



JEFFERSON COUNTY

DEPARTMENT OF COMMUNITY DEVELOPMENT

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'Critical Areas' FAQ:

Frequently Asked Questions from West End Residents about Environmentally Sensitive Areas

This Department of Community Development (DCD) factsheet is an initial "frequently asked questions" release specifically for West End residents concerning the current proposal to amend the section of the Jefferson County Code (JCC) that addresses environmentally sensitive areas (also known as "critical areas" in the State Growth Management Act), such as streams and wetlands. This sheet supplements information on the DCD website: <http://www.co.jefferson.wa.us/commdevelopment>.

1. What are "critical areas" and what is "best available science"?

The Washington State Growth Management Act (the "GMA" codified in [Chapter 36.70A RCW](#)) presents 13 **planning goals** ([RCW 36.70A.020](#)), plus shoreline management. **Goal 10 is Environment: Protect the environment and enhance the state's quality of life, including air and water quality, and the availability of water.**

The law requires counties and cities to designate and protect "critical areas," a GMA term of art describing sensitive environmental features. [RCW 36.70A.030 Definitions](#). (5): "Critical areas" include the following areas and ecosystems: (a) Wetlands; (b) areas with a critical recharging effect on aquifers used for potable water; (c) fish and wildlife habitat conservation areas; (d) frequently flooded areas; and (e) geologically hazardous areas. For critical areas, the definitions section of the Act at 36.70A.030 includes (9) "Geologically hazardous areas" and (20) "Wetland" or "wetlands."

The [State Legislature](#) directed the State Department of Community, Trade & Economic Development ([CTED](#)) to adopt rules to implement GMA. [RCW 36.70A.050](#) tasks CTED with adopting minimum guidelines to classify critical areas; these were adopted in 1991 as [WAC 369-190-080](#) within [Chapter 365-190 WAC](#). **Definitions** related to critical areas--beyond those in the GMA--appear in [WAC 365-190-030](#).

Best Available Science Requirement

[RCW 36.70A.172 Critical areas--Designation and protection--Best available science to be used](#). The GMA was amended in 1995 to include the requirement that local jurisdictions consider "best available science" (BAS) when establishing protection measures for critical areas. The [State Legislature](#) directed [CTED](#) to adopt rules to implement the BAS requirement. The adopted rules form Part Nine of [Chapter 365-195 WAC](#).

2. Why is Jefferson County proposing to amend the rules for protecting critical areas?

Jefferson County was required by law to review and revise, if necessary, its Comprehensive Plan and development regulations in 2004. This review included consideration of "best available science." The Board of County Commissioners (BoCC) in December 2004 re-adopted existing critical areas regulations. The County was appealed to the Western Washington Growth Management Hearings Board. In order to avoid going to the Hearings Board and jeopardizing the exemption from standard stream and wetland buffers provided for existing and ongoing agriculture, the County chose to enter into a settlement agreement with the petitioner,

Washington Environmental Council (WEC). Among other provisions, the agreement says that the County will consider adopting the wetlands rating system and management recommendations put forth by the State Department of Ecology in 2004 and 2005.

3. What is the revised timeline for this process?

The County was originally scheduled to adopt code amendments by the middle of July, according to the second settlement agreement with WEC, which was signed in January 2006. Due to the level of interest in this proposal and the issues raised through the public process, a revised timeline has been developed. The BoCC now intends to take legislative action no later than January 18, 2007. A committee of the Planning Commission will work with stakeholders to develop a revised proposal, which will be presented to the full Planning Commission and the public in mid-November. Interested persons can follow and contribute to the Planning Commission committee process and/or provide comments to the full Planning Commission and the BoCC when public hearings are scheduled for late in the year and early next year.

4. What is the “agriculture exemption” and how does it apply to what lands?

Existing and ongoing agriculture is exempt from standard stream and wetland buffers. “Existing and ongoing agriculture” is defined as any agricultural activities conducted on an ongoing basis on lands enrolled in the open space tax program for agriculture or designated as agricultural lands; provided, that agricultural activities were conducted on those lands at anytime during the five-year period preceding April 28, 2003. JCC 18.20.030(1)(g). Existing and ongoing agriculture is exempt from standard stream and wetland buffers. JCC 18.20.030(2)(b)(ii)(B). The intention of the agriculture buffer exemption language in the code is to allow for maintenance of the buffer exemption when changes in agricultural activities are made on those qualifying lands. For example, switching crops or switching from crops to livestock or from livestock to crops is fine. “Agricultural Activities” are broadly defined at JCC 18.20.030(1)(b). However, the exemption as it is currently defined does not cover new structures, parking areas, or other similar new development.

5. Is the West End affected by the proposed regulatory protections for channel migration zones?

No. The channel migration zone maps, or maps of river meander areas, cover the south part of East Jefferson County only. The West End is unaffected by this section of the proposal.

6. Is the West End affected by the proposed regulatory protections for wildlife habitat core areas and corridors?

No. The map of wildlife habitat core areas and corridors covers East Jefferson County only. The West End is unaffected by this section of the proposal.

7. Are stream buffers proposed to increase?

The current buffer of 150 feet on Type 1 and Type 2 streams is not proposed for increase. Type 1 includes large rivers like the Hoh and Type 2 includes smaller tributaries and stream sections where the mean annual flow drops to less than 20 cubic feet per second. The typing system for streams is proposed to change to a lettering system based on fish presence that is used by the State Department of Natural Resources. Type 1 streams would become Type S and Type 2 would become Type F, with buffers remaining at 150 feet. Most Type 3 streams—smaller than Type 1 and 2—would become Type F, which carries a buffer of 150 feet, representing an increase of 50 feet. Type 4 and 5 streams would change labels to Np and Ns, but keep the same buffers of 100 feet and 50 feet, respectively.

8. Are wetland buffers proposed to increase?

The proposal incorporates the 2005 wetlands management recommendations from the Department of Ecology into the critical areas section of the JCC. The buffers for the wetlands that offer the highest habitat value would increase. For example, the buffer for a Category 1 wetland with the highest range of habitat value based on the 2004 wetlands rating system would increase from 150 feet to 300 feet for a high-intensity land use, such as commercial, industrial and residential density of greater than one dwelling unit per acre. For a moderate-intensity land use, such as residential development at a density of one dwelling unit per acre or less, the buffer on the same wetland would be 225 feet. Furthermore, the buffer for a moderate-intensity land use adjacent to a Category 1 wetland with a low habitat score would decrease to 75 feet from the standard 150 feet currently in code for all Category 1 wetlands. A moderate habitat score paired with a moderate-intensity land use would result in a buffer of 110 feet, which is a 40-foot decrease from the current standard.

The program offers more flexibility and increased reliance on a site-specific analysis, rather than a one-size-fits-all approach. The question of who is responsible for paying the cost of the site-specific analysis—whether the applicant, all applicants through increased permit fees, or all taxpayers—remains a policy question to be decided.

There is a National Wetland Inventory (NWI) map for the West End. The map shows the potential for wetlands based on a fly-over. For this reason, not all wetlands are shown on the NWI map and site-specific assessments are needed to conclusively determine if wetlands are present. The information is at a coarse scale and does not include wetland category, habitat value, or other essential site-specific information. Therefore, each case must be evaluated when a permit application is submitted.

Certain activities may be permissible within wetland buffers and there are options available for buffer reduction, buffer averaging, and reasonable economic use variances. The development code contains the details and interested persons should contact the DCD Development Review Division.

9. Is there a required 450-foot wetland buffer?

No. When an applicant can accommodate a buffer of 1.5 times the standard wetland buffer, the requirement for a wetland delineation report is waived. If, for example, the standard buffer would be 300 feet, the waiver distance would be 450 feet. If, however, a basic assessment can be made of the wetland that includes a categorization and a habitat score, the standard buffer width could be determined. If the standard buffer is determined to be 100 feet based on the proposed land use intensity, the waiver distance would be 150 feet. This is a site-specific situation meant to provide an alternative to the development of a wetland delineation report for applicants with sufficient land to accommodate 'failsafe' distances from wetlands on the property. It is an optional program intended to save time and expense.

10. How can I get involved in the process?

A new timeline has been established. See the response above regarding the timeline. You are welcome to participate in the Planning Commission committee process this summer and early fall and/or the public process before the Planning Commission and the BoCC anticipated for November and December of this year and January of next year. Contact DCD Long-Range Planning at planning@co.jefferson.wa.us or (360) 379-4450.

Visit the webpage dedicated to critical areas planning:

<http://www.co.jefferson.wa.us/commdevelopment/CriticalAreas.htm>.

Finally, farmers are invited to participate in developing an agricultural management plan for the West End. This is a voluntary plan for West End farmers to select and implement best management practices in order to protect water quality and habitat as an alternative to standard stream and wetland buffers. This planning process is expected to begin this summer and conclude this fall. Please contact us for more information.