

Appendix I: Policies & Regulations

The following information is provided as a summary of policy direction and regulations as they relate to salmon populations. This information is general and is not intended as a substitute for actual codes and regulations adopted under County Code (Go to Kitsap.gov.com for the entire copy of the County Code) or the Bainbridge Island Municipal Codes (go to www.ci.bainbridge-isl.wa.us for the entire copy of the Municipal Code). Please refer to the references for specific information.

KITSAP COUNTY

Kitsap County Critical Areas Ordinance

The Kitsap County **Critical Areas Ordinance (CAO)** regulates the use of land near **wetlands, streams, saltwater, lakes, aquifer recharge areas, flood-prone areas, and geologically hazardous areas**. This CAO fact sheet describes the County's protections for some of these environmentally critical areas.

Parcels with pre-CAO development existing inside currently designated buffers and setbacks may be repaired, remodeled and expanded by up to 120% of the existing development footprint so long as new construction does not encroach further on the regulated critical area or creates additional adverse impacts.

Streams

Buffers and Building Setbacks: A “buffer” of native vegetation is designed to protect critical areas from human activities. Clearing or grading is not allowed within a buffer. In addition, structures must be set back 15 feet from the edge of the buffer. The inner edge of the buffer is measured from the stream's bankfull width (ordinary high water). Existing structures within a buffer may be remodeled, reconstructed or replaced.

Stream Buffers are tailored to the stream type. Standard buffer requirements:

- Type 1 Stream (fish bearing)–100 feet
- Type 2 Stream (fish bearing)–100 feet
- Type 3 Stream (fish bearing)–100 feet
- Type 4 Stream (Year-round stream/no fish)–50 feet
- Type 5 Stream (Seasonal/no fish)–25 feet

Depending upon site-specific conditions, staff may have the authority to administratively decrease these buffers by up to 25%.

Stream Buffers for Threatened Salmon: “Class I Wildlife Conservation Areas” are habitats needed by fish and wildlife listed as endangered, threatened, or sensitive by the federal or state government. Streams with listed species have a default buffer of 200 feet. This default may be decreased based upon a site-specific Habitat Management Plan.

Class I Wildlife Conservation Areas for Hood Canal Summer Chum:

- *Big Beef Creek*
- *Seabeck Creek*
- *Stavis Creek*
- *Anderson Creek*
- *Dewatto Creek (within Kitsap County)*
- *Tahuya River (within Kitsap County)*
- *Union River (within Kitsap County)*

Wetlands

Wetland Buffers are tailored to the wetland type:

- Category I Wetland (highest value)–200 feet
- Category II Wetland–100 feet
- Category III Wetland–50 feet
- Category IV Wetland–25 feet

Wetlands contiguous with Class I Wildlife Conservation Areas are regulated as Category I.

Structures must be set back 15 feet from the edge of the buffer. Depending upon site-specific conditions, staff may have the authority to administratively to allow buffer averaging or decrease these buffers by up to 25%.

Shorelines

Shoreline Buffers for Threatened Salmon: All saltwater shorelines are designated as “Class I Wildlife Conservation Areas” and have a default buffer of 35 feet (with an additional 15 foot building setback). This default may be decreased based upon a site-specific Habitat Management Plan, or increased on sites with steep slopes.

Shorelines without Threatened Salmon: Lakes larger than 20 acres that do not have listed species, have setback requirements based upon the Shoreline Master Plan designation. Most shorelines are designated as “Urban” (with a 25 foot setback), “Semi-rural” or “Rural” (each with a 35 foot setback).

Comments

CAO revisions are currently underway to evaluate the adequacy of critical areas regulations. A committee has been formed representing a balanced mix of interests to ensure that the Best Available Science is considered by DCD staff. Revisions should be complete by the end of 2004.

References

Kitsap County Code, Title 16, Critical Areas Ordinance
Kitsap County DCD Departmental Interpretation: Habitat Management Plans for Threatened Salmon Species.
Building Limitations Map

Kitsap County Comprehensive Plan (Amended December 8, 2003)

The comprehensive plan is intended to actively guide growth in Kitsap County and effectively respond to changes in conditions or assumptions. The Comprehensive plan amendment process is intended to provide individuals an opportunity to propose amendments to the County's Comprehensive Plan adopted pursuant to the Growth Management Act (GMA) and to Develop Regulations (if required) to maintain their consistency with the plan.

The Kitsap County County commissioners approved the following 2003 Comprehensive Amendments on 12/08/03 as they relate to Hood Canal Summer Chum populations: (description follows)

- *Interim Rural Forest (IRF) Lands now identified as RURAL WOODED (RW) lands.*
- *South Kitsap Industrial Area (SKIA)*

Kitsap County Rural Wooded Amendment (2003)

The major components of the amendment are as follows:

- The "Rural Wooded" designation will replace the formerly designated "Interim Rural Forest" (Approximately 50,000 acres county wide)
- The base density of lands will remain one dwelling unit per 20 acres.
- Prior to accepting any applications pursuant to this policy, the County shall adopt development regulations that specifically address the criteria and objectives including but not limited to how rural character will be preserved and urban growth in the rural area will be prevented.
- A variety of incentive-based land conservation programs will be developed, including Transfer of Development Rights program, tax incentives, coordinating and directing private, state and federal funding for land acquisition or conservation easement, and allowing clustering of residential development.
- A density of one dwelling per 5 acres is allowed if residential units are clustered, subject to specified criteria:
 - 50% of the site placed in "Wooded Reserve" where forestry would be permitted (pursuant to the State Forest Practices Act). The Wooded Reserve may not be developed or subdivided earlier than 40 years.
 - Remaining 50% may be developed provided: 25% of the total site area shall be placed in a permanent open space or 50% of the property set aside as "Wooded Reserve" is designated as permanently undevelopable, where forestry may be practiced.
- On the portion to be developed, clustered and innovative rural planning techniques are encouraged.
- No more than 25 units per cluster and no new urban services provided.
- No more than 1,000 contiguous acres may use this mechanism for a single project.

- The developed portions of those properties seeking to utilize this mechanism shall comply with all existing Kitsap County development regulations including but not limited to the Critical Areas Ordinance in order to protect environmental features.
- Rural Wooded parcels larger than 40 acres in size that adjoin shoreline may utilize a density of one dwelling per 2.5 acres if residential units are clustered and landowner commits to permanently continue forestry use on a portion of their land that included the shoreline.
- The County will monitor the effectiveness of all Rural Wooded incentive programs on an annual basis and a 'stop and assess' report will be implemented at a 10,000 acre or 5 year threshold (whichever comes first) where all applications will be halted until a report has been generated and submitted.
- The implementation ordinance will be completed no later than July 31, 2004

Comments

Refer to the attached map, which identifies these Rural Wooded Lands (formally Interim Forest Lands). From the map you can see that portions of the Rural Wooded designations are within the Big Beef, Seabeck, Stavis, Anderson, Dewatto and Tahuya Watersheds. It is possible that development could increase in these areas.

References

Errata sheet, - Kitsap County Comprehensive Plan (December 8, 2003)
Interim Forest Lands Map (attached)
Ordinance No. #311-2003

South Kitsap Industrial Area (SKIA) and Implementing Regulations:

The South Kitsap Industrial Area (SKIA) consists of an undeveloped multiple-parcel area north, south and east of the Bremerton National Airport. The sub-area boundary, will include approximately 2000 acres and will have two non-residential land use designations: Industrial and Business Center, both of which require Master Planning by sub-basin if not determined to be "ready for development" prior to final implementation. The SKIA Sub-area Plan and implementing regulations are available on the County website: Kitsap.gov.com.

Comments

Part of the SKIA falls within the upper Union River Watershed (See attached map). However, development within a Master Plan area shall comply with the substantive environmental standards identified in other regulations pertinent to the specific sub-area and KCC Title 19 (Critical Areas) in effect at the time a Master plan is prepared. The Union River supports Hood Canal summer chum, however according to the plan, low flows and natural obstructions prevent Union River salmonids from reaching the SKIA site.

References

Errata sheet, Kitsap County Comprehensive Plan (December 8, 2003)
Figure 8: Watershed Location Map

Ordinance No. #311-2003
SKIA Plan: Development Regulations

Kitsap County Stormwater Ordinance

A Site Development Activity Permit (SDAP) **ensures stormwater quantity and quality concerns** are addressed prior to site development. This is accomplished by:

- Requiring temporary erosion and sediment control plans for construction activities,
- *Requiring drainage construction plans and other stormwater documents for development,*
- Inspecting stormwater facilities during construction.

When is an SDAP required?

- When grading resulting in movement of 150 cubic yards or more of earth.
- When clearing land or grading any land that is:
 - on slopes steeper than 30% or
 - within the mandatory buffer/setback of a wetland, stream, lake, or Puget Sound.
- When connecting to a public storm drainage system.
- When clearing of greater than one acre occurs.
- When developing impervious surface greater than 5000 square feet.

What are impervious surfaces?

Typical impervious surfaces include driving surfaces and rooftops. Lawns are not considered impervious.

Comments

Kitsap County is required to comply DOE's revised stormwater manual. The County is currently exploring how to best achieve compliance with NPDES Phase II requirements.

References

Ordinance No. 199-1996 Stormwater Management Ordinance. Kitsap County Code Title 12.

Kitsap County Road Standards 2003

The Kitsap County Road Standards apply to all newly constructed or reconstructed public roads within a Kitsap County right-of-way or right-of-way to be dedicated to Kitsap County by any person, firm, corporation or other entity. All road plans submitted to the County for review and approval shall be consistent with the Standards and current or amended County standards and ordinances, including Land Use and Development Procedures, Stormwater Drainage and Critical Areas Ordinance.

Comments

The Kitsap County Public Works has adopted the ESA 4(d) compliant regional road maintenance guidelines. Kitsap County encourages the use of low impact development

techniques, which conserve natural areas and minimize development impacts. The County Engineer will support deviations from adopted standards when low impact development techniques are employed without risk to the traveling public or critical infrastructure.

References

Kitsap County Road Standards, Kitsap County Department of Public Works. Adopted January 13, 2003. Kitsap County Code Title 11, Chapter 11.22.

Kitsap County Zoning Ordinance

The Zoning Ordinance classifies, designates, and regulates the development of land for agriculture, forest, mineral resource extraction, residential, commercial, industrial, and public land uses for the unincorporated area of Kitsap County. Further, it is the purpose of the ordinance codified in this title to provide for predictable, judicious, efficient, timely, and reasonable administration respecting due process set forth in this title and other applicable laws; and to protect and promote the public health, safety and general welfare.

Comments

References

Kitsap County Zoning Ordinance, Kitsap County Code Title 17 Zoning.

Kitsap County Shoreline Management Master Program

Uses, developments, and activities regulated by the master program are also reviewed pursuant to the Kitsap County Comprehensive Plan, the Washington State Environmental Policy Act, the Kitsap County Zoning Code (Title 17 of this code), the Critical Areas Ordinance (Title 19 of this code), the View Blockage Resolution (Chapter [17.450](#) of this code), and various other provisions of federal, state, and county law. The applicant must comply with all applicable laws prior to commencing any use, development, or activity. This applies to the above-referenced codes as amended in the future.

In order to plan and manage shoreline resources effectively, a system of categorizing shoreline areas is required for use by local governments in the preparation of master programs. The system is designed to provide a uniform basis for applying policies and use regulations within distinctively different shoreline areas. To accomplish this, a shoreline environment designation is given to specific areas based on the existing development pattern, the biophysical capabilities and limitations of the shoreline being considered for development and the goals and aspirations of local citizenry. Such information was compiled in a shoreline inventory and was utilized as the basis for the environmental designations. Critical areas located within shoreline jurisdiction shall be subject to regulation pursuant to the Kitsap County Critical Areas Ordinance (Title 19 of this code).

This master program classifies shorelines into five distinct environments (natural, conservancy, rural, semi-rural and urban and one sub-environment, conservancy-public lands) which provide the framework for implementing shoreline policies and regulatory measures.

The master program is designed to encourage, in each environment, uses which enhance the character of that environment. At the same time, local government may adopt reasonable standards and place restrictions on development so that such development does not disrupt or destroy the character of the environment.

The shoreline environmental designations are not intended to be land use designations. They do not imply development densities, nor are they intended to mirror the Comprehensive Plan designations. The system of categorizing shoreline environment designations is derived from WAC 173-26.

The basic intent of this system is to utilize performance standards which regulate activities in accordance with goals and objectives defined locally rather than to exclude any use from any one environment. Thus, the particular use or type of developments placed in each environment must be designed and located so that there are no effects detrimental to achieving the objectives of the shoreline environment designations and local development criteria.

This approach provides an "umbrella" environment class over local planning and zoning on the shorelines. Since every area is endowed with different resources, has different intensity of development and attaches different social values to these physical and economic characteristics, the environment designations should not be regarded as a substitute for local planning and land-use regulations.

Should a conflict occur between the provisions of this SMP or between this SMP and the laws, regulations, codes or rules promulgated by any other authority having jurisdiction within Kitsap County, the more restrictive requirements shall be applied, except when constrained by federal or state law, or where specifically provided otherwise in this SMP. (Res. [27-1999](#) Exh. A, Part I (§ 14), 1999)

Comments

Shoreline Buffers for Threatened Salmon: All saltwater shorelines are designated as "Class I Wildlife Conservation Areas" and have a default buffer of 35 feet (with an additional 15 foot building setback). This default may be decreased based upon a site-specific Habitat Management Plan, or increased on sites with steep slopes.

References

Shoreline Management Master Program, Kitsap County Code, Title 22

BAINBRIDGE ISLAND

Bainbridge Island Critical Areas Ordinance

The City's Critical Areas Ordinance (CAO) regulates land uses within the vicinity of streams, wetlands, fish and wildlife habitats, aquifer recharge areas, frequently flooded areas, and geologically hazardous areas. Each of these categories is discussed below. The CAO also includes provision related to agricultural lands, forest resources, and mining. The City does not have an independent critical areas permitting process, but rather integrates CAO review into other permitting procedures.

Streams & Wetlands

The CAO requires buffer widths for streams (measured from top of bank, or top of ravine bank if in a ravine) and wetlands (measured from delineated boundaries) as described below along the edge of streams and wetlands to protect the functions and values they provide. In addition of these buffer widths, a 15-foot building setback is required. Some limited uses are allowed within these buffers. The CAO also allows for limited reductions in buffer widths and buffer width averaging. When a property is encumbered by the CAO regulations so as to leave no reasonable use of the property, a reasonable use exception process can grant relief from CAO requirements. Adverse impacts to streams and wetlands are required to be mitigated. Class I streams, which on Bainbridge Island include only marine shorelines, are regulated by the City's Shoreline Management Master Program.

Stream Class	Buffer Width
I	50 feet
II	50 feet
III	50 feet
IV	25 feet
V	Top of bank
Voluntarily Enhanced	As determined by the category prior to enhancement

Wetland Category	Buffer Width
I	150 feet
II	100 feet
III	50 feet
IV	25 feet
Voluntarily Enhanced	As determined by the category prior to enhancement

Fish and Wildlife Habitats

The CAO regulates land and waters containing plant and animal species listed by the state or federal governments as threatened, endangered, or monitor species lists as well as species of local significance (as adopted by City resolution). The CAO requires that activities allowed within fish and wildlife habitat areas be consistent with the WA

Department of Fish and Wildlife priority habitat and species management recommendations and all applicable state, federal, and local regulations regarding the species.

Geologically Hazardous Areas

The CAO regulates geologically hazardous areas primarily as they relate to public health and safety. Some limited activities are exempt from some geologically hazardous area regulations. A 50-foot minimum buffer is required along the top, bottom, and edges of geologically hazardous slopes. This buffer can be reduced based on a professional geotechnical report showing that the proposal will not adversely impact the geologically hazardous area. Regulation of geologically hazardous areas along shorelines with respect to the environmental functions and values they provide in the nearshore is addressed in the City's Shoreline Management Master Program.

Aquifer Recharge Areas

The CAO regulates areas with high, moderate, and low aquifer recharge rates. For high aquifer recharge areas, the CAO requires the protection of both the quality and quantity of water transmitted to aquifers. For moderate and low aquifer recharge areas, the CAO requires the use of best available technology for on-site sewer systems and requires a conditional use permit for underground storage of petroleum products.

Frequently Flooded Areas

The CAO requires that development will not reduce the effective base flood storage volume within the 100-year floodplain.

Comments

The CAO is currently being updated consistent with the GMA requirements regarding the use of best available science and for providing special consideration for anadromous fisheries. Adoption will likely occur by the State's extended deadline of December 2005.

References

Bainbridge Island Municipal Code, Chapter 16.20

Bainbridge Island Shoreline Management Master Program

The City's Shoreline Management Master Program (SMMP) is a comprehensive plan for the marine waters surrounding Bainbridge Island and shorelands extending 200-feet landward of the ordinary high water mark. In addition to containing goals and policies related to shoreline use, conservation, recreation, economic development, public access, cultural/historic preservation, and others; the SMMP also regulates land uses, including residential, commercial, industrial, recreational, transportation, and utilities. The SMMP also attempts to strike the balance, embodied in the policies of the Shoreline Management Act, between protecting the nearshore environment and fostering reasonable and appropriate uses within the nearshore. All development with the jurisdiction of the SMMP is required to apply for and receive an authorization from the City and in some cases both the City and the WA Department of Ecology.

As stated above under the Bainbridge Island Critical Areas Ordinance, the SMMP is the principle program for protecting geologically hazardous areas, many of which are feeder bluffs and provide important ecological functions. The SMMP contains requirements for the protection of feeder bluff functions and alongshore sediment drift, including limitations on the development and redevelopment of bulkheads. The SMMP also contains requirements for protecting water and sediment quality. One of the tools for protecting water quality and nearshore habitat in the SMMP are Native Vegetation Zones (i.e. shoreline buffers). Native Vegetation Zones vary in width from zero-feet to 200-feet depending upon the land use and the shoreline environment designation, which range from Natural to Urban. The SMMP also has an Aquatic Conservancy shoreline environment designation, which limits use to basically passive recreation and covers most estuarine, mudflat, and eelgrass habitats around the Island.

Most of the Island is designated Semi-Rural and zoned for residential development, which requires a 50-foot wide Native Vegetation Zone. Native Vegetation Zones can be 100-feet to 200-feet wide in the Natural and Conservancy shoreline environment designations and as little as 0-feet wide for water-dependent development in the Urban shoreline environment designation. Table 4-1 in the SMMP summarizes Native Vegetation Zone widths for different uses in the various shoreline environment designations. The SMMP allows limited uses within the Native Vegetation Zone, which also vary depending on the shoreline environment designation.

Comments

The SMP is currently being updated consistent with the WA Department of Ecology Guidelines (WAC 173-26). Adoption anticipated to occur in 2006 or 2007. This is before the State's mandated deadline of 2011.

References

Shoreline Management Master Program, available at:
www.ci.bainbridge-isl.wa.us/documents/SMMP

Bainbridge Island Surface and Stormwater Management Ordinance

The City's Surface and Stormwater Management (SSWM) Ordinance regulates new development and redevelopment and illicit discharges to protect surface and stormwater quality and quantity. The SSWM Ordinance requires water quality and quantity control measures for development with over 800 square feet of impervious surfaces. The City's SSWM Ordinance emphasizes the infiltration of stormwater. The SSWM Ordinance utilizes the WA Department of Ecology 1992 Stormwater Management Manual.

Comments

The SSWM Ordinance is currently being updated and is expected to substantially adopt the 2001 Stormwater Management Guidelines for Western Washington, with some adaptation for local conditions and consistency with local regulations as well as some incorporation of low-impact design concepts. The City also has a stormwater facilities

maintenance program which requires the inspection, maintenance, and repair of public and private stormwater facilities.

References

Bainbridge Island Municipal Code, Chapter 15.20 (SSWM Ordinance)

Bainbridge Island Municipal Code, Chapter 15.21

Bainbridge Island Road Maintenance Program

The City of Bainbridge Island created a road maintenance manual by modification and selective adoption of portions of the Tri-County Road Maintenance Manual to meet NPDES Phase II requirements. The Road Maintenance Manual includes elements on the following:

1. Regional Forum participation
2. Training
3. Compliance Monitoring
4. Emergency Response
5. Biological Data Collection
6. BMPs and Conservation Outcomes
7. BMPs for various Maintenance Categories
8. Routine Road Maintenance Practices
9. Road Maintenance Practices for Work in Critical Areas

Comments

At this point, the City has chosen not to pursue an ESA 4(d) exemption for its Road Maintenance Program.

References

Bainbridge Island Roads Maintenance Manual (2003)