

Summary of Changes

Introduction- 19.100

This list is intended to provide a brief summary of the more substantive changes proposed for the 2017 Critical Areas Ordinance update. These are provided as concepts only. To read the proposed language in full context, please review the draft. Not included are organizational, clarifying, or grammatical edits.

- Written request for a time extension to be received at least **30** days prior to the expiration of the permit. Currently 60 days; change reflects consistency with Title 21 KCC. [19.100.120(D)(2)]
- Pre-existing and on-going agriculture exemption. Change to clarify that activities had to have been operating under a farm management plan or other Best Management Practices that result in no net loss of critical area values and functions. [19.100.125(B)]
- In general, references to shorelines have been removed from this Title. Shorelines are now managed through Title 22, Shoreline Master Program.
- Special Use Review section has been moved from the Wetlands chapter to this Introduction. A clarifying paragraph has been added to clarify what a Special Use Review is and when it is to be used, but has otherwise been moved in its entirety to clarify that it is an option for any type of critical area. [19.100.145]

Definitions- 19.150

- Changes made to: Agricultural activities; Best Management Practices; Buffer; Critical aquifer recharge areas; Critical facilities; Danger trees; Enhancement; Existing and on-going agriculture; Fish and wildlife habitat conservation areas; Forest practices; Groundwater; Priority habitat; Priority species; Reasonable use; Rehabilitation; Restoration; Riparian area; Shorelines; Special flood hazard areas; Utility corridor; Wetland delineation; Wetlands, mosaic
- Removed: Aquaculture practices; Feeder bluff; Lot; Non-conforming use or structure; Open space; Performance based development; Permit; Unavoidable and necessary impacts

- Added: Functions and values; Geologic assessment; Impervious surface; Seismic hazard areas; Significant tree

Wetlands- 19.200

- Wetland delineations to be done according to the approved federal wetland delineation manual. The Washington State Wetlands Identification and Delineation Manual is no longer valid. This change has already occurred in practice, so code updates are to reflect this. [19.200.210(A)]
- The Washington State Wetland Rating System for Western Washington was revised in 2014. Changes reflect the date, as well as a change to some definitions and the scoring system used to categorize wetlands for management purposes (scores are out of 27, rather than 100). [19.200.210(A)and(B)]
 - Category I: Score of 23 or more out of 27 (was 70 or more out of 100)
 - Category II: Score of 20-22 out of 27 (was 51-69 out of 100); Due to the change in scoring methods, we may expect to see more Cat. III wetlands that would have been Cat.II under the current method.
 - Category III: Score of 16-19 out of 27 (was 30-50 out of 100); Area allowed to be impacted reduced from 2,500 sq. ft. to 1,000 sq. ft.; Kitsap County has typically seen mostly Category III wetlands
 - Category IV: Score of 16 or less out of 27 (was less than 30 out of 100); Area allowed to be impacted reduced from 7,500 sq. ft. to 4,000 sq. ft.
- Deleted the Non-Regulated Wetlands and Criteria for Determining Wetlands Divided by a Manmade Feature [19.200.210(C) and (D)]. Non-regulated wetlands are included in the definition and the criteria are part of the Wetland Rating System. Including them in code is redundant and increases the chances of them being in conflict with future amendments to this referenced document.
- Wetland Buffer Requirements. The buffer tables have a new, streamlined look, but are otherwise providing the same buffer widths. [19.200.220] A few exceptions are:
 - Cat. II wetlands with high habitat scores that are also adjacent to high-intensity land uses (now 300 ft., was 225 ft.) and moderate-intensity land uses (now 225 ft., was 200 ft.)
 - Cat. II Interdunal was added (not at all common in Kitsap, but do exist)
 - Cat. I wetlands with high habitat scores that are also adjacent to high-intensity land uses (now 300 ft., was 250 ft.)

- Cat. I wetlands in Coastal Lagoons adjacent to high-intensity land uses (now 200 ft., was 250 ft.) and moderate-intensity land uses (now 150 ft., was 200 ft.).
 - Cat. I wetlands with moderate habitat scores adjacent to high-intensity land uses (now 150 ft., was 200 ft.).
- Buffer Averaging and Administrative Buffer Reductions [19.200.220(B)]. Minimum buffer reductions are no longer supported for up to 50% of the buffer width, but revised to **25%**. There is a NEW allowance to reduce the buffer for proposed activities in high-intensity land use areas to those buffers recommended for moderate-intensity through the use of certain measures like connecting to existing habitat corridors.
- Agricultural Restrictions. In addition to the change in 19.100, this section applies to new *or expanded* agricultural activities and instead of avoiding “damage” to wetlands, the proposed language states that a “net loss of functions and values shall be avoided.” [19.200.225(B)]
- Trails and Trail Related Facilities. This section was modified to be consistent with the standards in Title 22, Shoreline Master Program. For example, viewing platforms limited to 100 sq. ft. in size, unless no net loss can be demonstrated, and trails are to be in the outer 25% of the buffer except for direct access. [19.200.225(F)]
- Wetland Mitigation [19.200.250(C)]. This section was removed and incorporated into 19.700.715 Wetland Mitigation Report.
- Wetland Mitigation Ratios, Table 19.200.250. For mitigation utilizing the 1:1 Reestablishment or Creation (R/C) and Enhancement (E) option, the Enhancement portion of the ratio is increasing for the following:
 - Cat. III- 4:1 (was 2:1)
 - Cat. II- 8:1 (was 4:1)
 - Cat. I Forested- 20:1 (was 10:1)
 - Cat. I Other- 12:1 (was 6:1)
- Alternative Mitigation Plans [19.200.250(D)] NEW. This new section was added to provide much more latitude and flexibility in creating a mitigation plan. It also includes clarifications for use of mitigation banking, in-lieu fee/off-site, and advanced mitigation options.

Fish and Wildlife Habitat Conservation Areas- 19.300

- Shoreline (Type S), water dependent uses, and other shoreline references removed.
- Purpose [19.300.305]. Added an intent to “Avoid and minimize human and wildlife conflicts through planning and implementation of wildlife corridors where feasible.”
- Streams [19.300.310(B)(1)]. Added statement (per state code), that other stream maps, in addition to those published by the WA Dept. of Natural Resources (DNR), should be considered.
- Provision for Decreasing Buffer [19.300.315(A)(3)]. Similar to 19.200 Wetlands, minimum administrative buffer reductions are no longer supported for up to 50% of the buffer width, but rather now **25%**. Clarifies that a buffer reduction greater than 25% for single-family dwellings would be a Type II review (requires notification), all others would still have a Variance option.
- Bald Eagles [19.300.315(B)]. Habitat Management Plans for Bald Eagles are no longer approved through WA Dept. of Fish and Wildlife, but must still comply with the federal Bald and Golden Eagle Protection Act. This is already in effect, so this change is for consistency.
- Stream Crossings [19.300.315(D)]. Added the encouraged use of the WDFW Water Crossing Design Guidelines.
- Agricultural Restrictions and Trails [19.300.315 (G) and (H)]. Similar changes as those to the Wetland sections above [19.200.225(B) and 19.200.225(F), respectively]. See Wetlands; same.
- Bank Stabilization [19.300.315 (J)]. This section was previously used for marine and freshwater shorelines. Edits made to remove shoreline terms (feeder bluff; shoreline) with freshwater only equivalents (channel migration zones; bank).

Geologically Hazardous Areas- 19.400

This chapter was re-written primarily for organizational and clarification purposes. Development standards are largely the same. Hazard types have their own sections for defining, listing indicators, followed by a section on development standards, and review procedures.

- Designation of Geologically Hazardous Areas [19.400.415]. Clarifies that County maps only identify POTENTIAL geohazard areas, which triggers a “geological assessment” by a professional.
- Added lists of on-site indicators for each hazard type that a professional should also consider.
- Review Procedures [19.400.435]. If the County map indicates a potential geohazard, a geological assessment by a professional will be required. A geological assessment may be submitted as:
 - A stamped letter, if no hazard is found to exist within 200 feet of the project site (NEW);
 - A geological report, if hazard is found to exist within 200 feet, but will not impact the project site or need any engineering design recommendations;
 - A geotechnical report; if hazard is found to exist within 200 feet, and will require engineering design recommendations or mitigation measures.
- Added a section for an independent consultant review if the department lacks the expertise to review compliance with the chapter. [19.400.445]
- Recording and disclosure. Added; in addition to the typical Critical Area Notice to Title, any permit requiring a geotechnical report shall also have notarized and recorded:
 - An abstract and description of the types of risks in the report;
 - A statement that the owner understands and accepts the responsibility for risks, and agrees to inform future purchasers of the risk;
 - A waiver and release to assert claims against the County, except if the loss is a direct result of sole negligence of the County.

Frequently Flooded Areas- 19.500

- This chapter references Title 15 KCC, Flood Hazard Areas. Title 15 was recently updated in 2015 to incorporate necessary changes, including an update to the FEMA flood maps which are currently in effect. Some additional changes to definitions will be made concurrent with this Title 19-CAO update.
- A minor edit was made to also reference Title 22, Shoreline Master Program

Critical Aquifer Recharge Areas- 19.600

- Changes to state code have resulted in some minor, but important changes to this chapter. In Purpose [19.600.605], it now addresses “land use activities that pose a potential to directly or indirectly contaminate or otherwise threaten aquifer water quality and quantity.”
- This is addressed in 19.600.610(A)(4) and (B)(5) by stating that “the department may add, reclassify or remove CARAs based on additional information about areas of significant potable water supply with susceptibility to groundwater contamination or supply reduction.....”.
- Development standards [19.600.615]. The hydrogeological report, when required, shall also evaluate ground and surface water quality and quantity. The report may be requested “when the proposed land use or activity may impact groundwater or surface water quality and quantity.”
- Table 19.600.620, Activities with Potential Threat to Groundwater Quality. The distinction of this as a water quality list was made to indicate that other uses NOT on this list may impact water quantity, and may require a hydrogeological report.

Special Reports- 19.700

- Wetland Delineation Report [19.700.710].
 - Submittal must also now include a copy of any known previous delineations or investigations, and a copy of the forms used to delineate the wetland area.
 - Discussion of wetland boundary- the report shall delineate the entire wetland boundary, either through physical access or remote mapping methods.
 - General site conditions, now within ¼ mile of the subject wetland(s).
 - Hydrological analysis should address the wetland location within the watershed.
 - Removed the “plant community assessment” procedure in 19.700.710(C)(2). This is no longer an approved method.
 - Wetland delineation stakes are to remain in place for the duration of the application process and not removed until project completion / final inspection when wetland buffer signs have been reviewed and installed.
- Wetland Mitigation Report [19.700.715].
 - Mitigation for Wetlands section that was removed from 19.200.250(C), is placed at the introduction to this section.

- Contents of the report are the same, but have been substantially clarified to describe the elements of those sections that staff would be looking for. Those clarifications come from Ecology publication, “Wetland Mitigation in Washington State, Part 2: Developing Mitigation Plans, v.1” (2006).
- Performance bonds [19.700.715(P)]. Clarified that typical amount of a performance bond is one and half times the estimated cost of mitigation; corrected an error that the bond will be released no *earlier* (not later) than five years after completion of the mitigation project. Five years of monitoring is typically needed to determine success mitigation projects.
- Habitat Management Plan [19.700.720].
 - Bald Eagle rules referenced as amended throughout.
 - Reduction of the building setback added as the first option to consider when reducing the buffer [19.700.720(D)]
 - Connection to existing wildlife corridors added as a mitigation measure to 19.700.720(D)(2).
- Geological Assessments [19.700.725].
 - This section has a new title to reflect changes to 19.400, Geologically Hazardous Areas, which includes the “letter” option, in addition to the current “Geotechnical report and geological report”.
 - Only other change indicates that a geological report *or letter* may be prepared by a licensed geologist or geotechnical engineer.

Appendices- 19.800

- Edits to reflect changes in body of code.
- Appendix E- Kitsap County Critical Area and Buffer Notice has been updated and replaced.
- NEW- Appendix G- Checklist and Sample Outline for a Delineation Report.
- REMOVED- Appendix G- Wetland Buffer Alteration General Authorization Form; redundant to other application materials and had not been utilized.
- NEW- Appendix H- Mitigation Plan Checklist.