

# Seattle Permits

— part of a multi-departmental City of Seattle series on getting a permit

## Environmentally Critical Areas: Wetlands and Fish & Wildlife Habitat Conservation Areas

February 23, 2009

Designated Wetlands and Fish and Wildlife Habitat Conservation Areas receive protections under Seattle's Environmentally Critical Areas Ordinance (Seattle Municipal Code 25.09). Fish and Wildlife Habitat Conservation Areas include:

- shoreline habitats
- riparian corridors (streams and small lakes)
- urban natural open space habitat areas
- priority habitat for species such as Great Blue Heron and Bald Eagles

Individuals living near a Wetland or Fish and Wildlife Habitat Conservation Area should consult this Client Assistance Memo (CAM) to understand how these regulations may affect the maintenance and redevelopment of their property.

The Shoreline Master Program (Seattle Municipal Code 23.60) contains additional regulations for shoreline areas. The Floodplain Development code (Seattle Municipal Code 25.06) contains additional regulations for floodplains that are summarized in Client Assistance Memo (CAM) 111. Applicants may also need to consult with various state and federal agencies when proposing development in or near these areas. The State Office of Regulatory Assistance website ([www.ora.wa.gov](http://www.ora.wa.gov)) provides a good resource for identifying state and federal agencies with regulatory requirements.

### PURPOSE OF ECA REGULATIONS

Environmentally critical areas (ECAs) contain the most environmentally sensitive lands within the City of Seattle. Protecting these areas provides multiple benefits by preserving valuable habitat areas, protecting water quality, and avoiding future building problems due to flooding and erosion.

The Environmentally Critical Areas Ordinance, in conjunction with other City regulations such as the Shoreline Master Program and the Floodplain Development code, protects these benefits while balancing the need for development in the urbanized environment of Seattle. Development setbacks and vegetated buffer areas required by the ECA code provide habitat for a variety of aquatic and terrestrial species, and also play a role in protecting wildlife from human disturbances such as light, noise, and runoff. Vegetation along waterways and shorelines also provides shade for aquatic habitat and nutrients, such as leaves, branches and insects, which are critical to functioning habitat.

ECA protections also provide an additional benefit by protecting water quality. Natural vegetation along waterways helps to slow, filter, and absorb urban runoff containing oil, pesticides, fertilizers and bacteria. This buffering also reduces the peak volume and speed of stormwater which can help prevent flooding and scouring of waterways and shorelines.

Limiting development in critical areas also helps reduce potential impacts to buildings and structures. Because shorelines, riparian corridors, and wetlands have naturally varying borders and may be prone to flooding and erosion, property adjacent to these areas may be at greater risk. Setting development back from their edge and protecting vegetation are effective measures to reduce flooding and prevent erosion.

### ECA LOCATIONS

DPD maintains maps of ECAs that are available to the public through the DPD website ([www.seattle.gov/dpd/research](http://www.seattle.gov/dpd/research)). Maps for wetlands and fish and wildlife conservation areas are advisory and are intended



to aid in the identification of critical areas rather than delineate their exact boundaries. Technical studies, such as surveys and wetland delineations, prepared by qualified professionals may be required. Un-mapped wetlands and streams are subject to regulations since the site conditions define the critical area. Applicants undertaking development or other regulated activities should visit DPD early in their planning process to determine whether an ECA may exist on or near their property and what regulations apply.

**DEVELOPMENT STANDARDS**

All development on parcels containing wetland, fish and wildlife habitat conservation areas, and their associated buffers or management areas, must meet the general standards for stormwater control, erosion control, and vegetation protection as outlined in SMC 25.09.060. A definition of “development” is contained in the “clarification of terms” section of this CAM.

Use of pesticides and fertilizers is not allowed within fifty feet of a riparian watercourse, wetland or shoreline except in specific circumstances detailed in SMC25.09.060L.

Due to the important role that vegetation plays in providing habitat and buffering ECAs from noise, light, and stormwater runoff, the removal, maintenance, and pruning of trees and vegetation within riparian corridors, wetlands, shorelines, and their buffers is only allowed in limited circumstances. CAM 331, Environmentally Critical Areas: Tree & Vegetation Overview, details tree and vegetation protections that exist in ECAs.

In addition to these general standards, specific standards apply to each ECA area as generally described below.

**Wetlands (see SMC 25.09.160)**

The City of Seattle regulates wetlands based on their ecological values as determined by the Washington State Wetland Rating System. Under this system, wetlands are classified into four categories: I (highest quality) to IV (lowest quality) based on their habitat, hydrologic, and water quality value.

Individuals wishing to know the rating of a specific wetland should contact a DPD ecologist to determine what information is available. If existing data is not adequate to assess the wetland rating, landowners may need to hire a wetlands specialist to rate and delineate the wetland before any development activity is allowed. Requirements for Wetland Professionals and Wetland Delineation Reports are detailed in Director’s Rule (DR) 19-2006.

No new development within wetlands and their buffers is allowed, except as described below and in the “exemptions, variances, and exceptions” section of this CAM. Buffer sizes are based on category and the habitat value of the wetland as shown below.

**Wetland Buffer Distances**

Habitat Value from Wetland Rating System			
	High	Moderate	Low
Category I & II	200 feet	110 feet	100 feet
Category III	85 feet	85 feet	60 feet
Category IV	50 feet	50 feet	50 feet

Development in Category I, II or III wetlands less than 100 square feet that do not abut another wetland or waterway may be allowed where certain conditions are met. Development in Category IV wetlands less than 1,000 square feet that do not abut another wetland or waterway may be allowed where mitigation is approved and undertaken to replicate lost functions and values as described in SMC 25.09.160C3.

In order to protect the functions of wetlands, the City of Seattle has established buffers surrounding regulated wetlands to prevent excess run-off, provide habitat, and minimize disturbance. The sizes of these buffers are shown in the preceding chart.

Wetland buffers may be averaged in some situations to allow development closer to the wetland in a limited area as long as a wetland professional demonstrates that it will not reduce wetland functions or values, the total area of the buffer remains the same, and minimum buffer widths are maintained as described in SMC 25.09.160D1. Buffers surrounding Category IV wetlands may also be reduced along the entirety of the wetland to not less than 35 feet if the lot was in existence before October 31, 1992, and DPD finds that strict interpretation of the code would cause unnecessary hardship, averaging the buffer would not relieve the hardship, and mitigation is undertaken as described in SMC 25.09.160D2.

New development on parcels containing wetlands, even if the development is outside of the buffer, must also meet basic development standards preventing excessive run-off and lighting from affecting the wetlands. Applicants may also be required to consult with the Army Corp of Engineers when undertaking projects in or near wetlands.

## Shorelines (see SMC 25.09.200 and 23.60)

The shorelines along Puget Sound, Lake Washington, the Duwamish River, Lake Union, and the Ship Canal are important for habitat, including water quality protection. These areas also function as corridors for the passage of salmon and other priority species listed by the Washington Department of Fish and Wildlife (WDFW).

Accordingly, all new development within 100 feet landward of these shorelines must be mitigated for any loss of ecological function. Mitigation usually takes the form of native plantings that will protect the shoreline from the effects of development or replace vegetation lost to development. Mitigation may be done on or off site, although a greater amount of off-site mitigation will be required. Elevated standards for stormwater management are also required as part of construction in a shoreline buffer.

The City of Seattle also mandates “no build” setbacks from the shoreline depending on the use of the property to be developed. No setback is required for development for water-dependent and water-related uses due to the need of water access in these cases; however, impacts from this development must be mitigated. Shoreline setbacks for residential properties are detailed in Director’s Rule (DR) 7-2007: Determination of Residential Setbacks in the Shoreline District. Other development must be setback 25 feet from the Shoreline. In all cases, the shoreline setback will be measured from the ordinary high water mark (OHW).

The provisions of the Shoreline Master Program (SMC 23.60) also apply to development within 200 feet of the shoreline. The Shoreline Master Program contains additional permit and submittal requirements as well as general and area-specific regulations regarding land use, public access, views, parking, signage, and other development standards and environmental protections.

## Bulkheads, Docks, and Other Related Projects in Shorelines

Shoreline stabilization, including bulkheads, rip rap, and bioengineered solutions, is regulated by the City of Seattle because it can both protect private property and significantly modify shoreline ecology. The near-shore environment of large waterbodies such as Lake Washington, the Duwamish River, and Puget Sound contain biologically rich habitat and are important for the functioning of the entire aquatic environment. In Seattle, these areas provide significant plant production that shelters and feeds shallow and deep water organisms and provides critical migration corridors for salmon.

Bulkheads damage this critical habitat by filling shallow waters, removing natural vegetation, and preventing the natural flow of sediment and nutrients into the water. Bulkheads also reflect and intensify wave energy, which can wash away sediment, deepen the nearshore, and leave a rocky, turbulent environment.

Major repair of an existing bulkhead is allowed only when it’s necessary for the continued operation or expansion of a water-dependent or water-related use or when a bioengineered solution will not achieve the same level of shoreline stabilization and property protection. Bioengineered solutions are an alternative to bulkheads which use plants, logs, and additional sand and gravel to provide stabilization and erosion control.

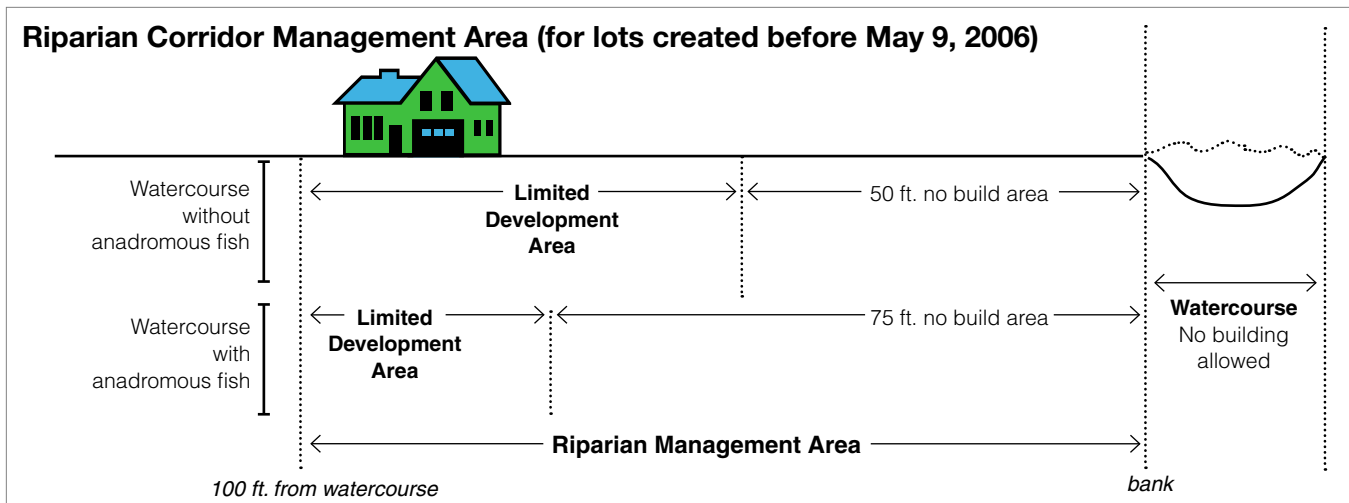
Docks, piers, and other structures for moorages accessory to a residential property are generally allowed on most of Seattle’s shorelines; however, specific regulations pertaining to the size, layout, and number of allowed piers apply. Standards for piers and floats accessory to residential development are found in SMC 23.60.204. Mitigation will also be required to offset any adverse impacts.

Breakwaters, jetties, dolphins, floats, and other similar structures are allowed only in specific circumstances detailed in SMC 23.60.

## Riparian Corridors (see SMC 25.09.200)

All areas within 100 feet of a stream or small lake are designated as riparian management areas and receive special protection. For new lots created on or after May 9, 2006, no new development will be allowed within the entire 100 foot riparian management area. For lots created before that date, the first 75 feet from Type II and III waters with anadromous fish present for any part of the year and the first 50 feet from all other riparian corridors are a no build area (anadromous fish are known to be present in the Thornton, Piper’s, Longfellow, Taylor, and Fauntleroy creek systems). These distances are measured from the top of the stream bank. No new development is allowed in this area except in cases where it is found to be necessary for access.

For lots created before May 9, 2006, the remainder of the 100 foot riparian management area outside of the no build area is a limited development area. Within this area, new development is allowed as long as it meets the following conditions or institutes an alternative restoration plan that meets or exceeds this level of protection:



- Development is limited to 35 percent of the limited riparian development area and lot coverage can not exceed lot coverage allowances in SMC Title 23a.
- Stormwater protections are instituted as described in 22.802.016.
- Development is mitigated by planting native plants or other beneficial action.

### Other Priority Habitat & Species Areas

To protect other critical habitat, DPD may establish species habitat management plans to protect species designated by the Washington Department of Fish and Wildlife or Seattle City Council. Development on land identified as a wetland, fish and wildlife habitat conservation area, or an associated buffer must comply with any species habitat management plan set out in a Director’s Rule. These rules may impose additional conditions including establishment of additional buffer zones, preservation of important vegetation and habitat features, limitation of access to habitat areas, or seasonal restriction of construction activities. Applicants proposing development in an ECA should consult DPD regarding the presence of any species habitat management plans that may affect the property. Regulations for Great Blue Heron Habitat Areas are discussed in Director’s Rule (DR) 5-2007.

### Variations, Exemptions and Exceptions

In order to provide flexibility in special circumstances and allow reasonable use of property, the ECA ordinance provides for exemptions, variations, and exceptions. These provisions are detailed in CAMs 327, 328, and 330; however, they are summarized here for reference. The appropriateness of each should be reviewed in the order provided.

- **Exemptions** – Exempts certain activities and projects, such as limited maintenance work, certain public projects, and emergency actions from many of the requirements of the ECA code where specific criteria are met (See CAM 327).
- **Small Project Waiver** – Allows additions to existing development of up to 150 square feet cumulatively in riparian management areas and wetland buffers with mitigation in the form of planting native plants or other measures to protect the critical area and/or buffer on lots that have existed since October 31, 1992 (See CAM 327).
- **Yard and Setback Variations** – Allows variations from the zoning code to reduce yard and setback sizes as an alternative to developing within a wetland buffer or riparian corridor management area for lots created prior to October 31, 1992 (See CAM 330).
- **Exception** – Modification of ECA development standards and other requirements when necessary to allow reasonable use of a property (See CAM 328).

### CLARIFICATION OF TERMS

“Anadromous Fish” are fish that migrate from the sea into freshwater rivers for breeding, such as shad and salmon.

“Development” means all components and activities related to construction or disturbance of a site, including but not limited to land disturbing activities. Development includes but is not limited to construction, addition or replacement of impervious surface, clearing, grading, filling, or draining.

“Water-dependent use” means a use which cannot exist in other than a waterfront location and is dependent on the water by reason of the intrinsic nature of its operations.

The following uses, and similar uses, are included: Ferry and passenger terminals, marine construction and repair, aquaculture, cargo terminals for marine commerce or industry, boat launch facilities, marinas, tour boats, cruise ships, tug and barge operations, shoreline recreation, moorage, yacht clubs, limnological or oceanographic research facilities.

“Water-related use” means a use which is not intrinsically dependent on a waterfront location but whose operation cannot occur economically without use of the water adjacent to the site. The construction, maintenance, and use of facilities such as docks, piers, wharves, or dolphins shall be required. The following uses, and similar uses, are included: Seafood and fish processing, lumber and plywood mills, sand and gravel companies, concrete mix and cement plants, water pollution control services, marine electronics, marine refrigeration, marine sales, freeze/chill warehouses, and boat rigging operations.

## OTHER HELPFUL DOCUMENTS

- **CAM 103B**, ECA Site Plan Requirements.
- **CAM 209**, Master Use Permit Application Requirements for Shoreline Permits.
- **CAM 209A**, Shoreline Substantial Development Exemptions Application Instructions.
- **CAM 327**, ECA Exemptions and Modifications to Submittal Requirements.
- **CAM 328**, ECAs: Exceptions.
- **CAM 329**, ECAs: Administrative Conditional Use Permit—Application Instructions and Submittal Requirements.
- **CAM 330**, ECAs: Yard & Setback, Steep Slope and Wetland Buffer Variances.
- **CAM 331**, ECAs: Tree and Vegetation Overview.
- **CAM 331A**, ECAs: Vegetation Restoration.
- **CAM 331B**, ECAs: Hazard Trees.
- **DR 19-2006**, Requirements for Wetland Professionals and Wetland Delineation Reports.
- **DR 3-2007**, Application Submittal Requirements in Environmentally Critical Areas.
- **DR 4-2007**, Permanent Markers Delineating ECAs and Associated Buffer Areas.
- **DR 5-2007**, Great Blue Heron Management Plan.
- **DR 7-2007**, Determination of Residential Setbacks in the Shoreline District.

## Access to Information

Links to electronic versions of DPD **Client Assistance Memos (CAMs), Director's Rules, and Forms** are available on the "Publications" and "Codes" pages of our website at [www.seattle.gov/dpd](http://www.seattle.gov/dpd). Paper copies of these documents are available from our Public Resource Center, located on the 20th floor of Seattle Municipal Tower at 700 Fifth Ave. in downtown Seattle, (206) 684-8467.