




Facts for Streamside Property Owners: What you need to know to work *in* the creek

Streams provide beautiful natural amenities, but if a creek runs through your property, you have certain responsibilities to be aware of, including understanding the code requirements that regulate activities in and near the stream, like vegetation management. This handout is intended to help streamside homeowners understand their responsibilities when proposing to work in the creek: what activities can be done on your own; what activities will need a permit (and which permit); and, what activities may require you to hire professional assistance.

 *When streams flow through private property, it is **the property owner's responsibility** (not the City's) to undertake activities of concern such as removal of fallen logs or debris, or protecting streambank against erosion, in a manner consistent with the regulations.*

The City previously created [Development Services Handout CA-9](#), which describes Bellevue policy and permits regarding vegetation management *adjacent* to the creek in the Critical Area Buffer.

This handout is intended to provide clarification about what permits are required to conduct work *in* the creek. For example, the steps you'd need to take if you were concerned about a large tree that fell in the creek on your property, or if you were concerned about erosion of your stream bank. This summary is not intended to be comprehensive, but rather to fill a gap in previous guidance and help clarify the regulations and requirements.

More details and information about specific requirements for your property can be provided by City of Bellevue Land Use at 425-452-4188, or the other environmental permitting agencies mentioned below.

Regulations and Requirements

Streams are considered valuable natural resources and protecting them and ensuring that they provide beneficial habitat for fish and wildlife is recognized and codified in City, State, and Federal regulations.

Permits required for work within the creek

If you would like to remove a fallen log or reinforce or repair the streambank on your property, you will need to get several permits.

Desired Activity within the creek	Bellevue Critical Areas Permit	Bellevue Clearing and Grading Permit	Bellevue Shoreline Permit	Washington State HPA Permit	Section 404 CWA US Army Corps of Engineers Permit
Remove fallen tree or log in the creek	Yes	Yes	Yes, If you live within 200-feet of Lake Washington	Yes – except pieces less than 6 feet long and 4 inches in diameter	No
Construct bank protection	Yes	Yes	Yes, If you live within 200-feet of Lake Washington	Yes, if work is below ordinary high water ¹	Yes, if work is below ordinary high water ¹

¹ There are several definitions of the ordinary high water mark in state statutes. This definition is from Washington State Administrative Code – Hydraulic Code Rules, administered by the Washington Department of Fish and Wildlife ([WAC 220-660-030](#)): "The ordinary high water line" or "OWHL" means the mark on the shores of all waters that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil or vegetation a character distinct from that of the abutting upland..."

To make sure you understand how to navigate the permit requirements, a great first step would be to meet with Development Services Land Use Review staff at the City of Bellevue. They can help map out the process and requirements for you. They are located on the first floor of Bellevue City Hall. They can also help by suggesting a list of qualified environmental professionals that can assist you in preparing plans, permit applications, and mitigation (below), if necessary.

Mitigation

Mitigation for environmental impacts associated with the removal of trees or large woody debris from the creek is required under both Washington State and Bellevue regulations. Examples of mitigation requirements would be the installation of the fallen log in another position in the stream, the installation of new logs or root wads, and/or planting additional trees in streamside areas. Mitigation for work conducted under emergency conditions will be required once the emergency situation has passed.

Mitigation requirements are site- and situation-dependent. The preparation of a site-specific mitigation plans is required for any work that requires a City Critical Areas Land use permit. See [Development Services Handout CA-5](#) for more information.


Vegetation Management Plan

Streamside property owners can empower themselves to manage the vegetation along their creek and prune or remove hazard trees before they fall into or encroach on the creek by obtaining an approved Vegetation Management Plan from the City of Bellevue.

A Vegetation Management Plan is a planning tool that provides a legal way to manage vegetation within the creek buffer (50-foot on most creeks). Note that routinely managed ornamental plants and lawns, established before the Critical Areas Ordinance went into effect in 2006 can continue to be managed without a plan. However you may have other areas of your property or streambanks that do not meet that criteria.

The plan can be utilized to allow long-term maintenance activities under a single City permit. In subsequent years, maintenance activities following the prescriptions identified in the plan can be done without additional permit requirements.

In your neighborhood, a Vegetation Management Plan could be developed for individuals or, if property owners were to join together, for the entire creek corridor. A qualified landscape architect, or environmental consultant can assist you in preparing a successful plan.

 *If a fallen log is deemed to be an emergency, it may be pruned or removed provided the landowner makes reasonable efforts to notify the City, and within 14 days following such action, the landowner shall submit a restoration plan that demonstrates compliance with the provisions of this part.*




Emergencies

Emergency HPA Information

“Emergency HPAs” can be issued as quickly as the same day if there is an immediate threat to people, property, or the environment. If you need to conduct your proposed project quickly because of an emergency do one of these:

- During normal business hours, contact your local WDFW Habitat Biologist at: (425) 313-5683
- If you cannot reach your local WDFW Habitat Biologist, contact the WDFW office in Mill Creek at: (425) 775-1311 or email at TeamMillCreek@dfw.wa.gov
- Outside of normal business hours, call the Emergency HPA Hotline at: (360) 902-2537


If you have questions or need additional information, please contact the Land Use Desk in the Development Services Center at 425-452-4188 or landusereview@bellevuewa.gov.

If you cannot reach Bellevue Land Use Desk or if the problem is on Public Property, then contact Bellevue Operations and Maintenance and 24-Hour Emergency Response at: 425-452-7840 or by email at OMSsupport@bellevuewa.gov



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More Background for some of the State, Federal and City codes relating to work within Stream Corridors

Washington State Code

Hydraulic Project Approval

The state regulates work within streams through its Hydraulic Project Approval (HPA) permit process ([WAC 220-660](#)), administered by the Washington Department of Fish and Wildlife (WDFW). WDFW recognizes that trees, logs, and other large woody debris play a vital role in supporting salmon, trout, and other fish and wildlife found in streams.

In [WAC 220-660-030](#) large woody material is defined as “trees and tree parts *larger than four inches in diameter and longer than six feet*, and rootwads, wholly or partially waterward of the ordinary high water line.”

Although WDFW is strongly in favor of leaving large woody material in streams, WAC 220-660-220 (3), states that “The department will approve the repositioning or removal of large woody material within the watercourse when needed to protect life, the public, property, or when needed to construct or mitigate for a hydraulic project...If large woody material must be removed from the channel, the department will require compensatory mitigation if the wood removal including cutting diminishes habitat functions or value.”

Federal Code

The US Army Corps of Engineers regulates the dredging and the placement of fill in streams and wetlands through its *Section 404 of the Clean Water Act Permit*. They have jurisdiction over any work below the “ordinary high water mark” A permit from the Corps would be required if you are wanting to stabilize your streambank with rock, for example. However, using rock to protect a streambank is not looked upon favorably by the City or WDFW, who would prefer the use of wood and vegetation.

According to 33 CFR 323.2(ii), the Corps does not consider the following to constitute the discharge of dredged material, and would therefore not require a permit: “Activities that involve only the cutting or removing of vegetation above the ground, where the activity neither substantially disturbs the root system nor involves mechanized pushing, dragging, or other similar activities that redeposit excavated soil material.”

Typically, you will be seeking a Nationwide Permit (NWP) for your activities. These NWP’s streamline the permit process. For example, NWP 27 is for Aquatic Habitat Restoration, Establishment, and Enhancement Activities, and NWP 13 is for Bank Stabilization, and NWP 3 is for Maintenance.

Bellevue City Code

Existing Landscape Maintenance [20.25H.055.C.3.h](#)

and Vegetation Management Plans [20.25H.055.C.3.i \(iv\)](#)

h. Existing Landscape Maintenance. Routine maintenance of existing legally established landscaping and landscape features developed prior to August 1, 2006, in the critical area or critical area buffer may be continued in accordance with this section. For purposes of this section, “routine maintenance” includes mowing, pruning, weeding, planting annuals, perennials, fruits and vegetables, and other activities associated with maintaining a legally established ornamental or garden landscape and landscape features. Also, for purposes of this subsection, “landscape features” refers to fences, trellises, rockeries and retaining walls, pathways, arbors, patios, play areas and other similar improvements. To be considered routine maintenance, activities shall have been consistently carried out so that the ornamental species predominate over native or invasive species. Maintenance shall be performed with hand tools or light equipment only, and no significant trees may be removed, except in accordance with a Vegetation Management Plan under subsection C.3.i of this section. Use of fertilizers, insecticides and pesticides is prohibited unless performed in accordance with the City of Bellevue’s “Environmental Best Management Practices” now or as hereafter amended.

i. Vegetation Management. Modification of vegetation in a critical area or critical area buffer that is not considered routine maintenance under subsection C.3.h of this section may be allowed if it meets the requirements of this section. Except where otherwise noted, a Critical Areas Land Use Permit is required. The following activities may also require a Clearing and Grading Permit, Chapter **23.76** BCC and/or SEPA review and must comply with all other Land Use Code provisions related to tree preservation and landscaping, including but not limited to LUC **20.20.520** and **20.20.900**.

i. Noxious Species. The removal of the following vegetation with hand labor and hand-operated equipment from a critical area buffer, or from a geologic hazard critical area, is allowed without requiring a Critical Areas Land Use Permit or a Vegetation Management Plan:

- (A) Invasive and noxious weeds;
- (B) English Ivy (*Hedera helix*);
- (C) Himalayan blackberry (*Rubus discolor*, *R. procerus*); and
- (D) Evergreen blackberry (*Rubus laciniatus*).

ii. Hazard Trees. The removal of trees from the critical area or critical area buffer that are hazardous, posing a threat to public safety, or posing an imminent risk of damage to an existing structure, public or private road or sidewalk, or other permanent improvement, is allowed without requiring a Critical Areas Land Use Permit or a Vegetation Management Plan; provided, that:

- (A) The applicant submits a report on a form provided by the Director from a certified arborist, registered landscape architect, or professional forester that documents the hazard and provides a replanting schedule for the replacement trees;
- (B) Tree cutting shall be limited to pruning and crown thinning, unless otherwise justified by a qualified professional. Where pruning or crown thinning is not sufficient to address the hazard, trees should be converted to wildlife snags and completely removed only where no other option removes the identified hazard;
- (C) All vegetation cut (tree stems, branches, etc.) shall be left within the critical area or buffer unless removal is warranted due to the potential for creating a fire hazard or for disease or pest transmittal to other healthy vegetation;
- (D) The landowner shall replace any trees that are removed pursuant to a restoration plan meeting the requirements of LUC **20.25H.210**;
- (E) If a tree to be removed provides critical habitat, such as an eagle perch, a qualified wildlife biologist shall be consulted to

determine timing and methods for removal that will minimize impacts; and

(F) Hazard trees determined to pose an imminent threat or danger to public health or safety, to public or private property, or of serious environmental degradation may be removed or pruned by the landowner on whose property the tree is located prior to receiving the permits required under this part; provided, that the landowner makes reasonable efforts to notify the City, and within 14 days following such action, the landowner shall submit a restoration plan that demonstrates compliance with the provisions of this part.

iii. Forest Health. Measures to control a fire or halt the spread of disease or damaging insects; provided, that the removed vegetation shall be replaced pursuant to a restoration plan meeting the requirements of LUC **20.25H.210**.

iv. Fire Safety. Where required pursuant to the International Fire Code, Section 304.1.2, as adopted and amended by the City of Bellevue, vegetation may be removed from the critical area or critical area buffer; provided, that the removed vegetation shall be replaced pursuant to a restoration plan meeting the requirements of LUC **20.25H.210**.

v. Vegetation Management Plan – Maintenance for Utility, Transportation, Parks and Public Facility Projects. Vegetation may be periodically removed from the critical area or critical area buffer as part of an ongoing routine maintenance plan for utility, transportation, park and other public facility projects allowed pursuant to subsection B of this section. Such removal shall be pursuant to a Vegetation Management Plan meeting the requirements of this subsection.

- (A) The Vegetation Management Plan shall be prepared by a qualified professional.
- (B) The Vegetation Management Plan shall include:
 - (1) A description of existing site conditions, including existing critical area functions and values;
 - (2) A site history;
 - (3) A discussion of the plan objectives;
 - (4) A description of all sensitive features;
 - (5) Identification of soils, existing vegetation, and habitat associated with species of local importance present on the site;
 - (6) Allowed work windows;
 - (7) A clear delineation of the area within which clearing and other vegetation management practices are allowed under the plan; and

(8) Short- and long-term management prescriptions, including restoration and revegetation requirements. Cleared areas shall be restored and revegetated with native species to the extent such vegetation does not interfere with the function of the allowed structure, trail, facility or system.

vi. Vegetation Management Plan – Other Uses. The Director may approve proposals for vegetation replacement in a critical area buffer, or within a geologic hazard critical area, pursuant to a Vegetation Management Plan. The Vegetation Management Plan may also include a description of proposed vegetation pruning, including pruning techniques and timing and extent of proposed pruning; provided, that proposals to prune vegetation within geologic hazard areas and geologic hazard area buffers may be undertaken without a Critical Areas Land Use Permit or a Vegetation Management Plan in accordance with subsection C.3.i.vii of this section. The Vegetation Management Plan shall satisfy the requirements of subsection C.3.i.v.(B) of this section, except that the following replaces subsection C.3.i.v.(B)(8):

(8) Short- and long-term management prescriptions, including characterization of trees and vegetation to be removed, and restoration and revegetation plans with native species, including native species with a lower growth habit. Such restoration and revegetation plans shall demonstrate that the proposed Vegetation Management Plan will not significantly diminish the functions and values of the critical area or alter the forest and habitat characteristics of the site over time.

Trees and vegetation may not be removed pursuant to this subsection if removal would result in a significant impact to habitat associated with species of local importance, unless the impacted function can be replaced elsewhere within the management area subject to the plan. In no event may a tree or vegetation which is an active nest site for a species of local importance be removed pursuant to this subsection.

In determining whether the vegetation management plan should be approved, the Director shall take into consideration any applicable neighborhood restrictive covenants that address view preservation or vegetation management if so requested in writing. The existence of and provisions of neighborhood restrictive covenants shall not be entitled to any more or less weight than other reports and materials in the record.

vii. Select Vegetation Pruning. Pruning of existing trees and vegetation within a geologic hazard critical area or geologic hazard critical area buffer, with hand labor and hand-operated equipment in accordance with this subsection is allowed without requiring a Critical Areas Land Use Permit or a Vegetation Management Plan, so long as the area is not included within a Native Growth Protection Area (NGPA) or

Native Growth Protection Area Easement (NGPE). A Clearing and Grading Permit, Chapter [23.76](#) BCC, and SEPA review may still be required. The pruning allowed by this subsection shall be performed in accordance with guidelines established by the Director for each of the following pruning techniques: canopy reduction; canopy cleaning; canopy thinning; canopy raising or lifting; structural pruning; and canopy restoration. Where vegetation has been consistently managed by topping or other pruning methods, nothing in this part shall preclude the continuation of such practices. Pruning shall be performed in a manner that ensures continued survival of the vegetation.

In no event may a tree or vegetation which is an active nest site for a species of local importance be pruned pursuant to this subsection.

j. Habitat Improvement Projects. Disturbance, clearing and grading are allowed in the critical area or critical area buffer for habitat improvement projects demonstrating an improvement to functions and values of a critical area or critical area buffer. Habitat improvement projects shall be:

- i. Sponsored or cosponsored by a public agency or federally recognized tribe and whose primary function is habitat restoration; or
- ii. Approved by the Director pursuant to LUC [20.25H.230](#).



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