

Title 23 Critical Areas – Code Changes

Attachment 6 – PC 2/26/19

Chapter 23.10 GENERAL

Sections:

23.10.010	Finding.
23.10.020	Purpose.
23.10.030	Definitions.
23.10.040	Administration.
23.10.050	Fees.
23.10.060	Applicability.
23.10.070	Exemptions.
23.10.080	Review process.
23.10.090	Critical areas reports.
23.10.100	Previous studies.
23.10.110	Mitigation plan requirements.
23.10.120	Independent review of critical areas report.
23.10.130	Substantive requirements.
23.10.140	Variances.
23.10.150	Enforcement and inspections.
23.10.160	Record per WAC 365-195-915 and 365-195-920.

23.10.010 Finding.

The city finds that critical areas' biological and physical functions benefit the city by protecting water quality, providing fish and wildlife habitat, supporting the food chain, storing and conveying flood waters, recharging ground water, controlling erosion, and providing aesthetic values and recreation. (Ord. 1592 § 1, 2004).

23.10.020 Purpose.

The purpose of this title is to:

- A. Protect the functions and values of ecologically sensitive areas while allowing for reasonable use of private property through the application of the best available science;
- B. Implement the Growth Management Act and the natural environment goals of the comprehensive plan;
and
- C. Protect the public from injury and loss due to slope failures, erosion, seismic events, volcanic eruptions, or flooding. (Ord. 1592 § 1, 2004).

Title 23 Critical Areas – Code Changes

Attachment 6 – PC 2/26/19

23.10.030 Definitions.

“Alter” means to change a critical area or its buffer, including grading, filling, dredging, clearing, construction, compaction, excavation, and pollution.

“Anadromous” refers to fish that spawn and rear in freshwater and mature in saltwater.

“Applicant” means a person who applies for a development permit from the city.

“Aquifer” means a geological formation capable of yielding water to a well or spring.

“Best management practices” means actions known to protect soil, water quality, vegetation, and critical areas.

“Buffer” means an area contiguous to a critical area that provides an area for related ecological functions to take place and/or separates and protects critical areas from adverse impacts associated with adjacent land uses. Buffers shall not include areas that are functionally and effectively disconnected from the wetland by a road or other substantially developed surface of sufficient width and with use characteristics such that buffer functions are not provided. ~~.and required for protection of a critical area.~~

“Channel migration zone” means the lateral extent of likely movement of a stream or river during the next 100 years as evidenced by movement over the past 100 years.

“Conservation easement” means a legal agreement that the property owner enters into to restrict uses of the land in a manner that conserves natural functions.

“Critical aquifer recharge area” means an area with a critical recharging effect on aquifers used for potable water, as discussed in WAC [365-190-080\(2\)](#). Within such areas, pollutants seeping into the ground are likely to contaminate the water supply.

“Critical area” means those areas listed in PMC [23.10.060](#).

“Development” means any land use or action that alters a critical area or its buffer, including city approvals that establish patterns of use such as subdivisions, short subdivisions, rezones, and conditional use permits.

“Fish habitat” means habitat used by fish at any life stage at any time of the year.

“Floodplain” means the land area subject to inundation by a 100-year flood.

“Floodway” means the watercourse channel and adjacent land area that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water elevation more than one foot.

Title 23 Critical Areas – Code Changes

Attachment 6 – PC 2/26/19

“Functions and values” means the benefits conferred by critical areas, including water quality protection, fish and wildlife habitat, food chain support, flood storage and conveyance, ground water recharge, erosion control, and protection from hazards. “Function” means the benefit; “value” means the magnitude of the benefit.

“Hazardous substance” means a liquid, solid, or gas that exhibits any of the properties described in WAC [173-303-090](#) or [173-303-100](#).

“Historic” means existing before the area was altered by human activity.

“Impact” means to adversely affect a natural system or increase the hazard which a natural system poses to human life and property.

“Impervious” refers to a hard surface area that retards the entry of water into the soil.

“Lowest floor” excludes unfinished enclosures usable only for parking, building access, or storage.

“Monitoring” means assessing the performance of mitigation measures by collection and analysis of data on changes in natural systems.

“One-hundred-year flood” means a flood having a one percent chance of being equaled or exceeded in any given year.

“Ordinary high water mark” means that mark on the bed or bank below which inundation is so common in ordinary years that the soil and/or vegetation are distinct from that of the abutting upland.

“Person” means any person, organization, or other group.

“Primary association” means a relationship between a species and a habitat area whereby the species regularly uses or otherwise needs the habitat area to thrive.

“Rill” means a small, steep-sided channel caused by erosion.

“Riparian habitat” means stream-side areas that influence the aquatic ecosystem by providing shade, debris, or insects and that provide habitat for riparian wildlife.

“Species” means a group of animals commonly classified by the scientific community as a species or subspecies.

“Substantial improvement” means any repair, reconstruction, or improvement of a structure, the cost of which exceeds 50 percent of the structure’s market value before the improvement, or, if the structure was damaged, before the damage occurred.

Title 23 Critical Areas – Code Changes

Attachment 6 – PC 2/26/19

“Watercourse” means flowing waters of the state, perennial or intermittent, excluding artificial waterways such as ditches or canals not created by human alteration of a natural watercourse.

Wetlands: (This definition for PMC 23.10.30, Critical Areas use only.) Areas that are inundated or saturated by surface water or groundwater 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 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 include artificial wetlands created from non-wetland areas to mitigate the conversion of wetlands.

“Wetland mitigation bank” means a site where wetlands are restored, created, or enhanced to mitigate in advance authorized impacts to similar resources. (Ord. 1592 § 1, 2004).

23.10.040 Administration.

The director, as defined in PMC [16.04.010](#), shall administer and interpret this title. (Ord. 1592 § 1, 2004).

23.10.050 Fees.

The city shall, by resolution, establish fees by which the city shall recover its cost of reviewing development proposals, including the cost of engineering review, planning review, inspections, and administration. The applicant shall be responsible for all required reports, assessments, studies, and plans. (Ord. 1592 § 1, 2004).

23.10.060 Applicability.

Unless exempted in PMC [23.10.070](#), this title shall apply to all developments (see definition in PMC [23.10.030](#)) within one or more of the following critical areas or their associated buffers or building setback areas, regardless of whether the site has been previously identified as a critical area:

- A. Wetlands as designated in Chapter [23.20](#) PMC;
- B. Critical aquifer recharge areas as designated in Chapter [23.30](#) PMC;
- C. Floodplains as designated in Chapter [23.40](#) PMC;
- D. Geologically hazardous areas as designated in Chapter [23.50](#) PMC; and
- E. Fish and wildlife habitat conservation areas as designated in Chapter [23.60](#) PMC. (Ord. 1592 § 1, 2004).

Title 23 Critical Areas – Code Changes

Attachment 6 – PC 2/26/19

23.10.070 Exemptions.

The following shall be exempt from this title:

A. Emergency actions immediately necessary to prevent injury or property damage, provided the action minimizes impact to critical areas and buffers. The person undertaking the action shall notify the director(s) within one day following commencement of the emergency action. The director(s) shall determine if the action was allowable under this subsection and commence enforcement if not. Within one year of the date of the emergency, the person undertaking the action shall fully mitigate any resulting impacts to the critical area and buffers in accordance with an approved critical areas report and mitigation plan.

B. Normal operation, maintenance, or repair of existing structures, utilities, roads, levees, drainage systems, or similar improvements, including vegetation management, if the action does not alter or increase the impact to or encroach upon the critical area or buffer, and if the action accords with best management practices and maintenance, and does not impact an endangered or threatened species.

C. Passive outdoor activities such as recreation, education, and scientific research that do not degrade the critical area.

D. Forest practices in accordance with Chapter [76.09](#) RCW and WAC Title [222](#), other than forest practice conversions.

E. Structural modifications of, additions to, or replacements of existing legal structures without altering or increasing the impact to the critical area; provided, that the city's regulations regarding legal nonconforming uses are complied with.

F. The following work within improved public rights-of-way or private street easements: construction, replacement, or modification of streets, utilities, lines, mains, equipment, or appurtenances, excluding electrical substations; provided, that actions that alter a wetland or watercourse, such as culverts or bridges, or result in the transport of sediment or increased storm water, shall be subject to the following requirements wherever possible:

1. Critical area and/or buffer widths shall be increased equal to the width of the right-of-way improvement, including disturbed areas; and
2. Native vegetation shall be retained and replanted along the right-of-way improvement.

G. Minor utility projects such as placement of a utility pole, street sign, anchor, or vault, which do not significantly impact critical areas function or values, if constructed using best management practices.

Title 23 Critical Areas – Code Changes

Attachment 6 – PC 2/26/19

H. Removal with hand labor and light equipment of invasive or noxious plants as designated by the director(s), including:

1. English ivy (*Hedera helix*);
2. Himalayan blackberry (*Rubus discolor*, *R. procerus*); and
3. Evergreen blackberry (*Rubus laciniatus*).

I. Thinning or removal of trees which a qualified arborist, landscape architect, or forester has documented as posing a threat to public safety and which do not provide critical habitat such as eagle perches; provided, that removed trees and thinnings are left on-site, and for each tree removed, two replacement trees shall be planted in the same or nearly same location within one year in accordance with a plan approved by the director(s). The replacement trees shall be of species native and indigenous to the site. Deciduous trees shall be at least one inch in diameter at breast height. Evergreen trees shall be at least six feet in height measured from the top of the root ball.

J. Measures to control fire or halt the spread of disease or damaging insects consistent with the State Forest Practices Act, Chapter [76.09 RCW](#); provided, that the removed vegetation shall be replaced with the same or similar native species within one year in accordance with an approved plan.

K. Application of herbicides, pesticides, or fertilizers, if necessary; provided, that their use shall conform to Department of Fish and Wildlife management recommendations and the regulations of the Department of Agriculture and the U.S. Environmental Protection Agency.

L. Minor clearing or digging necessary for surveys, soil logs, percolation tests, and similar activities, provided critical area impacts are minimized and disturbed areas are immediately restored.

M. Navigational aids and boundary markers.

N. Proposed developments that have undergone critical areas review at a previous stage of permit review, provided the earlier permit has not expired.

O. Harvesting of wild crops without injuring their natural reproduction, tilling the soil, planting crops, applying chemicals, or altering the critical area.

P. Conservation measures of soil, water, vegetation, fish, and other wildlife that do not adversely impact ecosystems.

Q. Required environmental impact remediation.

Title 23 Critical Areas – Code Changes

Attachment 6 – PC 2/26/19

R. Existing and ongoing agricultural activities where the land has not lain idle for so long that modifications to the hydrological regime are necessary to resume operations; and

S. Development of Category III wetlands less than 250 square feet in size and Category IV wetlands less than 1,000 square feet in size, if a critical areas report demonstrates that:

1. The wetland does not provide suitable habitat for amphibians; and
2. The wetland does not possess unique characteristics that would be difficult to replicate. (Ord. 1592 § 1, 2004).

23.10.080 Review process.

The director’s general sequence for administering this title shall be per the following table, which shows questions the director shall answer, and actions he or she shall take depending on the answer.

Step 1	Is the development proposal in a critical area or its buffer? The director shall check maps, review the environmental checklist, visit the site, and require scientific determinations as necessary to make this determination.	
	Yes	No
	Go to Step 2	Go to Step 4
Step 2	Is the development proposal exempt per PMC 23.10.070 ?	
	Yes	No
	Go to Step 4	Require a critical areas report. Don’t issue determination of completeness until critical areas report is received. Reference critical areas report in any public notice.
Step 3	Does the proposal, with conditions of approval as necessary, conform to PMC 23.10.130, Substantive requirements?	
	Yes	No
	Go to Step 4	Go to Step 4
Step 4	Document the review process in a manner appropriate to, and filed with, the permit(s) required for the proposed development, and act on the permit application in accordance with the findings.	

(Ord. 1592 § 1, 2004).

Title 23 Critical Areas – Code Changes

Attachment 6 – PC 2/26/19

23.10.090 Critical areas reports.

Unless waived by the director(s), critical areas reports shall be prepared for nonexempt proposed developments located within critical areas or their buffers. Said critical areas reports shall:

A. Be prepared by qualified professionals as defined in WAC [365-195-905\(4\)](#). The following list shows the type of critical areas report and the related professional discipline.

1. Wetlands: wetland biologist.
2. Critical aquifer recharge areas: hydrogeologist, geologist, or engineer.
3. Floodplains: hydrologist or engineer.
4. Geologically hazardous areas: engineer or geologist.
5. Fish and wildlife habitats: biologist.

B. Incorporate best available science.

C. Cover a study area large enough to understand relationships with important off-site factors and identify any off-site critical area so near that its required buffer covers part of the project site.

D. Contain the following unless waived by the director:

1. Name and contact information of the applicant, description of the proposed development, and identification of required permits;
2. Site plan drawn to scale showing critical areas, buffers, existing structures, and proposed structures, clearing, grading, and storm water management;
3. Characterization of critical areas and buffers;
4. Assessment of the probable impact to critical areas;
5. Analysis of site development alternatives;
6. Description of efforts to avoid, minimize, and mitigate impacts to critical areas pursuant to PMC [23.10.130\(E\)](#), sequencing;
7. Mitigation plans as needed, in accordance with PMC [23.10.110](#);

Title 23 Critical Areas – Code Changes

Attachment 6 – PC 2/26/19

8. Evaluation of compliance with this title’s substantive requirements applicable to the proposed development;
9. Financial guarantees to ensure compliance, such as a performance bond or deposit, if necessary;
10. Additional information as required in the chapter corresponding to the type of critical area;
11. Documentation of who prepared the report and when, with fieldwork and data sheets;
12. Statement specifying the accuracy of the report and assumptions relied upon; and
13. Additional information as required by the director. (Ord. 1592 § 1, 2004).

23.10.100 Previous studies.

Critical areas reports may rely upon, without duplication of effort, valid previous studies prepared for the site, taking into account any change in the site, the proposed development, or the surrounding area. (Ord. 1592 § 1, 2004).

23.10.110 Mitigation plan requirements.

If the city allows conformance with this title’s substantive requirements to be achieved by mitigation, the critical areas report shall include a mitigation plan consisting of:

- A. An analysis of the anticipated impacts;
- B. A strategy for mitigating the impacts, including site selection factors;
- C. An analysis of the anticipated functions and values that will result from the mitigation, including an assessment of risks;
- D. A review of the best available science relative to the proposed mitigation;
- E. Specific standards for evaluating whether the mitigation is successful;
- F. Detailed construction plans, including:

1. Construction timing;
2. Grading and excavation details;

Title 23 Critical Areas – Code Changes

Attachment 6 – PC 2/26/19

3. Erosion and sediment control features;
4. Planting plan; and
5. Measures to protect plants until established;

G. A program for monitoring the mitigation over at least five years; and

H. Potential corrective measures should the monitoring indicate standards are not being met. (Ord. 1592 § 1, 2004).

23.10.120 Independent review of critical areas report.

The director(s) may have the critical areas report evaluated by an independent qualified professional and/or request consultation from an agency with expertise. If the report and evaluations disagree, the director(s) shall determine which to utilize. (Ord. 1592 § 1, 2004).

23.10.130 Substantive requirements.

A. All treatment of critical areas shall be in accordance with best available science as defined in WAC [365-195-900](#) through [365-195-925](#), which are hereby adopted by reference, along with the Washington State Department of Community Development's Citations of Recommended Sources of Best Available Science for Designating and Protecting Critical Areas.

B. Critical areas and their buffers shall be left undisturbed, except the following may be permitted if best management practices are used:

1. Authorized functional restoration;
2. In buffers: utility poles and utility lines which do not require excavation;
3. Permeable-surfaced walkways, trails, and minimal wildlife viewing structures;
4. Developments for which mitigation is allowed per subsection (E) of this section; and
5. Other uses specifically authorized by this critical areas code.

C. No development shall occur which results in a net loss of the functions or values of any critical area except reasonable use variances per PMC [23.10.140](#). The pre- and postdevelopment functional comparison shall be on a per-function basis unless otherwise authorized by this title.

D. No development shall occur in critical areas and their buffers which results in an unreasonable hazard to the public health and safety.

Title 23 Critical Areas – Code Changes

Attachment 6 – PC 2/26/19

E. These substantive requirements shall be met via one or more of the following methods, listed in preferential sequence (commonly known as “sequencing”). The methods used shall be those which are highest on the list yet consistent with the objectives of the proposed development.

1. Avoid the impact altogether by not taking the proposed action;
2. Minimize the impact by limiting the action’s magnitude or changing the project design, location, or timing;
3. Mitigate (compensate for) the impact on natural system functions and values by enhancing or replacing other natural systems and ensuring that the mitigation serves its purpose over time. Mitigation should occur near the site of impact and should replace values on a function-by-function basis unless it is more cost-effective to mitigate lost functions at a larger scale, such as at a wetland mitigation bank within the impacted wetland’s drainage basin. The city reserves the right to disallow mitigation that would be located outside the UGA.

F. As a condition of any permit approval, the city may require that:

1. The outer edge of the critical area or buffer be marked, signed, or fenced to protect the resource. Such protection may be temporary, during construction, or permanent such as to protect the resource from livestock or people. The director shall specify the design and sign message, if applicable, of such markers, signs, and fencing;
2. The applicant file a notice with the county records and elections division stating the presence of the critical area or buffer and the application of this title to the property to inform subsequent purchasers of the property;
3. The critical area and/or buffer be placed in a critical areas tract or conservation easement, the purpose of which is to set aside and protect the critical area. The critical areas tract or conservation easement shall be:

- a. Held by the city, a homeowner’s association, a land trust or similar conservation organization, or by each lot owner within the development in an undivided interest;
- b. Recorded on all documents of title of record for the affected parcels;
- c. Noted on the face of any plat or recorded drawing; and
- d. Delineated on the ground with permanent markers and/or signs in accordance with local survey standards.

Title 23 Critical Areas – Code Changes

Attachment 6 – PC 2/26/19

G. The city may allow averaging of buffer widths if a qualified professional demonstrates that:

1. Functions and values are not adversely affected;
2. The total buffer area is not reduced; and
3. At no location is the buffer width reduced more than 40 percent.

H. Unless otherwise provided, buildings and other structures shall be set back a distance of 10 feet from the edges of all critical areas and critical area buffers. The same protrusions into this setback area shall be allowed as the zoning code allows into property line setback areas.

I. Lots created through subdivisions or short plats may contain critical areas and buffers, provided they contain adequate buildable area to build upon. Subdivision and short plats shall show, on their face, any applicable critical areas limitations.

J. When any existing regulation, easement, covenant, or deed restriction conflicts with this title, that which provides more protection to the critical areas shall apply.

K. When critical areas of two or more types coincide, the more restrictive buffer and requirements shall apply.

L. The substantive requirements peculiar to the type of critical area shall also be complied with. See the following chapters in this title. (Ord. 1592 § 1, 2004).

23.10.140 Variances.

The city may grant variances from this title's standards in accordance with Chapter [16.36](#) PMC if the criteria in subsection (A) or (B) of this section are met.

A. The variance conforms with the variance criteria stated in PMC [16.36.020](#), plus the variance:

1. Conforms with the purpose of this title;
2. Does not impact anadromous fish habitat; and
3. Is justifiable in light of the best available science.

B. Reasonable use (conformance with PMC [16.36.020](#) criteria is not required).

1. The application of this critical areas code would otherwise deny all reasonable economic use of the property;

Title 23 Critical Areas – Code Changes

Attachment 6 – PC 2/26/19

2. The city does not offer to compensate the owner for the denial of reasonable economic use;
3. No other reasonable economic use of the property or development design has less impact on the critical area;
4. The proposal does not pose an unreasonable threat to the public health, safety, or welfare;
5. The proposal conforms with other applicable regulations;
6. Impacts to critical areas are mitigated; and
7. The application is sufficiently documented (for example, critical areas report, mitigation plan, permit applications, and environmental documents) to make a determination regarding these criteria. (Ord. 1592 § 1, 2004).

Reasonable use provisions shall not apply within the jurisdiction of the Shoreline Management Act. A shoreline variance is required to accomplish the purposes of this subsection. Within the jurisdiction of the Shoreline Management Act, the procedures and criteria in PMC Title 21 shall apply in addition to these provisions.

23.10.150 Enforcement and inspections.

A. In enforcing this title per Chapter [16.14](#) PMC, the director may require a restoration plan prepared by a qualified professional. Historic functions and values, soil configurations, and native vegetation shall be used as a guide for restoration. Flood and geological hazards shall be reduced to the predevelopment level.

B. Reasonable access to the development shall be provided to agents of the city for critical areas inspections, monitoring, restoration, or emergency action. (Ord. 1592 § 1, 2004).

23.10.160 Record per WAC 365-195-915 and 365-195-920.

A. This title is designed to implement the city's comprehensive plan's natural environment element policies regarding protection functions and values of critical areas.

B. This title is based on best available science. See PMC [23.10.130\(A\)](#). This title largely derives from the Example Code Provisions for Designating and Protecting Critical Areas prepared by the Washington Department of Communities, Trade, and Economic Development, which in turn is based on documented best available science. This title is also based on Guidance Document for the Establishment of Critical Aquifer Recharge Areas Ordinances, published by the Washington Department of Ecology.

Title 23 Critical Areas – Code Changes

Attachment 6 – PC 2/26/19

C. The city took special consideration to preserve or enhance anadromous fisheries, as evidenced in PMC [23.10.140\(A\)](#), [23.60.030\(E\)](#), and [23.60.050\(H\)](#).

D. In addition to scientific information, economic, political, and legal factors were also considered in determining certain substantive requirements. Where this critical areas code's buffer widths differ from those in the Example Code Provisions for Designating and Protecting Critical Areas, the purpose is to develop the economy and protect property rights. The city identifies no substantial risk to critical areas in enacting these alternative substantive requirements. (Ord. 1592 § 1, 2004).

Title 23 Critical Areas – Code Changes

Attachment 6 – PC 2/26/19

Chapter 23.20 WETLANDS

Sections:

23.20.010	Designation.
23.20.020	Rating.
23.20.030	Contents of critical areas reports.
23.20.040	Substantive requirements.
23.20.050	Mitigation.

23.20.010 Designation.

Wetlands are those areas, designated in accordance with the ~~Washington State Wetland Identification and Delineation Manual (1997), approved federal wetland delineation manual and applicable regional supplements, per WAC 173-22-035,-~~ 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. The city has maps showing the approximate location and extent of wetlands. However, these maps are only a guide, and will be updated as critical areas become better known. The exact location of a wetland's boundary shall be determined in accordance with the above-stated manual as required by RCW [36.70A.175](#) (Ecology Publication No. 96-94, 1997). (Ord. 1592 § 1, 2004).

23.20.020 Rating.

Wetlands shall be rated Category I, II, III, or IV according to the Department of Ecology's 2004 Washington State Wetland Rating System for Western Washington (Publication No. 04-06-014). (See WAC [365-190-080](#)(1)(a).) Wetland categories shall apply to the wetland as it exists on the date the city adopts the rating system, as the wetland naturally changes thereafter, or as the wetland changes in accordance with permitted activities. Wetland rating categories shall not change due to illegal modifications. (Ord. 1592 § 1, 2004).

23.20.030 Contents of critical areas reports.

In addition to the requirements of PMC [23.10.090](#), critical areas reports for wetlands shall include:

- A. Wetland delineation map as surveyed in the field. Buffer boundaries shall be clearly and permanently marked in the field by a licensed surveyor using posts and signs approved by the city;
- B. Assessment of wetlands, including acreage, category, required buffers, evidence of past illegal alterations, soil, topography, hydrology, ecology, and functional evaluation using a recognized method;
- C. Discussion of measures to preserve wetland functions and values, including the sequencing set forth in PMC [23.10.130](#)(E);

Title 23 Critical Areas – Code Changes

Attachment 6 – PC 2/26/19

D. If mitigation is proposed, a mitigation plan including the existing and proposed status of:

1. Wetland acreage;
2. Vegetation and fauna;
3. Surface and subsurface hydrology;
5. Soils, substrate, and topography;
6. Required wetland buffers;
7. Property ownership; and

E. Proposed wetland management and monitoring. (Ord. 1592 § 1, 2004).

23.20.040 Substantive requirements.

In addition to the substantive requirements of PMC [23.10.130](#), the following requirements shall apply to wetlands; provided, that they shall not apply to existing and ongoing agricultural activities where the land has not lain idle so long that modifications to the hydrological regime are necessary to resume operations, nor to forest practice activities which are exempt from city jurisdiction.

A. The higher the wetland category (Category I is highest), the greater shall be the emphasis on higher-priority sequencing methods per PMC [23.10.130\(E\)](#).

B. Standard buffer widths

1. Outside of [Shoreline Management Act jurisdiction](#) shall be [as specified below](#):

- ~~1a.~~ Category I: 100 feet;
- ~~2b.~~ Category II: 50 feet;
- ~~3c.~~ Category III: 25 feet (exempt if smaller than 250 square feet; see PMC [23.10.070](#));
- ~~4d.~~ Category IV: 25 feet (exempt if smaller than 1,000 square feet; see PMC [23.10.070](#)).

2. [Within Shoreline Management Act jurisdiction see PMC. 23.20.045.](#)

~~C. Buffers shall be measured from the wetland boundary as surveyed in the field. If wetland enhancement is proposed, the category of the wetland after enhancement shall pertain.~~

Title 23 Critical Areas – Code Changes

Attachment 6 – PC 2/26/19

C. Buffers within Shoreline Management Act Jurisdiction shall be:

<u>Wetland Category</u>	<u>Low Wildlife Function (less than 20 points)</u>	<u>Moderate Wildlife Function (20 – 28 points) Buffer Width (feet)</u>	<u>High Wildlife Function (29 or more points)</u>
<u>Category I</u>	<u>125</u>	<u>150</u>	<u>225</u>
<u>Category II</u>	<u>100</u>	<u>150</u>	<u>225</u>
<u>Category III</u>	<u>75</u>	<u>125</u>	<u>150⁻¹</u>
<u>Category IV</u>	<u>50</u>	<u>50</u>	<u>50⁻¹</u>

1. Habitat scores over 26 points would be very rare for Category III wetlands and almost impossible for Category IV wetlands that have a total rating of 30 or less.

2.

D.C. Buffers shall be measured from the wetland boundary as surveyed in the field. If wetland enhancement is proposed, the category of the wetland after enhancement shall pertain

D.D. The above standard buffer widths presume that the adjoining upland land use is of urban density (at least four residential units per net acre or any commercial or industrial land use). The director may reduce the buffer widths if the adjoining upland land use is and will continue to be of low density, such as rural residential or passive parks.

F.E. 1. The above standard buffer widths presume that the buffer is moderately endowed with healthy native vegetation and other factors affecting its ability to protect the wetland, such as favorable topography.

2. The director may increase the required buffer width or require buffer enhancement if the buffer is poorly endowed with healthy native vegetation or is otherwise handicapped in its ability to protect the wetland.

3. The director may reduce the required buffer width if the buffer is, or after enhancement will be, well endowed with healthy native vegetation or otherwise unusually able to protect the wetland.

4. Within Shoreline Management Act jurisdiction the Director's decision must be processed according to the procedures and criteria in PMC Title 21 for a Conditional Use Permit.

F. F. The director may increase or reduce the standard buffer width if the function(s) served by the particular wetland need more or less buffer width, as indicated by a wetland functional analysis. Within Shoreline Management Act jurisdiction, the director's decision must be processed according to the procedures and criteria in PMC Title 21 for a Conditional Use Permit.

Title 23 Critical Areas – Code Changes

Attachment 6 – PC 2/26/19

G. G. Except as provided elsewhere in this critical areas code, all existing native vegetation in wetland buffers shall be retained without disturbance, mowing, or hard surfacing, nor shall any action be taken to inhibit volunteer regrowth of native vegetation. Invasive weeds shall be removed for the duration of any mitigation bond. Storm water management facilities, bioswales, and treated-water outfalls are permitted within the buffer, provided wetland functions and values are not significantly lost through fluctuations in wetland hydrology and construction integrates best management practices. Within Shoreline Management Act jurisdiction additional regulations, criteria and procedures in PMC Title 21 apply. (Ord. 1592 § 1, 2004).

23.20.045 Buffers in Shoreline Jurisdiction

- A. Buffer Requirements. The following buffer widths 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: 2014 Update* (Ecology Publication #14-06-029, or as revised and approved by Ecology). The adjacent land use intensity is assumed to be high.
1. For wetlands that score 5 points or more for habitat function, the buffers in Table 23.20.045.1 can be used if both of the following criteria are met:
 - A relatively undisturbed, vegetated corridor at least 100 feet wide is protected between the wetland and any other Priority Habitats as defined by the Washington State Department of Fish and Wildlife. The latest definitions of priority habitats and their locations are available on the WDFW web site at: <http://wdfw.wa.gov/hab/phshabs.htm>. The corridor must be protected for the entire distance between the wetland and the Priority Habitat by some type of legal protection such as a conservation easement. Presence or absence of a nearby habitat must be confirmed by a qualified biologist. If no option for providing a corridor is available, Table 23.20.045.1 may be used with the required measures in Table 23.20.045.2 alone.
 - The measures in Table 23.20.045.2 are implemented, where applicable, to minimize the impacts of the adjacent land uses.
 2. For wetlands that score 3-4 habitat points, only the measures in Table 23.20.045.2 are required for the use of Table 23.20.045.1
 3. If an applicant chooses **not** to apply the mitigation measures in Table 23.20.045.2, or is unable to provide a protected corridor where available, then Table 23.20.045.3 **must** be used.
 4. The buffer widths in Table 23.20.045.1 and 23.20.045.3 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.

Title 23 Critical Areas – Code Changes

Attachment 6 – PC 2/26/19

*Table 23.20.045.1 Wetland Buffer Requirements for Western Washington if
Table 23.20.045.2 is Implemented and Corridor Provided*

<u>Wetland Category</u>	<u>Buffer width (in feet) based on habitat score</u>			
	<u>3-4</u>	<u>5</u>	<u>6-7</u>	<u>8-9</u>
<u>Category I: Based on total score</u>	<u>75</u>	<u>105</u>	<u>165</u>	<u>225</u>
<u>Category I: Bogs and Wetlands of High Conservation Value</u>	<u>190</u>			<u>225</u>
<u>Category I: Coastal Lagoons</u>	<u>150</u>		<u>165</u>	<u>225</u>
<u>Category I: Interdunal</u>				<u>225</u>
<u>Category I: Forested</u>	<u>75</u>	<u>105</u>	<u>165</u>	<u>225</u>
<u>Category I: Estuarine</u>	<u>150</u> <u>(buffer width not based on habitat scores)</u>			
<u>Category II: Based on score</u>	<u>75</u>	<u>105</u>	<u>165</u>	<u>225</u>
<u>Category II: Interdunal Wetlands</u>	<u>110</u>		<u>165</u>	<u>225</u>
<u>Category II: Estuarine</u>	<u>110</u> <u>(buffer width not based on habitat scores)</u>			
<u>Category III (all)</u>	<u>60</u>	<u>105</u>	<u>165</u>	<u>225</u>
<u>Category IV (all)</u>	<u>40</u>			

Title 23 Critical Areas – Code Changes

Attachment 6 – PC 2/26/19

Table 23.20.045.2 Required measures to minimize impacts to wetlands

(Measures are required if applicable to a specific proposal)

<u>Disturbance</u>	<u>Required Measures to Minimize Impacts</u>
<u>Lights</u>	<ul style="list-style-type: none"> • <u>Direct lights away from wetland</u>
<u>Noise</u>	<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>
<u>Toxic runoff</u>	<ul style="list-style-type: none"> • <u>Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered</u> • <u>Establish covenants limiting use of pesticides within 150 ft of wetland</u> • <u>Apply integrated pest management</u>
<u>Stormwater runoff</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 (for more information refer to the drainage ordinance and manual)</u>
<u>Change in water regime</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>	<ul style="list-style-type: none"> • <u>Use privacy fencing OR plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion</u> • <u>Place wetland and its buffer in a separate tract or protect with a conservation easement</u>
<u>Dust</u>	<ul style="list-style-type: none"> • <u>Use best management practices to control dust</u>

Text in green are revisions approved by DOE in 2011 but never codified.

Text in red are new proposed revisions as part of 2019 SMP Update.

Text in purple are DOE adopted, never codified and are deleted as part of 2019 revisions.

Title 23 Critical Areas – Code Changes

Attachment 6 – PC 2/26/19

*Table 23.20.045.3 Wetland Buffer Requirements for Western Washington if
Table 23.20.045.2 is NOT Implemented or Corridor NOT provided*

<u>Wetland Category</u>	<u>Buffer width (in feet) based on habitat score</u>			
	<u>3-4</u>	<u>5</u>	<u>6-7</u>	<u>8-9</u>
<u>Category I:</u> <u>Based on total score</u>	<u>100</u>	<u>140</u>	<u>220</u>	<u>300</u>
<u>Category I:</u> <u>Bogs and</u> <u>Wetlands of High</u> <u>Conservation Value</u>	<u>250</u>			<u>300</u>
<u>Category I:</u> <u>Coastal Lagoons</u>	<u>200</u>		<u>220</u>	<u>300</u>
<u>Category I:</u> <u>Interdunal</u>				<u>300</u>
<u>Category I:</u> <u>Forested</u>	<u>100</u>	<u>140</u>	<u>220</u>	<u>300</u>
<u>Category I:</u> <u>Estuarine</u>	<u>200</u> <u>(buffer width not based on habitat scores)</u>			
<u>Category II:</u> <u>Based on score</u>	<u>100</u>	<u>140</u>	<u>220</u>	<u>300</u>
<u>Category II:</u> <u>Interdunal Wetlands</u>	<u>150</u>		<u>220</u>	<u>300</u>
<u>Category II:</u> <u>Estuarine</u>	<u>150</u> <u>(buffer width not based on habitat scores)</u>			
<u>Category III (all)</u>	<u>80</u>	<u>140</u>	<u>220</u>	<u>300</u>
<u>Category IV (all)</u>	<u>50</u>			

Title 23 Critical Areas – Code Changes

Attachment 6 – PC 2/26/19

23.20.050 Mitigation.

A. Mitigation for alterations to wetlands may be by restoring former wetlands, creating wetlands, or enhancing degraded wetlands, consistent with the Department of Ecology [Mitigation in Washington State – Part 2: Developing Mitigation Plans--Version 1, \(Ecology Publication #06-06-011b, Olympia, WA, March 2006 or as revised. Guidelines for Developing Freshwater Wetlands Mitigation Plans and Proposals, 2004, as revised.](#)

B. Mitigation shall generally replace wetland functions lost from the altered wetland except that the city may permit out-of-kind replacement when the lost functions are minimal or less important to the drainage basin than the functions that the mitigation action seeks to augment.

C. Mitigation shall be in the same drainage basin as the altered wetland. Wetland mitigation shall be in the same subbasin unless a higher level of ecological functioning would result from an alternate approach.

D. Mitigation projects shall be completed as quickly as possible consistent with such factors as rainfall and seasonal sensitivity of fish, wildlife, and flora.

~~E. Mitigation projects shall be designed with reference to Wetland Replacement Ratios: Defining Equivalency, Washington Department of Ecology, 1992, Publication No. 92-08; Freshwater Wetlands in Washington State, Volume 2, Appendix 8-C; and similar science. Mitigation projects shall score the impact site and the mitigation site using the Wetland Rating Data Form of the Revised Washington State Wetlands Rating System for Western Washington. The aggregate total of wetland functions and values after mitigation, altered and mitigation sites combined, shall be at least 50 percent greater than the aggregate total before mitigation; provided, that this replacement ratio (one and one-half to one, nonacreage-based) shall be increased as necessary to compensate for mitigation that:~~

[Mitigation projects shall be designed with reference to Wetland Replacement Ratios: Defining Equivalency, Washington Department of Ecology, Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans--Version 1, \(Ecology Publication #06-06-011b, Olympia, WA, March 2006 or as revised; and similar science. Mitigation projects shall score the impact site and the mitigation site using the Wetland Rating Data Form of the Revised Washington State Wetlands Rating System for Western Washington. The aggregate total of wetland functions and values after mitigation, altered and mitigation sites combined, shall be at least 50 percent greater than the aggregate total before mitigation. This replacement ratio \(one and one-half to one, nonacreage-based\) shall be increased as necessary to compensate for mitigation that:](#)

1. Has a greater than usual risk of failure;
2. Is out-of-kind;

Title 23 Critical Areas – Code Changes

Attachment 6 – PC 2/26/19

3. Is outside the subbasin;
4. Produces its functions and values significantly after the alteration; or
5. Remedies unauthorized alterations.

F. Because the above replacement ratio is based on a before-and-after count of functions and values, not acreage, it accounts, without need for further adjustment, for mitigation that would result in a lower-category wetland than the wetland being impacted, and mitigation that would enhance as opposed to create or restore a wetland. In the case of enhancement, wetland acreage may decline though wetland functions and values would increase. Enhancement proposals shall be based on a sound understanding of the mitigation site's pre- and postmitigation functions and values.

G. Within Shoreline Management Act jurisdiction the following mitigation measures shall apply:

	<u>Wetland Mitigation Type and Replacement Ratio*</u>			
<u>Wetland Category</u>	<u>Creation</u>	<u>Re-establishment</u>	<u>Re-habilitation</u>	<u>Enhancement Only</u>
<u>Category IV</u>	<u>1.5:1</u>	<u>1.5:1</u>	<u>2:1</u>	<u>3:1</u>
<u>Category III</u>	<u>2:1</u>	<u>2:1</u>	<u>3:1</u>	<u>4:1</u>
<u>Category II</u>	<u>3:1</u>	<u>3:1</u>	<u>4:1</u>	<u>6:1</u>
<u>Category I</u>	<u>6:1</u>	<u>6:1</u>	<u>8:1</u>	<u>Not allowed</u>

* Ratio is the replacement area: impact area.

H. Within Shoreline Management Act jurisdiction, compensation for wetland buffer impacts shall occur at a minimum 1:1 ratio. Compensatory mitigation for buffer impacts shall include enhancement of degraded buffers by planting native species, removing structures and impervious surfaces within buffers, and other measures.

G. I Credits granted from a certified wetland mitigation bank shall be consistent with the bank's certification and service area. (Ord. 1592 § 1, 2004).

1. Credits from a wetland mitigation bank may be approved for use as compensation for unavoidable impacts to wetlands when:
 - a. The bank is certified under state rules;
 - b. The Administrator determines that the wetland mitigation bank provides appropriate compensation for the authorized impacts; and
 - c. The proposed use of credits is consistent with the terms and conditions of the bank's

Title 23 Critical Areas – Code Changes

Attachment 6 – PC 2/26/19

certification.

2. Replacement ratios for projects using bank credits shall be consistent with replacement ratios specified in the bank's certification.
3. Credits from a certified wetland mitigation bank may be used to compensate for impacts located within the service area specified in the bank's certification. In some cases, the service area of the bank may include portions of more than one adjacent drainage basin for specific wetland functions.

23.20.060 Provisions for Small Wetlands

Within Shoreline Management Act jurisdiction Category 3 and 4 wetlands between 1,000 and 4,000 square feet may be displaced provided that:

- A. The wetland does not score 20 points or greater for habitat in the 2004 Western Washington Rating System;
- B. The wetland is depressional and is recharged only by precipitation, interflow or groundwater and adjacent development cannot assure a source of recharge to maintain its hydrologic character through stormwater infiltration or other means;
- C. The wetlands does not have a potential to reduce flooding or erosion or has the potential and opportunity to maintain or improve water quality as evidenced by a score of at least 10 points on the applicable criteria of the Wetland Rating Form for Western Washington;
- D. The total area of the combined wetland and buffer is 10,000 square feet or less and
 - 1) It does not achieve a score of at least 20 points on the Habitat Functions criteria of the Wetland Rating Form for Western Washington;
 - 2) The wetland and buffer is not connected to a larger open space complex with may include, but is not limited to, a stream buffer, a buffer associated with a geological hazard, or other designated open space buffer sufficient to allow movement of terrestrial wildlife to and from the wetland and buffer complex without interruption by roads, paved areas, or buildings within 50 feet; and
 - 3) Impacts of displaced wetlands are mitigated.

23.20.070 Wetland Buffer Averaging

Within Shoreline Management Act jurisdiction the Director may average wetland buffer widths on a case-by-case basis when the applicant demonstrates through a wetland study to the satisfaction of the Director that all the following criteria are met:

- A. The wetland has significant differences in characteristics that affect its habitat functions, such as a wetland with a forested component adjacent to a degraded emergent component or a "dual-rated" wetland with a Category I area adjacent to a lower rated area.
- B. The buffer is increased adjacent to the higher-functioning area of habitat or more sensitive portion of the wetland and decreased adjacent to the lower-functioning or less sensitive portion.
- C. The total area of the buffer after averaging is equal to the area required without averaging and all increases in buffer dimension for averaging are generally parallel to the wetland edge.

Title 23 Critical Areas – Code Changes

Attachment 6 – PC 2/26/19

- D. The buffer at its narrowest point is never less than 3/4 of the required width except where an existing road or other existing barrier interrupts ecological functions.
- E. Wetland buffer averaging to allow reasonable use of a parcel may be permitted when all of the following are met:
- 1) There are no feasible alternatives to the site design that could be accomplished without buffer averaging;
 - 2) the averaged buffer will not result in degradation of the wetland's functions and values as demonstrated by a wetland assessment study
 - 3) the total buffer area after averaging is equal to the area required without averaging and all increases in buffer dimension for averaging are generally parallel to the wetland edge; and
 - 4) The buffer at its narrowest point is never less than 3/4 of the required width except where the director finds that there is an existing feature such as a roadway that limits buffer dimension, or an essential element of a proposed development such as access that must be accommodated for reasonable use and requires a smaller buffer.

Title 23 Critical Areas – Code Changes

Attachment 6 – PC 2/26/19

Chapter 23.60 HABITAT CONSERVATION AREAS

Sub-section 23.60.050 Substantive requirements

~~In addition to the substantive requirements of PMC 23.10.130, the following shall apply to habitat conservation areas:~~ In addition to the substantive requirements of PMC 23.10.130, the following shall apply to habitat conservation areas. Within Shoreline Management Act jurisdiction the additional regulations and procedures of PMC Title 21 shall also apply.

- A. No plant, wildlife, or fish species not indigenous to the region shall be introduced into a habitat conservation area except with approval of a state or federal agency with expertise.
- B. Preference in mitigation shall be given to contiguous wildlife habitat corridors.
- C. In reviewing development proposals, the city shall seek opportunities to restore degraded riparian fish and wildlife functions such as breeding, rearing, migration, and feeding.
- D. The city shall require buffers of undisturbed native vegetation adjacent to habitat conservation areas as necessary. Buffer widths shall reflect the sensitivity of the habitat and may reflect the intensity of nearby human activity.
- E. When a species is more sensitive to human activity during a specific season of the year, the city may establish an extra outer buffer from which human activity is excluded during said season.
- F. No development shall be allowed within a habitat conservation area or buffer with which state or federal endangered, threatened, or sensitive species have a primary association, except in exchange for restoration as approved by the director or as provided in a management plan approved by a state or federal agency with appropriate expertise.
- G. When a development permit is applied for on land containing or adjacent to a bald eagle nest or communal roost, the city shall notify the Washington Department of Fish and Wildlife and otherwise comply with WAC [232-12-292](#).
- H. No development shall be permitted which degrades the functions or values of anadromous fish habitat, including structures or fills which impact migration or spawning.
- I. Construction and other activities shall be seasonally restricted as necessary to protect the resource. Activities shall be timed to occur during work windows designated by the Washington Department of Fish and Wildlife for applicable fish species.
- J. Shoreline erosion control shall use bioengineering methods or soft armoring in accordance with an approved critical areas report.

Title 23 Critical Areas – Code Changes

Attachment 6 – PC 2/26/19

K. ~~The table at the end of this subsection Table 23.60.050 (K)(a)~~ establishes the width of stream buffers (also known as riparian habitat areas) that shall apply to each stream type. Widths shall be measured outward in each direction, on the horizontal plane, from the ordinary high water mark, or from the top of bank if the ordinary high water mark cannot be identified, or from the outer edge of the channel migration zone when present. For buffer widths for the Type S stream types (under Shoreline Management Act jurisdiction), see Table 23.60.050 (K)(b).

Table 23.60.050 (K)(a)

DNR Stream Type	Streams of This Type in Pacific	Standard Buffer Width	Minimum Modified Buffer Width
Type S (subject to Shorelines Management Act)	• White/Stuck River	200 feet	100 feet except 50 feet in urban shoreline environment
Type F (fish-bearing other than S)	• Jovita Creek • Milwaukee Ditch south of 5th Ave. S.W.	100 feet	75 feet
Type Np (nonfish, perennial)	• Milwaukee Ditch, middle portion • Boeing Ditch	50 feet	35 feet
Type Ns (nonfish, seasonal)	• Milwaukee Ditch east of Tacoma Blvd.	25 feet	20 feet

Table 23.60.050 (K)(b) – Type S Stream.

Shoreline Environment	Standard Buffer Width	Administrative Modified Buffer Width ¹	Conditional Use Modified Buffer Width ²
<u>Type S (subject to Shoreline Management Act)</u>			
<u>Urban Conservancy</u>	<u>200</u>	<u>100</u>	<u>50³</u>
<u>Shoreline Residential</u>	<u>100</u>	<u>20⁴</u>	<u>10⁴</u>
<u>Shoreline Recreation</u>			
<u>Water Dependent Use</u>	<u>100</u>	<u>0⁵</u>	<u>NA</u>
<u>Water Oriented Use</u>	<u>100</u>	<u>50</u>	<u>25</u>
<u>Other Use</u>	<u>100</u>	<u>75</u>	<u>50</u>
<u>Shoreline Commercial</u>			
<u>Water Dependent Use</u>	<u>100</u>	<u>0⁵</u>	<u>NA</u>
<u>Water Oriented Use</u>	<u>100</u>	<u>50</u>	<u>25</u>
<u>Other Use</u>	<u>100</u>	<u>75</u>	<u>50</u>

Text in green are revisions approved by DOE in 2011 but never codified.

Text in red are new proposed revisions as part of 2019 SMP Update.

Text in purple are DOE adopted, never codified and are deleted as part of 2019 revisions.

Title 23 Critical Areas – Code Changes

Attachment 6 – PC 2/26/19

1. Administrative Modification of Buffer Width shall be processed in accordance with the criteria of PMC 23.60.050.M.
2. Conditional use permit modification of Buffer Width shall be processed in accordance with the criteria and procedures of PMC 21.50.015,
3. Limited to utility, transportation and Essential Public Facilities for which there is no feasible alternative, and provided that facilities that must cross the water may locate facilities within the buffer provided mitigation for ecological impacts are implemented.
4. Modification limited to subdivisions existing prior to 1975
5. May be approved only in conjunction with a Shoreline Substantial Development Permit or Conditional Use Permit.

L. The director may impose greater than the standard buffer widths as necessary to fully protect riparian functions. For example, the buffer may be extended to the outer edge of the floodplain or windward into an area of high tree blow-down potential.

M. The director may approve a buffer width no less than the “minimum modified buffer width” in the above table when the full width is unnecessary to fully protect riparian functions, or in exchange for restoration of degraded areas in accordance with an approved plan, or for buffer averaging in accordance with PMC [23.10.130\(G\)](#).

N. When conformance to this title would prohibit land uses allowed by the city’s shoreline management master program, such as bulkheads, launching ramps, docks, roads, trails, or bridges, the city shall resolve the conflict by allowing said uses with reasonable protections to minimize loss of natural functions and values.

O. To the extent facilities are allowed in habitat conservation areas; the following regulations shall apply:

1. Trails other than those within the White/Stuck River network shall be on the outer edge of the stream buffer, except for limited viewing platforms and crossings designed to be “environmentally friendly” and utilizing best management practices. Trails and platforms shall be of pervious materials as far as possible.
2. Road bridges and culverts shall be designed according to the Washington Department of Fish and Wildlife Fish Passage Design at Road Culverts, 1999, and the National Marine Fisheries Service Guidelines for Salmonid Passage at Stream Crossings, 2000.

Title 23 Critical Areas – Code Changes

Attachment 6 – PC 2/26/19

3. Utility lines shall be accomplished by boring beneath the scour depth and hyporheic zone (the saturated zone beneath and adjacent to streams that filters nutrients and maintains water quality). Utilities shall avoid paralleling streams or changing the natural rate of shore or channel migration.
4. New and expanded public flood protection measures shall require a biological assessment approved by the agency responsible for protecting federally listed species.
5. In-stream structures such as high-flow bypasses, sediment ponds, instream ponds, retention and detention facilities, tide gates, dams, and weirs shall be allowed only as part of an approved restoration project.
6. Storm water conveyance structures shall incorporate fish habitat features and the sides of open channels and ponds shall be vegetated to retard erosion, filter sediments, and shade the water.
7. Watercourse alterations: see PMC [23.40.030\(H\)](#). (Ord. 1592 § 1, 2004).