



Pierce County

Critical Areas Ordinances



Required and Recommended Changes

Wetlands

Approach

- Wetlands are delineated and rated (Category I, II, III, or IV) by a qualified wetlands professional.
- Wetland rating is determined based on wetland functions, including water quality, hydrology, and habitat functions.
- Wetland functions are protected by a vegetated wetland buffer.
- Uses are prohibited in wetlands and wetland buffers, with limited full and partial exemptions.
- All adverse impacts to wetlands must be fully mitigated to result in no net loss of ecological value or function.
- Mitigation sequencing is a fundamental component to the protection of critical areas and should be prominently incorporated into the mitigation components of the code.
- Clearly demonstrate consistency with the Comprehensive Plan and the Shoreline Master Program.

Key Changes

Required

- Update development regulations to reference and be consistent with the definition of a wetland described in WAC 365-190-030: *“Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, 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. However, wetlands may include those artificial wetlands intentionally created from nonwetland areas to mitigate conversion of wetlands, if permitted by the county or city.”*
- Incorporate Updated rating system: 2014 Department of Ecology guidance for Western Washington.
- Allowed uses should be limited to those actions that have little or no environmental effect or are in response to an emergency that threatens public health or safety. In PCC 18E.30.040.A, the allowance for new construction of a single-family residence in a wetland buffer does not align with Best Available Science (BAS) as a new single-family residence would likely have more than minimal impact. The County should consider requiring that such new development follow the wetland buffer standards of the code.
- Update buffer widths based on the land use intensity based on the recommendations provided in the Department of Ecology Wetland Guidance for Critical Areas Ordinance Updates (Publication No. 22-06-014).

- Update mitigation ratios based on the Department of Ecology Wetland Guidance for Critical Areas Ordinance Updates (Publication No. 22-06-014)
- Update Single Family Wetland Application to require no net loss, consistent with mitigation sequencing.
- Mitigation sequencing criteria consistent with WAC 197-11-768 including the following:

(1) Avoiding the impact altogether by not taking a certain action or parts of an action;

(2) Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;

(3) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;

(4) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;

(5) Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and/or

(6) Monitoring the impact and taking appropriate corrective measures.

Recommended

- Clarify the timeline on abandoned non-conforming structures provision.
- Clarify allowed and prohibited uses in wetlands and their buffers.
- The wetlands section could be simplified by reducing the amount and type of information provided in the appendices.
- Add a definition for substantial improvement.
- Add regulations for mitigation banking based on the Department of Ecology Wetland Guidance for Critical Areas Ordinance Updates (Publication No. 22-06-14).
- Evaluation of Reasonable Use and Variance Criteria for compliance with the Department of Ecology Wetland Guidance for Critical Areas Ordinance Updates (Publication No. 22-06-014).
- Include Appendix C-E into the document.

- Review and evaluate “Exemptions” for consistency with BAS and the Department of Ecology Wetland Guidance for Critical Areas Ordinance Updates (Publication No. 22-06-014).
- Update delineation method with Army Corps of Engineers manual and applicable regional supplements.
- Require compensatory mitigation instead of “non-compensatory” mitigation.

Fish and Wildlife Habitat Conservation Areas

Approach

- Regulations intended to protect fish and wildlife habitat for those species designated as endangered, threatened, or sensitive, or as species of local importance.
- Fish and Wildlife Habitat Conservation Areas (FWHCAs) should be protected by a vegetated buffer to protect ecological functions and values.
- Buffer widths and allowed/prohibited uses depend on the type of FWHCA.
- All adverse impacts to FWHCAs must be mitigated to ensure no net loss of functions and values.

Key Changes

Required

- Update FWHCA definition for consistency with the State definition provided in WAC 365-190-030 to include, *“such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of and are maintained by a port district or an irrigation district or company”*
- Revise regulations pertaining to bald eagles to reflect their delisting.
- Development of a County-wide Habitat Conservation Plan (HCP).

Recommended

- Consider WDFW Riparian Management Zone Guidance.
- Update to Permanent Water Typing System (WAC 222-16-030)

Permanent Water Typing	Brief Description	Full Description
Type S	Shoreline of the State	All waters, within their bank-full width, as inventoried as “shorelines of the state” under chapter 90.58 RCW and the rules promulgated pursuant to chapter 90.58 RCW including periodically inundated areas of their associated wetlands.
Type Np	Non-fish bearing perennial stream	All segments of natural waters within the bankfull width of defined channels that are perennial nonfish habitat streams. Perennial streams are flowing waters that do not go dry any time of a year of normal rainfall and include the intermittent dry portions of the perennial channel below the uppermost point of perennial flow.
Type Ns	Non-fish bearing seasonal stream	All segments of natural waters within the bankfull width of the defined channels that are not Type S, F, or Np Waters. These are seasonal, nonfish habitat streams in which surface flow is not present for at least some portion of a year of normal rainfall and are not located downstream from any stream reach that is a Type Np Water. Ns Waters must be physically connected by an above-ground channel system to Type S, F, or Np Waters.

Permanent Water Typing	Brief Description	Full Description
Type F	Non-fish bearing perennial stream	<p>Segments of natural waters other than Type S Waters, which are within the bankfull widths of defined channels and periodically inundated areas of their associated wetlands, or within lakes, ponds, or impoundments having a surface area of 0.5 acre or greater at seasonal low water and which in any case contain fish habitat or are described by one of the following four categories:</p> <p>(a) Waters, which are diverted for domestic use by more than 10 residential or camping units or by a public accommodation facility licensed to serve more than 10 persons, where such diversion is determined by the department to be a valid appropriation of water and the only practical water source for such users. Such waters shall be considered to be Type F Water upstream from the point of such diversion for 1,500 feet or until the drainage area is reduced by 50 percent, whichever is less;</p> <p>(b) Waters, which are diverted for use by federal, state, tribal or private fish hatcheries. Such waters shall be considered Type F Water upstream from the point of diversion for 1,500 feet, including tributaries if highly significant for protection of downstream water quality. The department may allow additional harvest beyond the requirements of Type F Water designation provided the department determines after a landowner-requested on-site assessment by the department of fish and wildlife, department of ecology, the affected tribes and interested parties that:</p> <p style="padding-left: 40px;">(i) The management practices proposed by the landowner will adequately protect water quality for the fish hatchery; and</p> <p style="padding-left: 40px;">(ii) Such additional harvest meets the requirements of the water type designation that would apply in the absence of the hatchery;</p> <p>(c) Waters, which are within a federal, state, local, or private campground having more than 10 camping units: Provided, That the water shall not be considered to enter a campground until it reaches the boundary of the park lands available for public use and comes within 100 feet of a camping unit, trail or other park improvement;</p> <p>(d) Riverine ponds, wall-based channels, and other channel features that are used by fish for off-channel habitat. These areas are critical to the maintenance of optimum survival of fish. This habitat shall be identified based on the following criteria:</p> <p style="padding-left: 40px;">(i) The site must be connected to a fish habitat stream and accessible during some period of the year; and</p> <p style="padding-left: 40px;">(ii) The off-channel water must be accessible to fish.</p>

Critical Aquifer Recharge Areas (CARAs)

Approach

- Regulations intended to protect aquifers that are susceptible to contamination.
- Certain activities prohibited, such as storage and processing of chemicals and waste.

Key Changes

Required

- None

Recommended

- Ecology recommends including lists of allowed, permitted with conditions, and prohibited uses in the CARA regulations. This would be consistent with the Pierce County Coordinated Water System Plan.
- Clarify mapping sources.

Geologically Hazardous Areas

Approach

- Regulations intended to minimize hazards to public from development on or near geological hazards.
- Geotechnical analysis must demonstrate safety and no increase to hazard.
- Geologically hazardous areas addressed in the Code include volcanic hazard areas, landslide hazard areas, seismic hazard areas, mine hazard areas and erosion hazard areas.

Key Changes

Required

- None

Recommended

- Revise definition of landslide hazard area to incorporate the current setback area for structures.
- Additional geotechnical report requirements. A geotechnical report requires site-specific BAS to determine the boundaries of a landslide hazard area and identify what mitigation measures may be required.
- Notice, disclosure, and covenant requirements for properties in landslide hazard areas, among other provisions.

Frequently Flooded Areas

Approach

As a result of the 2008 National Marine Fisheries Service (NMFS) Biological Opinion (BiOp) on the implementation of the National Flood Insurance Program (NFIP) in the Puget Sound region, the County is required to adopt a strategy to managing development within the floodplain that considers protection of floodplain habitat for Endangered Species Act (ESA) listed salmon species. FEMA offers two ways to meet this ESA requirement:

1. Prohibit all development in the floodway and other areas as specified.
2. Include regulations to ensure development meets the criteria specified in the BiOp by either:
 - a. Adopting the Model Ordinance, or
 - b. Enforcing the same requirements in other ordinances, such as the critical areas regulations.

Key Changes

Required

- None

Recommended

- Adding a regulation to PCC 18E.70.030 specifying when a floodplain habitat assessment is required and what the minimum content requirements would include.