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~~onl~~ 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 criteri~~a:

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 other attributes that are very difficult or impossible to replace if altered.~~	~~200 ft~~
~~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~~

Wetland Category	Criteria	Standard Buffer
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).

3. 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

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

Table 16.10.310 (2) (All measures are required if applicable to a specific proposal)

Disturbance	**Required Measures to Minimize Impacts**
Lights	• Direct lights away from wetland

Disturbance	Required Measures to Minimize Impacts
Noise	• Locate activity that generates noise away from wetland • If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source • 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
Toxic runoff	• Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered • Establish covenants limiting use of pesticides within 150 ft of wetland • Apply integrated pest management
Stormwater runoff	• Retrofit stormwater detention and treatment for roads and existing adjacent development • Prevent channelized flow from lawns that directly enters the buffer • Use Low Intensity Development techniques (for more information refer to the drainage ordinance and manual)
Change in water regime	• Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns
Pets and human disturbance	• Use privacy fencing OR plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion • Place wetland and its buffer in a separate tract or protect with a conservation easement
Dust	• Use best management practices to control dust

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

	Buffer width (in feet) based on habitat score		
Wetland Category	**3-5**	**6-7**	**8-9**
Category I: Based on total score	100	150	300
Category I: Bogs and Wetlands of High Conservation Value	250		300
Category I: Forested	100	150	300
Category I: Estuarine and Coastal Lagoons	200 (buffer width not based on habitat scores)		

Category II: Based on score	100	150	300
Category II: Estuarine and Coastal Lagoons	150 (buffer width not based on habitat scores)		
Category III (all)	80	150	300
Category IV (all)	50		

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)~~

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

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