



# Critical Areas Ordinance

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## What is the Critical Areas Ordinance?

In 1990 the Washington state legislature passed the Growth Management Act (GMA), which required counties and cities to designate, manage, and protect critical areas (RCW 36.70A), which resulted in the adoption of the county's first official Critical Areas Ordinance (CAO) in 1997. More recently, the GMA was amended to require the application of Best Available Science (BAS) in updating the County's CAO. After rigorous study and public input, the County adopted the updated CAO in September 2005. The CAO is presented as Chapter 16.16 of the Whatcom County Code.

## What are critical areas?

Regulated Critical Areas include the following:

- Critical aquifer recharge areas,
- Geologically hazardous areas,
- Fish and wildlife habitat conservation areas (including rivers and streams),
- Wetlands, and
- Frequently flooded areas.

The approximate location and extent of critical areas are shown on the County's critical areas maps that can be viewed at the PDS office. It is important to note that these maps are to be used as a general guide and do not provide a definitive account of critical areas subject to the CAO.

## Purpose of Critical Areas Ordinance

The general purpose of the Critical Areas Ordinance is to provide a regulatory framework that:

- Protects the public from harm due to landslides, earthquakes, erosion, volcanic events, flooding, and other natural hazards.
- Minimizes unnecessary maintenance of public facilities and costs associated with property damage and emergency operations.
- Ensures no adverse impacts to the quality and quantity of water resources.
- Alerts the public to natural conditions that pose a hazard or otherwise limit development.
- Protects unique, fragile and/or valuable elements of the environment, including ground and surface waters, wetlands, anadromous fish species, shellfish, and other fish and wildlife and their habitats to ensure no net loss of ecological functions and values.
- Protects property rights, while allowing for economic development including agriculture.

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- Prevents adverse and cumulative environmental impacts to critical areas and mitigates unavoidable impacts.
  - Coordinates Whatcom County's critical area protection activities and programs with those of other jurisdictions.
  - Coordinates environmental reviews and permitting with other departments and agencies to avoid duplication and delay.
  - Allows for reasonable use of property.
  - Is consistent with state and federal regulations pertaining to critical areas.

The Critical Areas Ordinance provides for a range of buffers between protected critical area and development activity. The width of the buffer depends on the quality of the critical area and sensitivity of the critical area to development. However, if the applicant can demonstrate that the use will have no adverse impact(s) on the critical area, an approved mitigation or conservation plan may allow a reduction of the standard buffer when impacts are unavoidable.

### **Geologically Hazardous Areas (Article 3)**

Geologically hazardous areas are areas susceptible to erosion, landslides, earthquakes, volcanic activity and/or other geological processes that pose a significant risk to people and property. Incompatible development in these areas can adversely affect natural resources, threaten public health and safety and, put the development and surrounding developments and uses at risk.

The purpose of regulating geologically hazardous areas is to minimize the hazards to the public and to reduce the risk of property damage from development activities on or adjacent to [geologically hazardous areas](#). In addition, the CAO regulates land use to avoid the need for construction of flood control devices on alluvial fans and allow for natural hydrologic changes.

### **Frequently Flooded Areas (Article 4)**

Frequently flooded areas are areas located along major rivers, streams, and coastal areas where the depth, velocity, intensity and frequency of flood water during major events presents a risk to human life and property. The purposes of regulating frequently flooded areas include:

- Reducing the risk to life and safety, public facilities, and public and private property that result from floods.
- Avoiding and minimizing impacts to fish and wildlife habitats that occur within frequently flooded areas.
- Protecting and maintaining the beneficial ecological functions of frequently flooded areas including providing the necessary flow regime to form and maintain a full range of functional and accessible fish habitats both within and outside of frequently flooded areas.

Development activity located in Frequently Flooded Areas must mitigate for flood hazards and conform to the provisions of Title 17 (WCC), Flood Damage Prevention.

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## **Critical Aquifer Recharge Areas (Article 5)**

Critical Aquifer Recharge Areas play a crucial role in supplying potable water. Recharge areas have geologic conditions that allow high infiltration rates, which contribute significantly to the replenishment of ground water. These conditions also create a high potential for ground water contamination.

The purposes of regulating Critical Aquifer Recharge Areas include:

- Preserve, protect, and conserve Whatcom County's ground water resources for current and future generations by protecting critical aquifer recharge areas from contamination.
- Prevent adverse impacts on ground water quantity by regulating development activities that could deplete aquifer storage, reduce ground water levels, and/or diminish infiltration and replenishment of ground water.
- Prioritize management, protection, and conservation of groundwater recharge areas as sources of potable water supply.
- Establish review procedures for development activities that have the potential to adversely affect critical aquifer recharge areas.

## **Wetlands (Article 6)**

[Wetlands](#) are those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances, do support a prevalence of vegetation typically adapted for life in saturated soil conditions.

Swamps, fresh and saltwater marshes, bogs, and some meadows are examples of

wetlands. Some riparian areas adjacent to streams are also wetlands.

Wetlands perform unique and irreplaceable ecological functions that benefit humans and the environment including:

- Providing food, breeding, nesting and/or rearing habitat for fish and wildlife;
- Recharging and discharging ground water;
- Contributing to stream flow during low flow periods;
- Stabilizing stream banks and shorelines;
- Storing storm and flood waters to reduce flooding and erosion; and
- Improving water quality through biofiltration, adsorption, retention and transformation of sediments, nutrients, and toxicants.

## **Habitat Conservation Areas (Article 7)**

[Habitat Conservation Areas](#) are those areas identified as being of critical importance to the maintenance of certain fish, wildlife, and/or plant species. These areas are typically identified either by known point locations of specific species (such as a nest or den) or by habitat areas or both. Such species and habitat are also referred to as Priority Species and Habitat (PHS). Priority species include wildlife species of concern due to their population status and their sensitivity to habitat alteration as defined by the Washington Department of Fish and Wildlife. Priority habitats include habitat types with unique or significant value to one or more priority species. Streams, rivers, ponds, and lakes are regulated as habitat conservation areas under

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the CAO based on the presence of priority habitats and species.

The purposes of regulating habitat conservation areas include:

- Maintain fish and wildlife populations, especially populations of anadromous fish species, by protecting and conserving valuable fish and wildlife habitat and protecting the ecological processes that sustain these resources.
- Protect marine shorelines, valuable terrestrial habitats, rivers and streams and their associated riparian areas, and the ecosystem processes on which these areas depend.
- Manage development so that isolated populations of species are not created and habitat degradation and fragmentation are avoided, especially along riparian corridors.
- Maintain the natural geographic distribution, connectivity, and quality of fish and wildlife habitat.

## **What is the process for approval on my project?**

Review and approval for a proposed development within a critical area may be initiated through the application for any project permit in Whatcom County. The County will use the following procedure for critical areas review upon submittal of a project or land use application:

- The technical administrator will determine if the project is located within a critical area or its potential buffer area.
- If the proposed activity is located within a critical area or its buffer, the technical administrator will confirm the presence or

absence through site inspection or other appropriate means.

- A Critical Areas Assessment Report is required when any part of the project may impact a regulated critical area.
- A critical areas specialist (i.e., approved consultant) shall prepare the report.
- The recommendation and conclusions of the approved report will be used to assist the administrator in making a final decision concerning critical areas jurisdiction and appropriate mitigation measures.

## **Other Customer Service Bulletins**

[Handout D1](#) - Critical Aquifer Recharge Areas

[Handout D2](#) - Geologically Hazardous Areas and Alluvial Fan Reviews

[Handout D3](#) - Habitat Conservation Areas

[Handout D4](#) - Rivers and Streams

[Handout D5](#) - Wetlands

## **Information**

Due to the administrative complexity of these regulations, it is usually best to visit with PDS staff or contact a Natural Resource Specialist to answer any additional questions.

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