

The following changes are recommended to the City pursuant to WAC 173-26-120 (7)

ITEM	PROVISION	TOPIC	BILL FORMAT CHANGES [<u>underline-additions</u> ; strikethrough-deletions]	ECOLOGY - DISCUSSION/RATIONALE																														
A	21A.50.290 (1) & (2)	Revised Wetland Rating System	<p>(1) Wetlands shall be rated according to the Washington State Wetland Rating System for Western Washington (Department of Ecology, 2004 <u>2014</u>, or as may be amended or revised by the Department from time to time). This document contains the definitions, methods and a rating form for determining the categorization of wetlands described below:</p> <p>(a) Category 1. Category 1 wetlands include those that receive a score of greater than or equal to 70 <u>23-27</u> based on functions, or those that are rated Category 1 based on special characteristics as defined in the rating form.</p> <p>(b) Category 2. Category 2 wetlands include those that receive a score of 51 through 69 <u>20-22</u> based on functions, or those that are rated Category 2 based on special characteristics as defined in the rating form.</p> <p>(c) Category 3. Category 3 wetlands include those that receive a score of 30 through 50 <u>16-19</u> based on functions.</p> <p>(d) Category 4. Category 4 wetlands score less than 30 <u>9-15</u> points based on functions.</p> <p>(2) The following standard buffers shall be established from the wetland edge</p> <table border="1" data-bbox="612 683 1634 1182"> <thead> <tr> <th colspan="2">Wetland Category</th> <th>Standard Buffer Width (ft)</th> </tr> </thead> <tbody> <tr> <td rowspan="4">Category I:</td> <td>Natural Heritage or bog wetland</td> <td>215</td> </tr> <tr> <td>Habitat score 29-36 <u>8-9</u></td> <td>200</td> </tr> <tr> <td>Habitat score 20-28 <u>5-7</u></td> <td>150</td> </tr> <tr> <td>Not meeting above criteria</td> <td>125</td> </tr> <tr> <td rowspan="3">Category II:</td> <td>Habitat score 29-36 <u>8-9</u></td> <td>150</td> </tr> <tr> <td>Habitat score 20-28 <u>5-7</u></td> <td>100</td> </tr> <tr> <td>Not meeting above criteria</td> <td>75</td> </tr> <tr> <td rowspan="2">Category III:</td> <td>Habitat score 20-28 <u>5-7</u></td> <td>75</td> </tr> <tr> <td>Not meeting above criteria</td> <td>50</td> </tr> <tr> <td>Category IV:</td> <td>Habitat score 20-28 <u>5-7</u></td> <td>All Land Use Types - 50</td> </tr> <tr> <td>Category III and IV:</td> <td colspan="2">Subject to SMC 21A.50.320</td> </tr> </tbody> </table>	Wetland Category		Standard Buffer Width (ft)	Category I:	Natural Heritage or bog wetland	215	Habitat score 29-36 <u>8-9</u>	200	Habitat score 20-28 <u>5-7</u>	150	Not meeting above criteria	125	Category II:	Habitat score 29-36 <u>8-9</u>	150	Habitat score 20-28 <u>5-7</u>	100	Not meeting above criteria	75	Category III:	Habitat score 20-28 <u>5-7</u>	75	Not meeting above criteria	50	Category IV:	Habitat score 20-28 <u>5-7</u>	All Land Use Types - 50	Category III and IV:	Subject to SMC 21A.50.320		<p>The recommended changes reflect the new scoring system used in the revised 2014 Wetland Rating System. The City has already adopted an automatic update provision and is using the latest manual – these changes clarify areas where the code will be implemented consistent with the latest version of the manual and will ensure consistency with SMP-Guideline requirements under WAC 173-26-221 (2) (c) (i) (B).</p>
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B	21A.50.290 (7) (c)	Buffer averaging	(c) The buffer width is not reduced to less than 50 <u>75</u> percent of the standard buffer width at any location;	The identified change reducing administrative buffer reductions to less than 25-percent is intended to ensure consistency with scientific documentation related to protection of shoreline ecological functions.																														
C	21A.50.290 (7) (f)	Buffer averaging	(d) Buffer averaging may be used in conjunction with buffer reduction options in this section, provided the total combined reduction does not reduce the buffer to less than 50 <u>75</u> percent of the standard buffer width at any location;	Same rationale as item “B” above.																														
D	21A.50.290 (8) (a)	Increased buffers	(a) When a Category 1 or 2 wetland with a habitat score of greater than 29 <u>8-9</u> points [...]	Same rationale as item “A” above.																														

ITEM	PROVISION	TOPIC	BILL FORMAT CHANGES [<u>underline-additions</u> ; strikethrough-deletions]	ECOLOGY - DISCUSSION/RATIONALE
E	21A.50.290 (9)	Buffer reduction	<p>(8<u>9</u>) Buffer Reduction. Buffers may be reduced when buffer reduction impacts are mitigated and result in equal or greater protection of the wetland functions. Prior to considering buffer reductions, the applicant shall demonstrate application of mitigation sequencing as required in SMC <u>21A.50.135</u>. A plan for mitigating buffer-reduction impacts must be prepared using selected incentive-based mitigation options from the list below The following incentive options for reducing standard buffer widths shall be considered cumulative up to a maximum reduction of 50<u>25</u> percent of the standard buffer width. In all circumstances where a substantial portion of the remaining buffer is degraded, the buffer reduction plan shall include replanting with native vegetation in the degraded portions of the remaining buffer area and shall include a five-year monitoring and maintenance plan.</p>	<p>Same rationale as item "B" above.</p>
F	21A.50.290 (9) (i)	Buffer reduction	<p>(H<u>I</u>) Percentages listed above may be added together to create a total buffer reduction; provided, that the total reduction does not exceed 50<u>25</u> percent of the standard buffer width; <u>the remaining buffer shall be no less than 75% of the standard buffer.</u></p>	<p>Same rationale as item "B" above.</p>
G	21A.50.320 (1)	Isolated wetlands	<p>(1) Isolated wetlands, as designated by a qualified professional using the adopted Washington State Wetland rating System for Western Washington as defined consistent with SMC 21A.15.1410, and evaluated in a written and approved critical areas study meeting the requirements of SMC 21A.0.130, with a total area of up to 1,000 square feet may be exempted from the avoidance sequencing provisions of SMC 21A.50.135 (1) (a) and the provisions of SMC 21A.50.290 and may be altered.</p>	<p>Ecology recommends that the city amend this critical area code provision, which authorizes a qualified professional to "designate" isolated wetlands, which is a jurisdictional determination affecting implementation of the Clean Water Act (CWA). This appears to be inconsistent with a 2001 US Supreme Court decision (<u>Solid Waste Agency of Northern Cook County v. United States Army Corps of Engineers et al., 531 U.S. 159</u>). As established by the Court, the United States Army Corps of Engineers (USACOE) are provided authority to determine CWA jurisdiction, including the authority to designate a wetland as "isolated" or not a jurisdictional water of the United States.</p> <p>Further, as described in previous communication to the City (letters dated October 3, 2012 and April 23, 2013), the wetland rating system is not an appropriate tool for determining hydrological isolation or regulatory authority of isolated wetlands. A qualified professional can assess the likelihood of jurisdiction, but lacks the authority to make a regulatory decision affecting the jurisdiction of the CWA.</p> <p>Further confirmation of "isolated" wetland determination from state and/or federal agencies is a listed recommendation in the City's Cumulative Impact Analysis (ESA, 2013; 22).</p> <p>Note: See required changes to SMP Section 25.01.070 in Attachment B. Ecology has required changes to clarify that isolated wetlands within shoreline jurisdiction shall be determined by the USACOE.</p>
H	21A.50.320 (2) (a)	Small Cat. III & IV wetlands	<p>(a) The wetland does not score 15<u>4 points</u> or greater<u>less</u> for habitat in the adopted Western Washington Rating System; and [...]</p>	<p>Same rationale as item "A" above.</p>

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I	21A.50.320 (3)	Isolated Category III & IV wetland Pilot Program	<p>(3) Pilot Program.</p> <p>(a) Establishment of Pilot Program. A Pilot Program is hereby established to allow isolated category III and IV wetlands to be exempted from the avoidance sequencing provisions of SMC 21A.50.135(1)(a) and the provisions of SMC 21A.50.290, subject to <u>approval of a shoreline conditional use permit if located within shoreline jurisdiction and</u> the provisions of this section.</p> <p>(b) Purpose. The purpose of this Pilot Program is to allow for limited alterations of low habitat value isolated category III and IV wetlands with an area of 4,000 square feet or less, to evaluate the effects of such alterations on hydrologic, habitat, and water quality functions and values.</p> <p>(c) Application. Applications for eligible projects meeting the provisions of subsections (d) through (g) below must be submitted within two calendar years from the effective date of the revision to the Sammamish Shoreline Master Program.</p> <p>(d) Pilot Program Administration.</p> <p>(i) Three (3) projects associated with the construction of a single family home are authorized by this pilot project, subject to the provisions of this section.</p> <p>(i) Eligible projects shall be accepted in the order received. To qualify for submittal, an applicant must have a complete application as described in the city’s application material and SMC 20.05, and completed any necessary preliminary steps prior to application as set forth in SMC 20.05.</p> <p>(ii) In the event that an application for a project accepted into the Pilot Program is withdrawn by the applicant or cancelled by the director prior to the expiration of the Pilot Program, the next submitted application shall be accepted into the Pilot Program.</p> <p>(iii) The director shall use the authority under SMC 20.05.100 to ensure expeditious processing of applications. In particular, the director shall set a reasonable deadline for the submittal of corrections, studies, or other information when requested; an extension may be provided based upon a reasonable request. Failure by the applicant to meet a deadline shall be cause for the department to cancel/deny the application.</p> <p>(e) Eligible Projects. Subject to the limitation in the total number of projects in subsection (d) above, wetlands that meet the following criteria, may be exempted from the avoidance sequencing provisions of SMC 21A.50.135(1)(a) and the provisions of SMC 21A.50.290 and may be altered. To be eligible, a critical areas study prepared by a qualified professional shall be approved by the director and shall document the following:</p> <p>(i) The wetland is a category III or IV wetland that is hydrologically isolated from other aquatic resources; and</p> <p>(ii) The total area of the isolated wetland is 4,000 square feet or less; and</p> <p>(iii) The wetland is not adjacent to a riparian area; and</p> <p>(iv) The wetland has a score of 15 <u>4</u> points or less for habitat in the adopted Western Washington Rating System; and</p> <p>(v) The wetland does not contain habitat identified as essential for local populations of priority species identified by Washington Department of Fish and Wildlife; <u>and</u></p> <p><u>(vi) The applicant shall obtain all necessary state and federal authorizations for isolated wetland impacts prior to</u></p>	<p><i>See required changes to SMP Section 25.01.070 in Attachment B. Ecology has required a CUP for pilot program projects within shoreline jurisdiction. The cross-reference to that requirement is intended to prevent confusion over permit requirements under the Pilot Program.</i></p> <p><i>In addition, Ecology recommends the following amendment to the city’s critical area code to improve clarity and reduce potential for confusion.</i></p> <p><i>Recommended changes to provision (3) (e) (iv) will ensure consistency with the revised 2014 Wetland Rating System, similar to item “A” above.</i></p> <p><i>As Ecology commented during the SMP Update Review Process, riparian wetlands within the City’s shorelands cannot be considered to be isolated wetlands, because they are considered associated wetlands (October 3, 2012). This change would provide clarity in the city’s Critical Areas code.</i></p> <p><i>The change to provision (3) (e) (vi) reflects a recommendation from the City’s CIA (ESA, 2013;22) and will help to ensure consistency with the changes in item #3 (above) and item #7 (below) in defining “isolated wetlands” and reliance on the appropriate authority in determining regulatory jurisdiction.</i></p>

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			<p><u>beginning any ground disturbing activities or timber harvest. Isolated wetlands are those wetlands as defined consistent with SMC 21A.15.1410</u></p> <p>(f) Mitigation. Mitigation to replace lost wetland functions and values, consistent with SMC 21A.50.310 shall be prepared for review and approval by the director; and,</p>	
J	21A.50.330 (4) (c)	Stream buffer averaging	(c) The buffer is not reduced to less than 50 <u>75</u> percent of the standard buffer; and	Same rationale as item "B" above.
K	21A.50.330 (4) (e)	Stream buffer averaging	(e) Buffer averaging may be used in conjunction with buffer reduction options in this section, provided the total combined reduction does not reduce the buffer to less than 50 <u>75</u> percent of the standard buffer width at any location.	Same rationale as item "B" above.
L	21A.50.330 (6)	Stream buffer reduction	(6) Buffer Reduction. Buffers may be reduced when buffer-reduction impacts are mitigated and result in equal or great protection of the <u>ecological</u> stream functions. Prior to considering buffer reductions, the applicant shall demonstrate application of mitigation sequencing as required in SMC <u>21A.50.135</u> . A plan for mitigating buffer-reduction impacts must be prepared using selected incentive-based mitigation options from the list below, and is subject to approval by the City. The following incentive options for reducing standard buffer widths shall be considered cumulative up to a maximum reduction of 50 <u>25</u> percent of the standard buffer width. In all circumstances where a substantial portion of the remaining buffer is degraded, the buffer reduction plan shall include replanting with native vegetation in the degraded portions of the remaining buffer area and shall include a five-year monitoring and maintenance plan.	Same rationale as item "B" above.
M	21A.50.330 (6) (e) (ii)	Stream buffer reduction	(e) In-stream habitat enhancement: (i) Up to 20 percent reduction in standard buffer width for log structure placement, bioengineered bank stabilization, or culvert removal; or (ii) Up to 30 <u>25</u> percent reduction in standard buffer width for improving fish passage and/or creation of side channel or backwater areas.	Same rationale as item "B" above.
N	21A.50.13[...]	New validity of wetland delineation standard	<u>A wetland delineation completed over five years ago needs to be revisited. Revisiting a wetland delineation that is five or more years old does not necessarily mean that a new wetland delineation needs to be completed. It means that a field verification may need to be performed to determine whether the delineation is still accurate or whether it needs to be redone based on existing conditions.</u>	Wetlands can change significantly in a five-year period, due to changes in hydrology, adjacent land uses, and plant species composition. Approved jurisdictional determinations by the U.S. Army Corps of Engineers expire after five years. The 1987 wetland delineation manual by the U.S. Army Corps of Engineers has a requirement for comprehensive determinations to "quantitatively describe the vegetation in the past 5 years" (page 41, step 5).