

ORDINANCE NO. 53-19

AN ORDINANCE of the City of Richland amending Richland Municipal Code Sections 22.10.400 and 22.10.405 related to critical areas.

WHEREAS, the City has need, from time to time, to update the Richland Municipal Code (RMC) to eliminate conflict and ambiguity, or to bring it into alignment with current practices or state or federal law; and

WHEREAS, the current language of Richland Municipal Code Sections 22.10.400 and 22.10.405 leave room for unintended interpretation; and

WHEREAS, on September 25, 2019, the Richland Planning Commission held a duly noticed public hearing to solicit comments from the public on proposed changes to RMC 22.10.400 and RMC 22.10.405.

NOW, THEREFORE, BE IT ORDAINED by the City of Richland as follows:

Section 1. Richland Municipal Code Section 22.10.400, entitled On-site density transfer for critical areas, as first enacted by Ordinance No. 48-93, and last amended by Ordinance No. 40-17A, is hereby amended to read as follows:

**22.10.400 On-site density transfer for critical areas.**

A. An owner of a residential site or property containing critical areas may be permitted to transfer the density attributable to the critical area and associated buffer area or setback to another non-sensitive portion of the same site or property, subject to the limitations of this section and other applicable regulations.

B. Density can be transferred from the critical portion and associated buffer area or setback to the non-sensitive portion of the residential site subject to the following conditions:

1. The basis for the density transfer will be an actual site plan for the site or property as if it did not have the critical area, subject to the provisions of the underlying zoning classification, applicable setbacks, and other standards of the city code or other land development regulations.

2. Based on the above site plan, a portion of the density that could be achieved on the critical portion and associated buffer or setback of the site can be transferred to the non-sensitive portion of the site. The following chart indicates the amount of density that can be transferred, based on the degree of sensitivity of the critical area:

Category of Critical Area	Percent of Density on Critical Area That May Be Transferred on Site
Category I and II Wetlands	25%

Category of Critical Area	Percent of Density on Critical Area That May Be Transferred on Site
High and Very High Geologically Hazardous Area	25%
Seismic Hazard	25%
Category III and IV Wetlands	100%
Low and Medium Geologically Hazardous Area	100%

3. ~~When~~ When transferring the density from the critical portion of the site and its associated buffer or setback to the non-sensitive portion of the site, the overall density of the non-sensitive portion of the site may be increased, provided the additional density does not exceed what would be allowed by the next residential zoning classification, up to the equivalent next density classification. ~~However, in~~ the case of the highest density multifamily zoning classifications, the density may not be increased beyond the current density.

4. The non-wetland portion of the site is not constrained by another environmentally critical or geologically hazardous area regulated by this code.

5. The non-wetland portion of the site is subject to the ~~density limitations of the new density zoning classification, and to applicable setbacks,~~ lot size and setback requirements of the next residential zoning classification. Land uses and other standards of the city code or other land development regulations shall continue to apply as per the existing zoning classification.

C. An on-site density transfer shall meet the requirements and follow the procedures of:

1. Planned unit development, RMC 23.50.010;
2. Plats and subdivisions, RMC Title 24.

D. The fact that development rights have been sold or received, and all related conditions, will be recorded, in a form acceptable to the city attorney, to become a part of the deed of the "sending" and "receiving" properties.

Section 2. Richland Municipal Code Section 22.10.405, entitled Density bonus for increased buffers, as first enacted by Ordinance No. 48-93, and last amended by Ordinance No. 40-17A, is hereby amended to read as follows:

**22.10.405 Density bonus for increased buffers.**

A. An owner of a residential site or property containing critical areas who chooses to increase the buffers adjacent to a wetland or wildlife habitat area beyond the minimums required under this title shall be permitted to increase the density on the portion of the site that lies outside of a critical area or its required buffer. The amount of density bonus shall be based on the amount of additional buffer lands provided, through a calculation of the area of the additional buffer and/or wildlife corridor proposed on site, expressed as a

percentage of the total site area, exclusive of the total wetland, wetland buffer area and/or wildlife corridor as required under the provisions of this chapter. This percentage can then be doubled and applied to the total number of units located within the noncritical area portion of the site to determine the allowed density increase.

An example application of the density bonus provision is as follows: An applicant has a 15-acre site with an identified wetland area and buffer and proposes an additional three-quarter acre of buffer, which translates to five percent of the total site. This entitles the developer to a 10 percent increase in lot count. If the existing zoning permitted 40 lots, the density bonus would entitle the applicant to an additional four lots.

B. In order to qualify for a density bonus:

1. Any additional wetland buffer area must be adjacent to the required wetland buffer area;
2. Any additional habitat buffer area must be adjacent to the required habitat area;
3. A wildlife corridor not otherwise required by this title may qualify for a density bonus; provided, that the fish and wildlife habitat conservation area report prepared by a qualified professional identifies the location of said wildlife corridor as beneficial to priority, threatened or endangered species.

C. ~~In~~ When transferring the density from the critical portion of the site and its associated buffer or setback to the non-sensitive portion of the site, the overall density of the non-sensitive portion of the site may be increased, provided the additional density does not exceed what would be allowed by the next residential zoning classification. ~~up to the equivalent next density classification. However, in~~ the case of the highest density multifamily zoning classifications, the density may not be increased beyond the current density.

Section 3. This ordinance shall take effect the day following its publication in the official newspaper of the City of Richland.

Section 4. The City Clerk and the codifiers of this ordinance are authorized to make necessary corrections to this ordinance, including but not limited to the correction of scrivener's errors/clerical errors, section numbering, references, or similar mistakes of form.

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PASSED by the City Council of the City of Richland, Washington, at a regular meeting on the 5<sup>th</sup> day of November, 2019.

  
ROBERT J. THOMPSON  
Mayor

ATTEST:

  
TONI FULTON, Acting Deputy City Clerk

APPROVED AS TO FORM:

  
HEATHER KINTZLEY, City Attorney

Date Published: November 10, 2019