

# Critical Areas Ordinance 2015 Periodic Update

September 17, 2015

Planning Commission Meeting

**Public Hearing**



# GMA Requirement

The State Growth Management Act requires:

- All critical areas designated and functions and values protected using Best Available Science (BAS) .
- Special consideration to protection of anadromous fisheries.
- Regulations be periodically updated to use updated BAS.
- Meaningful public participation.
- Complete CAO update within 6 to 12 months of State deadline (June 30, 2015) for periodic update to remain eligible for state grant funding tied to GMA.



# Critical Area Types – per GMA



- Wetlands
- Critical Aquifer Recharge Areas
- Fish and Wildlife Habitat Conservation Areas
- Frequently Flooded Areas
- Geologically Hazardous Areas

# Clarity and Predictability

- ✓ Add standards for critical area reports
- ✓ Clarify exemptions/allowed activities
- ✓ Improve standards for critical area review process
- ✓ Modify problematic and unclear code sections

# Update Process

Over the past six months:

- 6 Public and Community Group meetings
- Consultation with other City Departments and State/Regional Agencies
- 6 Planning Commission meetings
- 3 City Council meetings scheduled

# 3 Proposed Ordinances

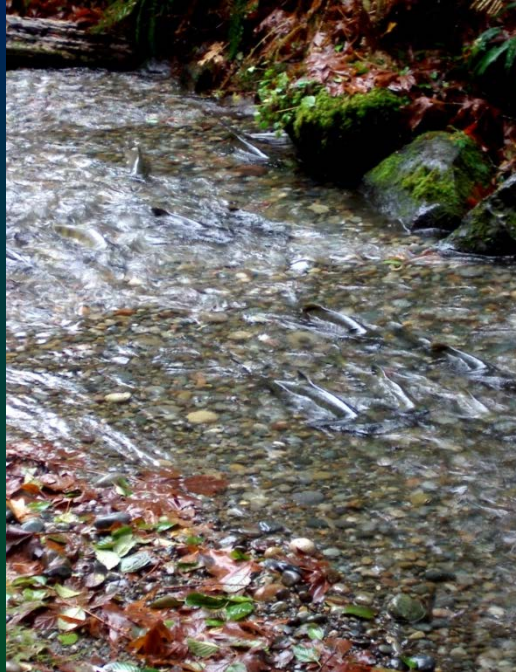
- Ordinance 723 – Critical Areas Ordinance amendments
- Ordinance 724 – Related Title 20 Development Code amendments
- Ordinance 725 – Shoreline Master Program limited amendments



# Types of Critical Areas in Shoreline

## Changes Needed:

- Geologic Hazards
- Fish and Wildlife Habitat/Streams
- Wetlands



## No BAS Changes:

- Flood Hazards (2012)
- Aquifer Recharge Areas (none in City)

# Key Changes to CAO

- Updated incorporated best available science.
- Added specific mapping references.
- Added new sections:
  - preapplication meetings
  - voluntary restoration
  - best available science
  - mitigation plan requirements
  - financial guarantee requirements
  - code enforcement provisions
  - mapping references
  - development standards
  - critical area report requirements



# Key Changes to CAO

- Added critical area report standards, including triggers for third party review.
- Updated terms used, definitions, and wording for consistency and accuracy.
- Reorganized to group related provisions and for subchapter consistency.

# Key Changes to CAO

## Subchapter 1 - General Provisions

- Added new sections.
- Deleted or revised exemptions that allowed for unmitigated impacts.
- Revised notice to title provisions for greater applicability and flexibility.

# Key Changes to CAO

## Subchapter 2 – Geologic Hazards

- Revised landslide hazard classes.
- Revised standards for limits of landslide area.
- Changed standards for alteration to allow for alteration in Very High Risk Landslide Hazard Areas with more rigorous review and mitigation requirements.

# Key Changes to CAO

## Subchapter 3 – Fish and Wildlife

- Incorporated Subchapter 7-Streams.
- Explicitly included threatened, endangered, and priority species.
- Updated stream typing to State Water Type System.
- Required buffer widths modified for two categories.
- Replaced buffer reductions with averaging.
- Physically separated, functionally isolated buffer development.

# Key Changes to CAO

## Subchapter 4 – Wetlands

- Moved and revised wetlands regulations from SMP
- Updated wetland classification to use State Wetland Rating System – 2014.
- Required buffer widths modified based on Ecology buffer guidance based on BAS.
- Replaced buffer reductions with averaging.
- Physically separated, functionally isolated buffer development.

# Key Changes to CAO

## **Subchapter 5 – Flood Hazard Areas and Subchapter 6 – Aquifer Recharge Areas**

- No additional BAS changes needed.
- Changes for section naming consistency.
- No known Aquifer Recharge Areas.

## **Subchapter 7 – Streams**

- Deleted and content combined with FWHCAs

# Key Changes to Title 20

## Development Code

- Definitions updated, added, or deleted for consistency with regulation changes and BAS.
- Revised code references where applicable.
- Added decision criteria for Critical Area Reasonable Use and Special Use permits.
- Revised code enforcement provisions.
- Relocated exemption for vegetation removal.

# Key Changes to SMP

If updated CAO is incorporated:

- New general provisions and critical area report requirements would apply except – Exemptions and Allowed Activities.
- Shoreline variance would apply instead of CARUP or CASUP.
- No change to SMP Exemptions provisions and regulated development.
- No change to SMP designations or shoreline modification standards.
- Review processes would require less research and code interpretation.



# Key Changes to SMP

If updated CAO is incorporated:

- Allowed alteration of very high risk landslide hazard areas.
- FWCHA/Stream changes would apply.
- Wetlands not substantively different, except 2014 Wetland Rating System incorporated.
- Physically isolated and functionally separated buffer development provisions would apply.
- Flood Hazard Area regulations 2013 update would apply.
- Rating/typing consistency with State simplifies report requirements if both state and local approval required.

# New Information

## Revised Geologic Hazards BAS Memo

- Option 1 – proceed with regulations in Public Hearing Draft
- Option 2 – delete definition of distinct break and rely on qualified professional
- Option 3 – require third party review of delineation if there are mid-slope benches on the slope potentially resulting in separate landslide hazard areas within 15 feet of each other.

# State Agency Comments

- Review comments from Ecology and DFW.
- Recommendations have been incorporated during development of Public Hearing draft.
- Staff recommendations for any additional substantive changes.
- Comments will be reviewed prior to finalization for Council.

# Public Comments

- Comment letters from neighborhood groups and Sound Transit.
- Additional Comments from the public tonight.
- Staff will review and provide any substantive change recommendations.

# Additional Edits

- In response to Agency and Public comments.
- Incorporation of additional direction from Planning Commission.
- Correction of terms/wording for legal consistency.
- Typo and grammatical corrections.
- Formatting using additional lists.

# Staff Recommendations

1. Continue the Public Hearing to October 1.
2. Recommend two month delayed effective date for Ordinances 723 and 724.
3. Staff recommends that Commission amend if necessary and forward a recommendation to Council to adopt all three proposed ordinances.

# Next Steps?

- Revise public hearing draft based on recommendation from Planning Commission and comments, as well as typo corrections and non-substantive editing for clarity.
- Council Study Sessions October 26 and November 2.
- Council Adoption rescheduled to December 7, 2015.
- Staff prepare for implementation – approximately 2 months.
- Delayed effective date recommended for CAO and related Title 20 changes – February 1, 2016.
- SMP limited amendment review, comment period, possible revisions, and approval by Ecology – approximately 2-6 months after original Council adoption.

Questions or Comments?

Contact: Juniper Nammi, AICP

206-801-2525 or [jnammi@shorelinewa.gov](mailto:jnammi@shorelinewa.gov)

Project Webpage: [shorelinewa.gov/critical-areas](http://shorelinewa.gov/critical-areas)

