



PLANNING COMMISSION MEETING AGENDA
Council Chambers, 1000 Laurel Street

November 14, 2018
Wednesday

Regular Meeting
7:00 p.m.

- 1. Call to Order and Flag Salute**
- 2. Roll Call**
- 3. Staff Updates**
- 4. Additions/Deletions to Agenda**
- 5. Citizen Participation**
- 6. Approval of Minutes**
 - A. October 10, 2018 Regular Meeting
- 7. Regular Agenda**
 - A. Shoreline Master Program Update
 - B. Complete Discussion and Possible Motion – Parking Code Update
 - C. Vacant Building Regulations
 - D. Discussion of 2019 Work Plan
 - E. Lessons Learned
- 8. Commissioner Reports**
- 9. Adjournment**

Planning Commission may add and take action on other items not listed on this agenda.

If you need ADA accommodations, please contact City Hall at (253) 517-2705 at least 24 hours prior to the meeting.

Thank you.



PLANNING COMMISSION MINUTES

Regular Meeting
Wednesday, October 10, 2018
7:00 p.m.

1. CALL TO ORDER AND FLAG SALUTE

Commissioner Balsley called the meeting to order at 7:00 p.m. and led the flag salute.

2. ROLL CALL

Present: Commissioners Balsley, Whalen, LaVergne, Sweat and White.

Absent: Chair Gillespie and Commissioner Champine

Motion to excuse Chair Gillespie (LaVergne/Sweat) – Passed 5/0

With the understanding that Commissioner Champine was granted an extended approved absence at a previous meeting

Staff Present: Mark Howlett, Public Works Director

3. STAFF UPDATES

Director Howlett's update included the following:

- Provided updated map and description of active City development projects. He provided a brief overview of changes since the last meeting.
- Provided an update on the Shoreline Master Plan and how the Plan will be coming back to the Commission at the November meeting. A draft will be provided to the Commissioners by the end of October for their review prior to the November meeting.

4. ADDITIONS, DELETIONS TO AGENDA

None

5. CITIZEN PARTICIPATION

None

6. APPROVAL OF MINUTES

A. September 12, 2018 Regular Meeting

MOTION TO APPROVE MINUTES (LaVergne/Whalen) – Passed 5/0.

7. REGULAR AGENDA

A. **Work Plan Item - Parking Code Update (See Attached)**

- Commissioner Balsley gave a brief introduction of Commissioner Whalen's work on the Parking Code. She then handed the floor over to Commissioner Whalen.
- Commissioner Whalen gave an overview of her meeting with Chief Hernandez and Officer Hobbs and how they scanned over the document and concurred with the proposed revisions.
- Commissioner Whalen explained the color coding of the marked-up parking code and the process she used in evaluating the proposed code revisions.
- It was discussed that all vehicles should be subject to the 72-hour code restriction, not just "Qualified Vehicles".
- It was discussed that a portion of Section 10.36 of the Puyallup Code regarding *Stopping, Standing and Parking* be added to our code. Commissioner Whalen will add this to the proposed revisions.
- Commissioner White commented, and further discussion was held, regarding the wording on Line 78 on Page 3 about issuing a warrant for the arrest of violators. It was agreed that, pending legal review, this would be changed to towing the vehicle away.
- It was agreed that the code should remove any references to City Manager.
- Commissioner Whalen will discuss all of these changes with the Police Department and send updates to staff for preparation of a final version of the proposed code revisions and proposed motion.

COMMISSIONER REPORTS

Commissioner Sweat

- Police Foundation Comedy fund raiser is on Sunday (10/14). Cost of tickets is \$25
- He will be participating in the Crafts Bazaar this Friday and Saturday (10/12 and 10/13)

Commissioner LaVergne

- He will be attending the Crafts Bazaar this weekend
- He mentioned that the Real Estate market in Milton is changing from a Seller's market to a Buyer's market due to the amount of inventory that is available.

Commissioner White

- Nothing to report

Commissioner Whalen

- Hopes that we can start in November the discussion regarding vacant buildings
- Would like to add to the November agenda a discussion of next year's Work Plan

Commissioner Balsley

- Mentioned the Craft Bazaar Friday 12:30 p.m. to 7:30 p.m. and Saturday 10:00 a.m. to 4:00 p.m.
- A VFW fund raiser dinner will be held tomorrow night
- Mentioned that the Chief of East Pierce Fire and Rescue attended the recent Chamber of Commerce meeting and gave a presentation regarding their upcoming bond measure
- Mentioned that Congressman Denny Heck will be attending next month's Chamber of Commerce meeting

ADJOURNMENT

The meeting was adjourned at 7:51 p.m.

Chair Jim Gillespie



Agenda Item #: 7A

To: Chair Gillespie and Planning Commission Members
From: Mark Howlett, P.E., Public Works Director
Date: November 14, 2018
Re: Shoreline Master Program Update

ATTACHMENTS: 1) Periodic Review Checklist
2) Public Participation Plan
3) Shoreline Master Program – Revised Pages Only

TYPE OF ACTION:

Information Only Discussion Action Public Hearing Expenditure

Recommended Action: None

Issue: At the September Planning Commission meeting the City's Consultant Brittany Port provided an overview of the state mandated update to the City's Shoreline Master Program. At this meeting she will provide an update to the progress and will delve more into depth regarding the impact these revisions will have on the City.

SHORELINE MASTER PROGRAM PERIODIC REVIEW

Periodic Review Checklist

Introduction

This document is intended for use by counties, cities and towns conducting the “periodic review” of their Shoreline Master Programs (SMPs). This review is intended to keep SMPs current with amendments to state laws or rules, changes to local plans and regulations, and changes to address local circumstances, new information or improved data. The review is required under the Shoreline Management Act (SMA) at [RCW 90.58.080\(4\)](#). Ecology’s rule outlining procedures for conducting these reviews is at [WAC 173-26-090](#).

This checklist summarizes amendments to state law, rules and applicable updated guidance adopted between 2007 and 2017 that may trigger the need for local SMP amendments during periodic reviews.

How to use this checklist

See Section 2 of Ecology’s *Periodic Review Checklist Guidance* document for a description of each item, relevant links, review considerations, and example language.

At the beginning: Use the review column to document review considerations and determine if local amendments are needed to maintain compliance. See WAC 173-26-090(3)(b)(i).

At the end: Use the checklist as a final summary identifying your final action, indicating where the SMP addresses applicable amended laws, or indicate where no action is needed. See WAC 173-26-090(3)(d)(ii)(D), and WAC 173-26-110(9)(b).

Local governments should coordinate with their assigned [Ecology regional planner](#) for more information on how to use this checklist and conduct the periodic review.

Row	Summary of change	Review	Action	ECY Comments	City Response
2017					
a.	OFM adjusted the cost threshold for substantial development to \$7,047.	SMP needs amending	Amend cost threshold on page 108, see WSR 17-17-016.	Okay	
b.	Ecology amended rules to clarify that the definition of "development" does not include dismantling or removing structures.	SMP needs amending	Amend definition on page 99, see WSR 17-17-016.	Okay	
c.	Ecology adopted rules that clarify exceptions to local review under the SMA.	SMP needs amending	Amend page 109 per new WAC 173-27-044, see WSR 17-17-016. Add new exceptions to list for exempt development and include statement that they are also exempt from review under SMA and acquiring a shoreline exemption letter.	Further discussion needed. An amendment to incorporate these changes is appropriate; however, simply adding these changes to the SMP section identified (7.A.1. Development excluded from a Shoreline Substantial Development Permit, Pg 111) will create an inaccurate reflection of the changes made. The list found in 7.A.1 are developments that are exempt from acquiring a substantial development permit from the city, but must meet the requirements of the SMP. If these developments require a shoreline conditional use permit and/or a shoreline variance permit, they must acquire these from the city along with the shoreline exemption. Procedurally, the city must determine if a proposal meets the exemption criteria. This section correlates with WAC 173-27-040 developments exempt from the substantial	Agreed. Two new sections have been added to 7.A.1 which clarify the procedural process for each exemption.

Row	Summary of change	Review	Action	City Response
		<p><i>development permit requirement.</i></p> <p>The amendments identified in this checklist were to WAC 173-27-044 and 173-27-045 which have different procedural requirements.</p> <p>WAC 173-27-044 identifies three developments/uses that do not require shoreline permits from the city, but do need to be consistent with the local SMP. And places ECY as the authority to ensure compliance.</p> <p>And WAC 173-27-045 identifies two circumstances when a project is completely excluded from any requirements of the SMA. Although the three categories are similar, they have very different procedural requirements of the applicant, city, and Ecology. I suggest this section be broken into these three parts to distinguish the differences.</p> <p>Okay. Once the language is drafted please forward on.</p>		
d.	<p>Ecology amended rules that clarify permit filing procedures consistent with a 2011 statute.</p>	<p>Code needs amending</p>	<p>Amend MMC 18.12.195 to include that the Director shall transmit the decision by return receipt mail to the Department of Ecology per revised WAC 173-27-130, see WSR 17-17-016.</p>	
e.	<p>Ecology amended forestry use regulations to clarify that forest practices that only involves timber cutting are not SMA "developments" and do not require SDPs.</p>	<p>N/A</p>	<p>No action necessary per revised WAC 173-26-241, see WSR 17-17-016.</p>	<p>Thank you for the clarification. I've changed this action item. Though this exemption could be considered, there is no reason for the City to allow forest practices as there are likely no stands within the City's shoreline jurisdiction that would meet the definition of a forest practices.</p>

Row	Summary of change	Review	Action	ECY Comments	City Response
f.	Ecology clarified the SMA does not apply to lands under exclusive federal jurisdiction	N/A	No action necessary per revised WAC 173-22-070, see WSR 17-17-016. The SMP is silent to this and as there are no lands under federal jurisdiction in the City, this clarification seems unnecessary.	substantial development permit requirements. Development determined to be exempt from acquiring a shoreline substantial development permit, must also be consistent with the substantive requirements of the SMP and the SMA.	
g.	Ecology clarified "default" provisions for nonconforming uses and development .	N/A	No action necessary per revised WAC 173-27-080, see WSR 17-17-016. These are default nonconforming building/use standards for SMPs that are silent to nonconforming development.	Okay	
h.	Ecology adopted rule amendments to clarify the scope and process for conducting periodic reviews .	N/A	No action necessary per revised WAC 173-26-09 and WAC 173-26-110, see WSR 17-17-016. This is procedural in nature as to how reviews of the SMP are to occur.	Okay	
i.	Ecology adopted a new rule creating an optional SMP amendment process that allows for a shared local/state	N/A	No action necessary per revised WAC 173-26-090 and WAC 173-26-100, see WSR 17-17-016.	Okay	

Shoreline Master Program Periodic Review Checklist
Shorelands and Environmental Assistance Program, September 20, 2017

Row	Summary of change	Review	Action	ECY Comments	City Response
	public comment period.				
j.	Submittal to Ecology of proposed SMP amendments.	N/A		Okay	
2016					
a.	The Legislature created a new shoreline permit exemption for retrofitting existing structures to comply with the Americans with Disabilities Act.	SMP needs amending	Amend page 115 to include exemption for retrofitting structure with ADA per revised WAC 173-27-040, see WSR 17-17-016.	Okay	
b.	Ecology updated wetlands critical areas guidance including implementation guidance for the 2014 wetlands rating system.	SMP needs amending	Amend pages 110 and 162 to reference new wetlands rating system per new Ecology Wetland Guidance. Amend page 163 to update buffers and habitat scores per new Ecology Wetland Guidance.	Okay	
2015					
a.	The Legislature adopted a 90-day target for local review of Washington State Department of Transportation (WSDOT) projects.	Code needs amending	Amend MMC 18.12 to include 90 day review target for WSDOT projects per new WAC 173-27-125, see WSR 17-17-016.	Okay	

Row	Summary of change	Review	Action	ECY Comments	City Response
2014					
a.	The Legislature raised the cost threshold for requiring a Substantial Development Permit (SDP) for replacement docks on lakes and rivers to \$20,000 (from \$10,000).	SMP needs amending	Amend page 113 per revised WAC 173-27-040, see WSR 17-17-016.	Okay	
b.	The Legislature created a new definition and policy for floating on-water residences legally established before 7/1/2014.	N/A	No action necessary per revised WAC 173-26-020, see WSR 17-17-016. The City of Milton does not have any legally established floating on-water residences.	Okay	
2012					
a.	The Legislature amended the SMA to clarify SMP appeal procedures .	N/A	No action necessary per revised RCW 90.58.190, see House Bill 2671. This is procedural in nature as it relates to the appeal of the Department of Ecology's decision to adopt a Shoreline Master Program.	Okay	
2011					
a.	Ecology adopted a rule requiring that wetlands be	N/A	Amend page 20, 110, 144 and 161 to refer to the federal wetland delineation manual.	Okay	

Row	Summary of change	Review	Action	ECY Comments	City Response
	delineated in accordance with the approved federal wetland delineation manual.				
b.	Ecology adopted rules for new commercial geoduck aquaculture.	N/A	No action necessary per revised WAC 173-26-241, see WSR 11-05-064. No geoduck aquaculture present in the City of Milton.	Okay	
c.	The Legislature created a new definition and policy for floating homes permitted or legally established prior to January 1, 2011.	N/A	No action necessary per revised RCW 90.58.270, see House Bill 1783. The City of Milton does not have any legally established floating on-water residences.	Okay	
d.	The Legislature authorized a new option to classify existing structures as conforming.	Consider amending SMP	Consider amending page 119 per revised RCW 90.58.620, see Senate Bill 5451. This allows for the option to consider a nonconforming residence that is only nonconforming as it pertains to setbacks or other bulk and dimensional requirements conforming as it relates to the requirements of the SMP.	Okay. Please keep me informed of the city's choice.	This will be discussed with the Planning Commission at their study session on November 13 th .
2010					
a.	The Legislature adopted Growth Management Act – Shoreline Management Act	N/A	N/A	Okay. This is optional, but it is not in the SMP.	

Row	Summary of change	Review	Action	ECY Comments	City Response
2009					
a.	The Legislature created new "relief" procedures for instances in which a shoreline restoration project within a UGA creates a shift in Ordinary High Water Mark.	N/A	N/A	Okay. This is optional, but it is not in the SMP.	
b.	Ecology adopted a rule for certifying wetland mitigation banks.	N/A	N/A	Okay. This is optional, but it is not in the SMP.	
c.	The Legislature added moratoria authority and procedures to the SMA.	N/A	N/A	Okay. This is optional, but it is not in the SMP.	
2007					
a.	The Legislature clarified options for defining "floodway" as either the area that has been established in FEMA maps, or the floodway criteria set in the SMA.	N/A	N/A	okay	
b.	Ecology amended	N/A	N/A	Okay. Pg 4, 1.D	

Row	Summary of change	Review	Action	ECY Comments	City Response
	<p>rules to clarify that comprehensively updated SMPs shall include a list and map of streams and lakes that are in shoreline jurisdiction.</p>				
c.	<p>Ecology's rule listing statutory exemptions from the requirement for an SDP was amended to include fish habitat enhancement projects that conform to the provisions of RCW 77.55.181.</p>	N/A	N/A	Okay. Pg 115.	

Attachment 1

City of Milton Shoreline Master Program Periodic Review

Public Participation Plan

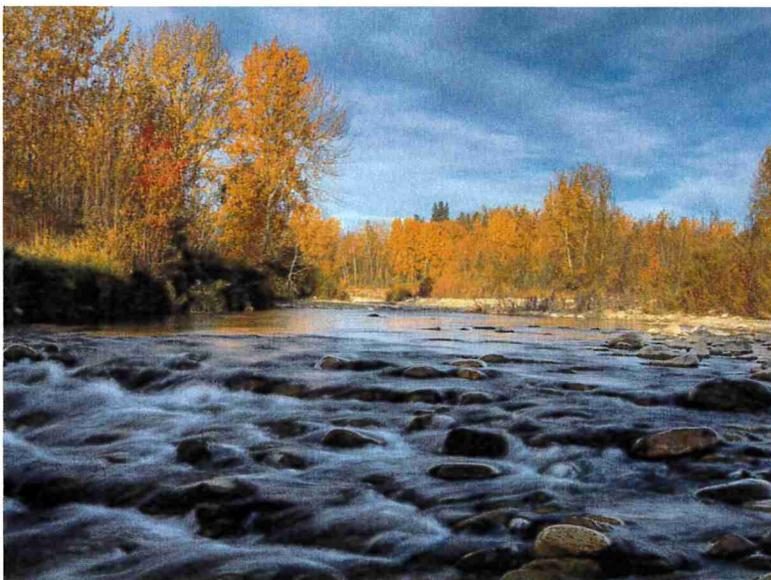
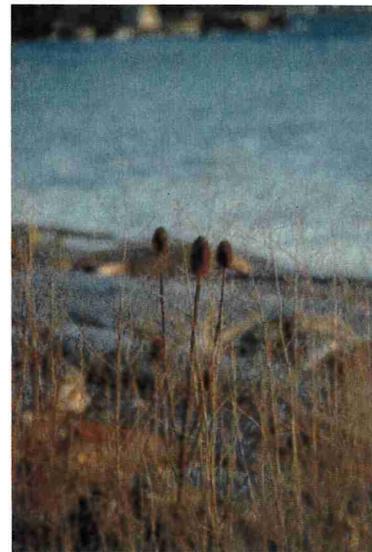
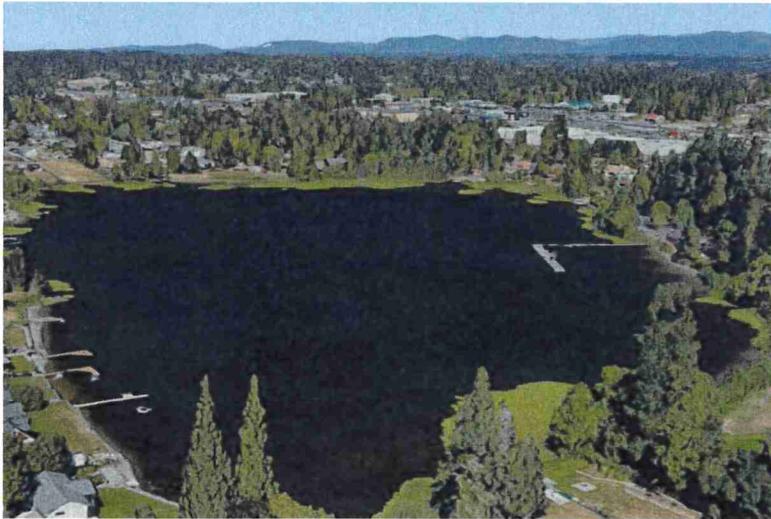


Photo sources top-bottom/left-right: Google Maps; Flickr User Mark; WSDOT; Flickr User Whitney H.; Flickr User Michael B.

Introduction

The City of Milton is undertaking a periodic review of its Shoreline Master Program (SMP), as required by the Washington State Shoreline Management Act (SMA), RCW 90.58.080(4). The SMA requires each SMP be reviewed and revised, if needed, on an eight-year schedule established by the Legislature. The review ensures the SMP stays current with changes in laws and rules, remains consistent with other City of Milton plans and regulations, and is responsive to changed circumstances, new information, and improved data.

The SMA and SMP guidelines require local governments to encourage active participation in the SMP review by all persons, private groups, public agencies, and tribes that have an interest or responsibility related to shorelines of the state. A Public Participation Plan is required to describe how The City of Milton will encourage early and continuous public participation throughout the process of reviewing the SMP. The Public Participation Plan is intended to meet State requirements, and is tailored to address the priorities and issues important to the City.

This Public Participation Plan describes the steps that The City of Milton will take to provide opportunities for public engagement and public comment, as well as City of Milton staff contact information and SMP Periodic Review Webpage address. This plan is in addition to any other minimum requirements for public participation required by the Milton Municipal Code (MMC). This plan is a working document and will be adjusted as needed to provide for the greatest and broadest public participation.

1.0 Public Participation Goals

The overall goal of the Public Participation Plan is to build support for timely adoption of a quality SMP. This plan provides key steps that are intended to effectively support the overall objectives of SMA. Throughout the process, there are many goals to guide the development of the SMP, including:

- Provide interested parties with timely information, an understanding of the process, and multiple opportunities to review and comment on proposed amendments to the SMP.
- Actively solicit information from citizens, property owners and stakeholders about their concerns, questions and priorities for the Periodic Review process.
- Encourage interested parties to informally review and comment on proposed changes to the SMP throughout the process and provide those comments to decision makers.
- Consider viewpoints of all participants, even if views are not reflected in the outcomes.
- Provide forums for formal public input at project milestones prior to decision-making by the City Council.
- Consult and consider recommendations from neighboring jurisdictions, federal and state agencies, and Native American tribes.
- Utilize a transparent process which clearly documents all public input and makes it available for any and all to review.

1.1 Guiding Principles

For any participation process, it is important to adhere to a set of guiding principles. For the SMP update, these principles include:

1. Communicate the purpose, scope, and objectives of the SMP throughout the duration of the update process (i.e., schedule, decision milestones, progress, and involvement opportunities).
2. Conduct public involvement consistent with the goals and policies of the Comprehensive Plan, the SMA, and City policies for transparent and open government.
3. Seek out and use input from local stakeholders about opportunities and problems, rather than solely relying on the opinions of technical experts.
4. Define and effectively communicate the roles and interests of all participants.
5. Keep all written communication clear, concise, objective, and free of technical jargon.
6. Use the City's website, mailings, newsletters, and other media to provide and distribute general information to the public.
7. Communicate and distribute information/feedback regularly to participants, and at intervals to interested/affected parties. Follow-up would occur by:
 - Informing affected/interested parties of outcomes;
 - Continuously evaluating the process to identify successes and shortcomings, and communicate results to participants; and
 - Evaluating the public participation process for effectiveness with community relationships and on perceptions of effectiveness of the process.
8. Use community resources and energies effectively and efficiently, and consider the relative cost-effectiveness of alternative techniques to achieve objectives.

2.0 Stakeholders

The Public Participation Plan establishes a process that is designed to reach all audiences that may have an interest in the update process. It is also be designed to reach out to other groups and individuals, including those who may not yet have an interest or be compelled to participate, in order to encourage their awareness, understanding, and involvement in the process. The City has identified the following broad groups of stakeholders as important to contact and engage:

- General public: Interested citizens across the City and the State as a whole. These include:
 - Residents, City-wide
 - Local businesses and employees
 - Shoreline users
 - Other citizens of the State
- Property owners: Individuals and other entities that own property within shoreline jurisdiction. These include:
 - Residential property owners
 - Businesses
 - Governmental agencies
- Business organizations, environmental groups, and other non-governmental organizations: Organizations with expertise and/or interest in shoreline issues. These include:
 - Adopt-A-Stream

- Fife Milton Edgewood Chamber of Commerce
- Futurewise
- Master Builders Association
- Washington Environmental Council
- Puget Soundkeeper Alliance
- Tribes: Native American tribes that own property and/or have rights to usual and accustomed places and natural resources. These include:
 - Muckleshoot Indian Tribe
 - Puyallup Indian Tribe
- Government Agencies: Local, regional, state, and federal agencies with jurisdiction, expertise, or potentially affected by the proposal. These include:
 - City of Milton
 - Army Corps of Engineers
 - Federal Emergency Management Agency
 - NOAA Fisheries Service
 - Puget Sound Partnership
 - Puget Sound Regional Council
 - ~~United States Forest Service~~
 - Washington State Department of Ecology
 - Washington State Department of Fish and Wildlife
 - Washington State Department of Natural Resources
 - Washington State Department of Transportation
 - Washington State Parks
 - Water Resource Inventory Area (WRIA 10)
 - Neighboring jurisdictions (e.g., Federal Way, Fife, Edgewood, Pierce County, especially their shoreline planners)
- Utilities and Transportation: Power and gas providers, railroad operators and other utilities and transportation interests
 - Puget Sound Energy
 - Lakehaven Utility District and Pierce County Public Works Sewer Division
 - King County Public Health
 - Tacoma-Pierce County Public Health
- Media: Local newspapers, television, radio stations, etc.
 - The News Tribune

Outreach activities are designed to keep these groups informed and updated on key meetings, decision-making milestones, and overall project progress. The public involvement process is intended to prevent last minute surprises and to avoid the misguided perception that specific groups have been discouraged from participating or have not been adequately informed. City staff will contact all of the groups listed above, but will engage certain stakeholder groups to greater or lesser degrees based on their demonstrated level of interest and involvement. The City will also use different methods to engage different groups. The City anticipates that farmer’s market booth and new releases to City Currents will

primarily engage residents of Milton and homeowners within the shoreline jurisdiction. To engage business owners, environmental groups, and other non-profit organizations, the City's website will likely be an efficient tool as well as notice mailings/emailing.

3.0 Public Participation Opportunities

The City of Milton is committed to providing multiple opportunities for public participation throughout the process. The City of Milton will use a variety of communication tools to inform the public and encourage their participation, including the following:

3.1 Website

The City of Milton's website ~~will~~includes a Periodic Review webpage where interested parties can access draft documents, official notices and meeting minutes, view the project schedule, see submitted public comments, obtain contact information, and submit comments. The webpage will be the primary repository of all information related to the Periodic Review process. The website and project calendar will be updated as new information and reports become available. The page will also include a Frequently Asked Questions section.

[The City's 2019 SMP Periodic Review webpage can be accessed by using this link:](https://www.cityofmilton.net/departments/planning-and-community-development/shoreline-master-program-2/)

<https://www.cityofmilton.net/departments/planning-and-community-development/shoreline-master-program-2/>

3.2 Open House

An open house is planned mid-way through the process to provide the public an opportunity to review and comment on the draft amendments. The Open House will be held at Council Chambers located at 1000 Laurel Street, Milton, WA 98354. The Open House will primarily offer education on the following topics:

- SMA/SMP requirements and the degree of local control
- Property rights and guidance from the Washington State Attorney General
- Shoreline ecology and human impacts

Additionally, specific input will be sought on issues such as general shoreline problems and opportunities, demand for shoreline uses, public access opportunities, conservation and restoration priorities, and other key regulatory issues. The target audience will be all stakeholders, especially the general public and property owners affected by the SMP. The City may seek representatives from state agencies, including Ecology, to attend these events.

Public comments received during the Community Open House will be posted on the City of Milton SMP Periodic Review webpage. The Community Open House is scheduled to occur in early November. An additional open house may be added if there is a high level of interest.

3.3 Notice Mailing List and Email Distribution List

An email list of interested parties will be created and maintained by the City of Milton. The list will be used to notify interested parties regarding the progress of the Periodic Review and opportunities for public participation. Interested parties may be added to the list by either indicating their preference to be included as such during a Periodic Review public involvement event, or by contacting the Public Works Department. The City of Milton SMP Periodic Update Webpage will also include an option to subscribe to the email listserv that will notify interested parties of any status updates posted to the webpage.

3.4 Comment

Interested parties will be encouraged to provide comments to the City of Milton by letter or email. Interested parties may also provide comments in the comment form of the City's Periodic Review webpage. The Periodic Review webpage will be the central repository for information under consideration. Documents will be available for review at the City of Milton Public Works Department, and copies will be provided at the established copying cost. All public comments received as part of the Periodic Review project will be posted on the Periodic Review webpage.

3.5 News media

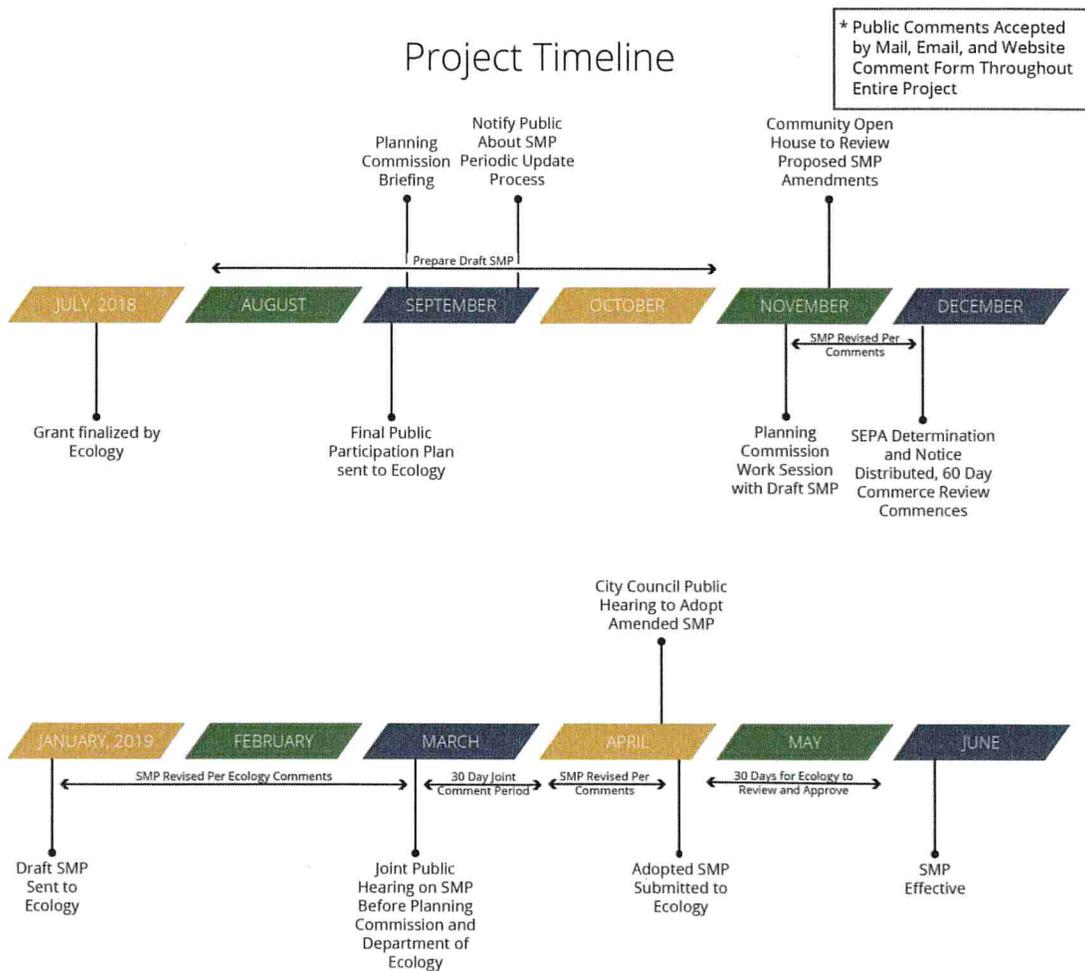
The local news media will be kept up-to-date on the Periodic Review process and receive copies of all official notices. Notices will be sent to the local news media to announce upcoming public participation opportunities, or provide information at key milestones.

3.6 Social media

Updates will be provided at appropriate times during the Periodic Review process on the City of Milton's Facebook page. These updates will be designed to publicize upcoming public participation opportunities and to provide information regarding new documents that are posted or key milestones that are met in the project schedule. Social media posts are designed to be short in nature and provide a snippet of information along with a link to more detailed information located on the Periodic Review webpage.

4.0 Public Participation Timeline

The following is a general timeline including anticipated public participation opportunities. City of Milton staff will coordinate with the Department of Ecology throughout the process. A detailed timeline will be posted on the Periodic Review webpage.



5.0 Public Comment Periods and Hearings

A public comment period to solicit input on the Periodic Review and a City Council public hearing will be provided before final adoption.

The City of Milton will coordinate with the Department of Ecology on a joint public notice of comment periods and one joint local/state public hearings with the Department of Ecology in attendance to take advantage of Ecology’s optional SMP amendment process that allows for a combined state-local comment period pursuant to WAC 173-26-104 and chapter 16.05 DMMC. Notice will be provided to the agencies and interest groups on the project distribution list (described in Section 2.0, above) and the Department of Ecology.

The City is tentatively planning for a public hearing before the City Council to be held in April 2019. The adopted SMP is tentatively planned to be submitted to the Department of Ecology at the end of April, and effective by mid-June 2019.

6.0 Roles and Responsibilities

This section identifies the parties involved with the public participation process. The key responsibilities of City staff, consultants, Environment Committee and City Council are listed below.

6.1 City Staff

City staff will manage the SMP Update process and document the process to Ecology. The work of City staff includes, but is not limited to the following:

- Project management;
- Documenting and keeping records;
- Coordinating with Ecology;
- Directing the work of consultants;
- Reviewing the draft SMP amendments prepared by the AHBL;
- Working with the Planning Commission and City Council and apprising these bodies and interested parties of project progress and key policy and regulatory decisions.

6.1 Consultant

Under oversight by City staff, AHBL will design and execute the public involvement program, including facilitating (with City staff) a community open houses, and work sessions with the City of Milton Planning Commission. AHBL will manage the SMP Update process and develop the draft SMP according to Ecology's SMP Guidelines. ~~AHBL staff will compile required inventory and analysis information for the update and prepare amended policies and regulations.~~ AHBL will maintain the City's SMP Periodic Update webpage and prepare public notices of outreach activities and key milestones in the project for distribution to traditional news outlets and social media. AHBL staff will also conduct the required environmental review and notice to State agencies of the threshold determination and intent to adopt.

6.2 Planning Commission

The Planning Commission will review proposed SMP policies and regulations and provide a recommendation to City Council. Project staff will take key policy and regulatory decisions to the Committee in phases, prior to review of and recommendation on the entire document. The Planning Commission will review the draft SMP, take and consider public input, and make formal recommendations to the City Council.

6.3 City Council

The City Council will review proposed SMP policies and regulations, consider the recommendation of the Environment Committee, and make the final decision on SMP adoption. As established in state law, the City Council will review the draft SMP, gather public input, make changes as desired, and locally adopt the final SMP. The City Council is the legislative authority with the final local decision making authority for the local adoption of the SMP.

6.4 Department of Ecology and the State of Washington

State law establishes a cooperative program of shoreline management between local government and the State. Ecology provides financial assistance and guidance to local governments in preparing the

SMP. The SMA authorizes and directs Ecology to adopt guidelines for the development of local SMPs. In keeping with the relationship between state and local governments prescribed in the SMA, the Guidelines have three specific purposes:

- To assist local governments in developing master programs;
- To serve as standards for the regulation of shoreline development in the absence of a master program along with the policy and provisions of the SMA, and;
- To be used along with the policy of RCW 90.58.020, as criteria for state review of local master programs under RCW 90.58.090.

Ecology provides written comments on draft SMP components. The local government approves its program after a public review and comment period. The local government then sends the SMP to Ecology, which reviews it for consistency with the Guidelines and the SMA. Ecology must approve the locally approved and submitted master program, before it takes effect. To ensure respect for private property rights, local and state legal authorities are required to review a shoreline program before formal adoption. In addition, Ecology approves certain shoreline permit decisions (e.g., conditional uses and variances).

6.5 Project Contacts

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City of Milton Shoreline Master Program

FINAL

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Prepared by:



City of Milton



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funded in part
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the Washington
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Ecology.

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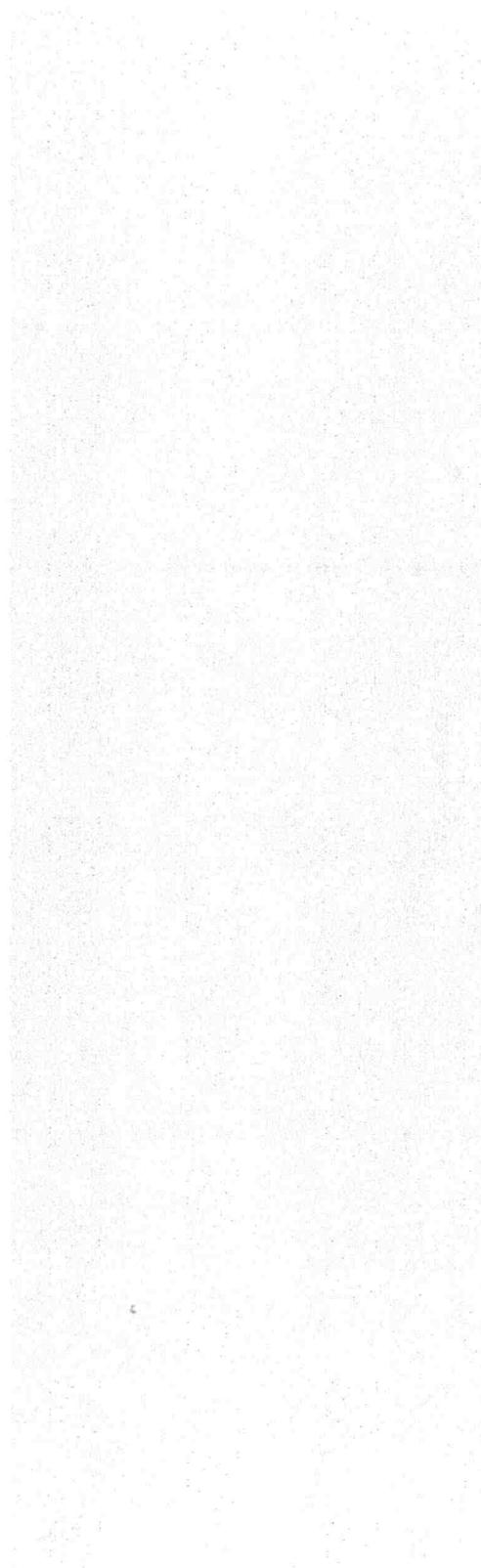


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27.53 RCW (Archaeological Sites and Records) and shall comply with Chapter 25-48 WAC as well as the provisions of this SMP.

6. Archaeological excavations may be permitted subject to the provisions of this program.
7. Identified historical or archaeological resources shall be included in park, open space, public access and site planning, with access to such areas designed and managed so as to give maximum protection to the resource and surrounding environment.
8. Clear interpretation of historical and archaeological features and natural areas shall be provided when appropriate.
9. The City will work with affected tribes and other agencies to protect Native American artifacts and sites of significance and other archaeological and cultural resources as mandated by Chapter 27.53 RCW.

3.B.3. Critical Areas

3.B.3.a. Applicability

The following policies and regulations apply to all critical areas, as defined in the City's critical areas regulations. The critical areas regulations applicable to critical areas within shoreline jurisdiction can be found in Appendix C.

3.B.3.b. Policies

1. Protect unique, rare, and fragile environments, including wetlands and fish and wildlife habitat areas, from impacts associated with development.
2. Locate and design development to minimize risks to people, property, and other critical areas associated with geologically hazardous areas and frequently flooded areas.
3. Provide a level of protection to shoreline-specific critical areas that assures no net loss of shoreline ecological functions necessary to sustain shoreline natural resources.

3.B.3.c. Regulations

Critical areas in Shoreline Jurisdiction are regulated by the City's Critical Areas Regulations, codified under Chapter 18.16 MMC (Ordinance 1671 9/1/08, as amended by Ordinance 1865 6/15/15 included in this SMP as Appendix C), which is herein incorporated into this SMP, except and modified as noted below. If provisions of the critical area regulations and other parts of the SMP conflict, the provisions most protective of the ecological resource shall apply, as determined by the City.

Provisions of the critical areas regulations that are not consistent with the Shoreline Management Act (Chapter 90.58 RCW) and supporting Washington Administrative Code chapters shall not apply in Shoreline Jurisdiction.

Comment [BP1]: Previously, Appendix C included verbatim the City's Critical Area Code, and then made changes to it in this section. For simplicity, I'd recommend that we modify the appendix as denoted below, so that if one were to look to the appendix only, they would have all of the correct standards.

Exceptions to the applicability of critical area regulations in Shoreline Jurisdiction are provided below.

1. Critical area regulations do not extend Shoreline Jurisdiction beyond the limits specified in this SMP. For regulations addressing critical area buffers that are outside Shoreline Jurisdiction, see Critical Areas Regulations, Chapter 18.16 MMC.
2. Provisions of the Critical Area Regulations that include a reasonable use determination shall not apply within Shoreline Jurisdiction. Specifically, MMC 18.16.110, does not apply.
3. Provisions of the critical areas regulations relating to variance procedures and criteria do not apply in Shoreline Jurisdiction. Within Shoreline Jurisdiction, the purpose of a Shoreline Variance Permit is strictly limited to granting relief from specific bulk, dimensional or performance standards set forth in this SMP, where there are extraordinary circumstances relating to the physical character or configuration of property such that the strict implementation of the SMP will impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020. Shoreline Variance procedures and criteria for projects within critical areas and Shoreline Jurisdiction have been established in Chapter 7 Section C of this SMP.
4. Provisions of the critical areas regulations related to Partial Exemptions do not apply in Shoreline Jurisdiction. Specifically sections 18.16.090 (A) & (B) MMC.
- ~~5. Section 18.16.310 MMC regarding Wetland Designations is not applicable to wetlands in Shoreline Jurisdiction. Instead, identification of wetlands and delineation of their boundaries pursuant to this SMP shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements. All areas within the City's Shoreline Jurisdiction meeting the wetland designation criteria in that procedure are hereby designated critical area and are subject to the provisions of this section.~~
~~"Corps of Engineers Wetlands Delineation Manual" technical report Y-87-1~~
~~US Army Corp of Engineers. 2010 Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region.~~
- ~~65.~~ Section 18.16.320 (C) (7) MMC regarding reduction of buffers is amended for wetlands in Shoreline Jurisdiction as follows;
 - Buffer reduction shall not reduce the required buffer by more than 25% except by variance
- ~~76.~~ Section 18.16.320 (C) (6) MMC regarding buffer averaging is amended for wetlands in Shoreline Jurisdiction as follows:
 - The buffer cannot be reduced by more than 25% except by variance.

- Averaging cannot be utilized in conjunction with buffer reduction incentives.
87. Provisions in the Critical Areas regulations related to Review Criteria, specifically section 18.16.130 (A) (1-5) MMC is replaced with the following criteria:
- (1) That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes, or significantly interferes with, reasonable use of the property;
 - (2) That the hardship described in (a) of this subsection is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the master program, and not, for example, from deed restrictions or the applicant's own actions;
 - (3) That the design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program and will not cause adverse impacts to the shoreline environment;
 - (4) That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;
 - (5) That the variance requested is the minimum necessary to afford relief; and
 - (6) That the public interest will suffer no substantial detrimental effect.
98. Subsection E is hereby added to Section 18.16.185 MMC:
- E. All critical areas, regardless of size or type, and associated buffer shall be shown on proposals and recoding documents for subdivisions, short subdivisions, planned unit developments, and binding site plans.
109. Section 18.16.320 (C) (1) MMC is hereby replaced with the following:
1. Buffer Requirements. The standard buffer widths in Table ~~A-1~~ (below) have been established in accordance with the best available science. They are based on the category of wetland and the habitat score as determined by a qualified wetland professional using the Washington state wetland rating system for western Washington.
 - a. The use of the standard buffer widths **requires** the implementation of the measures in Table ~~B2~~, where applicable, to minimize the impacts of the adjacent land uses.
 - b. If an applicant chooses not to apply the mitigation measures in Table ~~B2~~, then a 33% increase in the width of all buffers is required. For example, a 75-foot buffer with the mitigation measures would be a 100-foot buffer without them.

- c. The standard buffer widths assume that the buffer is vegetated with a native plant community appropriate for the ecoregion. If the existing buffer is unvegetated, sparsely vegetated, or vegetated with invasive species that do not perform needed functions, the buffer should either be planted to create the appropriate plant community or the buffer should be widened to ensure that adequate functions of the buffer are provided.
- d. If the wetland is a Category I or II wetland with a habitat score greater than five points and it is located within 300 feet of a priority habitat area as defined by the Washington State Department of Fish and Wildlife, the applicant shall provide a relatively undisturbed vegetated corridor at least 100 feet wide between the wetland and the priority habitat area. The corridor shall be protected for the entire distance between the wetland and the priority habitat through a conservation easement, native growth protection easement or the equivalent.
- e. Additional buffer widths are added to the standard buffer widths. For example, a Category I wetland scoring 32 points for habitat function would require a buffer of 225 feet (75 + 150).

Table A-1 Wetland Buffer Requirements

Wetland Category	Standard Buffer Width	Additional buffer width if wetland scores <u>21-253-4</u> habitat points	Additional buffer width if wetland scores <u>26-295</u> habitat points	Additional buffer width if wetland scores <u>30-368-9</u> habitat points
Category I: Based on total score	75ft	Add 30 ft	Add 90 ft	Add 150 ft
Category I: Bogs	190 ft	NA	NA	Add 35 ft
Category I: Natural Heritage Wetlands	190 ft	N/A	NA	Add 35 ft
Category I: Forested	75ft	Add 30 ft	Add 90 ft	Add 150 ft
Category II: Based on score	75 ft	Add 30 ft	Add 90 ft	Add 150 ft
Category II:	110 ft	NA	Add 55 ft	Add 115 ft

Interdunal Wetlands				
Category III (all)	60 ft	Add 45 ft	Add 105 ft	NA
Category IV (all)	40 ft	NA	NA	NA

Table B2. Required measures to minimize impacts to wetlands

<u>Examples of Disturbance</u>	<u>Examples of Activities That Cause the Disturbance</u>	<u>Examples of Measures to Minimize Impacts</u>
<u>Lights</u>	<u>Parking lots</u> <u>Warehouses</u> <u>Manufacturing</u> <u>Residential</u>	<ul style="list-style-type: none"> • <u>Direct lights away from wetland</u>
<u>Noise</u>	<u>Manufacturing</u> <u>Residential</u>	<ul style="list-style-type: none"> • <u>Place activity that generates noise away from the wetland</u> • <u>If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source</u> • <u>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</u>
<u>Toxic runoff</u>	<u>Parking lots</u> <u>Roads</u> <u>Manufacturing</u> <u>Residential areas</u> <u>Application of agricultural pesticides, herbicides, fungicides, fertilizers</u> <u>Landscaping</u>	<ul style="list-style-type: none"> • <u>Route all new untreated runoff away from wetland while ensuring the wetland is not dewatered.</u> • <u>Utilize and require covenants limiting use of pesticides within 150 feet of wetland</u> • <u>Apply Integrated Pest Management programs</u>
<u>Change in water regime</u>	<u>Any impermeable surface</u> <u>Lawns</u> <u>Tilling</u>	<ul style="list-style-type: none"> • <u>Infiltrate or treat, detain and disperse into buffer new runoff from impervious surfaces and new lawns.</u>
<u>Pets and human disturbance</u>	<u>Residential areas</u>	<ul style="list-style-type: none"> • <u>Use privacy fence OR plant dense vegetation to delineate buffer edge and to discourage disturbance using</u>

<u>Examples of Disturbance</u>	<u>Examples of Activities That Cause the Disturbance</u>	<u>Examples of Measures to Minimize Impacts</u>
		<u>vegetation appropriate for the ecoregion.</u> <ul style="list-style-type: none"> • <u>Place wetland and its buffer in a separate tract or protect with a conservation easement.</u>
Dust	Tilled fields	<ul style="list-style-type: none"> • <u>Use best management practices to control dust</u>
Disruption of corridors or connections		<ul style="list-style-type: none"> • <u>Maintain connections to offsite areas that are undisturbed.</u> • <u>Restore corridors or connections to offsite habitats by replanting.</u>
Storm water runoff	<u>Stormwater ponds</u> <u>Other stormwater facilities</u>	<ul style="list-style-type: none"> • <u>Retrofit stormwater detention and treatment for roads and existing adjacent development.</u> • <u>Prevent channelized flow from lawns that directly enters the buffer.</u> • <u>Use Low Intensity Development techniques (per PSAT publication on LID techniques).</u>

Disturbance	Required Measures to Minimize Impacts
Lights	<ul style="list-style-type: none"> • <u>Direct lights away from wetland</u>
Noise	<ul style="list-style-type: none"> • <u>Locate activity that generates noise away from wetland</u> • <u>If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source</u> • <u>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</u>

Toxic runoff	<ul style="list-style-type: none"> ● Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered ● Establish covenants limiting use of pesticides within 150 ft of wetland ● Apply integrated pest management
Stormwater runoff	<ul style="list-style-type: none"> ● Retrofit stormwater detention and treatment for roads and existing adjacent development ● Prevent channelized flow from lawns that directly enters the buffer ● Use Low Intensity Development techniques (per PSAT publication on LID techniques)
Change in water regime	<ul style="list-style-type: none"> ● Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns
Pets and human disturbance	<ul style="list-style-type: none"> ● Use privacy fencing OR plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion ● Place wetland and its buffer in a separate tract or protect with a conservation easement
Dust	<ul style="list-style-type: none"> ● Use best management practices to control dust
Disruption of corridors or connections	<ul style="list-style-type: none"> ● Maintain connections to offsite areas that are undisturbed ● Restore corridors or connections to offsite habitats by replanting

appropriate specialty license and fluvial geomorphic experience, in addition to a professional engineer, to ensure that the measure does not interfere with fluvial hydrological and geomorphological processes normally acting in natural conditions.

Replacement and Repair

11. An existing shoreline stabilization structure shall not be replaced with a similar structure unless there is need to protect primary structures from erosion caused by currents or waves and a nonstructural measure is not feasible. At the discretion of the City's Shoreline Administrator, the demonstration of need does not necessarily require a geotechnical report by a geotechnical engineer or related professional licensed. The replacement structure shall be designed, located, sized, and constructed to assure no net loss of ecological function.

Replacement walls, armoring or bulkheads shall not encroach waterward of the OHWM or existing structures unless the residence was occupied prior to January 1, 1992 and there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shoreline stabilization structure. When an existing bulkhead is being repaired or replaced by construction of a vertical wall fronting the existing wall (as noted in the exception for residences occupied prior to 1992, above), it shall be constructed no farther waterward of the existing bulkhead than is necessary for construction of new footings. When a bulkhead has deteriorated such that an OHWM has been established by the presence and action of water landward of the bulkhead, then the replacement bulkhead must be located at or near the actual OHWM.

For purposes of standards on shoreline stabilization measures, "replacement" means the construction of a new structure to perform a shoreline stabilization function of an existing structure which can no longer adequately serve its purpose. Additions to or increases in size of existing shoreline stabilization measures shall be considered new structures.

Bulkheads

12. Bulkhead development will be permitted through ~~coordination~~ coordination with applicable state agencies to ensure compatible site and design standards. Applicable agencies include, but are not limited to WDFW and the Department of Ecology.
13. Gabions (wire mesh filled with concrete or rocks) are prohibited, except as a Shoreline Conditional Use where it is determined that gabions are the least environmentally disruptive method of shoreline stabilization.
14. Stairs and other allowed structures may be built as integral to a bulkhead but shall not extend waterward of the bulkhead or structure unless stairway construction that does not extend waterward beyond the face of the bulkhead is demonstrated to be infeasible.

ii. Accessory Uses, Accessory Structures, and Appurtenances:

- (a) **Patios and decks:** Uncovered patios or decks that are no higher than 2 feet above grade may extend a maximum of 15 feet into the building setback, up to within 65 feet of the OHWM.
- (b) **Garages and pavements for motorized vehicles:** Garages and pavements for motorized vehicles (driveways and parking areas including unpaved driveways and parking lots) shall be set back at least 100 feet from the OHWM, unless the project applicant demonstrates to the Shoreline Administrator's satisfaction that such a configuration is not feasible.
- (c) **Auxiliary structures:** Auxiliary structures such as storage sheds and gazebos may encroach a maximum of 15 feet into the building setback, up to within 65 feet of the OHWM. The auxiliary structure may not be more than 200 square feet in building footprint or more than 10 feet in height.
- (d) **Fences:** Fences located within the required building setback shall be no more than 4 feet high. Fences shall be set back at least 25 feet from the OHWM.

Comment [BP2]: Consider including within the list of accessory uses, structures, appurtenances "in-ground pools". We've had inquiries as to whether in-ground pools are permitted within the building setback and it's not clear, they aren't listed, however they could be construed to be no different than a auxiliary structure.

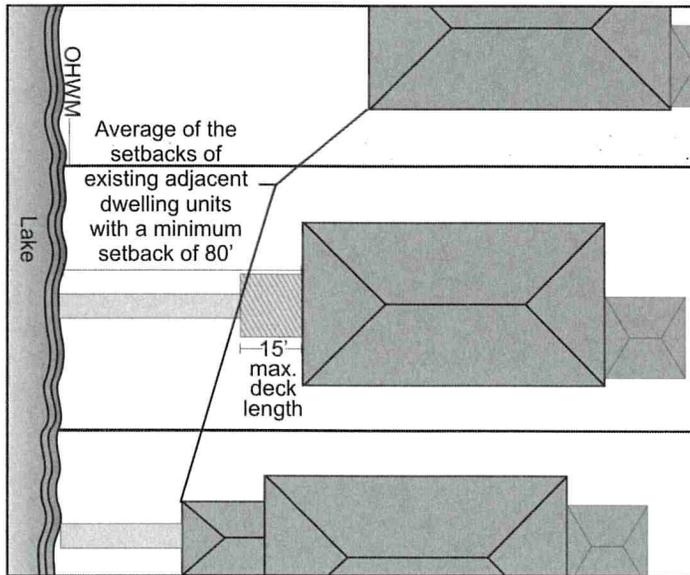


Figure 1. Single-family residential setback requirements.

- b. **Primary Building Height:** Maximum 35 feet.

Clearing. The destruction or removal of vegetation, root material, or topsoil.

Compensatory mitigation. See City of Milton's critical areas regulations, Chapter 18.16 MMC.

Comprehensive Plan. (*The City of Milton Comprehensive Plan, adopted 2003*). The document, including maps, prepared under the Growth Management Act and adopted by the City Council, that outlines the City's goals and policies related to management of growth, and prepared in accordance with Chapter 36.70A RCW. The term also includes adopted subarea plans prepared in accordance with Chapter 36.70A RCW.

Conditional use. Conditional use means a use, development, or substantial development which is classified as a conditional use or is not classified within the applicable master program

Covered moorage. Boat moorage, with or without walls, that has a roof to protect the vessel.

Critical Areas Regulations. Refers to the City of Milton's Critical Areas Regulations, Chapter 18.16 MMC, adopted herein by section 3.B.3.c and attached as appendix C.

Current deflector. An angled stub-dike, groin, or sheet-pile structure which projects into a stream channel to divert flood currents from specific areas, or to control downstream current alignment.

Date of Filing: Any shoreline permit whether it is an approval or a denial, shall, concurrently with the transmittal of the ruling to the applicant, be filed with the department and the attorney general. This shall be accomplished by return receipt requested mail. A petition for review of such a decision must be commenced within twenty-one days from the date of filing of the decision.

(a)With regard to Shoreline Substantial Development Permits, "date of filing" as refers to the date of actual receipt by the department of the local government's decision.

(b)With regard to a shoreline variance permit or a shoreline conditional use permit, "date of filing" means the date the decision of the department is transmitted by the department to the local government, whether it be an approval, denial, or approval with conditions.

When a local government simultaneously transmits to the department its decision on a shoreline substantial development with its approval of either a shoreline conditional use permit or variance, or both, "date of filing" has the same meaning as defined in (b) above.

The department shall notify in writing the local government and the applicant of the date of filing by telephone or electronic means, followed by written communication as necessary, to ensure that the applicant has received the full written decision.

Department of Ecology. The Washington State Department of Ecology.

Development. A use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters of the state subject to Chapter 90.58 RCW at any stage of water level. **Development does not include dismantling or removing structures if there is no other associated development or redevelopment.** (RCW 90.58.030(3)(d).)

Single-family dwelling or residence. A detached building designed exclusively for occupancy by one family and containing one dwelling unit, including those structures and developments within a contiguous ownership which are a normal appurtenance. A duplex is considered a single family for the purposes of development regulation in this SMP.

SMA. The Shoreline Management Act of 1971, Chapter 90.58 RCW, as amended.

SMP. See Shoreline Master Program.

Stormwater. That portion of precipitation that does not normally percolate into the ground or evaporate but flows via overland flow, interflow, channels, or pipes into a defined surface water channel or constructed infiltration facility.

Stream. A naturally occurring body of periodic or continuously flowing water where: a) the mean annual flow is greater than twenty cubic feet per second and b) the water is contained within a channel. See also "channel."

Stream bank. The upland areas immediately adjacent to the floodway, which confine and conduct flowing water during non-flooding events. The stream bank, together with the floodway, represents the stream channel capacity at any given point along the stream.

Structure. A permanent or temporary edifice or building, or any piece of work artificially built or composed of parts joined together in some definite manner, whether installed on, above, or below the surface of the ground or water, except for vessels.

Subdivision. The division or redivision of land, including short subdivision for the purpose of sale, lease or conveyance.

Substantial development. Any development of which the total cost or fair market value exceeds ~~five thousand~~ seven thousand forty-seven dollars (~~\$5,000~~\$7,047), or any development which materially interferes with the normal public use of the water or shorelines of the state. The dollar threshold established in this subsection (3)(e) must be adjusted for inflation by the office of financial management every five years, beginning July 1, 2007, based upon changes in the consumer price index during that time period. "Consumer price index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the bureau of labor and statistics, United States department of labor. The office of financial management must calculate the new dollar threshold and transmit it to the office of the code reviser for publication in the Washington State Register at least one month before the new dollar threshold is to take effect. Under the Shoreline Management Act, some development is not considered "substantial development" These categories are listed in Section 7.A.1.b of this SMP.

Substantially degrade. Substantially degrade means to cause damage or harm to an area's ecological functions. An action is considered to substantially degrade the environment if:

- (a) The damaged ecological function or functions significantly affect other related functions or the viability of the larger ecosystem; or
- (b) The degrading action may cause damage or harm to shoreline ecological functions under foreseeable conditions; or
- (c) Scientific evidence indicates the action may contribute to damage or harm to ecological functions as part of cumulative impacts.

- Resorts with uses open to the public and public access to the shoreline; and
- Any combination of those uses listed above.

Water-oriented use. A use that is water-dependent, water-related, or water-enjoyment, or a combination of such uses.

Water quality. The physical characteristics of water within Shoreline Jurisdiction, including water quantity, hydrological, physical, chemical, aesthetic, recreation-related, and biological characteristics. Where used in this SMP, the term "water quantity" refers only to development and uses regulated under SMA and affecting water quantity, such as impervious surfaces and stormwater handling practices. Water quantity, for purposes of this SMP, does not mean the withdrawal of groundwater or diversion of surface water pursuant to RCW 90.03.250 through 90.03.340.

Water quantity. See "water quality".

Water-related use. A use or portion of a use which is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location because:

- (a) The use has a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or
- (b) The use provides a necessary service supportive of the water-dependent uses and the proximity of the use to its customers makes its services less expensive and/or more convenient.

Weir: A structure generally built perpendicular to the shoreline for the purpose of diverting water or trapping sediment or other moving objects transported by water.

Wetland or wetlands. Defined in the City of Milton's critical areas regulations, Chapter 18.16 MMC (Ordinance ~~4671~~[1865](#)).

Wetland category. Defined in the City of Milton's critical areas regulations, Chapter 18.16 MMC (Ordinance ~~4671~~[1865](#)).

Wetland delineation. Identification of a wetland boundary pursuant to [approved federal wetlands delineation manual and applicable regional supplement](#)~~the Washington State Wetland Identification and Delineation Manual (1997, as amended)~~.

Wetlands Rating System. Wetlands shall be rated according to the Washington State Wetland Rating System for Western Washington – [2014 update \(Department of Ecology Publication No. 14-06-029, October 2014 – Effective January 2015, or as revised\)](#)~~(Washington Department of Ecology 2004, as revised)~~.

Zoning. The system of land use and development regulations and related provisions of the Milton City Code, codified under Title 17 MMC.

In addition, the definitions and concepts set forth in RCW 90.58.030, and WAC 173-26-020, as amended, and implementing rules shall also apply as used herein. The definitions of RCW 90.58.030 and WAC 173,0-26-020, as amended, shall supersede any conflicting definitions in this SMP

CHAPTER 7

Administrative Provisions

7.A Statement of Applicability

The provisions of the Shoreline Management Act are intended to provide for the management of all development and uses within its jurisdiction, whether or not a shoreline permit is required. Many activities that may not require a Shoreline Substantial Development Permit, such as clearing vegetation or construction of a residential bulkhead, can, individually or cumulatively, adversely impact adjacent properties and natural resources, including those held in public trust. Local governments have the authority and responsibility to enforce master program regulations on all uses and development in the shoreline area

Except and to the extent specifically excluded by statute and WAC 173-27-045, all proposed uses and development occurring within Shoreline Jurisdiction must conform to Chapter 90.58 RCW, the Shoreline Management Act, and this master program

7.A.1 Development excluded from a Shoreline Substantial Development Permit.

- a. Application and interpretation of exemptions.
 1. Exemptions shall be construed narrowly. Only those developments that meet the precise terms of one or more of the listed exemptions may be granted exemption from the Shoreline Substantial Development Permit process.
 2. An exemption from the Shoreline Substantial Development Permit process is not an exemption from compliance with the Shoreline Management Act or The City of Milton Shoreline Master Program, nor from any other regulatory requirements. To be authorized, all uses and developments must be consistent with the policies and provisions of the applicable master program and the Shoreline Management Act. A development or use that is listed as a conditional use pursuant to the local master program or is an unlisted use, must obtain a Shoreline Conditional Use Permit even though the development or use does not require a Shoreline Substantial Development Permit. When a development or use is proposed that does not comply with the bulk, dimensional and performance standards of the master program, such development or use can only be authorized by approval of a Shoreline Variance.
 3. The burden of proof that a development or use is exempt from the permit process is on the applicant.
 4. If any part of a proposed development is not eligible for exemption, then a Shoreline Substantial Development Permit is required for the entire proposed development project.

5. Local government may attach conditions to the approval of exempted developments and/or uses as necessary to assure consistency of the project with the act and this SMP.
- b. The following shall not be considered substantial developments for the purpose of this Master Program;
1. Any development of which the total cost or fair market value, whichever is higher, ~~Does does~~ not exceed ~~five thousand seven thousand forty-seven~~ dollars, if such development ~~Does does~~ not materially interfere with the normal public use of the water or shorelines of the state. For purposes of determining whether or not a permit is required, the total cost or fair market value shall be based on the value of development that is occurring on shorelines of the state as defined in RCW [90.58.030](#) (2)(d). The total cost or fair market value of the development shall include the fair market value of any donated, contributed or found labor, equipment or materials.
 2. Normal maintenance or repair of existing structures or developments, including damage by accident, fire, or other natural occurring events. "Normal maintenance" includes those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition. "Normal repair" means to restore a development to a state comparable to its original condition within a reasonable period after decay or partial destruction except where repair causes substantial adverse effects to the shoreline resource or environment. Replacement of a structure or development may be authorized as repair where such replacement is the common method of repair for the type of structure or development and the replacement structure or development is comparable to the original structure or development including but not limited to its size, shape, configuration, location and external appearance and the replacement does not cause substantial adverse effects to shoreline resources or environment;
 3. Construction of the normal protective bulkhead common to single-family residences. A "normal protective" bulkhead includes those structural and nonstructural developments installed at or near, and parallel to, the ordinary high water mark for the sole purpose of protecting an existing single-family residence and appurtenant structures from loss or damage by erosion. A normal protective bulkhead is not exempt if constructed for the purpose of creating dry land. When a vertical or near vertical wall is being constructed or reconstructed, not more than one cubic yard of fill per one foot of wall may be used as backfill. When an existing bulkhead is being repaired by construction of a vertical wall fronting the existing wall, it shall be constructed no further waterward of the existing bulkhead than is necessary for construction of new footings. When a bulkhead has deteriorated such that an ordinary high water mark has been established by the presence and action of water landward of the bulkhead then the replacement bulkhead must be located at or near the actual ordinary high water mark. Beach nourishment and bioengineered erosion control projects may be considered a normal protective bulkhead when any

structural elements are consistent with the above requirements and when the project has been approved by the department of fish and wildlife;

4. Emergency construction necessary to protect property from damage by the elements. An "emergency" is an unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full compliance with the Act or this Master Program. As a general matter, flooding or other seasonal events that can be anticipated and may occur but that are not imminent are not an emergency;
5. Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities, and the construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels. However, a feedlot of any size, all processing plants, other activities of a commercial nature, alteration of the contour of the area by leveling or filling other than that which results from normal cultivation, shall not be considered normal or necessary farming or ranching activities;
6. Construction or expansion by an owner, lessee, or contract purchaser of a single family residence for his own use or for the use of his family, which residence Does not have a building height that exceeds of thirty five (35) feet and meets all requirements of the state agency with jurisdiction and the City of Milton;
7. Construction of a dock, including community dock, designed for pleasure craft only, for the private noncommercial use of the owner, lessee, or contract purchaser of a single family residence or multi-family residences. The fair market value of the dock shall not exceed twenty thousand dollars for docks that are constructed to replace existing docks, are of equal or lesser square footage than the existing dock being replaced or ten thousand (\$10,000) dollars for all other docks. However, if subsequent construction occurs within five years of completion of the prior construction, and the combined fair market value of the subsequent and prior construction exceeds the amount specified in this subsection, but any subsequent construction having a fair market value exceeding two thousand five hundred (\$2,500) dollars occurs within five years of completing of the prior construction, a Substantial Development Permit is required;
8. Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as part of an irrigation system for the primary purpose of making use of system waters, including return flow and artificially stored ground water for the irrigation of lands;
9. The marking of property lines or corners on state owned lands, when such marking does not significantly interfere with the normal public use of the surface waters;
10. Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on June 4, 1975, which were created, developed or utilized primarily as part of an agricultural drainage or diking system;

11. Any project with certification from the Governor pursuant to Chapter 80.50 RCW;
12. Watershed restoration projects as defined in WAC 173-27-040. Local government shall review the projects for consistency with the Shoreline Master Program in an expeditious manner and shall issue its decision along with any conditions within forty-five (45) days of receiving all materials necessary to review the request for exemption from the applicant. No fee may be charged for accepting and processing requests for exemption for watershed restoration;
13. Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under this chapter, if:
 - a. The activity Does not interfere with the normal public use of the surface waters;
 - b. The activity will have no significant adverse impact on the environment including but not limited to fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values;
 - c. The activity Does not involve the installation of any structure, and upon completion of the activity the vegetation and land configuration of the site are restored to conditions existing before the activity;
 - d. A private entity seeking development authorization under this section first posts a performance bond or provides other evidence of financial responsibility to the local jurisdiction to ensure that the site is restored to preexisting conditions.
14. The process of removing or controlling aquatic noxious weeds, as defined in RCW 17.26.020, through the use of an herbicide or other treatment methods applicable to weed control that are recommended by a final environmental impact statement published by the department of agriculture or the department of ecology jointly with other state agencies under chapter 43.21C RCW.
15. Watershed restoration projects as defined herein. Pursuant to RCW 77.55.181, as amended, local government shall review the projects for consistency with the shoreline master program in an expeditious manner and shall issue its decision along with any conditions within forty-five days of receiving all materials necessary to review the request for exemption from the applicant. No fee may be charged for accepting and processing requests for exemption for watershed restoration projects as used in this section.
 - a. "Watershed restoration project" means a public or private project authorized by the sponsor of a watershed restoration plan that implements the plan or a part of the plan and consists of one or more of the following activities:
 - i. A project that involves less than ten miles of stream reach, in which less than twenty-five cubic yards of sand, gravel, or soil is removed, imported, disturbed or discharged, and in which no existing vegetation

- is removed except as minimally necessary to facilitate additional plantings;
- ii. A project for the restoration of an eroded or unstable stream bank that employs the principles of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water; or
 - b. A project primarily designed to improve fish and wildlife habitat, remove or reduce impediments to migration of fish, or enhance the fishery resource available for use by all of the citizens of the state, provided that any structure, other than a bridge or culvert or instream habitat enhancement structure associated with the project, is less than two hundred square feet in floor area and is located above the ordinary high water mark of the stream.
 - i. "Watershed restoration plan" means a plan, developed or sponsored by the department of fish and wildlife, the department of ecology, the department of natural resources, the department of transportation, a federally recognized Indian tribe acting within and pursuant to its authority, a city, a county, or a conservation district that provides a general program and implementation measures or actions for the preservation, restoration, re-creation, or enhancement of the natural resources, character, and ecology of a stream, stream segment, drainage area, or watershed for which agency and public review has been conducted pursuant to chapter 43.21C RCW, the State Environmental Policy Act;
16. A public or private project, the primary purpose of which is to improve fish or wildlife habitat or fish passage, when all of the following apply:
- a. The project has been approved in writing by the department of fish and wildlife as necessary for the improvement of the habitat or passage and appropriately designed and sited to accomplish the intended purpose;
 - b. The project has received hydraulic project approval by the department of fish and wildlife pursuant to chapter 75.20 RCW; and
 - c. The local government has determined that the project is consistent with the local shoreline master program. The local government shall make such determination in a timely manner and provide it by letter to the project proponent.
17. The external or internal retrofitting of an existing structure with the exclusive purpose of compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.) or to otherwise provide physical access to the structure by individuals with disabilities.
- c. The following shall not be considered substantial developments for the purpose of this Master Program and shall not require a shoreline letter of exemption; however they shall be consistent with the provisions of this Shoreline Master Program:

1. Remedial actions, pursuant to RCW 90.58.355. Persons conducting remedial actions at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or to the department of Ecology when it conducts a remedial action under chapter 70.105D RCW.
 2. Boatyard improvements to meet NPDES permit requirements. Pursuant to RCW 90.58.355, any person installing site improvements for storm water treatment in an existing boatyard facility to meet requirements of a national pollutant discharge elimination system storm water general permit. The department must ensure compliance with the substantive requirements of this chapter through the review of engineering reports, site plans, and other documents related to the installation of boatyard storm water treatment facilities.
 3. WSDOT facility maintenance and safety improvements. Pursuant to RCW 90.58.356, department of transportation projects and activities meeting the conditions of RCW 90.58.356 are not required to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other review conducted by a local government to implement the Shoreline Management Act, chapter 90.58 RCW.
- d. The following are exempt from the provisions within this Shoreline Master Program and shall not require a letter of exemption or local review:
1. Pursuant to RCW 90.58.045, an environmental excellence program agreement entered into under chapter 43.21K RCW, shall supersede and replace any legal requirement under this Shoreline Master Program.

7.B. Shoreline Conditional Use Permits

7.B.1. Shoreline Conditional Use Permit Criteria

The purpose of a Shoreline Conditional Use Permit is to provide a system within the master program which allows flexibility in the application of use regulations in a manner consistent with the policies of the SMA. In authorizing a conditional use, special conditions may be attached to the permit by local government, or the hearing examiner to prevent undesirable effects of the proposed use and/or to assure consistency of the project with the act and the local master program. The criteria for granting Shoreline Conditional Use Permits is defined in WAC 173-26-160 and reads as follows:

- a. The uses which are classified or set forth in the master program as conditional uses may be authorized, provided the applicant can demonstrate all of the following:
 1. That the proposed use will be consistent with the policies of the SMA and the policies of the master program.

- d. The use authorized pursuant to the original permit is not changed.
- e. No additional adverse environmental impact will be caused by the project revision.
- f. The revised permit shall not authorize development to exceed height, lot coverage, setback, or any other requirements of the applicable master program except as authorized under a Shoreline Variance granted as the original permit or a part thereof.

If the revision, or the sum of the revision and any previously approved revisions, will violate the criteria specified above, the City shall require the applicant to apply for a new Shoreline Substantial Development, Shoreline Conditional Use, or Shoreline Variance Permit, as appropriate, in the manner provided for herein.

7.E. Nonconforming Buildings Uses and Structures

7.E.1 Continuing existing uses

Any lawful use of land and/or building or structure existing or under construction, or for which a building or use permit has been granted, and is still in force at the time this code becomes effective, may be continued, although such use does not conform to the provisions of the zone in which it is located, subject to the provisions of this chapter.

7.E.2 Single Family Residential Dwelling units

The bulk and dimensional requirements of this SMP shall apply to any alterations to legally nonconforming single-family detached residences that are nonconforming due to residential use. Accessory uses and structures and alterations thereto are also allowed to the extent consistent with this SMP; provided, that if any alterations involve a change in use or increase in density the alterations shall be subject to this SMP. Alterations to lot lines are permitted so long as the alterations do not increase nonconformity with the requirements of this SMP

Comment [BP3]: Consider amendments as Senate Bill 5451 allowed nonconforming single family residences that are nonconforming only as it pertains to setbacks or other bulk and dimensional requirements to be considered conforming as it relates to the requirements of the SMP:

"Residential structures and appurtenant structures that were legally established and are used for a conforming use, but that do not meet standards for the following to be considered a conforming structure: Setbacks, buffers, or yards; area; bulk; height; or density; and

7.E.3 Alterations and enlargements

- a. Any nonconforming use may be extended throughout an existing building or structure.
- b. Unless otherwise specifically provided in this code, nonconforming buildings may not be enlarged or structurally altered, unless the enlargement or structural alteration makes the building more conforming or is required by law. However, where a building or buildings and customary accessory buildings are nonconforming only by reason of substandard yards or open spaces, the

Milton Critical Area Regulations:
(Ordinance 1671 9/1/08, as amended by
Ordinance 1865 6/15/15 and modified by this
Shoreline Master Program

18.06.020 Definitions:

In addition to those definitions contained within WAC 197-11-700 through 197-11-799, when used in Title 18, the following terms shall have the following meanings, unless the context indicates otherwise. Words and phrases used in this title shall be interpreted as defined below. Where ambiguity exists, words or phrases shall be interpreted so as to give this title its most consistent and reasonable application in carrying out its regulatory purpose.

“Adjacent” means immediately adjoining (in contact with the boundary of the critical area) or within a distance that is less than that needed to separate activities from critical areas to ensure protection of the functions and values of the critical areas. Adjacent shall mean any activity or development located a distance equal to or less than the required critical area buffer width and building setback.

“Alteration” means any human-induced activity that changes the existing condition of a critical area. Alterations include, but are not limited to, grading; filling; dredging; draining; channelizing; clearing or removing vegetation; discharging pollutants; paving; construction; or any other human activity that changes the existing landforms, vegetation, hydrology, fish, wildlife, or wildlife habitat of a critical area.

“Anadromous fish” means species, such as salmon, which are born in fresh water, spend a large part of their lives in the sea, and return to fresh water rivers and streams to procreate.

“Applicant” means the person, party, firm, corporation, or other entity that proposes any activity that could affect a critical area.

“Aquifer” means a saturated geologic formation that will yield a sufficient quantity of water to serve as a private or public water supply.

“Aquifer recharge areas” means areas where the prevailing geologic conditions allow infiltration rates which create a high potential for contamination of ground water resources or contribute significantly to the replenishment of ground water. Aquifer recharge areas are classified as follows:

A. High Significance Aquifer Recharge Areas. Areas with slopes of less than 15 percent that are underlain by coarse alluvium or sand and gravel, and overlain by soils with moderate to rapid permeability, as classified by the U.S. Department of Agriculture Soil Conservation Service;

B. Moderate Significance Aquifer Recharge Areas.

risk based on slope inclination and soil types as identified by the U.S. Department of Agriculture Soil Conservation Service:

- A. Low. All sites classified with soil types designated by the U.S. Department of Agriculture Soil Conservation Service as having no or slight erosion hazard.
- B. Moderate. All sites classified with soil types designated as moderate hazard.
- C. High. All sites classified with soil types designated as severe or very severe erosion hazard.

“Existing and ongoing agriculture” means those activities conducted on lands defined in RCW 84.34.020(2), and those existing activities involved in the production of crops or livestock. Activities may include the operation and maintenance of farm and stock ponds or drainage ditches; operation and maintenance of existing ditches or irrigation systems; changes from one type of agricultural activity to another agricultural activity; and normal maintenance, repair, and operation of existing serviceable structures, facilities, or improved areas. Activities which bring a nonagricultural area into agricultural use are not part of an ongoing operation. An operation ceases to be ongoing when the area on which it is conducted is converted to a nonagricultural use or has lain idle for more than five years.

“Exotic” means any species of plants or animals, which are foreign to the planning area.

“Extraordinary hardship” means the prevention of all reasonable economic use of a site by strict application of this chapter and/or procedures adopted to implement this chapter.

“Fish and wildlife habitat conservation areas” are areas necessary for maintaining fish and wildlife species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created as designated by WAC 365-190-080(5). Fish and wildlife habitat areas do not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of and are maintained by a port district or an irrigation district or company.“Fish and wildlife habitat conservation areas” are areas necessary for maintaining fish and wildlife species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created as designated by WAC 365-190-080(5).

“Fish habitat” means habitat that is used by fish at any life stage at any time of the year, including potential habitat likely to be used by fish that could be recovered by restoration or management and includes off-channel habitat.

“Fill” means dumping or placing, by any means, any material from, to or on any soil or sediment surface including temporary stockpiling of material.

“Flood hazard areas” means those areas subject to inundation by the base flood. These areas consist of the following components, as determined by the city:

- A. Floodplain. The total area subject to inundation by the base flood.
- B. Flood Fringe. That portion of the floodplain outside the floodway which is generally covered by floodwaters during the base flood. It is generally associated with standing water rather than rapidly flowing water.
- C. Floodway. The channel of the stream and that portion of the adjoining floodplain that is necessary to contain and discharge the base flood flow without increasing the base flood elevation more than one foot.

“Water table” is that surface in an unconfined aquifer at which the pressure is atmospheric. It is defined by the levels at which water stands in wells that penetrate the aquifer just far enough to hold standing water.

“Watercourse” is any portion of a channel, bed, bank, or bottom waterward of the ordinary high water line of waters of the state including areas in which fish may spawn, reside, or through which they may pass, and tributary waters with defined beds or banks, which influence the quality of fish habitat downstream. This includes watercourses that flow on an intermittent basis or which fluctuate in level during the year and applies to the entire bed of such watercourse whether or not the water is at peak level. This definition does not include irrigation ditches, canals, storm water run-off devices, or other entirely artificial watercourses, except where they exist in a natural watercourse that has been altered by humans.

“Well” is a bored, drilled or driven shaft, or a dug hole whose depth is greater than the largest surface dimension for the purpose of withdrawing or injecting water or other liquids.

“Wellhead protection area (WHPA)” is the portion of a zone of contribution for a well, wellfield or spring, as defined using criteria established by the state Department of Ecology.

“Wetlands” are those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from non-wetland areas to mitigate the conversion of wetlands. For identifying and delineating a wetland, local government shall use the [approved federal wetlands delineation manual and applicable regional supplement](#) ~~Washington State Wetland Identification and Delineation Manual~~.

“Wetland edge” is the boundary of a wetland as delineated based on the definitions contained in this Ordinance.

“Wetland edge” means a line dividing uplands from water habitat. The line can be identified through procedures in the 1987 Federal Manual for Identifying and Delineating Jurisdictional Wetlands by examining the presence or absence of aquatic plants (hydrophytes), hydric soils and/or water table at or near the surface.

Wetlands.

A. “Regulatory wetlands” means areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include small lakes, ponds, streams, swamps, marshes, bogs and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including but not limited to irrigation and drainage ditches, grass-lined swales, canals, detention facilities, farm ponds and landscape amenities if routinely maintained for those purposes. The applicant shall bear the burden of proving that the site

that do not require construction permits, if the activity does not further alter or increase the impact to, or encroach further within, the critical area or buffer and there is no increased risk to life or property as a result of the proposed operation, maintenance, or repair. Operation and maintenance includes vegetation management performed in accordance with best management practices that is part of ongoing maintenance of structures, infrastructure, or utilities, provided that such management actions are part of regular and ongoing maintenance, do not expand further into the critical area, are not the result of an expansion of the structure or utility, and do not directly impact an endangered or threatened species;

C. Maintenance or repair of single family residence. Maintenance or repair of existing single family residences including infrastructure, driveways and landscaping that do not require construction permits, if the activity does not further alter or increase the impact to, or encroach further within, the critical area or buffer and there is no increased risk to life or property as a result of the proposed maintenance or repair;

D. Passive outdoor activities. Recreation, education, and scientific research activities that do not degrade the critical area, including fishing, hiking, and bird watching. Trails must be constructed pursuant to Section 18.16.090.D; and

E. Forest practices. Forest practices regulated and conducted in accordance with the provisions of Chapter 76.09 RCW and forest practices regulations, Ordinance 222 WAC, and those that are exempt from City's jurisdiction, provided that forest practice conversions are not exempt.

18.16.090 Partial Exemptions

Partial exemptions shall be consistent with the purpose and provisions of this Ordinance, but do not require critical areas review or the submittal of a critical areas report. The City may apply conditions to the underlying permit or approval, such as a building permit, to ensure that the proposal is consistent with the provisions of this Ordinance to protect critical areas. The following activities and associated uses shall be exempt from the provisions of this Ordinance provided they meet the associated conditions:

A. This section does not apply within the shoreline jurisdiction.

~~A. Permit requests subsequent to previous critical areas review. Development permits and approvals that involve both discretionary land use approvals (such as subdivisions, rezones, or conditional use permits), and construction approvals (such as building permits) if all of the following conditions have been met:~~

- ~~1. The provisions of this Ordinance have been previously addressed as part of another approval;~~
- ~~2. There have been no material changes in the potential impact to the critical area or buffer since the prior review;~~
- ~~3. There is no new information available that is applicable to any critical areas review of the site or particular critical area;~~
- ~~4. The permit or approval has not expired or, if no expiration date, no more than [five years] has elapsed since the issuance of that permit or approval; and~~

~~5. Compliance with any standards or conditions placed upon the prior permit or approval has been achieved or secured;~~

~~B. This section does not apply within the shoreline jurisdiction.~~

~~**B. Modification to existing structures.** Structural modification of, addition to, or replacement of an existing legally constructed structure that does not further alter or increase the impact to the critical area or buffer and there is no increased risk to life or property as a result of the proposed modification or replacement, provided that restoration of structures substantially damaged by fire, flood, or act of nature must be initiated within one (1) year of the date of such damage, as evidenced by the issuance of a valid building permit, and diligently pursued to completion;~~

C. Activities within the improved right-of-way. Replacement, modification, installation, or construction of utility facilities, lines, pipes, mains, equipment, or appurtenances, not including substations, when such facilities are located within the improved portion of the public right-of-way or a City authorized private roadway except those activities that alter a wetland or watercourse, such as culverts or bridges, or result in the transport of sediment or increased stormwater;

D. Public and private non-motorized trails. Public and private non-motorized trails, except in wetlands, fish and wildlife habitat conservation areas, subject to the following:

1. Trails in wetland buffers or fish and wildlife habitat conservation area buffers shall be located in the outer 25% of the buffer where feasible;
2. The trail surface shall meet all other requirements including water quality standards set forth in the storm water management regulations (MMC 13.26);
3. Critical area and/or buffer widths shall be increased, where possible, equal to the width of the trail corridor, including disturbed areas; and
4. Trails proposed to be located in landslide or erosion hazard areas shall be constructed in a manner that does not increase the risk of landslide or erosion and in accordance with an approved geotechnical report;

E. Select vegetation removal activities. The following vegetation removal activities, provided that no vegetation shall be removed from a critical area or its buffer without approval from the City:

1. The removal of the following vegetation with hand labor and light equipment:
 - a. Invasive and noxious weeds;
 - b. English Ivy (*Hedera helix*);
 - c. Himalayan blackberry (*Rubus discolor*, *R. procerus*);
 - d. Evergreen blackberry (*Rubus laciniatus*);
 - e. canary grass; and
 - f. Other commonly found invasive species.
2. The removal of trees from critical areas and buffers that are hazardous, posing a threat to public safety, or posing an imminent risk of damage to private property, provided that:

18.16.110 Reasonable Use Permit

~~A. If the application of this Ordinance would deny all reasonable use of the subject property, the property owner may apply for an exception pursuant to this Section.~~

~~B. An application for a reasonable use exception shall include a critical areas report, including mitigation plan, if necessary; and any other related project documents, such as permit applications to other agencies, special studies, and environmental documents prepared pursuant to the State Environmental Policy Act (Chapter 43.21C RCW) (SEPA documents).~~

~~C. The city council shall review the application and conduct a public hearing pursuant to the hearing provisions of the development code. The city council shall approve, approve with conditions, or deny the request based on the proposal's ability to comply with all of the reasonable use permit criteria in Subsection (D).~~

~~D. Reasonable use permit criteria. All of the following criteria must be met:~~

- ~~1. The application of this Ordinance would deny all reasonable use of the property;~~
- ~~2. No other reasonable use of the property has less impact on the critical area or its buffer;~~
- ~~3. The impact to the critical area or its buffer is the minimum necessary to allow for reasonable use of the property;~~
- ~~4. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;~~
- ~~5. The proposal protects and mitigates impacts to the critical area functions and values consistent with the best available science;~~

~~E. Burden of proof. The applicant has the burden of proving that the application meets the stated reasonable use permit criteria. This section does not apply within the shoreline jurisdiction.~~

18.16.120 Critical Areas Review Process

A. Pre-application consultation. Any person preparing to submit an application for development or use of land where the proposal is located within 300 feet of a critical area or its buffer, or is likely to impact a critical area, shall meet with the Land Use Administrator prior to submitting an application for development or other approval. At this meeting, the Land Use Administrator shall discuss the requirements of this Ordinance; provide a critical areas checklist, available critical areas maps, scientific information, and other materials; outline the review process; and, work with the applicant to identify any potential concerns that might arise during the review process, in addition to discussing other permit procedures and requirements.

B. Initial review. Following submittal of an application for development or use of land, the Land Use Administrator or his or her designee shall review the application, site conditions, and other information available pertaining to the site and the proposal and make a determination as to whether any critical areas may be affected by the proposal.

C. **Site inspection.** The property owner shall provide the City with reasonable access to the site for the purpose of inspections during any proposal review, restoration, emergency action, or monitoring period.

D. **Critical areas report required.** If the information available indicates that the project area is within or adjacent to a critical area or buffer, or that the proposed activity is likely to degrade a critical area or buffer, then the applicant shall be required to submit a critical areas report prior to further review of the project.

18.16.130 Review Criteria

A. Any permit or approval that includes an alteration to a critical area or its buffer, unless otherwise provided for in this Ordinance, may be approved, approved with conditions, or denied based on the proposal's ability to comply with all of the following criteria:

1. That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes, or significantly interferes with, reasonable use of the property;

2. That the hardship described in (1) of this subsection is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the master program, and not, for example, from deed restrictions or the applicant's own actions;

3. That the design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program and will not cause adverse impacts to the shoreline environment;

4. That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;

5. That the variance requested is the minimum necessary to afford relief; and

6. That the public interest will suffer no substantial detrimental effect.~~1. The proposal minimizes the impact on critical areas in accordance with *Mitigation sequencing* MMC 18.16.150;~~

~~2. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;~~

~~3. The proposal is consistent with the general purposes of this Ordinance and the public interest;~~

~~4. Any alterations permitted to the critical area are mitigated in accordance with *Mitigation requirements* MMC 18.16.160;~~

~~5. The proposal is consistent with other applicable regulations and standards. A favorable critical areas review should not be construed as endorsement or approval of any underlying permit or approval.~~

B. The City may condition the underlying permit or approval as necessary to mitigate impacts to critical areas and to conform to the standards required by this Ordinance. Any conditions of approval shall be attached to the underlying permit or approval.

contiguous critical areas and buffers listed below that total five thousand (5,000) or more square feet:

1. All landslide hazard areas and buffers;
2. All wetlands and buffers;
3. All habitat conservation areas; and
4. All other lands to be protected from alterations as conditioned by project approval.

B. Critical areas tracts shall be recorded on all documents of title of record for all affected lots.

C. Critical areas tracts shall be designated on the face of the plat or recorded drawing in a format approved by the city attorney. The designation shall include the following restriction:

1. An assurance that native vegetation will be preserved for the purpose of preventing harm to property and the environment, including, but not limited to, controlling surface water runoff and erosion, maintaining slope stability, buffering, and protecting plants, fish, and animal habitat; and
2. The right of the city to enforce the terms of the restriction.

D. The city may require that any critical areas tract be dedicated to the city, held in an undivided interest by each owner of a building lot within the development with the ownership interest passing with the ownership of the lot, or held by an incorporated homeowner's association or other legal entity (such as a land trust, which ensures the ownership, maintenance, and protection of the tract).

E. All critical areas, regardless of size or type, and associated buffer shall be shown on proposals and recoding documents for subdivisions, short subdivisions, planned unit developments, and binding site plans.

18.16.190 Building Setbacks.

Unless otherwise provided, buildings and other structures shall be set back a distance of fifteen (15) feet from the edges of all critical areas buffers. The following may be allowed in the building setback area:

- A. Landscaping;
- B. Uncovered decks;
- C. Building overhangs if such overhangs do not extend more than eighteen (18) inches into the setback area; and

18.16.200 Security to Ensure Mitigation, Maintenance, and Monitoring

A. When mitigation required pursuant to a development proposal is not completed prior to the City final permit approval, such as final plat approval or final building inspection, the City shall require of the applicant an assignment of funds or post a performance bond or other security in a form and amount deemed acceptable by the City. If the development proposal is subject to

C. **Penalties.** Any person, party, firm, corporation, or other legal entity convicted of violating any of the provisions of this Ordinance shall be guilty of a misdemeanor. Each day or portion of a day during which a violation of this Ordinance is committed or continued shall constitute a separate offense. Any development carried out contrary to the provisions of this Ordinance shall constitute a public nuisance and may be enjoined as provided by the statutes of the state of Washington. The City may levy civil penalties against any person, party, firm, corporation, or other legal entity for violation of any of the provisions of this Ordinance. The civil penalty shall be assessed at a maximum rate of \$1000 dollars per day per violation.

Wetlands

18.16.310 Wetlands Designation and Classification.

A. **Wetlands Designation.** Wetlands are designated in accordance with the the approved federal wetlands delineation manual and applicable regional supplement currently adopted Washington State Wetlands Identification and Delineation Manual (1997 or as revised). Wetlands are areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.

1. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway.

2. Wetlands may include those artificial wetlands intentionally created from non-wetland areas to mitigate the conversion of wetlands.

B. **Wetlands Classification.** Wetlands shall be rated according to the Washington State Wetland Rating System for Western Washington – 2014 update (Department of Ecology Publication #14-06-029, October 2014 – Effective January 2015, or as revised) ~~Washington State Wetland Rating System for Western Washington (Department of Ecology 2004, or as revised)~~. This document contains the definitions, methods and a rating form for determining the categorization of wetlands described below:

Category I wetlands include those that receive a score of 23 through 27 ~~greater than or equal to 70~~ based on functions, or those that are rated Category I based on Special Characteristics as defined in the rating form.

Category II wetlands include those that receive a score of 20 through 22 ~~51 through 69~~ based on functions, or those that are rated Category II based on Special Characteristics as defined in the rating form.

Category III wetlands include those that receive a score of 16 through 19 ~~30 through 50~~ based on functions.

Category IV wetlands score less than 30 ~~16~~ points based on functions.

18.16.320 Performance Standards

A. Activities and uses shall be prohibited from wetlands and wetland buffers, except as provided for in this Ordinance. Activities may only be permitted in a wetland or wetland buffer if the applicant can show that the proposed activity will not degrade the functions and values of the wetland and other critical areas, or that the impacts to the functions and values will be fully mitigated.

B. Category III and IV wetlands less than 4,000 square feet may be exempted or partially exempted from the provisions of this chapter and may be altered by filling or dredging as outlined below.

1. Category III and IV wetlands less than 1,000 square feet are exempt where:
 - a. The wetland is isolated;
 - b. The wetland is not associated with a riparian corridor;
 - c. The wetland is not part of a wetland mosaic, as defined by the Washington Department of Ecology;
 - d. The wetland does not contain Washington Department of Fish and Wildlife-designated priority species or habitat identified as essential for local populations of priority species .
2. Category III and IV wetlands between 1,000 and 4,000 square feet may be exempted from the mitigation sequencing requirement to first avoid impacts where:
 - a. A critical areas report is performed in accordance with MMC 18.16.140; and
 - b. The wetland meets the criteria listed in MMC 18.16.320.B.1; and
 - c. The proposed plan includes full mitigation.

C. Wetland buffers

1. ~~Standard buffer widths. Buffer Requirements. The standard buffer widths in Table 1 – “Wetland Buffers” have been established in accordance with the best available science. They are based on the category of wetland and the habitat score as determined by a qualified wetland professional using the Washington State wetland rating system for western Washington.~~

~~a. The use of the standard buffer widths requires the implementation of the measures in Table 2, where applicable, to minimize the impacts of the adjacent land uses. The standard buffer widths presume the existence of a relatively intact native vegetation community in the buffer zone adequate to protect the wetland functions and values at the time of the proposed activity. If the vegetation is inadequate then the buffer width shall be increased or the buffer should be planted to maintain the standard width.~~

~~b. If an applicant chooses not to apply the mitigation measures in Table 2 – “Required measures to minimize impacts to wetlands”, then a 33% increase in the width of all buffers is required. For example, a 75-foot buffer with the mitigation measures would be a 100-foot buffer without them. Wetland buffers widths, based on wetland category, habitat score and land use intensity, are shown in the table below.~~

~~c. The standard buffer widths assume that the buffer is vegetated with a native plant community appropriate for the ecoregion. If the existing buffer is unvegetated, sparsely~~

vegetated, or vegetated with invasive species that do not perform needed functions, the buffer should either be planted to create the appropriate plant community or the buffer should be widened to ensure that adequate functions of the buffer are provided.

d. If the wetland is a Category I or II wetland with a habitat score greater than 5 points and it is located within 300 feet of a priority habitat area as defined by the Washington State Department of Fish and Wildlife, the applicant shall provide a relatively undisturbed vegetated corridor at least 100 feet wide between the wetland and the priority habitat area. The corridor shall be protected for the entire distance between the wetland and the priority habitat through a conservation easement, native growth protection easement or the equivalent.

e. Additional buffer widths are added to the standard buffer widths. For example, a Category I wetland scoring 32 points for habitat function would require a buffer of 225 feet (75 + 150).

Table 1 Wetland Buffer Requirements

<u>Wetland Category</u>	<u>Standard Buffer Width</u>	<u>Additional buffer width if wetland scores 3-4 habitat points</u>	<u>Additional buffer width if wetland scores 5 habitat points</u>	<u>Additional buffer width if wetland scores 8-9 habitat points</u>
<u>Category I: Based on total score</u>	<u>75ft</u>	<u>Add 30 ft</u>	<u>Add 90 ft</u>	<u>Add 150 ft</u>
<u>Category I: Bogs</u>	<u>190 ft</u>	<u>NA</u>	<u>NA</u>	<u>Add 35 ft</u>
<u>Category I: Natural Heritage Wetlands</u>	<u>190 ft</u>	<u>N/A</u>	<u>NA</u>	<u>Add 35 ft</u>
<u>Category I: Forested</u>	<u>75ft</u>	<u>Add 30 ft</u>	<u>Add 90 ft</u>	<u>Add 150 ft</u>
<u>Category II: Based on score</u>	<u>75 ft</u>	<u>Add 30 ft</u>	<u>Add 90 ft</u>	<u>Add 150 ft</u>
<u>Category II: Interdunal Wetlands</u>	<u>110 ft</u>	<u>NA</u>	<u>Add 55 ft</u>	<u>Add 115 ft</u>
<u>Category III (all)</u>	<u>60 ft</u>	<u>Add 45 ft</u>	<u>Add 105 ft</u>	<u>NA</u>
<u>Category IV (all)</u>	<u>40 ft</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>

Table 2 – Required measures to minimize impacts to wetlands

<u>Examples of Disturbance</u>	<u>Examples of Activities That Cause the Disturbance</u>	<u>Examples of Measures to Minimize Impacts</u>
<u>Lights</u>	<u>Parking lots</u> <u>Warehouses</u> <u>Manufacturing</u> <u>Residential</u>	<ul style="list-style-type: none"> • <u>Direct lights away from wetland</u>
<u>Noise</u>	<u>Manufacturing</u> <u>Residential</u>	<ul style="list-style-type: none"> • <u>Place activity that generates noise away from the wetland</u> • <u>If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source</u> • <u>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</u>
<u>Toxic runoff</u>	<u>Parking lots</u> <u>Roads</u> <u>Manufacturing</u> <u>Residential areas</u> <u>Application of agricultural pesticides, herbicides, fungicides, fertilizers</u> <u>Landscaping</u>	<ul style="list-style-type: none"> • <u>Route all new untreated runoff away from wetland while ensuring the wetland is not dewatered.</u> • <u>Utilize and require covenants limiting use of pesticides within 150 feet of wetland</u> • <u>Apply Integrated Pest Management programs</u>
<u>Change in water regime</u>	<u>Any impermeable surface</u> <u>Lawns</u> <u>Tilling</u>	<ul style="list-style-type: none"> • <u>Infiltrate or treat, detain and disperse into buffer new runoff from impervious surfaces and new lawns.</u>
<u>Pets and human disturbance</u>	<u>Residential areas</u>	<ul style="list-style-type: none"> • <u>Use privacy fence OR plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion.</u>

<u>Examples of Disturbance</u>	<u>Examples of Activities That Cause the Disturbance</u>	<u>Examples of Measures to Minimize Impacts</u>
		<ul style="list-style-type: none"> Place wetland and its buffer in a separate tract or protect with a conservation easement.
Dust	Tilled fields	<ul style="list-style-type: none"> Use best management practices to control dust
Disruption of corridors or connections		<ul style="list-style-type: none"> Maintain connections to offsite areas that are undisturbed. Restore corridors or connections to offsite habitats by replanting.
Storm water runoff	<u>Stormwater ponds</u> <u>Other stormwater facilities</u>	<ul style="list-style-type: none"> Retrofit stormwater detention and treatment for roads and existing adjacent development. Prevent channelized flow from lawns that directly enters the buffer. Use Low Intensity Development techniques (per PSAT publication on LID techniques).

Category I, II & III	Buffers	
	Standard	High Intensity
31 or higher	225	300
30	200	270
29	175	240
28	155	210
27	135	180
26	115	150
25	105	136
24	95	124
23	85	112
22	75	100

21	70	92
20	65	85
19 or lower	60	80
Category IV	40	50

e. Standard buffer widths apply if the following conditions are met, otherwise High Intensity buffer widths apply:

- i. If the wetland is a Category I or II wetland with a habitat score greater than twenty points and it is located within three hundred feet of a priority habitat area as defined by the Washington state Department of Fish and Wildlife, the applicant shall provide a relatively undisturbed vegetated corridor at least one hundred feet wide between the wetland and the priority habitat area. The corridor shall be protected for the entire distance between the wetland and the priority habitat through a conservation easement, native growth protection easement or the equivalent; and
- ii. The following measures shall be implemented to the extent reasonably possible to minimize impacts from high intensity land uses:

Examples of Disturbance	Examples of Activities that Cause the Disturbance	Examples of Measures to Minimize Impacts
Lights	Parking Lots Warehouses Manufacturing Residential	Direct lights away from wetland
Noise	Manufacturing Residential	Place activity that generates noise away from the wetland.
Toxic runoff	Parking Lots Roads Manufacturing Residential Areas Application of Agricultural Pesticides, herbicides, fungicides, fertilizers Landscaping	Route all new untreated runoff away from wetland Covenants limiting use of pesticides within 150 feet of wetland Integrated pest management programs

Change in water regime	Any impermeable surface Lawns Tilling	Infiltrate or treat, detain and disperse into buffer new runoff from surfaces
Pets and Human disturbance	Residential areas	Fence around buffer Plant buffer with "impenetrable" natural vegetation appropriate for region
Dust	Tilled fields	Use best management practices to control dust

2. **Measurement of wetland buffers.** Buffers shall be measured from the wetland boundary as surveyed in the field. The buffer for a wetland created, restored, or enhanced as compensation for approved wetland alterations shall be the same as the buffer required for the category of the created, restored, or enhanced wetland.

3. Where a legally established and constructed public roadway transects a wetland buffer, the department may approve a modification of the standard buffer width to the edge of the roadway provided:

- a. The isolated part of the buffer does not provide additional protection of the wetland; and
- b. The isolated part of the buffer provides insignificant biological, geological or hydrological buffer functions relating to the wetland; and
- c. The resulting buffer distance is less than 50% of the standard or optional buffer for the applicable wetland category, no further reduction shall be allowed.

4. Where a buffer has been previously established after 1996, through a City development review and is permanently recorded on title or placed within a separate tract, the buffer shall be as previously established.

5. **Buffer width increasing.** The Land Use Administrator may require the standard buffer to be increased by the greater of 50 feet or a distance necessary to protect wetland functions and provide connectivity to other wetland and habitat areas for one of the following:

- a. To maintain viable populations of existing species listed by the Federal or State government as endangered, threatened or sensitive; or
- b. To protect wetlands against severe erosion that standard erosion control measures will not effectively address; or
- c. When a category I, II or III wetland is located within 300 feet of:
 - i. Another category I, II, or III wetland;
 - ii. A fish and wildlife habitat conservation area; or
 - iii. A type S or F stream as defined in MMC 18.16.620;

The increased buffer distance may be limited to those areas that provide connectivity or are necessary to protect wetland and habitat functions. If the wetland contains variations in sensitivity, increasing the buffer widths will only be done where necessary to preserve the structure, function and value of the wetland.

6. Wetland buffer width averaging. Buffer averaging. Buffer width averaging may be allowed by the Land Use Administrator if all of the following criteria are met:

- a. It will provide additional protection to wetlands or enhance their functions, as long as the total area contained in the buffer on the development proposal site does not decrease;
- b. The wetland contains variations in sensitivity due to existing physical characteristics or the character of the buffer varies in slope, soils, or vegetation, and the wetland would benefit from a wider buffer in places and would not be adversely impacted by a narrower buffer in other places;
- c. The buffer width is not reduced to less than 5025% of the standard buffer width at any location except by variance; and
- d. Buffer width averaging may not be used in conjunction with buffer reduction options in this section, ~~provided the total combined reduction does not reduce the buffer to less than 50% of standard buffer width at any location.~~

7. Reduction of wetland buffer widths. Standard buffer widths may be reduced up to 5025% when buffer width reduction impacts are mitigated and result in equal or greater protection of the wetland functions. Buffer reduction shall not reduce the required buffer by more than 25% except by variance. Prior to considering buffer reductions, the applicant shall demonstrate application of mitigation sequencing as required in MMC 18.16.150. A plan for mitigating buffer-reduction impacts must be prepared using selected incentive-based mitigation options from the list below. The following incentive options for reducing standard buffer widths shall be considered cumulative up to a maximum reduction of 50% of the standard buffer width. In all circumstances where a substantial portion of the remaining buffer is degraded, the buffer reduction plan shall include replanting with native vegetation in the degraded portions of the remaining buffer area and shall include a five (5) year monitoring and maintenance plan.

- a. Installation of biofiltration/infiltration mechanisms: up to twenty percent (20%) reduction in the standard buffer width may be allowed for the installation of bioswales, created and/or enhanced wetlands, or ponds supplemental to existing storm drainage and water quality requirements in accordance with MMC 13.26.
- b. Removal of existing impervious surfaces:
 - i. Up to ten percent (10%) reduction in standard buffer width if impervious surfaces within the to-be-remaining buffer area are reduced by at least fifty percent (50%); or
 - ii. Up to twenty percent (20%) reduction in standard buffer width if the to-be-remaining buffer area is presently more than fifty percent (50%) impervious AND all of it is to be removed.
- c. Removal of invasive, non-native vegetation: up to ten percent (10%) reduction in standard buffer width for the removal and extended (minimum 5 year) monitoring and continued-removal maintenance of relatively dense stands of invasive, non-native vegetation from significant portions of the remaining buffer area.



Agenda Item #: 7B

To: Chair Gillespie and Planning Commission Members
From: Mark Howlett, P.E., Public Works Director
Date: November 14, 2018
Re: **Parking Code Update - Recommendation to City Council**

ATTACHMENTS: 1) Ordinance
2) Supporting Documentation

TYPE OF ACTION:

Information Only Discussion Action Public Hearing Expenditure

Recommended Action: "I move to approve the proposed changes to Milton Municipal Code 10.24; to forward the document on to appropriate City Staff for review and refinement; and then send it on to Council for their action."

Issue: The Planning Commission has been working on revisions to the City's Parking Code for some time. The attached Ordinance encompasses the work conducted to date and it is anticipated that the Commission is now ready to forward a recommendation to the City Council to revise Milton Municipal Code.

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF MILTON, WASHINGTON, AMENDING CHAPTER 10.24 OF THE MILTON MUNICIPAL CODE AS IT RELATES TO NO PARKING ZONES; ENTERING LEGISLATIVE FINDINGS; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City currently enforces parking code pursuant to Chapter 10.24 of the Milton Municipal Code; and

WHEREAS, this code is outdated and is in need of revisions; and NOW THEREFORE,

THE CITY COUNCIL OF THE CITY OF MILTON, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Findings. The recitals set forth above are hereby adopted as the Milton City Council's findings in support of this ordinance.

Section 2. Section 10.24 is hereby amended as follows:

**Chapter 10.24
NO PARKING ZONES**

Sections:

- [10.24.005](#) Definitions.
- [10.24.010](#) Highway 99.
- [10.24.020](#) Milton Way – Business district (B) zone.
- [10.24.030](#) Extended parking and certain vehicles prohibited.
- [10.24.080](#) Model Traffic Ordinance superseded.
- [10.24.090](#) Erasing chalk marks.
- [10.24.110](#) Penalties.
- [10.24.120](#) Impoundment.
- [10.24.130](#) Additional enforcement procedures.

10.24.005 Definitions.

For the purpose of this chapter:

A. “Park or parking” means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

~~A. B.~~ “Person” means and includes any individual, firm, copartnership, or corporation.

C. “Stand or standing” means the halting of a vehicle, whether occupied or not, otherwise than for the purpose of and while actually engaged in receiving or discharging passengers.

~~B. D.~~ “Street” means any public street, avenue, road, boulevard, highway or other public place located in the city and established for the use of vehicles.

~~C. E.~~ “To park (or stand) a vehicle” means there is a prima facie presumption that the registered owner of a violator vehicle was the person who parked such vehicle.

~~D. F.~~ “Recreational vehicle” means an enclosed piece of equipment dually used as both a vehicle, a temporary travel home or a full-time home.

~~E. G.~~ “Truck” means any of various motor vehicles with a weight capacity in excess of 10,000 pounds, or exceeding seven and one-half feet in width, or exceeding 20 feet in length, designed for carrying or pulling loads, or truck-trailer combinations, including without limitation those commonly known as “semi-trucks.”

~~F. H.~~ “Vehicle” means every device capable of being moved upon a public highway and in, upon, or by which any persons or property is or may be transported or drawn upon a public highway, including bicycles, boats, recreational vehicles and trailers. The term does not include devices other than bicycles moved by human or animal power or used exclusively upon stationary rails or tracks. (Ord. 1683 § 1, 2006).

10.24.010 Highway 99.

It is unlawful for any person to stop, stand or park any vehicle on the highway right-of-way of that section of Pacific Highway 99 that lies within the corporate limits of the city. (Ord. 1683 § 1, 2006; Ord. 1469 § 1, 2001; Ord. 927 §§ 1, 2, 1983).

10.24.020 Milton Way – Business district (B) zone.

It is unlawful for any person to park any vehicle on the arterial right-of-way, except emergency parking, of Milton Way that is zoned (B) business district or mixed use town center (MX) as defined in Chapters [17.28](#) and [17.30](#) MMC and the current city of Milton zoning map. (Ord. 1683 § 1, 2006; Ord. 1469 § 2, 2001).

10.24.030 Extended parking and certain vehicles prohibited.

A. It is unlawful to park a qualified any vehicle upon the rights-of-way of the city for more than 72 consecutive hours in any 80-hour period, even if the vehicle is moved from one portion of any right-of-way to another.

~~B. This section shall only apply to vehicles in which the registered owner and/or person responsible for parking has received actual notice of the parking requirements of this section. Actual notice shall include, but not be limited to, the following:~~

- ~~1. Actual receipt of a copy of this section or infraction for a prior violation of this section;~~
- ~~2. A mailed copy of this section to the address of the registered owner (provided, that three days have elapsed since mailing); or~~
- ~~3. Affixing a copy of this section to the windshield of the offending vehicle.~~

B. Notice of illegally parked vehicle.

Whenever any motor vehicle without driver is found parked, angle parked, or stopped in violation of any of the restrictions imposed by ordinance of this city, the officer finding such vehicle shall take its registration number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a notice in writing, on a form provided by the city, for the driver to answer to the charge against him within 24 hours at a place specified in the notice. The officer shall deposit the complaint and the abstract of court record copy of such traffic complaint and citation with the police judge or municipal traffic judge, as the case may be, of the city or town having jurisdiction over the offense.

C. Failure to comply with notice attached to parked vehicle.

If a violator of the restrictions on stopping, standing, or parking under the traffic laws or ordinances does not appear in response to a notice affixed to such motor vehicle within a period of 24 hours, the clerk of the traffic court shall send to the owner of the motor vehicle to which the notice was affixed a letter informing him of the violations and warning him that in the event such letter is disregarded for a period of five days, a warrant of arrest will be issued.

D. Presumption in reference to illegal parking.

1. In any prosecution charging a violation of any law or regulation governing the standing or parking of a vehicle, proof that the particular vehicle described in the complaint was parked in violation of any such law or regulation, together with proof that the defendant named in the complaint was at the time of such parking the registered owner of such vehicle, shall constitute prima facie evidence that the registered

owner of such vehicle was the person who parked or placed such vehicle at the point where, and for the time during which, such violation occurred.

2. The foregoing stated presumption shall apply only when the procedure as prescribed in MMC 10.24.030(B) and 10.24.030(C) has been followed.

~~C. "Qualified vehicles," for purposes of this section, means a large vehicle, a recreational vehicle or a trailer. A large vehicle is a vehicle over 10,000 pounds in weight. A trailer includes a boat trailer, camping trailer, house trailer, utility trailer, or any other vehicle or conveyance designed to be connected to or drawn by a motor vehicle or dray animal. (Ord. 1683 § 1, 2006).~~

10.24.080 Model Traffic Ordinance superseded.

The requirements of this section supersede any conflicting provisions in the Model Traffic Ordinance, as adopted by MMC [10.04.010](#), as now or hereafter amended. (Ord. 1683 § 1, 2006).

10.24.090 Erasing chalk marks.

It is a traffic infraction to remove time marks for purposes of evading parking enforcement. "Time marks" are chalk marks on tires or other means by which parking enforcement officials keep track of parking time. (Ord. 1683 § 1, 2006).

10.24.100 Obstruction of traffic.

No person shall park any vehicle upon a street, other than an alley, in such a manner or under such conditions as to leave available less than eight feet of the width of the roadway in each direction of travel for a total of 16 feet for free movement of vehicular traffic.

A. On narrow streets.

1. The Public Works Director is authorized to erect signs indicating no parking upon both sides of a street when the width of the improved roadway does not exceed 26 feet, or upon one side of a street as indicated by such signs when the width of an improved roadway is between 26 and 34 feet.

2. When official signs prohibiting parking are erected upon narrow streets as authorized herein, no person shall park a vehicle upon any such street in violation of any such sign.

B. Near hazardous or congested places.

1. The Public Works Director is authorized to determine and designate by proper signs, places not exceeding 200 feet in length in which the stopping, standing, or parking of vehicles would create an especially hazardous condition or would cause unusual delay to traffic.

2. When official signs are erected as hazardous or congested places as authorized herein, no person shall stop, stand, or park a vehicle in any such designated place.

C. Proximity to curb and prohibited parking in specific places.

1. No person shall stand or park a vehicle in a roadway other than parallel with the edge of the roadway headed in the direction of lawful traffic movement and with the wheels of the vehicle on that side which is consistent with the lawful movement of traffic within 12 inches of the curb or edge of the roadway except as otherwise provided in this chapter.

2. Except as otherwise provided for in this chapter, or when necessary to avoid conflict with other traffic, or in compliance with law or the directions of a police officer, or official traffic control device, no person shall stop, stand, or park a vehicle:

(a) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;

(b) On a sidewalk or street planting strip;

(c) Within an intersection;

(d) On a crosswalk;

(e) Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless official signs or markings indicate a different no-parking area opposite the ends of a safety zone;

(f) Alongside or opposite any street excavation or obstruction when stopping, standing, or parking would obstruct traffic;

(g) Upon any bridge or other elevated structure upon a highway or within a highway tunnel;

(h) On any railroad tracks;

(i) In the area between roadways of a divided highway including crossovers; or

(j) At any place where official signs prohibit stopping.

3. Except as otherwise provided for in this chapter or in compliance with the directions of a police officer, no person shall stand or park a vehicle, whether occupied or not, except momentarily to pick up or discharge a passenger or passengers:

(a) In front of a public or private driveway or within five feet of the end of the curb radius leading thereto;

(b) Within 15 feet of a fire hydrant;

(c) Within 20 feet of a crosswalk;

(d) Within 30 feet upon the approach to any flashing signal, stop sign, yield sign, or traffic control signal located at the side of a roadway;

(e) Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of said entrance when properly signposted; or

(f) At any place where official signs prohibit standing.

4. Except as otherwise provided for in this chapter or in compliance with the directions of a police officer, park a vehicle, whether occupied or not, except temporarily for the purpose of and while actually engaged in loading or unloading property or passengers:

(a) Within 50 feet of the nearest rail of a railroad crossing; or

(b) At any place where official signs prohibit parking.

5. No person shall move a vehicle not lawfully under his or her control into any such prohibited area or away from a curb such a distance as is unlawful.

D. Angle parking – Street determination.

The Public Works Director shall determine upon what streets other than those forming a part of the primary or secondary state highways angle parking shall be permitted.

E. Angle parking – Obedience.

Upon those streets which have been signed or marked for angle parking, no person shall park or stand a vehicle other than at the angle to the curb or edge of the roadway indicated by such signs or markings.

F. Loading or unloading at an angle to the curb.

The Public Works Director is authorized to issue special permits to permit the backing of a vehicle to the curb for the purpose of loading or unloading merchandise or materials subject to the terms and conditions of such permit. Such permits may be issued either to the owner or lessee of real property or to the owner of the vehicle and shall grant to such person the privilege as therein stated and authorized herein, and it is unlawful for any permittee or other person to violate any of the special terms or conditions of any such permit; provided, however, that no permit issued hereunder shall be exclusive.

G. Chain parking unlawful.

It shall be an infraction for any person to move and repark a vehicle parked on the street within two blocks of the original parking space in order to avoid a parking time limit regulation. It shall be an infraction for any person to

move and repark a vehicle parked in a parking lot to another space within the same parking lot in order to avoid a parking time regulation. For the purposes of this section, a block shall be defined as a city street or alley section located between consecutive intersections. A violation of this section shall be an infraction punishable by a fine of \$50.00. In the event that the initial fine is not paid within 30 days of the date of issuance of the infraction, the fine shall increase to \$90.00.

H. Expired or improper license plates – Parking prohibited.

No person shall stop, stand or park any vehicle on any street or alley, or in any garage, parking area or other property owned by the city, without first having displayed current and proper vehicle license plates thereon as provided in Chapter 46.16 RCW. The vehicle license plates shall be attached conspicuously in the manner required by RCW 46.16.240.

10.24.110 Penalties.

Any person who violates the provisions of this chapter shall be guilty of a traffic infraction and subject to penalties under RCW [46.63.110](#). (Ord. 1683 § 1, 2006; Ord. 1469 § 3, 2001. Formerly 10.24.030).

10.24.120 Impoundment.

Vehicles located on city rights-of-way or other city-owned property parked in violation of this chapter or any other city-enforced parking restriction shall be subject to impoundment under the procedures applicable to unauthorized vehicles in highway rights-of-way as regulated by RCW [46.55.085](#), as now or hereafter amended. (Ord. 1683 § 1, 2006).

10.24.130 Additional enforcement procedures.

The provisions of this chapter are not exclusive, and may be used in addition to other enforcement provisions authorized by the Milton Municipal Code except as precluded by law. (Ord. 1683 § 1, 2006).

END OF REVISIONS

Section 4. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 5. Publication. This ordinance shall be published by an approved summary consisting of the title.

Section 6. Effective Date. This ordinance shall become effective and be in full force five (5) days after passage, approval, and publication as provided by law.

PASSED by the Council and approved by the Mayor of the City of Milton, this _____ day of _____, 2018.

CITY OF MILTON

Mayor Shanna Styron Sherrell

ATTEST/AUTHENTICATED:

Trisha Summers, City Clerk

APPROVED AS TO FORM:

Ogden Murphy Wallace, City Attorney

Published:
Effective Date:

Memo to the City of Milton Planning Commission and City Staff

Regarding Proposed Changes to MMC 10.24 No Parking Zones

From Commissioner Jacquelyn Whalen; October 9,

DATE: REVISED, OCT> 13, 2018

Sequence of Events:

Based on the Planning Commission's discussion at the 2018 September 12 and October 10 meetings, and my meeting with Chief Hernandez and Officer Hobbs (October 8), I compiled a series of proposed changes to MMC 10.24, herein after called [Document].

Format of the Document

The starting point was the current MMC 10.24.

Line Numbers were added for ease of identifying and locating information while we are in discussion.

Any deletions or additions are shown in ~~strikethrough~~ – underline format with the following additions:

- **Yellow** Highlight is added to show changes in wording to our code.
- **Burgundy Ink**, which is also indented from the left margin, is nearly verbatim wording from the Puyallup Municipal Code. The reason for showing the added/new wording in this way is to more readily identify the source of the wording, and to help subsequent City Staff review to identify the information that will need updating in order to bring the new wording into alignment with the Milton Municipal Code. Additionally, the Puyallup Municipal Code numbering (included in ~~strikethrough~~ format) is included with each Section to assist with any further research or a need for context during the City's review process.

It is important to note that Puyallup's 10.36.110 (The suggested source of changes needed to our code) is not included verbatim the Document. [See Appendix A].

- The essence of the needed change to our code was to make all vehicles (motorized and trailer types) to be subject to the limitation of a 72-hour limit for parking on City right-of-way. This concept is highlighted in yellow in MMC 10.24.030 [lines 49 – 52].
- Please note that the definitions within Puyallup's 10.36.110 are covered in Milton's Definitions 10.24.005(F) *Vehicles*. [As I read it, the *Vehicles* definition includes cars and trucks.]
- Puyallup's comments about trucks being allowed to stop to load/unload commodities seemed to be covered in Milton's 10.42 *Truck Routes*.

Next Steps

Please review the Document and ensure that I have accurately noted the intent of the decisions and responded to the questions of the Commission made at our 2018 September 12 and October 10 meetings.

Memo to the City of Milton Planning Commission and City Staff

Regarding Proposed Changes to MMC 10.24 No Parking Zones

From Commissioner Jacquelyn Whalen; October 9,

DATE: REVISED, OCT> 13, 2018

At our 2018 November 07 meeting, please discuss any questions and comments that you may wish to have transmitted to City Staff as they further review, analyze, and update the Document once the Commission takes action. These topics will be noted and forwarded to Staff as a separate memorandum. [Please note Appendix B listing some my thoughts to be forwarded to Staff].

Please note that the Document is a rough draft proposal and in a form that is the best that I can do in order to facilitate the Planning Commission's work. Undoubtedly, more work is needed by City Staff in order to make further updates and corrections in order to create a formal ordinance for Council to deliberate and take action on.

If you determine that the document needs more revisions, I suggest that we stay in our 'work-session' mode, and I will continue to update the Document for Commission action at our next meeting.

HOWEVER:

If you determine at the 2018 November 07 meeting that our work on the Document is ready to continue along the process of going to Council for their action, we will need to change from an informal/work session type of process to a more formal action type of process. The next step is to make a motion, later referred to as an *Original Motion*:

- If you determine that the intent and substance of the Document is a completion of the work that Council has assigned to the Planning Commission, an appropriate action(s) would be to:
 - *"I Move
to approve the proposed changes to Milton Municipal Code 10.24;
to forward the document on to appropriate City Staff for review and refinement;
and then send it on to Council for their action."*

-----OR-----

- If you want to see the results of City Staff's process before it goes to Council:
 - *"I Move
to approve the proposed changes to Milton Municipal Code 10.24;
to forward the document on to appropriate City Staff for review and refinement;
and then return it to the Planning Commission for action."*

The Chairman asks for a second. Once seconded, the Chairman invites discussion:

Memo to the City of Milton Planning Commission and City Staff

Regarding Proposed Changes to MMC 10.24 No Parking Zones

From Commissioner Jacquelyn Whalen; October 9,

DATE: REVISED, OCT> 13, 2018

The person who made the motion speaks first in support of their motion; then the person who made the second speaks to the motion, then all members (in turn) could comment.

➤ If there are further changes that you determine are needed during this formal action type of process, here is a suggested format for your amendment.

- *"I Move to delete ' _____ ' and add ' _____ , ' so that line number(s) ____ through ____ will read as ' _____ . ' "*

The Chairman then asks for a vote on the one amendment only.

Then the Commission votes on the one amendment, not the entirety of the document.

For each additional amendment, the same format is followed.

Once the Commission has no further amendments:

The Chairman asks for a vote on the Original Motion that started the formal process by repeating the wording of that original motion.... and then adds: "as amended;" thereby including the approved amendments that the Commission voted on within the discussion on the original motion.

Final Thoughts

I hope that this Memorandum was helpful and useful to all readers.

Commissioners, I appreciate your time and work on the Planning Commission.

City Staff, Thank you for your support of the Commission and our Community.

Genuinely,

Jacquelyn Whalen.

October 13, 2018

Memo to the City of Milton Planning Commission and City Staff

Regarding Proposed Changes to MMC 10.24 No Parking Zones

From Commissioner Jacquelyn Whalen; October 9,

DATE: REVISED, OCT> 13, 2018

APPENDIX A

Puyallup: 10.36.110 Extended parking and certain vehicles prohibited.

It is unlawful to park upon the public streets of the city for more than 72 consecutive hours any vehicle or motor vehicle. In addition, no person shall park a vehicle on any street or alley, except in an industrial zone, as defined in the zoning code of the city at any time except while actually loading or unloading if the vehicle is a truck and/or trailer or other conveyance which is over 84 inches wide. For the purposes of this section, "vehicle" means and includes every device capable of being moved upon a public highway and in, upon or by which any persons or property is or may be transported or drawn upon a public highway, and the term "motor vehicle" means every vehicle which is self-propelled. (Ord. 2119 § 1, 1987; Ord. 2048 § 1, 1985; Ord. 1953 § 1, 1982).

APPENDIX B

**Additional comments, suggestions, and questions for
Milton City Staff to consider on the topic of updating Milton's Parking Code, MMC 10.24.**

***Please note that the most recent / up-to-date proposed changes by the Planning Commission are shown on the strikethrough/underline MMC 10.24 that is dated October 13, 2018

1. Why not use the entirety of Puyallup's 10.36.110?

The Planning Commission thought that editing MMC 10.24.030 *Extended Parking and Certain Vehicles Prohibited*, was a cleaner way to make the essential needed change in the code, which was to make all vehicles (motorized and non-motorized) subject to the 72 of 80 hour limitation. The Commission defers final revisions to the Milton PD and City Staff.

- The definitions within Puyallup's Code 10.36.110 [please see Appendix A of this memorandum] were covered in MMC 10.24.030 *Definitions*;
- Puyallup's 10.36.110 granting permission to trucks to load/unload commodities was covered in MMC 10.42 Truck Routes (allowing trucks to stop for making deliveries).
- Given that some of the Puyallup municipal code sections inserted into the proposed revisions of MMC 10.24 discuss "motor vehicle," does our code need to include a definition as is in Puyallup's 10.36.110 *.....and the term "motor vehicle" means every vehicle which is self-propelled?*

Memo to the City of Milton Planning Commission and City Staff

Regarding Proposed Changes to MMC 10.24 No Parking Zones

From Commissioner Jacquelyn Whalen; October 9,

DATE: REVISED, OCT> 13, 2018

2. Sections *especially* needing further revision:

- a) Please note that the Planning Commission asks that you especially review the Sections regarding MMC 10.24.120 *Penalties* and MMC 10.24.120 *Impoundment*, as the Commission wishes to defer analysis of any needed corrections to the Police and City Attorney.

- b) The Planning Commission was given to understand that the enforcement provisions of MMC 10.24.030 needed revising.

Please note that the Planning Commission asks that you especially review the Sections sourced from Puyallup's Code:

- ✓ *Notice of illegally parked vehicle.* Puyallup 10.12.070;
- ✓ *Failure to comply with notice attached to parked vehicle.* Puyallup 10.112.080; and
- ✓ *Presumption in reference to illegal parking.* Puyallup 10.12.090.

to determine if those provisions are appropriate to the enforcement needs of Milton PD and all of City Staff, as the Commission wishes to defer analysis of any needed corrections to the Police and City Attorney.

In reviewing these Sections of Code from Puyallup [PMC 10.12.070, .080 .090], the Commission was concerned about the "warrant for arrest" contained within *Notice of illegally parked vehicle*, (Puyallup: 10.12.070). Additionally, there was uncertainty as to whether this Section outlined the procedure that the Milton Police Department would wish to follow in getting to the point of impounding a vehicle.

3. Trucks and Trailers [a.k.a. non-residential sized motorized and non-motorized vehicles]

I, Jacquelyn Whalen, continue to hope that the Council will follow through on their repeated concerns regarding commercial vehicle (larger than what would be expected in a residential zone) traffic, parking, and storage, by assigning the issue to the Planning Commission. It is my belief that further clarity is needed in specifying regulations on commercial vehicle activities in Our City.

Proposed Revisions to MMC 10.24 No Parking Zones --
For Milton Planning Commission Meeting of October 10, 2018
Showing all Suggestions for Code Revisions
Resulting From the October 10, 2018 Planning Commission Meeting.

DATE: October 13, 2018

>> Text that is shown in burgundy-colored ink and is indented
>> is nearly verbatim Sections of municipal code from Puyallup.

1 **MILTON MUNICIPAL CODE, Chapter 10.24 NO PARKING ZONES**

2 **Sections:**

- 3 10.24.005 Definitions.
4 10.24.010 Highway 99.
5 10.24.020 Milton Way – Business district (B) zone.
6 10.24.030 Extended parking and certain vehicles prohibited.
7 10.24.080 Model Traffic Ordinance superseded.
8 10.24.090 Erasing chalk marks.
9 10.24.110 Penalties.
10 10.24.120 Impoundment.
11 10.24.130 Additional enforcement procedures.

13 **10.24.005 Definitions.**

14 For the purpose of this chapter:

15 "Park or parking" means the standing of a vehicle, whether occupied or not, otherwise than
16 temporarily for the purpose of and while actually engaged in loading or unloading merchandise
17 or passengers. ~~Puyallup 10.08.070~~

18 A. "Person" means and includes any individual, firm, copartnership, or corporation.

19 "Stand or standing" means the halting of a vehicle, whether occupied or not, otherwise than for
20 the purpose of and while actually engaged in receiving or discharging passengers. ~~Puyallup~~
21 ~~10.08.100~~

22 B. "Street" means any public street, avenue, road, boulevard, highway or other public place located in
23 the city and established for the use of vehicles.

24 C. "To park (or stand) a vehicle" means there is a prima facie presumption that the registered owner of a
25 violator vehicle was the person who parked such vehicle.

26 D. "Recreational vehicle" means an enclosed piece of equipment dually used as both a vehicle, a
27 temporary travel home or a full-time home.

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28 E. "Truck" means any of various motor vehicles with a weight capacity in excess of 10,000 pounds, or
29 exceeding seven and one-half feet in width, or exceeding 20 feet in length, designed for carrying or
30 pulling loads, or truck-trailer combinations, including without limitation those commonly known as
31 "semi-trucks."

32 F. "Vehicle" means every device capable of being moved upon a public highway and in, upon, or by
33 which any persons or property is or may be transported or drawn upon a public highway, including
34 bicycles, boats, recreational vehicles and trailers. The term does not include devices other than bicycles
35 moved by human or animal power or used exclusively upon stationary rails or tracks. (Ord. 1683 § 1,
36 2006).

37

38 **10.24.010 Highway 99.**

39 It is unlawful for any person to stop, stand or park any vehicle on the highway right-of-way of that
40 section of Pacific Highway 99 that lies within the corporate limits of the city. (Ord. 1683 § 1, 2006; Ord.
41 1469 § 1, 2001; Ord. 927 §§ 1, 2, 1983).

42

43 **10.24.020 Milton Way – Business district (B) zone.**

44 It is unlawful for any person to park any vehicle on the arterial right-of-way, except emergency parking,
45 of Milton Way that is zoned (B) business district or mixed use town center (MX) as defined in Chapters
46 17.28 and 17.30 MMC and the current city of Milton zoning map. (Ord. 1683 § 1, 2006; Ord. 1469 § 2,
47 2001).

48

49 **10.24.030 Extended parking and certain vehicles prohibited.**

50 A. It is unlawful to park a **qualified any** vehicle upon the rights-of-way of the city for more than 72
51 **consecutive** hours in any 80-hour period, even if the vehicle is moved from one portion of any right-of-
52 way to another.

53

Proposed Revisions to MMC 10.24 *No Parking Zones* --
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54 B. This section shall only apply to vehicles in which the registered owner and/or person responsible for
55 parking has received actual notice of the parking requirements of this section. Actual notice shall
56 include, but not be limited to, the following:

57 1. Actual receipt of a copy of this section or infraction for a prior violation of this section;

58 2. A mailed copy of this section to the address of the registered owner (provided, that three
59 days have elapsed since mailing); or

60 3. Affixing a copy of this section to the windshield of the offending vehicle.

61

62 **Notice of illegally parked vehicle.** Puyallup: 10.12.070

63 Whenever any motor vehicle without driver is found parked, angle parked, or stopped in
64 violation of any of the restrictions imposed by ordinance of this city, the officer finding such
65 vehicle shall take its registration number and may take any other information displayed on the
66 vehicle which may identify its user, and shall conspicuously affix to such vehicle a notice in
67 writing, on a form provided by the city, for the driver to answer to the charge against him within
68 24 hours at a place specified in the notice. The officer shall deposit the complaint and the
69 abstract of court record copy of such traffic complaint and citation with the police judge or
70 municipal traffic judge, as the case may be, of the city or town having jurisdiction over the
71 offense.

72

73 **Failure to comply with notice attached to parked vehicle.** Puyallup: 10.12.080

74 If a violator of the restrictions on stopping, standing, or parking under the traffic laws or
75 ordinances does not appear in response to a notice affixed to such motor vehicle within a period
76 of 24 hours, the clerk of the traffic court shall send to the owner of the motor vehicle to which
77 the notice was affixed a letter informing him of the violations and warning him that in the event
78 such letter is disregarded for a period of five days, a warrant of arrest will be issued.

79

80 **Presumption in reference to illegal parking.** Puyallup: 10.12.090

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81 (1) In any prosecution charging a violation of any law or regulation governing the standing or
82 parking of a vehicle, proof that the particular vehicle described in the complaint was parked in
83 violation of any such law or regulation, together with proof that the defendant named in the
84 complaint was at the time of such parking the registered owner of such vehicle, shall constitute
85 prima facie evidence that the registered owner of such vehicle was the person who parked or
86 placed such vehicle at the point where, and for the time during which, such violation occurred.

87
88 (2) The foregoing stated presumption shall apply only when the procedure as prescribed in **PMC**
89 10.12.070 and 10.12.080 has been followed.

90 ***** Citation of code Sections correction necessary.

91
92 C. "Qualified vehicles," for purposes of this section, means a large vehicle, a recreational vehicle or a
93 trailer. A large vehicle is a vehicle over 10,000 pounds in weight. A trailer includes a boat trailer, camping
94 trailer, house trailer, utility trailer, or any other vehicle or conveyance designed to be connected to or
95 drawn by a motor vehicle or dray animal. (Ord. 1683 § 1, 2006).

96
97 **10.24.080 Model Traffic Ordinance superseded.**

98 The requirements of this section supersede any conflicting provisions in the Model Traffic Ordinance, as
99 adopted by MMC 10.04.010, as now or hereafter amended. (Ord. 1683 § 1, 2006).

100
101 **10.24.090 Erasing chalk marks.**

102 It is a traffic infraction to remove time marks for purposes of evading parking enforcement. "Time
103 marks" are chalk marks on tires or other means by which parking enforcement officials keep track of
104 parking time. (Ord. 1683 § 1, 2006).

105
106 **Obstruction of traffic. Puyallup 10.36.010**

Proposed Revisions to MMC 10.24 No Parking Zones --
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- >> is nearly verbatim Sections of municipal code from Puyallup.

107 No person shall park any vehicle upon a street, other than an alley, in such a manner or under
108 such conditions as to leave available less than eight feet of the width of the roadway in each
109 direction of travel for a total of 16 feet for free movement of vehicular traffic. (Ord. 2700 § 1,
110 2001; Ord. 1522 § 72, 1963).

111

112 **On narrow streets.** Puyallup 10.36.050

113 (1) The city manager is authorized to erect signs indicating no parking upon both sides of a
114 street when the width of the improved roadway does not exceed 26 feet, or upon one side of a
115 street as indicated by such signs when the width of an improved roadway is between 26 and 34
116 feet.

117 (2) When official signs prohibiting parking are erected upon narrow streets as authorized herein,
118 no person shall park a vehicle upon any such street in violation of any such sign.

119

120 **Near hazardous or congested places.** Puyallup 10.36.060

121 (1) The city manager is authorized to determine and designate by proper signs, places not
122 exceeding 200 feet in length in which the stopping, standing, or parking of vehicles would create
123 an especially hazardous condition or would cause unusual delay to traffic.

124

125 (2) When official signs are erected as hazardous or congested places as authorized herein, no
126 person shall stop, stand, or park a vehicle in any such designated place.

127

128 **Proximity to curb and prohibited parking in specific places.** Puyallup 10.36.070

129 (1) No person shall stand or park a vehicle in a roadway other than parallel with the edge of the
130 roadway headed in the direction of lawful traffic movement and with the wheels of the vehicle
131 on that side which is consistent with the lawful movement of traffic within 12 inches of the curb
132 or edge of the roadway except as otherwise provided in this chapter.

Proposed Revisions to MMC 10.24 *No Parking Zones* --
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133

134 (2) Except as otherwise provided for in this chapter, or when necessary to avoid conflict with
135 other traffic, or in compliance with law or the directions of a police officer, or official traffic
136 control device, no person shall stop, stand, or park a vehicle:

137 (a) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;

138 (b) On a sidewalk or street planting strip;

139 (c) Within an intersection;

140 (d) On a crosswalk;

141 (e) Between a safety zone and the adjacent curb or within 30 feet of points on the curb
142 immediately opposite the ends of a safety zone, unless official signs or markings indicate
143 a different no-parking area opposite the ends of a safety zone;

144 (f) Alongside or opposite any street excavation or obstruction when stopping, standing,
145 or parking would obstruct traffic;

146 (g) Upon any bridge or other elevated structure upon a highway or within a highway
147 tunnel;

148 (h) On any railroad tracks;

149 (i) In the area between roadways of a divided highway including crossovers; or

150 (j) At any place where official signs prohibit stopping.

151

152 (3) Except as otherwise provided for in this chapter or in compliance with the directions of a
153 police officer, no person shall stand or park a vehicle, whether occupied or not, except
154 momentarily to pick up or discharge a passenger or passengers:

155 (a) In front of a public or private driveway or within five feet of the end of the curb
156 radius leading thereto;

157 (b) Within 15 feet of a fire hydrant;

Proposed Revisions to MMC 10.24 No Parking Zones --
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-
- 158 (c) Within 20 feet of a crosswalk;
- 159 (d) Within 30 feet upon the approach to any flashing signal, stop sign, yield sign, or
160 traffic control signal located at the side of a roadway;
- 161 (e) Within 20 feet of the driveway entrance to any fire station and on the side of a street
162 opposite the entrance to any fire station within 75 feet of said entrance when properly
163 signposted; or
- 164 (f) At any place where official signs prohibit standing.
- 165
- 166 (4) Except as otherwise provided for in this chapter or in compliance with the directions of a
167 police officer, park a vehicle, whether occupied or not, except temporarily for the purpose of
168 and while actually engaged in loading or unloading property or passengers:
- 169 (a) Within 50 feet of the nearest rail of a railroad crossing; or
- 170 (b) At any place where official signs prohibit parking.
- 171
- 172 (5) No person shall move a vehicle not lawfully under his or her control into any such prohibited
173 area or away from a curb such a distance as is unlawful.
- 174
- 175 **Angle parking – Street determination.** Puyallup 10.36.080
- 176 The city manager shall determine upon what streets other than those forming a part of the
177 primary or secondary state highways angle parking shall be permitted.
- 178
- 179 **Angle parking – Obedience.** Puyallup 10.36.090
- 180 Upon those streets which have been signed or marked for angle parking, no person shall park or
181 stand a vehicle other than at the angle to the curb or edge of the roadway indicated by such
182 signs or markings.

Proposed Revisions to MMC 10.24 No Parking Zones --
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183

184 Loading or unloading at an angle to the curb. Puyallup 10.36.100

185 The city manager is authorized to issue special permits to permit the backing of a vehicle to the
186 curb for the purpose of loading or unloading merchandise or materials subject to the terms and
187 conditions of such permit. Such permits may be issued either to the owner or lessee of real
188 property or to the owner of the vehicle and shall grant to such person the privilege as therein
189 stated and authorized herein, and it is unlawful for any permittee or other person to violate any
190 of the special terms or conditions of any such permit; provided, however, that no permit issued
191 hereunder shall be exclusive.

192

193 Chain parking unlawful. Puyallup 10.36.120

194 It shall be an infraction for any person to move and repark a vehicle parked on the street within
195 two blocks of the original parking space in order to avoid a parking time limit regulation. It shall
196 be an infraction for any person to move and repark a vehicle parked in a parking lot to another
197 space within the same parking lot in order to avoid a parking time regulation. For the purposes
198 of this section, a block shall be defined as a city street or alley section located between
199 consecutive intersections. A violation of this section shall be an infraction punishable by a fine of
200 \$50.00. In the event that the initial fine is not paid within 30 days of the date of issuance of the
201 infraction, the fine shall increase to \$90.00.

202

203 Expired or improper license plates – Parking prohibited. Puyallup 10.36.130

204 No person shall stop, stand or park any vehicle on any street or alley, or in any garage, parking
205 area or other property owned by the city, without first having displayed current and proper
206 vehicle license plates thereon as provided in Chapter 46.16 RCW. The vehicle license plates shall
207 be attached conspicuously in the manner required by RCW 46.16.240.

208

209 **10.24.110 Penalties.**

Proposed Revisions to MMC 10.24 No Parking Zones --
For Milton Planning Commission Meeting of October 10, 2018
Showing all Suggestions for Code Revisions
Resulting From the October 10, 2018 Planning Commission Meeting.

DATE: October 13, 2018

>> Text that is shown in burgundy-colored ink and is indented
>> is nearly verbatim Sections of municipal code from Puyallup.

210 Any person who violates the provisions of this chapter shall be guilty of a traffic infraction and subject to
211 penalties under RCW 46.63.110. (Ord. 1683 § 1, 2006; Ord. 1469 § 3, 2001. Formerly 10.24.030).

212 **10.24.120 Impoundment.**

213 Vehicles located on city rights-of-way or other city-owned property parked in violation of this chapter or
214 any other city-enforced parking restriction shall be subject to impoundment under the procedures
215 applicable to unauthorized vehicles in highway rights-of-way as regulated by RCW 46.55.085, as now or
216 hereafter amended. (Ord. 1683 § 1, 2006).

217

218 **10.24.130 Additional enforcement procedures.**

219 The provisions of this chapter are not exclusive, and may be used in addition to other enforcement
220 provisions authorized by the Milton Municipal Code except as precluded by law. (Ord. 1683 § 1, 2006)

221



Agenda Item #: 7C

To: Chair Gillespie and Planning Commission Members
From: Mark Howlett, P.E., Public Works Director
Date: November 14, 2018
Re: **Vacant Buildings Ordinance**

ATTACHMENTS: Draft Ordinance

TYPE OF ACTION:

Information Only Discussion Action Public Hearing Expenditure

Recommended Action: None

Issue: One component of the Planning Commission's 2018 Work Plan was to "*consider possible land use regulations that would incentivize a lower vacancy rate in commercial buildings.*"

Attached is a draft ordinance that addresses this issue.

Draft

**VACANT BUILDING
ORDINANCE**

Drafted by: Jim Gillespie

Ordinance: Register/Establish Fees for Vacant Buildings in Up-Town and Business District of Milton, Washington

ORDNANCE NO. ____

AN ORDINANCE OF THE CITY OF MILTON, WASHINGTON, TO CREATE A POLICY TO IDENTIFY AND REGISTER VACANT BUILDINGS; TO ESTABLISH A PROCESS TO IMPROVE COMMUNITY SAFETY AND PROMOTE THE WELL BEING OF AREA BUSINESS; TO REPEAL ANY ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; AND TO DECLARE AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF MILTON, WASHINGTON:

SECTION 1. PURPOSE

The purpose of this article is to protect the public health, safety and welfare of Milton by establishing a program for identification and registration of vacant commercial buildings, determining the responsibilities of owners of vacant commercial buildings and structures, and providing for administration, enforcement, and penalties.

SECTION 2. ADMINISTRATION

This chapter will be administered by the building official, who may adopt administrative rules and regulations consistent with its terms. The buildings official (and his/her designee), or code enforcement officer, or both are authorized to enforce this chapter. (Ord. _____)

SECTION 2. DEFINITIONS

“City” means the city of Milton, its officers, employees, and agents.

“Community activity” means having the objective of supplying commodities (goods and services) and ancillary business functions.

“Commercial building” means a building with more than fifty (50) percent of its floor space used for commercial activity. For the purposes of this section, floor space shall be designated as the area on the main or street level of the building.

“Commercial space” means any portion of a structure in the Up-Town or Business District that is not intended for residential use.

“Dangerous structure” means a structure that is potentially hazardous to persons or property, including, but not limited to: (a) a structure that is in danger of partial or complete collapse; (b) a structure with any exterior parts that are loose or in danger of falling; or (c) a structure with any parts, such as floors, porches, railings, stairs, ramps, balconies or roofs, that are accessible and that are either collapsed, in danger of collapsing or unable to support the weight of normally imposed loads.

“Occupied” means a commercial space is considered occupied if a permitted, nonresidential use is physically located and lawfully operating in the space for at least six consecutive months.

“Owner” means the person, persons, or entity shown to be the owner of record on the records of the Pierce County Register of Deeds, those identified as the owner or owners on a vacant building registration form, holder of an unrecorded contract for deed, a mortgage or vendor in possession, assignee of rents, receiver, executor, trustee, lessee, other person, firm or corporation in control fo the freehold of the premises or lessor stat therein. Any such person, person’s or entity, shall have a joint and several obligations for compliance with the provisions of this article.

“Responsible person” means any person, firm, association, corporation or any agent thereof, owning, leasing, renting or having lawful possession of a structure in the Up-Town and Business District.

“Secured by other than normal means” means a building secured by means other than those used in the design of the building.

“Unoccupied” means a building which is not being used for a legal occupancy. The storage of products and materials does not constitute occupancy unless authorized by the zoning ordinance of the city.

“Unsecured” means a building or portion of the building that is open to entry by unauthorized persons without the use of tools.

“Vacant building” means a building or portion of a building that is:

- (1) Unoccupied and secured;
- (2) Unoccupied and unsecured;
- (3) Unoccupied and secured by other than normal means;
- (4) Unoccupied and a dangerous structure;
- (5) Unoccupied and condemned;
- (6) Unoccupied and has city code violations; or
- (7) Condemned and illegally occupied.

VACANT BUILDING does not mean any building being constructed pursuant to a valid permit to the city building code.

“Vacant commercial space” means any portion of a street-level commercial space that, on or after (date of ordinance), is not occupied and has not been occupied during the preceding ninety days.

SECTION 3. GENERAL MINIMUM MAINTENANCE REQUIREMENTS

All responsible persons shall perform the following with respect to each structure they own, lease, rent, or lawfully possess:

- A. Maintain all exterior surfaces, including but not limited to doors, windows, door and window frames, cornices, porches, trim, balconies, decks, and fences, in good condition.
- B. Protect exterior wood surfaces, other than decay-resistant roods, from the elements and decay with paint or other protective covering or treatment. If protection of the surface is compromised, restore adequate protection within a reasonable time; for example, remove peeling, flaking or chipped paint an repaint the compromised surface.
- C. Cause all siding and masonry joints and joints between the building envelope and the perimeter of windows, doors, and skylights to be weather-resistant and watertight.

- D. Coat all metal surfaces subject to rust or corrosion, except those designed to be stabilized by oxidation, to inhibit rust and corrosion, after first stabilizing any existing rust and corrosion. Remove oxidation stains from exterior surfaces.
- E. Maintain all exterior walls free from moss, algae, dirt, grime, holes, breaks and loose or decaying materials. Weatherproof and properly coat the surface of all exterior walls when required to prevent deterioration.
- F. Maintain the roof and flashing of all structures so that they are sound, tight, free of moss, algae or defects that admit rain, attract pests or create a public nuisance. Maintain adequate roof drainage to prevent dampness and deterioration in the walls and inside the structure. Maintain roof drains, gutters, and downspouts in good repair and free from obstructions.

Section 4. VACANT COMMERCIAL SPACE REGISTRATION

A. At least one responsible person for each vacant commercial space must register that space with the city within 10 calendar days of the date the space becomes vacant commercial space, as that term is defined in section 2, unless:

1. The space is the subject of a current, valid building permit for repair or rehabilitation and the responsible person provides proof, such as receipts, invoices or executed contracts, that the repair or rehabilitation is proceeding without significant delay; or

2. The space meets all applicable codes and regulations that apply to a permitted nonresidential use, and the responsible person is actively attempting to sell, lease, or rent the property (which is evidenced, in part, by appropriate signage and not over pricing the property from the going rate in that particular area); or

3. The property the commercial space is located on is the subject of a land use application for redevelopment for which approval has been granted but building permits have yet to be issued.

B. A space will be considered to be registered on the date the city receives, on a form provided by the building official and properly completed and signed by a responsible person, the following information:

1. The street address and parcel number of the vacant commercial space;

2. The name, address, daytime and evening telephone numbers of each responsible person for the vacant commercial space, including any owner or tenant;

3. The period of time the vacant commercial space is expected to remain vacant;

4. Any other information requested by the building official for the administration of this chapter.

C. For every registered vacant commercial space, a responsible person must record a notice that the space is registered with the city as a vacant commercial space with the Pierce County Auditor. The notice must be approved by the building official, and a copy of the recorded notice must be received by the city no later than thirty days from the date the space is registered

D. A responsible person must post the following notice inside every vacant commercial space so as to be clearly visible to all potential tenants, lessees, renters or buyers upon entering the space but not visible from outside the space:

1. This Vacant Commercial Space is registered with the City of Milton.

2. This Vacant Commercial Space may not meet all applicable codes and regulations, which may include codes and regulations required to occupy the space for a permitted use in the Up-Town and Business District.

3. The Vacant Commercial Space was registered on (date).

E. A responsible person must renew the registration of each vacant commercial space on or before January 1st of each year that the space remains vacant. A responsible person must submit the renewal application to the city on forms provided by the building official.

F. Upon satisfactory proof to the building official that the vacant commercial space is occupied as defined in Section 2, the vacant commercial space will be unregistered. Proof of physical occupation may include, but is not limited to, usable furniture, office equipment, retail inventory or other equipment and inventory in the space that are consistent with the unit's intended use, and persons regularly present at and using the space for its intended use. Proof of physical occupancy must also include documentation, which may include, but is not limited to, a current, executed lease agreement, paid utility receipts reflecting payments for six consecutive months from the month the space is occupied, or valid state and local business licenses, federal income tax or city business and occupation tax statements indicating the subject space is the official business address of the person or business claiming occupancy.

G. The determination of the number of vacant commercial spaces a structure contains will be at the reasonable discretion of the building official.

SECTION 4. WINDOW DISPLAYS FOR COMMERCIAL SPACES NOT OCCUPIED FOR THIRTY DAYS

When commercial space is unoccupied for more than thirty days, a responsible person must take steps to maintain a vibrant streetscape and avoid adverse impacts on neighborhood character by applying at least one of the following measures to all ground-floor windows that face sidewalks, streets, or public open space:

A. Paint windows with visually appealing scenes depicting or suggesting business or cultural activities;

B. Display works of art or provide other displays of cultural or educational value, using background panels or other methods to screen views from the street of the unoccupied space;

C. Other measures consistent with these examples approved by the building official.

Section 5. FEES (not taxes) FOR VACANT COMMERCIAL SPACE REGISTRATION

A. At least one responsible person shall pay an annual registration fee of \$100.00 for each registered vacant commercial space. At least one responsible person must pay the fee to the city at the time the space is registered and on January 1st of each year that the space remains vacant.

B. Registration waivers may be granted if the owner provides satisfactory proof that the vacancy is temporary and may be due to illness of the owner, active military service or some other reasonable explanation believed to be short-term in nature and documentable as necessary.

C. After a vacant building is placed on the registry, the city will inspect the property to ensure it is secure and safe from water damage. The owner of the building will be required to pay a \$40.00 fee for the inspection. The legal department will notify the property owner of any maintenance issues, and citations will be issued if the property is not brought into compliance.

D. The building must be occupied for 11 consecutive months for it to be taken off the vacant building registry. The city will require the property owner to pay a fee if his or her building has been on the registry for one year.

E. Vacant buildings must be registered with the City of Milton that have been 100% vacant for 30 days or more.

F. Failure to comply a notification from the City of Milton will be sent to the business owner. If they still do not comply, the city will register the building for him or her and will levy a fine of at least \$100.00.

G. The purpose of this is to keep unoccupied buildings in a safe, well-maintained condition and prevent them from becoming a safety hazard and lowering values of surrounding properties.

H. The fee will be based on the duration of the vacancy as determined by the following scale:

(Option 1)

1. The fee will be based on the building's square footage. \$.40 per square foot in the Uptown District and \$.20 per square foot in all other areas. This fee will increase incrementally each year.

(Example: Hometown Hardware has 21,058 sq. ft on the interior and 1,000 sq. ft on the exterior. Total sq. ft is 22,058, leasing at \$13.00 per sq. ft is \$286,754.00 per month with a 10 year lease. The fee charged would be \$8,823.20 per month with an annual fee of \$105,878.00.

2. Fees will be billed annually. The legal department will file lawsuits against those who do not pay the fee and place liens on their property.

3. Violation of the Milton Sign Code Definition 17.50.020 Abandon Sign (a sign that has not been changed or removed within 180 days of ceasing to be relevant) and fall under 17.50.200 of the sign code Penalty for Violations which fall under MMC 9.04.040.

(Option 2)

1. Two hundred fifty dollars for each space vacant for less than one year;

2. Five hundred dollars for each space vacant for at least one year but less than two years;

3. Seven hundred dollars for each space vacant for at least two years but less than three years;

4. One thousand dollars for each space vacant for at least three years and for each year thereafter until the building is occupied.

SECTION 6. DELINQUENT REGISTRATION FEES-COLLECTION

If a responsible person fails to pay the registration fee by the due date, the city is authorized to take action to collect the registration fee, including filing civil actions or turning the matter over to collection, in which case costs incurred by the city as a result of the collection process will be assessed to the responsible person or responsible persons in addition to the registration fee.

SECTION 7. DUTY TO AMEND REGISTRATION STATEMENT

Responsible persons for any registered vacant commercial space shall advise the building official, in writing, of any changes to the information on the registration form within thirty days of the occurrence of the change.

SECTION 8. INSPECTIONS

The building official (and his designee), or code enforcement officers, or both are authorized to conduct inspections to enforce the provisions of this chapter.

SECTION 9. ENFORCEMENT

A. Enforcement of the provisions of this chapter will be performed in accordance _____

B. No responsible person may violate or fail to comply with any provisions of this chapter. Each responsible person commits a separate offense for each and every day they commit, continue or permit a violation of any provision of this chapter.

C. All responsible person for a commercial space are jointly and severally responsible with respect to that commercial space for compliance with the provisions of this chapter and for any payments that they may be require to make to the city under this chapter. If the commercial space is subject to a lease, the city shall have discretion to determine whether to enforce this chapter against the commercial space owner, the tenant or both of them, but the city shall consider in this determination whether the lease provides that the compliance with this chapter is the responsibility of the commercial space owner or the tenant.

SECTION 10. ANNUAL REPORT

The building official shall make a report to the city council in January of every odd year on the status of the vacant commercial space registration program.

References:

Huntington, West Virginia

Weeping Water, Nebraska

Everett, WA

Tucson, AZ

Drafted by: Jim Gillespie



Agenda Item #7D

To: Chair Gillespie and Planning Commission Members
From: Mark Howlett, P.E., Public Works Director/City Engineer
Date: November 14, 2018
Re: **Planning Commission 2019 Work Plan**

ATTACHMENTS: 2018 Work Plan as Approved by City Council

TYPE OF ACTION:

Information Only Discussion Action Public Hearing Expenditure

Issue: On February 20, 2018 the City Council approved the Planning Commission's 2018 Work Plan outlining the five areas of focus for 2018. (See Attached Work Plan). It is now time to consider the 2019 Work Plan

Discussion: The purpose of this agenda item is to discuss the proposed Planning Commission Work Plan for 2019.



2018 Planning Commission Work Plan

Item	Description
Vacant Building Regulations	Consider possible land use regulations that would incentivize a lower vacancy rate in commercial buildings.
Allowance for Cottage Housing	Research the feasibility of Cottage Housing in Milton – consider potential locations and what regulations would be optimum.
Accessory Dwelling Units (ADUs) – Updating Standards	Consider if the City’s existing ADU standards are sufficient for Milton’s current needs.
Parking Code Update	Some sections of the City’s Parking Code date back from 2006 to 1999 – consider if the full code reflects Milton’s current needs.
Sidewalk Prioritization Plan	To afford the cost of improving existing and adding new sidewalks, the City is dependent on highly competitive and relatively modest federal and state grants. To be eligible to apply for these grants, a Sidewalk Plan needs to be in place.