



Buffers

A Critical Areas Ordinance Fact Sheet

Updated June 21, 2012

Introduction

Thurston County is in the process of updating its existing Critical Areas Ordinance, which took effect in 1994. The ordinance governs how development and redevelopment can occur on or near environmentally sensitive lands and lands that affect our community's public health and safety (such as steep slopes and floodplains). This document highlights some of the major amendments under consideration.

Please be aware that the Board of County Commissioners is currently reviewing the draft Critical Areas Ordinance. The Board will consider all public testimony receive at its public hearing.

To see draft chapters and fact sheets, visit www.ThurstonPlanning.org and click on the "Critical Areas Update" photo box.



What is a Buffer?

A crucial way to protect habitat and water quality is to preserve a naturally vegetated buffer between human disturbances and sensitive land and water resources. Vegetated buffers help shield wetlands, streams and shorelines from polluted stormwater runoff, soil erosion, toxic chemicals, and other substances that would otherwise flow into the water. Buffers also help protect sensitive areas from human disturbances, such as noise and light pollution. The roots of plants hold banks in place, stabilizing the soil and absorbing water and materials that flow across the land. Buffers support both land and water-based animals, insects and plants.

How Would This Affect Me?

If approved, potential amendments to the Critical Areas Ordinance may expand buffers in some areas, such as streams, wetlands, marine shorelines and landslide hazard areas.

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Proposed Flexibility

- If a buffer width established under the new Critical Areas Ordinance were to leave a landowner with less than 5,000 square feet of buildable area, the county could allow the development to extend into the outer 25-50 percent of the buffer depending on the critical area (i.e., the area farthest away from the critical area) to make the total building site add up to 5,000 square feet – roughly the size of a city lot. The county could also authorize use of additional buffer space to accommodate an onsite sewage system if no alternative were available.
- If a property owner already had a home within a riparian area (streamside buffer), the owner could add up to 500 square feet of impervious surface (described below).
- Property owners may apply for a “Reasonable Use” exception if they believe Critical Areas Ordinance buffers leave them with no reasonable use of their property. This option already exists under the current county code and it would continue in any updates.

Streams and Marine Shorelines

Under proposed amendments, stream riparian habitat areas would be set at 100 to 250 feet, depending on how they are classified by the state Department of Natural Resources. (In the past, these areas have been referred to as buffers, and the terms are still used interchangeably in some cases. Stream riparian habitat areas/buffers are now between 25 and 100 feet.)

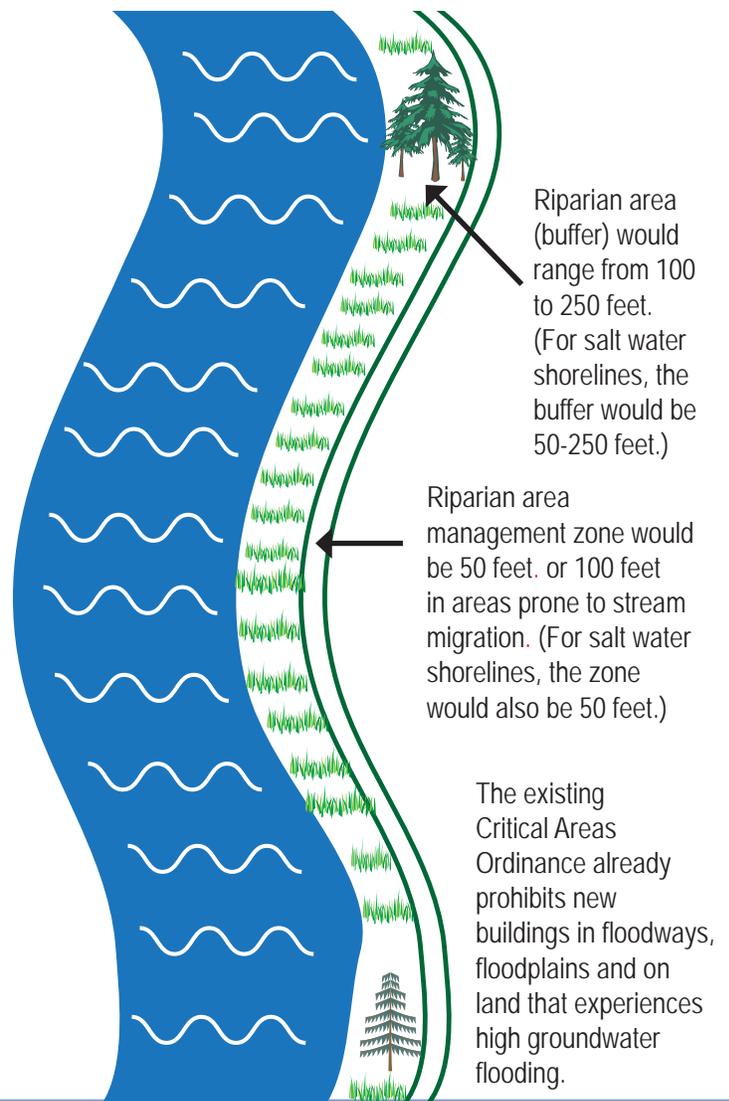
The width of the riparian area would vary, depending on the size, water quality and fish and wildlife habitat provided by a given stream. Where maintaining water quality is the primary concern, riparian areas would typically be 100 feet wide on both sides of the stream, as measured from the ordinary high water mark. If fish were present in the stream, or wildlife depended on the adjacent riparian area, the width could range from 200 to 250 feet.

Proposed amendments would also allow property owners who already have a structure within a riparian area to add 500 square feet of impervious surface – either by expanding the footprint of an existing structure or building a new structure. (continued next column)

If another area of the buffer were already disturbed, the property owner would offset the new impervious area by restoring 500 square feet of the disturbed area. (This typically involves replacing invasive plants with native plants.)

If approved, the proposed amendments would also establish 50-foot riparian habitat management zones adjacent to the riparian area/buffer. Development could still occur on the 50-foot riparian management zone, however, standards would be set for uses or activities that would generate excessive nutrients, sediments, or pollutants that could reach the stream or buffer. In areas where a stream is prone to migrate and threaten structures, management zone may be 100 feet.

In the case of marine (salt water) shorelines, the potential amendments would also establish 50-250-foot-wide marine riparian areas along shorelines, and 100-foot marine riparian management zones adjacent to those areas.



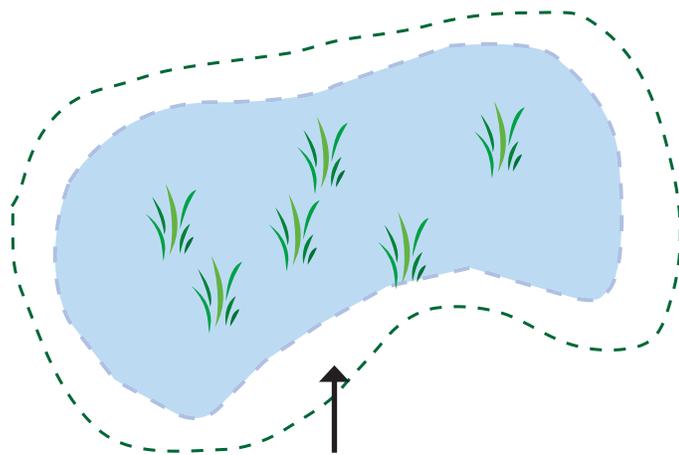
Wetlands

Under proposed amendments, the range of wetland buffers would remain the same as the existing ordinance that is now in effect (50 feet to 300 feet); however, the method of determining buffer widths would change.

Under current regulations, wetland buffer widths are fixed based on the general type of wetland and the intensity of the proposed land use. The potential amendments would instead determine the width of buffers based on distances required to maintain water quality and habitat value, using the Department of Ecology's rating system. Some buffers would be narrower than they are now, and some could be larger, depending on the wetlands' functions. Wetlands that provide the most important wildlife habitat would get the widest buffers.

The potential amendments would exempt most wetlands that are 1,000 square feet or less in size from regulation under the Critical Areas Ordinance. In contrast, current regulations exempt wetlands less than 11,000 square feet in Urban Growth Areas and less than 22,000 square feet in rural areas. Also under the existing ordinance, wetlands that are adjacent to streams are exempt if they are less than 2,500 square feet.

The potential amendments would increase pond buffers from about 50 feet to 100 feet to protect water quality.

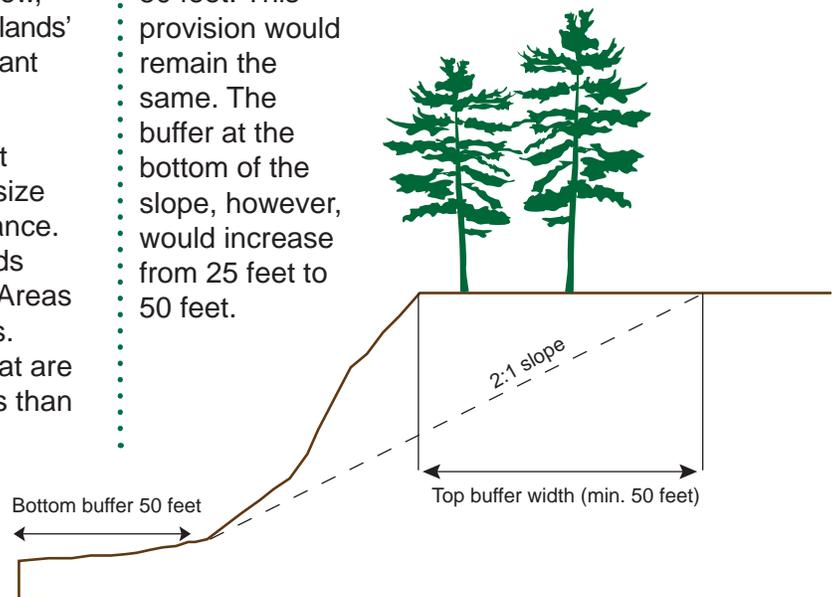


Like the existing Critical Areas Ordinance, proposed amendments set wetland buffers at a range of 50 to 300 feet; however, they would be calculated differently within that range. Some existing buffers could be narrower; some larger. Pond buffers would be 100 feet.

Marine Bluff Hazard Areas

To protect the safety of residents and their properties, the existing Critical Areas Ordinance establishes buffers at both the top and the bottom of marine bluff hazard areas. In other words, property owners can't build too close to the top of the slope because the slope could give way, or too close to the bottom of the slope where a slide could submerge their property.

The top buffer is calculated by drawing a line at a 2:1 angle from the ordinary high water mark upward to where the line intersects the surface of the ground at the top of the slope. The minimum top buffer is 50 feet. This provision would remain the same. The buffer at the bottom of the slope, however, would increase from 25 feet to 50 feet.



Landslide Hazard Areas

The existing Critical Areas Ordinance sets a fixed 50-foot buffer at the top of a landslide hazard area. The potential amendments would instead use the same 2:1 slope calculation and 50-foot minimum that applies to marine bluff hazard areas (see above). The bottom buffer would increase from 25 feet to 50 feet.

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Habitat Reviews

Under the existing critical areas ordinance, a property owner who wishes to develop land that contains an important habitat may be required to provide a habitat management plan during the land-use review/permitting process. The proposed amendments would continue this provision. Set-asides are established on a case-by-case basis according to the habitat management plan or critical area report, the Department of Fish and Wildlife (WDFW) management recommendations for Washington's priority habitats and species, and consultation with WDFW or others with expertise.



In the case of property that contains prairie soils, data dating back to 2007 shows that only a small percentage of building applicants were required to supply habitat management plans. From January 2007 (the year a prairie ordinance was adopted) to April 2011, county staff reviewed 4,400 applications where maps showed prairie or gopher soils. Only 25 projects were required to submit habitat management plans — less than 1 percent — and two of those were county projects.

Frequently Asked Questions About Buffers

Q Could I mow and maintain my yard and landscaping?

Yes. Although Thurston County recommends planting native vegetation, proposed amendments would allow all legally existing uses to continue in critical areas and buffers, including lawn mowing.

Q Would my property be entirely off-limits to development?

No, having a critical area on property does not mean that land is “locked” from development. Our staff works closely with each permit applicant to find a location that will reduce the impact on a critical area or buffer. Sometimes, this means shifting a building site to a different location on the parcel.

Q Could I rebuild my cabin or home if it burns down and is located in a critical area?

Under most circumstances, potential amendments would allow the replacement of a structure that is damaged beyond repair, provided it is a legally established structure and occurs within the existing footprint. There are, however, limits on rebuilding structures that are located within the floodway of a river, or other areas that might pose health and safety issues for the property owner.

Q Are landowners denied insurance if an existing home is enveloped by a buffer (i.e., becomes a “nonconforming use?”)

Insurance and building industry representatives have told the Thurston County Planning Department that a home's status of “legal nonconforming” should not affect the owner's ability to get insurance. Many homes were built years ago, before even the existing building and land-use codes were in place.

Q If my home is now located in a buffer, would I need to occupy it constantly so it isn't labeled as “abandoned?”

No, however, homes that are already derelict or uninhabitable cannot be rebuilt in a critical area or buffer. This is because new homes are generally not allowed in critical areas and buffers.

Contact Information

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