



Community Development Department Briefing Memorandum

Date: March 30, 2015
To: Planning Commission
From: Jason Sullivan – Senior Planner
Re: **Ordinance D15-44 – Critical Areas Code and Shoreline Code Amendments**

PURPOSE:

The purpose of this memorandum is to facilitate the Planning Commission's discussion of Ordinance D15-44, which will amend the City's critical areas code and shoreline code. The amendments relate to the new rating system for wetlands, minor housekeeping amendments to the floodplain management regulations, the designation of fish and wildlife conservation areas, and an amendment to the shoreline code to incorporate the amendments to the critical areas code. This item is scheduled for the April 21, 2015 City Council Workshop and possibly the April 28, 2015 City Council Meeting under AB15-43.

Since the ordinance amends the City's shoreline regulations, the City Council is required to first pass a resolution that serves as a Notice of Intent to Adopt. This resolution and a copy of the ordinance is sent to Ecology for review and approval prior to City Council action on the ordinance. Once the City has Ecology's approval, the ordinance will be brought back to City Council for final approval.

SUGGESTED MOTION: *"I move to recommend that the City Council adopt Ordinance D15-44 amending the City's Critical Areas Code and Shoreline Code."*

ATTACHMENTS:

1. Resolution 2447
2. Ordinance D15-44
3. Planning Commission Recommendation Memo

BACKGROUND:

A. Wetland Regulations

In 1995, the state's Growth Management Act was amended to add RCW 36.70A.172, which required local governments to use the best available science (BAS) when reviewing and developing local policies and regulations related to critical areas. However, when the requirement was enacted there was no comprehensive synthesis or interpretation of the science for wetlands, and most local governments lack the resources to tackle such an undertaking.

In 2005, the state departments of Ecology and Fish and Wildlife, with funding from the U.S. Environmental Protection Agency, initiated a project to develop a comprehensive synthesis of the science for wetlands. The state hired Sheldon and Associates, Inc. and called on staff from the two agencies to produce a two-volume document on the science available on wetlands:

- *Wetlands in Washington - Volume 1: A Synthesis of the Science* (March 2005, Publication #05-06-006) was a synthesis of the science regarding freshwater wetlands.
- *Wetlands in Washington - Volume 2: Guidance for Protecting and Managing Wetlands* (April 2005, Publication #05-06-008) translated the science synthesized in Volume 1 into guidance for local governments protecting and managing wetlands.

Since 2005, the scientific knowledge related to wetlands has continued to increase and as a result Ecology determined that the 2005 synthesis needed to be updated. Much of the information presented in the 2005 publications is still valid, but the research over the last decade has provided new data to expand and clarify many of the conclusions made in the original synthesis. This is especially true for the information on the role of buffers in protecting wetland functions.

To reflect this new scientific research, Ecology issued the *Update on Wetland Buffers: The State of the Science* (Ecology Publication #13-06-011, October 2013). As a result of the new science Ecology established a new wetland rating system with decision points that are more scientifically supportable. Ecology did not make any changes to the required buffer widths currently used by the City.

To address these changes, two amendments are proposed to the City's wetland regulations codified in Chapter 16.22 of the Bonney Lake Municipal Code (BLMC). One proposed amendment will amend BLMC 16.22.020 to change the date and publication number of the wetland rating manual required to be used by wetland biologists. The other amendment will change the habitat scores in the wetland buffer table, in BLMC 16.22.040, to reflect the change from a scoring system that had a range of 0 to 29 points for habitat to a system that now has a

range of 3 to 9 points for habitat. Finally, there is one housekeeping amendment in the mitigation section, in BLMC 16.22.050, related to the citation of Ecology publications.

The Department of Commerce's (Commerce) *Period Update Checklist for Cities*, specifically requires the City's to update its wetland regulations to reflect the new Ecology rating system as part of the required 2015 Comprehensive Plan Periodic Update process.

B. Floodplain Regulations

Ecology conducted a Community Assistance Visit in 2013 to review the City's procedures for administering and enforcing the City's floodplain management regulations. While the City's floodplain management regulations, adopted in Chapter 16.26 BLMC, were found to be in substantial compliance with the National Flood Insurance Program (NFIP) and the State floodplain regulations, Ecology did identify the following minor deficiencies that needed to be corrected by the City:

- The date of the Flood Insurance Rate Maps (FIRMs) was not reference correctly in BLMC 16.26.030.B and the physical address where the FIRMS can be found was missing.
- The building permit review section, BLMC 16.26.060.E, was missing that mandatory language that failure to elevate at least two feet above the highest adjacent grade in these zones may result in higher insurance rates.
- The section concerning nonresidential construction, BLMC 16.26.060.F, was missing language regarding the impact of floodproofing on flood insurance rates.
- The section concerning below-grade crawlspaces, BLMC 16.26.080, was missing mandatory language regarding the impact of failing to seal ductwork would have on insurance premiums.

The proposed floodplain management regulations would correct these minor deficiencies. Amending the floodplain management regulations to address Ecology's comments was identified as mandatory change in the *Bonney Lake 2035: 2015 Comprehensive Plan Periodic Update – Consistency Report* which was adopted by the City Council pursuant to Resolution 2379. This item was also identified in the 2015 – 2016 Planning Commission Work Plan adopted pursuant to Resolution 2423.

C. Fish and Wildlife Habitat Conservation Areas.

In 2012, the definition of fish and wildlife conservation areas, in RCW 36.70A.030(5) was amended to exempt artificial features such 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.

The proposed amendment would incorporate this new exemption into the City's designation of fish and wildlife conservation areas in BLMC 16.30.010.

Commerce's *Period Update Checklist for Cities*, specifically requires the City's to update its definition of fish and wildlife conservation areas to exempt irrigation systems, infrastructure, canals, and drainage ditches as part of the required 2015 Comprehensive Plan Periodic Update process.

D. Shoreline Code

Since the City's Shoreline Code adopts the City's Critical Areas Code by reference as required by the Shoreline Management Act, the City must also amend the adoption reference in BLMC 16.36.060 to reflect the amendments to the Critical Areas Code.