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**ORDINANCE NO. 865**

AN ORDINANCE OF THE CITY OF CARNATION, WASHINGTON, AMENDING CHAPTER 15.88 CMC CRITICAL AREAS; UPDATING, REVISING AND CLARIFYING THE CITY'S STANDARDS FOR CLASSIFYING AND REGULATING WETLANDS; SETTING FORTH LEGISLATIVE FINDINGS; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

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WHEREAS, in accordance with Chapter 36.70A RCW, the City has enacted regulations governing critical areas, including wetlands, and has codified the same at Chapter 15.88 CMC; and

WHEREAS, the City desires to amend its critical areas regulations in order to update and clarify the City's standards for classifying and regulating wetlands in accordance with current best available science; and

WHEREAS, said amendments are modeled upon standards endorsed by the Washington Department of Ecology and reflect the best available science with respect to wetlands classification and regulation; NOW, THEREFORE,

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

Section 1. Findings. The City Council hereby adopts the above recitals as findings in support of the regulations set forth in this ordinance. The City Council further adopts by reference the findings of the Planning Board dated June 4, 2015, together with the following:

A. The City is authorized by State law, including but not limited to Chapter 35A.11 RCW, Chapter 35A.63 RCW and Chapter 36.70A RCW to enact local zoning regulations governing the development and use of real property. The City is specifically authorized and directed by RCW 36.70A.060 and RCW 36.70A.170 to adopt local regulations providing for the identification and protection of critical areas.

B. The Planning Board conducted a public hearing on the substance of this ordinance on May 26, 2015, and recommended adoption by the City Council. The City Council held a public hearing on this ordinance on August 4, 2015.

C. The regulations set forth in this ordinance have been processed and considered by the City in material compliance with all applicable procedural requirements, including but not limited to requirements related to public notice and comment.

D. All relevant requirements of SEPA have been satisfied with respect to this ordinance.

E. The City Council has carefully considered, and the regulations set forth in this ordinance satisfy, the review criteria codified at CMC 15.100.030(E).

F. The regulations set forth in this ordinance will advance the public health, safety and welfare.

Section 2. Amendment of CMC 15.88.300. Section 15.88.300 of the Carnation Municipal Code is hereby amended to provide in its entirety as contained in Exhibit A, attached hereto and incorporated herein by this reference as if set forth in full.

Section 3. Amendment of CMC 15.88.700. The definition of “Wetlands rating system” set forth at Section 15.88.700 of the Carnation Municipal Code is hereby provide in its entirety as follows:

**15.88.700 Definitions.**

....

"Wetlands rating system" means wetlands shall be rated according to the Washington State Wetland Rating System for Western Washington, Department of Ecology, Publication #14-06-029, or as revised.

Section 4. Copy to Commerce. Pursuant to RCW 36.70A.106, the Planning Director is hereby authorized and directed to provide a copy of this ordinance to the Washington Department of Commerce within 10 days of adoption.

Section 5. 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 6. Effective Date. This ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after publication.

APPROVED by the Carnation City Council this 4th day of August, 2015.

  
MAYOR, JIM BERGER

ATTEST/AUTHENTICATED:

  
CITY CLERK, MARY MADOLE

APPROVED AS TO FORM:  
OFFICE OF THE CITY ATTORNEY:

BY   
J. ZACHARY LELL

FILED WITH THE CITY CLERK: ..... 06/05/2015  
PASSED BY THE CITY COUNCIL: .... 08/04/2015  
PUBLISHED: ..... 08/12/2015  
EFFECTIVE DATE:..... 08/17/2015  
ORDINANCE NO. .... 865

## Exhibit A

### 15.88.300 - Wetland critical areas.

A. Purpose. The purpose of the wetland critical areas provisions is to protect existing wetlands and maintain no net loss of their functions and values.

B. Designation. Identification of wetlands and delineation of their boundaries pursuant to this chapter shall be determined by a qualified professional in accordance with the most current approved federal wetland delineation manual and applicable regional supplements. All areas within the City meeting the wetland designation criteria in that procedure are hereby designated critical areas and are subject to the provisions of this section.

C. Wetland Rating. Determination of wetland ratings will be based on the entire extent of wetlands, unrelated to property lines or ownership patterns. For the purpose of categorization, wetlands shall be designated according to the Washington State Wetland Rating System for Western Washington (Ecology Publication #104-06-0259) as revised: Wetlands shall be designated as follows:

1. Category I. Are those wetlands that represent unique or rare wetland types, are more sensitive to disturbance than most wetlands, are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime, or provide a high level of functions. Category I~~Are those wetlands are those~~ that meet any of the following criteria:

a. Wetlands that perform many functions well~~score seventy or more points (out of one hundred) in the Washington State Wetland Ratings System for Western Washington;~~

b. Wetlands of high conservation value that are identified by identified by scientists of the Washington Natural Heritage Program/DNR as high quality wetlands or wetlands that support state listed threatened or endangered plants;

c. Bogs larger than one-fourth acre in size; or

d. Mature and old growth forested wetlands larger than one acre.

2. Category II. Are those wetlands that with a moderately high level of functions~~meet any of the following criteria:~~

a. ~~Wetlands that score between fifty one and sixty nine points in the Washington State Wetland Ratings System for Western Washington; or~~

b. ~~A bog between one-fourth and one-half acre in size.~~

3. Category III. Are those wetlands that with a moderate level of functions that can often be adequately replaced with a well-planned mitigation project. These wetlands have been disturbed in some ways and are often less diverse or more isolated from other natural resources in the landscape than Category II wetlands,~~score between thirty and fifty points in the Washington State Wetland Ratings System for Western Washington.~~

4. Category IV. Are those wetlands that have the lowest levels of functions and are often heavily disturbed. These are wetlands that should be able to be replaced, or in some cases improved. However, experience has shown that replacement cannot be guaranteed in any specific case. These wetlands may provide some important functions, and should be protected to some degree. ~~score less than thirty points in the Washington State Wetland Ratings System for Western Washington.~~

5. Any wetlands created as compensation for approved wetland alteration shall be designated as the same category as the wetland it replaces and shall be considered a critical area and subject to all provision of this chapter.

€D. Buffers. The standard buffer widths (as defined below) presume the existence of a native forest community in the buffer zone adequate to protect the wetland functions and values at the time of the proposed activity. If existing vegetation composition or structure is inadequate, then the buffer width shall be increased or the buffer should be enhanced through planting to create a functional buffer. Required standard wetland buffers, based on wetland category and land use intensity, are as follows:

1.

Category I

- a. Adjacent to high intensity uses      300 feet
- b. Adjacent to moderate intensity uses    ~~250-225~~ feet
- c. Adjacent to low intensity uses        ~~200-150~~ feet

Category II

- a. Adjacent to high intensity uses      ~~200-300~~ feet
- b. Adjacent to moderate intensity uses    ~~150-225~~ feet
- c. Adjacent to low intensity uses        ~~100-150~~ feet

Category III

- a. Adjacent to high intensity uses      ~~100-150~~ feet
- b. Adjacent to moderate intensity uses    ~~75-110~~ feet
- c. Adjacent to low intensity uses        ~~50-75~~ feet

Category IV

- a. Adjacent to high intensity uses      50 feet
- b. Adjacent to ~~medium-moderate or low-intensity~~ uses ~~35-40~~ feet
- c. Adjacent to low intensity uses        25 feet

2. Any wetland created as compensation for an approved wetland alteration shall meet the standard buffer requirements for the new category of the created wetland

or the category of the impacted wetland, whichever is greater. Created wetlands shall be located in such a way that the new associated wetland buffer does not cross onto adjacent property unless that property is owned by the owner of the subject property.

Wetlands that have not been inventoried shall be assigned a rating based on the Washington State Wetland Rating System for Western Washington (Ecology Publication #0414-06-025029) or as revised and field verification, and the appropriate buffer shall apply.

DE. General Performance Standards. The requirements provided in this section supplement those identified in Section 15.88.200 General provisions. Activities and uses shall be prohibited from wetlands and wetland buffers, except as provided by this chapter.

EF. Permitted Alterations. The following activities may only be permitted in a wetland or wetland buffer if the applicant can demonstrate that the activity will not degrade the functions and values of the wetland and other critical areas. The city manager or his designee may require the preparation of a critical area report to confirm compliance with the requirements of this chapter.

1. Conservation or preservation activities that improve the function of the existing wetland.
2. Modifications to existing structures where no further alteration or increase in footprint will occur.
3. Trails. Public and private trails may be allowed within all wetland buffers when a critical areas report can demonstrate that the wetland and wetland buffer functions and values will not be degraded by trail construction or use. Trail planning, construction, and maintenance shall adhere to the following criteria:
  - a. Trail alignment shall follow a path beyond a distance from the wetland edge equal to seventy-five percent of the buffer width except as needed to access viewing platforms. Trails may be placed on existing levees or railroad grades within these limits;
  - b. Trails and associated viewing platforms shall be constructed of pervious materials, unless necessary for conformance to the Americans with Disabilities Act. The trail surface shall meet all other requirements, including water quality standards set forth in the Washington State Department of Ecology Stormwater Management Manual for Western Washington, ~~August 2004~~ 2012 or as revised;
  - c. Trail alignment shall avoid trees in excess of six inches in diameter of any tree trunk at a height of four and one-half feet above the ground on the upslope side of the tree;
  - d. Trail construction and maintenance shall follow the U.S. Forest Service Trails Management Handbook (FSH 2309.18, ~~June 1987~~ April 1993 or as revised) and Standard Specifications for Construction and Maintenance of Trails (EM-7720-~~402103~~, September 1996 ~~June 1984~~ or as revised);
  - e. Access trails to viewing platforms within the wetland may be provided. Trail access and platforms shall be aligned and constructed to minimize disturbance to

valuable functions of the wetland or its buffer and still provide enjoyment of the resource;

f. Buffer widths shall be increased, where possible, equal to the width of the trail corridor, including disturbed areas; and

g. Equestrian trails shall be located or measures provided to assure that runoff from the trail does not directly discharge to the wetland.

4. Stormwater Management Facilities. Stormwater management facilities are not allowed in Category I and II wetlands and buffers. Category I and II, III, and IV wetlands may receive runoff from sources such as roof drains and footing drains when in accordance with the local stormwater code and when such runoff is demonstrated as beneficial to wetland functions. The outer twenty-five percent of Category III and IV wetland buffers may be used for detention/retention areas where the applicant can demonstrate no practical alternative and that such use is beneficial to wetland functions. Enhanced treatment is required prior to discharge to such wetlands, and a stormwater facility maintenance plan shall be submitted.

5. Public Roads and Utilities. Footprint expansion of public roads and utilities may take place to maintain local levels of service, and to provide for and protect public safety when there is no feasible option with less impact and the width of the corridor is minimized to the maximum extent possible. Public and private utility corridors may be allowed within wetland buffers for Category II, III, and IV wetlands when no lesser impacting alternative alignment is feasible, and wetland and wetland buffer functions and values will not be degraded. Whenever possible, utilities shall be constructed in existing, improved roads, on drivable surface or shoulder, and shall be subject to compliance with road maintenance BMPs, or constructed within an existing utility corridor. Otherwise, corridor alignment, construction, restoration and maintenance shall adhere to the following criteria:

a. Corridor alignment shall follow a path beyond a distance from the wetland edge equal to seventy-five percent of the buffer width, except when crossing a Category IV wetland and its buffer;

b. Corridor construction and maintenance shall maintain and protect the hydrologic and hydraulic functions of the wetland and the buffer;

c. Corridors shall be fully revegetated with appropriate native vegetation upon completion of construction; and

d. Utilities requiring maintenance roads shall be prohibited in wetland buffers unless the following criteria are met:

i. There are no lesser impacting alternatives,

ii. Any required maintenance roads shall be no greater than fifteen feet wide. Roads shall closely approximate the location of the utility to minimize disturbances, and

iii. The maintenance road shall be constructed of pervious materials and designed to maintain and protect the hydrologic functions of the wetland and its buffer.

6. Category IV Wetlands. Allowable uses and activities shall include all uses and activities identified in Section 15.88.200(EE)(1) through (EE)(5) above. In addition, activities and uses that result in unavoidable and necessary impacts may be permitted in Category IV wetlands and associated buffers in accordance with an

approved critical areas report and mitigation plan, and only if the proposed activity is the only reasonable alternative that will accomplish the applicant's objective.

**FG. Critical Areas Report/Study.** In addition to the general requirements for critical areas reports provided under Section 15.88.200 General provisions, wetland critical area reports shall include the following:

1. On the site map:
  - a. The edge of the wetland as flagged and surveyed in the field using the most current approved federal wetland delineation manual and applicable regional supplements ~~Washington State Wetland Identification and Delineation Manual (1997 or as revised), as required by RCW 36.70A.157;~~
  - b. The location of any proposed wetland area(s) to be created through mitigation measures; and
  - c. The location of any proposed wetland alteration or fill.
2. In the report:
  - a. Description of the wetland by classification per the Washington State Wetland Rating System for Western Washington (Ecology Publication #014-06-0259);
  - ~~b.~~ General condition of wetland;
  - ~~bc.~~ Description of vegetation species and community types present in the wetland and surrounding buffer;
  - ~~ed.~~ Description of soil types within the wetland and the surrounding buffer using the USDA Soil Conservation Service soil classification system; and
  - ~~de.~~ Description of hydrologic regime and findings.

**GH. Wetland Mitigation Requirements.** No net loss of wetland functions and values shall occur as a result of the overall project. If a wetland alteration is permitted, then the associated impacts will be considered unavoidable. In addition to the requirements in Section 25.05.200 General provisions, the following mitigation measures to minimize and reduce wetland impacts shall be required:

1. Mitigation shall achieve equivalent or greater biological functions. Mitigation plans shall be consistent with the state Department of Ecology, U.S. Army Corps of Engineers Portland District, and U.S. EPA Region 10 "Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans (Version 1)," 2006, (Publication No. 06-06-011b) ~~Guidelines for Developing Freshwater Wetland Mitigation Plans and Proposals, 1994~~ (or as revised).
2. Preference of Mitigation Actions. Mitigation actions that require compensation shall occur in the following order of preference:
  - a. Restoring wetlands on upland sites that were formerly wetlands.
  - b. Creating wetlands on disturbed upland sites such as those with vegetation cover consisting primarily of nonnative introduced species. This should only be attempted when there is a consistent source of hydrology and it can be shown that the surface and subsurface hydrologic regime is conducive for the wetland community that is designed.
  - c. Enhancing significantly degraded wetlands only after a minimum one is to one replacement ratio has been met.
3. ~~On-site and Off-site~~ Mitigation Ratios.

a. The following standard ratios shall apply to mitigation that is in-kind, on-site, the same category, timed prior to or concurrent with alteration, and has a high probability of success. These ratios do not apply to remedial actions resulting from unauthorized alterations; greater ratios shall apply in those cases. These ratios do not apply to the use of credits from a state-certified wetland mitigation bank. When credits from a certified bank are used, replacement ratios should be consistent with the requirements of the bank's certification. The first number specifies the acreage of mitigation wetlands and the second specifies the acreage of wetlands altered.

Table X. Wetland Mitigation Ratios<sup>a</sup>

<u>Category and Type of Wetland Impacts</u>	<u>Creation</u>	<u>Rehabilitation</u>	<u>Enhancement</u>
<u>Category I – based on score for functions</u>	<u>4:1</u>	<u>8:1</u>	<u>16:1</u>
<u>Category I Mature Forested</u>	<u>6:1</u>	<u>12:1</u>	<u>24:1</u>
<u>Category I – Bog, Natural Heritage Site</u>	<u>Not considered possible<sup>b</sup></u>	<u>Case-by-case</u>	<u>Case-by-case</u>
<u>All Category II</u>	<u>3:1</u>	<u>6:1</u>	<u>12:1</u>
<u>All Category III</u>	<u>2:1</u>	<u>4:1</u>	<u>8:1</u>
<u>All Category IV</u>	<u>1.5:1</u>	<u>3:1</u>	<u>6:1</u>

<sup>a</sup> Ratios for rehabilitation and enhancement may be reduced when combined with 1:1 replacement through creation or re-establishment. See Table 1a, Wetland Mitigation in Washington State – Part I: Agency Policies and Guidance--Version 1, (Ecology Publication #06-06-011a, Olympia, WA, March 2006 or as revised).

~~Unless otherwise approved, all wetland impacts shall be compensated for through restoration or creation of replacement wetlands that are in-kind, on-site, and of similar or better wetland category. Mitigation shall be timed prior to or concurrent with the approved alteration and shall have a high probability of success. The following ratios shall apply to wetland restoration and creation for mitigation:~~

- ~~a. Category I on a six is to one area basis with equal or greater functions and values.~~
- ~~b. Category II on a three is to one area basis with equal or greater functions and values.~~
- ~~e. Category III on a two is to one area basis with equal or greater functions and values.~~
- ~~d. Category IV on a one and one-half is to one area basis with equal or greater functions and values.~~

~~(Ord. 693b § 1 (Exh. A) (part), 2006; Ord. 670 § 9 (Exh. H) (part), 2005)~~

b. Increased Ratios. The City may increase the ratios under the following circumstances:

- i. Uncertainty exists as to the probable success of the proposed restoration or creation;
- ii. A significant period of time will elapse between impact and replication of wetland functions;

- iii. Proposed mitigation will result in a lower category wetland or reduced functions relative to the wetland being impacted; or
- iv. The impact was an unauthorized impact.

c. Decreased Ratios. The City may decrease these ratios under the following circumstances:

- i. Documentation by a qualified wetlands specialist demonstrates that the proposed mitigation actions have a very high likelihood of success;
- ii. Documentation by a qualified professional demonstrates that the proposed mitigation actions will provide functions and values that are significantly greater than the wetland being impacted; or
- iii. The proposed mitigation actions are conducted in advance of the impact and have been shown to be successful.

d. Credit/Debit Method. To more fully protect functions and values, and as an alternative to the mitigation ratios found in Table X, the Administrator may allow mitigation based on the "credit/debit" method developed by the Department of Ecology in "Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Western Washington: Final Report," (Ecology Publication #10-06-011, Olympia, WA, March 2012, or as revised).

#### 4. Wetland Mitigation Banks.

a. Credits from a wetland mitigation bank may be approved for use as compensation for unavoidable impacts to wetlands when:

- i. The bank is certified under state rules;
- ii. The Administrator determines that the wetland mitigation bank provides appropriate compensation for the authorized impacts; and
- iii. The proposed use of credits is consistent with the terms and conditions of the certified bank instrument.

b. Replacement ratios for projects using bank credits shall be consistent with replacement ratios specified in the certified bank instrument.

c. Credits from a certified wetland mitigation bank may be used to compensate for impacts located within the service area specified in the certified bank instrument. In some cases, the service area of the bank may include portions of more than one adjacent drainage basin for specific wetland functions.

5. Advance Mitigation. Mitigation for projects with pre-identified impacts to wetlands may be constructed in advance of the impacts if the mitigation is implemented according to federal rules, state policy on advance mitigation, and state water quality regulations.