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This Assistance Bulletin only applies to property within unincorporated Snohomish County and does not apply to property within incorporated city limits.

Critical Areas Regulations for Residential Projects

Assistance Bulletin

15

Effective Date September 30, 2010

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Keyword: Assistance Bulletins

This bulletin provides basic information about the requirements contained in Snohomish County's Critical Areas Regulations, as well as the permit review process, timeframes and possible fees for applicants seeking single family residential building permits on properties containing the following designated critical areas:

- Wetlands and Fish & Wildlife Habitat Conservation Areas – SCC 30.62A
- Geologically Hazardous Areas – SCC 30.62B

The complete Critical Area Regulations code can be found in Chapters 30.62A, 30.62B, 30.62C, and 30.65 of the Snohomish County Code (SCC). It can be accessed online at www.snoco.org or obtained from the Department of Planning & Development Services (PDS) on the 2nd Floor of the Snohomish County Admin-East Building, 3000 Rockefeller Avenue, Everett.

Applicability – Clearing Now Regulated in Critical Areas and Buffers

Of major importance, in addition to applying to projects requiring permits, the updated code now regulates clearing activities within wetlands, lakes, rivers, marine waters, habitat for threatened, endangered and sensitive species and their buffers, as well as in geologic hazard areas. Clearing is defined as the surface removal of vegetation by any method, including the application of herbicides.

Effective September 30, 2010, clearing considered to be a “Land Disturbing Activity” is also regulated by Chapter 30.63B SCC.

Relationship between Shorelines Regulations and Critical Area Regulations

Permit applicants often ask about the difference between state shorelines requirements and Critical Area Regulations requirements. State shorelines are the larger bodies of water that are regulated under the State Shoreline Management Act (RCW 90.58).

Lakes over 20 acres, streams greater than 20 cubic feet per second (cfs) mean annual flow, marine waters, their flood plains and associated wetlands, and lands within 200 feet of these water bodies are included as part of the shoreline. All critical areas contained in state shorelines are designated and protected based on the requirements contained in the County's Critical Areas Regulations.

This bulletin is intended only as an information guide. The information may not be complete and is subject to change. For complete legal information, refer to Snohomish County Code.

Wetlands and Fish & Wildlife Habitat Conservation Areas, SCC 30.62A

Wetlands

Wetlands are the most common critical areas found on proposed development sites. Wetlands may be swamps, marshes, bogs or other water-saturated soil areas that contain vegetation.

Vegetated buffer areas must be left around wetlands to protect their important environmental functions and values. If your proposed development site includes wetlands, other more-specific regulations may also apply. Buffer requirements for wetlands vary according to the wetland category (See Table 2).

Fish & Wildlife Habitat Conservation Areas

Fish and wildlife habitat conservation areas include:

- Lakes, streams, and marine waters
- Habitat areas for species listed by the state as endangered, threatened, or sensitive
- Habitat areas for federally listed endangered or threatened species
- Habitat areas for species of local importance

Streams

Streams are defined as naturally flowing surface waters that are contained in a channel or bed. Streams need not flow all year round or always contain fish to be considered a critical area. Some streams, such as seasonal streams, may be dry during the summer months. If a stream is present on your site, you will be required to provide a vegetated buffer area for its protection. The size of the buffer area will depend on the size and type of the stream.

The Critical Areas Regulations contain a classification system for determining stream types. The new system uses the letter designations S, F, Np and Ns. These letter designations stand for: “S” means shorelines of the state; “F” means fish-bearing streams; “Np” means non-fish bearing perennial (year round) flowing streams; and “Ns” means non-fish bearing streams with seasonal flow.

Buffers

Buffers are the vegetated areas next to wetlands and fish and wildlife habitat conservation areas that protect them from human encroachment and other damaging impacts. Buffers also provide important wildlife habitat. The Critical Areas Regulations contain buffer requirements for wetlands and fish and wildlife habitat conservation areas (Tables 1 and 2).

Table 1: Wetland Buffers

Wetland Category	CAR Buffers (ft.)
I	75-300
II	50-300
III	40-150
IV	25-50

Table 2: Streams, Lakes, Marine Waters Buffers

Water Type	CAR Buffers (ft.)
S	150
F	100-150 *
Np	50
Ns	50

* Wider buffers are for salmonid-bearing streams

Lakes

Lakes are a new addition to the Critical Areas Regulations. Lakes are defined as naturally existing bodies of standing (freshwater that are greater than 6.6 feet deep at the deepest point. Like streams, lakes need not contain water year round and need not contain fish to be considered a critical area. Lakes are classified using the same water typing system as streams. The size of the buffer will depend on the size and type of the lake (Table 2).

Marine Waters

Marine waters are another new addition to the Critical Areas Regulations. Marine waters are defined as non-wetland saltwater bodies of the state where average surface water salinity is equal to or greater than 0.5 parts per thousand. Marine waters contain critical saltwater habitats such as kelp beds, eelgrass beds, spawning and holding areas for forage fish (herring, smelt, etc.), shellfish beds, mudflats and intertidal habitats with vascular plants. All marine waters are Type 5 with buffers of 150 feet (Table 2).

Habitat for Critical Species

Critical species are those listed under state or federal law as either threatened or endangered, sensitive (state only), or species of local importance. If your site contains habitat (primary association areas) for one or more of these species, a habitat management plan must be developed for their protection.

Vertebrate species that are currently listed as threatened, endangered, or state-sensitive in Snohomish County are:

- Western Pond Turtle (*Clemmys marmorata*)
- Marbled Murrelet (*Brachyramphus marmoratus*)
- Bald Eagle (*Haliaeetus leucocephalus*)
- Western Gray Squirrel (*Sciurus griseus*)
- Lynx (*Lynx canadensis*)
- Stellar Sea Lion (*Eumetopias jubatus*)
- Puget Sound Chinook Salmon (*Oncorhynchus tshawytscha*)
- Olympic Mudminnow (*Novumbre hubbsi*)
- Pygmy Whitefish (*Prosopium coulteri*)
- Bull Trout (*Salvelinus confluentus*)
- Steelhead (*Oncorhynchus giardeneri*)
- Peregrine Falcon (*Falco peregrinus*)
- Common Loon (*Gavia immer*)
- Sandhill Crane (*Grus Canadensis*)
- Northern Spotted Owl (*Stix occidentalis*)
- Gray Wolf (*Canis lupus*)
- Grizzly Bear (*Ursus arcos*)
- Gray Whale (*Eschrichtius robustus*)
- Killer Whale (*Orcinus orca*)

Species of Local Importance

Species of local importance are those determined to be of particular local concern in Snohomish County due to their population status or their sensitivity to habitat manipulation. This designation may include game species having a seasonal range or habitat element which, if altered, may reduce the likelihood that the species will maintain a presence and reproduce over the long term.

To be designated as a species of local importance, they must be shown to be locally at risk and then be adopted through a legislative process by the County Council.

Primary Association Areas

A primary association area is defined as the habitat area of a critical species that is in close association with, and is necessary for, the viability and or protection of any critical species. Close association is species and population dependent and is based on the known habitat requirements of the species. Species that exist in low numbers may not be present at all times, but still rely on certain habitat types for survival.

Primary association areas include habitat areas that are known to contain a critical species, or assumed to contain a species based on its known habitat requirements, including areas used for breeding, feeding, cover, and migration.

Geologically Hazardous Areas, SCC 30.62B

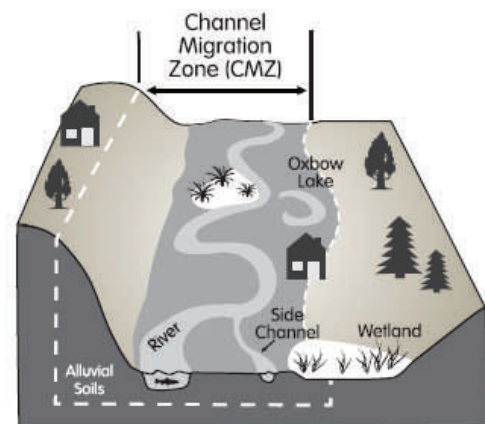
Public safety, health and welfare are the key issues addressed in regulations for development in geologically hazardous areas. The updated regulations provide increased protection of life and property in several geologically hazardous areas not previously covered:

- Erosion hazard areas including river-channel migration zones and shorelines of other water bodies subject to wind and wave erosion
- Tsunami hazard areas
- Mine hazard areas
- Seismic hazard areas
- Landslide hazard areas are now defined as slopes of 33% or greater rather than 15% as in the previous code

Channel Migration Zones (CMZ)

The channel migration zone is the land adjacent to a current river channel that is at high risk of becoming occupied by the river channel within the next 100 years. Recent history in Snohomish County has provided considerable evidence that human development within this zone faces high risk of loss from bank erosion as the river shifts its course.

In light of the high risks involved, the new regulations strictly limit or prohibit new development within designated channel migration zones along the County's major river systems. Please be aware that for most proposed new residential construction within channel migration zones there are no mitigation options available and the County cannot issue a building permit.



The new code does allow for normal maintenance and repair of existing facilities and structures, as well as for new shoreline, bank stabilization and flood protection measures under specific limited conditions including protecting existing structures from flooding or channel migration.

Volcanic and Tsunami Hazard Areas

Glacier Peak in eastern Snohomish County is a dormant volcano that can present hazards to those building in the path of potential debris and mud flows. These low-frequency events have historically occurred in the floodplains of the Stillaguamish and Sauk-Suiattle Rivers.

Like volcanic eruptions, tsunami flooding hazards are low frequency, but potentially destructive, events. Tsunami waves are usually caused by undersea earthquakes.

Protection provided by the County's updated Critical Areas Regulations relies on informed decisions being made by landowners who have received adequate notification of the potential hazards posed to them by these rare but dangerous natural events.

For development permits in both of these hazardous areas, the new code requires that landowners sign a disclosure notice that acknowledges that they are aware of the potential hazards involved.

Landslide Hazard Areas

Landslide hazard areas are lands that are subject to mass earth movement due to a combination of geologic, topographic, and hydrologic factors. To achieve consistency with the Uniform Building Code and the International Building Code, the definition of a landslide hazard area has been increased from 15% slope to 33% slope in the County's updated Critical Areas Regulations. In addition, the structural setbacks from the bottom of these slopes have been increased from 15 feet to a minimum of 50 feet.

Seismic and Mine Hazard Areas

The regulations require a geotechnical report be prepared for actions proposed on or within 200 feet of known seismic faults or defunct mining operations. Recommendations may include buffers, setbacks, or reclamation plans for properly closing the mining facilities. Mine hazard areas have been identified in eastern Snohomish County outside of Index, Monte Cristo, and Darrington.

Frequently Asked Questions by Permit Applicants

Q: Can I develop my land if it contains Critical Areas?

A: Yes, under most circumstances you may develop, construct or improve structures in or near a critical area if you meet all of the following conditions:

- A suitable alternate location for a new structure on your site does not exist outside of wetlands, fish and wildlife habitat conservation areas or their buffers.
- New structures are constructed in areas that minimize disruption to the critical areas.
- Mitigation is provided for unavoidable impacts to the critical areas or buffers.
- A geotechnical analysis is provided for sites in or near mine, seismic and landslide hazard areas that assures that proposed structures will be safe from identified hazards.

There are areas where most residential development is not normally allowed. For example, new development is not allowed in river channel migration zones with the exception of public roads, utilities and certain bank and flood protection measures.

If you have a lot that was created prior to October 1, 2007, and the lot is engulfed by buffers on streams, wetlands, lakes or marine waters, you may be eligible for up to 4,000 square feet of encroachment into the buffer. There are several mitigation requirements associated with development in these areas. PDS staff will assist you in determining whether or not your property meets these conditions.

As part of the normal site review process, staff will provide an on-site evaluation to help determine whether your property contains critical areas.

Q: What kind of mitigation or special conditions might be required?

A: If your property contains wetlands or fish and wildlife habitat conservation areas within 300 feet of your proposed site disturbance, you will be subject to special requirements.

- Buffers, setbacks or other mitigation measures may be required depending on your site, PDS will help you to develop a site plan that enables you to build or improve your home or property with the least amount of environmental impact to your site.
- If there are impacts proposed to the critical area or its buffer, you may be required to develop and implement a mitigation plan as compensation for the impacts.
- Your project may need a habitat management plan if your property includes habitat for any critical species.
- A Critical Area Protection Area (CAPA) generally needs to be established and recorded with the Snohomish County Auditor identifying all critical areas, their buffers and other special restrictions.

If your property contains geologically hazardous areas on or within 200 feet of your proposed site disturbance, the following additional requirements may apply:

- To ensure safe conditions for human habitation, a geotechnical report will be required for any development activity proposed within an erosion hazard area, landslide hazard areas or their setbacks, 200 feet of a mine hazard area; or 200 feet of any known faults.
- For landslide hazard areas, structural setbacks from the tops and bottoms of the slopes are required.
- For channel migration zones, you will not be able to build new residential structures, but you are able to protect existing structures from damage caused by flooding and channel movement.
- A Critical Area Protection Area (CAPA) generally needs to be established and recorded with the County Auditor identifying all the geologically hazardous areas and their setbacks.

Specific requirements for all studies, plans and reports are detailed in the Critical Areas Regulations. You can obtain a copy from the Snohomish County Department of Planning & Development Services or online at www.snoco.org. PDS will provide assistance in gathering applicable information for single-family residential applicants.

In some cases, you may need to consult with other agencies such as the Washington State Department of Fish and Wildlife, and you may need other permits.

Q: What if Critical Areas are identified on my property after my building permit application is submitted?

A: You will receive a letter outlining additional and/or specific requirements. PDS will assist you in determining the next step for all identified critical areas. The letter may require you to provide on or more of the following:

- **Critical Area Study.** For residential projects, a critical area study is a report that depicts the locations of critical areas along with their required buffers and/or setbacks, in relationship to proposed development activities. The study can include, where applicable, details on the impacts to the critical areas and mitigation plans for any impacts.
- Mitigation plans will usually include detailed drawings describing the proposed mitigation and will usually include performance standards, a long-term monitoring plan, and a contingency plan outlining what steps will be taken in the event that the mitigation is not successful. Sometimes, either a performance or maintenance bond will be required.
- **Critical Area Site Plan (CASP).** A CASP is a plan that identifies critical areas, associated buffers and any other requirements designed to protect the identified critical areas. Generally, CASP's identify only those critical areas and buffers existing on your property within 300 feet of proposed site disturbances. A CASP is always recorded with the Snohomish County Auditor. It normally contains a summary of relevant information from the site plan. It is most often the last project document completed. Typically, it is recorded on the day of permit issuance.
- **Geotechnical Report.** A geotechnical report is a report prepared by a civil engineer licensed in the State of Washington that includes data regarding the nature of the geology of a site, conclusions and recommendations regarding the effects of geologic conditions on the proposed project, and opinions about the adequacy of the site for the applicant's intended purpose in light of the geologic factors. This report is normally required for all proposed site disturbances within geologically hazardous areas.
- **Habitat Management Plan.** A habitat management plan is a plan that provides for the beneficial management of habitat for critical species.

Q: How long does the review process take?

A: After you submit your building permit application, PDS will contact you in writing within 30 days if additional information is required. Timing for permit processing may vary due to seasonal workload or project complexity.

Q: Are there any fees involved?

A: Yes, if critical areas are identified on your property, you will be assessed a \$250 critical area review fee to cover the cost of reviewing your critical area study. The fee is payable to PDS.