

CAC WORKING DRAFT

October 2014

[Note to Reader: The policy numbers used below are temporary. Once the policies are finalized, they will be chronologically numbered in a manner that makes sense in the context of the Comprehensive Plan. The temporary numbers are provided to assist with references to policies during CAC meetings and discussions. The order of the sections will change to be alphabetical, for consistency with the proposed order of the regulations.]

2.6 Critical Areas

[Note to Reader: Changes to this section (2.6) were discussed at the Citizen Advisory Committee's (CAC's) June meeting. The language below reflects feedback received at the June meeting.]

~~As part of the growth management planning process, Kittitas County has adopted Critical Areas Policies. The following contain those policies. Kittitas County Code Title 17A, Critical Areas, contains development regulations which were adopted to implement these policies.~~

~~Pursuant to the requirements of the Growth Management Act (GMA), Kittitas County has adopted the following goals and policies applicable to critical areas located within the county, including:~~

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

~~The regulations that implement these goals and policies are found in Kittitas County Code Title 17A.~~

[Note to Reader: New introductory language based on [WAC 365-196-485(2)]]

2.6.1. General Critical Areas Goals and Policies

~~GPO 2.79 Kittitas County will consider creating a wildfire protection policy tied to land use zoning that will protect both the private landowner and public lands from wildfire. When the use of forested lands is changed, the party doing the changing is responsible for providing a fire resistant buffer around the property. *[Note to Reader: Wildfires are not a critical area issue; therefore, this policy does not belong in the critical area section. This policy is included in Section 2.4.3 of the Comprehensive Plan.]*~~

~~GPO 2.80 Kittitas County will consider establishing a board to coordinate with the federal and State fish and wildlife agencies to provide local input into decisions about wildlife introduced into the area.~~ [Note to Reader: Coordination with federal and state agencies for the introduction of species may be appropriate to address in the Fish and Wildlife Habitat Conservation Area policy section, but it does not rise to the level of a general policy applicable to all critical areas.]

~~GPO 2.81 Kittitas County recognizes that local tax burden on private lands is increased when private land is changed to public ownership. Such changes should be discouraged.~~ [Note to Reader: While the financial implications of land transfers deserve careful consideration, public ownership of sensitive areas can be an effective strategy for protecting such areas. To include a policy discouraging public ownership could be counterproductive to other protection goals and policies. It may be appropriate to consider a broader comprehensive plan policy (not specific to critical areas) that states the importance of justifying the tax burden implications of private land transferring to public ownership.]

GPO 2.82 Designate and protect the function and value of critical areas. [New Policy consistent with GMA.]

GPO 2.6.1.A Use best available science to regulate development in a manner that balances protection of property rights and human health and safety with protection of critical area functions and values. [New Policy based on WAC 365-196-485 (1)(b)]

GPO 2.6.1.B Review new and modified uses and structures to minimize land use incompatibilities in and around critical areas. [New Policy based on WAC 365-196-485(4) and CAC feedback]

GPO 2.6.1.C Evaluate opportunities to:

1. Use non-regulatory measures to protect and enhance critical areas (e.g. education, transfer of development rights);
2. Encourage greater protection of critical area functions and values than mandated by law (e.g. through incentives); and
3. Compensate property owners impacted by critical area regulations (e.g. modified taxation, value-added development flexibility).

[New Policy based on WAC 365-196-485(1)(f) and CAC feedback. Other examples could include public benefit rating system and/or mitigation banking.]

GPO 2.6.1.D Protect surface and groundwater resources. [New Policy based on WAC 365-190-080(2) and WAC 365-196-485(1)(d)]

GPO 2.6.1.E Give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries, including measures that protect habitat important for all life stages of anadromous fish. [New Policy based on WAC 365-196-485 with clarification of measures as suggested in written comments.]

GPO 2.6.1.F Use a preference-based system of mitigation sequencing that reduces impacts using approaches ranging from avoidance to replacement. [New Policy based on TAC feedback. Modeled on Yakima County Policy NS 8.3.]

| GPO 2.6.1.G INSERT [Placeholder for policy about uses/structures that will become nonconforming as the result of the updated Critical Areas Ordinance. Language to be discussed at November CAC meeting.]

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2.6.2 Wetlands

[Note to Reader: The text and amendments below are the topic of discussion for the Citizen Advisory Committee's (CAC's) October meeting.]

Wetlands play a significant role in the reduction of water pollution, erosion, siltation, flooding, and provide significant wildlife, fisheries, and plant habitats; and their destruction or impairment may result in increased public and private costs or property losses.

GPO 2.82 Designate and protect the function and value of wetland areas. *[Note to Reader: New Policy consistent with GMA.]*

GPO 2.83 Kittitas County's wetlands will be protected to the greatest extent reasonable because they provide important functions that help define the quality of life in Kittitas County. *[Note to Reader: New Policy modeled after Douglas County Goal 10.2.1.]*

~~GPO 2.82 Kittitas County acknowledges that substantial irrigated agricultural activities enhance and maintain some wetlands environments in the County.~~ *[Note to Reader: While it is acknowledged that in some cases, agricultural activities can enhance wetland environments, this policy is in conflict with the CAO section 17A.07.XXX.1 "Designation" which states that wetlands do not include artificial wetlands that are created unintentionally.]*

GPO 2.83 ~~Kittitas County should encourage the development of~~Develop a regulatory program for wetlands protection that is both sufficiently flexible to allow reasonable use and enjoyment of private property and generally consistent with the requirements of the Growth Management Act (GMA). *[Note to Reader: Revised policy based on WAC 365-190-090.]*

GPO 2.84 ~~Kittitas County should e~~Encourage the implementation of wetlands protection strategies that will achieve, to the maximum extent practicable, a zero net loss of natural wetlands acreage, functions, and values and, if reasonably possible, a gain of wetlands habitat in the long term.

~~GPO 2.85 Any wetlands protection measures imposed by Kittitas County should not interfere with stock water or irrigation water rights recognized in the Acquavella adjudication process.~~ *[Note to Reader: Not a wetland protection issue. Addressed in Chapter 2, Section 2.2.3, Private Property and Water Rights and 2.7, Ground Water.]*

GPO 2.86 Any wetlands protection measures imposed by Kittitas County should not interfere with a person's ability to engage in existing agricultural land use activity associated with his or her property. Agricultural land use activities include, but are not limited to, the grazing and watering of livestock; plowing, seeding, cultivation, harvesting for the production of crops; upland soil and water conservation practices; the maintenance of farm for stock ponds, irrigation ditches, drainage ditches, underground drainage systems and farm roads, and the control of noxious weeds. *[Note to Reader: Discuss revisions in context of Voluntary Stewardship Program (VSP) and Naches watershed that did not opt-in for VSP. Consider broader general policy for*

VSP in Section 2.6.1. If retain in this section (2.6.2, Wetlands) revise to reference agricultural activities as defined in RCW 90.58.065(2)(a).]

~~GPO 2.87 Preliminary determinations by the Kittitas County Community Development Services that a proposed development may impact a wetland should be based on data contained in the U.S. Fish and Wildlife Service Inventory for Kittitas County or other wetland delineations conducted by a wetland biologist. The Fish and Wildlife Service Inventory should be augmented over time with more specific information concerning wetlands location, class, and type generated through localized wetland delineations. Wetland identification, delineation, categorization, and, where appropriate, mitigation shall rely on guidance from the Washington State Department of Ecology, US Army Corps of Engineers Seattle District and Environmental Protection Agency.~~ [Note to Reader: Delete and replace based on current guidance for wetland reports and RCW 36.70A.175. See proposed implementing code at KCC 17A.07XX, Designation, Mapping, Delineation and Categorization.]

~~GPO 2.88 Water conservation and enhancement shall take precedence over inadvertent and/or unintentional wetland regulation and preservation.~~ [Note to Reader: Not a wetland protection issue.]

GPO 2.89 ~~Kittitas County should e~~Explore providing positive tax incentives to private property owners who maintain, reclaim, or enhance ~~class~~Category I, II, III, and IV wetlands.

GPO 2.90 ~~Kittitas County should s~~Support ~~or~~and encourage the purchase and dedication of lands by public or private organizations for wetland protection and apply sound management principles to said property.

~~GPO 2.91 The following activities shall be exempt from the provisions of a wetlands protection program: emergency uses necessary to prevent immediate threat to the public health, safety or property; and maintenance of existing facilities, structures, ditches, roads, and utility systems; provided the footprint of the structure is not within a critical area and/or its buffer.~~ [Note to Reader: Consider providing a general policy in Section 2.6.1 related to all Exemptions in 17A.01.XXX. Language to be discussed at November CAC meeting.]

GPO 2.93 Buffers, wetland replacement ratios, and a wetlands mitigation program ~~should~~shall be consistent with all other policies contained in this Plan.

2.6.3. Fish and Wildlife Habitat Conservation Areas

[Note to Reader: Changes to this section (2.6.3) were discussed at the Citizen Advisory Committee's (CAC's) August meeting. The language below reflects feedback received at the August meeting.]

Habitat conservation areas provide for greater species diversity by providing habitat for migrating waterfowl, game and food fish, and sensitive species which are threatened or endangered. Habitat conservation areas also provide recreational resources and more stable ecosystems. Their disturbance could result in irreversible loss of important habitat and species diversity and therefore loss of economic resources. The intent of habitat protection is to maintain species in suitable habitats within their natural geographic distribution in order to prevent isolated sub-populations.

Habitat Conservation *[Sub headings not needed and not consistent with other sections.]*

GPO 2.6.3.A Designate and protect the function and value of fish and wildlife habitat conservation areas. *[New Policy consistent with GMA and the first policy of other revised comp plan sections.]*

GPO 2.6.3.B Evaluate opportunities to protect fish and wildlife habitat on a regional and site-specific scale. Consider:

1. Habitat connectivity;
2. Habitat diversity;
3. Areas of high species diversity;
4. Unique and rare habitats; and
5. Winter range and migratory bird habitats of seasonal importance. *[New Policy modeled after Yakima County NS 15.1.]*

~~GPO 2.94 Matching conservation moneys—When available, matching conservation moneys should be offered to all landowners on a first come, first serve basis for the purpose of maintaining and enhancing wildlife and its habitat in Kittitas County.~~ *[Delete. First come first serve isn't consistent with BAS. First doesn't mean best or greatest impact – or even an appropriate location. The new policy above (2.6.3.B) includes appropriate considerations for habitat protection.]*

~~GPO 2.95 Kittitas County expert technical help should be available to those wishing to develop land that contains, or potentially contains any of the various critical areas defined by these definitions.~~ *[Delete. It is the responsibility of the applicant to hire technical experts to do the studies necessary for development in/near fish and wildlife habitat conservation areas.]*

GPO 2.6.3.C GPO 2.96 Information on the location of fish and wildlife habitat conservation areas & the regulations that apply to development in or near those areas should be accessible to and should be understandable by citizens. *[Revised for simplicity.]*

1. ~~An inventory of available information shall be prepared and maintained which shows the location of Fish and Wildlife Habitat and Conservation Areas and this information shall be made available to the landowners at the Planning Department.~~

1. ~~Planning staff shall prepare materials, which enable citizens to clearly understand the location of critical areas on and adjacent to their property.~~

Habitat of Local Importance *[Sub headings not needed and not consistent with other sections.]*

~~GPO 2.97 The County shall encourage economically feasible incentives for the protection and enhancement of designated Habitats of Local Importance. [Similar to new GPO 2.6.1.C which is applicable to all critical areas.]~~

2.6.4 Critical Aquifer Recharge Areas

[Note to Reader: This section (together with Section 2.6.5 Frequently Flooded Areas) was the topic of discussion for Citizen Advisory Committee's (CAC's) July meeting. The text below reflects feedback received at the meeting and in written comments after the meeting.]

Groundwater is a significant source of drinking water for County residents; and once potable groundwater becomes contaminated, it is difficult, if not impossible, to clean and resulting costs can be prohibitive. Some aquifers have critical recharging effects on streams, lakes, and wetlands that provide critical fish and wildlife habitat. Protecting adequate recharge of these aquifers may provide additional benefits in maintaining fish and wildlife habitat conservation areas.

GPO 2.6.4.A Designate and protect the function and value of critical aquifer recharge areas. *[New policy. Covers the substantive requirements of existing GPO 2.100 in a manner consistent with GMA.]*

~~GPO 2.6.4.B 2-98 Critical Aquifer Recharge Areas should be mapped as soon as practical so as to warn the public of possible development restrictions. We feel this is of the highest priority for the public health and safety. Identify and map critical aquifer recharge areas. Continue data collection and evaluation efforts to better understand the vulnerability of County critical aquifer recharge areas to contamination.~~ *[Revised to reflect status of County mapping efforts. Language modeled after Yakima County Policy NS 9.1 & 9.4]*

~~GPO 2.6.4.C 2-99 The County shall limit development density In Critical Aquifer Recharge Areas to avoid impairing the functions of the Aquifer Recharge area. Develop performance standards and regulations for activities and uses likely to adversely impact water quality in aquifers.~~ *[Revised. Regulations don't limit density; they establish standards and limitations on particular uses. Language modeled after Yakima County Policy NS 9.2. Reference to water quantity was removed in response to CAC feedback since water quantity is address in Section 2.2.3 of the Comp Plan.]*

GPO 2.6.4.D Recognize that some aquifers have critical recharging effects on streams, lakes, and wetlands that provide critical fish and wildlife habitat and that protecting adequate recharge of such aquifers may benefit fish and wildlife habitat conservation areas. *[New. Based on written comments from July CAC meeting.]*

~~GPO 2.100 Kittitas County shall give high priority to the protection of designated Critical Aquifer Recharge Areas that have been shown through technical study to have a Critical Recharging effect on potable water.~~ *[Covered by new policy for the protection of critical aquifer recharge area functions and values.]*

~~GPO 2.101 Kittitas County should provide technical design assistance for septic tank design permits when potable Aquifer Recharge risks are considered significant.~~ *[The Health Department regulates and enforces standards for septic tanks.]*

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2.6.5 Frequently Flooded Areas

[Note to Reader: This section (together with Section 2.6.4 Critical Aquifer Recharge Areas) was the topic of discussion for Citizen Advisory Committee's (CAC's) July meeting. The text below reflects feedback received at the meeting and in written comments after the meeting.]

~~Frequently flooded areas provide storage for flood control by slow release of water and provide wildlife and fisheries habitat, recreation areas and agricultural lands. These areas are subject to periodic inundation, which may result in: loss of life and property; health and safety hazard; disruption of commerce and governmental services; extraordinary public expenditures for flood protection and relief; and impairment of the tax base. All of these impacts adversely affect the public health, safety, and general welfare. Flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards, which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Structures that are not properly flood proofed also contribute to flood loss. Floodways are especially hazardous areas due to the velocity of floodwaters, which can carry debris, projectiles, and erosion potential.~~

Frequently flooded areas perform a variety of beneficial functions, including but not limited to:

- Flood water storage and conveyance.
- Sediment deposition and storage.
- Groundwater recharge and baseflow maintenance.
- Water quality maintenance and improvement.
- Habitat.
- Recreational areas.
- Agricultural lands.

These functions provide significant value to humans. Protecting the functions and value of frequently flooded areas reduces the health and safety risks and minimizes the loss of life and property that occurs in flood events. *[Revised to better align with BAS report language.]*

~~GPO 2.102 Maintain the current Kittitas County Shoreline Master Program. [SMP policies are appropriately located in a separate section of the Comprehensive Plan. Delete.]~~

GPO 2.6.5.A Designate and protect the function and value of frequently flooded areas. *[New policy, with addition of "designate" based on written comments.]*

GPO 2.6.5.B Prevent the loss of life or property and minimize public and private costs associated with repairing or preventing flood damages from development in frequently flooded areas. *[New policy modeled after Yakima County Goal NS 17.]*

~~GPO 2.6.5.C 2.103 Maintain Kittitas County's eligibility under the National Flood Insurance program. Eligibility is maintained by compliance with the Kittitas County Flood Damage Prevention Ordinance. *[Revised for simplicity.]*~~

~~GPO 2.104 All submitted preliminary plats must clearly delineate the 100-year Floodplain boundary. *[This is a regulation, not a policy, and a required component of site plans. Delete.]*~~

GPO ~~2.6.5.D 2.105~~ Evaluate opportunities to increase~~Increasing~~ the reservoir capacity of the river system ~~may be in a manner~~ beneficial to flood control and the public welfare. *[As currently worded, this is a statement, not a policy. Revised.]*

GPO ~~2.6.5.E 2.106~~ Utilize the concept of zero-rise in identified high-risk areas of the 100-year Floodplain. New uses or development shall avoid impacts that reduce the effective flood storage volume within a frequently flooded areas. When impacts are unavoidable, such impacts shall be mitigated with compensatory storage. *[Policy revised for consistency with BAS findings and proposed regulations.]*

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2.6.6 Geologically Hazardous Areas

[Note to Reader: The text and amendments below are the topic of discussion for the Citizen Advisory Committee's (CAC's) October meeting.]

Geologically hazardous areas are in tenuous geologic balance. Disturbance of these areas can result in loss of slope and soil stability, increased erosion, and in extreme cases, mass wasting and landslides. Disturbance of geologically hazardous areas can also lead to increases in stormwater runoff. Protecting geologically hazardous areas reduces the danger to public health and safety.

In most cases, the risk to development from geological hazards can be reduced or mitigated to acceptable levels by engineering design or modified construction practices. In areas where these measures are not sufficient to reduce the risk from geological hazards, uses that include development are best avoided.

Erosion/Landslide Hazards *[Sub headings not needed and not consistent with other sections.]*

GPO 2.82 Designate and protect the function and value of geologically hazardous areas. *[Note to Reader: New Policy consistent with GMA.]*

GPO 2.83 The County will provide appropriate measures to either avoid or mitigate significant risks that are posed by geologically hazardous areas to public and private property and to public health and safety. *[Note to Reader: New Policy modeled after Douglas County Goal 10.6.1.]*

GPO 2.83 Potential impacts and alternative mitigation measures to eliminate or minimize the impacts in identified geologic hazard areas shall be documented during the review of development applications. *[Note to Reader: New Policy modeled after Douglas County Policy CA-42.]*

GPO 2.84 Identify and map geologically hazardous areas, including erosion areas, landslide areas, seismic areas, mine hazard areas, and volcanic hazards. Continue data collection and evaluation efforts to better understand the risks of County geologically hazardous. *[Note to Reader: New Policy to clarify mapping of GHAs.]*

~~GPO 2.107 Design provisions to prevent erosion and landslides should be adequately reflected in the Kittitas County Building Code.~~ *[Delete. Provisions to prevent erosion and landslides will be included in the Critical Areas Code (KCC 17A).]*

~~GPO 2.108 Natural resource based access and activities should not be unduly restricted or prohibited in areas of known geologic hazards.~~ *[Delete. Any activities in known geologic hazard areas must be consistent with BAS.]*

GPO 2.109 Risk of erosion ~~should~~shall be considered accordingly throughout Kittitas County, based on localized rainfall ~~average~~and soil type.

GPO 2.110 ~~Kittitas County recognizes the policies in the Snoqualmie Pass Subarea Comprehensive Plan regarding Snow Avalanche Hazard Areas, including possible hazards outside of the Snoqualmie Pass subarea. Restrict development in geologically hazardous areas including areas which are subject to erosion, landslide, avalanche, or subsidence.~~ *[Note to Reader: This policy is from Comprehensive Plan Chapter 7 Snoqualmie Pass Subarea.]*

Seismic Hazard Areas *[Sub headings not needed and not consistent with other sections.]*

~~GPO 2.111 According to the Kittitas County Building Code, the risk from tertiary effects does not indicate an unusual seismic hazard at this time.~~ *[Note to Reader: Based on seismic maps of Kittitas County, there is uncertainty of the validity of this statement.]*

Mine Hazards *[Sub headings not needed and not consistent with other sections.]*

GPO 2.112 Siting of structures on known individual mine hazard areas ~~should shall~~ be avoided, and where it cannot be avoided, the danger of mine hazards should be adequately considered.

~~GPO 2.113 Kittitas County Community Development Services shall maintain a library of maps of known mine hazard areas.~~ *[Note to Reader: This is now covered by newly inserted policy regarding mapping of geologically hazardous areas above.]*

Volcanic Hazards *[Sub headings not needed and not consistent with other sections.]*

~~GPO 2.114 Planning for volcanic hazards should be addressed through Kittitas County emergency management procedures, including planning for warning and emergency communications.~~ *[Note to Reader: This policy is unrelated to designation and protection of hazard area.]*

~~GPO 2.115 Manual disposal of ash fallout into bodies of water shall not be allowed; alternatives for the handling and disposal of ash fallout should be considered by Kittitas County in emergency management procedures.~~ *[Note to Reader: This is not appropriate policy language.]*