

2024 Critical Areas Ordinance

The following changes are proposed to Titles 19

Code Section	Topic	Source	Proposed Change
Chapter 19.100 Introduction and Approval Procedures			
19.100.105.B.11	Policy Goals	RMZ Checklist Recommendation Q	Clarify language to include watershed-scale management considerations.
19.100.105.B.13	Policy Goals	RMZ Checklist Recommendation R	Added consideration of climate change impacts to support new climate change goals/policies in Comp Plan.
19.100.125.A	Exemptions	RMZ Checklist Recommendation O	Moved definition of “emergency” to 19.150 Definitions. Elaborated on steps, timeline, mitigation, and “after the fact” permitting requirements.
19.100.130.A.3	Standards for existing development	Staff Recommendation Re: Expansion of Nonconforming structure	Clarified criteria and process for expansion of nonconforming structures.
19.100.130.A.4	Standards for existing development	Staff Recommendation Re: Nonconforming (Damaged or Destroyed)	Added clarification for determining the date of “damage or destruction”.
19.100.130.B	Standards for existing development	Staff Recommendation	Removed “or hazard”. Added “or snag”.
19.100.130.B.1 19.100.130.B.2	Standards for existing development	RMZ Checklist Recommendation N Re: Danger Tree Removal	Added to language to include identifying method that does not adversely impact riparian ecosystem, encourage snags, and avoidance and mitigation to minimize impacts.
19.100.135.A.6	Variances	Staff Recommendation	Added reference to section 19.700 regarding requirements for mitigation plans

19.100.140.B	Reasonable use exception	Staff Recommendation	Added reference to section 19.700 regarding requirements for mitigation plans
19.100.155.D	General Application Requirements	RMZ Checklist Recommendation H & Consistency and Gap Analysis	Added mitigation sequencing to general applications requirements to include/cover all applicable critical areas. Removed from individual critical area chapters and redirected to 19.100.
Chapter 19.150 Definitions			
19.150.175	Buffer, standard	Staff recommendation	Replace “adjustments” with “modifications.”
19.150.256	Emergency	Added definition not previously provided	An “emergency” is an unanticipated and immediate threat to public health, safety, or the environment that requires action within a time too short to allow immediate compliance with this title.
19.150.276	Establishment	Added definition not previously provided	“Establishment” means the manipulation of the physical, chemical, or biological characteristics of a site to develop a wetland on an upland where a wetland did not previously exist at an upland site. Establishment results in a gain in wetland area and functions. An example activity could involve excavation or upland soils to elevations that will produce a wetland hydroperiod and hydric soils by intercepting groundwater, and in turn supports the growth of hydrophytic plant species.
19.150.341	Functionally and effectively disconnected	Added definition not previously provided	“Functionally and effectively disconnected” means that a private or public road or other significant development blocks the protective measures provided by a buffer.
19.150.411	Hydraulic Project	Added definition not previously provided	“Hydraulic project” means construction or other work activities conducted in or near state waters that will “use, divert, obstruct, or change the natural flow or bed of any of the salt or fresh waters of the state.”
19.150.436	Monitoring	Added definition not previously provided	“Monitoring” means evaluating the impacts of development proposals over time on the biological, hydrological, and

			geological elements of critical area ecosystem functions and processes, and/or assessing the effectiveness of required mitigation measures through the collection and analysis of data by various methods for the purpose of understanding and documenting changes in natural ecosystems and features compared to baseline or pre-project conditions and/or reference sites. An important objective of monitoring mitigation projects is to verify the impact of the project on the environment predicted in submitted/approved mitigation plans. Monitoring also includes gathering baseline data.
19.150.466	Preservation	Added definition not previously provided	“Preservation” means the removal of a threat to, or preventing the decline of, wetlands, by an action in or near those wetlands. This term includes activities commonly associated with the protection and maintenance of wetlands through the implementation of appropriate legal and physical mechanisms such as recording conservation easements and providing structural protection like fences and signs. Preservation does not result in a gain of aquatic resource area or functions but may result in a gain in functions over the long term.
19.150.571	Significant development	Added definition not previously provided	“Significant development” includes permanent impervious surfaces such as built public infrastructure such as roads and railroads, and private developments such as homes or commercial structures. Driveways are not considered significant development.
19.150.630	Utilities	Staff recommendation	Added solar power.
19.200 Wetlands			
19.200.210.A.2	Wetland identification and functional rating	Staff recommendation	Added clarity on identification of hydric soils as potential wetlands.
19.200.210.A.3	Wetland identification and functional rating	Consistency & Gap Analysis 2.3.1 Recommendation #1	Clarified rating system used and removed reference to Appendix A.

19.200.210.B.1-4	Wetlands	Consistency & Gap Analysis 2.3.1 Recommendation #2	Removed reference to rating system points total to ensure code is not in contradiction when rating system and BAS is updated in the future.
19.200.210.C.6	Exemptions for Small Wetlands	Consistency & Gap Analysis 2.3.1 Recommendation #3	Clarifying application of exemptions for small wetlands.
19.200.210.C.8	Exemptions for Small Wetlands	Staff recommendation	Added to inform that 15-foot building setback still applies.
19.200.215.B.1	Wetland review procedures	Staff recommendation	Added to clarify the resources required to be used for delineation.
19.200.215.B.3	Wetland review procedures	Staff recommendation	Clarified that the department may only perform this function when resources allow.
19.200.215.C.2(a)(i) 19.200.215.C.2(a)(ii)	Wetland review process for single-family dwellings	Consistency & Gap Analysis	Removed 250-feet and replaced with 300-feet, since the largest possible wetland buffer on a site could be up to 300-feet.
19.200.215.C.2(c)	Wetland review process for single-family dwellings	Staff recommendation	Added for clarity on what is to be included in and with a wetland certification letter.
19.200.220.A	Wetland buffer requirements	Staff recommendation	Added “standard” before buffer widths and updated reference to the WA state wetland rating system for clarity.
19.200.220.B	Increased or Enhanced Wetland Buffer Width	Consistency & Gap Analysis 2.3.2 Recommendation #4	Added new section with suggested language from DOE regarding vegetation in buffers and standard buffer condition. New section specifies that the department may require enhanced vegetation of buffers or increased buffer widths on a case-by-case basis.
19.200.220.C.1-4	Provisions for Decreasing Buffer	Staff recommendation	Added and reorganized existing language to clarify current processes for buffer averaging, administrative buffer reduction criteria, buffer averaging and protection of trees. For consistency with other chapters, added a Type II process for administrative buffer reductions between 25-50% for single-

			family residences, which requires noticing and consistency with variance criteria.
19.200.220.C.5	Functionally Disconnected Buffer Area	Staff recommendation	Using DOE's language, provided guidelines and definition for a disconnected buffer (aka buffer break).
19.200.220.C.6(a)(i) 19.200.220.C.6(a)(ii)	Alternatives to reducing standard buffer width	Consistency & Gap Analysis 2.3.2 Recommendation #5	Updated habitat corridor language & minimization measures.
19.200.220.C.6(b)	Alternatives to reducing standard buffer width	Consistency & Gap Analysis 2.3.2 Recommendation #5	Clarified wetlands points language for consistency throughout 19.200.
19.200.220(F)	Examples of Measures to Minimize Impacts to Wetlands	DOE recommendation	Replaced minimization table with most recent table provided by DOE.
19.200.220.C.7	Variance	Staff recommendation	Added preference for buffer averaging prior to use of other buffer reductions. Added "quasi-judicial" to identify the type of process required for a variance.
19.200.220.D(a-b)	Protection of Buffers	Staff recommendation	Combined with 19.200.220.D to reference that the use of fencing and signs are methods of protecting the buffers.
19.200.220.E	Building or Impervious Surface Setback Lines	Staff recommendation	Added language to clarify that exempt small wetlands are not exempt from the building setback requirement.
19.200.225.E.1	Surface Water Management	Consistency & Gap Analysis 2.3.2 Recommendation #7	Added protections to bog wetlands to prevent stormwater impacts.
19.200.230.A	Wetland mitigation requirements	Staff recommendation	Removed mitigation sequencing criteria from specific critical area chapters and added to 19.100.155.D for general application.
19.200.230.B	Mitigation Report	Staff recommendation	Added code reference for mitigation compliance. Removed requirement of a notarized memorandum of agreement by applicant and department director.

19.200.230.C	Native Species	Consistency & Gap Analysis 2.3.3 Recommendation #8	Added requirement of using native plant stock.
19.200.230.D	Wetland Buffer Mitigation Ratio	Staff recommendation	Added minimum mitigation ratio requirement.
19.200.230.E(2) (Table)	Wetland Mitigation Replacement Ratios	Consistency & Gap Analysis	Updated for consistency with ECY publication 22-06-014.
19.200.230.E(3)	Methods of Compensatory Mitigation	Consistency & Gap Analysis	Suggested addition per inclusion of preservation in ratio table.
19.200.230.F	Mitigation Compliance	Staff recommendation	For increased effectiveness of mitigation and monitoring, added section clarifying that mitigation requirements are tied to the land, and that mitigation requirements shall be recorded as a covenant.
19.200.230.G.1	Alternative Mitigation Plans	Consistency & Gap Analysis #9	Added option of Credit-Debit Method to determine mitigation requirements described in Ecology Publication #10-06-011.
19.200.230.G.1(a)	Alternative Mitigation Plans	Staff recommendation	Added “as amended” to indicate referencing the most recent source provided by Ecology.
19.200.230.E	Monitoring Requirements	Staff recommendation	Moved language under mitigation compliance section, 19.200.230.F.5.
19.300 Fish and Wildlife Habitat Conservation Areas			
19.300.305	Purpose	RMZ Checklist Recommendation S	Added to purpose statement: <u>E. Retain and restore riparian buffers to the maximum extent practicable to preserve functions and values over time.</u>
19.300.310.B.3	Fish and wildlife habitat conservation area categories	Staff recommendation	Added description for “Type O” or “Other” streams.
19.300.310.B.4	Fish and wildlife habitat conservation area categories.	Administrative Edit	Added the Washington Department of Natural Resources Natural Heritage Program as a source for reviewing federal and/or state-listed endangered, threatened, and sensitive species.

19.300.315	Mitigation Sequencing	Consistency & Gap Analysis #4	Added reference to new mitigation sequencing section in KCC 19.100.155.D.
19.300.315.A	Buffers	Staff recommendation	Added language reflecting current practice that fill, yard-waste or other debris shall not be placed in buffers.
19.300.315.A.1	Increased Stream Buffer Widths	Consistency & Gap Analysis #5	Increase standard buffer widths for all stream types to comply with Best Available Science provided by WDFW.
19.300.315.A.1	Alternative UGA Buffer Widths	Consistency & Gap Analysis #5	Added a new alternative buffer width for streams within Urban Growth Areas. Multifamily, redevelopment, or restoration projects within an UGA, may qualify to use the alternative width when specific criteria are met per 19.300.315(A)(3).
19.300.315.A.1	Lakes Less than 20 Acres	Staff recommendation	For clarity, added text to address situations where lakes have associated wetlands.
19.300.315.A.2	Buffer Measurement	Consistency & Gap Analysis #5	Consistent with WDFW Riparian Management Recommendations, clarified that buffer widths are measured from the edge of the Channel Migration Zone.
19.300.315.A.3	UGA Alternative Buffer Widths	Consistency & Gap Analysis #5, and staff recommendation	Created new criteria for specific scenarios when projects within the UGA could utilize alternative buffer widths. When criteria are met, certain multi-family, restoration or redevelopment projects could use the alternative UGA buffer width that was added to 19.300.315.A.1.
19.300.315.A.4	Provisions for Decreasing Buffer	Staff recommendation, and Consistency & Gap Analysis #4	<p>Added and reorganized existing language to clarify current processes for administrative buffer reduction criteria and buffer averaging.</p> <p>Added new reference to mitigation sequencing standards, which have been moved to 19.100.155.D.</p>

19.300.315.A.4.d	Provisions for Decreasing Buffer – Protection of Significant Trees	Staff recommendation	For consistency with Wetlands Chapter (19.200), added section for protection of significant trees when a buffer reduction is being used.
19.300.315.A.4.e	Functionally Disconnected Buffer	Staff recommendation	For consistency and clarity of current practice, allowed exception to standard buffer requirements when there is a break in connectivity to the existing buffer due to a significant development, such as built infrastructure, homes, and commercial structures. AKA “buffer break”.
19.300.315.A.5	Provisions for Increasing Buffer	Staff recommendation	Updated and clarified existing section relating to provisions for increasing buffer widths on a case-by-case basis.
19.300.315.A.6	Protection of Buffers – signage and fencing.	Administrative Edit	Moved existing language regarding buffer fencing or signage from 19.300.315.K.I for better clarity.
19.300.315.A.8	Piped Watercourses	Staff recommendation	Added a section in code to acknowledge the presence of piped streams, and require a minimum 15-foot setback from the piped stream when certain criteria is met.
19.300.315.K.2	Bank Stabilization	RMZ Checklist Recommendation K	Added language that bank stabilization may use other recommended techniques, including those with an approved critical area assessment and the guidelines of the Washington State Integrated Streambank Protection Guidelines.
19.300.315.L	Protection of Buffers – signage and fencing.	Administrative Edit	Moved language to 19.300.315.A.6 for better clarity.
19.300.315.N	Enhancement Activities	RMZ Checklist Recommendation T	In accordance with a WDFW provided checklist for Riparian Management Recommendations, added a section specifying enhancement activities that are exempt from habitat assessment report and mitigation requirements.
19.400 Geologically Hazardous Areas			

19.400.410.D.2	Clearing, Grading and Vegetation Removal	Staff Recommendation	Added erosion hazard area and qualified engineer language.
19.400.420.B.1(a)	Areas of High Erosion Hazard	Consistency & Gap Analysis 4.3.1 Recommendation #1	Included additional mapping sources available.
19.400.425.C.10 19.400.425.C.15	Landslide Hazard Indicators	Consistency & Gap Analysis 4.3.2 Recommendation #2 and #3	Added language re: unconsolidated glacial deposits and runout distances.
19.400.430.C.4	Seismic Hazard Indicators	Consistency & Gap Analysis 4.3.4 Recommendation #4	Added clarifying language re: tsunami and seiche hazard areas.
19.400.435.A.1	Development Standards	Staff Recommendation	Added "erosion hazard areas" to be included in geological assessment as appropriate.
19.400.435.A.2(a-c)	Development Standards	Staff Recommendation	Added clarifying language re: vegetated buffers and setbacks for moderate and high erosion hazard areas, high landslide areas, and moderate landslide areas.
19.400.435.B.2	Development Standards	Staff Recommendation	Added language re: a geologic assessment for moderate hazard seismic hazard areas.
19.400.445.A	Recording and disclosure	Staff Recommendation	Clarified when information may need to be recorded with the county auditor.
19.400.445.B	Recording and disclosure	Staff Recommendation	Added clarifying language re: monitoring requirement responsibility.
19.700 Special Reports			
19.700.705.E	Timeframe	Staff Recommendation.	Added section to clarify existing policy that all special reports are valid for 5-years unless otherwise stated by the author.
19.700.710.B.2(a)	Wetland Delineation Report- when needed	Staff Recommendation.	Clarifies that wetland reports are required for proposals within 300' rather than 250'. Previous updated increase maximum buffer from 250' to 300' feet. Since wetland reports are required for proposals within maximum buffer distance, this was erroneously left out of the previous update.

19.700.710.C.1	Wetland Delineation Report- staff delineation	Staff Recommendation.	Clarifies that DCD can delineate wetlands for single-family projects as resources allow.
19.700.715.B.12	Wetland Mitigation Report-Site Protection	Gap Analysis 2.3.3 - Recommendation #10	Clarifies section on protection of mitigation areas and associated buffers; what and how.
19.700.715.B.16	Wetland Mitigation Report- Performance Bonds	Staff Recommendation.	Provides timing consistency based on current policies and code; maintenance bonds typically for five years, but may be held up to ten years if mitigation has not been demonstrated successful and as little as two consecutive reports if early success achieved.
19.700.720.A	Habitat Management Plan	Staff Recommendation.	Added “or as amended” and “any” for clarity. Removed reference to National Bald Eagle Management Guidelines.
19.700.720.B	Habitat Management Plan- Site plan contents	Staff Recommendation.	HMP to include a site plan showing location of critical area, buffers and setbacks; locations of any significant trees.
19.700.720.C	Habitat Management Plan- Report content	Staff Recommendation, based on proposed changes to 19.300	Adds clarification and consistent terminology; reports to address proposal, current conditions, changes to conditions, and mitigation sequencing. New section added to clarify the report must address buffer reduction criteria and how the buffer will be protected.
19.700.725.C.5	Geological Assessment-content	Staff Recommendation.	Added to minimum content a site plan from the geologist identifying the top or toe of slope and any buffers or setbacks as their report recommends.
19.800 Appendices			
19.800 Appendix A	WA State Wetland Rating System Categories	Gap Analysis 2.3.1 - Recommendation #1	Removed.