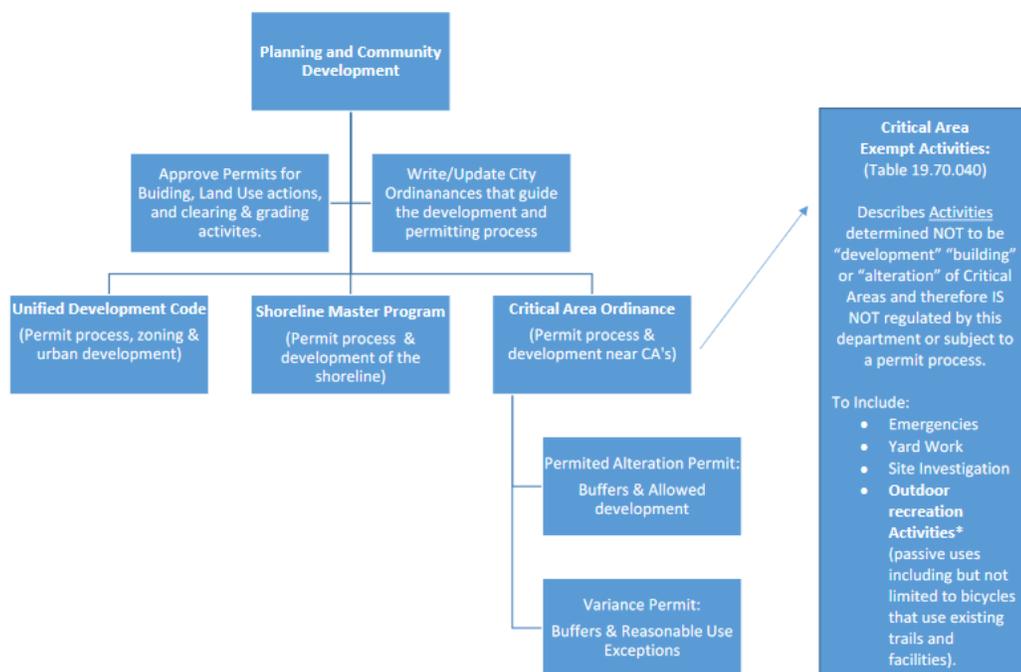


Anacortes Critical Areas Regulations Update FAQ

January 30, 2020

How do the proposed updates to the critical areas regulations impact the Bicycle Use on Trails?

Unfortunately, there is much confusion about what the critical area regulations do and what the update will accomplish. The Critical Area regulations oversee the permitting process and the development/protection requirements for construction near or in a critical area. The Ordinance DOES NOT regulate what uses can occur within already created “grandfathered” trails and facilities. So for example: using a bicycle on an existing trail in the ACFL is not regulated by this legislation, but building a new trail in the Ship Harbor wetland buffer (Guemes Channel Trail) would be regulated under these provisions. See diagram below.



* The only function of the Exemption section in the Critical Area Ordinance is to define activities that are OUTSIDE of our oversight and DO NOT create alterations near or to a critical area that would qualify as construction or development and that is then subject to oversight by the Planning and Community Development Department through regulations and permitting process. It is irrelevant whether we divide it out by passive or active recreation OR whether we specifically list bicycles or remove bicycle from the list. If the activity is not constructing a new facility, altering the land or vegetation, or moving dirt then the activity is not “development” and is NOT REGULATED by this Department under the regulations shown above. The City or another Department may choose to regulate how their “existing” lands, trails, parks, forests, and facilities are USED but that would not fall under this department or these city ordinances.

The controversy is coming from folks who are very cautious that word changes including passive recreation, active recreations, bicycling, or including but not limited to will create loop holes or are general oversights that might create unintended consequences in the future. Staff wants to assure the public that this new draft does not create changes to the existing code but is meant to remove ambiguities and make it more clear and user friendly.

The update will absolutely not create loop holes or oversights, but rather is an attempt to fix the ones in the current regulations. There will be no change in use of the forest lands or bicycling trails within the city by this legislative action. Because the community expressed such strong feelings about use of the ACFL and bicycling trails, which is not actually relevant to the Critical Area Ordinance, Staff has recommended that the City address and create new legislation that would in fact better address these concerns. This would be accomplished through creating a new Anacortes Community Forest Lands section (12.18) and updating the Parks Section (12.16) under Title 12 of the Anacortes Municipal Code.

What are critical areas?

Critical areas are features of the landscape that perform key functions to enhance our environment and protect us from hazards. Under the Growth Management Act (GMA), Anacortes is required to designate critical areas and protect their functions and values. There are five types of critical areas identified in the GMA:

- Wetlands
- Areas with a critical recharging effect on aquifers used for potable water
- Frequently flooded areas
- Geologically hazardous areas
- Fish and wildlife habitat conservation areas, including streams

Anacortes has designated critical areas based on consideration of the guidelines in state law. [Rough mapping](#) of critical areas is used by staff and the public to identify existing and potential critical areas. Performance standards, or criteria that are adopted legislatively, are used to determine if a particular critical area is present by applying the criteria on the ground. Typically, this happens during local project review.

What is a periodic update of the critical areas regulations?

The City of Anacortes last completed an update of its critical areas regulations in 2005 and 2006. Washington state law requires jurisdictions to review and update their Comprehensive Plans and development regulations, including critical areas regulations, every eight years in accordance with the Growth Management Act. The statutory deadline for completing the City's most recent mandatory update was June 30, 2017. The City's current timeline includes completing this periodic update by early 2020.

The periodic update will focus on:

- Reviewing relevant legislative updates since the 2005/2006 update and incorporating any applicable amendments;
- Including best available science;
- Ensuring consistency with Anacortes' 2016 Comprehensive Plan Update;
- Ensuring compatibility with other City regulations;
- Integration with AMC Title 19 Unified Development Code;
- Improving overall organization, clarity, and readability;
- Clarifying review procedures and criteria.

How do critical areas regulations apply to land use and development activities?

Unless specifically exempted, critical areas regulations apply to all land uses, development activity, and all structures and facilities within the City of Anacortes that are within the maximum buffer distance of, or likely to affect the functions and values of, one or more critical areas.

When a proposed activity is not exempt, a critical areas report that identifies the type, location, and functions and values provided by the critical area, proposed impacts to the critical area, and proposed mitigation, must be provided as part of a permit application. The report must be prepared by a qualified professional with expertise appropriate to the relevant critical area type.

Why are some activities exempt from critical areas regulations?

Some activities are exempt from critical areas regulations or are allowed with a lower level of review.

There are several reasons for this:

- Regulations should not prevent emergency actions that reduce risks of natural hazards.
- Some activities are unlikely to result in an impact.
- Additional critical areas review may not be effective in some instances.
- Appropriate uses of land should be encouraged.
- Beneficial activities, such as restoration, should be encouraged.

Some examples of activities that are exempt, provided they meet the precise criteria for the exemption, include:

- Emergencies; operations, maintenance, or repair of existing structures or infrastructure; and passive outdoor activities.

What is the process for the update?

The City obtained professional services from qualified firms with scientific expertise in relevant critical areas to help assemble and review current best available science, the current code provisions, and to provide recommendations for updates.

A 1st draft of revised regulations was released for public comment and Planning Commission review, and informal state agency review in 2017. Staff reviewed the comments received, made changes as appropriate, and released a 2nd Draft in October, 2019. Since then, public meetings have been held with the Planning Commission to obtain feedback regarding the 2nd draft. It has also been submitted to the Washington State Department of Commerce for state agency review and comment.

After SEPA review and a public hearing, the Planning Commission will make recommendations to the City Council, which will review the recommendations and make a final decision.

How can I get more information?

Website:

<https://www.anacorteswa.gov/201/Critical-Areas-Regulations-Update>

Sign up to receive email updates via the City's NotifyMe feature:

<https://www.anacorteswa.gov/list.aspx>, select "Critical Areas Regulations Update" under "News Flash".

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