

Critical Areas Ordinance Update—Futurewise and Pilchuck Audubon Society Recommendations

1. Clarify SCC 30.62A.020 to provide that agricultural activities continue to be managed under the CAO as RCW 36.70A.480(3)(d) requires.
 - a. Agricultural activities generally exempt from regulation under the Shoreline Master Plan, so much be managed under CAO.
 - b. Add “Agricultural activities within shoreline jurisdiction shall comply with 30.67 SCC.”
2. Limit buffer averaging reductions to no more than 25 percent of standard buffer width.
 - a. Regulations currently allows up to 50 percent reduction
 - b. No scientific evidence to support buffer averaging
 - c. Ecology recommends no more than 25 percent reduction
3. Clarify that buffers not vegetated with native vegetation must either be expanded or planted in native vegetation so they will adequately function as buffers.
 - a. 30.62A.320(4)—Add this requirement:
“If the existing buffer is unvegetated, sparsely vegetated, or vegetated with invasive species that do not perform needed functions, the Administrator shall require either that buffer be planted with native vegetation to create the appropriate plant community or the buffer shall be widened to ensure that adequate functions of the buffer are provided.
 - b. This is necessary to comply with the requirement to base critical areas regulations on best available science which documents that the buffers widths in the Snohomish Count critical areas regulations are assumed to be vegetated and if they are not, they either need to be planted or widened to adequately protect critical areas.
4. Amend SCC 30.62A.630(1)(c)—to prevent impacts on wetlands from agricultural activities and the conversion of agricultural lands.
 - a. Ecology concludes that there is no scientific basis for exempting wetlands that are prior converted croplands (PCC) from wetland regulations under GMA.
 - b. Ecology states that the conversion of wetlands that are not currently in agricultural use to a new agricultural use should be regulated by the same regulations as any new development. The scientific literature does not support the conversion of wetlands to new agricultural uses without review and conditioning through a CAO.
 - c. Snohomish County has allowed exemptions that have led to conversion of farmland to residential uses.
 - d. Allowing development, such as rural subdivisions, that was once farmland with wetlands, has put people, property and emergency responders at risk due to flooding.

- e. Growth Management Hearings Board has rejected exemptions such as the PCC exemption and exemption that allows for the expansion of agricultural uses into wetlands.
5. Amend the Geologically Hazardous Regulations to Better Protect People and Property.
 - a. Require review of any landslide hazard capable of damaging the proposed development, not just within 300 feet of proposed building site as SCC 30.62B.130 requires.
 - b. Require site specific identification of landslide top of slope and slope areas subject to failure and sliding, toe of slope areas subject to impact from down slope run-out, and buffers for areas subject to landslide hazards, as recommended by Oso Landslide Commission.
 - c. Construction not be allowed on landslides, landslide run-out areas, and their buffers even if that means that a lot is unbuildable. Over \$120 million was spent in the Oso Landslide remediation, shows, allowing construction in these areas results in the creation of nuisances and so Snohomish County is not legally obligated to allow construction in these areas.
 - d. Regulate all the landslide hazards identified in WAC 365-190-120(6) that occur within the community.
 - e. Require adequate public notice of landslide hazards, which could include mailings in tax statements, notices on plats, and signage around the landslide area, as recommended by Oso Landslide Commission.
 - f. Our comment letter goes into more detail.
 6. Amend SCC 30.62B.530(1)(c) to prevent impacts on wetlands from Agricultural activities and conversion of agricultural lands. Details found in our comment letter.
 7. Amend SCC 30.62C.140(3)(m) to comply with the requirements of state law and to protect senior water rights holders and instream flows.
 - a. RCW 19.27.097(1) requires as evidence of an adequate water supply for building permits a “water right permit,” but proposed SCC 30.62C.140(3)(m) does not require a “water right permit” or other proof of an adequate water supply that the applicant has a legal right to use.
 - b. RCW 58.17.110 also requires Snohomish County to assure adequate potable water supplies are available when approving subdivision applications, but proposed SCC 30.62C.140(3)(m) does not require evidence that the development will have a legal right to use the proposed ground water withdrawal or that developments proposing to use exempt wells are within the withdrawal limits applicable to those wells.
 - c. We recommend language in our comment letter to address this issue under SCC 30.62C.140(3)(m).
 8. Add a groundwater protection requirement for farm plans to protect drinking water and water quality.

- a. Nitrate pollution problem
 - b. Farms and failing septic systems
 - c. "Blue Baby Syndrome"
9. Amend SCC 30.63A.200(8)(c) to discourage the conversion of agricultural lands to non-agricultural uses.
- a. See more explanation in our comment letter.
 - b. Add "If the area drained by the ditches is converted to a use or activity other than an agricultural activity, the land drained by the ditch shall be considered to be a wetland unless it can be shown that the land was not a wetland before construction of the ditch.
10. Amend SCC 30.63A.200(9)(c) to prevent impacts on wetlands from agricultural activities and the conversion of agricultural lands.
- a. See more explanation in our comment letter.
 - b. Add—"The activity is within an area that on the effective date of this amendment was legally developed with buildings used for agricultural activities, fields, cropland, pasture, grazing land, feedlots, or similar cleared or developed areas used for agricultural activities."
 - c. Delete—"The wetland is an area of no greater than 5,000 square feet of non-riparian wetland Categories II or III or 10,000 square feet of non-riparian Category IV wetlands, pursuant to SCC 30.62A.230(2).
11. Protection for Open Space/Habitat Corridors.
- a. Would implement the new comprehensive land use policy as recommended by the Planning Commission.
 - b. Meets GMA request to identify open space corridors to link habitats, recreational areas and open spaces into a connected network.
 - c. Will help toward efforts to protect wildlife and fish.