

# Frequently Asked Questions - Proposed Critical Areas Ordinance Update

Updated December 2024

As required by the Washington State Growth Management Act (GMA), King County is reviewing and updating 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 (CAO) and are required by the GMA to include the latest best available science (BAS).

On December 5, 2024, the King County Executive transmitted to the King County Council the proposed updates to BAS and the CAO as [Proposed Ordinance 2024-0408](#). The County began this review in 2022 and developed draft updates in consultation with Indian tribes, state and federal agencies, and community partners. An initial BAS report and proposed policy and code updates were published in March 2024. The Executive completed additional review and refinement of the CAO update and BAS report in 2024, and the County intends to adopt updates to critical areas regulations in 2025. Under the reasonable progress exception in RCW 36.70.130(7)(b), the County Council must adopt CAO updates no later than December 2025.

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 CAO – 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, the county reviewed and included BAS in updating policies and regulations that protect critical areas functions and values. 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 (CAO)?**

**A:** The CAO is a set of King County regulations that govern how critical areas like wetlands 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, keep them healthy and functioning, and protect public health and safety. Local governments are required to include best available science in the development of policies and regulations to protect critical areas.

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 CAO now?**

**A:** State law requires local governments to review and, if necessary, update their CAO at least once every 10 years with major comprehensive plan updates. King County's most recent 10-year comprehensive plan update was adopted in 2024. Under the reasonable progress exception in RCW 36.70.130(7)(b), the County has until December 2025 to complete the associated updates to critical areas regulations.

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

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

- Stronger protections riparian areas in both rural and urban unincorporated King County (areas outside of cities).
- Enhancing protections for Category I (high conservation value) wetlands, estuarine wetlands, and coastal lagoons.
- Increasing the area required for mitigation when unavoidable impacts are proposed for wetlands, aquatic areas, and riparian areas and clarifying application to wetland mitigation banks.
- Updating provisions for regulatory flexibility for agriculture such as farm field access drives, grazing, and farm-related structures.
- New alluvial fan standards that limit new, at-risk development in alluvial fan hazard areas, clarify requirements for emergency actions, and support flood risk reduction sponsored by the Department of Natural Resources and Parks.
- Allowing "climate-smart plants" to be used in mitigation and restoration projects, supporting climate resilience.

**Q: Will the CAO 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 more than 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 CAO reduce the development potential of land in King County?**

**A:** Proposed standards might limit the footprint of new development or affect the location of development on properties containing critical areas or associated buffers, but the CAO 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. Additionally, to avoid unconstitutional takings and fulfill the GMA goal to protect property rights and all for reasonable use of property, the County continues to maintain a reasonable use exception process.

**Q: What was the process to develop the proposed CAO?**

**A:** The County began this review in 2022 and developed draft updates in consultation with Indian tribes, state and federal agencies, and community partners. Key project milestones included:

- Public notice of the potential areas of change was provided in May 2022, June 2022, January 2023, and June 2023 as part of the 2024 King County Comprehensive Plan update (2024 update).
- A [progress report](#) that identified considered changes was published in December 2023.
- The [draft environmental impact statement](#) for the 2024 update, which included evaluation of potential changes to critical areas regulations, was published in December 2023.
- An initial BAS report and proposed policy and code updates were published in March 2024.
- The [final environmental impact statement](#) for the 2024 update, which will include evaluation of potential changes to critical areas regulations, was published in November 2024.
- Continued public, regulatory agency, and Tribe comment opportunities throughout the 2024 update process.

**Q: How can I get more information and comment on the proposed CAO?**

**A:** More information about the proposed changes can be found [here](#). The King County Council will now review and amend the proposals in 2025, with the final adoption occurring sometime that year. There will be opportunities for public input throughout the review process. Written comments on the proposals can also be provided at any point during Council's review by emailing [CouncilCompPlan@kingcounty.gov](mailto:CouncilCompPlan@kingcounty.gov).

## 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 primarily apply to new agricultural development rather than existing development.

**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 proposed changes to the existing agricultural drainage maintenance code provisions. With respect to new proposed alluvial fan hazard areas 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. Additional resources for code enforcement will be available in 2025, which should help reduce the case backlog and allow for improved response times.

**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 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 updating policies and practices for code enforcement to address issues raised in the audit.