Chapter 24.01

GENERAL PROVISIONS

Sections:
24.01.005  Short title.
24.01.010  Purpose – Statement of policy for critical areas.
24.01.015  Purpose – Statements for critical areas categories.
24.01.020  Critical areas designated.
24.01.025  Applicability of critical areas regulations.
24.01.030  Interpretations.
24.01.035  General requirements.
24.01.037  Mitigation sequencing.
24.01.040  Critical areas maps.
24.01.050  Best available science.

24.01.005  Short title.

This title shall be known as the “Thurston County Critical Areas Ordinance.”

24.01.010  Purpose – Statement of policy for critical areas.

These regulations are intended to:

A. Minimize loss of life, injury, and property damage due to natural hazards such as floods, landslides, seismic events, and volcanic eruptions, minimize the need for emergency rescue, and avoid the cost of replacing public facilities;

B. Identify and protect the functions and values of unique, fragile, and vulnerable elements of the environment such as fish and wildlife habitats, wetlands, and other ecosystems;

C. Maintain water quality and quantity to meet human and wildlife needs;
D. Recognize and address cumulative adverse impacts that could degrade or deplete water resources, wetlands or fish and wildlife habitat, or exacerbate flooding and landslide hazards;

E. Alert the public to the development limitations and hazards associated with critical areas;

F. Protect critical areas, associated buffers and their functions and values while allowing reasonable use of property by: directing activities not essential in such areas to other locations; providing for review of proposed uses and activities on properties containing critical areas or their buffers to achieve compliance with standards designed to minimize impacts to critical areas and associated buffers; and providing for mitigation of unavoidable impacts;

G. Establish enforcement tools and processes designed to deter activities in violation of this chapter and provide for remedial action for unauthorized impacts to critical areas and their buffers;

H. Implement the Washington State Growth Management Act (RCW 36.70A), including consideration of best available science in the designation, protection, and management of critical areas, with special consideration for the protection of anadromous fish; and

I. Carry out the goals and policies of the Thurston County Comprehensive Plan.

24.01.015 Purpose – Statements for critical areas categories.

A specific purpose statement also begins each of the critical areas categories.

24.01.020 Critical areas designated.

To carry out the purposes of this title and the Growth Management Act (RCW 36.70A), the following critical areas further described in this title shall be designated in the unincorporated territory of Thurston County:

A. Critical Aquifer Recharge Areas;

B. Geologic Hazards;

C. Frequently Flooded Areas;

D. Fish and Wildlife Habitat Conservation Areas; and

E. Wetlands.
24.01.025  Applicability of critical areas regulations.

The provisions of this title for regulating critical areas shall apply to all land, all water areas and all structures, and all uses irrespective of lot lines in the unincorporated territory of Thurston County, Washington, except for existing and ongoing agricultural uses and lands Existing and ongoing agricultural uses and lands in existence on [effective date of this ordinance ] meeting the requirements of TCC 17.15.110 shall be regulated by chapter 17.15 TCC.

24.01.030  Interpretations.

For the purposes of this title, certain words and terms shall be interpreted as follows:

A. The director shall review and resolve any questions involving the proper interpretation or application of the provisions of this title that may be requested by any property owner, tenant, government officer, department, or other person affected. The director’s decision shall be in keeping with the intent of this title, the Thurston County Comprehensive Plan, the Growth Management Act, and other applicable federal, state and county regulations.

B. Recognizing that there may be uses not specifically mentioned in this title, either because of advancing technology or any other reason, the director may permit or condition such use if it is clearly evident that the use is consistent with the listed principal uses permitted in the critical area in which it is to be located. The decision by the director shall be in writing, published on the county’s web page, and can be appealed in accordance with this title.

C. When interpreting and applying the regulations of this code, its provisions shall be the minimum requirements, unless otherwise stated.

D. Where conflicts occur between the provisions of this title or between this title and other regulations, the more protective of critical areas shall apply except as otherwise provided for in this title. When conflicts occur between meeting minimum land use densities and the provisions of this title, the provisions of this title shall apply. The county may waive minimum density requirements to protect critical areas, as determined by the director.

E. When the exact location of a critical area or buffer is in doubt, or where there appears to be a conflict between a mapped boundary and actual field conditions, County personnel shall determine the correct boundary. The approval authority may also require submittal of a report by a qualified professional, at the applicant’s expense, as needed to make such determinations. The approval authority may, at the applicant’s expense, require a third party review of a report. The approval authority shall determine the third party reviewer.

F. In the event that a boundary on an official county critical areas map depicting critical areas conflicts with the application of the text of this chapter, the text shall control.
G. Words used in the present tense can include the future; words used in the masculine gender can include the feminine and neuter; words in the singular number can include the plural; and words in the plural can include the singular, unless obvious construction of the wording indicates otherwise.

H. The inclusion of the words “must” and “shall” in a regulation indicates the requirement is mandatory.

I. Unless otherwise specified, all distances shall be measured horizontally and at right angles to the line from which the distance is specified.

J. Unless otherwise specified, the term “day” shall mean calendar day.

K. The word “used” shall be deemed to also include “designed, intended, or arranged to be used”; the term “erected” shall be deemed also to include “constructed, reconstructed, altered, placed or relocated.”

L. The terms “land use” and “use of land” shall be deemed also to include the building use and use of building.

M. The terms “Board of Thurston County Commissioners,” “planning commission,” “hearing examiner,” “Resource Stewardship Director,” “health officer,” “building officer,” “building inspector” and other similar officers shall mean the respective boards, commissions, and officers of Thurston County and/or their authorized agents. The use of the term “board” or “Board” shall always mean the Board of Thurston County Commissioners. The use of the terms “planning commission” or “Planning Commission” shall always mean the Thurston County Planning Commission. The use of the terms “examiner” or “hearing examiner” shall always mean the Thurston County Hearings Examiner. The term “director” shall always mean the Resource Stewardship Director or designee.

24.01.035 General requirements.

A. Avoid Impacts. All uses and activities on sites containing critical areas and/or associated buffers or riparian or marine shoreline management zones shall be located, designed and constructed to avoid or, where that is not possible, minimize all adverse impacts to critical areas, associated buffers and management zones. The County shall not authorize impacts to critical areas or buffers unless the applicant demonstrates an inability to avoid impacts and that there will be no net loss of critical area functions as required in Subsection B. Impacts to critical areas and associated buffers that cannot be avoided shall be minimized by sensitive site design and appropriate precautions during the permitted activity and as specifically provided for in this title.

B. No Net Loss of Critical Area Functions. Uses and activities carried out pursuant to this title shall result in equivalent or, if the applicant chooses, greater critical area functions.
Impacts to critical areas and associated buffers shall be repaired or mitigated through restoration, replacement, enhancement, or through purchase of credits at a mitigation bank consistent with the applicable provisions of this title.

C. Monitoring. In addition to the specific monitoring requirements in this title, the approval authority may require that permitted uses and mitigation projects be reviewed at appropriate intervals as necessary to ensure that they are functioning consistent with the project approval and applicable provisions of this title. The approval authority may require remedial action as warranted to correct problems identified during monitoring to avoid degradation of critical areas and associated buffers and to ensure that any required mitigation is successful.

D. Access to enable administration. Property owners shall grant access to the County, or designee, for the purpose of inspecting sites proposed for development and performing monitoring required pursuant to this title. County personnel shall present proper credentials and make a reasonable effort to contact the property owner before entering onto private property.

E. Forestry. As required by state law, forestry and associated development subject to County approval under chapter 17.25 TCC, Thurston County Forest Lands Conversion Ordinance, are subject to the provisions of this chapter. In the event that any provision of this chapter conflicts with state Forest Practices regulations, the County shall apply the more restrictive provision to uses subject to chapter 17.25 TCC.

F. Property Assessment Relief. The Thurston County Assessor shall consider the restrictions on property use imposed pursuant to this title, particularly on conservation areas and critical area tracts, when determining the fair market value of land.

G. Construction Setbacks. Construction activity must occur outside of the critical area and associated buffer unless specifically authorized pursuant to this title. Structures requiring a permit shall be set back a minimum of fifteen feet from wetland buffers, riparian habitat areas, marine buffers, important habitat buffers, priority species conservation areas, and landslide hazards area buffers unless the applicant demonstrates to the approval authority’s satisfaction that the proposed construction activity will not encroach into the protected area. Structures not requiring a building permit are required to observe the setbacks and other requirements of this title.

24.01.037 Mitigation sequencing.
Mitigation actions associated with development proposals impacting critical areas shall adhere to the following mitigation sequence:

A. Avoiding the impact altogether by not taking a certain action or parts of an action;
B. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;

C. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;

D. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;

E. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and/or

F. Monitoring the impact and taking appropriate corrective measures.

24.01.040 Critical areas maps.
A. Official Maps. The Resource Stewardship Department Director, or designee, shall maintain the official critical areas maps.

B. Maps Submitted by Applicants. Applicants shall submit required maps delineating critical areas and/or associated buffers in a digital format acceptable to the County to enable incorporation of the data in the official critical areas maps.

C. Map Omissions. The presence of critical areas or associated buffers on a parcel triggers the requirements of this chapter, regardless of whether or not a critical area or buffer is depicted on an official critical areas map.

24.01.050 Best available science.
A. The Growth Management Act (RCW 36.70A) requires jurisdictions to consider the best available science in developing policies and development regulations to designate and protect critical areas. Best available science guidance criteria are located in WAC 365-195-900 through 365-195-925, as amended, which have been incorporated in the definition for best available science in this title (chapter 24.03 TCC).

B. Thurston County has considered and included best available science in developing this title. This has been achieved through research and consultation with experts, including state and federal agencies. Relevant nonscientific information, including legal, social, policy, economic, and land use issues has also been considered. The use of nonscientific information reflects the county’s responsibility to balance the goals of the Growth Management Act (RCW 36.70A), and the need to address local circumstances. The county shall also use its authority under the State Environmental Policy Act (RCW 43.21C) to identify, consider, and mitigate where appropriate, significant adverse effects on critical areas not otherwise addressed by this title.

24.01.055 New agricultural use voluntary stewardship program.
A. A voluntary stewardship program was added to the Growth Management Act (RCW 36.70A.700 to 760) in 2011 for the protection of critical areas in relation to agricultural uses. The intent is to balance productive use of agricultural resource lands and associated regulatory requirements for the protection of critical areas. A program has not been fully developed as of [date of adoption]. Once a county watershed work plan developed through the voluntary stewardship program has been developed for Thurston County, or a specific watershed in Thurston County, a property owner may opt in to participate in the program to protect critical areas with a new agricultural use stewardship plan.

B. [OPTION] New agricultural use stewardship plans may also be permitted prior to the creation of a county watershed work plan developed through the voluntary stewardship program subject to the approval of the director. The director shall consult with subject matter experts in the development of new agricultural use stewardship plans. Subject matter experts may include but are not limited to state and local conservation districts, local agricultural extensions, and applicable federal and state agencies. New agricultural use stewardship plans permitted prior to the establishment of a county watershed work plan developed through the voluntary stewardship program are permitted to protect critical areas (WAC 365-195-920), as amended, and shall be reviewed at least every five years. New agricultural use stewardship plans may need to be amended if mitigation measures in the new agricultural use stewardship plan are inadequate to protect and prevent harm to critical areas. A new agricultural use stewardship plan shall be amended once the initial county watershed work plan developed through the voluntary stewardship program has been developed for a specific watershed to be consistent with critical area protections established in the county watershed work plan.

The proposed five-year period for review of an individual stewardship plan may be amended in the future after consultation with the local conservation district and the Thurston County Agricultural Advisory Committee.

C. Critical area standards may be proposed in lieu of the standards in this title as part of a county watershed work plan developed through the voluntary stewardship plan or new agricultural use stewardship plan. Such standards shall meet the following minimum criteria:

1. Critical area protection standards in an individual stewardship plan shall not permit unmitigated damage or harm to the functions of critical areas as defined in this title because of a new agricultural use; and

2. The requested new agricultural use or activity shall not cause off-site impacts to other property and critical areas; and

3. The new agricultural use stewardship plan and proposed agricultural use of the land is consistent with the goals and policies of the Thurston County Comprehensive Plan; and

4. The agricultural use shall not result in unmitigated adverse impacts to species of concern as defined in this title; and

5. The new agricultural use stewardship plan developed under a county watershed work plan shall include a mitigation plan consistent with this title and best available science; and
6. Mitigation measures shall address any unavoidable impacts and shall occur onsite first, or if necessary offsite; and

7. The location and scale of existing agricultural uses shall not be the sole basis for determining critical area protection standards in an individual stewardship plan; and

10. The new agricultural use stewardship plan shall be consistent with the purpose and intent expressed for the voluntary stewardship program in RCW 36.70A.700, as amended; and

11. If a county watershed work plan is developed through the voluntary stewardship program is developed, the new agricultural use stewardship plan shall be consistent with the requirements of the county watershed work plan as defined in RCW 36.70A.703, as amended; and

12. The standards proposed in the new agricultural use stewardship plan shall not permit less protection of a critical area than the protection standards in chapter 17.15 TCC for new agricultural uses.

D. Critical areas shall be restored to the condition of the critical area prior to establishment of the new agricultural use when the land use changes to a nonagricultural use as defined by this title.