

Article X (Wetland Conservation Areas) Revisions Summary Table

Section	Revision	Benefit of Revision
Title	Deleted “Conservation Areas” and added “Surface Water Protection”	Eliminates confusing term “Conservation Areas”; Expands title of ordinance to include protection of surface waters; Provides clarity
15-362: Legislative Findings	Identifies benefits of wetlands and surface waters, including support of public health, safety and welfare; Identifies functional value of wetlands and surface waters; Discourages alterations and requires avoidance and minimization; Acknowledgement of impaired waters within the County; Acknowledgement of potential flooding impacts associated with improper design that impacts wetlands and surface waters	Provides clarity on Board objectives to protect wetlands; Discourages alterations; Increases awareness of water quality concerns. Elevates importance of healthy natural resources to a sustainable community
15-362: Legislative Findings (cont.)	Addition of acknowledgement of State of the Wetlands study findings: “Based on findings from the Orange County State of the Wetlands Study in 2023, wetlands in the county have experienced a decline in acreage, an indication of decline in wetland functionality, and increased fragmentation since the adoption of this article in 1987. Accordingly, the intent of this ordinance is to limit the effects of these trends in ways that ensure the county can continue to experience growth in a sustainable manner. The county shall periodically reassess wetland and surface water resources to reevaluate these trends and monitor the potential effects of growth in the county.”	Provides a scientific basis and defines the need for increased wetland protections
15-363: Purpose	Removed reference to classification system; Removed reference to protecting wetlands based on “significance and productivity”; Added county regulatory authority over wetlands and surface waters.	Provides for new function-based wetland and surface water decision making; Removes subjective and/or ambiguous terms; Clarifies and strengthens county authority over wetlands and surface waters.

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15-364: Definitions	Deleted definitions that are no longer needed based on concepts removed from code, including “Guild,” “Habitat Suitability Index,” “Habitat Unit,” “Trophic Level,” and “Viability.”	Provides clarity and consistency.
15-364: Definitions (cont.)	Added definitions to clarify important terms used in the ordinance, including “Alteration,” “Avoidance,” “Binding determination of exemption,” “Conservation Area Determination,” “Conservation Area Impact Permit,” “Cumulative Impact,” “Development,” “Invasive Species,” “Listed Species,” “Minimization,” “Natural Resource Impact Permit,” “Practicable,” “Public Benefit,” “Reasonable alternative,” “Secondary Impact,” “Special Protection Area(s),” “Sufficient in-County Mitigation,” “Surface Waters,” “Upland Buffer,” “Urban Infill,” “Vulnerable Habitat,” “Wetland,” “Wetland determination,” “Wetland fragmentation,” and “Wetland or surface water function.”	Provides clarity for staff and applicants
15-364: Definitions (cont.)	The definitions for “Class I, Class II, and Class III conservation areas” were reformatted from bulletized to paragraph format.	Provides clarity
15-364: Definitions (cont.)	The definition for “Maintenance” was modified to include surface waters and buffers; and the purpose modified to include protection of wetland function.	Provides clarity and increased protection
15-364: Definitions (cont.)	The previous definition for “Mitigation” was deleted and a new definition was drafted to align with state and federal definitions.	Provides clarity and consistency
15-366: Remedies	Referenced Chapter 11 (Enforcement Code)	Provides clarity and consistency
15-368: Enforcement official;	Referenced Chapter 11; Establishes process for issuing a notice of violation.	Provides clarity on enforcement process

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15-376: Applicability; scope	Updated to clarify that a permit is required to impact surface waters or wetland and surface water functions.	Provides clarity and consistency
15-377: Potential conservation areas – Determination	Deleted redundant and outdated language.	Provides clarity and consistency. Wetlands no longer called conservation areas
15-378: Same - Identification	Deleted; Replaced with definition of wetlands in 15-364.	No longer needed
15-379: Functional characteristics of wetlands conservation areas	Deleted; Moved functional characteristics of wetlands to 15-364.	No longer needed
15-380: Exemptions - Determination	Title changed to “Exemptions; determination and application”; Added bona-fide agricultural exemption; Clarifies that an exemption may not remain valid if site alterations occur due to natural or human-induced changes.	Provides consistency with state law; Clarifies exemption qualifications
15-381: Same - Application	Deleted; Binding determination of exemption replaced by Wetland determination.	No longer needed
15-382: Conservation Area classification determination (cont.)	Title changed to “Wetland determination.”; Added clarification on circumstances when county must accept a Formal Wetland Determination by a state agency; Clarified validity of previously authorized conservation area determinations (CADs); Added reference to the Applicant’s Handbook.	Provides clarification

Section	Revision	Benefit of Revision
15-382: Conservation Area classification determination (cont.)	Added applicability; Applicants must submit a wetland determination application, except when a valid determination has already been issued; Where practicable, wetland determinations will be reviewed in conjunction with permit applications.	Provides a streamlined process for applicants and clarification on application instructions
15-382: Conservation Area classification determination (cont.)	Added application process and required documentation needed for a Wetland Determination; Added option for a limited wetland determination for small projects (e.g., sheds) that have a minimal footprint.	Provides clarity and consistency
15-382: Conservation Area classification determination (cont.)	Added 30-day application review timeframe; Deleted 10-day site visit arrangement; Added that a wetland determination is valid for 5 years; Clarified and simplified the appeal process if an applicant disagrees with the wetland determination.	Provides clarity and consistency for applicants and staff on wetland determination process; Provides consistency with section 15-38 on appeal process
15-383: Effects of development	Deleted; Replaced by section performance standards in 15-386	No longer applicable
15-384: Adjustments to prior determination of conservation area class designation	Deleted; Adjustments to prior determination of classification no longer offered.	No longer applicable
15-385: Method of measurement	Deleted; Habitat evaluation methodology preempted.	No longer applicable
15-386: Review standards	Title changed to “Natural resource impact permits; generally; review standards”; Deleted majority of the original text that was related to habitat unit evaluation.	Provides clarity; Habitat units no longer applicable

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15-386: Review standards (cont.)	Added Noticed General Permit and Standard Permit processes; Added avoidance and minimization criteria for Standard Permits; Added information that single-family home development activities will be allowed limited wetland and surface water impacts to make a reasonable use of the land; Added general reasonable site plan criteria for single-family homes; Clarified when a wetland determination must be provided prior to the issuance of a permit; Clarified that lot splits must not promote wetland impacts; Added requirement to avoid impacts to wildlife corridors and that wildlife crossings may be required.	Provides clarification; Provides background information for new tiered permitting system; Provides clarity and consistency of review for single-family homes
15-387: Reserved	Title changed to: “Noticed General Permit; review standards;” Defines application requirements; Defines allowable development-related activities that qualify for a Noticed General Permit and includes specific criteria for each; Defines circumstances in which a Noticed General Permit would not be allowed (OFW located within 150 feet of construction site boundary, listed wetland-dependent species nesting on site, etc.).	Provides clarity on new process; Provides a streamlined permitting process for projects with minimal impact
15-387: Reserved (cont.)	Defines allowable beneficial activities that qualify for a Noticed General Permit (invasive plant removal, utilities with temporary impacts, etc.).	Provides clarity on new process; Provides a streamlined process for projects with minimal impact
15-388: Reserved	Title changed to “Standard Permit; review standards;” Defines Standard Permit Application Levels 1, 2, and 3; Defines application requirements for each level; Added the Standard Permitting Matrix, Standard Permitting Raw Score Matrix, Modifier Table, and specific incentive and deterrent modifier requirements.	Provides clarity and consistency for review

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15-389: Reserved	Title changed to “Required Analyses;” Provides details on new analyses required for Standard Permits, including Cumulative Impact Analysis, Secondary Impact Analysis, and Alternatives Analysis; Clarifies purpose of each analysis and what information must be provided in the application.	Provides clarity and consistency. Enhances protections and promotes data-driven decision making
15-390: Reserved	Title changed to “Conservation easement amendments;” Clarifies application documentation required if applicant is proposing to impact a Conservation Easement (CE)	Provides clarity
15-390: Reserved (cont.)	Clarifies that EPD will review proposed CE amendments against specific criteria to determine the extent to which the CE modification maintains or affects protections of the environment and the community.	Provides increased protection for CEs and review criteria for proposed amendments
15-391: Reserved	Title changed to “Upland buffers;” Requires a minimum 100 foot buffer except for projects where the proposed activity is located within parcels 5 acres or less or comprised of greater than 90% wetlands or the activity is an urban infill project or the system type is an upland-cut ditch.	Codifies required upland buffer width; Provides increased wetland, surface water, and upland buffer protections
15-391: Reserved (cont.)	Clarifies that mitigation is required for direct and secondary impacts if the minimum buffer cannot be met and how that mitigation will be calculated.	Provides clarity
15-391: Reserved (cont.)	Clarifies that increased buffer widths may be required if certain modifiers are present (OFWs located within 150 feet of construction site boundary, listed wetland-dependent species nesting on site, etc.).	Provides increased protections when warranted due to special factors
15-391: Reserved (cont.)	Addition of wildlife-friendly fencing and signage specifications that may be required for upland buffers.	Provides increased wetland, surface water and buffer protections

Section	Revision	Benefit of Revision
15-392: Reserved	Title changed to “Special protection areas;” Reiterates Special Protection Areas and references their applicable articles.	Provides clarity for designated Special Protection Areas
15-393: Reserved	Title changed to “Permit modifications and extensions;” Clarifies process and requirements for permit modifications	Provides clarity and consistency
Division 3: Habitat Compensation	Entire division deleted. Habitat compensation methodology preempted	No longer applicable
Division 4: Mitigation of Adverse Development	Division title changed to “Compensatory Mitigation”	Provides clarity
Section 15-416: Alternatives	Replaced by language added to section 15-417	No longer applicable
Section 15-417: Preapplication conference	Title changed to “Applicability of requirement;” Information related to a preapplication conference was moved to section 15-388; Clarifies when mitigation must be provided and when county mitigation requirements differ from the state.	Provides clarity and consistency
Section 15-418: Proposal submittal requirements	Replaced “conservation areas” with “wetlands or surface waters”; Clarifies documentation required for mitigation proposals; Clarifies a preference for in-county mitigation; Clarifies when a new conservation easement dedicated to Orange County may be required over preserved uplands and wetlands	Provides clarity and consistency

Section	Revision	Benefit of Revision
Section 15-419: Evaluation Criteria	Section contents deleted and rewritten; Clarifies acceptable forms and methods of mitigation; Clarifies when Orange County must accept UMAM scores determined by the state or water management district	Provides clarity and consistency
Section 15-420. Reserved	Title changed to "Mitigation monitoring required;" Provides details on new monitoring, reporting, and maintenance requirements for mitigation areas; Clarifies that remedial actions are required if mitigation sites are found to be in decline	Provides clarity and consistency. Ensures wetland mitigation areas have expected long-term high functionality.