

Critical Areas Ordinance (CAO) - Frequently Asked Questions

Island County's updated CAO for wetlands becomes effective **July 1, 2008**.

1. What are wetlands?

Wetlands are areas characterized by the following three conditions – all must be present in order to be classified as a wetland: (a) Hydrology - wetlands must be saturated or wet for at least two weeks during the year; (b) Vegetation - there normally must be a predominance of specific indicator plants that are able to survive in oxygen depleted soils, and (c) Soil – most usually contain soils that are extremely dark, grey with rust spots/streaks, or which have other indicators of hydric (wet) conditions. Some types of artificial wetlands are not regulated as wetlands by Island County. These include some irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, landscape amenities, or wetlands unintentionally created due to road construction after July 1, 1990. However, these are subject to all regulations if they were created from non-wetland areas. That can be determined partly by reviewing soil maps and older aerial photographs.

2. Why do we regulate wetlands?

Wetlands are protected mainly because they can improve and protect the quality of our surface and ground water, and provide habitat for many wildlife and plant species that cannot flourish in other environments.

3. What are buffers?

Buffers are vegetated areas that surround a wetland. They are intended to help ensure that wetlands function properly. Buffers provide habitat, filter surface water and contaminants that drain to wetlands, and help maintain the local temperature and humidity that are important to survival of wetland animals.

4. I think I have a wetland. How can I find out what type it is?

Start by looking at the Island County Wetland map, available on-line and at Camano and Coupeville County Planning offices. Map updates are being scheduled. These maps provide information that helps you categorize known wetlands under both the current regulations and the updated version that becomes effective July 1, 2008. Some wetlands on private property may not appear on the maps, until the owner applies for a permit or other proposal. (See Question 5.)

The *Island County Wetland Identification Guide* can also help you determine if a wetland or wetland buffer affects your land, including what type it is, and the buffer width that may be required. At your request, County staff will visit property in advance of a permit application to verify presence of wetlands and buffer determination. If you decide to develop the site, a County wetlands professional can then confirm specifics of your site and work with you to avoid or reduce critical area impacts.

5. What is a "Development Proposal"?

It is any activity that requires authorization from Island County for a Lot that contains, or is affected by, a Critical Area or Critical Area Buffer. Development Proposals include Building Permits, Subdivisions, Short Subdivisions, PRD's, Conditional Use Permits, Septic permits, Site Plan Approvals, Clearing and Grading Permits. The requirements of Island County's Critical Areas Chapter are only applied to Development Proposals.

6. I have a wetland on my property. What does the updated CAO mean for me?

The updated regulations, beginning July 1, 2008, will apply to any **new** land use activity requiring a development proposal where wetlands or their buffer areas will be affected. Then, a County wetlands professional will work with you so your plan avoids or reduces impacts. Rather than a "one-size-fits-all" standard, buffer widths will be determined by using factors that account for the unique characteristics of your site and the wetland. If your property is located inside Oak Harbor, Coupeville, or Langleys, the County's CAO does not apply; each municipality has its own set of land use rules.

7. Can I restore my wetland?

Voluntary restoration is encouraged. This might include removal and replacement of non-native vegetation with native plant species, removing artificial barriers to runoff that normally would reach the wetland, or other changes to improve the water quality and habitat. Contact your County Planning Department for more information.

8. What is allowed in a wetland buffer?

Under certain conditions the updated wetland ordinance will allow new trails, fences, and weed removal.

9. If the regulated wetland is on my neighbor's property, might the buffer extend on to my property?

Yes. Wetlands and buffers are not limited by property boundaries.

Island County Planning & Community Development

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10. I don't own land with wetlands, and there are none adjacent to my property. Will the updated CAO affect me?

The new regulations should not directly affect your existing or future use of your land, but the regulations will benefit your community's water quality and ecosystems through more effective protection.

11. I own land inside city limits. Do these rules affect my property?

No. Your County's existing wetland regulations and those that become effective July 1, 2008, are only for lands that are located in unincorporated Island County - areas outside the city limits of Oak Harbor, Coupeville, or Langley. Each of these municipalities has its own set of land use regulations for properties within their boundaries. Interlocal agreements between Island County and each municipality specify how land may be developed in Urban Growth Areas.

12. How did the County come up with these standards?

These standards are generally similar to ones recommended recently by the Washington Department of Ecology and adopted by many counties. Island County identified a need to customize them so they are adaptive to local conditions, and did so in consultation with Dr. Paul Adamus, a nationally recognized wetland biologist, and other renowned specialists. Their recommendations have been double-checked by a panel of noted local and national scientists, and by state agencies including the Departments of Fish and Wildlife (DFW), Natural Resources (DNR), Ecology (DOE), and Community, Trade and Economic Development (CTED).

13. My vacant lot has a wetland; can I still build a house on this parcel?

In most cases, a parcel that can support a building site, septic and potable water (offsite or other alternatives may apply) should continue to be capable of having a single family home built there. This is accomplished through what is called the "Reasonable Use" process, which balances protection of the land's resources with fairness to the land's owner.

14. Will these wetland rules affect my ability to subdivide my property if I have wetlands?

The County may require new lots to be configured in a manner that avoids wetlands and their buffers. No new lots may be created that are wholly comprised of wetlands.

15. I own a lot with wetlands. It has been legally subdivided, with the wetland boundary, buffer and buildable area already established by that process. How will the County regulate me when I apply for a building permit, especially if my buffer is larger or smaller than what's required by the updated CAO?

You may decide which requirements to follow -- to either continue with the requirements of your parcel as shown on the face of the subdivision, or to choose to go with the requirements of the Critical Areas Ordinance that becomes effective July 1, 2008.

16. What happens if there is a violation of the new wetland regulations?

Violators will receive a \$5000 fine, plus \$500 per day until the violation is fixed.

17. I thought the County already determined that wetlands in Island County are in pretty good shape. If the current rules are working, why change them?

It's true that our wetlands are in pretty good shape, but as the years pass and our communities continue to grow, we are required by law to update our critical area regulations -- to keep up with current science associated with the protection of wetlands, and to make sure that conditions continue to stay healthy.

18. How are my property taxes affected by wetland regulations?

In determining the fair market value of your land, the Assessor's Office considers the protection and buffering requirements of the regulations.

19. Are these new regulations (as of July 1, 2008) more or less restrictive than the current ones?

It depends. The buffers for some wetlands will be less, some will be greater, and others will remain the same. The newly updated CAO takes into account impact or development intensity, topography, soils, habitat and other characteristics to provide appropriate protection. The end result will be buffers that are based on and supported by science, specific to each site.

20. Won't a mitigation fee allow a landowner to simply buy themselves out of protecting a wetland?

No. Mitigation fees are the last resort and are required when a parcel is so small that on-site compensation is impractical, and other options prove unfeasible. Mitigation fees will be used to restore or acquire other critical areas.

21. Why am I not allowed to improve my wetland by creating a pond?

Ponds benefit some wildlife and plant species, but often harm others. Ponds also can create water quality problems and affect stream flow.

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