

July 15, 2010

Thurston County Critical Areas Ordinance

CAO Website: http://www.co.thurston.wa.us/planning/critical_areas/criticalareas_home.htm

Contact Information for Andrew Deffobis

Phone: (360) 786-5467

Fax: (360) 754-2939

Email: deffoba@co.thurston.wa.us

Why is Thurston County updating its Critical Areas Ordinance (CAO) now?

- Thurston County has many valuable natural resources that require protection
- It is a State requirement under the Growth Management Act (GMA)
- The Board of Thurston County Commissioners considers the CAO a priority and has directed staff to begin a public process that allows them to consider the ordinance in the fall

What is a critical area?

The GMA requires counties and cities to protect five types of critical areas:

1. Aquifer recharge areas
2. Frequently flooded areas
3. Geologically hazardous areas
4. Wetlands
5. Important wildlife habitat (such as riparian habitat and prairies)

What is not covered under this update?

- Agriculture
- Forestry conducted under a DNR permit (unless land is converting to other uses)

Major Changes

- Buffers generally proposed to increase, wetland buffer determination changing
 - Includes marine riparian areas – maximum buffer proposed to increase, based on newer science
- The threshold for regulated wetlands is decreasing, from 11,000 (UGA)—22,000 (rural) square feet, down to 1,000 square feet (some exceptions apply)
- Review area for important habitats and species proposed to increase from 600 to 800 feet
- Exclusion of agriculture from new restrictions
- Inclusion of prairie ordinance amendments

Interim Prairie Ordinance Renewal

- Interim Prairie Conservation Ordinance No. 14260 passed July 2009, valid one year

- Public hearing has been held on renewal ordinance
- Board will consider ordinance next week
- Language will be folded into overall CAO

CAO Update Process

- Four public “open house” type meetings will be held beginning the last week of August
 - Workshops may also include information on SMP
- Some draft language has been given to the Thurston County Planning Commission; more to follow
 - Planning Commission will make recommendation to Board
- Board will continually be briefed on proposed amendments; public hearing will be held, likely in the fall

Connection to Shoreline Master Program (SMP)

- Some areas that fall under CAO protection are also regulated by the SMP
- In those areas, the more restrictive regulations apply
 - When SMP is completed, it will govern but may refer back to CAO standards
- SMP is being updated concurrently with CAO
- SMP website: http://www.co.thurston.wa.us/planning/shoreline/shoreline_home.htm

Nonconformities

Aquifers – not addressed

Geologic Hazards – Alteration permitted w/in existing building footprint; expansion of conforming portion permitted; vertical expansion of nonconforming portion allowed w/geologic assessment. Intensification of nonconforming use allowed. Replacement/relocation allowed, subject to standards.

Flooding – alteration permitted w/in existing footprint, cannot increase ground floor square footage in floodway; improvements can't exceed 50% of structure's fair market value; vertical expansion allowed of nonconforming portion; conforming portion can expand but not into flood hazard area, 100-year CMZ hazard area or NDZ; replacement/relocation of nonconforming structure allowed in 100 year floodplain/CMZ landward of floodway and NDZ; intensification of nonconforming use allowed, subject to standards

Habitat/Species – Alteration permitted w/in existing building footprint; expansion of conforming portion permitted; vertical expansion of nonconforming section permitted; 500 sf expansion of impervious surface, subject to standards; intensification of nonconforming use allowed, subject to standards; replacement/relocation of nonconforming structure permitted, subject to standards

Wetlands – Similar to Habitat

FEMA Rule

Draft FEMA rule based on NOAA BiOp...when final comes out County will integrate new regulations with CAO and other applicable County development standards

Examples?

Cat 1 and 2 vs 3 and 4 wetlands

Steep slopes as less critical biologically

Wetland Buffers

- A. Exempted wetlands. Wetlands less than 1,000 square feet in size are exempt from this section if they:
1. Are not located in a riparian habitat area (see Section 17.15.820);
 2. Are not a functional part of a mosaic wetland (as described in The Washington State Wetland Rating System for Western Washington, DOE, 2004); and
 3. Do not provide essential habitat for priority wildlife species (see Section 17.15.850).

~~Wetlands regulated under this chapter do not include: Wetlands less than two thousand five hundred square feet of such areas which lie adjacent to a stream or within its one hundred year floodplain, or eleven thousand square feet within any adopted urban growth boundary, or twenty two thousand square feet elsewhere within rural Thurston County;~~

Cat 1: rare, particularly sensitive to disturbance, relatively undisturbed w/high level of fxn, fxn impossible to replace

Relatively undisturbed estuarine wetlands > 1 acre, National Heritage Wetlands (DNR), bogs > 0.5 acres, mature/old growth forested wetlands, wetlands in coastal lagoons, wetlands w/total score > 70 under DOE Rating System (2004)

Cat 2: High level of function, fxn difficult to replace

Estuarine < 0.5 acre, larger estuarine that are altered, wetlands ID'd by DNR Natural Heritage Program containing "sensitive" plants, 0.25 acre < bogs < 0.5 acre, score of 51-69

Cat 3: between 30 and 50; have been disturbed, typically contain less diverse wildlife habitat or are more isolated from other habitat than Cat 2 wetlands

Cat 4: score less than 29; typically extensively altered

Table 9-1 Standard Wetland Buffer Widths

The Larger of the Buffers for Habitat and Water Quality Applies											
BUFFER TO PROTECT HABITAT											
<u>Point score for habitat from the wetland rating form under the Washington State Wetland Rating System for Western Washington, 2004.</u>	19-21	22	23	24	25	26	27	28	29	30	31 - 36
<u>Buffer width for habitat for all wetlands except estuarine wetlands and coastal lagoons</u>	100'	120'	140'	160'	180'	200'	220'	240'	260'	280'	300'
<u>Buffer width for estuarine wetlands and coastal lagoons</u>	220' ⁸ (Estuarine wetlands and coastal lagoons are not rated for habitat under the Washington State Wetland Rating System for Western Washington, 2004)										
BUFFER TO MAINTAIN WATER QUALITY											
<u>Natural heritage wetlands, bogs, and wetlands containing sensitive plant species documented by the DNR Natural Heritage Program</u>	250' ^{5, 6}										
<u>Wetlands less than 10,000 square feet in size that are not a functional part of a mosaic wetland, do not support priority wildlife species, and do not drain to a stream or a Category I or II wetland</u>	50' ¹⁰										
<u>All other wetlands not listed in the preceding two rows</u>	100' ⁷										