

CRITICAL AREAS ORDINANCE (Title 19)		Preliminary Public Comments on Draft (3/1/17- 3/24/17)		
Comment #	Topic(s)	Method Received	Name	Summary of Comment
1	General; Property Rights	Email	Doug Lyons	Ordinance unnecessarily restricts development; suggests formation of citizens committee to review with the idea of reducing regulations; rather than applying regulations county-wide, select areas for development with lesser regulations; Private property owners should have more latitude to develop their property.
2	General	Web	Hank Anderson	Zooming in or out on the maps takes a very long time; no way to print just a portion
3	19.300 FWHCA	Web	Justin Morgan	Requesting that the section of Enetai Creek north of Helm St. in Bremerton be re-designated from Fish Habitat to Non-Fish Habitat; Request the no development buffer guidelines for a fish bearing stream be reduced from 150 ft. to 50 ft.
4	19.200 Wetlands	Web	Tom Coleman	Trail building in KC parks should meet US Forest Service Guidelines; experienced and trained trails volunteers should be consulted in decisions regarding trail locations, type and restrictions.
5	General (Ag.)	Web	Jerry Darnall	County is proposing to require BMPs and an established farm plan. Cite the RCW's that give the County the authority to redefine beyond state statutes "existing and ongoing agriculture".
6	Definitions (19.150)	Web	Ron Gillespie	Mitigation, specifically for wetlands, should not be allowed where "create" is the method. Cannot compensate for wetlands by creating where one doesn't exist; Delete "creation" from 19.150.465(A) and all of (B).
7	General- Buffers	Letter (3/15)	KAPO	What is the CAO intending to protect? Disagree that buffers provide measurable protection; Replace "buffers" with "no-pesticide, vegetated hardscape setback of 25 feet" from critical areas; Add "all water falling on a parcel shall be percolated into the ground without leaving the parcel". <i>Swinomish</i> case: County may depart from BAS if it provides a reasoned justification for such departure; Maps of non-conforming parcels (not provided?)- no harm proven from existing structures inside what are now deemed critical areas/buffers. Failure to treat highway runoff as only "impactful study" showing fish mortality cause.
7	19.100 Applicability	Letter (3/15)	KAPO	19.100.110 precludes gardening, etc; No benchmarks; 19.100.130(B)- Danger Trees, why would anyone say they have a danger tree if common practice is to just quietly cut down?; Notice to Title- should be restricted to only the critical area, not buffer because this changes over time; Replace "existing native vegetation" with "functionally equivalent vegetation".
7	19.200 Wetlands; 19.300 FWHCA; 19.400 Geohaz.	Letter (3/15)	KAPO	19.200.205(A)- Enhancement and GMA policy of no net loss [do not] fit together; What is the BAS justification to reduce buffers; 19.200.225(A) in current CAO, regarding Docks, should be shown as strike-out, but should not be deleted because applies to lakes and wetlands; 19.300(D)- credibility of wildlife corridors; 19.400- No way to track the markup.
8	19.200 Wetlands	Web	Frank Stricklin	Is habitat fragmentation addressed in the CAO? How many trails are enough in Kitsap open spaces? Forested wetlands often overlooked due to types of vegetation present. Hatchery vs. wild fish is a moot controversy is there is no habitat for either.
9	19.100 Intro	Web	Tom Nevins	19.100.130(A)(3)- 20% expansion statement could be misinterpreted, consider restatement; 19.100.135(A)(1)- Variances, consider defining or rewording "in the vicinity" because open to interpretation; (A)(3)- "variance will not result in substantial detrimental impacts...", consider removing word "substantial", which implies that the impact to the critical area is detrimental and creates a "net loss of function"; (A)(4)- insert "minimum" before "permitted use", used by developers to get the maximum use of the lot, usually to the detriment of critical areas; 19.100.140(A)(4)- insert "minimum" before "reasonable"; 19.100.150- Appeals, who might be considered an "affected party"? Consider removing "by the applicant of affected party".
9	19.150 Definitions	Web	Tom Nevins	19.150.545 "Reasonable Alternative"- Replace "lower" with "minimal", or redefine as "an activity that could feasible attain or approximate a proposal's objectives with no net loss of critical areas quality, function and values."
9	19.200 Wetlands	Web	Tom Nevins	19.200.210 (B)(1)- Cat. 1 Wetlands, Remove "or unique" because "rare" is the larger category that includes all "unique wetland types".
9	19.300 FWHCA	Web	Tom Nevins	19.300.315 (A)(3)- Provisions for decreasing buffer, What is the format of the consultation with WDFW, other than the review of the HMP, that would lead to an admin. reduction in buffer width?; 19.300.315 (G)- Farm resource conservation plan, these agreements can result in major deductions in buffer protected areas as the conservation district often does not adhere to buffer guidelines and KCD is not a regulatory body.
9	19.400 Geohazards	Web	Tom Nevins	19.400.425 (C) - word "seismic" should read "landslide" in intro sentence.
10	19.150 Definitions	Email	P.Anderson (Ecology)	19.150.170 Bog and 19.150.315 Fen- Use definitions in 2016 Wetland Guidance; 19.150.325 Fish and wildlife habitat conservation areas-for clarity and consistency with WAC 220-660 and RCW 90.48.020 recommend revised definition; 19.150.395 Grazed wet meadows- Recommend striking this

				definition, not a term used by Ecology or the Corps for wetland regulation; 19.150.430 Hydric soils- For consistency with BAS and state and federal delineation standards, recommend replacing with definition from <i>Field Indicators</i> document; 19.150.465 Mitigation- for consistency with WAC 197-11-768 recommend revision; 19.150.480 Ordinary high water mark- recommend revision for consistency with RCW 90.58.030(2)(c); 19.150.495 Pond- for clarity and consistency with BAS, Kitsap County SMP and other state and federal statutes, recommend deleting; 19.150.700 Wetlands, isolated- Replace with 2016 Wetland Guidance definition.
10	19.200 Wetlands	Email	P.Anderson (Ecology)	19.200.205(D) Prevent turbidity and pollution of wetlands and fish or shellfish bearing <u>other regulated waters of the state;</u>
10	19.200 Wetlands (.210 Wetland ID and Rating)	Email	P.Anderson (Ecology)	19.200.210(B)(3)and(4)- Recommend adding the following conditions to the exemptions for small Cat.III and IV wetland: <u>Are not associated with riparian areas or their buffers;</u> <u>Are not associated with shorelines of the state or their associated buffers;</u> <u>Do not score 5 or more points for habitat function based on the 2014 update to the Washington State Wetland Rating System for Western Washington: 2014 Update (Ecology Publication #14-06-029, or as revised and approved by Ecology);</u> <u>Do not contain a Priority Habitat or a Priority Area1 for a Priority Species identified by the Washington Department of Fish and Wildlife, do not contain federally listed species or their critical habitat, or species of local importance identified in Chapter XX.XX; and</u> <u>Wetlands less than 1,000 square feet that meet the above criteria and do not contain federally listed species or their critical habitat are exempt from the buffer provisions contained in this Chapter.</u>
10	19.200 Wetlands (.220 buffer requirements)	Email	P.Anderson (Ecology)	19.200.220 C(1)(b)- Administrative Buffer Reductions- recommend striking this provision, not supported with BAS. Reductions in buffer width should only be allowed through buffer averaging. We support the proposed buffer averaging provisions in the current draft.
10	19.200 Wetlands (.225 additional standards)	Email	P.Anderson (Ecology)	19.200.225 (B) Agricultural Restrictions- Recommend striking second sentence provision that "restrictions shall not apply to those wetlands defined as grazed wet meadows, regardless of their classification, only where grazing has occurred within the last five years", because not consistent with resource protection; 19.200.225(F) Utilities and (G) Parks- Since work in wetlands or in-water will require state and federal approval, recommend adding the following: <u>Before beginning work in-water or within wetlands, it shall be the utilities responsibility to ensure all other required state and federal approvals have been obtained.</u>
10	19.200 Wetlands (mitigation)	Email	P.Anderson (Ecology)	19.200.250 C Wetland Replacement Ratios TABLE 19.200.250- Science has not sufficiently evolved to create or re-establish bogs or Wetlands of High Conservation Value, Recommend replacing "Case-by-case" to "Not considered possible". Also, change "6:1 Rehabilitation" to "Case-by-case" in the Rehabilitation column for these wetland types.
11	General	Email	Dean Jenniges (KAPO)	Historical context of 2005 CAO update; <i>Swinomish v. Western Washington</i> to be considered, including use of established baselines and no requirement to establish mandatory riparian buffers. Recommends DCD and Planning Commission read the document and consider the court case of <i>Presbytery of Seattle v. King County</i> and the "3 prong due process test"; Recommends a total rewrite of the 2017 CAO.
11	19.100 Intro	Email	Dean Jenniges (KAPO)	19.100.105 (A)- If critical areas so important, how does the County justify mitigation, and conflicts with policies 4 and 5; (D) only adds permitting requirements where there were none; 19.100.115- relationship to other county regulations is without criteria and arbitrary; 19.100.120 (D)(2)(c)- written request for extension, but no DCD required response time, section is arbitrary and no criteria; 19.100.130 (A) Existing nonconforming structures section is too confusing; 19.100.130 (B) Danger Tree Removal- criteria should be removed, provides no basis for allowing property owner to make determination of liability.
11	19.200 Wetlands (general)	Email	Dean Jenniges (KAPO)	Entire section with without a baseline of statistics which could be used to establish if a wetland was disturbed or not. Wetlands are only of value to wildlife which uses them for habitat. Does not take a specialist to figure out what and where a wetland is. This is an added cost to the developer and needs to be rewritten (see <i>Swinomish</i> case).
11	19.200 Wetlands	Email	Dean Jenniges (KAPO)	19.200.220(B)(1)(f)- tree protection rules, how did these come into existence? Entire section restricts property owner's ability to determine landscape; why were all of the distance changes to buffers increases?
11	19.400 Geohazards	Email	Dean Jenniges (KAPO)	19.400.415 Does DCD have the expertise to add this entirely new paragraph?; 19.400.435(A)(4)-why has native vegetation become such a priority over ornamental or other types of vegetation? 19.400.435(B)- What seismic maps are used and what is their accuracy as permitting is subject to that information?