



## PLANNING COMMISSION REGULAR MEETING AGENDA

Wednesday, August 15, 2018  
Mercer Island City Hall

### CALL TO ORDER & ROLL CALL

6:00 PM

### MINUTES

July 18, 2018  
August 1, 2018

### APPEARANCES

This is the time set aside for members of the public to speak to the Commission about issues of concern. If you wish to speak, please consider the following points:

- Speak audibly into the podium microphone
- State your name and address for the record
- Limit your comments to three minutes

*The Commission may limit the number of speakers and modify the time allotted.  
Total time for appearances: 15 minutes*

### REGULAR BUSINESS

#### Agenda Item #1: ZTR18-002 Critical Areas Code Amendment

Review of recommended amendments to the City's critical area regulations. Review and discussion regarding the proposed schedule for updating the critical areas regulations.

### OTHER BUSINESS

Planning Manager's report  
Planned Absences for Future Meetings  
Next Special Meeting: August 29, 2018 at 6:00PM (Public Hearing)  
Next Regularly Scheduled Meeting: September 5, 2018 at 6:00PM

### ADJOURN

### PLANNING COMMISSIONERS

Carolyn Boatsman  
Tiffin Goodman, Vice-Chair  
Daniel Hubbell, Chair  
Jennifer Mechem  
Lucia Pirzio-Biroli  
Craig Reynolds  
Ted Weinberg

PHONE: 206-275-7729  
WEB: [www.mercergov.org](http://www.mercergov.org)

AGENDA TIMES ARE APPROXIMATE

CITY COUNCIL CHAMBERS - MERCER ISLAND CITY HALL  
9611 SE 36TH STREET; MERCER ISLAND, WA 98040



# PLANNING COMMISSION MEETING MINUTES JULY 18, 2018

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## CALL TO ORDER:

The Planning Commission was called to order by Chair Daniel Hubbell at 6:10 PM in the Council Chambers at 9611 SE 36th Street, Mercer Island, Washington.

## ROLL CALL:

Chair Daniel Hubbell, Vice Chair Tiffin Goodman, Commissioners Craig Reynolds, Carolyn Boatsman, Lucia Pirzio-Biroli and Jennifer Mechem were present. Commissioner Ted Weinberg was absent.

City staff was represented by Evan Maxim, Interim Director, Nicole Gaudette, Senior Planner, Robin Proebsting, Senior Planner, Andrea Larson, Administrative Assistant, Bio Park, Assistant City Attorney, Ali Spietz, Assistant to the City Manager.

## SPECIAL BUSINESS

### Agenda Item #1: Election of Chair and Vice-Chair

Election of Planning Commission Chair and Vice-Chair

Commissioner Boatsman nominated Commissioner Hubbell for Chair. The vote passed 5-0-1-1 (Weinstein absent, Hubbell abstained)

Commissioner Pirzio-Biroli nominated Commissioner Goodman for Vice chair. The vote passed 5-0-1-1 (Weinstein absent, Goodman abstained)

### Agenda Item #2: Assistant to the City Manager / City Clerk Briefing

Ali Spietz, Assistant to the City Manager, gave a brief briefing on Planning Commission Minutes.

## MINUTES:

Commissioner Pirzio-Biroli motioned to approve the minutes. Vice Chair Goodman seconded the motion. Commissioner Pirzio-Biroli proposed an amendment, seconded by Vice-Chair Goodman. 5-0-0 Reynolds abstained. Minutes were approved as amended 5-0-0 Commissioner Reynolds abstained.

## APPEARANCES:

Lara Musso, Board chair FASP, 16964 NE 37<sup>th</sup> Place, Bellevue. Ms. Musso spoke in support of the proposed SJCC/ FASPS / Herzl-Ner Tamid Comprehensive Plan amendments.

Mathew Goldbach, 9980 SE 40<sup>th</sup> St. Mr. Goldbach would like PC to give an example of a private public community in another jurisdiction. Mr. Goldbach spoke against the SJCC/ FASPS / Herzl-Ner Tamid Comprehensive Plan amendments.

Debbie Newell, 2029 82<sup>nd</sup> Ave SE. Mrs. Newell spoke in support of the SJCC/ FASPS / Herzl-Ner Tamid Comprehensive Plan amendments.

Amy Lavin, 7835 SE22nd Pl. Ms. Levin spoke in support SJCC/ FASPS / Herzl-Ner Tamid Comprehensive Plan amendments. Ms. Lavin described the outreach that the SJCC / FASPS/ Herzl-Ner Tamid have done. Ms. Lavin explained how this approach would allow for transparent growth and engagement with the community.

Cheryl D'Ambrosio, 3712 E Mercer Way. Mrs. D'Ambrosio encouraged PC to take safety as the primary concern on this comprehensive plan amendment.

Nickie Freedman 20214 NE 39<sup>th</sup> St, Sammamish. Mr. Freedman spoke in support of the SJCC/ FASPS /

Herzl-Ner Tamid Comprehensive Plan amendments.

Lisa Fein, 4895 Forrest Ave SE. Ms. Fein spoke in support of the proposed SJCC/ FASPS / Herzl-Ner Tamid Comprehensive Plan amendments.

Harris Keline 5360 Landsdown Ln. Mr. Klein spoke in support of the proposed SJCC/ FASPS / Herzl-Ner Tamid Comprehensive Plan amendments and planning for the future in a balanced way.

David Woldhorn, 3930 89<sup>th</sup> Ave SE. Mr. Woldhorn spoke in support of the proposed SJCC/ FASPS / Herzl-Ner Tamid Comprehensive Plan amendments. Mr. Woldhorn spoke regarding how his neighborhood already is affected by traffic from these facilities, but that with the amendment it could be helped

Cartlin Monson 3808 E mercer Wy. Mr. Monson spoke against the proposed SJCC/ FASPS / Herzl-Ner Tamid Comprehensive Plan amendments. Mr. Monson indicated that Mercer Island excluded zones to keep the feel of the island. Mr. Monson questioned the benefit to Mercer Island resulting from the amendment.

Monica Monson, 3808 E Mercer Wy. Mrs. Monson spoke against the proposed SJCC/ FASPS / Herzl-Ner Tamid Comprehensive Plan amendments. Mrs. Monson spoke regarding the safety concerns on East Mercer Wy with cars and pedestrians.

Susan Robinson, 9715 Se 40<sup>th</sup> St. Ms. Robinson spoke on the impacts to her neighborhood with the proposed SJCC/ FASPS / Herzl-Ner Tamid Comprehensive Plan amendments. Ms. Robinson asks the Planning Commission to take safety into consideration. Ms. Robinson asks the Planning Commisison how are the residents going to know more regarding this project.

Dan Thompson, 7265 N Mercer Wy. Mr. Thompson spoke against the proposed SJCC/ FASPS / Herzl-Ner Tamid Comprehensive Plan amendments. Mr. Thompson spoke regarding the need for drafting development regulations concurrent with a comprehensive plan amendment.

Nicole Kelly, 9821 SE 40<sup>th</sup> St. Ms. Kelly spoke about how she is going to see a parking lot from her house. Ms. Kelly spoke against the proposed SJCC/ FASPS / Herzl-Ner Tamid Comprehensive Plan amendments. Ms. Kelly indicated that these facilities don't have the right to take away houses

John Hall, 9970 SE 40<sup>th</sup> St. Mr. Hall spoke of his concern regarding the proposed SJCC/ FASPS / Herzl-Ner Tamid Comprehensive Plan amendments. Mr. Hall spoke of what past City Councils had indicated if SJCC wanted to expand.

#### **REGULAR BUSINESS:**

##### **Agenda Item #3: CPA17-002 – SJCC / FASPS / Herzl-Ner Tamid**

Nicole Gaudette, Senior Planner provided a staff presentation on the purposed Comprehensive Plan and code amendments and on the outreach meetings that were held by the SJCC / SASPS / Herzl-Ner Tamid on Monday July 16.

Third meeting to review proposed amendments to the Comprehensive Plan and Code.

Commissioner Pirzio-Biroli questioned if other sites on the island could apply for this zoning code if it is approved. Additional sites could request a rezone, however that would require a comprehensive plan amendment and zoning change, similar to the current process.

Commissioner Pirzio-Biroli stated that traffic controls, safety and a master plan for the site need to be part of this comprehensive plan amendment.

Commissioner Goodman stated that there should be an additional sentence added regarding safety to the goal statement on page 8. Safety considerations should be of paramount considerations and thoroughly evaluated and shall be addressed; especially considering pedestrian and vehicular safety issues.

Commissioner Goodman stated that the housing goal is too in depth and should just state: Housing uses should relate to the mission of and be accessory to the primary facility.

Commissioner Reynolds stated the word “and” should be changed to “or” on goal 8.

The Commission recessed at 8:15PM

The Commission reconvened at 8:27PM

**Agenda Item #4: CPA18-002 / ZTR18-005 – Town Center Commuter Parking**

Evan Maxim, Interim Director of Development Services, provided a brief staff presentation on the proposed Comprehensive Plan Amendment and Rezone for the “Parcel 12 / WSDOT” property, for commuter parking in Town Center.

Second meeting to review and discuss proposed Comprehensive Plan amendment and rezone. Mr. Maxim summarized the Planning Commission’s accompanying recommendations on the proposed amendment.

The Commission recommends adding a goal of bicycle parking/ storage to recommendation 2.

The Commission recommended changing the last bullet point to “Other Town Center Goals as indicated in the Comprehensive Plan.”

The Commission prioritized commuter parking for Mercer island Residents.

**Agenda Item #5: CPA17-002 – Critical Areas Comprehensive Plan Amendment**

Robin Proebsting, Senior Planner provided a staff presentation on the proposed comprehensive plan amendments related to the Critical Areas code update (No. 7).

The Commission discussed wildlife and if they should be added to the comprehensive plan amendment.

Policy identify local species of concern that live on Mercer Island. Identify species that were present, are present or an in decline on Mercer Island so that more protections maybe given to these species.

The Commission stated that they would like to keep bald eagle protections.

Commissioner Reynolds add language pertaining to water courses, ground water and water ways. Adding policies that pertain to noise, sound and air pollution. Add policy statement regarding small cell renewable energy sources.

The Commission agreed to have Commissioner Boatsman work with staff to integrate Commission suggested policy language with staff suggested policy language.

**Agenda Item #6: CPA17-002 – Draft Comprehensive Plan Amendment**

Evan Maxim, Interim Director of Development Services, provided a brief staff presentation on the proposed 2018 Comprehensive Plan Amendments No. 1-2, 3-6, 9-14.

The Commission stated that on Amendment No. 14, policy 16.6 should read: “... of flexible residential development standards should be...”.

The Commission stated that on Amendment No. 10, policy 3.5 should read: “...households, and accessible to people with disabilities.”

The Commission stated that Amendment No. 6, policy 23.9 should read: “...opportunities for housing... for artists.”

Commissioners identified several typographical errors for correction in the draft amendments.

The Commission discussed the options for the public hearings for the Comprehensive Plan Amendments. The Commission directed staff to schedule the public hearing for August 29 and September 5. The

Commission also directed staff to prepare the “lets talk Mercer Island” website with proposed amendment materials for public review and comments.

**OTHER BUSINESS:**

No other business.

**PLANNED ABSENCES**

None

**NEXT MEETING:**

The next regularly scheduled Planning Commission meeting will be August 1, 2018 at 6:00PM at Mercer Island City Hall.

**ADJOURNMENT:**

Chair Daniel Hubbell adjourned the meeting at 10:47PM

DRAFT



## PLANNING COMMISSION MEETING MINUTES AUGUST 1, 2018

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### CALL TO ORDER:

The Planning Commission was called to order by Chair Daniel Hubbell at 6:05 PM in the Council Chambers at 9611 SE 36th Street, Mercer Island, Washington.

### ROLL CALL:

Chair Daniel Hubbell, Vice Chair Tiffin Goodman, Commissioners Craig Reynolds, Carolyn Boatsman, Lucia Pirzio-Biroli, and Ted Weinberg were present. Commissioner Jennifer Mechem arrived at 6:10 PM. Commissioner Pirzio-Biroli left at 8:45 PM.

City staff was represented by Evan Maxim, Interim Director, Robin Proebsting, Senior Planner, and Bio Park, Assistant City Attorney. The City's consultant, ESA, represented by Aaron Booy and Jessica Redman was also present.

### MINUTES:

No minutes were provided for approval.

### APPEARANCES:

No members of the public were present for appearances.

### REGULAR BUSINESS:

#### Agenda Item #1: ZTR18-002 Critical Areas Code Amendment

Robin Proebsting, Senior Planner, provided a brief introduction of the City's consultant, ESA.

ESA, represented by Aaron Booy and Jessica Redman, presented the Best Available Science (BAS) report findings and recommendations related to wetlands, watercourses, and fish and wildlife habitat conservation areas. The Commission asked clarifying questions of the science related to watercourse, wetland, and wildlife habitat conservation area protections and mitigation.

The Commission recessed at 7:51 PM and reconvened at 8:02 PM.

The Commission requested a copy of the state and federal endangered and threatened species lists. The Commission discussed how to prioritize protection of additional species, and the possibility of a wildlife inventory.

Robin Proebsting identified the major items that would warrant additional policy analysis on August 15, 2018. Staff anticipates proceeding with a draft amendment incorporating all of identified minor amendments for Planning Commission review.

### OTHER BUSINESS:

None.

### PLANNED ABSENCES

Commissioner Weinberg will be absent on August 15, 2018.

### NEXT MEETING:

The next regularly scheduled Planning Commission meeting will be August 15, 2018 at 6:00PM at Mercer Island City Hall.

**ADJOURNMENT:**

The meeting was adjourned at 9:04 PM.

DRAFT



## **DEVELOPMENT SERVICES GROUP**

9611 SE 36TH ST., MERCER ISLAND, WA 98040

(206) 275-7605

**TO:** Planning Commission

**FROM:** Robin Proebsting, Senior Planner

**DATE:** August 8, 2018

**RE:** Critical Areas Code and Shoreline Master Program Updates (ZTR18-002): Policy Guidance on Wetlands, Watercourses, and Fish & Wildlife Habitat Conservation Areas

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### **Summary**

At its August 15, 2018 meeting, the Planning Commission will discuss and provide guidance on updates to the City's critical areas code related to wetlands, watercourses, and Fish & Wildlife Habitat Conservation Areas (FHWCA's). Items identified as necessary amendments to the critical areas regulations were summarized in the Gap Analysis Matrix provided to the Planning Commission at its August 1, 2018 meeting. Staff have taken this list of amendments and divided it into two categories: 1) "Major Issues", where there is a significant gap between the existing City code and the recommendations of the best available science, which will result in a more significant amendment to the regulations; and 2) "Minor Issues" which are primarily clarification, items that either will cause minimal change in code, or are expected to be non-controversial.

Following the August 15 meeting, staff will begin drafting revised critical area regulations. To move forward efficiently, on August 15 staff will need:

1. Confirmation that staff should proceed with drafting amendments related to all "minor issues";
2. Direction to draft amendments, where feasible, on the "major issues"; and,
3. Direction on what, if any additional analysis is required on "major issues" that require additional analysis and discussion after August 15.

### **Background**

The City's consultant, ESA, created a list of items in the Gap Analysis Matrix, included in the August 1, 2018 PC packet, which will result in amendments to the critical areas regulations. Items were included on this list because they either were inconsistent with the latest science, were unclear, or were not consistent with other critical area code provisions. To make the most effective use of the Planning Commission's time, staff has divided the list into two parts: 1) "Major issues" and 2) "minor issues". On August 15<sup>th</sup>, the Planning Commission will review the major issues list with the Planning Commission and provide further policy direction. The August 15<sup>th</sup> meeting is the Commission's opportunity to discuss the



proposed recommendations to each Major Issue and come to a consensus on policy guidance to staff. To aid in the review of the major issues list, the staff has prepared a draft evaluation using the policy analysis tool developed by the Planning Commission. The Planning Commission should evaluate the draft evaluation and:

1. Confirm that the evaluation is completed correctly, or provide direction to the staff regarding corrections;
2. Identify additional policy options, if necessary, that require additional analysis; and,
3. Provide final direction to the staff regarding the policy direction that should be reflected in the draft amendments.

Staff does not anticipate reviewing the minor issues list with the Planning Commission, unless there is consensus by the Planning Commission that an item on the Minor Issues list should be a “Major Issue” warranting additional policy analysis.

Please note that the ratings reflected within the policy analysis represent a **qualitative** assessment of the facts identified in the analysis. The Planning Commission should confirm that this qualitative assessment of the facts is accurate and identify any other facts that affect the analysis.

Finally, please note that if the facts are correct and the qualitative assessment is correct, the Planning Commission may still wish to evaluate other options that reduce negative outcomes or enhance positive outcomes. Please provide direction to staff on August 15 as needed.

#### **Next Steps**

Prior to the August 15, 2018, please let me know:

1. If there are policy options for Major Issues different from the BAS-recommendation that a Commissioner would like to see evaluated;
2. If there are items on the Minor Issues list that you think should be elevated to Major Issues and merit full Planning Commission discussion.

Please feel free to contact me at [robin.proebsting@mercergov.org](mailto:robin.proebsting@mercergov.org) or 206-275-7717.

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#### **Attachments:**

1. A. Major Issues, excerpted from Gap Analysis Matrix, Planning Commission Review Draft, prepared by ESA, dated July 24, 2018  
B. Supporting policy analysis
2. Minor issues, excerpted from Gap Analysis Matrix, Planning Commission Review Draft, prepared by ESA, dated July 24, 2018

**City of Mercer Island  
Critical Areas Ordinance (CAO) Update  
Best Available Science Review and Gap Analysis Matrix, Planning Commission Review Draft – July 24, 2018  
Major Issues**

Existing CAO Provision MICC Chapter / Section	Recommendation for Update	Reason For Lack of BAS Consistency	Suggested Change	Basis for Suggested Change	Direction from City	Code Update Tracking
<b>19.07.030 Allowed alterations and reasonable use exception.</b>						
<b>19.07.030(A)(13) Allowed Alterations - Wetlands</b>	<input type="checkbox"/> Consistent w/ BAS <input checked="" type="checkbox"/> Inconsistent w/ BAS <input type="checkbox"/> Opportunity for improved BAS consistency	This section exempts small wetlands without requiring mitigation. BAS does not support exempting wetlands based on size or category alone without mitigation. Small wetlands may perform important functions. However, Ecology has developed a strategy for exempting small wetland when wetland functions are considered and mitigation is required.	Consider moving wetland related "Allowed Alterations" to wetland section.  Limit exemption to hydrologically isolated Category III and IV wetlands less than 1,000 square feet in areas that are not associated with riparian areas or buffers, are not part of a wetland mosaic, and do not contain habitat for WDFW priority species.	Bunten et al., 2016; Granger et al., 2005		
	<input checked="" type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections					
<b>19.07.070 Watercourses</b>						
<b>19.07.070(B)(1) Watercourse Buffer Widths</b>	<input type="checkbox"/> Consistent w/ BAS <input checked="" type="checkbox"/> Inconsistent w/ BAS <input type="checkbox"/> Opportunity for improved BAS consistency	The City's standard buffers range from 25 feet (piped/non-fish bearing streams) to 75 feet (fish-bearing streams). BAS suggests widths from 75 feet to well over 300 feet to protect a suite of ecological functions. Recent BAS suggests 100 foot minimum standard buffers for any stream with anadromous fish use and a 50-foot minimum standard buffer for other streams (Appendix L in Ecology, 2013).	Upper ranges (approaching and exceeding 150 feet) are not feasible given existing platting and development patterns on Mercer Island. Increase standard buffer widths for watercourses. Standard buffers to Type Np and Ns watercourses should be increased to 60 feet. Standard buffers for Type F watercourses providing salmonid habitat should be increased to 120 feet to be consistent with BAS for riparian buffers. Standard buffers for Type F watercourses providing non-salmonid fish habitat should be 80 feet.  See Key Issue #2 for Watercourses for more detail.	Brennan et al., 2009; May, 2003; and Knutson and Naef, 1997		
	<input type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections					
	<input type="checkbox"/> Consistent w/ BAS <input checked="" type="checkbox"/> Inconsistent w/ BAS <input type="checkbox"/> Opportunity for improved BAS consistency	Current BAS does not provide regulatory recommendations for piped watercourses.	Buffer areas surrounding the alignment of piped watercourses provide little to no ecological function in their current condition; however, aquatic habitat science and regional restoration objectives prioritize watercourse daylighting and channel restoration efforts, even where resulting in sub-standard buffers due to existing constraints. Maintaining watercourse setbacks along the alignment of piped segments provides opportunity for future restoration, and may be structured to incentivize daylighting or other restoration as mitigation for adjacent development.  If standard buffer (or setback) for piped watercourses is intended to incentivize development proposals to consider opportunity for daylighting (or other opportunities for onsite	Knight, 2009 (WDFW); Commerce, 2018 (incentives guidance provided in Chapters 4 and 6); WDFW, 2018 (Volume 2)		
	<input checked="" type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections					

Existing CAO Provision MICC Chapter / Section	Recommendation for Update	Reason For Lack of BAS Consistency	Suggested Change	Basis for Suggested Change	Direction from City	Code Update Tracking
			or offsite mitigation), the rationale and criteria to achieve this intent should be added to section.  See Key Issue #4 for Watercourses for more detail.			
<b>19.07.080(C)(1) Standard Wetland Buffer Widths</b>	<input type="checkbox"/> Consistent w/ BAS <input checked="" type="checkbox"/> Inconsistent w/ BAS <input type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Revise Section C(1) buffer widths and habitat scores refer to the previous wetland rating system scoring method. The rating system has been updated and scoring amounts have changed.	Revise Section C(1) to refer to the Washington State Rating System for Western Washington: 2014 Update and to reflect recent BAS updates to buffers; for example, as shown in Table XX.1 in Ecology's guidance document (Bunten et al., 2012). Ecology's example wetland buffer system contains provisions for increasing or decreasing buffer widths based on the number of habitat points received.	Hruby, 2014; Bunten et al., 2016		
	<input type="checkbox"/> Consistent w/ BAS <input checked="" type="checkbox"/> Inconsistent w/ BAS <input type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Current code provides exemptions for Category III and IV wetland that are not supported by BAS.	Remove exemptions for Category III and IV wetlands under 2,500 square feet. Alternatively, exemptions for wetland could be removed altogether. If the former is chosen by the City, we recommend a clear definition of "isolated wetland" be included in the code.	Bunten et al., 2016		
<b>19.07.090 Wildlife Habitat Conservation Areas</b>						
<b>19.07.090</b>	<input type="checkbox"/> Consistent w/ BAS <input type="checkbox"/> Inconsistent w/ BAS <input type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input checked="" type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Requirements for wildlife habitat conservation areas for bald eagle are unclear.	Consider regulating habitats under FWHCA regulations; see BAS Report for additional discussion.	Commerce, 2018		

**Major Issue #1: Watercourses – Riparian Buffer Widths (version 1)**

		<i>BAS-recommended approach</i>	<i>Alternate Policy Option 1: Adopt buffer averaging and reduction provisions</i>
<b>Gatekeeper Questions</b>	<b>Best available science</b> Does the proposed policy follow the best available science? If not, have the risks of departing been identified and mitigated?	Yes	Yes
	<b>Comprehensive Plan</b> Is the comprehensive plan consistent, inconsistent, or silent on the proposed standard?	Consistent (Land Use Policies 18.4 and 18.5)	Consistent (Land Use Policies 18.4 and 18.5)
	<b>Case law</b> Is the proposed standard consistent with case law?	Yes	Yes
<b>Decision-making factors</b>	<b>Property owner interest</b> How will the proposed standard affect: ... flexibility for development? ... individual economic return?	<b>N</b> * Watercourse buffers would increase up to 45 feet in the case of high-value anadromous fish-bearing streams. * Typical watercourse buffers would increase 10-35 feet, reducing the size of new development and flexibility to modify existing development on properties containing watercourses. * Non-conformances would be created on lots with existing structures within wetland buffers	<b>n</b> * Watercourse buffers would increase compared with current code, but would be comparable to the current code's standard buffers * Non-conformances would be created on lots with existing structures within wetland buffers
	<b>Community interest</b> How will the proposed standard affect: ... future growth targets? ... community safety from natural hazards? ... social interaction?	<b>O</b> * Number of housing units that could be built would not change * Design/configuration of housing units would be less flexible * Reduction in future subdivision potential would be minimal. * Small positive effect from the reduced risk of erosion and slope failure.	<b>O</b> * Number of housing units that could be built would not change * Reduction in future subdivision potential would be minimal. * Small positive effect from the reduced risk of erosion and slope failure.
	<b>Environmental interest</b> How will the proposed standard affect: ... local environmental quality and ecosystem function? ... regional environmental quality and ecosystem function?	<b>P</b> * Increased opportunity for watercourse shading * Increased stream bank stabilization * Increased wildlife habitat	<b>P</b> * Increased opportunity for watercourse shading * Increased stream bank stabilization * Increased wildlife habitat
	<b>Administration</b> To what extent is the standard: ... clear? ... objective? ... simple?	<b>P</b> * Proposed buffer widths provide a clear and objective standard that is straightforward to administer.	<b>n</b> * Review of buffer modifications requires site-specific analysis and additional review time by staff

**Major Issue #2: Watercourses – Requirements for Piped Watercourses (version 1)**

**BAS-recommended approach: Require setback from piped watercourses equal to the buffer required for the upstream open water portion of the watercourse.**

**Alternate Policy Option 1:  
Adopt buffer averaging and reduction provisions**

<b>Gatekeeper Questions</b>	<b>Best available science</b> Does the proposed policy follow the best available science? If not, have the risks of departing been identified and mitigated?	Yes	Yes
	<b>Comprehensive Plan</b> Is the comprehensive plan consistent, inconsistent, or silent on the proposed standard?	Consistent (Land Use Policy 18.5)	Consistent (Land Use Policy 18.5)
	<b>Case law</b> Is the proposed standard consistent with case law?	Yes	Yes
<b>Decision-making factors</b>	<b>Property owner interest</b> How will the proposed standard affect: ... flexibility for development? ... individual economic return?	<b>N</b> * The area to be kept free from structures adjacent to a piped watercourse would increase from 25 ft to 60 ft * Potential building and structure size on affected sites would be reduced. * Non-conformances would be created on lots with existing structures within wetland buffers	<b>n</b> * The area to be kept free from structures adjacent to a piped watercourse would increase from 25 ft to 45 ft * Potential building and structure size on affected sites would be reduced. * Non-conformances would be created on lots with existing structures within wetland buffers
	<b>Community interest</b> How will the proposed standard affect: ... future growth targets? ... community safety from natural hazards? ... social interaction?	<b>O</b> * Number of housing units that could be built would not change * Design/configuration of housing units would be less flexible	<b>O</b> * Number of housing units that could be built would not change * Design/configuration of housing units would be less flexible
	<b>Environmental interest</b> How will the proposed standard affect: ... local environmental quality and ecosystem function? ... regional environmental quality and ecosystem function?	<b>P</b> * Incentive to daylight watercourses, increasing ecological function * Increased opportunity for watercourse shading * Increased wildlife habitat	<b>P</b> * Incentive to daylight watercourses, increasing ecological function * Increased opportunity for watercourse shading * Increased wildlife habitat
	<b>Administration</b> To what extent is the standard: ... clear? ... objective? ... simple?	<b>p</b> * Clear, more precise standard for how far structures must be from piped watercourses	<b>n</b> * Review of buffer modifications requires site-specific analysis and additional review time by staff

**Major Issue #3: Wetlands – Wetland Buffer Widths (version 1)**

		<i>BAS-recommended approach</i>	<i>Alternate Policy Option 1: Adopt buffer averaging and reduction provisions</i>
<b>Gatekeeper Questions</b>	<b>Best available science</b> Does the proposed policy follow the best available science? If not, have the risks of departing been identified and mitigated?	Yes	Yes
	<b>Comprehensive Plan</b> Is the comprehensive plan consistent, inconsistent, or silent on the proposed standard?	Consistent (Land Use Policies 18.4 and 18.5)	Consistent (Land Use Policies 18.4 and 18.5)
	<b>Case law</b> Is the proposed standard consistent with case law?	Yes	Yes
<b>Decision-making factors</b>	<b>Property owner interest</b> How will the proposed standard affect: ... flexibility for development? ... individual economic return?	<b>N</b> * Buffers would increase 5-60 ft, apart from one scenario in which they would decrease * Development potential for new buildings would decrease * Non-conformances would be created on lots with existing structures within wetland buffers	<b>n</b> * Watercourse buffers would increase compared with current code, but would be comparable to the current code's standard buffers * Non-conformances would be created on lots with existing structures within wetland buffers
	<b>Community interest</b> How will the proposed standard affect: ... future growth targets? ... community safety from natural hazards? ... social interaction?	<b>O</b> * Number of housing units that could be built would not change * Design/configuration of housing units would be less flexible * Reduction in future subdivision potential would be minimal. * Small positive effect from the reduced risk of erosion and slope failure.	<b>O</b> * Number of housing units that could be built would not change * Reduction in future subdivision potential would be minimal. * Small positive effect from the reduced risk of erosion and slope failure.
	<b>Environmental interest</b> How will the proposed standard affect: ... local environmental quality and ecosystem function? ... regional environmental quality and ecosystem function?	<b>P</b> * Increased opportunity for watercourse shading * Increased stream bank stabilization * Increased wildlife habitat	<b>P</b> * Increased opportunity for watercourse shading * Increased stream bank stabilization * Increased wildlife habitat
	<b>Administration</b> To what extent is the standard: ... clear? ... objective? ... simple?	<b>P</b> * Proposed buffer widths provide a clear and objective standard that is straightforward to administer.	<b>n</b> * Review of buffer modifications requires site-specific analysis and additional review time by staff

**Major Issue #4: Wetlands – Exemptions for Category III and IV wetlands (version 1)**

**BAS-recommended approach: Exempt Category III and IV under certain conditions, specified in BAS Report**

Gatekeeper Questions	<b>Best available science</b> Does the proposed policy follow the best available science? If not, have the risks of departing been identified and mitigated?	Yes
	<b>Comprehensive Plan</b> Is the comprehensive plan consistent, inconsistent, or silent on the proposed standard?	Consistent (Land Use Policies 18.4 and 18.5)
	<b>Case law</b> Is the proposed standard consistent with case law?	Yes
Decision-making factors	<b>Property owner interest</b> How will the proposed standard affect: ... flexibility for development? ... individual economic return?	O * Allows for larger wetlands to be exempt under certain conditions (4,000 sq ft compared with 2,500 sq ft) * Lowers threshold for exemption under certain conditions (1,000 sq ft compared with 1,000 sq ft)
	<b>Community interest</b> How will the proposed standard affect: ... future growth targets? ... community safety from natural hazards? ... social interaction?	O * Number of housing units that could be built would not change * Design/configuration of housing units would be less flexible * Reduction in future subdivision potential would be minimal. * Small positive effect from the reduced risk of erosion and slope failure.
	<b>Environmental interest</b> How will the proposed standard affect: ... local environmental quality and ecosystem function? ... regional environmental quality and ecosystem function?	p * Alignment with BAS better protects wetland functions and values
	<b>Administration</b> To what extent is the standard: .... clear? ... objective? ... simple?	p * The definitions of the wetlands that may be exempted are clearer than the current code term "low value" which is not defined.

**Major Issue #5: FWHCAs – Requirements for bald eagles (version 1)**

**BAS-recommended approach**

Gatekeeper Questions	<p><b>Best available science</b> Does the proposed policy follow the best available science? If not, have the risks of departing been identified and mitigated?</p>	Yes
	<p><b>Comprehensive Plan</b> Is the comprehensive plan consistent, inconsistent, or silent on the proposed standard?</p>	Consistent (Land Use policies 18.4 and 18.5)
	<p><b>Case law</b> Is the proposed standard consistent with case law?</p>	Yes
Decision-making factors	<p><b>Property owner interest</b> How will the proposed standard affect: ... flexibility for development? ... individual economic return?</p>	<p>n * Development potential on existing lots would be reduced on affected sites</p>
	<p><b>Community interest</b> How will the proposed standard affect: ... future growth targets? ... community safety from natural hazards? ... social interaction?</p>	<p>p * A healthy bald eagle population may provide aesthetic benefits * Natural hazard risk is unlikely to be affected * Affect on future potential housing unit development is minimal</p>
	<p><b>Environmental interest</b> How will the proposed standard affect: ... local environmental quality and ecosystem function? ... regional environmental quality and ecosystem function?</p>	<p>p * Clearer standards will provide more certainty about standards and applicability, providing protection consistent with the current science</p>
	<p><b>Administration</b> To what extent is the standard: ... clear? ... objective? ... simple?</p>	<p>P * Current code references state and federal standards that are no longer in place * Recommended management guidelines would provide science-based standards directly into the City's code</p>



**City of Mercer Island  
Critical Areas Ordinance (CAO) Update  
Best Available Science Review and Gap Analysis Matrix, Planning Commission Review Draft – July 24, 2018  
Minor Issues**

Existing CAO Provision MICC Chapter / Section	Recommendation for Update	Reason For Lack of BAS Consistency	Suggested Change	Basis for Suggested Change	Direction from City	Code Update Tracking
<b>Global CAO Revisions</b>						
	<input type="checkbox"/> Consistent w/ BAS <input type="checkbox"/> Inconsistent w/ BAS <input type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input type="checkbox"/> Clarity / Ease of use <input checked="" type="checkbox"/> Consistency of code sections		Consider standardizing subsection headings for each type of critical area, as much as feasible. Example: <ul style="list-style-type: none"> <li>• Subsection A. Designation and Typing</li> <li>• Subsection B. General Review Requirements</li> <li>• Subsection C. Development Standards - Buffers</li> <li>• Subsection D. Development Standards – Additional Criteria for Specific Activities</li> <li>• Subsection E. Mitigation Requirements</li> </ul>	Internal consistency.		
<b>19.07.010 Purpose.</b>						
<b>19.07.010 Purpose</b>	<input type="checkbox"/> Consistent w/ BAS <input type="checkbox"/> Inconsistent w/ BAS <input type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input type="checkbox"/> Clarity / Ease of use <input checked="" type="checkbox"/> Consistency of code sections	Section could be better aligned with the policies and objectives in the Natural Environment Policies section of the City's Comprehensive Plan.	Revise section to be more consistent with language used in the Comprehensive Plan.	Internal consistency.		
	<input type="checkbox"/> Consistent w/ BAS <input type="checkbox"/> Inconsistent w/ BAS <input checked="" type="checkbox"/> Opportunity for improved BAS consistency <input checked="" type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Section does not introduce the protection of buffers associated with critical areas; does not include statement that mitigation will be required for unavoidable impacts; and does not establish enforcement tools.	Revise section to include protection of buffers, mitigation requirements, and enforcement tools.	Commerce, 2018 (Chapters 1 and 3 - Structuring Critical Areas Regulations)		
<b>19.07.020 General provisions.</b>						
<b>New subsection – mitigation sequencing</b>	<input type="checkbox"/> Consistent w/ BAS <input type="checkbox"/> Inconsistent w/ BAS <input checked="" type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input checked="" type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	The current CAO does not state that mitigation sequencing is required for protection of all critical areas, including avoidance and minimization of impacts as initial actions. Provide statement and reference to "mitigation" definition.	Provide statement "All development proposals, uses, and activities subject to this chapter shall utilize mitigation sequencing"; include reference to "mitigation" definition.  Review "mitigation" definition to ensure sequencing order and language is consistent with Ecology guidance.	Commerce 2018 (Chapter 1)		

Existing CAO Provision MICC Chapter / Section	Recommendation for Update	Reason For Lack of BAS Consistency	Suggested Change	Basis for Suggested Change	Direction from City	Code Update Tracking
<b>New subsection – notice on title</b>	<input type="checkbox"/> Consistent w/ BAS <input type="checkbox"/> Inconsistent w/ BAS <input checked="" type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input checked="" type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	The current CAO does not require notice on title or other mechanism to provide record of identified critical areas on existing lots.	Add notice on title subsection. See Lake Forest Park code for useful language (also include language on disclosure at time of application that could be considered)	Commerce, 2018 (Chapter 1)		
<b>19.07.030 Allowed alterations and reasonable use exception.</b>						
<b>19.07.030(A) Allowed Alterations – Generally</b>	<input type="checkbox"/> Consistent w/ BAS <input checked="" type="checkbox"/> Inconsistent w/ BAS <input type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Code does not include requirements for minimizing impacts to critical areas, and fully implementing mitigation sequencing.	Consider revising the introductory language to: “All allowed alteration activities shall use reasonable methods to avoid, and if avoidance is not possible minimize impacts to critical areas and buffers to the greatest extent feasible. All necessary temporary and permanent impacts to critical areas and buffers shall be mitigated consistent with mitigation sequencing. The following developments, activities, and associated uses shall be exempt from the requirements of this chapter, provided that they are otherwise consistent with the provisions of other local, state, and federal laws and requirements.”	Commerce, 2018 (Chapters 1 and 3)		
	<input type="checkbox"/> Consistent w/ BAS <input type="checkbox"/> Inconsistent w/ BAS <input checked="" type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Code does not mention regulation on normal and routine repair, maintenance and operation of existing retention/detention facilities and other stormwater management facilities, irrigation and drainage ditches, and fish ponds.	Provide allowance for maintenance of existing stormwater facilities and conveyance.  In some environments, existing drainage ditches may be completely manmade, or may be streams that were historically straightened and ditched, both of which may provide fish habitat. Also, in some environments, manmade wetlands or ponds may provide fish habitat. If included as an allowed alteration, make sure to state that the facility cannot be altered if it meets criteria for being considered a fish and wildlife habitat area.	WAC 365-190		
<b>19.07.030(A)(6) Allowed Alterations – New Streets, Driveways, and Pedestrian Facilities</b> <b>19.07.030(A)(7) – New utility facilities</b>	<input type="checkbox"/> Consistent w/ BAS <input type="checkbox"/> Inconsistent w/ BAS <input checked="" type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Current allowed alterations for new infrastructure facilities are in some cases inconsistent with BAS. For example, alteration allowance for new driveways likely too open-ended.  That said, criteria requiring BMPs and mitigation such that no net loss is achieved, provide City with opportunity to review and further limit impacts and ensure mitigation.	Review subsections and consider moving some allowances from ‘Allowed Alterations’ to critical-areas specific sections. For new transportation and utility facilities, always require critical areas report submittal and mitigation plan.	Commerce, 2018 (Chapter 3)		
<b>19.07.030(A)(8) Allowed</b>	<input type="checkbox"/> Consistent w/ BAS	Removal of state-listed noxious weeds and invasive plant species	Consider adding section on invasive species removal to wetland section. Provide recommendations or resources	Bunten et al., 2016; Washington State		

Existing CAO Provision MICC Chapter / Section	Recommendation for Update	Reason For Lack of BAS Consistency	Suggested Change	Basis for Suggested Change	Direction from City	Code Update Tracking
<b>Alterations – Noxious Weeds</b>	<input type="checkbox"/> Inconsistent w/ BAS <input checked="" type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	restricted to hand removal in wetlands.	for controlling state listed noxious weeds and invasive species. BAS provides suggestions for several strategies for controlling noxious weeds and invasive species.	Noxious Weed Control Board		
<b>19.07.030(A)(10) Allowed Alterations – Existing single- family residences...</b>	<input type="checkbox"/> Consistent w/ BAS <input type="checkbox"/> Inconsistent w/ BAS <input checked="" type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Allowance limits scale and potential impacts associated with small expansions of existing single family residences. Allowance however does not specify this is a one-time allowance.	Provide additional criteria for allowance to specific as a one-time allowance, limiting potential for incremental increases in intensity of adjoining development.	Commerce, 2018 (Chapter 4)		
<b>19.07.040 Review and construction requirements.</b>						
<b>19.07.040.C - Setbacks</b>	<input type="checkbox"/> Consistent w/ BAS <input type="checkbox"/> Inconsistent w/ BAS <input checked="" type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	The current CAO does not require a building setback from the edge of required critical areas buffers. Building setbacks from buffer edges provide further separation of intensive construction activities and higher intensity uses from the retained native growth area. Building setbacks also allow for regular maintenance and repair of allowed improvements without reoccurring impacts to the outer buffer edge.	Update code to provide building setback from the outer edge of required critical areas buffers. Standard critical areas buffer building setback recommended to be 10 feet.	Commerce, 2018; WDFW, 2018 (Volume 2)		
<b>19.07.050 Critical area study</b>						
<b>19.07.050 Critical area study</b>	<input type="checkbox"/> Consistent w/ BAS <input type="checkbox"/> Inconsistent w/ BAS <input checked="" type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Additional detail could be added to strengthen reporting requirements in this section.	Revise to include the following requirements: -A statement specifying the accuracy of the report and all assumptions made and relied upon; -A description of the methodologies used to conduct the critical areas study, including references; -A description of mitigation sequencing implementation, including steps to avoid and minimize critical areas impacts to the greatest extents feasible; -An assessment of the probable cumulative effects to critical areas resulting from the development of the site and the proposed development	Commerce, 2018 (Chapter 1); Bunten et al., 2016		

Existing CAO Provision MICC Chapter / Section	Recommendation for Update	Reason For Lack of BAS Consistency	Suggested Change	Basis for Suggested Change	Direction from City	Code Update Tracking
<b>19.07.070 Watercourses</b>						
<b>19.07.070 Watercourses</b>	<input type="checkbox"/> Consistent w/ BAS <input type="checkbox"/> Inconsistent w/ BAS <input checked="" type="checkbox"/> Opportunity for improved BAS consistency <input checked="" type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Watercourses are regulated as Fish and Wildlife Habitat Conservation Areas (FWHCA) for protection as a critical area by the Growth Management Act (WAC 365-190-080[3]).	Consider revising to maintain consistency with the GMA by combining Watercourses and Wildlife Habitat Conservation Areas sections, regulating watercourses and associated buffers as FWHCAs.	Commerce, 2018 (Chapters 1 and 2)		
	<input type="checkbox"/> Consistent w/ BAS <input type="checkbox"/> Inconsistent w/ BAS <input checked="" type="checkbox"/> Opportunity for improved BAS consistency <input checked="" type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Section is not clear that watercourses within shoreline jurisdiction are regulated under the SMP.	Consider stating that development along Shorelines of the State is regulated under the SMP.	Consistency with SMP		
	<input type="checkbox"/> Consistent w/ BAS <input type="checkbox"/> Inconsistent w/ BAS <input type="checkbox"/> Opportunity for improved BAS consistency <input checked="" type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Section does not reference a map or figure showing areas not regulated under the SMP.	Consider including a reference showing areas not regulated under the SMP.	Consistency with SMP		
<b>19.07.070(A) Watercourses – Designation and Typing</b>	<input type="checkbox"/> Consistent w/ BAS <input checked="" type="checkbox"/> Inconsistent w/ BAS <input type="checkbox"/> Opportunity for improved BAS consistency <input type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Section refers to the outdated numeric DNR Stream Typing System and classification is not completely consistent with State standards.	Revise watercourse classification system to include the Type S, F, Np, and Ns stream classes defined by DNR and moving Type S watercourse to SMP section.  See Key Issue #1 for Watercourses for more detail.	The State stream typing system (WAC 222-16-030)		
<b>19.07.070(B) Watercourse Buffers</b>	<input type="checkbox"/> Consistent w/ BAS <input checked="" type="checkbox"/> Inconsistent w/ BAS <input type="checkbox"/> Opportunity for improved BAS consistency <input type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	BAS does not support the use of both reduction and averaging tools in conjunction.	Revise to explicitly state that buffer width may be averaged <u>or</u> reduced with an approved enhancement plan.	Granger et al., 2005		

Existing CAO Provision MICC Chapter / Section	Recommendation for Update	Reason For Lack of BAS Consistency	Suggested Change	Basis for Suggested Change	Direction from City	Code Update Tracking
<b>19.07.070(B)(1) Watercourse Buffer Widths</b>	<input type="checkbox"/> Consistent w/ BAS <input checked="" type="checkbox"/> Inconsistent w/ BAS <input type="checkbox"/> Opportunity for improved BAS consistency <input type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	The City's standard buffers range from 25 feet (piped/non-fish bearing streams) to 75 feet (fish-bearing streams). BAS suggests widths from 75 feet to well over 300 feet to protect a suite of ecological functions. Recent BAS suggests 100 foot minimum standard buffers for any stream with anadromous fish use and a 50-foot minimum standard buffer for other streams (Appendix L in Ecology, 2013).	Upper ranges (approaching and exceeding 150 feet) are not feasible given existing platting and development patterns on Mercer Island. Increase standard buffer widths for watercourses. Standard buffers to Type Np and Ns watercourses should be increased to 60 feet. Standard buffers for Type F watercourses providing salmonid habitat should be increased to 120 feet to be consistent with BAS for riparian buffers. Standard buffers for Type F watercourses providing non-salmonid fish habitat should be 80 feet.  See Key Issue #2 for Watercourses for more detail.	Brennan et al., 2009; May, 2003; and Knutson and Naef, 1997		
	<input type="checkbox"/> Consistent w/ BAS <input checked="" type="checkbox"/> Inconsistent w/ BAS <input type="checkbox"/> Opportunity for improved BAS consistency <input type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Stream buffer width reductions should be no greater than 25 percent.	Require buffer mitigation measures (e.g., enhancement plan and elements from Table XX.2 – see table at end of this matrix) for consistency with BAS and to achieve “no net loss.”	Bunten et al., 2016		
<b>19.07.070(B)(2)/(3) Reduction of Buffer Widths/Averaging of Buffer Widths</b>	<input type="checkbox"/> Consistent w/ BAS <input checked="" type="checkbox"/> Inconsistent w/ BAS <input type="checkbox"/> Opportunity for improved BAS consistency <input type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Sections do not refer to mitigation sequencing requirements.	Revise to provide requirements on how to reduce impacts when an alteration to a watercourse is proposed: avoid, minimize, rectify, reduce, compensate, monitor (clear direction for implementation of mitigation sequencing).  See Key Issue #3 for Watercourses for more detail.	Commerce, 2018; WAC 197-11-768		
	<input type="checkbox"/> Consistent w/ BAS <input type="checkbox"/> Inconsistent w/ BAS <input checked="" type="checkbox"/> Opportunity for improved BAS consistency <input type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Sections do not present all steps to mitigation.	Revise to clearly present all steps to mitigation, give a list of preferred mitigation location and types (i.e. on-site in-kind, off-site in-kind), and other associated requirements such as monitoring, maintenance, contingency plans, and bond requirements. These recommendations could be included in general requirements of the CAO or under specific critical area sections.	Bunten et al., 2016		
	<input type="checkbox"/> Consistent w/ BAS <input checked="" type="checkbox"/> Inconsistent w/ BAS <input type="checkbox"/> Opportunity for improved BAS consistency <input type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Section does not prioritize buffer averaging with enhancement over buffer reductions with enhancement. Buffer averaging results in the same amount of buffer area, while buffer reductions result in a net loss of area.	Revise to prioritize buffer averaging with enhancement over buffer reduction with enhancement by either providing standards for buffer averaging only or stating that buffer averaging is preferred over buffer reduction.	Bunten et al., 2016		

Existing CAO Provision MICC Chapter / Section	Recommendation for Update	Reason For Lack of BAS Consistency	Suggested Change	Basis for Suggested Change	Direction from City	Code Update Tracking
	<input type="checkbox"/> Consistent w/ BAS <input type="checkbox"/> Inconsistent w/ BAS <input checked="" type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input checked="" type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Mitigation options that the Code Official may consider for buffer modifications appear to be limiting and likely not relevant to all applications.	Consider including additional options reviewed on a project-by-project basis which may provide a larger functional lift. Also, consider updating existing list based on recommendations from BAS (Knight, 2009) to be more comprehensive.	Knight, 2009 (WDFW)		
<b>19.07.070(B)(4) Restoring Piped Watercourses</b>	<input type="checkbox"/> Consistent w/ BAS <input type="checkbox"/> Inconsistent w/ BAS <input checked="" type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Existing CAO states that City may deny request for stream daylighting where proposal would "result in buffers being adjusted and increased onto adjacent properties." Current standard provides limited flexibility for beneficial restoration.	Section could be updated to provide limited buffer flexibility (beyond averaging and reduction with enhancement) intended to encourage daylighting while minimizing implications for existing lots and development. See BAS Report for additional details	Knight, 2009 (WDFW); WDFW, 2018 (Volume 2)		
<b>19.07.070(C) Impervious Surfaces</b>	<input checked="" type="checkbox"/> Consistent w/ BAS <input type="checkbox"/> Inconsistent w/ BAS <input type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input checked="" type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections		Revise to include as a standard / criteria within updated Development Standards section for watercourses.			
<b>19.07.070(D) Development Standards</b>	<input type="checkbox"/> Consistent w/ BAS <input checked="" type="checkbox"/> Inconsistent w/ BAS <input type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Existing standard providing for relocation of intermittent / seasonal watercourses is inconsistent with BAS; does not account for temporary impacts.  Existing culvert standards are generally consistent with BAS; however do not note State guidance.	Remove relocation allowance for intermittent / seasonal watercourses (Type Ns) and make consistent with criteria for Type F and Type Np watercourses.  Update to provide reference to WDFW HPA requirements and stream crossing design guidelines.	Knight, 2009		
<b>19.07.080 Wetlands</b>						
<b>19.07.080(A) Wetland Designation</b>	<input type="checkbox"/> Consistent w/ BAS <input type="checkbox"/> Inconsistent w/ BAS <input checked="" type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input checked="" type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Additional detail could be added to strengthen reporting requirements specific to wetlands.	Revise section to include the following requirements: -Wetland rating forms and datasheets -Discussion of landscape setting	Commerce, 2018; Bunten et al., 2016		

Existing CAO Provision MICC Chapter / Section	Recommendation for Update	Reason For Lack of BAS Consistency	Suggested Change	Basis for Suggested Change	Direction from City	Code Update Tracking
	<input type="checkbox"/> Consistent w/ BAS <input checked="" type="checkbox"/> Inconsistent w/ BAS <input type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Section B does not specify how long a wetland delineation is valid.	Section B should be improved for consistency with BAS by specifying that wetland delineations are valid for five years.	Corps of Engineers Regulatory Guidance Letters RGL 05-02 and 08-02 set a five-year standard on wetland determinations.		
<b>19.07.080(A)/(B) Wetland Designation/ Wetland Ratings</b>	<input type="checkbox"/> Consistent w/ BAS <input type="checkbox"/> Inconsistent w/ BAS <input checked="" type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input checked="" type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Section does not explicitly state wetlands should be delineated and rated by a qualified professional.	Revise to explicitly state wetlands should be delineated and rated by a qualified professional. Ensure definition of qualified professional with relation to wetland delineation and assessment is consistent with Ecology guidance.	Bunten et al., 2016		
<b>19.07.080(B) Wetland Ratings</b>	<input type="checkbox"/> Consistent w/ BAS <input checked="" type="checkbox"/> Inconsistent w/ BAS <input type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Section B references outdated wetland rating manual.	Revise Section B to refer to the updated wetland scoring system using the Washington State Rating System for Western Washington: 2014 Update.	Compliance with federal and state requirements (WAC 365-190-090)		
<b>Prohibited Activities</b>	<input type="checkbox"/> Consistent w/ BAS <input type="checkbox"/> Inconsistent w/ BAS <input checked="" type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Section should list uses and activities that are regulated under the wetlands CAO.	Revise to include regulated uses including: removal, excavation, grading, or dredging of material; draining flooding or disturbing the wetland, water level or water table; construction, reconstruction, demolition, or expansion of any structure.	Bunten et al., 2016		
<b>19.07.080(C)(2)/(3) Reduction of Wetland Buffer Widths / Averaging of Wetland Buffer Widths</b>	<input type="checkbox"/> Consistent w/ BAS <input type="checkbox"/> Inconsistent w/ BAS <input type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input checked="" type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Section refers to "Reduction of <i>Watercourse</i> Buffer Widths" and "Averaging <i>Watercourse</i> Buffer Widths" mitigation options.	Add a new section specific to wetland mitigation, further detailing criteria and objectives of required enhancement necessary to average or reduce wetland buffers. Criteria should be specific to functions associated with adjacent wetland.	Bunten et al., 2016		
	<input type="checkbox"/> Consistent w/ BAS <input checked="" type="checkbox"/> Inconsistent w/ BAS	BAS does not support the use of both reduction and averaging tools in conjunction.	Revise to explicitly state that buffer width may be averaged <u>or</u> if averaging is not feasible consistent with	Granger et al., 2005		

Existing CAO Provision MICC Chapter / Section	Recommendation for Update	Reason For Lack of BAS Consistency	Suggested Change	Basis for Suggested Change	Direction from City	Code Update Tracking
	<input type="checkbox"/> Opportunity for improved BAS consistency <input type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections		avoidance sequencing, reduced with an approved enhancement plan.			
	<input type="checkbox"/> Consistent w/ BAS <input type="checkbox"/> Inconsistent w/ BAS <input checked="" type="checkbox"/> Opportunity for improved BAS consistency <input type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Section does not refer to mitigation sequencing requirements.	Revise to provide requirements on how to reduce impacts when an alteration to a wetland is proposed: avoid, minimize, rectify, reduce, compensate, monitor.	Bunten et al., 2016		
	<input type="checkbox"/> Consistent w/ BAS <input checked="" type="checkbox"/> Inconsistent w/ BAS <input type="checkbox"/> Opportunity for improved BAS consistency <input type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Section does not prioritize buffer averaging with enhancement over buffer reductions with enhancement. Buffer averaging results in the same amount of buffer area, while buffer reductions result in a net loss of area.	Revise to prioritize buffer averaging with enhancement over buffer reduction with enhancement by either providing standards for buffer averaging only or stating that buffer averaging is preferred over buffer reduction.	Bunten et al., 2016		
	<input type="checkbox"/> Consistent w/ BAS <input type="checkbox"/> Inconsistent w/ BAS <input checked="" type="checkbox"/> Opportunity for improved BAS consistency <input type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Code does not specify using wetland mitigation site protection mechanisms (e.g., conservation easement, restrictive covenant). BAS indicates that these will minimize functional loss from degradation of wetlands and buffers.	Include site protection mechanisms. If permanent fencing is included as a form of wetland protection, it should be designed so it doesn't interfere with wildlife migration and should be constructed in a way that minimizes impacts to the wetland buffer and associated habitat.	Bunten et al., 2016		
	<input type="checkbox"/> Consistent w/ BAS <input checked="" type="checkbox"/> Inconsistent w/ BAS <input type="checkbox"/> Opportunity for improved BAS consistency <input type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Section does not include impact minimization measures to further protect wetlands.	Include Ecology's Table XX.2 "Required measures to minimize impacts to wetlands" to achieve "no net loss".	Bunten et al., 2016		
	<input type="checkbox"/> Consistent w/ BAS <input checked="" type="checkbox"/> Inconsistent w/ BAS <input type="checkbox"/> Opportunity for improved BAS consistency <input type="checkbox"/> Clarity / Ease of use	Minimum buffer modification restrictions are not consistent with BAS (Bunten et. al., 2016) which states that "the width of the buffer at any given point after averaging should be no smaller than 75% of	Update provisions for buffer reductions with enhancement and for buffer averaging with enhancement to be no greater than 25 percent of the standard buffer width.	Bunten et al., 2016		



Existing CAO Provision MICC Chapter / Section	Recommendation for Update	Reason For Lack of BAS Consistency	Suggested Change	Basis for Suggested Change	Direction from City	Code Update Tracking
	<input type="checkbox"/> Consistency of code sections	the standard buffer,” or a maximum reduction of 25%.				
<b>19.07.080(D) Alterations</b>	<input type="checkbox"/> Consistent w/ BAS <input type="checkbox"/> Inconsistent w/ BAS <input checked="" type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Some alterations and or exceptions are specific to wetlands so it may be clearer to include them in this section, separately from 19.07.030.	Revise Section D to include alterations or exceptions specific to wetlands and their required buffers.	Bunten et al., 2016		
<b>Wetland Mitigation Requirements</b>	<input type="checkbox"/> Consistent w/ BAS <input type="checkbox"/> Inconsistent w/ BAS <input checked="" type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input checked="" type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Section unclear about wetland mitigation requirements.	Include a section dedicated to wetland mitigation requirements.	Bunten et al., 2016		
	<input type="checkbox"/> Consistent w/ BAS <input type="checkbox"/> Inconsistent w/ BAS <input checked="" type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input checked="" type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Section does not include standards for amount of wetland mitigation.	Section should include mitigation ratios such as Table XX.1 in the sample ordinance in Bunten et al., 2016 and/or provide allowance for use of Ecology’s Credit-Debit tool for establishing mitigation credit requirements. The code should clearly state that buffer mitigation should be performed at least at a 1:1 ratio.	Bunten et al., 2016		
	<input type="checkbox"/> Consistent w/ BAS <input checked="" type="checkbox"/> Inconsistent w/ BAS <input type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Section is inconsistent with current federal mitigation preference. BAS indicates that mitigation banks and ILF programs have a significantly <u>greater likelihood of mitigation success</u> , as opposed to permittee-responsible mitigation	Specify that wetland mitigation using banks or ILF programs is preferred over permittee-responsible mitigation, if the wetland alteration falls within the service area of an existing bank or ILF program. (1. Wetland Mitigation Banks, 2. In-Lieu Fee Mitigation, 3. Permittee-responsible mitigation).	<i>Compensatory Mitigation for Losses of Aquatic Resources. Final Rule. (Federal Register 73(70): 19594-1970)</i>		
	<input type="checkbox"/> Consistent w/ BAS <input type="checkbox"/> Inconsistent w/ BAS <input type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input checked="" type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Lacks detail on the order of preference for compensatory mitigation.	Preference of Mitigation Actions. Compensatory wetland mitigation shall occur in the following order of preference: 1. Restoration a. Re-establishment b. Rehabilitation 2. Creation 3. Enhancement 4. Preservation	Bunten et al., 2016		

Existing CAO Provision MICC Chapter / Section	Recommendation for Update	Reason For Lack of BAS Consistency	Suggested Change	Basis for Suggested Change	Direction from City	Code Update Tracking
	<input type="checkbox"/> Consistent w/ BAS <input checked="" type="checkbox"/> Inconsistent w/ BAS <input type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Section lacks reference to BAS sources for compensatory mitigation.	Revise to include the following BAS references: <i>Wetland Mitigation in Washington State-Part 2: Developing Mitigation Plans-Version 1</i> (Ecology Publication #06-06-011b) and <i>Selecting Wetland Mitigation Sites Using a Watershed Approach, Western Washington</i> (Ecology Publication #09-06-32).	<i>Selecting Wetland Mitigation Sites Using a Watershed Approach, Western Washington</i> (Ecology Publication #09-06-32)		
	<input type="checkbox"/> Consistent w/ BAS <input type="checkbox"/> Inconsistent w/ BAS <input checked="" type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Section does not include provision for a contingency plan.  Section does not specify the use of BAS in evaluating performance standards.	Consider adding a mitigation subsection requiring the development of a contingency plan.  Consider adding a subsection to require the use of BAS.	Bunten et al., 2016		
	<input type="checkbox"/> Consistent w/ BAS <input checked="" type="checkbox"/> Inconsistent w/ BAS <input type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Section does not include specific wetland mitigation monitoring requirements.	Add a subsection including monitoring requirements.	Bunten et al., 2016		
<b>19.07.090 Wildlife Habitat Conservation Areas</b>						
<b>19.07.090 Wildlife Habitat Conservation Areas</b>	<input type="checkbox"/> Consistent w/ BAS <input type="checkbox"/> Inconsistent w/ BAS <input checked="" type="checkbox"/> Opportunity for improved BAS consistency <hr/> <input checked="" type="checkbox"/> Clarity / Ease of use <input type="checkbox"/> Consistency of code sections	Watercourses are regulated as Fish and Wildlife Habitat Conservation Areas (FWHCA) for protection as a critical area by the Growth Management Act (WAC 365-190-080[3]).	Consider revising to maintain consistency with the GMA by combining Watercourses and Wildlife Habitat Conservation Areas sections.	Commerce, 2018		

Table XX.2 from Ecology Guidance for Wetlands (Bunten et al., 2016; modified buffer guidance from July 2018)

**Table XX.2 Required measures to minimize impacts to wetlands**  
 (All measures are required if applicable to a specific proposal)

<b>Disturbance</b>	<b>Required Measures to Minimize Impacts</b>
Lights	<ul style="list-style-type: none"> <li>• Direct lights away from wetland</li> </ul>
Noise	<ul style="list-style-type: none"> <li>• Locate activity that generates noise away from wetland</li> <li>• If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source</li> <li>• 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</li> </ul>
Toxic runoff	<ul style="list-style-type: none"> <li>• Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered</li> <li>• Establish covenants limiting use of pesticides within 150 ft of wetland</li> <li>• Apply integrated pest management</li> </ul>
Stormwater runoff	<ul style="list-style-type: none"> <li>• Retrofit stormwater detention and treatment for roads and existing adjacent development</li> <li>• Prevent channelized flow from lawns that directly enters the buffer</li> <li>• Use Low Intensity Development techniques (for more information refer to the drainage ordinance and manual)</li> </ul>
Change in water regime	<ul style="list-style-type: none"> <li>• Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns</li> </ul>
Pets and human disturbance	<ul style="list-style-type: none"> <li>• Use privacy fencing OR plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion</li> <li>• Place wetland and its buffer in a separate tract or protect with a conservation easement</li> </ul>
Dust	<ul style="list-style-type: none"> <li>• Use best management practices to control dust</li> </ul>