



## Critical Areas Checklist

A Technical Assistance Tool from Growth Management Services – updated November 2022

<b>Name of city or county:</b>	
<b>Staff contact, phone, and e-mail address:</b>	
<p><b>INSTRUCTIONS</b></p> <p>This checklist is intended to help local governments update their development regulations, pursuant to the schedule in <b><u>RCW 36.70A.130(5)</u></b> (updated in 2022). <b>We strongly encourage but do not require jurisdictions to complete the checklist and return it to Growth Management Services (GMS), along with their updates.</b> This checklist may be used by all jurisdictions, including those local governments planning for resource lands and critical areas only. For general information on update requirements, refer to <a href="#">A Guide to the Periodic Update Process Under the Growth Management Act – Fully Planning Counties &amp; Cities, 2022</a> and <a href="#">Keeping your Comprehensive Plan and Development Regulations Current: A Guide to the Periodic Update Process under the Growth Management Act, August, 2016</a> and <a href="#">WAC 365-196-610</a> (updated in 2015).</p> <p><b>Bold items are a GMA requirement or may be related requirements of other state or federal laws.</b> <u>Underlined</u> items are links to Internet sites and may include best practices or other ideas to consider.</p> <p><b>Commerce WAC provisions are advisory</b> under Commerce’s statutory mandate to provide technical assistance, <b>RCW 43.330.120</b> which states that the Department of Commerce “...<i>shall help local officials interpret and implement the different requirements of the act through workshops, model ordinances, and information materials.</i>” If you have questions, call GMS at (360) 725-3066.</p> <p><b>Updates to Commerce WAC</b> – Revisions to the Commerce WAC relating to critical areas have been provided in a table with dates of changes on the <a href="#">Growth Management Act Periodic Update web site</a>. The table can be used with this checklist to determine what changes have been made since the last update of your critical areas regulations.</p>	<p><b>Contents</b></p> <p><b>Instructions.....1</b></p> <p><b>Overall Requirements.....2</b></p> <p><b>Wetlands.....3</b></p> <p><b>Critical Aquifer Recharge Areas.....4</b></p> <p><b>Frequently Flooded Areas.....5</b></p> <p><b>Geologically Hazardous Areas.....6</b></p> <p><b>Fish and Wildlife Habitat Conservation Areas.....7</b></p> <p><b>Designating and Protecting Waters of the State.....8</b></p> <p><b>Anadromous Fisheries.....8</b></p> <p><b>Reasonable Use Exceptions.....8</b></p> <p><b>Agricultural Activities.....9</b></p> <p><b>Forest Practices Regulations.....9</b></p> <p><b>Good Ideas.....9</b></p>

**How to fill out the checklist**

Using the current version of your critical areas regulations, fill out each item in the checklist. Select the check box or type in text fields, answering the following question:

**Is this item addressed in your current Critical Areas Ordinance (CAO)?** If YES, fill in the form with citation(s) to where in the plan or code the item is addressed. We recommend using citations rather than page numbers because they stay the same regardless of how the document is printed. If you have questions about the requirement, follow the hyperlinks to the relevant statutory provision or rules. If you still have questions, visit the [Commerce Growth Management Services Web page](#) or [contact one of the Commerce planners](#) assigned to your region.

**CRITICAL AREAS**

Regulations protecting critical areas are required by **RCW 36.70A.060(2)** and **RCW 36.70A.172(1)**. [WAC 365-195-900 through 925](#) provide guidelines. Guidance can also be found in Commerce's [Critical Areas Handbook \(Updated June, 2018\)](#); the Minimum Guidelines [WAC 365-190-080 – 130](#); Best Available Science, [Chapter 365-195 WAC](#); and Procedural Criteria, [WAC 365-196-485](#) and [WAC 365-196-830](#), and on Growth Management's [Critical Areas](#) webpage.

Regulations required to protect critical areas	Addressed in current plan or regulations? If yes, note where
<p><b>OVERALL REQUIREMENTS</b></p> <p>The CAO includes best available science to clearly designate and protect all critical areas that might be found within the jurisdiction.</p> <p><b>1. Designation of Critical Areas</b>  <b>RCW 36.70A.170(1)(d)</b> required all counties and cities to designate critical areas. <b>RCW 36.70A.170(2)</b> requires that counties and cities consider the Commerce Minimum Guidelines pursuant to RCW 36.70A.050.  <b>RCW 36.70A.050</b> directed Commerce to adopt the Minimum Guidelines to classify critical areas. <a href="#">WAC 365-190-080 through 130 (updated in 2010)</a> provide guidance on defining or “designating” each of the five critical areas.  <a href="#">WAC 365-190-040 (updated in 2010)</a> outlines the process to classify and designate natural resource lands and critical areas.</p> <p><b>2. Definition of Critical Areas</b>  <b>RCW 36.70A.030(6)</b> provides definitions for critical areas. Sections (6) regarding fish and wildlife habitat conservation areas; (14) regarding geologically hazardous areas; and (31) regarding wetlands were updated in 2010.  <a href="#">WAC 365-190-030 (updated 2010)</a> provides definitions in the Minimum Guidelines.</p>	



<p><b>3. Protection of Critical Areas</b>  <b>RCW 36.70A.060 (2)</b> required counties and cities to adopt development regulations that protect the critical areas required to be designated under <b>RCW 36.70A.170</b>.  <b>RCW 36.70A.172(1)</b> requires the inclusion of best available science in developing policies and development regulations to protect the functions and values of critical areas. In addition, counties and cities must give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries.  <a href="#">WAC 365-196-830</a> (updated 2017) provides guidance on protection of critical areas.</p> <p><b>4. Inclusion of Best Available Science</b>  <b>RCW 36.70A.172(1)</b> requires inclusion of the best available science (BAS).  <a href="#">Chapter 365-195 WAC</a> outlines recommended criteria for determining which information is the BAS, for obtaining the BAS, for including BAS in policies and regulations, for addressing inadequate scientific information, and for demonstrating "special consideration" to conservation or protection measures necessary to preserve or enhance anadromous fisheries.  <a href="#">WAC 365-195-915</a> provides criteria for including BAS in the record.</p> <p><b>5. No net loss</b> of critical area functions and values is a requirement for development regulations in <a href="#">WAC 365-196-830(4)</a>. If development regulations allow harm to critical areas, they must require compensatory mitigation of the harm.</p>	<p>Was BAS documented in the record for the review and updates to the critical areas regulations?</p> <p><input type="checkbox"/> Yes  <input type="checkbox"/> No  Location in Text:</p> <p>Do your regulations address no net loss and require compensatory mitigation?</p> <p><input type="checkbox"/> Yes  <input type="checkbox"/> No  Location in Text:</p>
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<p><b>WETLANDS DEFINITION</b>  <b>The definition of wetlands is consistent with <a href="#">RCW 36.70A.030(31)</a> (updated in 2012).</b></p>	<p>Is the wetland definition consistent with  RCW 36.70A.030(21)?</p> <p><input type="checkbox"/> Yes  <input type="checkbox"/> No  <input type="checkbox"/> N/A  Location in Text:</p>
<p><b>WETLANDS DELINEATION</b>  <b>Wetlands are delineated using the approved federal wetland delineation manual and applicable regional supplements in accordance with <a href="#">WAC 173-22-035</a> (updated in 2011).</b></p>	<p>Are wetlands delineated using the approved Federal Wetland Delineation</p>

<p>See Ecology's <a href="#">Wetland Delineation</a> page and <a href="#">WAC 365-190-090</a> (updated in 2010) for additional assistance.</p>	<p>Manual and Regional Supplements?</p> <p><input type="checkbox"/> Yes  <input type="checkbox"/> No  <input type="checkbox"/> N/A</p> <p>Location in Text:</p>
<p><b>WETLANDS PROTECTION</b></p> <p><b>Policies and regulations protect the functions and values of wetlands. RCW 36.70A.172(1)</b> Counties and cities are encouraged to make their actions consistent with the intent and goals of "protection of wetlands", <a href="#">Executive Order 89-10</a> as it existed on September 1, 1990.</p> <p><a href="#">WAC 365-190-090(3)</a> recommends using a wetlands rating system that evaluates the existing wetland functions and values to determine what functions must be protected. Ecology updated its recommended wetlands rating systems effective January 2015. For information on the rating system, including the July 2018 adjustments to ranges for habitat scores, see:</p> <ul style="list-style-type: none"> <li>• <a href="#">2014 Updates to the Washington State Wetland Rating Systems</a></li> <li>• <a href="#">Washington State Wetland Rating System for Western Washington</a></li> <li>• <a href="#">Washington State Wetland Rating System for Eastern Washington</a></li> </ul> <p>For other resources and guidance on protecting wetlands, go to Ecology's <a href="#">Local Wetland Regulations: Growth Management Act technical assistance</a> and see:</p> <ul style="list-style-type: none"> <li>• <a href="#">Wetland Guidance for Critical Areas Ordinance (CAO) Updates: Western and Eastern Washington (2022)</a></li> </ul>	<p>Do the regulations use a rating system to determine wetlands protection?</p> <p><input type="checkbox"/> Yes  <input type="checkbox"/> No  <input type="checkbox"/> N/A</p> <p>Location in Text:</p>
<p><b>CRITICAL AQUIFER RECHARGE AREAS</b></p> <p><b>Policies and regulations protect the functions and values of critical aquifer recharge areas. RCW 36.70A.172(1).</b></p> <p><b>Policies and regulations protect the quality and quantity of groundwater used for public water supplies. RCW 36.70A.070(1) and <a href="#">WAC 365-196-485(1)(d)</a>.</b></p> <p>The following references also relate to protection of groundwater resources:</p> <p><b>RCW 90.44</b> – Regulation of Public Groundwaters  <b>RCW 90.48</b> – Water Pollution Control  <b>RCW 90.54</b> – Water Resources Act of 1971  <b>RCW 36.36.020</b> - Creation of aquifer protection area (1988)  <a href="#">WAC 365-190-100</a> Critical Aquifer Recharge Areas (2010)  <a href="#">WAC 173-100</a> Groundwater Management Areas and Programs (1988)  <a href="#">WAC 173-200</a> Water Quality Standards for Groundwaters of the State of Washington (1990)</p>	<p>If groundwater is used for potable water, do regulations protect the quality and quantity of ground water?</p> <p><input type="checkbox"/> Yes  <input type="checkbox"/> No  <input type="checkbox"/> N/A</p> <p>Location in text:</p>



<p><a href="#">WAC 365-196-735</a> Consideration of state and regional planning provisions (list) (2010)</p> <p>The <a href="#">Critical Aquifer Recharge Areas Guidance Document</a> (updated 2021) provides information on protecting functions and values of critical aquifer recharge areas, best available science, how to work with state and local regulations and adaptive management.</p> <p>Also, consider the following:</p> <ul style="list-style-type: none"> <li>• Prohibiting or strictly regulating hazardous uses in critical aquifer recharge areas (CARAs) and designating and protecting wellhead areas. See Ecology's guidance on <a href="#">Critical Aquifer Recharge Areas</a>.</li> <li>• Limiting impervious surfaces to reduce stormwater runoff, as required under Phase I and II municipal stormwater permits. Ecology's Stormwater Manual for Western Washington (updated in 2012) includes low impact development (LID) related definitions, requirements, and an LID performance standard. See <a href="#">Stormwater Management and Design Manuals</a> on Ecology's web page.</li> <li>• For additional guidance on LID resources, see Commerce's <a href="#">Incentivizing low-impact development</a> guidebook.</li> </ul>	<p>Are the critical aquifer recharge regulations consistent with current mapping of these critical areas?</p> <p><input type="checkbox"/> Yes  <input type="checkbox"/> No  <input type="checkbox"/> N/A</p> <p>Location in text:</p>
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<p><b>FREQUENTLY FLOODED AREAS</b></p> <p><b>Regulations protect the functions and values of frequently flooded areas and safeguard the public from hazards to health and safety. RCW 36.70A.172(1)</b> <a href="#">WAC 365-196-830</a> provides: "Protection' in this context means preservation of the functions and values of the natural environment, or to safeguard the public from hazards to health and safety."</p> <p><a href="#">WAC 365-190-110</a> (updated in 2010) directs counties and cities to consider the following when designating and classifying frequently flooded areas:</p> <ol style="list-style-type: none"> <li>(a) Effects of flooding on human health and safety, and to public facilities and services;</li> <li>(b) Available documentation including federal, state, and local laws, regulations, and programs, local studies and maps, and federal flood insurance programs, including the provisions for urban growth areas in <b>RCW 36.70A.110</b>;</li> <li>(c) The future flow flood plain, defined as the channel of the stream and that portion of the adjoining flood plain that is necessary to contain and discharge the base flood flow at build out;</li> <li>(d) The potential effects of tsunamis, high tides with strong winds, sea level rise, and extreme weather events, including those potentially resulting from global climate change;</li> <li>(e) Greater surface runoff caused by increasing impervious surfaces.</li> </ol>	<p>Are frequently flooded areas designated and regulated using FEMA and Ecology guidance?</p> <p><input type="checkbox"/> Yes  <input type="checkbox"/> No  <input type="checkbox"/> N/A</p> <p>Location in Text:</p>
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Classification of and regulations for frequently flooded areas should not conflict with the [FEMA](#) requirements for the National Flood Insurance Program (NFIP). See [Ecology's Frequently Flooded areas: Critical Areas Ordinance](#) webpage and [44 CFR 60](#).

Communities that are located on Puget Sound or the Strait of San Juan de Fuca, or have lakes, rivers or streams that directly or indirectly drain to those water bodies, are subject to the NFIP Biological Opinion (BiOp) for Puget Sound. The biological opinion required changes to the implementation of the NFIP in order to meet the requirements of the Endangered Species Act (ESA) in the Puget Sound watershed. FEMA Region X has developed an implementation plan that allows communities to apply the performance standards contained in the Biological Opinion by implementing:

- 1) [a model ordinance](#);
- 2) [a programmatic Checklist](#); or
- 3) on a permit by permit basis as long as it can be demonstrated that there is no adverse effect to listed species. Communities have the [option](#) of utilizing their CAOs as part of a programmatic response to address the requirements of the biological opinion. FEMA must approve a community's biological opinion compliance strategy.

Additional resources:

**RCW 86.12** Flood Control by Counties

**RCW 86.16** Floodplain Management

**RCW 86.26** State Participation in Flood Control Maintenance

**RCW 86.16.041** Floodplain Management Ordinance and Amendments

[WAC 173-158-070](#) Requirements for construction in Special Flood Hazard Areas

Are you utilizing your CAO as part of a programmatic response to the BiOp?

☐ Yes

☐ No

☐ N/A

Location in Text:

<p><b>DEFINITION OF GEOLOGICALLY HAZARDOUS AREAS</b></p> <p><b>The definition of geologically hazardous areas is consistent with <u>RCW 36.70A.030(14)</u> (updated 2012) and <u>WAC 365-190-120(1)</u>.</b></p> <p>"Geologically hazardous areas" means areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns.</p>	<p>Is the geologically hazardous areas definition consistent with RCW 36.70A.030(14)?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> N/A</p> <p>Location in Text:</p>
<p><b>PROTECTION OF GEOLOGICALLY HAZARDOUS AREAS</b></p> <p><b>Regulations protect the functions and values of geologically hazardous areas and safeguard the public from hazards to health and safety. RCW 36.70A.172(1) <u>WAC 365-196-830</u> (2010) provides:" "Protection" in this context means preservation of the functions and values of the natural environment, or to safeguard the public from hazards to health and safety."</b></p> <p><b>Geologically hazardous areas are designated, and their use is regulated or limited consistent with public health and safety concerns. <u>RCW 36.70A.030(14)</u> provides a definition (updated in 2012) and <u>WAC 365-190-120</u> describes the different types of hazardous areas (2010):</b></p> <ul style="list-style-type: none"> <li>• Geologically hazardous areas include: <ul style="list-style-type: none"> <li>• <u>seismic hazards</u></li> <li>• <u>tsunami hazards</u></li> <li>• <u>landslide hazards</u></li> <li>• areas prone to erosion hazards</li> <li>• <u>volcanic hazards</u></li> <li>• <u>channel migration zones</u></li> <li>• areas subject to differential settlement from coal mines or other subterranean voids.</li> </ul> </li> </ul> <p>The Department of Natural Resource's Washington Geological Survey <u>Geologic Hazards and the Environment</u> website includes information on earthquakes and faults, landslides, volcanoes and lahars, tsunamis, hazardous minerals, emergency preparedness, historic mines and includes <u>geologic hazard maps</u> that can be accessed from the <u>Geologic Information Portal</u>.</p>	<p>Are uses in geologically hazardous areas designated and regulated or limited consistent with public health and safety?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> N/A</p> <p>Location in Text:</p>







## DESIGNATING AND PROTECTING WATERS OF THE STATE

**RCW 90.48.020** defines waters of the state, which include all surface waters, salt waters, groundwater and all other water courses in Washington. [WAC 365-190-130\(2\)](#) (updated in 2010) recommends designating all waters of the state as fish and wildlife habitat conservation areas (FWHCAs).

Stream types are classified in [WAC 222-16-030](#) (updated in 2006) with field verification, or an alternate system that considers factors listed in [WAC 365-190-130\(4\)\(f\)\(iii\)](#). See <http://www.dnr.wa.gov/forest-practices-water-typing> to use Washington State Department of Natural Resources (DNR)'s stream typing system. Establish riparian management zones to maintain no net loss of riparian ecosystem functions and values.

Designate areas that risk contaminating or harming shoreline resources including tidelands and bedland suitable for shellfish harvest, kelp and eelgrass beds and forage fish spawning areas.

Do you designate waters of the state as FWHCAs?

- ☐ Yes  
☐ No  
☐ N/A

Location in Text:

Do your regulations protect waters of the state?

- ☐ Yes  
☐ No  
☐ N/A

Location in Text:

## ANADROMOUS FISHERIES

**Policies and regulations for protecting critical areas give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries. RCW 36.70A.172(1) is the requirement and [WAC 365-195-925](#) (updated in 2000) lists criteria involved. This requirement applies to all five types of critical areas.**

[WAC 365-190-130\(4\)\(i\)](#) recommends sources and methods for protecting fish and wildlife habitat conservation areas, including salmonid habitat. Counties and cities may use information prepared by the United States Department of the Interior Fish and Wildlife Service, National Marine Fisheries Service, the Washington State Department of Fish and Wildlife, the State Recreation and Conservation Office, and the Puget Sound Partnership to designate, protect and restore salmonid habitat. Counties and cities should consider recommendations found in the regional and watershed specific salmon recovery plans (see the [Governor's Salmon Recovery Office webpage](#) and the Puget Sound Partnership's [Salmon Recovery webpage](#)).

[Land Use Planning for Salmon, Steelhead and Trout](#): A land use planner's guide to salmonid habitat protection and recovery (October 2009) is an excellent resource.

Do your regulations give special consideration to anadromous fisheries?

- ☐ Yes  
☐ No  
☐ N/A

Location in Text:

<p><b>REASONABLE USE EXCEPTIONS</b></p> <p><b>The Critical Areas Ordinance (CAO) allows for “reasonable use” if the CAO would otherwise deny all reasonable use of property.</b> Reasonable use provisions should limit intrusions into critical areas to the greatest extent possible and apply the mitigation sequence as needed for no net loss of ecosystem functions and values <b>RCW 36.70A.370</b> (1991). Common exemptions include emergencies, remodels that do not further extend into critical areas, surveying, walking, and development that has already been completed with critical areas review under a previous permit. See <a href="#">Critical Areas Handbook, Chapter 3: Structuring Critical Areas Regulations, p.9 (Updated June, 2018).</a></p>	<p>Do you have reasonable use provisions?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Location in Text:</p>
<p><b>AGRICULTURAL ACTIVITIES (COUNTIES ONLY)</b></p> <p><b>Non-VSP Counties</b></p> <p>Critical areas regulations as they specifically apply to agricultural activities in counties or watersheds not participating in the <a href="#">Voluntary Stewardship Program (VSP)</a> have been reviewed, and if needed, revised pursuant to <b>RCW 36.70A.130</b>. <b>RCW 36.70A.710(6)</b> "Agricultural activities" means all agricultural uses and practices as defined in <b>RCW 90.58.065</b>.</p> <p><b>VSP Counties</b></p> <p>After watershed work plan approval, <a href="#">VSP counties</a> are encouraged to reference and describe their participation in the program within their critical areas development regulations (<a href="#">WAC 365-196-832</a>). See <a href="#">Critical Areas Handbook, Chapter 5: Protecting Critical Areas in Natural Resource Lands (Updated June, 2018).</a></p>	<p>Did you review your regulations as they apply to agricultural activities?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>Location in Text:</p>
<p><b>FOREST PRACTICES APPLICATION REGULATIONS</b></p> <p><b><i>If applicable, regulations for forest practices have been adopted: RCW 36.70A.570 (adopted in 2007).</i></b></p> <p><b>RCW 76.09.240</b>, amended in 2011, requires many counties over 100,000 in population, and the cities and towns within those counties to adopt regulations for forest practices. These are often included in clearing and grading ordinances.</p>	<p>Have you adopted forest practices regulations?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>Location in Text:</p>
<p><b>GOOD IDEAS</b></p> <p><b>Non-regulatory measures</b> to protect or enhance functions and values of critical areas may be used to complement regulatory methods. These may include:</p> <ul style="list-style-type: none"> <li>• public education</li> <li>• stewardship programs</li> <li>• pursuing grant opportunities</li> <li>• water conservation</li> <li>• joint planning with other jurisdictions and non-profit organizations</li> <li>• stream and wetland restoration activities</li> <li>• <a href="#">transfer of development rights</a></li> </ul>	<p>Are you using non-regulatory measures to protect critical areas?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Location in Text:</p>



<p><b>Monitoring and adaptive management</b> is encouraged in <a href="#">WAC 365-195-905(6)</a> to improve implementation of your regulations. See Commerce's Monitoring and Adaptive Management chapter in the <a href="#">Critical Areas Handbook (June 2018)</a>.</p>	<p>Do you have a monitoring and adaptive management program for your CAO?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Location in Text:</p>
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