Frequently Asked Questions
A Critical Areas Ordinance Fact Sheet

Updated June 21, 2012

What are Critical Areas?
Critical areas are environmentally sensitive areas that are essential to the health and safety of county residents and wildlife, and that are difficult – if not impossible – to replace.

The state Growth Management Act 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. Fish and wildlife habitat conservation areas, such as prairies and salmon habitat.

Thurston County contains all five types of critical areas, and protects them through its Critical Areas Ordinance. The ordinance sets standards for development and redevelopment on or near critical areas. The county is now working to update its ordinance.

Why Must Thurston County Update Its Ordinance?
Thurston County must update its Critical Areas Ordinance to:

1. Meet its legal responsibilities under the state Growth Management Act. The Growth Management Act requires Thurston County to review and, if necessary, revise its Critical Areas Ordinance every seven years to make sure it keeps pace with changes in state law and is based on “Best Available Science” (described on page 3.) Thurston County’s update is long overdue. In fact, Thurston County is one of the last remaining counties in western Washington to update its Critical Areas Ordinance.

2. Protect Thurston County’s land and water – not only for endangered and threatened species, but for all of us who make our lives and livelihoods here. Our county has consistently been one of the fastest growing counties in the state, putting pressure on our natural resources. It is far more expensive to try to restore critical areas after damage has been done than to prevent the damage in the first place.

3. Keep our regulations local. If Thurston County fails to protect threatened and endangered species, the federal and state governments will likely step in and impose stricter requirements.

Did You Know? ...

Most of Thurston County’s population (54%) lives in unincorporated areas of the county. The rest of the population lives in cities.

- Thurston Regional Planning Council, 2011
Why Should I Care About Protecting Critical Areas?

Protecting critical areas helps preserve the natural resources that make Thurston County a healthy place to live. These areas include aquifers that supply drinking water, streams that support fish populations, wildlife habitat that fosters a diversity of living organisms, and an ecosystem that supports our community. Critical areas also support resource industries that contribute to our local economy, such as salmon and shellfish harvesting.

Critical area protections help ensure that our water supplies are free of contamination and that our lakes and rivers are safe places to swim and fish. Critical areas protections also safeguard people from physical and financial harm caused by natural disasters, such as floods, earthquakes, and mudslides.

What’s Going On Now?

The Board of County Commissioners is currently reviewing the draft Critical Areas Ordinance. The Board will consider public testimony given in its public hearing in making any amendments to the draft. To read the draft, please visit www.ThurstonPlanning.org

Has the Public Been Involved?

Yes, county residents have been, and continue to be, very active in this effort. Hundreds of people have attended open house events, Planning Commission meetings, and public hearings about the interim prairie ordinance. The Planning Commission also held its public hearing on the Critical Area Ordinance in December 2011. The department also communicates with citizens through a web mail service that now has roughly 700 subscribers. Several newspapers have published articles on this process.

Staff members have reached out to a variety of organizations, including:

- Olympia Master Builders.
- Thurston County Realtors Association.
- Thurston County Agricultural Advisory Committee.
- Thurston Conservation District.
- LOTT.
- Black Hills Audubon Society.
- Deschutes TMDL Advisory Group.
- Nisqually Shellfish Protection District.
- Thurston County Storm and Surface Water Advisory Board.
- United States Fish and Wildlife Service.
- Washington Department of Fish and Wildlife.
- USDA Natural Resource Conservation Service.
- FEMA.
- NOAA Fisheries.

Why Can’t the Ordinance Just be Reviewed Instead of Revised?

The Growth Management Act requires counties and cities to review and – if needed– revise their comprehensive land-use plans and regulations every seven years to make sure they are consistent with the Growth Management Act. The county’s existing Critical Areas Ordinance was adopted in 1994, and since then, the state Legislature has added new requirements. Some of the most significant changes mandate that Thurston County:

- Use “Best Available Science” when developing and evaluating critical areas regulations.
- Protect anadromous fish species, which are species of fish that migrate between fresh and salt water (salmon).

The state has also updated its guidelines for protecting wetlands and priority habitats and species.

These changes and others mean that the Critical Areas Ordinance must be revised significantly.
**Where Can I Find Draft Chapters?**

Draft chapters are posted on the Planning Department website. Visit www.ThurstonPlanning.org and click on the “Critical Areas Update” photobox. The website also offers fact sheets that describe the chapters.

If you have specific questions, please feel free to contact a staff member (see page 4) or stop by the Permit Assistance Center, located in Building 1 of the Thurston County Courthouse, 2000 Lakeridge Drive S.W. in Olympia. The Permit Assistance Center is open from 8 a.m. to 12:30 p.m. Monday through Friday.

**Would the Changes Be Retroactive?**

The short answer is no. Under proposed amendments, legally existing uses, such as single-family homes and other structures, could continue at the same location. New requirements would, however, apply to any new development activities. Certain types of permits have, and will continue, to require periodic review (such as special use permits).

**What is Best Available Science?**

A 1995 amendment to the Growth Management Act requires counties and cities to use Best Available Science when developing critical areas regulations.

So what exactly is Best Available Science? In 2000, the state Office of Community Trade and Economic Development provided guidance for identifying Best Available Science (WAC 365-195-905). According to this guidance, Best Available Science means current scientific information derived from research, monitoring, inventories, surveys, modeling, assessment, synthesis and expert opinion that is:

- Logical and reasonable.
- Based on quantitative analysis.
- Peer reviewed.
- Used in the appropriate context.
- Based on accepted methods.
- Well referenced.

Local governments can also accept or solicit scientific information from state and federal agencies, universities, tribes, and other experts, but it’s ultimately the governments’ burden to determine whether the information they have gathered constitutes Best Available Science.

If local governments pass regulations that are not supported by Best Available Science, they must demonstrate how they considered the science and why local circumstances prompted them to use a different approach. Local governments must also document their sources.

Seventeen years have passed since the 1995 amendment was approved. As a result, many sources of scientific information have already been vetted by the state and federal governments, growth management hearings boards, and the courts. This pool of information is already being used by other western Washington cities and counties. The Thurston County Planning Department is drawing upon these scientific sources as it drafts possible amendments to the Critical Areas Ordinance.

The Planning Commission and Board of County Commissioners must review the Best Available Science materials when updating the Critical Areas Ordinance. A draft list of sources is posted on the “Critical Areas Update” link of www.ThurstonPlanning.org.
Would Buffers Increase?
In many cases, buffers are proposed to increase. For details, please see the companion publication entitled “Buffers” and other related fact sheets. The publications are available on www.ThurstonPlanning.org (click on the “Critical Areas Update” photobox).

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.

Would I Always Need to Hire Somebody to Write a Report to Get a Building Permit?
A special report is not always required for building on land that contains a critical area. For example, depending on how close a wetland and buffer may be to the proposed development area, staff will visit the property as part of the project review and can determine whether a special report will be required.

If a new building or addition is proposed and the wetland is obviously located beyond most buffer zones – for example, more than 300 feet away – the permit may be approved without a special report with the condition that there is no proposal by the property owner to impact or disturb the wetland or buffer area on the site. Sometimes it is hard for staff to determine whether an area meets the criteria for a critical area, such as a wetland or geologic hazard area. In these cases, staff may require a report that provides the additional information.

The closer the development is to a critical area and/or buffer, the more likely a report will be required.

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.

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, it occurs within the existing footprint. There are, however, limits on rebuilding structures that are located within the floodway of a river or in other areas that might pose health and safety issues for the property owner.

Would This Affect Agriculture?
The Critical Areas Ordinance does not apply to existing uses. New agricultural uses or changes to an existing agricultural use that will have a larger impact on the critical area may trigger additional review.

Are landowners denied insurance if an existing home is enveloped by a buffer?
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.