

# CRITICAL AREA ORDINANCE UPDATE

## Users Guide to the Changes

Three categories of changes have occurred in the current draft of the Critical Area Ordinance, and because those changes were too difficult to track with a track changes document, we have outlined them here for you:

- #1: Periodic updates to incorporate changes in State Law (*required*);
- #2: Formatting, organization, and elimination of redundancies (*optional*);
- #3: Functional changes to code provisions, development standards, etc. (*optional*).

Change Type	Review Party
Periodic Updates in State Law	Consultant
Formatting, organization, etc.	Planning Staff
Functional changes to code	Public Hearing, PC, then CC

*The list of changes is included for your reference, please become familiar with the entire document however, please focus your attention on reviewing the details of the functional changes as outlined below and providing us with your feedback on that section ONLY.*

### #1: PERIODIC UPDATES TO NOTE

Critical Area Checklist – GMA Guidance

- Best Available Science reviewed
- State RCW and WAC reviewed

### #2: FORMATTING, ORGANIZATION, REDUNDANCY, MISC. CHANGES TO NOTE

- A. New organization of sections – instead of each section repeating general provisions and review procedures we consolidated them into their own chapters applicable to each critical area.
  - 1. General Provisions – all CA's
  - 2. Review Procedures – all CA's
  - 3. Wetland Specifics
  - 4. FWHCA's Specifics
  - 5. Geo Hazards Specifics
  - 6. CARA Specifics
  - 7. FFA's Specifics
- B. Terms changed:
  - Director → Decision maker
  - Shall → must
  - Drainage facility → stormwater management facility
- C. Frequently Flooded Areas incorporated the FEMA BiOP requirements, all of the technical flood zone management information was moved to its own chapter under AMC 19.47.

### #3: FUNCTIONAL CHANGES FOR YOUR REVIEW

- A. Reorganization of Exempt Activities (Uses by right), Permitted Alterations, and Reasonable Use Exceptions to include clarification of the appropriate permit processes: Exemptions, Exemptions with prior authorization, Critical Area Permit, Critical Area Variance Permit.

Explanation - All development activities were collected from each chapter and organized into the appropriate categories in the new general provisions chapter. The permit procedure for each category was clarified. **See sections 19.70.035, 19.70.040, and 19.70.045.**

- B. A Critical Area Identification form is added to the review process, this form will be included in all permit applications submitted to the City. This should help the applicant and the City identify potential Critical Areas within the project area that need addressed.

Explanation - Skagit and Island Counties have a similar process, see their forms for examples. **See section 19.70.110**

- C. Critical Area Reports may be subject to third party review at the applicant's expense.

Explanation – We already require this in some circumstances but listing it explicitly in the code helps to warn the applicants upfront and identifying the financially responsible party. **See section 19.70.125(B)**

- D. Alternative Mitigation methods have been added to the mitigation provisions to include off-site mitigation, advanced mitigation, in-lieu fees, and mitigation banking. This allows for the creation of these programs in the future.

Explanation – Section 6.3, Chapter 6 - Determining Appropriate and Adequate Compensatory Mitigation in *the Wetland Mitigation in Washington State – Part 1*, describes the reasoning in support of a watershed approach to mitigation rather than on-site “in-kind” mitigation. And evidence that a better ecological outcome is a result. **See 19.70.135(C)(2)**

- E. Required Wetland Buffers:

1. Habitat scores have been updated to match the 2014 Rating system and no longer requires the conversion chart from the old habitat scores to determine buffer size.
2. The method of determining buffer size has been changed from the basic Ecology recommended method of “assuming a high land use intensity” to determining buffer width with a method of using the variable of land use intensity to incentivize low land use intensity. This approach is supported by BAS and utilizes a similar buffer range to the Ecology range of 225’ – 40’.

Explanation - This allows a more refined determination based on project scope and site circumstances and allows us to reward low impact development. This approach is used by most jurisdictions including Snohomish County, Island County, and City of Bellingham. **See 19.70.250**

- F. We have included a new 10’ setback from the buffer for new buildings and structures.

Explanation – Avoids conflicts with tree branches and/or critical root zones of trees that are in the buffer or will be planted in the buffer. **See 19.70.250(G)**

G. Fish and Wildlife Habitat Conservation Areas – Streams

1. Streams have been designated matching the State DNR water typing classification. Buffers remain the same but there is now a provision to reduce your buffer based on site circumstances. The new designation affects which development activities will be allowed with respect to streams with potential fish habitat, and incentivizes restoring piped watercourses.
2. The measurement of stream buffers is now required from the delineated Ordinary High Water Mark rather than top of bank. Standard measurement is supported by BAS.

Explanation – While there are no major stream systems in Anacortes, and much of the existing condition is altered watercourses, we recognize that development within the urban environment has already impacted the streams and have built in rewards for having intact riparian habitat and efforts to restore modified reaches. **See 19.70.340**

H. Heron Habitats and the March's Point Heronry have incorporated management recommendation from the Skagit Land Trust.

Explanation – Skagit County including the March's Point site, is some of the largest most nesting sites on the West Coast, clarifying the requirements and management recommendations will help to protect these areas. **See 19.70.350**

I. Geologically Hazardous Areas have modified the reduced setback allowance from a minimum of 10 feet to a maximum of 25% reduction and may be subject to third party review.

Explanation – The BAS recommend increasing the reduced setback from 10 feet to at least 15 feet to be more in alignment with other jurisdictions. We have adopted a more conservative allowance that would result in a minimum setback of 37.5 feet. **See 19.70.440(A)(2)(g)**

J. Critical Aquifer Recharge Areas have adopted a method of evaluating hazardous spills in the vicinity of mapped CARA's.

Explanation – Since City potable water source is not from this resource we have very few areas to regulate, but we can regulate the common uses in Anacortes that may affect these areas the greatest. This section was modeled from other jurisdiction's CARA code. **See 19.70.500**