

ORDINANCE NO. 2008 – 04 - 037

AN ORDINANCE AMENDING BELLINGHAM MUNICIPAL CODE SECTIONS 16.55.130, 16.55.290, 16.55.330, 16.55.340, 16.55.380, AND 16.55.420 OF THE CITY OF BELLINGHAM'S CRITICAL AREAS ORDINANCE CLARIFYING THE REQUIREMENTS FOR MINOR REDEVELOPMENT, ALLOWED STORMWATER FEATURES IN WETLAND BUFFERS, AND SLOPE MEASUREMENTS IN LANDSLIDE HAZARD AREAS AND CORRECTING TYPOGRAPHICAL ERRORS.

WHEREAS, WHEREAS, on November 21, 2005, the City of Bellingham adopted a Critical Areas Ordinance (CAO) in accordance RCW 36.70A.130 (8)(a); and

WHEREAS, the CAO has not been amended since its adoption in November 2005; and

WHEREAS, the requirements for minor redevelopment under BMC 16.55.130, stormwater features in wetland buffers under BMC 16.55.330, and slope measurements in landslide hazard areas under BMC 16.55.420 require clarification; and

WHEREAS, BMC 16.55.290, BMC 16.55.340, and BMC 16.55.380 contain typographical errors which need correction; and

WHEREAS, the Planning Commission held a public hearing on February 7, 2008 and recommended adoption of an ordinance clarifying the requirements for minor redevelopment, stormwater features in wetland buffers, and slope measurements in landslide hazard areas and correcting typographical errors in the CAO; and

WHEREAS, the SEPA Official has issued a Determination of Non-Significant Environmental Impact (SEP2008-00002) for adoption of the ordinance.

WHEREAS, the ordinance was sent out to the appropriate state agencies for the required sixty-day review and comment period on January 14, 2008; and

WHEREAS, the City Council has held a public hearing on the ordinance on March 17th, 2008.

NOW THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:

SECTION 1. Bellingham Municipal Code Section 16.55.130 shall be amended as follows:

16.55.130 – Nonconformity And Redevelopment

A. – B. [NO CHANGE].

C. Any proposal to expand or change any existing use for land, buildings and facilities described in A. above that involves structural redevelopment of a total of 5,000 sq. ft. or more of any lot, parcel or land area shall be required to comply with all provisions of this chapter, except as provided in D. below. Minor revisions in uses, buildings and site plans described in A. above affecting an area of less than 5000 sq. ft. of land area shall be permitted, provided

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there is no further encroachment into a Critical Area or Critical Area buffer. Subsequent revisions may occur until a sum total of 5000 sq. ft. of land area change is reached.

D. – E. [NO CHANGE].

SECTION 2. Bellingham Municipal Code Section 16.55.290 shall be amended as follows:

16.55.290 – Critical Area Report – Additional Requirements For Wetlands and Wetland Buffers

Wetlands are those areas, designated in accordance with the *Washington State Wetlands Identification and Delineation Manual*, that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation adapted for life in saturated soil conditions.

A. [NO CHANGE].

B. **Wetland Delineation Requirements.** The following are required components of a wetland delineation report.

1. **Prepared by a qualified professional.** The report shall be prepared by a qualified professional, in accordance with BMC 16.55.510.
2. **Maps.** The wetland delineation report shall include the following maps:
 - a. Vicinity map.
 - b. Parcel map, with scale, showing all wetlands on the site and within 150 feet of the parcel boundaries unless access is denied in writing by the adjacent property owner. Parcel map shall include all streams and drainages (Type 1, 2, 3, 4, or 5 streams), shorelines, floodplains, flood prone areas and critical habitat for threatened and endangered species on the parcel and within one hundred-fifty (150) feet of the parcel boundaries.
 - c. Topographic map based on city or surveyed data.
 - d. Map of development proposal with scale.

3. [NO CHANGE].

C. – D. [NO CHANGE].

SECTION 3. Bellingham Municipal Code Section 16.55.330 shall be amended as follows:

16.55.330 – Stormwater Management Implications To Wetland Buffers

- A. Stormwater management facilities are not allowed in wetland buffers, with the following exceptions:

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1. Conveyance systems may be located in wetland buffers on a case-by-case basis if deemed necessary and approved by the Public Works and Planning Departments.
 2. Full dispersion of flow, as defined in BMC 15.42, may be allowed in a wetland buffer if approved by the Public Works and Planning Departments.
 3. The above facilities or methods are allowed only if impacts to the buffer, resulting from their installation, are avoided or mitigated.
- B. Wetland hydrology shall not be adversely affected by stormwater management. Post-development wetland hydrology shall match pre-development wetland hydrology to the maximum extent feasible. An annual evaluation of hydrologic conditions, conducted by a qualified wetland professional or hydrologist, may be required to document hydrologic conditions.

SECTION 4. Bellingham Municipal Code Section 16.55.340 shall be amended as follows:

16.55.340 – Wetland Buffers

Wetland buffers shall be established to protect the integrity, functions and values of the wetland.

A. – B. [NO CHANGE].

C. Modifications to Buffer Widths. Any modifications to the buffer width are to be based on the specific wetland functions, site and/or watershed characteristics, location of the wetland within the watershed or sub-basin, and the proposed land use.

1. [NO CHANGE].

2. Reducing Wetland Buffer Widths. The Director shall have the authority to reduce the standard buffer widths, provided that all of the following apply:

a. The buffer of a Category I wetland shall not be reduced.

b. The buffer reduction shall not adversely affect the functions and values of the adjacent wetlands;

c. The buffer of a Category II or III wetland shall not be reduced to less than 75% of the required buffer or 50 feet, whichever is greater;

d. – e. [NO CHANGE].

3. Averaging Buffer Widths. The Director has the authority to average wetland buffer widths on a case-by-case basis when all the following criteria are met:

a. The buffer averaging does not reduce the functions or values of the wetland;

b. The total area contained in the buffer area after averaging 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 wetland boundary;

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- c. The wetland contains variations in sensitivity due to existing physical characteristics of the character of the buffer varies in slope, soils, or vegetation;
- d. The buffer width is not reduced in any location to less than 50% of the standard width or 35 feet, whichever is greater, except for buffers for Category IV wetlands, and low intensity land uses in which case the narrowest buffer width can be determined on a case-by-case basis, using the best available science;
- e. The buffer has not been reduced in accordance with BMC 16.55.340. Buffer averaging is not allowed if the buffer has been reduced; and
- f. There were no feasible alternatives to the site design without buffer averaging.

D. – G. [NO CHANGE].

SECTION 5. Bellingham Municipal Code Section 16.55.380 shall be amended as follows:

16.55.380 – Critical Area Report – Additional Requirements for Frequently Flooded Areas

In addition to the general Critical Area report requirements of Section 16.55.210, Critical Area reports for frequently flooded areas must meet the requirements of this Section. Critical Area reports for two or more types of Critical Areas must meet the report requirements for each relevant type of Critical Area.

A. [NO CHANGE].

B. Areas Addressed in Critical Area Report. The following areas shall be addressed in a Critical Area report for frequently flooded areas.

- 1. The project area of the proposed activity;
- 2. All shoreline areas, floodplains, other Critical Areas, and related buffers within two hundred (200) feet of the project area.

C. – D. [NO CHANGE].

SECTION 6. Bellingham Municipal Code Section 16.55.420 shall be amended as follows:

SECTION 16.55.420 - Designation of Specific Hazard Areas

A. [NO CHANGE].

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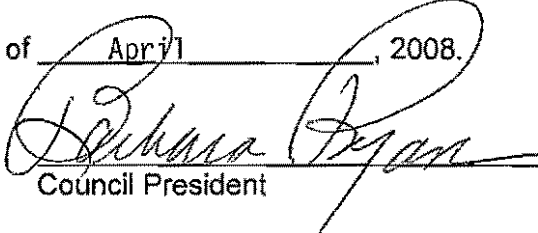
B. Landslide Hazard Areas. Landslide hazard areas may be prone to landslides and/or subsidence that could include slow to rapid movement of soil, fill materials, rock and other geologic strata resulting in risk of injury or damage to the public and environment. Landslides could result from any combination of soil, slope, topography, underlying geologic structure, hydrology, freeze-thaw, earthquake and other geologic influences. Specific landslide hazard areas include:

1. Those areas identified in soil unit maps and Table 11—Building Site Development of the U.S. Department of Agriculture Soil Conservation Service Soil Survey of Whatcom County Area. They are rated "Severe:" due to "slope" and/or "subsides."
2. Slopes with an incline that is equal to or greater than 40% grade (22 degrees) within a vertical elevation change of at least 10 feet. Slope shall be calculated by identifying slopes that have at least 10 feet of vertical elevation change within a horizontal distance of 25 feet or less.
3. – 5. [NO CHANGE].

C – D. [NO CHANGE].

SECTION 7. The effective date of this ordinance shall be May 15, 2008.

PASSED by the Council this 28th day of April, 2008.



Council President

APPROVED by me this 8th day of May, 2008.



Mayor

ATTEST 

Finance Director

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APPROVED AS TO FORM:



Office of the City Attorney

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