



PLANNING COMMISSION
SPECIAL MEETING
THURSDAY, MAY 18, 2017
6:00 – 9:00 PM
COUNCIL CHAMBER
280 MADISON AVE N
BAINBRIDGE ISLAND, WA 98110

AGENDA

- 6:00 PM CALL TO ORDER
 Call to Order, Agenda Review, Conflict Disclosure
- 6:05 PM REVIEW AND APPROVAL OF MINUTES
 May 11, 2017
- 6:15 PM PUBLIC COMMENT
 Accept public comment on off agenda items.
- 6:25 PM CRITICAL AREAS ORDINANCE
 Christy Carr, Senior City Planner
- 7:50 PM BREAK
- 8:00 PM RESUME CRITICAL AREAS ORDINANCE
- 8:55 PM NEW/OLD BUSINESS
- 9:00 PM ADJOURN

***** TIMES ARE ESTIMATES****

Public comment time at meeting may be limited to allow time for Commissioners to deliberate. To provide additional comment to the City outside of this meeting, e-mail us at pcd@bainbridgewa.gov or write us at Planning and Community Development, 280 Madison Avenue, Bainbridge Island, WA 98110

**For special accommodations, please contact Jane Rasely, Planning & Community
Development 206-780-3758 or at jrasely@bainbridgewa.gov**

CALL TO ORDER – Call to Order, Agenda Review, Conflict Disclosure
REVIEW AND APPROVAL OF MINUTES – April 27, 2017
PUBLIC COMMENT – Accept public comment on off agenda items
ORDINANCE 2017-14 PUBLIC SAFETY AM RADIO TOWER
CRITICAL AREAS ORDINANCE UPDATE
NEW/OLD BUSINESS
ADJOURN

CALL TO ORDER – Call to Order, Agenda Review, Conflict Disclosure

Chair Pearl called the meeting to order at 7:03 PM. Commissioners in attendance were Maradel Gale, Jon Quitslund, Michael Killion and Lisa Macchio. Michael Lewars and William Chester were absent and excused. City Staff present were Planning Director Gary Christensen, Emergency Management Coordinator Amber Richards, Senior City Planners Jennifer Sutton and Christy Carr, and Administrative Specialist Jane Rasely who monitored recording and prepared minutes.

The agenda was reviewed. There were not any conflicts disclosed.

REVIEW AND APPROVAL OF MINUTES – April 27, 2017

Chair Pearl asked if the minutes that were amended at the last meeting were included in the report made to the Hearing Examiner. Ms. Rasely stated the staff report for the Madrona School Conditional Use Permit had been amended to reflect the changes the Planning Commission asked for in the minutes and that the Hearing Examiner had received that amended report.

**Motion: I move approval of the minutes for April 27, 2017 as distributed.
Quitslund/Killion: Passed Unanimously 4-0**

PUBLIC COMMENT – Accept public comment on off agenda items

None.

ORDINANCE 2017-14 PUBLIC SAFETY AM RADIO TOWER

Senior City Planner Jennifer Sutton gave some background information regarding the Public Safety Communication Tower ordinance that explained why the changes were being sought and highlighted the changes to *Table 18.09.020 Use Table* contained in Bainbridge Island Municipal Code (BIMC). Emergency Management Coordinator Amber Richards provided the rationale for installing a single AM radio tower to provide coverage for the entire island. She explained the process that led to moving the tower from BIFD Station 22 to the American Legion Property next door to the fire station, the part island geography played in placement and how that provided the impetus to the changes in the BIMC.

Chair Pearl asked whether the BIMC could remain intact and an exception given for this tower. Ms. Sutton stated they felt it should be permitted in all zones due to the different factors that come into play for their location such as line of sight, topography, etc. Commissioners Killion, Gale and Pearl wanted to provide an exception for this tower as opposed to amending the code to allow public communication towers in any land use zone. Commissioner Gale asked if they could be limited to non-residential uses. The Planning Commission asked to have the use changed to “Accessory” to public facilities in all zones except R-0.4, R-1 and Business/Industrial where public communication towers are permitted.

CRITICAL AREAS ORDINANCE UPDATE

Senior City Planner Christy Carr highlighted the changes to the wetlands and fish and wildlife habitat conservation areas sections (see attached presentation).

Chair Pearl asked that paper copies of Planning Commission agenda materials be sent in addition to links to the electronic version. Ms. Rasely agreed to begin sending paper copies again as a matter of course.

The schedule for future meetings was reviewed. Ms. Carr stated she would not introduce any new material but the discussion would continue from tonight’s material. Commissioner Gale asked to begin the meetings earlier so they could get through the update by the end of June. All Commissioners present agreed to a 6:00 PM starting time.

NEW/OLD BUSINESS

None.

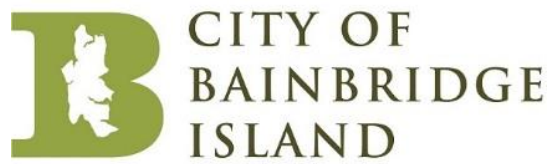
ADJOURN

The meeting was adjourned at 9:07

Approved by:

J. Mack Pearl, Chair

Jane Rasely, Administrative Specialist



DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

MEMORANDUM

Date: May 18, 2017
To: Planning Commission
From: Christy Carr, AICP
Senior Planner
Subject: Critical Areas Ordinance Update
Draft Summary of Proposed Changes – Wetlands and Fish and Wildlife Habitat
Conservation Areas

I. DRAFT SUMMARY OF PROPOSED CHANGES

Two tables are attached, summarizing draft proposed changes to the wetlands and fish and wildlife habitat conservation areas sections of the critical areas ordinance. Changes based on comments at the May 11, 2017 meeting are highlighted in yellow.

Additional discussion will include:

- Clarification on allowed, allowed with review and regulated uses/development and how each type would be reviewed
- Small wetlands (less than 1000 square feet) – regulate?
- Reasonable use exception (see existing code language, attached, BIMC 16.20.080)
- Addressing cumulative impacts
- Standards for existing development – options

Planning Commission Action: Review attached document and critical areas ordinance. Come prepared to discuss specific provisions and language.

II. NEXT STEPS

The next meeting is scheduled for May 25, 2017 at 6:00 pm. Geologically hazardous areas and critical aquifer recharge areas will be discussed.

A. Applicability and Intent. A reasonable use exception (RUE) is intended to ensure reasonable use of a property when reasonable use of that property cannot be achieved through any other means. An applicant may request an RUE pursuant to this section if the applicant demonstrates that:

1. The subject property is encumbered to such an extent by critical areas and/or water quality buffers that application of this chapter would deny all reasonable use of the subject property; and
2. Reasonable use of the subject property cannot be achieved through buffer averaging (BIMC [16.20.050.B](#)), a habitat management plan (BIMC [16.20.060](#)), or a variance (BIMC [16.20.070](#)).

B. Exception Request and Review Process. An application for an RUE shall be made to the city and shall include a critical area report, including mitigation plan, if necessary; and any other relevant information and reports that are necessary, in the opinion of the director, to process and prepare the recommendation on the application, such as permit applications to other agencies, special studies, and environmental documents prepared pursuant to the State Environmental Policy Act, Chapter [43.21C](#) RCW (SEPA documents).

C. After receiving the application, the director shall determine whether the property qualifies for inclusion in any program established by the city that would eliminate the need for an RUE including, but not limited to, programs regarding transfer of development rights, mitigation banking, and open space acquisition. If the property qualifies for inclusion in one or more of such programs, the director shall notify the applicant in writing of such qualification and of the applicable rules and regulations, and shall send an application form for inclusion in such program(s). If the property is included in one or more of such programs, the application shall be further processed as amended or withdrawn, as appropriate.

D. After receiving the application, the city may, at its sole discretion, offer to purchase the development rights rather than grant an RUE, and the applicant, at his/her sole discretion, may agree to accept the offer to purchase said development rights rather than pursue an RUE.

E. The director shall prepare a recommendation to the hearing examiner based on review of the submitted information and reports, a site inspection, and the proposal's compliance with the criteria in subsection G of this section.

F. Hearing Examiner Review. The hearing examiner shall review the RUE application and conduct a public hearing pursuant to the provisions of BIMC [2.16.100](#). The hearing examiner shall approve, approve with conditions, or deny the request based on the proposal's compliance with all of the RUE review criteria in subsection G of this section.

G. Reasonable Use Review Criteria. Criteria for review and approval of reasonable use exceptions are as follows:

1. The application of this chapter would deny all reasonable use of the property;
2. There is no reasonable alternative to the proposal;
3. The proposed impact to the critical area is the minimum necessary to allow reasonable use of the property;
4. The inability of the applicant to derive reasonable use of the property is not the result of actions by the applicant, or of the applicant's predecessor, that occurred after February 20, 1992;
5. The proposed total lot coverage does not exceed 1,200 square feet;
6. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the property;
7. Any net loss of critical area functions and values, as determined by a qualified consultant through the application of best available science, will be mitigated on-site to the extent feasible if off-site options are not available. If off-site options, such as a fee-in-lieu or mitigation banking program, are available, the mix of on-site and off-site mitigation should be based on recommendations of the consultant; and
8. A habitat management plan has been prepared pursuant to BIMC [16.20.060](#), unless it is determined through the applicable review process that such a plan is unnecessary; and
9. The proposal is consistent with other applicable regulations and standards.

H. Burden of Proof. The burden of proof shall be on the applicant to bring forth evidence in support of the application and to provide sufficient information on which any decision has to be made on the application. The standard for the burden of proof shall be clear and convincing evidence. (Ord. 2005-03 § 2, 2005)

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Summary of Proposed Changes

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Highlighted text denotes changes since May 11, 2017 meeting

Section contents to be ordered as follows:

Applicability

Identification and Designation

Rating (Categories)

Mapping

Protection of wetlands

Prohibited uses and activities

Allowed uses and activities – without review/with review

Regulated uses and activities

Specific standards for regulated uses and activities

Permit and review requirements for regulated uses and activities

Wetland buffers

Review requirements for wetland buffers

Wetland mitigation

The following table follows the proposed order and references existing BIMC citations where applicable.

City of Bainbridge Island 2017 Critical Areas Ordinance Update – Wetlands

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Item	CAO Citation	Proposed Change	Discussion/Basis for Change/BAS Reference
1	16.20.160.A	Remove purpose statement from individual critical areas sections and improve purpose statement at beginning of chapter (16.20.010). Example language: A. The purpose of this chapter is to designate and classify ecologically sensitive and hazardous areas as critical areas and to protect, maintain and restore these areas and their functions and values, while also allowing for reasonable use of public and private property. B. This chapter is to implement the goals, policies, guidelines, and requirements of the city comprehensive plan and the Growth Management Act (Chapter 36.70A RCW). C. Critical areas provide a variety of valuable and beneficial biological and physical functions that benefit the city and its residents, and/or may pose a threat to human safety or to public and private property. The beneficial functions and values provided by critical areas include, but are not limited to, water quality protection and enhancement, fish and wildlife habitat, food chain support, flood storage, conveyance and attenuation of flood waters, ground water recharge and discharge, erosion control, wave attenuation, and protection from hazards. D. By limiting adverse impacts to and alteration of critical areas, this chapter seeks to accomplish the following goals: 1. Protect, maintain and restore healthy, functioning ecosystems through the protection of unique, fragile, and valuable elements of the environment, including, but not limited to, ground and surface waters, wetlands, fish and wildlife and their habitats; and to conserve the biodiversity of plant and animal species; 2. Direct activities not dependent on critical area resources to less environmentally sensitive sites and mitigate unavoidable impacts to critical areas by regulating alterations in and adjacent to critical areas; 3. Prevent cumulative adverse environmental impacts to water quality, wetlands, and fish and wildlife habitat, and the overall net loss of wetlands, frequently flooded areas, and habitat conservation areas; 4. Protect members of the public and public resources and facilities from injury, loss of life, or property damage due to landslides and steep slope failures, erosion, seismic events, or flooding; and 5. Alert owners, potential purchasers, real estate agents, appraisers, lenders, builders, developers and other members of the public to natural conditions that pose a hazard or otherwise limit development. E. This title is to be administered with flexibility and attention to site-specific characteristics. It is not the intent of this title to make a parcel of property unusable by denying its owner reasonable economic use of the property, nor to prevent the provision of public facilities and services necessary to support existing development.	The purpose of the CAO is driven by the GMA and is similar if not the same for all critical areas required to be designated by the GMA.
2	New section: Applicability	A. This chapter shall apply to:	This section essentially replaces BIMC 16.20.160.C, “Regulated and Non-Regulated Wetlands Classification.” Revised for clarity.

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		1. All wetlands designated pursuant to BIMC 16.20.XX except as specified in subsection (B) and (C) of this section. 2. All wetland buffers as shown in the tables in BIMC 16.20.160.XX. B. This chapter does not apply to the following wetlands. In order to verify that this chapter does not apply to any specific wetland, a critical area report for wetlands meeting the requirements in BIMC 16.20.XX shall be submitted. 1. All isolated wetlands less than 1,000 square feet if all of the following are met: a. Wetland is not associated with riparian areas or buffers; b. Wetland is not part of a mosaic of wetlands; and c. Wetland does not contain habitat identified as essential for local populations of priority species identified by Washington Department of Fish and Wildlife or provide suitable habitat for breeding amphibian populations. Suitable breeding habitat may be indicated by adequate stable and seasonal inundation that is persistent from February to at least through April and presence of thin-stemmed emergent vegetation and/or clean water. 2. Wetlands located within the city's shoreline jurisdiction, which are regulated by the city's shoreline master program (BIMC 16.12).	BIMC 16.20.160.C.2.b and b (created wetlands and recent, road construction related wetlands) are already excluded from the definition of wetlands in the definition section. These sections are redundant. Clarifies that BIMC 16.20 does not apply to wetlands within shoreline jurisdiction.
3	New section: Identification and designation	A. Identification of wetlands and delineation of their boundaries pursuant to this chapter shall be done in accordance with the federal wetland delineation manual and applicable regional supplements (as updated), as required by WAC 173-22-035. All areas within the city meeting the wetland designation criteria, regardless of any formal delineation, are hereby designated as wetlands and are subject to provisions of this chapter unless specified in BIMC 16.20.XX. B. A wetland delineation must be conducted by a qualified professional, in accordance with BIMC 16.20.XX. C. The wetland boundary shall be marked in the field and surveyed by a licensed surveyor. The surveyed wetlands shall be sized and mapped on a scaled site plan. The director may require the wetland delineation to be verified in the field by the Army Corps of Engineers or the Washington State Department of Ecology when there is uncertainty in the wetland boundary or there was unauthorized wetland disturbance. The requirement for a licensed surveyor to survey the wetland boundaries may be waived in limited circumstances, such as when there is no access to the wetland property or there is no proposed impact to the wetland and wetland buffer, with authorization from the director. D. Wetland delineations shall be valid for five years from the date of the delineation.	Provided for clarification and to add 5 year time frame recommended by Ecology.
4	16.20.160.B	Wetland Rating (changed from Wetland Categories)	Updates required to incorporate Ecology's new wetland rating manual. Revised for clarity. Existing section does not include 5 year

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	Wetlands shall be rated according to the Washington State Wetland Rating System for Western Washington – 2014 Update (Ecology Publication No. 14-06-029, October 2014), and as revised. The wetland categories determined by the rating are as follows: A. Category I. Category I wetlands are: 1. Relatively undisturbed estuarine wetlands larger than one acre; 2. Wetlands that are, or may be in the future, identified by scientists of the Washington Natural Heritage Program/Department of Natural Resources as wetlands of high conservation value; 3. Bogs; 4. Mature forested wetlands larger than one acre; 5. Wetlands in coastal lagoons; and 6. Wetlands that perform many functions well and score 23 points or more in the wetland rating. These wetlands are those that represent a unique or rare wetland type, are more sensitive to disturbance than most wetlands, or are relatively undisturbed and contain ecological attributes that are impossible to replace within one human lifetime. B. Category II. Category II wetlands are: 1. Bogs between one-tenth acre (4,356 square feet) and one-fourth acre (10,890 square feet) in size; 2. Wetlands with a moderately high level of functions and score 20 to 22 points in the wetland rating. 3. Estuarine wetlands smaller than one acre or disturbed estuarine wetlands larger than one acre. C. Category III. Category III wetlands are: 1. Bogs less than one-tenth acre (4,356 square feet) in size; 2. Wetlands with a moderate level of functions and score between 16 to 19 points in the wetland rating. D. Category IV. Category IV wetlands are: 1. Wetlands with a low level of functions, scoring less than 16 points in the wetland rating. E. Date of Wetland Rating. The wetland rating categories in this section shall be applied to wetland studies including but not limited to delineations, on or after the date of adoption of the ordinance codified in this chapter. The wetland rating shall be valid for five years unless the state rating system changes or the wetland and/or the wetland buffer have been altered since the rating.	time frame recommended by Ecology (and used as a rule of thumb by staff). Category descriptions updated in accordance with Ecology guidance for CAO updates. Consider deleting if none located outside shoreline jurisdiction.
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		F. Illegal modifications. Wetland rating categories shall not change due to illegal modifications.	
5	New section: Mapping	The location and extent of all mapped critical areas shown on the city of Bainbridge Island critical area maps are approximate and shall be used as a general guide only. The type, extent and boundaries shall be determined in the field by a qualified professional according to the requirements of this chapter. The critical area maps (provide hyperlink) are adopted as part of this chapter and are incorporated herein by this reference. In addition, the National Wetlands Inventory and Soil Maps produced by the U.S. Department of Agriculture, National Resources Conservation Service may be useful in helping to identify potential wetland areas. The inventory and cited resources are to be used as a guide for the city, project applicants, and for property owners, and may be continuously updated as new or altered critical areas are identified.	Reference for project applicants/property owners. May include this section at beginning of chapter, then reference applicable maps in each critical area section with hyperlinks.
6	New section: Protection of wetlands	A. Any action taken pursuant to this chapter shall result in equivalent or greater functions and values of the wetlands and wetland buffers associated with the proposed action, as determined by the best available science. All actions and developments shall be designed and constructed <u>in accordance with as described in</u> mitigation sequencing in accordance with BIMC 16.20.XX. <u>B. Review of any action taken pursuant to this chapter shall apply the precautionary principle. In the absence of scientific consensus that the action will not result in no net loss of the functions or values of wetlands and wetland buffers, the burden of proof that it is not harmful falls on the applicant. The precautionary principle shall be applied in the review of any action, taken or proposed, that does not conform to the requirements of this chapter. The burden of proof that the action will cause no net loss falls on the applicant or the property owner.</u> C. Applicants must first demonstrate an inability to avoid or reduce impacts, before restoration and compensation of impacts will be allowed. No activity or use shall be allowed that results in a net loss of the functions or values of critical areas. D. Permanent protection of critical areas that are part of an approved mitigation plan or buffer enhancement plan shall be achieved through a Notice to Title recorded at the Kitsap County Auditor's Office, or similar means of protection in perpetuity.	Language added to emphasize the emphasis on protection/avoidance. <u>Definition from comprehensive plan:</u> Precautionary principle: An approach to risk management, stating that if an activity carries a threat of causing serious harm to the public or to the environment, the burden of proof that it should not be limited or prohibited falls on proponents of the activity. <u>Note: Staff suggests the principal should apply to all actions, even if they do conform to the requirements of the chapter since the definition includes "should not be limited" – that infers that the precautionary principal provides a rationale/justification for limiting an action (e.g.; making a footprint smaller or a trail narrower).</u>
7	New section: Prohibited activities	A. The following activities are prohibited in all wetlands: 1. Draining wetlands not associated with wetland mitigation 2. Excavation not associated with wetland mitigation 3. Fill not associated with an allowed or regulated use 4. Forest Practices – Class IV General or <u>Conversion Option Harvest Plan</u>	Adapted from Table 8. Regulated Uses and Activities in Regulated Wetlands and Buffers Changed format for clarity.

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		B. The following uses and activities are prohibited in Category I and II wetlands: 1. New or expanded agriculture 2. Fish hatchery 3. Flooding not associated with an allowed or regulated use 4. Golf course 5. Mineral extraction 6. Public facility 7. Radio/TV towers 8. New public road/street 9. New private access road or driveway 10. Stormwater retention/detention facility 11. Primary utility 12. On-site sewage facility	
8	New section: Allowed activities	A. The uses and activities listed in BIMC 16.20.XX are allowed within wetlands and wetland buffers. Review or approval by the city is not required unless such activities result in a loss of the functions and values of a wetland or wetland buffer as determined by the director. All allowed activities shall use reasonable methods to avoid potential impacts to critical areas. Allowed activities do not grant permission to degrade a critical area or ignore risk from natural hazards. Any incidental damage to, or alteration of, a critical area that is not a necessary outcome of the allowed activity shall be restored, rehabilitated, or replaced at the responsible party's expense. 1. <u>Emergency activities necessary to prevent an unanticipated and immediate threat to that threaten the public health, safety and or welfare or that poses an immediate risk of danger to property and that An "emergency" is an unanticipated and immediate threat to public health, safety, or the environment</u> which requires action within a time frame too short to allow compliance with this chapter. The person or agency undertaking such action shall notify the director within one working day following commencement of the emergency activity. Within 30 days, the director shall determine if the action taken was within the scope of the emergency actions allowed in this subsection. If the director determines that the action taken, or any part of the action taken, was beyond the scope of an allowed emergency action, then enforcement provisions of BIMC 16.20.XX shall apply. After the emergency, the person or agency undertaking the action shall fully fund and conduct necessary restoration and/or mitigation for any impacts to the critical area and buffers resulting from the emergency action in accordance with an approved critical areas report and mitigation plan. The person or agency undertaking the action shall apply for review, and the alteration, critical area report, and mitigation plan shall be reviewed by the director in accordance with the review procedures contained herein. Restoration and/or	Adapted from BIMC 16.20.040 (Exemptions) and Ecology guidance. Strikethrough/underline text to the left shows the current language from BIMC 16.20.040. Changes in language intended for clarification. This section will be located in the beginning of the chapter and apply to all critical areas. The uses and activities will not be repeated in the wetlands section. Shown here for reference. Invasive species and hazard tree removal sections will be vetted with stakeholders (e.g.; arborist, weed groups). Format changed for clarity and to differentiate uses that are allowed without review.

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	mitigation activities must be initiated within one year of the date of the emergency and completed in a timely manner;. 2. <u>Existing and ongoing</u> agricultural activities using best management practices as included in a farm management plan developed by the Kitsap Conservation District. <u>For the purpose of this chapter, “existing and ongoing” means the activity has been conducted and/or maintained within the past five years under a farm management plan or other best management practices not resulting in a net loss of critical area functions and values.</u> 3. Normal and routine maintenance of structures, landscaping and vegetation that will not further impact or alter critical areas or buffers. 4. Normal and routine maintenance and operation of pre-existing retention/detention facilities, biofilters and other stormwater management facilities, irrigation and drainage ditches, farm ponds, fish ponds, manure lagoons, and livestock water ponds; provided, that such activities shall not involve conversion of any wetland not currently being used for such activity. Any maintenance of ponds located in stream habitat areas shall require appropriate approval from the Washington Department of Fish and Wildlife. 5. Structural Alterations to <u>existing legally constructed buildings and structures</u> that do not increase the structural footprint, <u>do not increase risk to life or property, and</u> do not introduce new adverse impacts to an adjacent <u>the critical area or its buffer</u>; 6. Normal and routine maintenance or repair of existing utility structures within a right-of-way or existing utility corridor or easements, including the cutting, removal and/or mowing of vegetation <u>above the ground that utilizes best management practices and does not expand the use, activity or structure further into the critical area.</u> 7. Forest practices conducted pursuant to Chapter 76.09 RCW, except Class IV (general conversions) and Conversion Option Harvest Plans (COHP). <u>8. Chemical Applications. The application of herbicides, pesticides, organic or mineral-derived fertilizers, or other hazardous substances, if necessary, provided, that their use shall be restricted in accordance with State Department of Fish and Wildlife Management Recommendations and the regulations of the State Department of Agriculture, the U.S. Environmental Protection Agency, and Department of Ecology; and</u> <u>9. Minor Site Investigative Work. Work necessary for land use submittals, such as surveys, soil logs, percolation tests, and other related activities, where such activities do not require construction of new roads or significant amounts of excavation. In every case, impacts to</u>	
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	<u>the critical area shall be minimized and disturbed areas shall be immediately restored. Minor site investigative work may include educational and scientific research activities.</u> <u>10. Activities within the Improved Right-of-Way. Replacement, modification, installation, or construction of utility facilities, lines, pipes, mains, equipment, or appurtenances, when such facilities are located within the improved portion of the public right-of-way or a city-authorized private roadway, except those activities that alter a wetland or watercourse, such as culverts or bridges, or result in the transport of sediment or increased storm water.</u> <u>12. The construction of fences within critical area buffers provided the location does not result in restricting wildlife movement, the location is the least impactful to the critical area as possible, and there is no alternative to fencing to achieve the purpose of the fence.</u> 9. Hazard Tree Removal. Where a threat to human life, property, or slope stability is demonstrated, the Director may allow removal of danger or hazard trees subject to the following criteria: a. Tree removal is the minimum necessary to balance protection of the critical area and its buffer with protection of life and property; and b. The critical area or its buffer shall be replanted as determined by the Director. The Director shall coordinate review with the Washington State Department of Fish and Wildlife as determined necessary to assure habitat protection. The Director may require the applicant to consult with a professional forester or a certified arborist prior to tree removal. Hazard tree abatement can sometimes be achieved by felling the tree or trimming the tree. Habitat needs may require leaving the fallen tree in the riparian corridor or maintaining a high stump for wildlife habitat. 10. Aquifer recharge areas. A person, or property, shall be exempt from the provisions of this chapter unless either of the following is true: a. The property is located in a fish and wildlife habitat conservation area, frequently flooded area, geologically hazardous area, and/or wetland; or b. One of more of the uses identified in BIMC 16.20.120.B-E are proposed. <u>B. The uses and activities listed in BIMC 16.20.XX are allowed within wetlands and wetland buffers only after review or approval by the city. Review and authorization may occur overt-the-counter or staff may issue a letter of approval.</u> 1. Activities within a portion of a wetland buffer or fish and wildlife habitat area buffer located landward of an existing, substantially developed area, such as a paved area, or permanent structure, which eliminates or greatly reduces the impact of the proposed activities on the wetland or fish and wildlife habitat area. The Director shall review the proposal to determine the likelihood of associated impacts. <u>The director will require the</u>	<u>Suggestion made to allow occasional cleanup of fallen debris (trees and large limbs).</u> <u>Staff does not recommend such an allowance. Dead (snags) and down trees provide critical habitat functions and in many areas, due to past logging practices, are a relatively scarce commodity. That is why they are listed as a Priority Habitat by WDFW and why their presence in or near wetlands is specifically called out in the wetland rating system.</u>
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	<u>applicant to provide a site assessment and functional analysis documentation report by a qualified consultant that demonstrates the interrupted buffer area is functionally isolated. The director shall consider the hydrologic, geologic, and/or biological habitat connection potential and the extent and permanence of the physical separation;</u> <u>2. Select Vegetation Removal Activities:</u> <u>a. The removal of the following vegetation with hand labor and hand-held equipment when the area of work is under 2,500 square feet in area and on slopes less than 15 percent:</u> <u>i. Invasive and noxious weeds;</u> <u>ii. English ivy (<i>Hedera helix</i>);</u> <u>iii. Himalayan blackberry (<i>Rubus discolor</i>, <i>R. procerus</i>);</u> <u>iv. Evergreen blackberry (<i>Rubus laciniatus</i>); and</u> <u>v. Scot's broom (<i>Cytisus scoparius</i>).</u> <u>Removal of these invasive and noxious plant species shall be restricted to hand removal unless permits or approval from the appropriate regulatory agencies have been obtained for approved biological or chemical treatments or other removal techniques. All removed plant material shall be taken away from the site and appropriately disposed of. Plants that appear on the Washington State Noxious Weed Control Board list of noxious weeds must be handled and disposed of according to a noxious weed control plan appropriate to that species;</u> <u>b. The removal of trees from critical areas and buffers that are hazardous, posing a threat to public safety, or posing an imminent risk of damage to private property; provided, that:</u> <u>i. The applicant submits a report from an ISA- or ASCA-certified arborist or registered landscape architect that documents the hazard and provides a replanting plan for the replacement trees;</u> <u>ii. Tree cutting shall be limited to pruning and crown thinning, unless otherwise justified by a qualified professional. Where pruning or crown thinning is not sufficient to address the hazard, trees should be removed or converted to wildlife snags;</u> <u>iii. All vegetation cut (tree stems, branches, etc.) shall be left within the critical area or buffer unless removal is warranted due to the potential for disease or pest transmittal to other healthy vegetation or unless removal is warranted to improve slope stability;</u> <u>iv. The land owner shall replace any trees that are removed with new trees at a ratio of two replacement trees for each tree removed (2:1) within one year in accordance with an approved planting plan. Replacement trees may be planted at a different, nearby location if it can be determined that planting in the same location would create a new hazard or potentially damage the critical area. Replacement trees shall be species that</u>	
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		<u>are native and indigenous to the site and a minimum of one to two inches in diameter at breast height (dbh) for deciduous trees and a minimum of six feet in height for evergreen trees as measured from the top of the root ball;</u> <u>v. If a tree to be removed provides critical habitat, such as an eagle perch, a qualified wildlife biologist shall be consulted to determine timing and methods of removal that will minimize impacts; and</u> <u>vi. Hazard trees determined to pose an imminent threat or danger to public health or safety, to public or private property, or of serious environmental degradation may be removed or pruned by the land owner prior to receiving written approval from the city; provided, that within 14 days following such action, the land owner shall submit a planting plan that demonstrates compliance with the provisions of this title.</u> <u>3. Fish, Wildlife and Wetland Restoration Activities. Fish, wildlife, and/or wetland restoration or enhancement activities not required as project mitigation; provided, that the project is approved by the Washington State Department of Fish and Wildlife, Washington State Department of Ecology, Army Corps of Engineers, or other appropriate local, state, federal, or tribal jurisdiction.</u>	
9	16.20.160.E Regulated uses and activities	The following uses and activities are regulated if they occur in a designated wetland or its required buffer: 1. The removal, excavation, grading, or dredging of soil, sand, gravel, minerals, organic matter, or material of any kind; 2. The dumping, discharge, or filling with any material; 3. The draining, flooding, or disturbing of the water level or water table; 4. The driving of pilings; 5. The placing of obstructions; 6. The construction, reconstruction, demolition, or expansion of any structure unless an allowed activity pursuant to BIMC 16.20.XX; 7. The destruction or alteration of vegetation through clearing, harvesting, shading, intentional burning, concentrated recreational or educational use, or planting of vegetation that would alter the character of a regulated wetland, or respective buffer; provided, that these activities are not part of a forest practice governed under Chapter 76.09 RCW and its rules; 8. Activities that result in a significant change of water temperature, a significant change of physical or chemical characteristics of water entering a wetland, or respective buffer sources, including quantity and hydroperiod, or the introduction of pollutants, including pesticides and herbicides; 9. Subdivisions. The subdivision and/or short subdivision of land in wetlands and wetland buffers are subject to the following:	This section revised for clarity based on Ecology CAO guidance. Section to be revised to state all uses and activities are regulated unless allowed pursuant to BIMC 16.20.XX and XX (allowed activities and regulated activities) or a reasonable use exception is granted. Table 8 deleted (prohibited activities listed in separate section; Special Use Review removed as review process) BIMC 16.20.160.D.7.b, exemptions for small wetlands deleted: All wetlands between 1,000 and 4,000 square feet shall be evaluated using Department of Ecology's Wetland Rating System for Western Washington (2004) to establish category and evaluate functions. Using the following criteria, the Director shall determine whether to exempt wetlands between 1,000 and 4,000 square feet from the requirement to avoid impacts: i. The wetland is not associated with a riparian corridor; and Critical Areas Ordinance (2005-03) as modified by Ordinance 2007-05 & 2008-13 54 ii. The wetland is not part of a wetland mosaic; and iii. The wetland does not score 20 points or more for habitat in the Wetland Rating System; and iv. The wetland does not contain habitat identified as essential for local populations of priority species identified by Washington Department of Fish and Wildlife; and

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		a. Land that is located wholly within a wetland or its buffer may not be subdivided; b. Land that is located partially within a wetland or its buffer may be subdivided provided that an accessible and contiguous portion of each new lot is located outside of the wetland and its buffer and meets the minimum lot size requirements of BIMC 18.12.XX.	v.The wetland is substantially covered by invasive species or otherwise severely disturbed. Ecology/BAS does not support exemption for small wetlands because it is not supported by BAS.
10	16.20.160.F Additional development standards for regulated uses	Title changed to “Specific standards for regulated uses and activities.” F. Additional development standards for regulated uses. In addition to meeting the Development Standards in section D, above, those regulated uses identified below shall also comply with the standards of this section and other applicable state, federal and local ordinances. 1. Docks. Construction of a dock, pier, moorage, float, or launch facility may be permitted where no existing buffer or wetland vegetation would be significantly altered. 2. Forest Practice, Class IV General, and Conversion Option Harvest Plans (COHPs). All timber harvesting and associated development activity, such as construction of roads, shall comply with the provisions of this chapter, including the maintenance of buffers around regulated wetlands. 3. Agricultural restrictions. In all development proposals which would permit introduction of agricultural uses, all regulated wetlands shall be avoided. These restrictions shall not apply to those regulated wetlands defined as grazed wet meadows, regardless of their classification, only where grazing has occurred within the last five (5) years. Wetlands shall be protected by installation of fencing located not closer than the outer buffer edge. 4. Road/street repair and construction: Any private or public road or street repair, maintenance, expansion or construction may be permitted, subject to the following standards: a. No other reasonable or practicable alternative exists and the road or street crossing serves multiple properties whenever possible; b. Publicly owned or maintained road or street crossings should provide for other purposes, such as utility crossings, pedestrian or bicycle easements, viewing points, etc.; and c. The road or street repair and construction are the minimum necessary to provide safe roads and streets. d. Mitigation shall be performed in accordance with specific project mitigation plan requirements. 5. Land Divisions and Land Use Permits. All land divisions and land uses proposed on a site that include regulated wetlands, shall comply with the procedures and standards listed below. When a parcel contains a wetland, City policy shall always be to primarily protect the functions and values of the wetland, while recognizing the value of the development	The word “additional” causes confusion. These are standards that are specific only to the uses and activities listed. Strikethrough/underline text shows proposed changes to existing BIMC 16.20.160.F. Review language for consistency with other sections of this chapter (FWHCA) and other chapters (e.g.; BIMC 15.20, stormwater).

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	rights provided to the property by its zoning. a. Density Calculation. i. The actual density that will allowed to be built upon a parcel containing a wetland shall ultimately be determined during the site specific review of the parcel's planned development. ii. In determining the actual density of a parcel based on a specific site plan, the site plan shall locate all buildings outside of the wetland buffers; iii. The number of development rights allowed for any residentially-zoned parcel shall be its size in square feet divided by the number of square feet per home that is required by its zoning; iv. If the land can be subdivided such that all setbacks, buffers, and other zoning requirements can be observed, and no variances are requested, the density from the wetland can be transferred within the property; v. To the extent that the number of allowable development rights cannot be used on-site, they may be sold, traded, or transferred by the property owner through the transfer of development rights program pursuant to Chapter 18.37 BIMC; Critical Areas Ordinance (2005-03) as modified by Ordinance 2007-05 & 2008-13 59 vi. Property owners may voluntarily extinguish development rights that are provided by the underlying zoning, but the City shall not extinguish any of these rights outside the aforementioned transactions. b. Land division approvals shall be conditioned to require that regulated wetlands and regulated wetland buffers be designated as an easement or covenant encumbering the wetland and wetland buffer. Such easement or covenant shall be recorded together with the land division and represented on the final plat or binding site plan, and title. c. In order to implement the goals and policies of this chapter, to accommodate innovation, creativity, and design flexibility, and to achieve a level of environmental protection that would not be possible by typical lot-by-lot development, the use of the clustered development or similar innovative site planning is strongly encouraged for projects with regulated wetlands on the site. 6. Surface Water Management. The following stormwater management activities may be allowed within wetland or buffer areas only if they meet the following requirements, in addition to the development standards in this section and in conformance with the Stormwater Management Ordinance, Chapter 15.20 BIMC: a. Surface water discharges from stormwater facilities or structures; provided, that the new surface water discharges to regulated wetlands from retention/detention facilities; b. Pre-settlement ponds or other surface water management structures; provided, that the discharge does not significantly increase or decrease the rate of flow and/or hydro-period, nor decrease the water quality of the wetland. Water quality treatment best management practices will be required prior to discharge. Pre-treatment of surface water discharge through biofiltration or other means shall be required. 7. Trails and Trail-Related Facilities: Construction of public and private trails and trail-related facilities, such as benches and viewing platforms, may be allowed in wetlands or wetland buffers pursuant to the following guidelines: a. Trails and related facilities shall, to	
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	the extent feasible, be placed on existing road grades, utility corridors, or any other previously disturbed areas. b. Trails and related facilities shall be planned to minimize removal of trees, soil disturbance, and existing hydrological characteristics, shrubs, snags, and important wildlife habitat. c. Viewing platforms and benches, and access to them, shall be designed and located to minimize disturbance of wildlife habitat and/or critical characteristics of the affected wetland. d. Trails and related facilities shall generally be located outside required buffers. Where trails are permitted within buffers they shall be located in the outer portion of the buffer and a minimum of 25 feet from the wetland edge, except where wetland crossings or viewing areas have been approved by the Director. Trail locations close to the wetland may be allowed if the primary purpose of the trail is wetland viewing or enjoyment. e. Trails shall generally be limited to pedestrian use unless other more intensive uses, such as bike or horse trails, have been specifically allowed and mitigation Critical Areas Ordinance (2005-03) as modified by Ordinance 2007-05 & 2008-13 60 has been provided. Trail width shall not exceed five feet unless there is a demonstrated need, subject to review and approval by the Director. Trails shall be constructed with pervious materials unless otherwise approved by the Director. 8. Utilities in Wetlands or Wetland Buffers: a. The utility maintenance authorized in BIMC 16.20.040(C) shall be allowed, subject to best management practices in wetlands and wetland buffers. b. Construction of new utilities outside the road right-of-way or existing utility corridors may be permitted in wetlands or wetland buffers, only when no reasonable alternative location is available and the utility corridor meets the requirements for installation, replacement of vegetation and maintenance outlined below, and as required in the filing and approval of applicable permits and special reports required by this chapter. c. Sewer or On-site Sewage Utility. Construction of sewer lines or on-site sewage systems may be permitted in regulated wetland buffers only when: i. The applicant demonstrates it is necessary to meet state and/or local health code minimum design standards (not requiring a variance for either horizontal setback or vertical separation); and/or ii. There are no other practicable or reasonable alternatives available and construction meets all other applicable requirements of this section and the special use review requirements pursuant to BIMC 16.20.160(G). Joint use of the sewer utility corridor by other utilities may be allowed. d. New utility corridors shall not be allowed when the regulated wetland or buffer has known locations of federal or state listed endangered, threatened or sensitive species, heron rookeries or nesting sites of raptors which are listed as species of concern, except in those circumstances where an approved Habitat Management Plan indicates that the utility corridor will not significantly impact the wetland or wetland buffer; e. New utility corridor construction and maintenance shall protect the regulated wetland and buffer environment by utilizing the following methods: i. New utility corridors shall be aligned when possible to avoid cutting trees greater than 12 inches in diameter at breast height (four and one-half feet), measured on the uphill side. ii. New utility corridors shall be revegetated with	
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		appropriate native or equivalent vegetation at preconstruction densities or greater, immediately upon completion of construction, or as soon thereafter as possible, if due to seasonal growing constraints. The utility shall ensure that such vegetation survives. iii. Any additional utility corridor access for maintenance shall be provided as much as possible at specific points, rather than by parallel roads. If parallel roads are necessary, they shall be of a minimum width but no greater than 15 feet; and shall be contiguous to the location of the utility corridor on the side away from the wetland. Mitigation will be required for any additional access through restoration of vegetation in disturbed areas. iv. The Director may require other additional mitigation measures. f. Utility corridor maintenance shall include the following measures to protect the regulated wetland and buffer environment: Critical Areas Ordinance (2005-03) as modified by Ordinance 2007-05 & 2008-13 61 i. Where feasible, painting of utility equipment such as power towers shall not be sprayed or sandblasted, nor should lead-based paints be used. ii. No pesticides, herbicides or fertilizers may be used in wetland areas or their buffers except those approved by the EPA and Ecology. Where approved, herbicides must be applied by a licensed applicator in accordance with the safe application practices on the label. 9. Parks. Development of public park and recreation facilities may be permitted; provided, that no alteration of wetlands or wetland buffers is allowed except for uses allowed in Table 8. For example, enhancement of wetlands and development of trails may be allowed in wetlands and wetland buffers subject to special use requirements and approval of a Wetland Mitigation Plan. 10. Educational or scientific activities. These activities shall only be permitted if they are directly related to the affected wetland and related buffers, and may include the viewing and sampling of natural systems. They may also include the installation of physical structures, including pervious trails, benches, permanent wildlife watching blinds, boardwalks, viewing platforms, or similar structures, or minor modifications to wetlands and their buffers. Any physical structures or minor modifications are subject to City approval to minimize the impacts of human intrusion on the functions and values of critical areas and their buffers according to the following criteria: a. Minimize the footprint of structures and the number of access points to any particular critical area; b. Minimize the amount of clearing and grading; c. Elevate structures where possible; d. Avoid impacting the flow of water; e. Use appropriate building materials; and f. Minimize the impacts of construction.	
11	New section: Permit and review requirements for regulated uses and activities	A. Any proposal to alter any wetland and/or its required buffer shall require a critical area permit unless it qualifies as an allowed activity, as provided in BIMC 16.20.160.XX. B. Critical area permits shall be reviewed pursuant to the criteria in BIMC 16.20.XX (see section below). C. Applications for critical area permits for wetlands shall include:	

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		1. City of Bainbridge Island <u>Master Land Use Application (hyperlink)</u>; 2. Wetland delineation report prepared in accordance with BIMC 16.20.XX if wetland or buffers occur within or adjacent to the project site; 3. Wetland mitigation report, prepared in accordance with BIMC 16.20.XX, if wetland or buffer impacts are anticipated; 4. Buffer enhancement plan, prepared in accordance with BIMC 16.20.XX, if buffer enhancement is required. <i>This section will be at the beginning of the chapter and referred to in each critical area section, but not repeated.</i> A. Any proposal to alter any critical area and/or required buffer including, but not limited to, clearing, grading, draining, removal of vegetation, construction of buildings, facilities, utilities and related infrastructure shall require a critical area permit unless it qualifies as an allowed activity, as provided in BIMC <u>16.20.160.XX</u>. B. Critical area permits, unless otherwise provided for in this chapter, shall be reviewed and approved, approved with conditions, or denied based on the proposal's ability to comply with all of the following criteria: 1. The proposal minimizes the impact on critical areas in accordance with mitigation sequencing (BIMC <u>16.20.XX</u>); 2. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site; 3. The proposal is consistent with the general purposes of this chapter and the public interest; 4. Any alterations permitted to the critical area are mitigated in accordance with mitigation requirements in BIMC <u>16.20.XX</u> and <u>16.20.XX</u>; 5. The proposal protects the critical area functions and values consistent with the best available science and results in no net loss of critical area functions and values; and 6. The proposal is consistent with other applicable regulations and standards. B. The city may condition the proposed activity as necessary to mitigate impacts to critical areas and to conform to the standards required by this chapter. C. Except as provided for by this chapter, any project that cannot adequately mitigate its impacts to critical areas in the sequencing order of preferences in BIMC <u>16.20.XX</u> shall be denied.	Include requirement to address cumulative impacts in decision criteria for permit approval. SMP conditional use permits include: "In the granting of all shoreline conditional use permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area." Ecology's guidance on cumulative impacts stresses importance of non-regulatory tools (e.g.; preservation, restoration), monitoring and a landscape-scale framework to address cumulative impacts. Addressing cumulative impacts on a permit-by-permit basis (site-by-site) is nearly impossible, particularly without monitoring, since the impacts are unknown.
12	New section: Wetland buffers 16.20.160.D.3	A. Buffers shall remain as undisturbed native vegetation areas for the purpose of protecting the integrity, function, and value of wetland resources. Any buffer enhancement proposed shall be through an approved Buffer Enhancement Plan. No uses or activities shall be	Buffer width and other standards are currently in BIMC 16.20.160.D.3 under "Development Standards." The title of the section will be "Wetland Buffers."

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	allowed within the buffer unless allowed by this section. If the buffer has previously been disturbed, the director may require the disturbed buffer area be revegetated pursuant to an approved Buffer Enhancement Plan meeting the requirements of BIMC 16.20.160.XX. No refuse, including but not limited to household trash, yard waste and commercial/industrial refuse, shall be placed in the buffer. B. Impact of Land Use. Different land use intensities can result in high, moderate, or low levels of impact to adjacent wetlands and buffers. Types of land uses are categorized into impact levels. High: Residential uses (greater than one unit per acre); schools; churches; public facilities, public/private services and government administrative uses (excluding parks, rights-of-way and utilities); lodging uses; personal, professional, product and automotive services; health care services; commercial and sales uses; animal clinics and kennels; marine-related uses; industrial uses; restaurant uses; museum, club and recreation hall uses; high-intensity parks, outdoor and indoor recreation (golf courses, ballfields, tennis clubs, swimming pools, etc.); high-intensity agriculture (dairies, nurseries, greenhouses, growing and harvesting crops requiring annual tilling and raising and maintaining animals, etc.); hobby farms. Moderate: Residential uses (less than one unit per acre); moderate-intensity parks and outdoor recreation (parks with biking, jogging, etc.); conversion to moderate-intensity agriculture (orchards, hay fields, etc.) and paved trails; building of logging roads; utility corridor or right-of-way shared by several utilities and including access/maintenance road. Low: Forestry (cutting of trees only); low-intensity parks and open space (hiking, birdwatching, preservation of natural resources, etc.) and unpaved trails; utility corridor without a maintenance road and little or no vegetation management. C. All regulated wetlands shall be surrounded by a buffer, based upon <i>Appendix 8-C, Section 8C.2.3 of Wetlands in Washington State – Volume 2: Guidance for Protecting and Managing Wetlands</i> (Ecology Publication #05-06-008). Standard buffer widths are shown in Tables X through X. If a wetland meets more than one of the criteria listed in each table, the buffer needed to protect the wetland is the widest one. NO CHANGE IN OVERALL (TOTAL) BUFFER WIDTHS. WIDTHS BASED ON CATEGORY, INTENSITY OF LAND USE AND WETLAND FUNCTIONAL SCORE (Table attached.) D. Buffer Measurement. All buffers shall be measured on a horizontal plane from the delineated wetland edge as marked in the field a qualified professional. (Existing language.)	Separate water quality and habitat buffers are removed. Total buffer width recommendations do not change from current widths. Ecology's guidance on buffer widths did not change, but the tables had to be rearranged to align with the new rating manual. Requirement for a HMP to reduce a buffer is removed. Buffer averaging and buffer reduction allowed pursuant to criteria recommended in Ecology guidance, Appendix 8-C, Section 8C.2.4.1 of <i>Wetlands in Washington State – Volume 2</i>. (Ecology Publication #05-06-008). Both would require a buffer enhancement plan. If buffer averaging or buffer reduction not sufficient to accommodate reasonable use, either a variance or RUE is required. A variance would be permitted if there was a location on the site that development could occur if the buffer were reduced (or "varied"). A RUE would be needed if there was no location on a site outside of a wetland or its buffer. Provides language that buffer widths assume a native-planted, functional buffer. New development on site with degraded buffer would require buffer enhancement even if buffer not be averaged or reduced. BIMC 16.20.160.D.4.a deleted: For Category II or III wetlands smaller than 10,000 square feet with a habitat score of less than 20 points, the buffer may be reduced by 50 percent.
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	E. Fencing and Signs. This section applies to those wetlands and their buffers that are within 200 feet of regulated development activities. (Existing language.) 1. Wetland buffers shall be temporarily fenced or otherwise suitably marked between the area where the construction activity occurs and the buffer. Fences shall be made of a durable protective barrier and shall be highly visible. Silt fences and plastic construction fences may be used to prevent encroachment on wetlands or their buffers by construction. Temporary fencing shall be removed after the site work has been completed and the site is fully stabilized per city approval. 2. The Director may require that permanent signs and/or fencing be placed on the common boundary between a wetland buffer and the adjacent land. Such signs will identify the wetland buffer. The Director may approve an alternate method of wetland and buffer identification, if it provides adequate protection to the wetland and buffer. F. Building or hard surface setback. Existing language: Building or Impervious Surface Setback Lines. A building or impervious surface setback line of 15 feet is required from the edge of any wetland buffer. Minor structural or impervious surface intrusions into the areas of the setback may be permitted if the Director determines that such intrusions will not adversely impact the wetland. The setback shall be identified on a site plan and filed as an attachment to the notice on title as required by Section 16.20.190 (Notice on Title). Proposed language: Setback line. A building or hard surface setback line of fifteen feet is required from the edge of any wetland buffer. Minor structural or impervious surface intrusions into the areas of the setback, such as but not limited to fire escapes, open/uncovered porches, landing places, outside walkways, outside stairways, retaining walls, fences and patios, may be permitted if the department determines upon review of an analysis of buffer functions submitted by the applicant, that such intrusions will not adversely impact the wetland. The functional analysis shall include a functional methodology supported by best available science. The setback shall be identified on a site plan and filed as an attachment to the notice on title as required by Section 16.20.190 (Notice on Title). G. Buffer Width Averaging. The widths of buffers may be averaged if this will improve the protection of wetland functions, or if it is the only way to allow for reasonable use of a parcel. Averaging may not be used in conjunction with any of the other provisions for reductions of buffers in BIMC 16.20.160.XX. Averaging to improve wetland protection may be permitted when all of the following conditions are met:	
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	a. The wetland has significant differences in characteristics that affect its habitat functions, such as wetland with a forested component adjacent to a degraded emergent component or a “dual-rated” wetland with a Category I area adjacent to a lower-rated area. b. The buffer is increased adjacent to the higher-functioning area of habitat or more sensitive portion of the wetland and decreased adjacent to the lower-functioning or less sensitive portion. c. The total area of buffer after averaging is equal to the area required without averaging. d. The buffer at its narrowest point is never less than 75 percent of the required width. 2. Averaging to allow reasonable use of a parcel may be permitted when all of the following are met: a. There are no feasible alternatives to the site design that could be accomplished without buffer averaging. b. The averaged buffer will not result in degradation of the wetland’s functions and values as demonstrated by a report from a qualified wetland professional. c. The total buffer area after averaging is equal to the area required without averaging. d. The buffer at its narrowest point is never less than 75 percent of the required width. H. Buffer Width Reduction. Buffer widths required for high and moderate intensity land uses may be reduced if it is the only way to allow for reasonable use of a parcel, under the following conditions: 1. The buffer may not be reduced more than 25 percent of its required width. 2. The buffer is enhanced, as needed, to create a relatively undisturbed, vegetated corridor condition. “Relatively undisturbed” and “vegetated corridor” are defined in the Western Washington Wetland Rating System. 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 Notice to Title. 3. Measures to minimize the impacts of different land uses on wetlands, such as the examples in Table 16.20.XX are applied. (Table attached.)	
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		I. Any other buffer alteration requires a Reasonable Use Exception pursuant to BIMC 16.20.XX.	
13	New section: Review requirements for wetland buffers	A. Any proposal for buffer averaging or buffer reduction shall be reviewed in conjunction with the underlying land use or construction permit. A critical areas permit is not required. B. Requests for buffer averaging or buffer reduction shall include a buffer enhancement plan prepared by a qualified consultant. The report shall assess the habitat, water quality, stormwater, groundwater recharge, and erosion control functions of the buffer; assess the effects of the proposed modification on those functions; and demonstrate the use of mitigation sequencing to avoid the buffer modification. The buffer enhancement plan shall also provide the following: a. A map detailing the specific area of enhancement that shows the elevation contours of the site; b. A planting plan that uses native plant species indigenous to this region including groundcover, shrubs and trees; c. Provisions for monitoring and maintenance over the monitoring period as required in BIMC 16.20.XX. C. Buffer enhancement plans shall be reviewed pursuant to the criteria in BIMC 16.20.XX (see Item 11, above, same criteria as critical area permit).	
14	16.20.160.H	Wetlands and Streams Restoration, Creation, Mitigation, or Enhancement This section will be renamed and follow closely with the mitigation guidance provided by Ecology. Wetland replacement ratios have not changed.	

Table 3: Category I Wetlands - Buffers

Wetland Characteristics	Impact of Land Use	Water Quality Buffer	Habitat Buffer	Total Buffer	Other Protection
Natural Heritage Wetlands	Low Moderate High	50 ft 75 ft 100 ft	75 ft 115 ft 150 ft	125 ft 190 ft 250 ft	No additional discharge of surface water. No septic systems within 300 ft. Restore degraded parts of the buffer
Bogs	Low Moderate High	50 ft 75 ft 100 ft	75 ft 115 ft 150 ft	125 ft 190 ft 250 ft	No additional surface discharges. Restore degraded parts of the buffer.
Forested	Low Moderate High	50 ft 75 ft 100 ft	75 ft 115 ft 150 ft	125 ft 190 ft 250 ft	If forested wetland scores high for habitat, maintain connectivity to other natural areas.
Estuarine	Low Moderate High	50 ft 75 ft 100 ft	50 ft 75 ft 100 ft	100 ft 150 ft 200 ft	N/A
Wetlands in Coastal Lagoon	Low Moderate High	50 ft 75 ft 100 ft	50 ft 75 ft 100 ft	100 ft 150 ft 200 ft	N/A
High level of function for habitat (score for habitat is 29-36 <u>8-9</u> pts.)	Low Moderate High	50 ft 75 ft 100 ft	100 ft 150 ft 200 ft	150 ft 225 ft 300 ft	Maintain connectivity to other natural areas. Restore degraded parts of the buffer.
Moderate level of function for habitat (score for habitat is 20-28 <u>5-7</u> pts.)	Low Moderate High	50 ft 75 ft 100 ft	25 ft 35 ft 50 ft	75 ft 110 ft 150 ft	N/A
High level of function for water quality improvement and low for habitat (score for water quality 24-32 <u>8-9</u> pts.;	Low Moderate High	50 ft 75 ft 100 ft	0 ft 0 ft 0 ft	50 ft 75 ft 100 ft	No additional discharges of untreated runoff.

Wetland Characteristics	Impact of Land Use	Water Quality Buffer	Habitat Buffer	Total Buffer	Other Protection
habitat less than 20 <u>5</u> pts.)					
Not meeting any of the above criteria.	Low Moderate High	50 ft 75 ft 100 ft	0 ft 0 ft 0 ft	50 ft 75 ft 100 ft	N/A

Table 4: Category II Wetlands - Buffers

Wetland Characteristics	Impact of Land Use	Water Quality Buffer	Habitat Buffer	Total Buffer	Other Protection
High level of function for habitat (score for habitat is 29-36 <u>8-9</u> pts.)	Low Moderate High	50 ft 75 ft 100 ft	100 ft 150 ft 200 ft	150 ft 225 ft 300 ft	Maintain connectivity to other natural areas.
Moderate level of function for habitat (score for habitat is 20-28 <u>5-7</u> pts.)	Low Moderate High	50 ft 75 ft 100 ft	25 ft 35 ft 50 ft	75 ft 110 ft 150 ft	N/A
Estuarine	Low Moderate High	50 ft 75 ft 100 ft	25 ft 35 ft 15 ft	75 ft 110 ft 115 ft	N/A
Not meeting any of the above criteria	Low Moderate High	50 ft 75 ft 100 ft	0 ft 0 ft 0 ft	50 ft 75 ft 100 ft	N/A

Table 5: Category III Wetlands - Buffers

Wetland Characteristics	Impact of Land Use	Water Quality Buffer	Habitat Buffer	Total Buffer	Other Protection
Moderate level of function for habitat (score for habitat is 20-28 <u>5-7</u> pts.)	Low Moderate High	40 ft 60 ft 80 ft	35 ft 50 ft 70 ft	75 ft 110 ft 150 ft	N/A
Not meeting above criterion	Low Moderate High	40 ft 60 ft 80 ft	0 ft 0 ft 0 ft	40 ft 60 ft 80 ft	N/A

Table 6: Category IV Wetlands - Buffers

Wetland Characteristics	Impact of Land Use	Water Quality Buffer	Habitat Buffer	Total Buffer	Other Protection
Larger than 10,000 square feet -All wetlands	Low Moderate High	25 ft 40 ft 50 ft	0 ft 0 ft 0 ft	25 ft 40 ft 50 ft	N/A
Smaller than 10,000 square feet	Low Moderate High	25 ft 25 ft 25 ft	0 ft 0 ft 0 ft	25 ft 25 ft 25 ft	N/A

Table XX.2 Required measures to minimize impacts to wetlands
(Measures are required if applicable to a specific proposal)

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

Section contents to be ordered as follows:

- Applicability
- Classification
- Mapping
- Development Standards – Streams
- Development Standards – Wildlife Habitat Conservation Areas
- Development Standards – Project Specific
- Development Standards – Other
- Review requirements for FWHCA

The following table follows the proposed order and references existing BIMC citations where applicable.

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Summary of Proposed Changes

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Item	CAO Citation	Proposed Change	Discussion/Basis for Change/BAS Reference
1	16.20.130.A	Remove purpose statement from individual critical areas sections and improve purpose statement at beginning of chapter (16.20.010). See wetlands.	
2	New section: Applicability	This section applies to all Fish and Wildlife Habitat Conservation Areas as classified in BIMC 16.20.130.XX except those located within the city's shoreline jurisdiction, which are regulated by the city's shoreline master program (BIMC 16.12).	
3	16.20.130.B Classification	Existing language: B. Fish and Wildlife Habitat Conservation Areas Categories. 1. Classification. The following categories shall be used in classifying Fish and Wildlife Habitat Conservation Areas: a. Marine Critical Areas. Commercial and recreational shellfish areas; kelp and eelgrass beds; marine and estuarine waters of the state and herring, sand lance and smelt spawning areas. b. Streams: All streams which meet the criteria for Type F, Np and Ns waters as set forth in WAC 222-16-030 of the Department of Natural Resources Water Typing System and as further modified by the definitions in this chapter. Once a stream has been classified, the City must document the reasons for changes in the classification. c. Fish and Wildlife Conservation Areas: i. Class I Fish and Wildlife Conservation Areas: Habitats recognized by federal or state agencies for federal and/or state listed endangered, threatened, and sensitive species documented in maps or data bases available to the City of Bainbridge Island and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term. ii. Class II Fish and Wildlife Conservation Areas. Habitats for State listed candidate, monitor, or priority species documented in maps or data bases available to City of Bainbridge Island and its citizens, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term. Proposed language: A. Fish and wildlife habitat conservation areas include: 1. Streams. Within the city of Bainbridge Island streams shall include those areas which meet the definitions in BIMC 16.20.XX. Streams shall be classified in accordance with the Washington Department of Natural Resources water typing system (WAC 222-16-030) hereby adopted in its entirety by reference and summarized as follows: a. Type F: streams which contain fish habitat pursuant to BIMC 16.20.XX; i. Anadromous fishbearing streams: streams in which anadromous fish are known to occur. As of 2017, fishbearing streams are known to include Springbrook Creek, list the rest; and	Revised for clarity. New sections per WAC 365-190-130 and WDFW Priority Habitat and Species List August 2008 and Updated 4/2014. Designation process for species/habitats of local importance removed – does not need to be in code. Note, none designated. Marine critical areas regulated through SMP. Important to clarify that streams are based on City's definition and an area may be a stream even if it is not classified (U) by DNR. All streams included on the inventory that are known to exist within the city do not meet criteria for "shorelines of the state" but contain fish habitat and, thus, meet designation criteria for Type F waters pursuant to WAC 222-16-030. However, not all streams support anadromous fish populations or have the potential for anadromous fish occurrence because of obstructions, blockages or access restrictions resulting from existing conditions. Therefore, in order to provide special consideration of and increased protection for

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		ii. Nonanadromous fishbearing streams: streams which do not support anadromous fish populations and do not have the potential for anadromous fish occurrence because of barriers to fish passage or lack of suitable habitat. b. Type Np: perennial nonfish habitat streams; and c. Type Ns: seasonal nonfish habitat streams. d. Need language about if fish presence is documented in future due to change in conditions (e.g.; blockage removed) B. Habitats recognized by federal or state agencies for federal- and/or state-listed endangered, threatened, sensitive and candidate/monitored species which presence is documented in maps or databases available to City of Bainbridge Island. C. Areas that contain habitats and species of local importance. D. Biodiversity areas and corridors are areas of habitat as defined in the 2008 Washington Department of Fish and Wildlife Priority Habitat and Species List, or as amended. E. Areas targeted for preservation by federal, state and/or local government which provide fish and wildlife habitat benefits, such as important waterfowl areas identified by the U.S. Fish and Wildlife Service or Washington Department of Fish and Wildlife. F. All areas within the city of Bainbridge Island meeting one or more of these criteria, regardless of any formal identification or mapping, are hereby designated critical areas and are subject to the provisions of this chapter and shall be managed consistent with the best available science, such as the Washington Department of Fish and Wildlife's most recent Management Recommendations for Priority Habitat and Species.	anadromous fish in the application of development standards, streams could be further classified into subcategories. From the 2008 Priority Habitats and Species List: Biodiversity areas and corridors are areas of habitat that are relatively important to various species of native fish and wildlife. 1. Biodiversity areas a. The area has been identified as biologically diverse through a scientifically based assessment conducted over a landscape scale (e.g., ecoregion, county- or city-wide, watershed, etc.). Examples include but are not limited to WDFW Local Habitat Assessments, Pierce County Biodiversity Network, and Spokane County's Wildlife Corridors and Landscape Linkages. OR b. The area is within a city or an urban growth area (UGA) and contains habitat that is valuable to fish or wildlife and is mostly comprised of native vegetation. Relative to other vegetated areas in the same city or UGA, the mapped area is vertically diverse (e.g., multiple canopy layers, snags, or downed wood), horizontally diverse (e.g., contains a mosaic of native habitats), or supports a diverse community of species as identified by a qualified professional who has a degree in biology or closely related field and professional experience related to the habitats or species occurring in the biodiversity area. These areas may have more limited wildlife functions than other priority habitat areas due to the general nature and constraints of these sites in that they are often isolated or surrounded by highly urbanized lands. Could tie biodiversity areas and corridors to wildlife corridor network and/or existing open space study.
4	New section: Mapping	The location and extent of all mapped critical areas shown on the city of Bainbridge Island critical area maps are approximate and shall be used as a general guide only. The type, extent and boundaries shall be determined in the field by a qualified professional according to the requirements of this chapter. The critical area maps (provide hyperlink) are adopted as part of this chapter and are incorporated herein by this reference. Washington Department of Natural Resource (DNR) and Washington Department of Fish and Wildlife maps are not the only source of data. Any request to change the city's existing map shall be accompanied by a report from a qualified professional that includes a description of the critical area and a summary of how it meets the definitions in BIMC 16.20.XX. The inventory and cited resources are to be used as a guide for the city, project applicants, and/or	Reference for project applicants/property owners. May include this section at beginning of chapter, then reference applicable maps in each critical area section with hyperlinks.

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		property owners, and may be continuously updated as new or altered critical areas are identified.	
5		Development Standards – Streams A. All designated streams require a buffer pursuant to Table X (see proposed buffers to right). Buffers shall remain as undisturbed native vegetation areas for the purpose of protecting the integrity, function, and value of wetland resources. Any buffer enhancement proposed shall be through an approved Buffer Enhancement Plan. No uses or activities shall be allowed within the buffer unless allowed by this section. If the buffer has previously been disturbed, the director may require the disturbed buffer area be revegetated pursuant to an approved Buffer Enhancement Plan meeting the requirements of BIMC 16.20.160.XX. No refuse, including but not limited to household trash, yard waste and commercial/industrial refuse, shall be placed in the buffer. B. Buffer distances shall be measured from the ordinary high water mark (OHM) or from the top of the bank where the OHM cannot be identified. Buffers shall be retained in their natural condition. (Existing language.) C. The buffer width shall be increased to include streamside wetlands which provide overflow storage for stormwater, feed water back to the stream during low flow, or provide shelter and food for fish. In braided channels, the ordinary high water mark or top of bank shall be defined so as to include the entire stream feature. (Existing language.) D. Streams in Ravines - Buffers. For streams in ravines outside the Mixed Use Town Center with ravine sides 10 feet or greater in height, the buffer width shall be the greater of: - The buffer width required for the stream type; or - A buffer width which extends 25 feet beyond the top of the ravine. (Existing language.) E. Increased buffer provisions. The director may increase buffer widths, up to 50 percent greater than the applicable buffer set in this chapter for critical areas with known locations of endangered, threatened, or state monitor or priority species for which a habitat management plan indicates a larger buffer is necessary to protect habitat values for such species. Such determination shall be based on site-specific and project-related conditions. (Existing language.) F. Setback line. A building or hard surface setback line of fifteen feet is required from the edge of any stream buffer. Minor structural or impervious surface intrusions into the areas of the setback, such as but not limited to fire escapes, open/uncovered porches, landing places, outside walkways, outside stairways, retaining walls, fences and patios, may be permitted if the department determines upon review of an analysis of buffer functions	Proposed buffers: F1 (anadromous) 200 F2 (non-anadromous) 150 Np 100 Ns 1 (connected to F, Np) 75 Ns 2 (not connected to F, Np) 50

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		submitted by the applicant, that such intrusions will not adversely impact the stream or any associated species or habitat. The functional analysis shall include a functional methodology supported by best available science. The setback shall be identified on a site plan and filed as an attachment to the notice on title as required by Section 16.20.190 (Notice on Title). G. Buffer Width Averaging. The widths of buffers may be averaged if this will improve the protection of stream functions, or if it is the only way to allow for reasonable use of a parcel. Averaging may be permitted when all of the following conditions are met: 1. There are no feasible alternatives to the site design that could be accomplished without buffer averaging. 2. The total area of buffer after averaging is equal to the area required without averaging. 3. The buffer at its narrowest point is never less than 75 percent of the required width. H. Buffer Width Reduction. Buffer widths required for high and moderate intensity land uses may be reduced if it is the only way to allow for reasonable use of a parcel, under the following conditions: 1. There are no feasible alternatives to the site design that could be accomplished without buffer averaging. 2. The buffer may not be reduced more than 25 percent of its required width. 3. The buffer is enhanced, as needed, to create a relatively undisturbed, vegetated corridor condition. “Relatively undisturbed” and “vegetated corridor” are defined in the Western Washington Wetland Rating System. 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 Notice to Title. 4. Measures to minimize the impacts of different land uses on wetlands, such as the examples in Table 16.20.XX are applied. (Table attached.) I. Any other buffer alteration requires a Reasonable Use Exception pursuant to BIMC 16.20.XX.	
6	New section	Development Standards –Wildlife Habitat Conservation Areas A. All uses and activities within known wildlife habitat conservation areas require submittal and approval of a Habitat Management Plan (HMP) as specified in BIMC 16.20.XX (existing	Same requirement, just revised.

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		section). The HMP shall consider measures to retain and protect the wildlife habitat and shall consider the effects of land use intensity, buffers, setbacks, impervious surfaces, erosion control and retention of existing native vegetation. B. In the case of bald eagles, the HMP shall comply with the federal Bald and Golden Eagle Protection Act (16 USC 668) to avoid impacting eagles and their habitat.	
7	New section See 16.20.130.D	Project-specific Development Standards 5. Stream Crossings. Any private or public road expansion or construction which is allowed and must cross streams classified within this chapter, shall comply with the following minimum development standards: a. Bridges or bottomless culverts shall be required for all streams which have Salmonid breeding habitat. Other alternatives may be allowed upon submittal of a Habitat Management Plan which demonstrates that other alternatives would not result in significant impacts to the Fish and Wildlife Conservation Area, as determined appropriate through the Washington State Department of Fish and Wildlife, Hydraulics Project Approval process. The plan must demonstrate that salmon habitat will be replaced on a 1:1 ratio. b. Crossings shall not occur in Salmonid spawning areas unless no other feasible crossing site exists. For new development proposals, if existing crossings are determined to adversely impact salmon spawning or passage areas, new or upgraded crossings shall be located as determined necessary through coordination with the Washington State Department of Fish and Wildlife; c. Bridge piers or abutments shall not be placed in either the floodway or between the ordinary, high water marks unless no other feasible alternative placement exists; d. Crossings shall not diminish flood carrying capacity; e. Crossings shall serve multiple properties whenever possible; f. Where there is no reasonable alternative to providing a conventional culvert, the culvert shall be the minimum length necessary to accommodate the permitted activity. 6. Stream Relocations. Stream relocations for the purpose of flood protection and/or fisheries restoration shall only be permitted when adhering to the following minimum performance standards and when consistent with Washington State Department of Fish and Wildlife Hydraulic Project Approval: a. The channel, bank, and buffer areas should be replanted with native or equivalent vegetation that replicates a natural, undisturbed riparian condition; b. For those shorelands and waters designated as Frequently Flooded Areas pursuant to BIMC 16.20.140, a professional engineer licensed in the State of Washington shall provide information demonstrating that the equivalent base flood storage volume and function will be maintained; and	Existing language to be reviewed. Stream crossings will reference WDFW's guidance. Stream locations will support comprehensive plan policy. Some development standards moved to "other," below, because they apply to all uses and activities.

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		c. Relocated stream channels shall be designed to meet or exceed the functions and values of the stream to be relocated. 8. Land Divisions and Land Use Permits. All land divisions and land uses proposed on a site that includes Fish and Wildlife Habitat Conservation Areas shall comply with the following procedures and development standards: a. The open water area of lakes, streams, and tidal lands shall not be permitted for use in calculating minimum lot area. b. Land division approvals shall be conditioned so that all required buffers are designated as an easement or covenant encumbering the buffer. Such easement or covenant shall be recorded together with the land division and represented on the final plat, short plat or binding site plan. c. In order to avoid the creation of non-conforming lots, each new lot shall contain at least one building site that meets the requirements of this chapter, including buffer requirements for habitat conservation areas. Each lot must also have access and a sewage disposal system location that are suitable for development which do not adversely impact the Fish and Wildlife Conservation Area. d. After preliminary approval and prior to final land division approval, the Director may require that the common boundary between a required buffer and the adjacent lands be identified using permanent signs. In lieu of signs, alternative methods of buffer identification may be approved when such methods are determined by the Director to provide adequate protection to the aquatic buffer. 9. Agricultural Restrictions. In all development proposals which would permit introduction of agriculture to Fish and Wildlife Habitat Conservation Areas, damage to the area shall be avoided by one of the following methods: a. Implementation of the farm conservation plan agreed upon by the Kitsap Conservation District and the applicant, to protect and enhance the water quality of the aquatic area; and/or, b. Fencing located not closer than the outer buffer edge. 10. Trails and Trail-Related Facilities. Construction of public and private trails and trail-related facilities, such as benches, interpretive centers, and viewing platforms, may be allowed in Fish and Wildlife Habitat Conservation Areas or their buffers pursuant to the following standards: a. Trails and related facilities shall, to the extent feasible, be placed on existing road grades, utility corridors, or other such previously disturbed areas; b. Trails and related facilities shall be planned to minimize removal of trees, shrubs, snags and important wildlife habitat; c. Viewing platforms, interpretive centers, benches and access to them, shall be designed and located to minimize disturbance of wildlife habitat and/or critical characteristics of the affected conservation area;	
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	d. Trails, in general, shall be set back from streams so that there will be no or minimal impact to the stream from trail use or maintenance. Trails shall be constructed with pervious surfaces when feasible. 11. Utilities. Placement of utilities within designated Fish and Wildlife Habitat Conservation Areas may be allowed pursuant to the following standards: a. The minor utility maintenance authorized in BIMC 16.20.040(C) shall be allowed within designated Fish and Wildlife Habitat Conservation areas, subject to best management practices. b. Construction of utilities may be permitted in Fish and Wildlife Habitat Conservation Areas or their buffers, only when no practicable or reasonable alternative location is available and the utility corridor meets the requirements for installation, replacement of vegetation and maintenance outlined below, and as required pursuant to BIMC 16.20.160(G) (Special Use Review), which may be required by this Chapter. c. Sewer or on-site Sewage Utility. Construction of sewer lines or on-site sewage systems may be permitted in Fish and Wildlife Habitat Conservation Areas or their buffers when the applicant demonstrates it is necessary to meet State and/or local health code requirements; there are no other practicable alternatives available; and construction meets the requirement of this section. Joint use of the sewer utility corridor by other utilities may be allowed. d. New utility corridors shall not be allowed in Fish and Wildlife Habitat Conservation Areas with known locations of federal or state listed endangered, threatened or sensitive species, heron rookeries or nesting sites of raptors which are listed as state candidates except in those circumstances where an approved Habitat Management Plan indicates that the utility corridor will not significantly impact the conservation area; e. New Utility Corridor Construction. Utility corridor construction and maintenance shall protect the environment of Fish and Wildlife Habitat Conservation Areas and their buffers. i. New utility corridors shall be aligned whenever possible to avoid cutting or root damage to trees greater than 12 inches in diameter at breast height (four and one-half feet) measured on the uphill side. ii. New utility corridors shall be revegetated with appropriate native or equivalent vegetation at not less than pre-construction vegetation densities or greater, immediately upon completion of construction or as soon thereafter as possible due to seasonal growing constraints. The utility shall ensure that such vegetation survives. iii. Any additional corridor access for maintenance shall be provided wherever possible at specific points rather than by parallel roads. If parallel roads are necessary, they shall be of a minimum width but no greater than 15 feet; and shall be contiguous to the location of the utility corridor on the side away from the conservation area. f. Utility corridor maintenance shall include the following measures to protect the environment of regulated Fish and Wildlife Habitat Conservation Areas.	
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		i. Utility towers should be painted with brush, pad or roller and should not be sandblasted or spray-painted, nor should lead base paints be used. ii. Pesticides, fertilizers and herbicides: No pesticides or fertilizers may be used in Fish and Wildlife Conservation Areas or their buffers, except those herbicides applied by a licensed applicator in accordance with the safe application practices on the label. 12. Bank Stabilization. a. A stream channel and bank may be stabilized when naturally occurring earth movement threatens existing structures (defined as requiring a Building Permit pursuant to the applicable building code), public improvements, unique natural resources, public health, safety or welfare, or the only feasible access to property, and, in the case of streams, when such stabilization results in maintenance of Fish and Wildlife Habitat, flood control, and improved water quality. b. Where bank stabilization is determined to be necessary, bioengineering or other non-structural methods should be the first option for protection. Bulkheads and retaining walls may only be utilized as an engineering solution where it can be demonstrated that an existing residential structure cannot be safely maintained without such measures, and that the resulting retaining wall is the minimum length necessary to provide a stable building area for the structure. The Director may require that bank stabilization be designed by a professional engineer licensed in the State of Washington with demonstrated expertise in hydraulic actions of shorelines. Bank stabilization projects may also require a City of Bainbridge Island clearing or grading permit and Hydraulic Project Approval from the Washington Department of Fish and Wildlife. c. Nonstructural streambank protective techniques are preferred to bulkheads or other types of streambank armoring. Nonstructural techniques include but are not limited to vegetation plantings and bioengineering. 14. Forest Practice, Class IV General and Conversion Option Harvest Plans (COHPs). All timber harvesting and associated development activity, such as construction of roads, shall comply with the provisions of this chapter, and the Stormwater Management standards in Chapters 15.20 and 15.21 BIMC, including the maintenance of buffers, where required. 15. Road/Street Repair & Construction. Any private or public road or street expansion or construction which may be allowed in a Fish and Wildlife Habitat Conservation Area or its buffer shall comply with the following minimum development standards: a. No other reasonable or practicable alternative exists and the road or street crossing serves multiple properties whenever possible; b. Expansion or construction of any private or public road shall only be allowed when adverse impacts cannot be avoided; c. Public and private roads should provide for other purposes, such as utility crossings, pedestrian or bicycle easements, viewing points, etc.; and	
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		d. The road or street construction is the minimum necessary, as required by the Department of Public Works, and shall comply with the Department of Public Works' guidelines to provide public safety and mitigated stormwater impacts. e. Construction time limits shall be determined in consultation with the Washington State Department of Fish and Wildlife in order to ensure habitat protection. 16. Other allowed Uses in Fish and Wildlife Conservation Areas. Other activities may be allowed using the standard for a category II wetland buffer in BIMC 16.20.160(E), Table 4.	
8		Development Standards – Other. The following development standards apply to all fish and wildlife conservation areas and their buffers: 1. Pesticides, Fertilizers and Herbicides. No pesticides, herbicides or fertilizers may be used in Fish and Wildlife Conservation Areas or their buffers, except those approved by the EPA and approved under a DOE Water Quality Modification Permit for use in Fish and Wildlife Habitat Conservation Area environments. Where approved, herbicides must be applied by a licensed applicator in accordance with the safe application practices on the label. 2. Fencing and Signs. Prior to approval or issuance of permits for land divisions or other new development, the Director may require that the common boundary between a required buffer and the adjacent lands be identified using fencing or permanent signs. In lieu of fencing or signs, alternative methods of buffer identification may be approved when such methods are determined by the Director to provide adequate protection to the buffer	Existing language to be revised.
9	New section: Review requirements for FWHCA	A. Any proposal for buffer averaging or buffer reduction or submittal of a required HMP shall be reviewed in conjunction with the underlying land use or construction permit. A critical areas permit is not required. B. Requests for buffer averaging or buffer reduction shall include a buffer enhancement plan prepared by a qualified consultant. The report shall assess the habitat, water quality, stormwater, groundwater recharge, and erosion control functions of the buffer; assess the effects of the proposed modification on those functions; and demonstrate the use of mitigation sequencing to avoid the buffer modification. The buffer enhancement plan shall also provide the following: a. A map detailing the specific area of enhancement that shows the elevation contours of the site; b. A planting plan that uses native plant species indigenous to this region including groundcover, shrubs and trees; c. Provisions for monitoring and maintenance over the monitoring period as required in BIMC 16.20.XX. C. Buffer enhancement plans and HMPs shall be reviewed pursuant to the criteria in BIMC 16.20.XX (Same criteria as critical area permit; see wetlands) and any applicable state or federal management recommendations.	

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		D. The City may request technical review of a buffer enhancement plan or HMP from other agencies to ensure consistency with state, federal or tribal management recommendations.	
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