

Topics covered in this Development Information Bulletin (DIB) include:

- What is a stream?
- How can I find out if I have a stream on my property?
- What are the regulations?
- What permits might I need, and how do I apply?

WHAT IS A STREAM?

A stream is any drainage where naturally occurring surface waters produce a defined channel, bed, bank or side, and where there is clear evidence of the passage of water such as bedrock channels, gravel beds, sand and silt beds and defined channel swales. The channel or bed need not contain water year-round. This definition is not intended to include irrigation or drainage ditches or swales, canals, storm or surface water run-off devices or other artificial watercourses unless they are used by salmonids or to convey streams naturally occurring prior to construction of such watercourses (ICC 17.02.030).

HOW CAN I FIND OUT IF I HAVE A STREAM ON MY PROPERTY?

Some streams in Island County are mapped. However, many do not appear on any maps. **If an area meets the criteria for a regulated stream, it is regulated whether or not it is shown on County maps.**

Please feel free to call or visit County offices to ask if any streams are mapped on your property (be sure to have your parcel number at hand). Other information, such as aerial photographs and the Island County Soil Survey, are also useful sources of information in approximating the location of streams. The County also maintains property-specific information. Staff can help you review and interpret these materials and can tell you if any site-specific information is available. Under certain circumstances, staff can visit the site of a current permit applicant and tell the owner if an area has a regulated wetland or stream. However, applicants are usually responsible for hiring a professional to determine whether a given area has a regulated stream. It is the property owner's responsibility to know what regulated features exist on a given property.

WHAT ARE THE REGULATIONS?

Island County first adopted regulations protecting certain streams in 1984. Since then, any disturbance to regulated streams or their buffers has required permits from Island County. Disturbance includes clearing, grading, filling, excavation, removal of vegetation, road building, construction, diverting or altering watercourses, or any other physical alteration. For certain types of stream disturbance, a permit may also be required by the Washington Department of Fish & Wildlife. For more information, call the LaConner office at (360) 466-4345. It is also prohibited to create new lots that would require alteration of a wetland, stream, or its buffer in order to provide buildable area on the lot.

Streams are classified and buffers applied as indicated in the below Table. Since no Type 1 or 2 streams exist in Island County, only the classification for Types 3 through 5 are shown. This table summarizes information from the ordinance; the full text of the ordinance should be reviewed if there are further questions about a stream classification.

TABLE 17.02.110.C
Water Typing Criteria, WAC 222-16-030

Water Type	3	4	5
Channel Width	Anadromous fish*: 5' or wider between OHWM**. Resident game fish: 10' or wider between *OHWM.	2' or wider between OHWM	Less than 2' between OHWM.
Fisheries	Used by substantial numbers of anadromous or resident game fish for spawning, nesting, and migration.	Not used by significant numbers of fish.	Not used by significant numbers of fish.
Other	Contributes > 20% of the flow to a Type 1 or 2 water. Anadromous fish impoundments have outlet to stream with anadromous fish.	All natural waters not classified as Types 1, 2, or 3 and for the purpose of protecting downstream waters.	All natural waters not classified as Type 1, 2, 3, or 4, or drainage ways having short run-off periods.
Buffers	With anadromous fish present: 100' Without anadromous fish: 75'	50'	50'

*"Anadromous" fish live most of their lives in salt water but migrate into fresh water to spawn. This includes salmon and many trout.

**OHWM = Ordinary High Water Mark

If a stream is greater than 5 feet in width, has no blockage or obstruction to fish passage such as impassable culverts, falls, or other restriction, and has suitable habitat (such as pools, riffles, and other natural stream features), it is assumed to be capable of bearing salmon or other sea-run fish, and is considered to be a Type 3.

WHAT PERMITS DO I NEED, AND HOW DO I APPLY?

The following are the most common types of permits or approvals requested in wetlands, streams, or their buffers:

Single family residences

A specific section of the ordinance (ICC 17.02.107.D) provides for development of a single-family residence within wetlands, streams or their buffers on a property, but only when it can be shown that there is no other reasonable location. If, for example, a property with wetlands is so small that there is no way to develop it with a homesite without altering the buffer, approval may be granted for alteration subject to the following:

1. The alteration must be the minimum necessary - wetlands or streams and their buffers must be avoided to the greatest extent possible.
2. Only the residence, access and necessary appurtenances including, if necessary, well site, septic system and drainfield utilities can be approved under this section.
3. The footprint of the residence and any accessory structures may not exceed 2800 square feet.
4. The wetland or stream and buffers may not be used for residential landscaping.
5. Mitigation, such as enhancement of a stream, wetlands or buffer not used by the development, must be provided to the extent that it is feasible.

(NOTE: The above is a summary of the referenced section of the ordinance. Please see the ordinance for the complete text.)

A building permit application must be submitted which includes sufficient information to demonstrate that the proposal meets criteria established in the ordinance. In addition to the building permit requirements, an accurate plot plan showing the entire property along with a wetland or stream delineation approved by the County and a written explanation of how the proposal meets the requirements, must be submitted. Additional permit fees may apply.

Buffer Reductions or Averaging

Stream buffers may be reduced or averaged according to the following criteria, excerpted from section ICC 17.02.110.C.3.

Decreased Buffer Widths. Decreased buffer widths will be allowed only if the applicant demonstrates that all of the following criteria are met:

- (i) Decreasing the buffer width will not adversely affect fish and wildlife habitat functions and values; and*
- (ii) If a portion of a buffer is reduced, an area of the remaining buffer equal to two (2) times the area removed from the standard buffer shall be enhanced using native vegetation and/or installed habitat features. For example, if a buffer is reduced by 1,000 square feet, then 2,000 square feet of remaining buffer shall be enhanced; and*
- (iii) The perimeter of the reduced buffer must be screened with dense vegetation or barrier fencing (other measures necessary to provide adequate protection for fish and wildlife habitat should be identified in the BSA); and*
- (iv) The buffer width shall not be reduced by more than thirty-three percent (33%) of the standard buffer width for Type 1 and Type 2 streams, fifty percent (50%) for Type 3, Type 4 and Type 5 streams for which a fifty (50) foot buffer is required. For all other Type 5 streams the buffer shall not be reduced by more than ten percent (10%).*

Averaging Buffer Widths. Buffer widths may be modified by "averaging." Buffer width averaging shall be allowed only where the applicant demonstrates through an approved BSA that the following criteria are met:

- (i) A decrease in a portion of the buffer is necessary to accomplish the purpose of the proposed project and no reasonable alternative is available; or*
- (ii) Averaging would allow the applicant to establish a corridor of native vegetation between natural systems; and*
- (iii) Decreasing the buffer width will not adversely affect fish and wildlife habitat functions and values; and*
- (iv) If a portion of a buffer is reduced through averaging, an area of additional buffer, contiguous with the existing buffer, shall be designated that is equal in size to the reduced portion of the standard buffer so that the total buffer area remains unchanged; and*
- (v) The buffer width shall not be reduced by more than thirty-three percent (33%) of the standard buffer width for Type 1 and Type 2 streams, fifty percent (50%) for Type 3, Type 4 and Type 5 streams for which a fifty (50) foot buffer is required. For all other Type 5 streams the buffer shall not be reduced by more than ten percent (10%).*

For any proposal to alter streams, or to reduce or average stream buffers, other than those that are necessary in order to achieve reasonable use of the property, a Biological Site Assessment must be submitted. Please see DIB #510 and ICC 17.02.110.C.2 for additional information.

Roads or Utilities

Sometimes the only reasonable way to provide access or utilities to a property is to cross a stream or its buffer. A permit to authorize such crossings may be approved under certain circumstances. The road must be the minimum necessary width, impacts must be limited to the minimum necessary, and appropriate mitigation must be provided.

Ponds or Enhancement Projects

Creation of ponds within streams, drainage corridors or wetlands may seem an enhancement, but such is not always the case. A man-made pond may enhance wildlife habitat for some species, but not all. For some species, a densely vegetated marsh, stream corridor, or forest bog is the ideal habitat, and creation of a pond could impact them. Creation of a pond could reduce water quality in a wetland.

In recognition of these complex issues, the critical area regulations require that the creation of a pond or enhancing streams or wetlands, outweigh the negative impacts (ICC 17.02.107.C). This conclusion can only be reached upon evaluation of the proposal by a wetlands professional or biologist. Permits for such alteration are reviewed under a Critical Areas Permitted Uses application.

Clearing for Pasture or View, Conversion Timber Harvests and Conversion Option Harvest Plans (COHPs)

These types of activities are generally not permitted within wetlands, streams, or their buffers. There is no provision of the ordinance that allows alterations to wetlands or streams or their buffers beyond the minimum necessary to enjoy reasonable use of a property unless public benefit outweighs the impacts. For more information on Timber Harvests and COHPs, please see DIB #512.

Exemptions

Generally, most existing (as of October 1, 1998), ongoing activities within streams or their buffers are exempt from permit requirements, **provided best management practices (BMPs) are used to minimize impacts.** Existing agricultural activities are usually exempt, subject to certain limitations. Maintenance and repair of existing drainage and flood control facilities, utilities, roads, and other structures and uses are also exempt from permit requirements, provided measures are taken to minimize impacts to wetlands, streams, and water quality.

Island County's critical areas regulations are particularly complex sections of the ordinance. Please do not hesitate to contact Island County if you have further questions.

IMPORTANT NOTE - "Development Information Bulletins" (DIBs) are intended to assist the general public in understanding the effect of codes and regulations. DIBs are not complete statements of the laws and rules and should not be used as a substitute for them. If conflicts and questions arise, the code and regulations are the final authority. Because these regulations may be revised or amended at any time, consult Island County staff to be sure you understand all current requirements before beginning any work. It is the responsibility of the applicant to ensure that the project meets requirements of all current codes and regulations.

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