

**Chapter 17.02**  
**Island County Critical Areas Ordinance**

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**17.02.010 Authority**

This ordinance shall be known as the Island County Critical Areas Ordinance and is hereby adopted under the authority of Chapters 36.70, 39.34, 43.21C, 58.17, 76.09, 84.33, 84.34 and 90.58 RCW.

**17.02.020 Purpose**

The purpose of the Island County Critical Areas Ordinance is to provide protective standards that will:

- A. Achieve better use of Island County's land resources;
- B. Implement the Comprehensive Plan of Island County;
- C. Provide for the orderly planned use of Island County's land resources;
- D. Permit developments which will provide a desirable and stable economic environment consistent with the rural characteristics of Island County and protection of its critical areas and natural features;
- E. Permit flexibility that will encourage a more creative approach in the development of land, while ensuring the retention, protection and use of the County's open spaces, critical areas and natural ecosystems;
- F. Ensure that the unique, fragile, sensitive and scenic areas of Island County are protected and enhanced;
- G. Ensure that Island County's natural constraints are recognized and considered in planning decisions;
- H. Protect the public health, safety and general welfare of the residents of Island County;
- I. Provide a bonus to land owners who wish to protect and preserve certain identified lands;
- J. Preserve the integrity of water resources by ensuring a balanced program controlling stormwater runoff and ground water recharge;
- K. Prevent pollution of surface and subsurface water resources;
- L. Protect the habitat of flora and fauna recognized by Island County as deserving of protection;
- M. Preserve critical fish and wildlife habitat and encourage protection of wetlands which provide such habitat;
- N. Minimize the hazards incident to development on or adjacent to steep slopes or geologically hazardous areas;
- O. Protect the fundamental and inalienable right of the residents of Island County to a healthful environment and the reasonable use of their property;

- P. Provide a means for every resident of Island County to participate fairly and equitably in the land use decision making process and contribute to the preservation and enhancement of the environment;
- Q. Encourage in-fill of undeveloped residential lands consistent with limits imposed by natural constraints;
- R. Provide for regulatory review processes which are proportional in scale, time and cost, to scope and scale and costs of development actions proposed.

**17.02.030 Definitions**

**Agricultural Activities, Existing and On-Going:** Those activities conducted on lands defined in RCW 84.34.020(2), and those activities involved in the production of crops or livestock. These activities include the operation and maintenance of farm and stock ponds or drainage ditches, operation and maintenance of ditches, irrigation systems including irrigation laterals, canals, or irrigation drainage ditches, changes between agricultural activities, and normal maintenance, repair, or operation of existing serviceable structures, facilities, or improved areas. Activities which bring an area into agricultural use are not part of an on-going operation. An operation ceases to be on-going when the area on which it is conducted is converted to a nonagricultural use or has lain idle for more than five (5) years, unless the idle land is registered in a federal or state soils conservation program, or unless the activity is maintenance of irrigation ditches, laterals, canals, or drainage ditches related to an existing and on-going agricultural activity. Forest practices are not included in this definition.

**Agricultural/Farm Use:** The current employment of land for the primary purpose of raising, harvesting and/or selling crops or the feeding, breeding, management and/or sale of, or the production of, livestock, poultry, fish, fur-bearing animals or honeybees or for dairying and/or the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof. Farm use includes the preparation and storage of the products raised on such land for human use and animal use and disposal by marketing or otherwise. Farm use also includes the growing of ornamental shrubs, Christmas trees and similar nursery stock.

**Alteration Approval:** The process and action taken by the County to grant conceptual approval for alteration of a wetland, deepwater habitat, fish and wildlife habitat conservation area or their buffers.

**Alteration of a Wetland, a Deepwater Habitat or a Fish and Wildlife Habitat Conservation Area:** In any wetland, deepwater habitat, or a Fish and Wildlife Habitat Conservation Area or required buffer, the placement or erection of any solid material or structure; the discharge or disposal of any dredged material or waste, including filling, grading, channelization, removing, dredging, draining, mining or extraction of any materials; the removal or harvesting of trees or other vegetation; modification for use as a storm water retention/detention facility; or other alteration.

**Areas with a Critical Recharging Effect on Aquifers Used for Potable Water or Aquifer**

**Recharge Areas:** Areas where an aquifer that is a source of drinking water is vulnerable to contamination that would affect the potability of the water.

**Artificial (Category C) Wetlands/Deepwater Habitats (Ponds):** Areas that meet the definition of a wetland and/or deepwater habitat because of human action which impounded water by means such as construction of a dam or an embankment or excavation of a depression which was planned and executed for the specific purpose of creating a wetland where no wetland before existed. Ponds created for agricultural and/or aquacultural uses are considered Category C wetlands/deepwater habitats for purposes of this Chapter.

**Best Management Practices:** Conservation practices or systems of practices and management measures that:

- (1) control soil loss and reduce water quality degradation; and
- (2) minimize adverse impacts to surface water and ground water flow, circulation patterns, and to the chemical, physical, and biological characteristics of critical areas.

The Department shall maintain a selection of best management practices which have been approved by the Board for those uses which are subject to best management practices.

**Clearing:** The act of removal or destruction of vegetation by mechanical or chemical means, but does not include normal cultivation associated with an agricultural operation. **Conditional Use:** A use allowed only upon approval of a site plan or the granting of Use Approval.

**Coal Mine Hazard Areas:** Areas in proximity to abandoned coal mines and associated underground mine workings. No coal mine hazard areas were found in Island County and therefore there is no risk from this hazard.

**Conversion:** The change of land use from a forest use to a permitted or conditional rural residential use.

**Critical Areas:** Wetlands, areas with a critical recharging effect on aquifers used for potable water, fish and wildlife habitat conservation areas, frequently flooded areas and geologically hazardous areas.

**Deepwater Habitats:** Any open water area that has a mean annual water depth greater than 6.6 feet, lacks soil, and/or is either unvegetated or supports only floating or submersed macrophytes and is not a lake or Category C pond as defined in this Chapter.

**Differential Settlement:** Differential Settlement is the uneven settlement of elements of a structure. Peat deposits are capable of large permanent deformations as a result of earthquake shaking, including differential movement and settlement of structures.

**Erosion Hazard Areas:** Areas of slopes greater than 15 percent and with soils identified by the Natural Resources Conservation Service as having a “severe” or “very severe” rill and inter-rill erosion hazard.

**Estuarine Wetlands:** Tidal wetlands that are usually semienclosed by land but have open, partly obstructed, or sporadic access to the open ocean and in which ocean water is at least occasionally diluted by fresh water runoff from the land. Estuarine wetlands have ocean-derived salinities of at least 0.05%.

**Existing:** Unless otherwise expressly stated, legally established and existing on the effective date of this Chapter, October 1, 1998.

**Existing Building:** A structure, or portion thereof, which meets the definition of existing and was lawfully erected and maintained including those which, because of the enactment of this Chapter, no longer conforms to the land use standards or use regulations of the zone in which it is located.

**Existing Lot:** A lot or parcel of land which meets the definition of “existing” and was also of record and lawfully established and maintained including those which, because of the enactment of this Chapter, no longer conforms to the land use standards or use regulations of the zone in which it is located.

**Existing Use:** A use which meets the definitions of “existing” and was lawfully established and maintained including those which, because of the enactment of this Chapter, no longer conforms to the land use standards or use regulations of the zone in which it is located.

**Fish and Wildlife Habitat Conservation Area:** Land management for maintaining species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created.

**Frequently Flooded Areas:** Lands in the floodplain subject to a one percent (1%) or greater chance of flooding in any given year.

**Geologically Hazardous Area or Slope:** Areas consisting of Erosion, Landslide, Seismic, Volcanic, Coal Mine, and Tsunami Hazards. ~~Areas that because of their susceptibility to erosion, sliding, or other geologic events, are generally not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns, including, but not limited to, those lands designated in the Department of Ecology Coastal Zone Atlas dated April 1979, as it may be amended or revised, as land which has had recent or historical slide activity and/or has unstable slope conditions, including those lands within one hundred (100) feet (either top or base) thereof.~~

**Grading:** The act of excavation or filling or combination thereof or any leveling to a smooth horizontal or sloping surface on a property, but not including normal cultivation associated with an agricultural operation.

**Hydrophytic Vegetation:** Plant life growing in water or in a substrate that is at least periodically deficient in oxygen as a result of excessive water content. (See “Wetland Plants of the Pacific Northwest,” September, 1984, U.S. Army Corps of Engineers.)

**Lake:** A lake twenty (20) acres or greater in size which is subject to the provisions of the Shoreline Management Act (Goss Lake, Lone Lake, Crockett Lake, Deer Lake, Kristoferson Lake, Cranberry Lake), and three (3) unnamed lakes located in Section 24,

Township 29 N, Range 2 E (26 acres); Section 6, Township 31 N, Range 1 E (25 acres); and, Section 18, Township 33 N, Range 2 E (50 acres).

**Landslide Hazard Area or Steep Slopes:** Areas that because of their susceptibility to erosion, sliding, or other geologic events, are generally not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns, including, but not limited to, those lands designated in the Department of Ecology Coastal Zone Atlas dated April 1979, as it may be amended or revised, as land which has had recent or historical slide activity and/or has unstable slope conditions, including those lands within one-hundred (100) feet (either top or base) thereof.

**Liquefaction:** Liquefaction is the temporary transformation of stable saturated loose granular soil deposits into fluid-like state similar to quicksand usually caused by the shaking of earthquake. The soils dramatically loose strength once liquefaction occurs.

**Livestock:** Domestic animals, fish and fowl of types customarily raised or kept on farms for profit or other purposes, but not including household pets such as dogs, cats, birds, etc.

**Macrophyte:** Any plant species that can be readily observed without the aid of optical magnification.

**Mitigation:** The recreation, replacement or enhancement of a wetland, deepwater habitat, or fish and wildlife habitat conservation area to maintain the functional characteristics and processes of a natural system proposed for alteration.

**Native Wetland Species:** Wetland species which are indigenous to Island County. Such species are defined in Flora of the Pacific Northwest (C. Leo Hitchcock and Arthur Cronquist, University of Washington Press).

**Non-Native Wetland Species:** Wetland species which have been accidentally or purposefully introduced into Island County. This Chapter shall contain a list of the principal non-native wetland species.

**Non-Wetlands:** Non-wetlands include uplands and lowland areas that are neither deep water aquatic habitats, wetlands, nor other special aquatic sites. They are seldom or never inundated, or if frequently inundated, they have saturated soils for only brief periods during the growing season, and, if vegetated, they normally support a prevalence of vegetation typically adapted for life only in aerobic soil conditions.

**Permitted Use:** A use allowed outright by the terms of the land use classification.

**Planning Director:** The Planning Director of Island County, Washington, or his or her authorized representative.

**Protected Species:** Species of flora and fauna listed by the federal government or the State of Washington as endangered, threatened or sensitive which are present in Island County and those species of flora and fauna which, while not necessarily endangered or threatened, are unique in Island County and worthy of protection, designated as Habitats and Species of Local Importance. This Chapter shall contain a list of protected species which shall be

revised by amending this Chapter as new species which warrant protection are recognized or a species which has been listed no longer needs protection.

**Reasonable Use:** The logical or rational use of a specific parcel of land which a person can be expected to conduct or maintain fairly and appropriately under the specific circumstances.

**Restoration:** Measures taken to replace, recreate or otherwise return to their previous functioning condition regulated wetlands, deepwater habitats, fish and wildlife conservation areas or their buffers which have been lost or damaged through alteration activities. Restoration will be required when natural regeneration processes are found to be inadequate to restore the functions.

**Routine Wetland Determination:** A type of wetland determination in which office data and relatively simple outside methods are employed to determine whether or not an area is a wetland. Most wetland determinations are of this type, which usually do not require collection of quantitative data. A classification and boundary determination may be made.

**Seismic Hazard Areas:** Areas subject to severe risk of earthquake damage as a result of seismically induced ground shaking, differential settlement, slope failure, settlement, lateral spreading, mass wasting, surface faulting, or soil liquefaction.

**Steep Slopes:** Those slopes forty percent (40%) or steeper within a vertical elevation change of at least ten (10) feet. A slope is delineated by establishing its toe and top and is measured by averaging the inclination over at least ten (10) feet of vertical relief. For the purpose of this definition:

1. The toe of a slope is a distinct topographic break in slope which separates slopes inclined at less than forty percent (40%) from slopes forty percent (40%) or steeper. Where no distinct break exists, the toe of a steep slope is the lowermost limit of the area where the ground surface drops ten (10) feet or more vertically within a horizontal distance of twenty five (25) feet; and
2. The top of a slope is a distinct, topographic break in slope which separates slopes inclined at less than forty percent (40%) from slopes forty percent (40%) or steeper. Where no distinct break exists, the top of a steep slope is the upper most limit of the area where the ground surface drops ten (10) feet or more vertically within a horizontal distance of twenty five (25) feet.

**Streams:** Those areas 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.

**Tributary Stream:** A stream, whether permanent or intermittent, which enters or exits a Category B or Category A wetland and/or deepwater habitat. This definition does not

include ditches, canals, stormwater run-off devices or other entirely artificial watercourses. Provided that a stream which has been altered by man to carry naturally occurring waters is a tributary stream within this definition.

**Tsunami Hazard Areas:** Coastal areas susceptible to flooding, inundation, debris impact, and/or mass wasting as the result of wave action generated by seismic events.

**Volcanic Hazard Areas:** Areas subject to lava flows, pyroclastic surges, mud flows, lahars, debris flows, debris avalanche, ash clouds, ash fall, lateral blast, ballistic debris, or flooding as a result of volcanic activity. No volcanic hazard areas were found in Island County and therefore there is no risk from this hazard.

**Wetland/Deep Water Boundary:** The boundary between a wetland and deep water habitat lies at a depth of two (2) meters, (6.6 feet) below low water; however, if emergents, trees or shrubs grow beyond this depth at any time their deep water edge is the boundary.

**Wetland Edge:** The upland limit of a wetland is designated as the boundary between land with predominantly wetland vegetation cover and land without such cover.

**Wetland Functions:** The beneficial roles served by wetlands, including but not limited to, water quality protection and enhancement, fish and wildlife habitat, food chain support, flood storage, conveyance and attenuation, groundwater recharge and discharge, erosion control, wave attenuation, historical and archaeological value protection, aesthetic value and recreation. These beneficial roles are not listed in order of priority.

**Wetlands:** Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands. Groups of two (2) or more wetlands which are hydrologically connected through surface or shallow ground water within twelve inches (12”) of the surface are considered to be associated with each other. For regulatory purposes, the total area of associated wetlands shall be considered as constituting a single wetland.

**Wetland Vegetation:** When hydrophytic vegetation comprises a community where indicators of hydric soils and wetland hydrology also occur, the area has wetland vegetation.

## 17.02.040 Critical Areas

- A. **Purpose.** This section establishes general requirements and regulations for the protection of critical areas pursuant to the Growth Management Act which shall apply throughout this Title.
- B. **Applicability.** This section shall apply to all properties which are designated as critical areas by Island County. Designated critical areas are:
1. Wetlands. Wetlands are regulated pursuant to the Wetlands Overlay Zone, ICC 17.02.050.A, the Land Use Standards governing wetlands, deepwater habitats and their surrounding buffers, ICC 17.02.060, 17.03.260.I and the Land Development Standards, Chapter 11.01 ICC.
  2. Fish and Wildlife Habitat Conservation Areas. Fish and Wildlife Habitat Conservation Areas are regulated pursuant to the Fish and Wildlife Habitat Conservation Areas Overlay Zone, ICC 17.02.050.C, the health regulations governing the design and installation of on-site sewage systems, Chapter 8.07C ICC, and the Land Development Standards, Chapter 11.01 ICC.
  3. Geologically Hazardous Areas. Geologically hazardous areas are regulated pursuant to ~~the Geologically Hazardous Areas Overlay Zone~~, ICC 17.02.050.B, and Chapters 11.02 and 11.03 ICC. Geologically Hazardous Areas include Erosion Hazard Areas, Landslide Hazard Areas, Seismic Hazard Areas, Coal Mine Hazard Areas, Volcanic Hazard Areas, and Tsunami Hazard Areas.
  4. Frequently Flooded Areas or Floodplains. Frequently flooded areas, also referred herein to as floodplains, are regulated pursuant to the Flood Damage Prevention Ordinance, Chapter 14.02A ICC.
  5. Areas With a Critical Recharging Effect on Aquifers Use for Potable Water or Aquifer Recharge Areas. Areas with a critical recharging effect on aquifers used for potable water, also referred to herein as aquifer recharge areas, are regulated pursuant to Potable Water and Supply, Chapter 8.09 ICC, and the Land Development Standards, Chapter 11.01 ICC.
- C. **Permitted Uses.** The Director may authorize pursuant to Chapters 16.19 and 16.14C ICC the following activities in wetlands, streams, or their buffers:
1. Roads or utilities where they are the least environmentally damaging, practical alternative, the width of the fill is limited to the minimum necessary, best management practices are implemented during construction, culverts are installed when necessary to maintain hydrology and mitigation proportionate to the impacts is provided pursuant to ICC 17.02.060 (wetlands) and ICC 17.02.050.C (streams).
  2. Installation of underground utilities or moderate impact stormwater facilities, such as grass-lined swales, in the outer thirty-three percent (33%) of buffers for Type 1, Type 2, and Type 3 streams and Category A wetlands, the outer fifty percent (50%) of Type 4 streams, and the outer ten percent (10%) of Type 5 streams and Category B

wetlands where topsoil is stockpiled outside of the buffer for use in restoration, and best management practices are used during construction.

3. Conservation, preservation, or enhancement projects to protect functions of critical areas. The Director shall require a Biological Site Assessment in order to determine whether the proposed activity would conserve, preserve or enhance critical areas functions.

D. **Reasonable Use - Single Family Residence on Existing Lots.** This section applies to new single family residences on existing, legal lots where application of this Chapter would preclude reasonable economic use. The Director may modify or waive the requirements pertaining to critical areas, including mitigation and buffer requirements, if he or she finds all of the following:

1. The proposal is the minimum necessary to accommodate the principal residence access and necessary appurtenances including, if necessary, well site, septic system and drainfield utilities, provided that the foundation of the principal residence and any accessory structures shall not exceed 2,800 square feet.
2. The building footprint, access and utilities are located so as to have the least impact on the critical area and its buffer.
3. The proposal does not degrade the functions of wetlands and streams beyond that needed to achieve a reasonable use.
4. Adverse impacts resulting from alterations of steep or geologically hazardous slopes are minimized.
5. The proposal includes on-site mitigation required by this Chapter to the extent possible, while allowing a reasonable use.
6. Disturbed critical areas and their buffers will be immediately restored consistent with good restoration practices.
7. This action does not allow wetlands or fish and wildlife habitat conservation areas or their buffers to be converted to lawn or residential landscaping.

E. **Exemptions.** The following activities or critical areas are exempt from the provisions of this section, ICC 17.02.050.A, 17.02.050.C and 17.02.060, where restoration of a disturbed critical area or its buffer requires planting, native species shall be used:

1. Existing and on-going agricultural activities when undertaken pursuant to best management practices to minimize impacts to critical areas. For example, by minimizing the use of motorized vehicles and machinery in such areas.
2. Forest practices regulated and conducted in accordance with the provisions of Chapter 76.09 RCW and forest practice regulations, Title 222 WAC, and which are exempt from Island County jurisdiction.
3. Maintenance or reconstruction of existing serviceable public or private roads, paths, bicycle ways, trails, bridges, and associated storm drainage facilities when undertaken

pursuant to best management practices to minimize impacts to critical areas and to immediately restore any disturbed critical area or its buffer, provided that reconstruction does not involve expansion of facilities.

4. Maintenance and repair of existing serviceable drainage facilities or systems, including, but not limited to, ditches, culverts, catch basins, tidegates and outfalls when undertaken pursuant to best management practices to minimize impacts to critical areas and immediately to restore any disturbed critical area or its buffer. This exemption shall not apply to tidegates which historically drained wetlands where: (i) lack of maintenance of the tidegate for five (5) consecutive years has allowed positive indicators of wetland hydrology, hydrophytic vegetation and hydric soils to become established; and (ii) maintenance or repair of the tidegate would result in adverse alteration of wetland hydrology.
5. For the following utility activities, when undertaken pursuant to best management practices to minimize impacts to critical areas and immediately to restore any disturbed critical area or its buffer:
  - a) Normal and routine maintenance or repair of existing utility facilities or rights-of-way.
  - b) Installation, construction, relocation and replacement, operation, repair, or alteration of all utility lines, equipment, or appurtenances, not including substations, in improved road rights-of-way.
6. Reconstruction, remodeling, or maintenance of existing structures. The exemption shall not apply to reconstruction which is proposed as a result of structural damage associated with a critical area, such as slope failure in a Geologically Hazardous Area and does not allow further intrusion into a wetland, deepwater habitat, fish and wildlife habitat conservation area or their buffers.
7. Site investigative work. Site investigative work necessary for land use application submittals such as surveys, soil logs, and percolation tests involving no fill or use of heavy equipment in a wetland, or a fish and wildlife habitat conservation area or their buffers. Provide that disturbed critical areas and their buffers are immediately restored and best management practices are implemented and excavation for soil logs or percolation tests filled pursuant to ICC 8.07C.110.H.3.d).
8. Emergency action. Emergency action necessary to prevent imminent threat or danger to public health or safety, or to public or private property, or serious environmental degradation. The Department shall review all proposed emergency actions to determine the existence of the emergency and reasonableness of the proposed actions taken unless the nature of the emergency is such that it is not possible to first gain approval of the Department, in which case such review must occur within ten (10) days of the conclusion of the emergency work.
9. Artificial (Category C) wetlands/deep water habitats (ponds).

10. Flood Control. Operation, maintenance and repair of dikes, ditches, reservoirs, and other structures and facilities which were created or developed as part of normal flood control activities on or prior to December 31, 1984, except that this exemption does not extend to the permanent draining or permanent alteration of any regulated wetland.
11. Irrigation. Operation, maintenance and repair of ditches, reservoirs, ponds and other structures and facilities which were created or developed as part of normal irrigation activities on or prior to December 31, 1984.
12. Recreational Uses. Swimming, boating and fishing. Construction, placement, maintenance and repair of docks, piers, boat launches and floats in lakes (provided that the proposed action complies with the requirements of the Shoreline Management Act), in deep water habitats one (1) acre or greater in size when such activities are for recreational purposes and do not involve alteration of or construction through, over or in a regulated wetland.
13. Existing Residential Landscaping. Planting, irrigating, fertilizing, spraying, mowing and pruning and maintenance and repair of yard or garden structures when such activities are part of existing normal residential landscaping activities and no building permit is required. This exemption does not allow further intrusion into a wetland, fish and wildlife habitat conservation area, geologically hazardous area or their buffers.
14. All wetlands/deep water habitats wherein wetland vegetation is being maintained only because of man-induced water, and it can be determined that the wetland vegetation would no longer exist if the activity (for example, irrigation or pumping water) were to be terminated.
15. Removal or destruction of noxious weeds listed in Chapter 16-750 WAC is the responsibility of the landowner, provided that, the following conditions are met:
  - a) The removal or control of noxious weeds shall follow guidelines issued by the Island County Noxious Weed Control Board. The Island County Noxious Weed Control Board shall coordinate with the Department of Planning and Community Development (in preparation of the guidelines) for the control of noxious weeds in wetlands.
  - b) All herbicide applications in aquatic environments shall conform to the rules of the Department of Ecology, Department of Agriculture and Department of Natural Resources, pursuant to WAC 173-201, WAC 16-228, and WAC 222-38.
16. All Category A wetlands less than one-fourth ( $1/4^{\text{th}}$ ) acre in size and all Category B wetlands less than one (1) acre in size are exempt from regulation by this section and 17.02.060. Provided that in the Rural (R) Zone, for Parcels that are not devoted to existing and on-going Agriculture, these size thresholds are reduced to one-eighth ( $1/8^{\text{th}}$ ) acre for Category A wetlands and one-fourth ( $1/4^{\text{th}}$ ) acre for Category B

wetlands. Provided further there shall be no size-exemption for estuarine wetlands regardless of the zone in which it is located.

17. Wildlife Nesting Structure.

- F. **Alteration.** Unless expressly authorized by sections 17.02.040.C, 17.02.040.D 17.02.050.C, or 17.02.050.A.4.b) or exempted by section 17.02.040.E, any alteration of a wetland, deep water habitat, fish and wildlife habitat conservation area or their buffer may be permitted only pursuant to the alteration standards in ICC 17.02.050.A, 17.02.060, and 17.02.260 and Chapter 16.19 or, if the application of this Chapter would preclude reasonable economic use, by a Reasonable Use Exception pursuant to ICC 17.02.040.G.
- G. **Reasonable Use Exception.** If the application of this section would deny reasonable use of an existing parcel, development may be allowed which is consistent with the general purposes of this section, the public interest, and the following standards:

Nothing in this Chapter is intended to preclude reasonable economic use of property as set forth herein. If an applicant can prove that strict application of the critical areas standards will deny reasonable use, development as conditioned will be permitted if the applicant demonstrates all of the following:

1. There is no other reasonable economic use or feasible alternative to the proposed development with less impact on the critical area; and
2. The proposed development does not pose a threat to public health, safety and welfare on or off the subject property; and
3. Any alterations permitted pursuant to the requirements of this Chapter shall be the minimum necessary to allow for reasonable use of the property; and
4. The inability of the applicant to derive reasonable economic use of the property is not the result of actions by the applicant in subdividing the property or adjusting a boundary line, thereby creating the undevelopable condition after December 31, 1984 (wetlands) or October 1, 1998 (other critical areas); and
5. The proposal mitigates the impacts on the critical area to the maximum extent possible, while still allowing reasonable economic use of the lot.

A report shall accompany a reasonable use exception proposal which provides information on the function and value of the critical area proposed for alteration, impact of development on the critical and any required buffer, what constitutes a reasonable economic use of the property, steps taken to minimize the impact of the alteration, needed modifications of the code, and other information as deemed necessary.

- H. **Physically Separated and Functionally Isolated Buffers.** Areas which are both physically separated and functionally isolated from a critical area and do not protect the critical area from adverse impacts due to existing public roads, structures, or vertical separation, shall be excluded from buffers otherwise required by this Chapter. The Director shall require a Biological Site Assessment to determine whether the buffer is functionally isolated.

**I. Review Process**

1. Single Family Residence on Existing Lots. Single Family Residence on existing lots shall be reviewed under the process set forth for Type I decisions in Chapter 16.19 ICC.
2. Permitted Uses and Reasonable Use Exceptions. Permitted uses and reasonable use exceptions shall be reviewed under the process set forth in Chapter 16.19 ICC for the underlying permit decision.
3. Alterations: Alterations shall be reviewed under the process set forth for Type III decisions in Chapter 16.19 ICC.
4. For all other developments: For proposals located on property which may contain a critical area, the applicable critical areas regulations shall be applied to the underlying permit through the review process applicable to that permit.

J. **Assessment.** The Assessor’s Office shall consider the protection and buffering requirements of this Title in determining the fair market value of land.

**17.02.050 Overlay Zones**

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B. **Geologically Hazardous Areas (gh).** The primary purpose of the geologically hazardous areas overlay zone is to promote the public health, safety and general welfare by minimizing the hazards incident to development on or adjacent to steep slopes or geologically hazardous areas.

1. Geologically Hazardous Areas are defined pursuant to WAC 365-190-080 and are regulated pursuant to the following:

a. Erosion Hazard Areas shall comply with Chapters 11.02 and 11.03 ICC.

b. Landslide Hazard Areas shall comply with Chapters 11.02 and 11.03 ICC.

c. Seismic Hazard Areas shall comply with the International Building Code.

d. Coal Mine Hazard Areas have not been identified in Island County.

e. Volcanic Hazard Areas have not been identified in Island County.

f. Tsunami Hazard Areas shall comply with Chapter 14.02A ICC and the International Building Code.

~~2.~~ Development on steep slopes or geologically hazardous areas shall be site-and use-specific and shall comply with Chapter 11.02 and 11.03 ICC.

~~3.~~ Environmentally Sensitive Areas. Steep slopes or geologically hazardous areas are hereby declared to be “environmentally sensitive areas” pursuant to WAC 197-11-748 and 197-11-908.