

PLANNING COMMISSION AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE: Critical Areas Ordinance: Continued Planning Commission Deliberations
DEPARTMENT: Planning and Development Services
PRESENTED BY: Tim Stewart, Director, Planning and Development Services Matthew Torpey, Planner II

EXECUTIVE SUMMARY

On March 17, 2005 the Planning Commission held an open record public hearing on the draft critical areas ordinance. Deliberations began on April 7, 2005 with a page by page review of the proposed critical area amendments. At the conclusion of the meeting, deliberations were continued until the May 19, 2005 Planning Commission meeting.

Attached is a comment matrix that includes amendments to the proposed code that have previously been requested by both staff and the Planning Commission. One new amendment was passed at the April 7, 2005 Planning Commission meeting. This amendment proposed two changes to the proposed amendments. The first was to remove the term "open" from the definition of streams. The second is to establish a 10 foot buffer to piped stream segments. This amendment passed unanimously. The amendment, however, was left open at passage with the proviso that Commissioner Broili would like to amend the buffer requirement to allow more flexibility. Staff recommends that the Commission discuss this amendment to provide clarification and precise wording of the proposed code language.

All inquiries, questions, and comments in regards to the draft documents may be directed to Matt Torpey, Planner II. City of Shoreline, 17544 Midvale Ave. N., Shoreline, WA 98133. (206) 546-3826, or email mtorpey@ci.shoreline.wa.us

STAFF RECOMMENDATION

Staff recommends that the Planning Commission continues deliberation on the draft critical areas ordinance. Staff also suggests that the Planning Commission identify to staff which additional amendments, if any, they would like to see included in the matrix as well as clarification of the amendment passed at the April 7, 2005 meeting. Once proposed amendments have been identified by the Commission, staff will provide any required information prior to a future Planning Commission meeting where further deliberations are to take place.

ATTACHMENTS

Attachment I: Proposed Amendments to the CAO

Proposed Changes to the Draft Critical Areas Ordinance

Item #	Current Draft Code Section	Proposed Change to Draft Code	Proposed Draft Code Section
1	<p>20.20.046 S definitions.</p> <p>Streams</p> <p>Those areas in the City of Shoreline where <u>open</u> surface waters produce a defined channel or bed, not including irrigation ditches, canals, storm or surface water runoff devices or other entirely artificial <u>open</u> watercourses, unless they are used by salmonids or are used to convey streams naturally occurring prior to construction in such watercourses. <u>A channel or bed need not contain water year-round, provided that there is evidence of at least intermittent flow during years of normal rain fall.</u></p>	<p>Remove the phrase “in the City of Shoreline.”</p>	<p>20.20.046 S definitions.</p> <p>Streams</p> <p>Those areas in the City of Shoreline where <u>open</u> surface waters produce a defined channel or bed, not including irrigation ditches, canals, storm or surface water runoff devices or other entirely artificial <u>open</u> watercourses, unless they are used by salmonids or are used to convey streams naturally occurring prior to construction in such watercourses. <u>A channel or bed need not contain water year-round, provided that there is evidence of at least intermittent flow during years of normal rain fall.</u></p>
2	<p>20.80.030 Exemptions.</p> <p>...</p> <p><u>L.</u> Educational activities, scientific research, and outdoor recreational activities, including but not limited to interpretive field trips, bird watching, and use of existing trails for horseback riding, bicycling and hiking, that will not have an adverse effect on the critical area;</p>	<p>Remove “Horseback Riding”</p> <p>Insert “public beach access and other water recreation related activities”</p>	<p>20.80.030 Exemptions.</p> <p>...</p> <p><u>L.</u> Educational activities, scientific research, and outdoor recreational activities, including but not limited to interpretive field trips, bird watching, <u>public beach access including water recreation related activities</u>, and use of existing trails for horseback riding, bicycling and hiking, that will not have an adverse effect on the critical area;</p>

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Item #	Current Draft Code Section	Proposed Change to Draft Code	Proposed Draft Code Section
3	<p>20.80.080 Alteration or development of critical areas – Standards and criteria. All impacts to critical areas functions and values shall be mitigated. This section applies to mitigation required with all critical areas reviews, approvals and enforcement pursuant to this Chapter. This section is supplemented with specific measures under subchapters for particular critical areas. The proponent for a project involving critical areas shall seek to avoid, minimize and mitigate the impacts to the critical areas through Mitigation actions by an applicant or property owners that occur in the following sequence:</p>	Remove the phrase “seek to” from this code section	<p>20.80.080 Alteration or development of critical areas – Standards and criteria. All impacts to critical areas functions and values shall be mitigated. This section applies to mitigation required with all critical areas reviews, approvals and enforcement pursuant to this Chapter. This section is supplemented with specific measures under subchapters for particular critical areas. The proponent for a project involving critical areas shall <u>seek to avoid, minimize and mitigate the impacts to the critical areas through Mitigation actions by an applicant or property owners that</u> occur in the following sequence:</p>
4	<p>20.80.230 Required buffer areas. ... D. Landslide hazard area buffers may be reduced to a minimum of 15 feet when technical studies conclusively demonstrate that the reduction will adequately protect <u>people and</u> the proposed and surrounding development from the landslide hazard.</p>	Remove “conclusively” and reword the section to reduce risk of a hazard to people and property.	<p>20.80.230 Required buffer areas. ... D. Landslide hazard area buffers may be reduced to a minimum of 15 feet when technical studies conclusively demonstrate that the reduction will <u>not increase the risk of the hazard to people or property on or off site.</u></p>

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Item #	Current Draft Code Section	Proposed Change to Draft Code	Proposed Draft Code Section
5	<p>20.80.270 Classification.</p> <p>Fish and wildlife habitat areas are those areas <u>designated by the City based that meet on any of the following criteria, review of the best available science, and input from Washington Department of Fish and Wildlife, Washington Department of Ecology and other agencies:</u></p> <p>A. The documented presence of species proposed or listed by the Federal government or State of Washington as endangered, threatened, critical, or priority <u>documented by best available science</u>; or</p> <p>B. The presence of heron rookeries or <u>priority</u> raptor nesting trees; or</p> <p>C. Type I wetlands, as defined in these regulations; or</p> <p>D. Type I streams, as defined in these regulations; or</p> <p>E. Those areas which include the presence of locally significant species, if the City has designated such species. (Ord. 238 Ch. VIII § 4(B), 2000).</p>	<p>All regulated streams and wetlands, and their buffers should be considered fish and wildlife habitat areas.</p> <p>The Puget Sound should be considered a fish and wildlife habitat area.</p>	<p>20.80.270 Classification.</p> <p>A. <u>Fish and wildlife habitat conservation areas are those areas designated by the City based that meet on review of the best available science; input from Washington Department of Fish and Wildlife, Washington Department of Ecology, and other agencies; and any of the following criteria, review of the best available science, and input from Washington Department of Fish and Wildlife, Washington Department of Ecology and other agencies:</u></p> <p><u>1A.</u> The documented presence of species proposed or listed by the Federal government or the State of Washington as endangered, threatened, critical, or priority <u>documented by best available science</u>; or</p> <p><u>2B.</u> The presence of heron rookeries or <u>priority</u> raptor nesting trees; or</p> <p><u>3. Streams and wetlands and their associated buffers that provide significant habitat for fish and wildlife.</u></p> <p>C. Type I wetlands, as defined in these regulations; or</p> <p>D. Type I streams, as defined in these regulations; or</p>

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Item #	Current Draft Code Section	Proposed Change to Draft Code	Proposed Draft Code Section
5			<p><u>B. The City designates the following fish and wildlife habitat conservation areas that meet the above criteria, and this designation does not preclude designation of additional areas as provided in SCC 20.80.270(A):</u>€</p> <p><u>1. All regulated streams and wetlands and their associated buffers as determined by a qualified specialist.</u></p> <p><u>2D. The waters, bed and shoreline of Puget Sound up to its the ordinary high water mark.</u></p>
6	<p>20.80.470 Classification.</p> <p><i>[Numbering is corrected in this section.]</i></p> <p>Streams shall be designated Type I, Type II, Type III, and Type IV according to the criteria in this section. When more than one stream type is present in short alternating segments on a subject property, it will be classified according to the stream type which is more restrictive.</p> <p>A. "Type I streams" are those streams identified as "Shorelines of the State" under the City Shoreline Master Program.</p> <p>B. "Type II streams" are those natural-streams that are not Type I streams and are either perennial or intermittent and <u>have salmonid fish use</u>have one of the following characteristics:</p> <p>1. Salmonid fish use;</p>	See next page for proposed change.	<p>20.80.470 Classification.</p> <p><i>[Numbering is corrected in this section.]</i></p> <p>Streams shall be designated Type I, Type II, Type III, and Type IV according to the criteria in this section. When more than one stream type is present in short alternating segments on a subject property, it will be classified according to the stream type which is more restrictive.</p> <p>A. "Type I streams" are those streams identified as "Shorelines of the State" under the City Shoreline Master Program.</p> <p>B. "Type II streams" are those natural-streams</p>

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	<p>2. Potential for salmonid fish use; or 3. Significant recreational value.</p> <p>C. "Type III streams" are those natural streams with perennial (year-round) or intermittent flow and are not used by salmonid fish and have no potential to be used by salmonid fish.</p> <p>D. "Type IV streams" are those streams and natural drainage swales with perennial or intermittent flow with channel width less than two feet taken at the ordinary high water mark that are not used by salmonid fish.</p> <p>E. <u>For the purposes of this section, "salmonid fish use" and "used by salmonid fish" is presumed for:</u></p> <p><u>1. Streams where naturally reoccurring use by salmonid populations has been documented by a government agency;</u> <u>2. Streams that are fish passable by salmonid populations from Lake Washington or Puget Sound, as determined by a qualified professional based on review of stream flow, gradient and barriers and criteria for fish passability established by the Washington Department of Fish and Wildlife; and</u> <u>3. Streams that are planned for restoration in a 6-year capital improvement plan adopted by a government agency that will result in a fish passable connection to Lake Washington or Puget Sound.</u></p> <p><u>The Department may waive the presumption of salmonid fish use for stream segments where a qualified professional has determined there are confirmed, long term water quality parameters making the stream segment incapable of supporting fish.</u></p> <p>E. "Intentionally created streams" are those manmade streams defined as such in these regulations, and do not include streams created as mitigation. Purposeful creation must be demonstrated to the City through documentation, photographs, statements and/or other evidence. Intentionally created streams may include irrigation and drainage ditches, grass-lined swales and canals. Intentionally created streams are excluded from regulation under this subchapter, except manmade streams that provide critical habitat for species of fish and wildlife that are proposed or listed by the Federal government or State of Washington as endangered, threatened, critical, or priority species.</p>	<p>Include language to allow proposals for private dam removal to be considered when assessing fish passability.</p>	<p>that are not Type I streams and are either perennial or intermittent and have salmonid fish use have one of the following characteristics: 1. Salmonid fish use; 2. Potential for salmonid fish use; or 3. Significant recreational value.</p> <p>C. "Type III streams" are those natural streams with perennial (year-round) or intermittent flow and are not used by salmonid fish and have no potential to be used by salmonid fish.</p> <p>D. "Type IV streams" are those streams and natural drainage swales with perennial or intermittent flow with channel width less than two feet taken at the ordinary high water mark that are not used by salmonid fish.</p> <p>E. <u>For the purposes of this section, "salmonid fish use" and "used by salmonid fish" is presumed for:</u></p> <p><u>1. Streams where naturally reoccurring use by salmonid populations has been documented by a government agency;</u> <u>2. Streams that are fish passable by salmonid populations from Lake Washington or Puget Sound, as determined by a qualified professional based on review of stream flow, gradient and barriers and criteria for fish passability established by the Washington Department of Fish and Wildlife; and</u> <u>3. Streams that are:</u></p> <p style="padding-left: 20px;"><u>a. planned for restoration in a 6-year capital improvement plan adopted by a government agency that will result in a fish passable connection to Lake Washington or Puget Sound.</u> <u>b. Planned removal of private dams that will result in a fish passable connection to Lake</u></p>

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<i>Item #</i>	<i>Current Draft Code Section</i>	<i>Proposed Change to Draft Code</i>	<i>Proposed Draft Code Section</i>
	<p>Intentionally created streams that provide documented critical habitat for these species shall be classified and treated as natural streams. (Ord. 238 Ch. VIII § 8(B), 2000).</p>		<p><u>Washington or the Puget Sound.</u></p> <p><u>The Department may waive the presumption of salmonid fish use for stream segments where a qualified professional has determined there are confirmed, long term water quality parameters making the stream segment incapable of supporting fish.</u></p> <p>E. "Intentionally created streams" are those manmade streams defined as such in these regulations, and do not include streams created as mitigation. Purposeful creation must be demonstrated to the City through documentation, photographs, statements and/or other evidence. Intentionally created streams may include irrigation and drainage ditches, grass-lined swales and canals. Intentionally created streams are excluded from regulation under this subchapter, except manmade streams that provide critical habitat for species of fish and wildlife that are proposed or listed by the Federal government or State of Washington as endangered, threatened, critical, or priority species. Intentionally created streams that provide documented critical habitat for these species shall be classified and treated as natural streams. (Ord. 238 Ch. VIII § 8(B), 2000).</p>

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7	<p>20.80.480 Required buffer areas.</p> <p>...</p> <p><u>H. Restoring piped watercourses.</u></p> <p><u>1. The city encourages the opening of previously channelized/culverted streams and the rehabilitation and restoration of streams.</u></p> <p><u>2. When piped watercourse sections are restored, a protective buffer shall be required of the stream section. The buffer distance shall be based on an approved restoration plan, regardless of stream classification, and shall be a minimum of 10 feet to allow for restoration and maintenance. The stream and buffer area shall include habitat improvements and measures to prevent erosion, landslide and water quality impacts. Opened channels shall be designed to support fish access, unless determine to be unfeasible by the City.</u></p> <p><u>4. Removal of pipes conveying streams shall only occur when the City determines that the proposal will result in a net improvement of water quality and ecological functions and will not significantly increase the threat of erosion, flooding, slope stability or other hazards.</u></p> <p><u>5. Where the buffer of the restored stream would extend beyond a required setback on an adjacent property, the applicant shall seek written agreement from the affected neighboring property owner.</u> (Ord. 299 § 1, 2002; Ord. 238 Ch. VIII § 8(C), 2000).</p>	<p>Change the requirement, “the applicant shall seek written agreement” to “the applicant shall obtain a written agreement.”</p>	<p>20.80.480 Required buffer areas.</p> <p>...</p> <p><u>H. Restoring piped watercourses.</u></p> <p><u>1. The city encourages the opening of previously channelized/culverted streams and the rehabilitation and restoration of streams.</u></p> <p><u>2. When piped watercourse sections are restored, a protective buffer shall be required of the stream section. The buffer distance shall be based on an approved restoration plan, regardless of stream classification, and shall be a minimum of 10 feet to allow for restoration and maintenance. The stream and buffer area shall include habitat improvements and measures to prevent erosion, landslide and water quality impacts. Opened channels shall be designed to support fish access, unless determine to be unfeasible by the City.</u></p> <p><u>4. Removal of pipes conveying streams shall only occur when the City determines that the proposal will result in a net improvement of water quality and ecological functions and will not significantly increase the threat of erosion, flooding, slope stability or other hazards.</u></p> <p><u>5. Where the buffer of the restored stream would extend beyond a required setback on an adjacent property, the applicant shall seek obtain a written agreement from the affected neighboring property owner.</u> (Ord. 299 § 1, 2002; Ord. 238 Ch. VIII § 8(C), 2000).</p>

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8	<p>20.80.320 Classification.</p> <p>Wetlands, as defined by this section, shall be designated Type I, Type II, Type III, Type IV and artificial <u>classified</u> according to the following criteria:</p> <p>A. "Type I wetlands" are those wetlands which meet any of the following criteria:</p> <ol style="list-style-type: none"> 1. The presence of species proposed or listed by the Federal government or State of Washington as endangered, threatened, critical or monitored <u>priority</u>, or the presence of critical or outstanding actual or potential habitat for those species; or 2. Wetlands having 40 percent to 60 percent open water in dispersed patches with two or more wetland subclasses of vegetation; or 3. High quality examples of a native wetland listed in the terrestrial and/or aquatic ecosystem elements of the Washington Natural Heritage Plan that are presently identified as such or are determined to be of Heritage quality by the Department of Natural Resources; or 4. The presence of plant associations of infrequent occurrence. These include, but are not limited to, plant associations found in bogs and in wetlands with a coniferous forested wetland class or subclass occurring on organic soils. <p>B. "Type II wetlands" are those wetlands which are not Type I wetlands</p>	<p>Adopt the Washington State Department of Ecology's Washington State Wetland Rating System for Western Washington.</p>	<p>Section 20.80.320 would need to be repealed in it's entirety. A new section 20.80.320 could adopt Ecology's manual by reference. The manual is viewable at</p> <p>http://www.ecy.wa.gov/biblio/0406025.html</p>

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	<p>and meet any of the following criteria:</p> <ol style="list-style-type: none"> 1. Wetlands greater than one acre (43,560 sq. ft.) in size; 2. Wetlands equal to or less than one acre (43,560 sq. ft.) but greater than one-half acre (21,780 sq.ft.) in size and have three or more wetland classes; or 3. Wetlands equal to or less than one acre (43,560 sq. ft.) but greater than one-half acre (21,780 sq.ft.) in size, and have a forested wetland class or subclasses. <p>C. "Type III wetlands" are those wetlands that are equal to or less than one acre in size and that have one or two wetland classes and are not rated as Type IV wetlands, or wetlands less than one-half acre in size having either three wetlands classes or a forested wetland class or subclass.</p> <p>D. "Type IV wetlands" are those wetlands that are equal to or less than 2,500 square feet, hydrologically isolated and have only one, unforested, wetland class.</p> <p>E. "Artificially created wetlands" are those landscape features, ponds and stormwater detention facilities purposefully or accidentally created. Artificially created wetlands do not include wetlands created as mitigation or wetlands modified for approved land use activities. Purposeful or accidental creation must be demonstrated to the City through documentation, photographs, statements or other evidence. Artificial wetlands intentionally created from nonwetland sites for the purposes of wetland mitigation are</p>		

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	regulated under this subchapter. (Ord. 238 Ch. VIII § 5(B), 2000).		
9	<p>20.80.030 (F) exemptions</p> <p>F. Activities affecting <u>isolated</u> Type IV wetlands which are individually smaller than 1,000 square feet and or cumulatively smaller than 2,500 square feet in size <u>where 80 percent or greater of the wetland area has been altered or is covered by invasives and the wetland has been determined to be of low hydraulic and habitat function;</u></p>	When cumulative impacts will be between 1,000 and 2,500 square feet, the City should require mitigation.	<p>20.80.030 (F) exemptions</p> <p>F. Activities affecting <u>isolated</u> Type IV wetlands which are individually smaller than 1,000 square feet.</p>
10	<p>20.80.080 Alteration or development of critical areas – Standards and criteria.</p> <p>All impacts to critical areas functions and values shall be mitigated. This section applies to mitigation required with all critical areas reviews, approvals and enforcement pursuant to this Chapter. This section is supplemented with specific measures under subchapters for particular critical areas. The proponent for a project involving critical areas shall seek to avoid, minimize and mitigate the impacts to the critical areas through Mitigation actions by an applicant or property owner shall that occur in the following sequence:</p> <p>A. Avoiding the impact altogether by not taking a certain action or parts of actions;</p> <p>B. Minimizing impacts by limiting the degree or magnitude of the action</p>	As defined by the WAC 197-11-768, mitigation is a sequence of six steps to be followed. Add "Monitoring the impact and taking appropriate corrective measures".	<p>20.80.080 Alteration or development of critical areas – Standards and criteria.</p> <p>All impacts to critical areas functions and values shall be mitigated. This section applies to mitigation required with all critical areas reviews, approvals and enforcement pursuant to this Chapter. This section is supplemented with specific measures under subchapters for particular critical areas. The proponent for a project involving critical areas shall seek to avoid, minimize and mitigate the impacts to the critical areas through Mitigation actions by an applicant or property owner shall that occur in the following sequence:</p> <p>A. Avoiding the impact altogether by not taking a</p>

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	<p>and its implementation;</p> <p>C. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;</p> <p>D. Reducing or eliminating the impact over time through preservation and maintenance operations during the life of the action; and/or</p> <p>E. Compensating for the impact by replacing or providing substitute resources or environments. (Ord. 324 § 1, 2003; Ord. 238 Ch. VIII § 2(B), 2000. Formerly 20.80.170.).</p>		<p>certain action or parts of actions;</p> <p>B. Minimizing impacts by limiting the degree or magnitude of the action and its implementation;</p> <p>C. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;</p> <p>D. Reducing or eliminating the impact over time through preservation and maintenance operations during the life of the action; and/or</p> <p>E. Compensating for the impact by replacing or providing substitute resources or environments. (Ord. 324 § 1, 2003; Ord. 238 Ch. VIII § 2(B), 2000. Formerly 20.80.170.).</p> <p>F. <u>Monitoring the impact and taking appropriate corrective measures.</u></p>

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11	<p>20.20.046 S definitions.</p> <p>Streams</p> <p>Those areas in the City of Shoreline where <u>open</u> surface waters produce a defined channel or bed, not including irrigation ditches, canals, storm or surface water runoff devices or other entirely artificial <u>open</u> watercourses, unless they are used by salmonids or are used to convey streams naturally occurring prior to construction in such watercourses. <u>A channel or bed need not contain water year-round, provided that there is evidence of at least intermittent flow during years of normal rain fall.</u></p>	Delete the word “open” from the definition of streams.	<p>20.20.046 S definitions.</p> <p>Streams</p> <p>Those areas in the City of Shoreline where <u>open</u> surface waters produce a defined channel or bed, not including irrigation ditches, canals, storm or surface water runoff devices or other entirely artificial <u>open</u> watercourses, unless they are used by salmonids or are used to convey streams naturally occurring prior to construction in such watercourses. <u>A channel or bed need not contain water year-round, provided that there is evidence of at least intermittent flow during years of normal rain fall.</u></p>																																	
12	<p>Table 20.80.480B</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center;">Stream Type</th> <th style="text-align: center;">Standard Buffer Width (ft)</th> <th style="text-align: center;">Minimum Buffer Width (ft)</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">Type I</td> <td style="text-align: center;">150</td> <td style="text-align: center;">115</td> </tr> <tr> <td style="text-align: center;">Type II</td> <td style="text-align: center;">115</td> <td style="text-align: center;">75</td> </tr> <tr> <td style="text-align: center;">Type III</td> <td style="text-align: center;">65</td> <td style="text-align: center;">35</td> </tr> <tr> <td style="text-align: center;">Type IV</td> <td style="text-align: center;">35</td> <td style="text-align: center;">25</td> </tr> </tbody> </table>	Stream Type	Standard Buffer Width (ft)	Minimum Buffer Width (ft)	Type I	150	115	Type II	115	75	Type III	65	35	Type IV	35	25	Include a column for “piped” water course on the stream buffer chart. The buffer shall be 10ft.	<p>Table 20.80.480B</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center;">Stream Type</th> <th style="text-align: center;">Standard Buffer Width (ft)</th> <th style="text-align: center;">Minimum Buffer Width (ft)</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">Type I</td> <td style="text-align: center;">150</td> <td style="text-align: center;">115</td> </tr> <tr> <td style="text-align: center;">Type II</td> <td style="text-align: center;">115</td> <td style="text-align: center;">75</td> </tr> <tr> <td style="text-align: center;">Type III</td> <td style="text-align: center;">65</td> <td style="text-align: center;">35</td> </tr> <tr> <td style="text-align: center;">Type IV</td> <td style="text-align: center;">35</td> <td style="text-align: center;">25</td> </tr> <tr> <td style="text-align: center;">Piped</td> <td style="text-align: center;">10</td> <td style="text-align: center;">10</td> </tr> </tbody> </table>	Stream Type	Standard Buffer Width (ft)	Minimum Buffer Width (ft)	Type I	150	115	Type II	115	75	Type III	65	35	Type IV	35	25	Piped	10	10
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