

Anacortes Critical Area Regulations

2nd Draft Changes

December 11, 2019

The following table lists the changes recommended for the 2nd draft the Anacortes Critical Area Regulations resulting from internal staff discussion, legal review, Planning Commission direction, and response to public comments.

AMC Reference	Recommended Change
Body of Text	<p><i>Change Required Administratively:</i> Grammar, numbering, and code citations will be reviewed and corrected by staff.</p>
19.12, Definitions	<p><i>Change Requested by Public Comment:</i> Correction of the definition of Passive Recreation to include the missing section (A, B, C,D) from old definition that was in Title 17 but is no longer in Title 19 definitions.</p> <p>Current Language: <i>19.12.020: "Passive recreation" means a mix of uses on undeveloped land (including wetland buffers) or minimally improved lands which includes the following: naturally landscaped areas, nonlandscaped green spaces, picnic areas, water bodies, trails, interpretive trails and other similar structures or development.</i></p> <p>Options:</p> <ul style="list-style-type: none"> a. Leave definition as is in 19.12.020 b. Correct the definition to match previous 17.06.723 c. Change the definition of Passive Recreation all together.
Staff Recommendation	<p>Staff recommends (option b.) correcting the definition to match the previous definition to read: <i>19.12.020 (17.06.723) "Passive recreation" refers to a mix of uses on undeveloped land (including wetland buffers) or minimally improved lands which includes the following: naturally landscaped areas, non-landscaped greenspaces, picnic areas, water bodies, trails, interpretive trails and other similar structures or development.</i></p> <p><i>Passive recreation may be defined as a non-motorized activity that:</i></p> <ul style="list-style-type: none"> <i>A. Offers constructive, restorative, and pleasurable human benefits and fosters appreciation and understanding of open space and its purpose;</i> <i>B. Is compatible with other passive recreation uses;</i> <i>C. Does not significantly impact natural, cultural, scientific, or agricultural values; and</i> <i>D. Requires only minimal visitor facilities and services directly related to safety and minimizes passive recreation impacts.</i>
19.12, Definitions	<p><i>Change requested by Dept. of Ecology.</i> "qualified professional." For wetlands, we [Ecology] recommend: A qualified professional for wetlands must be a professional wetland scientist with at least two years of full-time work experience as a wetlands professional, including delineating wetlands</p>

AMC Reference	Recommended Change
	<p>using the federal manual and supplements, preparing wetlands reports, conducting function assessments, and developing and implementing mitigation plans.</p> <p>Current language:</p> <p><i>"Qualified professional" means a person with experience and training in the applicable field or critical area. A qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, engineering, environmental studies, fisheries, geology or related field, and have two years of related work experience.</i></p> <p>Options:</p> <ul style="list-style-type: none"> a. Leave definition as is in 19.12.020, b. Modify definition as suggested above.
Staff Recommendation	<p>Staff recommends (option b.) modifying the definition to read:</p> <p><i>"Qualified professional" means a person with experience and training in the applicable field or critical area. A qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, engineering, environmental studies, fisheries, geology or related field, and have two years of related work experience. <u>A qualified professional for wetlands must be a professional wetland scientist with at least two years of full-time work experience as a wetlands professional, including delineating wetlands using the federal manual and supplements, preparing wetlands reports, conducting function assessments, and developing and implementing mitigation plans.</u></i></p>
Table 19.20.030	<p><i>Change Required Administratively:</i></p> <p>Because the Permit types have been modified by the new Critical Area Regulations it is important to include them in the Types of Review section 19.20.030 and the Review classification and process matrix shown in Table 19.20.030.</p> <p>Add: Type I – Exemption with Prior Written Notice, Type II – Critical Area Permitted Alteration Permit, Type III HE – Critical Area Variance</p> <p>Options: This is a necessary addition.</p>
Staff Recommendation	<p>Staff recommends the above amendment to Chapter 19.20 and the permit procedure table 19.20.030.</p>
19.70.015 Applicability	<p><i>Change Requested by Staff:</i></p> <p>Staff recommends wordsmithing the following section because it appears Draft 1 got edited incorrectly:</p> <p>Current Language:</p> <p><i>19.70.015(A) Unless explicitly exempted, the provisions of this chapter apply to all land uses, development activity, and all structures and facilities within the City of Anacortes that are within the maximum buffer distance of, or likely to affect the functions and values of, one or more critical areas.</i></p> <p>Options: This is a necessary addition.</p>
Staff Recommendation	<p>Staff recommends the following change:</p>

AMC Reference	Recommended Change
	<p>19.70.015(A) Unless explicitly exempted, the provisions of this chapter apply to all land uses, development activity, and all structures and facilities within the City of Anacortes that are <i>within</i>, within the maximum buffer distance of, or likely to affect the functions and values of, one or more critical areas.</p>
<p>19.70.035(C)</p>	<p><i>Change Requested by Staff:</i></p> <p>19.70.035(C) Modifications to Existing Nonconforming Structures and Uses, modified from section 17.70.500 is missing (B) the State Ferry Terminal provision.</p> <p>Current Language:</p> <p>C. Modifications to Existing Nonconforming Structures and Uses. Existing structures and uses that were established legally but do not meet the current critical area, buffer, or buffer setback requirements may continue in accordance to AMC 19.49.040, and may be modified as follows:</p> <ol style="list-style-type: none"> 1. Routine maintenance and repairs; 2. Structural modifications or additions that do not intensify the nonconformity of the structure or increase the area of hardscape lying within the critical area or buffer. The Decision maker may require an updated critical areas report to confirm location of buffers and that the addition is located entirely outside the critical area or buffer; 3. Vertical additions above the ground floor that do not encroach further into the critical area or buffer beyond the existing exterior walls, except that critical areas review is required for additions in landslide hazard areas or buffers; 4. Restoration or replacement of a structure that is damaged by fire, natural disaster or other calamity when: <ol style="list-style-type: none"> a. A complete application for reconstruction or replacement is submitted within one year of the damage; and b. The restoration or replacement is made to conform to the current critical areas regulations, or if such regulations cannot be physically met without reducing the size of the building, the restoration or replacement may not intensify any nonconformity that existed prior to the damage. c. Except that critical areas review is required for restoration and replacement in landslide hazard areas or buffers. <p>Options: This is a necessary correction</p>
<p>Staff Recommendation</p>	<p>Staff recommends adding the following item #5 to the above section:</p> <ol style="list-style-type: none"> 5. State Ferry Terminal. The existing developed footprint, except for infill between the toll booth area in the lowest parking lot, hillside walking paths, and a hillside side slope along the western side of the main terminal parking lot, and including all associated parking, at the Washington State Ferry Terminal facility, shall not be increased and redevelopment may occur provided there is no net loss of ecological function and value in the adjacent buffer areas for Cannery Pond and Ship Harbor Interpretive Preserve wetlands.
<p>19.70.040 Exemption Table</p>	<p><i>Change Requested by Public Comment:</i></p> <p>Public comment has been received that the Exemption statement “when it can be demonstrated” is confusing, and that the Exemption should not include the term bicycles.</p> <p>Passive Outdoor Activities. When it can be demonstrated that there will be no adverse effect, the following activities are allowed within critical areas and their buffers: educational activities,</p>

AMC Reference	Recommended Change
	<p><i>scientific research, and outdoor recreational activities, including but not limited to interpretive field trips, bird watching, public beach access including water-related activities, bicycling, and hiking. This exemption does not include constructing new roads or trails, vegetation clearing, or collection of plants or animals</i></p> <p>Options:</p> <p>a. Leave as listed in Draft 2 (above),</p> <p>b. Modify the item to improve clarity and remove bicycles:</p> <p><i>Passive Outdoor Activities. <u>In accordance with 19.70.040(B) above, and when there will be no adverse effect</u>, the following activities are allowed within critical areas and their buffers: educational activities, scientific research, and outdoor recreational activities, including but not limited to interpretive field trips, bird watching, public beach access including water-related activities, and hiking. This exemption does not include <u>constructing new facilities</u>, vegetation clearing, or collection of plants or animals.</i></p> <p>c. Scrap the language in Draft 2 all together and revert back to the terms as listed in the current Critical Area Regulations under 17.70.380(B) Uses By Right.</p>
Staff Recommendation	<p>Due to the high number of comments and concerns with changes in Draft 2 using the words passive recreation and bicycling, staff recommends (option c.) reverting back to the wording of the Current Regulations under 17.70.380(B), thereby eliminating any changes to the allowed uses by right in critical areas or buffers. Exemption to read:</p> <p><i>Provided they do not require structures, grading, fill, draining, or dredging except as provided herein or authorized by a Critical Area Permit: Outdoor recreational activities, including fishing, birdwatching, hiking, boating, horseback riding, swimming, canoeing, and similar activities with limited environmental impact are exempt activities.</i></p>
Table 19.70.050 Permitted Alterations	<p><i>Change requested by Staff:</i></p> <p>Change the title “Public Services” to “Public Roads and Utilities” for clarity.</p> <p>Options:</p> <p>a. Keep the title as is,</p> <p>b. Change the title to Public Roads and Utilities.</p>
Staff Recommendation	<p>Staff recommends (option b.) providing additional clarity by changing the title and incorporating necessary language to read:</p> <p><i>Public Roads and Utilities. To allow <u>public improvements</u>, when the strict application of the standards in this Chapter would otherwise unreasonably prohibit the provision of public amenities...</i></p>
Table 19.70.050 Permitted Alterations	<p><i>Change requested by Dept. of Ecology:</i></p> <p>Permitted Alterations Table, Public Services: We recommend adding the following as #3:</p> <ul style="list-style-type: none"> ○ It shall be a condition of any alteration granted a public agency and services exception that only the portion of the alteration that must be located in a critical area may be so located. <p>Current Language:</p>

AMC Reference	Recommended Change
	<p>Public Services. To allow development by a public agency when the strict application of the standards in this Chapter would otherwise unreasonably prohibit the provision of public amenities.</p> <ol style="list-style-type: none"> 1. <i>Public agency and services defined.</i> For the purposes of this subsection, "public agency" means any agency, political subdivision, or unit of local government, or private utility regulated by the Washington Utilities and Transportation Commission, including, but not limited to, municipal corporations, special purpose districts and local service districts, private regulated utilities, any agency of the state of Washington, the United States or any state thereof, or any Indian tribe recognized as such by the federal government. "Public services" include, but are not limited to, water supply, sewer and stormwater management facility, electric power, telephone, cable television, gas, and transportation for persons and freight. 2. <i>Public services may be allowed to alter critical areas and buffers when:</i> <ol style="list-style-type: none"> a. <i>Mitigation sequencing per AMC 19.70.135(A) has been applied;</i> b. <i>The application of the critical areas regulations would unreasonably restrict the ability of the public agency to provide public services;</i> c. <i>There is no other practical alternative to the proposed development with less impact on the critical area;</i> d. <i>The proposed development does not create a health or safety hazard on or off the development site, and will not be detrimental to the properties or improvements in the vicinity;</i> e. <i>Any alterations permitted to the critical area are mitigated in accordance with AMC 19.70.135 and relevant mitigation standards for the impacted critical areas(s) type;</i> f. <i>The proposal is consistent with the Anacortes Comprehensive Plan and other applicable regulations.</i> g. <i>Conditions authorized.</i> Conditions may be established as necessary to mitigate impacts to critical areas and to conform to the standards required in this Chapter. <p>Options:</p> <ol style="list-style-type: none"> a. Keep the item as is, b. Change the provision to incorporate Ecology's recommendation.
Staff Recommendation	<p>Staff recommends adding the following item #3 to the above section:</p> <ol style="list-style-type: none"> 3. <i>It will be a condition of any alteration granted a public agency and services exception that only the portion of the alteration that must be located in a critical area may be so located.</i>
Table 19.70.050, Permitted Alterations	<p><i>Change Requested by Staff and Dept. of Ecology:</i></p> <p>The following minor changes are requested to the Recreation Areas/Facilities provision:</p> <ol style="list-style-type: none"> 1. Remove ACFL from this section and create a new section in the Permitted Use table, 2. Add the language "including but not limited to", 3. Add: Non-treated wood should also be used for information signs. (Ecology) 4. Add the missing language of D from 17.70.380. <p>Options:</p> <ol style="list-style-type: none"> a. Leave current draft language with no change, b. Approve all changes as suggested below,

AMC Reference	Recommended Change								
Staff Recommendation	c. Approve some of the changes as directed by PC.								
	Staff recommends (option b.) the all of following changes:								
	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th data-bbox="344 287 1144 359" style="text-align: left;">Permitted Alterations: (Critical Area Permit Required – Type 2 Administrative Decision)</th> <th data-bbox="1148 287 1263 359" style="text-align: center;">Critical Area</th> <th data-bbox="1266 287 1377 359" style="text-align: center;">Buffer</th> </tr> </thead> <tbody> <tr> <td data-bbox="344 363 1144 1570"> <p>Recreational Areas / Facilities <u>outside of ACFL</u> Low impact activities which are consistent with the purpose and function of the critical area buffer and do not detract from its integrity may be permitted within the buffer depending on the sensitivity of the critical area.</p> <p>A. Limited public park or public recreational access including <u>but not limited to</u> trails, viewing platforms, fishing access (no wider than 6 foot), and foot bridges, provided that all of the following are satisfied:</p> <ol style="list-style-type: none"> a. The area/facility is part of a public park that is dependent on its location for recreational function; and b. The area/facility is limited to the minimum necessary to accomplish the recreational function; and c. The removal of trees and native vegetation is minimized; and d. The balance of the development is consistent with other requirements of this chapter; and e. The project is identified in the Anacortes Comprehensive Plan or Parks <u>Comprehensive Plan, and ACFL Master Plans.</u> <p>B. Private pedestrian walkways and public trails must meet the following standards:</p> <ol style="list-style-type: none"> a. The trail is generally parallel to the perimeter of the critical area; b. The trail is located in the outer 25% of the buffer area and is designated to avoid removal of s trees and native vegetation; c. The trail does not exceed 6 feet in width, and is limited to native soils or pervious surfaces. Raised boardwalks utilizing non-treated pilings may be acceptable; and <p>The trail may be subject to closure during critical spawning, migration or breeding time periods of sensitive species that are present.</p> <p>C. Informational signs. Construction and placement of informational signs or educational demonstration facilities no more than 9 square feet surface area and 4 feet high, as long as there is no permanent infringement on hydrology or stream flow <u>and non-treated wood is used;</u></p> <p>D. Limited excavating and filling necessary for the repair and maintenance of piers, walkways, observation decks, wildlife management shelters, boathouses, and other similar water related structures, provided they are built on pilings to allow unobstructed flow of water and preserve <u>the natural contour of the wetland, except as authorized by a Critical Area Variance.</u></p> </td> <td data-bbox="1148 363 1263 1570" style="text-align: center; vertical-align: top;">No</td> <td data-bbox="1266 363 1377 1570" style="text-align: center; vertical-align: top;">Yes</td> </tr> </tbody> </table>			Permitted Alterations: (Critical Area Permit Required – Type 2 Administrative Decision)	Critical Area	Buffer	<p>Recreational Areas / Facilities <u>outside of ACFL</u> Low impact activities which are consistent with the purpose and function of the critical area buffer and do not detract from its integrity may be permitted within the buffer depending on the sensitivity of the critical area.</p> <p>A. Limited public park or public recreational access including <u>but not limited to</u> trails, viewing platforms, fishing access (no wider than 6 foot), and foot bridges, provided that all of the following are satisfied:</p> <ol style="list-style-type: none"> a. The area/facility is part of a public park that is dependent on its location for recreational function; and b. The area/facility is limited to the minimum necessary to accomplish the recreational function; and c. The removal of trees and native vegetation is minimized; and d. The balance of the development is consistent with other requirements of this chapter; and e. The project is identified in the Anacortes Comprehensive Plan or Parks <u>Comprehensive Plan, and ACFL Master Plans.</u> <p>B. Private pedestrian walkways and public trails must meet the following standards:</p> <ol style="list-style-type: none"> a. The trail is generally parallel to the perimeter of the critical area; b. The trail is located in the outer 25% of the buffer area and is designated to avoid removal of s trees and native vegetation; c. The trail does not exceed 6 feet in width, and is limited to native soils or pervious surfaces. Raised boardwalks utilizing non-treated pilings may be acceptable; and <p>The trail may be subject to closure during critical spawning, migration or breeding time periods of sensitive species that are present.</p> <p>C. Informational signs. Construction and placement of informational signs or educational demonstration facilities no more than 9 square feet surface area and 4 feet high, as long as there is no permanent infringement on hydrology or stream flow <u>and non-treated wood is used;</u></p> <p>D. Limited excavating and filling necessary for the repair and maintenance of piers, walkways, observation decks, wildlife management shelters, boathouses, and other similar water related structures, provided they are built on pilings to allow unobstructed flow of water and preserve <u>the natural contour of the wetland, except as authorized by a Critical Area Variance.</u></p>	No	Yes
Permitted Alterations: (Critical Area Permit Required – Type 2 Administrative Decision)	Critical Area	Buffer							
<p>Recreational Areas / Facilities <u>outside of ACFL</u> Low impact activities which are consistent with the purpose and function of the critical area buffer and do not detract from its integrity may be permitted within the buffer depending on the sensitivity of the critical area.</p> <p>A. Limited public park or public recreational access including <u>but not limited to</u> trails, viewing platforms, fishing access (no wider than 6 foot), and foot bridges, provided that all of the following are satisfied:</p> <ol style="list-style-type: none"> a. The area/facility is part of a public park that is dependent on its location for recreational function; and b. The area/facility is limited to the minimum necessary to accomplish the recreational function; and c. The removal of trees and native vegetation is minimized; and d. The balance of the development is consistent with other requirements of this chapter; and e. The project is identified in the Anacortes Comprehensive Plan or Parks <u>Comprehensive Plan, and ACFL Master Plans.</u> <p>B. Private pedestrian walkways and public trails must meet the following standards:</p> <ol style="list-style-type: none"> a. The trail is generally parallel to the perimeter of the critical area; b. The trail is located in the outer 25% of the buffer area and is designated to avoid removal of s trees and native vegetation; c. The trail does not exceed 6 feet in width, and is limited to native soils or pervious surfaces. Raised boardwalks utilizing non-treated pilings may be acceptable; and <p>The trail may be subject to closure during critical spawning, migration or breeding time periods of sensitive species that are present.</p> <p>C. Informational signs. Construction and placement of informational signs or educational demonstration facilities no more than 9 square feet surface area and 4 feet high, as long as there is no permanent infringement on hydrology or stream flow <u>and non-treated wood is used;</u></p> <p>D. Limited excavating and filling necessary for the repair and maintenance of piers, walkways, observation decks, wildlife management shelters, boathouses, and other similar water related structures, provided they are built on pilings to allow unobstructed flow of water and preserve <u>the natural contour of the wetland, except as authorized by a Critical Area Variance.</u></p>	No	Yes							
Table 19.70.050, Permitted Alterations	<p><i>Change Requested by Staff and Public comment:</i></p> <p>Staff recommends a new Permitted Alterations Table item for the ACFL to differentiate activities in the ACFL separate from other critical areas and buffers. This will give the ACFL its very own provisions under the Critical Area Permitted Alteration Permit.</p> <p>Options:</p>								

AMC Reference	Recommended Change					
	<p>a. Leaving Recreational Facilities/Areas in the ACFL as is in the current draft language (above without changes and changing the Critical Area designation to "Yes"),</p> <p>b. Give the ACFL its own designation in the Permitted Use Table.</p>					
Staff Recommendation	<p>Staff recommends (option b.) and the following addition to specify requirements for the ACFL:</p> <table border="1" data-bbox="391 359 1463 604"> <tr> <td data-bbox="391 359 1219 604">Anacortes Community Forest Lands. Given the unique qualities of the community forest, all properties designated as ACFL have been nominated as a regulated critical area. Any and all new uses and development of new facilities within the ACFL must meet the requirements of the Conservation Easements/Deed Restrictions of the land, Anacortes Comprehensive Plan, The ACFL Comprehensive Plan, AMC 19.70 Critical Areas, and the newly created AMC 12.18 ACFL.</td> <td data-bbox="1219 359 1341 604">Yes</td> <td data-bbox="1341 359 1463 604">Yes</td> </tr> </table>			Anacortes Community Forest Lands. Given the unique qualities of the community forest, all properties designated as ACFL have been nominated as a regulated critical area. Any and all new uses and development of new facilities within the ACFL must meet the requirements of the Conservation Easements/Deed Restrictions of the land, Anacortes Comprehensive Plan, The ACFL Comprehensive Plan, AMC 19.70 Critical Areas, and the newly created AMC 12.18 ACFL.	Yes	Yes
Anacortes Community Forest Lands. Given the unique qualities of the community forest, all properties designated as ACFL have been nominated as a regulated critical area. Any and all new uses and development of new facilities within the ACFL must meet the requirements of the Conservation Easements/Deed Restrictions of the land, Anacortes Comprehensive Plan, The ACFL Comprehensive Plan, AMC 19.70 Critical Areas, and the newly created AMC 12.18 ACFL.	Yes	Yes				
Table 19.70.050, Permitted Alterations	<p><i>Change Requested by Staff:</i></p> <p>To make sure the code works administratively the provision for Regulated Activities in Critical Aquifer Recharge Areas needs to be incorporated into the Permitted Alterations table.</p> <p>Options: This is a necessary correction</p>					
Staff Recommendation	<p>Staff recommends the following addition to specify requirements for CARA's:</p> <table border="1" data-bbox="375 1010 1463 1098"> <tr> <td data-bbox="375 1010 1219 1098">Regulated Activities in Critical Aquifer Recharge Areas. All regulated activities listed under AMC 19.70.540.</td> <td data-bbox="1219 1010 1341 1098">Yes</td> <td data-bbox="1341 1010 1463 1098">N/A</td> </tr> </table>			Regulated Activities in Critical Aquifer Recharge Areas. All regulated activities listed under AMC 19.70.540.	Yes	N/A
Regulated Activities in Critical Aquifer Recharge Areas. All regulated activities listed under AMC 19.70.540.	Yes	N/A				
19.70.210, Wetland Designation	<p><i>Change requested by Public Comment:</i></p> <p>Because section 17.70.230(D) was removed eliminating special protections for Regionally and Locally significant wetlands; the public is requesting that we put this section back into the Critical Area Code.</p> <p>Options:</p> <ol style="list-style-type: none"> Leave the draft as is without Regionally/Locally Significant Wetlands, Put the section back in exactly as it was in 17.70.230(D), Add the provision back in with modified requirements. 					
Staff Recommendation	<p>Staff suggests (option c.) and the following language be added to 19.70.210(C) for the designation of Regionally Significant wetlands.</p> <p><i>C. Regionally Significant Wetlands. The following are automatically designated as Category I wetlands regardless of Rating and shall have a designated buffer per the rating system but in no case less than 110 feet pursuant to 19.70.250 Required Buffer areas:</i></p> <ol style="list-style-type: none"> Cannery Pond (West of the State Ferry Terminal) Ship Harbor Interpretive Preserve (East of the State Ferry Terminal), 					

AMC Reference	Recommended Change
	<p>3. <i>Any other regulated Category II wetland, as rated under subsection (B)(2) of this section, that is within the watersheds of Little Cranberry Lake, Whistle Lake and Heart Lake and that drains by natural seasonal surface water connection into those lakes or their upstream associated wetland systems.</i></p> <p><i>D. Locally Significant wetlands. The following wetlands are designated as Category II wetlands regardless of Rating:</i></p> <p>1. <i>The wetlands on or adjacent to the Port of Anacortes owned property at the Anacortes Airport. Buffers shall conform to the Memorandum of Understanding between the Port and the City until the expiration of the Agreement.</i></p>
<p>19.70.240 Wetlands – Specific Wetland Category Development Standard</p>	<p><i>Change requested by Dept of Ecology.</i></p> <p>19.70.240.B.3: The small wetland exemption should be applied to Category IV wetlands only. The draft language includes Category III wetlands. Paragraph 3.d should read, “The wetland is a low quality Category IV wetland with a habitat score of less than 6 points in the adopted rating system. Also “hydrologically isolated” should be replaced with “non-federally regulated,” and this definition should be included:</p> <ul style="list-style-type: none"> ○ Non-federally Regulated (formerly isolated) Wetland – A wetland that is determined by the United States Army Corps of Engineers (USACE) to not qualify as a Water of the United States. Non-federally regulated wetlands may perform important functions and are protected by state law (RCW 90.48) whether or not they are protected by federal law. <p>Current Language:</p> <p>3. <i>Small, Hydrologically Isolated Category III and IV Wetlands (less than 1,000 sq. ft.). The Decision maker may allow small, hydrologically isolated Category III and IV wetlands to be exempt from the requirement to avoid impacts (AMC 19.70.135(A)(1) Mitigation requirements) and allow alteration of such wetlands if all of the following conditions are met:</i></p> <ul style="list-style-type: none"> a. <i>The remaining mitigation sequencing actions of AMC 19.70.135(A) (2)-(6) are followed;</i> b. <i>The wetland is less than 1,000 square feet in area;</i> c. <i>The wetland does not have unique characteristics that would be difficult to replace through standard compensatory mitigation practices.</i> d. <i>The wetland is a low quality Category III or IV wetland with a habitat score of less than 5 points in the adopted rating system;</i> e. <i>The wetland does not provide significant suitable breeding habitat for native amphibian species. Suitable breeding habitat may be indicated by adequate stable and seasonal inundation that is persistent from February to at least through April and presence of thin-stemmed emergent vegetation and/or clean water;</i> f. <i>The wetland does not contain habitat identified as essential for local populations of priority species identified by the Washington Department of Fish and Wildlife or species of local importance which are regulated as fish and wildlife habitat conservation areas in Chapter 19.70.300 (FWHCA section);</i> g. <i>The wetland is not associated with shorelines of the state or their associated buffers;</i> h. <i>The wetland is not associated with riparian areas or buffers;</i> i. <i>The wetland is not part of a wetland mosaic; and</i> j. <i>A mitigation plan to replace lost wetland functions and values is developed, approved, and implemented consistent with AMC 19.70.140.</i>

AMC Reference	Recommended Change
	<p><i>k. In order to verify that the wetland meets these exemption conditions, a critical area report for wetlands meeting the requirements in this chapter must be submitted.</i></p> <p>Options:</p> <ul style="list-style-type: none"> a. Leave the designation of isolated wetlands as is in Draft 2, b. Incorporate the recommendations of Ecology.
Staff Recommendation	<p>Staff recommends (option b.) to drop Category III wetlands and incorporate their suggested language to read:</p> <p>3. <i>Small, Hydrologically Isolated Category IV Wetlands (less than 1,000 sq. ft.). The Decision maker may allow small, hydrologically isolated Category III and IV wetlands to be exempt from the requirement to avoid impacts (AMC 19.70.135(A)(1) Mitigation requirements) and allow alteration of such wetlands if all of the following conditions are met:</i></p> <ul style="list-style-type: none"> <i>a. The remaining mitigation sequencing actions of AMC 19.70.135(A) (2)-(6) are followed;</i> <i>b. The wetland is less than 1,000 square feet in area;</i> <i>c. The wetland does not have unique characteristics that would be difficult to replace through standard compensatory mitigation practices.</i> <i>d. The wetland is a low quality Category IV wetland with a habitat score of less than 6 points in the adopted rating system;</i> <i>e. The wetland does not provide significant suitable breeding habitat for native amphibian species. Suitable breeding habitat may be indicated by adequate stable and seasonal inundation that is persistent from February to at least through April and presence of thin-stemmed emergent vegetation and/or clean water;</i> <i>f. The wetland does not contain habitat identified as essential for local populations of priority species identified by the Washington Department of Fish and Wildlife or species of local importance which are regulated as fish and wildlife habitat conservation areas in Chapter 19.70.300 (FWHCA section);</i> <i>g. The wetland is not associated with shorelines of the state or their associated buffers;</i> <i>h. The wetland is not associated with riparian areas or buffers;</i> <i>i. The wetland is not part of a wetland mosaic; and</i> <i>j. A mitigation plan to replace lost wetland functions and values is developed, approved, and implemented consistent with AMC 19.70.140.</i> <i>k. In order to verify that the wetland meets these exemption conditions, a critical area report for wetlands meeting the requirements in this chapter must be submitted.</i>
Wetland Buffers Tables 19.70.250	<p><i>Change requested by Dept. of Ecology:</i></p> <p>Ecology has recommended a few changes to the Wetland buffer tables, this will allow our Land Use Intensity approach to match the Ecology Buffer Recommendations.</p> <p>Options:</p> <ul style="list-style-type: none"> a. Revert our buffer table back to those shown in the current code in 17.70.340(1), and incorporate the updated habitat score numbers, b. Adopt the buffer tables as currently shown in Draft 2,

AMC Reference	Recommended Change
---------------	--------------------

c. Keep the Land Use Intensity approach but modify the numbers as recommended by Ecology.

Staff Recommendation

Staff feels the Land Use Intensity approach is a better method for the City of Anacortes and recommends (option c.) by changing the buffer numbers as such:

1. Buffer Widths for wetlands that have a high level of function for wildlife habitat as indicated by a habitat function score of 8 or 9 points or more on the wetland rating form:

Table 19.70.250 (B).

Wetland Category	Buffer Width (feet)		
	High Intensity	Moderate Intensity	Low Intensity
Category I	200 300	190 225	150 150
Category II	200 300	150 225	100 150
Category III	150	110	75
Category IV	50	40	25

2. Buffer Widths for wetlands that have a moderate level of function for wildlife habitat as indicated by a habitat function score of 6 or 7 points or more on the wetland rating form:

Table 19.70.250 I.

Wetland Category	Buffer Width (feet)		
	High Intensity	Moderate Intensity	Low Intensity
Category I	150	110	75
Category II	150	110	75
Category III	150	100 110	60 75
Category IV	50	40	25

3. Buffer Widths for wetlands that have a low level of function for wildlife habitat as indicated by a habitat function score of 3 to 5 points or more on the wetland rating form:

Table 19.70.250 (D).

Wetland Category	Buffer Width (feet)		
	High Intensity	Moderate Intensity	Low Intensity
Category I	100	75	50
Category II	100	75	50
Category III	80	60	50 40
Category IV	50	40	25

Wetland Buffers
19.70.250

Change requested by Dept. of Ecology and Public Comment:

The public has requested we look at encouraging habitat corridors for wildlife.

Ecology: Here is some language regarding buffer reductions that you might want to consider in order to provide more flexibility for applicants and to incentivize low-impact development practices. (see below)

Options:

AMC Reference	Recommended Change				
	<ol style="list-style-type: none"> a. Keep Draft 2 buffer tables as proposed. b. Incorporate the recommendation from Ecology to allow smaller buffers for people who install wetland protection measures. 				
Staff Recommendation	<p>Staff agrees with Ecology that incentivizing buffer improvements is a good idea. Smaller high functioning buffers are better for critical areas than bigger low functioning buffers. We recommend incorporating Ecology's recommendation to read:</p> <ol style="list-style-type: none"> 1. For wetlands that score 6 points or more for habitat function, buffer widths for high intensity may be reduced to moderate intensity if both of the following criteria are met: <ol style="list-style-type: none"> a. A relatively undisturbed, vegetated corridor at least 100 feet wide is protected between the wetland and any other relatively undisturbed area, as defined in the 2014 wetland rating system, or any other Priority Habitat as defined by the Washington State Department of Fish and Wildlife. The latest definitions of Priority Habitats and their locations are available on the WDFW web site at: http://wdfw.wa.gov/hab/phshabs.htm). The corridor must be protected for the entire distance between the wetland and the relatively undisturbed area or Priority Habitat by some type of legal protection such as a conservation easement. Presence or absence of a nearby habitat must be confirmed by a qualified biologist. b. The measures in Table XX are implemented, where applicable, to minimize the impacts of the adjacent land uses. 2. For wetlands that score 3-5 habitat points, only the measures in Table XX are required for the use of moderate intensity buffer widths. 3. If an applicant chooses not to apply the mitigation measures in Table XX, or is unable to provide a protected corridor where available, then high intensity buffer widths must be used. <p>Table XX Required measures to minimize impacts to wetlands (All measures are required if applicable to a specific proposal)</p> <table border="1" data-bbox="354 1654 1528 1745"> <thead> <tr> <th data-bbox="354 1654 626 1696">Disturbance</th> <th data-bbox="626 1654 1528 1696">Required Measures to Minimize Impacts</th> </tr> </thead> <tbody> <tr> <td data-bbox="354 1696 626 1745">Lights</td> <td data-bbox="626 1696 1528 1745"> <ul style="list-style-type: none"> • Direct lights away from wetland </td> </tr> </tbody> </table>	Disturbance	Required Measures to Minimize Impacts	Lights	<ul style="list-style-type: none"> • Direct lights away from wetland
Disturbance	Required Measures to Minimize Impacts				
Lights	<ul style="list-style-type: none"> • Direct lights away from wetland 				

AMC Reference	Recommended Change	
	Noise	<ul style="list-style-type: none"> • Locate activity that generates noise away from wetland • If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source • For activities that generate relatively continuous, potentially disruptive noise, such as certain heavy industry or mining, establish an additional 10' heavily vegetated buffer strip immediately adjacent to the outer wetland buffer
	Toxic runoff	<ul style="list-style-type: none"> • Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered • Establish covenants limiting use of pesticides within 150 ft of wetland • Apply integrated pest management
	Stormwater runoff	<ul style="list-style-type: none"> • Retrofit stormwater detention and treatment for roads and existing adjacent development • Prevent channelized flow from lawns that directly enters the buffer • Use Low Intensity Development techniques (for more information refer to the stormwater manual)
	Change in water regime (increase or decrease in the frequency, duration, timing, extent, depth or variability of water in a wetland)	<ul style="list-style-type: none"> • Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns
	Pets and human disturbance	<ul style="list-style-type: none"> • Use privacy fencing OR plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion • Place wetland and its buffer in a separate tract or protect with a conservation easement
	Dust	<ul style="list-style-type: none"> • Use best management practices to control dust
19.70.350, FWHCA - Specific Standards	<p><i>Change requested by Public Comment:</i></p> <p>The public has been concerned with the removal of the introduction regarding the ACFL. One public comment received was to add a statement to the code to give some context of the importance of the ACFL:</p> <p><i>The Anacortes Community Forest Lands include three lakes and their watersheds, numerous wetlands, rock bluffs, old growth forests, grassy knolls, windswept hilltops, sheltered caves, and a variety of other habitats and microclimates that provide a unique and irreplaceable habitat for both imperiled and commonplace species.</i></p> <p>Options:</p> <ol style="list-style-type: none"> Leave the ACFL Language as is in Draft 2, Replace the Introduction as an appendix in the end of the code section, Add a purpose statement to the ACFL section to give proper context. 	

AMC Reference	Recommended Change
Staff Recommendation	<p>Staff agrees that context would be helpful and recommends (Option c.) by adding a purpose statement to 19.70.350(C)(1) to read:</p> <p><i>Purpose. The Anacortes Community Forest Lands include three lakes and their watersheds, numerous wetlands, rock bluffs, old growth forests, grassy knolls, windswept hilltops, sheltered caves, and a variety of other habitats and microclimates that provide a unique and irreplaceable habitat for both imperiled and commonplace species. This land has been dedicated by the City for the preservation of forest lands and species, as described in the Conservation Easement documents, the ACFL Comprehensive Plan, and in the newly created Anacortes Municipal Code Title 12.</i></p>
19.70.350, FWHCA - Specific Standards	<p><i>Changes requested by Staff and the Skagit Land Trust:</i></p> <p>To keep formatting consistent we propose adding a purpose statement to (C)(2) of this section, March Point Heronry (using existing language in subsection a.) and revisions to the specific standards as recommended by the Skagit Land Trust based on Best Available Science and local knowledge of the habitat needs.</p> <p>Current Language:</p> <p><i>C.2. March Point Heronry</i></p> <p><i>a. Because Skagit County is home to the greatest concentration of nesting Great Blue Heron in the Salish Sea, March Point being the largest, the City has identified the March Point Heronry as a habitat of local importance.</i></p> <p><i>b. Proposed development activities within 1,000 feet, or that is likely to impact the colony, must provide a critical areas assessment report and habitat management plan that follows at a minimum the guidelines provided by WDFW’s Management Recommendations for Washington’s Priority Species (March 2012). https://wdfw.wa.gov/publications/00026/abbreviated_great_blue_heron.pdf.</i></p> <p><i>c. Buffers will be implemented as described in the buffer section below.</i></p> <p><i>d. Colony protection is required for minimum 10-years after abandonment.</i></p> <p>Options: This is a necessary correction</p>
Staff Recommendation	<p>Staff recommends the subsection read as follows:</p> <p><i>C.2. March Point Heronry</i></p> <p><i>Purpose. Because Skagit County is home to the greatest concentration of nesting Great Blue Heron in the Salish Sea, March Point being the largest, the City has identified the March Point Heronry as a habitat of local importance.</i></p> <p><i>a. Proposed development activities within the 1,000 foot management zone, or that are likely to impact the colony, must provide a critical areas assessment report and habitat management plan that follows at a minimum the guidelines provided by WDFW’s Management Recommendations for Washington’s Priority Species (March 2012).</i></p> <p><i>b. Buffers will be implemented as described in the buffer section below.</i></p>

AMC Reference	Recommended Change
	<p data-bbox="391 151 1273 184"><i>c. Colony protection is required for minimum 10-years after abandonment.</i></p>
19.70.350	<p data-bbox="354 205 786 239"><i>Changes requested by Skagit Land Trust:</i></p> <p data-bbox="354 277 1523 386">Because the management recommendations were interpreted incorrectly, and because an error was found in the WDFW Recommendations the Skagit Land Trust requests the following changes to the Heron buffers.</p> <p data-bbox="354 432 578 466">Current Language:</p> <p data-bbox="354 470 1490 579"><i>Great Blue Heron nesting and breeding areas: Development near a verified heron breeding habitat including nesting colony areas, former nesting colonies, pre-nesting staging areas, and breeding season foraging habitat require:</i></p> <ul style="list-style-type: none"> <li data-bbox="370 588 902 621"><i>i. A year-round urban buffer of 197 feet,</i> <li data-bbox="370 625 1490 701"><i>ii. For unusually load activities that occur during breeding season (February – September) a seasonal buffer of 656 feet, and a Blasting buffer of 3,280 feet.</i> <li data-bbox="370 705 1510 781"><i>iii. A management plan developed by a qualified professional to follow, at a minimum, WDFW’s Management Recommendations for Washington’s Priority Species (March 2012).</i> <p data-bbox="354 835 837 869">Options: This is a necessary correction</p>
Staff Recommendation	<p data-bbox="354 932 906 966">Staff recommends the section read as follows:</p> <p data-bbox="354 1012 1490 1087"><i>Great Blue Heron nesting and breeding areas: Development near a verified heron breeding habitat including nesting colony areas, and former nesting colonies:</i></p> <ul style="list-style-type: none"> <li data-bbox="370 1092 876 1125"><i>i. A year-round urban buffer of 197 feet,</i> <li data-bbox="370 1129 1461 1205"><i>ii. For unusually loud activities that occur during breeding season (February – September) a seasonal buffer of 656 feet, and a Blasting/Extreme noise buffer of 1,320 feet.</i> <li data-bbox="370 1209 1510 1360"><i>iv. A management plan developed by a qualified professional to follow, at a minimum, WDFW’s Management Recommendations for Washington’s Priority Species (March 2012) and that identifies the nesting and breeding site as well as pre-nesting staging areas, and breeding season foraging habitat.</i> <li data-bbox="370 1365 1516 1474"><i>v. For the March’s Point Colony, given the observed and documented sensitivity of this mega-colony to human intrusion and the fact that the colony is in a rare, isolated but tight location, a year-round buffer of 984 feet.</i>
Title 12.18	<p data-bbox="354 1533 760 1566"><i>Change requested by Public Comment:</i></p> <p data-bbox="354 1608 1490 1759">The community has expressed concern with the loss of Appendix B language describing the history and acquisition of the Anacortes Community Forest Lands. A suggestion to add an additional section or chapter of an ACFL specific municipal code was received during the public comment period.</p> <p data-bbox="354 1801 464 1835">Options:</p> <ul style="list-style-type: none"> <li data-bbox="402 1839 1146 1873">a. Leave Draft 2 as is utilizing the current ACFL provisions, <li data-bbox="402 1877 919 1911">b. Add the Addendum back into Draft 2,

AMC Reference	Recommended Change
	c. Create a new chapter for the ACFL in the Anacortes Municipal Code.
Staff Recommendation	Staff recommends adding a section to Title 12, under AMC 12.19 where detailed information about the Anacortes Community Forest Lands can go with Appendix B.