

Chapter 30.60 FISH AND WILDLIFE CONSERVATION AREAS

30.60.005 Note on this chapter.

At the time of the adoption of this Title 30 and Chapter 30.60, there are no known fish and wildlife conservation areas in Ruston. This chapter is being adopted for completeness and in case any fish and wildlife conservation areas are later discovered in Ruston.

(Ord. 1456 § 7, Dec. 20th, 2016).

30.60.010 Designation of fish and wildlife conservation areas.

(a) Fish and wildlife habitat conservation areas include:

- (1) Areas with Which State or Federally Designated Endangered, Threatened, and Sensitive Species Have a Primary Association.
 - (A) Federally designated endangered and threatened species are those fish and wildlife species identified by the U.S. Fish and Wildlife Service and the National Marine Fisheries Service that are in danger of extinction or threatened to become endangered. The U.S. Fish and Wildlife Service and the National Marine Fisheries Service should be consulted for current listing status.
 - (B) State designated endangered, threatened, and sensitive species are those fish and wildlife species native to the State of Washington identified by the Washington Department of Fish and Wildlife, that are in danger of extinction, threatened to become endangered, vulnerable, or declining and are likely to become endangered or threatened in a significant portion of their range within the state without cooperative management or removal of threats. The State Department of Fish and Wildlife maintains the most current listing and should be consulted for current listing status.
- (2) State Priority Habitats and Areas Associated with State Priority Species. Priority habitats and species are considered to be priorities for conservation and management. Priority species require protective measures for their perpetuation due to their population status, sensitivity to habitat alteration, and/or recreational, commercial, or tribal importance. Priority habitats are those habitat types or elements with unique or significant value to a diverse assemblage of species. A priority habitat may consist of a unique vegetation type or dominant plant species, a described successional stage, or a specific structural element. Priority habitats and species are identified by the State Department of Fish and Wildlife.
- (3) Habitats and Species of Local Importance. Habitats and species of local importance are those identified by the City, including but not limited to, those habitats and species that, due to their population status or sensitivity to habitat manipulation, warrant protection. Habitats may include a seasonal range or habitat element with which a species has a primary association, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term.
 - (A) Designation Process. The City shall accept and consider nominations for habitat areas and species to be designated as locally important on an annual basis.
 - (i) Habitats and species to be designated shall exhibit the following characteristics:

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- a. Local populations of native species are in danger of extirpation based on existing trends:
 - 1. Local populations of native species that are likely to become endangered; or
 - 2. Local populations of native species that are vulnerable or declining.
 - b. The species or habitat has recreation, commercial, game, tribal, or other special value;
 - c. Long-term persistence of a species is dependent on the protection, maintenance, and/or restoration of the nominated habitat;
 - d. Protection by other county, state, or federal policies, laws, regulations, or nonregulatory tools is not adequate to prevent degradation of the species or habitat in the City; and
 - e. Without protection, there is a likelihood that the species or habitat will be diminished over the long term.
- (ii) Areas nominated to protect a particular habitat or species must represent either high quality native habitat or habitat that has a high potential to recover to a suitable condition and which is of limited availability, highly vulnerable to alteration, or provides landscape connectivity which contributes to the integrity of the surrounding landscape.
 - (iii) Habitats and species may be nominated for designation by any person.
 - (iv) The nomination should indicate whether specific habitat features are to be protected (for example, nest sites, breeding areas, and nurseries), or whether the habitat or ecosystem is being nominated in its entirety.
 - (v) The nomination may include management strategies for the species or habitats. Management strategies must be supported by the best available science, and where restoration of habitat is proposed, a specific plan for restoration must be provided prior to nomination.
 - (vi) The Planning Director shall determine whether the nomination proposal is complete, and if complete, shall evaluate it according to the characteristics enumerated in subsection (i), above, and make a recommendation to the Planning Commission based on those findings.
 - (vii) The Planning Commission shall hold a public hearing for proposals found to be complete in accordance with Ruston Municipal Code administrative procedures and make a recommendation to the City Council based on the characteristics enumerated in subsection (i), above.
 - (viii) Following the recommendation of the Planning Commission, the City Council shall designate a Habitat or Species of Local Importance.
 - (ix) Approved nominations will be subject to the provisions of this title.
- (4) Commercial and Recreational Shellfish Areas. These areas include all public and private tidelands or bed lands suitable for shellfish harvest, including shellfish protection districts established pursuant to Chapter 90.72 RCW.
 - (5) Kelp and Eelgrass Beds and Herring and Smelt Spawning Areas.
 - (6) Naturally Occurring Ponds Under 20 Acres. Naturally occurring ponds are those ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat, including those artificial ponds

intentionally created from dry areas in order to mitigate impacts to ponds. Naturally occurring ponds do not include ponds deliberately designed and created from dry sites, such as canals, detention facilities, wastewater treatment facilities, farm ponds, temporary construction ponds, and landscape amenities, unless such artificial ponds were intentionally created for mitigation.

- (7) Waters of the State. Waters of the state include lakes, rivers, ponds, streams, inland waters, undergroundwaters, salt waters, and all other surface waters and watercourses within the jurisdiction of the State of Washington, as classified in WAC 222-16-031 (or WAC 222-16-030 depending on classification used).
 - (8) Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity.
 - (9) State Natural Area Preserves and Natural Resource Conservation Areas. Natural area preserves and natural resource conservation areas are defined, established, and managed by the Washington State Department of Natural Resources.
 - (10) Areas of Rare Plant Species and High Quality Ecosystems. (See Chapter 79.70 RCW provides for the classification and inventory of natural heritage resources.) Areas of rare plant species and high quality ecosystems are identified by the Washington State Department of Natural Resources through the Natural Heritage Program.
 - (11) Land useful or essential for preserving connections between habitat blocks and open spaces.
- (b) All areas within the City meeting one or more of these criteria, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this title and shall be managed consistent with the best available science, such as the Washington Department of Fish and Wildlife's Management Recommendations for Priority Habitat and Species.
- (c) Mapping. The approximate location and extent of habitat conservation areas are shown on the critical area maps adopted by the City, as most recently updated. The following critical area maps are hereby adopted:
- (1) Washington Department of Fish and Wildlife Priority Habitat and Species maps;
 - (2) Washington State Department of Natural Resources, Official Water Type Reference maps, as amended;
 - (3) Washington State Department of Natural Resources Puget Sound Intertidal Habitat Inventory maps;
 - (4) Washington State Department of Natural Resources Shore-Zone Inventory;
 - (5) Washington State Department of Natural Resources Natural Heritage Program mapping data;
 - (6) Washington State Department of Health Annual Inventory of Shellfish Harvest Areas;
 - (7) Anadromous and resident salmonid distribution maps contained in the Habitat Limiting Factors reports published by the Washington Conservation Commission;
 - (8) Washington State Department of Natural Resources State Natural Area Preserves and Natural Resource Conservation Area maps; and
 - (9) City official habitat maps. [None designated; Map reserved.]

These maps are to be used as a guide for the City, project applicants, and/or property owners and should be continuously updated as new critical areas are identified. They are a reference and do not provide a final critical area designation.

(Ord. 1456 § 7, Dec. 20th, 2016).

30.60.015 Erosion and sedimentation control, stormwater retention and groundwater discharge.

- (a) Purpose. This section is to minimize adverse impacts on marine and fresh water resources that might be caused by development on unstable soils or steep slopes, or by substantial alterations in existing landforms, increases in storm water runoff, or decreases in groundwater discharge.
- (b) Erosion Control Plan Required. An erosion control plan is required for every development involving more than:
 - (1) Five hundred cubic yards excavation, fill or any combination thereof.
 - (2) Eight feet depth of fill.
 - (3) Ten feet depth of excavation.
 - (4) One acre of grading, excavation, or fill on slopes greater than eight percent.
 - (5) Any amount of grading, excavation or fill in a stream, stream channel, water body, shoreline or seasonal wetland.
- (c) Potential Problems and Purposes of Erosion Control Plans. Erosion control shall be designed to achieve the following objectives, to the extent practicable, to the reasonable satisfaction of the Town or be designed to meet these objectives by an engineer satisfactory to the Town.
 - (1) Erodible Slopes. Prevent detachment and transport of soil particles from slope, particularly slopes over eight percent.
 - (2) Streams, Streambeds, Stream Banks, Bodies of Water, Lake Shorelines. Prevent detachment and transport of soil particles and undercutting or damage to banks.
 - (3) Drainage Ways. Prevent detachment and transport of soil particles which otherwise could be deposited in streams, bodies of water, or wetlands, promote deposits or sediment loads in these areas before they change watercourses.
 - (4) Land Adjacent to Streams, Ponds, and Wetlands. Prevent detachment and transport of soil particles.
 - (5) Enclosed Drainage Structures. Prevent sedimentation in structure, erosion at outflow, and deposit of sediment within the watercourse.
 - (6) Large Flat Unpaved Surfaces. Prevent detachment of soil particles and their off-site transport.
 - (7) Impervious Surfaces. Prevent the detachment and transport of soil from the impervious surface in increased rates or volumes of runoff.
 - (8) Borrow and Stockpile Areas. Divert runoff from faces of slopes which are exposed in the excavation process; convey runoff into stable channels; leave borrow areas and stockpile in stable conditions.

30.60.020 Critical area report—Additional requirements for habitat conservation areas.

In addition to the general critical area report requirements of Section 30.10.210, critical area reports for habitat conservation areas must meet the requirements of this section. Critical area reports for two or more types of critical areas must meet the report requirements for each relevant type of critical area.

- (a) Preparation by a Qualified Professional. A critical areas report for a habitat conservation area shall be prepared by a qualified professional who is a biologist with experience preparing reports for the relevant type of habitat.
- (b) Areas Addressed in Critical Area Report. The following areas shall be addressed in a critical area report for habitat conservation areas:
 - (1) The project area of the proposed activity;
 - (2) All habitat conservation areas and recommended buffers within 300 feet of the project area; and

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- (3) All shoreline areas, floodplains, other critical areas, and related buffers within 300 feet of the project area.
 - (c) Habitat Assessment. A habitat assessment is an investigation of the project area to evaluate the potential presence or absence of designated critical fish or wildlife species or habitat. A critical area report for a habitat conservation area shall contain an assessment of habitats including the following site- and proposal-related information at a minimum:
 - (1) Detailed description of vegetation on and adjacent to the project area and its associated buffer;
 - (2) Identification of any species of local importance, priority species, or endangered, threatened, sensitive, or candidate species that have a primary association with habitat on or adjacent to the project area, and assessment of potential project impacts to the use of the site by the species;
 - (3) A discussion of any federal, state, or local special management recommendations, including Washington Department of Fish and Wildlife habitat management recommendations, that have been developed for species or habitats located on or adjacent to the project area;
 - (4) A detailed discussion of the direct and indirect potential impacts on habitat by the project, including potential impacts to water quality;
 - (5) A discussion of measures, including avoidance, minimization, and mitigation, proposed to preserve existing habitats and restore any habitat that was degraded prior to the current proposed land use activity and to be conducted in accordance with Mitigation Sequencing, Section 30.10.240; and
 - (6) A discussion of ongoing management practices that will protect habitat after the project site has been developed, including proposed monitoring and maintenance programs.
 - (d) Additional Information may be Required. When appropriate due to the type of habitat or species present or the project area conditions, the Planning Director may also require the habitat management plan to include:
 - (1) An evaluation by an independent qualified professional regarding the applicant's analysis and the effectiveness of any proposed mitigating measures or programs, to include any recommendations as appropriate;
 - (2) A request for consultation with the Washington Department of Fish and Wildlife or the local Native American Indian Tribe or other appropriate agency; and
 - (3) Detailed surface and subsurface hydrologic features both on and adjacent to the site.

(Ord. 1456 § 7, Dec. 20th, 2016).

30.60.030 Performance standards—General requirements.

- (a) Alterations. A habitat conservation area may be altered only if the proposed alteration of the habitat or the mitigation proposed does not degrade the quantitative and qualitative functions and values of the habitat. All new structures and land alterations shall be prohibited from habitat conservation areas, except in accordance with this title.
- (b) Non-indigenous Species. No plant, wildlife, or fish species not indigenous to the region shall be introduced into a habitat conservation area unless authorized by a state or federal permit or approval.
- (c) Mitigation and Contiguous Corridors. Mitigation sites shall be located to preserve or achieve contiguous wildlife habitat corridors in accordance with a mitigation plan that is part of an approved critical area report

to minimize the isolating effects of development on habitat areas, so long as mitigation of aquatic habitat is located within the same aquatic ecosystem as the area disturbed.

The performance standards of Section 30.60.030 apply to all habitat conservation areas. Additional performance standards for specific habitat types are listed in Section 30.60.040. Projects related to specific habitat areas need to meet the requirements of the general section and the section specific to that habitat, if applicable.

- (d) Approvals of Activities. The Planning Director shall condition approvals of activities allowed within or adjacent to a habitat conservation area or its buffers, as necessary to minimize or mitigate any potential adverse impacts. Conditions shall be based on the best available science and may include, but are not limited to, the following:
 - (1) Establishment of buffer areas;
 - (2) Preservation of critically important vegetation and/or habitat features such as snags and downed wood;
 - (3) Limitation of access to the habitat area, including fencing to deter unauthorized access;
 - (4) Seasonal restriction of construction activities;
 - (5) Establishment of a duration and timetable for periodic review of mitigation activities; and
 - (6) Requirement of a performance bond, when necessary, to ensure completion and success of proposed mitigation.
- (e) Mitigation and Equivalent or Greater Biological Functions. Mitigation of alterations to habitat conservation areas shall achieve equivalent or greater biologic and hydrologic functions and shall include mitigation for adverse impacts upstream or downstream of the development proposal site. Mitigation shall address each function affected by the alteration to achieve functional equivalency or improvement on a per-function basis.
- (f) Approvals and the Best Available Science. Any approval of alterations or impacts to a habitat conservation area shall be supported by the best available science.
- (g) Buffers.
 - (1) Establishment of Buffers. The Planning Director shall require the establishment of buffer areas for activities adjacent to habitat conservation areas when needed to protect habitat conservation areas. Buffers shall consist of an undisturbed area of native vegetation or areas identified for restoration established to protect the integrity, functions, and values of the affected habitat. Required buffer widths shall reflect the sensitivity of the habitat and the type and intensity of human activity proposed to be conducted nearby and shall be consistent with the management recommendations issued by the Washington Department of Fish and Wildlife. Habitat conservation areas and their buffers shall be preserved in perpetuity through the use of native growth protection areas and critical area tracts in accordance with Sections 30.10.370 through 30.10.380.
 - (2) Seasonal Restrictions. When a species is more susceptible to adverse impacts during specific periods of the year, seasonal restrictions may apply. Larger buffers may be required and activities may be further restricted during the specified season.
 - (3) Habitat Buffer Averaging. The Planning Director may allow the recommended habitat area buffer width to be reduced in accordance with a critical area report, the best available science, and the management recommendations issued by the Washington Department of Fish and Wildlife, only if:
 - (A) It will not reduce stream or habitat functions;
 - (B) It will not adversely affect salmonid habitat;

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- (C) It will provide additional natural resource protection, such as buffer enhancement;
 - (D) The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer; and
 - (E) The buffer area width is not reduced by more than 25 percent in any location.
- (h) Signs and Fencing of Habitat Conservation Areas.
- (1) Temporary Markers. The outer perimeter of the habitat conservation area or buffer and the limits of those areas to be disturbed pursuant to an approved permit or authorization shall be marked in the field in such a way as to ensure that no unauthorized intrusion will occur and verified by the Planning Director prior to the commencement of permitted activities. This temporary marking shall be maintained throughout construction and shall not be removed until permanent signs, if required, are in place.
 - (2) Permanent Signs. As a condition of any permit or authorization issued pursuant to this chapter, the Planning Director may require that applicant to install permanent signs along the boundary of a habitat conservation area or buffer.
 - (A) Permanent signs shall be made of a metal face and attached to a metal post or another material of equal durability. Signs must be posted at an interval of one per lot or every 50 feet, whichever is less, and must be maintained by the property owner in perpetuity. The sign shall be worded as follows or with alternative language approved by the Planning Director:

Habitat Conservation Area

Do Not Disturb

Contact City of Ruston Planning Department Regarding Uses and Restriction
- (B) The provisions of subsection (A), above, may be modified by the Planning Department as necessary to assure protection of sensitive features or wildlife.
- (3) Fencing.
- (A) The Planning Director shall determine if fencing is necessary to protect the functions and values of the critical area. If found to be necessary, the Planning Director shall condition any permit or authorization issued pursuant to this chapter to require the applicant to install a permanent fence at the edge of the habitat conservation area or buffer, when fencing will prevent future impacts to the habitat conservation area.
 - (B) The applicant shall be required to install a permanent fence around the habitat conservation area or buffer when domestic grazing animals are present or may be introduced on site.
 - (C) Fencing installed as part of a proposed activity or as required in this subsection shall be design so as to not interfere with species migration, including fish runs, and shall be constructed in a manner that minimizes habitat impacts.
- (i) Subdivisions. The subdivision and short subdivision of land in fish and wildlife habitat conservation areas and associated buffers is subject to the following:
- (1) Land that is located wholly within a habitat conservation area or its buffer may not be subdivided.
 - (2) Land that is located partially within a habitat conservation area or its buffer may be divided provided that the developable portion of each new lot and its access is located outside of the habitat conservation area or its buffer and meets the minimum lot size requirements of Ruston Municipal Code Title 25, Zoning.

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- (3) Access roads and utilities serving the proposed may be permitted within the habitat conservation area and associated buffers only if the City determines that no other feasible alternative exists and when consistent with this title.

(Ord. 1456 § 7, Dec. 20th, 2016).

30.60.040 Performance standards—Specific habitats.

(a) Endangered, Threatened, and Sensitive Species.

- (1) No development shall be allowed within a habitat conservation area or buffer with which state or federally endangered, threatened, or sensitive species have a primary association, except that which is provided for by a management plan established by the Washington Department of Fish and Wildlife or applicable state or federal agency.

Specific fencing may be required to prevent damage to habitat by either livestock or people, and the type of fence may vary depending on the nature of the site conditions and the type of habitat. Care should be taken so that fencing does not interfere with species migration. A determination should be made by the Planning Director whether fencing is necessary to protect the functions and values of a critical area.

A table of allowable work windows, or "fish windows," is provided by WDFW for guidance regarding the best time of year for projects to occur. A final draft of the freshwater fish timing is currently being forwarded to the U.S. Fish and Wildlife Service, National Marine Fisheries Service and U.S. Army Corps of Engineers for their review and comment and will be followed by a draft for marine fish.

- (2) Whenever activities are proposed adjacent to a habitat conservation area with which state or federally endangered, threatened, or sensitive species have a primary association, such area shall be protected through the application of protection measures in accordance with a critical area report prepared by a qualified professional and approved by the City. Approval for alteration of land adjacent to the habitat conservation area or its buffer shall not occur prior to consultation with the Washington Department of Fish and Wildlife for animal species, the Washington State Department of Natural Resources for plant species, and other appropriate federal or state agencies.
- (3) Bald eagle habitat shall be protected pursuant to the Washington State Bald Eagle Protection Rules (WAC 232-12-292). Whenever activities are proposed adjacent to a verified nest territory or communal roost, a habitat management plan shall be developed by a qualified professional. Activities are adjacent to bald eagle sites when they are within 800 feet or within one-half mile (2,640 feet) and in a shoreline foraging area. The City shall verify the location of eagle management areas for each proposed activity. Approval of the activity shall not occur prior to approval of the habitat management plan by the Washington Department of Fish and Wildlife.

(b) Anadromous Fish.

- (1) All activities, uses, and alterations proposed to be located in water bodies used by anadromous fish or in areas that affect such water bodies shall give special consideration to the preservation and enhancement of anadromous fish habitat, including, but not limited to, adhering to the following standards:
 - (a) Activities shall be timed to occur only during the allowable work window as designated by the Washington Department of Fish and Wildlife for the applicable species;
 - (b) An alternative alignment or location for the activity is not feasible;
 - (c) The activity is designed so that it will not degrade the functions or values of the fish habitat or other critical areas;

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- (d) Shoreline erosion control measures shall be designed to use bioengineering methods or soft armoring techniques, according to an approved critical area report; and
 - (e) Any impacts to the functions or values of the habitat conservation area are mitigated in accordance with an approved critical area report.
- (2) Structures that prevent the migration of salmonids shall not be allowed in the portion of water bodies currently or historically used by anadromous fish. Fish bypass facilities shall be provided that allow the upstream migration of adult fish and shall prevent fry and juveniles migrating downstream from being trapped or harmed.
 - (3) Fills, when authorized by the City's Shoreline Management Program, shall not adversely impact anadromous fish or their habitat or shall mitigate any unavoidable impacts and shall only be allowed for a water-dependent use.
- (c) Wetland Habitats. All proposed activities within or adjacent to habitat conservation areas containing wetlands shall conform to the wetland development performance standards set forth in wetlands, Chapter 30.20. If non-wetlands habitat and wetlands are present at the same location, the provisions of this chapter or the wetlands chapter, whichever provides greater protection to the habitat, apply.
 - (d) Riparian Habitat Areas. Unless otherwise allowed in this title, all structures and activities shall be located outside of the riparian habitat area.
 - (1) Establishment of Riparian Habitat Areas. Riparian habitat areas shall be established for habitats that include aquatic and terrestrial ecosystems that mutually benefit each other and that are located adjacent to rivers, perennial or intermittent streams, seeps, and springs.
 - (2) Riparian Habitat Area Widths. Buffers for fish and wildlife habitat conservation areas associated with streams and riparian wetlands shall be established using a site-specific tree height standard. The minimum buffer width shall be equal to the average mature height of the dominant native tree species present within the adjacent riparian plant community.
 - (A) The buffer shall be measured horizontally from the ordinary high water mark of a stream, or from the delineated edge of a riparian wetland.
 - (B) The applicant shall submit a report prepared by a qualified professional (e.g., forester, ecologist, or wetland scientist) that:
 - (i) Identifies the dominant native tree species on or adjacent to the site;
 - (ii) Provides documented mature tree height estimates based on best available local data (e.g., WDFW PHS, NRCS plant guides, or field measurements);
 - (iii) Demonstrates that the proposed buffer width based on tree height will maintain shade, erosion control, and habitat functions equivalent to or greater than the standard buffer width.
 - (C) In areas lacking mature native vegetation, the buffer width shall default to 100 feet or the mature height of a regionally appropriate native riparian tree species, whichever is greater. Native revegetation may be required to ensure long-term functional performance.
 - (D) Buffers shall be maintained or enhanced in a fully vegetated, undisturbed condition unless otherwise authorized through a permit or habitat management plan consistent with this chapter.
 - (E) The City reserves the right to require an increase in the buffer width based on site conditions including slope, erosion hazard, species habitat, or adjacent land uses.
 - (3) Increased Riparian Habitat Area Widths.

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- (A) Buffer width shall be increased where necessary to account for site-specific conditions including:
 - (i) Slopes exceeding 30 percent
 - (ii) Highly erodible soils
 - (iv) Documented habitat for federally or state-listed endangered, threatened, or sensitive species.
 - (v) Wetlands with high habitat scores or overlapping critical area buffers.
 - (B) The recommended riparian habitat area widths shall be increased, as follows:
 - (i) When the Planning Director determines that the recommended width is insufficient to prevent habitat degradation and to protect the structure and functions of the habitat area;
 - (ii) When the frequently flooded area exceeds the recommended riparian habitat area width, the riparian habitat area shall extend to the outer edge of the frequently flooded area;
 - (iii) When a channel migration zone is present, the riparian habitat area width shall be measured from the outer edge of the channel migration zone;
 - (iv) When the habitat area is in an area of high blowdown potential, the riparian habitat area width shall be expanded an additional 50 feet on the windward side; or
 - (v) When the habitat area is within an erosion or landslide hazard area, or buffer, the riparian habitat area width shall be the recommended distance, or the erosion or landslide hazard area or buffer, whichever is greater.
 - (4) Riparian Habitat Area Width Averaging. The Planning Director may allow the recommended riparian habitat area width to be reduced in accordance with a critical area report only if:
 - (A) The width reduction will not reduce stream or habitat functions, including those of non-fish habitat;
 - (B) The width reduction will not degrade the habitat, including habitat for anadromous fish;
 - (C) The proposal will provide additional habitat protection;
 - (D) The total area contained in the riparian habitat area of each stream on the development proposal site is not decreased;
 - (E) The recommended riparian habitat area width is not reduced by more than 25 percent in any one location. (The Washington Department of Fish and Wildlife recommends not allowing riparian habitat area widths to be reduced by more than 25 percent);
 - (F) The width reduction will not be located within another critical area or associated buffer; and
 - (G) The reduced riparian habitat area width is supported by the best available science.
 - (5) Riparian Habitat Mitigation. Mitigation of adverse impacts to riparian habitat areas shall result in equivalent functions and values on a per-function basis, be located as near the alteration as feasible, and be located in the same sub-drainage basin as the habitat impacted.
 - (6) Alternative Mitigation for Riparian Habitat Areas. The performance standards set forth in this subsection may be modified at the City's discretion if the applicant demonstrates that greater habitat functions, on a per-function basis, can be obtained in the affected sub-drainage basin as a result of alternative mitigation measures.

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- (e) Aquatic Habitat. The following specific activities may be permitted within a riparian habitat area, pond, and lake, water of the state, and marine habitat or associated buffer when the activity complies with the provisions set forth in the City's Shoreline Management Program and subject to the standards of this subsection. The standards that provide the most protection to protected habitat and species shall apply.
- (1) Clearing and Grading. When clearing and grading is permitted as part of an authorized activity or as otherwise allowed in these standards, the following shall apply:
 - (A) Grading is allowed only during the dry season, which is typically regarded as beginning on May 1 and ending on October 1 of each year, provided that the City may extend or shorten the dry season on a case-by-case basis, determined on actual weather conditions. (Applicable in Western Washington.)
 - (B) Filling or modification of a wetland or wetland buffer is permitted only if it is conducted as part of an approved wetland alteration.
 - (C) The soil duff layer shall remain undisturbed to the maximum extent possible. Where feasible, any soil disturbed shall be redistributed to other areas of the project area.
 - (D) The moisture-holding capacity of the topsoil layer shall be maintained by minimizing soil compaction or reestablishing natural soil structure and infiltrative capacity on all areas of the project area not covered by impervious surfaces.
 - (E) Erosion and sediment control that meets or exceeds the standards set forth in the City's storm water requirements shall be provided.
 - (2) Shoreline Erosion Control Measures. New, replacement, or substantially improved shoreline erosion control measures may be permitted in accordance with an approved critical area report that demonstrates the following:
 - (A) Natural shoreline processes will be maintained. The project will not result in increased beach erosion or alterations to, or loss of, shoreline substrate within one-quarter mile of the project area.
 - (B) The shoreline erosion control measures will not degrade fish or wildlife habitat conservation areas or associated wetlands.
 - (C) Adequate mitigation measures ensure that there is no net loss of the functions or values of intertidal habitat or riparian habitat as a result of the proposed shoreline erosion control measures.
 - (D) The proposed shoreline erosion control measures do not result in alteration of intertidal migration corridors.
 - (3) Stream Bank Stabilization. Stream bank stabilization to protect new structures from future channel migration is not permitted except when such stabilization is achieved through bioengineering or soft armoring techniques in accordance with an approved critical area report.
 - (4) Launching Ramps—Public or Private. Launching ramps may be permitted in accordance with an approved critical area report that has demonstrated the following:
 - (A) The project will not result in increased beach erosion or alterations to, or loss of, shoreline substrate within one-quarter mile of the site;
 - (B) The ramp will not adversely impact critical fish or wildlife habitat areas or associated wetlands;
 - (C) Adequate mitigation measures ensure that there is no net loss of the functions or values of intertidal habitat or riparian habitat as a result of the ramp; and

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- (D) No alteration of intertidal migration corridors will occur as a result of the ramp.
- (5) Docks. Repair and maintenance of an existing dock or pier may be permitted in accordance with an approved critical area report subject to the following:
- (A) There is no increase in the use of materials creating shade for predator species or eelgrass;
 - (B) There is no expansion in overwater coverage;
 - (C) There is no new spanning of waters between three and 13 feet deep;
 - (D) There is no increase in the size and number of pilings; and
 - (E) There is no use of toxic materials (such as creosote) that come in contact with the water.
- (6) Roads, Trails, Bridges, and Rights-of-Way. Construction of trails, roadways, and minor road bridging, less than or equal to 30 feet wide, may be permitted in accordance with an approved critical area report subject to the following standards:
- (A) There is no other feasible alternative route with less impact on the environment;
 - (B) The crossing minimizes interruption of downstream movement of wood and gravel;
 - (C) Roads in riparian habitat areas or their buffers shall not run parallel to the water body;
 - (D) Trails shall be located on the outer edge of the riparian area or buffer, except for limited viewing platforms and crossings;
 - (E) Crossings, where necessary, shall only occur as near to perpendicular with the water body as possible;
 - (F) Mitigation for impacts is provided pursuant to a mitigation plan of an approved critical area report;
 - (G) Road bridges are designed according to the Washington Department of Fish and Wildlife Fish Passage Design at Road Culverts, 1999, and the National Marine Fisheries Service Guidelines for Salmonid Passage at Stream Crossings, 2000; and
 - (H) Trails and associated viewing platforms shall not be made of continuous impervious materials.
- (7) Utility Facilities. New utility lines and facilities may be permitted to cross watercourses in accordance with an approved critical area report, if they comply with the following standards:
- (A) Fish and wildlife habitat areas shall be avoided to the maximum extent possible;
 - (B) Installation shall be accomplished by boring beneath the scour depth and hyporheic zone of the water body and channel migration zone, where feasible;
 - (C) The utilities shall cross at an angle greater than 60 degrees to the centerline of the channel in streams or perpendicular to the channel centerline whenever boring under the channel is not feasible;
 - (D) Crossings shall be contained within the footprint of an existing road or utility crossing where possible;
 - (E) The utility route shall avoid paralleling the stream or following a down-valley course near the channel; and
 - (F) The utility installation shall not increase or decrease the natural rate of shore migration or channel migration.

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- (8) Public Flood Protection Measures. New public flood protection measures and expansion of existing ones may be permitted, subject to the City's review and approval of a critical area report and the approval of a Federal Biological Assessment by the federal agency responsible for reviewing actions related to a federally listed species.
- (9) Instream Structures. Instream structures, such as, but not limited to, high flow bypasses, sediment ponds, instream ponds, retention and detention facilities, tide gates, dams, and weirs, shall be allowed only as part of an approved watershed basin restoration project approved by the City and upon acquisition of any required state or federal permits. The structure shall be designed to avoid modifying flows and water quality in ways that may adversely affect habitat conservation areas.
- (10) Storm water Conveyance Facilities. Conveyance structures may be permitted in accordance with an approved critical area report subject to the following standards:
- (A) No other feasible alternatives with less impact exist;
 - (B) Mitigation for impacts is provided;
 - (C) Storm water conveyance facilities shall incorporate fish habitat features; and
 - (D) Vegetation shall be maintained and, if necessary, added adjacent to all open channels and ponds in order to retard erosion, filter out sediments, and shade the water.
- (11) On-Site Sewage Systems and Wells.
- (A) New on-site sewage systems and individual wells may be permitted in accordance with an approved critical area report only if accessory to an approved residential structure, for which it is not feasible to connect to a public sanitary sewer system.
 - (B) Repairs to failing on-site sewage systems associated with an existing structure shall be accomplished by utilizing one of the following methods that result in the least impact:
 - (i) Connection to an available public sanitary sewer system;
 - (ii) Replacement with a new on-site sewage system located in a portion of the site that has already been disturbed by development and is located landward as far as possible, provided the proposed sewage system is in compliance with the Tacoma-Pierce County Department of Health; or
 - (iii) Repair to the existing on-site septic system.

(Ord. 1456 § 7, Dec. 20th, 2016).