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Title: AN ORDINANCE relating to allowed alterations of critical areas; and amending Ordinance 15051, Section 137, as amended, and K.C.C. 21A.24.045.

Sponsors: Jane Hague

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Attachments:

Date	Ver.	Action By	Action	Result
1/22/2013	1	Metropolitan King County Council	Reintroduced	
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Clerk 11/21/2012

AN ORDINANCE relating to allowed alterations of critical areas; and amending Ordinance 15051, Section 137, as amended, and K.C.C. 21A.24.045.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Ordinance 15051, Section 137, as amended, and K.C.C. 21A.24.045 are each hereby amended to read as follows:

A. Within the following seven critical areas and their buffers all alterations are allowed if the alteration complies with the development standards, impact avoidance and mitigation requirements and other applicable requirements established in this chapter:

1. Critical aquifer recharge area,
2. Coal mine hazard area;
3. Erosion hazard area;
4. Flood hazard area except in the severe channel migration hazard area;

5. Landslide hazard area under forty percent slope;
6. Seismic hazard area; and
7. Volcanic hazard areas.

B. Within the following seven critical areas and their buffers, unless allowed as an alteration exception under K.C.C. 21A.24.070, only the alterations on the table in subsection C. of this section are allowed if the alteration complies with conditions in subsection D. of this section and the development standards, impact avoidance and mitigation requirements and other applicable requirements established in this chapter:

1. Severe channel migration hazard area;
2. Landslide hazard area over forty percent slope;
3. Steep slope hazard area;
4. Wetland;
5. Aquatic area;
6. Wildlife habitat conservation area; and
7. Wildlife habitat network.

C. In the following table where an activity is included in more than one activity category, the numbered conditions applicable to the most specific description of the activity governs. Where more than one numbered condition appears for a listed activity, each of the relevant conditions specified for that activity within the given critical area applies. For alterations involving more than one critical area, compliance with the conditions applicable to each critical area is required.

KEY	L A O V	S T A	W E B U	A B U C	W I L A N
	N D E R	E E N D	T L A F F E	Q U F F E H	D L I D N
Letter "A" in a cell means alteration is allowed	S L I 40%	P S B U	N D R	A T R A A	F E A E T
	D E A N	L O F F	A N D	I C N D N	R E A W O
A number in a cell means the corresponding numbered condition in subsection D. applies	H A D B	P E E R		A R S E N E	R K
	Z A U F F	H A		E A V E L	
"Wildlife area and network" column applies to both Wildlife Habitat Conservation Area and Wildlife Habitat Network	R D E R	Z A		A N R E M I	
		R D		D	
	A 5	A	A	A	A 4
	A 5, 7	A 5, 7	A 7, 8	A 6, 7, 8	A 4, 7
	A	A	A	A	A
			A 9	A 9, 10, 11	
			A 12	A 10, 11	A 4

Grading					
Grading		A 13		A 14	A 4, 14
Construction of new slope stability	A 15	A 15	A 15	A 15	A 4, 15
Maintenance of existing slope stability	A 16	A 13	A 17	A 16, 17	A 4
Mineral extraction	A	A			
Clearing					
Clearing	A 18	A 18, 19	A 18, 20	A 14, 18, 20	A 4, 14, 18, 20
Cutting firewood		A 21	A 21	A 21	A 4, 21
Removal of vegetation for fire safety	A 22	A 22	A 22	A 22	A 4, 22
Removal of noxious weeds or invasive species	A 23	A 23	A 23	A 23	A 4, 23
Forest Practices					
Nonconversion Class IV-G forest practices	A 24	A 24	A 24	A 24	A 24, 25
Class I, II, III, IV-S forest practices	A	A	A	A	A
Roads					
Construction of new public road or structure on unimproved right-of-way			A 26	A 26	
Construction of new road in a planned area			A 26	A 26	
Maintenance of public road right-of-way	A 16	A 16	A 16	A 16	A 16, 27
Expansion beyond public road right-of-way	A	A	A 26	A 26	
Repair, replacement or modification of roadway	A 16	A 16	A 16	A 16	A 16, 27
Construction of driveway or private access road	A 28	A 28	A 28	A 28	A 28
Construction of farm field access drive	A 29	A 29	A 29	A 29	A 29
Maintenance of driveway, private access drive or parking area	A	A	A 17	A 17	A 17, 27
Construction of a bridge or culvert over driveway or private access road	A 39	A 39	A 39	A 39	A 39
Bridges or culverts					
Maintenance or repair of bridge or culvert	A 16, 17	A 16, 17	A 16, 17	A 16, 17	A 16, 17, 27
Replacement of bridge or culvert	A 16	A 16	A 16	A 16, 30	A 16, 27
Expansion of bridge or culvert	A 16, 17	A 16, 17	A 16, 17, 31	A 17, 31	A 4
Utilities and other infrastructure					
Construction of new utility corridor or facility	A 32, 33	A 32, 33	A 32, 34	A 32, 34	A 27, 32, 35
Construction or maintenance of a generating facility	A 67	A 67	A 66	A 66	A 4, 66

Construction of a new residential distribution line	A 32, 33	A 32, 33	A 32, 60	A 32, 60	A 27, 32, 60
Maintenance, repair or replacement of corridor or utility facility	A 32, 33	A 32, 33	A 32, 34, 36	A 32, 34, 36	A 4, 32, 37
Construction of a new on-site sewer system or well			A 63	A 63	
Maintenance or repair of existing sewer system	A 37	A 37	A 37	A 37	A 4, 37
Maintenance or repair of on-site stormwater system	A	A	A	A 37	A 4
Construction of new surface water conveyance system	A 32, 33	A 32, 33	A 32, 38	A 32, 38	A 4
Maintenance, repair or replacement of surface water conveyance system	A 33	A 33	A 16, 32, 38	A 16, 40, 41	A 4, 37
Construction of new surface water quality treatment facility			A 32	A 32	A 4, 32
Maintenance or repair of existing flow control or surface water quality facility	A 16	A 16	A 16	A 16	A 4
Construction of new flood protection facility			A 42	A 42	A 27, 42
Maintenance, repair or replacement of flood protection facility	A 33, 43	A 33, 43	A 43	A 43	A 27, 43
Flood risk reduction gravel removal	A 61	A 61	A 61	A 61	A 61
Construction of new instream structure	A 16	A 16	A 16	A 16, 44, 45	A 4, 16, 44, 45
Maintenance or repair of existing structure	A 16	A	A	A	A 4
Recreation					
Construction of new trail	A 46	A 46	A 47	A 47	A 4, 47
Maintenance of outdoor public park or publicly improved recreation area	A 48	A 48	A 48	A 48	A 4, 48
Habitat, education and science					
Habitat restoration or enhancement	A 49	A 49	A 49	A 49	A 4, 49
Scientific sampling for salmonids			A 50	A 50	A 50
Drilling and testing for critical areas	A 51	A 51	A 51, 52	A 51, 52	A 4
Environmental education project	A 62	A 62	A 62	A 62	A 62
Agriculture					
Horticulture activity including tillage, planting, seeding, harvesting, pre-planting, crop rotation and related activities	A 53	A 53	A 53, 54	A 53, 54	A 53, 54
Grazing livestock	A 53	A 53	A 53, 54	A 53, 54	A 53, 54
Construction or maintenance of a farm			A 53, 54	A 53, 54	A 53, 54

Construction or maintenance of livestock storage facility			A 53, 54, 55	A 53, 54, 55, 56	A 53, 54
Construction or maintenance of livestock sanctuary			A	A 56	
Construction of agricultural drain			A 57	A 57	A 4, 57
Maintenance of agricultural drain	A 23, 58	A 23, 58	A 23, 53, 54, 58	A 23, 53, 54, 58	A 4, 23, 53, 54, 58
Construction or maintenance of fish pond or livestock watering pond	A 53	A 53	A 53, 54	A 53, 54	A 53, 54
Other					
Shoreline water dependent or shoreline oriented use				A 65	
Excavation of cemetery graves in approved cemetery	A	A	A	A	A
Maintenance of cemetery graves	A	A	A	A	A
Maintenance of lawn, landscaping for personal consumption	A 59	A 59	A 59	A 59	A 59
Maintenance of golf course	A 17	A 17	A 17	A 17	A 4, 17
Installation of geothermal HVAC				A	

D. The following alteration conditions apply:

1. Limited to farm residences in grazed or tilled wet meadows and subject to the limitations of subsection D.3. of this section.
2. Allowed in a buffer of a lake that is twenty acres or larger on a lot that was created before January 1, 2005, if:
 - a. at least seventy-five percent of the lots abutting the shoreline of the lake or seventy-five percent of the lake frontage, whichever constitutes the most developable lake frontage, has existing density of four dwelling units per acre or more;
 - b. the development proposal, including mitigation required by this chapter, will have the least adverse impact on the critical area;
 - c. existing native vegetation within the critical area buffer will remain undisturbed except as necessary to accommodate the development proposal and required building setbacks;
 - d. access is located to have the least adverse impact on the critical area and critical area buffer;

e. the alteration is the minimum necessary to accommodate the development proposal and in no case in excess of a development footprint of five thousand square feet;

f. the alteration is no closer than twenty-five feet of the ordinary high water mark of the lake shoreline; and

g. to the maximum extent practical, alterations are mitigated on the development proposal site by enhancing or restoring remaining critical area buffers.

3. Limited to nonresidential farm-structures in grazed or tilled wet meadows or buffers of wetlands or aquatic areas where:

a. the site is predominantly used for the practice of agriculture;

b. the structure is in compliance with an approved farm management plan in accordance with K.C.C. 21A.24.051;

c. the structure is either:

(1) on or adjacent to existing nonresidential impervious surface areas, additional impervious surface area is not created waterward of any existing impervious surface areas and the area was not used for crop production;

(2) higher in elevation and no closer to the critical area than its existing position; or

(3) at a location away from existing impervious surface areas that is determined to be the optimum site in the farm management plan;

d. all best management practices associated with the structure specified in the farm management plan are installed and maintained;

e. installation of fencing in accordance with K.C.C. chapter 21A.30 does not require the development of a farm management plan if required best management practices are followed and the installation does not require clearing of critical areas or their buffers; and

f. in a severe channel migration hazard area portion of an aquatic buffer only if:

- (1) there is no feasible alternative location on-site;
- (2) the structure is located where it is least subject to risk from channel migration;
- (3) the structure is not used to house animals or store hazardous substances; and
- (4) the total footprint of all accessory structures within the severe channel migration hazard area

will not exceed the greater of one thousand square feet or two percent of the severe channel migration hazard area on the site.

4. Allowed if no clearing, external construction or other disturbance in a wildlife habitat conservation area occurs during breeding seasons established under K.C.C. 21A.24.382.

5. Allowed for structures when:

- a. the landslide hazard poses little or no risk of injury;
- b. the risk of landsliding is low; and
- c. there is not an expansion of the structure.

6. Within a severe channel migration hazard area allowed for:

a. existing legally established primary structures if:

- (1) there is not an increase of the footprint of any existing structure; and
- (2) there is not a substantial improvement as defined in K.C.C. 21A.06.1270; and

b. existing legally established accessory structures if:

- (1) additions to the footprint will not make the total footprint of all existing structures more than one-thousand square feet; and
- (2) there is not an expansion of the footprint towards any source of channel migration hazard, unless the applicant demonstrates that the location is less subject to risk and has less impact on the critical area.

7. Allowed only in grazed wet meadows or the buffer or building setback outside a severe channel migration hazard area if:

- a. the expansion or replacement does not increase the footprint of a nonresidential structure;

b.(1) for a legally established dwelling unit, the expansion or replacement, including any expansion of a legally established accessory structure allowed under this subsection B.7.b., does not increase the footprint of the dwelling unit and all other structures by more than one thousand square feet, not including any expansion of a drainfield made necessary by the expansion of the dwelling unit. To the maximum extent practical, the replacement or expansion of a drainfield in the buffer should be located within areas of existing lawn or landscaping, unless another location will have a lesser impact on the critical area and its buffer;

(2) for a structure accessory to a dwelling unit, the expansion or replacement is located on or adjacent to existing impervious surface areas and does not result in a cumulative increase in the footprint of the accessory structure and the dwelling unit by more than one thousand square feet;

(3) the location of the expansion has the least adverse impact on the critical area; and

(4) a comparable area of degraded buffer area shall be enhanced through removal of nonnative plants and replacement with native vegetation in accordance with an approved landscaping plan;

c. the structure was not established as the result of an alteration exception, variance, buffer averaging or reasonable use exception; and

d. to the maximum extent practical, the expansion or replacement is not located closer to the critical area or within the relic of a channel that can be connected to an aquatic area.

8. Allowed upon another portion of an existing impervious surface outside a severe channel migration hazard area if:

a. except as otherwise allowed under subsection D.7. of this section, the structure is not located closer to the critical area;

b. except as otherwise allowed under subsection D.7. of this section, the existing impervious surface within the critical area or buffer is not expanded; and

c. the degraded buffer area is enhanced through removal of nonnative plants and replacement with native vegetation in accordance with an approved landscaping plan.

9. Limited to piers or seasonal floating docks in a category II, III or IV wetland or its buffer or along a lake shoreline or its buffer where:

- a. the vegetation where the alteration is proposed does not consist of dominant native wetland herbaceous or woody vegetation six feet in width or greater and the lack of this vegetation is not the result of any violation of law;
- b. the wetland or lake shoreline is not a salmonid spawning area;
- c. hazardous substances or toxic materials are not used; and
- d. if located in a freshwater lake, the pier or dock conforms to the standards for docks under K.C.C. 21A.25.180.

10. Allowed on type N or O aquatic areas if hazardous substances or toxic materials are not used.

11. Allowed on type S or F aquatic areas outside of the severe channel migration hazard area if in compliance with K.C.C. 21A.25.180.

12. When located on a lake, must be in compliance with K.C.C. 21A.25.180.

13. Limited to regrading and stabilizing of a slope formed as a result of a legal grading activity.

14. The following are allowed in the severe channel migration hazard area if conducted more than one hundred sixty-five feet from the ordinary high water mark in the rural area and one-hundred fifteen feet from the ordinary high water mark in the urban area:

- a. grading of up to fifty cubic yards on lot less than five acres; and
- b. clearing of up to one-thousand square feet or up to a cumulative thirty-five percent of the severe channel migration hazard area.

15. Only where erosion or landsliding threatens a structure, utility facility, roadway, driveway, public trails, aquatic area or wetland if, to the maximum extent practical, stabilization work does not disturb the slope and its vegetative cover and any associated critical areas.

16. Allowed when performed by, at the direction of or authorized by a government agency in

accordance with regional road maintenance guidelines.

17. Allowed when not performed under the direction of a government agency only if:

a. the maintenance or expansion does not involve the use of herbicides, hazardous substances, sealants or other liquid oily substances in aquatic areas, wetlands or their buffers; and

b. when maintenance, expansion or replacement of bridges or culverts involves water used by salmonids:

(1) the work is in compliance with ditch standards in public rule; and

(2) the maintenance of culverts is limited to removal of sediment and debris from the culvert and its inlet, invert and outlet and the stabilization of the disturbed or damaged bank or channel immediately adjacent to the culvert and shall not involve the excavation of a new sediment trap adjacent to the inlet.

18. Allowed for the removal of hazard trees and vegetation as necessary for surveying or testing purposes.

19. The limited trimming and pruning of vegetation for the making and maintenance of view corridors or habitat enhancement under a vegetation management plan approved by the department, if the soils are not disturbed and the activity will not adversely affect the long term slope stability or water quality or cause erosion. The vegetation management plan shall use native species with adequate root strength to add stability to a steep slope.

20. Harvesting of plants and plant materials, such as plugs, stakes, seeds or fruits, for restoration and enhancement projects is allowed.

21. Cutting of firewood is subject to the following:

a. within a wildlife habitat conservation area, cutting firewood is not allowed;

b. within a wildlife network, cutting shall be in accordance with a management plan approved under K.C.C. 21A.24.386; and

c. within a critical area buffer, cutting shall be for personal use and in accordance with an approved

forest management plan or rural stewardship plan.

22. Allowed only in buffers if in accordance with best management practices approved by the King County fire marshal.

23. Allowed as follows:

a. if conducted in accordance with an approved forest management plan, farm management plan or rural stewardship plan; or

b. without an approved forest management plan, farm management plan or rural stewardship plan, only if:

(1) removal is undertaken with hand labor, including hand-held mechanical tools, unless the King County noxious weed control board otherwise prescribes the use of riding mowers, light mechanical cultivating equipment or herbicides or biological control methods;

(2) the area is stabilized to avoid regrowth or regeneration of noxious weeds;

(3) the cleared area is revegetated with native vegetation and stabilized against erosion; and

(4) herbicide use is in accordance with federal and state law;

24. Only if in accordance with chapter 76.09 RCW and Title 222 WAC and:

a. a forest management plan is approved for the site by the King County department of natural resources and parks; and

b. the property owner provides a notice of intent in accordance with RCW 76.09.060 that the site will not be converted to nonforestry uses within six years.

25. Only if in compliance with published Washington state Department of Fish and Wildlife and Washington state Department of Natural Resources Management standards for the species. If there are no published Washington state standards, only if in compliance with management standards determined by the county to be consistent with best available science.

26. Allowed only if:

a. there is not another feasible location with less adverse impact on the critical area and its buffer;

b. the corridor is not located over habitat used for salmonid rearing or spawning or by a species listed as endangered or threatened by the state or federal government unless the department determines that there is no other feasible crossing site.

c. the corridor width is minimized to the maximum extent practical;

d. the construction occurs during approved periods for instream work;

e. the corridor will not change or diminish the overall aquatic area flow peaks, duration or volume or the flood storage capacity; and

f. no new public right-of-way is established within a severe channel migration hazard area.

27. To the maximum extent practical, during breeding season established under K.C.C. 21A.24.382, land clearing machinery such as bulldozers, graders or other heavy equipment are not operated within a wildlife habitat conservation area.

28. Allowed only if:

a. an alternative access is not available;

b. impact to the critical area is minimized to the maximum extent practical including the use of walls to limit the amount of cut and fill necessary;

c. the risk associated with landslide and erosion is minimized;

d. access is located where it is least subject to risk from channel migration; and

e. construction occurs during approved periods for instream work.

29. Only if in compliance with a farm management plan in accordance with K.C.C. 21A.24.051.

30. Allowed only if:

a. the replacement is made fish passable in accordance with the most recent Washington state Department of Fish and Wildlife manuals or with the National Marine and Fisheries Services guidelines for federally listed salmonid species; and

b. the site is restored with appropriate native vegetation.

31. Allowed if necessary to bring the bridge or culvert up to current standards and if:

a. there is not another feasible alternative available with less impact on the aquatic area and its buffer; and

b. to the maximum extent practical, the bridge or culvert is located to minimize impacts to the aquatic area and its buffer's.

32. Allowed in an existing roadway if conducted consistent with the regional road maintenance guidelines.

33. Allowed outside the roadway if:

a. the alterations will not subject the critical area to an increased risk of landslide or erosion;

b. vegetation removal is the minimum necessary to locate the utility or construct the corridor; and

c. significant risk of personal injury is eliminated or minimized in the landslide hazard area.

34. Limited to the pipelines, cables, wires and support structures of utility facilities within utility corridors if:

a. there is no alternative location with less adverse impact on the critical area and critical area buffer;

b. new utility corridors meet the all of the following to the maximum extent practical:

(1) are not located over habitat used for salmonid rearing or spawning or by a species listed as endangered or threatened by the state or federal government unless the department determines that there is no other feasible crossing site;

(2) the mean annual flow rate is less than twenty cubic feet per second; and

(3) paralleling the channel or following a down-valley route near the channel is avoided;

c. to the maximum extent practical utility corridors are located so that:

(1) the width is the minimized;

(2) the removal of trees greater than twelve inches diameter at breast height is minimized;

(3) an additional, contiguous and undisturbed critical area buffer, equal in area to the disturbed critical area buffer area including any allowed maintenance roads, is provided to protect the critical area;

d. to the maximum extent practical, access for maintenance is at limited access points into the critical area buffer rather than by a parallel maintenance road. If a parallel maintenance road is necessary the following standards are met:

(1) to the maximum extent practical the width of the maintenance road is minimized and in no event greater than fifteen feet; and

(2) the location of the maintenance road is contiguous to the utility corridor on the side of the utility corridor farthest from the critical area;

e. the utility corridor or facility will not adversely impact the overall critical area hydrology or diminish flood storage capacity;

f. the construction occurs during approved periods for instream work;

g. the utility corridor serves multiple purposes and properties to the maximum extent practical;

h. bridges or other construction techniques that do not disturb the critical areas are used to the maximum extent practical;

i. bored, drilled or other trenchless crossing is laterally constructed at least four feet below the maximum depth of scour for the base flood;

j. bridge piers or abutments for bridge crossing are not placed within the FEMA floodway or the ordinary high water mark;

k. open trenching is only used during low flow periods or only within aquatic areas when they are dry. The department may approve open trenching of type S or F aquatic areas only if there is not a feasible alternative and equivalent or greater environmental protection can be achieved; and

l. minor communication facilities may collocate on existing utility facilities if:

(1) no new transmission support structure is required; and

(2) equipment cabinets are located on the transmission support structure.

35. Allowed only for new utility facilities in existing utility corridors.

36. Allowed for private individual utility service connections on site or to public utilities if the disturbed area is not expanded and no hazardous substances, pesticides or fertilizers are applied.

37. Allowed if the disturbed area is not expanded, clearing is limited to the maximum extent practical and no hazardous substances, pesticides or fertilizers are applied.

38. Allowed if:

a. conveying the surface water into the wetland or aquatic area buffer and discharging into the wetland or aquatic area buffer or at the wetland or aquatic area edge has less adverse impact upon the wetland or aquatic area or wetland or aquatic area buffer than if the surface water were discharged at the buffer's edge and allowed to naturally drain through the buffer;

b. the volume of discharge is minimized through application of low impact development and water quality measures identified in the King County Surface Water Design Manual;

c. the conveyance and outfall are installed with hand equipment where feasible;

d. the outfall shall include bioengineering techniques where feasible; and

e. the outfall is designed to minimize adverse impacts to critical areas.

39. Allowed only if:

a. there is no feasible alternative with less impact on the critical area and its buffer;

b. to the maximum extent practical, the bridge or culvert is located to minimize impacts to the critical area and its buffer;

c. the bridge or culvert is not located over habitat used for salmonid rearing or spawning unless there is no other feasible crossing site;

d. construction occurs during approved periods for in-stream work; and

e. bridge piers or abutments for bridge crossings are not placed within the FEMA floodway, severe channel migration hazard area or waterward of the ordinary high water mark.

40. Allowed for an open, vegetated stormwater management conveyance system and outfall structure that simulates natural conditions if:

- a. fish habitat features necessary for feeding, cover and reproduction are included when appropriate;
- b. vegetation is maintained and added adjacent to all open channels and ponds, if necessary to

prevent erosion, filter out sediments or shade the water; and

- c. bioengineering techniques are used to the maximum extent practical.

41. Allowed for a closed, tightlined conveyance system and outfall structure if:

- a. necessary to avoid erosion of slopes; and
- b. bioengineering techniques are used to the maximum extent practical.

42. Allowed in a severe channel migration hazard area or an aquatic area buffer to prevent bank erosion only:

a. if consistent with the Integrated Streambank Protection Guidelines (Washington State Aquatic Habitat Guidelines Program, 2002) and if bioengineering techniques are used to the maximum extent practical, unless the applicant demonstrates that other methods provide equivalent structural stabilization and environmental function;

b. based on a critical areas report, the department determines that the new flood protection facility will not cause significant impacts to upstream or downstream properties; and

c. to prevent bank erosion for the protection of:

- (1) public roadways;
- (2) sole access routes in existence before February 16, 1995;
- (3) new primary dwelling units, accessory dwelling units or accessory living quarters and

residential accessory structures located outside the severe channel migration hazard area if:

(a) the site is adjacent to or abutted by properties on both sides containing buildings or sole access routes protected by legal bank stabilization in existence before February 16, 1995. The buildings, sole access routes or bank stabilization must be located no more than six hundred feet apart as measured parallel to the migrating channel; and

(b) the new primary dwelling units, accessory dwelling units, accessory living quarters or residential accessory structures are located no closer to the aquatic area than existing primary dwelling units, accessory dwelling units, accessory living quarters or residential accessory structures on abutting or adjacent properties; or

(4) existing primary dwelling units, accessory dwelling units, accessory living quarters or residential accessory structures if:

(a) the structure was in existence before the adoption date of a King County Channel Migration Zone hazard map that applies to that channel, if such a map exists;

(b) the structure is in imminent danger, as determined by a geologist, engineering geologist or geotechnical engineer;

(c) the applicant has demonstrated that the existing structure is at risk, and the structure and supporting infrastructure cannot be relocated on the lot further from the source of channel migration; and

(d) nonstructural measures are not feasible.

43. Applies to lawfully established existing structures if:

a. the height of the facility is not increased, unless the facility is being replaced in a new alignment that is landward of the previous alignment and enhances aquatic area habitat and process;

b. the linear length of the facility is not increased, unless the facility is being replaced in a new alignment that is landward of the previous alignment and enhances aquatic area habitat and process;

c. the footprint of the facility is not expanded waterward;

d. consistent with the Integrated Streambank Protection Guidelines (Washington State Aquatic

Habitat Guidelines Program, 2002) and bioengineering techniques are used to the maximum extent practical;

e. the site is restored with appropriate native vegetation and erosion protection materials; and

f. based on a critical areas report, the department determines that the maintenance, repair,

replacement or construction will not cause significant impacts to upstream or downstream properties.

44. Allowed in type N and O aquatic areas if done in least impacting way at least impacting time of year, in conformance with applicable best management practices, and all affected instream and buffer features are restored.

45. Allowed in a type S or F water when such work is:

a. included as part of a project to evaluate, restore or improve habitat, and

b. sponsored or cosponsored by a public agency that has natural resource management as a function or by a federally recognized tribe.

46. Allowed as long as the trail is not constructed of impervious surfaces that will contribute to surface water run-off, unless the construction is necessary for soil stabilization or soil erosion prevention or unless the trail system is specifically designed and intended to be accessible to handicapped persons.

47. Not allowed in a wildlife habitat conservation area. Otherwise, allowed in the buffer or for crossing a category II, III or IV wetland or a type F, N or O aquatic area, if:

a. the trail surface is made of pervious materials, except that public multipurpose trails may be made of impervious materials if they meet all the requirements in K.C.C. chapter 9.12. A trail that crosses a wetland or aquatic area shall be constructed as a raised boardwalk or bridge;

b. to the maximum extent practical, buffers are expanded equal to the width of the trail corridor including disturbed areas;

c. there is not another feasible location with less adverse impact on the critical area and its buffer;

d. the trail is not located over habitat used for salmonid rearing or spawning or by a species listed as endangered or threatened by the state or federal government unless the department determines that there is no

other feasible crossing site;

e. the trail width is minimized to the maximum extent practical;

f. the construction occurs during approved periods for instream work; and

g. the trail corridor will not change or diminish the overall aquatic area flow peaks, duration or volume or the flood storage capacity.

h. the trail may be located across a critical area buffer for access to a viewing platform or to a permitted dock or pier;

i. A private viewing platform may be allowed if it is:

(1) located upland from the wetland edge or the ordinary high water mark of an aquatic area;

(2) located where it will not be detrimental to the functions of the wetland or aquatic area and will have the least adverse environmental impact on the critical area or its buffer;

(3) limited to fifty square feet in size;

(4) constructed of materials that are nontoxic; and

(5) on footings located outside of the wetland or aquatic area.

48. Only if the maintenance:

a. does not involve the use of herbicides or other hazardous substances except for the removal of noxious weeds or invasive vegetation;

b. when salmonids are present, the maintenance is in compliance with ditch standards in public rule; and

c. does not involve any expansion of the roadway, lawn, landscaping, ditch, culvert, engineered slope or other improved area being maintained.

49. Limited to alterations to restore habitat forming processes or directly restore habitat function and value, including access for construction, as follows:

a. projects sponsored or cosponsored by a public agency that has natural resource management as a

primary function or by a federally recognized tribe;

b. restoration and enhancement plans prepared by a qualified biologist; or

c. conducted in accordance with an approved forest management plan, farm management plan or rural stewardship plan.

50. Allowed in accordance with a scientific sampling permit issued by Washington state Department of Fish and Wildlife or an incidental take permit issued under Section 10 of the Endangered Species Act.

51. Allowed for the minimal clearing and grading, including site access, necessary to prepare critical area reports.

52. The following are allowed if associated spoils are contained:

a. data collection and research if carried out to the maximum extent practical by nonmechanical or hand-held equipment;

b. survey monument placement;

c. site exploration and gage installation if performed in accordance with state-approved sampling protocols and accomplished to the maximum extent practical by hand-held equipment and; or similar work associated with an incidental take permit issued under Section 10 of the Endangered Species Act or consultation under Section 7 of the Endangered Species Act.

53. Limited to activities in continuous existence since January 1, 2005, with no expansion within the critical area or critical area buffer. "Continuous existence" includes cyclical operations and managed periods of soil restoration, enhancement or other fallow states associated with these horticultural and agricultural activities.

54. Allowed for expansion of existing or new agricultural activities where:

a. the site is predominantly involved in the practice of agriculture;

b. there is no expansion into an area that:

(1) has been cleared under a class I, II, III, IV-S or nonconversion IV-G forest practice permit; or

(2) is more than ten thousand square feet with tree cover at a uniform density more than ninety trees per acre and with the predominant mainstream diameter of the trees at least four inches diameter at breast height, not including areas that are actively managed as agricultural crops for pulpwood, Christmas trees or ornamental nursery stock;

c. the activities are in compliance with an approved farm management plan in accordance with K.C.C. 21A.24.051; and

d. all best management practices associated with the activities specified in the farm management plan are installed and maintained.

55. Only allowed in grazed or tilled wet meadows or their buffers if:

a. the facilities are designed to the standards of an approved farm management plan in accordance K.C.C. 21A.24.051 or an approved livestock management plan in accordance with K.C.C. chapter 21A.30;

b. there is not a feasible alternative location available on the site; and

c. the facilities are located close to the outside edge of the buffer to the maximum extent practical.

56. Allowed in a severe channel migration hazard area portion of an aquatic area buffer if:

a. the facilities are designed to the standards in an approved farm management plan in accordance with K.C.C. 21A.24.051;

b. there is not a feasible alternative location available on the site; and

c. the structure is located where it is least subject to risk from channel migration.

57. Allowed for new agricultural drainage in compliance with an approved farm management plan in accordance with K.C.C. 21A.24.051 and all best management practices associated with the activities specified in the farm management plan are installed and maintained.

58. If the agricultural drainage is used by salmonids, maintenance shall be in compliance with an approved farm management plan in accordance with K.C.C. 21A.24.051.

59. Allowed within existing landscaped areas or other previously disturbed areas.

60. Allowed for residential utility service distribution lines to residential dwellings, including, but not limited to, well water conveyance, septic system conveyance, water service, sewer service, natural gas, electrical, cable and telephone, if:

a. there is no alternative location with less adverse impact on the critical area or the critical area buffer;

b. the residential utility service distribution lines meet the all of the following, to the maximum extent practical:

(1) are not located over habitat used for salmonid rearing or spawning or by a species listed as endangered or threatened by the state or federal government unless the department determines that there is no other feasible crossing site;

(2) not located over a type S aquatic area;

(3) paralleling the channel or following a down-valley route near the channel is avoided;

(4) the width of clearing is minimized;

(5) the removal of trees greater than twelve inches diameter at breast height is minimized;

(6) an additional, contiguous and undisturbed critical area buffer, equal in area to the disturbed critical area buffer area is provided to protect the critical area;

(7) access for maintenance is at limited access points into the critical area buffer.

(8) the construction occurs during approved periods for instream work;

(9) bored, drilled or other trenchless crossing is encouraged, and shall be laterally constructed at least four feet below the maximum depth of scour for the base flood; and

(10) open trenching across Type O or Type N aquatic areas is only used during low flow periods or only within aquatic areas when they are dry.

61. Allowed if sponsored or cosponsored by the countywide flood control zone district and the department determines that the project and its location:

- a. is the best flood risk reduction alternative practicable;
- b. is part of a comprehensive, long-term flood management strategy;
- c. is consistent with the King County Flood Hazard Management Plan policies;
- d. will have the least adverse impact on the ecological functions of the critical area or its buffer,

including habitat for fish and wildlife that are identified for protection in the King County Comprehensive Plan;
and

- e. has been subject to public notice in accordance with K.C.C. 20.44.060.

62.a. Not allowed in wildlife habitat conservation areas;

- b. Only allowed if:

- (1) the project is sponsored or cosponsored by a public agency whose primary function deals with natural resources management;

- (2) the project is located on public land or on land that is owned by a nonprofit agency whose primary function deals with natural resources management;

- (3) there is not a feasible alternative location available on the site with less impact to the critical area or its associated buffer;

- (4) the aquatic area or wetland is not for salmonid rearing or spawning;

- (5) the project minimizes the footprint of structures and the number of access points to any critical areas; and

- (6) the project meets the following design criteria:

- (a) to the maximum extent practical size of platform shall not exceed one hundred square feet;

- (b) all construction materials for any structures, including the platform, pilings, exterior and interior walls and roof, are constructed of nontoxic material, such as nontreated wood, vinyl-coated wood, nongalvanized steel, plastic, plastic wood, fiberglass or cured concrete that the department determines will not have an adverse impact on water quality;

(c) the exterior of any structures are sufficiently camouflaged using netting or equivalent to avoid any visual deterrent for wildlife species to the maximum extent practical. The camouflage shall be maintained to retain concealment effectiveness;

(d) structures shall be located outside of the wetland or aquatic area landward of the Ordinary High Water Mark or open water component (if applicable) to the maximum extent practical on the site;

(e) construction occurs during approved periods for work inside the Ordinary High Water Mark;

(f) construction associated with bird blinds shall not occur from March 1 through August 31, in order to avoid disturbance to birds during the breeding, nesting and rearing seasons;

(g) to the maximum extent practical, provide accessibility for persons with physical disabilities in accordance with the International Building Code;

(h) trail access is designed in accordance with public rules adopted by the department;

(i) existing native vegetation within the critical area will remain undisturbed except as necessary to accommodate the proposal. Only minimal hand clearing of vegetation is allowed; and

(j) disturbed bare ground areas around the structure must be replanted with native vegetation approved by the department.

63. Not allowed in the severe channel migration zone, there is no alternative location with less adverse impact on the critical area and buffer and clearing is minimized to the maximum extent practical.

64. Only structures wholly or partially supported by a tree and used as accessory living quarters or for play and similar uses described in K.C.C. 16.02.240.1, subject to the following:

a. not allowed in wildlife habitat conservation areas or severe channel migration hazard areas;

b. the structure's floor area shall not exceed two hundred square feet, excluding a narrow access stairway or landing leading to the structure;

c. the structure shall be located as far from the critical area as practical, but in no case closer than seventy-five feet from the critical area;

- d. only one tree-supported structure within a critical area buffer is allowed on a lot;
- e. all construction materials for the structure, including the platform, pilings, exterior and interior walls and roof, shall be constructed of nontoxic material, such as nontreated wood, vinyl-coated wood, nongalvanized steel, plastic, plastic wood, fiberglass or cured concrete that the department determines will not have an adverse impact on water quality;
- f. to the maximum extent practical, the exterior of the structure shall be camouflaged with natural wood and earth tone colors to limit visual impacts to wildlife and visibility from the critical area. The camouflage shall be maintained to retain concealment effectiveness;
- g. the structure must not adversely impact the long-term health and viability of the tree. The evaluation shall include, but not be limited to, the following:
 - (1) the quantity of supporting anchors and connection points to attach the tree house to the tree shall be the minimum necessary to adequately support the structure;
 - (2) the attachments shall be constructed using the best available tree anchor bolt technology; and
 - (3) an ISA Certified Arborist shall evaluate the tree proposed for placement of the tree house and shall submit a report discussing how the tree's long-term health and viability will not be negatively impacted by the tree house or associated infrastructure;
- h. exterior lighting shall meet the following criteria:
 - (1) limited to the minimum quantity of lights necessary to meet the building code requirements to allow for safe exiting of the structure and stairway; and
 - (2) exterior lights shall be fully shielded and shall direct light downward, in an attempt to minimize impacts to the nighttime environment;
- i. unless otherwise approved by the department, all external construction shall be limited to September 1 through March 1 in order to avoid disturbance to wildlife species during typical breeding, nesting and rearing seasons;

j. trail access to the structure shall be designed in accordance with trail standards under subsection D.47. of this section;

k. to the maximum extent practical, existing native vegetation shall be left undisturbed. Only minimal hand clearing of vegetation is allowed; and

l. vegetated areas within the critical area buffer that are temporarily impacted by construction of the structure shall be restored by planting native vegetation according to a vegetation management plan approved by the department.

65. Shoreline water dependent and shoreline water oriented uses are allowed in the aquatic area and aquatic area buffer of a Type S aquatic area if consistent with K.C.C. chapter 21A.25, chapter 90.58 RCW and the King County Comprehensive Plan.

66. Only hydroelectric generating facilities meeting the requirements of K.C.C. 21A.08.100B.14., and only as follows:

a. there is not another feasible location within the aquatic area with less adverse impact on the critical area and its buffer;

b. the facility and corridor is not located over habitat used for salmonid rearing or spawning or by a species listed as endangered or threatened by the state or federal government unless the department determines that there is no other feasible location;

c. the facility is not located in Category I wetlands or Category II wetlands with a habitat score 30 points or greater

d. the corridor width is minimized to the maximum extent practical;

e. paralleling the channel or following a down-valley route within an aquatic area buffer is avoided to the maximum extent practical;

f. the construction occurs during approved periods for instream work;

g. the facility and corridor will not change or adversely impact the overall aquatic area flow peaks,

duration or volume or the flood storage capacity;

h. The facility and corridor is not located within a severe channel migration hazard area;

h. To the maximum extent practical, buildings will be located outside the buffer and away from the aquatic area or wetland;

i. To the maximum extent practical, access for maintenance is at limited access points into the critical area buffer rather than by a parallel maintenance road. If a parallel maintenance road is necessary the following standards are met:

1. to the maximum extent practical the width of the maintenance road is minimized and in no event greater than fifteen feet; and

2. the location of the maintenance road is contiguous to the utility corridor on the side of the utility corridor farthest from the critical area;

j. the facility does not pose an unreasonable threat to the public health, safety or welfare on or off the development proposal site and is consistent with the general purposes of this chapter and the public interest; and

k. the facility connects to or is an alteration to a public roadway, public trail, a utility corridor or utility facility or other infrastructure owned or operated by a public utility; and

67. Only hydroelectric generating facilities meeting the requirements of K.C.C. 21A.08.100.B.14, and only as follows:

a. there is not another feasible location with less adverse impact on the critical area and its buffer;

b. the alterations will not subject the critical area to an increased risk of landslide or erosion;

c. the corridor width is minimized to the maximum extent practical;

d. vegetation removal is the minimum necessary to locate the utility or construct the corridor;

e. the facility and corridor do not pose an unreasonable threat to the public health, safety or welfare on or off the development proposal site and is consistent with the general purposes of this chapter, and the

public interest and significant risk of personal injury is eliminated or minimized in the landslide hazard area;
and

f. the facility connects to or is an alteration to a public roadway, public trail, a utility corridor or utility facility or other infrastructure owned or operated by a public utility.