

# Skagit County 2025 Periodic Critical Areas Ordinance (CAO) and Development Regulations Update

## Planning Commission - Public Comment Summary Matrix

*Disclaimer: Skagit County has reviewed all public comments submitted regarding the Planning Commission draft of Skagit County’s 2025 Periodic Critical Areas Ordinance and Development Regulations Update. The table below provides a high-level summary of the comments received and includes additional context and explanations to help inform the Planning Commission as they evaluate comments at the April 8 continued public hearing and make a recommendation to the Skagit County Board of County Commissioners. The comment summary may also assist residents and stakeholders who are interested in the written comments provided to the Planning Commission.*

*Please note that all public comments have been forwarded in full to the Skagit County Planning Commission for their review and consideration. The Commission will evaluate these comments and determine whether to recommend changes to the draft 2025 Periodic Critical Areas Ordinance Update. Changes included within the Planning Commission recommendation will be included in the draft forwarded to the Skagit County Board of County Commissioners.*

*The Board of County Commissioners will conduct its own separate review process, which includes additional opportunities for public input (both written and oral comments). Information about the Board’s process, including meeting schedules and how to participate, is available on the County’s website at [www.skagitcounty.net](http://www.skagitcounty.net).*

*This summary is provided for informational purposes only and does not represent final decisions or policy actions.*

Comment #	Type/Category	Section	Comment Summary	Response
1	Critical Areas	Wetlands	Establish a preference hierarchy for compensatory mitigation options, with the highest preference being compensatory mitigation through Mitigation Banks.	Ecology Publication 21-06-003, <i>Wetland Mitigation in Washington State, Part 1 (Version 2)</i> emphasizes mitigation sequencing (avoid, minimize, then

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				<p>mitigate for unavoidable impacts) and states that “...compensatory mitigation should make ecological sense in the context of the landscape in which it is conducted.” This BAS document provides detailed discussion of two basic approaches to compensatory mitigation, programmatic approaches (mitigation banking, in-lieu fee) and permittee-responsible mitigation. Programmatic approaches are preferred due to greater success in achieving mitigation objectives.</p> <p>Ecology Publication 22-06-014 lists four approaches to compensatory mitigation, 1) wetland mitigation banks, 2) in-lieu-fee (ILF), 3) permittee-responsible advance mitigation, 4) permittee-responsible concurrent mitigation.</p> <p>Jurisdictions typically make this regulatory decision to align with local goals to retain natural areas within their limits. Note: There are currently two approved mitigation banks servicing roughly the western/central half of Skagit County. Both are located within Skagit County.</p> <p>The County will consider mitigation priorities for buffers separately from direct wetlands impacts and forward any</p>

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				<p>recommendations to the Planning Commission for consideration.</p> <p>Not all of the County is serviced by the wetland banking service area and in some circumstances, onsite mitigation may be more appropriate for managing stormwater within catchments with drainage issues, offsite mitigation may be cost-prohibitive for single-family residential proposals.</p>
2,3,4,5,6,7, 11, 12, 17, 21, 24	Stormwater/ Critical Area protection	Stormwater	Strengthen development standards and critical area review to assess off-site impacts and pollutant load of stormwater	<p>All development in Skagit County is required to comply with the Critical Areas Ordinance (SCC 14.24) and the Stormwater Management code (SCC 14.32), which is consistent with the 2019 Stormwater Management Manual for Western Washington. Amendments to the Critical Areas Ordinance will be considered by the Planning Commission.</p> <p>PDS does not recommend that the scope of the CAO be expanded to require water quality analyses for projects greater than 200 feet from the project area. Waterbodies, within 200 feet (or other distance specified in the CAO will require assessments by qualified professionals, which include information about water quality protection. All development is subject to SCC 14.32 Stormwater</p>

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				Management, which includes provisions for water quality protection.
8,9	Development regulations		Recommend SCC 14.16.310 Section (7) be restored to the original in the County’s proposed development regulations (code) revisions.	The County is considering the following comments and will forward any recommendations to the Planning Commission for review.
10	Critical Areas	Geologic Hazard Areas	<ol style="list-style-type: none"> <li>1. Update references from ‘Geology and Earth Resource Division of the WA DNR’ to the ‘Washington Geological Survey.</li> <li>2. Include reference to the ‘Washington Geologic Information Portal’ for mine hazards.</li> <li>3. Consider requiring Protected Critical Area (PCA) notice on title to list all critical areas present.</li> <li>4. Consider updating the ‘qualified professional’ definition (SCC 14.24.080) to state specific requirements for assessments of geologic hazard areas.</li> <li>5. Review SCC 14.24.070 – Activities allowed without standard review, DNR is asking if new construction would be allowed in geologic hazard areas. This provision does not appear to allow that activity. County planning to confirm.</li> </ol>	The County is considering the following comments and will forward any recommendations to the Planning Commission for review.
13, 19, 26	Critical Areas	Drainage and irrigation; Agricultural land	<ol style="list-style-type: none"> <li>1. The comment does not identify specific regulatory redundancies between the County, state and federal agencies relative to drainage infrastructure maintenance. Agency oversight is noted under SCC 14.24.070.</li> <li>2. Remove reference to Tidegate Fish Initiative; it is out-of-date (SCC 14.24.120(4)(d).</li> </ol>	The County is considering the following comments and will forward any recommendations to the Planning Commission for review.

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			<ol style="list-style-type: none"> <li>3. SCC 12.24.070 ‘Activities allowed without standard review’ and SCC 14.24.120 ‘Ongoing agriculture’ based on the Skagit County Drainage and Irrigation District Consortium, LLC recommendations. The regulations and definitions may be updated to align with drainage district terminology, including managed natural and artificial watercourses with and without headwaters.</li> <li>4. SCC 14.24.120 relative to wetland (14.24.230) and stream (14.24.530) buffer requirements for alignment with the VSP approach.</li> </ol>	
14	Critical Areas	Wetlands	Statement of support for zoning and wetland proposed changes.	Comment noted.
15	Critical Areas	All	<ol style="list-style-type: none"> <li>1. Small wetlands are still protected from direct impacts under proposed code edits. The buffer exemption language incorporates recommendations from Washington State Department of Ecology’s 2022 sample regulations (Ecology Publication # 22-06-014).</li> <li>2. WDFW Priority Habitats and Species List is included in SCC 14.24.500 along with habitats of local importance. Skagit County will consider adding foraging areas for great blue heron as commented.</li> <li>3. Recommendation for SCC 14.24.520(4) to include reference to other agencies (e.g. USFWS, NOAA) for habitat management plans were omitted in error.</li> </ol>	The County is considering the provided comments and will forward any recommendations to the Planning Commission for review.

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15	Development Regulations		<ol style="list-style-type: none"> <li>1. Proposes expansion of one-acre Ag-NRL segregation to other zones</li> <li>2. Oppose allowing middle housing types in the Rural Village Residential zone, including duplexes, triplexes, fourplexes and manufactured home parks, as is proposed in Table 14.11.020-1 Allowed Uses in the Rural Mixed-Use Zones.</li> </ol>	<ol style="list-style-type: none"> <li>1. Comment proposes a policy change that has not been evaluated and would require new text to identify the qualifying resource use but could be valuable in streamlining permitting by bypassing critical areas review that would not be necessary if the area is protected by conservation easement.</li> <li>2. Skagit County is required to provide 501 housing units over the next 20-years to individuals who earn between 51-80% of the area median income (AMI). Housing at 51-80% of the AMI would not include single-family detached housing, which is more expensive. Housing types, such as manufactured homes, tiny homes, duplexes, or triplexes. To address this issue, the county is considering the allowance of gentle density in some Limited Areas of More Intense Rural Developments (LAMIRD) where the growth would be consistent with the requirements in RCW 36.70A.070(5). This housing allocation was reviewed through the Skagit Council of Governments and</li> </ol>

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<b>16, 18, 22</b>	Critical Areas	Fish and Wildlife Habitat Conservation Areas	<p>Give special consideration to conservation and protection measures necessary to preserve or enhance anadromous fisheries. In-depth analysis of proposed code amendments focused on the following topics.</p> <ol style="list-style-type: none"> <li>1. Buffer enhancement, practical implementation; Recommend reviewing and considering the Proposed edits to buffer enhancement [SCC 14.24.070(12-13)] to improve incentives and outcomes for buffer enhancement.</li> </ol>	<p>approved in the Countywide Planning Policies by the Board of County Commissioners in March, 2025. Single-family housing types in rural areas outside of LAMIRDs are not affordable to households earning less than 80% of the area median income. The increase in density proposed is intended to provide options for housing types affordable to the appropriate area median income level and satisfy GMA requirements mandated under RCW 36.70A.070 approved as part of HB 1220 (2021).</p> <p>It is important to note that middle housing in LAMIRDs will be limited to areas with existing sewer service.</p>
				<p>The County will consider the following comments and forward any recommendations to the Planning Commission for review.</p>

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			<ol style="list-style-type: none"> <li>2. Protection of all FWHCA functions relative to code SCC 14.24.120 ‘Ongoing agriculture’ and SCC 14.24.530 ‘Fish and wildlife habitat conservation area protection standards’.</li> <li>3. SCC 14.24.080(5)(c)(iv) and (b) to determine if revisions are needed for clarity. It should be noted these are general CAR requirements for all critical area types.</li> <li>4. Update code to consistently use either Fish and Wildlife Habitat Conservation Area (FWHCA) or Habitat Conservation Area (HCA).</li> <li>5. Throughout the CAO it is noted that assessments and reports must be prepared by a qualified professional and approved by the Director.</li> <li>6. Remove reference to Tidegate Fish Initiative; it is out-of-date (SCC 14.24.120(4)(d)).</li> <li>7. SCC 14.24.140 for consistency with mitigation requirements under WAC 197-11-768 and SCC 14.24.080(6) Mitigation Sequencing.</li> <li>8. SCC 14.24.150(3) notes Hearing Examiner review requirements for all provisions below.</li> <li>9. Skagit County is applying elements of Ecology’s 2018 (Publication 05-06-008, Appendix 8-C) and 2022 (Ecology Publication 22-06-014, Appendix C) wetland buffer recommendations. Both are considered BAS.</li> <li>10. SCC 14.24.500 references and includes the WDFW Priority Habitats and Species (PHS) List. Forage fish are documented in the PHS List under Coastal Nearshore. Open Coast Nearshore, and Puget Sound Nearshore. Add</li> </ol>	

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20	Development Regulations; Critical Areas	Variance, Reasonable Use; Seawater Intrusion	<p>forage fish to the habitats and species of local importance under SCC 14.24.500(4).</p> <p>11. Pending updates to WAC 222-16-030 and SCC 14.24.530 for clarity and intent.</p> <p>12. The WDFW Riparian Ecosystems, Volumes 1 and 2 are referenced multiple times in the Skagit County Critical Areas Ordinance Update (Feb. 2025) report.</p> <p>Supportive of updates, specifically variance and reasonable use updates support no-net-loss; definitions updates for effective regulation; seawater intrusion areas risk assessments and DOH coordination important.</p>	Comments noted.
21	Development Regulations		<p>Comments regarding specific proposed changes in the updates to Development Regulations:</p> <ol style="list-style-type: none"> <li>1. Requests ordinance history be retained in code</li> <li>2. Objects to removal of Ag Advisory Board from definitions</li> <li>3. Requests restoration of term “Master Plan Resort”</li> <li>4. Change from “shall not” to “may not” implies permissiveness</li> <li>5. Requests reason for removal of 14.16.030</li> <li>6. In 14.13.020-1, expand last phrase in brackets in residential uses.</li> <li>7. In 14.18.__ Residential Accessory Use, clarify as applied to Ag-NRL</li> <li>8. Edits to mining special use</li> </ol>	<ol style="list-style-type: none"> <li>1. The Code Reviser (Code Publishing Co) maintains legislative history; it is not properly part of the adopted ordinance itself. The Code Publishing website additionally includes a feature where the user can compare two versions of the code or view an older version of any part of the code.</li> <li>2. The Ag Advisory Board was established by county resolution 20020134, not by this definition, therefore the removal of the definition will have no substantive effect. The term is never used within the code, and therefore need not and should not be defined.</li> </ol>

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				<p>3. “Master plan resort” was not itself defined in the code (only “new” and “existing” were defined) and those definitions did not add to the MPR chapter. There is no existing MPR in Skagit County; Clark’s Cabins was given the comprehensive plan map designation but did not obtain the required MPR special use permit or development agreement.</p> <p>4. No change in meaning is intended. Brian Garner’s “Dictionary of Modern Legal Usage” indicates that “May not” is conventionally viewed as unambiguous in drafted documents. We’ve used “may not” in this way throughout the document.</p> <p>5. Existing 14.16.030 lists zones and comp plan designations that are addressed in the Comprehensive Plan and unnecessary to be present in the zoning code. It also lists allowed units per acre for subdivision, which are properly listed in the dimensional standards for each zone. It is a best practice of legal drafting to state rules in only one place in the code. Appendices are disfavored as part of the county code.</p>

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				<p>6. The County is considering this comment and will forward any recommendations to the Planning Commission for review.</p> <p>7. The County is considering this comment and will forward any recommendations to the Planning Commission for review.</p>
23	Critical Areas	Wetlands, Fish and Wildlife Habitat Conservation Areas	<ol style="list-style-type: none"> <li>1. PCA code to ensure maintenance to remove noxious weeds is allowed.</li> <li>2. Comment noted.</li> <li>3. SCC 14.24.240(1)(c) for clarity.</li> <li>4. Addressed under comment #15 and response #1 above.</li> <li>5. Recommended additions to the habitats and species of local importance under SCC 14.24.500.</li> </ol>	The County is considering the following comments and will forward any recommendations to the Planning Commission for review.
25	Critical Areas	CARAs, Wetlands, Geologically Hazardous Areas	<ol style="list-style-type: none"> <li>1. Critical aquifer recharge areas (CARA) tank storage requirement updates may be duplicative for facilities in compliance with state and federal regulations for tank storage at refineries. Additional information provided on regulation of above ground tanks. Check against SCC 14.24.320, 330, 340.</li> <li>2. Wetland buffer modifications for industrial sites. Buffer widths vary by wetland category, habitat score, land use, vegetated condition, and whether or not an applicant applies minimization measures and includes habitat corridor where applicable.</li> </ol>	The County is considering the following comments and will forward any recommendations to the Planning Commission for review.

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			3. Geologically hazardous areas, ensure report requirements are appropriate. Geological analysis requirements requested by WSPA.	
27	Critical Areas	Fish and Wildlife Habitat Conservation Areas	<p>Several specific code language edits are recommended. General emphasis of recommendations:</p> <ol style="list-style-type: none"> <li>1. Require no net loss of ecological functions</li> <li>2. Recommendation to allow restoration permit exemptions</li> <li>3. Consider adding avoidance criteria to add clarity for applicants and administrators.</li> <li>4. Water typing not recommended</li> <li>5. Replace buffers with riparian management zones, reconsider SPTH</li> <li>6. Protect habitat corridors: Consider adding reference to open space connections as noted by WDFW.</li> <li>7. Buffer averaging objection</li> <li>8. Climate change resilient culverts: Consider adding FWHCA performance standard that addresses climate change and design of water crossing.</li> <li>9. Timber harvest in HCAs</li> <li>10. Address other fish and wildlife habitat in On Going Agriculture section.</li> </ol>	<p>The County is considering the following comments and will forward any recommendations to the Planning Commission for review.</p> <p>After taking BAS into account, the County proposes buffer increases to 100-ft for Type N and 150-ft for Type F waters (SCC 14.24.530). Standard buffers must meet vegetation standards or be subject to an increase.</p> <p>In regards to Ongoing Agriculture, habitat in ongoing agriculture would presumably be using ag fields. PDS is not proposing to control ag practices to provide habitat. Clearing of scrub/shrub or trees would be outside of the provisions of ongoing ag and would be subject to standard review and CAO protections. Wetlands can continue to be farmed under VSP but cannot be drained. Development proposals or ag expansions would need to address those wetlands under standard review. VSP requires ongoing ag to be in compliance with RCW 90.48, preventing water pollution which degrades habitat.</p>

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28	Development Regulations; Critical Areas	All	<ol style="list-style-type: none"> <li>1. Buffer widths when land use intensity changes.</li> <li>2. Update instream flow rules to comply with RCW 36.70A.590 and RCW 90.44.050</li> <li>3. Recommend riparian buffer increases</li> <li>4. Flood plain regulations don't sufficiently address climate change</li> </ol>	<ol style="list-style-type: none"> <li>1. The comment references SCC 14.24.230(5) which includes additional review by the Director to determine if changes to site conditions result in the established buffer no longer being applicable. This allows for land use intensity changes to be considered.</li> <li>2. County will consider references are needed in SCC 14.24.350 and forward any recommendations to the Planning Commission for review</li> <li>3. After taking BAS into account, the County proposes buffer increases to 100-ft for Type N and 150-ft for Type F waters (SCC 14.24.530). Standard buffers must meet vegetation standards or be subject to an increase.</li> <li>4. No substantial changes to frequently flooded area regulations (SCC 14.24.600 – 630 and Chapter 14.34) are proposed at this time. The County has introduced several new policies in the Climate Resilience Element of the Comprehensive Plan to address flood hazard mitigation which include a full review applicable data and engagement</li> </ol>

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29	Critical Areas	No Net Loss; Net Ecological Gain	<ol style="list-style-type: none"> <li>1. No Net Loss requirement should be throughout the CAO</li> <li>2. Adopt Net Ecological Gain (NEG) in CAO and Comprehensive Plan</li> </ol>	<p>with appropriate stakeholders to understand impacts and coordinate with vulnerable populations before making significant changes to development regulations.</p> <ol style="list-style-type: none"> <li>1. The County is considering the following comments and will forward any recommendations to the Planning Commission for review.</li> <li>2. The County applies the No Net Loss standard to critical area regulations as required under the Growth Management Act. The County also provides incentives (SCC 14.24.170) and voluntary restoration allowances (SCC 14.24.070) in the CAO.</li> </ol>
30	Development Regulations	Prohibited Uses	Major regional utility listed as a marijuana use	The County is considering the following comments and will forward any recommendations to the Planning Commission for review.