

Frequently Asked Questions - Proposed 2024 Critical Areas Ordinance Update

March 2024

King County is updating its Comprehensive Plan – an important policy document that will guide growth and development in unincorporated areas of the county for the next 20 years. The King County Executive transmitted the recommended 2024 Comprehensive Plan to the King County Council in December 2023, including focused actions to address social equity, affordable housing, and climate change. The updated plan must be adopted by the Council by December 2024.

As required by state law, part of the County’s Comprehensive Plan update is a review of the policies and regulations used to protect public health and safety by limiting development in hazard areas, including steep slopes and flood zones, and to protect environmentally critical areas, including wetlands and streams. Regulations in King County Code that protect critical areas are often referred to as the Critical Areas Ordinance.

King County uses a combination of development regulations and non-regulatory programs, like land conservation, salmon habitat restoration projects, stormwater management, tax incentives, and technical assistance to achieve the best outcomes for water quality, habitat, and public safety. The County’s Critical Areas Ordinance – which applies to unincorporated areas – is intended to protect these areas from being adversely affected by new clearing and land development, and to protect the public and community from natural hazards, such as flooding and erosion.

As required by state law, included in this update is a thorough review of the best available science (BAS) used in formulating the policies and regulations that protect the most ecologically sensitive features. The current BAS review starts from a strong foundation of science that was reviewed when the current critical areas regulations were established in 2004. To inform the 2024 BAS review, the County reviewed current guidance from the Washington State Department of Commerce as well as updated BAS from state agencies, including the Washington State Department of Ecology and the Washington State Department of Fish and Wildlife.

Questions (Q) and Answers (A)

Q: What is the Critical Areas Ordinance?

A: The Critical Areas Ordinance is a set of King County Code regulations that govern how critical areas must be protected in unincorporated King County. King County, like other cities and counties, is required by state law to adopt regulations that protect critical areas from damage and keep them healthy and functioning. These regulations must be developed using the best available science.

Critical areas are defined in state law as:

1. Wetlands;
2. Areas with a critical recharging effect on aquifers used for potable water;
3. Fish and wildlife habitat conservation areas such as riparian areas, aquatic areas, and species of local importance;
4. Frequently flooded areas; and

5. Geologically hazardous areas such as landslide hazard areas, erosion hazard areas, and seismic hazard areas.

Q: Why is King County updating the Critical Areas Ordinance now?

A: State law requires local governments to review and, if necessary, update their Critical Area Ordinance at least once every 10 years with comprehensive plan updates. King County's next 10-year comprehensive plan update is currently underway and required by state law to be adopted no later than December 31, 2024.

Q: What are some of the key proposed changes in this package?

A: Key BAS-driven changes proposed in the package include:

- Stronger protections for wetlands and riparian areas in both rural and urban unincorporated King County (areas outside of cities), informed by Best Available Science review.
- Updates to requirements for frequently flooded areas to better support salmon habitat restoration projects.
- New alluvial fan standards that limit new, at-risk development in alluvial fan hazard areas, clarify requirements for emergency actions, and support multi-benefit projects sponsored by the King County Department of Natural Resources and Parks.
- Allowing "climate-smart plants" to be used in mitigation and restoration projects, supporting climate resilience.

Q: Will the Critical Areas Ordinance update affect what I can do with my property?

A: The County has had protections for wetlands, riparian areas, critical aquifer recharge areas, geologically hazardous areas, and other critical areas for 20 years. The proposed updates continue to apply to new development and redevelopment of property and are informed by a review of current BAS and state law. The proposed updates modify and clarify the standards that are applied to new development and redevelopment on some properties, depending on where the property is located and the presence of critical areas and their buffers on the property.

Q: Will the Critical Areas Ordinance reduce the development potential of land in King County?

A: Proposed standards might limit the footprint of new development or affect location of development on properties containing critical areas or associated buffers, but the Critical Areas Ordinance does not change the adopted growth targets for unincorporated King County. This means that the County will continue to plan for the same amount of population and job growth after the ordinance is adopted as it did before.

Q: How can I get more information and comment on the proposed Critical Areas Ordinance?

A: County staff members engaged with community groups in September and October 2023 to share early concepts being considered for this update. Proposed code and policy updates were transmitted to the Council and made available publicly on March 1, 2024. The Council will also host a public hearing and take public comment on the proposed code prior to adoption. The public can engage through the Council's public hearing and other verbal public comment opportunities or provide written comments on the proposals at any point during Council's review by emailing CouncilCompPlan@kingcounty.gov. More information about how to provide input can be found [here](#).

Agriculture

Q: How does the proposed ordinance affect agriculture?

A: In general, the proposed changes strengthen and clarify the applications of protections for critical areas while retaining flexibility for agriculture. While the County is proposing some increased critical area protections in some cases, they mostly apply to new agricultural operations, not existing.

Q: How would the proposed changes to wetland buffers and riparian areas – formerly known as aquatic area buffers – affect existing commercial farms?

A: These changes would apply only to new development and clearing, not existing commercial agricultural operations and activity. Existing agriculture continues to be allowed within riparian areas. Increases in wetland buffer and riparian area width would not affect current commercial agricultural operations that currently comply with King County Code standards.

Q: If I currently meet fencing/waterway setback requirements for livestock, will I be required to move existing fences to meet the new setback requirements?

A: No, landowners in compliance with current land use regulations for livestock will not be required to move fencing.

Q: How would the changes to wetland buffers and riparian areas impact drainage ditch maintenance, and other ongoing maintenance and operations for farms?

A: There are no impacts changes to the existing drainage maintenance code provisions. The same allowances provided to wetland buffers and riparian areas are also proposed to apply to alluvial fan hazard areas for both 1) maintenance, repair, or replacement of existing surface water conveyance system and 2) maintenance or replacement of agricultural drainage.

Q: How would these proposed code changes impact a proposal to expand active farm operations within riparian areas?

A: There continues to be no expansion allowed into areas cleared under forest practice permits, or areas that predominantly contain native forest overstory, shrub, or herbaceous vegetation. These restrictions do not extend to areas that are currently actively managed for pulpwood, Christmas trees, or ornamental nursery stock.

Code Enforcement

Q: Why is the County updating regulations when there are already code enforcement backlogs?

A: The County has had critical areas protections for two decades. In that time, both the science and the County's experience implementing these protections has grown and improved. It's both a state requirement and the County's commitment to update regulations as more is learned about the science and how these regulations impact resources on the ground. At the same time, the County recognizes the frustrations about code enforcement response. Resources for code enforcement are indeed limited and are prioritized for infractions that pose serious threats to life, health, and safety, as well as those that create environmental harm.

Q: How does the code enforcement process work?

A: In Title 23 of the King County Code, the County establishes a policy of first allowing people a reasonable opportunity to voluntarily correct code violations. If a responsible party -- typically the property owner -- is unwilling to voluntarily comply with code requirements, then a Notice and Order is issued that provides the basis for cumulative daily monetary penalties if the

compliance deadline is not met. The responsible party can appeal the Notice and Order to the Hearing Examiner's Office and a hearing is scheduled. The Hearing Examiner can impose monetary penalties or order other compliance measures as appropriate. Civil monetary penalties can be attached to the property in violation as a lien.

Q: Is the County considering any changes to the code enforcement process?

A: Yes. The County is considering making changes to the code enforcement process based on a recent King County Auditor's Office audit, which makes recommendations focused on prioritization, streamlining enforcement processes, data and management, communication with property owners, and collaboration across agencies to improve efficiency and effectiveness of King County's code enforcement. The King County Permitting Division of the Department of Local Services is beginning to update policies and practices for code enforcement. The scope of this work includes analyzing potential adjustments to civil penalties to ensure adequate funding for code enforcement operations and updating policies and practices to prioritize and allocate resources to achieve the best environmental outcomes.