

TOWN OF WOODWAY

ORDINANCE 19-600

AN ORDINANCE OF THE TOWN OF WOODWAY, WASHINGTON, APPROVING THE ADOPTION OF AMENDMENTS TO THE TOWN OF WOODWAY SHORELINE MASTER PROGRAM AND CRITICAL AREA REGULATIONS; PROVIDING FOR SEVERABILITY; ESTABLISHING AN EFFECTIVE DATE AND AUTHORIZING SUMMARY PUBLICATION BY ORDINANCE TITLE ONLY.

WHEREAS, The Town of Woodway adopted its current Shoreline Master Program (SMP) in May 2013; and

WHEREAS, The Washington State Shoreline Management Act (SMA) provides for the periodic update of local master plans to reflect changes in local conditions and revisions to state law pursuant to RCW 90.58.080 (4); and

WHEREAS, the Town received a grant from the Department of Ecology to review, and where appropriate, update the current Shoreline Master Program; and

WHEREAS, the Town Staff prepared a Public Participation Plan that was accepted by the Planning Commission in June 2018, to guide the update effort and inform the public about proposed revisions to the SMP; and

WHEREAS, the Planning Commission conducted three work sessions between July and November 2018 using Ecology's Periodic Checklist to review legislative changes that affect the content of the master programs and related documents; and

WHEREAS, to respond to the legislative changes, the Planning Commission discussed proposed revisions to the Town's SMP and the Town's Critical Area Regulations (CAR) affecting wetlands to be consistent with state laws; and

WHEREAS, a Notice of Adoption was sent to the Department of Commerce on December 5, 2018; and

WHEREAS, a Declaration of Non-Significance was issued on December 10, 2018 and no appeals were received; and

WHEREAS, the Planning Commission conducted a duly noticed public hearing on January 2, 2019 and passed by unanimous vote, Resolution No. 2019-01 recommending approval of amendments to the Shoreline Master Program and Resolution No. 2019-02 recommending approval of amendments to the Critical Area Regulations to the Town Council for adoption; and

WHEREAS, Pursuant to WAC 173.26.100 amendments to local SMP shall be adopted by the Town Council;

NOW, THEREFORE, the Town Council of the Town of Woodway does hereby ordain as follows:

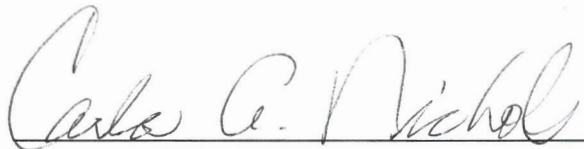
Section 1. The Town Council adopts the recommendations of the Planning Commission attached hereto as Exhibit A (Resolution 2019-01 Shoreline Master Program amendments), Exhibit B (Resolution 2019-02 Critical Area Regulations amendments), and Exhibit C with its attachments, Exhibits C.1 & C.2 (Staff report, Shoreline Master Program Update, and Critical Area Regulations Revisions).

Section 2. If any part or portion of this Ordinance is declared invalid for any such reason, such declaration of invalidity shall not affect any remaining portion.

Section 3. This Ordinance shall take effect 5 days after date of publication by ordinance title only or, as required by RCW 90.58.090, the amendments to the Shoreline Master Program and Critical Area Regulations set forth in Section 1 of this Ordinance shall take effect fourteen days from the date of the Town's receipt of written notice from the Washington State Department of Ecology stating the department has approved the amendments, whichever is later.

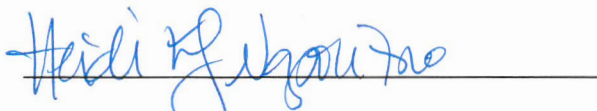
PASSED this 6th day of May 2019 by the Town Council of the Town of Woodway.

TOWN OF WOODWAY

A handwritten signature in black ink, reading "Carla A. Nichols", written over a horizontal line.

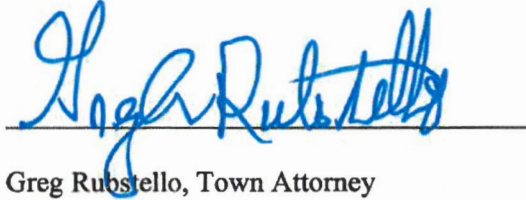
Carla A. Nichols, Mayor

ATTEST:

A handwritten signature in blue ink, reading "Heidi K. S. Napolitano", written over a horizontal line.

Heidi K. S. Napolitano, Clerk-Treasurer

APPROVED AS TO FORM:



Greg Rubstello, Town Attorney

Attachments: Exhibit A – Planning Commission Resolution No. 2019-01 (Shoreline Master Program amendments)

Exhibit B – Planning Commission Resolution No. 2019-02 (Critical Area Regulation amendments)

Exhibit C – Staff Report for the Planning Commission public hearing on January 2, 2019

Exhibit C.1 – Shoreline Master Program amendments

Exhibit C.2 – Critical Area Regulation amendments

Date Passed by the Town Council: 5.6.2019

Date Published: 5.9.2019

Date Approval Notice Received from Washington State Department of Ecology: 7.12.2019

Effective Date: 7.26.2019

Ordinance 19-600 Exhibit A

WOODWAY PLANNING COMMISSION

RESOLUTION NO. 2019-01

A RESOLUTION OF THE WOODWAY PLANNING COMMISSION RECOMMENDING TO THE TOWN COUNCIL APPROVAL OF AMENDMENTS TO THE TOWN OF WOODWAY SHORELINE MASTER PROGRAM

WHEREAS, The Town of Woodway adopted its Shoreline Master Program in May 2013 pursuant to the required time lines set forth in state law; and

WHEREAS, The Washington State Shoreline Management Act (SMA) provides for the periodic update of local master plans to reflect changes in local conditions and revisions to state law pursuant to RCW 90.58.080 (4); and

WHEREAS, the Town received a grant from the Department of Ecology to review and where appropriate update the current Shoreline Master Program; and

WHEREAS, the Planning Commission conducted a review of the applicable amendments to state law affecting Shoreline Master Programs that have occurred since the adoption of the May 2013 Shoreline Master Program; and

WHEREAS, the Planning Commission three work sessions between July and November 2018 utilizing Ecology's periodic checklist to review legislative changes that affect the content of the master programs; and

WHEREAS, the Planning Commission accepted a Public Participation Plan to guide the update effort and inform the public about proposed revisions to the SMP; and

WHEREAS, a Notice of Adoption was sent to the Department of Commerce on December 5, 2018; and

WHEREAS, a Declaration of Non-Significance was issued on December 10, 2018 and no appeals were received; and

WHEREAS, a notice of public hearing was advertised in the Everett Herald newspaper on December 7, 2018:

NOW THEREFORE BE IT RESOLVED BY THE TOWN OF WOODWAY PLANNING COMMISSION

Section 1. The Planning Commission adopts the staff report attached hereto as Exhibit A and recommends to the Woodway Town Council that the amendments to the Woodway Shoreline Master Program be adopted as set forth in Exhibit A, Attachment 1.


Passed by a vote of 6 in favor and 0 opposed this 2nd day of January 2019.



Robert Allen, Chairman

01-02-19

Date



Jill McCammon,
Planning Commission Secretary

01-02-19

Date

Attachments:

Exhibit A- Staff Report to the Town of Woodway Planning Commission

Ordinance 19-600 Exhibit B

WOODWAY PLANNING COMMISSION

RESOLUTION NO. 2019-02

A RESOLUTION OF THE WOODWAY PLANNING COMMISSION RECOMMENDING TO THE TOWN COUNCIL APPROVAL OF AMENDMENTS TO THE TOWN OF WOODWAY CRITICAL AREA REGULATIONS AFFECTING WETLANDS

WHEREAS, The Washington State Shoreline Management Act RCW 90.58.080 provides for the periodic update of local shoreline master programs and associated development regulations to reflect changes in local conditions and revisions to state law; and

WHEREAS, The Town of Woodway adopted its most recent amendments to the Critical Area Regulations in 2002 pursuant to the required time lines set forth in state law; and

WHEREAS, the Town received a grant from the Department of Ecology to review and where appropriate update the current Shoreline Master Program; and

WHEREAS, as part of the review of Shoreline Master Program the Town found that its current Critical Area Regulations did not conform to the most recent state legislative requirements; and

WHEREAS, the Planning Commission conducted a review of the applicable revisions to state law affecting the delineation, rating and habitat scoring of wetlands and that such revisions should be incorporated into the Town's Critical Area Regulations; and

WHEREAS, the Planning Commission conducted three work sessions between July and November 2018 utilizing Ecology's periodic checklist to review legislative changes that affect the content of the Town's Critical Area Regulations; and

WHEREAS, a Notice of Adoption of proposed amendments was sent to the Department of Commerce on December 5, 2018; and

WHEREAS, a Declaration of Non-Significance was issued on December 10, 2018 and no appeals were received; and

WHEREAS, a notice of public hearing was advertised in the Everett Herald newspaper, posted on Town bulletin boards and posted on the Town's website on December 7, 2018:

NOW THEREFORE BE IT RESOLVED BY THE TOWN OF WOODWAY PLANNING COMMISSION

Section 1. The Planning Commission adopts the staff report attached hereto as Exhibit A and recommends to the Woodway Town Council that the amendments to the Woodway Critical Area Regulations be adopted as set forth in Exhibit A, Attachment 2.

Passed by a vote of 6 in favor and 0 opposed this 2nd day of January 2019.



Robert Allen, Chairman

01-02-19

Date



~~Heidi Napolitano~~, Jill McCammon
Planning Commission Secretary

01-02-19

Date

Attachments: Exhibit A- Staff Report

Ordinance 19-600 Exhibit C

Exhibit A

Staff Report to the Town of Woodway Planning Commission Regarding Proposed Amendments to the Shoreline Master Program and Critical Area Regulations

Part 1 Background

Applicant:	Town of Woodway 23929 113th Place W Woodway, WA 98020
Public Hearing Date:	January 2, 2019
Public Hearing Purpose:	For the Planning Commission to receive public comments regarding proposed amendments to the Shoreline Master Program and related amendments to the Wetland section of the Critical Area Regulations and to forward a recommendation to the Town Council for action.
Location of Proposal:	The proposed amendment to the Shoreline Master Program will apply to all land within the Town's shoreline designation and the proposed amendment to the Critical Area Regulations will apply to all land within the Town of Woodway.
SEPA Compliance:	Pursuant to WMC 16.04. A determination of non-significance was issued on December 10, 2018.
Public Notification:	<p>A public notice was advertised in the Everett Herald and posted in several public places within the Town of Woodway on December 13, 2018. The public hearing notice includes reference to Ecology's "Joint Review" under WAC 173.26.104 and includes a thirty-day comment period between December 24, 2018 and January 24, 2019. Although the Town municipal code provides for a 10-day comment period, the extended 30-day comment period will enable additional public and agency comments to be considered. Comments that are received after the Planning Commission public hearing will be considered by the Town Council prior to taking action on the proposed amendments.</p> <p>A "notice of intent to adopt amendment" (60-day notice) was sent to the Washington State Department of Commerce on December 10, 2018.</p>

Part II- Background Information

The Town's Shoreline Master Program (SMP) was adopted in May 2013. Pursuant to Washington State statutes related to periodic updates of the SMP, local governments are required to review and where appropriate, revise their current Programs to conform with any legislative revisions to the Shoreline Management Act that have occurred since the last adoption date. To assist local governments in reviewing their current programs the Department of Ecology (ECY) prepared a "Periodic Review Checklist Guidance".

The "checklist" was used by staff to review the Town's current SMP to ensure consistency with current state laws and to apprise the Planning Commission of necessary revisions during commission work sessions between July and December 2018. The revisions to the SMP are minor in nature and relate only to the exemption section, the definition section, reference to the 2014 wetland rating system and use of the federal wetland delineation manual.

Revising the SMP to reference the 2014 wetland rating system required a revision to the Town's Critical Area Regulations relating to wetland buffers. Staff presented the revisions to the Critical Area Regulations related to wetland buffers and the 2014 rating system at the Commission's November 7th meeting. At that meeting staff stated that the revised buffer widths were based on the Ecology's 2014 rating system, guidance publications and conformed to the buffer widths of surrounding jurisdictions IE: Edmonds, Lynnwood and Shoreline.

Ecology staff has recently contacted Woodway staff and informed us of more recent updates to the rating system that were issued in July of 2018. As a result of the latest revisions, staff has further revised the buffer width tables to be consistent with the most recent Ecology recommendations. The buffer widths are not dramatically changed from the 2014 rating system but simplified by expanding the scoring range for habitat values. For example, for a class III wetland the previous habitat scoring included four categories (3-4; 5; 6-7; and 8-9) and ranged in buffer widths from 60 to 225 feet. The July 2018 system reduces the categories to just three (3-5; 6-7; and 8-9) with the range remaining the same from 60-225 feet.

Concerning consistency with surrounding jurisdictions, we are aware that the City of Edmonds has revised their critical area regulations to conform with 2018 revisions and we are awaiting responses from Lynnwood and Shoreline.

Part III. Proposed Amendments to the Shoreline Master Program and Critical Area Regulations

The proposed amendments to the Shoreline Master Program are attached to the staff report and entitled "ATTACHMENT 1 *Town of Woodway Master Program Update*".

The proposed amendments to the Critical Area Regulations are attached to the staff report and entitled "ATTACHMENT 2 *Town of Woodway Critical Area Regulations Revisions*"

Part IV. Findings and Conclusions

The proposed amendments to the Town's Shoreline Master Program and Critical Area Regulations have been prepared consistent with the applicable provisions of the Shoreline Management Act and its implementing rules, RCW 90.58 and Chapter 173.26 WAC including the Shoreline Master Program Guidelines. As such, the staff makes the following findings:

1. On November 3, 2017 the Department of Ecology informed the Town of Woodway that periodic updates of Shoreline Master Programs, as required by the Shoreline Management Act, were underway and awarded the Town a grant of \$10,000 to prepare the update.
2. In December 2017, the Town informed the Department of Ecology that it would accept the grant and as such, prepared the necessary grant requirements including a Public Participation Plan.
3. The Planning Commission reviewed the Public Participation Plan at its August 8, 2018 meeting and passed a motion accepting it to guide the review and update of the master program.
4. The Planning Commission reviewed suggested revisions to the SMP and CAR at its September 5th and November 7th meetings and authorized staff to schedule a public hearing to review and consider both the SMP and CAR proposed revisions.
5. The public hearing notice was advertised in the Everett Herald and posted in the Town on December 13, 2018.
6. The Town's SEPA Official issued a Determination of Non-Significance on December 10, 2018 and no appeals have been filed with the Town.
7. A Notice of Intent to Adopt Amendments was sent to the Dept. of Commerce on December 10, 2018
8. The proposed amendments to the SMP will apply to all lands within the Town's shoreline designations and the proposed amendment to the CAR are legislative in nature and will apply to all lands within the Town.
9. The Planning Commission conducted a public hearing on January 2, 2019 to consider public testimony on the proposed amendments.

Part V. Recommendation

Based on the above findings and conclusions, staff recommends that the Planning Commission recommend approval of:

1. The proposed amendments to the SMP attached hereto as Attachment 1: *Town of Woodway Shoreline Master Program Update* provided for in the attached Resolution No. 2019-01 to the Town Council; and
2. The proposed amendments to the wetland section of the CAR attached hereto as Attachment 2: *Town of Woodway Critical Area Regulations Revisions* provided for in the attached Resolution No. 2019-02.

Attachments:

Attachment 1: Town of Woodway Shoreline Master Program Update

Attachment 2: Town of Woodway Critical Area Regulations Revisions

Resolution No: 2019-01

Resolution No: 2019-02

Town of Woodway Shoreline Master Program (SMP) Update

Pursuant to Dept of Ecology Periodic Review Checklist

2017 Revisions

1. Amend reference to cost of any development from \$5,718.00 to \$7,047.00.

Section 8. General Administrative Procedures

Shoreline Permit and Exemptions

8.5.3 Exemptions Listed

The following activities shall be considered exempt from the requirement to obtain a shoreline substantial development permit but shall obtain a statement of exemption, as provided for in Section 8.5.2 and required in Section 8.5.4:

1. Any development of which the total cost or fair market value, whichever is higher, does not exceed seven thousand forty seven dollars (\$7,047) ~~five thousand seven hundred and eighteen dollars (\$5,718.00)~~, if such development does not materially interfere with the normal public use of the water or shorelines of the state. The dollar threshold established in this subsection must be adjusted for inflation by the office of financial management every five years, beginning July 1, 2007, based upon changes in the consumer price index during that time period. "Consumer price index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the Bureau of Labor and Statistics, United States Department of Labor. The office of financial management must calculate the new dollar threshold and transmit it to the office of the code reviser for publication in the Washington State Register at least one month before the new dollar threshold is to take effect. For purposes of determining whether or not a permit is required, the total cost or fair market value shall be based on the value of development that is occurring on shorelines of the state as defined in RCW 90.58.030 (2)(c). The total cost or fair market value of the development shall include the fair market value of any donated, contributed or found *labor, equipment or materials;

22. Development. Development means a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to the act at any stage of water level. Development does not include the dismantling or removing of structures.

2015 Revisions

No Action Necessary

2014 Revisions

No Action Necessary

2012 Revisions

No Action Necessary

2010 Revisions

1. Amend Reference to The Town's Critical Area Regulations to Recognize 2014 Rating System Update.

Section 4.3 Environmental Protection and Critical Areas

4.3.2 Regulations

B. Environmentally Critical Areas

1. The Town of Woodway Environmentally Critical Areas Regulations, as codified in WMC 16.10 (~~Ordinance No. 09-503, approved May 4, 2009~~) (Note: new ordinance no. and date to be inserted upon adoption of revised CAR by Town Council), are herein incorporated into this Program except as noted.

2009 Revisions

No Action Necessary

2007 Revisions

No Action Necessary

ATTACHMENT 2

Town of Woodway Critical Area Regulations Revisions

Pursuant to SMP Periodic Review Checklist

2016 Revisions

1. Amend Definitions in CAR 16.10.020

"Wetland" means areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, retention 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 include those artificial wetlands intentionally created to mitigate wetland impacts.~~ Wetlands may include those artificial wetlands intentionally created from non-wetland areas to mitigate the conversion of wetlands.

2. Amend State Delineation Manual to Federal Delineation Manual**16.10.300 Classification and rating of wetlands.**

Wetlands shall be identified in accordance with the ~~Washington State Wetlands Identification and Delineation Manual as required by RCW 36.70A.175 (Ecology Publication No. 96-94)~~ approved federal wetland delineation manual and applicable regional supplements. All areas within the Town meeting the criteria in the approved wetland delineation manual and applicable regional supplements ~~Washington State Wetlands Identification and Delineation Manual~~, regardless of any formal identification, are hereby designated critical areas and shall be subject to the provisions of this chapter.

A. The approximate location and extent of known or suspected wetlands are shown on the Town's adopted critical area maps as contained within the environmental element of the comprehensive plan. These maps shall be used as a guide for the Town, applicants, and/or property owners, and may be updated as new wetlands are identified. The exact location of a wetland boundary shall be determined through field investigation by a qualified professional applying the approved federal wetland delineation manual and applicable regional supplements ~~Washington State Wetlands Identification and Delineation Manual~~ methods and procedures.

3. Amend State Rating System to 2014 Update including Wetland Buffers and Replacement/Creation Ratios

16.10.300.B. Wetlands shall be rated and regulated according to the categories defined by the [Washington State Wetland Rating System for Western Washington: 2014 Update, \(Ecology Publication #14-06-029, October 2014\)](#) ~~as revised, Washington Department of Ecology Wetland Rating System for Western Washington (Ecology Publication No. 04-06-014).~~ which contains the definitions and methods for determining whether the criteria below are met. ~~This document contains the methods for determining the wetland category based on the following criteria:~~

1. Category I. Category I wetlands are: (1) relatively undisturbed estuarine wetlands larger than 1 acre; (2) wetlands of high conservation value that are identified by scientists of the Washington Natural Heritage Program/DNR; (3) bogs; (4) mature and old-growth forested wetlands larger than 1 acre; (5) wetlands in coastal lagoons; (6) interdunal wetlands that score 8 or 9 habitat points and are larger than 1 acre; and (7) wetlands that perform many functions well (scoring 23 points or more). These wetlands: (1) represent unique or rare wetland types; (2) are more sensitive to disturbance than most wetlands; (3) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or (4) provide a high level of functions.

2. Category II. Category II wetlands are: (1) estuarine wetlands smaller than 1 acre, or disturbed estuarine wetlands larger than 1 acre; (2) interdunal wetlands larger than 1 acre or those found in a mosaic of wetlands; or (3) wetlands with a moderately high level of functions (scoring between 20 and 22 points).

3. Category III. Category III wetlands are: (1) wetlands with a moderate level of functions (scoring between 16 and 19 points); (2) can often be adequately replaced with a well-planned mitigation project; and (3) interdunal wetlands between 0.1 and 1 acre. Wetlands scoring between 16 and 19 points generally have been disturbed in some ways and are often less diverse or more isolated from other natural resources in the landscape than Category II wetlands.

4. Category IV. Category IV wetlands have the lowest levels of functions (scoring fewer than 16 points) and are often heavily disturbed. These are wetlands that we should be able to replace, or in some cases to improve. However, experience has shown that replacement cannot be guaranteed in any specific case. These wetlands may provide some important functions, and should be protected to some degree. C. Illegal modifications.

C. Wetland rating categories shall not change due to illegal modifications made by the applicant or with the applicant's knowledge.

16.10.310 Wetland buffers.

A. Wetland buffer areas shall be established for all development proposals and activities adjacent to wetlands to protect the integrity, function, and value of the wetland. The department shall determine appropriate buffer widths based upon the approved critical area report. Wetland buffers shall be measured perpendicular to the wetland edge as marked in the field and shall not include wetlands. Except as otherwise permitted by this chapter, buffers shall consist of an undisturbed area of native vegetation.

B. The standard buffer widths required by this chapter shall presume the existence of a relatively intact native vegetation community in the buffer zone adequate to protect the wetland functions and values at the time of the proposed activity. If the existing vegetation is inadequate, then the buffer width shall be increased or the buffer planted or enhanced to maintain or improve the buffer functions. The following standard buffer width requirements are established as the minimum buffer width:

~~1. Standard Buffers. The following table describes the standard buffers for all wetlands that do not meet the criteria in subsection (B)(2) of this section. These are wetlands of all categories that receive a score of less than thirty points for wildlife habitat function on the Wetland Rating Form Questions H1 and H2 in the Washington State Wetland Rating System for Western Washington -- Revised (Hruby, T. 2004) (Washington State Department of Ecology Publication No. 04-06-025).~~

Wetland Category	Criteria	Standard Buffer
I	Category I wetlands are those wetlands of exceptional value in terms of protecting water quality, storing flood and storm water, and/or providing habitat for wildlife as indicated by a total score of 70 points or more on the Ecology wetland rating form. These are wetland communities of infrequent occurrence that often provide documented habitat for critical, threatened or endangered species, and/or have	200 ft

Wetland Category	Criteria	Standard Buffer
	other attributes that are very difficult or impossible to replace if altered.	
II	Category II wetlands have significant value based on their function as indicated by a total score of between 51 and 69 points on the Ecology wetland rating forms. They do not meet the criteria for Category I rating but occur infrequently and have qualities that are difficult to replace if altered.	150 ft
III	Category III wetlands have important resource value as indicated by a total score of between 30 and 50 points on the Ecology rating forms.	90 ft
IV	Category IV wetlands are wetlands of limited resource value as indicated by a total score of less than 30 points on the Ecology wetland rating forms. They typically have vegetation of similar age and class, lack special habitat features, and/or are isolated or disconnected from other aquatic systems or high quality upland habitats.	50 ft

2. Additional Buffers for Wetlands with High Habitat Function. Wetlands that provide high wildlife habitat function shall require wider buffers than the standards indicated in subsection (B)(1) of this section. For Category I, II, or III wetlands that score thirty or more points for wildlife habitat function on the Wetland Rating Form Questions H1 and H2 in the Washington State Wetland Rating System for Western Washington—Revised (Hruby, T. 2004) (Washington State Department of Ecology Publication No. 04-06-025), the standard buffer shall be increased for each habitat function point over thirty as shown in the table below:

-	Buffer Width (ft) for High Habitat Function (Habitat Pts > 30)						
Wetland Category	30	31	32	33	34	35	36
I	220	230	240	250	260	270	280
II	170	180	190	200	210	220	230
III	100	110	120	130	140	150	160
IV	Buffer width is 50 ft						

C. ~~The Town shall have the authority to average buffer widths on a case-by-case basis where a qualified professional demonstrates to the Town's satisfaction that all the following criteria are met:~~

1. For wetlands that score 6 points or more for habitat function, the buffers in Table 16.10.310 (1) can be used if both of the following criteria are met:

- A relatively undisturbed, vegetated corridor at least 100 feet wide is protected between the wetland and any other Priority Habitats as defined by the Washington State Department of Fish and Wildlife. The latest definitions of priority habitats and their locations are available on the WDFW web site at: <http://wdfw.wa.gov/hab/phshabs.htm>) The corridor must be protected for the entire distance between the wetland and the Priority Habitat by some type of legal protection such as a conservation easement. Presence or absence of a nearby habitat must be confirmed by a qualified biologist. If no option for providing a corridor is available, Table 16.10.310 (1) may be used with the required measures in Table 16.10.310 (2) alone.

- The measures in Table 16.10.310(2) are implemented, where applicable, to minimize the impacts of the adjacent land uses.

2. For wetlands that score 3-5 habitat points, only the measures in Table 16.10.310 (2) are required for the use of Table 16.10.310 (1).

4. The buffer widths in Table 16.10.310 (1) assume that the buffer is vegetated with a native plant community appropriate for the ecoregion. If the existing buffer is unvegetated, sparsely vegetated, or vegetated with invasive species that do not perform needed functions, the buffer should either be planted to create the appropriate plant community or the buffer should be widened to ensure that adequate functions of the buffer are provided.

Table 16.10.310(1) Wetland Buffer Requirements for Western Washington

if Table 16.10.310 (2) is Implemented and a Corridor Provided

	<u>Buffer width (in feet) based on habitat score</u>		
<u>Wetland Category</u>	<u>3-5</u>	<u>6-7</u>	<u>8-9</u>
<u>Category I:</u> <u>Based on total score</u>	<u>75</u>	<u>110</u>	<u>225</u>
<u>Category I:</u> <u>Bogs and</u> <u>Wetlands of High</u> <u>Conservation Value</u>	<u>190</u>		<u>225</u>
<u>Category I:</u> <u>Forested</u>	<u>75</u>	<u>110</u>	<u>225</u>
<u>Category I:</u> <u>Estuarine and Coastal</u> <u>Lagoons</u>	<u>150</u> <u>(buffer width not based on habitat scores)</u>		
<u>Category II:</u> <u>Based on score</u>	<u>75</u>	<u>110</u>	<u>225</u>
<u>Category II:</u> <u>Estuarine and Coastal</u> <u>Lagoons</u>	<u>110</u> <u>(buffer width not based on habitat scores)</u>		
<u>Category III (all)</u>	<u>60</u>	<u>110</u>	<u>225</u>
<u>Category IV (all)</u>	<u>40</u>		

Table 16.10.310 (2)

(All measures are required if applicable to a specific proposal)

<u>Disturbance</u>	<u>Required Measures to Minimize Impacts</u>
<u>Lights</u>	<ul style="list-style-type: none">• <u>Direct lights away from wetland</u>
<u>Noise</u>	<ul style="list-style-type: none">• <u>Locate activity that generates noise away from wetland</u>• <u>If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source</u>• <u>For activities that generate relatively continuous, potentially disruptive noise, such as certain heavy industry or mining, establish an additional 10' heavily vegetated buffer strip immediately adjacent to the outer wetland buffer</u>
<u>Toxic runoff</u>	<ul style="list-style-type: none">• <u>Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered</u>• <u>Establish covenants limiting use of pesticides within 150 ft of wetland</u>• <u>Apply integrated pest management</u>
<u>Stormwater runoff</u>	<ul style="list-style-type: none">• <u>Retrofit stormwater detention and treatment for roads and existing adjacent development</u>• <u>Prevent channelized flow from lawns that directly enters the buffer</u>• <u>Use Low Intensity Development techniques (for more information refer to the drainage ordinance and manual)</u>
<u>Change in water regime</u>	<ul style="list-style-type: none">• <u>Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns</u>
<u>Pets and human disturbance</u>	<ul style="list-style-type: none">• <u>Use privacy fencing OR plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion</u>• <u>Place wetland and its buffer in a separate tract or protect with a conservation easement</u>
<u>Dust</u>	<ul style="list-style-type: none">• <u>Use best management practices to control dust</u>

**Table 16.10.310 (3) Wetland Buffer Requirements for Western Washington
if Table 16.10.310 (2) is NOT Implemented or Corridor NOT provided**

	<u>Buffer width (in feet) based on habitat score</u>		
<u>Wetland Category</u>	<u>3-5</u>	<u>6-7</u>	<u>8-9</u>
<u>Category I:</u> <u>Based on total score</u>	<u>100</u>	<u>150</u>	<u>300</u>
<u>Category I:</u> <u>Bogs and</u> <u>Wetlands of High</u> <u>Conservation Value</u>	<u>250</u>		<u>300</u>
<u>Category I:</u> <u>Forested</u>	<u>100</u>	<u>150</u>	<u>300</u>
<u>Category I:</u> <u>Estuarine and Coastal</u> <u>Lagoons</u>	<u>200</u> <u>(buffer width not based on habitat scores)</u>		
<u>Category II:</u> <u>Based on score</u>	<u>100</u>	<u>150</u>	<u>300</u>
<u>Category II:</u> <u>Estuarine and Coastal</u> <u>Lagoons</u>	<u>150</u> <u>(buffer width not based on habitat scores)</u>		
<u>Category III (all)</u>	<u>80</u>	<u>150</u>	<u>300</u>
<u>Category IV (all)</u>	<u>50</u>		

C. The Town shall have the authority to average buffer widths on a case-by-case basis where a qualified professional demonstrates to the Town's satisfaction that all the following criteria are met:

1. The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer;
2. The buffer averaging does not reduce the functions or values of the wetland;
3. The portion of the buffer reduced through buffer averaging is less than twenty-five percent of the total buffer length on a project site;

4. The wetland contains variations in sensitivity due to existing physical characteristics or the character of the buffer varies in slope, soils, or vegetation; and

5. The buffer width is not reduced to less than fifty percent of the standard width, except that no buffer dimension shall be less than twenty-five feet.

D. The edge of the buffer area shall be clearly staked, flagged, and fenced prior to any site clearing and construction. The buffer boundary markers shall be clearly visible, durable, and permanently affixed to the ground. Site clearing shall not commence until the applicant has submitted written notice to the Department that buffer requirements of this chapter are met. Field marking shall remain until all construction and clearing phases are completed and final approval has been granted by the Town.

E. Structures shall be set back a minimum of ten feet from the buffer edge such that construction activities and outdoor living areas do not infringe upon the required buffer edge.

F. Impervious surfaces shall not be constructed in wetland buffers except as expressly provided for in this chapter.

G. The Director shall have the authority to reduce the width of the standard buffer on a case-by-case basis if all of the following criteria are met:

1. The buffer is adjacent to a critical area that is being significantly restored through a Town-approved mitigation plan that has regional benefit to critical area functions as determined by the Director.

2. A critical area report has been submitted to the Town that demonstrates the reduced buffer will protect the functions and value of the critical area being restored.

3. The reduced buffer shall be clearly described in any applicable SEPA, MDNS, or EIS document and shall be subject to review and comment by the public agencies with jurisdiction. (Ord. 09-503 § 1 (Exh. A(part)), 2009: Ord. 00-387 § 1(part), 2000. Formerly 16.10.090)

16.10.320 Alteration of wetlands--Performance standards. 

A. All activities and uses shall be prohibited in wetlands and wetland buffers except as expressly provided for in this chapter. All feasible and reasonable measures shall be taken to avoid and minimize impacts to wetlands and buffers. These actions may include consideration of alternative site plans and layouts, reductions in the density or scope of the proposal, and implementation of the performance

standards contained in this chapter. Alteration of wetlands shall be permitted only in accordance with an approved critical area report and mitigation plan. The burden of proof shall be on the applicant.

B. All significant adverse impacts to wetland functions and values and to associated buffers shall be avoided. Where such impacts cannot be avoided, the applicant shall implement appropriate compensatory mitigation according to the provisions of Sections [16.10.230](#), [16.10.340](#), [16.10.540](#), and [16.10.650](#).

C. Alteration of Category I wetlands is prohibited.

D. Alteration of Category II, III, and IV wetlands may be permitted in accordance with an approved critical area report and mitigation plan, and only when the applicant demonstrates that:

1. The basic project purpose cannot reasonably be accomplished without the wetland alteration; and
2. There are no reasonable or practical alternatives to the alteration, including without limitation on-site design or acquisition of additional area.

E. Wetland Mitigation Ratios.

When creating or enhancing wetlands, the following acreage replacement ratios shall be used:

[Table 16.10.320 \(1\)](#)

Wetland Category	Wetland Creation Replacement Ratio (Area)	Wetland Enhancement Ratio (Area)
Category I	6:1	16:1
Category II	3:1	12:1
Category III	2:1	8:1
Category IV	1.5:1	6:1

~~3.—Enhanced wetlands shall have higher wetland values and functions than the altered wetland. The values and functions transferred shall be of equal or greater quality to assure no net loss of wetland values and functions.~~

~~4.—Enhanced and created wetlands shall be appropriately classified and buffered.~~

~~5. When mitigation involves restoration of former wetlands, the replacement ratios shall be as follows:~~

Wetland Category	Wetland Restoration Replacement Ratio (Area)
Category I	4:1
Category II	2:1
Category III	2.5:1
Category IV	1.5:1

~~(Ord. 09-503 § 1 (Exh. A(part)), 2009; Ord. 00-387 § 1(part), 2000. Formerly 16.10.170)~~

<u>Category and Type of Wetland</u>	<u>Creation or Reestablishment</u>	<u>Rehabilitation only</u>	<u>Enhancement only</u>
<u>Category IV</u>	<u>1.5:1</u>	<u>3:1</u>	<u>6:1</u>
<u>Category III</u>	<u>2:1</u>	<u>4:1</u>	<u>8:1</u>
<u>Category II</u>	<u>3:1</u>	<u>6:1</u>	<u>12:1</u>
<u>Category I: Based on functions</u>	<u>4:1</u>	<u>8:1</u>	<u>16:1</u>
<u>Category I: Mature and old-growth forest</u>	<u>6:1</u>	<u>12:1</u>	<u>24:1</u>
<u>Category I: High conservation value/bog</u>	<u>Not considered possible</u>	<u>Not considered possible</u>	<u>Not considered possible</u>

~~(Ord. 09-503 § 1 (Exh. A(part)), 2009; Ord. 00-387 § 1(part), 2000. Formerly 16.10.170)~~