



# Critical Areas Ordinance Update

PLANNING COMMISSION WORK STUDY

APRIL 4, 2017

# Schedule

- ▶ Work Studies
  - ▶ April 4<sup>th</sup>
  - ▶ April 18<sup>th</sup>
- ▶ Hearings
  - ▶ April 25<sup>th</sup> (Fairgrounds)
  - ▶ April 27<sup>th</sup> (Poulsbo)
  - ▶ May 2<sup>nd</sup> (Port Orchard)
- ▶ Deliberations
  - ▶ May 16<sup>th</sup> (May 23<sup>rd</sup>, if needed)
- ▶ Findings of Fact
  - ▶ June 6<sup>th</sup>



# Outline



## ▶ April 4th

- ▶ Public Comments and Open Houses
- ▶ 19.100 Introduction and Approval Procedures
- ▶ 19.150 Definitions
- ▶ 19.200 Wetlands

## ▶ April 18<sup>th</sup>


- ▶ 19.300 Fish and Wildlife Habitat Conservation Areas
- ▶ 19.400 Geologically Hazardous Areas
- ▶ 19.500 Frequently Flooded Areas (including required amendments to Title 15)
- ▶ 19.600 Critical Aquifer Recharge Areas
- ▶ 19.700 Special Reports
- ▶ 19.800 Appendices


# Public Participation

- ▶ Draft available March 1 – 31
- ▶ Online Open House (471 views as of 3/27)
- ▶ Standard Open Houses
  - ▶ North Kitsap- 3/23 (Kingston)
  - ▶ South Kitsap- 3/28 (Port Orchard)
  - ▶ Central Kitsap- 3/30 (Fairgrounds)



# Summary of Comments



- ▶ Comment / Response Matrix scheduled to be available for public review later this month.
  - ▶ Preliminary comment matrix provided
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# 19.100

## Introduction and Approval Procedures

### ▶ .110 Applicability

- ▶ (D): The County does require critical area-specific permits, in addition to those required in Title 21.

### ▶ .120 Review Authority

- ▶ (D) Written request for time extension from 60, to 30 days; written comments from 30, to 15 days.

### ▶ .125(B) Exemptions-Pre-existing and ongoing agriculture

- ▶ Proposed change:...maintained within the past five years under a farm management plan or other best management practices not resulting in a net loss of critical area functions and values.

# 19.100

## Introduction and Approval Procedures

- ▶ .130 Standards for existing development
  - ▶ (A) Shorelines.
    - ▶ Delete
  - ▶ (B) Danger Tree Removal.
    - ▶ “Where a threat to human life or habitable structure property is demonstrated....” and, “...consult with a professional forester or a certified arborist through a risk assessment report, or by the department through a danger tree site evaluation permit, prior to tree removal.”
- ▶ .145 Special Use Review
  - ▶ This section was moved from only being in 19.200 (Wetlands), to this chapter to establish Special Use Review as applicable to other types of critical areas, and language added to clarify this as a process for existing permits, rather than a different permit type.

# 19.100

## Introduction and Approval Procedures

- ▶ .150 Appeals
  - ▶ (B) Appeal Process.
    - ▶ Reference added to process in KCC 21.04, or as amended; existing Title 19 process removed.
- ▶ .155 Notice to Title
  - ▶ No changes in draft; comment received.



# 19.100

## Introduction and Approval Procedures

- ▶ .160 General Application Requirements
  - ▶ (A) " All applicants for major-new development are encouraged required to meet with the department prior to submitting an application...; ~~all applicants for construction of a single family dwelling are encouraged to do so.~~"

# 19.150

## Definitions

- ▶ .105 Agricultural activities
- ▶ .125 Aquaculture practices
- ▶ .165 Best management practices (BMPs)
- ▶ .175 Buffer
- ▶ .205 Creation
- ▶ .215 Critical Aquifer Recharge Areas
- ▶ .230 Critical facilities
- ▶ .235 Danger Trees



# 19.150

## Definitions

- ▶ .275 Enhancement
- ▶ .295 Existing and ongoing agriculture
- ▶ .310 Feeder bluff
- ▶ .325 Fish and wildlife habitat conservation areas
- ▶ .350 Forest practices
- ▶ .360 Functions and values
- ▶ .365 Geologic assessment
- ▶ .405 Groundwater
- ▶ .440 Impervious surface



# 19.150

## Definitions

- ▶ .445 Lot
- ▶ .475 Non-conforming use or structure
- ▶ .485 Open space
- ▶ .500 Performance-based development (PBD)
- ▶ .510 Permit
- ▶ .505 Priority habitat
- ▶ .550 Reasonable use
- ▶ .590 Use or activity (moved)



# 19.150

## Definitions

- ▶ .570 Rehabilitation
- ▶ .575 Restoration
- ▶ .585 Riparian area
- ▶ .595 Seismic hazard areas
- ▶ .605 Shorelines
- ▶ .610 Significant tree
- ▶ .620 Special flood hazard areas
- ▶ .685 Unavoidable and necessary impacts
- ▶ .670 Utility corridor



# 19.150

## Definitions

- ▶ .680 Wetland delineation
- ▶ .705 Wetlands, mosaic



# 19.200 Wetlands

- ▶ “regulated” removed throughout
- ▶ .205 Purpose and Objectives
  - ▶ (A) “...maintaining and enhancing, when required, ...”
- ▶ .210 Wetland identification and functional rating
  - ▶ (B)(3) Cat. III Wetlands
    - ▶ Exemptions
  - ▶ (B)(4) Cat. IV Wetlands
    - ▶ Exemptions
  - ▶ (C) Non-Regulated Wetlands
  - ▶ (D) Criteria for Determining Wetlands  
Divided by a Manmade Feature

Category	2004 Scores (out of 100)	2014 Scores (out of 27)
I	70+	23+
II	51-69	20-22
III	30-50	16-19
IV	< 30	< 16

# 19.200 Wetlands

- ▶ .215 Wetland Review Procedures
  - ▶ (A) Application requirements
    - ▶ Clarifying introduction paragraph that all applications for development within a wetland or buffer will include, at a minimum, a wetland delineation report and wetland mitigation report.
    - ▶ Time limitations moved to 19.700 Special Reports
  - ▶ (B) Delineation of Wetland Boundaries- removed redundant language
  - ▶ (C) Wetland Review Process for Single-family Dwellings
    - ▶ 1. Clarified difference between expedited approval and expedited review
    - ▶ 2(c). Clarifies that a survey will not be required with a single-family wetland certification form.



# 19.200 Wetlands

- ▶ .220 Wetland buffer requirements
  - ▶ (A) Introduction paragraph describing how buffer widths determined using the following tables.
  - ▶ New tables give more direct answers to “what is the buffer” than the current tables with base buffers and +/- ; Table for each Wetland Category
  - ▶ Most buffers remain the same, with the following exceptions:
    - ▶ Cat. II Wetlands
      - ▶ High function score with Moderate land use impact (225’; currently 200’)
      - ▶ High function score with High land use impact (300’; currently 225’)
    - ▶ Cat. I Wetlands
      - ▶ High function score with High land use impact (300’; currently 250’)
      - ▶ Coastal Lagoons with Moderate land use impact (150’; currently 200’)
      - ▶ Coastal Lagoons with High land use impact (200’; currently 250’)
      - ▶ Moderate function score with High land use impact (150’ , currently 200’)

# 19.200 Wetlands

## ▶ .220(Cont.)

### ▶ (B) Modification of Buffer Widths

#### ▶ 1. Buffer Averaging

- ▶ (e) "The minimum buffer width at any point will not be less than ~~25~~ 75 percent of the widths established after the categorization is done and any buffer adjustments applied in accordance with this chapter."

#### ▶ 2. Administrative buffer reductions

- ▶ (a) and (b) similar language to 1. Buffer Averaging
- ▶ (c) new section to allow buffer reduction for high-intensity land uses to those recommended for moderate-intensity land uses if:
  - ▶ The wetland scores moderate or high for habitat and a vegetated corridor of at least 100' is legally protected between the wetland and any other WDFW Priority Habitat area, AND measures in Table 19.200.220(F) are applied; or
  - ▶ The wetland scores low for habitat and measures in Table 19.200.220(F) are applied.

# 19.200

## Wetlands

- ▶ .225 Additional development standards
  - ▶ (B) Agricultural Restrictions- development proposals that would introduce or expand agricultural activities uses, a net loss of functions and values to wetlands shall be avoided.
  - ▶ (C) Road/Street Repair and Construction- clarifications
  - ▶ (D) Land Divisions and Land Use Permits-
    - ▶ Deleted “master planned fully contained communities” and “master planned resorts” - no longer in code
  - ▶ (F) Trails and Trail-Related Facilities-
    - ▶ Viewing platforms limited to 100 sq. ft. without a wetland mitigation plan
    - ▶ Trails generally limited to outer 25% of buffer, except for wetland crossings or for direct access to viewing areas
  - ▶ (G) Utilities
    - ▶ Edits for clarification
    - ▶ 6a. Use of lead-based paints ~~should~~ shall not be used.
    - ▶ 6b. “...When approved, ~~herbicides~~ they must be applied by a licensed applicator...”
- ▶ .230 Special Use Review
  - ▶ Moved to 19.100 to be used for more than just wetland areas

# 19.200 Wetlands

- ▶ .250 Wetland mitigation requirements
  - ▶ (A) Mitigation Sequencing. All regulated development activities in impacts to wetlands or buffers shall be mitigated...
    - ▶ (5) Deleted; If mitigation sequencing applied correctly, “combining” measures would not be a stand-alone option
  - ▶ (B) Mitigation Report.
    - ▶ Clarifies when a report is required and the Notice to Title as the acceptance mechanism
  - ▶ (C) Mitigation for Wetlands
    - ▶ Moved to 19.700 Special Reports.

# 19.200 Wetlands

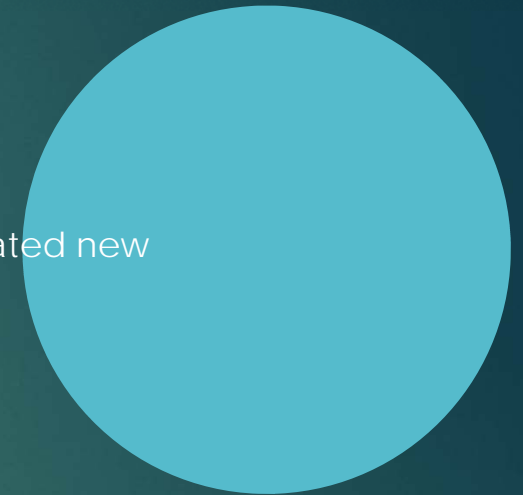
- ▶ .250 (cont.)
  - ▶ (C) Wetland Replacement Ratios.
    - ▶ Some “Enhancement” ratios doubled for the following:

Changes to Wetland Mitigation Ratios (1:1 Reestablishment or Creation (R/C) and Enhancement (E))		
Category	Current	Proposed
III	1:1 R/C and 2:1 E	1:1 R/C and 4:1E
II (except Estuarine)	1:1 R/C and 4:1 E	1:1 R/C and 8:1 E
I (Forested)	1:1 R/C and 10:1 E	1:1 R/C and 20:1E
I (Other)	1:1 R/C and 6:1 E	1:1 R/C and 12:1 E

- ▶ (D) Alternative Mitigation Plans.
  - ▶ 1. New section- will consider mitigation plans that demonstrate “equivalent or better level of protection of wetland functions and values...”

# 19.200 Wetlands

- ▶ .250 (cont.)
  - ▶ D(2) Off-site Compensatory Mitigation
    - ▶ (d)(i)- Added to existing statement on Mitigation Banking; Created new section on In-Lieu Fee
  - ▶ D(3) Advance Mitigation
    - ▶ Added as option.
- ▶ .260 Incentives for wetland mitigation
  - ▶ “Buffers dedicated as permanent open space tracts may ~~will~~ qualify for the open space taxation program....”



# Next Work Study, April 18th



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