

ENVIRONMENTALLY CRITICAL AREA - DEVIATION

City of Tukwila - Permit Center
6300 Southcenter Blvd, Suite 100,
Tukwila, WA 98188
www.tukwilawa.gov/departments/permit-center/



Permit Type: Special Permission
Permit Subtypes: Critical Areas

ABOUT ENVIRONMENTALLY CRITICAL AREAS

An Environmentally Critical Areas (ECA) permit is a land use approval required prior to performing working in an environmentally critical area or its buffer. City review is required to ensure that development and mitigation sequencing requirements are satisfied, in accordance with Tukwila Municipal Code (TMC) Section 18.45: Environmentally Critical Areas.

The following are environmentally critical areas regulated by TMC 18.45:

1. Wetlands;
2. Watercourses;
3. Areas of potential geologic instability: Class 2, 3, 4 areas (as defined in the Definitions chapter of this title and TMC 18.45.120.A);
4. Fish and Wildlife Habitat Conservation Areas;
5. Special Hazard Flood Areas (see TMC 16.52 for additional regulations); and
6. Coal Mine Hazard Areas;

Applicable Regulations:

- [Tukwila Title 18 – Zoning](#)

Resources:

- [City Maps](#)
- [Land Use Permit Portal](#)
- [Permit Fees](#)
- [Hiring a qualified ECA professional](#)

It is recommended to do an initial review of your property to see if there are currently mapped or potential ECAs onsite using the City's iMap tool: [Tukwila iMap](#). iMap data may not be definitive. Official critical area delineation/typing is determined by a non-expired, on the ground assessment by a qualified scientist, as approved by the City, which may or may not be on file.

SUBMITTAL CHECKLIST – REQUIRED FOR ALL PERMITS

Submit the materials below with your application; additional materials may be required. A pre-application meeting is recommended. Save files as PDFs per Tukwila's electronic submittal standards. All files must use the listed "File Name" in the table.

CHECKLIST	FILE NAME	DESCRIPTION
DOCUMENTS		
	Affidavit	Completed and notarized 'Affidavit of Ownership and Hold Harmless Permission to Enter Property'. See the Permit Center web page to find the template for this document.
	Criteria Response	Detailed demonstration that the application meets all applicable criteria outlined in the code for the proposed use.
	SEPA Checklist	A SEPA Checklist and separate SEPA Review Application is required unless exempt pursuant to WAC 197-11-800. City staff will review the checklist and the proposal's likely environmental impacts and issue a threshold determination.
	Mitigation Sequencing Discussion	Describe and document how the project's proposed critical area impacts meet mitigation sequencing requirements per TMC 18.45.075 as well as any additional consideration criteria per TMC 18.45, (see below)
PLANSETS		
	Plan Set	Refer to the Land Use Application Plan Set Guide for preparing plans.

ENVIRONMENTALLY CRITICAL AREA - DEVIATION

Activities that do not require an ECA permit:

The following activities are outright permitted subject to the provisions of TMC 21.04 and of the mitigation requirements of this chapter, if applicable:

1. Maintenance and repair of existing facilities provided no alteration or additional fill materials will be placed or heavy construction equipment used in the critical area or buffer.
2. Site exploration or research that does not include use of heavy equipment or native vegetation removal.
3. Maintenance and repair of essential streets, roads, rights-of-way, or utilities, and placement, maintenance, and repair of new fiberoptic utilities within existing improved and paved roads.
4. Actions to remedy the effects of emergencies that threaten the public health, safety or welfare.
5. Maintenance activities of existing landscaping and gardens in a critical area buffer including, but not limited, to mowing lawns, weeding, harvesting and replanting of garden crops and pruning and planting of vegetation. This provision does not apply to removal of established native trees and shrubs, or to the excavation, filling, and construction of new landscaping features, such as concrete work, berms and walls.
6. Voluntary native revegetation and/or removal of invasive species that does not include use of heavy equipment. The use of herbicide by a licensed contractor with certification as needed from the Washington Department of Ecology and the Washington Department of Agriculture is permitted but requires notification prior to application to the City and shall comply with TMC 18.45.158.E.3.

General activities requiring an ECA permit:

The following uses are subject to TMC 18.45.075L Mitigation Sequencing (see next section) and may be permitted only after administrative review and approval of a Type 2 permit :

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.

ENVIRONMENTALLY CRITICAL AREA - DEVIATION

Mitigation Sequencing (TMC 18.45.075)

Applicants shall demonstrate that reasonable efforts have been examined with the intent to avoid and minimize impacts to critical areas and critical area buffers. When an alteration to a critical area or its required buffer is proposed, such alteration shall be avoided, minimized or compensated for in the following order of preference:

1. Avoiding the impact altogether by not taking a certain action or parts of an action;
2. Minimizing critical area or critical area buffer impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;
3. Rectifying the impact by repairing, rehabilitating or restoring the affected environment;
4. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;
5. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and/or
6. Monitoring.

Special permission activities requiring an ECA permit:

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. Please respond to the following criteria for each permit type on a separate sheet of paper:

1. 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:

- ☐ 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.
- ☐ 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.
- ☐ Compliance with mitigation sequencing requirements (TMC Section 18.45.075).
- ☐ Compliance with TMC Chapter 18.45, "Vegetation Protection and Management" section.
- ☐ Submittal of buffer enhancement plan, mitigation monitoring and maintenance plan along with financial guarantee in accordance with this chapter.

2. Wetland interrupted 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:

- ☐ 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;

ENVIRONMENTALLY CRITICAL AREA - DEVIATION

- ☐ The existing legal improvement creates a substantial barrier to the buffer function;
- ☐ The interrupted buffer does not provide additional protection of the critical area from the proposed development; and
- ☐ 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.
- ☐ Enhancement of remaining buffer is required if feasible.

3. 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:

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

4. Wetland mitigation banking (TMC 18.45.090.D.4)

The transfer of wetland mitigation to a wetland mitigation bank or in-lieu fee program using the criteria below. Wetland mitigation bank credits shall be determined by the certified mitigation banking or in-lieu fee instrument.

- ☐ Off-site mitigation is proposed in a wetland mitigation bank that has been approved by all appropriate agencies, including the Department of Ecology, Corps of Engineers, EPA and certified under state rules; and
- ☐ The proposed wetland alteration is within the designated service area of the wetland bank; and
- ☐ The applicant provides a justification for the number of credits proposed; and
- ☐ The mitigation achieved through the number of credits required meets the intent of TMC 18.45; and
- ☐ The Director bases the decision on a written staff report, evaluating the equivalence of the lost wetland functions with the number of wetland credits required; and
- ☐ The applicant provides a copy of the wetland bank ledger demonstrating that the approved number of credits has been removed from the bank.

5. 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:

- ☐ 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

ENVIRONMENTALLY CRITICAL AREA - DEVIATION

watercourse and decreased adjacent to the lower-functioning or less-sensitive portion as demonstrated by a critical areas report from a qualified professional.

- ☐ 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.
- ☐ Compliance with mitigation sequencing requirements (TMC Section 18.45.075).
- ☐ Compliance with TMC Chapter 18.45.158, "Vegetation Protection and Management."
- ☐ Submittal of buffer enhancement plan, mitigation monitoring and maintenance plan, along with financial guarantee in accordance with this chapter.
- ☐ Buffer averaging shall not adversely affect water quality.
- ☐ 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. 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:

- ☐ 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;
- ☐ The existing legal improvement creates a substantial barrier to the buffer function;
- ☐ The interrupted buffer does not provide additional protection of the critical area from the proposed development; and
- ☐ 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.
- ☐ Enhancement of remaining buffer is required if feasible.