. Twenty-one individuals provided testimony at the public hearings.
8. The written comment period ended on January 3, 2020. 59 individuals provided written comment letters and emails, submitted over the course of the project process.
9. The Planning Commission deliberated on the proposal on January 8, 2020 and January 22, 2020.

Best Available Science

10. The City commissioned the following reports for the review and recommendations to inform the revisions to the Critical Area Regulations based on Best Available Science:

- Best Available Science Report for Wetlands and FWHCAs (ATSI, November 2016);
- Best Available Science Report for Geologically Hazardous Areas, Critical Aquifer Recharge Areas, and Frequently Flooded Areas (GeoEngineers, July 2017);
- Best Available Science Report for Streams (GeoEngineers, October 2019).

Criteria for Approval

11. The proposed amendments are legislative actions under AMC Chapter 19.16, which applies to adoption and amendment of implementing critical area regulations.
12. AMC 19.16.080(B) provides the elements that the Planning Commission must consider in making its recommendation to City Council. These elements are:

a. Public hearing testimony and written comment received during any public comment period;

The public engagement process undertaken is outlined in the Procedural and Public Engagement section of these findings. Written public comments received were compiled by city staff into a consolidated document which included project team responses to comments. The public comments were particularly valuable in the Planning Commission and project team's analysis of the code and led to numerous recommendations for refining the code and identifying minor edits.

b. Recommendations and analysis from relevant city advisory groups;

Recommendations and analysis provided by Agencies and Advisory groups were accepted and incorporated into the critical area regulations such as wetland buffer, great blue heron protections, and Anacortes Community Forest Lands provisions.

c. Staff recommendations and analysis;

Throughout the Planning Commission work sessions, based on feedback received during meetings, the project team provided recommendations containing analysis and potential options for Planning Commission consideration and direction. The analysis and discussions were helpful to the Planning Commission in refining their recommendations.

d. Legal advice;

The Planning Commission has considered the advice of the City Attorney's office in making these findings.

The City utilized the State Attorney General Advisory Memorandum: Avoiding Unconstitutional Takings of Private Property for evaluating constitutional issues, in conjunction with and to inform its review of the proposal to assure that proposed regulatory or administrative actions did not result in an unconstitutional taking of private property, consistent with RCW 36.70A.370(2).

e. Consistency of the proposal with the Comprehensive Plan.

The critical area regulation amendments objective is to implement key goals and policies of the 2016 Anacortes Comprehensive Plan. The goals and policies provide guidance and policy direction in the establishment of said regulations.

The Planning Commission finds and concludes that the critical area regulations amendments proposed in the "2nd Draft" dated May 2, 2019, released on October 30, 2019, subject to the changes identified in **Attachment A**, and the proposed "Draft 2" shown in **Attachment B**, are consistent with the Comprehensive Plan goals and policies as detailed below.

Consistency with the Anacortes Comprehensive Plan

13. The proposal integrates strategic updates to improve organization and usability, clarity, and new content to implement the 2016 Comprehensive Plan, which is supported by the following Comprehensive Plan policies:

***LU-11.2.** Adopt user-friendly and coordinated development regulations that facilitate Anacortes's preferred land use pattern (e.g. allowed density, uses, and site provisions).*

***ED-7.1** Provide an efficient, clear and economical permitting process as a means of enhancing the City's goal for quality customer service.*

***ED-7.2.** Craft land use and development regulations that offer a balance of predictability and flexibility.*

14. The proposal reorganizes and updates the exempt activities and permitted uses into more user-friendly tables. The revisions have provided clarification of requirements and administrative process thereby improving the overall outcome of protections as stated in Comprehensive Plan Goal LU-4, including the following:

***LU-4.1** Maintain and strengthen regulations to protect sensitive natural areas and pursue strategies/actions to restore degraded natural areas.*

***LU-4.2** Update development regulations to emphasize sustainable design in new developments, including forms of Low Impact Development.*

15. The proposal provides new definitions and supplemental standards for development types and land use intensities, industrial, commercial, residential, moderate intensity open spaces, and low-intensity recreation and natural resource preservation. The standards are consistent with the Comprehensive Plan Goal LU-11 with goals and policies of the Comprehensive Plan, including the following:

***LU-11.1.** Plan for accommodating anticipated growth within the City to protect surrounding forest and parklands, and minimizing sprawl, while strengthening Anacortes's unique marine character and identity.*

- A. *Provide for residential infill development opportunities throughout the city, but focus the highest intensity residential uses close to commercial and community services and transit.*

16. The proposal provides new definitions and supplemental use standards for commercial, industrial, and public, institutional and open space uses, including unique use permissions and special standards where applicable. The updated terms and definitions will provide more clarity and predictability to the environmental protections, the standards are consistent with Comprehensive Plan goals and policies, including the following:

Goal EC-1. *Environmental protection. Serve as a leader in environmental stewardship of the natural environment for current and future generations.*

Goal EC-2. *Marine waters and shorelines. Preserve, protect, enhance and restore shoreline natural resources.*

Goal EC-3. *Natural hazards. Reduce exposure to landslides, tsunamis and earthquakes.*

Goal EC-4. *Water quality. Protect and enhance water quality.*

Goal EC-5. *Fish & Wildlife. Protect and enhance fish and wildlife habitat.*

Goal EC-6. *Surface water. Maintain or improve the functional integrity of watercourses, wetlands, bodies of water and their shores.*

B. Reasons for Action

Having made the Findings set forth above, the Planning Commission makes the following conclusions:

1. The proposed critical area regulations were reviewed through the review process as required by AMC 19.16 Legislative Actions. The Planning Commission is responsible for reviewing and making a recommendation to City Council on critical area regulations.
2. The Planning Commission determined that the proposed amendments are consistent with the:
 - Requirements of the Growth Management Act (RCW 36.70A.130)
 - Anacortes Comprehensive Plan
 - Anacortes Municipal Code (Chapter 19.16 Legislative Actions)

C. Recommendation

The Planning Commission recommends that the City Council:

1. Approve the proposed amendments to the critical area regulations as presented in the "2nd Draft", dated May 18, 2019, subject to the changes identified in **Attachment A**.

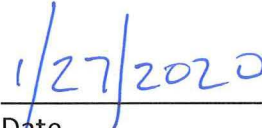
This recorded motion approved January 22, 2020:

Commission Vote	Support	Oppose	Absent	Abstain
Jeremy McNett, Chair	x			
Mike Cortright	x			
Sarah Ruether	x			
Jeff Mount	x			
Andrea Doll	x			
Jeff Graf	x			
Ward MacKenzie	x			
Total	7	0	0	0

ANACORTES PLANNING COMMISSION
ANACORTES, WASHINGTON



Jeremy McNett, Planning Commission Chair



Date

DRAFT Ordinance No. ____

An Ordinance adopting, repealing, and amending AMC Chapter 19.70 and Chapter 17.70 relating to critical areas regulations.

Whereas _____;

Whereas _____;

Whereas _____;

Whereas _____;

Whereas RCW 36.70A.170 and RCW 36.70A.172 provide that the City must designate critical areas and include the best available science in developing policies and development regulations to protect the functions and values of critical areas;

Whereas RCW 36.70A.130 requires continuing review, evaluation and periodic update of development regulations, including critical areas regulations,

Whereas

Now, therefore, the City Council of the City of Anacortes does ordain as follows:

Section 1. The Anacortes Municipal Code is amended as shown in Attachment A.

Section 2. Consistent with RCW 35A.12.130, this ordinance takes effect five days after passage and publication.

PASSED and APPROVED this ____ day of _____, 2019.

CITY OF ANACORTES:

Laurie Gere, Mayor

Attest:

Steve Hoglund, City Clerk-Treasurer

Approved as to Form:

Darcy Swetnam, City Attorney

Attachment A Amendments to the Anacortes Municipal Code

Chapter 17.70 Critical Areas Regulations are repealed except that

Recodify Article II. – Frequently Flooded Areas (FEMA Approved), AMC 17.70.020 through AMC 17.70.070 to Chapter 19.74 and retitle “Floodplain Management”.

Chapter 19.70 Critical Areas Regulations

The following chapter and sections in Title 19 are created or amended:

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DIVISION 7 – ENVIRONMENT

CHAPTER 19.70 CRITICAL AREAS

GENERAL PROVISIONS

19.70.010 Purpose.

- A. The purpose of this chapter is to designate critical areas and to establish standards for the protection of their functions and values, in compliance with the provisions of the Washington State Growth Management Act of 1990 (Ch. 36.70A RCW), and consistent with the goals and policies of the Anacortes Comprehensive Plan.
- B. By identifying and regulating development and alterations to critical areas and their buffers, this chapter seeks to accomplish the following goals:
 1. Protect members of the public and public resources and facilities from injury, loss of life, or property damage due to landslides and steep slope failures, erosion, seismic events, or flooding;
 2. Protect, maintain and restore healthy, functioning ecosystems through the protection of unique, fragile, and valuable elements of the environment, including, but not limited to ground and surface waters, wetlands, and fish and wildlife and their habitats, and to conserve the biodiversity of plant and animal species;
 3. Direct activities not dependent on critical area resources to less environmentally sensitive sites and mitigate unavoidable impacts to critical areas by regulating alterations in and adjacent to critical areas;
 4. Prevent cumulative adverse environmental impacts to water quality, wetlands, and fish and wildlife habitat, and the overall net loss of wetlands, frequently flooded areas, and habitat conservation areas;
 5. Alert owners, potential purchasers, real estate agents, appraisers, lenders, builders, developers and other members of the public to natural conditions that pose a hazard or may otherwise limit development;
 6. Serve as a basis for exercise of the City's substantive authority under the State Environmental Policy Act (SEPA).
- C. The regulations of this Chapter are intended to protect critical areas in accordance with the Growth Management Act, through the application of best available science, as determined according to [WAC 365-195-900](#) through [365-195-925](#), and in consultation with state and federal agencies and other qualified professionals.

- D. This Chapter is intended to be administered with flexibility and attention to site-specific characteristics. It is not the intent of this Chapter to make a parcel of property unusable by denying its owner reasonable economic use of the property, or to prevent the provision of public facilities and services necessary to support existing development and that planned for by the community without decreasing current service levels below minimum standards.
- E. The City's enactment or enforcement of this Chapter must not be construed for the benefit of any individual person or group of persons other than the general public.

19.70.015 Applicability.

- A. Unless explicitly exempted, the provisions of this chapter apply to all land uses, development activity, and all structures and facilities within the City of Anacortes that are within the maximum buffer distance of, or likely to affect the functions and values of, one or more critical areas.
- B. Relationship to other regulations.
 - 1. Shorelines of the state and shorelands as defined in [RCW 90.58.030](#), and critical areas occurring within the jurisdiction of shorelines of the state and shorelands, are regulated by AMC Title 18.16, Shoreline Master Program, including Appendix A - Shoreline Critical Areas Regulations, as amended.
 - 2. These critical areas regulations apply in addition to zoning and other regulations adopted by the City. Notwithstanding AMC 19.12.040(E), in the event of any conflict between these regulations and any other regulations of the City, the regulations apply that provide greater protection to the critical areas' functions and values, as determined by the Decision Maker.
 - 3. When any provision of this chapter or any existing easement, covenant, or deed restriction conflicts with this chapter, that which provides more protection to the critical areas applies.
 - 4. Compliance with the provisions of this Chapter does not constitute compliance with other federal, state, or local regulations and permit requirements that may be required. The applicant is responsible for complying with other agency requirements, apart from the process established in this Chapter.

Commented [TC1]: Change to:

A. Unless explicitly exempted, the provisions of this chapter apply to all land uses, development activity, and all structures and facilities within the City of Anacortes that are within the critical area, within the maximum buffer distance of, or likely to affect the functions and values of, one or more critical areas.

19.70.020 Identification, classification, and rating of critical areas.

- A. **Critical Areas Maps.** The general locations of many critical areas in Anacortes are displayed on the City of Anacortes' Critical Areas Maps, which are hereby adopted by reference. The maps are used to alert the public of the potential location of critical areas in Anacortes. As new environmental information related to critical areas becomes available, the City is authorized to make changes as necessary to the Critical Areas Maps.
- B. **Actual site conditions.** Regardless of whether a critical area is shown on the Critical Areas Map, the actual presence or absence of the features defined in this code as critical areas will govern. The City may require an applicant to submit technical information to indicate whether critical

areas actually exist on or adjacent to the applicant's site based on the definitions of critical areas in this code.

- C. **Classification and rating.** To promote consistent application of the standards and requirements of this chapter, critical areas within the City will be rated or classified using best available science according to their characteristics, function and value, and/or their sensitivity to disturbance.
 - 1. Classification of critical areas will be determined by the City using the following tools:
 - a. Application of the criteria contained in these regulations;
 - b. Consideration of the critical area reports submitted by qualified professionals in connection with applications subject to these regulations; and
 - c. Review of maps and other resources adopted pursuant to this chapter.

19.70.025 Protection of critical areas.

- A. Critical areas and their required buffers may not be altered except as allowed by this Chapter.
- B. Any action taken pursuant to this chapter must result in equivalent or greater functions and values of the critical areas associated with the proposed action, as determined by the best available science.
- C. All actions and development must be designed and constructed in accordance with mitigation sequencing per AMC 19.70.135 to achieve no net loss of critical area functions and values.
- D. Applicants must first demonstrate an actual inability to avoid or reduce impacts, before restoration and compensation of impacts will be allowed.
- E. No activity or use may be allowed that results in a net loss of the functions or value of critical areas.
- F. Any individual critical area adjoined by another type of critical area must have the buffer and meet the requirements that provide the most protection to the critical areas involved.

19.70.030 General Requirements

- A. As part of the review, the city will:
 - 1. Verify the information submitted by the applicant;
 - 2. Evaluate the project area and vicinity for critical areas;
 - 3. Determine whether the proposed project is likely to impact the functions or values of critical areas; and
 - 4. Determine if the proposed project adequately addresses the impacts and avoids impacts to the critical area associated with the project.
- B. If the proposed project is within, adjacent to, or is likely to impact a critical area, the city will:

1. Require a critical area report from the applicant that has been prepared by a qualified professional, to be reviewed and evaluated;
2. Determine whether the development proposal conforms to the purposes and performance standards of this chapter, including the criteria in AMC 19.70.030, Review criteria;
3. Assess the potential impacts to the critical area and determine if they can be avoided or minimized; and
4. Determine if any mitigation proposed by the applicant is sufficient to protect the functions and values of the critical area and public health, safety, and welfare concerns consistent with the goals, purposes, objectives, and requirements of this chapter.

19.70.035 Critical Areas Review.

- A. **When required.** A proposal to modify any critical area and/or required buffer including, but not limited to, clearing, grading, draining, removal of vegetation, construction of structures, utilities and related infrastructure must require a critical area permit unless it qualifies as an exemption, as provided in AMC 19.70.035.
- B. **Best Management Practices.** All activities, including those allowed without critical areas review, must be conducted using the best management practices appropriate for that activity that result in the least amount of impact to the critical areas. Best management practices must be used for tree and vegetation protection, construction management, erosion and sedimentation control, water quality protection, and regulation of chemical applications. The use of best management practices is required to ensure that the activity does not result in degradation to the critical area. Appropriate BMP sources include Ecology's Construction Storm Water General Permit and NRCS Conservation Practices. Any incidental damage to, or alteration of, a critical area and/or buffer must be restored, rehabilitated, or replaced at the responsible party's expense.
- C. **Modifications to Existing Nonconforming Structures and Uses.** Existing structures and uses that were established legally but do not meet the current critical area, buffer, or buffer setback requirements may continue in accordance to AMC 19.49.040, and may be modified as follows:
 1. Routine maintenance and repairs;
 2. Structural modifications or additions that do not intensify the nonconformity of the structure or increase the area of hardscape lying within the critical area or buffer. The Decision maker may require an updated critical areas report to confirm location of buffers and that the addition is located entirely outside the critical area or buffer;
 3. Vertical additions above the ground floor that do not encroach further into the critical area or buffer beyond the existing exterior walls, except that critical areas review is required for additions in landslide hazard areas or buffers;
 4. Restoration or replacement of a structure that is damaged by fire, natural disaster or other calamity when:

- a. A complete application for reconstruction or replacement is submitted within one year of the damage; and
 - b. The restoration or replacement is made to conform to the current critical areas regulations, or if such regulations cannot be physically met without reducing the size of the building, the restoration or replacement may not intensify any nonconformity that existed prior to the damage.
 - c. Except that critical areas review is required for restoration and replacement in landslide hazard areas or buffers.
- D. **Demolition.** Demolition of structures located within critical areas or their buffers is permitted, excluding demolition of structures necessary to support or stabilize landslide hazard areas. Subject to approval of a stormwater pollution prevention plan consistent with the adopted stormwater management manual and clearing limits that will adequately protect the critical area.

Commented [TC2]: Add section 5:

5. State Ferry Terminal. The existing developed footprint, except for infill between the toll booth area in the lowest parking lot, hillside walking paths, and a hillside side slope along the western side of the main terminal parking lot, and including all associated parking, at the Washington State Ferry Terminal facility, shall not be increased and redevelopment may occur provided there is no net loss of ecological function and value in the adjacent buffer areas for Cannery Pond and Ship Harbor Interpretive Preserve wetlands.

19.70.040 Exempt Activities.

- A. **General requirements for all exempt activities.** Activities listed in this section are exempt from the rest of the provisions of this chapter only if they meet the specific terms of this section.
- B. To be exempt from this chapter does not give permission to degrade a critical area or buffer or to ignore risk from natural hazards. All exempt activities must use reasonable methods to avoid potential impacts to critical areas and buffers. In every case, disturbance to the critical area must be minimized through best management practices and the use of low-impact equipment.
- C. Any incidental damage to, or alteration of, a critical area or buffer that is not a necessary outcome of the exempted activity must be restored, rehabilitated, or replaced at the responsible party's expense.
- D. This chapter may not exempt this activity from the provisions of other agency permit requirements such as Washington Department of Fish and Wildlife Hydrologic Permit, or Army Corp of Engineers regulatory requirements.
- E. Table 19.70.040 Exempt Activities

Table 19.70.040 (A) describes activities that must meet the precise description to be allowed without following a critical area process. Activities are divided into the categories of permitted in the Critical Area and permitted in the Buffer, marked by a yes or no in the appropriate column.

EXEMPT ACTIVITIES: (No review required, must strictly meet standards)	Critical Area	Buffer
Emergencies. Alterations in response to emergencies which threaten the public health, safety, and welfare or which pose an imminent risk of damage to private property, and that require remedial or preventative	Yes	Yes

EXEMPT ACTIVITIES: (No review required, must strictly meet standards)	Critical Area	Buffer
action in a timeframe too short to allow for compliance with the requirements of this chapter, if the following requirements are met: a. Only the minimum intervention necessary to reduce the risk to public health, safety, or welfare and/or the imminent risk of damage to private property may be authorized by this exemption. b. The alteration undertaken must be reported to the Decision maker no later than 30 days after the alteration has occurred. Once notified, the Decision maker must confirm that an emergency existed and determine what, if any, additional applications and/or measures are required of the property owner to protect the critical area(s) consistent with the provisions of this chapter, and to repair any damage to a pre-existing resource. c. If the Decision maker determines that the action taken, or any part of the action taken, was beyond the scope of an allowed emergency action, the Decision maker may take action to enforce this chapter consistent with AMC Title 19 and AMC Title 20. d. After the emergency, the person or agency undertaking the action must fully fund and conduct necessary site evaluations and critical area reports, mitigation plans, and restoration for any impacts to the critical area and buffers resulting from the emergency action. The person or agency undertaking the action must meet the review procedures contained herein. Mitigation activities must be initiated within one year of the date of the emergency or as directed by the Department.		
Yard and garden activities. Maintenance or repair activities including, but not limited to, cutting, mowing lawns, weeding, removal of noxious and invasive species, harvesting and replanting of garden crops, pruning and planting of noninvasive ornamental vegetation or indigenous native species to maintain the general condition and extent of such areas; provided, that such maintenance or repair activities are limited to legally existing landscaping improvements and do not further expand into critical areas or associated buffers, do not alter topography, do not destroy or clear native vegetation, do not remove non-hazard trees in the buffer or critical area, and do not diminish water quality or quantity. a. Native growth protection areas, mitigation sites, or other areas protected via permit conditions, conservation easements or similar restrictive covenants (as defined in AMC 19.70.145) are not covered by this exemption.	No	Yes

EXEMPT ACTIVITIES: (No review required, must strictly meet standards)	Critical Area	Buffer
b. If an activity has ceased for one year or more any future use of such land, building or structure must thereafter be in conformity in the zone in which it is located.		
Site Investigation. Minimal site investigative work and studies necessary for preparing land use applications, including, but not limited to, surveys, soil logs and borings, percolation tests, water quality studies, scientific research, wildlife studies, and similar tests and investigations; provided that such activities do not require clearing, fill, construction of new roads, or heavy equipment, and only minimal amounts of excavation and disturbed areas must be immediately restored.	Yes	Yes
Passive Outdoor Activities. When it can be demonstrated that there will be no adverse effect, the following activities are allowed within critical areas and their buffers: educational activities, scientific research, and outdoor recreational activities, including but not limited to interpretive field trips, bird watching, public beach access including water-related activities, bicycling, and hiking. This exemption does not include constructing new roads or trails, vegetation clearing, or collection of plants or animals.	Yes	Yes

Commented [TC3]: Change to:

Provided they do not require structures, grading, fill, draining, or dredging except as provided herein or authorized by a Critical Area Permit: Outdoor recreational activities, including fishing, birdwatching, hiking, boating, horseback riding, swimming, canoeing, and similar activities with limited environmental impact are exempt activities.

Table 19.70.040 (B)

EXEMPTIONS That require a letter of exemption be obtained from the decision maker prior to construction or initiation of activities. Subject to conditions by the Decision maker to ensure compliance with this chapter.	Critical Area	Buffer
Utility Operation, Maintenance, Repair, or Replacement. Public water, electric, and natural gas distribution, public stormwater and sewer collection, cable communications, telephone, utility and related activities undertaken pursuant to City-approved best management practices, and best available science with regard to protection of threatened and endangered species, as follows: a. Normal and routine maintenance or repair of existing utility structures or rights-of-way; when the activity does not involve the expansion of facilities or improvements into a previously unimproved portion of critical areas or required buffers; b. Replacement, operation, repair, modification, installation or construction in an improved City road right-of-way or City authorized private roadway of all electric facilities, lines, equipment or appurtenances, not including substations, with an associated voltage of 55,000 volts or less; to include relocation only when required by the City	Yes	Yes

EXEMPTIONS That require a letter of exemption be obtained from the decision maker prior to construction or initiation of activities. Subject to conditions by the Decision maker to ensure compliance with this chapter.	Critical Area	Buffer
of Anacortes, which approves the new location of the facilities; c. Relocation of public sewer or stormwater local collection, public water local distribution, natural gas, cable communication or telephone facilities, lines, pipes, mains, equipment or appurtenances, only when required by the City of Anacortes, which approves the new location of the facilities; d. Replacement, operation, repair, modification, relocation, installation or construction of public sewer or stormwater local collection, public water local distribution, natural gas, cable communication, or telephone facilities, lines, pipes, mains, equipment or appurtenances when such facilities are located within an improved public right-of-way or City-authorized private roadway; e. Repair and maintenance of existing private connections to public utilities and private stormwater management facilities; f. Regular maintenance of stormwater facilities that are within a segment of a regulated stream, such as conveyance ditches/swales within the right of way or within public drainage easements		
Transportation Infrastructure Operation, Maintenance, Repair, or Replacement. Maintenance, operation, repair, modification, or replacement of publicly improved roadways or City-authorized private roadways, including the road prism and associated stormwater management systems; as long as any such alteration does not involve expansion of roadways or related improvements into previously unimproved rights-of-way or portions of rights-of-way, and does not alter a critical area or required buffer, or watercourse, such as culverts or bridges, or result in the transport of sediment or increased stormwater. Retention and replanting of native vegetation must occur whenever possible along the right-of-way improvement and resulting disturbance	Yes	Yes
Recreation Areas Operation, Maintenance, Repair, or Replacement. Maintenance, operation, repair, modification, or replacement of existing Non-Motorized trails, and existing facilities within publicly improved recreation areas, such as the Anacortes Community Forest Lands and public parks, may be performed subject to the following:	Yes	Yes

EXEMPTIONS That require a letter of exemption be obtained from the decision maker prior to construction or initiation of activities. Subject to conditions by the Decision maker to ensure compliance with this chapter.	Critical Area	Buffer
a. The activity does not involve the expansion of facilities and disturbance to adjacent areas is minimized and disturbed areas must be immediately restored; b. Work is conducted using best management practices; c. Flow and circulation patterns and biological characteristics are not impaired and adverse impacts are minimized;		
Vegetation Management Including: 1. Removal of noxious weeds or invasive vegetation, as identified by the Washington State or Skagit County Noxious Weed Control Board, in a wetland buffer, stream buffer, other fish and wildlife habitat conservation areas and buffers, is allowed when: a. Undertaken with hand labor, including handheld mechanical tools, and integrated pest management; b. Plants that appear on the Washington State or Skagit County Noxious Weed Control Board lists must be handled and disposed of in accordance with the best management practices appropriate to that species and approved by the City when permit review is applicable; c. Areas cleared by removal of noxious and/or invasive plant species must be revegetated with site-appropriate native species at natural densities and the site must be stabilized against erosion in accordance with the stormwater manual adopted by the City; d. All work performed is above the ordinary high water mark and above the top of a stream bank; and e. The following limits may not be exceeded: Within City-owned property, no more than 3,000 square feet of soil may be exposed at any one time; and within private property, not more than 500 square feet of area may be cleared, as calculated cumulatively, over one year, without a permit and critical area report prepared by a qualified professional. 2. Vegetation management consistent with a previously approved critical area mitigation, restoration, remediation, or enhancement plan that requires ongoing maintenance and vegetation management beyond final inspection and the required monitoring period for the permitted project. 3. Hazard Trees. a. The felling of hazard trees may be permitted when necessary to:	Yes	Yes

EXEMPTIONS That require a letter of exemption be obtained from the decision maker prior to construction or initiation of activities. Subject to conditions by the Decision maker to ensure compliance with this chapter.	Critical Area	Buffer
i. Control fire; or ii. Halt the spread of disease or damaging insects consistent with 76.09 RCW; or iii. Avoid a threat to existing structures, above ground utility lines or other facilities. iv. Remove an actual threat to life or property from slope instability that would be caused by toppling. b. Unless there is an emergency pursuant to Emergency Exemptions above, the landowner must first obtain prior written approval from the Department. A tree risk assessment prepared by an ISA certified Arborist must be submitted by the applicant to the Department that includes the following information: i. Identification of the tree(s) proposed to be removed; ii. A conclusion that the condition constitutes an actual threat to life or property; iii. An assessment of whether a portion of the tree suitable for a snag for wildlife habitat may be safely retained. iv. If a tree to be removed provides priority habitat, such as an eagle perch or occupied nest, a description of timing and methods of removal that will minimize and mitigate impacts. v. If a tree to be removed is located within a landslide hazard area or buffer, an evaluation of potential impacts on slope stability must be completed by a qualified professional, including recommendations for replanting and other measures to avoid adverse impacts to slope stability. c. All work must be done using handheld implements only, unless the property owner requests and the Decision maker approves otherwise in writing. d. Any removed tree or vegetation must be replaced in-kind, with similar or appropriate native species, within 1 year in accordance with an approved restoration plan including species, size, and maintenance plan including species, size, and maintenance plan.		

EXEMPTIONS That require a letter of exemption be obtained from the decision maker prior to construction or initiation of activities. Subject to conditions by the Decision maker to ensure compliance with this chapter.	Critical Area	Buffer
Clearing, grading, and the construction of fences and arbors are allowed within the required 10-foot stream setback for a piped stream segment if no other critical area or buffer is present.	No	Yes

19.70.045 Permitted Alterations.

- A. **Applicability.** An applicant may seek an alteration of a critical area and/or critical area buffer through a permitted alteration when application of the standards renders compliance with these provisions as infeasible and the proposed development meets the specific terms of this section and can be considered a reasonable use.
- B. **General requirements.** The actions in the permitted alteration table below, must be considered permitted alterations, unless as otherwise specified under AMC 19.70.240 Specific Wetland Category Development Standards, and provided they are consistent with the general standards for mitigation sequencing and other applicable requirements established in this chapter.
- C. **Review Process:**
 1. A critical area permit must be required for all permitted alterations. Requests for such permits must be reviewed using the procedures outlined in chapter 19.20, table 19.20.030. No permit must be issued unless it can be shown that the proposed development is fully consistent with the requirements of this chapter.
 2. In addition to other project related documents, all permitted alterations must require a critical area assessment report per section 19.70.___ to evaluate the permitted alteration. The report must include:
 - a. A description of the function and condition of the critical area and or buffer that would be altered;
 - b. An analysis of the effect of the development proposal on the critical area and or buffer;
 - c. A description of actions that can be taken to modify the development proposal to avoid or reduce the alteration of the critical area and/or buffer and a discussion of whether these modifications are practical and reasonable;
 - d. A mitigation plan as required by this chapter.
 3. **Burden of proof.** The burden of proof is on the applicant to bring forth evidence in support of the application and upon which any decision has to be made on the application.
 4. **Public comment.** The City must ensure the opportunity for public comment, including that from appropriate Federal, State, and Tribal natural resource agencies, to ensure the use of best available science before deciding on approval.

- D. **Decision criteria.** Alterations to critical areas and/or buffer width requirements of this Chapter may only be issued if the applicant demonstrates that all of the following criteria are met:
1. Special circumstances applicable to the subject property, including size, shape, or topography, and the strict application of this chapter is found to deprive the subject property of rights and privileges enjoyed by other properties in the vicinity; provided, however, that the fact that those surrounding properties have been developed under regulations in force prior to the adoption of this chapter may not be the sole basis for granting approval;
 2. The issuance of a variance to zoning requirements (setback, height, coverage, etc.) by itself will not provide sufficient relief to avoid the need for a permitted alteration to the critical area and/or buffer and other requirements for the critical areas regulated by this Chapter;
 3. Mitigation sequencing per AMC 19.70.135(A) has been applied;
 4. The proposed alteration is supported by best available science; and
 5. The proposed alteration allows for development of the subject parcel with the least impact on critical areas while providing a reasonable use of the property.
- E. **Conditions may be required.** In granting any approval, conditions and safeguards may be prescribed as are necessary to secure adequate protection of critical areas from adverse impacts, and to ensure conformity with this chapter.
- F. Table 19.70.040 Permitted Activities.

Table 19.70.045 describes activities that must meet the precise description to be allowed with following the prescribed critical area process. Activities are divided into the categories of permitted in the Critical Area and permitted in the Buffer, marked by a yes or no in the appropriate column.

Permitted Alterations: (Critical Area Permit Required – Type 2 Administrative Decision)	Critical Area	Buffer
Buffer Modifications including: increased buffer width, buffer averaging, and buffer alterations as described specifically in this chapter.	No	Yes
Public Services. To allow development by a public agency when the strict application of the standards in this Chapter would otherwise unreasonably prohibit the provision of public amenities.	Yes	Yes
1. “Public services” include, but are not limited to, water supply, sewer and stormwater management facility, electric power, telephone, cable television, gas, and transportation for persons and freight. 2. Public services may be allowed to alter critical areas and buffers when: a. Mitigation sequencing per AMC 19.70.135(A) has been applied; b. The application of the critical areas regulations would unreasonably restrict the ability of the public agency to provide public services; c. There is no other practical alternative to the proposed development with less impact on the critical area;		

Commented [TC4]: Change to:

Public Roads and Utilities. To allow **public services**, when the strict application of the standards in this Chapter would otherwise unreasonably prohibit the provision of public amenities...

And add #3:

3. It will be a condition of any alteration granted a public agency and services exception that only the portion of the alteration that must be located in a critical area may be so located.

Permitted Alterations: (Critical Area Permit Required – Type 2 Administrative Decision)	Critical Area	Buffer
d. The proposed development does not create a health or safety hazard on or off the development site, and will not be detrimental to the properties or improvements in the vicinity; e. Any alterations permitted to the critical area are mitigated in accordance with AMC 19.70.135 and relevant mitigation standards for the impacted critical areas(s) type; f. The proposal is consistent with the Anacortes Comprehensive Plan and other applicable regulations. g. Conditions authorized. Conditions may be established as necessary to mitigate impacts to critical areas and to conform to the standards required in this Chapter.		
Conservation, Restoration, and Fish Habitat Enhancement Projects. Conservation or restoration activities aimed at protecting or enhancing the soil, water, vegetation, or wildlife; including voluntary fish, wildlife, and wetland restoration or enhancement activities not required as project mitigation that have been approved by the U.S. Fish and Wildlife Service, the Washington State Department of Ecology, Washington State Department of Fish and Wildlife, or other appropriate local, state, federal, or tribal jurisdiction and/or that meet the criteria of RCW 77.55.181(1) and that are reviewed and approved according to the provisions of RCW 77.55.181. A Biological Evaluation Report is required to determine whether the proposal would conserve, preserve, or enhance critical area functions in the long-term to minimize temporary environmental impacts.	Yes	Yes
Chemical Applications. Chemical applications. The application of herbicides, pesticides, organic or mineral-derived fertilizers, or other hazardous substances, if necessary for the control of nuisance weeds and algae; except that their use will be restricted in accordance with the State Department of Ecology and State Department of Fish and Wildlife Management recommendations, and regulations of the State Department of Agriculture and the U.S. Environmental Protection Agency.	Yes	Yes

Permitted Alterations: (Critical Area Permit Required – Type 2 Administrative Decision)	Critical Area	Buffer
Recreational Areas / Facilities. Low impact activities which are consistent with the purpose and function of the critical area buffer and do not detract from its integrity may be permitted within the buffer depending on the sensitivity of the critical area. A. Limited public park or public recreational access including trails, viewing platforms, fishing access (no wider than 6 foot), and foot bridges, provided that all of the following are satisfied: - The area/facility is part of a public park that is dependent on its location for recreational function; and - The area/facility is limited to the minimum necessary to accomplish the recreational function; and - The removal of trees and native vegetation is minimized; and - The balance of the development is consistent with other requirements of this chapter; and - The project is identified in the Anacortes Comprehensive Plan or Parks and ACFL Master Plans. B. Private pedestrian walkways and public trails must meet the following standards: - The trail is generally parallel to the perimeter of the critical area; - The trail is located in the outer 25% of the buffer area and is designated to avoid removal of trees and native vegetation; - The trail does not exceed 6 feet in width, and is limited to native soils or pervious surfaces. Raised boardwalks utilizing non-treated pilings may be acceptable; and The trail may be subject to closure during critical spawning, migration or breeding time periods of sensitive species that are present. C. Informational signs. Construction and placement of informational signs or educational demonstration facilities no more than 9 square feet surface area and 4 feet high, as long as there is no permanent infringement on hydrology or stream flow; D. Limited excavating and filling necessary for the repair and maintenance of piers, walkways, observation decks, wildlife management shelters, boathouses, and other similar water related structures, provided they are built on pilings to allow unobstructed flow of water and preserve	No	Yes
Single family Residences and necessary appurtenances. New single family dwellings on existing legal lots may intrude into critical areas or their buffers when all of the following conditions are met: It is demonstrated that it is not feasible to avoid the critical area or buffer through avoidance or buffer averaging, and the	Y	Y

Commented [TC5]: Change to:

Recreational Areas / Facilities. Low impact activities which are consistent with the purpose and function of the critical area buffer and do not detract from its integrity may be permitted within the buffer (not including the ACFL), depending on the sensitivity of the critical area.

A. Limited public park or public recreational access including but not limited to trails, viewing platforms, fishing access (no wider than 6 foot), and foot bridges, provided that all of the following are satisfied:

- The area/facility is part of a public park that is dependent on its location for recreational function; and
- The area/facility is limited to the minimum necessary to accomplish the recreational function; and
- The removal of trees and native vegetation is minimized; and
- The balance of the development is consistent with other requirements of this chapter; and
- The project is identified in the Anacortes Comprehensive Plan or Parks Comprehensive Plan .

B. Private pedestrian walkways and public trails must meet the following standards:

- The trail is generally parallel to the perimeter of the critical area;
- The trail is located in the outer 25% of the buffer area and is designated to avoid removal of trees and native vegetation;
- The trail does not exceed 6 feet in width, and is limited to native soils or pervious surfaces. Raised boardwalks utilizing non-treated pilings may be acceptable; and

The trail may be subject to closure during critical spawning, migration or breeding time periods of sensitive species that are present.

C. Informational signs. Construction and placement of informational signs or educational demonstration facilities no more than 9 square feet surface area and 4 feet high, as long as there is no permanent infringement on hydrology or stream flow and non-treated wood is used;

D. Limited excavating and filling necessary for the repair and maintenance of piers, walkways, observation decks, wildlife management shelters, boathouses, and other similar water related structures, provided they are built on pilings to allow unobstructed flow of water and preserve the natural contour of the wetland, except as authorized by special permit.

Permitted Alterations: (Critical Area Permit Required – Type 2 Administrative Decision)	Critical Area	Buffer
development is the minimum necessary to achieve reasonable use of the lot as determined by the Planning Decision maker; and b. Alteration of critical areas and their buffers including all clearing, grading and structures, has not and will not exceed cumulatively 2800 square feet; and c. This action does not allow critical areas or their buffers to be converted to lawn or residential landscaping beyond a minimal area needed to maintain an approved structure; and d. Mitigation sequencing provided in the Chapter is applied and the proposal includes on-site mitigation to the extent feasible as determined by the Critical Area Report.		
New to Table		
New to Table		

Commented [CT6]: Add:

Anacortes Community Forest Lands. Given the unique qualities of the community forest, all properties designated as ACFL have been nominated as a regulated critical area. Any and all new uses and development of new facilities within the ACFL must meet the requirements of the Conservation Easements/Deed Restrictions of the land, Anacortes Comprehensive Plan, The ACFL Comprehensive Plan, AMC 19.70 Critical Areas, and AMC 12.18 ACFL.

Commented [CT7]: Add:

Regulated Activities in Critical Aquifer Recharge Areas. All regulated activities listed under AMC 19.70.540.

19.70.050 Reasonable use exception variance.

- A. **Applicability.** If the application of this Chapter would result in denial of all reasonable and economically viable use of a property, and if such reasonable and economically viable use of the property cannot be obtained by consideration of a permitted alteration pursuant to AMC 19.70.040, then a landowner may seek a reasonable use exception from the standards of this Chapter. Reasonable use exceptions are considered a critical area variance and are intended as a last resort and only when a variance can meet the requirements of this Chapter.
- B. **General Requirements.** Reasonable use is a legal concept articulated by federal and state courts in regulatory takings cases. Within the context of these cases and for the purposes of this title, reasonable use means uses allowed by the underlying zoning designation and subdivision of property is not allowed. When no possible alternative exists, a reasonable use exceptions must be considered a critical area variance, provided they are consistent with the general standards for variances under 19.38.040 and other applicable requirements established in this chapter.
- C. **Review process:**
1. A variance permit must be required for all reasonable use exceptions. Requests for such permits must be reviewed using the procedures applicable to Type 3 Hearing Examiner decisions outlined in chapter AMC 19.20.030. No permit must be issued unless it can be shown that the proposed development is fully consistent with the variance approval criteria enumerated in AMC Section 19.38.040 (variance criteria) as well as all of the requirements of this chapter.

2. In addition to other project related documents, all permitted alterations must require a critical area assessment report per section AMC 19.70.125 to evaluate the permitted alteration. The report must include:
 - a. A description of the function and condition of the critical area and or buffer that would be altered;
 - b. An analysis of the effect of the development proposal on the critical area and or buffer;
 - c. A description of actions that can be taken to modify the development proposal to avoid or reduce the alteration of the critical area and/or buffer and a discussion of whether these modifications are practical and reasonable;
 - d. A mitigation plan as required by this chapter.
 3. Burden of proof. The burden of proof is on the applicant to bring forth evidence in support of the application and upon which any decision has to be made on the application.
 4. The City must ensure the opportunity for public comment, including that from appropriate Federal, State, and Tribal natural resource agencies, to ensure the use of best available science before deciding on approval.
- D. **Variance criteria.** A reasonable use exception may be granted only if the applicant demonstrates that all of the requested action is consistent with all of the variance approval criteria as set forth:
- a. The application of this chapter would deny all reasonable economic use of the property and that there is no reasonable economically viable use with a lesser impact on the critical area than that proposed; and
 2. Special conditions and circumstances exist that are peculiar to the land, the lot, or something inherent in the land, and that are not applicable to other lands subject to the provisions of this chapter; and
 3. The inability of the applicant to derive reasonable use of the property is not the result of actions by the current or previous owner in subdividing the property or adjusting a boundary line, thereby creating the undevelopable condition, after the effective date of the ordinance codified in this Chapter; and
 4. Any proposed modification to a critical area will be evaluated through consideration of a critical areas report and mitigation plan prepared by a qualified professional pursuant to the requirements of this Chapter, and will be the minimum necessary to allow reasonable and economically viable use of the property. The critical areas report and mitigation plan must be prepared utilizing best available science; and

5. Mitigation sequencing per AMC 19.70.135(A) has been applied, and the proposal mitigates impacts on the critical area to the maximum extent possible, while still allowing reasonable use of the lot; and
 6. The proposed development does not pose a threat to the public health and safety; and
 7. The applicant has demonstrated that the criteria in AMC 19.38.040 (variance criteria) are met; and
 8. Granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings under similar circumstances; and
 9. The granting of the variance is consistent with the general purpose and intent of the Anacortes Comprehensive Plan, and planning policies.
- E. **Conditions.** Conditions of approval may be included as part of the decision, including modifications to the size and placement of structures and facilities to minimize impacts to critical areas and associated buffers and mitigation requirements that ensure that all impacts are mitigated to the maximum extent feasible utilizing best available science.
- F. **Variances – Geologically hazardous areas.** A variance must not authorize development within a geologically hazardous area or required setback or buffer from a geologically hazardous area unless a Qualified Professional has determined the development will not pose a threat to public safety.

CRITICAL AREAS REVIEW PROCEDURES

19.70.110 Critical area identification form.

Prior to the City's consideration of any proposed activity allowed pursuant to Permitted Activities AMC 19.70.040 or found not to be exempt under AMC 19.70.035, the applicant must submit to the Department a completed form identifying suspected critical areas on, and within 300 feet, of the site.

19.70.115 Critical Area Report.

- A. **Report required.** When the Decision maker determines a proposed development is within, abutting, or is likely to adversely affect a critical area or buffer pursuant to the provisions of this chapter, he/she must have the authority to require a critical areas assessment report, prepared by a Qualified Professional. The assessment of critical areas and analysis of impacts must be commensurate with the value or sensitivity of a particular critical area and relative to the scale and potential impacts of the proposed activity. This provision is not intended to expand or limit an applicant's other obligations under [WAC 197-11-100](#).
- B. **Third Party Review of Critical Area Reports.** The Decision maker may require, at the applicant's expense, a third-party review of a critical area report by a Qualified Professional under contract with or employed by the City in any of the following circumstances:

1. The project requires a critical area permit, or critical area variance; or
2. Third party review is specifically required by the provisions of this chapter for the critical area(s) or critical area buffer(s) potentially being impacted; or
3. When the Decision maker determines that such services are necessary to demonstrate compliance with the standards and guidelines of this chapter or other appropriate regulations.

C. Critical Area Report Types or Sections. Critical area report requirements may be met in stages through multiple reports or combined in one report. A critical area report must include one or more of the following sections or report types unless exempted by the Decision maker based on the extent of the potential critical area impacts. The scope and location of the proposed project will determine which report(s) alone or combined are sufficient to meet the critical area report requirements for potentially impacted critical area type(s). The typical sequence of required sections or reports that will fulfill the requirements of this section include:

1. **Reconnaissance.** The existence, general location, and type of critical areas on, adjacent to, or likely to be impacted by activities on a project site. Determination of whether the project will adversely impact or be at risk from the potential critical areas based on maximum potential buffers for the particular critical area type. Possible application of exemptions should also be addressed;
2. **Delineation.** The extent, boundaries, rating or classification, and applicable standard buffers of critical areas where the project area could potentially impact the critical area or its buffer including an assessment of the characteristics of or functions and values of the critical area and buffers identified;
3. **Analysis.** The proposal and impact assessment report documenting the potential project impacts to the critical area and buffers including a discussion of the efforts taken to avoid, minimize, and reduce potential impacts to those areas per AMC 19.70.125(A);
4. **Mitigation.** The measures that prevent or compensate for the potential impacts of the project designed to meet the requirements of this chapter, AMC 19.70.135, Mitigation Plan Requirements, and the standards for the specific critical areas impacted. Mitigation includes, but is not limited to, adjustments to required buffer sizes, best practices to minimize impacts, and critical area or buffer enhancement, restoration, or preservation plans. Mitigation plans include but are not limited to habitat management plans, revegetation or replanting plans, and restoration plans;

5. **Maintenance and Monitoring.** The goals of the mitigation proposed, performance standards for success, monitoring methods and reporting schedule, and contingency actions. Maintenance and monitoring plans must be consistent with the mitigation performance standards and requirements of this chapter, including the specific mitigation plan requirements outlined in each critical area type section.

D. Minimum Report Requirements. At a minimum, critical area reports must contain the following information:

1. The names and qualifications of the persons preparing the report and documentation of any fieldwork performed on the site;
2. A description of the proposal, proposal location including address and parcel number(s), and a vicinity map for the project;
3. Identification and characterization of all critical areas, water bodies, shorelines, and buffers on or within 300 feet of the proposed project area, The Decision maker may require critical area and buffer dimensions be accurately surveyed, depending on the scope of the project;
4. Documentation of any fieldwork performed on the site, including field data sheets, for delineations, rating system forms, baseline hydrologic data, site photos, etc.;
5. A statement specifying the accuracy of the report and all assumptions made and relied upon;
6. A description of methodologies used to conduct the critical areas investigation, including references;
7. A scaled drawing of critical areas and buffer identified in the report including buffers for off-site critical areas that extend onto the project site.

E. Existing reports. Critical areas assessment reports must generally be valid for a period of five years. Unless otherwise provided, a critical areas report may incorporate, be supplemented by, or composed of any reports or studies required by other laws and regulations or previously prepared for and applicable to the development proposal site, as approved by the Decision maker. At the discretion of the Decision maker, reports previously compiled or submitted as part of a proposal for a development may be used as a critical areas report to the extent that the requirements of this section and the requirements for each specific critical area type are met. Supplemental critical area report(s) may be required to provide information or analysis to address changes to the project scope, potential impacts or to changes to applicable regulations that have been made subsequent to existing, valid critical area reports, or other circumstances.

F. Modifications to Report Requirements. The applicant may consult with the Decision maker, prior to or during preparation of the critical areas report, to obtain approval of modifications to

the required contents of the report where, in the judgement of a qualified professional, more or less information is required to adequately address the potential critical area impacts and required mitigation.

4. In some cases, such as when it is determined that no specific critical area is present, a full report may not be necessary to determine compliance with the critical area regulations, and in those cases a letter or reconnaissance only report may be required.
5. Limitations to study area. The Decision maker may limit the required geographic area of the critical areas report as appropriate if:
 - a. The applicant, with assistance from the City of Anacortes, cannot obtain permission to access properties adjacent to the project area; or
 - b. The proposed activity will affect only a limited part of the project site.

19.70.120 Application Requirements.

A. A complete application for a critical area permit or critical area variance permit must include the following information and materials on a form provided by the Decision maker. For the purpose of this section, a complete application includes:

1. The name and contact information of the applicant;
2. Adequate information to determine compliance with the requirements of the critical area regulations, including a critical area report, impact and hazard assessment, and mitigation requirements specific to each critical area type, as indicated in the corresponding sections of this chapter;
3. Identification of the development permit(s) requested and all other local, State, and/or Federal critical area-related permits required for the project;
4. Site plan, a scaled drawing of the development proposal including:
 - a. Property and project site boundaries.
 - b. An accurate depiction of all critical areas, including off-site critical areas and buffers that extend onto the project site, a desk survey is acceptable when access to the adjacent property has been denied.
 - c. The development proposal, including grading and clearing limits and areas of proposed impacts to critical areas and/or buffers (include square footage estimates).
 - d. A scaled depiction and description of the proposed stormwater pollution prevention plan consistent with the adopted stormwater manual, for the development and consideration of impacts to critical areas due to drainage alterations;

5. An assessment of probable impacts to the critical areas resulting from the proposed development of the site based upon identified findings;
 6. A description of reasonable efforts made to apply mitigation sequencing pursuant to AMC 19.70.135, Mitigation requirements, to avoid, minimize, and mitigate impacts to critical areas; and
 7. Plans for mitigation required to offset any critical areas impacts, in accordance with AMC 19.70.140, Mitigation plan requirements, and the corresponding mitigation performance standards sections of this chapter, including a discussion of the applicable development standards and cost estimates for determination financial guarantee requirements.
- B. **Additional Requirements.** The Decision maker may require additional information to be included in the critical areas permit submittal when determined to be necessary to the review of the proposed activity in accordance with this chapter. Additional information that may be required includes, but is not limited to:
1. Historical data, including original and subsequent mapping, historical aerial photographs, data compilations and summaries, and available reports and records relating to the site or past operations at the site;
 2. Grading and stormwater management plans; and
 3. Information specific to the type, location, and nature of the critical area.

19.70.125 Mitigation requirements.

Mitigation must be sufficient to restore impacted functions and values, or compensate for the impacted functions and values of the critical area and to prevent risk from a hazard posed to a critical area by the proposed activity. Mitigation must not be implemented until after the Decision maker has provided approval of a critical areas report that includes a mitigation plan.

A. **Mitigation sequencing.** This section applies to mitigation required with all critical areas reviews, approvals, and enforcement pursuant to this chapter. This section is supplemented with specific measures under subchapters for particular critical area types. Mitigation for specific development proposals may include a combination of the measures below and must be designed and constructed in accordance with the provisions of this section. Before impacting any critical areas, an applicant must demonstrate that the following actions have been taken in the following sequential order:

1. Avoiding the impact altogether by not taking a certain action or parts of actions;
2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology, or by taking affirmative steps, such as project redesign, relocation, or timing, to avoid or reduce impacts;

3. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment or by restoring or stabilizing the critical area through natural, engineering, or other methods;
 4. Reducing or eliminating the impacts or hazard 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, measuring and reporting the impact to the Decision maker and taking appropriate corrective measures.
- B. Applicants must first demonstrate an inability to avoid or reduce impacts before the use of actions to mitigate potential impacts will be allowed. No activity or use may be allowed that results in a net loss of the functions or values of a critical area.
- C. **Type, Location and Timing of Mitigation.** Unless it is demonstrated that higher level of ecological functioning or greater reduction of hazard risk would result from an alternative approach or as otherwise allowed in this chapter, mitigation for adverse impacts must be based on best available science and must be in-kind, on-site, and prior to the activities that will disturb the critical area. Mitigation measures that cannot be implemented prior to the critical area impacts must be completed immediately following disturbance and prior to use or occupancy of the action or development. Construction of mitigation projects must be timed to reduce impacts to existing fisheries, wildlife, and flora.
1. The Decision maker may authorize a one-time temporary delay in completing construction or installation of the mitigation when the applicant provides a written explanation from a qualified professional as to the rationale for the delay and satisfactory financial guarantee that the installation will occur. An appropriate rationale would include identification of the environmental conditions that could produce a high probability of failure or significant construction difficulties (e.g. project delay lapses past a fisheries window, or installing plants should be delayed until the dormant season to ensure greater survival of installed materials). The delay must not create or perpetuate hazardous conditions or environmental damage or degradation, and the delay must not be injurious to the health, safety, or general welfare of the public.
 2. **Alternative mitigation approaches.** If the applicant can demonstrate that off-site concurrent or advance mitigation would provide a higher level of ecological functioning or a greater reduction of hazard risk, off-site mitigation that occurs on Fidalgo Island will be considered by the Decision maker.

19.70.130 Mitigation plan requirements

When mitigation is required, the applicant must submit for approval by the City a mitigation plan as part of the critical area report. The mitigation plan must include:

A. Environmental Goals and Objectives. The mitigation plan must identify environmental goals and objectives of the mitigation proposed and including:

1. A description of the anticipated impacts to the critical areas, the mitigating actions proposed, and the purposes of the compensation measures, including the site selection criteria; identification of compensation goals; identification of resource functions; and dates for beginning and completion of site compensation construction activities. The goals and objectives must be related to the functions and values of the impacted critical area; and
2. A review of the best available science supporting the proposed mitigation and a description of the report author's experience to date in restoring or creating the type of critical area proposed.

B. Performance Standards. The mitigation plan must include measurable specific criteria for evaluating whether or not the goals and objectives of the mitigation project have been successfully attained at the end of the required monitoring period and whether or not the requirements of this chapter have been met.

C. Detailed Construction Plans. In order to convey proposed construction techniques and anticipated final outcome, the mitigation plan must include written specifications, descriptions, and drawings of the mitigation propose, including:

1. The proposed construction sequence, timing, and duration;
2. Best management practices including erosion and sediment control features to be implemented;
3. Site plans showing grading and excavation details, slope gradient, and final grade elevations with minimum two-foot contour intervals;
4. Cross-sectional drawings;
5. A planting plan specifying plant species, quantities, locations, size, spacing, and density; and
6. Measures to protect and maintain plants until established.

D. Monitoring Program and Contingency Plan. A monitoring and contingency plan is required for all projects requiring mitigation.

1. The mitigation plan must include a monitoring program to be implemented by the applicant to determine the success of the mitigation project and any necessary

corrective actions. This program must determine if the original goals and objectives of the mitigation plan are being met.

2. A contingency plan must be established for indemnity in the event that the mitigation project is inadequate or fails. Contingency plans include identification of potential courses of action, and any corrective measures to be taken if monitoring or evaluation indicates project performance standards are not being met. Corrective measures must be taken when the qualified professional indicates, in a monitoring report, that the contingency actions are needed to ensure project success by the end of the monitoring period. A performance and maintenance bond, or other acceptable financial guarantee, is required to ensure the applicant's compliance with the terms of the mitigation agreement consistent with AMC 19.70.160, financial guarantee requirements.
3. Monitoring programs prepared to comply with this section must include the following requirements:
 - a. Best available scientific procedures must be used to establish the success or failure of the project. A protocol outlining the schedule for site monitoring (for example, monitoring must occur in years zero (as-built), one, three, and five after site construction), and how the monitoring data will be evaluated to determine if the performance standards are being met.
 - b. For vegetation determinations, permanent sampling points must be established.
 - c. The monitoring program must include measurable specific criteria, or performance standards, for evaluating whether or not the goals and objectives of the mitigation plan have been successfully attained.
 - d. A monitoring report must be submitted as needed to document milestones, successes, problems, and contingency actions of the mitigation project. Monitoring reports on the current status of the mitigation project must be submitted, consistent with Subsection (e) of this section, to the City on the schedule identified in the monitoring plan, but not less than every other year. The reports are to be prepared by a qualified professional and reviewed by the City, or a qualified professional retained by the City, and should include monitoring information on wildlife, vegetation, water quality, water flow, stormwater storage and conveyance, and existing or potential degradation, as applicable.
 - e. Monitoring programs must be established for a period necessary to establish that performance standards have been met, but not for less than a minimum of five years without approval from the Decision maker. A longer monitoring period may be required depending on the mitigation goals.

- f. If necessary, failures in the mitigation project must be corrected.
- g. Dead or undesirable vegetation must be replaced with appropriate plantings.
- h. Damage caused by erosion, settling, or other geomorphological processes must be repaired.
- i. -The mitigation project must be redesigned (if necessary) and the new design must be implemented and monitored, as in subsection (D)(3)(d) of this section.
- j. Correction procedures must be approved by the Decision maker; the decision maker may request review by a qualified professional.
- k. If the mitigation goals are not obtained within the initial monitoring period, the applicant remains responsible for restoration of the impacted values and functions or hazard risk reduction until the mitigation goals agreed to in the mitigation plan are achieved.

E. Monitoring Reports. Monitoring reports must be submitted to the City consistent with the approved monitoring plan.

1. The as-built report, required prior to final inspection, must, at a minimum, include documentation of the following:
 - a. Departures from the original approved plans;
 - b. Construction supervision provided by the qualified professional;
 - c. Approved project goals and performance standards;
 - d. Baseline data for monitoring per the approved monitoring methods;
 - e. Photos from established photo points; and
 - f. A site plan showing final mitigation as constructed or installed, monitoring points, and photo points.
2. Subsequent monitoring reports must, at a minimum, include:
 - a. Monitoring visit observations, documentation, and analysis of monitoring data collected;
 - b. Photos from established photo points;
 - c. Determination whether performance standards are being met; and
 - d. Maintenance and/or contingency action recommendations to ensure success of the project at the end of the monitoring period.
3. The applicant is responsible for reimbursement of the cost of review of monitoring reports and site inspections during the monitoring period which are completed by the City or a qualified professional under contract with or employed by the City.

- F. **Cost Estimates.** The mitigation plan must include cost estimates that will be used by the City to calculate the amounts of financial guarantees, if necessary, to ensure that the mitigation plan is fully implemented. Financial guarantees ensuring fulfillment of the compensation project, monitoring program, and any contingency measures must be posted in accordance with AMC 19.70.160, financial guarantee requirements.
- G. **Approved Mitigation Projects – Signature.** On completion of construction, an as-built report for any approved mitigation project must be prepared and signed off by the applicant's qualified professional and approved by the City. Signature of the qualified professional on the required as-built report and approval by the Decision maker indicates that the construction has been completed as planned.

19.70.135 Title Notice.

- A. **Generally.** A critical area notice on title is required, as a condition of permit issuance or project approval, when a permit or development application is submitted for development on any property containing a critical area or buffer. The purpose is to inform subsequent purchasers of real property of the existence of critical areas.
 - 1. The title notice requirement can be met through recording of a title notice on forms prepared by the City, establishment of a critical area tract, or recording of a native growth protection area easement, consistent with AMC 19.70.145(B) through (D) below, as applicable.
 - 2. The following must be noted on all critical area title notice documents:
 - a. Identification of ownership and long term maintenance responsibility of critical areas, buffers, and permanent field markings (e.g. fencing, signage);
 - b. Restrictions on development, vegetation removal, and application of hazardous substances (pesticides, herbicides, fertilizers) within the critical areas and buffers;
 - c. The right of the City to enforce the terms of the restrictions.
- B. **Title Notice.** The title notice applicable to the property must be approved by the Decision maker and City Attorney for compliance with this provision and be filed by the property owner, at their expense, with the Skagit County Auditor's Office. The title holder will have the right to challenge this notice and to have it extinguished if the critical area designation no longer applies. However, the titleholder is responsible for completing a critical area report, subject to approval by the Decision maker, before the notice on title can be extinguished. The title notice runs with the land.
- C. **Critical Area Tract.** Subdivisions, short subdivisions, and binding site plans must establish a separate critical areas tract as a permanent protective measure for wetlands, fish and wildlife habitat conservation areas, and landslide hazard areas and their buffers. The plat or binding site plan for the project must note the long-term ownership/maintenance responsibility as well as

clearly depict the critical areas tract, including all of the subject critical area, any required buffer, and any additional lands included voluntarily as part of the project. Should the critical area tract include several types of critical areas, separate critical areas tracts must be identified.

D. Native Growth Protection Area (NGPA). NGPA easements are required on a property where no subdivision, short subdivision, or binding site plan is proposed or required. Unless otherwise required in this chapter, NGPA easements must be recorded on title for all affected parcels prior to approval of a development application or building permit, when two or more dwelling units and/or nonresidential development are proposed on one parcel, to delineate and protect critical areas and their buffers. The easement to be recorded must clearly depict the critical area(s), required buffer(s) and the limits of the NGPA easement.

19.70.140 Field marking.

- A. **Temporary field marking during construction.** The outer perimeter of the critical area buffer and the clearing limits identified by an approved permit or authorization must be marked in the field with temporary “clearing limits” fencing in such a way as to ensure that no unauthorized intrusion will occur. The marking is subject to inspection by the Decision maker prior to the commencement of permitted activities. This temporary marking and fencing must be maintained throughout construction and may not be removed until permanent fencing and/or signs, if required, are in place.
- B. **Permanent field marking.** The Decision maker may require installation of permanent signs, markers, and fencing along the outer perimeter of a critical area or its buffer when it is determined necessary to protect the critical areas’ functions and values. Permanent markings must be installed prior to final project approval or occupancy, as determined by the Decision maker.
 1. **Signs.** All critical areas tracts, easements, and dedications, should be clearly marked on the site using permanent markings, as follows:
 - a. Signs must be placed at least every 50 feet, with a minimum of one per lot, which include the following text, or similar, as approved by the Decision maker:

City of Anacortes Designated Critical Area. Activities, including clearing and grading, removal of vegetation, pruning, cutting of trees or shrubs, planting of nonnative species, and other alterations may be prohibited. Help protect and care for this area. Please contact the City of Anacortes with questions or concerns.
 - b. Signs must be made of an enamel-coated metal face and attached to a metal post or another non-treated material of equal durability.
 2. **Fencing.** Permanent fencing should be designed so as not to interfere with species migration or wildlife movement, unless exclusion fencing is more pertinent, and constructed in a manner that minimizes impacts to the critical areas and buffers.

Proposed fencing type and materials will be determined on a case by case basis and must be approved by the Decision maker prior to installation.

- C. **Maintenance and replacement.** It is the responsibility of the landowner, successors, or as otherwise assigned to maintain in perpetuity and replace, if necessary, all permanent fencing and field markings.

19.70.145 Construction plan review, monitoring, and inspection.

- A. The Decision maker may require project building and construction plans be reviewed by a qualified professional for confirmation of consistency with the critical areas report and recommendations prior to approval of construction plans.
- B. The Decision maker may require monitoring by a qualified professional during site alteration activities within, or adjacent to, critical areas or buffers, and/or a final inspection report by the qualified professional stating that construction has or has not implemented the design recommendations provided in the project critical areas report, and evaluation of any deviation from the recommendations.
- C. When the Decision maker determines that such services are necessary to demonstrate compliance with the standards and guidelines of this chapter, they will be at the applicant's expense.

19.70.150 Financial Guarantee Requirements.

When determined necessary by the Decision maker, bonds, and other financial guarantees, and associated performance agreements or maintenance/defect/monitoring agreements are required for projects with required mitigation or restoration of impacts to critical areas or critical area buffers consistent with the following:

- A. A performance agreement and bond, or other acceptable financial guarantees, are required from the applicant when mitigation required pursuant to a development proposal is not completed prior to final permit approval, such as final plat approval or final building inspection. The amount of the performance bond(s) must equal 125 percent of the cost of the mitigation project.
- B. A performance agreement and bond, or other acceptable financial guarantees, are required from the applicant when restoration is required for remediation of a critical area violation. The amount of the performance bond(s) must equal 125 percent of the cost of the mitigation project.
- C. A maintenance/defect/monitoring agreement and bond, or other acceptable financial guarantees, are required to ensure the applicant's compliance with the conditions of the approved mitigation plan pursuant to a development proposal or restoration plan for remediation of a violation. The amount of the maintenance bond(s) must equal 125 percent of the cost of the mitigation project in addition to the cost for monitoring for a minimum of five years. The monitoring portion of the financial guarantee may be reduced in proportion

to work successfully completed over the period of the bond. The bonding period must coincide with the monitoring period.

19.70.165 Unauthorized Critical Area Alterations.

- A. When a critical area or its buffer has been altered in violation of this chapter, all development work must stop and the critical area and buffer must be restored. The Decision maker may issue a stop work order to cease all development, and order restoration measures at the owner's or other responsible party's expense to remediate the impacts of the violation of the provisions of this chapter.

B. Requirement for Restoration Plan.

1. All development must remain stopped until a restoration plan is prepared by the responsible party and an approved after the fact permit is issued by the City. Such a plan must be prepared by a qualified professional using the best available science and must describe how the actions proposed meet the minimum requirements described in subsection C of this section.
2. The Decision maker may, at the responsible party's expense, seek expert advice, including but not limited to third party review by a qualified professional under contract with or employed by the City, in determining if the plan meets the minimum performance standards for restoration. Submittal, review, and approval of required restoration plans for remediation of violations of this chapter must be completed through a site development permit application process.

C. Minimum Performance Standards for Restoration.

1. For alterations to critical aquifer recharge areas, wetlands, and fish and wildlife habitat conservation areas, the following minimum performance standards must be met for the restoration:
 - a. The pre-violation function and values of the affected critical areas and buffers must be restored, including but not limited to hydrologic, water quality and habitat functions;
 - b. The pre-violation soil types and configuration must be replicated;
 - c. The critical area and buffers must be replanted with a native vegetation community that reproduces the structure, species content and condition of the pre-violation vegetation community. Based on the historical or pre-violation vegetation community, native plant species must be replaced at minimum of a 5:1 ratio or installed at a density of 5 foot-on-center unless approved by the Decision maker. The pre-violation functions and values should be replicated at the location of the alteration; and

- d. Information demonstrating compliance with the requirements in AMC 19.70.140, Mitigation plan requirements, and the applicable mitigation sections for the affected type(s) of critical area(s) and their buffer(s) must be submitted to the Decision maker with a complete site development permit application.
 - e. These standards may be modified by the Decision maker when it can be demonstrated that greater functional and habitat values can be obtained.
2. For alterations to special flood hazard and geologically hazardous areas, the following minimum performance standards must be met for the restoration of a critical area:
- a. The hazard must be reduced to a level equal to, or less than, the pre-violation hazard;
 - b. Any risk of personal injury resulting from the alteration must be eliminated or minimized; and
 - c. The hazard area and buffers must be replanted with native vegetation sufficient to minimize the hazard.
 - d. These standards may be modified by the Decision maker if the violator can demonstrate that greater safety can be obtained.

D. Site Investigation. The Decision maker is authorized to take such actions as are necessary to enforce this chapter. The Decision maker (or Decision maker's authorized representative) must present proper credentials and obtain permission before entering onto private property.

E. Penalties. Any responsible party violating the provisions of this chapter may be subject to applicable penalties per AMC Title 20 Civil Enforcement and Penalties plus the following:

- 3. A square footage cost of \$3.00 per square foot of impacted critical area buffer; and a square footage cost of \$15.00 per square foot of impacted critical area; and
- 4. A per tree penalty in the amount of \$3,000 per non-significant tree and \$9,000 per Significant Tree, for trees removed, or otherwise damaged, within a critical area or buffer in violation of the provisions of this chapter.

19.70.170 Final Decision and Appeals.

- A. **Completion of the critical area review.** The city's determination regarding critical areas pursuant to this chapter is final concurrent with the final decision to approve, condition, or deny the underlying permit for the development proposal or other activity involved.

- B. **Appeals.** Any decision to approve, condition, or deny a development activity proposal or other activity based on the requirements of this chapter may be appealed according to, and as part of, the appeal procedure for the underlying permit or approval involved.

WETLANDS

19.70.210 Wetlands – Description and Purpose.

It is the purpose of this Chapter to protect the functions and values of wetlands, which serve many important ecological and environmental functions and help to protect public health, safety, and welfare by providing flood storage and conveyance, and erosion control, while also providing fish and wildlife habitat, recreation, water quality protection, water storage, education, scientific research opportunities and other public benefits.

19.70.215 Wetlands - Designation and Rating.

A. Designation. All areas meeting the definition of a wetland and the wetland identification criteria pursuant to this chapter, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this chapter.

B. Rating. Wetlands must be rated by a qualified professional according to the Washington State Department of Ecology Wetland Rating System for Western Washington - 2014 Update (Ecology Publication #14-06-029, October 2014), or as revised. Wetland rating categories will be applied as the wetland exists on the date of adoption of the rating system by the City, as the wetland naturally changes in accordance with permitted activities.

1. **Category I.** Category I wetlands are those that represent unique or rare wetland types, are more sensitive to disturbance than most wetlands, are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime, or provide a high level of functions. The following types of wetlands are Category I:
 - a. Relatively undisturbed estuarine wetlands larger than one acre;
 - b. Wetlands of high conservation value identified by scientists of the Washington Natural Heritage Program/Department of Natural Resources (DNR);
 - c. Bogs;
 - d. Mature forested wetlands larger than one acre;
 - e. Wetlands in coastal lagoons; and
 - f. Wetlands that perform many functions well and have a total score of 23 points or more in the wetland rating.
2. **Category II.** Category II wetlands are those wetlands that are difficult, though not impossible, to replace, and provide high levels of some functions. The following types of wetlands are Category II:
 - a. Estuarine wetlands smaller than 1 acre or disturbed estuarine wetlands larger than 1 acre;

- b. Wetlands with a moderately high level of functions and a total score of 20 to 22 points in the wetland rating.
 - c. Wetlands in coastal lagoons that are relatively undisturbed and equal to or smaller than 1/10 ac (4350 square feet).
3. **Category III.** Category III wetlands are those with a moderate level of functions, generally have been disturbed in some ways, can often be adequately replaced with a well-planned mitigation project, and are often less diverse or more isolated from other natural resources in the landscape than Category II wetlands. The following types of wetlands are Category III:
- a. Wetlands with a moderate level of functions with a total score of 16 to 19 points in the wetland rating.
4. **Category IV.** Category IV wetlands have the lowest levels of functions and are often heavily disturbed, with a total score of 15 points or less in the wetland rating. The functions provided by Category IV wetlands are generally easier to replace, and in some cases can be improved. However, experience has shown that replacement of functions cannot be guaranteed in any specific case. These wetlands may provide some important functions that need protected.
- B. **Illegal Modifications.** When a violation occurs wetland rating categories do not change due to illegal modifications or alterations. A wetland's category must be based on the pre-violation condition of the wetland.

19.70.220 Wetlands – Mapping and delineation.

- A. **Mapping.** The approximate location and extent of potential wetlands are shown in the wetland data layer maintained in the City of Anacortes geographic information system (GIS). In addition, the following maps and inventories, that depict areas of hydric soils and potential wetland areas, are hereby adopted by reference as amended:
- 1. Soils maps produced by the U.S. Department of Agriculture, National Resources Conservation Service; and
 - 2. The National Wetlands Inventory, produced by the U.S. Fish and Wildlife Service.
- B. **Reference Only.** The maps and resources cited above are to be used as a guide for the Department, project applicants, and/or property owners and may be continuously updated as new critical areas are identified. They are a reference and do not provide a final critical area designation.
- C. **Identification and Delineation.** Identification of wetlands and delineation of their boundaries pursuant to this chapter must be done in accordance with the adopted Federal wetland delineation manual and applicable regional supplements per WAC [173-22-035](#). The exact location of a wetland's boundary must be determined through the performance of a field investigation by a qualified professional. Evidence documenting the results of the

boundary survey, including evidence of a lack of wetland indicators if no wetlands are identified, must be submitted to the City.

19.70.225 Wetlands – General Development Standards.

- A. All development activities and uses are prohibited in wetlands and wetland buffers, except as provided for in this chapter, and only when it is demonstrated that the activity will not result in a loss of the functions and values of the wetland through the application of mitigation sequencing in AMC 19.70.135.
- B. **Exemptions.** Exemptions to this chapter are listed in the provisions established in AMC 19.70.035 Exemption activities.
- C. **Subdivisions.** The subdivision and/or short subdivision of land in wetlands and associated buffers are subject to the following:
 - 1. Land that is located wholly within a wetland and/or its buffer may not be subdivided; and
 - 2. Land that is located partially within a wetland and/or its buffer may be subdivided; provided they meet the minimum lot size calculations as required in AMC 19.40.

19.70.230 Wetlands – Specific Wetland Category Development Standards.

- A. **Category I Wetlands.** Development activities and uses that result in alteration of Category I wetlands and their associated buffers are prohibited, unless the denial will prevent all reasonable economic use of the property. The development may be permitted through a Critical Area Variance if it is determined to be the minimum impact possible and a Reasonable Use as prescribed in AMC 19.70.045.
- B. **Category II, III and IV Wetlands.** Development activities that result in alteration of Category II, III or IV wetlands may be permitted upon demonstration, through a critical areas report meeting the requirements of this Chapter, that:
 - 1. Mitigation sequencing has been applied per AMC 19.70.135;
 - 2. The proposed alteration will not degrade the quantitative and qualitative functioning of the wetland, or that any degradation can be adequately mitigated to protect or compensate for the wetland functions that are lost;
 - 3. Small, Hydrologically Isolated Category III and IV Wetlands (less than 1,000 sq. ft.). The Decision maker may allow small, hydrologically isolated Category III and IV wetlands to be exempt from the requirement to avoid impacts (AMC 19.70.135(A)(1) Mitigation requirements) and allow alteration of such wetlands if all of the following conditions are met:

Commented [CT8]: Change to:

3. Small, Hydrologically Isolated Category IV Wetlands (less than 1,000 sq. ft.). The Decision maker may allow small, hydrologically isolated Category IV wetlands to be exempt from the requirement to avoid impacts (AMC 19.70.135(A)(1) Mitigation requirements) and allow alteration of such wetlands if all of the following conditions are met:

- a. The remaining mitigation sequencing actions of AMC 19.70.135(A) (2)-(6) are followed;
 - b. The wetland is less than 1,000 square feet in area;
 - c. The wetland does not have unique characteristics that would be difficult to replace through standard compensatory mitigation practices.
 - d. The wetland is a low quality Category III or IV wetland with a habitat score of less than 5 points in the adopted rating system;
 - e. The wetland does not provide significant suitable breeding habitat for native amphibian species. Suitable breeding habitat may be indicated by adequate stable and seasonal inundation that is persistent from February to at least through April and presence of thin-stemmed emergent vegetation and/or clean water;
 - f. The wetland does not contain habitat identified as essential for local populations of priority species identified by the Washington Department of Fish and Wildlife or species of local importance which are regulated as fish and wildlife habitat conservation areas in Chapter 19.70.300 (FWHCA section);
 - g. The wetland is not associated with shorelines of the state or their associated buffers;
 - h. The wetland is not associated with riparian areas or buffers;
 - i. The wetland is not part of a wetland mosaic; and
 - j. A mitigation plan to replace lost wetland functions and values is developed, approved, and implemented consistent with AMC 19.70.140.
 - k. In order to verify that the wetland meets these exemption conditions, a critical area report for wetlands meeting the requirements in this chapter must be submitted.
4. Small, Hydrologically Isolated Category III and Category IV Wetlands (less than 1,000 sq. ft.). Wetlands less than 1,000 square feet that meet the criteria in subsection (B)(3) of this section (above) and that do not contain federally listed species or their critical habitat are exempt from the buffer provisions contained in this Chapter. In order to verify that the wetland meets this exemption, a critical area report for wetlands meeting the requirements in this chapter must be submitted.

19.70.235 Wetlands – Required buffer areas.

A. **Buffer Requirements.** Wetland buffers must be established to protect the integrity, functions and values of the wetland. The standard buffer widths in Tables 19.70.250 (A) (B) and (C) have been established in accordance with the best available science. The buffer widths must be determined based on the category of wetland, surrounding land use intensity, and the habitat score as assigned by a qualified wetland professional using the most up to date version of the Washington State Wetland Rating System for Western Washington.

1. **Measurement of Wetland Buffers.** All buffers must be measured horizontally from edge of the wetland boundary as surveyed in the field. The width of the wetland buffer must be determined according to Tables 16.55.340(B), (C) and (D).
2. **Buffer Standards.** The buffer standards required by this chapter presume the existence of a dense vegetation community in the buffer adequate to protect the wetland functions and values. When a buffer lacks adequate vegetation, the decision maker may increase the standard buffer, require buffer planting or other enhancements, and/or deny a proposal for buffer reduction or buffer averaging.

B. For the purposes of buffer determination below, Land Use Intensity rating is as follows:

Table 19.70.235 (A)

High Land Use Intensity	Land use that includes the following uses or activities: commercial, industrial, institutional, retail sales, nonresidential use in zones where the primary intent is residential, high density residential zones (R4, R4A, OT), high-intensity recreation (such as golf courses, ball fields,), hobby farms.
Moderate Land Use Intensity	Land use that includes the following uses or activities: medium density residential (R2, R2A, R3, R3A), moderate-intensity open space (parks, trails, and logging roads).
Low Land Use Intensity	Land use that includes the following uses or activities: low density residential (R1), forestry (cutting of trees only), low-intensity open space (such as passive recreation and natural resources preservation), unpaved trails.

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Land use that includes the following uses or activities: commercial, industrial, institutional, retail sales, nonresidential use in zones where the primary intent is residential, high density all residential zones (R4, R4A, R3, R3A, R2, R2A, R1, OT), high-intensity recreation (such as golf courses, ball fields,), hobby farms.

Commented [CT10]: Change to:

Land use that includes the following uses or activities: moderate-intensity open space (parks, trails, and logging roads).

Commented [CT11]: Change to:

Land use that includes the following uses or activities: forestry (cutting of trees only), low-intensity open space (such as passive recreation and natural resources preservation), unpaved trails.

C. There are three sets of buffer standards, based on these parameters:

1. Buffer Widths for wetlands that have a high level of function for wildlife habitat as indicated by a habitat function score of 8 or 9 points on the wetland rating form:

Table 19.70.235 (B).

Wetland Category	Buffer Width (feet)		
	High Intensity	Moderate Intensity	Low Intensity
Category I	200 300	100 225	150
Category II	200 300	150 225	100
Category III	150	110	75
Category IV	50	40	25

Commented [CT12]: The following changes to the table:

2. Buffer Widths for wetlands that have a moderate level of function for wildlife habitat as indicated by a habitat function score of 6 or 7 points on the wetland rating form:

Table 19.70.235 (C).

Wetland Category	Buffer Width (feet)		
	High Intensity	Moderate Intensity	Low Intensity
Category I	150	110	75
Category II	150	110	75
Category III	150	100 110	60 75
Category IV	50	40	25

Commented [CT13]: Add the following section:

Reducing Buffer Widths.

1. For wetlands that score 6 points or more for habitat function, buffer widths for high intensity may be reduced to moderate intensity if both of the following criteria are met:

a. A relatively undisturbed, vegetated corridor at least 100 feet wide is protected between the wetland and any other relatively undisturbed area, as defined in the 2014 wetland rating system, or any other Priority Habitat as defined by the Washington State Department of Fish and Wildlife. The latest definitions of Priority Habitats and their locations are available on the WDFW web site at: <http://wdfw.wa.gov/hab/phshabs.htm>). The corridor must be protected for the entire distance between the wetland and the relatively undisturbed area or Priority Habitat by some type of legal protection such as a conservation easement. Presence or absence of a nearby habitat must be confirmed by a qualified biologist.

b. The measures in Table XX are implemented, where applicable, to minimize the impacts of the adjacent land uses.

2. For wetlands that score 3-5 habitat points, only the measures in Table 17.70.250(E) are required for the use of moderate intensity buffer widths.

3. If an applicant chooses **not** to apply the mitigation measures in Table 17.70.250(E), or is unable to provide a protected corridor where available, then high intensity buffer widths must be used.

Add Table : 19.70.250 (E)

3. Buffer Widths for wetlands that have a low level of function for wildlife habitat as indicated by a habitat function score of 3 to 5 points on the wetland rating form:

Table 19.70.235 (D).

Wetland Category	Buffer Width (feet)		
	High Intensity	Moderate Intensity	Low Intensity
Category I	100	75	50
Category II	100	75	50
Category III	80	60	50 40
Category IV	50	40	25

D. Reducing Buffer Widths.

Table 19.70.235 (E)

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 outer 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 Intensity Development techniques (for more information refer to the stormwater manual)
Change in water regime (increase or decrease in the frequency, duration, timing, extent, depth or variability of water in a wetland)	• Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns
Pets and human disturbance	• 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	• Use best management practices to control dust

- A. Increasing buffer widths.** Buffer widths may be increased, on a case-by-case basis, as determined by the Decision maker. This determination must be supported by appropriate documentation showing that it is necessary to protect wetland functions and values. Documentation must include, but is not limited to, any of the following:

1. The wetland is used by a plant or animal species listed by the Federal government or the State as endangered, threatened, candidate, sensitive, monitored, or documented priority species or habitats, or the wetland is essential or outstanding habitat for those species or has unusual nesting or resting sites such as heron rookeries or raptor nesting trees; or
 2. The adjacent land has slopes greater than 15 percent and is susceptible to severe erosion, and erosion-control measures will not effectively prevent adverse wetland impacts; or
 3. The adjacent land has minimal vegetative cover on slopes greater than 30%. In lieu of increasing the buffer width where existing buffer vegetation is inadequate to protect the wetland functions and values, development and implementation of a wetland buffer restoration/enhancement plan in accordance with AMC 19.70.270 may be substituted.
 - a. **Averaging buffer widths.** The Decision maker may allow averaging of wetland buffer widths on a case-by-case basis when the critical areas report demonstrates that the following criteria are met:
 - i. There is not a feasible alternative to the site design that could be accomplished without buffer averaging;
 - ii. The buffer averaging does not reduce the functions or values of the wetland, either through preservation of total buffer area or enhancement of buffer areas;
 - iii. The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer.
 - iv. The wetland contains variation in sensitivity due to existing physical characteristics or the character of the buffer varies in slope, soils, or vegetation, and the wetland would benefit from a wider buffer in places and would not be adversely impacted by a narrow buffer in other places;
 - v. The buffer width at its narrowest point is not reduced to less than 75 percent of the standard width, for Category I and II. No less than 50 percent or 35 feet for Category III, and 15 feet for Category IV, whichever is greater.
- B. **Measurement of Wetland Buffers.** All buffers must be measured perpendicular from the wetland boundary as surveyed in the field. The buffer for a wetland created, restored, or enhanced as a compensation for approved wetland alterations must be the same as the buffer required for the category of the created, restored, or enhanced wetland.
- C. **Buffers on mitigation sites.** Buffer widths must be applied to mitigation sites consistent with the wetland ratings and buffer requirements of this chapter for subsequent development proposals based on expected category of the wetland once the mitigation actions are taken. Only fully vegetated buffers with predominantly native plants will be included in the new buffer

area. Lawns, walkways, driveways, and other mowed or paved areas will not count towards the required buffer calculations.

- D. **Buffer Maintenance.** Except as otherwise specified or allowed in accordance with this Chapter, wetland buffers must be retained in an undisturbed or enhanced condition. In the case of compensatory mitigation sites, removal of invasive nonnative weeds is required for the duration of the mitigation bond.
- E. **Buffer impacts.** When buffer impacts occur, compensatory mitigation must be provided at a minimum ratio of 1:1 for the area impacted. The mitigation must occur on the same site when feasible or within the same wetland system preferably. The mitigation must ensure that the wetland functions and values are not diminished due to the buffer impacts.
- F. **Stormwater management facilities.** Stormwater management facilities may be allowed in Category III and IV wetland buffers if they meet all of the criteria identified below:
 - 1. The wetland is classified as a Category III or a Category IV wetland with a habitat score of 3-5 points or less, and
 - 2. There will be “no net loss” of functions and values of the wetlands, and
 - 3. The wetland does not contain a breeding population of any native amphibian species, and
 - 4. The hydrologic functions of the wetland can be improved as outlined in questions 3, 4, 5 of Chart 4 and questions 2, 3, 4 of Chart 5 in the “Guide for Selecting Mitigation Sites Using a Watershed Approach,” (available here: <http://www.ecy.wa.gov/biblio/0906032.html>); or the wetland is part of a priority restoration plan that achieves restoration goals identified in a Shoreline Master Program or other local or regional watershed plan;
 - 5. The wetland lies in the natural routing of the runoff, and the discharge follows the natural routing, and
 - 6. All regulations regarding stormwater and wetland management are followed, including but not limited to local and state wetland and stormwater codes, manuals, and permits, and
 - 7. Modifications will require permits. Existing functions and values that are lost would have to be compensated/replaced through an approved mitigation plan.
- G. **Setbacks from buffers.** Buildings, structures, paving, and other hard surfacing must be set back a minimum distance of 10 feet from the edge of the wetland buffer, or edge of the wetland if no buffer is required, unless otherwise determined by the Decision maker that a smaller distance would meet the intent of this subsection. This setback is to avoid conflicts with tree branches and/or critical root zones of trees that are in the buffer or will be planted in the buffer. The following may be allowed in the building setback from the buffer if they do not cause damage to the critical root zone of trees in the buffer:
 - 1. Landscaping;

2. Uncovered decks, roof eaves and overhangs, unroofed stairways and steps;
3. Pervious ground surfaces, such as driveways, patios, and parking may be allowed; provided that it is engineered as a pervious system as defined in AMC _____. Such improvements may be subject to the requirements in AMC _____, Stormwater Management.

H. **Functionally Separated and Isolated Buffers.** Consistent with the definition of “buffer” AMC 19.12.020, areas that are functionally isolated and physically separated from a wetland due to existing, legally established roadways, railroads or other legally established structures or paved areas eight feet or more in width that occur between the area in question and the wetland must be considered physically isolated and functionally separated buffer. Once determined by the Decision maker, based on a submitted critical area report, to be a physically separated and functionally isolated wetland buffer, development proposals are allowed in these areas.

19.70.240 Wetlands - Critical areas report additional requirements

A. **Additional Report Contents for Wetlands.** In addition to the minimum report contents required per AMC 19.70.125 wetland reports must also include;

1. For each wetland identified on site and off site within 300 feet of the project site provide: the wetland rating, including a description of and score for each function, per wetland ratings (AMC 19.70.210) required buffers (AMC 19.70.250); hydrogeomorphic classification; wetland acreage based on a professional survey from the field delineation (acreages for on-site portion and entire wetland area including off-site portions); Cowardin classification of vegetation communities; habitat elements; soil conditions based on site assessment and/or soil survey information; and to the extent possible, hydrologic information such as location and condition of inlet/outlets (if they can be legally accessed), estimated water depths within the wetland, and estimated hydroperiod patterns based on visual cues (e.g., algal mats, drift lines, flood debris, etc.). Provide acreage estimates, classifications, and ratings based on entire wetland complexes, not only the portion present on the proposed project site;
2. A discussion of the potential impacts to the wetland(s) associated with anticipated hydroperiod alterations from the project;
3. A description of the proposed actions, including an estimation of acreages of impacts to wetlands and buffers based on the field delineation and survey and an analysis of site development alternatives, including a no-development alternative;
4. An assessment of the probable cumulative impacts to the wetlands and buffers resulting from the proposed development;
5. A description of reasonable efforts made to apply mitigation sequencing pursuant to AMC 19.70.130 to avoid, minimize, and mitigate impacts to critical areas and a discussion of measures, including avoidance, minimization, and compensation,

proposed to preserve existing wetlands and restore any wetlands that were degraded prior to the current proposed land-use activity;

6. A conservation strategy for habitat and native vegetation that addresses methods to protect and enhance on-site habitat and wetland functions; and
7. An evaluation of the functions of the wetland and adjacent buffer. Include reference for the method used and data sheets.

B. Additional Information. When appropriate due to the proposed impacts or the project area conditions, the Decision maker may also require the critical area report to include:

1. A request for consultation with the Washington State Department of Fish and Wildlife (DFW), Washington State Department of Ecology (Ecology), local Native American Indian tribes, and/or other appropriate agency;
2. Copies of the Joint Aquatic Resource Permit Application (JARPA) and related approvals, such as a Hydraulic Project Approval (HPA) from the Washington Department of Fish and Wildlife (WDFW), when applicable to the project; and
3. Detailed surface and subsurface hydrologic features both on and adjacent to the site.

19.70.245 Wetlands – Compensatory mitigation performance standards and requirements.

A. Compensatory Mitigation Plan. When a project involves wetland and/or buffer impacts, a compensatory mitigation plan must be included as part of the required critical area report. Compensatory wetland mitigation plans must meet the minimum requirements AMC 19.70.140 and demonstrate compliance with ACM 19.70.135. Full guidance can be found in Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans (Version 1) (Ecology Publication No. 06-06-011b, March 2006, or as revised). The mitigation plan must meet the following additional standards:

1. Description of the existing wetland and buffer areas proposed to be impacted. Include acreage (or square footage), water regime, vegetation, soils, landscape position, surrounding land uses, and functions. Also describe impacts in terms of acreage by Cowardin classification, hydrogeomorphic classification, and wetland rating, based on wetland ratings (AMC 19.70.210(B));
2. Description of the compensatory mitigation site, including location and rationale for selection. Include an assessment of existing conditions: acreage (or square footage) of wetlands and uplands, water regime, sources of water, vegetation, soils, landscape position, surrounding land uses, and functions. Estimate future conditions in this location if the compensation actions are not undertaken (i.e., how would this site progress through natural succession);
3. A description of the proposed actions for compensation of wetland and upland areas affected by the project. Include overall goals of the proposed mitigation,

including a description of the targeted functions, hydrogeomorphic classification, categories of wetlands, and mitigation ratios applied (if ratio approach used);

4. A description of the proposed mitigation construction activities, construction/installation notes, and timing of activities;
5. A discussion of ongoing management practices that will protect wetlands after the project site has been developed, including proposed monitoring and maintenance programs (for remaining wetlands and compensatory mitigation wetlands);
6. Proof of establishment of notice on title for the wetlands and buffers on the project site, including the compensatory mitigation areas; and
7. The scaled plan sheets for the compensatory mitigation must contain, at a minimum
 - a. An accurate depiction of the existing wetland and buffers, proposed areas of wetland and/or buffer impacts, location of proposed wetland and/or buffer compensation actions;
 - b. Existing topography, ground-proofed, at two-foot contour intervals in the zone of the proposed compensation actions if any grading activity is proposed to create the compensation area(s). Also existing cross-sections of on-site wetland areas that are proposed to be impacted and cross-section(s) (estimated one-foot intervals) for the proposed areas of wetland or buffer compensation;
 - c. Surface and subsurface hydrologic conditions, including an analysis of existing and proposed hydrologic regimes for enhanced, created, or restored compensatory mitigation areas. Also, illustrations of how data for existing hydrologic conditions were used to determine the estimates of future hydrologic conditions;
 - d. Conditions expected from the proposed actions on site, including future hydrogeomorphic types, vegetation community types by dominant species (wetland and upland), and future water regimes;
 - e. Required wetland buffers for existing wetlands and proposed compensation areas. Also, identify any zones where buffers are proposed to be reduced or enlarged outside of the standards identified in this chapter;
 - f. A plant schedule for the compensation area, including all species by proposed community type and water regime, size and type of plant material to be installed, spacing of plants, typical clustering patterns, typical plant installation details and notes, total number of each species by community type, timing of installation; and

- g. Performance standards (measurable standards reflective of years post-installation) for upland and wetland communities, monitoring plan, contingency plan, and maintenance schedule, and actions. Standards for success must be established based on the performance standards identified and the functions and values being mitigated based on the guidance in Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans (Version 1) (Ecology Publication No. 06-06-011b, March 2006, or as revised).

B. Requirements for Compensatory Mitigation.

1. Compensatory mitigation for alterations to wetlands may be used only for impacts that cannot be avoided or minimized, except as otherwise exempted in this chapter AMC 19.70.240, and must achieve equivalent or greater biologic functions. Compensatory mitigation plans must be consistent with Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans (Version 1), (Ecology Publication No. 06-06-011b, March 2006, or as revised).
2. Mitigation ratios must be consistent with subsection I of this section.
3. Mitigation requirements may also be determined using the credit/debit tool described in “Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Western Washington: Final Report March 2012” (Ecology Publication No. 10-06-011, March 2012, or as revised) consistent with subsection H of this section.

C. Compensating for Lost or Impacted Wetland Functions. Compensatory mitigation must address the functions and values affected by the proposed project, with an intention to achieve functional equivalency or improvement of functions and values. The goal for the compensatory mitigation must be to provide similar wetland functions and values as those lost, except when either:

1. The lost wetland provides minimal functions and values, and the proposed compensatory mitigation action(s) will provide equal or greater functions and values or will provide functions and values shown to be limiting within a watershed through a formal Washington State watershed assessment plan or protocol; or
2. Out-of-kind replacement of wetland type or functions and values will best meet watershed goals formally identified by the City, such as replacement of historically diminished wetland types.

D. Preference of Mitigation Actions. Methods to achieve compensation for wetland functions and values must be approached in the following order of preference:

1. **Restoration.** The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former or degraded wetland. Restoration of wetlands includes re-establishment and rehabilitation.

- a. **Re-establishment.** Returning natural or historic functions to a former wetland. Re-establishment results in a gain in wetland acres (and functions). Activities could include removing fill material, plugging ditches, or breaking drain tiles.
 - b. **Rehabilitation.** Repairing natural or historic functions of a degraded wetland. Rehabilitation results in a gain in wetland function but does not result in a gain in wetland acres. Activities could involve breaching a dike to reconnect wetlands to a floodplain or return tidal influence to a wetland.
- 2. **Creation.** Creation (establishment) of wetlands on disturbed upland sites, such as those with vegetative cover consisting primarily of nonnative species. This should be attempted only when there is an adequate source of water and it can be shown that the surface and subsurface hydrologic regime is conducive to the wetland community that is anticipated in the design.
- 3. **Enhancement.** Enhancement of significantly degraded wetlands in combination with restoration or creation. Enhancement alone will result in a loss of wetland acreage and is less effective at replacing the functions and values lost. Enhancement should be part of a mitigation package that includes replacing the impacted area and meeting appropriate ratio requirements.
- 4. **Preservation.** Preservation of high-quality, at-risk wetlands as compensation is generally acceptable when done in combination with restoration, creation, or enhancement; provided, that a minimum of 1:1 acreage replacement is provided by reestablishment or creation. Preservation of high-quality, at-risk wetlands and habitat may be considered as the sole means of compensation for wetland impacts when the following criteria are met:
 - a. Proposed wetland impacts will not have a significant adverse impact on habitat for listed fish, or other ESA-listed species;
 - b. There is no net loss of habitat functions within the watershed or basin;
 - c. Mitigation ratios for preservation as the sole means of mitigation must generally start at 20:1. Specific ratios should depend upon the significance of the preservation project and the quality of the wetland resources lost;
 - d. The impact area is small (generally less than one-half acre) and/or impacts are occurring to a low-functioning system (Category III or IV wetland); and
 - e. All preservation sites must include buffer areas adequate to protect the habitat and its functions from encroachment and degradation.
- 5. **Wetland Bank or Advanced Wetland Mitigation.** For future use since no current banks have a service area in Anacortes.

E. Type and Location of Compensatory Mitigation. Unless it is demonstrated that a higher level of ecological functioning would result from an alternative mitigation approach, compensatory mitigation for ecological functions should be either in kind and on site, or in kind and within the same stream reach, sub-basin, or drift cell (if estuarine wetlands are impacted). Compensatory mitigation actions must be conducted within the same sub-basin or on the site of the alteration, except when the following apply:

1. The conditions in AMC 19.70.270(B) are met.
2. There are no reasonable opportunities on site or within the sub-basin (e.g., on-site options would require elimination of high-functioning upland habitat), or opportunities on site or within the sub-basin do not have a high likelihood of success based on a determination of the capacity of the site to compensate for the impacts. Considerations should include:
 - a. Anticipated replacement ratios for wetland mitigation;
 - b. Buffer conditions and proposed widths;
 - c. Available water to maintain anticipated hydrogeomorphic classes of wetlands when restored; and
 - d. Proposed flood storage capacity, and potential to mitigate riparian fish and wildlife impacts (such as connectivity);
 - e. Off-site mitigation has a greater likelihood of providing equal or improved wetland functions than the impacted wetland;
 - f. Off-site locations must be in the same sub-basin, unless watershed goals for water quality, flood storage or conveyance, habitat, or other wetland functions have been established by the City and strongly justify location of mitigation at another site; and
 - g. The design for the compensatory mitigation project needs to be appropriate for its location (i.e., position in the landscape). Therefore, compensatory mitigation should not result in the creation, restoration, or enhancement of an atypical wetland. An atypical wetland refers to a compensation wetland (e.g., created or enhanced) that does not match the type of existing wetland that would be found in the geomorphic setting of the site (i.e., the water source(s) and hydroperiod proposed for the mitigation site are not typical for the geomorphic setting). Likewise, it should not provide exaggerated morphology or require a berm or other engineered structures to hold back water. For example, excavating a permanently inundated pond in an existing, seasonally saturated or inundated wetland is one example of an enhancement project that could result in an atypical wetland. Another example would be excavating depressions in an existing wetland on a slope, which would require the construction of berms to hold the water.

F. Wetland Mitigation Banks. Credits from a wetland mitigation bank certified under [WAC 173-700](#) may be used to compensate for impacts located within the service area specified in the mitigation bank instrument, if:

1. The proposal would provide appropriate compensation for the proposed impacts; and
 2. The impact site is located in the service area of the bank.
 3. The proposed use of credits is consistent with the terms and conditions of the certified mitigation bank instrument.
 4. Replacement ratios using bank credits are consistent with replacement ratios specified in the certified mitigation bank instrument.
- G. **In-Lieu Fee Mitigation.** Credits from an approved in-lieu fee (ILF) program may be used when all of the following apply:
1. The Decision maker determines that it would provide environmentally appropriate compensation for the proposed impacts.
 2. The proposed use of credits is consistent with the terms and conditions of the approved ILF program instrument.
 3. Projects using ILF credits must have debits associated with the proposed impacts calculated by the applicant's qualified wetland professional using the credit assessment method specified in the approved instrument for the ILF program.
 4. The impacts are located within the service area specified in the approved ILF instrument.
- H. **Permittee-responsible mitigation.** This type of mitigation is defined in 33 CFR 332 as "an aquatic resource restoration, establishment, enhancement and/or preservation activity undertaken by the permittee (or an authorized agent or contractor) to provide compensatory mitigation for which the permittee retains full responsibility." The permittee performs the mitigation either before the project impact occurs and before any project impact permit is issued (Advance Permittee-Responsible Mitigation) or at the same time as the project impact is occurring after the project impact permit is issued (Concurrent Permittee-Responsible Mitigation). The permittee is ultimately responsible for implementation and success of the mitigation. For advance mitigation, the permittee generates mitigation credits that may be used to compensate for future wetland or buffer impacts. Only the permittee may use the advance mitigation credits. Permittee-responsible mitigation may occur at the site of the permitted impacts or at an off-site location within the same watershed. Permittee-responsible mitigation must be used only if the applicant's qualified wetland professional demonstrates to the approval authority's satisfaction that the proposed approach is ecologically preferable to use of a bank or ILF program, consistent with the criteria in this section.
- I. **Alternative Mitigation Plan.** The Decision maker may approve an alternative wetland mitigation plan that is based on best available science. Proposed alternative mitigation plans must provide an equivalent or better level of protection of wetland functions and values than would be provided by the strict application of this chapter.
1. The following will be considered in the approval of an alternative mitigation plan:

- a. The plan uses a watershed approach consistent with [Selecting Wetland Mitigation Sites Using a Watershed Approach \(Western Washington\)](#) (Ecology Publication #09-06-032, Olympia, WA, December 2009).
 - b. Creation or enhancement of a larger system of natural areas and open space is preferable to the preservation of many individual small habitat areas.
 - c. Mitigation according to Section D is not feasible due to site constraints including but not limited to parcel size, stream type, wetland category, or geologically hazardous areas.
 - d. There is a clear potential for success of the proposed compensation at the identified site.
 - e. The Plan must contain clear and measurable standard for achieving compliance with the specific provisions of the plan, consistent with AMC 19.70.135.
 - f. The plan must be reviewed and approved as part of the overall approval of the proposed use.
 - g. A wetland of a different type may be justified based on regional needs or functions and values; the replacement ratios may not be reduced or eliminated unless the reduction results in a preferred environmental alternative.
 - h. Mitigation guarantees must meet the minimum requirements as outlined in AMC 19.70.160.
 - i. Qualified professionals in each of the critical areas addressed must prepare the plan.
 - j. The City may consult with agencies with expertise and jurisdiction over the critical areas during the review to assist with analysis and identification of appropriate performance measures that adequately safeguard critical areas.
- J. **Wetland Mitigation Ratios.** The ratios below are based on the assumption that the rehabilitation or enhancement actions implemented represent the average degree of improvement possible for the site. Proposals to implement more effective rehabilitation or enhancement actions may result in a lower ratio, while less effective actions may result in a higher ratio. The distinction between rehabilitation and enhancement is not clear-cut. Instead, rehabilitation and enhancement actions span a continuum. Proposals that fall within the gray area between rehabilitation and enhancement will result in a ratio that lies between the ratios for rehabilitation and the ratios for enhancement.

Table 19.70.245 – Wetland Mitigation Ratios

Category and Type of Wetland	Creation or Reestablishment	Rehabilitation Only	Re-Est or Creation (R/C) and Re-hab (RH)	Re-Est or Creation (R/C) and Enhancement (E)	Enhancement Only
Category I Mature Forested	6:1	12:1	1:1 R/C & 10:1 RH	1:1 R/C & 20:1 E	24:1
Category I – based on score for functions	4:1	8:1	1:1 R/C & 6:1 RH	1:1 R/C & 12:1 E	16:1
Category I Natural Heritage Site	Not allowed	6:1 Rehabilitation of a Natural Heritage Site	Not allowed	Not allowed	Case-by-case
Category I Bog	Not allowed	6:1 Rehabilitation of a bog	Not allowed	Not allowed	Case-by-case
Category I Estuarine	Case-by-case	6:1 Rehabilitation of an estuarine wetland	Case-by-case	Case-by-case	Case-by-case
Category II	3:1	6:1	1:1 R/C & 4:1 RH	1:1 R/C & 8:1 E	12:1
Category III	2:1	4:1	1:1 R/C & 2:1 RH	1:1 R/C & 4:1 E	8:1
Category IV	1.5:1	3:1	1:1 R/C & 1:1 RH	1:1 R/C & 2:1 E	6:1

- K. **Buffer Mitigation Ratios.** Impacts to buffers must be mitigated at a 1:1 ratio. Compensatory buffer mitigation must replace those buffer functions lost from development.
- L. **Mitigation Performance Standards.** Wetland mitigation plans must be consistent with AMC 19.70.130 Mitigation requirements and 19.70.135 Mitigation plan requirements and Wetland Mitigation in Washington State, Part 1: Agency Policies and Guidance (Version 1, Ecology Publication #06-06-011a), or as amended, and best available science.

M. Minimum Standards. The design standards in this section must be incorporated into mitigation plans submitted to the City for impacts to wetlands and/or wetland buffers. The following standards apply to any mitigation proposed within Category I, II, III and IV wetlands and their buffers. Modifications to these design standards consistent with the guidance in Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans (Version 1) (Ecology Publication No. 06-06-011b, March 2006, or as revised) may be considered for approval by the Decision maker as alternatives to the following standards:

1. Plants native to the region (not introduced, non-native or exotic species) must be used.
2. Plant species selection must be consistent with the existing or projected hydrologic regime, including base water levels and stormwater event fluctuations.
3. Plant species selection must be consistent with the site environmental conditions such as slope, aspect, soils and exposure to sun, wind and rain.
4. Plants should be commercially available or available from local sources.
5. Native plant species high in food and cover value for fish and wildlife should be prioritized, as appropriate for the site.
6. Plant selection must be approved by a qualified professional.
7. The following standards apply to wetland design and construction:
 - a. For wetland creation sites, preliminary investigations of existing hydrology at the site must be completed to confirm that the site has adequate source hydrology (e.g., high groundwater, precipitation or riverine flooding) to support wetland conditions.
 - b. Water depth in areas of seasonal or occasional inundation must not exceed three feet (0.914 meters), unless the proposed mitigation is compensating for impacts to unvegetated/open water areas.
 - c. If creating or rehabilitating a slope wetland, the grade or slope within the wetland must not exceed 6 percent, unless otherwise approved by the Decision maker.
 - d. Slopes within the wetland contributing basin and the buffer zone must not be steeper than 3:1 (horizontal to vertical).
 - e. The wetland (excluding the buffer area) should not contain more than 20 percent unvegetated/open water areas as measured at the seasonal high water mark, unless the mitigation is compensating for vegetated.

- f. Site soils must be free of contamination and/or hazardous materials, and must have adequate organic content and porosity to support the proposed native plant community.
 - g. Planting densities and placement of plants should be determined by a qualified professional and shown on the design plans.
- 8. The planting plan must be approved by the City.
- 9. Stockpiling soil and construction materials should be confined to upland areas and contract specifications should limit stockpiling of earthen materials to durations in accordance with City clearing and grading standards, unless otherwise approved by the City.
- 10. Planting instructions must be submitted which describe placement, diversity, and spacing of seeds, tubers, bulbs, rhizomes, sprigs, plugs, and transplanted stock.
- 11. Controlled release fertilizer (if required) must be used in upland areas only (buffers and other non-wetland areas) and must be installed into the planting hole only at the time of planting. No fertilizer must be applied to the ground surface.
- 12. An irrigation system must be installed or watering afforded by trucks or hoses to provide water for installed plants and seeded areas to supplement rainfall to ensure that plants receive approximately 0.5 inches of water per week during the dry season of the first two years after plant installation.
- 13. All construction specifications and methods must be approved by a qualified professional and the City.
- 14. Construction management provided must be provided by a qualified professional. Ongoing work on site must be inspected by the City.

FISH AND WILDLIFE HABITAT CONSERVATION AREAS

19.70.310. Fish and wildlife habitat – Description and Purpose

- A. Fish and wildlife habitat conservation areas are lands managed for maintaining populations of species in suitable habitats within their natural geographic distribution so that the habitat available is sufficient to support viable populations over the long term and isolated subpopulations are not created. In addition to their intrinsic value, certain species of fish and wildlife represent important historic, cultural, recreational and economic resources.
- B. It is the purpose of this Chapter to protect fish and wildlife populations and their associated habitats and provide special consideration to conservation or protection measures necessary to preserve or enhance anadromous species.

19.70.315 Fish and wildlife habitat – Designation.

A. Fish and Wildlife Habitat Conservation Areas (FWHCAs) are designated as follows:

1. Areas with which endangered, threatened, and sensitive species listed by the federal government or the State of Washington have a primary association;
2. Commercial and recreational shellfish areas, including public and private tidelands suitable for shellfish harvest and shellfish protection districts established pursuant to [RCW 90.72](#);
3. Kelp and eelgrass beds and herring and smelt spawning areas;
4. Naturally occurring ponds under 20 acres with submerged aquatic beds that provide fish or wildlife habitat as further defined in [WAC 365-190-130\(4\)\(e\)](#);
5. Waters of the State, including streams as classified in WAC [222-16-030](#);
6. Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity;
7. Areas with which anadromous fish species have a primary association;
8. State natural area preserves, natural resource conservation areas, and state wildlife areas as established by WA DNR;
9. Areas of rare plant species and high quality ecosystems as identified by the Washington State Department of Natural Resources through the Natural Heritage Program in Chapter [79.70](#) RCW.
10. State priority habitats and areas associated with State priority species defined and listed by the State Department of Fish and Wildlife in the Priority Habitats and Species List Updated January 2019. Priority habitats and species known to be identified and mapped by WDFW (<http://apps.wdfw.wa.gov/phsontheweb/>) in Anacortes include, but may not be limited to, the following:
 - a. Biodiversity areas;
 - b. Bald eagle habitat protected pursuant to the Federal Bald and Golden Eagle Protection Act;
 - c. Chinook/fall chinook salmon;
 - d. Coho salmon;
 - e. Great blue heron nest sites and breeding areas;
 - f. Osprey nest sites;
 - g. Peregrine falcon nest sites and breeding areas;
 - h. Purple martin breeding areas;

- i. Resident coastal cutthroat trout;
- j. Winter steelhead trout;
- k. Water fowl concentrations.

11. The following Habitats and Species of Local Importance have been designated by the City:

- a. The Anacortes Community Forestlands.
- b. The March Point Heronry.
- c. The one and one-half acre "Park Reserve" at Cap Sante bounded by 3rd Street, East Park Drive, and Curtis Drive.

B. In addition to the FWHCAs identified in Subsection (A)(11) of this section, additional habitats and species of local importance may be designated by the City using the following process:

1. Designation process. The city may consider nominations for habitat areas and species to be designated as locally important on an annual basis as part of the annual comprehensive plan and development regulation update process, based on the following criteria:

- a. Local populations of native species that are in danger of extirpation based on existing trends, likely to become endangered, or are vulnerable or declining;
- b. The habitat represents either a high quality native habitat, or the habitat has a high potential to recover to a suitable condition and which is of limited availability, is highly vulnerable to alteration, or provides landscape connectivity which contributes to the integrity of the surrounding landscape;
- c. The species or habitat has recreation, commercial, game, tribal, or other intrinsic value;
- d. Long-term persistence of a species is dependent on protection, maintenance, and/or restoration of the nominated habitat;
- e. Protection by other county, state, or federal policies, laws, regulations, or non-regulatory tools is not adequate to prevent degradation of the species or habitat; and
- f. Without protection, there is a likelihood that the species or habitat will be diminished.

2. The nomination must indicate whether specific habitat features are to be protected (for example, nest sites, breeding areas, and nurseries) or whether the habitat or ecosystem is being nominated in its entirety.

Commented [CT14]: Add:

Add the following wetland for extra habitat protections, in replace of the regionally/locally significant wetland provision:

- d. Ship Harbor Wetland
- e. Cannery Pond Wetland
- f. Category II wetlands within the watersheds of Little Cranberry Lake, Whistle Lake, and Heart Lake and with seasonal surface water connections.
- g. Smiley's Bottom Wetland

3. The nomination may include management strategies for the species or habitats, which must be supported by best available science. Where restoration of habitat is proposed, a specific plan for restoration must be provided.
- C. All areas within the city meeting one or more of these criteria, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this chapter.

19.70.320 Fish and wildlife habitat – Mapping.

- A. **Mapping.** The approximate location and extent of some FWHCA's are shown in the data layers maintained in the City of Anacortes geographic information system (GIS). In addition, the following maps and inventories are hereby adopted by reference, as amended:
 1. [Washington Department of Fish and Wildlife Priority Habitat and Species maps](#);
 2. Washington Department of Natural Resources, [Official Water Type Reference maps](#);
 3. Washington Department of Natural Resources [Puget Sound Intertidal Habitat Inventory maps](#);
 4. Washington Department of Natural Resources [Shore Zone inventory](#);
 5. Washington Department of Natural Resources [Natural Heritage Program mapping data](#);
 6. Washington Department of Health Annual [Inventory of Shellfish Harvest Areas](#);
 7. Anadromous and resident fish distribution maps contained in the habitat limiting factors reports published by the Washington Conservation Commission and others;
 8. Washington Department of Natural Resources State Natural Area Preserves and Natural Resource Conservation Area maps; and
 9. NOAA Northwest Region Critical Habitat Mapper or equivalent source:
<http://www.nmfs.noaa.gov/pr/species/criticalhabitat.htm>
- B. **Reference Only.** The maps and resources cited above are to be used as a guide for the City of Anacortes Planning, Community & Economic Development Department, project applicants, and/or property owners and may be continuously updated as new critical areas are identified. They are a reference and do not provide a final critical area designation.

19.70.325 Fish and wildlife habitat – General Development Standards for all FWHCAs.

- A. All new development activities and uses are prohibited from habitat conservation areas and their buffers except in accordance with this Chapter. FWHCA's or their buffers may be altered only if the proposed alteration of the habitat or the mitigation proposed does not degrade the functions and values of the habitat.
- B. **Exemptions.** Exemptions to this chapter are listed in the provisions established in AMC 19.70.035 Exemption Activities.

- C. **Approvals and the Best Available Science.** Any approval of alterations or impacts to a FWHCA area must be supported by the best available science as described in the required Critical Area Report.
- D. **Approvals of Activities may be conditioned.** The decision maker may condition approvals of activities allowed within or adjacent to a fish and wildlife habitat conservation area as necessary to minimize or mitigate any potential adverse impacts. Conditions will be based on the best available science and may include, but are not limited to, the following:
1. Establishment of buffers;
 2. Preservation of important vegetation and/or habitat features such as snags and downed wood specific to the priority wildlife species in the fish and wildlife habitat conservation area;
 3. Limitation of access to the habitat area, including fencing to deter unauthorized access;
 4. Seasonal restriction of construction activities;
 5. Establishment of a duration and timetable for periodic review of mitigation activities; and
 6. Requirement of a performance bond, when necessary, to ensure completion and success of proposed mitigation.
- E. **Seasonal Restrictions.** When a species is more susceptible to adverse impacts during specific periods of the year, seasonal restrictions may apply. Larger buffers may be required and activities may be further restricted during the specified season.
- F. **Subdivisions.** The subdivision and short subdivision of land in FWHCA's and associated buffers is subject to the following:
1. Land that is located wholly within a FWHCA or its buffer may not be subdivided;
 2. Land that is located partially within a FWHCA may be subdivided only if an accessible and contiguous portion of each new lot that meets the minimum lot size requirements for the zone is located outside of the FWHCA and its buffer.
 3. Access roads and utilities serving a proposed subdivision may be permitted within the FWHCA and associated buffers only if the applicant's qualified professional(s) demonstrate, and the Decision maker determines, that no other feasible alternative exists, all unavoidable impacts are fully mitigated, and the use is consistent with this chapter.
- G. **Non-indigenous species.** No plant, wildlife, or fish species not indigenous to Fidalgo Island may be introduced to a FWHCA unless authorized by a state or federal permit approval.

19.70.330 Fish and wildlife habitat – Specific Standards for Streams

- A. **Typing.** Stream types must be classified according to WAC 222-16-030. Stream classifications must include the following:
1. Type F streams are those that provide fish habitat;
 2. Type Np streams are perennial waters that do not contain fish habitat; and
 3. Type Ns streams are seasonal waters that do not contain fish habitat, but are physically connected by an above-ground channel system to Type F, or Np waters.
 4. In the case that available information on stream typing is unclear, stream typing will be performed by a qualified professional, provided by the applicant, using a site visit, mapping, and all available information.
- B. **Required Buffer Areas.** Protective riparian buffers must be required to preserve stream/riparian functions and values. The purpose of riparian buffers is to protect riparian functions that influence in-stream and near-stream habitat quality
1. **Measurement of Stream Buffers.** Stream buffers are measured from the ordinary high water mark (OHWM), or the top of the bank if the OHWM cannot be determined. Buffers must be measured with rounded ends where streams enter or exit piped segments. Piped stream setbacks should be measured from the centerline of the pipe.
 2. **Standard Stream Buffer Widths.** Buffer widths must reflect the sensitivity of the stream type, the risks associated with development and, in those circumstances permitted by these regulations, the type and intensity of human activity and site design proposed to be conducted on or near the stream area. The following standard buffers are established for streams:

Table 19.70.300 Stream Buffers

DNR Water Type (WAC 222-16-030)	Standard Buffer Width
Type F Streams that are known to be used by fish, or meet the physical criteria to be potentially used by fish.	50 feet
Type Np Streams that have year round flow and do not meet the physical criteria of a Type F. This also includes streams that have been proven not to contain fish using methods described in Forest Practices Board Manual Section 13.	50 feet
Type Ns	50 feet

Streams that do not have surface flow during at least some portion of the year, and do not meet the physical criteria of a Type F stream.	
Piped Streams and Roadside Ditched Segments Those segments of streams, regardless of their type, that are fully enclosed in an underground pipe or culvert, or conveyed through a public roadside ditch as part of the City stormwater infrastructure.	10 feet

3. Increased Stream Buffer Widths. The stream buffer widths may be increased by the Decision maker as follows:

- a. When the qualified professional determines that the minimum width is insufficient to prevent habitat degradation and to protect the structure and functions of the habitat area as a result of a habitat assessment required pursuant to AMC 19.70.360;
- b. When the frequently flooded area exceeds the minimum stream buffer width, the stream buffer must extend to the outer edge of the frequently flooded area;
- c. When a channel migration zone is present, the stream buffer must extend to the outer edge of the channel migration zone;
- d. When the habitat area is in an area of high blowdown potential, the stream buffer width must be expanded an additional 50 feet on the windward side;
- e. When the habitat area is within an erosion or landslide hazard area, or buffer, the stream buffer width must be the recommended distance, or the erosion or landslide hazard area or buffer, whichever is greater.

C. Buffer Reduction Standards. The Decision Maker may allow the reduction of buffer widths on a case-by-case basis when the critical areas report demonstrates the following criteria are met:

1. There is no feasible alternative to the site design that could be accomplished without buffer reduction;
2. The total buffer width is not reduced to less than 35 feet in stretches of natural stream channel with intact native vegetation within the buffer, and the buffer reduction does not reduce the functions or values of the stream or buffer;
3. The total buffer width is not reduced to less than 25 feet in stretches of modified stream channel with little to no intact native vegetation within the buffer, and the buffer reduction

plan must include an enhancement plan to increase the functions or values of the stream or buffer.

- D. **Building setbacks from stream buffers.** Buildings, structures, paving, and other hard surfacing must be setback a minimum distance of 10 feet from the edge of the stream buffer unless determined by the Decision maker that a smaller distance would meet the intent of this subsection. This setback is to avoid conflicts with tree branches and/or critical root zones of trees that are in the buffer or will be planted in the buffer. The following may be allowed in the building setback from the buffer if they do not cause damage to the critical root zone of trees in the buffer:
1. Landscaping;
 2. Uncovered decks, roof eaves and overhangs, unroofed stairways and steps;
 3. Pervious ground surfaces, such as driveways, patios, and parking may be allowed; provided that they are engineered as a pervious system as defined in AMC _____. Such improvements may be subject to the requirements in AMC _____, Stormwater Management.
- E. **Functionally Separated and Isolated Stream Buffers.** Consistent with the definition of “buffers” in this chapter, areas that are functionally isolated and physically separated from a stream due to existing, legally established public roadways, railroads or other legally established structures or paved areas eight feet or more in width that occur between the area in question and the stream must be considered physically isolated and functionally separated stream buffers. Once determined by the Decision Maker, based on a submitted critical area report, to be a physically separated and functionally isolated stream buffer, development proposals are allowed in these areas.
- F. **Additional Allowed Activities in streams.** Activities, uses and alterations of streams are prohibited unless otherwise listed as exempt or allowed according to the provisions of 19.70.035, 19.70.040, and 19.70.045. No alteration to a stream buffer may be permitted unless consistent with the provisions of this section and the specific standards for development outlined below.
1. **Type F and Type Np Streams Relocation.** Relocation of Type F or Np streams may be permitted only when the proposed relocation is **part of an approved mitigation or rehabilitation/restoration plan**, and will result in equal or better habitat and water quality, and will not diminish the flow capacity of the stream. The applicant must demonstrate proper mitigation sequencing.
 2. **Type Ns Streams Relocation.** Relocation of Type Ns streams may be permitted only when the proposed relocation will result in equal or better habitat and water quality, and will not diminish the flow capacity of the stream. The applicant must demonstrate proper mitigation sequencing.

3. **Stream Crossing.** Crossing of streams may be permitted, and are required to be designed to allow fish passage based on state and federal fish passage criteria.
- G. **Piped Watercourses and Roadside Ditches.** It is recognized that within the urban environment many historical streams have been substantially modified to accommodate development. Many of the regulated and mapped streams within the City of Anacortes pass through natural reaches, modified reaches, piped reaches, and sometimes along manmade roadside ditches.
1. Development along piped watercourses and roadside ditched segments of regulated streams are subject to a 10 foot setback from the centerline of the stream course and is subject to the recording of a utility easement granted to the city for access and maintenance of the watercourse infrastructure.
 2. The voluntary opening and restoration or rehabilitation of previously channelized, culverted, or piped streams is highly encourage and may be approved by the Decision Maker, when the following is demonstrated within a critical areas report:
 - a. The restoration will result in a net gain in FWHCA functions, including an improvement in water quality and ecological functioning;
 - b. Opened channels must be designed to support fish and wildlife habitat and uninhibited fish access, unless demonstrated to be infeasible;
 - c. A reduction to the standard buffer is allowed to a minimum of 25 foot, or as recommended by a qualified professional in the Critical Area Report. Measured from the Ordinary High Water Mark (OHWM) and which includes habitat improvements, and measures to prevent erosion, landslide and water quality impacts;
 - d. The proposal will not significantly increase the threat of erosion, flooding, slope stability or other hazards on the site or on adjacent properties.
 - e. The proposal must demonstrate that there conveyance will maintain the flow capacity and not create flooding elsewhere in the drainage basin.
- H. **Stream Enhancement Measures.** Only those enhancement measures deemed most applicable and/or appropriate for stream channel or buffer enhancement projects will be considered in a buffer modification proposal, and must be supported by best available science and a critical area report. These include, but are not limited to:
1. Removal of fish barriers to restore accessibility to fish.
 2. Enhancement of fish habitat using log structures incorporated as part of a fish habitat enhancement plan.
 3. Enhancement of fish and wildlife habitat structures that are likely to be used by wildlife, including wood duck houses, bat boxes, nesting platforms, snags, rootwads/stumps, birdhouses, and heron nesting areas.

4. Planting native vegetation within the buffer area, especially vegetation that would increase value for fish and wildlife, increase stream bank or slope stability, improve water quality, or provide aesthetic/recreational value; or
5. Creation of a surface channel where a stream was previously underground, in a culvert or pipe. Surface channels which area “daylighted” must be located within a buffer area and must be designed with energy dissipating functions or channel roughness features such as meanders and rootwads to reduce future bank failures or nearby flooding;
6. Removal or modification of existing stream culverts (such as road crossings) to improve fish passage, stream habitat, and flow capacities; or
7. Upgrading of retention/detention facilities or other stormwater management facilities beyond required levels.

19.70.335 Fish and wildlife habitat – Specific Standards for Other FWHCAs

- A. **Endangered, Threatened, and Sensitive Species.** Fish and wildlife habitat conservation areas or buffers with which species that are State or Federally listed as endangered, threatened, or sensitive species, and anadromous fish species are subject to the following:
 1. No development is allowed within a fish and wildlife habitat conservation area or buffer with which State or Federally endangered, threatened, or sensitive species have a primary association, except that which is provided for by a management plan established by the Washington Department of Fish and Wildlife or applicable State or Federal agency.
 2. Whenever activities are proposed adjacent to a fish and wildlife habitat conservation area with which State or Federally endangered, threatened, or sensitive species have a primary association, such area must be protected through the application of protection measures in accordance with a critical area report prepared by a qualified professional and approved by the City. Approval for alteration of the fish and wildlife habitat conservation area or its buffer may not occur prior to consultation with the Washington Department of Fish and Wildlife for animal species, the Washington State Department of Natural Resources for plant species, and other appropriate Federal or State agencies.
- B. **Other Priority Habitats and Species.** Fish and wildlife habitat conservation areas or buffers with which species that are not State or Federally listed as endangered, threatened, or sensitive species, and are not anadromous fish species are subject to the following:
 1. Development activities and uses that result in unavoidable impacts may be permitted in priority species habitat areas and associated buffers in accordance with an approved critical area report with habitat assessment/management plan, and only if the proposed activity is the only reasonable alternative that will accomplish the applicant’s objectives. Full compensation for the loss of acreage and functions of habitat and buffer areas must be provided in compliance with the mitigation performance standards and requirements of these regulations.

C. City-Designated Habitats and Species of Local Importance

1. **Anacortes Community Forest Lands.**

- a. Recreation and Recreation-Related Facilities. Construction of public recreation-related facilities such as trails, benches, interpretive displays, and viewing platforms, may be allowed in fish and wildlife habitat conservation areas or buffers
- b. Proposed alterations must be consistent with the adopted Anacortes Community Forest Lands Comprehensive Plan, as amended.
- c. Noxious and Invasive Plants. The Skagit County noxious weed ordinance and the ACFL invasive plant control program must be carefully considered in any adjacent development decision. Nonnative plants known to be invasive into the ACFL must be prohibited in landscaping plans of adjacent developments. Where such developments have CC&Rs, reference to this requirement must be included therein.
- d. Right of Way Vacations. In the case of street or alley vacations contiguous with an ACFL boundary, the half of the area vacated which is adjacent to the ACFL must be incorporated into the ACFL and subject to all ACFL related requirements.
- e. Private Access to ACFL. No new accesses will be established to the ACFL without prior request for such access to the parks and recreation department and the forest advisory board and approval by the city council.
- f. Burning. No burn piles or outdoor fires must ever be left unattended while ignited and in the event sparks or flames come within three hundred feet of the ACFL, the fire must immediately be brought under control or extinguished.
- g. Boundary Identification. City staff will work closely with property owners and developers to ensure that survey lines adjacent to the ACFL boundary are clearly and correctly marked before any timber and/or vegetation is removed from adjacent property. The forest manager will be involved in the final inspection of boundary lines.
- h. ACFL Buffers. City staff will work closely with builders to secure thirty-foot ACFL buffers using all available incentives.

Commented [CT15]: Add Purpose Statement:

Purpose. The Anacortes Community Forest Lands include three lakes and their watersheds, numerous wetlands, rock bluffs, old growth forests, grassy knolls, windswept hilltops, sheltered caves, and a variety of other habitats and microclimates that provide a unique and irreplaceable habitat for both imperiled and commonplace species. This land has been dedicated by the City for the preservation of forest lands and species, as described in the Conservation Easement documents, the ACFL Comprehensive Plan, and in the newly created Anacortes Municipal Code Title 12.

2. **March Point Heronry**

- a. Because Skagit County is home to the greatest concentration of nesting Great Blue Heron in the Salish Sea, March Point being the largest, the City has identified the March Point Heronry as a habitat of local importance.
- b. Proposed development activities within 1,000 feet, or that is likely to impact the colony, must provide a critical areas assessment report and habitat management plan that follows at a minimum the guidelines provided by WDFW's Management Recommendations for Washington's Priority Species (March 2012).
https://wdfw.wa.gov/publications/00026/abbreviated_great_blue_heron.pdf.

Commented [CT16]: Change formatting to add Purpose Statement:

Purpose. Because Skagit County is home to the greatest concentration of nesting Great Blue Heron in the Salish Sea, March Point being the largest, the City has identified the March Point Heronry as a habitat of local importance.

- c. Buffers will be implemented as described in the buffer section below.
- d. Colony protection is required for minimum 10-years after abandonment.

D. Required Buffer for Non-Stream FWHCA's:

1. **Marine FWHCA's Buffers.** Buffer for all designated fish and wildlife habitats or species within marine shorelines must be regulated by the Shoreline Master Program incorporated Critical Area regulations.
2. **All Other Non-Stream FWHCA Buffers.** Buffers from fish and wildlife habitat conservation areas must be established to protect the functions and values of the critical area from the impacts of proposed adjacent activities.
 - a. Buffer widths for fish and wildlife habitat areas must be based on consideration of the following factors: species-specific recommendations of the Washington State Department of Fish and Wildlife; recommendations contained in a habitat management plan submitted by a qualified professional; and the nature and intensity of land uses and activities occurring on the land adjacent to the site. Buffers must:
 - i. Consist of an undisturbed area of native vegetation, or areas identified for restoration, sufficient to protect the integrity, functions, and values of the affected habitat;
 - ii. Reflect the sensitivity of the habitat and the type and intensity of human activity proposed to be conducted nearby;
 - iii. Be consistent with the applicable species-specific management recommendations issued by the Washington Department of Fish and Wildlife.
 - b. Nesting bald eagles and bald eagle habitat must be protected consistent with the U.S. Fish and Wildlife Service (USFWS) National bald eagle management guidelines, or the state or federal regulations in place at the time of application. Whenever activities are proposed adjacent to a confirmed nest territory or communal roost, a bald eagle habitat management plan must be developed by a qualified professional. Activities are adjacent to managed bald eagle sites when they are within 660 feet of a nest or within one-half mile (2,640 feet) of a shoreline foraging area. Approval of the activity must not occur prior to consultation with the state or federal agency with authority on bald eagle pairs and their nest.
 - c. Great Blue Heron nesting and breeding areas: Development near a verified heron breeding habitat including nesting colony areas, former nesting colonies, pre-nesting staging areas, and breeding season foraging habitat require:

- i. A year-round urban buffer of 197 feet,
- ii. For unusually loud activities that occur during breeding season (February – September) a seasonal buffer of 656 feet, and a Blasting buffer of 3,280 feet.
- iii. A management plan developed by a qualified professional to follow, at a minimum, WDFW's Management Recommendations for Washington's Priority Species (March 2012).

19.70.340 Fish and wildlife habitat – Buffer Width Averaging for All FWHCA's.

- A. Approval Criteria. The Decision maker may allow the averaging of FWHCA buffer widths when the critical areas report demonstrates the following:
- 1. In-stream or buffer habitat functions, will be increased or maintained where native buffer vegetation is generally intact, or increased where existing buffer vegetation is inadequate to protect functions and values; and
 - 2. The buffer averaging does not reduce the functions or values of the stream or FWHCA buffer; and
 - 3. The total area contained in the buffer area after averaging on the development proposal site is no less than that which would be contained within the standard buffer, and all increases in buffer dimension for averaging must be parallel to the ; and
 - 4. The stream or FWHCA buffer contains variations in sensitivity due to existing physical characteristics or the character of the buffer varies in slope, soils, or vegetation; and
 - 5. The buffer width is not reduced in any location to less than 50 percent of the standard width or 35 feet, whichever is greater, on a case-by-case basis as a result of a habitat assessment pursuant to AMC 19.70.380 (B)(4); and
 - 6. The buffer has not been reduced in accordance with this section. Buffer averaging is not allowed if the buffer has been reduced; and
 - 7. There were no feasible alternatives to the site design without buffer averaging; and
 - 8. Buffer enhancement will be provided.
 - 9. The buffer width reduction will not be located within another critical area or associated buffer; and
 - 10. Only those portions of the FWHCA buffer within the project area or subject parcel may be considered in the total buffer area for buffer averaging.

Commented [CT17]: Change to read:

Great Blue Heron nesting and breeding areas: Development near a verified heron breeding habitat including nesting colony areas, and former nesting colonies:

- i. . A year-round urban buffer of 197 feet,*
- ii. . For unusually loud activities that occur during breeding season (February – September) a seasonal buffer of 656 feet, and a Blasting/Extreme noise buffer of 1,320 feet.*
- iii. For properties without an existing and approved management plan; a management plan developed by a qualified professional to follow, at a minimum, WDFW's Management Recommendations for Washington's Priority Species (March 2012) and that identifies the nesting and breeding site as well as pre-nesting staging areas, and breeding season foraging habitat.*
- iv. For the March's Point Colony, given the observed and documented sensitivity of this mega-colony to human intrusion and the fact that the colony is in a rare, isolated but tight location, a year-round buffer of 984 feet.*

19.70.345 Fish and wildlife habitat – Stormwater Management Facilities.

Establishment of low-impact stormwater management facilities, such as stormwater dispersion outfalls and bioswales, may be allowed within fish and wildlife habitat conservation area buffers consistent with the adopted stormwater manual; provided, that:

- A. No other location is feasible; and
- B. There will be “no net loss” of functions and values of the fish and wildlife habitat conservation area; and
- C. The critical area lies in the natural routing of the runoff, and the discharge follows the natural routing; and
- D. Stormwater dispersion outfalls, bioswales, bioretention facilities, and other low-impact facilities consistent with the adopted stormwater manual may be allowed within the outer 25% of the buffer when determined by a qualified professional that the location of the facilities will enhance the buffer area and protect the stream; and
- E. Such facilities are designed consistent with the requirements of AMC 19.76.

19.70.350 Fish and wildlife habitat – Critical area report additional requirements.

- A. **Additional Report Contents for FWHCA’s.** In addition to the minimum report contents required per AMC 19.70.125 FWHCA reports must also include;
 - 1. Documentation of any fieldwork performed on the site, including field data sheets for delineations, water typing and other habitat conservation area classification, baseline hydrologic data, site photos, etc.;
 - 2. A description of the methodologies used to conduct the delineations, classifications, or impact analyses, including reference;
 - 3. A discussion of the potential impacts to the critical area or buffer associated with the proposed development including an assessment of cumulative impacts.
- B. **Habitat Assessment /Management Plan.** A habitat assessment /management plan is an investigation of the project area to evaluate the potential presence or absence of designated critical fish or wildlife species or habitat. A critical area report for a fish and wildlife habitat conservation area must contain an assessment of habitats including the following site- and proposal-related information at a minimum:
 - 1. Detailed description of vegetation on and adjacent to the project area and its associated buffer;
 - 2. Identification of any species of local importance, priority species, or endangered, threatened, sensitive, or candidate species that have a primary association with habitat on or adjacent to the project area, and assessment of potential project impacts to the use of the site by the species;

3. A discussion of any Federal, State, or local special management recommendations, including Washington Department of Fish and Wildlife habitat management recommendations, that have been developed for species or habitats located on or adjacent to the project area;
 4. A detailed discussion of the direct and indirect potential impacts on habitat by the project, including potential impacts to water quality;
 5. A discussion of measures, including avoidance, minimization, and mitigation, proposed to preserve existing habitats and restore any habitat that was degraded prior to the current proposed land use activity and to be conducted in accordance with AMC 19.70.135, Mitigation Requirements;
 6. A discussion of ongoing management practices that will protect habitat after the project site has been developed, including proposed monitoring and maintenance programs.
- C. **Additional Technical Information Requirements for Streams.** If no project impacts are anticipated and standard stream buffer widths are retained, a stream delineation report, general critical areas report or other reports, alone or in combination, may be submitted as consistent with the specific requirements of this section. In addition to the general critical area report requirements for fish and wildlife habitat conservation areas provided in subsections A through D of this section, technical information on streams must include the following information at a minimum:
1. A written assessment and accompanying maps of the stream and associated hydrologic features on and off site within 300 feet of the project area, including the following information at a minimum: Stream survey showing the field delineated ordinary high water mark(s);
 - a. Standard stream buffer boundary as determined by AMC 19.70.340;
 - b. Boundary for proposed stream buffers averaging, if applicable;
 - c. Vegetative, faunal, and hydrologic characteristics;
 - d. Soil and substrate conditions; and
 - e. Topographic elevations, at two-foot contours;
 2. A detailed description and functional assessment of the stream channel and stream buffer under existing conditions pertaining to the protection of stream functions, fish habitat and, in particular, potential anadromous fisheries;
 3. A habitat and native vegetation conservation strategy that addresses methods to protect and enhance on-site habitat and stream functions;
 4. Proposed buffer enhancement, if needed, including a written assessment and accompanying maps and planting plans for buffer areas to be enhanced, including the following information at a minimum:

- a. A description of existing buffer conditions;
- b. A description of proposed buffer conditions and how proposed conditions will increase buffer functions in terms of stream and fish habitat protection;
- c. Performance standards for measuring enhancement success through a monitoring period of at least five years; and
- d. Provisions for monitoring and submission of monitoring reports documenting buffer conditions, as compared to performance standards, for enhancement success;
- e. A discussion of ongoing management practices that will protect stream functions and habitat value through maintenance of vegetation density within the stream buffer.

D. Additional Technical Information for Heron Habitat.

- 1. The Report must identify the Heron Management Area (HMA). A HMA consist of the nesting colony, year-round and seasonal buffer, foraging habitat, and when present, a pre-nesting congregation area.
- 2. All survey activity such as nest tree identification and flagging **should occur in the non-breeding season (mid-September to mid-February)**, and preferably right after breeding season ends.
- 3. Identify the nesting colony's boundary. To do this flag all nest trees at the colony's outer perimeter. Mark each of these trees on a map. If a nest tree's canopy overlaps the canopy of an adjacent tree, flag the adjacent tree and consider this to be a nest tree. The outermost nest trees will be used to map the nesting colony boundary.
- 4. Map outer perimeter of the 197 foot year-round buffer. Using the buffer radius, draw a circle around each peripheral nest tree.
- 5. Map seasonal buffer if any unusually loud activities will occur during breeding season (February – September). Measure the seasonal buffer starting at the outer edge of the year-round buffer.
- 6. Locate potential foraging habitat by mapping all waterbodies within a 1.9 mile radius of the colony. The perimeter and shallow portions are especially important for foraging.

E. **Additional FWHCA information.** When appropriate due to the type of habitat or species present, or the project area conditions, the Decision Maker may also require the critical area report to include:

- 1. A request for consultation with the Washington State Department of Fish and Wildlife (DFW), Washington Department of Ecology (Ecology), local Native American Indian tribes or other appropriate agency;
- 2. Copies of the Joint Aquatic Resource Permit Application (JARPA) and related approvals, such as a Hydraulic Project Approval (HPA) from the WDFW, when applicable to the project; and

3. Detailed surface and subsurface hydrologic features both on and adjacent to the site.

19.70.355 Fish and wildlife habitat – Mitigation performance standards and requirements.

- A. Compensatory mitigation for FWHCA's must follow the plan requirements described under AMC 19.70.135.

GEOLOGICALLY HAZARDOUS AREAS

19.70.410 Geologically Hazardous Areas– Description and Purpose.

- A. Geologically hazardous areas include areas susceptible to the effects of erosion, landslides, earthquake, or other geologic events. They pose a threat to health and safety of citizens when incompatible development is sited in areas of significant hazard.
- B. The primary purpose of these regulations is to avoid and minimize potential impacts to life and property from geologic hazards, conserve soil resources, and minimize structural damage relating to these hazards. The purpose is accomplished through appropriate levels of study and analysis, application of sound engineering principles, and regulation or limitation of land uses, including maintenance of existing vegetation, regulation of clearing and grading activities, and control of stormwater.

19.70.415 Geologically Hazardous Areas - Designation.

- A. Areas susceptible to one or more of the following types of hazards are designated as a geologically hazardous area:
 1. **Erosion Hazard Areas.** Erosion hazard areas include areas likely to become unstable, such as bluffs, steep slopes, and areas with unconsolidated soils. The following are considered known or suspected erosion hazards:
 - a. Areas located within the following soil map units: Nos. 46 and 47 Dystric Xerochrepts; No. 90 Lithic Haploxerolls-Rock outcrop complex (LH), or mapped severe erosion hazard, as identified in the U.S. Department of Agriculture Natural Resources Conservation Service Soil Survey of Skagit County Area, WA (1989).
 - b. Coastal, erosion-prone areas such as beaches or marine bluffs.
 - c. Areas susceptible to rapid stream incision and stream bank erosion.
 2. **Landslide Hazard Areas.** Landslide hazard areas are those areas subject to landslide activity based on a combination of geologic, topographic, and hydrologic factors. They include areas susceptible because of any combination of bedrock, soil, slope (gradient), slope aspect, structure, hydrology, or other factors. The following are known or suspected landslide hazards:

- a. Areas designated in the Washington State Department of Ecology Coastal Zone Atlas, Washington, Volume Two Skagit County (1978) as U (Unstable), UB, (Unstable Bluff), URS (Unstable Recent Slide), or UOS (Unstable Old Slide).
- b. Areas of previous failure such as earth slumps, earthflows, mudflows, lahars, debris flows, rock slides, landslides or other failures as observed in the field or as indicated on maps or in technical reports published by the U.S. Geological Survey, the Geology and Earth Resources Division of the Washington Department of Natural Resources, or other documents authorized by government agencies.
- c. Slopes having gradients of 15% or greater:
 - i. That intersect geologic contacts with permeable sediments overlying low-permeability sediment or bedrock and springs or groundwater seepage are present; or
 - ii. That are parallel or subparallel to planes of weakness (such as bedding planes, joint systems, and fault planes) in subsurface materials.
- d. Areas that have shown movement during the Holocene epoch (from ten thousand years ago to the present) or that are underlain or covered by mass wastage debris of that epoch.
- e. Slopes having gradients steeper than 80% subject to rock fall during seismic shaking.
- f. Potentially unstable areas resulting from rapid stream incision, stream bank erosion, and undercutting by wave action.
- g. Slopes with a gradient of 40% or more with a vertical relief of 10 feet or more, including marine bluffs, except areas composed of consolidated rock. A slope is delineated by establishing its toe and top and is measured by averaging the inclination over at least 10 feet of vertical relief.

3. **Seismic Hazard Areas.** Seismic hazard areas are lands that, due to a combination of soil and groundwater conditions, are subject to risk of damage as a result of earthquake induced ground shaking, slope failure, settlement or subsidence, soil liquefaction, or surface faulting. The following are known or suspected seismic hazards:

- a. Areas having “high” and “moderate to high” risk of liquefaction as mapped on the Liquefaction Susceptibility and Site Class Maps of

Western Washington State by County published by the Washington State Department of Natural Resources. These are typically underlain by cohesionless soils of low density typically and mustow groundwater table.

- b. Areas located within ¼ mile of an active fault as indicated on investigative maps or described in studies by the United States Geologic Survey, Geology and Earth Resources Division of the Washington Department of Natural Resources, or other documents authorized by government agencies, or identified during site inspection.
 - c. Those known or suspected landslide hazards referenced in Subsection (2) of this Section.
 - 4. **Mine Hazard Areas.** Mine hazard areas are those areas underlain by or affected by mine workings such as adits, gangways, tunnels, drifts, or airshafts, and those areas of probable sink holes, gas releases, or subsidence due to mine workings. Factors that should be considered include: proximity to development, depth from ground surface to mine working, and geologic material.
 - 5. **Volcanic Hazard Areas.** Volcanic hazard areas are areas subject to pyroclastic flows, lava flows, debris avalanche, and inundation by debris flows, lahars, mudflows, or related flooding resulting from volcanic activity. Though there are no significant risks identified for the City and immediate surrounding area, other than airborne particulate impacts from an eruptions
 - 6. **Tsunami hazard areas.** Tsunami hazard areas include coastal areas and lake shoreline areas susceptible to flooding, inundation, debris impact, and/or mass wasting as the result of coastal wave action generated by seismic events or other geologic events. Suspected tsunami hazard areas are indicated on the Tsunami Hazard Map of the Anacortes-Whidbey Island Area, Washington: Modeled Tsunami Inundation from a Cascadia Subduction Zone Earthquake.
 - 7. **Other Hazard Areas.** Geologically hazardous areas may also include areas determined by the Decision maker to be susceptible to other geological events including mass wasting, debris flows, rock falls, and differential settlement.
- B. All areas within the city meeting one or more of these criteria, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this chapter.

19.70.420 Geologically Hazardous Areas – Mapping.

- A. The approximate location and extent of geologically hazardous areas are shown on the City of Anacortes geologically hazardous data layers maintained in the City of Anacortes geographic information system (GIS). In addition, the following maps and resources providing

information on the location and extent of geologically hazardous areas are hereby adopted by reference as amended:

1. Skagit County, Skagit County Potential Landslide and Erosion Areas, 2016;
2. Washington Department of Ecology Coastal Zone Atlas (for marine bluffs);
3. U.S. Geological Survey geologic maps, landslide hazard maps, and seismic hazard maps;
4. Washington State Department of Natural Resources seismic hazard maps for Western Washington, including, but not limited to, the Liquefaction Susceptibility and Site Class Maps of Western Washington State by County;
5. Washington State Department of Natural Resources slope stability maps;
6. Soils maps produced by the U.S. Department of Agriculture, National Resources Conservation Service;
7. National Oceanic and Atmospheric Administration tsunami hazard maps;
8. Washington Department of Natural Resources Tsunami Hazard Map, or as updated, of the Anacortes-Whidbey Island Area, Washington: Modeled Tsunami Inundation from a Cascadia Subduction Zone Earthquake.

- B. **Reference Only.** The maps and resources cited above are to be used as a guide for the City of Anacortes Planning, Community & Economic Development Department, project applicants, and/or property owners and may be continuously updated as new critical areas are identified. They are a reference and do not provide a final critical area designation.

19.70.425 Geologically Hazardous Areas – General Development Standards.

- A. All development activities and uses are prohibited in geologically hazardous areas and their buffers, except as provided for in this chapter, and only when it is demonstrated that the activity will not create undue risk to life, health, and safety.
- B. **Exemptions and Allowed Activities.** Exemptions are listed in the provisions established in AMC AMC 19.70.035 Exempt Activities.
- C. **Approvals.** Alterations of geologically hazardous areas or associated buffers may only occur pursuant to this chapter, and as determined by a qualified professional with concurrence by a 3rd party review, for activities that:
1. Will not increase the threat of the geological hazard to adjacent properties beyond pre-development conditions;
 2. Will not adversely impact other critical areas;
 3. Are designed so that the hazard to the project is eliminated or mitigated to a level equal to or less than pre-development conditions; and

4. Are determined to be safe as designed and under anticipated conditions by a qualified professional, licensed in the state of Washington.
- D. **Mitigation.** Proposed mitigation techniques are considered to provide long-term hazard reduction only if they do not require regular maintenance or other actions to maintain their function. Mitigation may be required to avoid any increase in risk above the preexisting conditions, including following abandonment of the activity.
 - E. **Critical Facilities Prohibited.** Critical facilities may not be sited within geologically hazardous areas unless there is no other practical alternative.
 - F. **International Building Code.** All development must conform to the provisions of the currently adopted International Building Code as amended by the City of Anacortes, including submittal of a critical areas report.

19.70.430 Geologically Hazardous Areas – Specific Development Standards

- A. **Erosion or Landslide Hazard Areas.** Except as otherwise provided in this Chapter, only those activities approved and permitted consistent with an approved critical area report in accordance with this Chapter are allowed in erosion or landslide hazard areas. Activities must meet the standards of AMC 19.70.430, General development standards, in addition to the specific requirements contained in this subsection.
 1. **Standard Buffer.** A standard buffer of 50 feet is required from the closest edge of a landslide hazard area. The buffer must be maintained as undisturbed native vegetation, except when alteration of vegetation is approved by the Decision maker as part of the project.
 2. **Buffer reduction.** The Decision Maker may reduce the standard buffer by a minimum of 25% when the critical area report demonstrates that all of the following criteria are met:
 - a. No reasonable alternative to the buffer reduction exists;
 - b. Modified or reduced buffers, through design and engineering solutions, will provide protection to the proposed development and adjacent properties equal to that of the standard buffer;
 - c. The development will not increase surface water discharge or sedimentation to adjacent properties beyond pre-development conditions;
 - d. The development will not decrease slope stability on adjacent properties;
 - e. The proposed reduction will not adversely impact other critical areas;

- f. The critical areas report makes recommendations regarding planting of vegetation or other measures to minimize impacts and resist erosion.
 - g. When a buffer reduction is requested the Decision maker may require, at the applicant's expense, a third-party review of a critical area report by a Qualified Professional under contract with or employed by the City.
- 3. **Increased buffer.** The standard buffer may be increased by the Decision maker based on a critical areas report prepared by a qualified professional that indicates a greater buffer is necessary to protect the proposed development and/or adjacent properties.
- 4. **Alterations.**
 - a. Alterations of a marine bluff or its buffer are prohibited except that minor development to provide public access (e.g. public trails, stairs or view points) may be permitted as regulated in the Shoreline Master Program, provided that impacts are mitigated and the development can be shown to be safe.
 - b. Alterations of an erosion or landslide hazard area and/or buffers may only occur for activities for which a critical areas report that contains a hazards analysis is submitted which determines that:
 - i. The activity will not increase surface water discharge or sedimentation to adjacent properties beyond predevelopment conditions;
 - ii. The activity will not decrease slope stability on adjacent properties;
 - iii. Such alteration will not adversely impact other critical areas or pose a potential threat risk to life, health, and safety.
 - c. Alterations must be designed to meet the following basic requirements:
 - i. The proposed alteration must not decrease the slope stability. The factor of safety against landslide occurrences for residential and commercial developments must be 1.5 for static conditions and 1.2 for dynamic conditions, unless approved by the Decision maker. Analysis of dynamic conditions must be based on a minimum horizontal acceleration as established by the current version of the International Building Code.
 - ii. Structures and improvements must be clustered to avoid geologically hazardous areas and other critical areas,
 - iii. Structures and improvements must minimize alterations to the natural contour of the slope, and foundations must be tiered where possible to conform to existing topography,

- iv. Structures and improvements must be located to preserve the most critical portion of the site and its natural landforms and vegetation,
 - v. The proposed development must not result in greater risk or a need for increased buffers on neighboring properties;
 - vi. Development must be designed to minimize impervious lot coverage;
 - vii. The Decision maker may accept an alternative design that deviates from one or more of these standards if a report by a qualified professional demonstrates that greater long-term slope stability can be achieved while meeting all other provisions of this title. The requirement for long-term slope stability must exclude designs that require regular and periodic maintenance to maintain their level of function.
- d. **Additional Requirements for Alteration of Landslide hazard areas and buffers.** Prior to permit issuance, the property owner must sign and record a notice on title, at the owner's sole expense, a covenant in a form acceptable to the City, which:
- i. Acknowledges and accepts the risks of development in the landslide hazard area;
 - ii. Waives any rights to claims against the City;
 - iii. Indemnifies and holds harmless the City against claims, losses, and damages;
 - iv. Informs subsequent owners of the property of the risks and the covenant; and
5. **Vegetation Retention and Maintenance.** Removal of vegetation from a landslide hazard area or related buffer is prohibited, except when allowed as follows:
- a. As part of an approved alteration, that follows the criteria and process outlined in AMC 19.70.440(A)(4).
 - b. Normal nondestructive pruning and trimming of vegetation for maintenance purposes or thinning of limbs of individual trees to provide a view corridor when a plan prepared by an ISA-certified arborist is provided and approved by the Decision Maker and there are no other critical areas present.
 - c. All activity proposed on Marine Bluffs must be regulated and reviewed under the SMP and required shoreline permitting.
6. **Seasonal Restriction.** Clearing within an erosion or landslide hazard area or buffer may be allowed only from May 1st to October 1st of each year provided that the Decision maker

may extend or shorten the dry season on a case-by-case basis depending on actual weather conditions and other factors deemed relevant.

7. **Utility Lines and Pipes.** Utility lines and pipes may be permitted in landslide hazard areas and buffers only when the applicant demonstrates that no other practical alternative is available. The line or pipe must be located aboveground and properly anchored and/or designed with the intent to function in the event of an underlying slide.
8. **Stormwater management.** Prior to any development activity, a plan for the collection, transport, treatment, and discharge of stormwater in accordance with the requirements of AMC Chapter 19.76, or as amended, and in accordance with the adopted Stormwater Management Manual for Western Washington, must be submitted meeting the following requirements:
 - a. All infiltration systems, such as stormwater detention and retention facilities, and curtain drains utilizing buried pipe or French drains, are prohibited in landslide hazard areas and their buffers unless the critical areas report determines such facilities or systems will not adversely affect slope stability.
 - b. Stormwater may not be directed across the face of a landslide hazard or related buffer (including marine bluffs or ravines) except as follows:
 - i. Stormwater may be discharged at flow durations matching predeveloped conditions, with adequate energy dissipation, into existing channels that previously conveyed stormwater runoff in the predeveloped state;
 - ii. Stormwater may be dispersed upslope of the landslide hazard area onto a low-gradient undisturbed buffer demonstrated to be adequate to infiltrate all surface and stormwater runoff, if the critical areas report determines such facilities or systems will not adversely affect slope stability;
 - iii. If demonstrated that no other practical alternative is available, stormwater may be discharged from the hazard area into adjacent waters, provided it is collected above the hazard and directed to the water by a tight line drain (constructed of high-density polyethylene pipe with fuse-welded joints, or similar product that is technically equal or superior) and provided with an energy dissipating device at the point of discharge.
9. **Prohibited development.** On-site sewage disposal systems, including drain fields, are prohibited within erosion and landslide hazard areas and related buffers.
10. **Subdivisions.**

a. The division of land in landslide hazard areas and associated buffers is subject to the following:

- i. Land that is located wholly within a landslide hazard area or its buffer may not be subdivided. Land that is located partially within a landslide hazard area or its buffer may be divided provided that each resulting lot has sufficient buildable area outside of, and will not affect, the landslide hazard or its buffer;
- ii. Access roads and utilities may be permitted within the landslide hazard area and associated buffers if the Decision maker determines that no other feasible alternative exists, and if the critical areas report determines such development will not adversely affect slope stability

b. Division of land within erosion hazard areas must comply with the following additional requirements:

- i. Except as otherwise provided in this section, existing vegetation must be retained on all lots until building permits are approved for development on individual lots;
- ii. If any vegetation on the lots is damaged or removed during construction of the subdivision infrastructure, the applicant must implement a revegetation plan in those areas that have been impacted prior to final inspection of the site development permit or the issuance of any building permit for the subject property;
- iii. Clearing of vegetation on individual lots may be allowed prior to building permit approval if the Decision maker determines that:
 1. Such clearing is a necessary part of a large-scale grading plan,
 2. It is not feasible to perform such grading on an individual lot basis, and
 3. Stormwater output from the graded area will meet established water quality standards.

B. Seismic Hazard Areas.

1. Activities proposed to be located in seismic hazard areas must meet the standards of AMC 19.70.430(B) and (E).

C. Mine Hazard Areas.

1. Activities proposed to be located in mine hazard area must meet the standards of AMC 19.70.430 General development standards, and the specific following requirements:

- a. **Alterations.** Alterations of a mine hazard area and/or buffer are allowed, as follows:
 - i. All alterations are permitted within a mine hazard area with a low potential for subsidence,
 - ii. Within a mine hazard area with a moderate potential for subsidence and at coal mine by-product stockpiles, all alterations are permitted subject to a mitigation plan to minimize risk of structural damage using appropriate criteria to evaluate the proposed use, as recommended in the hazard analysis, and
 - iii. Within a mine hazard area with a severe potential for subsidence only those activities allowed in AMC 19.70.035 **Exempt activities** of this chapter will be allowed.
- b. **Subdivisions.** The division of land in mine hazard areas and associated buffers is subject to the following:
 - i. Land that is located within two hundred feet of a mine hazard area with a severe potential for subsidence may not be subdivided. Land that is located partially within a mine hazard area may be divided provided that each resulting lot has sufficient buildable area that is two hundred feet away from the mine hazard area with a severe potential for subsidence. Land that is located within a mine hazard area with a low or moderate potential for subsidence may be subdivided;
 - ii. Access roads and utilities may be permitted within two hundred feet of a mine hazard area with a moderate or severe potential for subsidence if the city determines that no other feasible alternative exists.
- c. **Reclamation Activities.** Reclamation activities must conform to the provisions in Chapter 332-18 WAC Excavations For all reclamation activities, including grading, filling, and stockpile removal, as-built drawings must be submitted to the city in a format specified by the Decision maker.

D. Tsunami Hazard Areas.

1. Non-residential activities on sites containing areas susceptible to inundation due to tsunami hazards must provide an evacuation and emergency management plan

2. The construction of structures designated Risk Categories III and IV as specified under currently adopted IBC are prohibited within a tsunami hazard area, except that:
 - a. A vertical evacuation tsunami refuge may be permitted to be located in a tsunami hazard zone provided it is constructed in accordance with FEMA P646;
 - b. Community critical facilities may be permitted to be located within a tsunami hazard zone when such a location is necessary to fulfill their function, provided suitable structure and emergency evacuation measures have been incorporated.

19.70.435 Geologically Hazardous Areas - Critical Area Report Additional Requirements

- A. **Additional Report Contents for Geologically Hazardous Areas.** In addition to the minimum report contents required per AMC 19.70.125 reports must also include;
- B. **Third Party Review Required.** Critical areas reports on geologically hazardous areas are subject to third party review at the owner's sole expense as provided in AMC 19.70.125 (B) and in any of the following circumstances:
 1. A buffer reduction or alteration of a landslide hazard area is proposed.
- C. **Minimum Report Contents for Geologically Hazardous Areas.** The written critical area report(s) must contain the following information, at minimum:
 1. The report must generally follow the Washington State Department of Licensing Guidelines for Preparing Engineering Geology Reports in Washington (2006) and at a minimum report contents required per AMC 19.70.125;
 2. A detailed overview of the field investigations, exploration locations, site photos, published data and references; data and conclusions from past assessments of the site; investigations or studies that support the identification of geologically hazardous areas;
 3. A description of the methodologies used to conduct the geologically hazardous areas evaluations, classification, hazards assessments, and/or analyses of the proposal impacts, including references.
 4. **Assessment of Geological Characteristics.** The assessment must include the following:
 - a. Classification of the type of geologic hazard(s) present in accordance with AMC 19.70.410.
 - b. An assessment of the geologic characteristics of the soils, sediments, and/or rock of the project area and potentially affected adjacent properties, and a review of the site history regarding landslides, erosion, and prior grading. Soils analysis must be accomplished in accordance with accepted classification systems in use in the region.

- c. A description of load intensity, surface and groundwater conditions, public and private sewage disposal systems, fills, excavations, and all structural development; and
 - d. A description of the extent and type of vegetative cover;
 - e. An analysis of proposed surface and subsurface drainage, and the vulnerability of the site to erosion;
- 5. **Analysis of Proposal.** The report must include a detailed description of the project, its relationship to the geologic hazard(s), and its potential impact upon the hazard area, the project, the subject property, and affected adjacent properties.
- 6. **Minimum Buffer and Building Setback.** The report must make a recommendation for the minimum no-disturbance buffer and minimum building setback from any geologic hazard based upon the geotechnical analysis.
- 7. **Additional Technical Information Requirements for Specific Hazards:**
 - a. **Erosion and Landslide Hazard Areas.** The technical information required in a critical area report for a project within an erosion or landslide hazard area must also include the following:
 - i. An estimate of the present stability of the subject property, the stability of the subject property during construction, the stability of the subject property after all development activities are completed, and a discussion of the relative risks and slide potential relating to adjacent properties during each stage of development, including the effect construction and placement of structures, clearing, grading, and removal of vegetation will have on the slope over the estimated life of the structures. Quantitative analysis of static and seismic slope stability, modeling, and/or seismic displacement analysis may be required by the Decision maker.
 - ii. A trend analysis of prior rates of erosion, if available.
 - iii. Consideration of the run-out hazard of landslide debris and/or the impacts of landslide run-out on downslope properties;
 - iv. Recommendations for stormwater improvements, locations and methods of erosion control, vegetation management, and/or other means for maintaining long-term soil stability;
 - v. Parameters for design of site improvements including appropriate foundations and retaining structures. These should include allowable load and resistance capacities for bearing and lateral loads, installation considerations, and estimates of settlement performance;

- vi. Earthwork recommendations including clearing and site preparation criteria, fill placement and compaction criteria, temporary and permanent slope inclinations and protection, and temporary excavation support, if necessary; and
- vii. Recommendations for mitigation measures to be implemented in order to minimize the risk to the site and adjacent properties, including slope stabilization measures, if appropriate.

b. Seismic Hazard Areas. The technical information required in a critical area report for a project within a seismic hazard area must also include the following:

- i. A complete discussion of the potential impacts of seismic activity on the site (for example, liquefaction, lateral spreading, fault rupture);
- ii. An evaluation of the subsurface soil and groundwater profile, physical properties of the subsurface profiles, and the liquefaction potential of the site;
- iii. Recommendations for mitigation measures to be implemented in order to minimize the risk to the project, and adjacent properties if appropriate.

c. Tsunami Hazard Areas. The technical information required in a critical area report for a project within a tsunami hazard area must also include:

- i. A discussion of the potential impacts of the tsunami hazard on the site; and
- ii. Recommendations as to structure construction techniques including but not limited to the use of coastal high hazard performance standards.
- iii. For all development other than single lot, single family residences, an emergency management plan including plans for emergency building exits routes, site evacuation routes, emergency training, notification of local emergency management officials, and an emergency warning system.

d. Marine Bluffs A geotechnical engineering report will be required when development is proposed within 50 feet (in all directions) of the top or crest of a marine bluff, or a distance equal to the height of the slope up to a distance of 100 feet from the crest (measured from the top), whichever is greater.

- i. The report must be based on best available science, existing and proposed uses, risks of slope failure, and coastal erosion rates over the last 75 years, if applicable.
- ii. All proposed development on a marine bluff or in the required buffer must be prohibited, except: as may be allowed in the shoreline-specific Critical Areas Regulations under Subsection A-3.5 of Appendix A of this Master Program, or minor development to provide public access (e.g., public trails, stairs or view points), provided that impacts are mitigated and the development can be shown to be safe.

D. **All Geologically Hazardous Areas.** The Decision Maker may require additional information deemed necessary to adequately review the proposal.

1. **Site and Construction Plans.** The critical area submittal for geologically hazardous areas must include a copy of the site plans for the proposal, drawn at an engineering scale, showing:
 - a. The type and extent of geological hazard areas, and any other critical areas, and recommended and required buffers on, adjacent to, off site within 200 feet of, or that are likely to impact or be affected by the proposal;
 - b. Proposed development, including the location of existing and proposed structures, fill, clearing limits, significant trees to be removed, vegetation to be removed, proposed material stock pile locations, and stormwater management facilities;
 - c. The topography, in two-foot contours, of the project area and all hazard areas addressed in the report;
 - d. Height of slope, slope gradient, and cross-section of the project area indicating the stratigraphy of the site;
 - e. The location of springs, seeps, or other surface expressions of ground-water on or off site within 200 feet of the project area or that have the potential to affect or be affected by the proposal;
 - f. The location and description of surface water on or off site within 200 feet of the project area or that has the potential to be affected by the proposal.

CRITICAL AQUIFER RECHARGE AREAS

19.70.510 Critical Aquifer Recharge Areas – Description and Purpose.

- A. Critical aquifer recharge areas provide the public with clean, safe, and available drinking water and contribute base flows to protect aquatic resources. Once groundwater is contaminated or depleted, it is difficult, costly, and sometimes impossible to clean up or to recharge.
- B. The purpose of this section is to protect critical aquifer recharge areas from degradation or depletion resulting from new and redeveloping land use activities. Due to the potential vulnerability of groundwater underlying certain aquifer recharge areas to contamination and the importance of such groundwater as sources of public water supply, it is the intent of this section to safeguard groundwater resources by mitigating or precluding future discharges of contaminants from new development activities and redevelopment activities.

19.70.515 Critical aquifer recharge areas - Applicability and hazardous materials questionnaire.

- A. **Applicability.** The provisions of this section apply to regulated facilities that are within or adjacent to those portions of the City of Anacortes designated as critical aquifer recharge areas on the City of Anacortes Critical Areas Map. Regulated activities/facilities are defined as those commercial, industrial and home occupation uses that:
 - 1. Process or handle hazardous materials in regulated quantities; and
 - 2. Treat or store regulated quantities of hazardous materials.
- B. **Hazardous materials questionnaire required.** Applications for development or redevelopment of regulated facilities within the boundaries of critical aquifer recharge areas must be accompanied by a completed hazardous materials questionnaire to determine the regulatory status of the applicant facility. The Decision maker must review the questionnaire to determine whether the facility is regulated under this chapter. If it is determined that the proposal includes a regulated facility that processes, handles, treats, and/or stores hazardous substances as defined by this chapter, the applicant must submit a critical areas report pursuant to this Chapter.

19.70.520 Critical Aquifer recharge areas – Designation.

- A. Critical aquifer recharge areas include:
 - 1. Areas served by groundwater which have been designated as a “Sole Source Aquifer Area” under the Federal Safe Drinking Water Act;
 - a. Areas within a “closed” or “low-flow” stream watershed designated by the Department of Ecology pursuant to RCW 90.22;
 - b. Areas designated as “Wellhead Protection Areas” pursuant to [WAC 246-290](#) and the groundwater contribution area pursuant to [WAC 246-291-125\(3\)\(d\)\(iii\)](#) or otherwise

recognized by the Decision maker as needing wellhead protection. Wellhead protection areas include, for the purpose of this regulation, the identified recharge areas associated with:

- i. The 10-year groundwater time-of-travel for all Group A public water supply wells; or
 - i. The 5-year groundwater time-of-travel for all Group B public water supply wells with a wellhead protection plan filed with the Skagit County Health Department; or
 - ii. Plats serviced by five or more individual wells where the average lot size is equal to or less than two acres for which a wellhead protection plan has been completed and filed with the Skagit County Health Department; or
 - iii. The 1,000-foot radius for individual private drinking water supply wells, as identified by map criterion in section 10.70.530.
- B. All areas within the city meeting one or more of these criteria, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this chapter.

19.70.525 Critical Aquifer Recharge Areas – Mapping.

- A. The approximate location and extent of critical aquifer recharge areas are shown on the City of Anacortes critical aquifer recharge area data layers maintained in the City of Anacortes geographic information system (GIS). In addition, the following maps and resources providing information on the location and extent of critical aquifer recharge areas are hereby adopted by reference as amended:
- 1. Areas with soils that have moderate to rapid permeability (>2 inches per hour) as listed in Table 14 of the Soil Survey of Skagit County.
 - 2. Source for identifying drinking water supply wells identified by Agencies such as Washington Department of Ecology and Skagit County Health Department.
- B. **Reference Only.** The maps and resources cited above are to be used as a guide for the City of Anacortes Planning, Community & Economic Development Department, project applicants, and/or property owners and may be continuously updated as new critical areas are identified. They are a reference and do not provide a final critical area designation.

19.70.530 Critical Aquifer Recharge Areas – General Development Standards

- A. Regulated activities/facilities may be permitted in a critical aquifer recharge area only if the applicant can demonstrate that the proposed activity will not cause contaminants to enter the aquifer and that the proposed activity will not adversely affect the recharging of the aquifer.

- B. The proposed regulated activity must comply with the water source protection requirements and recommendations of the federal Environmental Protection Agency, State Department of Health, and the Skagit County Health Department.
- C. **Storage tank permits.** The City of Anacortes specifically regulates and authorizes permits for underground storage tanks pursuant to the International Fire Code and this chapter. The Washington Department of Ecology also regulates and authorizes permits for underground storage tanks (WAC 173-360). The Anacortes Fire Department regulates and authorizes permits for the removal of underground storage tanks.
- D. Owners and operators of facilities with existing underground storage tanks that are located within a critical aquifer recharge area must comply with all release detection requirements as specified in WAC 173-360.
- E. **Spreading or injection of reclaimed water.** Water reuse projects for reclaimed water must be in accordance with the adopted water or sewer comprehensive plans that have been approved by the Washington Department of Ecology and Skagit County Health Department.
 - 1. Surface spreading must meet the groundwater recharge criteria given in RCW 90.46.080 and 90.46.010(10).
 - 2. Direct injection must be in accordance with the standards developed by authority of RCW 90.46.042.
- F. **Prohibited activities and land uses.** The following land uses and activities for new development or redevelopment are prohibited within or adjacent to critical aquifer recharge areas:
 - 1. Landfill activities as defined in WAC 173-304 and WAC 173-351;
 - 2. All underground injection wells as defined in Chapter 173-218 WAC;
 - 3. Disposal of hazardous or dangerous wastes;
 - 4. Mining, including:
 - a. Metals and hard rock mining;
 - b. Sand and gravel mining are prohibited in critical aquifer recharge areas determined to be highly susceptible or vulnerable unless a stormwater quality management plan is approved and followed by the applicant;
 - 5. Wood Treatment Facilities. Wood treatment facilities that allow any portion of the treatment process to occur over permeable surfaces (both natural and manmade);
 - 6. Storage, processing, or disposal of radioactive substances;
 - 7. Dry cleaning establishments using the solvent perchlorethylene; and
 - 8. Other:

- a. Activities that would significantly reduce the recharge to aquifers currently or potentially used as a potable water source;
- b. Activities that would significantly reduce the recharge to aquifers that are a source of significant baseflow to a regulated stream;
- c. Activities that are not connected to an available sanitary sewer system are prohibited from critical aquifer recharge areas associated with sole source aquifers.

19.70.535 Critical Aquifer Recharge Areas – Specific Development Standards for Regulated Facilities

- A. The following mitigation measures, as applicable, are required for development of regulated facilities within a critical aquifer recharge area:
 - 1. Floor drains must not be allowed to drain to the stormwater system and must be designed and installed to meet the Uniform Plumbing Code (UPC) Section 303.
 - 2. If any roof venting carries contaminants, then the portion of the roof draining this area must go through pretreatment pursuant to UPC Section 304(b).
 - 3. All nonresidential vehicle washing must be self-contained or be discharged to a sanitary sewer system, if approved by the sewer utility, and is subject to UPC Sections 708 and 711.
 - 4. Utilize Integrated Pest Management (IPM) practices for pest control and Best Management Practices (BMPs) for the use of fertilizers as described by the Skagit County Local Hazardous Waste Management Program.
 - 5. Facilities installing new underground tanks. All new underground storage facilities used or to be used for the underground storage of hazardous substances or hazardous wastes must meet the requirements of WAC 173-360 and be designed and constructed so as to:
 - a. Prevent releases due to corrosion or structural failure for the operational life of the tank;
 - b. Be protected against corrosion, constructed of non-corrosive material, steel clad with a non-corrosive material, or designed to include a secondary containment system to prevent the release or threatened release of any stored substance; and
 - c. Use material in the construction or lining of the tank which is compatible with the substance to be stored.
 - 6. Aboveground tanks. All new aboveground storage facilities/tanks containing hazardous substances within a critical aquifer recharge area must be constructed, installed, used and maintained to:
 - a. Prevent the release of a hazardous substance to the ground, or groundwater;
 - b. Include an impervious containment area enclosing or underlying the tank or part thereof;

- c. Include a secondary containment system either built into the tank structure or a dike system built outside the tank. The secondary containment system or dike system must have a capacity of at least 110 percent of the primary tank and conform to the requirements of UFC Chapter 7902.2.
7. Vehicle repair and servicing.
- a. Commercial vehicle repair and servicing must be conducted over impermeable pads and within a covered structure capable of withstanding normally expected weather conditions. Chemicals used in the process of vehicle repair and servicing must be stored in a manner that protects them from weather and provides containment should leaks occur.
 - b. Dry wells are not allowed on sites used for vehicle repair and servicing. Dry wells existing on the site prior to facility establishment must be abandoned using techniques approved by the state Department of Ecology prior to commencement of the proposed activity.
8. Additional protective measures may be required if deemed necessary by the City of Anacortes.
9. State and federal regulations – The uses listed below will be conditioned as necessary to protect critical aquifer recharge areas in accordance with the applicable state and federal regulations.

Statutes, Regulations and Guidance Pertaining to Groundwater Impacting Activities

Activity	Statute – Regulation – Guidance
Above Ground Storage Tanks	Chapter 173-303-640 WAC
Animal Feedlots	Chapter 173-216 WAC , Chapter 173-220 WAC
Automobile Washers	Chapter 173-216 WAC, Best Management Practices for Vehicle and Equipment Discharges (WDOE WQ-R-95-56)
Below Ground Storage Tanks	Chapter 173-360 WAC
Chemical Treatment Storage and Disposal Facilities	Chapter 173-303 WAC
Hazardous Waste Generator (Boat Repair Shops, Biological Research Facility, Dry Cleaners, Furniture Stripping, Motor Vehicle Service Garages, Photographic Processing, Printing and Publishing Shops, etc.)	Chapter 173-303 WAC
Injection wells	Federal 40 CFR Parts 144 and 146, Chapter 173-218 WAC

Junk Yards and Salvage Yards	Chapter 173-304 WAC, Best Management Practices to Prevent Stormwater Pollution at Vehicle Recycler Facilities (WDOE 94—146)
Oil and Gas Drilling	WAC 332-12-450, Chapter 173-218 WAC
Wastewater Facilities	Chapter 173-240 WAC
On-Site Sewage Systems (<3,500 gal/day)	Chapter 246-272A WAC, Local Health Ordinances
Large On-Site Sewage Systems (3,500 to 1000,000 gal/day)	Chapter 246-272B WAC, State Health Ordinances
Pesticide Storage and Use	Chapter 17.21 RCW
Sawmills	Chapter 173-303 WAC, Chapter 173-304 WAC, Best Management Practices to Prevent Stormwater Pollution at Log Yards (WDOE 95-53)
Solid Waste Handling and Recycling Facilities	Chapter 173-304 WAC
Surface Mining	Chapter 332-18 WAC
Wastewater Application to Land Surface	Chapter 173-216 WAC, Chapter 173-200 WAC, WDOE Land Application Guidelines, Best Management Practices for Irrigated Agriculture

19.70.540 Critical Aquifer Recharge Areas – Critical area report additional requirements.

- A. **Additional Report Contents for CARA's.** In addition to the minimum report contents required per AMC 19.70.125 CARA reports must also include;
- B. **Minimum Report Contents.** A critical areas report must include a hydrogeologic assessment including, but not limited to, the following:
 1. Information sources;
 2. Geologic and hydrologic setting including available recharge, permeability/transmissivity information;
 3. Available well logs, borings, seeps/springs within 1,000 feet of the project area;
 4. Available water quality information;
 5. Groundwater depth, flow direction and gradient based on available information;
 6. Surface water location and recharge potential;
 7. Water source supply to the site;
 8. Any sampling schedules necessary;
 9. Discussion of the effects of the proposed project on the groundwater resources;

- 10. Description of potential mitigation measures, should it be determined that the proposed project may have an adverse impact on groundwater resources; and
 - 11. Other information as required by the City.
- C. If the hydrogeologic assessment determines that the facility will have no effect on groundwater resources, the facility is exempt from the development standards requirements in section 19.70.540 of this Chapter.
- D. If the hydrogeologic assessment determines that the facility could have an effect on groundwater resources, the Decision maker will require implementation of applicable development standards in sections 19.70.540.

FREQUENTLY FLOODED AREAS

19.70.610 Frequently Flooded Areas – Description and Purpose.

- A. Frequently flooded areas perform important hydrologic functions and may present a risk to persons and property.
- B. It is the purpose of this chapter to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas caused by flooding, while protecting the functions and values of floodplains, including special consideration for anadromous fish habitat in combination with the provisions for Fish and Wildlife Habitat Conservation Areas in this chapter.

19.70.615 Frequently Flooded Areas – Designation.

- A. Frequently flooded areas include those areas established as special flood hazard areas under AMC 19.74 Floodplain Management, including those areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled “The Flood Insurance Study for the City of Anacortes” dated March 17, 2003, and any revisions thereto, with accompanying flood insurance rate maps (FIRM), and any revisions thereto. The best available information for flood hazard area identification as outlined in AMC 19.74 Use of Other Base Flood Data in A and V zones is the basis for regulation until a new FIRM is issued that incorporates the data utilities under AMC 19.74 Use of Other Base Flood Data in A and V zones.
- B. Tsunami hazard areas are designated as geologically hazardous areas per AMC 19.70.410 and are subject to applicable development regulations outlined in AMC 19.70.430.
- C. Climate change and sea level rise are affecting many coastal communities and some within Puget Sound. Applicants are urged to become familiar with potential impacts of climate change and sea level rise if development is proposed near the marine shoreline or associated low-lying areas.

19.70.620 Frequently Flooded Areas – Mapping.

- A. **Reference Only.** The maps and resources cited above are to be used as a guide for the City of Anacortes Planning, Community & Economic Development Department, project applicants, and/or property owners and may be continuously updated as new critical areas are identified. They are a reference and do not provide a final critical area designation.

19.70.625 Frequently flooded areas – General Development Standards

- A. All development proposals must comply with AMC 19.74 Floodplain Management for general and specific flood hazard protection.

- B. Development may not reduce the base flood water storage ability. Construction, grading or other regulated activities that would reduce the flood water storage ability must be mitigated by creating compensatory storage on or off site.
- C. Alteration of Watercourses.
 - 1. Projects that will relocate a watercourse must also submit a request for Conditional Letter of Map Revision, where required by FEMA. The project may not be approved unless FEMA issues the CLOMR (which requires ESA consultation) and the provisions of the letter are made part of the permit requirements.
 - 2. The Decision maker must notify adjacent communities (if applicable) and the Department of Ecology prior to any alteration or relocation of a watercourse, and submit evidence of such notification to FEMA.
 - 3. Maintenance must be provided within the altered or relocated portion of said watercourse so that flood carrying capacity is not diminished. If the maintenance program does not call for cutting of native vegetation, the system must be oversized at the time of construction to compensate for said vegetation growth or any other natural factor that may need future maintenance.
- D. Base flood data and flood hazard notes must be shown on the face of any recorded plat or binding site plan, including, but not limited to, base flood elevations, flood protection elevation, boundary of floodplain, and zero rise floodway.
- E. All development must conform to the provisions of the currently adopted International Building Code, including submittal of a critical areas report.

19.70.630 Frequently Flooded Areas – Critical Areas Report Additional Requirements

- A. Additional Report Contents for FFA's. In addition to the minimum report contents required per AMC 19.70.125 FFA reports must also include;
- B. Minimum Report Contents. A critical areas report must include a habitat assessment prepared in accordance with [Regional Guidance for Floodplain Habitat Assessment and Mitigation](#) (FEMA Region X, 2013), or as hereafter amended. The assessment must determine if the project would adversely affect:
 - 1. The primary constituent elements identified when a species is listed as threatened or endangered;
 - 2. Essential fish habitat designated by the National Marine Fisheries Service;
 - 3. Fish and wildlife habitat conservation areas;
 - 4. Vegetation communities and habitat structures;
 - 5. Water quality;

6. Water quantity, including flood and low flow depths, volumes and velocities;
 7. The channel's natural planform pattern and migration processes;
 8. Spawning substrate, if applicable; and/or
 9. Floodplain refugia, if applicable.
- C. If the assessment concludes that the activity is expected to have an adverse effect on water quality and/or aquatic or riparian habitat or habitat functions, the project must be designed in a way to off-set those impacts. Project mitigation is not permitted in accordance with Regional Guidance for Floodplain Habitat Assessment and Mitigation, FEMA Region X, 2013.
- D. The following activities do not require completion of a habitat assessment:
1. Repair of existing building in its existing footprint, including damage by fire or other casualties;
 2. Removal of noxious weeds;
 3. Replacement of nonnative vegetation with native vegetation;
 4. Ongoing activities such as lawn and garden maintenance;
 5. Removal of hazard trees;
 6. Normal maintenance of public utilities and facilities;
 7. Restoration or enhancement of floodplains, riparian areas and streams that meets federal and state standards.

DEFINITIONS

“Adjacent” means areas adjacent to critical areas must be considered to be within the jurisdiction of these requirements and regulations to support the intent of this title and ensure protection of the functions and values of critical areas. Adjacent must include lands within a distance equal to the required buffer for the critical area as determined by the provisions of this chapter.

“Anadromous fish” means fish that spawn and rear in freshwater and mature in the marine environment. While Pacific salmon die after their first spawning, adult char (bull trout) can live for many years, moving in and out of saltwater and spawning each year. The life history of Pacific salmon and char contains critical periods of time when these fish are more susceptible to environmental and physical damage than at other times. The life history of salmon, for example, contains the following stages: upstream migration of adults, spawning, inter-gravel incubation, rearing, smoltification (the time period needed for juveniles to adjust their body functions to live in the marine environment), downstream migration, and ocean rearing to adults.

“Aquifer” means a body of soil or rock that contains sufficient saturated material to conduct groundwater and yield usable quantities of groundwater to wells or springs.

“Averaging” means establishing the required buffer setback from a critical area, within the permitted parcel of land only, so that areas within the parcel determined to be more environmentally sensitive than others will have a larger buffer than the less sensitive areas. For every increase in setback for one area of the parcel, there will be an equal corresponding decrease in another area of the parcel. The total land area within the buffer must remain the same as if the buffer were a uniform width. “Aquifer” means a body of soil or rock that contains sufficient saturated material to conduct groundwater and yield usable quantities of groundwater to wells or springs.

“Base flood” means a flood having a one percent chance of being equaled or exceeded in any given year, often referred to as the “100-year flood”.

“Base flood elevation” means the water surface elevation of the base flood in relation to the North American Vertical Datum of 1988. The Anacortes FIRMs still make reference to the 1929 National Geodetic Vertical Datum (NGVD). While using NAVD is acceptable, please recognize that surveyors and designers will need to convert the datum when preparing plans. FEMA Elevation Certificates require the use of the datum utilized on the FIRMs.

“Best available science” means current scientific information used in the process to designate, protect, or restore critical areas that is derived from a valid scientific process as defined by WAC 365-195-900 through 925. Sources of best available science are included in “Citations of Recommended Sources of Best Available Science for Designating and Protecting Critical Areas” published by the Washington State Department of Commerce.

“Best management practices (BMPs), critical areas” means physical or structural tools and/or management practices which, when used singularly or in combination, prevent or reduce adverse impacts to critical areas or their buffers.

“Buffer” is an area contiguous to a critical area that is required to protect the critical area and provide for the continued maintenance, functioning, and/or structural stability of a critical area.

“Critical aquifer recharge areas” are areas with a critical recharging effect on aquifers used for potable water, including areas where an aquifer that is a source of drinking water is vulnerable to contamination that would affect the potability of the water, or is susceptible to reduced recharge.

“Critical areas” means critical aquifer recharge areas, fish and wildlife habitat conservation areas, frequently flooded areas, geologically hazardous areas, streams, and wetlands, as defined in this Chapter.

“Development” means any human-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

“Ditches” are artificial drainage features created through purposeful human action, such as irrigation and drainage ditches, grass-lined swales, and canals. Purposeful creation from uplands must be demonstrated through documentation, photographs, statements, and/or other evidence in order to be unregulated by this chapter.

“Enhancement” means an action which increases the functions and values of a stream, wetland, or other critical area or buffer.

“Erosion” means the process by which soil particles are mobilized and transported by natural agents such as wind, rain-splash, frost action or surface water flow.

“Erosion hazard areas” are those areas containing soils which, according to the United States Department of Agriculture Natural Resources Conservation Service Soil Survey Program, may experience significant erosion. Erosion hazard areas also include coastal erosion-prone areas and channel migration zones.

“Federal Emergency Management Agency (FEMA) floodway” means the channel of the stream and that portion of the adjoining floodplain which is necessary to contain and discharge the base flood flow without increasing the base flood elevation more than one foot.

“Fish and wildlife habitat conservation areas” are areas that serve a critical role in sustaining needed habitats and species for the functional integrity of the ecosystem, and which, if altered, may reduce the likelihood that the species will persist over the long term. As defined in AMC 19.70.310.

“Floodway, zero rise” means the channel of a stream and that portion of the adjoining floodplain which is necessary to contain and discharge the base flood flow without any measurable increase in flood height. A measurable increase in base flood height means a calculated upward rise in the base flood elevation, equal to or greater than .01 foot, resulting from a comparison of existing conditions and changed conditions directly attributable to development in the floodplain. This definition is broader than that of the FEMA floodway, but always includes the FEMA floodway. The boundaries of the 100-year floodplain, as shown on the Flood Insurance Study for _____, are considered the boundaries of the zero-rise floodway unless otherwise delineated by a critical area study.

“Floodplain” means the total area subject to inundation by the base flood.

“Frequently flooded areas” are lands in the floodplain subject to at least a one percent or greater chance of flooding in any given year, or within areas subject to flooding due to high groundwater, high tides, with strong winds, sea level rise, and extreme weather events resulting from global climate change. These areas include, but are not limited to streams, rivers, lakes, coastal areas, wetlands, and areas where high groundwater forms ponds on the ground surface.

“Functions and values” means the beneficial services provided by critical areas to society, including, but not limited to, improving and maintaining water quality, providing fish and wildlife habitat, supporting terrestrial and aquatic food chains, reducing flooding and erosive flows, wave attenuation, historical or archaeological importance, educational opportunities, and recreation. These beneficial roles are not listed in order of priority.

“Geologically hazardous areas” means areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns.

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

“Habitats of local importance” designated as fish and wildlife habitat conservation areas include those areas found to be locally important by the City of Anacortes.

“Hazard tree” means any tree determined by an International Society of Arboriculture (ISA)-certified arborist to be a hazard to people or property as a result of a risk assessment conducted according to ISA guiding principles.

“In-lieu-fee program” means an agreement between a regulatory agency (state, federal or local) and a single sponsor, generally a public natural resource agency or non-profit organization. Under an in-lieu-fee agreement, the mitigation sponsor collects funds from an individual or a number of individuals who are required to conduct compensatory mitigation required under a wetland regulatory program. The sponsor may use the funds pooled from multiple permittees to create one or a number of sites under the authority of the agreement to satisfy the permittees’ required mitigation.

“Landslide” means an episodic downslope movement of a mass including, but not limited to, soil, rock or snow.

“Landslide hazard areas” are areas at risk of mass movement due to a combination of geologic, topographic, and hydrologic factors.

“Mine hazard areas” are those areas directly underlain by, adjacent to, or affected by mine workings such as adits, tunnels, drifts, or airshafts, and those areas probable to sink holes, gas releases, or subsidence due to mine workings.

“Mitigation” means the use of any or all of the following actions listed in descending order of preference:

1. Avoiding the impact by not taking a certain action;
2. Minimizing the impact by limiting the degree or magnitude of the action by using appropriate technology or by taking affirmative steps to avoid or reduce the impact;
3. Rectifying the impact by repairing, rehabilitating or restoring the affected critical area or buffer;
4. Reducing or eliminating the impact over time by preserving or maintenance operations during the life of the development proposal;
5. Compensating for the impact by replacing, enhancing or providing substitute critical areas and environments;
6. Monitoring the impact and taking appropriate corrective measures.

“Mitigation” means avoiding, minimizing, or compensating for adverse critical areas impacts, using the sequential order of preference listed in 19.70.130, Mitigation requirements.

“Monitoring” means evaluating the impacts of development proposals on biologic, hydrologic and geologic systems and assessing the performance of required mitigation through the collection and analysis of data for the purpose of understanding and documenting changes in natural ecosystems, functions and features including, but not limited to, gathering baseline data.

“Native Growth Protection Area/ Easement” (NGPA/E) means.....

“Native vegetation” means plant species that occur naturally in a particular region or environment and were present before European colonization.

“Noxious weed” means any plant which is highly destructive, competitive, or difficult to control by cultural or chemical practices, limited to those plants on the state noxious weed list contained in Chapter [16-750 WAC](#) and those regulated by Skagit County.

Piped stream means.....

“Primary association” means the fundamental link between a species and land or aquatic area where anadromous fish, endangered, threatened or sensitive species breed or feed.

“Prior Notification”

“Repair or maintenance” means an activity that restores the character, scope, size, and design of a serviceable area, structure, or land use to its previously authorized and undamaged condition. Activities that change the character, size, or scope of a project beyond the original design and drain, dredge, fill, flood, or otherwise alter critical areas are not included in this definition.

“Replacement” means.....

“Restoration” means measures taken to restore an altered or damaged natural feature, including: (a) Active steps taken to restore damaged wetlands, streams, protected habitat, or their buffers to the functioning condition that existed prior to an unauthorized alteration; and (b) Actions performed to re-establish structural and functional characteristics of a critical area that have been lost by alteration, past management activities, or catastrophic events.

“Seismic hazard areas” are areas subject to severe risk of damage as a result of earthquake induced ground shaking, slope failure, settlement, soil liquefaction, debris flows, lahars, or tsunamis.

“Shoreline jurisdiction” means.....

“Slope” means an inclined ground surface, the inclination of which is expressed as a ratio or percentage of vertical distance to horizontal distance by the following formula: $((\text{vertical distance} / \text{horizontal distance}) \times 100) = \% \text{ Slope}$

“Special Flood Hazard Area” means the land in the floodplain that is subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letters A or V.

“Species of local importance” are those species that are of local concern designated by the City due to their population status or their sensitivity to habitat manipulation.

“Stream” means an area where open surface water produces a defined channel or bed, not including irrigation ditches, canals, storm or surface water runoff devices, or other entirely artificial watercourses, unless they are used by salmonids or are used to convey a watercourse naturally occurring prior to

construction. A channel or bed need not contain water year-round, provided there is evidence of at least intermittent flow during years of normal rainfall.

“Unavoidable impacts” means adverse impacts that remain after all appropriate and practicable avoidance and minimization has been achieved.

“Volcanic hazard areas” include areas subject to pyroclastic flows, lava flows, and inundation by debris flows, lahars, mudflows, or related flooding from volcanic activity.

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

“Wetland Mitigation Bank” means a site where wetlands are restored, created, enhanced, or in exceptional circumstances, preserved, expressly for the purpose of providing compensatory mitigation in advance of unavoidable impacts to wetlands or other aquatic resources that typically are unknown at the time of certification to compensate for future, permitted impacts to similar resources.

“Wetland mosaic” means an area with a concentration of multiple small wetlands, in which each patch of wetland is less than one acre; on average, patches are less than 100 feet from each other; and areas delineated as vegetated wetland are more than 50% of the total area of the entire mosaic, including uplands and open water.

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Anacortes Critical Area Regulations

2nd Draft Final Changes by Planning Commission

February 18, 2019

The following table lists the changes recommended for the 2nd draft the Anacortes Critical Area Regulations resulting from internal staff discussion, legal review, Planning Commission direction, and response to public comments.

AMC Reference	Recommended Change
Body of Text	<i>Change Required Administratively:</i> Grammar, numbering, and code citations will be reviewed and corrected by staff.
PC Recommendation	Fix draft as appropriate
19.12, Definitions	<i>Change Requested by Public Comment:</i> Correction of the definition of Passive Recreation to include the missing section (A, B, C,D) from old definition that was in Title 17 but is no longer in Title 19 definitions.
PC Recommendation	New definition to read: <i>19.12.020 (17.06.723) "Passive recreation" refers to a mix of uses on undeveloped land (including wetland buffers) or minimally improved lands which includes the following: naturally landscaped areas, non-landscaped greenspaces, picnic areas, water bodies, trails, interpretive trails and other similar structures or development.</i> <i>Passive recreation may be defined as a non-motorized activity that:</i> <i>A. Offers constructive, restorative, and pleasurable human benefits and fosters appreciation and understanding of open space and its purpose;</i> <i>B. Is compatible with other passive recreation uses;</i> <i>C. Does not significantly impact natural, cultural, scientific, or agricultural values; and</i> <i>D. Requires only minimal visitor facilities and services directly related to safety and minimizes passive recreation impacts.</i>
19.12, Definitions	<i>Change requested by Dept. of Ecology.</i> "qualified professional." For wetlands, we [Ecology] recommend: A qualified professional for wetlands must be a professional wetland scientist with at least two years of full-time work experience as a wetlands professional, including delineating wetlands using the federal manual and supplements, preparing wetlands reports, conducting function assessments, and developing and implementing mitigation plans.
PC Recommendation	Definition to read: <i>"Qualified professional" means a person with experience and training in the applicable field or critical area. A qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, engineering, environmental studies, fisheries, geology or related field, and have two years of related work experience. A qualified professional for wetlands must be a professional wetland scientist with</i>

AMC Reference	Recommended Change
	<u>at least two years of full-time work experience as a wetlands professional, including delineating wetlands using the federal manual and supplements, preparing wetlands reports, conducting function assessments, and developing and implementing mitigation plans.</u>
Table 19.20.030	<i>Change Required Administratively:</i> Because the Permit types have been modified by the new Critical Area Regulations it is important to include them in the Types of Review section 19.20.030 and the Review classification and process matrix shown in Table 19.20.030. Add: Type I – Exemption with Prior Written Notice, Type II – Critical Area Permitted Alteration Permit, Type III HE – Critical Area Variance
PC Recommendation	Recommendation to incorporate the above amendment to Chapter 19.20 and the permit procedure table 19.20.030.
19.70.015 Applicability	<i>Change Requested by Staff:</i> Change Current Language: <i>19.70.015(A) Unless explicitly exempted, the provisions of this chapter apply to all land uses, development activity, and all structures and facilities within the City of Anacortes that are within the maximum buffer distance of, or likely to affect the functions and values of, one or more critical areas.</i>
PC Recommendation	New Language: <i>19.70.015(A) Unless explicitly exempted, the provisions of this chapter apply to all land uses, development activity, and all structures and facilities within the City of Anacortes that are <u>within Critical Areas</u>, within the maximum buffer distance of, or likely to affect the functions and values of, one or more critical areas.</i>
19.70.035(C)	<i>Change Requested by Staff:</i> 19.70.035(C) Modifications to Existing Nonconforming Structures and Uses, modified from section 17.70.500 is missing (B) the State Ferry Terminal provision.
PC Recommendation	Recommendation to add the following item #5 to the above section: 5. <i>State Ferry Terminal. The existing developed footprint, except for infill between the toll booth area in the lowest parking lot, hillside walking paths, and a hillside side slope along the western side of the main terminal parking lot, and including all associated parking, at the Washington State Ferry Terminal facility, shall not be increased and redevelopment may occur provided there is no net loss of ecological function and value in the adjacent buffer areas for Cannery Pond and Ship Harbor Interpretive Preserve wetlands.</i>

AMC Reference	Recommended Change
19.70.040 (A) Exemption Table	<i>Change Requested by Public Comment:</i> Public comment has been received that the Exemption statement “when it can be demonstrated” is confusing, and that the Exemption should not include the term bicycles. Current Language: <i>Passive Outdoor Activities.</i> <i>When it can be demonstrated that there will be no adverse effect, the following activities are allowed within critical areas and their buffers: educational activities, scientific research, and outdoor recreational activities, including but not limited to interpretive field trips, bird watching, public beach access including water-related activities, bicycling, and hiking. This exemption does not include constructing new roads or trails, vegetation clearing, or collection of plants or animals</i>
PC Recommendation	Recommendation to modify the provision to read: <i>Provided they do not require structures, grading, fill, draining, or dredging except as provided herein or authorized by a Critical Area Permit: Outdoor recreational activities, including fishing, birdwatching, hiking, boating, horseback riding, swimming, canoeing, and similar activities with limited environmental impact are exempt activities.</i>
Table 19.70.045 Permitted Alterations	<i>Change requested by Staff:</i> Change the title “Public Services” to “Public Roads and Utilities” for clarity.
PC Recommendation	Recommendation to change language to read: <i>Public Roads and Utilities.</i> <i>To allow <u>public services</u>, when the strict application of the standards in this Chapter would otherwise unreasonably prohibit the provision of public amenities...</i>
Table 19.70.045 Permitted Alterations	<i>Change requested by Dept. of Ecology:</i> Permitted Alterations Table, Public Services: We recommend adding the following as #3: o It shall be a condition of any alteration granted a public agency and services exception that only the portion of the alteration that must be located in a critical area may be so located.
PC Recommendation	Recommends adding the following item #3 to the above section: <i>3. It will be a condition of any alteration granted a public agency and services exception that only the portion of the alteration that must be located in a critical area may be so located.</i>
Table 19.70.045, Permitted Alterations	<i>Change Requested by Staff and Dept. of Ecology:</i> The following minor changes are requested to the Recreation Areas/Facilities provision: 1. Remove ACFL from this section and create a new section in the Permitted Use table, 2. Add the language “including but not limited to”,

AMC Reference	Recommended Change						
	3. Add: Non-treated wood should also be used for information signs. (Ecology) 4. Add the missing language of D from 17.70.380.						
PC Recommendation	Recommends the all of following changes: <table><tr><th>Permitted Alterations: (Critical Area Permit Required – Type 2 Administrative Decision)</th><th>Critical Area</th><th>Buffer</th></tr><tr><td> Recreational Areas / Facilities <u>outside of ACFL</u>. Low impact activities which are consistent with the purpose and function of the critical area buffer and do not detract from its integrity may be permitted within the buffer depending on the sensitivity of the critical area. A. Limited public park or public recreational access including <u>but not limited to</u> trails, viewing platforms, fishing access (no wider than 6 foot), and foot bridges, provided that all of the following are satisfied: a. The area/facility is part of a public park that is dependent on its location for recreational function; and b. The area/facility is limited to the minimum necessary to accomplish the recreational function; and c. The removal of trees and native vegetation is minimized; and d. The balance of the development is consistent with other requirements of this chapter; and e. The project is identified in the Anacortes Comprehensive Plan or Parks <u>Comprehensive Plan, and ACFL Master Plans.</u> B. Private pedestrian walkways and public trails must meet the following standards: a. The trail is generally parallel to the perimeter of the critical area; b. The trail is located in the outer 25% of the buffer area and is designated to avoid removal of s trees and native vegetation; c. The trail does not exceed 6 feet in width, and is limited to native soils or pervious surfaces. Raised boardwalks utilizing non-treated pilings may be acceptable; and The trail may be subject to closure during critical spawning, migration or breeding time periods of sensitive species that are present. C. Informational signs. Construction and placement of informational signs or educational demonstration facilities no more than 9 square feet surface area and 4 feet high, as long as there is no permanent infringement on hydrology or stream flow <u>and non-treated wood is used;</u> D. Limited excavating and filling necessary for the repair and maintenance of piers, walkways, observation decks, wildlife management shelters, boathouses, and other similar water related structures, provided they are built on pilings to allow unobstructed flow of water and preserve <u>the natural contour of the wetland, except as authorized by a Critical Area Variance.</u> </td><td>No</td><td>Yes</td></tr></table>	Permitted Alterations: (Critical Area Permit Required – Type 2 Administrative Decision)	Critical Area	Buffer	Recreational Areas / Facilities <u>outside of ACFL</u>. Low impact activities which are consistent with the purpose and function of the critical area buffer and do not detract from its integrity may be permitted within the buffer depending on the sensitivity of the critical area. A. Limited public park or public recreational access including <u>but not limited to</u> trails, viewing platforms, fishing access (no wider than 6 foot), and foot bridges, provided that all of the following are satisfied: a. The area/facility is part of a public park that is dependent on its location for recreational function; and b. The area/facility is limited to the minimum necessary to accomplish the recreational function; and c. The removal of trees and native vegetation is minimized; and d. The balance of the development is consistent with other requirements of this chapter; and e. The project is identified in the Anacortes Comprehensive Plan or Parks <u>Comprehensive Plan, and ACFL Master Plans.</u> B. Private pedestrian walkways and public trails must meet the following standards: a. The trail is generally parallel to the perimeter of the critical area; b. The trail is located in the outer 25% of the buffer area and is designated to avoid removal of s trees and native vegetation; c. The trail does not exceed 6 feet in width, and is limited to native soils or pervious surfaces. Raised boardwalks utilizing non-treated pilings may be acceptable; and The trail may be subject to closure during critical spawning, migration or breeding time periods of sensitive species that are present. C. Informational signs. Construction and placement of informational signs or educational demonstration facilities no more than 9 square feet surface area and 4 feet high, as long as there is no permanent infringement on hydrology or stream flow <u>and non-treated wood is used;</u> D. Limited excavating and filling necessary for the repair and maintenance of piers, walkways, observation decks, wildlife management shelters, boathouses, and other similar water related structures, provided they are built on pilings to allow unobstructed flow of water and preserve <u>the natural contour of the wetland, except as authorized by a Critical Area Variance.</u>	No	Yes
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Table 19.70.045, Permitted Alterations	Change Requested by Staff and Public comment: Staff recommends a new Permitted Alterations Table item for the ACFL to differentiate activities in the ACFL separate from other critical areas and buffers. This will give the ACFL its very own provisions under the Critical Area Permitted Alteration Permit.						

AMC Reference	Recommended Change		
PC Recommendation	Recommends the following addition to specify requirements for the ACFL:		
	Anacortes Community Forest Lands. Given the unique qualities of the community forest, all properties designated as ACFL have been nominated as a regulated critical area. Any and all new uses and development of new facilities within the ACFL must meet the requirements of the Conservation Easements/Deed Restrictions of the land, Anacortes Comprehensive Plan, The ACFL Comprehensive Plan, AMC 19.70 Critical Areas, and the newly created AMC 12.18 ACFL.	Yes	Yes
Table 19.70.045, Permitted Alterations	<i>Change Requested by Staff:</i> To make sure the code works administratively the provision for Regulated Activities in Critical Aquifer Recharge Areas needs to be incorporated into the Permitted Alterations table.		
PC Recommendation	Recommends the following addition to specify requirements for CARA's:		
	Regulated Activities in Critical Aquafer Recharge Areas. All regulated activities listed under AMC 19.70.540.	Yes	N/A
19.70.215, Wetland Designation	<i>Change requested by Ecology:</i> Section 17.70.230(D) proposed to remove the special provision for Regionally and Locally significant wetlands; the public requested the Critical Area Code still include special protections for these wetlands. Discussion: Based on the discussion and recommendations by Ecology for this provision it is recommended that the provision for Regionally and Locally Significant wetlands be removed because according to Ecology: • The Rating System already captures all of the necessary protections the wetlands should need. • Ecology feels that prescribed buffers of the rating system are more protective than arbitrarily assigned buffers. • The provisions and nomination process is unclear and no longer included in the Ecology Guidance. It is proposed that the wetlands previously identified in this provision be moved to and nominated as "Habitats of Local Importance". • Will regulate these wetlands as both Wetlands and Fish and Wildlife Conservation Areas. • Will clarify the process for nomination of these habitats, which is already established. • We already have one wetland nominated under this section. • Will protect the habitat functions and require habitat management plans which will result in more specific and specialized protections then a buffer width would.		

AMC Reference	Recommended Change
PC Recommendation	The recommendation would be to maintain the removal of Regionally Significant Wetland provision and include the following wetlands as “Habitats of Local Importance” under 19.70.310 (A)(11). d. Ship Harbor Wetland e. Cannery Pond Wetland f. Type II wetlands in the watersheds of Little Cranberry Lake, Heart Lake, and Whistle Lake and seasonally connected by surface water. g. Smiley’s Bottom Wetland. ** Wetlands on the Airport property would continue to be covered by the existing MOU.
19.70.230 Wetlands – Specific Wetland Category Development Standard	<i>Change requested by Dept of Ecology.</i> 19.70.230.B.3: The small wetland exemption should be applied to Category IV wetlands only. The draft language includes Category III wetlands. Paragraph 3.d should read, “The wetland is a low quality Category IV wetland with a habitat score of less than 6 points in the adopted rating system. Also “hydrologically isolated” should be replaced with “non-federally regulated,” and this definition should be included: o Non-federally Regulated (formerly isolated) Wetland – A wetland that is determined by the United States Army Corps of Engineers (USACE) to not qualify as a Water of the United States. Non-federally regulated wetlands may perform important functions and are protected by state law (RCW 90.48) whether or not they are protected by federal law.
PC Recommendation	Recommends to drop Category III wetlands and incorporate their suggested language to read: 3. <i>Small, Hydrologically Isolated Category IV Wetlands (less than 1,000 sq. ft.). The Decision maker may allow small, hydrologically isolated Category IV wetlands to be exempt from the requirement to avoid impacts (AMC 19.70.135(A)(1) Mitigation requirements) and allow alteration of such wetlands if all of the following conditions are met:</i> a. <i>The remaining mitigation sequencing actions of AMC 19.70.135(A) (2)-(6) are followed;</i> b. <i>The wetland is less than 1,000 square feet in area;</i> c. <i>The wetland does not have unique characteristics that would be difficult to replace through standard compensatory mitigation practices.</i> d. <i>The wetland is a low quality Category IV wetland with a habitat score of less than 6 points in the adopted rating system;</i> e. <i>The wetland does not provide significant suitable breeding habitat for native amphibian species. Suitable breeding habitat may be indicated by adequate stable and seasonal inundation that is persistent from February to at least through April and presence of thin-stemmed emergent vegetation and/or clean water;</i> f. <i>The wetland does not contain habitat identified as essential for local populations of priority species identified by the Washington Department of Fish and Wildlife or species of local importance which are regulated as fish and wildlife habitat conservation areas in Chapter 19.70.300 (FWHCA section);</i> g. <i>The wetland is not associated with shorelines of the state or their associated buffers;</i>

AMC Reference	Recommended Change			

AMC Reference	Recommended Change																																														
	2. <i>Buffer Widths for wetlands that have a moderate level of function for wildlife habitat as indicated by a habitat function score of 6 or 7 points on the wetland rating form:</i> Table 19.70.235 (C). <table><tr><th rowspan="2">Wetland Category</th><th colspan="3">Buffer Width (feet)</th></tr><tr><th>High Intensity</th><th>Moderate Intensity</th><th>Low Intensity</th></tr><tr><td>Category I</td><td>150</td><td>110</td><td>75</td></tr><tr><td>Category II</td><td>150</td><td>110</td><td>75</td></tr><tr><td>Category III</td><td>150</td><td>110</td><td>75</td></tr><tr><td>Category IV</td><td>50</td><td>40</td><td>25</td></tr></table> 3. <i>Buffer Widths for wetlands that have a low level of function for wildlife habitat as indicated by a habitat function score of 3 to 5 points on the wetland rating form:</i> Table 19.70.235 (D). <table><tr><th rowspan="2">Wetland Category</th><th colspan="3">Buffer Width (feet)</th></tr><tr><th>High Intensity</th><th>Moderate Intensity</th><th>Low Intensity</th></tr><tr><td>Category I</td><td>100</td><td>75</td><td>50</td></tr><tr><td>Category II</td><td>100</td><td>75</td><td>50</td></tr><tr><td>Category III</td><td>80</td><td>60</td><td>540</td></tr><tr><td>Category IV</td><td>50</td><td>40</td><td>25</td></tr></table>	Wetland Category	Buffer Width (feet)			High Intensity	Moderate Intensity	Low Intensity	Category I	150	110	75	Category II	150	110	75	Category III	150	110	75	Category IV	50	40	25	Wetland Category	Buffer Width (feet)			High Intensity	Moderate Intensity	Low Intensity	Category I	100	75	50	Category II	100	75	50	Category III	80	60	540	Category IV	50	40	25
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Wetland Buffers 19.70.235	<i>Change requested by Dept. of Ecology and Public Comment:</i> The public has requested we look at encouraging habitat corridors for wildlife. Ecology: Here is some language regarding buffer reductions that you might want to consider in order to provide more flexibility for applicants and to incentivize low-impact development practices. (see below)																																														
PC Recommendation	Recommendation to read: 1. <i>For wetlands that score 6 points or more for habitat function, buffer widths for high intensity may be reduced to moderate intensity if both of the following criteria are met:</i> a. <i>A relatively undisturbed, vegetated corridor at least 100 feet wide is protected between the wetland and any other relatively undisturbed area, as defined in the 2014 wetland rating system, or any other Priority Habitat as defined by the Washington State Department of Fish and Wildlife. The latest definitions of Priority Habitats and their locations are available on the WDFW web site at: http://wdfw.wa.gov/hab/phshabs.htm). The corridor must be protected for the entire distance between the wetland and the</i>																																														

AMC Reference	Recommended Change																
	<i>relatively undisturbed area or Priority Habitat by some type of legal protection such as a conservation easement. Presence or absence of a nearby habitat must be confirmed by a qualified biologist.</i> <i>b. The measures in Table XX are implemented, where applicable, to minimize the impacts of the adjacent land uses.</i> <i>2. For wetlands that score 3-5 habitat points, only the measures in Table XX are required for the use of moderate intensity buffer widths.</i> <i>3. If an applicant chooses not to apply the mitigation measures in Table XX, or is unable to provide a protected corridor where available, then high intensity buffer widths must be used.</i> Table XX Required measures to minimize impacts to wetlands <i>(All measures are required if applicable to a specific proposal)</i> <table> <tr> <th>Disturbance</th><th>Required Measures to Minimize Impacts</th></tr> <tr> <td>Lights</td><td> - Direct lights away from wetland </td></tr> <tr> <td>Noise</td><td> - 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 </td></tr> <tr> <td>Toxic runoff</td><td> - 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 </td></tr> <tr> <td>Stormwater runoff</td><td> - 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 stormwater manual) </td></tr> <tr> <td>Change in water regime (increase or decrease in the frequency, duration, timing, extent, depth or variability of water in a wetland)</td><td> - Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns </td></tr> <tr> <td>Pets and human disturbance</td><td> - 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 </td></tr> <tr> <td>Dust</td><td> - Use best management practices to control dust </td></tr> </table>	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 outer 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 Intensity Development techniques (for more information refer to the stormwater manual)	Change in water regime (increase or decrease in the frequency, duration, timing, extent, depth or variability of water in a wetland)	Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns	Pets and human disturbance	- 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	Use best management practices to control dust
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AMC Reference	Recommended Change
19.70.315, Designation	<i>Staff proposed changes:</i> In replacement of the removed Regionally significant wetlands the following wetlands are proposed to be nominated as Habitats of local importance: Ship Harbor Wetland, Cannery Pond Wetland, Category II Wetlands within the watersheds of Little Cranberry Lake, Whistle lake, and Heart Lake and with seasonal surface water connections.
PC Recommendation	Add the following wetland for extra habitat protections, in replace of the regionally/locally significant wetland provision: <i>d. Ship Harbor Wetland</i> <i>e. Cannery Pond Wetland</i> <i>f. Category II wetlands within the watersheds of Little Cranberry Lake, Whistle Lake, and Heart Lake and with seasonal surface water connections.</i> <i>g. Smiley's Bottom Wetland</i>
19.70.335, FWHCA - Specific Standards	<i>Change requested by Public Comment:</i> The public has been concerned with the removal of the introduction regarding the ACFL. One public comment received was to add a statement to the code to give some context of the importance of the ACFL:
PC Recommendation	Recommendation to read: <i>Purpose. The Anacortes Community Forest Lands include three lakes and their watersheds, numerous wetlands, rock bluffs, old growth forests, grassy knolls, windswept hilltops, sheltered caves, and a variety of other habitats and microclimates that provide a unique and irreplaceable habitat for both imperiled and commonplace species. This land has been dedicated by the City for the preservation of forest lands and species, as described in the Conservation Easement documents, the ACFL Comprehensive Plan, and in the newly created Anacortes Municipal Code Title 12.</i>
19.70.335, FWHCA - Specific Standards	<i>Changes requested by Staff and the Skagit Land Trust:</i> To keep formatting consistent we propose adding a purpose statement to (C)(2) of this section, March Point Heronry (using existing language in subsection a.) and revisions to the specific standards as recommended by the Skagit Land Trust based on Best Available Science and local knowledge of the habitat needs.
PC Recommendation	Recommends the subsection read as follows: <i>C.2. March Point Heronry</i> <i>Purpose. Because Skagit County is home to the greatest concentration of nesting Great Blue Heron in the Salish Sea, March Point being the largest, the City has identified the March Point Heronry as a habitat of local importance.</i> <i>a. Proposed development activities within the 1,000 foot management zone, or that are likely to impact the colony, must provide a critical areas assessment report and habitat management</i>

AMC Reference	Recommended Change
	<i>plan that follows at a minimum the guidelines provided by WDFW's Management Recommendations for Washington's Priority Species (March 2012).</i> <i>b. Buffers will be implemented as described in the buffer section below.</i> <i>c. Colony protection is required for minimum 10-years after abandonment.</i>
19.70.335(D)(2)(c)	<i>Changes requested by Skagit Land Trust:</i> Because the management recommendations were interpreted incorrectly, and because an error was found in the WDFW Recommendations the Skagit Land Trust requests changes to the Heron buffers.
PC Recommendation	Recommends the section read as follows: <i>Great Blue Heron nesting and breeding areas: Development near a verified heron breeding habitat including nesting colony areas, and former nesting colonies:</i> <i>i. A year-round urban buffer of 197 feet,</i> <i>ii. For unusually loud activities that occur during breeding season (February – September) a seasonal buffer of 656 feet, and a Blasting/Extreme noise buffer of 1,320 feet.</i> <i>iii. For adjacent properties without an existing and approved management plan; a management plan developed by a qualified professional to follow, at a minimum, WDFW's Management Recommendations for Washington's Priority Species (March 2012) and that identifies the nesting and breeding site as well as pre-nesting staging areas, and breeding season foraging habitat.</i> <i>iv. For the March's Point Colony, given the observed and documented sensitivity of this mega-colony to human intrusion and the fact that the colony is in a rare, isolated but tight location, a year-round buffer of 984 feet.</i>
Title 12.18	<i>Change requested by Public Comment:</i> The community has expressed concern with the loss of Appendix B language describing the history and acquisition of the Anacortes Community Forest Lands. A suggestion to add an additional section or chapter of an ACFL specific municipal code was received during the public comment period.
PC Recommendation	Recommendation to add a section to Title 12, under AMC 12.18 where detailed information about the Anacortes Community Forest Lands can go with Appendix B.

Anacortes Critical Area Regulations

2nd Draft Changes & Additional Public Comment

To: City Council

Date: February 10, 2020

From: Tess Cooper, Associate Planner

RE: Critical Area Regulations

The following table outlines the Critical Area Regulation document and identifies Planning Commission recommended changes, and additional changes recommended for the 2nd draft the Anacortes Critical Area Regulations identified or requested after Planning Commission recommendation. Also, identified are areas that are recommended for opening to additional public comment.

Section	Description	Change Suggested	Public Comment
19.70.010	Purpose		
19.70.015	Applicability	See PC Recommendation	No additional comment
19.70.020	Identification, classification, and rating		
19.70.025	Protection of Critical Areas		
19.70.030	General Requirements		
19.70.035	Critical Area Review	See PC Recommendation	No additional comment
19.70.040	Exempt Activities – Outdoor Recreation	Add the word bicycles back	New public comment
19.70.040	Exempt Activities – Recreation O,M & Repair of existing facilities	Remove 'Non-motorized' from trail maintenance	New public comment
19.70.045	Permitted Alterations – Public Roads & Utility	Word-smithed to clarify does not include trails	Optional public comment
19.70.045	Permitted Alterations – Recreational Areas / Facilities (new trail requirements/thresholds)	See PC Recommendation	Additional public comment
19.70.050	Reasonable Use exceptions & Variance	Add expansion of non-conforming uses	New public comment
19.70.110	Identification Form		
19.70.115	Critical Area Report		
19.70.120	Mitigation Requirements		
19.70.125	Mitigation Plan Requirements		
19.70.130	Title Notice		
19.70.135	Field Markings		
19.70.140	Construction Plan Review...		
19.70.145	Financial Guarantee Requirements		
19.70.150	Unauthorized Alterations		
19.70.155	Final Decision and Appeals		
19.70.210	Wetlands		
19.70.215	Wetland Designation – Regionally Significant wetlands	See PC Recommendation	New public comment
19.70.220	Wetlands – Mapping and delineation		
19.70.225	Wetlands – General Development Stds.		
19.70.230	Specific Development Standards	See PC Recommendation	No additional comment

19.70.235	Wetlands – Required Buffers	See PC Recommendation	Additional public comment
19.70.240	CA report additional requirements		
19.70.245	Wetland mitigation		
19.70.310	Fish and Wildlife Habitat Conservation Areas		
19.70.315	FWHCA Designation – Habitats of Local Importance (addition of Regionally Significant wetlands)	See PC Recommendation	New public comment
19.70.320	FWHCA Mapping		
19.70.325	General Development Standards		
19.70.330	Specific Standards for Streams	C. fix reduction standards	Optional public comment
19.70.335	Standards for Other FWHCA's - ACFL	See PC Recommendations	No additional comment
19.70.335	Standards for Other FWHCA's - ACFL	Add the word recreation	Optional public comment
19.70.335	Standards for Other FWHCA's – March Point	See PC Recommendations	No additional comment
19.70.335	Standards for Other FWHCA's – Significant Wetlands	Add: Ships Harbor, Cannery Pond, Watershed connected wetlands, Smileys Bottom	New public comment
19.70.340	FWHCA's Buffer Averaging		
19.70.345	FWHCA's Stormwater Mgmt Facilities		
19.70.350	CA Report additional requirements		
19.70.355	Mitigation performance standards		
19.70.410	Geologically Hazardous Areas		
19.70.415	Geo Haz – Designation		
19.70.420	Mapping		
19.70.425	General Development Standards		
19.70.430	Specific Development Standards		
19.70.435	CA Report – Additional Requirements		
19.70.510	Critical Aquifer Recharge Areas		
19.70.515	Applicability & Questionnaire		
19.70.520	Designation		
19.70.525	Mapping		
19.70.530	General Development Standards		
19.70.535	Specific Development Standards		
19.70.540	CA Report – Additional Requirements		
19.70.610	Frequently Flooded Areas		
19.70.615	Designation		
19.70.620	Mapping		
19.70.625	General Development Standards		
19.70.630	CA Report – Additional Requirements		
Definitions			

PUBLIC COMMENT SUMMARY

Comment Summary	12/4	12/18	1/3
Timeline too fast	4	3	1
Roles of Planning Staff	1		
Development uncontrolled result	1		
Meeting Packets	2		
Monitoring / Adaptive Management	1		1
Grammar	1		
PUD's allowed for flexibility	1		1
ACFL – Intro / Passive Recreation / Bikes	10	18	8
Remarks on General Provisions	1		5
Reasonable Use too flexible	1		
Regionally / Locally Significant	10		
Wetlands / Buffers	1	1	8
Hérons	1	4	2
Wildlife Corridors	1		
Recent landslides mapped	1		
National Flood Insurance Program	1		
Protections		2	10
Maps		2	
In support of Bikes and Trails			4

- A more detailed matrix is provided attached to this cover page, summarizing the comments received and providing general staff responses.
- For a detailed review of the individual comments find them [here:](https://www.anacorteswa.gov/DocumentCenter/Index/1267)
<https://www.anacorteswa.gov/DocumentCenter/Index/1267>
- Hard copies available upon request.

Critical Areas Regulations Update

Draft 2 Public Comment Summary

Updated 12/17/19

Below is a brief summary of public comments received up until December 17, 2019, and staff responses. Comments have been grouped by theme/ issue. Complete written public comment letters can be viewed [here](https://www.anacorteswa.gov/DocumentCenter/Index/1267) (<https://www.anacorteswa.gov/DocumentCenter/Index/1267>) and should be consulted for full details and context.

Issue / Key Words	Comments summary	Draft 2 reference	Staff Comments
General Comments not associated with a specific section			
Update timing and deadline	Multiple commenters requested additional time for the process.	n/a	Comments continue to be accepted and the proposed project schedule has been extended to include additional Planning Commission meetings and opportunities for public input.
Removal of Introduction	Comment received is disappointed in the elimination of local knowledge, values, and interest in the new Draft 2.	n/a	Staff recommends removing these sections from the code as they are not specifically code language. They can be added in the end as appendices, or moved to guidance documents or comp plans.
Overall weakening of CAO	Commenter felt that the proposal will weaken the critical areas ordinance.	n/a	The critical area regulations have been edited to tighten up language and clarify confusion, and overall improve critical area protections.
Overall weakening of CAO	Comment received expresses disappointment with the Draft 2 and does not believe critical area regulations should be eliminated.	n/a	The critical area regulations have been edited to tighten up language and clarify confusion, and overall improve critical area protections.
Support of Dr. Barnes Comments	Comment in support of Dr. Barnes concerns.	n/a	Noted by staff.
Support of Dr. Barnes Comments	Commenters would like to endorse the comments of Ross Barnes and Evergreen Islands.	n/a	Noted by staff.
Roles of the planning dept.	Commenter is concerned with the roles of both the Planning Staff and Planning Commission.	n/a	Noted by staff.
Development	Commenter is concerned that the Draft CAO allows uncontrolled development in critical areas.	n/a	The critical area regulations have been edited to tighten up language and clarify confusion, and overall improve critical area protections.
Meeting Packets	The commenter is concerned with the packet availability of the packet material.	n/a	The packet material has been posted as presented with the agenda bill. Draft 2 was provided during the 10-23 meeting packet.
Meeting Packets	The commenter is concerned the agenda bill does not match the packet materials.	n/a	The packet material has been posted as presented with the agenda bill. Draft 2 was provided during the 10-23 meeting packet.
Timeline of CAO process	Concerned with the fast timeline and the spirit of open government.	n/a	Comments continue to be accepted and the proposed project schedule has been extended to include additional Planning Commission meetings and opportunities for public input.
Monitoring and Adaptive Management	Commenter felt it was important for the City to monitor critical areas over time to ensure that the regulations are protecting the critical areas as intended.	n/a	The CAO currently has adaptive management provisions for wetlands and streams, in AMC 17.70.530 and 17.70.540(A)(7), respectively. While relatively few projects subject to the provisions have been permitted over the past 10 years, funding, record tracking, lack of

Issue / Key Words	Comments summary	Draft 2 reference	Staff Comments
			clear goals and benchmarks, and other technical issues have made administering the program challenging. Recently, the Department of Commerce circulated new draft guidance on monitoring and adaptive management. Staff recommends that a monitoring and adaptive management program for specific project tracking be implemented.
Basic Grammar	The comment recommends text of Draft 2 needs to be reviewed to eliminate ambiguity and offers suggestions to improve language.	n/a	Noted by staff, may incorporate recommendations as appropriate.
General timeline and completion	The commenter is concerned with the rushes timeline and the lag since draft 1. The public input process and the lack of missing maps and availability of meeting materials.	n/a	Staff has made attempts to explain the timeline, process, and pause in the CAO update process and encourages concerned parties to review this explanation or contact staff for further clarification. All materials are available on the website.
Timeline and Terms	A comment received expresses concern about the timeline and “process of push”, and the lack of clarity for certain terms including Decision Maker, Mitigation, Reasonable Use, and Flexibility.	n/a	Noted by staff, they will expand the definition section of this chapter.
Removal of PUD’s	A comment was receive that removing the PUD provisions and flexibility has prevented the flexible development around critical areas.	n/a	Noted by staff.
Loss of ACFL intro	Comment received is that the removal of context about the ACFL is an example of seeming efforts to weaken its significance as a FWHCA.	n/a	Noted by staff.
Maps	The maps as released are not accurate.	n/a	Staff has released “DRAFT” maps as we work to compile all of the outside data sources we use to create maps from. The maps are only as good as the data we get from the State and Skagit County.
ACFL Protections	Commenter concerned with the lessening of ACFL protections.	n/a	Noted by Staff.
ACFL Introduction	Comment : There is no longer language that captures the magnitude of the forestlands.	n/a	Noted by Staff.
FWHCA Map weird	The map is very odd and has generalized blobs, hard to read and understand.	n/a	Staff uses the State WDFW Priority Habitats and Species Data, it is meant to be generalized.
Timeline	The commenter is concerned with the timeline rush and the imposed deadline. Also requests a track changes document.	n/a	Noted by Staff.
Bicycling	The commenter feels that our unique natural areas and wetlands should be preserved and doesn’t support changes to advance bicycling.	n/a	Noted by Staff.
Forest Study	The commenter provided a study of forest die off	n/a	Noted by Staff.
Bike Skills Course	The commenter is opposed to a bike skills course in the ACFL.	n/a	Noted by Staff.
General concern	Comment is concerned with the general loss of Regionally significant wetlands, ACFL introduction, and exemptions for recreational uses, and passive/active recreation.	n/a	Noted by staff.
Regionally Significant / Streams	Retracts comments on Regionally significant and 15 named streams	n/a	Noted by Staff.

Issue / Key Words	Comments summary	Draft 2 reference	Staff Comments
Protections	Encourage the PC to retain the environmental protections in the current Critical Area Ordinance.	n/a	Noted by Staff.
Protections	It is important to not decrease protections for critical areas and recommends making the changes discussed to restore the previous protections.	n/a	Noted by Staff.
Protections	Support current protections with no weakening.	n/a	Noted by Staff.
General Concern	Endorse Ross Barnes and Bob Barry's comments and concerns of the O'Hara's. Anacortes is a unique treasure.	n/a	Notec by Staff.
General Concerns	Move bicycles from passive recreation, correct buffer standards, include smileys bottom, and fix streams back.	Multiple	Noted by Staff.
General	Feel strongly to strengthen rather than weaken the provisions. Recommend better public outreach and communication.	n/a	Noted by Staff.
Comments available	Is the letter from Ecology available for review?	n/a	Yes, letter was forwarded and posted to website.
General protections	Need flexibility and PUD's. Title 19 has broken the possibility and we need balance between environmental protections and development.	Title 19	Noted by Staff.
City Council	We believe the City Council request to see Draft 2 as is is a misrepresentation of the process by staff.	n/a	AMC prescribes
General protections	Please retain the current protections.	n/a	Noted by Staff.
Recommended changes	Commenter provided a list of responses to the staff recommended changes.	Multiple	Noted by Staff.
General	Need a 3 ^d draft and suggestions to achieve "no net loss".	19.16.080	Staff will follow the prescribed process in AMC 19.16.080.
Multiple	Stream names, wetland buffers, passive recreation, lack of flexibility, and better balance.	Multiple	Noted by Staff.
General	Timeline, Draft #3, keep 17.70 and reject Draft #2 altogether.	n/a	Staff will follow the prescribed process in AMC 19.16.080.
General	Important to have simple understandable language and protections for the ecosystems of our planet.	n/a	Noted by Staff.
General	Evergreen Islands put together a suggested Draft 3 of changes they would like to see.	n/a	Noted by Staff.
Multiple	Commenter has concerns about Draft, mapping, exempt activities, regionally significant wetlands, wetland buffers, mapping wildlife corridors, and specific wetland standards.	Multiple	Staff has made many changes to all of these provisions.
General Protections	Preservation should trump public use, protections in the CAO should remain. Work should be based on BAS and bicycling is not passive recreation.	Multiple	Noted by Staff.
Multiple	Good work, appreciate staff taking public recommendations. Still work to be done on nomination process, ACFL Buffer, wildlife corridors, and adaptive management.	Multiple	Noted by Staff.
General	Commenter has reviewed the document and acknowledges that he rewrite makes it easier to understand. He did not see anything that makes it more restrictive or erroneous and defines those areas more clearly, and reduces the	General	Noted by Staff.

Issue / Key Words	Comments summary	Draft 2 reference	Staff Comments
	amount of “interpretation” by the “decision maker”. This is positive and we support the changes.		
Ecology	Commenter forwarded his comments to Ecology seeking their feedback.	General	Noted by Staff.
Section: General Provisions 3			
Exemptions – Passive Recreation	Commenter is concerned with “passive recreation” vs “active recreation”.	Table 19.70.040	Currently, per AMC 19.70.340(F)(7), “passive recreation” facilities designed in accordance with an approved critical areas report are permitted within a wetland buffer provided they are conducted in a manner so as to minimize impacts to the buffer and adjacent wetland. The current definition of passive recreation (AMC 17.06.723) includes trails, interpretive trails and other similar structures or development, among other activities and uses: <i>“Recreation, passive.</i> <i>A “passive recreation area” refers to a mix of uses on undeveloped land (including wetland buffers) or minimally improved lands which includes the following: naturally landscaped areas, non-landscaped greenspaces, picnic areas, water bodies, trails, interpretive trails and other similar structures or development.</i> <i>Passive recreation may be defined as a non-motorized activity that:</i> <i>A. Offers constructive, restorative, and pleasurable human benefits and fosters appreciation and understanding of open space and its purpose;</i> <i>B. Is compatible with other passive recreation uses;</i> <i>C. Does not significantly impact natural, cultural, scientific, or agricultural values; and</i> <i>D. Requires only minimal visitor facilities and services directly related to safety and minimizes passive recreation impacts.”</i> The proposed language in AMC 19.70.250 includes as an allowed use in wetland buffers passive recreation facilities (including walkways and trails) meeting certain standards. The proposed standards are generally consistent with the DOE’s Wetlands Guidance for CAO Updates, including orientation, location within outer 25% of the wetland buffer area and to avoid removal of significant trees, use of pervious surfaces and maximum width.
Bicycles as passive recreation	The comment expresses concern with including bicycles as passive recreation, the term non-motorized is ambiguous.	Table 19.70.040	Staff the interpret use of bicycles as passive under the above discussed definition. The definition can be expanded to distinguish gasoline powered vs. electric powered motors, if it is decided clarification is needed. But the Conservation Easements and ACFL Forest Plans regulate the use of motorized bikes, is there a need outside of the ACFL to determine this distinction?
General Language	The commenter provided edits and comments on the language of the general provisions section.	19.70.010 – 19.70.055	Staff has reviewed these recommendations and will consider implementing helpful recommendations.
Bicycles	The commenter is concerned with the use of bicycles as passive recreation.	19.70.040	Only the “use” of bicycles is exempt, NOT the creation of new development (such as building new bike parks or trails).

Issue / Key Words	Comments summary	Draft 2 reference	Staff Comments
Bicycles	The commenter is concerned that the bicycle exemption provision would allow a new bicycle path through SHIP harbor wetland buffer.	19.70.040	The exemption is for bicycle “use” on legally existing trails, the exemption is NOT for building new trail, and would not outright allow a new bicycle path without following proper permitting and mitigation requirements.
Exemptions and Bicycles	The commenter is concerned with the use of bicycles as passive recreation.	19.70.040	Noted by staff.
Exemptions for recreation uses, and passive recreation.	The commenter is concerned that adding recreation uses and passive recreation under exemptions will allow new recreation area alterations without critical area review, and was not accounted for in SEPA.	19.70.040(050)	Recreation “uses” have always been allowed under 17.70.380(B). The code citation by the commenter is for Permitted Alterations, those “alterations” that do require a PERMIT. “Uses” fall under the exemption category, “Alterations” do not fall under the exemption category and require permits. This is not a new addition and does not change the regulations, since it is not a change it is not required to be accounted for in SEPA.
Passive Recreation / Bicycles	The commenter is concerned that passive outdoor activities incorrectly includes bicycles.	19.70.040	Noted by Staff.
Environmental impacts of bicycles	The comment is not in favor of new bicycle trails and the environmental impacts in relation to.	n/a	Noted by Staff.
Motorized Bicycles	A comment received was concerned with allowing motorized bicycles in the ACFL.	n/a	Noted by Staff.
Passive Recreation	The comment submitted provides clarification on the term “passive recreation”.	19.70.040	Noted by Staff.
Bike Park	The comment expresses concerns with a bike park in the ACFL.	n/a	Noted by Staff.
Timeline	Comment has worked hard but needs to slow down and take more time.	n/a	Noted by Staff.
Bicycles	Important to us to have safe bike trails. We like to ride our bikes but Oakes Ave is not safe. Please don’t let certain voices effect the safety and enjoyment of those who use our trails.	19.70.040	Noted by Staff
Bicycles	Disappointed to see anti-bicycle changes. I object to the changes to remove bicycles from passive recreations. I suggest banning bells and flashing lights not bicycles. Bicycles need to be allowed use in the ACFL and buffers.	19.70.040	Noted by Staff.
Bicycles and Trails	Please don’t listen to the people with anger management problems. Please try to get a better balance of comments from some of the trail uses before you decide the forests future.	19.70.040	Noted by Staff.
Bicycles	Avid supporter of the ACFL, please do not exclude bicycles from the forestlands. It is meant to be multi-use. They should remain in “passive recreation”.	19.70.040	Noted by Staff.
Section: Critical Areas Review Procedures			
Reasonable Use	The comment is concerned with the flexibility of the Reasonable Use exceptions.	19.70.010D	The language in Draft 2 under the provision is in compliance with RCW 36.70A.370 growth management act requirements.

Issue / Key Words	Comments summary	Draft 2 reference	Staff Comments
Section: Wetlands			
Regionally significant wetlands	Comment expresses disappointment in the removal of special designations as discussed by Dr. Barnes including removal of wetlands of local and regional significance, removal of the protective buffers for SHIP wetlands, and removal of stream names.	19.70.210	Staff feels that the code was flawed in designation of a lower buffer for these wetlands and has demonstrated that the wetland rating remains a category I without the special designation, with a larger buffer in most instances. However, we could keep the designation with guidance on how the rating and buffers should be dedicated under the provision.
Elimination of special protections	Commenter is appalled at the elimination of special protections for several wetland areas of keen local interest.	19.70.210	Staff felt that the removal of the confusing provisions would help clarity for all wetlands evaluated the special wetlands to ensure the protection levels will remain the same. The special provisions actually lowered the buffer protections and staff felt this should be removed.
Elimination of special protections	Comment feels the removal of hard work that went into the past CAO and special protections.	19.70.210	Staff felt that the removal of the confusing provisions would help clarity for all wetlands evaluated the special wetlands to ensure the protection levels will remain the same. The special provisions actually lowered the buffer protections and staff felt this should be removed.
Elimination of special protections	Commenter concerned with the removal of special provisions for SHIP and such areas.	n/a	Notes by staff.
Wetland Buffers	The commenter is concerned with the provision to modify the wetland buffers from the ecology recommendations.	Table 19.70.250.B	The Draft will be reviewed by the Department of Ecology and staff will follow their guidance on this.
Loss of locally designated critical areas	The comment received expressed concern that the CAO has been downgraded.	n/a	Noted by staff.
SHIP Harbor special provisions	Commenter would like to note the amount birds and critical habitat found in the ship harbor interpretive preserve, and would like stress how specific provisions are needed.	n/a	Noted by staff.
Wetland Buffers	The Commenter is concerned about the land use intensity approach and the compliance of our buffers with the Department of Ecologies Guidance.	19.70.250	Staff is working closely with Donna Bunten, Critical Areas Ordinance Specialist and other Ecology Staff to make sure our buffer requirements meet State Standards.
Land Use Intensity	Fix land use intensity to match ecology recommendations.	19.70.250 (A)	*We have corrected them as advised by Ecology.
Category I Buffers	Concerned with Category I buffers especially Ship Harbor, and the decline in birds.	19.70.240	Noted by Staff.
Wetlands and buffers	Recommend review of wetland buffers and land use intensity. As well as regionally significant wetlands.	19.70.250	Many of these changes have been implemented according to Ecology recommendations.
Classification	Concerned with the classification system of wetlands.	19.70.240	Noted by Staff.
Mitigation	Concerned with project specific mitigation requirements, public review, and city follow through.	19.70.270	Our requirements meet ecology guidance, and staff if working to find new software that would track project requirements better. Funding is a problem.
Category I wetlands	Focus on the importance of Category I wetlands, in particular Ship Harbor wetland for bird breeding habitat. Discourages the use of bicycles and full buffer protections.	19.70.240	Noted by Staff.
Section: Fish & Wildlife Habitat Conservation Areas			

Issue / Key Words	Comments summary	Draft 2 reference	Staff Comments
Hérons	Commenter shares praise that the work on the Draft CAO is good, and has provided a few recommendations to improve the section of FWHCA's on Herons.	19.70.350	Staff have reviewed the recommendations and plan to meet with the Skagit Land Trust to further the discussion.
ACFL	The comment includes suggested protections for the ACFL and draft code language to improve clarity.	19.70.330	Staff have forwarded the recommendation to the Anacortes Parks Department and are considering the suggestions for incorporation into Anacortes Municipal Code.
Wildlife Corridors	The commenter believes the CAO as a whole is good work but would like to see more language about wildlife corridors to protect the sensitive and fragile nature of this islands ecosystems.	19.70.310	Staff has discussed this and feels that mapping may be a way to distinguish these areas. They are provided for in the Comprehensive Plan and fall under FWHCA's, but we will look at ways to improve protections.
ACFL Intro	The commenter feels it's important to keep the introduction explanation of the ACFL, but that it could be revised and improved.	n/a	Noted by staff.
ACFL Intro	The commenter feels it's important to keep the introduction explanation of the ACFL, but that it could be revised and improved.	n/a	Noted by staff.
Heron Recommendations	The comment brings our attention to the error in the State Management recommendations, and asks us to correct the error.	19.70.350	Noted by Staff.
Motorized bikes in the ACFL	The commenter is concerned with motor bike use in the ACFL.	19.70.350	Noted by Staff.
Removal of the Cap Sante Wetland	Multiple commenters were concerned for the removal of the Cap Sante Wetland Preserve from Habitat of Local Importance. 1 , 2 , 3 , 4 , 5 , 6 , 7 , 8 , 9 , 10 , 11	19.70.350	It is not removed but still remains under 19.70.310(A)(11)(c).
ACFL	The commenter is concerned with loss of provisions over the ACFL and encourages us to adopt Bob Barry's suggestion.	19.70.350	Noted by Staff.
ACFL	The commenter is concerned with loss of provisions over the ACFL and encourages us to continue protection for the ACFL.	19.70.350	Noted by Staff.
ACFL	Comment : Please do not relax protections for the ACFL or March Point Heronry.	19.70.350	Noted by Staff.
ACFL	Please revise the language to recognize the importance of the ACFL.	19.70.350	Noted by Staff.
Forest Lands	The commenter included multiple suggestions for improving language and provisions for the Forest land including clarifying locally significant wetland provisions, maintaining wildlife corridors, and reinstating the previous definition.	19.70.350	Noted by Staff.
ACFL	The commenter considers the ACFL important to our community.	19.70.350	Noted by Staff.
Hérons	The Commenter wanted to clarify that there was an error in WDFW recommendations and that blasting and extreme noises should be 400 meters (1320 feet), rather than 1000 meters (3280 feet).	n/a	Noted by Staff.
ACFL	The comment is opposed to the proposed bike skills course in the ACFL.	n/a	Noted by Staff.
ACFL	The comment submitted supports the staff's recommendation to create a section in Title 12 for the ACFL.	n/a	Noted by Staff.

Issue / Key Words	Comments summary	Draft 2 reference	Staff Comments
Hérons	After discussion with staff, the comment submitted clarifies that the urban guidance provided by WDFW does not provide enough protection for the mega colony at March's Point and should be 1000 feet.	19.70.350	The buffers have been revised based on the recommendation from the Skagit Land Trust.
ACFL	The comment likes the suggested revisions to the ACFL purpose statement, but suggests removing “newly created”.	n/a	Noted by Staff.
Hérons	The commenter shared concerns for the protection of foraging sites for herons.	19.70.350	Noted by Staff.
Hérons	The comment wanted to clarify that the provisions that require habitat management plans should not apply to T-Baily because they already have a plan.	19.70.350	Noted by Staff.
ACFL	Support the position that our forestland is an irreplaceable ecosystem and hopes the update honors these concerns.	19.70.350	Noted by Staff.
ACFL	Strongly feel the ACFL outline drafted by Mr. Barry should go into AMC and replace the section in the CAO	12.18	The plan is to incorporate a new chapter under 12.18.
ACFL	Protect the ACFL and retain old protective provisions.	19.70.350	Noted by Staff.
ACFL	Disappointed in reduced protections that could allow a bike track in the ACFL, also protect ship harbor.	19.70.350	Noted by Staff.
ACFL	Does not support weakening the ACFL. Endorses the comments of Bob Barry & Ross Barnes.	19.70.350	Noted by Staff.
ACFL	Commenter would like to speak on behalf of the ACFL	19.70.350	Noted by Staff.
ACFL	Protect the ACFL	19.70.350	Noted by Staff.
Hérons	Support the protections for the March's Point mega colony.	19.70.350	Thank you!
Hérons	Molly of the SLT provided additional information about herons for clarification.	19.70.350	Noted by Staff.
Section: Geologically Hazardous Areas			
Recent landslides not mapped	The comment suggest that the mapping should include more conclusive mapping of recent slide activities as well as well known unstable slopes.	19.70.420	Noted by staff.
Section: Critical Aquifer Recharge Areas			
None received			
Section: Frequently Flooded Areas			
FEMA NFIP	The commenter is concerned that we have removed the federally mandated NFIP requirements for floodways.	19.70.620	The requirements will be moved out of the CAO and into our development regulations under section 19.47. The provisions are not changed or being removed, just relocated.
Section: Definitions			
Technical Definitions	The comment suggests the CAO should incorporate more technical definitions to avoid ambiguity.		.
Bicycles	Commenter suggests clarifying the definition of bicycling		Noted by staff.

Issue / Key Words	Comments summary	Draft 2 reference	Staff Comments
Non-motorized	Comment suggest this should be defined under bicycles		Noted by staff.
SEPA Environmental Checklist			
SEPA	Comment on the Threshold Determination. Why such a rush?		The SEPA was in accordance to state law.
SEPA	Comment requests that the Department withdraws the DNS based on potential impacts of the new regulations.		Noted by staff.

EXHIBIT F

Critical Area Update

Party of Record	Address		
Arlene French	1411 8th St.	Anacortes	360-293-0142
Evergreen Islands	P.O. Box 223	Anacortes	
Eugene Kiver	4210 Tyler Way	Anacortes	
Neil O'Hara	4407 Anaco Beach Pl	Anacortes	
Gene & Marilyn Derig	1302 K Ave	Anacortes	360-293-3928
Ross Barnes	1004 7th St., #202	Anacortes	360-488-2347
J. Andrew Stewart	3508 W 8th Pl.	Anacortes	
Robert Barry	1914 22nd St	Anacortes	
Katherine O'Hara	4407 Anaco Beach Pl	Anacortes	
Paul Vance	4612 Woodside Dr.	Anacortes	
Stacey Curtis	2414 Forest Park Lane	Anacortes	
Anne Winkes, SLT	PO Box 586	Conway	
Robin Pestarino	801 E Ave	Anacortes	
Robyn Johnson	211 5th Street	Anacortes	
Cynthia Richardson	315 V Ave	Anacortes	360-299-9081
John Wilkinson	404 2nd St.	Anacortes	
Carolyn Cochran	P.O. Box 1496	Anacortes	
Craig Kitterman	314 Curtis Dr.	Anacortes	
Sam Tull	PO Box 508	Anacortes	
Phyllis Dolph	3115 Sage lane	Port Townsend	
Mark & Rita Harbaugh	317 E. Park Dr.	Anacortes	
Asa Deane, F ot F	611 R Ave / PO Box 2213	Anacortes	
Dara Grotte	4503 Blakely Drive	Anacortes	
Steve Johnson	211 5th Street	Anacortes	360-428-7037
Joan Magee	11284 Marine Drive	Anacortes	
Carol Herbert	2217 35th Ct.	Anacortes	
Kyle Loring	PO Box 3356	Friday Harbor 98250	
Carol Bordin	PO Box 3034	Anacortes	
Molly Doran, SLT	1020 S 3rd St	Mount Vernon 98273	
Susan Ehler	2310 Baron Pl	Anacortes	
Matthias Kerschbaum	1801 9th St.	Anacortes	
Deborah Call	2220 21st St	Anacortes	360-899-4423
Linda Lipke	2810 Morton Ave	Anacortes	
Richard Bergner	15515 Yokeko Drive	Anacortes	
Hugh & Wendy Kendrick	11342 Mainsail Lane	Anacortes	
Marley Robertson	1605 36th St	Anacortes	
Jeane Smith	2013 M Ave	Anacortes	
Kristi hein	3100 B Ave	Anacortes	360-293-8476
Ruth LeBurn	2509 H Ave	Anacortes	
Mary Beth Conlee	1620 8th St.	Anacortes	
Catherine Houck	2318 20th St.	Anacortes	
Frank McCoy	4205 Glasgow Way	Anacortes	360-333-2996
Martin Johnson	4311 Glasgow Way	Anacortes	
V Jane Brandt	3936 West 12th St	Anacortes	

Karen King	2519 17th St.	Anacortes
Kathleen Lorence-Flanagan	2005 10th St.	Anacortes
David Vacanti	2513 Oregon Ave	Anacortes
Martha Hall	2617 16th Street	Anacortes
Charlie Schultz	2302 20th Place	Anacortes

Other Commenters

Joline Betterndorf

Konrad Kurp

John Morgan

Richard Engesser

Joe Halton

Mary & David Picht

William Turner

Bob & Claudia Hogan

Richard Eggerth

Annabelle Housefox

Mount Baker Chapter - Sierra Club

Franceene Nebuloni

Shirley Hoh

Marlene Finley

Wayne Crider, SICBA

Marshall Will

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Anacortes Critical Areas Regulations Update

Summary /Crosswalk of KEY proposed changes: Existing 17.70 through the 2nd Draft
December 12, 2019

Note: This document provides a summary of changes to the critical areas regulations that have been proposed over the course of the development of 2 drafts. A complete reorganization of the regulations currently contained in AMC 17.70 is proposed in order to allow for integration of the updated regulations into Title 19 Unified Development Code, improve readability, and promote consistency in critical areas regulation administration. Additionally, changes are proposed for consistency with technical guidance from various resource agencies, best available science reports, and best practices. This summary of changes is organized according to the 2nd Draft Ch. 19.70 Chapter and section headings, with reference to where the corresponding regulations currently exist within AMC 17.70. The 1st Draft was released for public review in July 2017. The 2nd Draft was released for public review in October 2019. **See the “2nd Draft Changes” document for staff recommended changes to the 2nd Draft (not reflected in this document).*

PROPOSED CODE – 2 nd Draft Organization (AMC 19.70)	CORRESPONDING EXISTING CODE (AMC 17.70)	SUMMARY OF KEY CHANGES From Existing 17.70 to the 1st Draft	SUMMARY OF KEY CHANGES From the 1 st Draft to the 2nd Draft
General Provisions (NEW)			
N/A	AMC 17.70.010 Introduction (Appendices A-D)	Removes Introduction section (which lists out a description of the ACFL, maps, history of ACFL land acquisition; and lists of Vulnerable species, animals and plants)	
19.70.010 Purpose	Does not exist	- Adds new General Provisions section intended to improve regulatory context and guidance for administration of the regulations - Sets the purpose and standards for regulation of development affecting all critical areas types.	
19.70.015 Applicability	Does not exist (Applicability is typically defined within each critical area section but is not easily found, and often not clear)	Adds broad applicability statement per Department of Commerce guidance	
19.70.020 Identification, Classification, and Rating of Critical Areas	Does not exist	Adds overarching general standards for identification, classification, and rating of critical areas	
19.70.025 Protection of Critical Areas	Does not exist.	Adds general protection requirements that apply to all critical areas types	
19.70.030 General Requirements	New	Adds general city review responsibilities	
19.70.035 Critical Areas Review	New 17.70.500 Nonconforming activities (wetlands)	Adds new provisions specifying when a critical area permit is required and clarifies provisions for modifying existing nonconforming structures and uses in all critical areas types	
19.70.040 Exempt Activities	17.70.500 Nonconforming activities 17.70.100 (CARA) 17.70.220 (Geo) 17.70..380 & 17.70.500 (Wetlands) 17.70.540.A.3.b.i & 17.70.380 (FWHCA - ACFL)	Reorganizes existing “Uses by Right” in wetlands (AMC 17.70.380) and ACFL FWHCA provisions (AMC 17.70.540.A.3.b.i) to new “Exemptions” section	- Reorganizes exempt activities for all critical areas types into a table - Divides “exemptions” into two categories - No review required and Letter of Exemption required - Relocates and retitles “Passive Recreation” to Permitted Alterations, providing for limited public and private recreational access, including trails, subject to Ecology-recommended impact minimizing measures, plus a critical areas report

PROPOSED CODE – 2 nd Draft Organization (AMC 19.70)	CORRESPONDING EXISTING CODE (AMC 17.70)	SUMMARY OF KEY CHANGES From Existing 17.70 to the 1st Draft	SUMMARY OF KEY CHANGES From the 1 st Draft to the 2nd Draft
			Adds clarification that the “passive outdoor activities” exemption does not include constructing new roads or trails, vegetation clearing, or collection of animals.
19.70.050 Permitted Alterations	17.70.100 (CARA) 17.70.250 (Geo) 17.70.340.F.7 ; 17.70.400 -.460 (Wetlands), 17.70.560 (FWHCA) 17.70.560 & 17.70.575 (FWHCA)	- Carries over “Passive Recreation” facilities as an “allowed use” within wetland buffers , but adds Ecology-recommended impact-minimizing parameters for such facilities - Updates/adds critical area permit types and criteria for non-exempt projects, including “variance” and “public agency exception”, replacing “special/conditional use permit”; but staff notes the need to make some adjustments to this section as part continuing update process	- Reorganizes and consolidates into tables critical area permit types for all critical areas types - Updates critical area permit types and criteria for non-exempt proposals – Adds new permit type: “Permitted Alterations” (Type 2) - Buffer modifications; Public Services (utilities and access); Conservation/Enhancement projects; Chemical applications; Recreational areas / Facilities; SFR and necessary appurtenances
19.70.055 Reasonable Use Exception Variance	17.70.390 17.70.575	Updates/adds critical area permit types and criteria for non-exempt projects, including “reasonable use exception”, “variance” and “public agency exception”, replacing “special/conditional use permit” currently in 17.70; but staff notes the need to make some adjustments to this section as part continuing update process	- Updates critical area permit types and criteria for non-exempt proposals – Adds new permit type - “Reasonable Use Exception Variance” (Type 3-HE) - Everything else
Critical Areas Review Procedures (NEW)			
19.70.110 Critical Area Identification Form	Does not exist	New Critical Area Identification Form added to submittal requirements for all permit review processes to help identify potential critical areas on or near a project site	Updates to review procedures to provide a more efficient review process
19.70.125 Critical Area Report	Listed within each CA type chapter	- Clarifies when a critical area report is required and consolidates requirements report contents from individual critical area sections - Clarifies when 3rd party review of critical areas reports is required	Adds minimum application requirements for critical areas permits
19.70.135 Mitigation Requirements	Within each CA type chapter	Consolidates existing general requirements found within each section and adds new clarification that an applicant must demonstrate use of mitigation sequencing prior to impacting critical areas	
19.70.140 Mitigation Plan Requirements	Within each CA type chapter	Consolidates standards for mitigation plans in one location	
19.70.145 Title Notice	Does not exist	Adds new provisions for long-term protection and property purchaser notification of critical areas presence	Updates requirements for title notice documents
19.70.150 Field Marking	17.70.340.G 17.70.560.H	Expands and clarifies temporary and permanent field marking requirements	
19.70.155 Construction Plan Review, Monitoring, and Inspection	Does not exist	Provides opportunity to require qualified professional review of construction plans and presence on site during construction	
19.70.160 Financial Guarantee Requirements	17.70.330 (wetlands) 17.70.560 (FWHCA)	Clarifies and expands financial guarantee (bonding) requirements when impacts to critical areas or buffers are proposed	
19.70.170 Unauthorized Critical Area Alterations	17.70.470	Clarifies and expands procedures for addressing unauthorized impacts; and performance standards for restoration; adds financial penalty for impacts to critical areas, buffers, and trees	Updates to restoration standards per Ecology guidance
19.70.175 Final Decision and Appeals	17.70.400 for special/conditional use permits	Clarifies appeals of critical areas determination and critical areas permits (follow procedures for underlying permit type)	

PROPOSED CODE – 2 nd Draft Organization (AMC 19.70)	CORRESPONDING EXISTING CODE (AMC 17.70)	SUMMARY OF KEY CHANGES From Existing 17.70 to the 1st Draft	SUMMARY OF KEY CHANGES From the 1 st Draft to the 2nd Draft
Wetlands			
19.70.200 Wetlands – Description and Purpose	17.70.270; 17.70.280	Consolidates and simplifies existing purpose statements	
19.70.210 Wetlands – Designation and Rating	17.70.320	- Updates to wetland designation and rating system to reference most current WA State DOE Wetland Rating System for Western Washington – 2014 Update - Removes Regionally and Locally Significant Wetland designations	
19.70.220 Wetlands – Mapping and Delineation	17.70.300 & 17.70.320	- Adds clarification regarding general reference mapping - Updates delineation requirements to reference federal manual per WAC 173-22-035	Updates mapping to show existing and potential wetlands
19.70.230 Wetlands – General Development Standards	17.70.340	Carries over existing general standards, adds references to new location for exemptions	
19.70.240 Wetlands – Specific Wetland Category Development Standards	17.70.340	Carries over development standards for each Category of wetland, with updates to reference permitting requirements for proposed alterations; adds specific reference to requirement for mitigation sequencing, and updates to criteria per DOE guidance	Reduces size threshold (from 4,000 sf to 1,000) for Cat I, II, III and IV wetlands to be exempt from the requirement to avoid impacts and added more criteria per DOE guidance
19.70.250 Wetlands – Required Buffer Areas	17.70.340	- Standard buffer widths updated per Ecology guidance - Added 33% increase provision and updated points values to match 2014 rating system - Adds requirement to demonstrate no feasible alternative when proposing buffer averaging - Carries over “Passive Recreation” facilities as an “allowed use” within wetland buffers, but adds Ecology-recommended impact-minimizing parameters for such facilities, including restriction to the outer 25% of buffer and max. of 6’ wide - Adds/updates criteria for stormwater management facilities within buffers per DOE guidance - Adds provisions regarding previously established buffers & “interrupted buffers” - Adds a required 10’ setback from buffers	- Revises buffer approach to incorporate wetland type and functions, types of adjacent land use, and the environmental characteristics of the existing buffer, per DOE guidance - Relocates allowed buffer uses to permitted alterations (19.70.040) and changes review type from Type 1 to Type 2, and updates criteria per DOE guidance - Removes language about previously established buffers and clarifies provisions for functionally separated and isolated buffers
19.70.260 Wetlands- Critical Areas Report Additional Requirements	17.70.330	Expands upon existing report requirements	
19.70.270 Wetlands – Compensatory Mitigation Performance Standards and Requirements	17.70.350	- Adds alternative mitigation methods to the mitigation provisions to include off-site mitigation, advanced mitigation, in-lieu fees, and mitigation banking to allow for creation of those programs in the future (BAS, DOE guidance) - Updates to mitigation ratios and performance standards per DOE guidance	- Adds definitions for types of restoration - “Re-establishment and Rehabilitation” - Adds provisions for “Permittee-responsible mitigation” - Additional updates to mitigation ratios to include estuarine wetlands - Added design and construction requirements for wetland creation sites

PROPOSED CODE – 2 nd Draft Organization (AMC 19.70)	CORRESPONDING EXISTING CODE (AMC 17.70)	SUMMARY OF KEY CHANGES From Existing 17.70 to the 1st Draft	SUMMARY OF KEY CHANGES From the 1 st Draft to the 2nd Draft
Fish and Wildlife Habitat Conservation Areas			
19.70.300 – Fish and Wildlife Habitat – Description and Purpose	New	Consolidates and simplifies existing purpose statements	
19.70.310 – Fish and Wildlife Habitat – Designation	17.70.540	Replaces the list of named 15 streams with “Waters of the State”, which covers all streams; state priority habitat and species (mapped by WDFW) listed out for easier identification; existing habitats and species of local significance retained; local designation process retained	
19.70.320 – Fish and Wildlife Habitat – Mapping	17.70.540	- Carries over and updates list of mapping and inventories - Updates references to external mapping sources that are adopted by reference	Updated mapping, including stream map with names and typing according to WA DNR
19.70.330 – Fish and Wildlife Habitat – General Development Standards for All FWHCA's	17.70.560	Carries over General standards except some existing standards for buffer averaging, fencing, signage, etc. relocated to General Provisions	
19.70.340 – Fish and Wildlife Habitat – Specific Standards for Streams	17.70.540.A.7	- Updates buffers for Type F (shown tentatively as 100'), with staff acknowledgement that additional review of guidance for stream buffers in urban areas is needed - Allowed activities in streams divided by Type: Fish Streams, Non Fish Perennial, Non Fish Seasonal - Specific standards for streams – classification system improves the protection for “fish” streams	- Carries over 50' buffers for streams based on BAS report - Provides additional discussion and updates to standards for development near piped streams and roadside ditched segments, including stream enhancement measures, and incentives for daylighting streams - Simplifies standards for stream crossings to reference compliance with state and federal fish passage criteria
19.70.350 – Fish and Wildlife Habitat – Specific Standards for Other FWHCA's	17.70.570	- Updates standards for non-stream FWHCA's – adds specific standards for Endangered, Threatened, and Sensitive Species, and other Priority Habitats and Species - Carries over ACFL-specific provisions and updates protections for the March Point Heronry	- Adds language re: recreation and recreation-related facilities in ACFL, intended to recognize the conservation easement program's purpose of preserving the ACFL for public recreation and conservation; and consistency with ACFL Comprehensive Plan - Adds more specific language re: March Point Heronry - Adds specific buffer requirements for non-stream FWHCA's (marine shorelines, nesting bald eagles, great blue heron nesting areas and all others)
19.70.360 – Fish and Wildlife Habitat – Buffer Width Averaging for All FWHCA's	17.70.570	Updates habitat buffer averaging criteria	Adds additional criteria for buffer width averaging, including maximum allowed reduction, and changes review process from Type 1 to Type 2
19.70.370 – Fish and Wildlife Habitat – Stormwater Management Facilities	Does not exist	Adds standards for stormwater management facilities within FWHCA's	Updates standards for stormwater management facilities per DOE guidance
19.70.380 – Fish and Wildlife Habitat – Critical Area Report Additional Requirements	17.70.550	Expands on existing critical areas report and habitat assessment requirements	Adds additional technical information requirements for streams and heron habitat
19.70.390 – Fish and Wildlife Habitat – Mitigation Performance Standards and Requirements	17.70.560	Consolidates mitigation performance standards and requirements	Adds cross reference to requirements in AMC 19.70.135

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Geologically Hazardous Areas			
19.70.400 – Geologically Hazardous Areas- Description and Purpose	New	Adds new purpose language	
19.70.410 – Geologically Hazardous Areas – Designation	17.70.180 & 17.70.190	- Designations expanded to include more areas per BAS report - Updates designation for erosion hazard areas to include coastal erosion prone areas - Updates designation for landslide hazard area to include slopes having gradient steeper than 80% subject to rock fall during seismic shaking - Adds designation for marine bluffs and refers to the SMP for regulations	
19.70.420 – Geologically Hazardous Areas – Mapping	17.70.210	Mapping sources carried over and expanded upon	- Updates to City mapping per BAS report - Updates known or suspected landslide hazards - Adds Skagit County Potential Landslide and Erosion Areas, 2016 - Adds DNR liquefaction susceptibility and site class mapping - Adds DNR Tsunami Hazard Mapping
19.70.430 – Geologically Hazardous Areas – General Development Standards	17.70.220 & 17.70.250	- Removes exemptions for certain activities from the requirement to submit critical area reports - Eliminates exemptions for critical area reports in seismic hazard areas	
19.70.440 – Geologically Hazardous Areas – Specific Development Standards	17.70.220 & 17.70.260	- Retains existing 50’ buffer requirement from landslide hazard areas - Updates allowed buffer reductions to a minimum of 15’ (up from 10’) per BAS report - Adds requirement for property covenant/ notice on title per BAS report - Updates slope stability analysis requirements per BAS report - Updates to stormwater management standards to prohibit infiltration systems in landslide hazard areas unless report determines no adverse effect to slope stability, per BAS report - Updates to require 3rd party review of proposals for alterations to geologically hazardous areas per BAS report - Adds the requirement for 3rd party review in landslide hazard areas - Adds performance standards for tsunami hazard areas - Strengthens language for vegetation retention and management requirements - Adds specific standards for stormwater management	Revised buffer reductions to allow up to a maximum of a 25% reduction to the 50’ buffer requirement (min. buffer = 37.5’)
19.70.450 – Geologically Hazardous Areas – Critical Area Report Additional Requirements	17.70.230 & 17.70.240	Carries over and consolidates existing report requirements	

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Critical Aquifer Recharge Areas			
19.70.500 Critical Aquifer Recharge Areas – Description and Purpose	17.70.080	Adds new purpose language	
19.70.510 Critical Aquifer Recharge Areas – Applicability and Hazardous Materials Questionnaire	Does not exist	New requirement to help determine regulated activities/facilities - Regulated facilities questionnaire required as part of application	
19.70.520 Critical Aquifer Recharge Areas – Designation	17.70.090	- Eliminates Category I and II distinction; Critical Aquifer Recharge Areas designation criteria is same as for current Category 1. - Applicability is specific to certain use types that have the potential to negatively impact ground water quality within CARAs - Removes reference to seawater intrusion areas since this is primarily a concern with drilling of new wells for potable water, and the City’s water source is the Skagit River	
19.70.530 Critical Aquifer Recharge Areas – Mapping	17.70.090		- Updates mapping per BAS recommendations: - Designates CARAs (formerly Category I) - Adds areas that are mapped with high permeability soils as CARA - Adds areas that contain groundwater wells within the city limits as CARA
19.70.540 Critical Aquifer Recharge Areas – General Development Standards	17.70.150	Carries over prohibited activities	
19.70.550 Critical Aquifer Recharge Areas – Specific Development Standards for Regulated Facilities	17.70.160	- Carries over specific performance/ development standards - Adds table with specific references to other State and Federal statutes regulating groundwater impacting activities	
19.70.560 Critical Aquifer Recharge Areas – Critical Areas Report Additional Requirements	17.70.120	Carries over report requirements	Consolidates report requirements
Frequently Flooded Areas			
19.70.600 Frequently Flooded Areas – Description and Purpose	17.70.020	Adds purpose language	
19.70.610 Frequently Flooded Areas – Designation	17.70.040	- References existing recodified FEMA floodplain management requirements to new Chapter AMC Ch. 19.74 (to be completed as part of this process) - Adds reference to tsunami hazard areas in geologically hazardous areas section - Adds discussion of sea level rise and climate change per BAS recommendations	
19.70.615 Frequently Flooded Areas – Mapping	17.70.040.B	Carries over mapping references/designation	
19.70.620 Frequently Flooded Areas – General Development Standards	17.70.060	Adds cross reference to redcodified Floodplain Management standards in AMC 19.74	

PROPOSED CODE – 2 nd Draft Organization (AMC 19.70)	CORRESPONDING EXISTING CODE (AMC 17.70)	SUMMARY OF KEY CHANGES From Existing 17.70 to the 1st Draft	SUMMARY OF KEY CHANGES From the 1 st Draft to the 2nd Draft
19.70.625 Frequently Flooded Areas – Critical Areas Report Additional Requirements	New	Adds the Federal ESA requirements for floodplain development to conduct a Habitat Assessment Report for all development in these areas; and provides exemptions to the requirement to complete a habitat assessment for certain activities	

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SEPA ENVIRONMENTAL CHECKLIST

A. BACKGROUND [\[help\]](#)

1. Name of proposed project, if applicable: [\[help\]](#)

City of Anacortes Critical Areas Regulations Periodic Update

2. Name of applicant: [\[help\]](#)

City of Anacortes Planning, Community & Economic Development

3. Address and phone number of applicant and contact person: [\[help\]](#)

Tess Cooper, Associate Planner

City of Anacortes

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4. Date checklist prepared: [\[help\]](#)

October 25, 2019 (Revised February 11, 2020)

5. Agency requesting checklist: [\[help\]](#)

City of Anacortes

6. Proposed timing or schedule (including phasing, if applicable): [\[help\]](#)

Planning Commission public hearing in December 2019. Adoption by ordinance expected by end of January-March 2020. If adopted, the proposed amendments would go into effect shortly thereafter.

7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain. [\[help\]](#)

The non-project action involves updating public policy and Critical Area regulations under the Anacortes Municipal Code, Title 19 Unified Development Code. This legislative action is a standalone review and update of the current regulations and does not have any future additions or expansions expected to the proposed policy chapter. The City updates the Regulations at minimum of every eight years (RCW 36.70A.130), as required under GMA (RCW 36.70A.130). The City recently updated and adopted Title 19 Unified Development Code, and is in the process of updating the Shoreline Master Program, which will link to and reference the Critical Area Regulations.

Commented [CT1]: This question is about expanding the regulations or development requirements as administered by the Planning Department for ANY project proponent. This is NOT about reviewing future project actions by the City or any other project proponent that may be affected by the CAO. We must the Planning Department as the Government Regulator and the "City" as the applicant in future project actions.

8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal. [\[help\]](#)

Environmental review has been conducted for this proposal through this SEPA Expanded Environmental Checklist. These existing documents are relevant to the present proposal and are being adopted and used to help meet environmental review requirements pursuant to WAC 197-11-600. We expect a DNS determination to be issued in November 2019.

Additionally, the following reports containing environmental information have been prepared for the update:

Best Available Science Report for Wetlands and FWHCA's; ATSI 11/1/16

Best Available Science Report for GHAs, CARAs, and FFAs (GeoEngineers, 7/26/17)

Best Available Science Stream Buffer Review and Buffer Recommendations Report (GeoEngineers, 10/21/19)

9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain. [\[help\]](#)

This non-project action is being conducted by the City of Anacortes as a Regulatory Authority, reviewing and updating Development Regulations that oversee the permitting and approval process for development. This legislative process proposal is not development project related and therefore not related to any pending proposals. The proposal does affect all of Anacortes city limits and the adjacent Urban Growth Area within Skagit County. There are many pending development proposals, however the changes will only impact new development proposals after the ordinance is adopted.

Commented [CT2]: Same response to #7 above.

10. List any government approvals or permits that will be needed for your proposal, if known. [\[help\]](#)

The proposal is made available to all State Agencies, Tribal Entities, and adjacent local jurisdictions. The document will be at a minimum reviewed by including Department of Ecology and Department of Commerce. The document will be subject to public comment, and review by the Anacortes Planning Commission. Anacortes City Council will have final approval authority or may request modification of these proposed amendments (by ordinance).

11. Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page. (Lead agencies may modify this form to include additional specific information on project description.) [\[help\]](#)

The proposed non-project legislative action is to amend the Critical Area regulations in accordance with the Growth Management Act requirements. The critical areas ordinance regulates certain activities and development in and near wetlands, streams, fish & wildlife habitat conservation areas, geologically hazardous areas, frequently flooded areas, and critical aquifer recharge areas. The draft includes updates in accordance with state law and best available science, reorganization, and functional changes to certain requirements. The intent of the changes is to provide a more clear and concise process with an overall increase in environmental protections.

12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist. [help]

The Critical Area Regulations affect all real property city-wide, and within the Urban Growth Area.

B. ENVIRONMENTAL ELEMENTS [help]

ITEMS 1 THROUGH 16 RESPONSES ARE GENERAL IN NATURE BECAUSE THIS IS A NON-PROJECT ACTION.

1. Earth

a. General description of the site [help]

(circle one): Flat, rolling, hilly, steep slopes, mountainous,
other _____

b. What is the steepest slope on the site (approximate percent slope)? [help]

c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any agricultural land of long-term commercial significance and whether the proposal results in removing any of these soils. [help]

d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe. [help]

e. Describe the purpose, type, total area, and approximate quantities and total affected area of any filling, excavation, and grading proposed. Indicate source of fill. [help]

f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe. [help]

g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)? [help]

h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any: [help]

The City of Anacortes, Washington is located on the northern end of Fidalgo Island. Elevations within the City vary from sea level, to 600 feet in the southwest quadrant, and to 1,270 feet at the top of Mt. Erie. Portions of Anacortes are flat, rolling, hilly, and or contain steep slopes. Soil types vary throughout City limits but a majority of soil types have a hydric rating of 5 – 100 and include some unstable soil types.

Development that is authorized consistent with the City's development regulations following the adoption of the amendments will be required to comply with City, State, and Federal requirements regarding slopes, soils, stormwater management, and erosion. Future development projects regulated by this project will likely include earth work and ground disturbance, however the outcome of the Critical Area regulations will implement avoidance requirements with protective buffers and specific development standards for the protection environmental resources. All ground disturbing activity is a regulated under this proposed policy update and would be subject to mitigation sequencing and approval under the proposed permit review procedures. The intent of the update is to provide an overall increase in environmental protections to the elements of earth, this will be achieved through implementing a clearer permit procedure, increasing assessment report requirements, applying larger buffers in some instances, and incentivizing the implementation of Best

Management Practices. Staff analyzed and implemented the recommendations of Best Available Science guidance into the code updates proposed in this code amendment.

Commented [CT3]: Staff will revise this answer to describe possible impacts to earth allowed through the critical area regulations.

2. Air

- a. What types of emissions to the air would result from the proposal during construction, operation, and maintenance when the project is completed? If any, generally describe and give approximate quantities if known. [\[help\]](#)
- b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe. [\[help\]](#)
- c. Proposed measures to reduce or control emissions or other impacts to air, if any: [\[help\]](#)

This non-project action does not propose allowing for an increase in industrial type development that may increase air emissions. However, it does not specifically address air emissions or the conservation of air quality. The City does not have regulating authority over air resources.

Development that is authorized consistent with the City's development regulations following the adoption of amendments will be required to comply with City, State, and Federal requirements regarding regulated critical areas, stormwater runoff, and all other potential impacts to the air. The intent of the update is to provide an overall increase in environmental protections including vegetation conservation and management which will in turn result in the mitigation of air quality for the City of Anacortes. Staff analyzed and implemented the recommendations of Best Available Science guidance into the code updates proposed in this code amendment.

Commented [CT4]: Staff will revise this answer to describe possible impacts to air allowed through the critical area regulations.

3. Water

a. Surface Water: [\[help\]](#)

- 1) Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into. [\[help\]](#)
- 2) Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans. [\[help\]](#)
- 3) Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material. [\[help\]](#)
- 4) Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if known. [\[help\]](#)
- 5) Does the proposal lie within a 100-year floodplain? If so, note location on the site plan. [\[help\]](#)
- 6) Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge. [\[help\]](#)

b. Ground Water:

- 1) Will groundwater be withdrawn from a well for drinking water or other purposes? If so, give a general description of the well, proposed uses and approximate quantities withdrawn from the well. Will water be discharged to groundwater? Give general description, purpose, and approximate quantities if known. [\[help\]](#)
- 2) Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage; industrial, containing the

following chemicals. . . ; agricultural; etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve. [\[help\]](#)

c. Water runoff (including stormwater):

- 1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe. [\[help\]](#)
- 2) Could waste materials enter ground or surface waters? If so, generally describe. [\[help\]](#)
- 3) Does the proposal alter or otherwise affect drainage patterns in the vicinity of the site? If so, describe.

d. Proposed measures to reduce or control surface, ground, and runoff water, and drainage pattern impacts, if any:

The City is bounded on three sides by 20 miles of saltwater shoreline of Burrows Bay, Rosario Strait, Guemes Channel and Fidalgo Bay. These shorelines are "shorelines of statewide significance". There are 15 named streams flowing through the city, including Happy Valley Stream, Ace of Hearts Creek, Beaver Brook, Cranberry Creek, Clyde Creek, Anaco Bourn, Morrison Run, Cedar Springs, Weaverling Rill, Miller Creek, Aqua Creek, Howard Creek, Summit Creek, and March's Run. Many of the streams have been placed in culverts, channels, or have been otherwise altered. There are three freshwater lakes within City limits, including Whistle, Heart and Cranberry Lakes, as well as a portion of the northeast shoreline of Lake Erie. Various category wetlands are found throughout the City, with major systems located within the Anacortes Forest Lands and near Ship Harbor.

There are parts of the City that are located within the regulated flood plain, primarily along shoreline areas.

Potable water is supplied to City residents and surrounding areas by the City water utility, which gets water from Skagit River.

One of the primary focuses of the Critical Area regulations is the protection of water resources such as wetlands, streams, and the marine shorelines that provide community value and that support the needs of plants and animals. This piece of legislation accounts for individual property rights while simultaneously protecting these vital resources. Through the implementation of mitigation sequencing, which is now proposed to be mandatory under this amendment, impacts to these resources will be avoided, reduced, rectified, and replaced. Furthermore, any future development project proposed on land covered by water and or buffers in the R1 zone, will be subject to further SEPA review. Individual project review under SEPA will more clearly define potential impacts by analyzing specific project specifications and site conditions.

Development that is authorized consistent with the City's development regulations following the adoption of amendments will be required to comply with City, State, and Federal requirements regarding regulated critical areas, stormwater runoff, and all other potential impacts to both ground and surface water. The intent of the update is to provide an overall increase in environmental protections to water resources through the addition of mandatory mitigation sequencing. Staff

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Commented [CT5]: Staff will revise this answer to describe possible impacts to water allowed through the critical area regulations.

analyzed and implemented the recommendations of Best Available Science guidance into the code updates proposed in this code amendment.

4. Plants [\[help\]](#)

- a. Check the types of vegetation found on the site: [\[help\]](#)
- ☐ deciduous tree: alder, maple, aspen, other
 - ☐ evergreen tree: fir, cedar, pine, other
 - ☐ shrubs
 - ☐ grass
 - ☐ pasture
 - ☐ crop or grain
 - ☐ Orchards, vineyards or other permanent crops.
 - ☐ wet soil plants: cattail, buttercup, bullrush, skunk cabbage, other
 - ☐ water plants: water lily, eelgrass, milfoil, other
 - ☐ other types of vegetation
- b. What kind and amount of vegetation will be removed or altered? [\[help\]](#)
- c. List threatened and endangered species known to be on or near the site. [\[help\]](#)
- d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any: [\[help\]](#)
- e. List all noxious weeds and invasive species known to be on or near the site.

Anacortes is located within the Pacific Northwest, which has plentiful rainfall and mild summers. A majority of the above plants occur within the city. Rare plant species are identified in mapping from the Department of Natural Resources and especially within the Anacortes Community Forest Lands. Regulations will protect these rare and endangered species.

Based on Washington State reasonable use requirements jurisdictions are required to allow impacts to critical areas when denial of a project would result in a taking of private property. The purpose of this legislation amendment is to ensure that the impacts are minimized and that restoration and replacement are sufficient to offset any environmental impact. The Critical Area regulations prescribe scientific tools to quantify adverse impacts including, biological analysis, habitat assessment, and mitigation plans. Additionally, mitigation plans as specified in this proposed code update, are required to meet specific mitigation ratios of replaced functions which include a range of replacement value from 1:1 all the way up to 12:1 replacement value. With the use of mandatory performance standards, annual monitoring reports, contingency plans, final inspection, and notice on title the likelihood of successful mitigation and replacement of lost function is greatly improved for the success of vegetation reestablishment.

Development that is proposed will be consistent with the City's development regulations and will be required to comply with City, State, and Federal requirements regarding plants, including endangered species and priority habitats and species protections under the Fish and Wildlife Habitat Conservation Areas requirements. The intent of the update is to provide an overall increase in environmental protections to sensitive plant resources, achieved by the proposed improved requirements for mitigation implementation and tracking of successful outcomes or mandatory corrective action for

plans that are less successful. Staff analyzed and implemented the recommendations of Best Available Science guidance into the code updates proposed in this code amendment.

Commented [CT6]: Staff will revise this answer to describe possible impacts to Plants allowed through the critical area regulations.

5. Animals

- List any birds and other animals which have been observed on or near the site or are known to be on or near the site. Examples include: [\[help\]](#)
birds: hawk, heron, eagle, songbirds, other:
mammals: deer, bear, elk, beaver, other:
fish: bass, salmon, trout, herring, shellfish, other _____
- List any threatened and endangered species known to be on or near the site. [\[help\]](#)
- Is the site part of a migration route? If so, explain. [\[help\]](#)
- Proposed measures to preserve or enhance wildlife, if any: [\[help\]](#)
- List any invasive animal species known to be on or near the site.

All of the above animals occur within Anacortes. Anacortes is part of the migratory route known as the American Pacific Flyway. The City is home to many fish, shellfish and bird and mammal species, especially within the Anacortes Community Forest Lands and along the saltwater shorelines.

As with the description of reasonable use requirements above, there are potential impacts to animal species through the allowance of permitted alterations as listed in the proposed code update. Buffer modifications, public roads and utilities, conservation/restoration projects, chemical applications, new recreations facilities and trails, single family homes, and reasonable use exceptions all pose potential impacts to wildlife. The current critical area regulations lack guidance and a clear outline of analysis and development standards. The proposed update clearly identifies the review process as well as Habitat Assessment report requirements, updated specific performance standards for protection, and the requirements of Habitat Management Plans for project proposals on or near habitats or species that are identified as listed, protected, or priority.

Development that is authorized consistent with the City's development regulations following the adoption of amendments will be required to comply with City, State, and Federal requirements regarding animals in regulated critical areas and Fish and Wildlife Habitat Conservation Areas. The intent of the update is to provide an overall increase in environmental protections to sensitive animal species. Staff analyzed EIS analysis and Management recommendations for recreation uses in natural areas and have implemented the recommendations of Best Available Science and the Washington State Department of Ecology guidance into the code updates proposed in this code amendment.

Commented [CT7]: Staff will revise this answer to describe possible impacts to animals allowed through the critical area regulations.

6. Energy and natural resources

- What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc. [\[help\]](#)
- Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe. [\[help\]](#)
- What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any: [\[help\]](#)

No significant impacts are anticipated to energy and natural resources outside of normal development. The City has few legally existing resource extraction operations, and anticipates no new proposals on lands within City Limits or the deed restricted Anacortes Community Forest Lands. Any future development that is proposed will be consistent with the City's development regulations and will be required to comply with City, State, and Federal requirements regarding energy and natural resources.

7. Environmental health

a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste, that could occur as a result of this proposal?

If so, describe. [\[help\]](#)

- 1) Describe any known or possible contamination at the site from present or past uses.
- 2) Describe existing hazardous chemicals/conditions that might affect project development and design. This includes underground hazardous liquid and gas transmission pipelines located within the project area and in the vicinity.
- 3) Describe any toxic or hazardous chemicals that might be stored, used, or produced during the project's development or construction, or at any time during the operating life of the project.
- 4) Describe special emergency services that might be required.
- 5) Proposed measures to reduce or control environmental health hazards, if any:

This non-project action does not propose allowing for an increase in industrial type development that may increase risks of environmental health hazards. The section on Critical Aquafir Recharge Areas increases regulation of activities that could cause a spill and contamination of ground water resources.

Development that is proposed will be consistent with the City's development regulations and will be required to comply with City, State, and Federal requirements regarding environmental health. No significant impacts are anticipated to environmental health outside of normal development. The intent of the update is to provide an overall increase in environmental protections.

b. Noise

- 1) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)? [\[help\]](#)
- 2) What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site. [\[help\]](#)
- 3) Proposed measures to reduce or control noise impacts, if any: [\[help\]](#)

Noises typical of urban and residential environments are currently found in the area of the City. The intensity can range depending on the location and use of the project area. Changes to noise levels can be expected with certain development activities. Noise can be controlled through hours of operation, screening, and design elements of a proposed project covered under the draft critical area regulations.

Development that is proposed will be consistent with the City's development regulations and will be required to comply with City, State, and Federal requirements regarding land use and noise.

8. Land and shoreline use

- a. What is the current use of the site and adjacent properties? Will the proposal affect current land uses on nearby or adjacent properties? If so, describe. [\[help\]](#)
- b. Has the project site been used as working farmlands or working forest lands? If so, describe. How much agricultural or forest land of long-term commercial significance will be converted to other uses as a result of the proposal, if any? If resource lands have not been designated, how many acres in farmland or forest land tax status will be converted to nonfarm or nonforest use? [\[help\]](#)
 - 1) Will the proposal affect or be affected by surrounding working farm or forest land normal business operations, such as oversize equipment access, the application of pesticides, tilling, and harvesting? If so, how:
- c. Describe any structures on the site. [\[help\]](#)
- d. Will any structures be demolished? If so, what? [\[help\]](#)
- e. What is the current zoning classification of the site? [\[help\]](#)
- f. What is the current comprehensive plan designation of the site? [\[help\]](#)
- g. If applicable, what is the current shoreline master program designation of the site? [\[help\]](#)
- h. Has any part of the site been classified as a critical area by the city or county? If so, specify. [\[help\]](#)
- i. Approximately how many people would reside or work in the completed project? [\[help\]](#)
- j. Approximately how many people would the completed project displace? [\[help\]](#)
- k. Proposed measures to avoid or reduce displacement impacts, if any: [\[help\]](#)
- l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any: [\[help\]](#)
- m. Proposed measures to ensure the proposal is compatible with nearby agricultural and forest lands of long-term commercial significance, if any:

The majority of Fidalgo Island shoreline is developed in urban and industrial uses with a major maritime economy however, some of the shoreline remains in natural environments. This non-project action does not propose a change in shoreline use at this time. The City use and zoning designation within the shoreline jurisdiction include residential, commercial, and commercial marine and are not expected to experience any affects by approval of the Plan. Many of the protected critical areas in this plan including Fish and Wildlife Habitat Conservation Areas, Geologically Hazardous Areas, and Frequently Flooded Areas frequently occur within the 200 foot shoreline jurisdiction which are required to be regulated under the Washington State Shoreline Management Act. By hierarchy any development within the shoreline jurisdiction is then required to be regulated under the Shoreline Master Program, and NOT the Critical Area Ordinance. The intent of the update is to correlate with the Shoreline Master Program to protect valuable shoreline resources. All development will be required to meet the City's shoreline permitting review process, and will incorporate the development standards described within this proposed code update to the Critical Area regulations. Therefore, there will be three mechanisms to evaluate environmental impacts to all projects on lands covered by water including SEPA review, Shoreline development regulations, and Fish and Wildlife Conservation Area evaluation and habitat management requirements.

Any future development that is proposed will be consistent with the City's development regulations and will be required to comply with City, State, and Federal requirements regarding land use and

shoreline regulations. The intent of the update is to provide an overall increase in environmental protections to shoreline resources through better correlation with the Shoreline Master Program.

Commented [CT8]: This update does NOT address shorelines other than protected FWHCA's the response is appropriate given that the City administers Shoreline protections under the SMP and will soon be completing SEPA for those updates.

9. Housing

- Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing. [\[help\]](#)
- Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing. [\[help\]](#)
- Proposed measures to reduce or control housing impacts, if any: [\[help\]](#)

No significant impacts are anticipated to housing are expected with the adoption of these regulations, the Reasonable Use Accommodation makes allowance to permit residential development when the denial of such would result in an economic hardship.

Development that is authorized consistent with the City's development regulations following adoption of the amendments will be required to comply with City, State, and Federal requirements regarding housing.

10. Aesthetics

- What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed? [\[help\]](#)
- What views in the immediate vicinity would be altered or obstructed? [\[help\]](#)
- Proposed measures to reduce or control aesthetic impacts, if any: [\[help\]](#)

The Plan if approved will help preserve existing open space and the natural character of critical areas, as well as protect the scenic viewshed of Fidalgo Island.

11. Light and glare

- What type of light or glare will the proposal produce? What time of day would it mainly occur? [\[help\]](#)
- Could light or glare from the finished project be a safety hazard or interfere with views? [\[help\]](#)
- What existing off-site sources of light or glare may affect your proposal? [\[help\]](#)
- Proposed measures to reduce or control light and glare impacts, if any: [\[help\]](#)

Development that is authorized consistent with the City's development regulations following adoption of the amendments will be required to comply with City, State, and Federal requirements regarding lighting and glare.

12. Recreation

- What designated and informal recreational opportunities are in the immediate vicinity? [\[help\]](#)
- Would the proposed project displace any existing recreational uses? If so, describe. [\[help\]](#)
- Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any: [\[help\]](#)

The city offers various designated recreation opportunities that include the 3000 acres of designated and preserved Community Forest Lands and as well as various play fields (baseball,

soccer, and open play areas), ~~there are~~ tennis courts, basketball courts and racquet ball courts. We have many parks that offer various playground experiences such as a zip line, a spray pad and a skate park.

The intent of the proposed update to the critical area regulations include the exemption allowance to continue outdoor recreational use of legally existing recreational trails and facilities within critical areas and their buffers. The development of new recreational facilities is now proposed to be limited by certain thresholds including trail width and surface structure, thresholds are derived directly from the Department of Ecology CAO guidance document. These new limitations and thresholds result in a reduction of the current allowed environmental impacts for recreational uses in critical areas and the community forest lands. Additionally, as discussed above the proposed implementation of required mitigation sequencing and mitigation performance standards will further reduce any unavoidable impacts to the environment.

Development that is authorized consistent with the City's development regulations following adoption of the amendments will be required to comply with City, State, and Federal requirements regarding recreation.

Commented [CT9]: Staff will expand on the inclusion of recreation in the critical area uses.

13. Historic and cultural preservation

- Are there any buildings, structures, or sites, located on or near the site that are over 45 years old listed in or eligible for listing in national, state, or local preservation registers located on or near the site? If so, specifically describe. [\[help\]](#)
- Are there any landmarks, features, or other evidence of Indian or historic use or occupation? This may include human burials or old cemeteries. Are there any material evidence, artifacts, or areas of cultural importance on or near the site? Please list any professional studies conducted at the site to identify such resources. [\[help\]](#)
- Describe the methods used to assess the potential impacts to cultural and historic resources on or near the project site. Examples include consultation with tribes and the department of archeology and historic preservation, archaeological surveys, historic maps, GIS data, etc. [\[help\]](#)
- Proposed measures to avoid, minimize, or compensate for loss, changes to, and disturbance to resources. Please include plans for the above and any permits that may be required.

Development that is authorized consistent with the City's development regulations following adoption of the amendments will be required to comply with City, State, and Federal requirements regarding cultural preservation.

14. Transportation

- Identify public streets and highways serving the site or affected geographic area and describe proposed access to the existing street system. Show on site plans, if any. [\[help\]](#)
- Is the site or affected geographic area currently served by public transit? If so, generally describe. If not, what is the approximate distance to the nearest transit stop? [\[help\]](#)
- How many additional parking spaces would the completed project or non-project proposal have? How many would the project or proposal eliminate? [\[help\]](#)
- Will the proposal require any new or improvements to existing roads, streets, pedestrian, bicycle or state transportation facilities, not including driveways? If so, generally describe (indicate whether public or private). [\[help\]](#)
- Will the project or proposal use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe. [\[help\]](#)

- f. How many vehicular trips per day would be generated by the completed project or proposal? If known, indicate when peak volumes would occur and what percentage of the volume would be trucks (such as commercial and nonpassenger vehicles). What data or transportation models were used to make these estimates? [\[help\]](#)
- g. Will the proposal interfere with, affect or be affected by the movement of agricultural and forest products on roads or streets in the area? If so, generally describe.
- h. Proposed measures to reduce or control transportation impacts, if any: [\[help\]](#)

No significant impacts are anticipated to transportation infrastructure are expected with the adoption of these regulations, the Permitted Alteration provisions makes allowed to permit public transportation service projects to include only necessary roads and utilities as needed in the community. Unavoidable impacts are addressed in this code update through the addition of mandatory mitigation sequencing, mitigation performance standards and a designated permit process.

Development that is authorized consistent with the City's development regulations following adoption of the amendments will be required to comply with City, State, and Federal requirements regarding transportation.

Commented [CT10]: Staff will expand on the inclusion of transportation, public services, and utilities in the critical area uses.

15. Public services

- a. Would the project result in an increased need for public services (for example: fire protection, police protection, public transit, health care, schools, other)? If so, generally describe. [\[help\]](#)
- b. Proposed measures to reduce or control direct impacts on public services, if any. [\[help\]](#)

No significant impacts are anticipated to public service are expected with the adoption of these regulations, the Permitted Alteration provisions makes allowed to permit public service projects as needed in the community through mitigation sequencing and a designated permit process.

Development that is authorized consistent with the City's development regulations following adoption of the amendments will be required to comply with City, State, and Federal requirements regarding public services.

16. Utilities

- a. Circle utilities currently available at the site: [\[help\]](#)
electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system,
other _____
- b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed. [\[help\]](#)

All of the utilities listed above are available within the City. Upgrades and extensions are generally requirements to development if needed. Development that is authorized consistent with the City's development regulations following adoption of the amendments will be required to comply with City, State, and Federal requirements regarding utilities.

C. SIGNATURE [\[HELP\]](#)

TO BE COMPLETED BY APPLICANT

EVALUATION FOR
AGENCY USE ONLY

I certify (or declare) under penalty of perjury under laws of the State of Washington that the above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make a decision.



Signature:

Name of signee: Tess Cooper

Position and Agency/Organization: Associate Planner, City Of Anacortes

Date Submitted: October 25, 2019

DRAFT

D. Supplemental sheet for nonproject actions [\[help\]](#)**Commented [CT11]:** Staff will expand on these answers to provide more detail

Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment.

When answering these questions, be aware of the extent the proposal, or the types of activities likely to result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.

1. How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise?

In general, new development creates additional hard surfaces, traffic, and noise, but it is anticipated the draft amendments would limit growth and development in sensitive environmental areas and is therefore not likely to increase the above listed actions. This non-project action does not propose allowing for an increase in industrial type development that may increase air emissions. However, it does not specifically address air emissions or the conservation of air quality. The City does not have regulating authority over air resources.

Proposed measures to avoid or reduce such increases are:

Discharges to water, air, production of noise, and storage or release of toxic or hazardous substances would continue to be subject to existing city, state and federal regulations and/or additional project-level environmental review. Development that is authorized consistent with the City's development regulations following the adoption of amendments will be required to comply with City, State, and Federal requirements regarding all potential impacts to the air. The intent of the update is to provide an overall increase in environmental protections including vegetation conservation and management which will in turn result in the mitigation of air quality for the City of Anacortes. Staff analyzed and implemented the recommendations of Best Available Science guidance into the code updates proposed in this code amendment.

Commented [CT12]: Staff will revise this answer to describe possible impacts to air allowed through the critical area regulations.

2. How would the proposal be likely to affect plants, animals, fish, or marine life?

Planned growth enabled under this proposal is limited in environmentally sensitive areas and is therefore primarily focused within already developed areas such that impacts to plants, animals, fish or marine life are not likely to significantly increase as compared to existing land use plans. Based on Washington State reasonable use requirements jurisdictions are required to allow impacts to critical areas when denial of a project would result in a taking of private property. The purpose of this legislation amendment is to ensure that the impacts are minimized and that restoration and replacement are sufficient to offset any environmental impact. The Critical Area regulations prescribe scientific tools to quantify adverse impacts including, biological analysis, habitat assessment, and mitigation plans.

Proposed measures to protect or conserve plants, animals, fish, or marine life are:

Existing Federal, State laws and City development regulations have been adopted to protect and conserve plants, animals, fish, and marine life. The City has adopted a Shoreline Master Program that aims to protect shoreline resources. Specifically, future development under this proposal would be subject to critical area buffer restrictions, use restrictions and mandatory mitigation in environmentally sensitive areas including wetlands, fish and wildlife conservation areas, protections for endangered and threatened species, and priority habitats. The proposed update clearly identifies the review process as well as Habitat Assessment report requirements, updated specific performance standards for protection, and the requirements of Habitat Management Plans for project proposals on or near habitats or species that are identified as listed, protected, or priority. Development that is authorized consistent with the City's development regulations following the adoption of amendments will be required to comply with City, State, and Federal requirements regarding animals in regulated critical areas and Fish and Wildlife Habitat Conservation Areas. The intent of the update is to provide an overall increase in environmental protections to sensitive animal species. Staff analyzed EIS analysis and Management recommendations and have implemented the recommendations of Best Available Science and the Washington State Department of Ecology guidance into the code updates proposed in this code amendment.

Commented [CT13]: Staff will revise this answer to describe possible impacts to animals allowed through the critical area regulations.

3. How would the proposal be likely to deplete energy or natural resources?

The proposal is not likely to significantly increase impacts to energy usage and natural resources.

Proposed measures to protect or conserve energy and natural resources are:

Future development under this proposal would be able to incorporate low impact design guidelines and utilize energy saving technology. All activities will continue to be subject to existing energy codes and other city, state and federal regulations and/or additional project-level environmental review. The City has few legally existing resource extraction operations, and anticipates no new proposals on lands within City Limits or the deed restricted Anacortes Community Forest Lands. Any future development that is proposed will be consistent with the City's development regulations and will be required to comply with City, State, and Federal requirements regarding energy and natural resources.

4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection; such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands?

The proposal is specifically for the purpose of the protection all of the above environmentally sensitive areas. This amendment addresses environmental evaluation requirements, prohibits certain uses and activities, establishes protective buffers, and mandates no net loss through mitigation standards. The language in the document has been strengthened, the mistakes have been corrected, and unclarities have been clarified.

Proposed measures to protect such resources or to avoid or reduce impacts are:

Future development under this proposal would continue to be subject to existing regulations protecting environmentally sensitive areas, and other city, state and federal regulations and/or additional project-level environmental review.

5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?

The amendment integrates the shoreline master program requirements and provided environmental protection to sensitive shoreline resources. The regulations prohibit incompatible uses in the shoreline critical areas and implement protective buffers.

Proposed measures to avoid or reduce shoreline and land use impacts are:

Development that is authorized consistent with the City's development regulations following the adoption of the amendments will be required to comply with City, State, and Federal requirements regarding slopes, soils, stormwater management, and erosion. Future development projects regulated by this project will likely include earth work and ground disturbance, however the outcome of the Critical Area regulations will implement avoidance requirements with protective buffers and specific development standards for the protection environmental resources. All ground disturbing activity is a regulated under this proposed policy update and would be subject to mitigation sequencing and approval under the proposed permit review procedures. The intent of the update is to provide an overall increase in environmental protections, this will be achieved through implementing a clearer permit procedure, increasing assessment report requirements, applying larger buffers in some instances, and incentivizing the implementation of Best Management Practices. Staff analyzed and implemented the recommendations of Best Available Science guidance into the code updates proposed in this code amendment. Future development under this proposal would continue to be subject to existing regulations protecting environmentally sensitive areas, and other city, state and federal regulations and/or additional project-level environmental review.

Commented [CT14]: Staff will revise this answer to describe possible impacts to earth allowed through the critical area regulations.

6. How would the proposal be likely to increase demands on transportation or public services and utilities?

The proposal is not likely to significantly increase demands on transportation or public services and utilities. In fact, the intent of the update is to make the allowance for these integral public services less cumbersome through the regulations process.

Proposed measures to reduce or respond to such demand(s) are:

The proposed Permitted Alteration provisions makes allowed to permit public service projects to include only necessary roads and utilities as needed in the community. Unavoidable environmental impacts are addressed in this code update through the addition of mandatory mitigation sequencing, mitigation performance standards and a designated

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permit process. *Future development under this proposal would continue to be subject to existing city, state and federal regulations and/or additional project-level environmental review.*

7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.

The proposal directly implements local comprehensive plan policies and is consistent with the Growth Management Act and all other local, state and federal laws applicable. Future development under this proposal would continue to be subject to existing city, state and federal regulations and/or additional project-level environmental review. The intent of the changes is to provide an overall increase in environmental protections.

ANACORTES

Critical Areas Regulations Update

City Council Meeting
February 18, 2020



TEAM



Tess Cooper, Associate Planner

Expertise:
Wetlands & Critical Areas, Regulatory
Compliance, and
Environmental Planning



Libby Grage, Planning Manager

Expertise:
Urban Planning, Comprehensive Plan,
Municipal Code Updates and Revisions



Don Measamer, Planning Director

Expertise:
Urban Planning, Economic Development,
Building Official



GeoEngineers, J. Gordon
Senior Principal Geotechnical
Engineer

Expertise:
Geotechnical Engineering



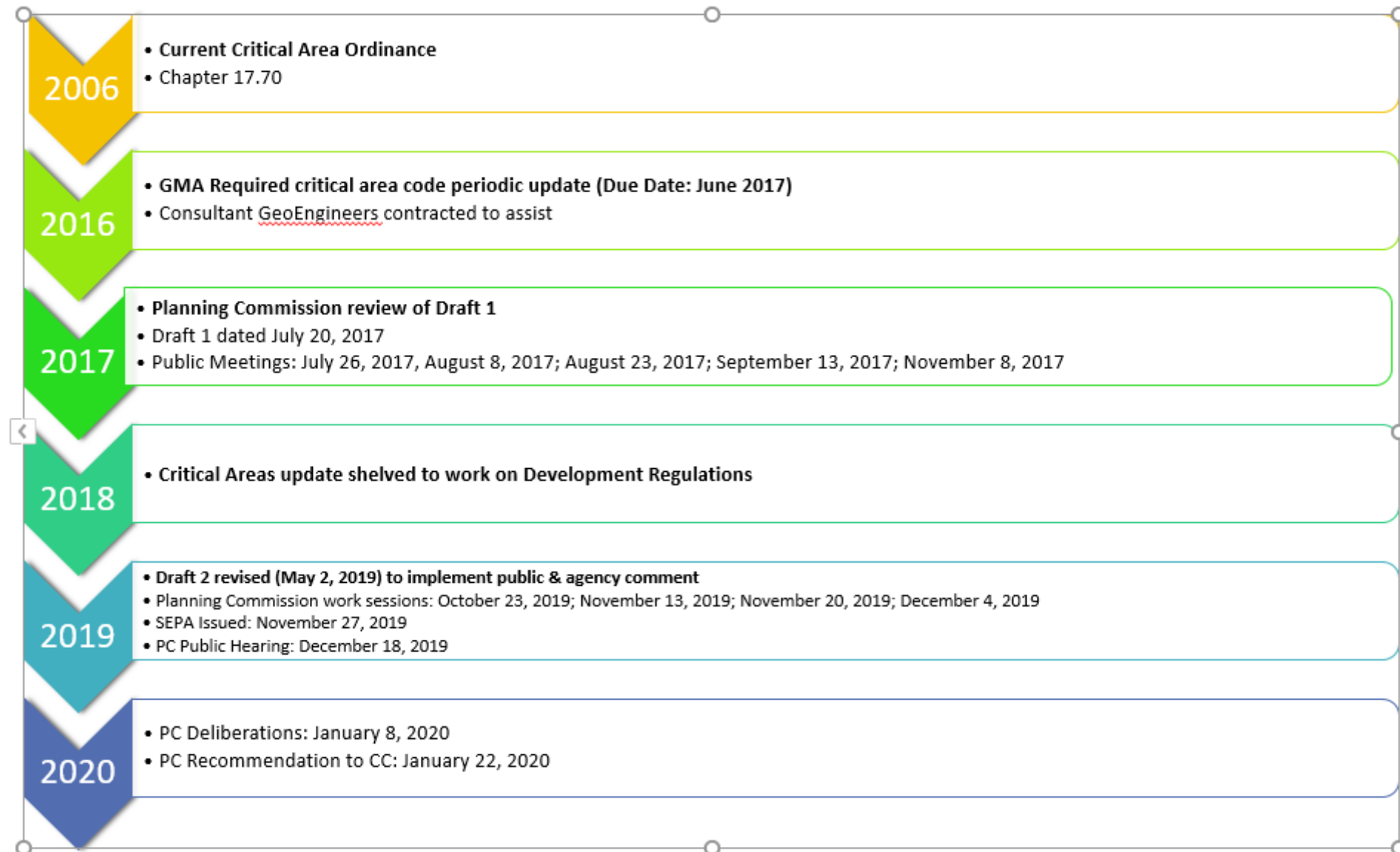
GeoEngineers, Fiona McNair
Senior Environmental Scientist

Expertise:
Ecology / Biology – Natural Resources
& Regulatory Compliance

Project Overview – GMA mandates

1. Cities and counties develop comprehensive land use plans and development regulations, including critical areas regulations
2. Periodically review and, if needed, revise (Deadline: June 2017)
3. Must include the best available science in developing policies regulations
4. Policies and regulations must protect the functions and values of critical areas
 - Wetlands
 - Critical aquifer recharge areas
 - Frequently flooded areas
 - Geologically hazardous areas
 - Fish & wildlife habitat conservation areas

Project History



Planning Commission Recommendation

Motion to Approve the proposed amendments to the critical area regulations as presented in the “2nd Draft”, dated May 2019, subject to the changes identified in **Attachment A**.

Packet item B – Draft 2 Critical Area Regulations

Packet item C – Changes identified (as Attachment A)

- 21 changes recommended



Anacortes Planning Commission Recorded Motion Regarding Amendments to the Critical Area Regulations

Proposal Description:	The proposed non-project legislative action is to amend the Critical Area regulations in accordance with the Growth Management Act requirements. The critical areas ordinance regulates certain activities and development in and near wetlands, streams, fish & wildlife habitat conservation areas, geologically hazardous areas, frequently flooded areas, and critical aquifer recharge areas. The draft includes updates in accordance with state law and best available science, reorganization, and functional changes to certain requirements.
File Number:	PLN-2019-0010
Documents available at:	https://www.anacorteswa.gov/201/Critical-Areas-Regulations-Update
Public hearing body:	Anacortes Planning Commission
Public hearing date:	December 18, 2019
PC deliberations:	January 8, 2020 and January 22, 2020

After considering the written and spoken comments and considering the record before it, the Planning Commission enters the following findings of fact, reasons for action, and recommendations to the Anacortes City Council.

Draft 2: Critical Area Regulations

Chapter 19.70 Critical Area Regulations

- General Provisions
- Critical Area Review Procedures
- Wetlands
- Fish and Wildlife Habitat Conservation Areas
- Geologically Hazardous Areas
- Critical Aquifer Recharge Areas
- Frequently Flooded Areas
- Definitions

Draft 2: Critical Area Regulations

- Draft 2 is a NEW document constructed from parts and pieces of Chapter 17.70 and Draft 1,
- Draft 2 completely reorganizes previous code,
- New text/provisions were added in certain locations to improve intent, clarify process, or strengthen protections.
- It was not possible to create a track changes document in this process.

Summary of Improvements to the Critical Area Regulations:

1. Add the General Provisions Section
2. Categorize Development Activities by Exempt, Permitted, and Variance
3. Add the Critical Areas Review Procedures Section
4. Create a Critical Area Identification form for applicants
5. Clarify and create new permit processes to match the Exempt, Permitted, and Variance categorization
6. Make applying mitigation sequencing mandatory
7. Expand alternative mitigation measures
8. Wetlands – Designation and Rating (update referenced rating system to 2014)
9. Regionally & Locally Significant Wetlands removed to improve buffers
10. Clarify “Use by Right”
11. Development Standards by Category Wetland Clarified
12. Isolated & small wetlands recommend further language updated
13. Incorporate a new wetland buffer method of using land use intensity, predominantly used in our region
14. Increased the range of buffer distances to require larger buffers to high habitat wetlands
15. Adopt the Ecology recommended incentive plan to allow reduced buffers
16. Standard Buffer Widths added 33% increase provision and updated points values to match 2014 rating system
17. Buffer averaging criteria adds requirement to demonstrate no feasible alternative
18. Buffer uses –adds restriction to the outer 25% of buffer and maximum of 6 feet wide for trails.
19. Setback from buffers added a required 10 foot setback from buffers
20. FWHCA’s Designation – language now to include waters of the state.

Summary of Improvements to the Critical Area Regulations:

21. Update to mapping to help identify FWHCA's
22. Specific Standards for Streams – classification system improves the protection of “fish” streams
23. Stream Buffers – Based on Stream Typing and Best Available Science of Urban Buffers
24. Allowed Activities in Streams divided by Type: Fish Streams, Non Fish Perennial, Non Fish Seasonal
25. Specific Standards for non stream FWHCA's Improve language for ESA, PHS, and ACFL
26. Add a 1000 foot protective management area to March's Point Heronry
27. Add (the removed regionally significant) wetlands to Habitats of Local Importance provision
28. Designation of Geologically Hazardous (GH) Area types expanded to include more areas
29. Removed exemptions to CA Reports for certain GEO HAZ activities
30. Increased the buffer reduction provision for GEO HAZ from 10 feet to Max 25% + a notice on title
31. Eliminated exemptions for CA Reports in seismic hazard areas
32. Added required performance standards for tsunami hazard areas
33. Added the requirement for 3rd party review in landslide hazard areas
34. Modified the CARA categories
35. To improve administration and clarity changed CARA to define regulated facilities
36. Clarifies Notice requirements for CARA's
37. Adds a table to list activities that have a potential to impact ground water
38. Recodify floodplain management requirement into a different chapter in Title 19
39. FFA add discussion of sea level rise and incorporated into the SMP
40. Incorporate the Federal BiOP requirement of CA Report in to the FFA section

Outcome of Public & Planning Commission Review of Draft 2:

- Staff held 4 work sessions with Planning Commission
- Public comment was taken at all 4 work sessions
- Subject experts from our consultants and Ecology spoke
- Official public comment period Oct 30, 2019 – Jan 3, 2020
- 114 written public comments from 75 people were received
- Planning Commission held 1 Public Hearing
- PC deliberated on the draft, technical info, and public comment
- 21 recommended changes were identified for CC discussion

Outcome of Public & Planning Commission Review of Draft 2:

Item B:

Permitted Alterations: (Critical Area Permit Required – Type 2 Administrative Decision)	Critical Area	Buffer
Recreational Areas / Facilities. Low impact activities which are consistent with the purpose and function of the critical area buffer and do not detract from its integrity may be permitted within the buffer depending on the sensitivity of the critical area. A. Limited public park or public recreational access including trails, viewing platforms, fishing access (no wider than 6 feet), and foot bridges, provided that all of the following are satisfied: a. The area/facility is part of a public park that is dependent on its location for recreational function; and b. The area/facility is limited to the minimum necessary to accomplish the recreational function; and c. The removal of trees and native vegetation is minimized; and d. The balance of the development is consistent with other requirements of this chapter; and e. The project is identified in the Anacortes Comprehensive Plan or Parks and ACPL Master Plans. B. Private pedestrian walkways and public trails must meet the following standards: a. The trail is generally parallel to the perimeter of the critical area; b. The trail is located in the outer 25% of the buffer area and is designated to avoid removal of trees and native vegetation; c. The trail does not exceed 6 feet in width, and is limited to native soils or pervious surfaces. Raised boardwalks utilizing non-treated pilings may be acceptable; and The trail may be subject to closure during critical spawning, migration or breeding time periods of sensitive species that are present. C. Informational signs. Construction and placement of informational signs or educational demonstration facilities no more than 9 square feet surface area and 4 feet high, as long as there is no permanent infringement on hydrology or stream flow. D. Limited excavating and filling necessary for the repair and maintenance of piers, walkways, observation decks, wildlife management shelters, boathouses, and other similar water related structures, provided they are built on pilings to allow unobstructed flow of water and preserve Single family Residences and necessary appurtenances. New single family dwellings on existing legal lots may intrude into critical areas or their buffers when all of the following conditions are met: a. It is demonstrated that it is not feasible to avoid the critical area or buffer through avoidance or buffer averaging, and the	No	Yes
Commented [TC3] Change to: Recreational Areas / Facilities. Low impact activities which are consistent with the purpose and function of the critical area buffer and do not detract from its integrity may be permitted within the buffer (not including the ACPL), depending on the sensitivity of the critical area. A. Limited public park or public recreational access including but not limited to trails, viewing platforms, fishing access (no wider than 6 feet), and foot bridges, provided that all of the following are satisfied: a. The area/facility is part of a public park that is dependent on its location for recreational function; and b. The area/facility is limited to the minimum necessary to accomplish the recreational function; and c. The removal of trees and native vegetation is minimized; and d. The balance of the development is consistent with other requirements of this chapter; and e. The project is identified in the Anacortes Comprehensive Plan or Parks Comprehensive Plan. B. Private pedestrian walkways and public trails must meet the following standards: a. The trail is generally parallel to the perimeter of the critical area; b. The trail is located in the outer 25% of the buffer area and is designated to avoid removal of trees and native vegetation; c. The trail does not exceed 6 feet in width, and is limited to native soils or pervious surfaces. Raised boardwalks utilizing non-treated pilings may be acceptable; and The trail may be subject to closure during critical spawning, migration or breeding time periods of sensitive species that are present. C. Informational signs. Construction and placement of informational signs or educational demonstration facilities no more than 9 square feet surface area and 4 feet high, as long as there is no permanent infringement on hydrology or stream flow and non-treated wood is used. D. Limited excavating and filling necessary for the repair and maintenance of piers, walkways, observation decks, wildlife management shelters, boathouses, and other similar water related structures, provided they are built on pilings to allow unobstructed flow of water and preserve the natural contour of the wetland, except as authorized by special permits.		

GENERAL PROVISIONS CH18.70-CriticalAreaPC-V2 Draft: May 2, 2019
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Item C:

Anacortes Critical Area Regulations 2nd Draft Final Changes by Planning Commission February 18, 2019

The following table lists the changes recommended for the 2nd draft the Anacortes Critical Area Regulations resulting from internal staff discussion, legal review, Planning Commission direction, and response to public comments.

AMC Reference	Recommended Change
Body of Text	<i>Change Required Administratively:</i> Grammar, numbering, and code citations will be reviewed and corrected by staff.
PC Recommendation	Fix draft as appropriate
19.12, Definitions	<i>Change Requested by Public Comment:</i> Correction of the definition of Passive Recreation to include the missing section (A, B, C,D) from old definition that was in Title 17 but is no longer in Title 19 definitions.
PC Recommendation	New definition to read: 19.12.020 (17.06.723) "Passive recreation" refers to a mix of uses on undeveloped land (including wetland buffers) or minimally improved lands which includes the following: naturally landscaped areas, non-landscaped greenspaces, picnic areas, water bodies, trails, interpretive trails and other similar structures or development. Passive recreation may be defined as a non-motorized activity that: A. Offers constructive, restorative, and pleasurable human benefits and fosters appreciation and understanding of open space and its purpose; B. Is compatible with other passive recreation uses; C. Does not significantly impact natural, cultural, scientific, or agricultural values; and D. Requires only minimal visitor facilities and services directly related to safety and minimizes passive recreation impacts.
19.12, Definitions	<i>Change requested by Dept. of Ecology.</i> "qualified professional." For wetlands, we [Ecology] recommend: A qualified professional for wetlands must be a professional wetland scientist with at least two years of full-time work experience as a wetlands professional, including delineating wetlands using the federal manual and supplements, preparing wetlands reports, conducting function assessments, and developing and implementing mitigation plans.
PC Recommendation	Definition to read: "Qualified professional" means a person with experience and training in the applicable field or critical area. A qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, engineering, environmental studies, fisheries, geology or related field, and have two years of related work experience. <u>A qualified professional for wetlands must be a professional wetland scientist with</u>

City Council Review of Draft 2:

Item D:

Provided is an outline of the document with PC changes listed, additional changes needed for CC review, and recommendations on items to take additional public comment on.

* Let's review together

Anacortes Critical Area Regulations

2nd Draft Changes & Additional Public Comment

To: City Council

Date: February 10, 2020

From: Tess Cooper, Associate Planner

RE: Critical Area Regulations

The following table outlines the Critical Area Regulation document and identifies Planning Commission recommended changes, and additional changes recommended for the 2nd draft the Anacortes Critical Area Regulations identified or requested after Planning Commission recommendation. Also, identified are areas that are recommended for opening to additional public comment.

Section	Description	Change Suggested	Public Comment
19.70.010	Purpose		
19.70.015	Applicability	See PC Recommendation	No additional comment
19.70.020	Identification, classification, and rating		
19.70.025	Protection of Critical Areas		
19.70.030	General Requirements		
19.70.035	Critical Area Review	See PC Recommendation	No additional comment
19.70.040	Exempt Activities – Outdoor Recreation	Add the word bicycles back	New public comment
19.70.040	Exempt Activities – Recreation O,M & Repair of existing facilities	Remove 'Non-motorized' from trail maintenance	New public comment
19.70.045	Permitted Alterations – Public Roads & Utility	Word-smithed to clarify does not include trails	Optional public comment
19.70.045	Permitted Alterations – Recreational Areas / Facilities (new trail requirements/thresholds)	See PC Recommendation	Additional public comment
19.70.050	Reasonable Use exceptions & Variance	Add expansion of non-conforming uses	New public comment
19.70.110	Identification Form		
19.70.115	Critical Area Report		
19.70.120	Mitigation Requirements		
19.70.125	Mitigation Plan Requirements		
19.70.130	Title Notice		
19.70.135	Field Markings		
19.70.140	Construction Plan Review...		
19.70.145	Financial Guarantee Requirements		
19.70.150	Unauthorized Alterations		
19.70.155	Final Decision and Appeals		
19.70.210	Wetlands		
19.70.215	Wetland Designation – Regionally Significant wetlands	See PC Recommendation	New public comment
19.70.220	Wetlands – Mapping and delineation		
19.70.225	Wetlands – General Development Stds.		
19.70.230	Specific Development Standards	See PC Recommendation	No additional comment

City Council Review of Draft 2:

Additional items for your reference as we work through the document:

Item E – Summary of public comments received;

Item F – A list of all Parties of Record that submitted written comment;

Item G – In lieu of a track changes document, the Crosswalk table identifies all changes made between documents

Item H – The SEPA Environmental Checklist w/ draft proposed revisions

City Council Review of Draft 2:

Possible Schedule:

February 18 – Overview of the Critical Area Regulations

February 26 – Notice of Public Hearing and/or Comment Period (Eligible to be held as soon as March 16)

March 9 – Discussion of Sections: General Provisions & Review Procedures (Outdoor recreation & Bikes)

March 16 – Discussion of Sections: Wetlands & FWHCA's (Buffers & ACFL)

March 23 – Discussion of Sections: Geo Hazards, Critical Aquifer, Frequently Flooded Areas

April 6 – Optional Public Hearing & City Council Deliberation

April 13 – City Council Deliberation Continued

City Council Review of Draft 2:

Proposed Schedule:

How would you like to proceed with additional public comment and Hearing dates?



Anacortes City Council

Proposed Agenda Items for the Next Eight Weeks Beginning February 21, 2020

Subjects listed below have been tentatively suggested for consideration by the Anacortes City Council on the dates indicated. Items may be added to, removed from or rearranged on this list. Routine business such as approval of minutes and vouchers are not included. The complete Preliminary Agenda for each meeting is published at 3:00 on the Wednesday prior to the meeting. Published Agendas are subject to change and may be updated following the posting period. For additional information on agenda topics, please contact the City Clerk's office at 360-299-1960 to be directed to the sponsoring staff member.

February 21, 2020

Special Meeting, 8:30 a.m. to 4:00 p.m.

2020 City Council Retreat, Anacortes Education Service District (1601 R Avenue)

February 24, 2020

- Interlocal Agreements #20-036-AFD-001, #20-036-AFD-002, #20-036-AFD-003 for Medical Grade Oxygen Cylinder Exchange Program (Consent)
- Public Hearing: Approval of a Master Permit for Telecommunications Use of Right of Way for City of Anacortes/ACCESS Anacortes Fiber Internet Installation in accordance with AMC Chapter 5.38.040 (Discussion/Possible Action)
- Port of Anacortes Northwest Basin Redevelopment Plan Presentation (Discussion)

March 2, 2020

- Public Works GIS Demonstration (Discussion)
- Executive Session (30 Minutes) beginning 6:00 p.m. : Potential Litigation or Litigation per RCW 42.30.110 (i)

March 9, 2020

March 16, 2020

March 23, 2020

- Sewer Capital Facility Plan Update (Discussion/Possible Action)

April 6, 2020

April 13, 2020

April 20, 2020

Upcoming City Council Committee Meetings

The public is welcome to attend City Council Committee Meetings.

- Public Works, Tuesday, Feb 18, 2020, 5:00 PM, Main Conference Room, City Hall
- Traffic Safety, Tuesday, Feb 18, 2020, 9:00 AM, Operations Shop
- Parks & Recreation, Thursday, Feb 20, 2020, 6:00 PM, Main Conference Room, City Hall
- Community Center/Pool, Thursday, Feb 20, 2020, 3:30 PM, Third Floor Conference Room, City Hall
- Planning, Monday, Feb 24, 2020, 5:00 PM, Main Conference Room, City Hall
- Finance, Wednesday, Feb 26, 2020, 5:00 PM, Main Conference Room, City Hall
- Access - Anacortes Fiber Internet, Wednesday, Feb 26, 2020, 4:00 PM, Third Floor Conference Room, City Hall
- Public Works, Monday, Mar 2, 2020, 5:00 PM, Main Conference Room, City Hall
- Port/City Liaison, Tuesday, Mar 3, 2020, 8:30 AM, Port of Anacortes
- Housing Affordability & Community Services, Thursday, Mar 5, 2020, 1:30 PM, Planning Director's Office, City Hall
- Community Center/Pool, Thursday, Mar 5, 2020, 3:30 PM, Third Floor Conference Room, City Hall