



Critical Areas Ordinance Update

PLANNING COMMISSION WORK STUDY

APRIL 18, 2017

Outline

- Review Schedule
- Comment/Response Matrix
- 19.300 Fish and Wildlife Habitat Conservation Areas
- 19.400 Geologically Hazardous Areas
- 19.500 Frequently Flooded Areas
- 19.600 Critical Aquifer Recharge Areas
- 19.700 Special Reports
- 19.800 Appendices

Schedule

- Work Study- April 4th
- Work Study- April 18th
- Hearing (Fairgrounds)- April 25th
- Hearing (Poulsbo)- April 27th
- Hearing (Port Orchard)- May 2nd
- Deliberations- May 16th (beginning at 1pm); May 23rd
- Findings of Fact- June 6th

19.300

Fish and Wildlife Habitat Conservation Areas

□ 19.300.305 Purpose

- “...within or adjacent to...”
- “..no net loss of critical area functions and values...” + grammar edits
- (D) added “Avoid or minimize human and wildlife conflicts through planning and implementation of wildlife corridors where feasible.”

19.300

Fish and Wildlife Habitat Conservation Areas

□ 19.300.310 Fish and wildlife habitat conservation area categories

- (A) may occur on both public or private lands
- (B)(1)- Streams
 - Type S regulated under SMP
 - DNR maps not the only source
 - Field verification (WAC- “should”)
- (B)(2)- Lakes (Shorelines)
- (B)(3)- Wildlife Habitat Conservation Areas
 - (a)(1) and (2)- WDFW Priority Habitats and Species and Wildlife Areas (WAC)
 - (b)- Deleted “and its citizens” (not all PHS locations are public in order to protect nesting areas); added “viable population”

19.300

Fish and Wildlife Habitat Conservation Areas

□ 19.300.315 Development Standards

- Changes to clarify (it is not the critical area/buffer subject to regulations, but rather the activity)
- (A)(1)- deleted “or setbacks” (not intended to remain undisturbed)
- Table- Shoreline streams removed; Saltwater shorelines and lakes removed; Lakes less than 20 acres added
- (A)(3)- deleted, Buffer Widths and Setbacks for Shorelines.
- (A)(3)- Provision for Decreasing Buffer.
 - Clarification/grammatical
 - “...reduction is the minimum necessary for the permitted use...”
 - reduce the buffer width by up to 25% in a Type 1 decision (administrative); delete SFR and shoreline language; Reductions greater than 25% for SFR as Type 2 decision; Variance for all other uses if >25%.
- (A)(5) and (6)- Ravines and Channel Migration Zones- Added clarification that setbacks for geologically hazardous areas may also apply

19.300

Fish and Wildlife Habitat Conservation Areas

□ 19.300.315 (cont.)

- (A)(10)- Buffer and Building Setbacks for Water Dependent Activities- deleted (provision for water dependency is in Shoreline Management Act)
- (B)- Class I Wildlife Habitat Conservation Areas
 - “sites” vs. “development permits”
 - Bald Eagles
- (D)- Stream Crossings-
 - added that other state and local regulations apply and that the use the WDFW guidance, “Water Crossing Design Guidelines” are encouraged
 - (1) and (2) changed order (not new); salmonid stream vs. spawning areas; spawning not only critical life stage
 - (3) Added “...or to provide mid-span footings for the purpose of increased floodplain connectivity.”

19.300

Fish and Wildlife Habitat Conservation Areas

□ 19.300.315 (cont.)

- (E) Stream Relocations
 - Grammatical/clarification
 - (1) Replaced “should” with “shall be replanted, added “and maintained” and “when required by a habitat management plan”
- (F) Pesticides, Fertilizers and Herbicides- see 19.200 Wetlands
- (G) (1) Land Use and Land Use Permits- open water area[s].... “shall not be used ~~permitted for use~~ in calculating minimum lot area.”
- (G) [TYPO, should be (H)] Agricultural Restrictions- see 19.200 Wetlands; same
- (H) [TYPO, should be (I)] Trails and Trail-Related Facilities- see 19.200 Wetlands, same
- (I) [TYPO, should be (J)] Utilities- added that placement also applies to buffers
 - (3) “only when...”
 - (5) added “unless no reasonable alternative location is available” when removing trees for utility corridors and locating corridor access; added a order of preference for locating utility corridors; Mitigation

19.300

Fish and Wildlife Habitat Conservation Areas

□ 19.300.315 (cont.)

- (J) [TYPO, should be (K)] Bank Stabilization-
 - Removed references to bluff and shoreline, where appropriate, and replaced with “channel” or “bank” or “channel migration zones”
- (M) [TYPO, should be (N)] Road/Street Repair and Construction-
 - Added (5)- Mitigation

19.400

Geologically Hazardous Areas

□ 19.400.405 Purpose and applicability

- (A)- Added intro paragraph, language taken from updated WAC (365-190-120); intent remains same
- (B)- Added paragraph to clarify application to activities requiring project permits and clearing, but not for testing and surveying as long as no road construction needed to conduct

19.400

Geologically Hazardous Areas

□ 19.400.410 General Requirements

- (A) Standards “shall” to apply to any activity or clearing in an erosion or landslide area
 - (1)-Comply with geotech, when required, including largest buffer
 - (2)-Utilize industry BMPs
 - (3)-Comply with Title 12 and prevent collection, concentration or discharge of storm/ground water
 - (4)- Retained
 - (5)- Deleted
- (B) Standards for “shall not” actions in an erosion or landslide area- retained
- (C) Field marking requirements-retained
- (D) Clearing, grading and vegetation removal-
 - (1) was (D)(2), added “through consultation with the department” as how ‘allowed’
 - (2)- added, no removal of vegetation from landslide hazard area without arborist (danger tree) or management plan
 - (3)- Seasonal Restrictions, retained (was (E))
 - (4)-(7)- retained
- (E) and (F)- Retained (was (K) and (L)(M), respectively)

19.400

Geologically Hazardous Areas

□ 19.400.415 Designation of geologically hazardous areas

■ New section-

- This chapter designates, defines, and provides criteria for identification of geologically hazardous areas
- Project proponents are responsible for determining whether such a hazard exists, and the department will verify on a case-by-case basis using the criteria in this chapter.
- The “county maintains some maps of potentially geologically hazardous areas, they are for informational purposes only and may not accurately represent all such areas.”

19.400

Geologically Hazardous Areas

□ 19.400.420 Erosion Hazard Areas

- (A) General- definition
- (B) Potential erosion hazard areas- what is on the map
 - High hazard
 - Channel Migration Zones
 - Coastal erosion (sediment source rating value 0.6 to 1.0)
 - Moderate hazard
 - Identified as geologically hazardous by NRCS Kitsap County Soil Survey
 - Slopes 15% or greater (retained)
 - Coastal erosion (sediment source rating value 0.3 to 0.6)
- (C) Erosion hazard indicators- for project proponent/geologist/review staff
 - Criteria used in map, or as amended
 - Coastal erosion hazards
 - Channel migration zones

19.400

Geologically Hazardous Areas

□ 19.400.425 Landslide hazard areas

- (A) General- definition
- (B) Potential landslide hazard areas- what is on the map
 - High hazard
 - Shallow landslide areas with FS 0.5 to 1.5
 - Slopes greater than 30% and meeting criteria of U, UOS, URS
 - All deep-seated landslide areas
 - Moderate hazard
 - Shallow landslide areas with FS 1.5 to 2.5
 - Slopes 15% or greater and NOT classified as I, U, UOS, or URS; soils classified by NRCS as “highly erodible” or “potentially highly erodible”; slopes 15% or greater with springs or groundwater seepage
 - Slopes in all areas 40% or greater
- (C) Landslide Hazard Indicators

19.400

Geologically Hazardous Areas

□ 19.400.430 Seismic Hazard Areas

- (A) General- definition
- (B) Potential Seismic hazard areas- what is on the map
 - High hazard area
 - Faults with evidence of rupture at the ground surface
 - Moderate hazard area
 - Areas susceptible to seismically induced soil liquefaction (hydric soils and filled areas; wetlands)
 - Areas identified as Seismic Site Class D, E and F (DNR)
 - Faults without recognized evidence of rupture at the ground surface
- (C) Seismic Hazard Indicators

19.400

Geologically Hazardous Areas

□ 19.400.435 Development Standards

■ (A) Erosion and Landslide Hazard Development Standards

- (1) Development not allowed unless no alternate location and geological assessment demonstrates protection
- (2) Top of slope building setback
 - Added- All activities “requiring permits or clearing in erosion and landslide hazard areas”
 - Retains minimum 25’ native vegetation beyond top of slope and minimum 15’ building setback
 - (a) For high landslide hazard areas- retain setback of “height of the slope plus the greater of one-third vertical slope height or 25 ft. “
 - (b) For moderate hazard areas- retains 40’ from top of slope
- (3) Toe of slope- retained
- (4) and (5)- removed “buffer”, added “native vegetation” width; otherwise retained

■ (B) Seismic Hazard Development Standards

- (1) Development within 200’ of hazard area allowed with geotechnical report confirming suitability, and addresses any past fill or grading on site (retained)
- (2) Conform to KCC 14.04, Kitsap County Building and Fire Code (retained)

19.400

Geologically Hazardous Areas

□ 19.400.440 Review Procedures

- (A) Map review for potentially hazardous area
- (B) Geological Assessment if activity located in mapped potentially hazardous area
- (C) Field investigation by geotechnical professional
- (D) Assessment:
 - (1) Letter- no hazard within 200'
 - (2) Geological report- hazard within 200', but will not impact the site or need engineering design
 - (3) Geotechnical report- hazard within 200' AND will require engineering design or other mitigation measures necessary
- (E) Department Reviews assessment

19.400

Geologically Hazardous Areas

□ 19.400.445 Independent Consultant Review

- This is a provision for all critical areas, but due to the highly technical nature and complexity of these reports, outside resources may be needed to ensure compliance.

□ 19.400.450 Recording and Disclosure

- This is an attachment to the Notice to Title that would include:
 - An abstract and description of the risks identified in geotechnical report
 - A statement of understanding of risk and responsibility to disclose to future buyers
 - A statement of non-liability of the County for assuming risks

19.500

Frequently Flooded Areas

- “...give special consideration to anadromous fish habitat in combination with Chapter 19.300, Fish and Wildlife Habitat Conservation Areas and Title 22 Shoreline Master Program.”

19.600

Critical Aquifer Recharge Areas

□ 19.600.605 Purpose

- Additions are based on changes to WAC 365-190-100
 - “for people and many other species”
 - “...and address land use activities that pose a potential to directly or indirectly contaminate or otherwise threaten aquifer water quality and quantity.”
 - (A) “...preventing degradation of the quality and, if needed, the quantity of potable groundwater.”
 - (D) “.....preserving natural functions and processes, especially for maintaining critical fish and wildlife habitat conservation areas.”

19.600

Critical Aquifer Recharge Areas

□ 19.600.610 Critical aquifer recharge area categories

- (A)(2) Rather than sea level location, a more universal approach was to include areas “which are not separated from the underlying aquifers by an impermeable layer that provides adequate protections from contamination to the aquifer(s) below.”
- (A)(4) more information to add, reclassify, or remove an area from Category 1 now includes “susceptibility to... supply reduction”.
- (B)(2)
- (B)(5) Added for consistency, same reclassification clause as in (A)(4) for Category 1
- (C) map to include location “and defining characteristics”

19.600

Critical Aquifer Recharge Areas

□ 19.600.615 Development Standards

- (A)(2) added quantity; corrected name of Kitsap Public Health
- (B)(2) need for Hydrogeological report to be determined “...when the proposed land use or activity may impact groundwater and surface water quality and quantity.”
- (C) Notification and Review.
 - (1) Affected water purveyors, tribes and Kitsap Public Health notified and invited to comments during review “of any development application in a critical aquifer recharge areas.”
 - (3) appeal to hearing examiner removed
- (D) Stormwater. Best management practices in accordance with Title 12, rather than “encourage[ing] infiltration”
- Table- Clarified that these uses are specific to water quality concerns only

19.700

Special Reports

□ 19.700.705 Special Reports

- (A) Purpose. “...protecting and/or mitigating impact to critical areas”
- (B) grammatical clarification (clean-up)
- (C) Appeals section updated for Title 19 (and reference to Title 21 source)
- (D) Qualifications- as “required herein”; “prepared and signed by a the professionals identified below and in Chapter 19.500...”

19.700

Special Reports

□ 19.700.710 Wetland delineation report

- (A) New sub-section, but brought in from Wetlands chapter (19.200.215)
- (B)
 - (2) to include a copy of any known previous delineations or investigations and a copy of the forms used to delineate the wetland area
 - (3)(h) Site map- rather than “the department may require an air photo...”, the report must now include the “..most recent, dated air photo...”
 - (5) Discussion of wetland boundary.
 - (6) General site conditions- water bodies, “including ditches and streams”
 - (7) location of wetland within the watershed (relates to hydrology)
 - (8) Functional values to analyze, added habitat and water quality
 - (10) rationale for the [wetland category] recommendation, and a copy of the rating form
- (C)(2) plant community assessment” no longer recognized as a delineation method
- (C)(3) delineation stakes need to remain in place until after final inspection when permanent buffer signs are installed

19.700

Special Reports

□ 19.700.715 Wetland mitigation report

- Moved entirely from 19.200.250(C)
- (A) Cover/Title page and (B) Table of contents, added- was not explicitly identified in current CAO
- (C) Responsible parties
- (D) Executive summary- added:
 - Location
 - Description of measures taken to avoid and minimize impacts (showing mitigation sequencing; similar to what was (5))
 - Describe both the impacts and the proposed mitigation; clarifications
 - Explanation of other unavoidable impacts to other aquatic resources (not just waters of the state)
 - Other details: goals and objectives, proposed improvements to the larger watershed, proposed buffers for mitigation site

19.700

Special Reports

□ 19.700.715 (cont.)

- (E) and (F) describe the development (impact) site (E) Project Description- expansion of existing sub-section with more detail (what should be included on map and in the description of the development site)
- (F) Ecological Assessment of Impact-
 - (1) Description of the temporary, indirect and direct impacts
 - (2) and (3) moved to (E)
 - Added detail to these existing sub-sections on what is expected in the description: (3) Description of water regime; (4) Description of soils; (5) Description of plant communities; (6) Description of any fauna using the site; (7) Landscape position and geomorphology; (8) Description of functions provided; (9) Wetland category rating and buffer requirements; (10) Information on water quality, where applicable

19.700

Special Reports

□ 19.700.715 (cont.)

- (G) and (H) describe the mitigation site
- (G) Mitigation Approach
 - (1) Explain how each step of mitigation sequencing was followed up to compensatory mitigation
 - (3) Brief description of strategies to achieve goals
- (H) Proposed Mitigation Site
 - (1)(c) Current and past land use, added a description of the site constraints (what could affect success)
 - (2) Site selection rationale, added discussion of how mitigation site fits the needs of the watershed
 - (3) Existing/baseline ecological conditions
 - (a) – (c) and (f) – (l) are existing elements, but detail was added to each as to what is expected in each description
 - (d) added Description of other aquatic resources on the mitigation site and adjacent properties; (m) Information on water quality, where applicable

19.700

Special Reports

□ 19.700.715 (cont.)

- (I) Preliminary Site Plan
 - (1) a “qualitative description”, rather than “explanation” of water regime and hydrology
 - (2) Discussion on how the project will provide proposed functions, includes how hydrologic data will support it, the rationale for each function and design features to achieve function
 - (3) Drawing- added clarifications to existing components
- (J) Final Site Plan/Design- added detail to all existing elements of what is expected in each description
 - (1) Site survey and topography; (2) Water regime; (3) Soil amendments; (4) Landscape Plans; (5) Construction specifications

19.700

Special Reports

□ 19.700.715 (cont.)

- (M) Maintenance and Contingency Plans- added detail to all existing elements of what is expected in each description
- (N) Implementation Schedule- construction sequence and time schedule to starting and key events of project; implementation delays may result in increased mitigation; will submit as-built
- (P) Performance Bonds- Added a statement that financial assurances are “typically...one and a half times the estimated cost of mitigation”; corrected that the security would be released no EARLIER than five years after completion (success is not likely to be assured in less time)
- (Q) Waiver- deleted “in its opinion”

19.700

Special Reports

□ 19.700.720 Habitat Management Plan

- (A) PHS, as updated
- (B) and (C) corrected typos
- (C)(3)- discuss avoidance, minimization and mitigation to fish and wildlife
- (D)
 - (1)(a) Added- reduction of building setback as first in sequence for reducing buffer
 - (2) Added- discussion of connection to existing wildlife corridors

19.700

Special Reports

□ 19.700.725 Geological Assessments

- Section title changed
- “Whenever development is proposed in a potentially geologically hazardous areas...”
- Edits to allow for letter option, including qualifications (“Geological reports or letters may be prepared by a licensed geologist...”)

19.800

Appendices

- Appendix A- Rating System Categories
 - Points and terms updated as in 19.200
- Appendix B- DNR Stream Typing System
 - “Type F streams contain habitat for fish (not just salmonids, anadromous, or game)
- Appendix C- GIS Database
 - Updated- PHS (WDFW)
 - Added- Stream Typing of Select WRIA 15 Watersheds (Wild Fish Conservancy)
 - Added- Geologically Hazardous Areas (Kitsap County- GRI Consulting)
- Appendix E- Critical Area and Buffer Notice
 - Updated- Notary removed
- Appendix F- Critical Area Decision Types
 - Updated- Buffer averaging
- Appendix G (NEW)- Checklist and Sample Outline for a Delineation Report
- Appendix H (NEW)- Mitigation Plan Checklist
- Appendix G (REMOVED)- Wetland Buffer Alteration General Authorization Form