

SPECIAL PERMISSION – CRITICAL AREAS CHECKLIST

This checklist applies to:

- Critical Areas



These applications may be applied for under the SPECIAL PERMISSION Application Type in the Online Permitting Portal.

The materials listed below must be submitted at the time of your application. **ADDITIONAL MATERIALS MAY BE REQUIRED.** A pre-application meeting is encouraged prior to submitting an application.

Please ensure files are **saved as PDF** and conform to **City of Tukwila electronic submittal standards** prior to upload.

******ADDITIONAL PERMITS MAY BE REQUIRED******

ATTACHMENTS REQUIRED		ATTACHMENT FILE NAME
DOCUMENTS		
	1. Notarized affidavit of ownership and hold harmless agreement.	Affidavit
	2. Critical Area Study (per TMC18.45.040)	Critical Areas
	3. Project Description/Analysis <ul style="list-style-type: none"> a. Written discussion of proposed project b. Written description of possible impacts including mitigation sequencing c. Written description of proposed mitigation d. Written description of proposed maintenance and monitoring 	Description
PLANSETS		
	4. Site plan(s) to include scale, north arrow, surveyed location of critical areas and their buffers, development impact and dimensions, clearing and grading limits, stormwater and drainage management, and utility locations	Site Plan
	5. Tree removal/protection plan (if applicable)	Tree Plan

SPECIAL PERMISSION PROCESS

DEFINITION:

A Special Permission – Critical Areas Deviation is a land use approval which is required prior to allowing an interrupted critical area buffer, critical area buffer averaging or other alterations to a critical area. City review is required to ensure that development and mitigation requirements are satisfied, in accordance with Tukwila Municipal Code Section 18.45.

There are five types of Special Permission – Critical Areas Deviations, see corresponding sections below for more information on approval criteria and processes:

1. Wetland Buffer Averaging (TMC 18.45.080(F)(1))
2. Interrupted Wetland Buffer (TMC 18.45.080(F)(2))
3. Wetland Alteration (TMC 18.45.090(B))
4. Watercourse Buffer Averaging (TMC 18.45.100(E)(1))
5. Interrupted Watercourse Buffer (TMC 18.45.100(E)(2))

Additionally, the following critical area activities may require a Special Permission permit. Please use this checklist and provide responses to any applicable criteria:

Permitted Activities Subject to Administrative Review (TMC 18.45.070)

The following uses may be permitted only after administrative review and approval of a Type 2 Special Permission application by the Director:

1. Maintenance and repair of existing uses and facilities where alteration or additional fill materials will be placed or heavy construction equipment used in the critical area or buffer.
2. New surface water discharges to critical areas or their buffers from detention facilities, pre-settlement ponds or other surface water management structures may be allowed provided that the discharge meets the clean water standards of RCW 90.48 and WAC 173-200 and 173-201A as amended, and does not adversely affect wetland hydrology or watercourse flow. Water quality monitoring may be required as a condition of use.
3. Construction of bioswales and dispersion trenches are the only stormwater facilities allowed in wetland or watercourse buffers. Water quality monitoring may be required as a condition of use.
4. Enhancement or other mitigation including landscaping with native plants that requires heavy equipment.
5. Construction or maintenance of essential utilities if designed to protect the critical area and its buffer against erosion, uncontrolled storm water, restriction of groundwater movement, slides, pollution, habitat disturbance, any loss of flood carrying capacity and storage capacity, and excavation or fill detrimental to the environment.
6. Construction or maintenance of essential public streets, roads and rights-of-way as defined by TMC Section 18.06.285, provided the following criteria are met:
 - a. Are designed and maintained to prevent erosion and avoid restricting the natural movement of groundwater.
 - b. Are located to conform to the topography so that minimum alteration of natural conditions is necessary. The number of crossings shall be limited to those necessary to provide essential access.
 - c. Are constructed in a way that does not adversely affect the hydrologic quality of the wetland or watercourse and/or its buffer. Where feasible, crossings must allow for combination with other essential utilities.

REQUIREMENTS:

A Special Permission is a Type 2 land use decision requiring administrative approval from the DCD Director. A special permission does not require a public hearing.

PROCEDURE:

At the time you submit your application you must have all of the items listed on the attached "Complete Application Checklist." You may request a waiver from items on the checklist that are not applicable to your project. Please discuss this waiver request with City staff either at a pre-application meeting or at the time of application submittal.

Within 28 days of receiving your application, City staff will determine if it is complete based on the attached checklist. If not complete City staff will contact you regarding what additional information is needed. If you do not submit requested materials within 90 days from the City's request for additional information the City may cancel your application.

Once the application is complete, it will be reviewed by Planning staff, and the Director will issue a decision to approve, modify or deny the application based on the applicable review criteria, as outlined below:

1. CRITERIA FOR APPROVAL OF WETLAND BUFFER AVERAGING (TMC 18.45.080(F)(1))

Buffer averaging may be allowed by the Director as a Type 2 permit if the total area of the buffer after averaging is equal to the area required without averaging and the buffer at its narrowest point is never less than either $\frac{3}{4}$ of the required width or 75 feet for Category I and II, 50 feet for Category III, and 25 feet for Category IV, whichever is greater, and so long as the following criteria is met:

- A. The wetland has significant differences in characteristics that affect its habitat functions, and the buffer is increased adjacent to the higher-functioning area of habitat or more-sensitive portion of the wetland and decreased adjacent to the lower-functioning or less-sensitive portion as demonstrated by a critical areas report.
- B. There are no feasible alternatives to the site design that could be accomplished without buffer averaging, and the averaged buffer will not result in degradation of the wetland's functions and values as demonstrated by a critical areas report.
- C. Compliance with mitigation sequencing requirements (TMC Section 18.45.075).
- D. Compliance with TMC Chapter 18.45, "Vegetation Protection and Management" section.
- E. Submittal of buffer enhancement plan, mitigation monitoring and maintenance plan along with financial guarantee in accordance with this chapter.

2. CRITERIA FOR APPROVAL OF AN INTERRUPTED WETLAND BUFFER (TMC 18.45.080(F)(2))

Waiver for interrupted buffer may be allowed by the Director as a Type 2 permit if it complies with the following:

- A. The buffer is interrupted by a paved public or private road; existing or future levee legally constructed adjacent to an off-channel habitat; legally constructed buildings or parking lots. This waiver does not apply to accessory structures such as sheds and garages;
- B. The existing legal improvement creates a substantial barrier to the buffer function;
- C. The interrupted buffer does not provide additional protection of the critical area from the proposed development; and
- D. The interrupted buffer does not provide significant hydrological, water quality and wildlife functions. This waiver does not apply if large trees or other significant native vegetation exists.
- E. Enhancement of remaining buffer is required if feasible.

3. CRITERIA FOR APPROVAL OF A WETLAND ALTERATION (TMC 18.45.090(B))

Alterations to wetlands are discouraged and are limited to the minimum necessary for project feasibility. Requests for alterations must be accompanied by a mitigation plan, are subject to Director approval, and may be approved only if the following findings are made:

- A. The alteration complies with mitigation sequencing requirements (TMC Section 18.45.075);
- B. The alteration will not adversely affect water quality;
- C. The alteration will not adversely affect fish, wildlife, or their habitat;
- D. The alteration will not have an adverse effect on drainage and/or storm water detention capabilities;
- E. The alteration will not lead to unstable earth conditions or create an erosion hazard or contribute to scouring actions;
- F. The alteration will not be materially detrimental to any other property;
- G. The alteration will not have adverse effects on any other critical areas; and
- H. Complies with the maintenance and monitoring requirements listed within this section.

4. CRITERIA FOR APPROVAL OF WATERCOURSE BUFFER AVERAGING (TMC 18.45.100(E)(1))

Buffer averaging may be allowed by the Director as a Type 2 decision if the total area of the buffer after averaging is equal to the area required without averaging and the buffer at its narrowest point is never less than either 3/4 of the required width; and the following criteria is met:

- A. The watercourse has significant differences in characteristics that affect its habitat functions, and the buffer is increased adjacent to the higher-functioning area of habitat or more-sensitive portion of the watercourse and decreased adjacent to the lower-functioning or less-sensitive portion as demonstrated by a critical areas report from a qualified professional.
- B. There are no feasible alternatives to the site design that could be accomplished without buffer averaging, and the averaged buffer will not result in degradation of the watercourse's functions and values as demonstrated by a critical areas report.
- C. Compliance with mitigation sequencing requirements (TMC Section 18.45.075).
- D. Compliance with TMC Chapter 18.45.158, "Vegetation Protection and Management."
- E. Submittal of buffer enhancement plan, mitigation monitoring and maintenance plan, along with financial guarantee in accordance with this chapter.
- F. Buffer averaging shall not adversely affect water quality.
- G. No adverse effect to water temperature or shade potential will occur to the watercourse using methodology per 2011 Washington State Department of Ecology's Green River Temperature Total Maximum Daily Load (TMDL) assessment or as amended.

5. CRITERIA FOR APPROVAL OF AN INTERRUPTED WATERCOURSE BUFFER (TMC 18.45.100(E)(2))

Waiver for interrupted buffer may be allowed by the Director as a Type 2 permit if it complies with the following:

- A. The buffer is interrupted by a paved public or private road; legally constructed buildings or parking lots. This waiver does not apply to accessory structures such as sheds and garages;
- B. The existing legal improvement creates a substantial barrier to the buffer function;
- C. The interrupted buffer does not provide additional protection of the critical area from the proposed development; and
- D. The interrupted buffer does not provide significant hydrological, water quality and wildlife functions. This waiver does not apply if large trees or other significant native vegetation exists.
- E. Enhancement of remaining buffer is required if feasible.

SPECIAL PERMISSION WORKFLOW

