

ORDINANCE NO. 1274

AN ORDINANCE AMENDING ORDINANCE 1191 AND CHAPTER 15.15 OF THE BURLINGTON MUNICIPAL CODE TO IMPLEMENT PERMANENT REGULATIONS FOR CRITICAL AREAS; AMENDING THE TITLE OF THE CHAPTER; AMENDING SECTION 15.15.020 APPLICATION, PURPOSE TO CLARIFY WETLAND PROTECTION GOALS; AMENDING SECTION 15.15.030 DEFINITIONS TO CLARIFY REFERENCES; AMENDING SECTION 15.15.040 ADMINISTRATION AND SECTION 15.15.050 APPLICATION OF STANDARDS, TO COMPLY WITH FEDERAL FLOOD REGULATION STANDARDS; AMENDING SECTION 15.15.065 DEVELOPMENT STANDARDS TO REFERENCE TITLE 14 SURFACE WATER MANAGEMENT AND CLARIFY WETLAND REGULATIONS; AMENDING SECTION 15.15.070 APPLICATION SUBMITTAL REQUIREMENTS TO CLARIFY INTENT; AMENDING SECTIONS 15.15.080 AND 15.15.100 TO UPDATE FLOOD CODE STANDARDS TO CURRENT FEDERAL REQUIREMENTS; AMENDING SECTION 15.15.105 AND 15.15.110 TO CLARIFY INTENT; AND AMENDING SECTION 15.15.120 TO DELETE REFERENCE TO INTERIM.

WHEREAS, the Growth Management Act requires that development regulations be updated to implement the adopted Comprehensive Plan no later than December 31, 1994, and

WHEREAS, the Puget Sound Water Quality Management Plan requires that regulatory programs be enhanced for wetland protection, and

WHEREAS, this ordinance together with a new Burlington Municipal Code Title 14, Surface Water Management, brings the Burlington Municipal Code into full compliance with all applicable state and federal regulations.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BURLINGTON DO ORDAIN AS FOLLOWS:

Section 1. The title of Burlington Municipal Code Chapter 15.15 is hereby amended to read as follows:

**Chapter 15.15**

**INTERIM REGULATIONS FOR CRITICAL AREAS**

**Sections:**

15.15.020	Application, purpose.
15.15.030	Definitions
15.15.040	Administration.
15.15.050	Application of standards.
15.15.060	General requirements.
15.15.070	Application submittal requirements.
15.15.080	Development in floodplains--General.
15.15.100	Development in special flood risk zone.
15.15.105	Development in the floodway.
15.15.110	Appeals.
15.15.120	Compliance with <u>regulations</u> <del>interim controls</del> .
15.15.130	Construction.
15.15.140	Severability.
15.15.150	State Environmental Policy Act.
15.15.160	Liability disclaimer.

Section 2. Burlington Municipal Code Section 15.15.020 is hereby amended to read as follows:

- 15.15.020                      **Application, purpose.**  
A.      This chapter shall apply to development and platting located in the city limits of Burlington.

B. The purpose of these regulations is to:

1. Protect human life, property, and the public health and safety of the citizens of Burlington;
2. Minimize the expenditure of public money;
3. Maintain the city's flood insurance eligibility while avoiding regulations which are unnecessarily restrictive or difficult to administer.
4. Ensure that wetland functions and values are protected to provide public benefits.

C. The following shall constitute critical areas:

1. Wetlands and riparian corridors, including Gages Slough;
2. Areas with a critical recharging effect on aquifers used for potable water;
23. Fish and Wildlife habitat conservation areas;
34. Frequently flooded areas; and
45. Geologically hazardous areas.

D. Critical areas defined and identified in this chapter shall be mapped whenever possible. These maps shall be advisory and used by the director to provide guidance in determining applicability of the standards to a property. Sites which include critical areas which are not mapped shall be subject to the provisions of this chapter. The Aerial Topographic Map of the City of Burlington, December 13, 1984 and subsequent updates, along with wetland delineation maps in the City of Burlington land use files, is are the advisory maps.

Section 3. Burlington Municipal Code Section 15.15.030 is hereby amended to read as follows:

**15.15.030 Definitions.**

"**Best management practices (BMPs)**" refer to physical, structural, and/or managerial practices, that when used singly or in combination, prevent or reduce water pollution. Source control BMPs include those which keep the pollutant from ever coming in contact with stormwater, and stormwater treatment BMPs include those which consist of various methods of treating stormwater. See also Burlington Municipal Code, Title 14, Surface Water Management.

"**Critical**" areas include the following areas and ecosystems:

1. Wetlands;
2. Areas with a critical recharging effect on aquifers used for potable water;
3. Fish and wildlife habitat conservation areas;
4. Frequently flooded areas; and
5. Geologically hazardous areas.

"**Development**" means any manmade change to the land or improvements occurring after the effective date of the ordinance codified in this chapter including structures, filling, grading, paving or excavation, and excluding the removal of vegetation. Where a project is dividable into parts, the entire scope of such changes or improvements constituting an integral, functional project should be considered the development for purposes of determining whether such development is allowed or requires a permit.

"**FEMA**" means the Federal Emergency Management Agency and its predecessor and successor agencies.

"**Flood fringe**" means those portions of the floodplain other than floodways and special flood risk zones.

"**Floodplain**" or "**frequently flooded areas**" are lands subject to a one percent or greater chance of flooding in any given year, which means all lands that would be covered by the one-hundred-year flood (A zones), together with all B zones, as established by FEMA in the "Flood Insurance Study, City of Burlington," dated January 3, 1985, with accompanying flood insurance rate map. That document is on file at Burlington City Hall, 900 East Fairhaven Avenue.

"**Floodway**" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the one-hundred-year flood without cumulatively increasing the water surface elevation more than one foot. Floodways in Burlington consist of all areas riverward of the riverward toe of dikes and levees along the Skagit River.

"**Geologically hazardous areas**" are areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to siting commercial, residential, or industrial development consistent with public health or safety concerns.

"**Habitable floor**" means any floor usable for living purposes including working, eating, sleeping and recreation, and excluding floors used only for storage.

**"Habitats of local importance"** include a seasonal range or habitat element with which a given species has a primary association, and which, if altered, may reduce over the long-term. These might include areas of high relative density or species richness, breeding habitat, winter range, and movement corridors. These might also include habitats that are of limited availability or high vulnerability to alteration, such as cliffs, talus, and wetlands.

**"Mean sea level"** means the average height of the sea for all stages of tide, also equals National Geodetic Vertical Datum.

**"Mobile home"** means any structure designed or used as a permanent residence, built on a permanent chassis, and transportable to site of placement in one or more sections.

**"Mobile home park"** means a parcel of land in one ownership containing two or more mobile homes, sited for habitation.

**"One-hundred-year flood"** means that flood having a one percent chance of being equaled or exceeded in any given year, as established by FEMA.

**"Public facilities"** include streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, parks and recreation facilities, and schools.

**"Public services"** include fire protection and suppression, law enforcement, public health, education, recreation, environmental protection, and other governmental services.

**"Residential health care facilities"** means facilities caring for elderly or infirm persons wherein clients are partly or entirely residents or detainees thereof. Includes hospitals, convalescent homes and homes for the elderly where some supervision or health care is provided.

**"Seismic hazard areas"** are areas subject to severe risk of damage as a result of earthquake induced ground shaking, slope failure, settlement, or soil liquefaction. The City of Burlington is located in Seismic Zone 3 and construction is required to comply with the Uniform Building Code seismic standards.

**"Special flood risk zone"** means a zone of high flood risk consisting of those areas of the floodplain described as follows:

1. Those areas in Gages Slough having a ground elevation which is three feet or more below the one-hundred year floodplain elevation and having alignment with other such areas along Gages Slough, to allow passage of flood waters;
2. Lying within three hundred feet of the landward toe of dikes and levees along the Skagit River, excluding floodway.

**"Species of local importance"** are those species that are of local concern due to their population status or their sensitivity to habitat manipulation or that are game species.

**"Steep slope areas"** are areas with slopes greater than 15%.

**"Structure"** means a walled and roofed building or mobile home that is principally above ground.

**"Substantial improvement"** means any repair, reconstruction, or improvement to a structure, the cost of which equals or exceeds fifty percent of the market value of the structure either:

1. Before the improvement is started; or
2. If the structure has been damaged and is being restored, before the damage occurred.

This term does not, however, include either:

1. Any part for improvement of a structure to comply with existing state or local health, sanitary, or safety codes which are solely necessary to assure safe living conditions; or
2. Any alteration of a structure listed in the National or State Register of Historic Places.

**"Urban growth"** refers to growth that makes intensive use of land for the location of buildings, structures, and impermeable surfaces to such a degree as to be incompatible with the primary use of such land for the production of food, other agricultural produce, or fiber, or the extraction of mineral resources. When allowed to spread over wide areas, urban growth typically requires urban governmental services.

"Characterized by urban growth" refers to land having urban growth located on it, or to land located in relationship to an area with urban growth on it as to be appropriate for urban growth.

"Wetland" or "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 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, wastewater treatment facilities, farm ponds, and landscape amenities. However, wetlands may include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands, if permitted by the ~~county~~ or city.

Section 4. Burlington Municipal Code Section 15.15.040 is hereby amended to read as follows:

**15.15.040 Administration.**

- A. The planning director in consultation with the city engineer and the building official, shall be responsible for the administration of this chapter, including:
1. Review applications for development in the city limits to verify compliance with this chapter;
  2. Reviewing applications for development in the city limits to assure that all necessary permits have been obtained from those federal, state or local government agencies from which prior approval is required;
  3. Recording and maintaining records of:
    - a. As-built elevation above mean sea level of the lowest habitable floor including basement of all new and substantially improved structures requiring a flood plain approval or variance and whether same structure contains a basement,
    - b. Certification by registered professional engineer or architect as required by this chapter,
    - c. Floodplain approvals, variances and other actions pursuant to the administration of this chapter;
  4. Notification to adjacent communities and the Department of Ecology prior to any alteration or relocation of a watercourse with copy to FEMA, and maintenance within the altered or relocated portion of said watercourse so that flood-carrying capacity is not diminished;
  5. When base flood elevation data has not been provided, Obtaining, reviewing, and reasonably utilizing any base flood elevation and floodway new or refined one-hundred-year flood elevation data that should become available from a federal, state or other source in order to administer standards and floodways.
- B. This chapter shall be administered in accordance with RCW Chapter 86.16 and WAC Chapter 508-60. This chapter shall be revised as necessary to conform with any changes in state rules pertaining to flood control zones which may be adopted by the State Department of Ecology subsequent to the effective date of delegation of the state's permit program to the city.

Section 5. Burlington Municipal Code Section 15.15.050 is hereby amended to read as follows:

**15.15.050 Application of standards.**

The standards of this chapter shall apply to all public and private proposals for new structures, proposed additions to structures, short subdivisions and subdivisions, and grading and drainage activity located on either public or private property. Projects may be exempted from the requirements of Sections 15.14.060 and 15.14.080 when the following situations and/or conditions apply:

- A. When the director determines that there is an emergency that threatens the public health, safety and welfare.
- B. Remodeling of structures in existence on the effective date of this chapter. When these structures are damaged by an act of nature, they may be reconstructed or replaced within one (1) year of the act of nature provided that the new construction or related activity does not further intrude into the critical area, provided that the floodplain standards are met.



- E. When development is proposed on slopes forty percent (40%) or greater, the director may restrict development coverage and construction activity areas to the most level, environmentally suitable and naturally stable portion of the site. Grading activities shall be strictly limited to areas as determined by the director.
- F. When development is proposed on sites with wetlands, and/or riparian corridors, the director may restrict development coverage and construction activity areas to the most environmentally suitable portion of the site. Grading activities shall be strictly limited to areas as determined by the director.
- G. All drainage associated with the development shall be connected to approved drainage control systems with approved discharge points in compliance with standards set by the city engineer, as specified in Title 14 of the Burlington Municipal Code. ~~The on-site drainage system shall be designed for a 25-year, twenty-four hour storm, unless otherwise directed by the city engineer.~~
- H. When calculating detention requirements, all disturbed area on the site shall be calculated as development coverage, including revegetated areas.
- I. A development proposal's design shall account for a one in 100 year seismic and flood event, unless a design for a greater event is required by other applicable codes. The Uniform Building Code's construction standards for seismic design shall constitute compliance with this section.
- J. All grading in critical areas shall be stabilized by October 31st unless demonstrated to the satisfaction of the director based on approval technical analysis that no environmental harm or safety issues would result from grading between November 1st and March 31st.
- K. Construction activity shall adhere to a prepared schedule to be approved by the director prior to issuance of a building permit. This schedule shall include, but not be limited to a schedule for compliance with project conditions, limits of construction and work activities, equipment to be used, start and duration of each phase, and work sequencing.
- L. The director may require additional construction practices and methods and requirements, including, but not limited to best management practices and limitations on construction equipment permitted on the site, to protect critical areas on-site, on adjacent sites, and within the drainage basin.
- M. Dumping or filling is prohibited in wetlands and special flood risk areas. Dumping includes deposit of yard waste, trash, litter, refuse, dirt, concret, asphalt, rocks or similar materials, but shall not include work authorized by approved plans and permits.

Section 7. Burlington Municipal Code Section 15.15.070 is hereby amended to read as follows:

**15.15.070 Application submittal requirements.**

In addition to the application submittal requirements specified in other codes, all development proposals subject to this chapter shall include the following additional information:

- A. **Surveyed Site Plan.** A surveyed site plan shall be prepared by a state of Washington licensed surveyor and shall include the following, when required by the director:
  1. Existing topography at 2-foot contour intervals on-site within twenty-five (25) feet of the site's abutting boundaries, and within the full width of abutting public and private rights-of-way and easements.
  2. Terrain and drainage flow characteristics within the site, within twenty-five (25) feet of the site's abutting boundaries, and within the full width of abutting public and private rights-of way and easements.
  3. Proposed location and boundaries of all required undisturbed fenced areas and buffers on-site and on adjacent lands.
  4. Location of all vegetation, including location and description of all trees and shrubs over 6" in diameter measured five feet above the base of the trunk, and noting their species.
  5. Location and boundaries of all existing and proposed site improvements on the site and within 25 feet of the site's property boundaries, and the full width of abutting public and private rights-of-way and easements. This shall include the limits of development coverage, impervious surfaces and construction activity areas (noting total square footage and percentage of site occupied).
  6. Location of all grading activities in progress or proposed, and all drainage control facilities or systems in existence in progress or proposed within 25 feet of the site's

property boundaries, and the full width of abutting public and private rights-of-way and easements.

7. Location of all existing and proposed utilities (water, sewer, gas, electric, phone, cable, etc.), both above and below ground, on-site, on adjacent lands within 25 feet of the site's property lines, and in the full width of abutting public rights-of-way, and proposed methods and locations for the proposed development to hookup to these services.
  8. Such other additional site plan information as necessary to complete review of a project or waive specific submittal requirements when not necessary for project review.
- B. **Technical Reports.** Technical reports shall be prepared as required by the director detailing geological, hydrological, drainage, and other site conditions, to comply with the development standards in Section 15.15.065 and pursuant to Burlington Municipal Code Title 14 Surface Water Management. The reports shall be used to condition development to prevent potential harm and to protect the critical nature of the site, adjacent properties, and the drainage basin.

Section 8. Burlington Municipal Code Section 15.15.080 is hereby amended to read as follows:

**15.15.080 Development in floodplains—General.**

The following provisions shall apply to all lands within the floodplain:

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
2. All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of the over the-top or frame ties to ground anchors (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques).
3. Construction Materials and Methods - All development requiring a flood plain permit shall be constructed utilizing materials and methods which minimize flood damage, which methods shall include anchoring adequately to prevent floatation, collapse, or lateral movement.
4. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
5. Utilities - New and replacement water and sewer systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from sewage systems into flood waters.

On-site sewage disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

6. Subdivisions - Subdivisions shall be designed to minimize flood damage, including:
  - a. Public utilities and facilities which are resistant to flood damage.
  - b. A drainage system designed to minimize flood damage.
  - c. 100 year flood elevation data provided on all subdivisions.
7. Elevation or Floodproofing of Structures - New and substantially improved residential structures shall have the lowest floor including basement elevated to at least one foot above the 100 year flood elevation.

New and substantially improved nonresidential structures excluding structures listed on the National or State Register of Historic Places, shall either be elevated to at least one foot above the 100 year flood elevation, or together with attendant utility and sanitary facilities, shall:

- a. Be dry floodproofed so that the structure is water tight with walls substantially impermeable to the passage of water to a height of one foot above the 100 year flood elevation;
- b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

- c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in Section 15.15.040 (3).
- d. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in Section 15.15.080 (7.f).
- e. Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g. a building constructed to the base flood level will be rated as one foot below that level).
- f. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
  - i. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
  - ii. The bottom of all openings shall be no higher than one foot above grade.
  - iii. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

8. Manufactured Homes - All manufactured homes to be placed or substantially improved with Zones A1-30, AH, and AE shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of subsection 15.15.080 (2).

9. Prohibition Against Encroachment - The cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the 100 year flood more than one foot at any point.

~~A. Construction Materials and Methods. All development requiring a floodplain approval shall be constructed utilizing materials and methods which minimize flood damage, which method shall include anchoring adequately to prevent flotation, collapse or lateral movement.~~

~~B. Utilities. New and replacement water and sewer systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from sewage systems into flood waters.~~

~~On-site sewage disposal systems shall be located to avoid impairment to them or contamination from them during flooding.~~

~~C. Subdivisions. Subdivisions shall be designed to minimize flood damage, including:~~

- ~~1. Public utilities and facilities which are resistant to flood damage;~~
- ~~2. A drainage system designed to minimize flood damage;~~
- ~~3. One hundred-year flood elevation data provided on all subdivisions.~~

~~D. Elevation or Floodproofing of Structures.~~

- ~~1. New and substantially improved residential structures shall have the lowest flood including basement elevated to at least one foot above the one hundred-year flood elevation.~~
- ~~2. New and substantially improved non-residential structures excluding structures listed on the National or State Register of Historic Places, shall either be elevated to at least~~



~~one foot above the one hundred year flood elevation, or together with attendant utility and sanitary facilities, shall:~~

- ~~a. Be dry floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water to a height of one foot above the one hundred year flood elevation;~~
- ~~b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and~~
- ~~c. Be certified as such by a registered professional engineer or architect.~~

~~E. Mobile Homes:~~

- ~~1. Mobile homes and additions therein, in addition to meeting other requirements stated herein, shall have:~~
  - ~~a. Over the top tie downs at each end, plus one additional intermediate tie down if the mobile home is constructed in compliance with the June 1976 HUD mobile home construction and safety standards as verified by the data plate attached to the mobile home;~~
  - ~~b. Frame ties at each corner plus four additional, intermediate ties per side if the mobile home is less than fifty feet long, five additional intermediate ties per side if more than fifty feet long; and~~
  - ~~c. Force carrying capability of four thousand eight hundred pounds in all components of anchoring system or ability to withstand wind force of ninety miles per hour.~~
- ~~2. For mobile home parks, expansion to existing mobile home parks, substantial improvements to the streets, utility pads of existing mobile home parks, and mobile homes not placed in a mobile home park, the following shall be required:~~
  - ~~a. Stand or lots elevated on compacted fill or pilings of adequate stability so that the lowest floor of the mobile home is at least one foot above the one hundred year flood level. Said pilings, if elevation is more than six feet above ground level, shall be reinforced; and~~
  - ~~b. Adequate surface drainage and access for a hauler.~~

Section 9. Burlington Municipal Code Section 15.15.100 is hereby amended to read as follows:

**15.15.100 Development in special flood risk zone.**

- A. Development other than the following is prohibited in the special flood risk zone, provided that nothing in this section shall be construed as authorizing construction or fill in wetlands:
- 1. Minor structures and additions for which a building permit is not required and which create no new residences;
  - 2. Minor fills and excavations of less than twelve cubic yards or which will not raise the level of land above that of the surrounding area;
  - 3. Normal maintenance, resurfacing and rebuilding at comparable grade of bridges, streets and access ways;
  - 4. Underground improvements;
  - 5. Maintenance, repair, alteration and like replacement of existing improvements;
  - 6. Other minor development which causes no significant impoundment or displacement of floodwaters, such as open fences, signs and small unenclosed structures;
  - 7. Developments wherein any floodwater blockage effect is at least equally balanced by excavation or removal of structures elsewhere in the special flood risk zone such that, the overall capacity to convey floodwaters is not reduced. Such excavations or structures removed shall not then be eligible for replacement under subdivision 5 of this subsection. Documentation of development in accordance with this subsection shall be retained by the city to demonstrate no net floodwater blockage increase;

8. Elevated structures which allow floodwaters to flow underneath and which meet the following criteria:
  - a. All structures shall be elevated so that the lowest supporting member is located no lower than one foot above the one-hundred-year flood elevation, with all space below the lowest supporting member open so as not to impede the flow of water, except for breakaway walls as provided below.
  - b. Breakaway walls are allowed below the base flood elevation, provided they are not a part of the structural support of the building and are designed so as to break away in event of flood without damage to the structural integrity of the building on which they are to be used. If breakaway walls are to be utilized, such enclosed space shall not be used for human habitation.
  - c. All structures shall be securely anchored on piling, columns, or foundation walls oriented to the axis of the flow path. Said support elements shall be certified by a registered professional engineer or architect as capable of withstanding all applied loads of the one-hundred-year flood flow.
  - d. There shall be no fill used for structural support.
- B. Regardless of method of construction, operation, development, substantial improvement, or expansion of residential health care facilities are prohibited in the special flood risk zone.
- C. Developments for which a floodplain approval is required are prohibited between the riverward toe of dikes and levees along the Skagit River and a line one hundred feet landward of the landward toes of said dikes and levees, except that this prohibition shall not apply to improvements to the dikes and levees themselves or improvements designed to aid in floodfighting.

Section 10. Burlington Municipal Code Section 15.15.105 is hereby amended to read as follows:

**15.15.105 Development in the floodway.**

Development for which a floodplain approval is required is prohibited in the floodway, other than utility outfall structures authorized by the Corps of Engineers.

Section 11. Burlington Municipal Code Section 15.15.110 is hereby amended to read as follows:

**15.15.110 Appeals.**

- A. Applicability of any specific regulation on development to a specific proposal may be appealed to the board of adjustment. Such appeals may be granted by the board of adjustment following a public hearing, provided the following findings are made in writing:
  1. Good and sufficient cause exists to grant the appeal;
  2. Failure to grant the appeal would result in exceptional hardship;
  3. Granting the appeal will not result in increased flood heights, destruction of a critical area, threat to public safety or extraordinary public expense;
  4. The appeal request is the minimum necessary to afford relief.
- B. Application shall be made to the planning department on forms provided by same. Application fee shall be the same as for a Zoning Variance. ~~There shall be an application fee of fifty dollars.~~ Notice of the public hearing shall be mailed to property owners within 300 feet of the site and published once in the city's legal newspaper.
- C. Any applicant to whom a flood variance is granted shall be given written notice that said variance may result in increased flood insurance premium rates and increased risks to life and property.

Section 12. Burlington Municipal Code Section 15.15.120 is hereby amended to read as follows:

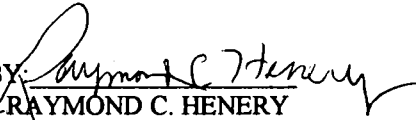
**15.15.120 Compliance with critical area regulations ~~interim controls.~~**

No permit for a development proposal described in Section 15.15.050 shall be issued unless it also complies with the ~~interim~~ regulations of this chapter.

Section 13. This ordinance shall be in full force and effect five (5) days after its passage, approval and publication as provided by law.

INTRODUCED AND PASSED and approved at a regular meeting of the City Council this 10th day of November, 1994.

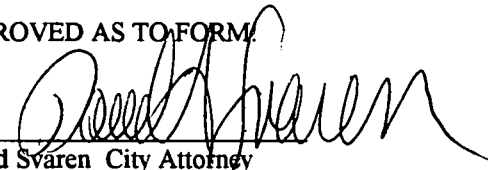
THE CITY OF BURLINGTON

BY:   
RAYMOND C. HENERY  
Mayor

ATTEST:

  
Richard Patrick City Clerk/Finance Director

APPROVED AS TO FORM:

  
David Svaren City Attorney

FILED WITH CITY CLERK:	11/04/94
PASSED BY THE CITY COUNCIL:	11/10/94
SIGNED BY THE MAYOR:	11/10/94
PUBLISHED:	11/16/94
EFFECTIVE DATE:	11/21/94

**STAFF REPORT:**

The following sections constitute the balance of the chapter. All sections are amended except these.

**15.15.060 General requirements.**

All proposals specified in Section 15.15.050, and located in critical areas shall meet the following general requirements:

- A. Site. Complete stabilization of all portions of a site which are disturbed or impacted by the proposed development, including all development coverage and construction activity areas, shall be required. Complete stabilization of all portions of a site refers to the process and actions necessary to ensure that existing and proposed site improvements are stabilized, and that all on-site areas and adjacent properties which are disturbed or impacted are stabilized. The proposed development shall be limited and controlled to avoid adverse impacts and potential harm and ensure safe, stable and compatible development appropriate to site conditions. Other reasonable and appropriate solutions to solve site stability problems may be required by the director.
  
- B. Adjacent Site, Surrounding Area, and Drainage Basin. The proposed development shall ensure safe, stable and compatible development which avoids adverse environmental impacts and potential harm to adjacent sites, the surrounding neighborhood, and the drainage basin. Detailed analysis of impacts of the development upon wetlands, riparian corridors, native vegetation and wildlife habitats, water quality, natural water temperature, slope and soil conditions, and surface water drainage may be required at the request of the director when site and area conditions indicate the need for this analysis. Supplemental technical reports may be required by the director to specify measures to preserve, protect, and maintain adjacent sites and the drainage basin and ensure safe, stable and compatible development.

**15.15.130 Construction.**

In any case where the provisions of this chapter conflict with the provisions of the underlying zoning, the provisions of this chapter shall apply.

**15.15.140 Severability.**

The provisions of this chapter are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this chapter, or the invalidity of the application thereof to any person, owner, or circumstance shall not affect the validity of the remainder of this chapter, or the validity of its application to other persons, owners or circumstances.

**15.15.150 State Environmental Policy Act.**

This chapter establishes minimum standards which are to be applied to specific land use and platting actions in order to prevent further degradation of critical areas in the city, and is not intended to limit the application of the State Environmental Policy Act (SEPA). Projects subject to SEPA shall be reviewed and may also be conditioned or denied.

**15.15.160 Liability disclaimer.**

Since floods more severe than the one-hundred-year flood occur on rare occasions, reliance on this chapter will not altogether guarantee freedom from flood damage, nor shall this chapter create liability on the part of the city for such damage. It is further noted that other data regarding one-hundred-year floodplain elevations may exist which indicate a more severe threat than the data established by FEMA. Information on these other data sources shall be kept and made available at Burlington City Hall.

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