

CRITICAL AREAS ORDINANCE UPDATE SUMMARY SHEET

The Growth Management Act of Washington (GMA) requires cities to periodically review and evaluate comprehensive plans and development regulations (RCW 36.70A.130). Following adoption of the Comprehensive Plan, the City's development regulations need to be updated to support the goals and policies articulated in the plan. The City's review of development regulations includes the Critical Areas Ordinance (CAO) update pursuant to state law that requires cities to designate and adopt regulations for the protection of critical areas. The City's CAO is codified in Bainbridge Island Municipal Code (BIMC) Chapter 16.20. **There are five types of critical areas:**

- **Aquifer recharge areas**
- **Fish and wildlife habitat conservation areas**
- **Frequently flooded areas**
- **Geologically hazardous areas**
- **Wetlands**

The City last completed a comprehensive update of its CAO in 2005 with updates in 2007 and 2008. The updates addressed only geologically hazardous areas. **The intent of the current update is to:**

- Revise code as necessary to comply with **state requirements**;
- **Review best available science (BAS)** and incorporate as needed;
- Update the CAO to reflect and **support the Comprehensive Plan**; and
- **Improve ease of administration and clarity** for land use applicants and the general public.

The following is a brief summary of proposed revisions currently under consideration in the draft critical areas ordinance update (Draft).

general updates

Sections applicable to all critical areas were reorganized to improve clarity, consistency and ease of administration.

- Applicability, Exemptions and Standards for existing development are divided into separate sections.
- The prescriptive buffer variations section was removed. The current CAO offers overlapping and inconsistent methods to reduce critical area buffers (variances, buffer averaging, habitat management plan, reasonable use exceptions). **The option to request a variance from the critical areas regulations was removed.**
- Standards for existing development are more restrictive.
- With few exceptions, any development, use or activity requires a critical area permit. This is a change from the current CAO, where there is no clear or required review and/or permitting process.
- The language for reasonable use exceptions (RUE) was revised to encourage consideration of alternatives early in the land use review process.
- The definitions section was moved to the end of the chapter to improve readability. Several definitions were added and many were revised for clarity or consistency.
- The Performance and maintenance surety and Compliance and enforcement sections are unchanged with the exception that **a minimum \$2,500 fine is added for major violations**, as determined by the Planning and Community Development Director.

new
sections

The Draft includes three new sections.

16.20.030 Protection of critical areas – This section was added to codify the Comprehensive Plan policies requiring the use of mitigation sequencing and the precautionary principal.

16.20.090 Trees and vegetation – This section was added to consolidate all regulations related to tree and vegetation activities for all critical areas, clarify additional submittal requirements (e.g., arborist or geotechnical report). **New thresholds are proposed for tree and vegetation maintenance (e.g., pruning, invasive species removal) not requiring City review. Tree and vegetation activities requiring a critical area permit must be done by a professional that submits an acknowledgement form.**

16.20.180 Critical area reports – A new section was added to consolidate all report requirements in one place. Revisions to some report requirements are proposed; new buffer enhancement plan, aquifer recharge mitigation plan, and a native vegetation protection area stewardship plan are included.

critical
aquifer
recharge
areas

A new requirement to designate a Native Vegetation Protection Area (NVPA) of up to 65% of a site is included.

- The Draft classifies **parcels within the R-0.4, R-1 and R-2 zoning districts as critical aquifer recharge areas.**
- **The requirement to designate a NVPA is triggered only when development or redevelopment results in greater than 800 square feet of hard surfaces or greater than 7,000 square feet of land disturbing activity.**
- A critical area permit and hydrogeological site assessment are required for any potential pollutant-generating development or use. Several prohibited uses were added based on state critical aquifer recharge guidance.

fish &
wildlife
habitat
areas

Buffer widths are increased for most stream types.

- **Increased buffer widths for Type F (200 feet), Np (100 feet) and Ns connected to F or Np streams (75 feet) to be more in line with protection of anadromous fisheries and Washington Department of Fish and Wildlife Priority Habitat and Species management recommendations.**
- Classifications of fish and wildlife habitat conservation areas revised with specific habitats present or likely to occur on the island. Added biodiversity areas and corridors. No change to stream classifications.
- Clarified that buffer widths assume the buffer is well vegetated with native species and that enhancement may be required as part of site development. **New buffer modification thresholds and requirements.**

- **Removed separate water quality and habitat buffers.**
- Updated and clarified development standards for specific development, uses and activities allowed in FWHCAs and buffers. New requirement for critical area permit.

**frequently
flooded
areas**

The Draft adopts by reference BIMC 16.15, Flood Damage Prevention, instead of having a separate set of regulations in the critical areas ordinance.

The City's floodplain management regulations are contained in BIMC 16.15, Flood Damage Prevention. **The CAO update will adopt by reference BIMC 16.15** to meet the requirements regarding designation and mapping as well as standards for habitat protection included in the FEMA Puget Sound Biological Opinion.

**geologically
hazardous
areas**

Proposed standards are generally less restrictive.

- "Buffer" changed to "setback" and structure setback requirement removed.
- **Standard setback requirement changed from height of slope or 50 feet, whichever is greater, to height of slope only up to a maximum of 75 feet.**
- New **range of factors of safety proposed for non-habitable structures** and other uses/activities.
- "Exempt" activities changed to "allowed" activities for **minor development that may be allowed** in landslide hazard areas 40 percent or greater if development standards met.

wetlands

Wetland buffer widths are not changed.

- **Removed separate water quality and habitat buffers; no change to buffer widths.**
- Clarified that buffer widths assume the buffer is well vegetated with native species and that enhancement may be required as part of site development. **New buffer modification thresholds and requirements.**
- **Included R-2 zoning designation in "moderate" impact of land use.**
- Updated methods and categories based on state and federal agency guidance.
- **Provided specific requirements for delineations, including that they are valid for 5 years.**
- Updated and clarified development standards for specific development, uses and activities allowed in wetlands and buffers. New requirement for critical area permit.
- **No change in wetland mitigation ratios.**