

**Chapter 14.280**  
**Habitat Conservation Areas**

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**14.280.010 Designation of Habitat Conservation Areas**

Habitat conservation areas shall be designated by the City Planner to include the following:

- A. Areas having a primary association with fish and wildlife species identified by the U.S. Fish and Wildlife Service and the National Marine Fisheries Service as being in danger of extinction or threatened to become endangered;
- B. Areas having a primary association with fish and wildlife species identified by the Washington Department of Fish and Wildlife as being in danger of extinction, threatened to become endangered, vulnerable, or declining and likely to become endangered or threatened in a significant portion of their range within the state without cooperative management or removal of threats. See WAC 232-12-014 (state endangered species) and WAC 232-12-011 (state threatened and sensitive species);
- C. State priority habitats as identified by the state Department of Fish and Wildlife;
- D. Habitats and species of local importance as identified by the City in accordance

with SMC 14.280.020;

- E. Waters of the state, including lakes, rivers, ponds, streams, inland waters, underground waters, salt waters, and all other surface waters and watercourses within the jurisdiction of the state of Washington, as classified in WAC 222-16-031;
- F. Ponds under twenty acres that provide fish or wildlife habitat, except artificial ponds created for a non-wildlife purpose such as stormwater detention facilities, wastewater treatment facilities, farm ponds, and temporary construction ponds;
- G. Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity;
- H. Natural area preserves and natural resource conservation areas as defined by the Washington State Department of Natural Resources;
- I. Areas of rare plant species and high quality ecosystems as identified by the Washington State Department of Natural Resources through the Natural Heritage Program (see Chapter 79.70 RCW); and
- J. Land useful or essential for preserving connections between habitat blocks and open spaces.

**14.280.020 Designation of Habitats and Species of Local Importance**

- A. Habitats and species of local importance are those identified by the City, including but not limited to those habitats and species that, due to their population status or sensitivity to habitat manipulation, warrant protection.

Habitats may include a seasonal range or habitat element with which a species has a primary association, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term.

- B. The City shall accept and consider nomination for habitat areas and species to be designated as locally important on an annual basis.
- C. Habitats and species to be designated shall exhibit at least one of the criteria in subsections C.1 through C.3 and shall meet criteria C.4 and C.5.
  - 1. Local populations of native species are in danger of extirpation based on existing trends, including:
    - a. Local populations of native species that are likely to become endangered; or
    - b. Local populations of native species that are vulnerable or declining; or
  - 2. The species or habitat has recreation, commercial, game, tribal, or other special value; or
  - 3. Long-term persistence of a species is dependent on the protection, maintenance, and/or restoration of the nominated habitat; and
  - 4. Protection by other county, state, or federal policies, laws, regulations, or nonregulatory tools is not adequate to prevent degradation of the species or habitat in the City; and
  - 5. Without protection, there is a likelihood that the species or habitat

will be diminished over the long term.

- D. Areas nominated to protect a particular habitat or species must represent high-quality native habitat or habitat that either has a high potential to recover to a suitable condition and is of limited availability or provides landscape connectivity which contributes to the designated species or habitat's preservation.
- E. Habitats and species may be nominated for designation by any resident of Snohomish.
- F. The petition to nominate an area or a species to this category shall contain all of the following:
  - 1. A completed SEPA environmental checklist;
  - 2. A written statement using best available science to show that nomination criteria are met;
  - 3. A written proposal including specific and relevant protection regulations that meet the goals of this Chapter. Management strategies must be supported by the best available science, and where restoration of habitat is proposed, a specific plan for restoration must be provided;
  - 4. Demonstration of relevant, feasible, management strategies that are effective and within the scope of this Chapter;
  - 5. Provision of species habitat location(s) on a map that works in concert with other City maps;

6. A financial report identifying the cost of implementing a mitigation or protection plan and the financial impact of the requested designation upon affected properties;
  7. Documentation of public notice methods that the petitioner(s) have used. Examples of reasonable methods are:
    - a. Posting the property.
    - b. Publishing a paid advertisement in a newspaper or newsletter of circulation in the general area of the proposal, where interested persons may review information on the proposal. Information in the notice must contain a description of the proposal, general location of the affected area and where comments on the proposal may be sent.
    - c. Notification to public or private groups in the affected area that may have an interest in the petition.
    - d. News media articles that have been published concerning the proposal.
    - e. Notices placed at public buildings or bulletin boards in the affected area.
    - f. Mailing of informational flyers to property owners within the affected area; and
  8. Signatures of all petitioners.
- G. The City Planner shall determine whether the nomination proposal is complete, and if complete, shall evaluate it according to the characteristics enumerated in subsection C and make a recommendation to the Planning Commission based on those findings.
- H. The Planning Commission shall hold a public hearing for proposals found to be complete and make a recommendation to the City Council based on the characteristics enumerated in subsection C.
  - I. Following the recommendation of the Planning Commission, the City Council may hold an additional public hearing and shall determine whether to designate a Habitat or Species of Local Importance.
  - J. Approved nominations will be subject to the provisions of this Title.
- 14.280.030 Mapping**
- The following maps, which may be continuously updated, may be used as a guide for locating habitat conservation areas:
- A. Washington Department of Fish and Wildlife Priority Habitat and Species maps;
  - B. Washington State Department of Natural Resources, Official Water Type Reference maps;
  - C. Washington State Department of Natural Resources Shorezone Inventory;
  - D. Washington State Department of Natural Resources Natural Heritage Program mapping data;
  - E. Anadromous and resident salmonid distribution maps contained in the

Habitat Limiting Factors reports published by the Washington Conservation Commission; and

- F. Washington State Department of Natural Resources State Natural Area Preserves and Natural Resource Conservation Area maps.

#### **14.280.040 Critical Area Reports**

In addition to the general critical area report requirements of SMC 14.255.080, critical area reports for habitat conservation areas shall include, where applicable:

- A. Vegetation assessment; and
- B. Discussion of any federal, state, or local special management recommendations for species or habitats on or near the site.

#### **14.280.050 Substantive Requirements**

In addition to the substantive requirements of SMC 14.255.120, the following requirements shall apply to habitat conservation areas:

- A. No plant, wildlife, or fish species not indigenous to the region shall be introduced into a habitat conservation area, except with approval of a state or federal agency with expertise.
- B. Preference in mitigation shall be given to contiguous wildlife habitat corridors.
- C. In reviewing development proposals, the City shall seek opportunities to restore degraded riparian fish and wildlife functions such as breeding, rearing, migration, and feeding.
- D. The City shall require buffers of undisturbed native vegetation adjacent to habitat conservation areas in accordance with SMC 14.280.060. Buffer widths

shall reflect the sensitivity of the habitat and may reflect the intensity of nearby human activity.

- E. When a species is more sensitive to human activity during a specific season of the year, the City may establish an extra outer buffer from which human activity is excluded during said season.
- F. No development shall be allowed within a habitat conservation area or buffer with which state or federal endangered, threatened, or sensitive species have a primary association, except in exchange for restoration as approved by the City Planner or as provided in a management plan approved by a state or federal agency with appropriate expertise.
- G. When a development permit is applied for on land containing or adjacent to a bald eagle nest or communal roost, the City shall notify the Washington Department of Fish and Wildlife and otherwise comply with WAC 232-12-292.
- H. No development shall be permitted which degrades the functions or values of anadromous fish habitat, including structures or fills which impact migration or spawning, except in exchange for restoration.
- I. Construction and other activities within streams shall be seasonally restricted as necessary to protect the resource. Activities shall be timed to occur during work windows designated by the Washington Department of Fish and Wildlife for applicable fish species.
- J. Shoreline erosion control shall use bioengineering methods or soft armoring in accordance with an approved critical

area report.

K. Relocation of streams is not permitted unless it is part of a stream restoration project and it will result in equal or better habitat and water quality, and will not diminish the flow capacity of the stream.

L. The following requirements shall apply to culverts:

1. Culverts may be allowed in streams only if they are necessary for the development to occur, if they are designed according to the Washington Department of Fish and Wildlife criteria for fish passage and if a state hydraulic project approval has been issued.

2. The applicant or property owner shall keep every culvert free of debris and sediment at all times to allow free passage of water and, if applicable, fish.

3. The City may require that a stream be removed from an existing culvert as a condition of approval, unless the culvert is not detrimental to fish habitat or water quality, or removal and/or replacement would be detrimental to fish or wildlife habitat or water quality on a long-term basis.

M. Clearing and grading, when permitted as part of an authorized development activity or as otherwise allowed in these standards, shall comply with the following:

1. Grading shall be allowed only during the designated dry season, which is typically regarded as beginning April 1st and ending October 31st of each

year; provided that the City may extend or shorten the designated dry season on a case-by-case basis to reflect actual weather conditions and the incorporation of best management practices to control stormwater.

2. The soil duff layer shall remain undisturbed to the maximum extent possible. Where feasible, any soil disturbed shall be redistributed to other areas of the site, provided that such redistribution shall not constitute authorized fill.

3. The moisture-holding capacity of the topsoil layer shall be maintained by minimizing soil compaction or reestablishing natural soil structure and infiltrative capacity on all areas of the project area not covered by impervious surfaces.

N. To the extent facilities are allowed in habitat conservation areas, the following regulations shall apply.

1. Trails shall be on the outer edge of the stream buffer except for limited viewing platforms and crossings. Trails and platforms shall be of pervious materials as far as possible.

2. Road bridges and culverts shall be designed according to the Washington Department of Fish and Wildlife *Fish Passage Design at Road Culverts*, 1999, and the National Marine Fisheries Service *Guidelines for Salmonid Passage at Stream Crossings*, 2000.

3. Utility lines shall be accomplished by boring beneath the scour depth and hyporheic zone (the saturated

zone beneath and adjacent to streams that filters nutrients and maintains water quality). Utilities shall avoid paralleling streams or changing the natural rate of shore or channel migration.

4. New and expanded public flood protection measures shall require a biological assessment approved by the agency responsible for protecting federally listed species.
5. In-stream structures such as high-flow bypasses, sediment ponds, instream ponds, retention and detention facilities, tide gates, dams, and weirs shall be allowed only as part of an approved restoration

project.

6. Stormwater conveyance structures shall incorporate fish habitat features and the sides of open channels and ponds shall be vegetated to retard erosion, filter sediments, and shade the water.
7. Watercourse alterations shall be in accordance with SMC 14.270.030.H.

**14.280.060 Habitat Conservation Area Buffers**

- A. The following table establishes the standard width of required stream buffers (also known as riparian habitat areas):

**1. Table of habitat conservation area buffer widths for particular streams.**

Stream type	Habitat buffer width
<ul style="list-style-type: none"> <li>• Snohomish River</li> <li>• Pilchuck River</li> </ul>	100 feet, provided that 1) limited public access is allowed in the 50 feet nearer the river, and 2) water-dependent and water-related uses are allowed in the 50 feet further from the river, if mitigation measures result in the uses contributing toward projects that enhance salmonid rearing habitat as identified in the Snohomish ESA Strategy and if, as further mitigation, public access is permitted across the waterfront portion of the site when such a mitigation measure is supported by the particular circumstances and the purposes of the Critical Areas Code.
<ul style="list-style-type: none"> <li>• Cemetery Creek downstream of Fobes Road, Bunk Foss Creek, and any tributaries thereof containing salmonids</li> <li>• All streams flowing into Blackman’s Lake, including that part of Swifty Creek above Blackman’s Lake</li> </ul>	100 feet, provided that limited public access is allowed in the first 50 feet of buffer.  50 feet.
<ul style="list-style-type: none"> <li>• Swifty Creek below Blackman’s Lake</li> <li>• Myrick’s Fork in the Cemetery Creek basin</li> <li>• Collins Creek in the Bunk Foss Creek basin (upstream of salmon spawning and rearing areas)</li> </ul>	50 feet, provided that limited public access is allowed in the 25 feet of buffer.

**2. If the above table does not cover a particular stream, the following table shall apply:**

Stream type	Standard buffer width
Type S (shorelines of the state per Shorelines Management Act)	100 feet
Type F (fish-bearing other than S)	75 feet
Type Np (non-fish, perennial)	50 feet
Type Ns (non-fish, seasonal)	35 feet

B. Widths shall be measured outward in each direction, on the horizontal plane, from the ordinary high water mark, or from the top of bank if the ordinary high water mark cannot be identified, or from the outer edge of the channel migration zone when present.

of shoreline management jurisdiction.  
(Ord. 2083, 2005; Ord 2092, 2006)

C. The City Planner may modify the buffer widths in the above tables in accordance with the following:

1. Buffer widths may be increased as necessary to fully protect riparian functions. For example, the buffer may be extended to the outer edge of the floodplain or windward into an area of high tree blow-down potential.
2. Buffer widths may be reduced in exchange for restoration of degraded areas in accordance with an approved plan, or for buffer averaging in accordance with SMC 14.255.120.(G).
3. If the stream enters an underground culvert or pipe, and is unlikely to ever be restored aboveground, the City Planner may waive the buffer along the under grounded stream, provided that where the stream enters and emerges from the pipe the opposite outer edges of the buffer shall be joined by a radius equal to the buffer width, with said radius projecting over the piped stream.

D. The shoreline master program, not the Critical Areas Code, shall determine allowable uses along and setbacks from lakes, provided that the Critical Areas Code shall govern wetlands, streams, and other critical areas lying within areas