



STAFF REPORT

Applicant Proposal: The Community Development Department, as part of the 2025 Comprehensive Plan Periodic Review, is also tasked with making sure the Mason County Critical Areas Ordinance (Resource Ordinance) is updated to reflect any changes in legislation and best available science.

Department: Community Development – Planning

Staff Contact(s):

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Date: September 16, 2024

Action Requested at this Meeting: PAC review staff prepared checklist and ask questions.

SUMMARY OF PROPOSAL & BACKGROUND

APPLICANT (DEPARTMENT GENERATED)

Community Development
615 W. Alder Street
Shelton, Wa 98584

PROPOSAL

The County is required by RCW 36.70A.060(2) and RCW 36.70A.172(1) to implement regulations protecting critical areas.

The last time the County updated the CAO (Critical Areas Ordinance) was in 2021 in tandem with the Shoreline Master Program Periodic Update. Note that Mason County refers to its' critical areas ordinance as the "Resource Ordinance" on our County website and within municode. Several of the changes in guidance from the Department of Ecology regarding wetlands have already been updated in the 2021 version of the CAO. This round of periodic updates does not contain many changes that are mandated, but there have been new management recommendations from the Washington Department of Fish and Wildlife in regard to priority habitats and species. The priority species lists within the CAO have been updated to reflect changes in species listings at the state and federal levels.

SUMMARY

This first meeting regarding the Critical Areas Ordinance is meant to start developing the scope of review for the document using the checklist as a guide.

When reviewing the checklist it should be pointed out that it contains references to **REQUIREMENTS** and **GUIDANCE/RECOMMENDATIONS**. The checklist asks if the County's current regulations address certain protections and where that language is located within the document. Staff has answered those questions contained in the list and pointed to the code language to support those answers, or staff has indicated whether there is a need for further review and consultation with different parties, local and state level.

As previously indicated, staff performed an update in 2021 to the CAO. During that time updates were made to the Wetland chapter based on new information provided by the Department of Ecology.

Staff believes that the bulk of the current CAO meets the mandated requirements of the RCW, but that additional discussions with the Department of Fish and Wildlife, Tribes, PAC members, the public and staff need to occur in response to the latest best available science that WDFW has produced regarding management zones for Riparian Ecosystems, in particular using the 200 year site potential tree height measurements to determine a riparian management zone; utilizing this method would be going beyond what the County currently implements through a buffer zone and structure setback between the stream and development.

The following code sections/tables are provided as a beginning point of reference regarding the Fish and Wildlife Habitat Conservation Areas chapter of the Mason County Critical Areas Ordinance.

The full Critical Areas Ordinance (Chapter 8.52 – Resource Ordinance) can be found on the County's municode site [here](#).

Currently, the County employs different stream buffers based on the stream typing.

Table 8.52.170(C): Fish and Wildlife Habitat Conservation Area Development Standards.

Habitat Type	Buffer	Structure Setback
Streams		
<i>Type S¹</i>	150 feet ²	165 feet ³
<i>Type F</i>	150 feet ²	165 feet ³
<i>Type Np</i>	100 feet	115 feet
<i>Type Ns</i>	75 feet	90 feet
Lakes		
<i>20 acres or more¹</i>	100 feet	115 feet ⁴
<i>Less than 20 acres with no critical habitat for listed species⁵</i>	35 feet	50 feet
Saltwater		

'Conservancy' or a 'Natural' SED ^{1, 6}	150 feet	165 feet ^{4, 7}
'Residential' or a 'Rural' SED ^{1, 6}	100 feet	115 feet ^{4, 7}
'Commercial' SED ^{1, 6}	50 feet	65 feet ^{4, 7}

Stream Types: S = shoreline of the state, F = fish habitat, Np = non-fish habitat with perennial (all year) water, Ns = nonfish habitat with dry periods or seasonal water flow. Please see the definitions section under "stream" for further explanation.

¹ Uses and development are also governed by the shoreline master program 17.50 MCC.

² Or the channel migration zone, whichever is larger.

³ Or the channel migration zone plus fifteen feet, whichever is larger.

⁴ The setback may be larger or smaller for single family residential development based on the "common line" provisions in (E)(3)(b).

⁵ Buffers and setbacks for wetlands are regulated by the wetlands chapter of the resource ordinance MCC 8.52.110.

⁶ Commercial, residential, rural, conservancy, and natural are shoreline environment designations found in the Mason County Shoreline Master Program 17.50 MCC.

⁷ For marine bluffs, there is an additional 2:1 horizontal to vertical setback measured from the OHWM (See MCC 8.52.140).

The current code has provisions for increasing the buffer width:

(B) Provision for Increasing Buffer. Mason County may increase the buffer width on a case-by-case basis, after a public hearing, as provided in Section 8.52.190(j), when a larger buffer is necessary to protect the structure, function and value of fish and wildlife habitat conservation areas. The buffer shall be increased or other protections shall be provided in order to prevent a significant adverse environmental impact by a proposed project on those functions and values. This determination shall be supported by appropriate documentation to be obtained in consultation with the State of Washington and the Skokomish Tribe, Quinault Tribe and/or the Squaxin Island Tribe. Such determination shall be attached as a permit condition and shall demonstrate that:

- (i) A larger buffer is necessary to maintain viable populations or critical habitat of endangered, threatened, or sensitive species;*
- (ii) The adjacent land is susceptible to severe erosion and erosion control measures will not effectively prevent adverse impacts to the FWHCA; or*
- (iii) If the FWHCA contains variations in sensitivity, increasing the widths will only be done as necessary to preserve the structure, function and value of the FWHCA.*

Buffer widths can also be increased on streams where "channel migration zones" have been mapped.

The code has provisions for making sure that strict application of standards do not deprive property owners of reasonable use of their property.

Variance or Reasonable Use Exception. Unless exempt per MCC 8.52.200, or allowed per subpart (e)(4) below, a new or expanded structure that cannot meet required setbacks shall require approval of a variance or reasonable use exception. Mason County may decrease the

setback on a case by case basis with a variance or reasonable use exception after consultation with the Washington State Department of Fish and Wildlife and the Skokomish Tribe, the Quinault Tribe and/or the Squaxin Island Tribe, after review and approval of a habitat management plan, and after a public hearing.

Mitigation proposed in a habitat management plan must be adequate to preserve or enhance the functions and values of the critical area. This means that a finding must be made that the net effect of the proposal is equal or better than applying the standard buffers. If enhancement is part of the mitigation plan, then a greater level of enhancement is required to offset the time lost while the enhancement matures.

The Washington State Department of Fish and Wildlife has published new policy recommendations within [Riparian Ecosystems, Volume 2: Management Recommendations](#). These recommendations are based on the *Riparian Ecosystems, Volume 1: Science Synthesis and Management Implications* document.

Chapter 2 of *Riparian Ecosystems, Volume 2: Management Recommendations* explains how riparian management zones would be delineated and is a good point to begin comparison to Mason County's current adopted method.

NOTIFICATION & COMMENT

STATE ENVIRONMENTAL PROTECTION ACT (SEPA)

A SEPA non-project checklist will be prepared and distributed later in the review and update of the CAO.

PUBLIC NOTIFICATION

Public Notice of the PAC information session on September 16, 2024 was published in the Mason Shelton Journal on September 5 and September 12, 2024.

PUBLIC COMMENTS

Staff has not received any public comment as of drafting this staff report but will forward the BOCC any comments received.

RECOMMENDATION

REQUESTED ACTION

No action required at this meeting on this topic; session provided as update on status of the CAO update and staff's current opinion on the need for update and revisions.

ATTACHMENTS

- **GMA Critical Areas Checklist**