

Habitat Assessments and Habitat Management Plans for Fish and Wildlife Habitat Conservation Areas

(Biological Assessments)

Introduction

Environmental studies are required when land uses or developments are proposed on or adjacent to critical areas and their buffers. They must be prepared by experts with demonstrated qualifications in the area of concern. The planning director is authorized to develop and maintain a detailed list of required study contents. This handout includes the required study contents for Fish and Wildlife Habitat Conservation Areas and provides guidance on compliance with the regulations. The regulations are located in Chapter 19.37 of the City's land use code.

Maps of critical areas in Everett can be found on the City's web page at <http://www.everettwa.org/default.aspx?ID=885> and are available for purchase from the Planning and Community Development Department. While identifying most critical areas in the City, these maps do not necessarily identify all critical areas. Properties with critical areas must meet the requirements of Chapter 19.37 whether or not they are identified on these maps as having critical areas.

Fish and Wildlife Habitat Conservation Areas

A Habitat Assessment and/or Habitat Management Plan is required when a development is proposed on or within a distance that could impact a fish and wildlife habitat conservation area, including:

- Development within 200 feet of a Type F stream.

- Development within 800 feet of a bald eagle nest, or within one-half (1/2) mile of a nest if also within 250 feet of the shoreline, or within one-quarter (1/4) mile of a communal roost.

- Development within 300 feet of:
 - Maulsby Swamp
 - Kasch Park Bog
 - The Simpson site Category I wetlands
 - Narbeck Swamp
 - Jetty Island
 - Plant associations of infrequent occurrence
 - Commercial and recreational shellfish areas
 - Kelp and eelgrass beds
 - Herring, sand lance, and smelt spawning areas
 - State natural area preserves and natural resource conservation areas

- Any development within an area that provides a continuous vegetative corridor linking watersheds

- Any development on or adjacent to other Habitats of Primary Association. The Planning Director, after consulting with the Department of Fish and Wildlife, will determine the appropriate distance between development sites and the Habitat to require studies.

A habitat of primary association means a critical component of the habitats of federally or state-listed endangered, threatened, candidate, sensitive, and priority wildlife or plant species which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term. The Shoreline Master Program also regulates state-monitored species, such as osprey. Habitats of primary association include, but are not limited to, winter ranges, migration ranges, breeding sites, nesting sites, regular large concentrations, communal roosts, roosting sites, staging areas, and priority habitats listed by the Washington State Department of Fish and Wildlife.

Habitat Assessment Requirements

A habitat assessment is a site investigation process to evaluate the potential presence or absence of a regulated fish or wildlife species or habitat potentially affected by a development proposal, and an assessment of the potential impacts of the proposal on them.

A habitat assessment may be integrated into another critical area study or provided as a separate report, provided the required contents are provided. If a development proposal requires a Biological Assessment or Biological Evaluation for a federal action, the assessment / evaluation should be completed per the federal agencies recommended format, but should also incorporate the information required for the City.

The habitat assessment shall be completed by a qualified professional with expertise and experience in preparing fish and wildlife critical area reports and/or biological assessments. The qualifications must relate to the type of critical area, species and/or habitat being addressed. The professional may be a fish or wildlife biologist or a wetland ecologist.

Specific information that must be included in a habitat assessment report includes:

1. The parcel number(s) of the subject property.
2. A map showing the location of the site and the site address of the subject property, if one has been assigned by the City.
3. The date and time when the site evaluation for the habitat assessment was conducted and the date when the habitat assessment was prepared.
4. The name and credentials (qualifications, and experience) of the professional who prepared the habitat assessment.
5. The mailing address and phone number of the property owner and the professional that prepared the habitat assessment.
6. A detailed description of the project.

7. Site plan and cross-sections of development footprint and critical areas on and adjacent to the proposed development.
8. A detailed description of existing vegetation on and adjacent to the project area and its associated buffer.
9. Identification of any species of local importance, priority species, or endangered, threatened, sensitive or candidate species that have a primary association with habitat on or adjacent to the project area. Describe efforts to determine the status of any critical species in the project area, including information on survey methods, timing, and results of surveys for species or suitable habitat identification. Include any information received from biologists with special expertise on the species or habitat type, such as WDFW, Tribal, USFS, or other local, regional, federal, and university fish, wildlife and habitat biologists and plant ecologists. Include any such conversations in the habitat assessment and cite as personal communication.
10. An assessment of the project's direct and indirect potential impacts to fish and wildlife species, including potential impacts to water quality.
11. An assessment of potential cumulative impacts the proposal may have on fish and wildlife critical areas.
12. A discussion of any federal, state, or local special management recommendations, including WDFW habitat management recommendations, that have been developed for species or habitats located on or adjacent to the project area.
13. For bald eagles nests or roosts the habitat assessment shall also address the criteria contained in WAC 232-12-292, the Washington State Bald Eagle Protection Rules.
14. A detailed discussion of mitigation measures that have been or will be implemented in order to avoid and minimize adverse impacts to fish and wildlife species, as well as contingency mitigation measures that will be implemented to offset temporary and permanent impacts (i.e. monitoring plan with survey requirements, performance goals, and timelines).
15. The types of low impact stormwater management techniques that may be appropriate based on site conditions, and the techniques that will be incorporated into the development proposal. See the *Low Impact Development Technical Guidance Manual for Puget Sound*, January 2005.

For the fish and wildlife habitat review process to be complete, the Planning Director must find that the habitat assessment adequately determines that no fish or wildlife habitat conservation areas or associated buffers are present on or adjacent to the site, or that the proposal will not adversely impact those areas and/or species.

Habitat Management Plan (HMP)

If the habitat assessment determines that a fish or wildlife habitat conservation area or associated buffers are present on or adjacent to the proposed development site and that the proposal will potentially adversely impact those areas and/or species, a Habitat Management Plan (HMP) is required. The HMP must identify all actions that could be taken and which are necessary to avoid reducing the likelihood that the species will maintain and reproduce over the long term and/or actions to maintain or enhance the significant features present. The HMP shall be based upon sound habitat management practices and be designed to achieve specific habitat objectives.

The HMP must include all of the information required for a Habitat Assessment as well as the following:

1. A map drawn to scale or survey showing:
 - a. All lakes, ponds, streams, wetlands and tidal waters on or adjacent to the subject property, including the name (if named), and ordinary high water mark of each, and the stream and/or wetland category consistent with the definitions in EMC 19.37.
 - b. The location and description of the fish and wildlife habitat conservation area on the subject property, as well as any potential fish and wildlife habitat conservation area within a distance of the subject property that may impact an affected species or habitat, and
 - c. The location of any observed evidence of use by a species regulated by the provisions of the Fish and Wildlife Habitat sections of EMC 19.37.
2. An analysis of how the proposed development activities will affect the fish and wildlife habitat conservation area and any effected species including the potential direct, indirect, and cumulative effects of the proposed action on the regulated species and its habitat within the project area.
3. Provisions to reduce or eliminate the impacts of the proposed development activities on any fish and wildlife habitat conservation area and effected species. The HMP should describe components of the project that may benefit or promote the recovery of listed species and are included as an integral part of the proposed project. These conservation (or mitigation) measures serve to minimize or compensate for project effects on the species under review. The following items should be addressed:
 - a. Provide specific recommendations, as appropriate, to reduce or eliminate the adverse effects of the proposed activity. Potential measures include: timing restrictions for all or some of the activities; clearing limitations; avoidance of specific areas; special construction techniques; HMP conditions; replanting with native vegetation; potential of habitat enhancement (i.e., fish passage barrier removal); best management practices, etc.
 - b. If the proposed development could result in substantial elimination of or significant reduction in riparian corridors, existing connections between critical areas, or continuous vegetated corridors linking watersheds, the HMP must analyze alternatives and measures to maximize the maintenance of existing corridors.

- c. Include a description of proposed monitoring of the species, its habitat, and mitigation effectiveness.
4. The HMP shall identify the specific habitat objectives the HMP is designed to achieve and include recommendations regarding all actions necessary to avoid reducing the likelihood that the species will maintain and reproduce over the long term, and/or actions to maintain or enhance the significant features present.

Project Review and Conditioning of Approvals

Habitat Assessments. The Planning Department will review the habitat assessment and either accept the habitat assessment as complete or require preparation of a habitat management plan. The City may require that the applicant request a separate evaluation of the site by the Washington Department of Fish and Wildlife (WDFW) to confirm the findings of the habitat assessment, and/or the Planning Director may consult directly with WDFW or other agencies with jurisdiction. The Director may condition the development proposal with any recommended mitigation measures necessary to reduce impacts to the fish and wildlife habitat conservation areas or effected species.

Habitat Management Plans (HMPs). HMPs are evaluated by city, state and federal agencies with permit jurisdiction or expertise. The Planning Director will consider all comments submitted by state and federal agencies, and require necessary revisions to the HMP, if any, prior to accepting the HMP as final. The Director shall condition approvals of activities allowed within or adjacent to a habitat conservation area or its buffers, as necessary to minimize or mitigate any potential adverse impacts to the habitat conservation area and effected species. Mitigation measures shall be based upon the analysis, conclusions, and recommendations contained in the HMP. At a minimum, all requirements and mitigation measures necessary to avoid reducing the likelihood that the species will maintain and reproduce over the long term will be required as permit conditions for the development proposal.

Fish and wildlife habitat conservation areas and their buffers must be placed in a critical area protective covenant or tract. Fencing and signage may also be required.

Assurance devices are required to ensure mitigation implementation and monitoring requirements are met. See EMC 19.40 for more information on assurance devices.