

ORDINANCE NO. 3101

AN ORDINANCE OF THE CITY OF PUYALLUP authorizing the adoption of an updated Puyallup Shoreline Master Program (SMP) and amending various sections of the Puyallup Municipal Code relating to Critical Areas by amending sections 21.06.210, 21.06.410, 21.06.440, 21.06.630, 21.06.910, 21.06.920, 21.06.930, 21.06.940, 21.06.970, and 21.06.980

WHEREAS, the Shoreline Management Act (“SMA”) of 1971 requires local Shoreline Master Programs be updated to: (1) give priority to uses that require a shoreline location; (2) promote public access and enjoyment opportunities; and (3) protect the environmental resources of state shorelines; and,

WHEREAS, the 2003 Department of Ecology (“ECY”) guidelines, codified in Chapter 173-26 of the Washington Administrative Code (“WAC”), include substantive, procedural, and process requirements to be followed by local jurisdictions in their comprehensive update to a shoreline master program, and require the update to be based on scientific and technical information to assure no net loss of shoreline ecological functions; and

WHEREAS, the SMA was amended to establish a timeline for local jurisdictions to adopt updated Shoreline Master Programs (“SMP”) consistent with ECY guidelines, and the adoption deadline for the City was December 1, 2011; and,

WHEREAS, the Puyallup Planning Commission unanimously recommended the draft amendments to the Puyallup SMP to the City Council after holding a duly noticed public hearing on March 26, 2014 regarding the draft SMP update, draft Shoreline Restoration Plan, draft Shoreline Inventory and Characterization report, draft Cumulative Impacts Analysis and changes to Chapter 21.06 of the PMC related to wetlands; and,

WHEREAS, pursuant to the State Environmental Policy Act (“SEPA”), the City issued a preliminary Determination of Environmental Nonsignificance (“DNS”), based upon a review of completed environmental checklists, and, pursuant to WAC 197-11 and Puyallup’s SEPA procedures, the preliminary DNS, SEPA File Number P-14-0079, was made final on November 3, 2014; and,

WHEREAS, the Puyallup City Council unanimously adopted the Planning Commission recommended draft SMP, and supporting documents, as well as changes to PMC 21.06, after conducting a duly noticed public hearing and first reading of the ordinance on November 4, 2014 and second reading of an ordinance on November 25, 2014; and,

WHEREAS, ECY conducted final review of the locally adopted Puyallup SMP from January 2015 through September 2015, resulting in a conditional approval letter issued on September 15, 2015 outlining a set of required and recommended changes to the SMP for consistency with state statutes (RCW 90.58 and WAC 173-27), as well as Best Available Science and current technical information as published by ECY; and,

WHEREAS, changes to Chapter 21.06 of the PMC are needed to maintain consistency with the City's Comprehensive Plan and Best Available Science regarding wetland buffer protections, as provided by the Washington State Department of Ecology; and,

WHEREAS, enacting the Puyallup SMP is in the public interest and will benefit the City as a whole, is not anticipated to adversely affect the City's public facilities and services, and advances and supports the general health, safety, and welfare of the citizens of this City;

NOW THEREFORE, the City Council of the City of Puyallup ordains as follows:

Section 1. The recitals set forth in the preamble of this ordinance are hereby adopted as findings of fact supporting the action taken herein.

Section 2. Puyallup Shoreline Master Program is amended to incorporate the required and recommended changes, as outlined by the Department of Ecology in Exhibit A, and more specifically provided for Exhibit B and Exhibit C, with the exception of item #39 in Exhibit C, which is specifically not adopted. Exhibits A, B, and C are attached hereto and incorporated herein.

Section 3. Section 21.06.210 of the Puyallup Municipal Code is hereby amended to read as follows:

21.06.210 Definitions.

For purposes of this chapter, the following definitions shall apply

(67) "Hydric soil" means a soil that is saturated, flooded or ponded long enough during the growing season to develop anaerobic conditions in the upper part. The presence of hydric soil shall be determined following the methods described in the ~~Washington State Wetland Identification and Delineation Manual~~ approved federal manual and applicable regional supplements (RCW 36.70A.175).

(75) ~~"Isolated wetland" means a wetland that is not adjacent to or hydraulically connected via surface water, ground water, or other conveyance to another wetland, lake, or stream.~~

"Isolated wetland" means a wetland that is hydrologically isolated from other aquatic resources, as determined by the United States Army Corps of Engineers (USACE). Isolated wetlands may perform important functions and are protected by state law (RCW 90.48) whether or not they are protected by federal law.

(107) ~~"Rehabilitation" means the reestablishment of a viable stream, wetland, or habitat conservation area from a previously filled or degraded area.~~ the manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural or historic functions and processes of a degraded wetland, stream or habitat conservation area. Activities could involve breaching a dike to reconnect wetlands to a floodplain, restoring tidal influence to

a wetland, or breaking drain tiles and plugging drainage ditches. Rehabilitation results in a gain in critical area function(s) but does not result in a gain in critical area acres.

Section 4. Section 21.06.410 of the Puyallup Municipal Code is hereby amended to read as follows:

Article IV. Exemptions and Exceptions

21.06.410 Exempt activities.

(1) Certain activities shall be exempt from the provisions of this chapter; provided, that they are conducted using locally adopted best management practices and that they result in the least amount of impact to the critical areas. Exempt activities include the following:

(e) The removal of trees that are hazardous, posing a threat to public safety, or posing an imminent risk of damage to private property, from critical areas and buffers; provided, that:

(i) The applicant submits a report from a certified arborist, ~~or registered landscape architect~~ that documents the hazard and provides a replanting schedule for the replacement trees;

(ii) Tree cutting shall be limited to limbing and crown thinning, unless otherwise justified by a ~~qualified professional~~ certified arborist;

(iii) The landowner shall replace any trees that are felled ~~or limbed~~ with new trees at a ratio of two replacement trees for each tree felled or limbed within one year in accordance with an approved restoration plan. To the extent possible, any felled trees shall be left on site as a habitat feature/snag. The director may reduce the ratio when it can be demonstrated that a lower ratio is adequate to protect critical areas. Tree species that are native to the area shall be used; and

(iv) Hazard trees determined to pose an imminent threat or danger to public health or safety, property, or cause serious environmental degradation may be removed by the landowner prior to receiving written approval from city; provided, that a reasonable attempt is made to contact the city prior to removal and, within 14 days following removal, the landowner shall submit a restoration plan that demonstrates compliance with the provisions of this chapter.

(l) Emergency actions that impact a critical area or its buffer, provided such actions use reasonable methods to address the emergency and have the least possible impact to the critical area and its buffer. Prior to an emergency action, the director shall provide written determination, on a case-by-case basis, of the emergency action that satisfies the general requirements of this section. In the event a person or agency determines that the need to take emergency action is so urgent that there is insufficient time for review by the director, such emergency action may be taken immediately. Once the immediate threat related to the emergency action has been addressed, any adverse impacts on critical areas shall be minimized and mitigated fully in accordance with applicable sections of PMC 21.06. Emergency actions that must be undertaken

immediately or for which there is insufficient time for full compliance with this chapter include actions necessary to:

- (i) Prevent an imminent threat to public health or safety;
- (ii) Prevent imminent danger to public or private property; or
- (iii) Prevent an imminent threat of serious environmental degradation.

Section 5. Section 21.06.440 of the Puyallup Municipal Code is hereby amended to read as follows:

21.06.440 Exception for minor new developments in buffers.

(1) Remodels and additions to an existing, legally established structure or impervious area that currently encroaches on a wetland buffer, fish and wildlife habitat, or landslide/erosion hazard area buffer shall be allowed as conditioned by all of the following criteria:

- (a) The proposed minor development is consistent with the existing use of the site;
- (b) The impacts on critical area functions and values are avoided and minimized to the maximum extent possible consistent with the purpose and intent of this chapter;
- (c) The affected area is located at least 25 feet from the critical area boundary;
- (d) The minor development does not cause the existing structure/impervious surface to encroach any closer to the critical area;
- (e) There are no changes in slope stability, flood conditions, or drainage; and
- (f) The minor development does not increase the affected site structural/impervious surface footprint by more than the following:
 - i. 25 percent of the minor development proposal relates to a fish and wildlife habitat buffer where a functional analysis by a qualified professional has demonstrated the buffer is not a Priority Habitat (as defined by WDFW); OR, the buffer has been determined by a qualified professional to not provide habitat for a state or federally designated endangered, threatened, and sensitive species; OR, the buffer relates to a landslide/erosion hazard area; OR, a wetland buffer when it relates to a wetland which has scored low for habitat value (less than 5 points on the state wetland rating form);
 - ii. 15 percent when the buffer relates to a wetland which has scored medium for habitat value (less than 5-7 points on the state wetland rating form);
 - iii. 10 percent when the buffer relates to a wetland which has scored high for habitat value (more than 8 points on the state wetland rating form); OR, the buffer is protecting a

Priority Habitat or habitat related to a state or federally designated endangered, threatened, and sensitive species).

Section 6. Section 21.06.630 of the Puyallup Municipal Code is hereby amended to read as follows:

21.06.630 Mitigation monitoring

(1) All compensatory mitigation projects shall be monitored for a period necessary to establish that performance standards have been met, but not for a period less than five years; a longer monitoring timeline should be considered if a forested or scrub-shrub wetland is the intended outcome of the mitigation project.

Section 7. Section 21.06.910 of the Puyallup Municipal Code is hereby amended to read as follows:

Article IX. Wetlands

21.06.910 Designation, mapping, and rating.

(1) Wetlands are those areas identified through any and all technical wetland delineation manuals as required by RCW 36.70A.175. Wetland delineations will be conducted in accordance with the current manual(s) required to be utilized by the Department of Ecology, including federally approved Army Corps of Engineers manual(s) and regional supplements. All areas within the city meeting the criteria in the approved federal manual and applicable regional supplements ~~Washington State Wetlands Identification and Delineation Manual~~, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this chapter. Ponds and other open water bodies shall also be subject to the provisions of this chapter.

(2) The approximate location and extent of previously identified wetlands are shown on the city's adopted critical area maps. These maps are to be used as a guide for the city, project applicants and/or property owners, and shall be updated as new wetlands are identified. The city's maps do not represent to show all possible wetlands within city boundaries. The actual location of a wetland's boundary shall be determined through field investigation by a qualified professional applying the methods and procedures in the approved federal manual and applicable regional supplements

(3) Wetlands shall be rated and regulated according to the categories defined by the most current Washington Department of Ecology Wetland Rating System for Western Washington. This document contains the methods for determining the wetland category based on the following criteria:

(a) ~~Category I. Category I wetlands are rare and irreplaceable in terms of their function and value to Puyallup's natural aquatic systems. All wetlands with one or more of the following criteria shall be considered Category I wetlands:~~

~~(i) Wetlands that are designated as natural heritage wetlands by the Washington State Department of Natural Resources;~~

- (ii) High quality, regionally rare wetland communities with irreplaceable ecological functions, including sphagnum bogs and fens, and mature forested wetlands as defined in PMC 21.06.210; or
 - (iii) Wetlands that provide a very high level of functions as evidenced by a score of 70 points or more on the Western Washington Wetland Rating System form.
- (b) Category II. Category II wetlands are ecologically important and provide high levels of function. A wetland is considered a Category II wetland if it meets the following criteria:
- (i) Wetlands that do not meet the criteria of Category I wetlands; and
 - (ii) Wetlands performing significant wildlife habitat and/or hydrologic functions, which cannot be replicated through creation or restoration as determined by a critical area report; or
 - (iii) Wetlands with significant functions and values as indicated by a score of 51 to 69 points on the Western Washington Wetland Rating System form.
- (c) Category III. Category III wetlands provide a moderate level of functions. They are typically more disturbed, smaller, and/or more isolated in the landscape than Category I or II wetlands. Category III wetlands include all wetlands that score 30 to 50 points on the Western Washington Wetland Rating System form.
- (d) Category IV. Category IV wetlands provide the lowest level of function, but still provide important functions as demonstrated by a score of less than 30 points on the Western Washington Wetland Rating System form.

Category I. Category I wetlands are: (1) relatively undisturbed estuarine wetlands larger than 1 acre; (2) wetlands of high conservation value that are identified by scientists of the Washington Natural Heritage Program/DNR; (3) bogs; (4) mature and old-growth forested wetlands larger than 1 acre; (5) wetlands in coastal lagoons; (6) interdunal wetlands that score 8 or 9 habitat points and are larger than 1 acre; and (7) wetlands that perform many functions well (scoring 23 points or more). These wetlands: (1) represent unique or rare wetland types; (2) are more sensitive to disturbance than most wetlands; (3) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or (4) provide a high level of functions.

Category II. Category II wetlands are: (1) estuarine wetlands smaller than 1 acre, or disturbed estuarine wetlands larger than 1 acre; (2) interdunal wetlands larger than 1 acre or those found in a mosaic of wetlands; or (3) wetlands with a moderately high level of functions (scoring between 20 and 22 points).

Category III. Category III wetlands are: (1) wetlands with a moderate level of functions (scoring between 16 and 19 points); (2) can often be adequately replaced with a well-planned mitigation project; and (3) interdunal wetlands between 0.1 and 1 acre. Wetlands scoring between 16 and 19 points generally have been disturbed in some ways and are often less diverse or more isolated from other natural resources in the landscape than Category II wetlands.

Category IV. Category IV wetlands have the lowest levels of functions (scoring fewer than 16 points) and are often heavily disturbed. These are wetlands that we

should be able to replace, or in some cases to improve. However, experience has shown that replacement cannot be guaranteed in any specific case. These wetlands may provide some important functions, and should be protected to some degree.

(4) All wetlands shall be regulated and subject to the provisions of this chapter regardless of size, except for Category III wetlands less than 2,500 square feet if the wetland is not associated with a riparian corridor or part of a wetland mosaic and Category IV wetlands less than 10,000 square feet. Impacts will be allowed to Category III wetlands between 2,500 square feet and 3,000 square feet, if the following criteria are met as detailed in an approved critical area report demonstrating:

(a) The wetland is not associated with a riparian corridor;

(b) The wetland is not part of a wetland mosaic;

(c) The wetland does not score 5 20 points or greater for habitat in the Western Washington Wetland Rating System form; and

(d) The wetland does not contain habitat identified as essential for local populations of priority species identified by the Washington Department of Fish and Wildlife; and

(e) The impacts are fully mitigated in accordance with any conditions from the state Department of Ecology and/or US Army Corps (USACE). This exemption does not relieve the applicant/property owner from permits required by the state Department of Ecology and/or US Army Corps (USACE). The applicant/property owner shall provide proof of applicable approvals, exemptions and/or permits obtained from the state Department of Ecology and/or US Army Corps (USACE) prior to the city approving any construction permits for the subject fill action;

Section 8. Section 21.06.920 of the Puyallup Municipal Code is hereby amended to read as follows:

21.06.920 Performance standards – Alteration of wetlands.

(1) Activities and uses shall be prohibited from wetlands and wetland buffers, except as provided for in this chapter. All feasible and reasonable measures shall be taken to avoid and minimize impacts. These actions may include consideration of alternative site plans and layouts, reductions in the density or scope of the proposal, and implementation of the performance standards contained in this chapter. Alteration of wetlands shall be permitted only in accordance with an approved critical area report and mitigation plan. The applicant shall demonstrate that all of the following actions have been considered and implemented in terms of avoidance and mitigation sequencing:

(a) Avoiding the impact altogether by not taking a certain action or parts of an action;

(b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;

(c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;

(d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;
Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and/or

(e) Monitoring the impact and taking appropriate corrective measures.

(2) Adverse impacts to wetland functions and values and to associated buffers shall be avoided. Where impacts cannot be avoided, the applicant shall implement appropriate compensatory mitigation according to the provisions of PMC 21.06.610 and 21.06.960.

(3) Alteration of Category I wetlands is prohibited.

(4) Alteration of Category II, III, and IV wetlands may be permitted in accordance with an approved critical area report and mitigation plan, and only when the applicant demonstrates that:

(a) The basic project purpose cannot reasonably be accomplished without the wetland alteration; and

(b) There are no reasonable or practical alternatives to the alteration including on-site design or acquisition of additional area.

Section 9. Section 21.06.930 of the Puyallup Municipal Code is hereby amended to read as follows:

21.06.930 Performance standards – Wetland buffer widths.

(1) Wetland buffer areas shall be established for all development proposals and activities adjacent to wetlands to determine the need for the buffer to protect the integrity, function and value of the wetland. The director shall determine appropriate buffer widths based upon the wetland rating form and critical area report prepared pursuant to PMC 21.06.950. Wetland buffers shall be measured perpendicular to the wetland edge as marked in the field. Except as otherwise permitted by this chapter, buffers shall consist of an undisturbed area of native vegetation.

(2) The standard buffer widths required by this chapter are considered to be the minimum required and presume the existence of a dense relatively intact native vegetation community in the buffer zone adequate to protect the wetland functions and values at the time of the proposed activity. The standard buffer widths assume that the buffer area contains no more than 20 percent invasive plant coverage in the buffer area. If the vegetation is inadequate, then the buffer width shall be increased and/or the buffer managed (e.g. invasive plant removal and monitoring)

and planted to maintain or improve the buffer functions. The following standard buffer width requirements are established:

(a) Wetland buffer widths shall be determined based on the adjacent land use activities as follows:

Level of Impact from Proposed Land Use	Types of Land Use Based on Common Zoning Designations
High	<ul style="list-style-type: none"> • Commercial development • Industrial development • Institutional • Retail sales • Residential (more than 4 units/acre) • Conversion to high intensity agriculture (dairies, nurseries, greenhouses, growing and harvesting crops requiring annual tilling and raising and maintaining animals, etc.) • High intensity recreation (golf courses, ball fields, etc.) • Hobby farms
Moderate	<ul style="list-style-type: none"> • Residential (4 units/acre or less) • Moderate intensity open space (parks with biking, jogging, etc.) • Conversion to moderate intensity agriculture (orchards, hay fields, etc.) • Paved trails • Building of logging roads • Utility corridor or right-of-way shared by several utilities and including access/maintenance road
Low	<ul style="list-style-type: none"> • Forestry (cutting of trees only) • Low intensity open space (hiking, bird-watching, preservation of natural resources, etc.) • Unpaved trails • Utility corridor

(b) Width of buffers needed to protect category I wetlands (for wetlands scoring 23 70 points or more for all functions or having the “special characteristics” identified in the rating system):

Wetland Characteristics	Buffer Widths by Impact of Proposed Land Use (apply most protective if more than one criterion is met)
Natural Heritage Wetlands	Low – 125 ft Moderate – 190 ft

Wetland Characteristics	Buffer Widths by Impact of Proposed Land Use (apply most protective if more than one criterion is met)
	High – 250 ft
Bogs	Low – 125 ft Moderate – 190 ft High – 250 ft
Forested	Buffer width to be based on score for habitat functions or water quality functions
Estuarine	Low – 100 ft Moderate – 150 ft High – 200 ft
Wetlands in Coastal Lagoons	Low – 100 ft Moderate – 150 ft High – 200 ft
High level of function for habitat (score for habitat 29-36 <u>29-36</u> points 8-9 <u>8-9</u>)	Low – 150 ft Moderate – 225 ft High – 300 ft
Moderate level of function for habitat (score for habitat 20-28 <u>20-28</u> 5-7 <u>5-7</u> points)	Low – 75 ft Moderate – 110 ft High – 150 ft
High level of function for water quality improvement (24-32 <u>24-32</u> 8-9 <u>8-9</u> points) and low for habitat (less than 5 <u>5</u> 20 <u>20</u> points)	Low – 50 ft Moderate – 75 ft High – 100 ft
Not meeting any of the above characteristics	Low – 50 ft Moderate – 75 ft High – 100 ft

(c) Width of buffers needed to protect Category II wetlands (for wetlands scoring ~~51 to 69~~ 20-22 points for all functions or having the “special characteristics” identified in the rating system):

Wetland Characteristics	Buffer Widths by Impact of Proposed Land Use (apply most protective if more than one criterion is met)
High level of function for habitat (score for habitat <u>8-9</u> 29-36 points)*	Low – 150 ft Moderate – 225 ft High – 300 ft
Moderate level of function for habitat (score for habitat <u>5-7</u> 20-28 points)	Low – 75 ft Moderate – 110 ft High – 150 ft
High level of function for water quality improvement and low for habitat (score for water quality <u>24-32</u> 8-9 points; habitat less than <u>5</u> 20 points)**	Low – 50 ft Moderate – 75 ft High – 100 ft
Estuarine	Low – 75 ft Moderate – 110 ft High – 150 ft
Interdunal	Low – 75 ft Moderate – 110 ft High – 150 ft
Not meeting above characteristics	Low – 50 ft Moderate – 75 ft High – 100 ft

* Maintaining connections to adjacent and continuous habitat or wildlife corridors shall be considered

** No additional discharge of untreated storm water permitted
(d) Width of buffers needed to protect Category III wetlands (for wetlands scoring 16 to 19 ~~30 to 50~~ points for all functions):

Wetland Characteristics	Buffer Widths by Impact of Proposed Land Use
Moderate level of function for habitat	Low – 75 ft Moderate – 110 ft

Wetland Characteristics	Buffer Widths by Impact of Proposed Land Use
(score for habitat 20–28-5-7 points) * <u>*If wetland scores 8-9 habitat points, use buffers for Category II.</u>	High – 150 ft
Not meeting above characteristic	Low – 40 ft Moderate – 60 ft High – 80 ft

(e) Width of buffers needed to protect Category IV wetlands (wetlands scoring less than 16 points for all functions):

Wetland Characteristics	Buffer Widths by Impact of Proposed Land Use
Score for all three basic functions is less than <u>16</u> 30 points	Low – 25 ft Moderate – 40 ft High – 50 ft

(3) The standard buffer widths of subsection (2) of this section may be decreased through the reduction measures of this section.

(a) The buffer widths recommended for land uses with “high intensity” impacts to wetlands can be reduced to those recommended for “moderate intensity” impacts under the following conditions:

(i) A relatively undisturbed vegetated corridor at least 100 feet in width is established, enhanced and/or protected (if adequate vegetation exists) between the wetland and any other upland priority habitats adjacent to the wetland as defined by the Washington State Department of Fish and Wildlife. The corridor shall be protected by a native growth protection easement or some other legal mechanism providing permanent protection.

(ii) A buffer enhancement plan, consistent with applicable mitigation report and monitoring requirements of this chapter, is submitted and approved in order to improve the functions of the buffer area to the maximum extent possible.

(iii) All applicable measures to minimize the potential impacts of different land uses on wetland habitat functions, as summarized in the following table, are applied to the development:

Examples of Disturbance	Examples of Measures to Minimize Impacts	Activities That Cause the Disturbance
Lights	Direct lights away from wetland	Parking lots, warehouses, manufacturing, high density residential
Noise	Place activity that generates noise away from the wetland	Manufacturing, high density residential
Toxic Runoff	Route all new untreated runoff away from wetland Covenants limiting use of pesticides within 150 feet of wetland Integrated pest management programs	Parking lots, roads, manufacturing, residential areas, application of agricultural pesticides, landscaping
Change in Water Regime	Infiltrate or treat, detain and disperse into buffer new runoff from surfaces	Any impermeable surface, lawns, tilling
Pets and Human Disturbance	Fence around buffer Plant buffer with "impenetrable" natural vegetation appropriate for region	Residential areas
Dust	BMPs for dust	Tilled fields

(b) For all wetlands that score less than 20 5 points for habitat, the buffer width can be reduced to those required for moderate land use impacts if measures to minimize the impacts of different land uses on wetlands as summarized in the table above are applied.

The director has the authority to "average" buffer widths on a case-by-case basis where a qualified professional demonstrates that all the following criteria are met:

- (a) The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer;
- (b) The buffer averaging does not reduce the functions or values of the wetland;
- (c) The portion of the buffer subject to buffer averaging is less than 20 percent of the total buffer length on a project site; provided, that:

- (i) The director may waive the 20 percent limitation when there are specific topographic conditions adjacent to the wetland that render portions of the buffer nonessential or ineffective in protecting wetland functions, and

(ii) The director finds that the averaging occurs parallel to the existing wetland boundary;

(d) The wetland contains variations in sensitivity due to existing physical characteristics or the character of the buffer varies in slope, soils, or vegetation;

(e) The buffer width for Category I and II wetlands is not reduced to less than ~~50~~ 25 percent of the standard width; and

(f) The buffer width of a Category III or IV wetland with moderate habitat functions (5-9 points for habitat) may be reduced to no less than 33 percent of the standard buffer width. The buffer width of a Category III or IV wetland with low habitat functions (less than 5 points for habitat) may be reduced to 35 feet when planting or other measures are implemented to enhance buffer functions.

(g) In any case where a reduced buffer width is applied consistent with the sections above, the buffer shall be composed of a dense native plant community; if the buffer area contains over 20% coverage by invasive plant species, the applicant shall provide a vegetation management plan to remove those invasive plants, supplement the buffer area with native trees and shrubs and monitor the buffer area for a period of no less than three (3) years to ensure eradication of invasive plants and establishment of new native plants from the buffer area. The enhanced functions must be documented to the satisfaction of the director through a functions and values analysis prepared by a qualified professional.

(4) The director may have the authority to increase the standard buffer width for any category of wetland on a case-by-case basis when such increase is necessary to protect the function and value of the wetland, protect significant habitat, or protect lands adjacent to the wetland from erosion and other hazards. The standard buffer widths assume a dense native plant community is present with less than 20 percent invasive plant coverage in the buffer area. In determining if buffer width increases are warranted, the director shall consult with the Departments of Ecology and/or Fish and Wildlife and shall consider the following information to be provided in a critical area report:

(a) The specific plant and animal composition of the wetland and subject buffer area; the project wetland biologist shall implement wider buffer areas where the buffer is composed of invasive plants that cover more than 20 percent of the buffer area, unless buffer management and enhancement actions are proposed to remove the invasive plants and manage the establishment of new native trees and shrubs over a three (3) year period through a buffer vegetation enhancement plan;

(b) The sensitivity of the plant and animal species in the wetland to disturbance from existing and proposed land uses;

(c) The extent to which the wetland buffer is relied on to perform water quality functions such as sediment trapping and pollutant removal;

(d) Whether the wetland supports wetland-dependent wildlife species or wildlife that require large dispersal areas or access to upland habitats for critical life stage needs;

(e) The risk of altering the existing wetland functions if the standard buffers are used; and

(f) Other information that the director deems pertinent to the subject wetland.

(5) The edge of the buffer area shall be clearly staked, flagged, and fenced prior to any site clearing and construction. The buffer boundary markers shall be clearly visible, durable, and permanently affixed to the ground. Site clearing shall not commence until the applicant has submitted written notice to the department that buffer requirements of this chapter are met. Field-marking shall remain until all construction and clearing phases are completed, and removal of the markers has been granted by the city.

(6) Impervious surfaces shall not be constructed in wetland buffers within 50 feet of the wetland boundary except as provided for in this chapter.

Section 10. Section 21.06.940 of the Puyallup Municipal Code is hereby amended to read as follows:

21.06.940 Performance standards – Wetland buffer uses.

(1) Wetland buffers shall be retained in an undisturbed condition except that the following uses may be permitted within a wetland buffer when the applicant demonstrates to the satisfaction of the director that no adverse impact to the wetland functions and values will occur:

(a) Wells and necessary appurtenances, including a pump and appropriately sized pump house, but not including a storage tank, when all the following conditions are met:

(i) There is no viable alternative to the well site outside of the buffer;

(ii) The well is either an individual well serving only one residence or a Class B well serving a maximum of 15 connections and no more than 25 people;

(iii) The well is more than 75 feet deep;

(iv) For Category I and II wetlands, the minimum distance from the well and appurtenances to the wetland edge is no less than ~~50~~ 25 percent of the buffer width required by this chapter; and

(v) Access to the well or pump house is provided by existing trail or road, or by an unimproved access for maintenance vehicle(s);

(b) Public and private roadway crossings, including bridge construction and culvert installation in or across Category II, Category III and Category IV wetland buffers,

if the director determines that such construction is necessary and cannot be accomplished in another location.

(c) City-approved storm water management facilities, limited to detention/treatment ponds, bio-filtration facilities or infiltration systems, may be allowed within the outer ~~50~~ 25 percent of the standard buffer of a wetland; provided, that:

(i) Construction of the storm water facility does not impact a forested buffer community;

(ii) There is no other feasible location for the storm water facility;

(iii) The storm water facility is designed according to city standards and the discharge water meets state water quality standards and will not affect the hydroperiod of the wetland;

(iv) Construction of a storm water management facility in the buffer of a Category I wetland is prohibited;

(v) Storm water conveyance or discharge facilities such as dispersion trenches and outfalls may encroach into the inner ~~50~~ 25 percent of a Category II, III or IV wetland buffer on a case-by-case basis when the director and city engineer determine that due to topographic or other physical constraints there are no feasible locations for these facilities in the outer buffer area; and

(vi) Altered areas are mitigated per PMC 21.06.610 and 21.06.960.

(d) Conservation or restoration activities aimed at protecting the soil, water, vegetation, or wildlife;

(e) Passive recreation facilities that are part of an interpretive trail system or environmental education program and designed in accordance with an approved critical area report and including walkways, wildlife viewing structures, and trails; provided, that they are located in the outer ~~50-25~~ percent of the buffer area and are constructed in such a manner to avoid disturbance of sensitive wildlife, feeding, roosting, breeding, or rearing sites, and meet the requirements of PMC 21.06.410(1)(d) and those pathways are limited to minor crossings having no adverse impact on water quality. They should be generally parallel to the perimeter of the wetland, located only in the outer twenty-five percent (25%) of the wetland buffer area, and located to avoid removal of significant trees. They should be limited to pervious surfaces no more than five (5) feet in width for pedestrian use only. Raised boardwalks utilizing non-treated pilings may be acceptable.

Section 11. Section 21.06.970 of the Puyallup Municipal Code is hereby amended to read as follows:

21.06.970 Wetland mitigation – Replacement ratios.

(1) When an applicant proposes to alter or eliminate a regulated wetland, the functions and values of the affected wetland and buffer must be replaced through wetland creation or

restoration according to the following minimum ratios. The ratios shall apply to wetland creation or restoration that is in-kind, on-site, the same category, timed prior to or concurrent with alteration, and has a high probability of success. Ratios for out-of-kind or off-site mitigation may be greater if the director determines that additional mitigation is warranted to replace impacts. These ratios do not apply to remedial actions resulting from unauthorized alterations; greater ratios shall apply in those cases (ratio is given as replacement area to impact area):

- (a) Category I wetlands: No replacement because all alterations are prohibited;
- (b) Category II wetlands: 3 to 1;
- (c) Category III wetlands: 2 to 1; and
- (d) Category IV wetlands: 1.5 to 1.
- (e) All impacts to wetland buffers shall be mitigated at a 1:1 ratio.

(2) Replacement ratios may be decreased by up to 25 percent by the director if the applicant demonstrates, to the satisfaction of the director, that all of the following criteria are met:

- (a) Documentation by a qualified professional demonstrates that the proposed mitigation actions have a very high likelihood of success;
- (b) Documentation by a qualified professional demonstrates that the proposed mitigation actions will provide functions and values that are significantly greater than the wetland being altered; or
- (c) The proposed mitigation actions are conducted in advance of the impact and shown to be successful through post-construction monitoring and function assessment.

(3) The director shall increase the replacement ratios under the following circumstances:

- (a) Uncertainty exists as to the probable success of the proposed restoration or creation; or
- (b) A significant period of time will elapse between impact and replication of wetland functions; or
- (c) Proposed mitigation will result in a lower category wetland or reduced functions relative to the wetland being impacted; or
- (d) The impact was an unauthorized impact.

Section 12. Section 21.06.980 of the Puyallup Municipal Code is hereby amended to read as follows:

21.06.980 Wetlands mitigation – Additional types of mitigation.

(1) Enhancement and rehabilitation. Impacts to wetlands may be compensated by enhancement and/or rehabilitation of existing significantly degraded wetlands. Applicants proposing to enhance wetlands must complete and submit a critical area report that identifies how enhancement will increase the functions of the degraded wetland and how this increase will adequately mitigate for the loss of wetland area and function at the impact site. An enhancement proposal must also show whether existing wetland functions will be reduced by the enhancement actions. ~~At a minimum, the replacement ratio for wetland enhancement shall be double the replacement ratio required for wetland replacement under PMC 21.06.970~~ All proposed rehabilitation or enhancement mitigation proposals shall utilize the rehabilitation/enhancement mitigation ratios as established in *Wetland Mitigation in Washington State, Part 1: Agency Policies and Guidance* (Version 1, Ecology Publication #06-06-011a, March 2006, or most recently revised version).

(2) Preservation. Impacts to wetlands may be mitigated by preservation of wetland areas, in a separate tract or easement in accordance with PMC 21.06.830. Preservation is used as a form of mitigation only after the standard sequencing of mitigation (avoid, minimize, and then compensate) has been applied. Mitigation ratios for preservation shall range from 10 to 1 to 20 to 1, as determined by the director, depending on the quality of the wetlands being mitigated and the quality of the wetlands being preserved.

(a) Preservation as mitigation is acceptable when done in combination with restoration, creation, or enhancement; provided, that a minimum of 1 to 1 acreage replacement is provided by restoration or creation;

(b) Preservation of at-risk, high-quality wetlands may be used as the sole means of mitigation for wetland impacts to Category III or IV wetlands when the impact area is small, and the preservation occurs in the same drainage basin as the wetland impact;

(c) Preservation sites include buffer areas adequate to protect the habitat and its functions from encroachment and degradation;

(d) Creation, restoration, and enhancement opportunities have also been considered, and preservation is the best mitigation option;

(e) The preservation site has the potential to experience a high rate of undesirable ecological change due to on- or off-site activities; and

(f) The area proposed for preservation is critical for the health of the watershed or basin.

(3) Wetland mitigation banks. Credits from an approved wetland mitigation bank may be approved for use as compensation for unavoidable impacts to wetlands when:

(a) The wetland mitigation bank is certified by the director and by state resource agencies with wetland jurisdiction;

(b) The director determines that the wetland mitigation bank provides appropriate compensation for the authorized impacts; and

(c) The proposed use of credits, including replacement ratios, is consistent with the terms and conditions of the wetland mitigation bank's certification. Certified wetland mitigation bank credits may be used to compensate for impacts located within the service area specified in the certification. (Ord. 2859 § 1, 2006).

(i) State or federally designated endangered, threatened, and sensitive species;

(ii) State priority habitats and areas associated with state priority species; or

(iii) Habitats and species of local importance including habitat corridors connecting habitat blocks and open spaces.

Section 13. Publication. A summary of this ordinance shall be published as required by law.

Section 14. Severability - Construction. If a section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance unless the invalidity destroys the purpose and intent of this ordinance. If the provisions of this ordinance are found to be inconsistent with other provisions of the Puyallup Municipal Code, this ordinance is deemed to control.

Section 15. Effective Date. This Ordinance shall take effect and be in force five days after its passage, approval, and publication as provided by law.

Passed and approved by City Council of the City of Puyallup at regularly scheduled open public meeting on the 24th day of November, 2015.


John D. Knutsen
Mayor

Approved as to form:


Steve Kirkelie
City Attorney

Attest:


Mary Winter
City Clerk

Published: November 27, 2015

Effective: December 2, 2015