



CRITICAL AREAS CHECKLIST

A Technical Assistance Tool From Growth Management Services – updated April 2017

<p>Name of city or county: Mount Vernon</p>	
<p>Staff contact, phone, and e-mail address: Rebecca Lowell, (360) 336-6214, rebeccab@mountvernonwa.gov</p>	
<p>INSTRUCTIONS</p> <p>This checklist is intended to help local governments update their development regulations, as required by RCW 36.70A.130(4) (updated in 2012). We strongly encourage but do not require jurisdictions to complete the checklist and return it to Growth Management Services (GMS), along with their updates. This checklist may be used by all jurisdictions, including those local governments planning for resource lands and critical areas only. For general information on update requirements, refer to Keeping your Comprehensive Plan and Development Regulations Current: A Guide to the Periodic Update Process under the Growth Management Act, August, 2016 and WAC 365-196-610 (updated in 2015)</p> <p>Bold items are a GMA requirement or may be related requirements of other state or federal laws.</p> <p>Commerce WAC provisions are advisory under Commerce’s statutory mandate to provide technical assistance, RCW 43.330.120 which states that the Department of Commerce “...shall help local officials interpret and implement the different requirements of the act through workshops, model ordinances, and information materials.” <u>Bold and underlined</u> items are links to Internet sites and may include best practices or other ideas to consider. If you have questions, call GMS at (360) 725-3066.</p> <p>Updates to Commerce WAC – Revisions to the Commerce WAC relating to critical areas have been provided in a table with dates of changes on the Growth Management Act Periodic Update web site. The table can be used with this checklist to determine what changes have been made since the last update of your critical areas regulations.</p> <p>How to fill out the checklist</p> <p>Using the current version of your critical areas regulations, fill out each item in the checklist. Select the check box or type in text fields, answering the following question:</p> <p>Is this item addressed in your current Critical Areas Ordinance (CAO)? If YES, fill in the form with citation(s) to where in the plan or code the item is addressed. We recommend using citations rather than page numbers because they stay the same regardless of how the document is printed. If you have questions about the requirement, follow the hyperlinks to the relevant statutory provision or rules. If you still have questions, visit the Commerce Web page or contact one of the Commerce planners assigned to your region.</p>	<p>Contents</p> <p>Instructions.....1</p> <p>Overall Requirements.....2</p> <p>Wetlands.....3</p> <p>Critical Aquifer Recharge Areas.....4</p> <p>Frequently Flooded Areas.....5</p> <p>Geologically Hazardous Areas.....6</p> <p>Fish and Wildlife Habitat Conservation Areas.....7</p> <p>Anadromous Fisheries.....8</p> <p>Reason Use Exceptions.....8</p> <p>Forest Practices Regulations.....8</p> <p>Stormwater Drainage and Water Quality.....9</p> <p>Regulations for Protecting Waters of the State.....9</p> <p>Good Ideas.....10</p>

CRITICAL AREAS

Regulations protecting critical areas are required by **RCW 36.70A.060(2)** and **RCW 36.70A.172(1)** and [WAC 365-195-900](#) through 925 provide guidelines. Guidance can also be found in Commerce’s [Critical Areas Assistance Handbook](#) (Updated January, 2007); the Minimum Guidelines [WAC 365-190-080 – 130](#); Best Available Science, [Chapter 365-195 WAC](#); and Procedural Criteria, [WAC 365-196-485](#) and [WAC 365-196-830](#), and on Growth Management’s [Critical Areas and Best Available Science](#) webpage.

Regulations required to protect critical areas	Addressed in current plan or regulations? If yes, note where
<p>OVERALL REQUIREMENTS</p> <p>The CAO includes best available science to clearly designate and protect all critical areas that might be found within the jurisdiction.</p> <p>1. Designation of Critical Areas</p> <p>RCW 36.70A.170(1)(d) required all counties and cities to designate critical areas. RCW 36.70A.170(2) requires that counties and cities consider the Commerce Minimum Guidelines pursuant to RCW 36.70A.050.</p> <p>RCW 36.70A.050 directed Commerce to adopt the Minimum Guidelines to classify critical areas. WAC 365-190-080 through 130 (updated in 2010) provide guidance on defining or “designating” each of the five critical areas.</p> <p>WAC 365-190-040 (updated in 2010) outlines the process to classify and designate natural resource lands and critical areas.</p> <p>2. Definition of Critical Areas</p> <p>RCW 36.70A.030 provides definitions for each type of critical area. Sections (5) regarding fish and wildlife habitat conservation areas; (9) regarding geologically hazardous areas; and (21) regarding wetlands were updated in 2010.</p> <p>WAC 365-190-030 (updated 2010) provides definitions in the Minimum Guidelines.</p> <p>3. Protection of Critical Areas</p> <p>RCW 36.70A.060 (2) required counties and cities to adopt development regulations that protect the critical areas required to be designated under RCW 36.70A.170.</p> <p>RCW 36.70A.172(1) requires the inclusion of best available science in developing policies and development regulations to protect the functions and values of critical areas. In addition, counties and cities must give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries.</p> <p>4. Inclusion of Best Available Science</p> <p>RCW 36.70A.172(1) requires inclusion of the best available science (BAS).</p> <p>Chapter 365-195 WAC outlines recommended criteria for determining which information is the BAS, for obtaining the BAS, for including BAS in policies and regulations, for addressing inadequate scientific information, and for demonstrating “special consideration” to conservation or protection measures necessary to preserve or enhance anadromous fisheries.</p> <p>WAC 365-195-915 provides criteria for including BAS in the record.</p>	<p>1. Designation of CAs:</p> <p>MVMC 15.40.010(B)</p> <p>2. Definitions of CAs:</p> <p>MVMC 15.40.170(B) and 15.40.010(B)1-4 Please see the accompanying cover letter with regard to a minor amendment to the definition of wetland proposed.</p> <p>3. Protection of CAs:</p> <p>MVMC 15.40.030(A) and (B)</p> <p>4. BAS:</p> <p>MVMC 15.40.030(B) and (F)</p> <p>Was inclusion of BAS documented in the record for the review and any updates to the critical areas regulations?</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Location in Text: MVMC 15.40.030(B) and (F)</p>

<p>WETLANDS DEFINITION</p> <p>The definition of wetlands is consistent with RCW 36.70A.030(21) (updated in 2012).</p>	<p>Is the wetland definition consistent with RCW 36.70A.030(21)?</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>Location in Text: MVMC 15.40.170(B)</p> <p>Please see the accompanying cover letter with regard to a minor amendment to the definition of wetland proposed.</p>
<p>WETLANDS DELINEATION</p> <p>Wetlands are delineated using the 1987 Federal Wetland Delineation Manual and Regional Supplements in accordance with WAC 173-22-035 (updated in 2011).</p> <p>See Ecology's Wetland Delineation page and WAC 365-190-090 (updated in 2010) for additional assistance.</p>	<p>Are wetlands delineated using the 1987 Federal Wetland Delineation Manual and Regional Supplements?</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>Location in Text: MVMC 15.40.090(A) and 15.40.120(G) MVMC 15.40.090 is proposed to be amended as described within the accompanying cover letter and draft Ordinance</p>
<p>WETLANDS PROTECTION</p> <p>Policies and regulations protect the functions and values of wetlands. RCW 36.70A.172(1) Counties and cities are encouraged to make their actions consistent with the intent and goals of "protection of wetlands", Executive Order 89-10 as it existed on September 1, 1990.</p> <p>WAC 365-190-090(3) recommends using a wetlands rating system that evaluates the existing wetland functions and values to determine what functions must be protected. Ecology updated its recommended wetlands rating systems effective January 2015. For information on the rating system, see:</p> <ul style="list-style-type: none"> • 2014 Updates to the Washington State Wetland Rating Systems • Washington State Wetland Rating System for Western Washington • Washington State Wetland Rating System for Eastern Washington 	<p>Do the regulations use a rating system to determine wetlands protection?</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>Location in Text: MVMC 15.40.090 (C).</p> <p>Note wetland buffer widths are established under either MVMC 15.40.090(F) or the</p>

<p>For other resources and guidance on protecting wetlands, go to Ecology’s GMA and Local Wetland Regulations.</p>	<p>“Managed ecosystem alternative” outlined in MVMC 15.40.110.</p>
<p>CRITICAL AQUIFER RECHARGE AREAS</p> <p>Policies and regulations protect the functions and values of critical aquifer recharge areas. RCW 36.70A.172(1).</p> <p>Policies and regulations protect the quality and quantity of groundwater used for public water supplies. RCW 36.70A.070(1) and WAC 365-196-485(1)(d). (Required if groundwater is used for potable water.)</p> <p>The following references also relate to protection of groundwater resources:</p> <p>RCW 90.44 – Regulation of Public Groundwaters RCW 90.48 – Water Pollution Control (1971) RCW 90.54 – Water Resources Act of 1971 RCW 36.36.020 - Creation of aquifer protection area (1988) WAC 365-190-100 Critical Aquifer Recharge Areas (2010) WAC 173-100 Groundwater Management Areas and Programs (1988) WAC 173-200 Water Quality Standards for Groundwaters of the State of Washington (1990) WAC 365-196-735 Consideration of state and regional planning provisions (list) (2010)</p> <p>The Critical Aquifer Recharge Areas Guidance Document (2005) provides information on protecting functions and values of critical aquifer recharge areas, best available science, how to work with state and local regulations and adaptive management.</p> <p>Also, consider the following:</p> <ul style="list-style-type: none"> • Prohibiting or strictly regulating hazardous uses in critical aquifer recharge areas (CARAs) and designating and protecting wellhead areas. See Ecology’s guidance on Critical Aquifer Recharge Areas. • Limiting impervious surfaces to reduce stormwater runoff, as required under Phase I and II municipal stormwater permits. Ecology’s Stormwater Manual for Western Washington (updated in 2012) includes low impact development (LID) related definitions, requirements, and an LID performance standard. See Stormwater Management and Design Manuals on Ecology’s web page. • See Stormwater Drainage and Water Quality on page 7 of this checklist for additional LID resources. 	<p>If groundwater is used for potable water, do regulations protect the quality and quantity of ground water?</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>Location in text: MVMC 15.40.050(D) and (E)</p> <p>Are the critical aquifer recharge regulations consistent with current mapping of these critical areas?</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>Location in text: MVMC 15.40.050</p>

FREQUENTLY FLOODED AREAS

Regulations protect the functions and values of frequently flooded areas and safeguard the public from hazards to health and safety. RCW 36.70A.172(1) [WAC 365-196-830](#) provides: "Protection" in this context means preservation of the functions and values of the natural environment, or to safeguard the public from hazards to health and safety."

[WAC 365-190-110](#) (updated in 2010) directs counties and cities to consider the following when designating and classifying frequently flooded areas:

- (a) Effects of flooding on human health and safety, and to public facilities and services;
- (b) Available documentation including federal, state, and local laws, regulations, and programs, local studies and maps, and federal flood insurance programs, including the provisions for urban growth areas in **RCW 36.70A.110**;
- (c) The future flow flood plain, defined as the channel of the stream and that portion of the adjoining flood plain that is necessary to contain and discharge the base flood flow at build out;
- (d) The potential effects of tsunami, high tides with strong winds, sea level rise, and extreme weather events, including those potentially resulting from global climate change;
- (e) Greater surface runoff caused by increasing impervious surfaces.

Classification of and regulations for frequently flooded areas should not conflict with the [Federal Emergency Management Agency \(FEMA\)](#) requirements for the National Flood Insurance Program. See [Ecology's floodplain management assistance, 86.16 RCW, 173-158 WAC](#), and **44 CFR 60**.

Communities that are located on Puget Sound or the Strait of San Juan de Fuca, or have lakes, rivers or streams that directly or indirectly drain to those water bodies, are subject to the National Flood Insurance Program Biological Opinion (BiOp) for Puget Sound (<https://www.fema.gov/media-library/assets/documents/30021>). The biological opinion required changes to the implementation of the National Flood Insurance Program in order to meet the requirements of the Endangered Species Act (ESA) in the Puget Sound watershed. FEMA Region X has developed an implementation plan that allows communities to apply the performance standards contained in the Biological Opinion by implementing: 1) a model ordinance (<https://www.fema.gov/media-library/assets/documents/85339>); 2) a programmatic Checklist (<https://www.fema.gov/media-library/assets/documents/85336>); or 3) on a permit by permit basis (<https://www.fema.gov/media-library/assets/documents/85343>) as long as it can be demonstrated that there is no adverse effect to listed species. Communities have the option of utilizing their CAOs as part of a programmatic response to address the requirements of the biological opinion. FEMA must approve a community's biological opinion compliance strategy.

Additional resources:

RCW 86.12 Flood Control by Counties

RCW 86.16 Floodplain Management

RCW 86.26 State Participation in Flood Control Maintenance

RCW 86.16.041 Floodplain Management Ordinance and Amendments

[WAC 173-158-070](#) Requirements for construction in Special Flood Hazard Areas

Are frequently flooded areas designated and regulated using FEMA and Ecology guidance?

- Yes
- No
- N/A

Location in Text:

MVMC 15.40.060 that cross-references MVMC 15.36

The City amended MVMC Chapter 15.36 following our Community Assistance Visit (CAV) with the Department of Ecology. The copy of MVMC 15.36 that accompanies this checklist is in compliance with FEMA's NFIP requirements.

Are you utilizing your CAO as part of a programmatic response to the BiOp?

- Yes
- No
- N/A

Location in Text:

NA, please see the accompanying information with regard to the City's "Door 2" approach approved through NMFS

<p>DEFINITION OF GEOLOGICALLY HAZARDOUS AREAS</p> <p>The definition of geologically hazardous areas is consistent with RCW 36.70A.030(9) (updated 2012).</p> <p>“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.</p>	<p>Is the geologically hazardous areas definition consistent with RCW 36.70A.030(9)?</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>Location in Text: MVMC 15.40.170(B) Please see the accompanying cover letter with regard to a minor amendment to the definition of wetland proposed.</p>
<p>PROTECTION OF GEOLOGICALLY HAZARDOUS AREAS</p> <p>Regulations protect the functions and values of frequently flooded areas and safeguard the public from hazards to health and safety. RCW 36.70A.172(1) WAC 365-196-830 (2010) provides:” “Protection” in this context means preservation of the functions and values of the natural environment, or to safeguard the public from hazards to health and safety.”</p> <p>Geologically hazardous areas are designated, and their use is regulated or limited consistent with public health and safety concerns. RCW 36.70A.030(9) provides a definition (updated in 2012) and WAC 365-190-120 describes the different types of hazardous areas (2010):</p> <ul style="list-style-type: none"> • Geologically hazardous areas include: <ul style="list-style-type: none"> • seismic hazards • tsunami hazards • landslide hazards, • areas prone to erosion hazards • volcanic hazards • channel migration zones • areas subject to differential settlement from coal mines or other subterranean voids. • Critical facilities, such as hospitals and emergency response centers, hazardous materials storage, etc. should be restricted in hazard zones. <p>The Department of Natural Resource’s Geologic Hazards and the Environment website includes information on earthquakes and faults, landslides, volcanoes and lahars, tsunamis, hazardous minerals, emergency preparedness and includes geologic hazard maps.</p>	<p>Are uses in geologically hazardous areas designated and regulated or limited consistent with public health and safety?</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>Location in Text: MVMC 15.40.070</p>

<p>DEFINITION OF FISH AND WILDLIFE HABITAT AND CONSERVATION AREAS</p> <p>The definition of fish and wildlife habitat conservation areas is consistent with RCW 36.70A.030(5) (updated 2012) and WAC 365-190-030 (updated in 2015). The definition of fish and wildlife habitat conservation areas was amended to state that they do not include: <i>“such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of and are maintained by a port district or an irrigation district or company”</i>.</p>	<p>Is the FWHCA definition consistent with RCW 36.70A.030(5)?</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>Location in Text:</p> <p>The definition of Fish and Wildlife Habitat and Conservation Areas is included in MVMC 15.40.010(B)3 and MVMC 15.40.80. The clause shown in italics is proposed to be added to the MVMC – please see the accompanying cover letter and draft Ordinance for additional details.</p>
<p>PROTECTION OF FISH AND WILDLIFE HABITAT AND CONSERVATION AREAS</p> <p>Policies and regulations protect the functions and values of fish and wildlife habitat conservation areas. RCW 36.70A.172(1) and RCW 36.70A.030(5) (updated 2012).</p> <p>WAC 365-190-130(4) encourages to local jurisdictions consult WDFW’s Priority Habitat and Species web site. Recent updates include:</p> <ul style="list-style-type: none"> • Priority Habitat and Species maps (updated daily) • Priority Habitats and Species List (updated June 2016) <ul style="list-style-type: none"> • Mazama Pocket Gopher (2011, 2016) • Great Blue Heron (2012) • Western Gray Squirrel (2010) • Water Crossing Design Guidelines (2013) • Stream Habitat Restoration Guidelines (2012) • Shrub-Steppe (2011) • Land Use Planning for Salmon, Steelhead and Trout (2011) • Landscape Planning for Washington’s Wildlife (2009) • Aquatic Habitat Guidelines (2010, 2010, 2014) • Riparian Management recommendations (expected September 2017) <p>Areas “with a primary association with listed species” should be considered per WAC 365-190-130(2)(a). Recent uplistings and delistings are:</p> <ul style="list-style-type: none"> • Uplisting of marbled murrelet to State Endangered – February 4, 2017 • Uplisting of Canada lynx to State Endangered – February 4, 2017 • Peregrine falcon delisted from State Sensitive – February 4, 2017 	<p>Have you reviewed your regulations regarding any applicable changes in management recommendations for priority habitats and species?</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>Location in Text</p> <p>Areas are determined under MVMC 15.40.080(B) which links to WAC 365-190-080.</p> <p>Have you reviewed your regulations regarding any changes in species listings?</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>

<p>a. The peregrine will remain classified as “protected wildlife” under state law (WAC 232-12-011) and will continue to be protected under the federal Migratory Bird Treaty Act.</p> <ul style="list-style-type: none"> • Bald Eagle delisted from State Sensitive - February 4, 2017 <ul style="list-style-type: none"> a. 2011: Downlisted from State Threatened to Sensitive (this ended the requirement to develop Bald Eagle Protection Plans per WAC 232-12-292—a change which many CAOs still don’t reflect). b. 2007: Delisted from federal Threatened (but still covered by the federal Bald and Golden Eagle Protection Act) <p>Also refer to Ecology’s Watershed (WRIA) Plans.</p>	<p><input type="checkbox"/> N/A</p> <p>Location in Text:</p> <p>Guidance for determining Fish and Wildlife Habitat and Conservation Areas is found in MVMC 15.40.080(B)4. MVMC Code Section 15.40.080(C)2.c is proposed to be added/amended to the MVMC – please see the accompanying cover letter and Draft Ordinance for additional details.</p>
<p>ANADROMOUS FISHERIES</p> <p>Policies and regulations for protecting critical areas give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries. RCW 36.70A.172(1) is the requirement and WAC 365-195-925 (updated in 2000) lists criteria involved. This requirement applies to all five types of critical areas.</p> <p>WAC 365-190-130(4)(i) recommends sources and methods for protecting fish and wildlife habitat conservation areas, including salmonid habitat. Counties and cities may use information prepared by the United States Department of the Interior Fish and Wildlife Service, National Marine Fisheries Service, the Washington State Department of Fish and Wildlife, the State Recreation and Conservation Office, and the Puget Sound Partnership to designate, protect and restore salmonid habitat. Counties and cities should consider recommendations found in the regional and watershed specific salmon recovery plans (see the Governor's Salmon Recovery Office webpage and the Puget Sound Partnership's Salmon Recovery webpage).</p> <p>Land Use Planning for Salmon, Steelhead and Trout: A land use planner’s guide to salmonid habitat protection and recovery (October 2009) is an excellent resource.</p> <p>The Washington State Recreation and Conservation Office (RCO) website includes information on salmon recovery efforts</p>	<p>Do your regulations give special consideration for anadromous fisheries?</p> <p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> N/A</p> <p>Location in Text:</p> <p>MVMC 15.40.080 and MVMC 15.40.080(C)3</p>
<p>REASONABLE USE EXCEPTIONS</p> <p>The Critical Areas Ordinance (CAO) allows for “reasonable use” if the CAO would otherwise deny all reasonable use of property. Reasonable use provisions should limit intrusions into critical areas to the greatest extent possible. RCW 36.70A.370 (1991). Common exemptions include emergencies, remodels that do not further extend into critical areas, surveying, walking, and development that has already been completed with critical areas review under a previous permit. See Critical Areas Assistance Handbook, p. 37-38.</p>	<p>Do you have reasonable use provisions?</p> <p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>Location in Text:</p> <p>MVMC 15.40.130</p>

<p>FOREST PRACTICES APPLICATION REGULATIONS</p> <p><i>If applicable, regulations for forest practices have been adopted: RCW 36.70A.570</i> (adopted in 2007).</p> <p>RCW 76.09.240, amended in 2011, requires many counties over 100,000 in population, and the cities and towns within those counties to adopt regulations for forest practices. These are often included in clearing and grading ordinances.</p>	<p>Have you adopted forest practices regulations?</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Location in Text: MVMC 15.18 and see the accompanying letter from DNR transferring jurisdiction to the City</p>
<p>STORMWATER DRAINAGE AND WATER QUALITY</p> <p>Regulations protect water quality and implement actions to mitigate or cleanse drainage, flooding, and storm water run-off that pollute waters of the state, including Puget Sound or waters entering Puget Sound. RCW 36.70A.070(1)</p> <p>Regulations may include :</p> <ol style="list-style-type: none"> a) Adoption of a stormwater manual consistent with Ecology’s latest manual for Eastern or Western Washington. b) Adoption of a clearing and grading ordinance – See Municipal Research and Services Center’s Erosion and Sediment Control: Land Clearing and Grading webpage. c) Adoption of a low impact development (LID) ordinance. Available LID resources include: <ul style="list-style-type: none"> • Ecology’s Stormwater Manual for Western Washington (updated in 2012) includes low impact development (LID) related definitions, requirements, and an LID performance standard. See Stormwater Management and Design Manuals on Ecology’s web page. • Puget Sound Partnership resource for Information on integrating LID into local codes, July 2012. • Ecology’s stormwater webpage has a number of suggestions for low impact development: http://www.ecy.wa.gov/programs/wq/stormwater/municipal/LID/Resources.html • Washington Stormwater Center webpage: http://www.wastormwatercenter.org/low-impact/ includes additional suggestions and resources. d) Provisions for corrective action for failing septic systems that pollute waters of the state. RCW 36.70A.070(1) 	<p>Do you have regulations that protect water quality?</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Location in Text: MVMC 13.33.020(41), 13.33.030 and MVMC 15.40.030(F)(2)</p> <p>If required, have you incorporated low impact development standards into your regulations?</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>Location in text: MVMC 13.33.070 and 15.40.030(F)(2)</p>

<p>REGULATIONS FOR PROTECTING WATERS OF THE STATE</p> <p>RCW 90.48.020 defines waters of the state. WAC 365-190-130(2) (updated in 2010) – recommends considering designation of all waters of the state, including naturally occurring ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat.</p> <p>Stream types are classified in WAC 222-16-030 (updated in 2006); with field verification, or an alternate system that considers factors listed in WAC 365-190-130(4)(f)(iii) (updated 2010). See http://www.dnr.wa.gov/forest-practices-water-typing to use Washington State Department of Natural Resources (DNR)’s stream typing system.</p> <p>Protect waters of the state by protecting riparian areas by establishing buffers to maintain no net loss of riparian ecosystem functions.</p> <p>Designating areas that risk contaminating or harming shoreline resources including tidelands and bedland suitable for shellfish harvest, kelp and eelgrass beds, forage fish spawning areas.</p>	<p>Do your regulations protect waters of the state?</p> <p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> N/A</p> <p>Location in Text:</p> <p>Stream types are designated in MVMC 15.40.080(B).</p> <p>Buffer widths are established in MVMC 15.40.080(C) and (D) and under the “managed ecosystem alternative” outlined in MVMC 15.40.110</p>
<p>GOOD IDEAS</p> <p>Non-regulatory measures to protect or enhance functions and values of critical areas may be used to complement regulatory methods. These may include:</p> <ul style="list-style-type: none"> • public education • stewardship programs • pursuing grant opportunities • water conservation • joint planning with other jurisdictions and non-profit organizations • stream and wetland restoration activities • transfer of development rights <p>No net loss of critical area functions and values is a recommended approach for development regulations in WAC 365-196-830(4). If development regulations allow harm to critical areas, they should require compensatory mitigation of the harm.</p> <p>Monitoring and adaptive management is encouraged in WAC 365-195-905(6) to improve implementation of your regulations. Commerce will have a Monitoring chapter in the update to the Critical Areas Assistance Handbook. A draft for public review will be available in May 2017.</p>	<p>Are you using non-regulatory measures to protect critical areas?</p> <p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p> <p>Location in Text:</p> <p>NA</p> <p>Do your regulations address no net loss and require compensatory mitigation?</p> <p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>Location in Text:</p> <p>Intent of no-net loss is addressed in MVMC 15.40.010, 15.40.080(A), 15.40.090(A) and 15.40.110(A)</p> <p>Compensatory mitigation is required for wetlands in MVMC 15.40.090(G)</p> <p>Do you have a monitoring and</p>

adaptive management program for your CAO?

Yes

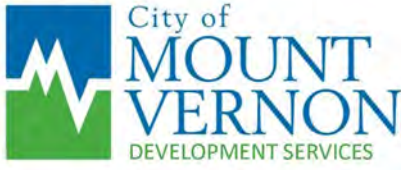
No

Location in Text:

Monitoring is required in MVMC

15.40.030(P) and 15.40.120(H).

Adaptive management is specifically required under MVMC 15.40.030(B)4.b and 15.40.030(F)4.



**DETERMINATION OF NON-SIGNIFICANCE
& NOTICE OF PUBLIC HEARINGS
FILE NOs: CA17-007**

DESCRIPTION OF PROPOSED ACTION: The City of Mount Vernon is considering code amendments to portions of Mount Vernon Municipal Code Chapter 15.40, Critical Areas. The proposed amendments include: the definition of wetlands has the words 'typically' added and one instance of 'do' replaced with 'may', the wetland delineation requirements have been clarified, requirements pertaining to bald eagles has been removed, and a definition for 'Fish and Wildlife Habitat Conservation Areas' has been added. These amendments are being made to ensure compliance with RCW 36.70A.130(4).

LOCATION: this is a non-project action that would apply city-wide.

APPLICANT & LEAD AGENCY: City of Mount Vernon, Development Services Department

The lead agency for this proposal has determined that the proposed amendments will not have a probable adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030(2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public upon request.

PUBLIC HEARINGS: Public hearings to consider the above-described proposed changes to the referenced MVMC sections are scheduled before the Mount Vernon Planning Commission at 6 p.m. on **Tuesday, July 18, 2017**; and before the City Council at 7 p.m. on **Wednesday, July 26, 2017**. Both hearings will be held at the Police and Court Campus, 1805 Continental Place, Mount Vernon.

Environmental Determination Comment Process: Comments on the environmental determination must be received in writing on or before **July 14, 2017** (14 days from the date of issuance). Comments received within the 14 days will be reviewed and considered by the Community & Economic Development Department. Those persons wishing to submit comments will receive a response from the Responsible Official prior to the end of the SEPA appeal period.

Environmental Determination Appeal Process: Appeals of the environmental determination must be filed in writing on or before 5 PM **July 24, 2017** (10 days following the 14 day comment period).

Appeals must be filed in writing together with the required \$100.00 application fee with: Hearing Examiner, City of Mount Vernon, P.O. Box 809, Mount Vernon, WA 98273. Appeals to the Examiner are governed by City of Mount Vernon Municipal Code Section 15.06.215. Additional information regarding the appeal process may be obtained from the City of Mount Vernon Development Services Department, (306) 336-6214.

CONTACT PERSON:

Rebecca Lowell, Senior Planner
City of Mount Vernon
Development Services Department
P.O. Box 809 / 910 Cleveland Avenue
Mount Vernon WA 98273
Telephone - 360-336-6214; Facsimile - 360-336-6299

The application and supporting documentation are available for review at the Development Services Department located at City Hall. Copies will be provided upon request at the cost of reproduction. If you wish to comment on the proposed amendments, you may provide verbal or written comment at the public hearings. You may also provide signed, written comments until 5 p.m. on the day before the hearing to the contact person listed above.

SEPA RESPONSIBLE OFFICIAL: Rebecca Lowell, Senior Planner

Issued: June 28, 2017

Published: July 1, 2017

SENT TO: SEPA REGISTER, DOE, COE, COMMERCE, CNG, WDFW, DNR, DIKE AND DRAINAGE DISTRICTS (as applicable), DOT, FRONTIER, FRONTIER NW, DAHP, NW CLEAN AIR AGENCY, PORT OF SKAGIT COUNTY, PSE, SAMISH TRIBE, SCOG, SKAGIT COUNTY PDS, PUD #1, SKAGIT RIVER SYSTEM COOPERATIVE, SKAGIT RIVER SYSTEMS, SVC, SKAT, SWINOMISH TRIBE, AND UPPER SKAGIT TRIBE

PLEASE INCLUDE THE PROJECT NUMBER WHEN CALLING FOR PROPER FILE IDENTIFICATION

From: [COM GMU Review Team](#)
To: [Lowell, Rebecca](#)
Cc: [Andersen, Dave \(COM\)](#)
Subject: 23860, City of Mount Vernon, Expedited Review Granted, DevRegs
Date: Thursday, July 13, 2017 7:47:22 AM

Dear Ms. Lowell:

The City of Mount Vernon has been granted expedited review for the: Proposed Critical Areas Code is being amended to comply with State requirements per RCW 36.70A.130(4). Specifically, the definition of wetlands has the words 'typically' added and one instance of 'do' replaced with 'may', removing requirements pertaining to bald eagles, and adding a definition for 'Fish and Wildlife Habitat Conservation Areas'. This proposal was submitted for the required state agency review under RCW 36.70A.106.

As of receipt of this email, the City of Mount Vernon has met the Growth Management Act notice to state agency requirements in RCW 36.70A.106 for this submittal. For the purpose of documentation, please keep this email as confirmation.

If you have any questions, please reviewteam@commerce.wa.gov



STATE OF WASHINGTON

DEPARTMENT OF COMMERCE

1011 Plum Street SE • PO Box 42525 • Olympia, Washington 98504-2525 • (360) 725-4000
www.commerce.wa.gov

June 28, 2017

Rebecca Lowell
Senior Planner
City of Mount Vernon
Post Office Box 809
Mount Vernon, Washington 98273

Dear Ms. Lowell:

Thank you for sending the Washington State Department of Commerce (Commerce) the following materials as required under RCW 36.70A.106. Please keep this letter as documentation that you have met this procedural requirement.

City of Mount Vernon - Proposed Critical Areas Code is being amended to comply with State requirements per RCW 36.70A.130(4). Specifically, the definition of wetlands has the words 'typically' added and one instance of 'do' replaced with 'may', removing requirements pertaining to bald eagles, and adding a definition for 'Fish and Wildlife Habitat Conservation Areas'. These materials were received on June 28, 2017 and processed with the material ID # 23860. Expedited Review is requested under RCW 36.70A.106(3)(b).

If this submitted material is an adopted amendment, then please keep this letter as documentation that you have met the procedural requirement under RCW 36.70A.106.

If you have submitted this material as a draft amendment requesting expedited review, then we have forwarded a copy of this notice to other state agencies for expedited review and comment. If one or more state agencies indicate that they will be commenting, then Commerce will deny expedited review and the standard 60-day review period (from date received) will apply. Commerce will notify you by e-mail regarding of approval or denial of your expedited review request. If approved for expedited review, then final adoption may occur no earlier than fifteen calendar days after the original date of receipt by Commerce. Please remember to submit the final adopted amendment to Commerce within ten days of adoption.

If you have any questions, please contact Growth Management Services at reviewteam@commerce.wa.gov, or call Dave Andersen (509) 434-4491 or Paul Johnson (360) 725-3048.

Sincerely,

Review Team
Growth Management Services

From: [COM GMU Review Team](#)
To: [Lowell, Rebecca](#)
Subject: Acknowledgement Letter City of Mount Vernon Material ID_23860
Date: Wednesday, June 28, 2017 2:47:21 PM
Attachments: [AckLetterExp 6-17.pdf](#)

Attached is the acknowledgement letter regarding: Proposed Critical Areas Code is being amended to comply with State requirements per RCW 36.70A.130(4). Specifically, the definition of wetlands has the words 'typically' added and one instance of 'do' replaced with 'may', removing requirements pertaining to bald eagles, and adding a definition for 'Fish and Wildlife Habitat Conservation Areas'.

For more convenient and faster service please contact the Review Team at reviewteam@commerce.wa.gov or call 360.725.4047 if you have any questions.

Please retain this letter for your records

SKAGIT PUBLISHING
C/O ISJ PAYMENT PROCESSING CENTER
PO BOX 1570
POCATELLO ID 83204-1570
(360)424-3251

EXHIBIT C

ORDER CONFIRMATION

Salesperson: Jeanette Kales

Printed at 06/28/17 11:55 by jka30

Acct #: 210458

Ad #: 1639014

Status: N

CITY OF MOUNT VERNON - LEGALS
PO BOX 809
MOUNT VERNON WA 98273

Start: 07/01/2017 Stop: 07/01/2017
Times Ord: 1 Times Run: ***
STDS 1.00 X 17.85 Words: 454
Total STDS 18.00
Class: 0001 LEGAL NOTICES
Rate: CIMVE Cost: 189.90
Affidavits: 1

Contact:

Ad Descrpt: SVH-1639014

Phone: (360)336-6214

Given by: *

Fax#: (360)336-6283

Created: jka30 06/28/17 11:47

Email: sandy@mountvernonwa.gov

Last Changed: jka30 06/28/17 11:55

Agency:

PUB ZONE EDT TP START INS STOP SMTWTFS
SVH A 97 W 07/01/17 1 07/01/17 SMTWTFS
SVWN A 97 W 07/01/17 1 07/01/17 SMTWTFS

AUTHORIZATION

Under this agreement rates are subject to change with 30 days notice. In the event of a cancellation before schedule completion, I understand that the rate charged will be based upon the rate for the number of insertions used.

Name (print or type)

Name (signature)

(CONTINUED ON NEXT PAGE)

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PO BOX 1570
POCATELLO ID 83204-1570
(360)424-3251

EXHIBIT C

ORDER CONFIRMATION (CONTINUED)

Salesperson: Jeanette Kales

Printed at 06/28/17 11:55 by jka30

Acct #: 210458

Ad #: 1639014

Status: N

**CITY OF
MOUNT VERNON
DETERMINATION OF
NON-SIGNIFICANCE
& NOTICE OF
PUBLIC HEARINGS
FILE NOS: CA17-007**

DESCRIPTION OF PROPOSED ACTION: The City of Mount Vernon is considering code amendments to portions of Mount Vernon Municipal Code Chapter 15.40, Critical Areas. The proposed amendments include: the definition of wetlands has the words 'typically' added and one instance of 'do' replaced with 'may'; the wetland delineation requirements have been clarified, requirements pertaining to bald eagles has been removed, and a definition for 'Fish and Wildlife Habitat Conservation Areas' has been added. These amendments are being made to ensure compliance with RCW 36.70A.130(4).

LOCATION: this is a non-project action that would apply city-wide.

APPLICANT & LEAD AGENCY: City of Mount Vernon, Development Services Department

The lead agency for this proposal has determined that the proposed amendments will not have a probable adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030(2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public upon request.

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SEPA RESPONSIBLE OFFICIAL: Rebecca Lowell,
Senior Planner

Published
July 1, 2017
SVH-1639014