

Title 15
ENVIRONMENTAL PROTECTION

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- 15.08 Shoreline Management Plan
- 15.12 Air Pollution Control
- 15.16 Critical Areas Code
- 15.20 *Repealed*
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Chapter 15.16
CRITICAL AREAS CODE

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~~15.16.121 Wetlands – Designation.~~

~~Wetlands are those areas, designated in accordance with the Washington State Wetland Identification and Delineation Manual (1997), that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation adapted for life in saturated soil conditions. The town of Eatonville has a map showing the approximate location and extent of wetlands. However, the map is only a guide, and will be updated as~~

~~wetlands become better known. The exact location of a wetland's boundary shall be determined in accordance with the above-stated manual as required by RCW 36.70A.175 (Ecology Publication No. 96-94, 1997). (Ord. 2005-10 § 3 (Exh. A), 2005).~~

~~15.16.122 Wetlands – Rating.~~

~~Wetlands shall be rated Category I, II, III, or IV according to the Department of Ecology's 2004 Washington State Wetland Rating System for Western Washington (Publication No. 04-06-014). (See WAC 365-190-080(1)(a).) Wetland categories shall apply to the wetland as it exists on the date the town adopts the rating system, as the wetland naturally changes thereafter, or as the wetland changes in accordance with permitted activities. Wetland rating categories shall not change due to illegal modifications. (Ord. 2005-10 § 3 (Exh. A), 2005).~~

~~15.16.123 Wetlands – Contents of critical areas reports.~~

~~In addition to the requirements of EMC 15.16.109, critical areas reports for wetlands shall include:~~

~~A. Wetland delineation map as surveyed in the field. Buffer boundaries shall be marked in the field by a licensed surveyor using wood or steel posts, four to five feet tall above the ground surface, permanently affixed, carrying identification signs approved by the town, to be obtained from the public works department. The charge for these signs shall be \$1.00 per sign.~~

~~B. Assessment of wetlands, including acreage, category, required buffers, evidence of past illegal alterations, soil, topography, hydrology, ecology, and functional evaluation using a recognized method such as the Western Washington Wetland Rating System.~~

~~C. Discussion of measures to preserve wetland functions and values, including the "sequencing" set forth in EMC 15.16.113.~~

~~D. If mitigation is proposed, a mitigation plan including the existing and proposed status of:~~

- ~~1. Wetland acreage;~~
- ~~2. Vegetation and fauna;~~
- ~~3. Surface and subsurface hydrology;~~
- ~~4. Soils, substrate, and topography;~~
- ~~5. Required wetland buffers; and~~
- ~~6. Property ownership.~~

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~~E. Proposed wetland management and monitoring. (Ord. 2005-10 § 3 (Exh. A), 2005).~~

15.16.124 Wetlands – Substantive requirements.

~~In addition to the substantive requirements of EMC 15.16.113, the following requirements shall apply to developments (see definition in EMC 15.16.103) in wetlands except as exempted above.~~

~~A. The higher the wetland category (Category I is highest), the greater shall be the emphasis on higher-priority “sequencing” methods per EMC 15.16.113.~~

~~B. The following table establishes the standard buffer width that shall apply to each wetland category, depending on the intensity of the potential land use on the upland side of the buffer as determined by the director. Buffers shall be measured from the wetland boundary as surveyed in the field. These buffer widths presume that healthy native plant communities dominate the buffer. If wetland enhancement is proposed, the category of the wetland after enhancement shall pertain.~~

~~Wetlands Buffer Widths~~

-	Intensity of the potential land use on the upland side of the buffer		
-	High (including commercial areas, industrial areas, residential areas at more than four units per net acre, and areas of high-intensity agriculture or recreation)	Moderate (including residential areas at less than four units per net acre, parks, and trails)	Low (including passive recreation and open space)
Category I	300 feet	250 feet	200 feet
Category II	200 feet	150 feet	100 feet
Category III*	100 feet	75 feet	50 feet
Category IV*	50 feet	35 feet	35 feet

~~*For exemption of wetlands under 1,000 square feet see EMC 15.16.107(S).~~

~~C. Buffers shall be measured from the wetland boundary as surveyed in the field. If wetland enhancement is proposed, the category of the wetland after enhancement shall pertain.~~

~~D. The director may increase the required buffer width and/or require buffer enhancement if a wetland professional determines that the wetland provides habitat for wildlife species that require greater protection than the standard buffer, or the buffer lacks healthy native vegetation or is otherwise handicapped in its ability to protect the wetland. Said determination shall take into account the score derived from the Wetland Rating System and such factors as topography, land use, and past disturbance.~~

~~E. The director may reduce the standard buffer width if the function(s) served by the particular wetland need less buffer width, as indicated by a wetland functional analysis.~~

~~F. Except as provided elsewhere in this critical areas code, all existing native vegetation in wetland buffers shall be retained without disturbance, mowing, or hard surfacing, nor shall any action be taken to inhibit volunteer regrowth of native vegetation. Invasive weeds shall be removed for the duration of any mitigation bond. Stormwater management facilities and bioswales are permitted in the outer 50 percent of the buffer of Category III or IV wetlands, provided wetland functions and values are not significantly lost through fluctuations in wetland hydrology and construction integrates best management practices. (Ord. 2005-10 § 3 (Exh. A), 2005).~~

~~15.16.125 Wetlands – Mitigation.~~

~~A. Mitigation for alterations to wetlands may be by restoring former wetlands, creating wetlands, or enhancing degraded wetlands, consistent with the Department of Ecology Guidelines for Developing Freshwater Wetlands Mitigation Plans and Proposals, 2004, as revised.~~

~~B. Mitigation shall generally replace wetland functions lost from the altered wetland except that the town may permit out-of-kind replacement when the lost functions are minimal or less important to the drainage basin than the functions that the mitigation action seeks to augment.~~

~~C. Mitigation shall be in the same drainage basin as the altered wetland. Wetland mitigation shall be in the same sub-basin unless a higher level of ecological functioning would result from an alternate approach.~~

~~D. Mitigation projects shall be completed as quickly as possible consistent with such factors as rainfall and seasonal sensitivity of fish, wildlife, and flora.~~

~~E. Mitigation projects shall be designed with reference to Wetland Replacement Ratios: Defining Equivalency, Washington State Department of Ecology, 1992, Publication No. 92-08; Freshwater Wetlands in Washington State, Volume 2, Appendix 8-C; and similar science. Mitigation projects shall score the impact site and the mitigation site using the Wetland Rating Data Form of the Revised Washington State Wetlands Rating System for Western Washington. The aggregate total of wetland~~

~~functions and values after mitigation, altered and mitigation sites combined, shall be at least 50 percent greater than the aggregate total before mitigation; provided, that this replacement ratio (1.5 to 1, nonacreage based) shall be increased as necessary to compensate for mitigation that:~~

- ~~1. Has a greater than usual risk of failure;~~
- ~~2. Is out of kind;~~
- ~~3. Is outside the sub-basin;~~
- ~~4. Is unlikely to produce the intended functions and values within 10 years after the alteration; or~~
- ~~5. Remedies unauthorized alterations.~~

~~F. Because the above replacement ratio is based on a before and after count of functions and values, not acreage, it accounts, without need for further adjustment, for mitigation that would result in a lower category wetland than the wetland being impacted, and mitigation that would enhance as opposed to create or restore a wetland. In the case of enhancement, wetland acreage may decline though wetland functions and values would increase. Enhancement proposals shall be based on a sound understanding of the mitigation site's pre- and postmitigation functions and values.~~

~~G. Credits granted from a certified wetland mitigation bank shall be consistent with the bank's certification and service area.~~

~~H. The applicant shall provide an as-built plan of the mitigation site and monitor the site in accordance with EMC 15.16.111. (Ord. 2005-10 § 3 (Exh. A), 2005).~~

WETLANDS

15.16.121 Designation, rating and mapping wetlands.

(1) Designating Wetlands. Wetlands are those areas, designated in accordance with the approved federal wetland delineation manual and applicable regional supplements.

(2) Wetland Ratings. Wetlands shall be rated according to the Department of Ecology wetland rating system found in the Washington State Wetland Rating System documents (Western Washington, Ecology Publication No. 14-06-029) or as revised by Ecology. These documents contain the definitions and methods for determining if the criteria below are met.

(a) Wetland Rating Categories.

(i) Category I. Category I wetlands are those that (A) represent a unique or rare wetland type; or (B) are more sensitive to disturbance than most wetlands; or (C) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or (D) provide a high level of functions. The following types of wetlands are Category I:

(A) Wetlands that perform many functions well (scoring 23 points or more);

(B) Wetlands of high conservation value that are identified by scientists of the Washington Natural Heritage Program (WNHP) or Washington Department of Natural Resources (WDNR);

(C) Bogs;

(D) Mature and old-growth forested wetlands larger than one acre;

(E) Wetlands in coastal lagoons;

(F) Relatively undisturbed estuarine wetlands larger than one acre; or

(G) Interdunal wetlands that score 8 or 9 habitat points and are larger than one acre.

(ii) Category II. Category II wetlands are those not defined as Category I wetlands and include:

(A) Interdunal wetlands larger than one acre or those found in a mosaic of wetlands;

(B) Estuarine wetlands smaller than one acre, or disturbed estuarine wetlands larger than one acre;

(C) Wetlands with a moderately high level of functions (scoring between 20 and 22 points).

(iii) Category III. Category III wetlands are (A) wetlands with a moderate level of functions (scores between 16 and 19 points); (B) can often be adequately replaced with a well-planned mitigation project; and (C) interdunal wetlands between 0.1 and one acre in size. Wetlands scoring between 16-19 points generally have been disturbed in some ways, and are often less diverse or more isolated from other natural resources in the landscape than Category II wetlands.

(iv) Category IV. Category IV wetlands have the lowest levels of functions (scoring fewer than 16 points) and are often heavily disturbed. These are wetlands that we should be able to replace, or in some cases to improve. However, experience has shown that replacement cannot be guaranteed in any specific case. These wetlands may provide some important functions, and should be protected to some degree.

(3) Mapping of Wetlands. The approximate location and extent of all known and/or suspected wetland may be depicted on the following maps, and are hereby incorporated by reference into this title: The approximate location and extent of wetlands are shown on the National Wetlands Inventory maps.

(4) The identification, classification, extent and location of any wetland shall be determined through the performance of a field investigation by a qualified consultant using the approved federal wetland delineation manual and applicable regional supplements.

15.16.122 Critical areas report – Additional requirements for wetlands.

In addition to the general critical areas report requirements of EMC 15.16.109, critical areas reports for wetlands must meet the requirements of this section. Critical areas reports for two or more types of critical areas must meet the report requirements for each relevant type of critical area.

(1) Wetland Analysis. In addition to the minimum required contents of EMC 15.16.109, Critical areas reports – Requirements, a critical areas report for wetlands shall contain an analysis of the wetlands including the following site- and proposal-related information at a minimum:

(a) A written assessment and accompanying maps of the wetlands and buffers within 300 feet of the project area, including the following information at a minimum:

(i) The project area of the proposed activity;

(ii) Wetland delineation and required buffers;

(iii) Existing wetland acreage;

(iv) Wetland category; vegetative, faunal, and hydrologic characteristics;

(v) Soil and substrate conditions; and

(vi) Topographic elevations, at five-foot contours.

(b) Proposed mitigation, if needed, including a written assessment and accompanying maps of the mitigation area, including the information detailed in EMC 15.16.111, Mitigation plan requirements.

(2) Additional Information May Be Required. When appropriate, the planning director may also require the critical areas report to include an evaluation by the Department of Ecology or an independent qualified expert regarding the applicant's analysis and the effectiveness of any proposed mitigating measures or programs, and to include any recommendations as appropriate.

15.16.123 Performance standards – General requirements.

(1) Activities may only be permitted in a wetland or wetland buffer if the applicant can show that the proposed activity will not degrade the functions and values of the wetland and other critical areas.

(2) Activities and uses shall be prohibited from wetlands and wetland buffers, except as provided for in this title.

(3) Category I Wetlands. Activities and uses shall be prohibited from Category I, except as provided for in the public agency and utility exception, reasonable use exception, and variance sections of this title.

(4) Category II. With respect to activities proposed in Category II wetlands, the following standards shall apply:

(a) Water-dependent activities as provided for under the Town's shoreline master program may be allowed where there are no feasible alternatives that would not have a less adverse impact on the wetland, its buffers and other critical areas.

(b) Where non-water-dependent activities are proposed, it shall be presumed that alternative locations are available, and activities and uses shall be prohibited, unless the applicant demonstrates that:

(i) The basic project purpose cannot reasonably be accomplished and successfully avoid, or result in less adverse impact on, a wetland on another site or sites in the general region; and

(ii) All alternative designs of the project as proposed, that would avoid, or result in less of an adverse impact on a wetland or its buffer, such as a reduction in the size, scope, configuration, or density of the project, are not feasible.

(5) Category III and IV Wetlands. Activities and uses that result in unavoidable and necessary impacts may be permitted in Category III and IV wetlands and associated buffers in accordance with an approved critical areas report and mitigation plan, and only if the proposed activity is the only reasonable alternative that will accomplish the applicant's objectives.

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(6) Wetland Buffers.

(a) Land Use Intensity. Wetland buffers in the Town of Eatonville are determined based on the category of the wetland and the land use intensity proposed. Land use impact “intensity” is based on development types and the estimated impact based on the proposed change in land use.

Land Use Impact “Intensity” Based on Development Types

<u>Rating of impact from proposed changes in land use</u>	<u>Types of land uses that cause the impact based on common zoning categories</u>
<u>High</u>	<u>Commercial, urban, industrial, institutional, retail sales, residential with more than two units/acre, new agriculture (high-intensity processing such as dairies, nurseries and green houses, raising and harvesting crops requiring annual tilling, raising and maintaining animals), high intensity recreation (golf courses, ball fields), hobby farms</u>
<u>Moderate</u>	<u>Residential with two units/acre or less, moderate-intensity open space (parks), new agriculture (moderate-intensity such as orchards and hay fields)</u>
<u>Low</u>	<u>Forestry, open space (low-intensity such as passive recreation and natural resources preservation)</u>

(b) Buffer Widths. The Town of Eatonville establishes the following buffer widths based on category and land use intensity, as defined above. These buffer widths presume the existence of a relatively intact native vegetation community in the buffer zone adequate to protect the wetland functions and values at the time of the proposed activity. Required wetland buffers, based on wetland category and land use intensity, are as follows:

Alternative 2 Buffer Widths, Based Upon
Category and Land Use Intensity

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<u>Category</u> <u>(2014 Wrn.</u> <u>WA Rating</u> <u>System)</u>	<u>Total</u> <u>Points in</u> <u>Rating</u> <u>System</u>	<u>Alternative 2 Buffer</u> <u>Category + Land Use</u> <u>Intensity (lo/mod/hi)</u>
<u>I</u>	<u>>23</u>	<u>lo 150, mod 225, hi</u> <u>300</u>
<u>II</u>	<u>20 – 22</u>	<u>lo 150, mod 225, hi</u> <u>300</u>
<u>III</u>	<u>16 – 19</u>	<u>lo 50, mod 75, hi 100</u>
<u>IV</u>	<u><16</u>	<u>lo 25, mod 30, hi 50</u>

(c) Measurement of Wetland Buffers. All buffers shall be measured from the wetland boundary as surveyed in the field. The width of the wetland buffer shall be determined according to the wetland category and the proposed land use. The buffer for a wetland created, restored, or enhanced as compensation for approved wetland alterations shall be the same as the buffer required for the category of the created, restored, or enhanced wetland.

(d) Modification of Buffer Widths. The buffer widths of subsection (6)(b) of this section may be decreased through buffer width averaging in subsection (6)(e) of this section or reduction mechanisms of this section.

(i) The buffer widths recommended for land uses with “high intensity” impacts to wetlands can be reduced to those recommended for “moderate intensity” impacts under the conditions identified below.

(A) For wetlands that score moderate or high for habitat (6 points or more), the width of the buffer around the wetland can be reduced if the following measures to minimize the impacts of different land uses on wetlands are applied.

<u>Disturbance</u>	<u>Required Measures to Minimize</u> <u>Impacts</u>
<u>Lights</u>	<u>• Direct lights away from wetland</u>
<u>Noise</u>	<u>• Locate activity that generates</u>

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<u>Disturbance</u>	<u>Required Measures to Minimize Impacts</u>
	<p><u>noise away from wetland</u></p> <ul style="list-style-type: none"> • <u>If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source</u> • <u>For activities that generate relatively continuous, potentially disruptive noise, such as certain heavy industry or mining, establish an additional 10 ft heavily vegetated buffer strip immediately adjacent to the outer wetland buffer</u>
<u>Toxic runoff</u>	<ul style="list-style-type: none"> • <u>Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered</u> • <u>Establish covenants limiting use of pesticides within 150 ft of wetland</u> • <u>Apply integrated pest management</u>
<u>Stormwater runoff</u>	<ul style="list-style-type: none"> • <u>Retrofit stormwater detention and treatment for roads and existing adjacent development</u> • <u>Prevent channelized flow from lawns that directly enters the buffer</u> • <u>Use low-intensity development techniques (for more information refer to Chapter 16.54 EMC and the Stormwater Management Manual)</u>
<u>Change in water regime</u>	<ul style="list-style-type: none"> • <u>Infiltrate or treat, detain and disperse into buffer new runoff from surfaces and new lawns</u>

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<u>Disturbance</u>	<u>Required Measures to Minimize Impacts</u>
<u>Pets and human disturbance</u>	<ul style="list-style-type: none"> • <u>Use privacy fencing or plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion</u> • <u>Place wetland and its buffer in a separate tract or protect with a conservation easement</u>
<u>Dust</u>	<ul style="list-style-type: none"> • <u>Use best management practices to control dust</u>

(e) Wetland Buffer Width Averaging. The planning director may also allow modification of the wetland buffer width in accordance with an approved critical areas report and the best available science on a case-by-case basis by averaging buffer widths. Averaging of buffer widths may only be allowed where a qualified wetlands consultant demonstrates that:

(i) It will not reduce wetland functions or values;

(ii) The wetland contains variations in sensitivity due to existing physical characteristics or the character of the buffer varies in slope, soils, or vegetation, and the wetland would benefit from a wider buffer in places and would not be adversely impacted by a narrower buffer in other places;

(iii) The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer;

(iv) The buffer width is not reduced to less than 50 percent of the high intensity buffer width or 50 feet, whichever is greater, except for buffers for Category III and IV wetlands and low or moderate intensity land uses; and

(v) Buffer width averaging is being conducted and/or implemented within or on the property where the averaging is being requested.

(f) Buffer Uses. In addition to those allowed uses listed within EMC 15.16.107, the following uses may be permitted within a wetland buffer in accordance with the review procedures of this title, provided they are

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not prohibited by any other applicable law and they are conducted in a manner so as to minimize impacts to the buffer and adjacent wetland:

(i) Conservation and Restoration Activities. Conservation or restoration activities aimed at protecting the soil, water, vegetation, or wildlife;

(ii) Passive Recreation. Passive recreation facilities designed and in accordance with an approved critical areas report, including:

(A) Walkways and trails, pursuant to EMC 15.16.107 (passive outdoor activities); and

(B) Wildlife viewing structures; and

(C) Fishing access areas.

(iii) Stormwater Management Facilities. Stormwater management facilities, limited to stormwater dispersion outfalls, detention facilities and bioswales, may be allowed; provided, that:

(A) Alternate locations have been considered and been demonstrated to not be feasible; and

(B) The location of such facilities will not degrade the functions or values of the wetland.

(C) Stormwater detention facilities are not allowed in buffers of Category I or II wetlands.

(7) Signs and Fencing of Wetlands.

(a) Temporary Markers. The outer perimeter of the wetland or buffer and the limits of those areas to be disturbed pursuant to an approved permit or authorization shall be marked in the field in such a way as to ensure that no unauthorized intrusion will occur, and inspected by the planning director prior to the commencement of permitted activities. This temporary marking shall be maintained throughout construction, and shall not be removed until permanent signs, if required, are in place.

(b) Permanent Signs. As a condition of any permit or authorization issued pursuant to this chapter, the planning director shall require the applicant to install permanent signs along the boundary of a wetland or buffer.

Permanent signs shall be made of a metal face and attached to a metal post, or another material of equal durability. Signs must be posted at an interval of one per lot or every 100 feet, whichever is less.

and must be maintained by the property owner in perpetuity. The sign shall be worded as follows or with alternative language approved by the director:

Protected Wetland Area

Do Not Disturb

Contact the Town of Eatonville Regarding Uses and Restriction

(c) Fencing.

(i) The planning director may require the applicant to install a permanent fence at the edge of the wetland buffer when fencing will prevent future impacts to the wetland.

(ii) The applicant shall be required to install a permanent fence around the wetland or buffer when domestic grazing animals are present or may be introduced on-site.

(iii) Fencing installed as part of a proposed activity or as required in this subsection (7)(c) shall be designed so as to not interfere with species migration, including fish runs, and shall be constructed in a manner that minimizes impacts to the wetland and associated habitat.

15.16.124 Performance standards – Mitigation requirements.

(1) Mitigation shall achieve equivalent or greater biological functions. Mitigation for alterations to wetlands shall achieve equivalent or greater biologic functions.

(2) Mitigation shall result in no net loss. Wetland mitigation actions shall not result in a net loss of wetland area or functions and values except when the following criteria are met:

(a) The lost wetland area provides minimal functions and the mitigation action(s) results in a net gain in wetland functions as determined by a site-specific function assessment; or

(b) The lost wetland area provides minimal functions as determined by a site-specific function assessment and other replacement habitats provide greater benefits to the functioning of the watershed, such as riparian habitat restoration and enhancement; or

(c) Out-of-kind replacement will best meet formally identified regional goals, such as replacement of historically diminished wetland types.

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(3) Preference of Mitigation Actions. Mitigation actions that require compensation by replacing, enhancing, or substitution shall occur in the following order of preference:

(a) Enhancing on-site degraded wetlands.

(i) Restoring wetlands on upland sites that were formerly wetlands and/or have been degraded.

(b) Creating wetlands on disturbed upland sites such as those with vegetative cover consisting primarily of exotic introduced species.

(4) Mitigation Ratios.

(a) Acreage Replacement Ratios. The following ratios shall apply to creation or restoration that is in-kind, on site, the same category, timed prior to or concurrent with alteration, and has a high probability of success. The first number specifies the acreage of replacement wetlands and the second specifies the acreage of wetlands altered.

<u>Category and type of wetland</u>	<u>Creation or re-establishment</u>	<u>Rehabilitation</u>	<u>Enhancement</u>
<u>Cat. I: Bog, natural heritage site</u>	<u>Not considered possible</u>	<u>Case by case</u>	<u>Case by case</u>
<u>Cat. I: mature forest</u>	<u>6:1</u>	<u>12:1</u>	<u>24:1</u>
<u>Cat. I based on functions</u>	<u>4:1</u>	<u>8:1</u>	<u>16:1</u>
<u>Cat. II</u>	<u>3:1</u>	<u>6:1</u>	<u>12:1</u>
<u>Cat. III</u>	<u>2:1</u>	<u>4:1</u>	<u>8:1</u>
<u>Cat. IV</u>	<u>1.5:1</u>	<u>3:1</u>	<u>6:1</u>

(5) Wetlands Enhancement as Mitigation.

(a) Impacts to wetlands may be mitigated by enhancement of existing significantly degraded wetlands. Applicants proposing to enhance wetlands must produce a critical areas report that identifies how enhancement will increase the functions of the degraded wetland and how this increase will adequately mitigate for the loss of wetland area and function at the impact site. An enhancement proposal must also show whether existing wetland functions will be reduced by the enhancement actions.

15.16.125 Performance standards – Subdivisions.

The subdivision and short subdivision of land in wetlands and associated buffers is subject to the following:

(1) Land that is located wholly within a wetland or its buffer may not be subdivided.

(2) Land that is located partially within a wetland or its buffer may be subdivided; provided, that:

(a) Each lot and/or parcel created through the subdivision process shall maintain a minimum buildable lot area not including a wetland or buffer area which totals 75 percent of the minimum lot size area for the zoning district where located; and

(b) Meets the minimum lot size requirements of EMC Title 18.

(3) Access roads and utilities serving the proposed subdivision may be permitted within the wetland and associated buffers only if the Town determines that no other feasible alternative exists. Loss of wetlands shall be mitigated in accordance with this title.

END

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