



# Wetlands

Critical Areas Ordinance

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## What is a wetland?

Wetlands are areas that, under normal circumstances, are inundated or saturated by surface or groundwater frequently enough and long enough to support vegetation that is adapted for life in saturated soil conditions. Wetlands generally include swamps (forested), marshes (non-forested), bogs (peat) and other similar areas, and may be either freshwater or estuarine systems.

Wetlands can be identified by the presence of all three of the following characteristics:

- **Hydric soils** – soils that formed under conditions of saturation, flooding, or ponding that were long enough to develop anaerobic (oxygen lacking) conditions.
- **Wetland hydrology** – standing water and/or soil saturation at the surface at least part of the year.
- **Hydrophytic vegetation** – predominant water-tolerant or water-dependent plants.

## Why are wetlands important?

Wetlands perform a variety of beneficial functions that are important to the environmental and economic well being of Whatcom County, including:

- Reduction of flooding and erosion by storing storm and flood waters.
- Improvement of water quality by filtering and retaining sediments, nutrients and contaminants.

- Maintenance of stream flows during low flow periods by slowly releasing water stored after floods and wet seasons.
- Groundwater recharge and discharge.
- Stabilizing stream banks and shorelines areas.
- Habitat diversity for fish and wildlife.
- Opportunities for passive recreation, education, scientific study, and aesthetic appreciation.

## Why are wetlands regulated?

Wetlands are regulated under the Whatcom County Critical Areas Ordinance (WCC, Chapter 16.16 – Article 6) for the general purposes of protecting and maintaining the beneficial functions and values provided by many freshwater and estuarine wetlands throughout Whatcom County.

## Does my property contain a wetland?

To help you determine if your property may contain a wetland, you can contact Whatcom County Planning and Development Services (PDS) - Land Use Division. In many cases, a qualified wetland specialist should visit your property to do a site-specific investigation of soils, water, and vegetation conditions to determine the presence, type, extent, and boundaries of any wetland(s). This process is referred to as wetland delineation.

\*Note: PDS can provide you with a list of qualified wetland consultants.

THE PLANNING AND DEVELOPMENT SERVICES HANDOUT SERIES

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### **Non-Regulated Wetlands**

Some wetland areas may not be regulated by the County. This will depend on certain factors including, but not limited to, dates of manipulation or creation, wetland category, and size of wetland. Special studies are usually required to determine if a wetland area is not regulated.

### **Protective Buffers**

Designation and establishment of protective buffers are intended to protect and minimize impacts to wetlands by providing separation between wetlands and development activities.

- All regulated wetlands are to be protected by a standard vegetated buffer that is based on:
  - **Overall quality of the wetland** (i.e., Category I, Category II, Category III, and Category IV);
  - **Quality of habitat provided by the wetland** (high, moderate, and low); and
  - **Intensity of proposed land use** (high, moderate, and low).
- In general, protective buffers may range from 25 feet for a Category IV wetland with low habitat quality and low intensity land use up to 300 feet for a Category I wetland with high habitat quality and high intensity land use.
- Wetland category and habitat value are to be determined in accordance with the 2004 *Washington State Wetland Rating System for Western Washington*.

Under certain conditions, the County may allow modification of standard buffer widths by granting agreements for wetland buffer averaging or buffer reductions. The County may also require larger buffer widths when necessary to protect wetland functions and values.

### **What is the review process for my project?**

Review and approval for a proposed development within a regulated wetland or buffer may be initiated through any project permit or land use application in Whatcom County. The County will use the following review procedure:

- The County will determine if the proposed activity is located within a wetland or its buffer through map evaluation, site inspection and/or other appropriate means.
- A Critical Areas Assessment Report is required when any part of a proposed project is within, abutting or may adversely affect a regulated wetland or buffer. An assessment report would include the results of a wetland delineation, a regulatory compliance analysis, an impact assessment, identification of alternatives, and/or a compensatory mitigation plan.
- The recommendations and conclusions of an approved assessment report will be used to assist the County in making a final decision regarding wetland boundaries and appropriate protective and/or mitigation measures.

### **Reasonable Use Allowance and Variances**

Permit applicants who are unable to comply with the specific standards of the CAO may seek approval pursuant to “reasonable use” or “variance” standards and procedures. To qualify, a proposal must meet several criteria including, but not limited to, demonstration that there is no feasible alternative, adverse impacts will be avoided to the maximum extent possible, unavoidable impacts will be mitigated, etc. Because proposals seeking approval under these provisions will require a thorough review, County Natural Resource

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Planners are available to help you determine if your project qualifies for a reasonable use allowance or a variance.

## **Mitigation**

Proposed activities that will adversely affect wetlands and/or wetland buffers are required to mitigate impacts in the following prioritized order:

- Avoid the adverse impact altogether.
- Minimize adverse impacts by limiting the degree or magnitude of the action.
- Rectify the adverse impact by repairing, rehabilitating or restoring the affected environment.
- Reduce or eliminate the adverse impact over time by preservation and maintenance during the life of the action.
- Compensation by replacing, enhancing, or providing similar substitute resources or environments.

Mitigation may include a sequenced combination of the above measures.

## **Mitigation Plan**

A compensatory mitigation plan must be developed when mitigation is necessary to address unavoidable adverse wetland and/or wetland buffer impacts. The purpose of a compensatory mitigation plan is to identify and outline installation and monitoring provisions for appropriate mitigation measures that will be implemented to address wetland/buffer functions and values impacted by the proposed development.

## **Wetland Protection**

Protecting wetlands requires public education, involvement, and cooperation. Depending on the specific circumstances of your project, the County may require that the wetlands and

buffers on your property be identified with Native Growth Protection Easement (NPGE) signs, markers or protective fencing, and/or a notice on the property title to ensure that these areas are fully protected.

If your property contains a wetland, there are ways you can protect it. Avoid dumping, draining, or filling near your wetland. Even yard waste can degrade a wetland's functions and values. Learn more about wetland preservation and enhancement by contacting Whatcom County PDS - Land Use Division or calling the Washington State Department of Ecology at (360) 407-6000.

## **Fees**

Please refer to the current Whatcom County Unified Fee Schedule.

## **Information**

Due to the administrative complexity of these regulations, it is best to visit with a Natural Resource Planner to answer any additional questions.

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