

ORDINANCE NO. 351 -2005ORDINANCE REGARDING GROWTH MANAGEMENT,
REVISIONS TO TITLE 19 (CRITICAL AREAS)**BE IT ORDAINED:**

Section 1. General Findings. The Kitsap County Board of Commissioners makes the following findings:

- A. The Growth Management Act (GMA), RCW 36.70A, requires that local governments protect the environment and enhance the state's high quality of life, including air and water quality and the availability of water.
- B. The GMA, specifically RCW 36.70A.170(1)(d) and RCW 36.70.060 (2), requires the designation of critical areas and the adoption of development regulations to protect those critical areas. Critical areas are defined in RCW 36.70A.030(5) as "(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."
- C. Pursuant to RCW 36.70A.130, Kitsap County is required to review and, if needed, revise its development regulations protecting critical areas ("Critical Areas Ordinance") to ensure that the regulations comply with the requirements of GMA. Kitsap County adopted its last Critical Areas Ordinance (CAO) on May 7, 1998 through Ordinance 217-1998.
- D. Pursuant to RCW 36.70A.172, Kitsap County is required to include the best available science ("BAS") in developing and updating policies and development regulations to protect the functions and values of critical areas, and to give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries.
- E. The GMA requires local governments planning under GMA to accommodate future population growth as forecasted by the office of financial management and requires counties to include a rural element in their comprehensive plans. Kitsap County is required to plan under the GMA and has adopted a comprehensive plan that includes all of the required elements under GMA.
- F. Kitsap County's efforts to accommodate growth and to protect critical areas, resource lands and rural lands are guided by Countywide Planning Policies and the Kitsap County Comprehensive Plan ("Comprehensive Plan"). The Kitsap County Board of Commissioners

last updated its Comprehensive Plan on October 25, 2004 (Ordinance 326-2004) and its County-Wide Planning Policies on November 22, 2004 (Ordinance 327-2004).

- G. The Natural Systems chapter of Kitsap County's Comprehensive Plan provides a series of goals, objectives and policies to guide future growth in a manner that preserves the county's natural environment, and works cooperatively with the Land Use chapter to direct intense development away from sensitive areas. Additionally, Element C of Kitsap County's County-wide Planning Policies designed at protecting critical areas. These were considered when developing the updated CAO and were compared with the 1998 CAO and relevant sections of state statutes and regulations ("Vertical Analysis").
- H. As reflected in Kitsap County's Code, Plans, and Policies, Kitsap County occupies a unique portion of the State of Washington, directly between the urban areas of Seattle and Tacoma and the wilderness of the Olympic Mountains. It is bounded by the Hood Canal on the west, Puget Sound on the east, and Mason and Pierce Counties to the South.
- I. In addition to the Critical Areas Ordinance (CAO), Kitsap County is protecting the functions and values of its critical areas and giving special consideration to anadromous fisheries through the use of both regulatory and non-regulatory measures. The following list of examples is not exhaustive.
 - 1. Wetlands are also protected through the County-wide Surface and Stormwater Management Program, which improves runoff quality and reduces runoff flow rates; through the County's Geographic Information System, which identifies and maps wetlands for monitoring and protection; through the encouragement of community groups to sponsor professionally conducted local wetlands inventories; through the County's cooperation with the Washington State University Extension program, which addresses agricultural and forestry technical assistance; through coordination with the Kitsap County Health District, which conduct on-site sewage inspections, boater waste reduction and other source control related activities; and through educational materials to the public about surface water resources; through the County's Stream Team, which implements voluntary water quality and habitat improvement projects, and conducts educational environmental stewardship programs for the public.
 - 2. Fish and Wildlife Habitat Areas are also protected through compliance with the Washington State Department of Fish and Wildlife's designation of protected habitat and protected species; through compliance with the Washington State Department of Natural Resources' designation of protected habitat and species; through compliance with the identification of fresh- and saltwater wetlands by the U.S. Fish and Wildlife Service National Wetlands Inventory, Natural Resources Conservation Service, and the Washington State Department of Natural Resources; through the County-wide Surface and Stormwater Management Program, which improves runoff quality and reduces runoff

flow rates; through the County's Stream Team, which implements voluntary water quality and habitat improvement projects, and conducts educational environmental stewardship programs for the public; through the County's Natural Resources Division which implements salmon habitat restoration projects in marine and freshwater systems, and conducts aquatic and terrestrial habitat assessments; and through the County's Open Space Plan.

3. Geologically Hazardous Areas are also protected through the County-wide Surface and Stormwater Management Program, which improves runoff quality and reduces runoff flow rates; and through the County's Geographic Information System, which identifies and maps geologic hazard areas.
 4. Frequently Flooded Areas are also protected through the County's coordination with the Kitsap County Health District to discourage the location of on-site sewage systems in floodplains; and through the County-wide Surface and Stormwater Management Program, which improves runoff quality and reduces runoff flow rates.
 5. Critical Aquifer Recharge Areas are also protected through low-density land use designations on the Kitsap County Comprehensive Plan Land Use Map and corresponding zoning designations.
- J. Many existing uses and activities are considered legally-established and non-conforming e.g. existing structures, existing and ongoing agricultural uses and existing roads and utilities. New regulations may not apply to these uses or activities unless expanded or discontinued.

Section 2. General Procedural Findings. The Kitsap County Board of Commissioners makes the following findings regarding the process and public participation aspects for amending Kitsap County's Critical Areas Ordinance (CAO):

- A. In late 2003, a Work Plan for Updating the Kitsap County Critical Areas Ordinance, Including Review and Consideration of "Best Available Science" (BAS) was submitted to the Board of County Commissioners.
- B. On July 14, 2004, Kitsap County sent a Notice of Intent to Adopt to the Washington State Office of Community Development (OCD) regarding the update of the Critical Areas Ordinance based upon best available science review.
- C. In 2003, Kitsap County convened a Technical Review Committee (TRC), composed of representatives from local, and state natural resource agencies, tribes, and various community stakeholder groups, to assist the Kitsap County Department of Community Development (DCD) in reviewing existing BAS relating to critical areas. Between November 2003 and

March 2004, following timely and effective public notice¹, nine public meetings were held and the following objectives were accomplished: (1) review existing data and identify errors or omissions in the available information for each designated critical area; (2) review and discuss methodology and criteria for determine BAS appropriate for Kitsap County for each critical area; and (3) review and discuss existing BAS and provide recommendations on appropriate BAS and possible changes to critical area policies and development regulations for each critical area. All members of the TRC had appropriate subject matter expertise, depending on the specific critical area discussed, and included representatives from DCD, the Home Builders Association of Kitsap County, the Washington Department of Fish and Wildlife, Kitsap Alliance of Property Owners, Kitsap County Planning Commission; Realtors Association of Kitsap County, West Sound Conservation Council, the Port Gamble S'Klallam Tribe and the Suquamish Tribe.

- D. In late March 2004, Kitsap County launched its CAO website, which included information regarding the Technical Review Committee, the developing BAS and bibliography, and an outline on process for the continued development of the CAO. This website has been continuously updated as new information became available.
- E. On June 22, 2004 the First Public Draft of the CAO was issued for public review and comment. This draft outlined protections such as buffers, setbacks, regulated uses and required technical reports.
- F. Throughout June and July 2004, DCD staff made formal presentations to public and private groups to explain and discuss the proposed changes of the First Public Draft CAO. Among the groups involved were the West Sound Environmental Council, the Community Working Group, the Home Builders Association, the Kitsap Alliance of Property Owners, and the Realtors Association of Kitsap County.
- G. Beginning in August 2004 and continuing throughout the development process, DCD staff met with members of interested groups to review and discuss the proposed changes to the CAO, as well as the support for such changes. At all times up to the closing of the record by the Kitsap County Board of Commissioners on November 28, 2005, DCD staff accepted written comments on all aspects of the CAO for the record.
- H. At regularly scheduled meetings, the Kitsap County Planning Commission were briefed by DCD Staff on BAS and the proposed changes in the First Public Draft, and held work-study sessions to review and discuss the First Public Draft CAO on June 8, July 20, August 31, and November 23, 2004.

¹ Notice was published in the official newspaper (Kitsap Sun), Kitsap County DCD website, and local libraries.

- I. On July 29, 2004, DCD staff completed the SEPA Environmental Checklist for the CAO Amendments, and released the final SEPA threshold determination of non-significance on July 30, 2004. No SEPA appeals were filed and the appeal period closed in August 2004.
- J. On August 13 – 15, 2004, DCD staff manned a booth at the Kitsap Mall to outreach to Kitsap citizens regarding the substance and process of amending the CAO. In addition to displaying the First Public Draft CAO and the accumulated BAS, DCD staff answered questions from citizens and provided them with additional information. The booth was advertised with a print ad in the local newspaper with notification to interested parties.
- K. On August 16, 2004, DCD staff held a Public Open House on the First Public Draft CAO at the Givens Community Center. Staff presented the elements of the First Public Draft and answered questions from the public during the more than three-hour event. The event was advertised with a print ad in the local newspaper with notification to interested parties.
- L. On August 19, 2004 DCD staff held another Public Open House on the First Public Draft CAO at the Poulsbo Library. Staff presented the elements of the First Public Draft and answered questions from the public during the more than three-hour event. The event was advertised with a print ad in the local newspaper with notification to interested parties.
- M. On August 25-29, 2004, DCD staff manned a booth at the Kitsap County Fair to outreach to Kitsap citizens regarding the substance and process of amending the CAO. In addition to displaying the First Public Draft CAO and the accumulated BAS, DCD staff answered questions from citizens and provided them with additional information. The booth was advertised with a print ad in the local newspaper with notification to interested parties.
- N. On October 27, 2004, following timely and effective notice, Kitsap County held a Critical Areas Science Panel Public Meeting from 6-9pm at the Central Kitsap Junior High School. The panel consisted of individuals from varying backgrounds and political philosophies who would qualify as a scientific expert under WAC 365-195-905(4), and included Robert Crittendon, a scientist who has consulted for Kitsap Alliance of Property Owners; Don Flora, a retired forester; Dyanne Sheldon, a wetlands scientist; Alan Johnson, a streams and fisheries scientist; and Chris Pitrie, an expert in hydrogeology and aquifers. A panel presentation was made identifying and discussing the scientific factors of critical area functions and values and how critical areas support a range of water quality and habitat functions. The presentation was followed by an interactive public question-scientist answer session. As in prior public forums, large critical areas maps were placed around the meeting room and lobby and numerous handouts of the First Draft CAO, summaries of BAS, and of frequently asked questions were made available to the public.
- O. Kitsap County released a Best Available Science White Paper in December 2004. This document summarized the scientific information reviewed by the County during the update of

the CAO. This document was made available to the public at libraries, the Community Development front counter and on the Kitsap County web site.

- P. Between December 15, 2004 and January 12, 2005, three CAO Community Roundtable Public Input Meetings were held to receive and discuss citizens' feedback on critical area functions and ways to protect and manage critical areas, one meeting for each North, Central and South Kitsap County. At each meeting, five tables were manned each by one or more DCD staff members with expertise in each of the five critical areas. Citizens rotated through the five tables and were encouraged to ask questions and present opinions or comments on the critical area. Over two hundred citizens participated in these roundtables and a report on the discussions was published and circulated. These roundtables were also advertised in the local newspaper with a full print ad.
- Q. On May 17, 2005, the Second Draft of the CAO and Science Support Document were issued for public review and comment. This Second Draft included revisions based upon public, agency and interested party comment on the First Public Draft. The Science Support Document demonstrated that the standards of the Kitsap County Critical Area Ordinance Second Public Draft dated May 17, 2005 are within the acceptable range of the compiled best available scientific literature. Both documents were made available to the public at libraries, the DCD front counter and on the Kitsap County web site.
- R. Following effective and timely public notice, Planning Commission work study sessions on the Second Draft CAO were held on May 24, 2005, June 14, 2005 and June 28, 2005 and covered the topics of wetlands, fish and wildlife habitat areas and all other sections respectively.
- S. On August 10, 2005, following timely and effective public notice, a CAO Public Information Workshop was held at the Government Center in Bremerton from 7-10pm to discuss the Second Draft CAO. DCD staff members made formal presentations on each section of the Second Draft CAO, covering the Introductory/Administrative Provisions and Definition Provisions, as well as the substantive sections on each critical area. The presentation was followed by a Question-Answer session with the DCD staff panel. As in prior public forums, large critical areas maps were placed around the meeting room and lobby and numerous handouts of the Second Draft, summaries of BAS, and of frequently asked questions were made available to the public. This forum was advertised in the local newspaper with a full print ad.
- T. Following effective and timely public notice, the Kitsap County Planning Commission held public hearings on September 22, 2005 and October 18, 2005 each from 3:00-10:00pm to hear public testimony on the Second Draft CAO. Well over 200 citizens, who were invited to comment on the CAO without time limitation and were encouraged to submit written

comments, put over 12 hours of testimony on the record. Additional advertisement for this hearing included a full print ad in the local newspaper.

- U. Following effective and timely public notice, the Kitsap County Planning Commission held deliberations on the Second Draft CAO on October 25, 2005 from 9:00am to 3:00pm, October 31, 2005 from 9:00am to 3:00pm and November 1, 2005 from 12:30 – 4:00 PM. These deliberations were documented by a Planning Commission “Findings of Fact”, a Planning Commission “Draft CAO for the Planning Commission majority”, and a separate Planning Commission “Minority Report.”
- V. Kitsap County released a Staff Draft and Planning Commission Majority Draft of the CAO to the public on November 7, 2005. These drafts were made available at the DCD front counter and on the Kitsap County web site. Staff held a public work session with the Board of County Commissioners on November 7, 2005 at the Kitsap County Fairgrounds President’s Hall to discuss these proposed drafts.
- W. Following effective and timely public notice, the Kitsap County Board of County Commissioners held a public hearing from 3:00pm to 10:00 pm on November 14, 2005 to hear public testimony on the Second Draft, Staff Draft, Planning Commission Majority Draft and Planning Commission minority report for the CAO. Citizens were allocated three minutes during the first round of testimony, but a second round was offered for those who wished to add more testimony. More than 100 citizens testified. Advertisement for this hearing included a full print ad in the local newspaper.
- X. On November 28, 29, and 30, 2005 and December 1, 2005, following effective and timely public notice, the Kitsap County Board of County Commissioners held deliberations on the various drafts of the CAO and all public testimony. The deliberations followed the format layout out in the matrix “Critical Areas Ordinance – Comparison of Staff and Planning Commission Drafts” that was published and made available to the public on November 21, 2005. The Board of Commissioners adopted amendments to each section of the CAO throughout the deliberations, with a final, comprehensive adoption of the CAO on December 1, 2005.

Section 3. General Substantive Findings. The Kitsap County Board of Commissioners makes the following findings regarding the policy and text amendments to Kitsap County’s Critical Areas Ordinance (CAO):

- A. As required by the Growth Management Act (GMA), RCW 36.70A.172, and WAC 365-195-900 through –925, Kitsap County has included “Best Available Science” (BAS) in the development of this Critical Areas Ordinance update and has given special consideration to

